From: Argyropoulos, Paul
Sent: Thur 11/10/2016 4:04:04 PM
Subject: Proposed Denial of Petitions for Rulemaking to Change the RFS Point of Obligation

Dear Interested Parties:

Today, EPA is proposing to deny requests from petitioners to initiate a rulemaking to change the point of obligation for compliance under the Renewable Fuel Standard program. Due to the importance, complexity, and broad stakeholder interest in this issue, the agency is taking public comment on the proposed denials to ensure we receive input from the wide variety of stakeholders that could be affected. Details and links to documents, including the Federal Register Notice on this action can be found at: https://www.epa.gov/renewable-fuel-standard-program/2016-announcements-renewable-fuel-standard-program

Best Regards, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

To: Adm13McCarthy, Gina[Adm13McCarthy.Gina@epa.gov]
From: Benenati, Frank
Sent: Wed 11/9/2016 10:25:44 PM
Subject: Fwd: RFS Point of Obligation rollout

FYA

Begin forwarded message:

From: "Benenati, Frank" <benenati.frank@epa.gov>
Date: November 9, 2016 at 5:20:59 PM EST
To: "Rodenbush, Patrick N. EOP/WHO" Ex. 6 - Personal Privacy
Cc: "Conger, Nick" <Conger.Nick@epa.gov>
Subject: Re: RFS Point of Obligation rollout

Sincere apologies - it should be "are" moving foreword not "am". Also this is going tomorrow and I really don't care what the WH says.

Thanks Patrick

On Nov 9, 2016, at 5:16 PM, Benenati, Frank <benenati.frank@epa.gov> wrote:

We've already done all the work on this and am moving forward.

On Nov 9, 2016, at 4:33 PM, Rodenbush, Patrick N. EOP/WHO Ex. 6 - Personal Privacy wrote:

Nick,

Can you please hold on this for now?

From: Conger, Nick [mailto:Conger.Nick@epa.gov]
Sent: Wednesday, November 9, 2016 4:09 PM
To: Rodenbush, Patrick N. EOP/WHO Ex. 6 - Personal Privacy
Cc: Benenati, Frank <benenati.frank@epa.gov>
Subject: RE: RFS Point of Obligation rollout

Patrick,

Just confirming that we're moving forward with this Point of Obligation decision tomorrow at 10:30am. I have arranged the three background briefings in the morning on embargo with Politico, Bloomberg and Platts. Let me know if you have any questions.

Nick

Nick Conger

U.S. Environmental Protection Agency

Office: (202) 564-6287

Cell: (202) 412-2655

From: Conger, Nick
Sent: Monday, November 07, 2016 12:34 PM
To: 'Rodenbush, Patrick N. EOP/WHO' Ex. 6 - Personal Privacy
Cc: Benenati, Frank <benenati.frank@epa.gov>
Subject: RFS Point of Obligation rollout

Patrick,

I have attached the latest draft rollout plan for the response to petitions on point of obligation. We are planning to go live on Thursday morning. No proactive press other than three briefings with reporters who have been tracking this issue, on background just prior to posting to the federal register and web.

Let me know if you have any feedback. We are still developing some Q&As, but

wanted to share the latest.

Thanks-

Nick

Nick Conger

U.S. Environmental Protection Agency

Office: (202) 564-6287

Cell: (202) 412-2655

To: Adm13McCarthy, Gina[Adm13McCarthy.Gina@epa.gov]; Ali, Mustafa[Ali.Mustafa@epa.gov]; Beauvais, Joel[Beauvais.Joel@epa.gov]; Benenati, Frank[benenati.frank@epa.gov]; briefings[briefings@epa.gov]; Burden, Susan[Burden.Susan@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Emerson, Michael[Emerson.Michael@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]; Hautamaki, Jared[Hautamaki.Jared@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]; Meiburg, Stan[Meiburg.Stan@epa.gov]; Michaels, Andrew[Michaels.Andrew@epa.gov]; Naples, Eileen[Naples.Eileen@epa.gov]; Pieh, Luseni[Pieh.Luseni@epa.gov]; Ragland, Micah[Ragland.Micah@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Threet, Derek[Threet.Derek@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Wachter, Eric[Wachter.Eric@epa.gov]
From: Leavy, Jacqueline
Sent: Wed 11/9/2016 8:29:18 PM
Subject: Daily Reading File: November 9, 2016
Daily Reading File.11.9.16.pdf

To: Adm13McCarthy, Gina[Adm13McCarthy.Gina@epa.gov]; Ali, Mustafa[Ali.Mustafa@epa.gov]; Beauvais, Joel[Beauvais.Joel@epa.gov]; Benenati, Frank[benenati.frank@epa.gov]; briefings[briefings@epa.gov]; Burden, Susan[Burden.Susan@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Emerson, Michael[Emerson.Michael@epa.gov]; Wachter, Eric[Wachter.Eric@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]; Hautamaki, Jared[Hautamaki.Jared@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Meiburg, Stan[Meiburg.Stan@epa.gov]; Michaels, Andrew[Michaels.Andrew@epa.gov]; Naples, Eileen[Naples.Eileen@epa.gov]; Pieh, Luseni[Pieh.Luseni@epa.gov]; Ragland, Micah[Ragland.Micah@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Threet, Derek[Threet.Derek@epa.gov]
From: Gaines, Cynthia
Sent: Mon 11/7/2016 9:34:06 PM
Subject: Daily Reading File: November 7, 2016
Daily Reading File.11.7.16.pdf

To: Adm13McCarthy, Gina[Adm13McCarthy.Gina@epa.gov]; Ali, Mustafa[Ali.Mustafa@epa.gov]; Beauvais, Joel[Beauvais.Joel@epa.gov]; Benenati, Frank[benenati.frank@epa.gov]; briefings[briefings@epa.gov]; Burden, Susan[Burden.Susan@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Emerson, Michael[Emerson.Michael@epa.gov]; Wachter, Eric[Wachter.Eric@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]; Hautamaki, Jared[Hautamaki.Jared@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Meiburg, Stan[Meiburg.Stan@epa.gov]; Michaels, Andrew[Michaels.Andrew@epa.gov]; Naples, Eileen[Naples.Eileen@epa.gov]; Pieh, Luseni[Pieh.Luseni@epa.gov]; Ragland, Micah[Ragland.Micah@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Threet, Derek[Threet.Derek@epa.gov]
From: Gaines, Cynthia
Sent: Wed 11/2/2016 8:11:08 PM
Subject: Daily Reading File: November 2, 2016
Daily Reading File.11.2.16.pdf

To: Adm13McCarthy, Gina[Adm13McCarthy.Gina@epa.gov]; Ali, Mustafa[Ali.Mustafa@epa.gov]; Beauvais, Joel[Beauvais.Joel@epa.gov]; Benenati, Frank[benenati.frank@epa.gov]; briefings[briefings@epa.gov]; Burden, Susan[Burden.Susan@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Emerson, Michael[Emerson.Michael@epa.gov]; Wachter, Eric[Wachter.Eric@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]; Hautamaki, Jared[Hautamaki.Jared@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Meiburg, Stan[Meiburg.Stan@epa.gov]; Michaels, Andrew[Michaels.Andrew@epa.gov]; Naples, Eileen[Naples.Eileen@epa.gov]; Pieh, Luseni[Pieh.Luseni@epa.gov]; Ragland, Micah[Ragland.Micah@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Threet, Derek[Threet.Derek@epa.gov]
From: Gaines, Cynthia
Sent: Tue 10/18/2016 7:59:01 PM
Subject: Daily Reading File: October 18, 2016
Daily Reading File.10.18.16.pdf

To: Adm13McCarthy, Gina[Adm13McCarthy.Gina@epa.gov]; Ali, Mustafa[Ali.Mustafa@epa.gov]; Beauvais, Joel[Beauvais.Joel@epa.gov]; Benenati, Frank[benenati.frank@epa.gov]; briefings[briefings@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Emerson, Michael[Emerson.Michael@epa.gov]; Wachter, Eric[Wachter.Eric@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]; Hautamaki, Jared[Hautamaki.Jared@epa.gov]; Kim, Hyon[Kim.Hyon@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Meiburg, Stan[Meiburg.Stan@epa.gov]; Michaels, Andrew[Michaels.Andrew@epa.gov]; Naples, Eileen[Naples.Eileen@epa.gov]; Pieh, Luseni[Pieh.Luseni@epa.gov]; Ragland, Micah[Ragland.Micah@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Threet, Derek[Threet.Derek@epa.gov]
From: Gaines, Cynthia
Sent: Wed 9/14/2016 8:16:07 PM
Subject: Daily Reading File: September 14, 2016
Daily Reading File.9.14.16.pdf

To: Adm13McCarthy, Gina[Adm13McCarthy.Gina@epa.gov]; Ali, Mustafa[Ali.Mustafa@epa.gov]; Beauvais, Joel[Beauvais.Joel@epa.gov]; Benenati, Frank[benenati.frank@epa.gov]; briefings[briefings@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Emerson, Michael[Emerson.Michael@epa.gov]; Wachter, Eric[Wachter.Eric@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]; Hautamaki, Jared[Hautamaki.Jared@epa.gov]; Kim, Hyon[Kim.Hyon@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Meiburg, Stan[Meiburg.Stan@epa.gov]; Michaels, Andrew[Michaels.Andrew@epa.gov]; Naples, Eileen[Naples.Eileen@epa.gov]; Pieh, Luseni[Pieh.Luseni@epa.gov]; Ragland, Micah[Ragland.Micah@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Threet, Derek[Threet.Derek@epa.gov]
From: Gaines, Cynthia
Sent: Mon 8/15/2016 8:33:03 PM
Subject: Daily Reading File: August 15, 2016
Daily Reading File.8.15.16.pdf

To: Adm13McCarthy, Gina[Adm13McCarthy.Gina@epa.gov]; Ali, Mustafa[Ali.Mustafa@epa.gov]; Beauvais, Joel[Beauvais.Joel@epa.gov]; briefings[briefings@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Emerson, Michael[Emerson.Michael@epa.gov]; Wachter, Eric[Wachter.Eric@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Hautamaki, Jared[Hautamaki.Jared@epa.gov]; Kim, Hyon[Kim.Hyon@epa.gov]; Klasen, Matthew[Klasen.Matthew@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Meiburg, Stan[Meiburg.Stan@epa.gov]; Michaels, Andrew[Michaels.Andrew@epa.gov]; Morales, Esther[Morales.Esther@epa.gov]; Naples, Eileen[Naples.Eileen@epa.gov]; Pieh, Luseni[Pieh.Luseni@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Ragland, Micah[Ragland.Micah@epa.gov]; Rogers, Faith[Rogers.Faith@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]
From: Gaines, Cynthia
Sent: Tue 2/16/2016 8:56:15 PM
Subject: Daily Reading File: February 16, 2016
Daily Reading File.2.16.16.pdf

To: Adm13McCarthy, Gina[Adm13McCarthy.Gina@epa.gov]; Ali, Mustafa[Ali.Mustafa@epa.gov]; Beauvais, Joel[Beauvais.Joel@epa.gov]; briefings[briefings@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Emerson, Michael[Emerson.Michael@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Meiburg, Stan[Meiburg.Stan@epa.gov]; Morales, Esther[Morales.Esther@epa.gov]; Pieh, Luseni[Pieh.Luseni@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Ragland, Micah[Ragland.Micah@epa.gov]; Rogers, Faith[Rogers.Faith@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Wachter, Eric[Wachter.Eric@epa.gov]
From: Leavy, Jacqueline
Sent: Thur 10/22/2015 8:22:58 PM
Subject: Daily Reading File: October 22, 2015
Daily Reading File.10.22.15.pdf

Correspondence Management System

Control Number: AX-17-000-0837
Printing Date: November 01, 2016 12:08:03

Citizen Information

Citizen/Originator: **McCabe, Carol F.**
Organization: Manko, Gold, Katcher, Fox, LLP
Address: 401 City Avenue, Bala Cynwyd, PA 19004

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0837	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 14, 2016	**# of Extensions:**	0
Letter Date:	Oct 27, 2016	**Received Date:**	Oct 27, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Petition for Rulemaking, Reconsideration, and Administrative Stay; Docket I.D. EPA-HQ-OAR-2003-0215; EPA-HQ-OAR-2014-0451
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OGC - Office of General Counsel -- Immediate Office
OPA - Office of Public Affairs

Lead Information

Lead Author: Aimee StClair
Office: OAR-OAQPS-SPPD-NRG
Due Date: Nov 4, 2016
Assigned Date: Oct 31, 2016
Complete Date: N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OAR	Oct 28, 2016	Nov 14, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				
Martha Faulkner	OAR	OAR-OAQPS	Oct 28, 2016	Nov 10, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

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MANKO | GOLD | KATCHER | FOX LLP

AN ENVIRONMENTAL AND ENERGY LAW PRACTICE

Carol F. McCabe
484-430-2304
cmccabe@mankogold.com

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401 CITY AVENUE, SUITE 901
BALA CYNWYD, PA 19004
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WWW.MANKOGOLD.COM

PHILADELPHIA, PA
*CHERRY HILL, NJ
WILLIAMSPORT, PA
by appointment only

**Partner responsible - Bruce S. Katcher*

October 27, 2016

Via Electronic Mail and Overnight Mail
Gina A. McCarthy, Administrator
USEPA, Room 3000
EPA William Jefferson Clinton Building
1200 Pennsylvania Ave., NW
Mail Code: 1101A
Washington, DC 20460

Re: Petition for Rulemaking, Reconsideration, and Administrative Stay
DOCKET I.D. EPA-HQ-OAR-2003-0215; EPA-HQ-OAR-2014-0451

Dear Administrator McCarthy:

Enclosed please find a Petition for Rulemaking, Reconsideration, and Administrative Stay of the United States Environmental Protection Agency's Final Rules entitled *Standards of Performance for Municipal Solid Waste Landfills*, 81 Fed. Reg. 59332-59384 (Aug. 29, 2016), and *Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills*, 81 Fed. Reg. 59276-59330 (Aug. 29, 2016), submitted by the following Petitioners: The National Waste & Recycling Association, the Solid Waste Association of North America, Republic Services, Inc., Waste Management, Inc., and Waste Management Disposal Services of Pennsylvania, Inc.

Should you have any questions, please contact me at (484) 430-2304 or cmccabe@mankogold.com.

Sincerely,

Carol F. McCabe
For MANKO, GOLD, KATCHER & FOX, LLP

CFM/bad/10017-306
Enclosure
cc: Ms. Janet McCabe (w/encl.)
Mr. Joseph Goffman (w/encl.)
Ms. Hillary Ward (w/encl.)
Mr. Andrew Sheppard (w/encl.)
Ms. Robin Dunkins (w/encl.)
Mr. Peter Tsirigotis (w/encl.)

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Correspondence Management System
Control Number: AX-17-000-0869
Printing Date: November 01, 2016 09:45:29

Citizen Information

Citizen/Originator: **Zalzal, Peter**
Organization: Environmental Defense Fund
Address: 2060 Broadway, Boulder, CO 80302

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0869	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 15, 2016	**# of Extensions:**	0
Letter Date:	Oct 28, 2016	**Received Date:**	Nov 1, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: DRF - Petition for Reconsideration regarding Standards of Performance (EPA-HQ-OAR-2003-0215) and Emission Guidelines (EPA-HQ-OAR-014-0451) for municipal solid waste landfills

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: Kristien Knapp - AO-IO
OP - Office of Policy
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OAR	Nov 1, 2016	Nov 15, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: Final Rule Published at 81 Fed. Reg. 59,332 (August 29, 2016) entitled "Standards of Performance for Municipal Solid Waste Landfills," Docket No. EPA–HQ–OAR–2003–0215; and Final Rule Published at 81 Fed. Reg. 59,276 (August 29, 2016) entitled "Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills" Docket No. EPA–HQ–OAR–2014–0451

PETITION FOR RECONSIDERATION AND RULEMAKING

Environmental Defense Fund ("Petitioner") respectfully petitions the Administrator of the U.S. Environmental Protection Agency ("the Administrator" or "EPA") for reconsideration to strengthen aspects of the EPA's final *Standards of Performance for Municipal Solid Waste Landfills*, 81 Fed. Reg. 59,332 (August 29, 2016) ("NSPS") and *Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills,* 81 Fed. Reg. 59,276 (August 29, 2016) ("Emissions Guidelines"). *See* 42 U.S.C. § 7607(d)(7)(B). The grounds for the objections raised in this petition arose after the period for public comment and are of central relevance to the outcome of the rule. The Administrator must therefore "convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed." 42 U.S.C. § 7607(d)(7)(B). Alternatively, we respectfully petition the agency for rulemaking to strengthen the final NSPS and EG. 42 U.S.C. § 7607(d).

INTRODUCTION

Landfills are the nation's third largest source of methane emissions, and recent studies and data—including information released after the close of the public comment period—underscore that both individually and collectively these sources are likely more significant than the agency estimated in the final NSPS and EG. EPA's most recent Greenhouse Gas Inventory, released in April of 2016, estimated that landfills accounted for approximately 148.0 million metric tons CO_2 Eq. (5,919 kt), a 29% increase over previous estimates.[1] This is consistent with an October, 2016 study released in the journal *Nature*, which found that biological sources, including landfills, were largely responsible for global increases in methane emissions.[2]

Several recent studies evaluating emissions from individual landfills likewise have found higher methane emissions than models and estimates would otherwise predict. For instance, tower and aircraft-based methane measurements for a large landfill in

[1] Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2014, EPA 430-R-16-002 (April 15, 2016) compared with Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013, EPA 430-R-15-004 (April 15, 2015).
[2] Grant Allen, Biogeochemistry: Rebalancing the Global Methane Budget 538 NATURE 46 (2016).

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Indianapolis found methane emissions 2.3 times greater than reported to EPA's Greenhouse Gas Reporting Program[3] and recent data in the Barnett Shale basin similarly found two of three landfills with higher than projected methane emissions.[4]

At the same time, as EPA recognized in the final NSPS and EG, there have been substantial advances in landfill control technologies since 1996, when the agency first established landfill standards. Improvements in cover design and monitoring practices, and other techniques have become well-established methods for reducing emissions. Beyond these technological advances, states and municipalities have adopted innovative approaches to methane minimization, including, for example, by diverting organic waste to avoid methane generation in the first instance.[5]

EPA's recently finalized NSPS and EG strengthen landfill requirements by ensuring gas collection and control systems apply to landfills at lower emission thresholds and likewise incorporate some performance-based applicability features to create incentives for landfill owners to minimize emissions. However, these final revisions do not fully secure vital and highly cost-effective pollution reductions from MSW landfills—reductions that recent data suggest are more urgently needed. Accordingly, we respectfully petition EPA to strengthen the final NSPS and EG in key respects, including by:

- Requiring early installation and expansion of gas collection and control systems;
- Revising and strengthening reporting requirements for wet landfills;
- Requiring enhanced monitoring;
- Providing states with guidance to enable emission reductions that are due to state and municipal waste diversion programs to be incorporated into approvable state plans.

We hereby incorporate by reference EDF's white paper, Recommendations and Considerations for EPA's Forthcoming Revisions to Section 111 Standards for MSW Landfills, Docket ID No. EPA-HQ-OAR-2014-0451-0008 (Jan. 2, 2013) [hereinafter "Landfill White Paper"], as well as comments on the revisions proposed on July 17, 2014[6] and re-proposed on August 27, 2015[7] along with all other documents and materials cited in this petition.

---

[3] Brian K. Lamb *et al.*, Direct and Indirect Measurements and Modeling of Methane Emissions in Indianapolis, Indiana 50 ENVTL. SCI. & TECH. 8910 (2016).
[4] D. Zavala-Araiza *et al.*, Reconciling Divergent Estimates of Oil and Gas Methane Emissions, 112 PROC. OF THE NAT'L ACAD. SCI. 15597(2015).
[5] Florentina de la Cruz & Morton Barlaz, Estimation of Waste Component-Specific Landfill Decay Rates Using Laboratory-Scale Decomposition Data, 44 ENVTL. SCI. & TECH. 4722 (2010).
[6] Environmental Defense Fund, Comments of Environmental Defense Fund on Standards of Performance for Municipal Solid Waste Landfills, Docket ID No. EPA-HQ-OAR-2003-0215-0095 (Sept. 15, 2014) [hereinafter "EDF 2014 Comments"].

ED_001174_00000036

Correspondence Management System
Control Number: AX-17-000-0878
Printing Date: November 01, 2016 03:36:08

Citizen Information

Citizen/Originator: **Kadzik, Peter J**
Organization: Office of the Assistant Attorney General
Address: 441 4th Street North West, Washington, DC 20001

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0878	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Oct 26, 2016	**Received Date:**	Oct 31, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF -Allegations of Potential Criminal Violations by employees or contractors of the EPA in connection with 2015 incident at the Gold King Mine
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OIG - Office of Inspector General -- Immediate Office
OP - Office of Policy

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
StephanieN Brown	OEX	R8	Nov 1, 2016

History

Action By	Office	Action	Date
StephanieN Brown	OEX	Control Created	Nov 1, 2016
StephanieN Brown	OEX	Forward control to R8	Nov 1, 2016

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General *Washington, D.C. 20530*

October 26, 2016

RECEIVED
2016 OCT 31 AM 11:16
OFFICE OF THE
EXECUTIVE SECRETARIAT

The Honorable John Barrasso
Chairman
Committee on Indian Affairs
United States Senate
Washington, DC 20510

The Honorable John McCain
United States Senate
Washington, DC 20510

Dear Mr. Chairman and Senator McCain:

This responds to your letter to the Attorney General, dated October 17, 2016, regarding allegations of potential criminal violations by employees or contractors of the Environmental Protection Agency (EPA) in connection with the 2015 incident at the Gold King Mine.

As you know, investigations of potential violations of federal law are conducted by investigative agencies. If appropriate, based on the evidence they have developed in the course of their investigations, the agencies may present facts about whether individuals may have violated any federal criminal law(s) to the Department for prosecutorial consideration. Department prosecutors carefully review any and all evidence and applicable law, guided by the "Principles of Federal Prosecution" found in the United States Attorneys' Manual.[1] Consistent with those Principles, the Department does not file criminal charges unless the prosecutors conclude that evidence which will be admissible in court will probably be sufficient to obtain and sustain a conviction. We assure you that in this matter, the United States Attorney's Office for the District of Colorado, consistent with these principles, has reviewed the information provided to date by the EPA Office of Inspector General (OIG).

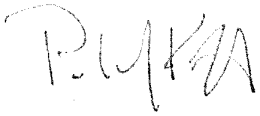
We recognize that there may be occasions when the public is disappointed that the particular facts and circumstances presented by an investigative agency do not meet the requirements for a federal criminal prosecution. However, we believe it is the Department's adherence to these principles that ensures the fair and effective exercise of prosecutorial responsibility by federal prosecutors, and promotes public confidence that important prosecutorial decisions are made rationally and objectively on the merits of each case.

[1] United States Attorneys' Manual § 9-27.220 ("Grounds for Commencing or Declining Prosecution").

As you know, criminal prosecution is not the only means of addressing allegations of government employee wrongdoing. For example, in this case, the EPA OIG has stated that it will prepare a Report of Investigation for submission to EPA's senior management for its review and any administrative action that may be warranted. You may wish to contact the EPA for information about its decisions in any administrative actions relating to this matter.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,



Peter J. Kadzik
Assistant Attorney General

cc: The Honorable Jon Tester
Vice Chairman
Committee on Indian Affairs
United States Senate

cc: The Honorable Gina McCarthy
Administrator
Environmental Protection Agency

Correspondence Management System
Control Number: AX-17-000-0910
Printing Date: November 01, 2016 02:43:22

Citizen Information

Citizen/Originator: **Macmanus, Joseph E.**
Organization: U.S. Department of State
Address: 2201 C Street, NW, Washington, DC 20520

Watkins, Garcia
Organization: U. S. Department of State
Address: 2201 C Street NW, Washington, DC 20520

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0910	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Oct 31, 2016	**Received Date:**	Nov 1, 2016
Addressee:	OEX-Director - OEX	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF-NSA - Daily Reading File - National Security Affairs Calendar 10/3/16-10/6/17
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: AO-IO-SO - Scheduling Office
Kristien Knapp - AO-IO
OHS - Office of Homeland Security
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Brenda Salvador	OEX	OITA	Nov 1, 2016

History

United States Department of State

Washington, D.C. 20520

October 31, 2016

SENSITIVE BUT UNCLASSIFIED
FOR OFFICIAL GOVERNMENT USE ONLY

MEMORANDUM FOR SUZANNE A. GEORGE
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL

SUBJECT: National Security Affairs Calendar

The National Security Affairs Calendar for the upcoming months is attached.

Joseph E. Macmanus
Executive Secretary

Attachment:
As stated.

SENSITIVE BUT UNCLASSIFIED
FOR OFFICIAL GOVERNMENT USE ONLY

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Correspondence Management System

Control Number: AX-17-000-0922
Printing Date: November 01, 2016 01:18:59

Citizen Information

Citizen/Originator: **Lin, Albert**
Organization: Earthjustice
Address: 1625 Massachusetts Avenue, Washington, DC 20036-2243

Cheuse, Emma C.
Organization: Earthjustice
Address: 1625 Massachusetts Avenue, N.W., Washington, DC 20036-2212

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0922	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Oct 31, 2016	**Received Date:**	Oct 31, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Comments of Community and Environmental Groups Addressing the Inclusion of Hazardous Air Pollutants in the Oil and Gas Information Collection Request, Re: Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Information Collection Effort for Oil and Gas Facilities, 81 Fed. Reg. 66,962, Docket ID No. EPA-HQ-OAR-2016-0204
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OAR	Nov 1, 2016

October 31, 2016

Administrator Gina McCarthy
Assistant Administrator Janet McCabe
U.S. Environmental Protection Agency
Mccarthy.gina@epa.gov
a-and-r-Docket@epa.gov

Administrator Howard Shelanski
Office of Information and Regulatory Affairs
White House Office of Management and Budget
oira_submission@omb.eop.gov

Comments of Community and Environmental Groups Addressing the Inclusion of Hazardous Air Pollutants in the Oil and Gas Information Collection Request, Re: Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Information Collection Effort for Oil and Gas Facilities, 81 Fed. Reg. 66,962 (Sept. 29, 2016), Docket ID No. EPA-HQ-OAR-2016-0204

Dear Administrator McCarthy and Administrator Shelanski,

We are writing to support EPA's decision in this pending Information Collection Request ("ICR") to include information on hazardous air pollutants ("HAPs" or "air toxics") from the oil and gas sector. We also write to encourage EPA to collect additional HAP information that would be helpful to meet regulatory requirements promptly upon completion of the information collection process.

Background

There is a strong need for EPA to reduce the toxic air pollution that oil and gas operations emit into local communities across the United States where people are living, working, playing, and going to school in close proximity to these operations. For example, in Los Angeles, California, residents in a densely populated, largely African American and Latino neighborhood live right next door to and on the same block as active oil development sites, and for years have reported experiencing "unpleasant odors on a regular basis" coming from the sites and personal health concerns.[1] In Pavilion, Wyoming, a monitoring study found multiple HAPs in the air near

[1] *See, e.g.*, Earthjustice Petition for Abatement of Public Nuisance at 2 fig.1, 9 (June 9, 2016) (providing Google Map Aerial View of Jefferson Drill Site), http://earthjustice.org/sites/default/files/files/Petition%20to%20Department%20of%20Planning%20%E2%80%93%20Final%20%28Electronic%29.pdf; *see also* Liberty Hill Foundation, *Drilling Down: The Community Consequences of Expanded Oil Development in L.A.*, https://www.libertyhill.org/sites/libertyhillfoundation/files/Drilling%20Down%20Report_1.pdf; Shonkoff *et al.*, *A Case Study of the Petroleum Geological Potential and Potential Public Health Risks Associated with Hydraulic Fracturing and Oil and Gas Development in The Los Angeles Basin*, California Council on Science and Technology (July 9, 2015), http://ccst.us/publications/2015/vol-III-chapter-4.pdf; Community Health Councils, *Oil Drilling in Los Angeles: A Story of Unequal Protections*

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oil and gas facilities and in the bodies of people living, playing, and working near these facilities.[2]

Examples like these abound, and research showing that air toxics emissions from oil and gas operations are linked with elevated birth defects, respiratory and neurological harm, and an increased risk of getting cancer and other serious health threats continues to mount.[3] The undersigned organizations and allied groups have filed multiple sets of comments with EPA, as well as a pending reconsideration petition on the existing § 7412 emission standards, and these submissions provide information regarding the need for EPA to gather additional HAP data and reduce these emissions and the resulting exposure for nearby local communities.[4]

Comments

1. Follow Up on Data Collection Proposed in the ICR

Because of the pressing need for follow-up EPA action, first, we highlight the importance of EPA following through and collecting the information it has proposed to include in the current ICR draft as quickly as possible. We agree that this information collection is necessary and will assist EPA in filling gaps as the agency has recognized, particularly to fulfill its legal responsibility to protect public health and the environment under the Clean Air Act's air toxics authority, 42 U.S.C. § 7412.[5] We believe having up-to-date information on emissions, processes,

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at 2-16 (Jan. 2015), http://chc-inc.org/downloads/CHC-Issue-Brief-Oil-Drilling-In-Los-Angeles.pdf.

[2] E. Crowe *et al.*, Coming Clean, *When The Wind Blows, Tracking Toxic Chemicals in Gas Fields* at 5 (June 2016), http://comingcleaninc.org/assets/media/documents/When%20the%20Wind%20Blows.pdf.

[3] *See* Cal. Communities Against Toxics *et al.*, Comment in Response to Request for Information and Supplement to Petitioners' 2012 Petition for Reconsideration on Oil and Natural Gas, National Emission Standards for Hazardous Air Pollutants (Mar. 11, 2016), EPA-HQ-OAR-2015-0747-0030; Garcia-Gonzales & Shonkoff, PSE Healthy Energy, *Hazardous Air Pollutants from Oil and Gas Development in the United States: A Systematic Review of the Peer-Reviewed Literature from 2012-2015* (Mar. 2016), EPA-HQ-OAR-2015-0747-0028.

[4] *See* Cal. Communities Against Toxics *et al.*, Comment in Response to Request for Information, *supra* n.3; *see also* Cal. Communities Against Toxics *et al.*, Petition for Reconsideration of Oil and Natural Gas Sector: National Emission Standards for Hazardous Air Pollutants Reviews (Oct. 15, 2012), EPA-HQ-OAR-2010-0505-4591 (titled "Comment"; note that the other document at this docket ID No. was incorrectly logged twice by Regulations.gov, and is an NSPS petition filed by other parties which has a separate docket ID No.); Comments of Sierra Club *et al.* (Nov. 30, 2011), EPA-HQ-OAR-2010-0505-4457.

[5] *See* 81 Fed. Reg. at 66,963; EPA, Summary of Comments & Responses at 7 (Sept. 21, 2016), EPA-HQ-OAR-2016-0204-0124; *see also* Cal. Communities Against Toxics *et al.*, Petition for Reconsideration, *supra* n.4.

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and controls is essential to EPA's rulemaking process for hazardous air pollutants, as our prior submissions to the agency have explained.[6]

2. Improve the Collection of Information on Hazardous Air Pollutants to this ICR

We also ask EPA to strengthen the collection of HAP data in the ways described below (and through any additional methods of data collection or testing that EPA may determine are needed) to ensure that this ICR is as efficient and as useful as possible to the agency as it fulfills its regulatory obligations to reduce methane and achieve as many health benefits as possible from that action, and also to reduce communities' exposure to hazardous air pollutants directly and ensure much-needed protection for local public health.

HAP Emissions

EPA should improve the current draft of the ICR to ensure that EPA has access to all of the best available data from operators on HAP emissions from priority sources. To achieve this, EPA should clarify the current reporting requirements for HAPs to include better information on how the values were calculated and require the submission of *any and all* data pertinent to available HAP emissions. While the current ICR includes very important HAP data from key sources, EPA should not miss the opportunity to collect additional HAP data, when it is available. For example, for multiple sources the reporting tables require submission of estimates of total HAP or just Benzene, Toluene, Ethylbenzene, and Xylene (BTEX) emissions. EPA should make sure to collect the pollutant-specific information, plus any other additional HAP information, from operators, instead of only requesting "total HAP" information. More specifically this would mean EPA should:

1. Add language in conjunction with all tables describing individual HAP chemicals *requiring* that any data available on other HAPs not included in the table should be appended to the worksheet. This comment requests that EPA add this language to the following components of the ICR:

    a. Gas Composition table (Attachment 3D p.67)

    b. Emissions and flash analysis from Tank Separators (Attachment 3H pp.75-78)

        i. Tables in the current draft ICR only include BTEX and Total HAP

[6] *See* Comments of Community and Environmental Groups, filed by Earthjustice, Re: Oil and Gas Information Collection Request (Aug. 2, 2016), EPA-HQ-OAR-2016-0204-0047; Technical Comments of Community and Environmental Groups, Addressing the Inclusion of Hazardous Air Pollutants in the Oil and Gas Information Collection Request, filed by the Natural Resources Defense Council (Aug. 2, 2016), EPA-HQ-OAR-2016-0204-0066; *see also* Letter from Air Alliance Houston *et al.*, to Gina McCarthy, Adm'r, U.S. Envtl. Protection Agency, Re: Hazardous Air Pollution from Oil and Gas Operations (Apr. 18, 2016) (filed by Earthjustice on behalf of 35 organizations); *see also* sources cited *supra* nn.3-4.

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c. Dehydrators (Attachment 3K pp.85-86)

   i. Process Emission Simulations Table only includes: Total HAP, Benzene, and Total BTEX

d. Compressors (Attachment 3M p.93)

   i. Current language in the draft ICR indicates that submitting additional test data is "optional" rather than required.

2. Require that all reporting of Total HAPs be accompanied by a description of how the value was calculated or estimated, and an appendix of the underlying data used in the calculation – including any individual data on specific HAPs when available. In addition to the tables listed above, this would apply to the following:

   a. Table for describing produced gas composition in first 30 days of production and during the 2015 calendar year (Attachment 3F pp.71-72)

   b. Acid Gas Removal Unity (AGRU) (Attachment 3J p.83)

3. Expand the reporting of HAP emissions to include all available data on HAP Polycyclic Aromatic Hydrocarbon (PAH) chemicals. Preliminary research on ambient levels of PAHs near natural gas wells in rural Ohio found evidence of PAHs with a petrogenic source signature (signaling direct releases from the earth and not products of combustion) in proximity to active wells.[7] Given this emerging research area, EPA should help fill this data gap by collecting available data on PAH concentrations. The current draft ICR only includes reporting of naphthalene in the relevant tables for produced gas composition (Attachments 3D p.67 & 3K p.86).

Operations

Similar to the HAP emissions data, EPA should improve the reporting of information on facility operations to provide more clarity and transparency on how the information reported was generated. Specifically, the ICR should require:

1. Information explaining if the reported hours when thief hatches were open or dump valves were stuck were determined based on visual inspection, electronic monitoring guidelines and procedures, or other methods. The underlying data used to generate these values (such as summaries of inspection data) should be appended to the report. (Attachment 3H pp.77-78)

[7] L.B. Paulik.*et al.*, [Corrected] *Impact of natural gas extraction on PAH levels in ambient air*, 50 Envtl. Sci. Tech. 7921 (2016), http://pubs.acs.org/doi/pdf/10.1021/acs.est.6b02762. Although the corrected manuscript reports lower levels of PAHs, the study continued to find an association with petrogenic derived PAHs in proximity to active natural gas well sites.

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2. Reporting of compressor station compliance status with regard to emission limits in state and local permits, where applicable. (Attachment 3M pp.91-92)

We also stand by and re-emphasize our prior comments and submissions as cited above, urging EPA to ensure that it has all of the available information on HAPs that it needs or deems useful to fulfill its Clean Air Act regulatory obligations, particularly § 7412, through this process and any follow-up data collection (and/or emission monitoring or testing) that may be helpful once EPA reviews the information received.

Conclusion

Thank you to you and to staff working on this project for your time and consideration of these comments. We would welcome the chance to discuss these comments as helpful. For additional information, please contact Emma Cheuse, Staff Attorney, Earthjustice, echeuse@earthjustice.org, or (202) 745-5220, or Miriam Rotkin-Ellman, Senior Scientist, Natural Resource Defense Council, mrotkinellman@nrdc.org, or (415) 875-6128.

Sincerely,

Emma Cheuse
Staff Attorney
Earthjustice
Washington, D.C.
echeuse@earthjustice.org
(202) 745-5220

Miriam Rotkin-Ellman MPH
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Correspondence Management System

Control Number: AX-17-000-0923
Printing Date: November 01, 2016 03:35:48

Citizen Information

Citizen/Originator: **Shea, Quinlan J.**
Organization: Edison Electric Institute
Address: 701 Pennsylvania Avenue, NW, Washington, DC 20004

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0923	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Oct 31, 2016	**Received Date:**	Nov 1, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Letter in support of Frank P. Prager's nomination to EPA's Clean Air Act Advisory Committee
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OARM-OROM-FACMD - Federal Advisory Committee Management Division
OP - Office of Policy
OPA - Office of Public Affairs
SAB - Science Advisory Board

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	OAR	Nov 1, 2016

History

Action By	Office	Action	Date
Ken Labbe	OEX	Forward control to OAR	Nov 1, 2016

ED_001174_00000036

Edison Electric
INSTITUTE

Quinlan J. Shea, III
Vice President, Environment

October 31, 2016

The Honorable Gina McCarthy
Administrator, U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Submitted electronically to caaac@epa.gov

Dear Gina:

On behalf of EEI and its member companies, I am writing to support the nomination of Frank P. Prager to EPA's Clean Air Act Advisory Committee (CAAAC). Mr. Prager is a respected and productive member of the Edison Electric Institute's (EEI) Environment Executive Advisory Committee (EAC), which reports to our CEO-level Policy Committee on Environment.

Frank has served as Vice President of Policy and Federal Affairs in other high-level positions at Xcel Energy Inc., for 21 years. He has broad experience working with stakeholders from the environmental, electricity consumer, state government and utility regulator communities to develop innovative programs. He negotiated a settlement with the Colorado environmental community that enabled the construction of the Comanche 3 coal-fired generating unit. He was one of the principle authors of the Colorado Clean Air-Clean Jobs Act, which required retrofit and retirement of coal plants, and construction of new natural gas plants. Frank currently is responsible for developing and advocating Xcel Energy's position on a variety of federal energy and environmental issues, including tax policy, grid security, distributed generation and climate change. He is the company's principle liaison on issues related to the Clean Power Plan.

Xcel Energy is one of the nation's most diverse power companies, with operations in eight states from Wisconsin to Colorado and a balanced energy portfolio, including being the nation's top wind energy provider. Xcel Energy actions to reduce coal-fired generation and increase renewable energy have put the company on track to reduce its CO_2 emissions by 30% from 2005 to 2020.

EEI believes that Frank's experience working with a board range of constituents to remove barriers to transitioning toward cleaner power generation in several states would make him both an excellent member of CAAAC and a valuable advisor to EPA.

Sincerely yours,

Quinlan J. Shea, III

cc: Tamara Saltman

701 Pennsylvania Avenue, NW | Washington, DC 20004-2696 | 202-508-5000 | www.eei.org

Correspondence Management System
Control Number: AX-17-000-0936
Printing Date: November 01, 2016 03:28:34

Citizen Information

Citizen/Originator: **Gallagher, Anthony**
Organization: Steamfitters Local 420
Address: 14420 Townsend Road, Philadelphia, PA 19154-1028

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0936	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 15, 2016	**# of Extensions:**	0
Letter Date:	Nov 1, 2016	**Received Date:**	Nov 1, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	OD-Office Director - HQ	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.
Subject: DRF - Renewable Fuel Standards (RFS) Petition to Change the Point of Obligation.
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OP - Office of Policy
OPA - Office of Public Affairs
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
StephanieN Brown	OEX	OAR	Nov 1, 2016	Nov 15, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date

STEAMFITTERS LOCAL UNION 420

ANTHONY GALLAGHER
Business Manager

KEVIN HEFFERNAN
Financial Secretary/Treasurer

October 28, 2016

The Honorable Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
Washington, D.C. 20460

RE: Renewable Fuel Standard (RFS) Petition to Change the Point of Obligation

Dear Administrator McCarthy:

In terms of introduction, I serve as the Business Manager of Steamfitters Local 420, which has jurisdiction over all or parts of ten counties in Southeastern Pennsylvania for the installation and service of mechanical systems.

I write today in strong support of the multiple petitions currently before the EPA seeking to change the point of obligation under the Renewable Fuels Standard (RFS). I strongly urge you to initiate an open and transparent process that includes public notice and comment as you review and consider the pending petitions.

The EPA must set the 2017 renewable fuel volume requirement below the established ten percent Blend Wall, the point at which most automobile engine warranties would be voided, to avert the spike in Renewable Identification Numbers (RINs) pricing that has occurred, which adversely impacted merchant refiners.

As you know, every refinery job supports 18.3 more jobs in our local community, 22 jobs in Pennsylvania, and over 60 jobs nationwide. Forcing Philadelphia Energy Solutions (PES) and other merchant refiners to purchase high priced RINs from non-obligated parties such as Blenders and Wall Street traders will definitely affect thousands of working men and women, and will threaten our entire region's economic vitality.

Thank you for your consideration regarding this important matter and please do not hesitate to call upon me regarding it.

Sincerely,

Anthony Gallagher
Business Manager
Steamfitters Local 420

RECEIVED
2016 NOV -1 AM 9:50
OFFICE OF THE
EXECUTIVE SECRETARIAT

14420 Townsend Road - Suite A - Philadelphia, Pennsylvania 19154-1028 - Tel.: 267/350-4200 • Fax.: 267/350-4299 • 267/350-4225

Correspondence Management System

Control Number: AX-17-000-1083
Printing Date: November 08, 2016 03:01:36

Citizen Information

Citizen/Originator: **Mader, David**
Organization: Executive Office of the President, Office of Management and Budget
Address: 725 17th Street, N.W., Washington, DC 20503

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1083	**Alternate Number:**	N/A
Status:	Appropriate Action	**Closed Date:**	N/A
Due Date:	Nov 23, 2016	**# of Extensions:**	0
Letter Date:	Nov 4, 2016	**Received Date:**	Nov 4, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Additional Guidance for Digital Accountability and Transparency Act Implementation: Further Requirements for Reporting and Assuring Data Reliability
Instructions: AR - ACTION REQUIRED - Please take the action requested in this communication.
Instruction Note: N/A
General Notes: N/A
CC: Derek Threet - AO-IO
OEI - Office of Environmental Information - Immediate Office
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OCFO	Nov 8, 2016

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Control Created	Nov 8, 2016
Jacqueline Leavy	OEX	Forward control to OCFO	Nov 8, 2016
Jacqueline Leavy	OEX	Changed Status For Your Information Appropriate Ac-	Nov 8, 2016

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE CONTROLLER

November 4, 2016

M-17-04

MEMORANDUM FOR AGENCY SENIOR ACCOUNTABLE OFFICIALS

FROM: David Mader
Controller

SUBJECT: Additional Guidance for DATA Act Implementation: Further Requirements for Reporting and Assuring Data Reliability

This Memorandum provides additional guidance to Federal agencies to support the technical operationalization of reporting to USASpending.gov[1] in accordance with the Federal Funding Accountability and Transparency Act of 2006[2] (FFATA), as amended by the Digital Accountability and Transparency Act of 2014[3] (DATA Act or FFATA, as amended), and in furtherance of Federal spending transparency. This guidance does not affect or change any existing policy or regulation.

Consistent with MPM 2016-03 "Additional Guidance for DATA Act Implementation: Implementing a Data-Centric Approach for Reporting Federal Spending Information," this Memorandum further specifies (1) responsibilities for reporting financial information for awards involving Intragovernmental Transfers (IGTs), (2) guidance for reporting financial assistance award records containing personally identifiable information (PII), and (3) guidance for agencies to provide the Senior Accountable Official (SAO) assurance over quarterly submissions to USASpending.gov. Agencies are required to comply with the record keeping and reporting requirements detailed below for the first May 2017 DATA Act reporting and for every quarter thereafter.

Agency SAOs will coordinate with ongoing efforts government-wide and across appropriate partner agencies, OMB, and Treasury to ensure the protection of classified or protected information as defined by Section 7 of the DATA Act. Through this ongoing government-wide coordination effort, agencies should not disclose classified activities over the data they submit to USASpending.gov, including unclassified information that when aggregated becomes classified.

[1] This Memorandum's requirements apply to reporting of required data for posting on USASpending.gov or its successor website. Any reference to "USASpending.gov" means USASpending.gov or a successor system.
[2] Federal Funding Accountability and Transparency Act of 2006 Pub. L. No. 109-282, 120 Stat. 1186 (codified as amended at 31 U.S.C. § 6101 note).
[3] Digital Accountability and Transparency Act of 2014. Pub. L. No. 113-101, 128 Stat. 1146, (codified as amended at 31 U.S.C. § 6101 note).

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1. Reporting Financial Information involving Intragovernmental Transfers

This section specifies reporting responsibilities for financial information required by the DATA Act involving funds transferred between agencies. DATA Act requirements affect the reporting of two types of intragovernmental transfers: allocation transfers and buy/sell transactions which result in Federal awards that are subject to FFATA reporting. The guidelines below do not affect or change any existing policy or regulation.

In circumstances where awards are made using funds from such intragovernmental transfers, awarding agencies[4] will continue to report award-level information (Files D1 and D2 of the DATA Act Information Model Schema (DAIMS)[5]) under FFATA and the Federal Acquisition Regulation (FAR) if applicable; however, the responsibility for reporting financial information (Files A-C of DAIMS) depends on the type of IGTs being reported.

- **Allocation Transfers**

  Beginning with the first DATA Act submission, the awarding agency will submit and assure the appropriations information, program activity and object class, and award financial information for allocation transfers for display on USASpending.gov (Files A-C of DAIMS v1.0). Funding and awarding agencies should determine an internal process to share the data in Files A-C before the awarding agency submits the data for display on USASpending.gov.

  OMB Circular No. A-11 (A-11) requires the funding agency to determine which agency, funding or awarding, is required to report to GTAS (Governmentwide Treasury Account Symbol). In the future, DATA Act reporting will also allow the funding agency to determine which agency, funding or awarding, will submit appropriations information, program activity and object class, and award financial information for display on USASpending.gov (Files A-C of DAIMS v1.0).[6]

  Consistent with A-11 and OMB Circular No. A-136 (A-136) II.4.2 (5), the funding agency is responsible for appropriations information, program activity, and object class information (Files A-B of DAIMS). The funding and awarding agencies will share responsibility for the award financial data (File C of DAIMS). Specifically, the awarding agency will be responsible for individual obligations and the funding agency will be responsible for the association of the individual financial obligations data to the appropriations account level data.

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[4] "Awarding agency" or "awarding entity" refers to the "child," seller, or serving agency whose budget authority comes from offsetting collections. Consistent with the data definitions finalized August 2015, awarding agency is "the name associated with a department or establishment of the Government as used in the Treasury Account Fund Symbol (TAFS)" that "awarded, executed or is otherwise responsible for the transaction."

[5] For additional information regarding the DAIMS see: https://community.max.gov/x/CIbyL

[6] To provide alignment with the reporting required by Circular A-136 II.4.2 (5), the same exceptions outlined A-136 II.4.2 (5) apply to DATA Act reporting.

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For all allocation transfer related data included in DATA Act Files A-C, the awarding agency must provide assurance of the accuracy and reliability of the data to the funding agency. The funding agency, in turn, will be responsible for assuring the submission of the information in Files A-C for display on USASpending.gov. To facilitate a more robust parent/child submission workflow and certification process could be included in subsequent releases of an updated DAIMS could be updated post-May 2017 with input from agencies.

- **Buy/Sell Transactions:**

  When a funding agency funds a service through an awarding agency, both the awarding and funding agency are responsible for submitting appropriations data and program activity and object class data (Files A-B of the DAIMS v1.0). In addition, the awarding agency will submit the financial award data (File C) and will continue to report award-level information (Files D1 and D2 of DAIMS v1.0) under FFATA and the FAR if applicable. Buy/sell transactions may include many funding agencies to one awarding agency or one awarding agency to one funding agency; the instructions for reporting are the same in both cases.

2. Reporting Financial Assistance Awards Containing PII

Consistent with §7 of FFATA, as amended by DATA Act and current reporting practices, personal identifiable information (PII) associated with awards to individuals should not be reported to USASpending.gov. OMB Circular No. A-130 defines PII as "information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual." Agencies currently report financial assistance records containing PII in summary groups of similar awards at the county level known as "aggregate records."

Level of Reporting Financial Assistance Awards with PII

To ensure maximum transparency in Federal spending, agencies must report each financial assistance award at the most granular level practicable while protecting PII. This guidance does not require any change to the nature of data agencies are required to collect from recipients for financial assistance award management and oversight. Given the required data collections, if reporting at the single award level is not practicable,[7] agencies may report at the county level, and if not practicable, aggregated at the state level, consistent with the following:

- **Single Awards Containing PII:** Agencies should report single awards at the award-level to the maximum extent practicable.

  Criteria for reporting at this level: If an agency captures a FAIN and other details for an award to an individual, the agency should report that award to

[7] Reporting at the single award level may not be practicable due to a lack of data collected or due to the extent of the required redactions.

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USASpending.gov as a single, discrete record.

Method for linking: Records reported in this way will be linked using the FAIN as the Award ID, with any PII redacted by the agencies before submission.

- **Aggregated Awards- County Level:** If single award-level reporting is not practicable, agencies may report at the county level.

  Criteria for reporting at this level: If an agency does not capture a FAIN or other individual details for an award to an individual, the agency should include that award in a county-level aggregate record with other similar awards.

  Method for linking: Records reported in this way will be linked using the Unique Record Identifier (URI) as described below and conform to the validations as defined in the DAIMS.

- **Aggregated Awards- State Level:** If neither single award-level reporting nor county-level reporting is practicable, agencies may report at the state level. Awards currently reported at a lower level than state (i.e., county) should continue to be reported at the same or lower level to maintain the current standards of transparency.

  Criteria for reporting at this level: Awards should be aggregated at the lowest possible level to ensure the highest degree of transparency and data quality. If awards are not able to be aggregated at the county level, they should be aggregated at the state level.

  Method for linking: Records reported in this way will be linked using the URI as described below.

As of the date of this Memorandum, the DAIMS v.1.0 provides for reporting at the aggregate county level only. Agencies should continue the current practice of reporting county-level aggregates to protect PII until modification of the DAIMS v.1.0 to support reporting at the single award level, with redacted PII, and the state level can be implemented post-May 2017. More technical guidance about reporting at the single award level and the state award level will be shared when the DATA Act Schema is modified to accept these records.

Linking Aggregate Records through the URI

Agencies must link new financial assistance aggregate records to financial data through the URI for data displayed on USASpending.gov by May 2017. By using the URI for connecting the aggregate financial data and award data, users will have the same spending lifecycle view as provided through use of the Award ID linkage.

Agencies that are unable to include the URI in management and financial systems for county-level aggregate records displayed beginning May 2017 may manually link the award and

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financial data in their submission (award financial file – file C) using URI. All Federal financial service providers and agencies will be required to achieve the automatic linkage for new aggregate records between the financial and award management systems by October 1, 2018.

3. **Quarterly SAO Assurance over DATA Act Data**
   As stated in MPM 2016-03 agency DATA Act SAOs or their designees must provide a quarterly assurance[8] that their agency's internal controls support the reliability and validity of the agency account-level and award-level data reported for display on USASpending.gov. MPM 2016-03 specifies that this assurance should leverage data quality and management controls established in statute, regulation, and Federal-wide policy and be aligned with the internal control and risk management strategies in OMB Circular No. A-123 (A-123).

   Agency's SAO assurance will be submitted quarterly through the forthcoming DATA Act Broker process.[9] The quarterly process will require the SAO to assure the following:

   - **The alignment among the Files A-F is valid and reliable.** Since a DATA Act submission contains a combination of many data sets, the SAO will be required to attest to the validity and reliability of the complete DATA Act submission, including the interconnectivity/linkages (e.g. award ID linkage) across all the data in files A, B, C, D, E, and F. Where there are legitimate differences between files, the SAO should have categorical explanations for misalignments. To provide this assurance, agencies should have internal controls in place over all of the data reported for display USASpending.gov per A-123.

   - **The data in each DATA Act file submitted for display on USASpending.gov are valid and reliable.** To provide this assurance, the SAO will confirm that internal controls over data quality mechanisms are in place for the data submitted in DATA Act files. Existing data quality measures required by regulation and/or OMB guidance will be sufficient for SAO reliance on individual data files. Consistent with MPM 2016-03, Appendix A summarizes the authoritative sources for each file and existing validations and assurances over the data and files reported to USASpending.gov.

     The SAO is responsible and accountable for their agency's data submission. Appendix A explains how the SAO should leverage the existing requirements to support the assurance of data reported for display on USASpending.gov. An integral component of the existing requirements is the guidance in A-123, which directs agencies to establish internal tools and processes as necessary in support of the SAO's assurance. OMB is also reviewing opportunities to enhance assurances over specific DATA Act data and files and provide additional guidance, as appropriate.

[8] In general, an assurance is a statement of accountability to confirm an agency's efforts to supporting data quality.
[9] More information about the technical process for submitting the SAO quarterly will be provided when this policy is implemented.

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Agencies are responsible for providing assurances over the data they submit for display on USASpending.gov. In the case of an IGT, agencies are responsible for assuring the data in the files they submit in accordance with the reporting requirements summarized in Section 1 above.

Consistent with the Federal Acquisition Regulation and 2 C.F.R. , Federal prime awardees (i.e., prime recipients) are responsible for reporting subaward and executive compensation data regarding their first-tier subawards in FFATA Subaward Reporting System (FSRS) and System for Awards Management (SAM), respectively, to meet the FFATA reporting requirements.[10] Agencies must continue to comply with current regulatory requirements, such as requiring Federal prime awardees report to FSRS and SAM as part of the terms and conditions of the award, to promote accurate and complete awardee and subawardee data in FSRS and SAM. More detail about SAO assurance related to awardee reported data in FSRS and SAM data can be found in Appendix A.

If you have any policy questions about this guidance, contact SpendingTransparency@omb.eop.gov. If you have any technical questions about USASpending.gov, please contact the Department of the Treasury's DATA Act Program Management Office (PMO) at DATAPMO@fiscal.treasury.gov.

[10] https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf

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APPENDIX A– Assurances for Each DATA Act File Submitted

DATA Act File	Authoritative Source (consistent with MPM 2016-03 and regulation)	Existing Assurances or Internal Controls over Authoritative Source Data (Pre-DATA Act)	DATA Act SAO Assurance Required
A: Appropriations Account	The SF-133 Report on Budget Execution and Budgetary Resources derived from Government-wide Treasury Account Symbol Adjusted Trial Balance System (GTAS) data	Pursuant to A-136, the reporting agency must reconcile 3rd Quarter and year-end SF-133 data to their Statement of Budgetary Resources (SBR). Year-end data are audited financial data which are subject to management assurances of internal controls over reporting under A-123. Pursuant to OMB Circular No. A-11 (A-11) Section 130.2, for Executive branch agencies, agencies must report all Treasury Appropriation Fund Symbols (TAFSs) in each GTAS reporting window.	The reporting objective is that the data reported in File A match the authoritative source (i.e., SF-133) and that all TAS are reported. To increase the likelihood that this objective will be met, the agency SAO will provide assurance that data integrity processes and controls are in place and align with A-123. These assurances must be made on a quarterly basis and should leverage the existing processes and other assurances listed in the column "Existing Assurances or Internal Controls over Authoritative Source Data."

DATA Act File	Authoritative Source (consistent with MPM 2016-03 and regulation)	Existing Assurances or Internal Controls over Authoritative Source Data (Pre-DATA Act)	DATA Act SAO Assurance Required
B: Object Class and Program Activity	The SF-133 Report on Budget Execution and Budgetary Resources derived from Government-wide Treasury Account Symbol Adjusted Trial Balance System (GTAS) data	Pursuant to A-136, the reporting agency must reconcile 3rd Quarter and year-end SF-133 to their Statement of Budgetary Resources (SBR). Year-end data are audited financial data which are subject to management assurances of internal controls over reporting under A-123. The Program Activity names and codes are embedded in the President's Budget, not a separate list that can be used for validation. Consequently, there is no current validation that the names and codes match the list. DATA Act Broker will validate against the list of Object Class codes in A-11.	The reporting objective is that the total amount reported in File B matches the authoritative source (i.e., SF-133) and that Program Activity and Object Class Codes are reported based on the President's Budget as executed[11] and A-11 respectively. To increase the likelihood that this objective will be met, the agency SAO will provide assurance that data integrity processes and controls are in place and align with A-123. These assurances must be made on a quarterly basis and should leverage the existing processes and other assurances listed in the column "Existing Assurances or Internal Controls over Authoritative Source Data."
C: Award Financial	Financial Systems	Year-end data are audited financial data. All financial data, including the obligations reported in this file, are subject to management assurances under A-123.	The reporting objective is that data reported in File C match the authoritative source (i.e., agency financial systems).

[11] A-11 Section 82.5 (a) contains information about how program activities should be created, and provides that agencies obtain OMB approval for any changes in activity structure. If for any reason, such as funding changes made during the appropriations process, an agency needs to change their program activities in the current fiscal year, such changes should be coordinated through their OMB Resource Management Office. In the future, corresponding validations for program activity in the DATA Act Broker may be implemented.

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DATA Act File	Authoritative Source (consistent with MPM 2016-03 and regulation)	Existing Assurances or Internal Controls over Authoritative Source Data (Pre-DATA Act)	DATA Act SAO Assurance Required
			To increase the likelihood that this objective will be met, the agency SAO shall provide assurance that data integrity processes and controls are in place and align with A-123. These assurances must be made on a quarterly basis and should leverage the existing processes and other assurances listed in the column "Existing Assurances or Internal Controls over Authoritative Source Data."
D1: Procurement Award Attributes	Federal Procurement Data System – Next Generation (FPDS-NG)	Pursuant to the Federal Acquisition Regulation and OMB memoranda beginning in 2009,[12] agencies are required to submit an annual FPDS-NG Data Verification and Validation Report to OMB and GSA. The report includes assurances over the timeliness and completeness of the data and sampling of the core DATA Act required data elements, comparing contract files to FPDS-NG.	The reporting objective is that for data reported pursuant to FFATA (P.L. 109-282) as amended by the DATA Act (P.L. 113-101), they are sourced from and match FPDS-NG at the time of quarterly reporting. To increase the likelihood that this objective will be met, the agency SAO will rely on internal controls (A-123) based on FAR required verification and validation for the assurance over Federal procurement awards.

[12] Relevant OMB memoranda can be found at: https://www.whitehouse.gov/omb/procurement_index_pro_data

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DATA Act File	Authoritative Source (consistent with MPM 2016-03 and regulation)	Existing Assurances or Internal Controls over Authoritative Source Data (Pre-DATA Act)	DATA Act SAO Assurance Required
D2: Financial Assistance Award Attributes	Agency Management Systems/Files (for award description, award title, etc.) Financial Assistance Awardee data in SAM at the time of award (for prime financial assistance awardee information)	No current certification or assurance process performed by agencies. OMB is reviewing opportunities to enhance assurances over this data. Agencies may also leverage the data validations included in the Award Submission Portal as a control that their data follows the standard format. For entities required to register in SAM or otherwise registered, a validation of key data is performed to assure for the purposes of SAM data quality that the entity registration data are accurate. Agencies may leverage this existing validation as a control over the data submitted to SAM.	The reporting objective is that data reported in File D2 match the authoritative source (i.e., agency award management systems) for award-level data and the authoritative source (i.e., SAM) at the time of the award for prime awardee information. To increase the likelihood that this objective will be met, the agency SAO will provide assurance that data integrity processes and controls are in place and align with A-123. These assurances must be made on a quarterly basis and should leverage the existing processes and other assurances listed in the column "Existing Assurances or Internal Controls over Authoritative Source Data."
E: Highly Compensated Officer Data	SAM[13]	Contracts and financial assistance awards[14] contain terms and conditions requiring reporting of executive compensation.	Agencies will be able to leverage assurances based on the internal controls of the system owner, the General Services Administration

[13] Not all award recipients are required to register in SAM. Controls and assurances associated with SAM data are not expected to be applied to recipients who are exempt from SAM registration or who are not required to register.

[14] At the time this Memorandum was issued, 2CFR 170 only required agencies to include this term and condition on grants and cooperative agreements. In the future, this requirement may be expanded to include loans and other forms of financial assistance.

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DATA Act File	Authoritative Source (consistent with MPM 2016-03 and regulation)	Existing Assurances or Internal Controls over Authoritative Source Data (Pre-DATA Act)	DATA Act SAO Assurance Required
		For procurement, OMB guidance of May 2011, requires agency Senior Procurement Executives to certify that agency policies, procedures, and internal controls include reviews of contractor data to assess compliance and completeness. Contractual remedies exist to address any gaps.	(GSA) in accordance with A-123. In addition, for procurement-related awards, agencies will leverage the existing OMB guidance on subaward data quality.
F: Subaward Attributes	FSRS	Contracts and financial assistance awards[14] contain terms and conditions requiring reporting of executive compensation. For procurement, OMB guidance of May 2011, requires agency Senior Procurement Executives to certify that agency policies, procedures, and internal controls include reviews of contractor data to assess compliance and completeness. Contractual remedies exist to address any gaps.	Agencies will be able to leverage assurances based on the internal controls of the system owner, GSA, in accordance with A-123. OMB is reviewing mechanisms to further enhance assurances over these data for financial assistance awards. In addition, for procurement-related awards, agencies will leverage the existing OMB guidance on subaward data quality.

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Correspondence Management System

Control Number: AX-17-000-1103
Printing Date: November 08, 2016 02:50:10

Citizen Information

Citizen/Originator: **Steinwurtzel, Robert N.**
Organization: Baker & Hostetler, LLP
Address: 1050 Connecticut Avenue, N.W., Washington, DC 20036-5304

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1103	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
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Letter Date:	Nov 2, 2016	**Received Date:**	Nov 7, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	AA-OCSPP-Assistant Administrator - OCSPP	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.

Subject: DRF - Letter on behalf of the Association of Battery Recyclers, Inc. in response to letters by Earthjustice and Safer Chemicals Healthy Families requesting EPA include lead for review under recent Toxic Substances Control Act amendments

Instructions: AA-OCSPP-Prepare draft response for signature by the Assistant Administrator for OCSPP

Instruction Note: N/A

General Notes: N/A

CC: AO-IO-SO - Scheduling Office
OP - Office of Policy
OPA - Office of Public Affairs
Susan Burden - AO-IO

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OCSPP	Nov 8, 2016	Nov 23, 2016	N/A
	Instruction: N/A				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

REC

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November 2, 2016

Gina A. McCarthy, Administrator
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

Re: Toxic Substances Control Act / Lautenberg Chemical Safety for the 21st Century Act

Dear Administrator McCarthy:

I write on behalf of the Association of Battery Recyclers, Inc. ("ABR") to respond to letters sent to you by Earthjustice (October 21, 2016) and Safer Chemicals Healthy Families (August 9, 2016) requesting that the Environmental Protection Agency ("EPA") include lead among the first ten chemicals for review under the recent Toxic Substances Control Act ("TSCA") amendments.[1]

The ABR is a non-profit trade association that represents the lead recycling industry. Members of the ABR include companies that own and/or operate battery manufacturers, lead chemical manufacturers, secondary lead smelters, and lead fabricators, as well as consultants and vendors to the lead recycling industry. The lead recycling industry members of the ABR collectively represent virtually all of the lead recycling capacity currently available in the United States, nearly all of the lead recycling capacity currently available in Canada, and a significant amount of the lead recycling capacity currently available in Mexico. Approximately 98% of lead in batteries used in North America is recycled annually.

[1] While the two referenced advocacy groups requested that lead be included on the initial list of ten chemicals, the ABR is aware of another advocacy group, the Environmental Working Group, which has compiled a list of initial ten chemicals that does not include lead. *See* http://www.ewg.org/research/under-new-safety-law-20-toxic-chemicals-epa-should-act-now.

The ABR acknowledges that lead presents known health risks and that a science-based risk evaluation of lead is required under the TSCA amendments. The ABR further agrees with the principle expressed in the August 9, 2016 letter from Safer Chemicals Healthy Families that "EPA must choose the first ten chemicals wisely" and "[t]he goal should be to achieve the earliest maximum benefit to public health and the environment." The ABR submits, however, that this goal is best achieved by focusing EPA's limited TSCA resources first on chemicals that are not already as extensively studied and heavily regulated as lead.

Lead should not be among the first ten chemicals selected for review because the risks associated with lead have already been extensively evaluated and lead is already among the most heavily regulated chemicals. Indeed, EPA has an entire portion of its website describing the many ways existing law protects against lead-related risks. *See* https://www.epa.gov/lead. As explained on EPA's website, lead is "regulated by many laws administered by EPA, including the Toxic Substances Control Act (TSCA), Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X), Clean Air Act (CAA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA), Resource Conservation and Recovery Act (RCRA), and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) among others." These existing federal laws address lead in water (e.g., under the Clean Water Act, Safe Drinking Water Act, and Lead and Copper Rule), in air (e.g., the Clean Air Act's National Ambient Air Quality Standards and National Emission Standards for Hazardous Air Pollutants), in soil (e.g., under TSCA Section 403 and Superfund risk assessments), in products (e.g., TSCA regulations for lead-based paint), and in the workplace (e.g., OSHA's lead standard).

Moreover, as a result of these programs and other actions taken by industry, risks associated with lead have markedly diminished. For example, as EPA recently reported in its 2016 Lead NAAQS fact sheet, "The United States has made tremendous progress in reducing lead concentrations in the outdoor air," with the national average concentrations dropping "more than 90 percent since 1980," and "EPA expects that most of the areas previously designated as nonattainment will have attained or are on track to attain by the end of 2016."[2] In addition, according to EPA's report America's Children and the Environment, Third Edition, the "median concentration of lead in the blood of children between the ages of 1 and 5 years dropped from 15 μg/dL in 1976-1980 to 1.0 μg/dL in 2011-2012, a decrease of 93%," and the concentration at the 95th percentile decreased 90% over this same period.[3]

In light of the substantial body of existing law addressing health and environmental risks associated with lead, ABR submits that EPA can achieve more meaningful public health gains by focusing its limited resources for TSCA risk evaluations on first evaluating chemicals that are not already as extensively regulated as lead.

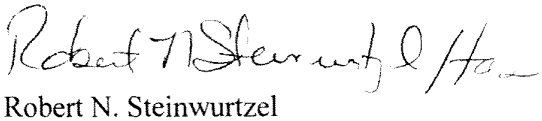
Such a result would be consistent with the legislative history of the recent TSCA amendments for EPA to focus its TSCA resources on first reviewing chemicals the risks of which are not already extensively addressed under other existing laws. The committee report for

[2] https://www.epa.gov/sites/production/files/2016-09/documents/pb_naaqs_nfr_fact_sheet.pdf.
[3] https://www.epa.gov/ace/biomonitoring-lead.

H.R. 2576, the Frank R. Lautenberg Chemical Safety for the 21st Century Act, states that "H.R. 2576 reinforces TSCA's original purpose of filling gaps in Federal law that otherwise did not protect against the unreasonable risks presented by chemicals." Accordingly, the new TSCA amendments added a paragraph to section 9(b) of TSCA explaining, "If the Administrator determines that a risk to health or the environment associated with a chemical substance or mixture could be eliminated or reduced to a sufficient extent by actions taken under the authorities contained in such other Federal laws, the Administrator shall use such authorities to protect against such risk unless the Administrator determines . . . that it is in the public interest to protect against such risk by actions taken under this chapter." The committee report explains that the language was added to help focus the Administrator's decisions regarding which statute to apply and to "avoid confusion, complication, and duplication." Consistent with this principle of employing TSCA resources where there are significant gaps in the protections afforded under other laws, the ABR encourages EPA to first select for review ten chemicals from the TSCA Work Plan that are not as extensively regulated as lead already is under other federal laws.

In closing, the ABR appreciates the opportunity to submit this letter in order to provide another perspective regarding which chemicals should be evaluated as the agency addresses its obligations in response to the TSCA amendments. Please contact the undersigned if your office has any questions regarding this correspondence. We would also welcome the opportunity to meet with your staff to discuss this matter. Thank you.

Sincerely,



Robert N. Steinwurtzel

cc: Wendy Cleland-Hamnett, Director, EPA Office of Pollution Prevention and Toxics

Correspondence Management System
Control Number: AX-17-000-1109
Printing Date: November 08, 2016 10:55:56

Citizen Information

Citizen/Originator: **Vollero, David E.**
Organization: York County Solid Waste and Refuse Authority
Address: 2700 Blackbridge Road, York, PA 17406-7901

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1109	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Nov 2, 2016	**Received Date:**	Nov 7, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF -Clean Energy Incentive Program Design Details; Proposed Rule, EPA-HQ-OAR-2016-0033, 81 Fed. Reg. 42940 (June 30, 2016)
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OPA - Office of Public Affairs
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
StephanieN Brown	OEX	OAR	Nov 8, 2016
Martha Faulkner	OAR	OAR-OAP	Nov 8, 2016

History

Action By	Office	Action	Date
StephanieN Brown	OEX	Control Created	Nov 8, 2016

YORK COUNTY
SOLID WASTE and REFUSE AUTHORITY

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OFFICE OF THE
EXECUTIVE SECRETARIAT

November 2, 2016

The Honorable Gina McCarthy
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Clean Energy Incentive Program Design Details; Proposed Rule, EPA–HQ–OAR–2016–0033, 81 Fed. Reg. 42940 (June 30, 2016)

Submitted via a-and-r-Docket@epa.gov

Dear Administrator McCarthy:

The York County Solid Waste and Refuse Authority (YCSWA) welcomes this opportunity to submit comments on the U.S. Environmental Protection Agency's (EPA) Clean Energy Incentive Program (CEIP). These comments are being submitted in response to EPA's June 30, 2016 CEIP Design Details Proposed Rule, which provides an opportunity for stakeholders and the public to provide further feedback on several key design elements. The major point of these comments is that waste-to-energy (WTE) facilities are GHG-mitigating municipal infrastructure that are already included in the Clean Power Plan and should be made an eligible technology under the CEIP.

YCSWA is the public agency responsible for assuring that York County, Pennsylvania's municipal solid waste is managed in a manner that is both environmentally and economically sustainable. In furtherance of that objective, YCSWA developed the York County Resource Recovery Center (YCRRC), a WTE facility that became the cornerstone of York County's municipal waste management infrastructure in 1989. In the ensuing 27 years, the YCRRC project has facilitated diversion of more than 11 million tons of waste from landfills and produced more than 5.5 billion kilowatt-hours of base-load renewable energy. Using EPA's estimates, more than 11 million tons of CO2 equivalent GHG emissions have been avoided through facility operations. In that same period the service costs to ratepayers has been very stable and affordable, and we are currently building out the YCRRC site to enhance site safety, improve the customer experience, and accommodate installation of additional WTE capacity to match the growing needs of York County. Importantly for the purposes of these comments, actual development of future WTE capacity in York County will depend on its economic viability in prevailing market conditions. Thus it is imperative that all values of WTE, ***including GHG mitigation,*** be recognized in federal policy in such a way as to contribute to the feasibility of future WTE implementation.

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The CEIP is a critical part of the overall efforts to reduce GHG emissions from the electricity sector. Most directly, the CEIP will incentivize early action to reap early GHG emissions reductions prior to the start of the program. Perhaps most importantly, the CEIP will also serve as a policy glide-path to the final CPP. The EPA itself has stated its intent to make the transition from the CEIP to the CPP as seamless as possible. We believe this is the right approach: states will very likely view the CEIP as policy guidance for the CPP. Therefore, the inclusion or exclusion of specific renewable energy technologies in the CEIP will impact not only their development during the intervening years captured by the CEIP, but also during the CPP. Such effects will only be exasperated by any delays in the CPP as a result of the evolving litigation.

Consequently, we strongly believe that WTE should be included in the CEIP. The EPA has already included WTE in the full CPP, and its absence in the CEIP sends a discernable negative signal to those states and communities that have already made investments in WTE, a zero-carbon energy technology that achieves significant GHG reductions relative to the business as usual practice of landfilling.

The EPA has already proposed expanding the list of CEIP-eligible technologies beyond solar and wind to include geothermal and hydropower, citing their adherence to the EPA's criteria for inclusion of eligible RE technologies: 1) zero-emitting; 2) essential to longer-term climate strategies; 3) possessing lead times of relatively shorter duration given the time-limited nature of the CEIP; and 4) the ability to counteract the potential shift in investment from RE to natural gas in the lead up to the start of the interim performance period.[1] EPA has also noted publicly its objective to incentivize actions that would not likely occur absent this program. We appreciate the opportunity to identify how WTE meets each of these eligibility requirements, in addition to the other essential elements described below:

[1] Proposed Clean Energy Incentive Program, 81 Fed Reg. 42,965 (June 30, 2016).

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1. WTE is a zero-emitting RE technology. WTE is well recognized internationally as a source of GHG mitigation, including by the U.S. EPA[2] and U.S. EPA scientists,[3] as well as the Clean Power Plan itself.

2. WTE is essential to longer-term climate strategies and offers important ancillary benefits. As our electrical grid becomes increasingly dependent on intermittent renewable power sources, baseload sources located next to load centers, like WTE, will help aid in grid stability, fuel diversity and reliability, and reduce long distance transmission burden. In addition, WTE is a critical tool in helping to reduce emissions from the potent GHG methane.

3. The lead times for development of WTE are reasonable relative to the timing of the CEIP program and are comparable to recent proposed additions to the list of eligible technologies. EPA has noted that the selection of specific RE technologies in the CEIP is due, in part, to their shorter project lead times. However, EPA has now made eligible in the proposed rule RE technologies with longer lead times—geothermal and hydropower. There is no justifiable basis to include some RE technologies and not others. Rather than guessing which RE technologies can be built in a defined timeframe, let all RE technologies compete to deliver renewable capacity per the rules of the program. The "winners" in the marketplace should not be predetermined by EPA.

4. WTE is a well-accepted and cost competitive source of renewable energy and GHG mitigation that can be implemented to help counteract the potential shift in investment from RE to natural gas. Including RE, such as WTE, in the CEIP sends a strong signal to states that there is huge potential to unleash RE in the void left by shuttered coal-fired power plants. Unless WTE is included in the CEIP's list of eligible technologies, the result will be that most states will read into this rule a message from EPA of discouragement against including WTE in the state plan.

5. EPA Should Make the CEIP And the CPP Seamless and Include All CPP-eligible RE in the CEIP. We believe that limiting the pool of eligible RE resources is an overly narrow treatment of which eligible resources may earn credits from the CEIP. Including all RE ensures that all viable RE have an opportunity to participate in the CEIP, and send states a signal that all RE, including WTE, are viable and accepted CPP-approved technologies to utilize as part of a state compliance plan.

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[2] See U.S. EPA (2016) Energy Recovery from the Combustion of Municipal Solid Waste (MSW) Webpage, https://www.epa.gov/smm/energy-recovery-combustion-municipal-solid-waste-msw

[3] Kaplan, P.O, J. DeCarolis, and S. Thorneloe, 2009, Is it better to burn or bury waste for clean electricity generation? *Environ. Sci. Technology* 43 (6) pp1711-1717. Available at: http://pubs.acs.org/doi/abs/10.1021/es802395e

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6. Including all RE in the CEIP sends a strong signal to states to consider all RE in CPP plans, promoting overall program flexibility. The eligibility of technologies under the CEIP provides tools and flexibility to states rather than a mandate to deploy them. Some may argue that states will find it too difficult to participate in the CEIP if WTE is an eligible technology. We do not find this argument compelling and EPA should not either. Like other technologies, WTE will work for some states and not for others, but the states should be able to decide which RE technologies, like WTE, it wishes to include.

We sincerely appreciate the important work of the EPA and we stand ready to work with you to maximize the benefits of the program for all renewables.

Sincerely,

David E. Vollero
Executive Director

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Correspondence Management System

Control Number: AX-17-000-1148
Printing Date: November 08, 2016 10:37:08

Citizen Information

Citizen/Originator: **Garcia, Indria G**
Organization: U.S. Department of State
Address: 2201 C Street, NW, Washington, DC 20520

Macmanus, Joseph E.
Organization: U.S. Department of State
Address: 2201 C Street, NW, Washington, DC 20520

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1148	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Nov 7, 2016	**Received Date:**	Nov 7, 2016
Addressee:	OEX-Director - OEX	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - National Security Affairs Calendar
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: AO-IO-SO - Scheduling Office
Kristien Knapp - AO-IO
OHS - Office of Homeland Security
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OITA	Nov 8, 2016

History

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United States Department of State

Washington, D.C. 20520

November 7, 2016

SENSITIVE BUT UNCLASSIFIED
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MEMORANDUM FOR SUZANNE A. GEORGE
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL

SUBJECT: National Security Affairs Calendar

The National Security Affairs Calendar for the upcoming months is attached.

for

Joseph E. Macmanus
Executive Secretary

Attachment:
As stated.

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Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Correspondence Management System

Control Number: AX-17-000-1173
Printing Date: November 09, 2016 10:01:48

Citizen Information

Citizen/Originator: **Moore, George**
Organization: International Union of Operating Engineers, Local Union No. 123
Address: 414 North Cline Road, Coffeyville, KS 67337

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1173	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 24, 2016	**# of Extensions:**	0
Letter Date:	Nov 2, 2016	**Received Date:**	Nov 8, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Renewable Fuel Standard and Change Point of Obligation
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OPA - Office of Public Affairs
R7 - Region 7 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OAR	Nov 9, 2016	Nov 24, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date

INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL UNION NO.123

414 N. Cline Rd.
Coffeyville, KS 67337
620-251-1451

George Moore, Business Agent
Martin Kudrick, President
Rodney Kelley, Vice President
Kevin Mersberg, Business Representative

AFFILIATED WITH:
North Central States Conference
Coffeyville Metal Trades Council
Ks/Ok Branch, I.U.O.E.
Texas State Branch, I.U.O.E

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

RE: RFS and Change Point of Obligation

Dear Madam Administrator:

As the Business Manager of the International Union of Operating Engineers Local 123 representing over 175 union workers at CVR Refining's Coffeyville, Kansas, refinery, I'm writing to ask for your help in fixing the Renewable Fuel Standard program. The I.U.O.E. Local 123 fully supports changing the point of obligation under the RFS to include all fuel blenders – not just refiners and importers. Prior to making a decision on this important change, we urge you to initiate an open and transparent process that includes both public notice and comments. Our voices should be heard on this issue.

Several refiners have filed petitions to change the point of obligation. This is a serious issue that threatens the viability of merchant refiners like CVR, which provide jobs and tremendous economic support to their surrounding communities. In fact, the Coffeyville refinery is considered the major economic engine for its entire region.

Mandating merchant refiners to purchase high-cost RIN credits from integrated refiners, blenders and Wall Street traders has proven disastrous. A Philadelphia refiner recently made the decision to reduce personnel, cut health care benefits, freeze pension contributions and delay capital projects due to the skyrocketing cost of RINs. We do not want this to happen in Coffeyville.

The RFS is clearly not functioning as Congress intended. Please seriously consider supporting these petitions and provide an opportunity for open discussion about how the RFS can be improved through changing the point of obligation.

Thank you for your consideration.

Sincerely,
George Moore

George Moore

Business Manager
I.U.O.E. Local 123
Coffeyville, Kansas

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Correspondence Management System

Control Number: AX-17-000-1197
Printing Date: November 09, 2016 01:21:19

Citizen Information

Citizen/Originator: **Holleman, Frank S.**
Organization: Southern Environmental Law Center
Address: 601 West Rosemary Street, Chapel Hill, NC 27516-2356

Torrey, Nicholas S.
Organization: Southern Environmental Law Center
Address: 601 West Rosemary Street, Chapel Hill, NC 27516-2356

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1197	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Nov 4, 2016	**Received Date:**	Nov 8, 2016
Addressee:	Mr. S. Jay Zimmerman	**Addressee Org:**	North Carolina Department of Environmental Quality, Division of Water Resources
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Comments from the Southern Environmental Law Center on the draft National Pollutant Discharge Elimination System permit by the North Carolina Department of Environmental Quality Mayo Stream Station #NC0038377
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Derek Threet - AO-IO
OCIR-ORO - Office of Regional Operations
OP - Office of Policy
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	R4	Nov 9, 2016

History

Action By	Office	Action	Date
Ken Labbe	OEX	Control Created	Nov 9, 2016
Ken Labbe	OEX	Forward control to R4	Nov 9, 2016

Comments

Commentator	Comment	Date
No Record Found.		

SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 919-967-1450 601 WEST ROSEMARY STREET, SUITE 220 CHAPEL HILL, NC 27516-2356 Facsimile 919-929-9421

November 4, 2016

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VIA EMAIL AND U.S. MAIL

Mr. S. Jay Zimmerman, Director
N.C. DEQ Division of Water Resources
1617 Mail Service Center
Raleigh, N.C., 27699-1617
jay.zimmerman@ncdenr.gov
publiccomments@ncdenr.gov

Re: Draft NPDES Wastewater Permit – Mayo Steam Station, #NC0038377

Dear Mr. Zimmerman:

On behalf of the Roanoke River Basin Association (the "Association"), we submit the following comments on the draft National Pollutant Discharge Elimination System ("NPDES") permit noticed for public comment by the North Carolina Department of Environmental Quality ("DEQ"), Division of Water Resources ("DWR"), which purports for the first time to allow Duke Energy Progress LLC ("Duke Energy") to discharge increased and unlimited pollution into Mayo Lake, Crutchfield Branch, and waters of North Carolina and the United States.

As set forth below, the proposed permit violates the Clean Water Act ("CWA") because, among other things: it allows unlimited toxic pollution of Mayo Lake; it allows Duke Energy, for the first time, to pollute Crutchfield Branch; it authorizes a wastewater treatment facility to malfunction and leak wastewater; it illegally turns North Carolina streams into wastewater ditches with no clean water protections; it puts in place overly lax and ineffective limits for some toxic pollutants; and it reduces substantially clean water protections that have been contained in NPDES permits for the Mayo facility for 30 years.

This proposed permit tries to allow Duke Energy to dump the water out of its Mayo coal ash lagoon into Mayo Lake without any protections for toxic substances; to legalize Duke Energy's longstanding violations of the Clean Water Act and North Carolina law which DEQ has allowed to continue without taking effective enforcement action; and to allow Duke Energy leave its coal ash in an unlined pit which will pollute Person County for decades to come.

I. Introduction

Duke Energy stores approximately 6.6 million tons of coal ash in an unlined pit on the banks of Mayo Lake in Person County. This coal ash pollutes and sits 80 feet deep in groundwater The coal ash lagoon is over 30 years old, and its waters are held back only by a dike made of earth that leaks. The coal ash lagoon is authorized to discharge wastewater from the lagoon only through a canal into Mayo Lake.

Mayo Lake is an important water, recreational, fishing, and economic resource for North Carolina, the region, and Person County. Families live along the lake. Local residents, people who live in surrounding communities, and visitors from other areas fish, swim, and boat in and on the Lake. Over the years, Mayo Lake has been seriously harmed by the pollution from Duke Energy's coal ash lagoon.

Crutchfield Branch is part of the Roanoke River Basin and is a water of the United States and of North Carolina. It originates above Duke Energy's Mayo coal ash lagoon, flows into the lagoon, and flows out of the lagoon through North Carolina and into Virginia. Its water becomes part of the Dan River and flows back into North Carolina. From the first NPDES permit issued for Duke Energy's Mayo coal ash lagoon over 30 years ago to the present day, Duke Energy has been forbidden to discharge from its Mayo coal ash lagoon into Crutchfield Branch.

On August 16, 2013, DEQ filed a verified complaint with the Wake County Superior Court which set out that Duke Energy had intentionally constructed engineered discharges from the Mayo coal ash lagoon directly into Crutchfield Branch. These engineered discharges are not authorized under the Mayo NPDES permit and, in fact, are expressly forbidden. Thus, Duke Energy was and is openly and intentionally violating a clear provision of its Mayo NPDES permit by polluting Crutchfield Branch with coal ash polluted water.

DEQ stated – under oath – that Duke Energy's unpermitted engineered discharges to Crutchfield Branch violate state law and that "without . . . taking corrective action," these seeps "pose[] a serious danger to the health, safety and welfare of the people of the State of North Carolina and serious harm to the water resources of the State." Verified Complaint & Motion for Injunctive Relief, *State of North Carolina* ex rel. *N.C. DENR, DWQ v. Duke Energy Progress, LLC*, No. 13 CVS 11032 (Wake Co., August 16, 2013) (Attachment 1), at ¶ 204. As a result, DEQ asked the court to enter a permanent injunction requiring Duke "to abate the violations of N.C. Gen. Stat. § 143-215.1, [and] NPDES Permits" at Mayo. *Id.* Prayer for Relief ¶ 2. Since filing this complaint, however, DEQ has done nothing to require Duke Energy to stop violating the law and its permit at Mayo.

Further, it has been discovered that Duke Energy's Mayo coal ash lagoon has other leaks that are also illegally flowing into Crutchfield Branch, and otherwise.

Rather than following through on its sworn statements and publicly-announced intention to obtain injunctive relief and corrective action, DEQ is now proposing to grant Duke amnesty for the numerous leaks emerging from its coal ash wastewater treatment lagoon.

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Duke Energy has faced extensive public pressure and litigation by the Association and other community organizations in North Carolina to force Duke Energy to address its primitive unlined and leaking coal ash storage in North Carolina. In May of 2015, Duke Energy operating companies, including the owner of the Mayo coal ash lagoon, pleaded guilty 18 times to 9 coal ash crimes across North Carolina. These crimes included unpermitted coal ash lagoon discharges very much like those flowing from the Mayo coal ash lagoon. Duke Energy operating companies paid a $102 million fine, and they are under nationwide criminal probation. Under court orders, the criminal plea agreement, statutes, regulatory requirements, and settlement agreements with conservation groups, Duke Energy is now required to excavate all the coal ash from unlined coal ash pits at 8 of its 14 coal ash storage sites in North Carolina, and all its sites in South Carolina. In addition, in response to this intense public and legal pressure and stronger regulatory requirements, Duke Energy has announced that it will empty the water from all its coal ash lagoons in North Carolina.

Today, Duke Energy is required to excavate the coal ash from every North Carolina and South Carolina site with 7 million tons or less of coal ash – except Mayo.

However, at Mayo and five other coal ash storage sites in North Carolina, Duke Energy has refused to commit itself to remove the ash from its unlined, leaking, polluting, and dangerous primitive coal ash pits. Instead, Duke Energy hopes to be able to pump the coal ash polluted water out of its leaking lagoons into nearby lakes and rivers and then leave its polluting coal ash in the groundwater in unlined pits near waterbodies where the coal ash will continue to pollute the state's waters forever.

Duke Energy cannot leave its polluting coal ash in place at Mayo under the terms of its existing NPDES permit. The Mayo coal ash pit leaks, and it pollutes Crutchfield Branch – all in open violation of the Clean Water Act and the NPDES permit.

DEQ has allowed this illegal pollution to continue without taking any effective action to stop it. Instead, DEQ now proposes to change Duke Energy's NPDES permit to legalize coal ash pollution that has been illegal for 30 years. At the same time, DEQ tries to give Duke Energy a pass on complying with the Clean Water Act when it pumps its coal ash polluted water into Mayo Lake by providing that limits on toxic pollutants will apply only **AFTER** Duke Energy has polluted Mayo Lake with millions of gallons of coal ash polluted water.

This proposed permit fails to protect the public and public waters and violates the Clean Water Act. DEQ should require that Duke adopt the best available technology to treat the coal ash polluted water before it is dumped into Mayo Lake, as DEQ has required at other coal ash sites in Wilmington and Charlotte; should leave in place the important permit provisions that have been in place at Mayo for 30 years; should require Duke Energy to stop the leaks and discharges of polluted wastewater; and should require Duke Energy remove the coal ash and wastewater from the lagoon, with adequate protections of Mayo Lake and Crutchfield Branch.

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II. Permit Comments

A. The Proposed Permit Violates the Clean Water Act Because It Does Not Protect Mayo Lake and Is Inconsistent with Other Permits Issued by DEQ

The proposed Mayo permit is written to allow Duke Energy to pump all its coal ash polluted water from the Mayo coal ash lagoon into Mayo Lake. Part I, Sections A. (3.) & (4.). Millions of gallons of coal ash polluted water will be pumped into Mayo Lake during the so-called "decanting" phase, over a period of weeks or months. Part I., Section A. (3.). However, the permit provides no limits at all for the pumping of this water to control pollution from Chromium, Copper, Zinc, Barium, Antimony, or Boron. In addition, there is not even a mention of lead, and consequently also no protections of Mayo Lake for lead.

To make matters worse, the permit does appear to include limits for arsenic, mercury, and selenium, toxic pollutants from Duke Energy coal ash that have harmed Mayo Lake and other North Carolina water bodies in the past. But each of these apparent limits is qualified by a footnote, footnote 8. Footnote 8 provides that these limits do not apply until November 1, 2018 – two years away. By then, Duke Energy will have completed dumping its coal ash polluted water in Mayo Lake. Thus, while the permit appears to include limits for these substances, in fact there are no limits for arsenic, mercury, or selenium when Duke Energy will be dumping millions of gallons of coal ash polluted water into Mayo Lake.

As a result, this proposed permit abandons Mayo Lake to unlimited toxic pollution by Duke Energy and its coal ash polluted water.

Still worse, even the limits after November 1, 2018 apply "only when the overflow from the FGD basin is routed to Outfall 002." This is a nonsensical limitation. The purpose of the permit is to protect North Carolina waters -- here Mayo Lake -- not to accommodate the way Duke Energy chooses to route particular pollution streams. It does not matter to the quality and health of Mayo Lake whether pollution from arsenic, mercury, and selenium occurs when Duke Energy is routing its FGD overflow to Outfall 002 or not. These limits should apply, regardless of what Duke Energy may be doing at the Mayo plant.

In addition, the mercury limits are ridiculously high, whenever they go into effect. They are 1000% to 1500% higher than comparable mercury limits for the NPDES permits recently issued by DEQ for Duke Energy's Sutton plant in Wilmington and its Riverbend plant in Charlotte. (Attachments 2 and 3). DEQ is simply not providing the same protections to Person County that it is providing to the metropolitan communities of Charlotte and Wilmington. This permit for this rural community should contain the same mercury limits as those permits for major cities.

As well, the permit contains a meaningless limitation on the nitrate limits. These limits are qualified by a footnote 9. However, there is no footnote 9 in the decanting section of the permit. The nitrate limits, like all others, should go into effect immediately and apply to the so-called "decanting" operation immediately – and not be qualified by a phantom footnote.

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Similar fatal defects are present in the section of the permit governing the "dewatering – removing the interstitial water." Part I, Section A. (4.). This water is the nastiest and most polluted – the water right above and mixed in with the coal ash at the bottom of the lagoon. Yet, once more the most protective arsenic limits, the selenium limits, and the mercury limits are qualified by a footnote (this time footnote 9), which postpones those limits until November 1, 2018 – **AFTER** this highly polluted water is pumped into Mayo Lake. The same is true for the limits for nitrate/nitrite, which are also qualified by footnote 9.

In other words, this permit would allow Duke Energy to pump the nastiest, most toxic, and most polluted coal ash brew into Mayo Lake without meaningful limits on its toxic pollution.

This section of the permit does contain arsenic limits for this coal ash bottom water, but the permit contains a nonsensically high daily limit for arsenic of 340 ppb. This limit is 3400% higher than the 10 ppb standard for arsenic. It also is mathematically incomprehensible, because at the same time the permit provides for a monthly average of 10 ppb and for weekly testing of arsenic. If one week's sample was 340 ppb and even if all other weeks were zero, a weekly average (340 divided by 4) would exceed 80 ppb.

And, like the mercury limits for the "decanting" of the Mayo coal ash lagoon, the mercury limits – even in November 2018 and thereafter – are astronomically high, 1000% to 1500% higher than those for the Duke Energy facilities in Charlotte and Wilmington.

Finally, as before, even those delayed limits apply only when Duke Energy chooses to route the overflow from its FGD basin to Outfall 002. As set out above, this additional loophole for Duke Energy's toxic coal ash pollution should be eliminated.

In short, this permit is written to make it appear at first glance that there are limits upon toxic pollutants when Duke Energy pumps its Mayo coal ash polluted water into Mayo Lake. In fact, the permit is full of footnotes, loopholes, exceptions, and errors -- with the result that there are no meaningful limits to protect Mayo Lake from Duke Energy's toxic coal ash pollution.

This failure not only betrays the public's interests in Mayo Lake, it also blatantly violates the Clean Water Act. Under the Clean Water Act, polluters must control their discharges of pollutants using the best available technology economically achievable ("BAT"): "such effluent limitations shall require the *elimination of discharges of all pollutants* if the Administrator finds . . . that such elimination is technologically and economically achievable." 33 U.S.C. § 1311(b)(2)(A). The EPA requires that "[t]echnology-based effluent limitations shall be established under this subpart for solids, sludges, filter backwash, and other pollutants removed in the course of treatment or control of wastewaters in the same manner as for other pollutants." 40 C.F.R. § 125.3(g).

In the absence of promulgated effluent limitation guidelines, the NPDES permit writer must use best professional judgment ("BPJ") to determine the BAT standard applicable to the coal ash discharges at Mayo. 33 U.S.C. § 1342(a)(1)(B); 40 C.F.R. § 125.3; 15A N.C. Admin. Code 2H .0118. When applying BPJ, "[i]ndividual judgments []take the place of uniform national guidelines, but the technology-based standard remains the same." *Texas Oil & Gas*

Ass'n v. U.S. E.P.A., 161 F.3d 923 (5th Cir. 1998). In other words, DEQ must operate within strict limits when identifying BAT based on BPJ.

The first step in identifying BAT is identifying available technologies. At a minimum, technological availability is "based on the performance of the single best-performing plant in an industrial field." *Chem. Mfrs. Ass'n v. U.S. E.P.A.,* 870 F.2d 177, 226 (5th Cir.) *decision clarified on reh'g*, 885 F.2d 253 (5th Cir. 1989); *see Am. Paper Inst. v. Train*, 543 F.2d 328, 346 (D.C. Cir. 1976) (BAT should "at a minimum, be established with reference to the best performer in any industrial category"). In other words, if the technology is being applied by any plant in the industry, it is achievable. *See Kennecott v. U.S. E.P.A.*, 780 F.2d 445, 448 (4th Cir. 1985) ("In setting BAT, EPA uses not the average plant, but the optimally operating plant, the pilot plant which acts as a beacon to show what is possible").

But determination of technological availability is not limited to a single industrial field. "Congress contemplated that EPA might use technology from other industries to establish the [BAT]." 780 F.2d at 453. International facilities can also be used to define BAT. *Am. Frozen Food Inst. v. Train*, 539 F.2d 107, 132 (D.C. Cir. 1976). EPA's NPDES Permit Writers' Manual states that "BAT limitations may be based on effluent reductions attainable through changes in a facility's processes and operations. . . . even when those technologies are not common industry practice."[1] Even pilot studies and laboratory studies can be used to establish BAT; the technology need not be in commercial use to be considered available. *See American Paper Inst. v. Train*, 543 F.2d 328, 353 (D.C. Cir. 1976).

In sum, BAT requires "***a commitment of the maximum resources economically possible to the ultimate goal of eliminating all polluting discharges***." *EPA v. National Crushed Stone Ass'n*, 449 U.S. 64, 74 (1980) (emphasis added).

There can be no doubt that there are technologies available so that Duke Energy can remove large amounts of pollutants from its coal ash polluted water before it is discharged into Mayo Lake. In fact, DEQ has already imposed such limits for Duke Energy's "decanting" and "dewatering" of its Sutton (Wilmington) facility and its Riverbend (Charlotte) facility. Duke Energy is using wasterwater treatment technologies to achieve those limits at those locations. These same limits and those same technologies can and should be used for Mayo.

As well, Dominion Energy in Virginia has in place wastewater treatment facilities at its Bremo facility on the James River and its Possum Point facility on the Potomac, where it is pumping out water from coal ash lagoons. These facilities are treating coal ash polluted water and meeting tightened standards for coal ash pollutants. Duke Energy can use the same technology here.

At Mayo, the same limits that protect the waters of Charlotte and Wilmington should be in this permit to protect the waters of Person County.

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[1] EPA, NPDES Permit Writers' Manual (Sept. 2010) at p. 5-16, *available at:* http://water.epa.gov/polwaste/npdes/basics/upload/pwm_2010.pdf.

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B. **The Proposed Permit Abandons Crutchfield Branch to Duke Energy's Coal Ash Pollution, in Violation of the Clean Water Act.**

The current NPDES permit for Duke Energy's Mayo facility – like every preceding permit for the last 30 years since the Mayo coal ash lagoon came into existence – forbids Duke Energy from polluting Crutchfield Branch by discharging from the lagoon into the Branch or by contaminating the Branch otherwise:

Section A. (8) of the Mayo NPDES permit, entitled "**Crutchfield Branch**," provides:

> There shall be ***no direct discharge*** of wastewater from the ash pond to Crutchfield Branch. There shall be no violation of water quality standards in Crutchfield Branch due to ***any indirect discharge*** from the ash pond (emphases added).

The proposed permit erases these protections of Crutchfield Branch entirely from the permit, and instead expressly provides that Duke Energy can discharge from the coal ash lagoon into Crutchfield Branch. Then, the proposed permit legalizes Duke Energy's intentional illegal pollution of Crutchfield Branch: The permit provides that Duke Energy's two engineered "toe drains" from the coal ash pond may discharge directly into Crutchfield Branch. Draft Permit at 2. The draft permit acknowledges that these toe drains are "potentially contaminated" – an obvious conclusion since they leak coal ash polluted water from the coal ash lagoon. Then, the draft permit goes further to legalize the flow of five additional "potentially contaminated" flows of water from the lagoons (seeps) into Crutchfield Branch. Draft Permit at 3. And the draft permit contemplates that an unlimited number of other seeps will be allowed to flow into Crutchfield Branch. Draft Permit at 33. Other than lead, there are no limits for any toxic pollutants in these flows of water dumping into Crutchfield Branch. Draft Permit Section A. (8) to (14).

This is as clear an example as possible of a proposed permit that illegally eliminates or reduces the protections of the nation's waters from pollution. The Clean Water Act's NPDES permitting program is structured around progressive improvements in pollution control over time. The Clean Water Act permit is a National Pollutant Discharge ***Elimination*** System permit that is required to make progress towards Congress's "national goal" of eliminating discharges of pollutants to waters of the United States. 33 U.S.C. §§ 1251(a)(1).

For this reason, the CWA includes anti-backsliding requirements to ensure that the limits and conditions imposed new or modified NPDES permits for a facility are at least as stringent as those in previous permits. 33 U.S.C. § 1342(o); 40 C.F.R. § 122.44(l)(1) ("[W]hen a permit is renewed or reissued, interim effluent limitations, standards or conditions must be ***at least as stringent*** as the final effluent limitations, standards, or conditions in the previous permit . . . .").

The CWA's anti-backsliding requirements apply to *all* NPDES permit provisions, not just effluent limits based on BPJ. 40 C.F.R. § 122.44(l)(1); *In the Matter of Star-Kist Caribe, Inc., Petitioner*, 2 E.A.D. 758 at *3 (E.P.A. Mar. 8, 1989). EPA, NPDES Permit Writers' Manual Chapter 7, § 7.2.2, p. 7-4 (Sept. 2010), *available at* http://water.epa.gov/polwaste/npdes/basics/upload/pwm_chapt_07.pdf.

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The draft permit wrongly abandons Crutchfield Branch to Duke Energy's coal ash pollution. The draft permit thus violates the anti-backsliding provisions of the Clean Water Act by eliminating the longstanding protections of Crutchfield Branch.

This backsliding is even more egregious because Crutchfield Branch is part of the Dan River and Roanoke River Basins. These waterways have suffered the most from Duke Energy's coal ash pollution. The Dan River catastrophe dumped over 20 million gallons and 39,000 tons of coal ash into these waterways. Bromide from Duke Energy's coal ash caused carcinogens to enter drinking water systems in these watersheds. The Roanoke River Basin has more leaking Duke Energy coal ash sites than any other part of North Carolina – Belew's Creek, Roxboro, Mayo, and Dan River. It is inexcusable for DEQ to remove protections from the Dan River and the Roanoke River Basin – protections that have been in place for 30 years.

Further, it is transparently obvious why DEQ and Duke Energy have gone so far as to blatantly violate the Clean Water Act in drafting this permit. Duke Energy is currently violating this provision of its Clean Water Act permit openly, and DEQ has done nothing to stop Duke Energy from violating the law. Crutchfield Branch flows directly through the Mayo coal ash lagoon. Duke Energy wants to leave its coal ash in this unlined pit next to Mayo Lake and in and on top of Crutchfield Branch, burying the Branch forever. Further, Duke Energy's consultants have determined that the Mayo coal ash will remain forever deep in Person County's groundwater. It is predictable that Duke Energy's coal ash pit will continue to discharge into Crutchfield Branch and also continue to indirectly harm the water quality of the Branch.

The only way that DEQ can let Duke Energy leave its coal ash in an unlined pit in Person County, polluting Person County's waters, is to wipe out the provisions that have protected Crutchfield Branch for three decades.

However, this scheme violates the Clean Water Act. The new Mayo permit must contain the protections for Crutchfield Branch that have been contained in all earlier permits. These provisions protect the Branch, the Dan River, and the Roanoke River Basin from Duke Energy's Mayo coal ash pollution.

C. The Draft Permit Would Give Duke Energy Amnesty for Its Unlawful Activity and Illegally Authorize the Mayo Waste Water Treatment Plant to Leak.

The Mayo coal ash lagoon is permitted as a wastewater treatment facility. It is required to contain and treat wastewater and to discharge the treated water (presumably with pollutants removed) from a defined and designed outfall. A wastewater treatment facility that leaks of course malfunctions and discharges untreated polluted wastewater from undesigned holes in the wastewater treatment plant.

These leaks violate the basic purpose and basic provisions of the existing and all prior permits, even provisions that remain in the draft permit. This draft permit authorizes the operation of an "ash pond treatment system" that must be "properly operated and maintained." Draft Permit Section at pp. 1-2; Section II.C. (2). Of course, a properly operated and maintained

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wastewater treatment plant discharges only as designed and does not spring leaks from its sides and bottom.

In other words, a wastewater *treatment* facility cannot operate properly or legally if it receives wastewater and then spews it into the environment, and into the waters of the state and the United States, outside the designed treatment system. By malfunctioning in that way, a wastewater treatment facility would be a wastewater *transmission* facility, leaking and disposing of dirty wastewater into the surrounding environment.

But that is what this draft permit tries to allow. It tries to legalize defects in the wastewater treatment facility – flows of untreated wastewater containing coal ash pollutants – that have been illegal since the first NPDES permit was issued for this facility. Draft Permit Sections A. (9.) to (14.). And it even proposes to legalize future failures in the wastewater treatment facility, if it cracks or springs a leak in the future. Section A. (32. "New Identified Seeps").

There is no justification for these changes. No aspect of Duke Energy's wastewater treatment system requires new outfalls into Crutchfield Branch; on the contrary, its system is leaking in the same way it has illegally for years. DEQ is simply attempting to legalize Duke Energy's ongoing, illegal discharges.

As set out above, this attempt violates the anti-backsliding requirements of the Clean Water Act.

As set out below, this attempt violates the Clean Water Act requirement that Duke Energy use the best available technology to eliminate its pollution of United States and North Carolina waters, because it does not require excavation of the coal ash. In addition, this approach violates the BAT requirement, in that the draft permit would allow Duke Energy to *avoid* using key components of even its existing, minimal treatment technology of settling out pollutants in the lagoons and skimming discharge water from the top via risers connected to the permitted outfalls. This is an impermissible step backwards from using available treatment technology, and accordingly it violates the CWA's BAT requirements.

Further, this attempt violates the basic requirements of the Clean Water Act and North Carolina law, because it purports to issue a permit for a malfunctioning wastewater treatment facility that leaks in undesigned ways and pollutes the surrounding environment with untreated wastewater, rather than treating wastewater before discharge into the environment.

D. Permitting Waters of the United States as "Effluent Channels" Violates the Clean Water Act and North Carolina Law

Even this draft permit cannot find a way to allow the Mayo facility to leak and pretend to comply with the Clean Water Act and North Carolina law. Instead, the only way that DEQ can allow Duke Energy to keep polluting Crutchfield Branch is to abandon streams that are waters of North Carolina and the United States and illegally convert them into unprotected wastewater ditches of Duke Energy.

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At Mayo, DEQ has identified five flows of jurisdictional waters – streams, which the Draft Permit calls "seeps" –which it proposes to permit as "effluent channels." Draft Permit Section A. (32.). But, as jurisdictional waters, these streams cannot be permitted as effluent channels.

DEQ has no legal authority to convert a stream – a water of the United States and of North Carolina – into a Duke Energy wastewater ditch with no clean water protections.

The Clean Water Act provides no mechanism to convert jurisdictional waters *into* point source discharges. The Clean Water Act "requires permits for the discharge of 'pollutants' *from* any 'point source' *into* 'waters of the United States.'" 40 C.F.R. § 122.1(b)(1)(emphasis added). By definition, a "point source" cannot be a "water of the United States"; a point source conveys pollutants *to* a water of the United States. Coal ash and coal ash wastewater are pollutants regulated under the Clean Water Act. In theory, an "effluent channel" could be a type of point source but only if that effluent channel is not a "water of the United States." *See* 33 U.S.C. § 1362(14)(defining point source as "any discernible, confined and discrete conveyance, including but not limited to . . . [a] channel"). In sum, jurisdictional waters cannot be point sources. Instead, water quality standards must be met in the jurisdictional waterbody – here, the streams flowing into Crutchfield Branch.

North Carolina law incorporates the same foundational assumption that a point source cannot be a stream, that is, a water of the United States or of North Carolina. "Effluent channel means a discernable confined and discrete conveyance which is used for transporting treated wastewater *to* a receiving stream or other body of water." 15A N.C. Admin. Code 2B.0202 (emphasis added). Restated, an effluent channel conveys wastewater to a receiving stream or body of water; the effluent channel cannot itself be the receiving stream.

North Carolina law makes this point doubly clear by prohibiting designation of an effluent channel if that channel "contain[s] natural waters except when such waters occur in direct response to rainfall events by overland runoff." 15A N.C. Admin. Code 2B.0228(2). "Natural waters" include ground and surface waters, as does the Clean Water Act. North Carolina law prohibits designation of an effluent channel if that channel contains natural, jurisdictional surface waters. North Carolina law also prohibits designation of an effluent channel if that channel contains groundwater. In other words, an effluent channel can only be designated if that channel would be dry except during rainfall events and as a result of transporting waste water. The streams or seeps identified by Duke Energy and DEQ are both jurisdictional surface water tributaries and are influenced by natural ground water, preventing their designation as "effluent channels." This approach cannot be implemented consistent with federal and state law.

There is no doubt that this attempt of the draft permit is clearly illegal under North Carolina and United States law.

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E. **The Coal Ash Must Be Removed from the Mayo Unlined Pit to Prevent Illegal Pollution.**

DEQ is engaging in these illegal contortions in the draft permit in an attempt to dodge its basic responsibility to require Duke Energy to stop its coal ash pollution of waters of North Carolina and the United States. Instead of stopping that pollution, DEQ is engaging in various awkward and illegal permit drafting to avoid the obvious solution: to stop the ongoing illegal water pollution from the Mayo unlined pit, Duke Energy must remove its coal ash to its very nearby lined, modern landfill.

That is the solution that is being implemented at ***every*** utility-owned waterfront coal ash storage site in South Carolina. That is the solution being implemented at eight other Duke Energy coal ash storage sites in North Carolina. Indeed, the Mayo site is the ***only*** coal ash storage site with 7 million tons of coal ash or less in both Carolinas that is not being excavated. For over two years, Duke Energy has been required to excavate the coal ash at Sutton, which contains more coal ash than at the Mayo site. At Sutton, Duke Energy is constructing a new landfill to hold the Sutton ash and is transporting the ash by train to a second new landfill. At Mayo, Duke Energy has an existing landfill whose planned capacity would hold the coal ash without any separate landfill construction and with minimal transportation.

Any NPDES permit issued by DEQ for the Mayo facility must incorporate the Clean Water Act's requirement of best available technology to eliminate discharges if the facility is capable of achieving such elimination. In this case, all the other utilities in the Carolinas, including Duke Energy itself, are already implementing a guaranteed approach to eliminating their discharges: removal of their unlined coal ash to dry, lined landfill storage or recycling.

a. SCE&G

In South Carolina, SCE&G had unpermitted seeps and groundwater contamination at its Wateree Station facility on the portion of the Catawba River called the Wateree River. Today, SCE&G is in the midst of removing all its coal ash from unlined lagoons at Wateree Station to safe, dry, lined storage in a landfill away from the Wateree River. SCE&G has already removed over 1 million tons of coal ash from its Wateree facility. In filings with the South Carolina Public Service Commission, SCE&G has publicly stated its commitment to clean up the coal ash at its other facilities in South Carolina as well. Attachment 4, at 26. SCE&G has also stated publicly that its cleanup has had no effect on customer rates. Eric Connor, "Coal ash cleanup: Someone will pay; will it be customers?" *Greenville News* (Apr. 28, 2014). At the same time, groundwater contamination has dropped by 60 to 90%.

b. Santee Cooper

South Carolina's Public Service Authority utility, known as Santee Cooper, has also committed to excavate its coal ash from unlined lagoons and store it in dry, lined landfills or recycle it for concrete. Santee Cooper's Executive Vice President of Corporate Services described the removal and recycling of the unlined coal ash from the lagoons as "cost-effective" and a "triple win" for the utility's customers, the environment, and the local economy.

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Attachment 5. At last report, Santee Cooper has already removed over 700,000 tons from its Grainger Generating Station in Conway, SC, where unlined coal ash had contaminated the groundwater and adjacent wetlands with arsenic and other pollutants. Attachment 6. Santee Cooper is also moving ahead with excavation from its Jefferies Generating Station in Moncks Corner, SC. David Wren, "Coal ash removal at Santee Cooper's power plants years ahead of schedule," *Post & Courier* (Jan. 26, 2015). A concrete recycling facility has been built at its Winyah facility to remove and reprocess ash, and a new modern lined landfill is being built to hold ash that is not recycled. *Id.* Santee Cooper also states that its actions to eliminate the unlined storage of coal ash will have no effect on its rates. Jim Pierobon, "Smart Utilities Know There Are Responsible Solutions for Their Coal Ash Waste," *The Energy Fix* (Jan. 12, 2015).

c. Duke Energy – South Carolina

In April 2015, conservation groups signed an agreement with Duke Energy for Duke to remove all the coal ash from its W.S. Lee facility on the Saluda River in Anderson County, South Carolina. Attachment 7. Duke will remove all the coal ash to dry, lined storage away from the river, including the ash from two leaking lagoons and in an ash storage area near the lagoons. In September 2014, the South Carolina Department of Health and Environmental Control entered into a consent enforcement agreement with Duke Energy in which Duke was required to remove coal ash from two other storage areas on the Saluda River's banks at the Lee facility. Attachment 8. Since then, Duke Energy has begun removing ash from the site and has permitted a new, lined landfill for removed ash.

Duke Energy's other coal ash site in South Carolina is the H.B. Robinson facility on Lake Robinson and Black Creek in Darlington County, SC. On April 30, 2015, after months of public pressure from conservation groups calling for a cleanup, Duke publicly committed to excavating all the coal ash at Robinson and storing it in a dry, lined landfill on site. Sammy Fretwell, "Duke to clean up toxin-riddled waste pond in Hartsville," *The State* (Apr. 30, 2015). Duke Energy has moved forward with permitting and constructing a lined landfill to hold the excavated ash.

d. Duke Energy – North Carolina

Duke Energy is now required by court order to remove the ash from seven sites across the state, including Sutton, which contains more ash than Mayo. Recently, after insisting that it had to leave the coal ash in unlined pits at its Buck facility, Duke Energy entered into a settlement agreement with conservation groups requiring it to excavate all the coal ash from the Buck site, either to a lined landfill or to be recycled into concrete. Mayo is the only site in North and South Carolina with less than 7 million tons of ash from which the utility is not required to remove the ash.

Duke Energy's excavation of every site as large as Mayo in two states – and at least one site larger than Mayo – is proof positive that dewatering and ash removal are achievable as BAT to stop the ongoing discharges of coal ash pollutants from the Mayo lagoon. Indeed, ash removal at Mayo is even easier than removal at other sites, because there is only one lagoon and Duke Energy has a modern, lined landfill on site that can hold the ash. Accordingly, ash removal should be required in the NPDES permit for Mayo in order to ensure the discharges are stopped.

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In sum, excavation and dry, lined storage of coal ash formerly stored in unlined, leaking lagoons is already standard practice among all the other major utilities in the Carolinas, and Duke Energy is now required to excavate the ash from 10 of its coal ash sites in the Carolinas – including every other one containing 7 million tons or less. Removal of the ash to dry, lined storage is not only economically achievable but cost effective, according to the utilities putting it into practice. And it eliminates the continuing seepage into groundwater and surface waters, as well as the risk of a catastrophic dam failure or spill, such as Duke Energy's Dan River spill in February 2014.

Accordingly, DEQ must incorporate into the NPDES permit provisions requiring the dewatering and excavation of the unlined coal ash from the leaking unlined pit at Mayo, in combination with a reasonable schedule of compliance to achieve the Clean Water Act's goal of eliminating the discharge of pollutants to public waters.

F. DEQ Has Acknowledged That Zero Discharge Is Attainable For Seeps But Fails To Require that Solution or to Impose Corresponding TBELS or Any Schedule Of Completion.

DEQ's fact sheet for another Duke Energy coal ash site, Riverbend, concedes a zero discharge technological solution available to Duke Energy to address coal ash seeps, but DEQ has failed to impose TBELs based on that technology.

The Riverbend Fact Sheet acknowledges, with respect to seeps, that "[r]eleases of this nature would typically be addressed through an enforcement action requiring their elimination . . . ." Attachment 9. The draft permit originally proposed by DEQ for Riverbend further recognized the availability of a zero discharge solution – collection and "rerouting the discharge" and "discontinuing the discharge" are available solutions for meeting technology-based effluent limits. Attachment 10, at Condition A(5) n.4. Nonetheless, DEQ requires no action from Duke Energy at Mayo to address the seeps, but instead proposes in the draft permit simply to allow them to continue. This complete disregard of an acknowledged solution to these uncontrolled discharges does not satisfy the requirements of the federal Clean Water Act.

Indeed, DEQ *must* require compliance with the discharge limits achievable by the implementation of the best available technology *now*, just as it has in the Sutton NPDES permit. EPA defines a compliance schedule as "a schedule of remedial measures, . . . including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) . . . ." 40 C.F.R. § 122.2. Under EPA regulations, DWQ may use compliance schedules to achieve "compliance with CWA [Clean Water Act] and regulations . . . as soon as possible, *but not later than the applicable statutory deadline under the CWA*." 40 C.F.R. § 122.47(a)(1)(emphasis added). The Clean Water Act requires dischargers of color pollution to comply with BAT-based effluent limits by March 31, 1989. 33 U.S.C. §1311(b)(2)(A), (F). Thus, "a permit writer may not establish a compliance schedule in a permit for TBELs [technology-based effluent limits] because the statutory deadlines for meeting technology standards . . . have passed." EPA Permit Writers Manual, Section p. 9-8 (2010); *see also* EPA Permit Writers Manual, Section 9.1.3 p. 148 (1996).

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G. DEQ Cannot Permit the Existing Seeps or Permit In Advance Unidentified and Thus Unpermitted Discharges.

As set out above, not only does the draft permit attempt to authorize the existing seeps and leaks from the coal ash lagoon, it also attempts to put in place in advance a procedure for seeps that have not yet occurred and whose nature is unknown, what the draft permit calls "new identified seeps." Draft Permit Section A. (32.). The draft permit states that the permit must be modified to include the new seep, but it does not specify what public notice and comment procedures, if any, will be used for such "modification." In other words, the draft permit tries to give Duke Energy amnesty in advance for these malfunctions of its unlined Mayo coal ash lagoon.

1. The Draft Permit Violates the CWA's Prohibition on Unpermitted Point Source Discharges

Any non-jurisdictional stream of contaminated water leaking from the Mayo coal ash lagoon to surface waters of the United States is a point source discharge. The proposed permit purports to authorize unspecified point source discharges, in violation of the CWA, 33 U.S.C. § 1311(a).

Under the CWA, "*Every identifiable point* that emits pollution is a point source which must be authorized by a NPDES permit . . . ." *U.S. v. Tom-Kat Dev., Inc.*, 614 F. Supp. 613, 614 (D. Alaska 1985) (citing 40 C.F.R. § 122.1(b) (1). *Accord U.S. v. Earth Sciences, Inc.*, 599 F.2d 368, 373 (10th Cir. 1979); *Legal Envtl Assistance Found., Inc. v. Hodel*, 586 F. Supp. 1163, 1168 (E.D. Tenn. 1984); *U.S. v. Saint Bernard Parish*, 589 F. Supp. 617 (E.D. La. 1984)). The "NPDES program requires permits for the discharge of 'pollutants' from *any* 'point source' into 'waters of the United States.'" 40 C.F.R. § 122.1(b)(1) (emphasis added).

Rather than complying with this straightforward requirement of the CWA, the proposed permit instead tries to legalize the existing illegal seeps and to legalize in advance now nonexistent but future occurring unpermitted discharges.

Further, there are no limits on any toxic pollutants in these seeps, except for lead. Draft Permit Sections A. (8.) to (14.). And, as set out above, Duke Energy and DEQ are illegally attempting to convert all these jurisdictional waters to so-called "effluent channels" with no clean water protections at all.

The draft permit's authorization of the seeps violates the most basic principles of the Clean Water Act. DEQ itself acknowledges in the Riverbend Fact Sheet that "[t]he CWA NPDES permitting program does not normally envision permitting of *uncontrolled releases* from treatment systems" and "[r]eleases of this nature would typically be addressed through an *enforcement action requiring their elimination* rather than permitting" Attachment 9 (emphasis added).

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Indeed, DEQ has pending an enforcement action against the two engineered toe drains at Mayo – an enforcement action that DEQ has not diligently prosecuted. Yet, in this draft permit, DEQ attempts to legalize what it has already stated, under oath, is illegal and a serious threat to North Carolina's people and their water quality.

2. The Proposed Permit Attempts to Shield Duke from Further Legal Violations

The seeps are prohibited under Duke Energy's current NPDES permit. These "uncontrolled releases" of leaking wastewater should be the subject of an enforcement action requiring their elimination. Indeed, DEQ has filed such an action in state Superior Court for the two engineered toe drains. Duke Energy's operating companies have pleaded guilty to criminal violations of the Clean Water Act for exactly such unpermitted discharges.

DEQ's proposed permit purports to legalize these previously illegal discharges with the stroke of a pen, rather than requiring Duke Energy to take any action to remedy the violations. Even more shockingly, DEQ is proposing to grant Duke amnesty for unknown numbers of *future* violations of the Clean Water Act as well. This is nothing more than an attempt to shield Duke Energy from having to comply with the laws it has been violating for years.

3. The Draft Permit's Authorization of Future Seeps Violates the CWA's Public Participation Requirements

The draft permit would allow Duke to evade public notice and comment and the opportunity for a public hearing and for judicial review, along with all the other requirements of the state NPDES permitting program, 33 U.S.C. § 1342(b). While the draft permit vaguely states that a new seep would require the permit to be "modified," there is no indication that public notice and comment would be required. Further, the draft permit purports to set out that any new seep would be handled in the same way as the existing seeps – without knowledge as to the nature or circumstances of the new seep.

It is beyond the authority of DEQ to authorize new point source discharges without the full procedures of a modification of the NPDES permit with public comment and EPA oversight. EPA's regulations authorize limited administrative changes to an active permit through minor modifications, 40 U.S.C. § 122.63, none of which condone the administrative addition of a new point source discharge, which must be permitted as an NPDES outfall. Nor can DEQ prejudge the way a new point source discharge would be addressed, by simply adding the seep to a list to be addressed in the same way as it proposes to address the existing seeps. This scheme is inconsistent with the requirements of the Clean Water Act.

The existing permit and all prior ones are the result of the full agency process, public review, public comment, and the procedures required by the Clean Water Act and North Carolina law. These illegal flows of polluted water into Crutchfield Branch, expressly forbidden by the existing permit, cannot be made legitimate by totally changing the permit to allow contaminated water to pop out of this purported wastewater treatment facility and flow into the Branch. It is inconceivable that a permitted wastewater treatment facility would be allowed to repeatedly open

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up leaks and discharge polluted water from the supposed wastewater treatment lagoons into a public waterway. This proposed option is not law enforcement or pollution elimination at all, but instead an option for the law enforcement agency to try to find a way to make unlawful and polluting activities "permitted" and avoid dealing with the risks to the public. This stratagem should not be adopted by a state agency that has the responsibility of enforcing the law and protecting the State's natural resources and the public interest.

Instead, this permit should require the implementation of the proven method of eliminating seeps from these defective wastewater treatment systems – movement of the ash to safe, dry lined storage and appropriate dewatering of the lagoons.

H. The Draft Permit is Inconsistent with the Removed Substances Provision.

For the same reasons, the proposed permit's attempt to authorize the seeps violates the Clean Water Act's anti-backsliding provisions because it is inconsistent with the Removed Substances provision of the current Mayo NPDES permit, which provides an important limitation in the permit to prevent the entrance of pollutants removed in the course of settling treatment from entering State and navigable waters.

The State of North Carolina has included an important standard condition in its NPDES permits for waste treatment systems like the Mayo lagoon, known as the Removed Substances provision. The Removed Substances provision of the Mayo permit, Part II.C.6, provides:

> "Solids, sludges . . . or other pollutants removed in the course of treatment or control of wastewaters shall be utilized/disposed of . . . in a manner such as to *prevent any pollutant from such materials from entering waters of the State or navigable waters of the United States*." (emphasis added)

This is a common-sense provision to prevent pollutants removed by waste treatment facilities from escaping out into the environment. Accordingly, it has been included in the Mayo permit since the first permit in 1982. The Removed Substances provision is an important component of the Clean Water Act's protections, and prevents waters of the United States from being polluted by waste treatment facilities such as the Mayo coal ash settling lagoon. *In the Matter of: 539 Alaska Placer Miners*, Nos. 1085-06-14-402C & 1087-08-03-402C, 1990 WL 324284 at *8 (EPA 1990) (inclusion of Removed Substance provision "is based on the simple proposition that there is no way one can protect the water quality of the waters of the U.S if the [polluter] is allowed to redeposit the pollutants collected in his settling ponds"); 40 C.F.R. § 440.148(c) (Removed Substances provisions ensure that "measures shall be taken to assure that pollutants materials removed from the process water and waste streams will be *retained in storage areas*") (emphasis added).

In the context of the Mayo permit, the removed substances provision is also the implementation of a required permit component under the implementing regulations of the Clean Water Act. The implementing regulations for the Clean Water Act require that "[t]echnology-based effluent limitations shall be established under this subpart for solids, sludges, filter backwash, and other pollutants removed in the course of treatment or control of wastewaters in

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the same manner as for other pollutants." 40 C.F.R. § 125.3(g). Under the existing permit issued to Duke Energy for the Mayo plant, DEQ did not set individual TBELs for seeps from the ash basin but rather took the only responsible step, of treating zero liquid discharge as the BAT for contaminated seeps from a coal ash impoundment. That is, consistent with the requirement to set TBELs for pollutants removed by the wastewater treatment ash ponds, the existing permit prohibits *any* discharge of removed substances to waters of the United States or of North Carolina.

DEQ itself has cited Duke Energy for violating the Removed Substances provision by allowing pollutants to enter waters of the State and navigable waters due to uncontrolled releases from Duke Energy's coal ash lagoons at its Dan River facility. In a February 28, 2014 Notice of Violation, DEQ cites the discharge "of coal combustion residuals from the ash pond to the Dan River, class C waters of the State" as violating the Removed Substances provision: "Failure to utilize or dispose solids removed from the treatment process in such a manner as to prevent pollutants from entering waters of the State (Part II, Section C. 6. of NPDES permit)." Part II.C.6 of the Dan River NPDES Permit contains the Removed Substances permit provision.

At Mayo, the draft permit purports to allow pollutants removed in the course of treatment to enter waters of the State and United States via uncontrolled releases that have sprung and that may spring out of the lagoon and start discharging to public waters at any time. As such, the proposed permit violates the Clean Water Act's anti-backsliding requirements in this additional way by attempting to authorize illegal discharges prohibited by the existing permit's Removed Substances Provision.

Indeed, there is no indication that DEQ is eliminating the Removed Substances provision from the draft permit; the Removed Substances provision is part of the standard conditions for all NPDES permits in North Carolina. Consequently, this aspect of the draft permit is contrary to this fundamental condition, applicable to all NPDES permits and all wastewater treatment facilities in North Carolina.

I. The Draft Permit Threatens the Safety of the Mayo Dam.

By allowing seeps to continue, DEQ is threatening the safety of the Mayo coal ash dam. DEQ itself has previously acknowledged the danger of seeps for earthen dams at Mayo.

In 2010, DEQ issued a dam safety Notice of Inspection another earthen dam at Mayo and warned:

> "Two of the more common types of earth dam failures are caused or influenced by excessive seepage. Excessive seepage can produce progressive internal erosion of soil from the downstream slope of the dam or foundation toward the upstream side to form an open conduit or 'pipe.' ***Seepage pressures decrease the strength characteristics of the embankment soil.*** *The resulting reduction in embankment stability* ***can produce a slide failure of the downstream slope.***" (emphasis added).

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Attachment 11, at 2. The Mayo coal ash dam is a high hazard dam. DEQ is ignoring its own warnings by trying to allow the Mayo seeps to continue and by purporting to allow future, unknown seeps, without any knowledge of their future effects on the Mayo coal ash dam.

J. The Department Cannot Issue a Permit to a Facility that is Violating Surface Water Standards

DEQ cannot issue a permit that removes the ban on direct discharges to Crutchfield Branch and the pollution caused by indirect discharges to Crutchfield Branch, because discharges from the Mayo coal ash lagoon are contributing to violations of surface water quality standards.

NPDES permits control pollution by setting (1) limits based on the technology available to treat pollutants ("technology based effluent limits") and (2) any additional limits necessary to protect water quality ("water quality-based effluent limits") on the wastewater dischargers. 33 U.S.C. §§ 1311(b), 1314(b); 40 C.F.R. § 122.44(a)(1), (d). An NPDES permit must assure compliance with all statutory and regulatory requirements, including state water quality standards. 33 U.S.C. § 1342(a)(1)(A); 40 C.F.R. § 122.43(a); 15A N.C. Admin. Code 2H .0118.

Similarly, North Carolina law provides that "[n]o permit may be issued when the imposition of conditions cannot reasonably ensure compliance with applicable water quality standards." 15A N.C. Admin. Code 2H.0112(c); *see also* N.C. Gen. Stat. §§ 143-215.6a-c (authorizing civil and criminal penalties and injunctive relief for violations of surface water standards).

At Mayo, Duke Energy is violating surface water standards in Crutchfield Branch. Corrective Action Plan Part 1, at 4-14 ("the stream is primarily impacted by flow from the ash basin"), Table 2-14; Comprehensive Site Assessment Supplement 1, Table 3-1. DEQ can remedy an ongoing violation of surface water quality standards and "ensure compliance with applicable water quality standards" in Crutchfield Branch only by requiring that the source of the pollution, the coal ash, be removed from Crutchfield Branch; that the seeps of coal ash polluted water into Crutchfield Branch be stopped; and that the coal ash be removed from the unlined pit, where it contaminates groundwater and the seeps/streams that flow into Crutchfield Branch, directly or indirectly. DEQ certainly cannot meet the standards of the Clear Water Act and North Carolina law by eliminating the existing permit protections of Crutchfield Branch; permitting the seeps; creating "effluent channels"; and allowing the coal ash to remain in place.

These discharges cannot be permitted as long as surface water quality standards are violated in Crutchfield Branch.

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K. **The Draft Permit Fails to Account for Discharges of Wastewater Through Hydrologically Connected Groundwater**

The Clean Water Act is a strict liability statute prohibiting the discharge of any pollutant to a water of the United States without a permit. 33 U.S.C. § 1311(a). The Mayo coal ash pond discharges significant quantities of contaminated wastewater to Mayo Lake and Crutchfield Branch through groundwater via a direct hydrologic connection to the Lake and the Branch. That discharge is not included in the current permit and attempting to add it now would violate the anti-backsliding provision of the Clean Water Act. 33 U.S.C. § 1342(o); 40 C.F.R. § 122.44(l)(1) ("[W]hen a permit is renewed or reissued, interim effluent limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards, or conditions in the previous permit . . . .").

The United States Department of Justice ("DOJ") recently emphasized "EPA's longstanding position [] that a discharge from a point source to jurisdictional surface waters that moves through groundwater with a direct hydrological connection" comes under the purview of the CWA. *See* Amicus Brief, *Hawaii Wildlife Fund v. County of Maui* (No. 15-17447, 9th Cir.), 5 (Attachment 12). As expressed by DOJ, "it would hardly make sense for the CWA to encompass a polluter who discharges pollutants via a pipe running from the factory directly to the riverbank, but not a polluter who dumps the same pollutants into a man-made settling basin some distance short of the river and then allows the pollutants to seep into the river via the groundwater." *Id.* at 16 (quoting *N. Cal. River Watch v. Mercer Fraser Co.*, No. 04-4620, 2005 WL 2122052, at *2 (N.D. Cal. Sept. 1, 2005)). The same reasoning applies here. As discharges to Mayo Lake and Crutchfield Branch via hydrologically connected groundwater were not authorized and therefore prohibited under the current permit (indeed these discharges to Crutchfield Branch are expressly prohibited), they cannot be authorized in the draft permit, and they are not in the draft permit.

Consequently, DEQ must require Duke Energy to stop the discharge of contaminated wastewater to Mayo Lake and Crutchfield Branch via hydrologically connected groundwater by removing the source of contamination – Duke Energy's coal ash in the unlined Mayo pit.

L. The Draft Permit Has Inadequate Monitoring.

During decanting and dewatering, Duke Energy should be required to take daily samples. These activities are not part of the normal operation of the plant because they are not part of its wastewater treatment function. Special care needs to be taken to ensure the limits in the permit are enforced. Some of the limits in the draft permit have only monthly sampling, and many have only weekly sampling. During the dumping of millions of gallons of coal ash polluted water in Mayo Lake – an important regional water resource – daily sampling is essential for limits to have real meaning.

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J. The Proposed Permit Violates North Carolina's Groundwater Rules

Because of the groundwater contamination at and beyond the compliance boundary at Mayo, the state groundwater rules prohibit DEQ from issuing the proposed NPDES permit for the Mayo coal ash lagoon.

North Carolina's groundwater rules state that "the [Environmental Management] Commission will not approve any disposal system subject to the provisions of G.S. 143-215.1 which would result in a violation of a groundwater quality standard beyond a designated compliance boundary." 15A N.C.A.C. 2L .0103(b)(2). The draft permit states on its face that it is issued under the authority of "North Carolina General State 143-215.1." The Mayo coal ash lagoon is a disposal system for purposes of the 2L groundwater rules, with compliance boundaries set by the rules. 15A N.C.A.C. 2L .0107. Because DEQ issues this permit under authority delegated by the Environmental Management Commission, this prohibition applies to DEQ as well.

There is no question that the disposal system authorized by this permit will result in a violation of a groundwater quality standard at a designated compliance boundary. It already has. There is an extensive history of documented groundwater contamination at Mayo. Indeed, DENR has ordered Duke Energy to undertake assessment activities and filed an enforcement case in Superior Court seeking injunctive relief to abate groundwater contamination at the site. Duke Energy's own studies confirm that it has contaminated the groundwater with elevated levels of pollutants including pH, antimony, arsenic, barium, boron, chromium, cobalt, iron, manganese, thallium, total dissolved solids, and vanadium, at levels above both state groundwater standards and Duke Energy's own proposed background concentrations. *See, e.g.*, Corrective Action Plan Part 1, at ES-6.

The groundwater violations at and beyond the compliance boundary will only continue, in violation of the state groundwater rules, if the ash is allowed to remain in the unlined lagoon where it will continue leaching pollutants into the groundwater. Because this disposal system has already resulted in violations of groundwater quality standards and will continue to do so, DEQ cannot issue the proposed NPDES permit without imposing conditions sufficient to ensure these violations will cease. A requirement for final closure of the Mayo coal ash impoundments and removal of the ash to dry, lined storage is the only assured solution to stop ongoing violations of quality standards at the compliance boundary. Accordingly, the permit should require removal of the ash to safe, dry lined storage.

K. DEQ Fails to Exercise Its Best Professional Judgment to Establish BTA under 316(b).

DEQ is permitted to allow Mayo until the next permitting cycle to provide sufficient information to establish final impingement mortality and entrainment BTA. 40 C.F.R. § 125.98(b)(6) However, DEQ must still "establish *interim* BTA requirements in the permit on a site-specific basis based on the Director's best professional judgment." *Id.* (emphasis added). There is no indication that DEQ has engaged in such analysis in this proceeding. Rather, the Fact

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Sheet simply states: "The permittee shall comply with the Cooling Water Intake Structure Rule per 40 C.F.R. § 125.95. The Division approved the facility request for an alternative schedule in accordance with 40 C.F.R. § 125.95(a)(2). The permittee shall submit all the materials required by the Rule with the next renewal application." Fact Sheet at 3. DEQ has had more than sufficient time to assess at least interim BTA for Mayo. As such, any final permit must include, at minimum, interim BTA standards based on DEQ's best professional judgment and consideration of the factors and technologies specified at 40 C.F.R. §§ 125.94 and 125.98.

Sincerely,

Frank Holleman III

Frank S. Holleman III
Senior Attorney

Nicholas Torrey

Nicholas S. Torrey
Staff Attorney

cc: Gina McCarthy, EPA Administrator
Heather McTeer Toney, Regional Administrator, Region 4

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Correspondence Management System

Control Number: AX-17-000-1207
Printing Date: November 09, 2016 11:49:34

Citizen Information

Citizen/Originator: **Kellogg, Robert**
Organization: Town of Hillsboro Beach
Address: 1210 Hillsboro Mile, Hillsboro Beach, FL 33062

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1207	**Alternate Number:**	N/A
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Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Florida Department of Environmental Protection's Human-Health Based Water Quality Criteria, 62-302.530 Florida Administration Code
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Derek Threet - AO-IO
OCIR - Office of Congressional and Intergovernmental Relations
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
StephanieN Brown	OEX	R4	Nov 9, 2016	Nov 24, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

1210 Hillsboro Mile
Hillsboro Beach, FL 33062

TOWN OF HILLSBORO BEACH

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November 02, 2016

Hon. Gina McCarthy, Administrator
United States Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
McCarthy.Gina@epa.gov

Hon. Heather McTeer Toney, Regional Administrator
U.S. Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-8960
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RECEIVED
2016 NOV -9 AM 10: 18
OFFICE OF THE
EXECUTIVE SECRETARIAT

Submitted via electronic mail

Re: Florida Department of Environmental Protection's Human-Health Based Water Quality Criteria, 62-302.530 Fla. Admin. Code.

Dear Administrators McCarthy and Toney:

We are writing to express the Town of Hillsboro Beach's opposition to the Florida Department of Environmental Protection (FDEP)'s recent revisions to Human Health-Based Water Quality Criteria, 62-302.530. Our Commission already passed **Resolution No.2016-873** urging your agency to protect Floridians and our residents and to reject this rule. *(The resolution is attached.)*

This rule change that would allow dangerously high pollution limits for dozens toxic substances in Florida's water, most of which would also exceed EPA recommended levels. These proposed revisions would result in increased concentrations of toxic chemicals in our waterways, reducing our water quality, increasing cancer rates and leading to other health concerns, and destroying the water-based economy upon which millions of Floridians depend. Our citizens place high value on health and water quality and are deeply concerned about this proposed rule change.

Furthermore, the public, particularly south Florida, were simply not informed about this very important final proposed rule. FDEP workshops were not held in south Florida, preventing our hardworking residents from participating. The Environmental Regulation Commission, which approved the rule change by a narrow 3-2 vote, was missing the local government and environment seats at the time of the vote. The comment period provided the public was fewer than

30 days to respond to this highly technical rule and even the state's Joint Administrative Procedures Committee found the public notice of the rule to be "incomprehensible", as stated in a July 20, 2016 letter sent to FDEP.

We believe that this FDEP's proposed rule is not protective, and therefore we ask that you exercise your authority under the Clean Water Act and to reject DEP's proposed HHC criteria.

Sincerely,

Robert Kellogg
Town Manager

RESOLUTION NO. 2016-873

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA, OPPOSING THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S (DEP) WEAKENING OF RESTRICTIONS THAT WOULD ALLOW AN INCREASE IN THE RELEASE OF TOXIC CHEMICALS INTO FLORIDA'S WATERS; URGING THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA) NOT TO APPROVE THE FLORIDA DEP'S NEW RESTRICTIONS; SUPPORTING THE LAWSUIT FILED BY THE SEMINOLE TRIBE OF FLORIDA AGAINST THE FLORIDA DEP AND THE FLORIDA ENVIRONMENTAL REGULATIONS COMMISSION (FERC) ON AUGUST 5, 2016 TO HALT THE INCREASE OF TOXINS IN FLORIDA'S WATER; OPPOSING ANY EFFORT BY THE DEP OR THE FERC TO OPPOSE THE SEMINOLE LITIGATION; AND DIRECTING THE TOWN CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, THE BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS, THE FLORIDA LEAGUE OF CITIES, AND THE BROWARD COUNTY LEAGUE OF CITIES.

WHEREAS, the Florida Department of Environmental protection (DEP) is Florida's lead agency for environmental management, including protection of Florida's surface waters in accordance with Chapter 403, Florida Statutes, Chapters 62-302 and 62-303, Florida Administrative Code, and the Clean Water Act; and

WHEREAS, DEP is in the process of revising its human health-based surface water quality criteria to update the limits for 43 regulated chemical compounds and to adopt standards for 39 previously unregulated compounds; and

WHEREAS, DEP held three public workshops in May 2016 during which the public expressed their concern with the proposed increases to chemical concentrations and the possible ramifications to public health and the health of our waterways, including the discrepancy between the United States Environmental Protection Agency's (EPA) and the DEP's cancer risk measurements used to revise the standards; and

WHEREAS, on July 26, 2016, the Florida Environmental Regulations Commission (FERC) voted to approve DEP's proposed rule changes through revisions to Chapters 62-302 and 62-303 of the Florida Administrative Code; and

WHEREAS, on August 5, 2016, the Seminole Tribe of Florida filed a lawsuit against DEP and FERC to halt the increase of toxins in Florida's waters; and

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WHEREAS, the Town of Hillsboro Beach (Town) is a barrier island surround by the Atlantic Ocean, and an interconnected system of waterways that provide habitat for fish and wildlife, opportunities for recreation, and an enhanced quality of life; and

WHEREAS, protecting Hillsboro Beach's watershed and keeping our waterways clean is critical to our local ecosystem, our residents, and our economy; and

WHEREAS, the Town works hard to keep pollutants out of its waterways, but the Town depends on the County, State, and Federal governments to establish water quality regulations that help preserve local water quality; and

WHEREAS, DEP's revision to the State's surface water quality standards will increase the discharge limits for several of the compounds under review, allowing the release of these chemicals in greater concentrations into Florida's waterways and potentially degrading the quality of local surface waters; and

WHEREAS, opposing the DEP's reduced standards, urging the EPA to not approve these new restrictions, and supporting the Seminole Tribe's litigation will serve to protect the health, safety, welfare, and economy of the citizens and residents of the Town of Hillsboro Beach.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA, that the Town Commission hereby oppose Florida DEP's weakening of restrictions that would allow an increase in the release of toxic chemicals into Florida's waters; urge the EPA not to approve DEP's new restrictions; support the lawsuit filed by the Seminole Tribe of Florida against DEP and FERC on August 5, 2016 to halt the increase of toxins in Florida's water; oppose any efforts by the DEP or the FERC to oppose the Seminole litigation; and, direct the Town Clerk to transmit a copy of this Resolution to the EPA, the DEP, the Broward County Board of County Commissioners, the Florida League of Cities, and the Broward County League of Cities.

PASSED AND ADOPTED by the Town Commission of the Town of Hillsboro Beach, Florida, this 1st day of November, 2016.

TOWN OF HILLSBORO BEACH, FLORIDA

Deborah L. Tarrant

Deborah L. Tarrant, Mayor

ATTEST:

Yude Alvarez, CMC
Town Clerk

TOWN OF HILLSBORO BEACH FLORIDA

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Correspondence Management System

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Citizen Information

Citizen/Originator: **Donovan, Shaun**
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Scott, Tony
Organization: Executive Office of the President, Office of Management and Budget
Address: 725 17th Street, NW, Washington, DC 20503

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

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Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
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File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Policies for Federal Agency Public Websites and Digital Services
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Derek Threet - AO-IO
OCFO - OCFO -- Immediate Office
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OEI	Nov 9, 2016

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

November 8, 2016

M-17-06

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Shaun Donovan
Director, Office of Management and Budget

Howard Shelanski H.S.
Administrator, Office of Information and Regulatory Affairs

Tony Scott
Federal Chief Information Officer

SUBJECT: Policies for Federal Agency Public Websites and Digital Services

Federal Agency public websites and digital services are the primary means by which the public receives information from and interacts with the Federal Government. These websites and services help the public apply for benefits, search for jobs, comply with Federal rules, obtain authoritative information, and much more. Federal websites and digital services should always meet and maintain high standards of effectiveness and usability and provide quality information that is readily accessible to all.

The May 23, 2012 *Digital Government Strategy* set forth a roadmap to help agencies improve digital services and use emerging technologies to serve the public as effectively as possible.[1] Building on that strategy, on August 11, 2014, the White House released the *U.S. Digital Service Playbook* containing 13 key "plays" drawn from successful practices from the private sector and government.[2] The requirements in this Memorandum support building effective and user-centric digital services as outlined in those two documents. The goals of this Memorandum also align with the principles of OMB Memorandum M-11-24, *Streamlining Service Delivery and Improving Customer Service*, and OMB Memorandum M-10-06, *Open Government Directive*.[3]

This Memorandum rescinds and replaces OMB Memorandum M-05-04, *Policies for Federal Agency Public Websites.*

For questions on this memorandum, please contact: infopolicy-oira@omb.eop.gov.

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[1] https://www.whitehouse.gov/sites/default/files/omb/egov/digital-government/digital-government-strategy.pdf
[2] https://playbook.cio.gov/
[3] https://www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-24.pdf; http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-06.pdf

Policies for Federal Agency Public Websites and Digital Services

Federal Agency public websites and digital services are defined here as online information resources or services maintained in whole or in part by the departments and agencies in the Executive Branch of the U.S. Federal Government that are operated by an agency, contractor, or other organization on behalf of the agency.[4] They provide government information or services to the public or a specific user group across a variety of delivery platforms and devices, and support the proper performance of an agency function.

Unless already required by existing law or policy, or noted below, agencies are expected to comply with the requirements of this Memorandum within 180 days of its publication date.

The *Digital Services Playbook* and http://www.digitalgov.gov/resources/checklist-of-requirements-for-federal-digital-services/ may be helpful additional sources of information for agencies.

GSA will regularly report on their DotGov Dashboard how agencies are implementing the policies in this Memorandum. To facilitate this reporting and compliance, GSA's Office of Government-wide Policy will stand up a new Council of agency Web/Digital Directors within 30 days of the publication of this memo.

Agencies' management of their public websites and digital services must continue to comply with all relevant Federal laws and policies.

1. Establish Integral Digital Governance

A strong governance structure will help agencies develop coherent priorities, set up lines of accountability, and satisfy the public's expectation of the best possible level of service. Agencies must manage their websites and digital services not as discrete individual IT projects, but as part of a comprehensive strategy covering all their digital information and services.

A. As required in the *Digital Government Strategy*, every agency must establish a plan for governing its digital services, including websites and data.[5]

B. Each agency must publicly post its governance plan on its Digital Strategy page at www.[agency].gov/digitalstrategy/ and update this page to reflect the current status of the agency's digital governance structure.[6]

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[4] Digital services include the delivery of digital information (i.e., data or content) and transactional services (e.g., online forms, benefits applications) across a variety of platforms, devices, and delivery mechanisms (e.g., websites, mobile applications, and social media).

[5] http://www.whitehouse.gov/sites/default/files/omb/egov/digital-government/digital-government-strategy.pdf; requirement 4.2.

[6] For standardized webpage locations cited in this memo such as www.[agency].gov/digitalstrategy and others, a similar format should be used if the agency resides on a .mil domain (e.g., www.[agency].mil/digitalstrategy).

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2. Use Analytics and User Feedback to Manage Websites and Digital Services
All public facing websites and digital services should be designed around user needs with data-driven analysis influencing management and development decisions. Agencies should use qualitative and quantitative data to determine user goals, needs, and behaviors, and continually test websites and digital services to ensure that user needs are addressed.

A. All agencies must participate in the General Service Administration's (GSA) Digital Analytics Program (DAP) and deploy the DAP tracking code on all public facing agency websites. The DAP provides agencies with free quantitative analytics to inform website management. Participation in the DAP does not preclude agencies from using other analytics programs.

B. GSA will maintain a public listing of the domains participating in the DAP and track agency compliance on the DotGov Dashboard.

C. Agency use of web measurement and customization technologies must comply with OMB Memorandum M-10-22, *Guidance for Online Use of Web Measurement and Customization Technologies*.[7]

D. Agencies can often use the Fast Track clearance process under the Paperwork Reduction Act (PRA) for the collection of service delivery feedback.[8] In particular, the Fast Track process allows agencies to gather timely feedback from users through the following types of voluntary information collections:

- Focus groups;
- One-time or panel discussion groups;
- Customer satisfaction qualitative surveys;
- Post-transaction customer surveys;
- Online surveys;
- Comment cards or complaint forms;
- Moderated, unmoderated, in-person, and remote usability studies; and
- Testing of a survey or other collection to refine questions.

E. OMB has issued additional guidance, *Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act*, and *Flexibilities under the Paperwork Reduction Act for Compliance with Information Collection Requirements*, to clarify the PRA with respect to its existing flexibilities and various types of social media and collaborative technologies that can further help agencies get feedback from users.[9]

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[7] https://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-22.pdf
[8] https://www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-26.pdf
[9] https://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/SocialMediaGuidance_04072010.pdf; https://www.whitehouse.gov/sites/default/files/omb/inforeg/pra_flexibilities_memo_7_22_16_finall.pdf

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3. Make Information Searchable and Discoverable
Search functions are now a universal and expected website feature the public commonly uses to find information. Furthermore, search engine optimization is critical to reaching users who primarily rely on commercial search engines to find information.

A. Agencies' public websites must contain a search function that allows users to easily search content intended for public use. GSA maintains a search solution that meets this requirement and that is available to all agencies at http://search.digitalgov.gov.

B. Agencies must ensure that all content intended for public use on their website can be indexed and searched by commonly used commercial search engines.

4. Provide Open Data Public Engagement
Consistent with OMB Memorandum M-13-13, *Open Data Policy—Managing Information as an Asset*, agencies must disseminate information to the public, structured in a way that enables the data to be fully discoverable and usable.[10] Open and publicly accessible data can increase public participation in government, promote transparency and accountability, and increase government operations' efficiency and effectiveness.

A. Agencies must provide a machine-readable Public Data Listing at www.[agency].gov/data.json in accordance with the Project Open Data metadata schema and a human-readable Public Data Listing at www.[agency].gov/data.[11]

B. Agencies must provide a continually updated Data Publication Process at www.[agency].gov/digitalstrategy.[12]

C. Agencies must provide a public two-way feedback mechanism available via www.[agency].gov/data.

D. Agencies must provide their existing and new web APIs and relevant open source documentation at www.[agency].gov/developer.

5. Provide Access to Government Information on Multiple Devices
Government information and services should be readily available to the public regardless of device. Agencies must, to the extent practicable, ensure that their public websites and digital services perform equally well on non-desktop devices such as mobile devices and tablets.

A. For new websites and major website redesigns, agencies must ensure responsive design that allows users on non-desktop devices equivalent access to Government information.[13]

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[10] http://www.whitehouse.gov/sites/default/files/omb/memoranda/2013/m-13-13.pdf
[11] https://project-open-data.cio.gov/
[12] This refers to section 3(d) of OMB Memorandum M-13-13, *Open Data Policy*.
[13] Responsive design usually refers to website design that automatically adjusts navigation and content presentation to best fit the device (e.g., mobile phone or desktop monitor) on which the content is viewed.

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B. When determining how to optimize legacy websites and digital services for mobile and other devices, agencies must use customer feedback and analytics to prioritize modernization of the sites and services that are most frequently accessed by users.

6. Protect Privacy

The Federal Government necessarily creates, collects, uses, processes, stores, maintains, disseminates, discloses, and disposes of personally identifiable information (PII) to carry out missions mandated by Federal statute. The review of privacy risks should begin at the earliest planning and development stages of agency actions and policies that involve PII, and should continue throughout the life cycle of the information.

Agencies must be transparent about policies and practices with respect to PII, and must provide clear and accessible notice regarding the creation, collection, use, processing, storage, maintenance, dissemination, disclosure, and disposal of PII. This includes maintaining an up-to-date Privacy Program Page on an agency's principal website, posting plain language privacy policies on an agency's websites, mobile applications, and other digital services, providing Privacy Act statements where required by the Privacy Act of 1974, and providing privacy notices for online collections of information where feasible.

A. Privacy Program Page

Each agency must maintain a central resource page dedicated to its privacy program on the agency's principal website. The agency's Privacy Program Page must serve as a central source for information about the agency's practices with respect to PII. The agency's Privacy Program Page must be located at www.[agency].gov/privacy and must be accessible through the agency's "About" page.

1. At a minimum, agencies must include the following on their Privacy Program Page:

   a. **System of records notices (SORNs).** An agency must list and provide links to complete, up-to-date versions of all agency SORNs. This requires agencies to provide the following:

      - A list of all of the agency's systems of records;
      - Citations and links to all *Federal Register* notices that comprise the SORN for each system of records; and
      - For any SORNs that are comprised of multiple *Federal Register* notices, an unofficial consolidated version of the SORN that describes the current system of records and allows members of the public to view the SORN in its entirety in a single location.

   Agencies must come into full compliance with this requirement as soon as practicable, but no later than 18 months from the issuance of this Memorandum. The requirement to provide links to complete, up-to-date versions of SORNs on the

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agency's Privacy Program Page does not replace the Privacy Act's statutory requirement to publish SORNs in the *Federal Register*.

b. **Privacy impact assessments (PIAs)**. Agencies must list and provide links to PIAs. However, agencies may determine not to include a link to a PIA if doing so would raise security concerns or reveal classified or sensitive information (sensitive information may include information that is potentially damaging to a national interest, law enforcement effort, or competitive business interest).

   Agencies must have a specific, compelling justification in order to decline to post a link to a PIA. If deciding not to post a link to a PIA, agencies should produce a summary or a modified version of the PIA that is suitable for posting.

c. **Matching notices and agreements**. Agencies must list and provide links to up-to-date matching notices and agreements for all active matching programs in which the agency participates.

d. **Exemptions to the Privacy Act**. Agencies must provide citations and links to the final rules published in the *Federal Register* that promulgate each Privacy Act exemption claimed for their systems of records.

e. **Privacy Act implementation rules**. Agencies must list and provide links to all Privacy Act implementation rules promulgated pursuant to 5 U.S.C. § 552a(f).

f. **Publicly available agency policies on privacy**. Agencies must list and provide links to all publicly available agency policies on privacy, including any directives, instructions, handbooks, manuals, or other guidance.

g. **Publicly available agency reports on privacy**. Agencies must list and provide links to all publicly available agency reports on privacy.[14] These reports need not include agencies' Federal Information Security Modernization Act of 2014 (FISMA) reports or reports provided to OMB and Congress pursuant to 5 U.S.C. § 552a(r).

h. **Instructions for submitting a Privacy Act request**. Agencies must provide instructions in clear and plain language for individuals who wish to request access to or amendment of their records pursuant to 5 U.S.C. § 552a(d).

i. **Contact information for submitting a privacy question or complaint**. Agencies must provide appropriate agency contact information for individuals who wish to submit a privacy-related question or complaint.

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[14] Examples of privacy reports include, but are not limited to, annual matching activity reports submitted pursuant to the Privacy Act and reports submitted pursuant to Section 552 of the Consolidated Appropriations Act of 2005, Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007, and the Federal Agency Data Mining Reporting Act of 2007.

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j. **Contact information for the SAOP**. Agencies must identify their Senior Agency Official for Privacy (SAOP) and provide contact information for his or her office. Agencies may also identify and provide contact information for any component privacy officials.

2. At the discretion of the SAOP, sub-agencies, components, and programs may maintain a sub-agency-, component-, or program-specific privacy program page. If an agency sub-agency, component, or program uses a domain that is different from the agency's domain, the sub-agency-, component-, or program-specific privacy program page must be accessible through www.[sub-agency, component, or program domain].gov/privacy.

   In circumstances where the sub-agency, component, or program uses a domain that is the same as the agency's domain, the sub-agency-, component-, or program-specific privacy program page must be accessible from the sub-agency's, component's, or program's primary webpage. Agencies may include on a sub-agency-, component-, or program-specific privacy program page any of the same resources posted on the agency's central Privacy Program Page. However, doing so does not relieve the agency of the requirement to provide the required resources on the agency's central Privacy Program Page.

B. Privacy Policies on Agency Websites

Agencies must post Privacy Policies on their principal, sub-agency, component, and program websites, mobile applications, and other digital services. For each website, agencies must post a link to that website's Privacy Policy on any known, major entry points to the website as well as any webpage that collects PII. This requirement does not apply to internal agency activities (such as on intranets or online interactions that do not involve the public).

1. A Privacy Policy must:

   a. be written in plain language and organized in a way that is easy to understand and navigate;

   b. provide useful information that the public would need to make an informed decision about whether and how to interact with the agency;[15]

   c. be updated whenever the agency makes a substantive change to the practices it describes;

   d. include a time/date stamp to inform users of the last time the agency made a substantive change to the practices the privacy policy describes;

   e. adhere to all other applicable OMB requirements; and

[15] https://www.whitehouse.gov/omb/memoranda_m99-18/

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f. include a link to the agency's Privacy Program Page.

2. If agencies provide content to children under the age of 13 and collect, maintain, or disclose children's PII, they may be required to comply with the requirements in the Children's Online Privacy Protection Act. Among other things, these requirements include adding a section in the agency's Privacy Policy that pertains to these activities.[16]

C. Privacy Act Statements for Online Collections of Information

A Privacy Act statement is required by law whenever an agency asks individuals to supply information that will become part of a system of records under the Privacy Act.[17] The requirements for a Privacy Act statement are described in the Privacy Act and in OMB guidance.[18] When agencies collect information using an online interface, the agency may need to provide a Privacy Act statement.

A privacy notice must be provided, whenever feasible, where a Privacy Act statement is not required but members of the public could nonetheless provide PII to the agency using an online interface. The privacy notice should include a brief description of the agency's practices with respect to the PII that the agency is collecting, maintaining, using, or disseminating.

7. Implement Information Security and Privacy Controls

Information technology changes rapidly and agencies must have the flexibility to address known and emerging threats while making continuous improvements.

FISMA and OMB Circular A-130 require each Federal Agency to develop, document, and implement an agency-wide information security program for the information and information systems that support the agency's operations and assets, including those provided or managed by another agency, contractor, or other source.[19] FISMA also provides for the development and maintenance of minimum controls to protect Federal information and information systems. Moreover, OMB Circular A-130 requires agencies to develop, implement, document, maintain, and oversee an agency-wide privacy program including people, processes, and technologies. Each agency-wide privacy program must implement privacy controls and verify that those controls are operating as intended and continuously monitored and assessed.

A. Agencies must follow the policies, principles, standards, and guidelines on information security and privacy, in accordance with FISMA and other laws. Each agency is already required to implement security and privacy policies as set forth in OMB Circular A-130 and National Institute of Standards and Technology (NIST) Special Publication 800-44,

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[16] http://www.business.ftc.gov/privacy-and-security/childrens-privacy
[17] 5 U.S.C. 552a(e)(3)
[18] https://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf
[19] 44 U.S.C. § 3554(b)

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Guidelines on Securing Public Web Servers; and other associated standards and 800 series guidelines from NIST.[20]

B. All agency domains must be in compliance with OMB Memorandum M-08-23, *Securing the Federal Government's Domain Name System Infrastructure*, and any future updates to identity, credentialing, and access management policy.[21]

8. Use Secure Connections (HTTPS)

The public expects Federal Government websites to be secure and their interactions with those websites to be private. OMB Memorandum M-15-13, *Policy to Require Secure Connections across Federal Websites and Web Services*, requires that all publicly accessible Federal websites and web services only provide service through a secure connection (HTTPS).[22] Unencrypted HTTP connections create a privacy vulnerability and can expose potentially sensitive information that is susceptible to interception, manipulation, and impersonation. This data can include browser identity, website content, search terms, and other user-submitted information.

Federal agencies are already required to deploy HTTPS on their domains following the guidelines in OMB Memorandum M-15-13 and must make all existing websites and services accessible through a secure connection by December 31, 2016. Newly developed websites and services at all Federal agency domains or subdomains must adhere to this policy upon launch. The use of HTTPS is encouraged on Federal intranets.

9. Use Only Approved Domains

Currently, the primary way users quickly determine if they are on an official U.S. Government website is to look for the .gov or .mil designation as part of the domain name.[23] The .gov and .mil domains are widely viewed as zones of increased trust, where the public can confidently access government information and services in a secure environment knowing that the site is legitimate and authoritative. Requiring Federal websites to be part of the .gov or .mil domain instills greater confidence in Federal Agency public websites and digital services.

The requirements laid out in this section serve as the minimum criteria for continued operation on official government domains. Non-compliance with these criteria may jeopardize the integrity and reputation of the agency and the ability to perform its mission.

A. Requests by Executive Branch agencies for new Federal .gov domain names must be approved by the General Services Administration's Office of Government-wide Policy (OGP). OGP will exercise its discretion and authority in considering approvals for new .gov domains and renewals for existing .gov domains, including denying requests for agencies that cannot demonstrate reasonable compliance with the policies identified in this Memorandum.

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[20] https://www.whitehouse.gov/omb/circulars_default/, https://www.whitehouse.gov/sites/default/files/omb/assets/OMB/circulars/a130/a130revised.pdf, http://csrc.nist.gov/publications

[21] https://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2008/m08-23.pdf

[22] https://www.whitehouse.gov/sites/default/files/omb/memoranda/2015/m-15-13.pdf

[23] This includes Fed.us sites which have already been grandfathered in. There will be no new registrations to Fed.us as it is transitioning to .gov.

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B. Each agency must use only an approved .gov or .mil domain for its official public-facing websites.

C. The requirement to use only approved government domains does not apply in circumstances where the agency is a user or a customer of a third-party website or service that resides on a non-governmental domain.

D. Within 60 days of this Memorandum's publication agencies must update their list of non-governmental URLs that they operate at http://search.digitalgov.gov/developer/govt-urls.html, and maintain the list up-to-date thereafter.

E. Agencies must migrate all official public facing websites not currently residing on a .gov or .mil domain (excluding agency third-party services), to a .gov or .mil domain within 180 days after the publication of this Memorandum, unless the agency head explicitly determines a non-governmental domain is necessary for the proper performance of an agency function. Agency head determinations for this exception must be sent to: registrar@dotgov.gov.

All requests for new domains and renewals must be submitted by the Federal Agency CIO or equivalent using the process found on http://www.dotgov.gov.

10. Comply with Third-Party Website and Application Requirements

Using third-party services such as social media and collaboration platforms is now a common business practice and helps to create a more robust, user-friendly, and interactive online experience. Agencies may use a third-party website or application at their discretion so long as the agencies comply with all relevant Federal laws and policies.

A. Agency use of third-party websites and applications must have an intended purpose directly related to an agency function that supports its mission.

B. To help confirm the validity of official U.S. Government digital platforms, within 60 days of the publication date of this Memorandum, agencies must register their public-facing digital services such as social media, collaboration accounts, mobile apps and mobile websites, with the U.S. Digital Registry at: http://www.digitalgov.gov/services/u-s-digital-registry/.

C. Agency use of third-party websites and applications must comply with all relevant privacy protection requirements and a careful analysis of privacy implications as specified in OMB Memorandum M-10-23, *Guidance for Agency Use of Third-Party Websites*.[24]

D. When choosing which third-party websites and applications to adopt, agencies must review the set of terms and conditions that governs access to and use of such products and services and be aware of terms of service that are incompatible with Federal law or regulations. A list of tools with federal-compatible Terms of Service agreements can be found at: http://www.digitalgov.gov/resources/negotiated-terms-of-service-agreements/.

[24] https://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-23.pdf

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E. Federal Acquisition Regulation Clause 48 CFR 52.212-4(u) and OMB Memorandum M-13-10, *Antideficiency Act Implications of Certain Online Terms of Service Agreements*, provides additional guidance for addressing terms of service and user agreements.[25]

11. Ensure Information Quality and Accuracy

The Internet enables agencies to communicate information quickly and easily to a wide audience, which, while of great benefit to society, also increases the potential harm that can result from disseminating incorrect information. Taking this into account, information disseminated from Federal Government websites and digital services, or from third-party services on behalf of the Government, is expected to be authoritative and reliable.

The Information Quality Act applies to all information disseminated from Federal websites, and in certain cases, to information published to third-party sites on behalf of the Government. OMB has published Information Quality Guidelines to help agencies meet this requirement.[26]

A. Information published by an agency must convey a sense of utility, objectivity, and integrity which are defined in OMB's Information Quality Guidelines as:

   1. Utility - The usefulness of the information to its intended users.
   2. Objectivity - Whether the information is presented in an accurate, clear, complete, and unbiased manner.
   3. Integrity - The security of the information from being altered, corrupted or falsified by unauthorized sources.

B. Agencies must be transparent about the quality of the information that they disseminate and must take reasonable steps where practicable to inform users about the information quality of disseminated content, such as:

   1. Clearly identifying the inherent limitations in the information so users are fully aware of its quality and integrity;
   2. Taking steps, when and where practicable, to remove these limitations; and
   3. If necessary, reconsidering whether to disseminate the information if its information quality is not sufficient.

C. The Information Quality Act also applies to third-party publications in cases where the agency is using the third-party service to disseminate information on its behalf or where the agency has the authority to review and approve the information before it's published.

   In cases where members of the public are allowed to post or contribute their own information to a third-party site operated on behalf of the agency (e.g., agency sponsored social media accounts), the agency must ensure that it is clear to the public to the extent practicable:

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[25] http://www.whitehouse.gov/sites/default/files/omb/memoranda/2013/m-13-10.pdf
[26] http://www.whitehouse.gov/omb/assets/omb/fedreg/reproducible2.pdf

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1. The inherent limitations of such information and that it is not sponsored by the Federal Government; and

2. That the same level of utility, objectivity, and integrity found in Federally-sponsored information may not be present.

D. Agencies must include reasonable management controls and establish a review process to ensure that information provided online, and links to any external information, provide a suitable level of information quality as implied by the agency linking to or referencing it from their official website.

E. Agencies must clearly identify external links from their websites, and to the extent practicable update or remove the links when the external information is no longer sufficiently accurate, relevant, timely, necessary or complete.

   1. Agency websites must clearly state that the content of external links to non-Federal Agency websites is not endorsed by the Federal Government and is not subject to Federal information quality, privacy, security, and related guidelines.

   2. Agencies should choose the best approach to identify external links to users in a way that minimizes the impact on the usability of their websites and digital services.

F. Agencies must post information quality guidelines, information quality correction requests, agency's formal response(s), and any communications regarding the appeals on their website. Agencies must also establish a process for updating their information quality web pages on a regular basis.[27]

12. Ensure Accessibility for Individuals with Disabilities

Section 508 of the Rehabilitation Act was enacted to eliminate barriers in information technology, open new opportunities for people with disabilities, and encourage development of technologies that will help achieve these goals.[28] The law applies to all Federal departments and agencies when they develop, procure, maintain, or use electronic and information technology[29]. Under Section 508, departments and agencies must ensure that employees and members of the public with disabilities have access to information and data that is comparable to access available to others unless an undue burden would be imposed on the department or agency.

A. Agencies must comply with Section 508 and with the Electronic and Information Technology (EIT) Accessibility Standards.[30] Additionally agencies must also adhere to their own Section 508 regulations and policies. Section 508 does not limit rights, remedies, or procedures

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[27] https://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/info_quality_posting_083004.pdf
[28] 29 U.S.C. § 794d
[29] Section 508 does not apply to national security systems, as that term is defined in section 11103(a) of title 40. 29 U.S.C. § 794d(a)(5).
[30] 36 CFR Part 1194

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otherwise available under other Federal laws, including Sections 501, 503, and 504 of the Rehabilitation Act and the Americans with Disabilities Act.[31]

B. Section 508 technical and EIT Accessibility requirements must be included in the requirements document for the procurement of EIT products and services and planned for and built into the development, operations and management lifecycle of a Federal website or digital service. Any new functionality must be regularly tested to ensure it meets the EIT Accessibility Standards and is accessible for persons with disabilities.

C. Agencies must develop accessibility statements for their website and appoint a Section 508 Coordinator as required by OMB Memorandum, *Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act*.[32]

13. Comply with Records Management

All Federal records on agency websites and third-party sites and applications must be properly managed. At a minimum, agencies must be able to identify, retrieve, and preserve Federal Agency records created and maintained on agency websites or third-party sites. These requirements apply until their business use has ended and the records are transferred to NARA or destroyed according to their disposition schedule. Agencies must also manage administrative records that provide evidence of how of their web and third-party programs are managed and operated. Agencies using third-party websites or services are responsible for managing and capturing Federal records created or received on those sites.

Agencies are required to comply with all Federal records management laws, regulations, and policies. Additional guidance for agencies on meeting their records management responsibilities can be found at http://www.archives.gov/records-mgmt/.

14. Use Plain Writing

Web content is most effective when it is easy to understand, find, and use. The Plain Writing Act of 2010 requires agencies to draft all public-facing web and print documents in plain writing, calling for agency writing to be clear, concise, and well-organized.[33] On April 13, 2011, OMB issued Memorandum, M-11-15, *Final Guidance on Implementing the Plain Writing Act of 2010*.

As required by law and OMB guidance, agencies must ensure that web content is written in a manner suitable for the intended audience. The Federal Plain Language Guidelines and other resources maintained by the interagency Plain Language Action and Information Network (PLAIN) at www.plainlanguage.gov can assist agencies in meeting the goals of the Plain Writing Act.

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[31] 29 U.S.C. § 794d(g)

[32] https://www.whitehouse.gov/sites/default/files/omb/procurement/memo/strategic-plan-508-compliance.pdf

[33] 5 U.S.C. § 301 note

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15. Provide Multilingual Content
Agencies must already provide appropriate access for people with limited English proficiency by implementing Department of Justice guidance for Executive Order 13166, *Improving Access to Services for People with Limited English Proficiency*.[34] Agencies must use this guidance to determine which website content must be provided in other languages, based on their agency's mission, analytics, and user feedback.

16. Ensure Access to Mandatory Content
Laws, regulations, or other policies will occasionally mandate that agencies place certain links on their website. Agencies must respect and adhere to these statutory or executive-level mandates and incorporate these requirements in a manner that does not reduce the usability or performance of the agency's website and digital services.

At a minimum, agencies must post links to the following information on the agency's principal website and on any known sub-agency or other major entry points to their site:

A. USA.gov;
B. the website's privacy policy;
C. the agency's Freedom of Information Act webpage;
D. a page about the agency with descriptions of the agency organization structure, mission, and statutory authority, and links to the following information:[35]

    1. the agency's strategic plan and annual performance plans;
    2. the agency's Privacy Program Page;
    3. the agency point of contact as required by the Small Business Paperwork Relief Act of 2002;[36]
    4. the agency's Open Government Page;
    5. the agency's Plain Writing Page;[37]
    6. information as required under the No Fear Act of 2002;[38] and
    7. information associated with the agency's implementation of the Information Quality Act.[39]

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[34] Exec. Order No. 13,166, 65 FR 50121, *available at* http://www.gpo.gov/fdsys/pkg/FR-2000-08-16/pdf/00-20938.pdf
[35] This refers to the webpage about the agency which is usually referred to as "About", "About Us", "About Agency," or a similar variant.
[36] 44 U.S.C. § 3506(i)
[37] The agency's Plain Writing Page should also continue to be accessible from their Open Government Page per OMB Memorandum, M-11-15, *Final Guidance on Implementing the Plain Writing Act of 2010*.
[38] 5 U.S.C. § 2301 note
[39] This refers to OMB's *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies* at http://www.whitehouse.gov/omb/assets/omb/fedreg/reproducible2.pdf, and OMB's *Information Quality Guidelines for Peer Review* at https://www.whitehouse.gov/sites/default/files/omb/assets/omb/memoranda/fy2005/m05-03.pdf.

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For other required links, Federal agencies should determine the best location on their website to place those links based on user needs and the underlying requirement from law or policy.

17. Transition to Internet Protocol Version 6 (IPv6)

Agencies must remain up to date with major technical changes in internet protocol.

A. Agencies are already required to upgrade public/external facing servers and services to use native IPv6.[40]

B. Agencies must also ensure that their procurements of networked information technology comply with Federal Acquisition Regulation (FAR) requirements[41] for use of the U.S. Government IPv6 Profile and Test Program for the completeness and quality of their IPv6 capabilities.[42]

18. Ensure a Consistent Look and Feel Across Websites

Common user interface components and visual styles help create a seamless transition across an agency's websites and improve the ease with which the public can find information.

Federal Agencies should ensure a consistent look and feel of their public facing websites and digital services.

The U.S. Website Design Standards, found at https://playbook.cio.gov/designstandards/getting-started/, is available to all agencies to assist with this process.

This Memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

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[40] http://www.whitehouse.gov/sites/default/files/omb/assets/egov_docs/transition-to-ipv6.pdf; https://cio.gov/wp-content/uploads/downloads/2012/09/2012_IPv6_Roadmap_FINAL_20120712.pdf; http://csrc.nist.gov/publications/nistpubs/800-119/sp800-119.pdf

[41] 48 CFR 11.002(g); *see* 48 CFR 7.105(b)(4)(iii), 12.202(e), and 39.101(e)

[42] *See* NIST SP 500-267, "A Profile for IPv6 in the US Government:" http://csrc.nist.gov/publications/nistpubs/800-119/sp800-119.pdf

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Correspondence Management System

Control Number: AX-17-000-1226
Printing Date: November 09, 2016 03:11:25

Citizen Information

Citizen/Originator: **George, Suzanne A.**
Organization: The White House
Address: 1600 Pennsylvania Avenue, Washington, DC 20500

Obama, Barack
Organization: The White House
Address: 1600 Pennsylvania Avenue, NW, Washington, DC 20502

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1226	**Alternate Number:**	N/A
Status:	Appropriate Action	**Closed Date:**	N/A
Due Date:	Dec 2, 2016	**# of Extensions:**	0
Letter Date:	Nov 7, 2016	**Received Date:**	Nov 7, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	ASAP - As appropriate	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Distribution of PPD-44; Enhancing Domestic Incident Response
Instructions: AR - ACTION REQUIRED - Please take the action requested in this communication.
Instruction Note: N/A
General Notes: N/A
CC: OLEM - Office of Land and Emergency Management
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OHS	Nov 9, 2016	Dec 2, 2016	N/A
	Instruction: AR - ACTION REQUIRED - Please take the action requested in this communication.				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

THE WHITE HOUSE

WASHINGTON

November 7, 2016

PRESIDENTIAL POLICY DIRECTIVE/PPD-44

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF THE INTERIOR
THE SECRETARY OF AGRICULTURE
THE SECRETARY OF COMMERCE
THE SECRETARY OF LABOR
THE SECRETARY OF HEALTH AND HUMAN SERVICES
THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT
THE SECRETARY OF TRANSPORTATION
THE SECRETARY OF ENERGY
THE SECRETARY OF EDUCATION
THE SECRETARY OF VETERANS AFFAIRS
THE SECRETARY OF HOMELAND SECURITY
ASSISTANT TO THE PRESIDENT AND CHIEF OF STAFF
ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY
DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET
ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION
ASSISTANT TO THE PRESIDENT AND NATIONAL SECURITY ADVISOR
DIRECTOR OF NATIONAL INTELLIGENCE
ASSISTANT TO THE PRESIDENT FOR SCIENCE AND TECHNOLOGY AND DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY
ASSISTANT TO THE PRESIDENT AND DIRECTOR OF THE DOMESTIC POLICY COUNCIL
ASSISTANT TO THE PRESIDENT FOR HOMELAND SECURITY AND COUNTERTERRORISM
POSTMASTER GENERAL
DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
ADMINISTRATOR OF GENERAL SERVICES
DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT
ADMINISTRATOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY

CHAIR OF THE NUCLEAR REGULATORY COMMISSION
CHAIR OF THE FEDERAL COMMUNICATIONS COMMISSION

SUBJECT: Enhancing Domestic Incident Response

Purpose

1. The development and implementation of an "all-of-nation" approach to domestic incident response since September 11, 2001, has helped to ensure that all levels of government work together more effectively when responding to incidents. Response doctrine, such as the National Response Framework (NRF) and the National Incident Management System (NIMS), provides a means to achieve greater unity of effort across the entire response community during an emergency. At the Federal level, executive departments and agencies (agencies) routinely respond to incidents under their own authorities, working with other agencies in accordance with NIMS, to achieve coordinated Federal efforts. Certain types of incident responses are well-practiced and explicitly addressed in law and regulation, such as those conducted pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) or the National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan), which enhance unity of effort by establishing clear Federal roles and responsibilities.

2. However, certain recent incidents have demonstrated a need to enhance the Federal Government's response to domestic incidents where there is neither a Presidential declaration under the Stafford Act nor clear Federal roles and responsibilities pertaining to incident response established in current law or regulation. During such incidents, Federal roles and responsibilities require clarity to enable immediate action and accountability. Further, an agency that is authorized to respond may become overwhelmed by the scale of the incident, even as the situation demands the employment of robust incident management capability because lives, property, or the environment are at stake.

3. This Presidential Policy Directive (PPD) enhances the ability of the Federal Government to respond to domestic incidents by providing for the timely identification of a lead Federal agency, when appropriate, and by ensuring

that an appropriate incident management capability is available to support Federal domestic incident response efforts.

Applicability

4. This directive applies to the Federal Government's response to domestic incidents. For the purposes of this policy, domestic incident response (response) refers to those measures undertaken by the Federal Government in the United States to address an actual or anticipated event in order to save lives; protect public health, property, or the environment; meet basic human needs; or provide emergency relief. Domestic incident response includes the response to animal and plant health incidents.

5. This directive does not override existing law, regulation, or other United States Government policy related to domestic incident response. It complements Homeland Security Presidential Directive-5 (HSPD-5), PPD-1, PPD-8, PPD-21, PPD-25, and PPD-41 and does not cancel or supersede the roles and responsibilities contained in those or other Presidential Policy Directives.

6. This directive does not apply to operations conducted under the Stafford Act or the National Contingency Plan.

7. This directive does not apply to Federal law enforcement activities, criminal investigations, or intelligence activities related to: domestic incidents involving suspected terrorist threats; terrorist attacks; significant cyber incidents; or other acts within the criminal jurisdiction of the United States.

8. The Federal response to a domestic incident may rely upon a number of different statutory authorities and corresponding funding sources, legal requirements, and response capabilities. Additionally, depending on the nature of the incident, more than one Federal agency may have significant responsibilities by virtue of law or policy. Agencies respond to incidents under their own authorities and as guided by the NRF and NIMS.

Policy

9. There are certain incidents involving the Federal Government that – due to their severity, duration,

complexity, or impact on national security, public health, or the welfare of the United States and its people – require extraordinary unity of effort, clarity of Federal roles and responsibilities, effective interagency coordination, the establishment of clear priorities and objectives, and an enhanced incident management capacity to respond effectively. During these incidents, the President may designate an agency to serve as the lead Federal agency for a response in order to enhance the Federal response.

10. Acting in accordance with the interagency policy process described in PPD-1 or its successor, agencies may agree to recognize an agency as the lead Federal agency without requiring a formal designation by the President. Agencies may also provide recommendations to the President regarding the designation of a lead Federal agency through the PPD-1 process or its successor.

11. When the President designates or agencies agree to recognize a lead Federal agency for a domestic incident pursuant to this policy, the agency head will identify a senior response official who will be fully dedicated to the response. The senior response official will employ the NRF and NIMS to accomplish the following:

- Enhance Federal Government unity of effort;
- Develop strategic objectives, priorities, and planning efforts necessary for the Federal Government to respond to the incident;
- Identify gaps that response efforts should address;
- Coordinate on Federal incident response strategy and execution with senior Federal, State, local, tribal, and territorial officials, as well as representatives of private sector and nongovernmental entities;
- Communicate with senior United States Government officials in order to raise and resolve issues related to the response, including addressing national-level resource and strategic policy issues through the interagency policy process described in PPD-1 or its successor;
- Coordinate on Federal incident response strategy and execution with officials responsible for other mission areas, including:

- The Attorney General and the Secretary of Homeland Security for incidents with an actual or suspected criminal or terrorism nexus;
- Federal officials responsible for regulations relevant to the incident;
- Federal officials responsible for incident recovery efforts;
- Federal officials responsible for responding to international incidents; and
- Officials responsible for coordinating the Federal response to cyber incidents;

- Facilitate appropriate incident information reporting, pursuant to the NRF and NIMS; and
- Serve as or designate a principal spokesperson to lead communication efforts with affected parties and the public.

12. The Secretary of Homeland Security, through the Federal Emergency Management Agency (FEMA), maintains robust response capability and emergency management expertise to support lead Federal agencies during a response, and shall be prepared to support a lead Federal agency in managing an incident when requested by the head of a lead Federal agency or directed by the President. FEMA may adjust the scale of its support to ensure execution of its statutory responsibilities. A lead Federal agency identified pursuant to this directive shall assess whether it has sufficient incident management capability within that lead agency to carry out the responsibilities provided for in this directive. For incidents where lead Federal agencies and incident management support requirements have been pre-identified according to paragraphs 18 and 21, the lead Federal agency may request incident management support from FEMA. For incidents where incident management support has not been pre-identified, the lead Federal agency may request incident management support from the Secretary of Homeland Security.

13. No later than 180 days after the designation of a lead Federal agency under this policy, and every 180 days thereafter until the Federal incident response concludes, agencies will assess whether a Federal incident response is still in effect, and, if so, whether (1) the agency previously designated or recognized as the lead Federal agency should still perform that role and (2) whether the lead Federal agency still requires incident management

support from FEMA as provided for in paragraph 12. This assessment will be conducted through the PPD-1 interagency policy process or its successor.

14. Nothing in this directive abrogates, alters, or impedes the ability of Federal agencies or Federal officials to carry out their functions and duties consistent with applicable legal authorities.

15. This directive does not authorize the lead Federal agency, the Secretary of Homeland Security, or the FEMA Administrator to control the resources or activities of other Federal agencies.

16. State, local, tribal, and territorial authorities generally maintain initial responsibility for managing domestic incidents with the Federal Government in a supporting role. The Federal Government becomes involved with a response when Federal interests are involved; when State, local, tribal, or territorial resources are overwhelmed; when State, local, tribal, or territorial officials request assistance; or as authorized or required by statute, regulation, or policy. Nothing in this directive alters the roles and responsibilities of State, local, tribal, and territorial authorities.

17. This directive does not establish any new obligation for an agency to provide incident management support without reimbursement or to reimburse another agency for resources used to address domestic incidents, nor does it limit the use or application of the Economy Act (31 U.S.C. 1535) or any other authority addressing reimbursement.

Tasking

18. No later than 30 days after the date of this directive, agencies shall, through the Emergency Support Function Leadership Group (ESFLG) - a FEMA-led interagency forum for executive departments and agencies with roles in Federal response - augmented with relevant agency representatives, recommend to the Domestic Resilience Group (DRG) Interagency Policy Committee those types of incidents for which they should be identified as the lead Federal agency. Recommendations should account for agency authorities, roles and responsibilities (including the roles and responsibilities contained in HSPD-5 and PPD-8 as well as previous lead agency designations contained in

Federal regulation, policy, doctrine, and plans), funding mechanisms, and capabilities.

19. No later than 30 days after the date of this directive, the ESFLG augmented with relevant agency representatives shall submit to the DRG a document outlining tasks related to operational planning and execution that a lead Federal agency and senior response official are expected to perform during an incident.

20. No later than 90 days after the date of this directive, prospective lead Federal agencies shall assess their incident management capabilities and report identified gaps to the DRG. The report shall evaluate the agency's capabilities against the list of tasks referenced in paragraph 19 and shall include an evaluation of the circumstances under which the agency's incident management capabilities could become overwhelmed while performing those tasks.

21. No later than 90 days after the date of this directive, the Secretary of Homeland Security, working with relevant agencies, shall develop and submit to the Assistant to the President for Homeland Security and Counterterrorism (AP/HSCT) a document describing what incident management support FEMA can provide to lead Federal agencies for various types of domestic incidents, how that support would be provided, and under what conditions that support would end.

22. No later than 120 days after the date of this directive, the ESFLG, augmented with relevant agency representatives, shall identify the appropriate subject matter experts from agencies and review and update the Financial Management Annex to the NRF to include a model interagency agreement that shall serve as a vehicle for agencies to memorialize and resource the support outlined in paragraphs 12 and 21.

23. No later than 180 days after the date of this directive, the Secretary of Homeland Security shall provide a report to the AP/HSCT describing what capabilities or capacities, if any, FEMA will develop to perform the supporting role described above. The report should provide a timeline and plan of action describing how FEMA will develop those capabilities or capacities and the Secretary of Homeland Security shall periodically report to the AP/HSCT regarding progress in achieving the plan.

24. After each use or on a biennial basis, whichever is sooner, the DRG shall review the process outlined in this directive and, if appropriate, shall recommend changes to ensure that the purpose of this directive is achieved.

Correspondence Management System

Control Number: AX-16-001-1146
Printing Date: August 15, 2016 01:43:09

Citizen Information

Citizen/Originator: **American Bus Association**
Organization: American Bus Association
Address: 111 K Street, NE, Washington, DC 20002

National Private Truck Council
Organization: National Private Truck Council
Address: 950 North Glebe Road, Arlington, VA 22203

American Moving & Storage Association
Organization: American Moving & Storage Association
Address: 1611 Duke Street, Alexandria, VA 22314

National Retail Federation
Organization: National Retail Federation
Address: 1101 New York Avenue, NW, Washington, DC 20005

National Tank Truck Carriers
Organization: National Tank Truck Carriers
Address: 950 North Glebe Street, Arlington, VA 22203

Owner-Operator Independent Drivers Association Inc
Organization: Owner-Operator Independent Drivers Association Inc
Address: 1 NW OODIA Drive, Grain Valley, MO 64029

Transportation Intermediaries Association
Organization: Transportation Intermediaries Association
Address: 1625 Prince Street, Alexandria, VA 22314

Truckload Carriers Association
Organization: Truckload Carriers Association
Address: 555 E ast Braddock Road, Alexandria, VA 22314

Truck Renting and Leasing Association
Organization: Truck Renting and Leasing Association
Address: 675 North Washington Street, Alexandria, VA 22314

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1146	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Aug 11, 2016	**Received Date:**	Aug 11, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - EPA/NHTSA Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles - Phase 2; Dockets EPA-HQ-OAR-2014-0827 and NHTSA-2014-0132
Instructions: For Your Information -- No action required

Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OP - Office of Policy
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	OAR	Aug 15, 2016

History

Action By	Office	Action	Date
Ken Labbe	OEX	Control Created	Aug 11, 2016
Ken Labbe	OEX	Forward control to OAR	Aug 15, 2016

Comments

Commentator	Comment	Date
No Record Found.		

August 11, 2016

The Honorable Anthony Foxx
Secretary
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: EPA/NHTSA Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles - Phase 2; Dockets EPA-HQ-OAR-2014-0827 and NHTSA-2014-0132

Dear Secretary Foxx and Administrator McCarthy:

We, the 14 undersigned trade associations, represent a diverse cross-section of industries that have a strong interest in the joint U.S. Environmental Protection Agency and National Highway Traffic Safety Administration proposed rule "Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles - Phase 2." Our nearly 250,000 members rely on a strong, vibrant U.S. commercial motor vehicle industry to safely and cost-effectively transport goods and people, provide high quality direct and indirect job opportunities, and make meaningful contributions to cleaner air and safer roads. We have previously indicated to you that increasing stringency levels above those proposed will have serious negative economic implications for fleets, truck manufacturers, suppliers, dealers, and the nation's economy. Yet we now hear that engine stringency may be increased above Alternative 3 levels from 4.2% to over 6% for over-the-road segments and over 9% for vocational applications – levels that we cannot support based upon engineering, cost, and market concerns.

Equipment acquisition costs are a top consideration for all fleets. New and increasingly more stringent emissions and safety regulations have required extensive changes to engines and vehicles, including the addition of expensive technologies such as exhaust after-treatment systems. As a result, vehicle and operational costs have risen significantly over the past 12 years.

Requiring OEMs to focus R&D monies on excessive, engine-focused mandates needlessly limits their flexibility to meet the proposal's overall standards in a cost-effective and economically practicable manner. Tighter engine efficiency requirements, along with the strong likelihood of implementing a new ultra-low NOx standard during the Phase 2 implementation period, will make a very tough proposal technologically infeasible and lead the industry down a pathway of being forced to purchase technologies that are not thoroughly tested and ready for marketplace introduction – a scenario that fleets should not and cannot accept. Fleets have purchasing alternatives and can be expected to exercise those options. Therefore, the final rule must not mandate stringencies beyond those set out in the proposal.

Trucking and bus companies can only absorb cost increases associated with the purchase of fuel-efficient technologies that offer reasonable payback periods and investment returns. Fleets look very carefully at their total cost of ownership, the state of the economy, acquisition and operation costs, fuel, personnel, maintenance, overhead, road charges, insurance, residual values, and taxes before making purchasing decisions. If incremental investment and operating costs of trucks and trailers manufactured to comply with the Phase 2 regulations are not met by corresponding fuel savings and reliability benefits, fleets will avoid buying them.

"Pre-buys" and "low-buys" caused by imprudent Phase 2 requirements will have very serious consequences. They will both retard the achievement of GHG reductions and other environmental objectives of the rule and adversely impact jobs. We should heed the lessons learned from recent history. When EPA mandated new engine technologies effective in 2007, fleets held off buying new vehicles. The end result was that more environmentally-friendly vehicles were not introduced into fleets and jobs at U.S. heavy-duty commercial vehicle manufacturers, suppliers, and dealers suffered significantly. We do not want to see this situation played out again.

Increasing engine stringency provides no environmental benefit and risks causing an unnecessary disruption in the market. Please consider the views of our businesses that buy, use, sell, and rely on trucks and trailers to haul our country's freight, as well as buses that transport passengers that remove cars from our roads. Thank you for your consideration.

American Bus Association
American Moving & Storage Association
American Truck Dealers, Division of NADA
American Trucking Associations
International Foodservice Distributors Association
NAFA Fleet Management Association
National Association of Small Trucking Companies
National Industrial Transportation League
National Private Truck Council
National Retail Federation
National Tank Truck Carriers, Inc.
Owner-Operator Independent Drivers Association
Transportation Intermediaries Association
Truckload Carriers Association
Truck Renting and Leasing Association

Correspondence Management System
Control Number: AX-16-001-1169
Printing Date: August 15, 2016 12:26:42

Citizen Information

Citizen/Originator: **Cobert, Beth F.**
Organization: United States Office of Personnel Management
Address: 1900 E Street, NW, Washington, DC 20415

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1169	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Aug 9, 2016	**Received Date:**	Aug 15, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	MEM (Memo)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - Senior-Level and Scientific and Professional Performance Appraisal System/Program and Streamlined Certification Process
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: N/A

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	OARM	Aug 15, 2016

History

Action By	Office	Action	Date
Ken Labbe	OEX	Forward control to OARM	Aug 15, 2016

Comments

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

AUG 0 9 2016

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: BETH F. COBERT
ACTING DIRECTOR

Subject: Senior-Level and Scientific and Professional Performance Appraisal System/Program and Streamlined Certification Process

I am pleased to announce the design and issuance of a standard Senior-Level (SL) and Scientific and Professional (ST) performance appraisal system and program (referred to as the Basic SL/ST System/Program) available now for voluntary agency adoption. This uniform system/program was designed by an interagency working group of 18 agency subject matter experts convened for 6 months to respond to Federal agency recommendations to develop a standard SL/ST performance appraisal system tailored to the diverse and complex responsibilities completed by SL/ST employees in agencies across Government.

The Basic SL/ST System/Program complies with system approval and certification requirements, and provides for a consistent framework to communicate expectations and evaluate the performance of renowned scientists, engineers and technical/program experts serving in SL/ST positions. With the introduction of this new system/program and the Basic Senior Executive Service (SES) Performance Appraisal System (referred to as the "Basic SES System") announced on January 4, 2012, agencies across Government have the ability to manage the performance of the Federal Government's senior leaders through model appraisal systems incorporating best practices from agencies across Government.

In addition to promoting greater consistency, the new system/program encourages the implementation of engagement practices where supervisors and employees hold frequent, meaningful discussions about performance toward clearly established goals, contributing to enhanced ability for the agency to achieve its mission. The new system/program also promotes greater transparency of agency performance management practices, transferability of a standard performance appraisal form, and equity in the assignment of critical elements, delivery of feedback, derivation of ratings of record, and link to compensation. Given the system/program's coverage of a diverse group of SL/ST positions in agencies across Government, the Basic SL/ST System/Program provides flexibility for appropriate modification to better meet the needs of all Federal agencies and organizations. Once they have obtained OPM approval, agencies may voluntarily adopt the new system/program prior to the beginning of their upcoming performance appraisal cycle or as determined by the agency.

Similar to the Basic SES System, the design of the Basic SL/ST System/Program demonstrates compliance with statutory and regulatory requirements for system approval and certification, and

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qualifies for the streamlined certification process originally introduced for SES certification on October 7, 2015. Since the design of the Basic SL/ST System/Program meets all certification criteria, OPM and the U.S. Office of Management and Budget (OMB) only need to review the implementation and application of the system, reducing the amount of documentation required to be submitted to OPM for certification. This decrease in the amount of documentation required provides for a reduction in the time required to review the documentation, allowing for a shortened timeline upon which agencies are to submit certification requests to OPM – 3 months prior to certification expiration (in comparison to the 6-month requirement when using the SL/ST Performance Accountability Assessment Tool).

Under the streamlined SL/ST performance appraisal system certification process, available beginning October 1, 2016, to agencies that have adopted and implemented the Basic SL/ST Performance Appraisal System/Program, agencies will partner with OPM and OMB to share responsibilities and provide their agency-specific expertise for the certification review, as follows:

- OPM/OMB will continue to review compliance with the certification criteria for Performance Distinctions, Pay Differentiation, and Aligned Results (merges the Alignment and Results criteria);
- Agencies will verify compliance with the certification criteria for Organizational Performance and Guidelines, Oversight, and Communication of System Application Results – all reviewed by OPM as an initial spot check with an agency's first submission under the streamlined process, and thereafter, subject to a spot check upon request by OPM; and
- The criteria for Consultation, Accountability, Balance, and Training will no longer be subject to additional verification since they are built into the Basic SL/ST System/Program. Agencies will continue to be responsible for ensuring these critical performance management practices are properly applied.

OPM staff soon will be scheduling workshops with agency performance management staff to provide guidance on agency adoption of and transition to the Basic SL/ST System/Program and the implementation of the streamlined SL/ST performance appraisal system certification process, and to review products and tools developed by the interagency working group.

We extend special thanks to your agencies' representatives who helped design this system/program. If you have questions regarding the Basic SL/ST System/Program, please contact Stephen T. Shih, Deputy Associate Director, SES and Performance Management, or his staff members in OPM Executive Resources and Performance Management, at (202) 606-2720, or performance-management@opm.gov

Cc: Council of the Inspectors General on Integrity and Efficiency
Small Agency Council
President's Management Council
Chief Human Capital Officers
Human Resources Directors
Executive Resources Directors

Correspondence Management System
Control Number: AX-16-001-1170
Printing Date: August 15, 2016 12:34:43

Citizen Information

Citizen/Originator: **Wilson, Dawn**
Organization: Southern California Edison
Address: P.O. Box 800 2244 Walnut Grove Avenue, Rosemead, CA 91770

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1170	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Aug 10, 2016	**Received Date:**	Aug 15, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - Letter of support for the South Coast Air Quality Management District petition to the EPA
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OCIR-ORO - Office of Regional Operations
OP - Office of Policy
OPA - Office of Public Affairs
R9 - Region 9 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	OAR	Aug 15, 2016

History

Action By	Office	Action	Date
Ken Labbe	OEX	Forward control to OAR	Aug 15, 2016

SOUTHERN CALIFORNIA
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August 10, 2016

Mr. Wayne Nastri Acting Executive Officer
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Re: Letter of Support for the SCAQMD Petition to USEPA to Adopt Ultra Low Nox Exhaust Emissions Standard for On-Road Heavy Duty Trucks and Engines

Dear Mr. Nastri:

Southern California Edison (SCE) is pleased to provide this letter of support for the SCAQMD Petition to USEPA to Adopt an Ultra Low NOx Exhaust Emissions Standard for On-Road Heavy Duty Trucks and Engines. It is recognized that NOx emissions from mobile sources are a major contributor to the formation of ozone in the South Coast Air Basin. In order to reduce emissions from trucks coming from out of state, there needs to be a national emission standard for this technology along with development of zero emission technologies.

SCE, a subsidiary of Edison International ("EIX"), is an investor-owned electric utility operating in the State of California, covering over 50,000 square miles and serving 14 million people. SCE has a strong interest in successfully enabling promising technologies within the SCE service area.

SCE supports the District's Petition for Rulemaking to the USEPA. The California Air Resources Board has indicated they plan to move forward with a NOx standard of .02 g/bhp-hr for truck engines sold in California. However, with the large numbers of heavy duty vehicles that come from outside the state, there needs to be a national standard that will effectively reduce NOx emissions for these out of state vehicles. As is well recognized, NOx emissions are a major contributor to ozone formation. The proposed rule would also result in lower PM 2.5 emissions.

This is a critical time for action to be taken in the South Coast Air Basin and Edison is pleased to offer our support of this proposal.

Should you have any questions, please contact me at dawn.wilson@sce.com

Sincerely,

Dawn Wilson

Dawn Wilson
Director, Environmental Affairs and Sustainability

PO Box 800
2244 Walnut Grove Ave.
Rosemead, CA 91770

Correspondence Management System

Control Number: AX-16-001-1178
Printing Date: August 15, 2016 03:31:29

Citizen Information

Citizen/Originator: **Browne, Janet**
Organization: History of Science Society
Address: 440 Geddes Gakk, Notre Dame, IN 46556

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1178	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Aug 29, 2016	**# of Extensions:**	0
Letter Date:	Aug 8, 2016	**Received Date:**	Aug 15, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Daily Reading File - Strongly urge the EPA to re-establish its History Program
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: OEI - Office of Environmental Information - Immediate Office
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OARM	Aug 15, 2016	Aug 29, 2016	N/A
	Instruction: N/A				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
Ken Labbe	OEX	Assign OPEEE as lead office	Aug 15, 2016

History of Science Society

Established in 1924

Sponsor of *Isis* and *Osiris*

8 August 2016

RECEIVED
2016 AUG 15 AM 11:30
OFFICE OF THE EXECUTIVE SECRETARIAT

Administrator Gina McCarthy
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, DC 20460

Dear Administrator McCarthy:

On behalf of the Executive Committee and membership of the History of Science Society, the oldest and largest scholarly society devoted to a historical understanding of science in the world, I strongly urge the Environmental Protection Agency to re-establish its History Program.

When the EPA's initial History Program began on March 14, 1992, its objective was well defined: "to preserve the Agency's institutional memory and thereby provide EPA managers and staff with a clear perspective of the past as an aid in dealing with current and future problems." The History Program in the 1990s did indeed help preserve the Agency's institutional memory. The EPA historian archived core documents and interviewed a number of past Administrators, including William Ruckelshaus, Russell Train, Douglas Costle, William Reilly, and others. Furthermore, this objective tied into the goal for any federal history office, which is to ensure that history is an integral part of the knowledge-management process within the agency. The continuance of this process is essential. Every year EPA loses valuable institutional memory as its long-term employees retire, some of whom who have spent 20 or more years at the Agency. Their memories and the archives of the Agency must be preserved.

The Agency will commemorate its 50th Anniversary in 2020, and a fully supported History Program would provide the EPA with the ability to join the many conversations that scholars, media makers, policymakers, and diverse publics will have as they examine the significance of the first 50 years of the Agency's work. In addition, historians in federal agencies fulfill a variety of responsibilities, including tasks that are important both in the short and long term for the EPA. These include:

- Writing about the EPA's history for the public and for its employees;
- Providing context for past significant decisions made by the EPA to provide guidance for current decision making;
- Responding to inquiries from the White House, Congress, the GAO, and the public;
- Carrying out and compiling oral history interviews;
- Collecting artifacts and documents;
- Constructing museum displays and exhibits, especially on-line;

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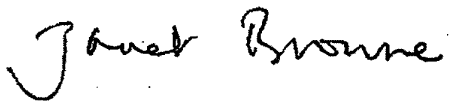
- Directing people to resources concerning the Agency's history;
- Clarifying the Agency's history when someone misrepresents it; and
- Supporting public education about the environment.

The History of Science Society respectfully requests that you consider re-opening the EPA History Program. We believe that it is critically important that the Agency's work protecting our nation's environment and natural resources be fully documented for posterity.

Thank you for considering this request.

Sincerely,



Janet Browne, Ph.D.
President, History of Science Society
Aramont Professor of the History of Science
Chair, Department of the History of Science
Harvard University
[Approved by HSS Council, 18 July 2016]

Correspondence Management System
Control Number: AX-16-001-1179
Printing Date: August 15, 2016 02:26:32

Citizen Information

Citizen/Originator: **Allard, Wayne**
Organization: American Motorcyclist Association
Address: 444 North Capital Street, Washington, DC 20001

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1179	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Aug 29, 2016	**# of Extensions:**	0
Letter Date:	Aug 10, 2016	**Received Date:**	Aug 15, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.

Subject: DRF - Daily Reading File - American Motorcyclist Association seeks clarification on the U.S. Environmental Protection Agency's Misfueling Mitigation Program. Specifically concerns with possible minimum fuel purchase.

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: Kristien Knapp - AO-IO
OCIR - Office of Congressional and Intergovernmental Relations
OP - Office of Policy
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Shari King	OEX	OAR	Aug 15, 2016	Aug 29, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

AMERICAN MOTORCYCLIST ASSOCIATION

August 10, 2016

RECEIVED
2016 AUG 15 AM 11:30
OFFICE OF THE
EXECUTIVE SECRETARIAT

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy:

The American Motorcyclist Association seeks clarification on the U.S. Environmental Protection Agency's Misfueling Mitigation Program. Specifically, our concerns are with a possible minimum fuel purchase at a blender pump that dispenses multiple fuel grades–including E15 (15 percent ethanol)—from the same hose.

Founded in 1924, the AMA is the premier advocate of the motorcycling community, representing the interests of millions of on- and off-highway motorcyclists. Our mission is to promote the motorcycle lifestyle and protect the future of motorcycling.

In 2012, the AMA sent a letter (enclosed) to the EPA raising our concerns with the Misfueling Mitigation Program, as it relates to motorcycles and all-terrain vehicles. We requested specific recommendations to address the AMA's concerns. In an Aug. 21, 2012 letter (enclosed), the EPA responded with a plan to recommend, in part, that "…at least four gallons of fuel be purchased to prevent vehicles and engines with smaller fuel tanks from being exposed to gasoline-ethanol blended fuels containing greater than 10 vol% ethanol."

The AMA objected to this recommendation. The average fuel tank size for motorcycles is less than 4 gallons. Therefore, motorcyclists would be unable to purchase the required minimum purchase of 4 gallons. The EPA informed the AMA on Dec. 17, 2012, that it reversed its decision to require the minimum purchase.

However, the American Coalition for Ethanol's *E15 & Flex Fuel Retailer Roadmap, 2016-2017 edition*, cites the EPA (Page 80) as approving three hose configurations to address "E15 Hose Configuration/Labeling" issues. [1]

According to option No. 2 in ACE's roadmap:

> 2. E15 can be sold on the same hose with gasoline (E0 to E10) using this configuration: **Require a minimum purchase of four gallons and apply a label stating "Minimum Fueling Volume 4 Gallons. Dispensing Less May Violate Federal Law."** (Emphasis added).

[1] https://ethanol.org/assets/images/media/35/9-35.Ethanol%20Retailer%20Roadmap.pdf, accessed on Aug. 10, 2016.

444 North Capitol Street, NW | Suite 837 | Washington, D.C. 20001
Phone (202) 220-1390 | Fax (202) 220-1399 | www.AmericanMotorcyclist.com | @AMA_Rights

On behalf of the millions of motorcyclists and ATV owners in the United States, we ask: Has the EPA's Misfueling Mitigation Program been revived or amended since the agency informed the AMA in 2012 that no minimum fuel purchase would be required?

Thank you for your time and consideration of our concerns. If you have questions about this request, please do not hesitate to contact me by phone, (202) 220-1390, or by email, wallard@ama-cycle.org.

Sincerely,

Wayne Allard

Wayne Allard
Vice President, Government Relations

Enclosures

Correspondence Management System
Control Number: AX-16-001-1195
Printing Date: August 15, 2016 03:40:36

Citizen Information

Citizen/Originator: **Small, David S.**
Organization: Office of the Secretary, Department of Natural Resources and Environmental Control
Address: 89 Kings Highway, Dover, DE 19901

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1195	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Oct 14, 2016	**# of Extensions:**	0
Letter Date:	Aug 8, 2016	**Received Date:**	Aug 15, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	AA-OAR-Assistant Administrator - OAR	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.

Subject: DRF - Daily Reading File - letter of petition under the Clean Air Act (CAA) to find that the Harrison Power Station's electric generating units (EGUs) are emitting air pollutants in violation of the provisions of section 110(a)(2)(D)(ii) of the CAA, Submitted by the State of Delaware

Instructions: AR - ACTION REQUIRED - Please take the action requested in this communication.

Instruction Note: N/A

General Notes: N/A

CC: OAR - Office of Air and Radiation -- Immediate Office
OCSPP - OCSPP - Immediate Office
OP - Office of Policy
OPA - Office of Public Affairs
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Shari King	OEX	R3	Aug 15, 2016	Oct 14, 2016	N/A
	Instruction: N/A				

Supporting Information

Supporting Author: N/A

STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE: (302) 739-9000
FAX: (302) 739-6242

August 8, 2016

RECEIVED
2016 AUG 15 AM 11:29
OFFICE OF THE
EXECUTIVE SECRETARIAT

Gina McCarthy, Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, DC 20460

Dear Administrator McCarthy:

By this letter, the State of Delaware hereby petitions the Administrator of the Environmental Protection Agency (EPA) under §126(b) of the Clean Air Act (CAA) to find that the Harrison Power Station's electric generating units (EGUs), located near Haywood, Harrison County, West Virginia, are emitting air pollutants in violation of the provisions of Section 110(a)(2)(D)(i) of the CAA with respect to the 2008 0.075 ppm ozone NAAQS and the 2015 8-hour 0.070 ppm ozone NAAQS.

Section 110(a)(2)(D)(i) prohibits any source or other type of emissions activity within a State, "from emitting any air pollutant in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard." Section 126(b) of the CAA provides that, "[a]ny State or political subdivision may petition the Administrator for a finding that any major source or group of stationary sources emits or would emit any air pollutant in violation of the prohibition of Section 110(a)(2)(D)(ii) or this section."

CAA Section 126(b) requires that within 60 days after receipt of any petition and after public hearing, the Administrator shall make such a finding or deny the petition. We look forward to working with you and your staff during this period in which you make your finding regarding this petition and take the required actions to protect the health and welfare of

Delaware's citizens. Please do not hesitate to contact me if you have any questions or need additional information regarding this petition.

Sincerely,

David S. Small
Secretary

CC: Jack Markell, Governor,
State of Delaware

Ali Mirzakhalili, Director
Department of Natural Resources and Environmental Control

Administrator Shawn M. Garvin
US EPA Region III Office

William F. Durham, Director
West Virginia Department of Environmental Protection

Correspondence Management System
Control Number: AX-16-001-1200
Printing Date: August 15, 2016 03:33:21

Citizen Information

Citizen/Originator: **Bilott, Robert A.**
Organization: Taft Stettinius & Hollister LLP
Address: 425 Walnut Street, Cincinnati, OH 45202-3957

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1200	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Aug 29, 2016	**# of Extensions:**	0
Letter Date:	Aug 15, 2016	**Received Date:**	Aug 15, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Daily Reading File - In the Matter of: E. I. du Pont de Nemours and Company (Docket Nos. SDWA-03-2009-0127 DS - SDWA-05-2009-001)
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Derek Threet - AO-IO
OP - Office of Policy
OPA - Office of Public Affairs
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OW	Aug 15, 2016	Aug 29, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

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1717 Dixie Highway, Suite 910 / Covington, Kentucky 41011-4704
Tel: 859.331.2838 / Fax: 513.381.6613
www.taftlaw.com

ROBERT A. BILOTT
859.547.4306
BILOTT@TAFTLAW.COM

August 15, 2016

BY EMAIL AND REGULAR US MAIL

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Robert A. Kaplan
Acting Regional Administrator
USEPA Region V
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WVDEP
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Cabinet Secretary
WVDHHR
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Philadelphia, PA 19103-2029

Mary Coe, Esq.
Regional Counsel
USEPA Region III
1650 Arch Street
Mail Code 3RC00
Philadelphia, PA 19103-2029

Karen C. Villaneuva-Matkovich, Esq.
General Counsel
Office of the Cabinet Secretary
WVDHHR
One Davis Square, Suite 100, East
Charleston, WV 25301

Re: *In the Matter of: E. I. du Pont de Nemours and Company*
(Docket Nos. SDWA-03-2009-0127 DS – SDWA-05-2009-001)

Ladies and Gentlemen:

This letter serves as a follow-up to our letters of January 20, 2015, November 9, 2015, and March 1, 2016, and our emails of January 29, 2016, March 11, 2016, May 19, 2016, June 10, 2016, and June 29, 2016, (extra copies enclosed at Exhibit A), seeking confirmation of plans to revise and update the referenced Consent Order to ensure public protection from PFOA contamination of drinking water supplies attributable to releases from the Washington Works facility in Wood County, West Virginia, owned and operated by E. I. du Pont de Nemours and Company and/or The Chemours Company. The current Consent Order was entered in 2009 after USEPA released its initial guideline for short-term exposures to PFOA in drinking water of 0.4 ppb. (Extra copy of Consent Order and related press statements from EPA enclosed at Exhibit B.) USEPA relied upon that initial short-term guideline to find in 2009 that PFOA "is a contaminant present in or likely to enter a PWS or a USDW which may present an imminent and substantial endangerment to human health at concentrations at or above 0.40 ppb in drinking water" in the communities at issue. (Ex. B (Consent Order at ¶39).) USEPA also stated at that time, however, that "the action level of 0.40 ppb PFOA established in the latest legal order with DuPont will be re-evaluated" as soon as "further information about the health effects of PFOA indicates it is necessary." (Ex. B (Fact Sheet at 4).) Our attached correspondence was written in response to USEPA's promise in that regard.

In particular, we wrote to USEPA and the State of West Virginia in early 2015 to request a reassessment of the 2009 Consent Order at issue to more accurately reflect the current scientific literature relating to the public health threat posed by PFOA in drinking water. At that time, USEPA's Region 5 responded and stated that the Agency was in the process of revising its "draft health effects document for PFOA," was working on a new "lifetime health advisory" for PFOA "which may replace [the] 2009 PFOA provisional (short-term) health advisory of 0.04 ppb," and that the "Consent Order between USEPA and DuPont may be re-evaluated" after "that process is complete." (Ex. A (2/23/15 EPA Letter).) Thus, when USEPA released new guidance in January 2016 recommending that drinking water containing more than 0.1 ppb not be used for drinking or cooking, (Ex. A (EPA 1/28/16 Statement)), we promptly requested that the 2009 Consent Order be revised to reflect that new guidance and that steps be taken to make sure any new Consent Order is binding on those that are currently responsible for the Washington Works facility. (Ex. A (1/29/16 Email).) When no response was received, we followed up with a letter on March 1, 2016, (*id.* (3/1/16 Letter)), and another follow-up email on March 11, 2016, *(id.* (3/11/16 Email). Once again, USEPA responded, stating that it was still working on a new lifetime guideline for PFOA in drinking water and, "[o]nce finalized, the new lifetime Health Advisory will supersede the Agency's provisional value for PFOA issued in 2009." (*Id.* (3/25/16 EPA Letter).) West Virginia, likewise, indicated that it was aware that a new lifetime guideline was being finalized by USEPA and that: "If a new limit is determined, DEP would support WVDHHR and EPA in modifying the consent order to reflect the new limit. Such action

would be consistent with the process used in 2009 to recognize the recommended limit." (*Id.* (3/28/16 WV letter).)

Based on the representations made by USEPA and the State of West Virginia that formal release by USEPA of a new lifetime exposure guideline for PFOA in drinking water was the critical event needed to trigger revision of the 2009 Consent Order, we immediately followed up with our request for such action the same day USEPA finally released its new lifetime exposure guideline of 0.07 ppb for PFOA in drinking water on May 19, 2016. (*Id.* (5/19/16 Email).) Yet, despite follow-up emails on June 10 and June 29, 2016, we have still received no response from anyone as to whether the Consent Order will be revised, nor have we received any information as to the process or mechanisms by which any such action will occur (including whether the public will have any involvement or input into any aspect of the matter). (*Id.* (6/10/16 & 6/29/16 Emails).)

Thus, we again request that you please confirm what action is being taken or will be taken to address this issue. Thank you.

Very truly yours,

Robert A. Bilott

Encls. (Exs. A-B)

16878072.1

Correspondence Management System

Control Number: AX-16-001-1228
Printing Date: August 15, 2016 03:42:37

Citizen Information

Citizen/Originator: **Reinstein, Linda**
Organization: Asbestos Disease Awareness Organization
Address: 1525 Aviation Boulevard, Redondo Beach, CA 90278

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1228	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Aug 29, 2016	**# of Extensions:**	0
Letter Date:	Aug 11, 2016	**Received Date:**	Aug 15, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: DRF - Daily Reading File -Asbestos Disease Awareness Organization urges the EPA to prioritize asbestos as one of the first 2016 10 high-risk chemicals for evaluation and take regulatory action to end the asbestos man-made disaster

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: Hyon Kim - AO-IO
OP - Office of Policy
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OCSPP	Aug 15, 2016	Aug 29, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

ADAO
Asbestos Disease Awareness Organization
Voice of the Victims

Board of Directors

Linda Reinstein
President

Doug Larkin
Member at Large

Laurie Rice
Secretary

Ellen Tunkelrott
Treasurer

National Spokesperson

Jordan Zevon

Science Advisory Board

Arthur L. Frank, MD, PhD
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Co-Chair

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Claire Deacon

Tom Laubenthal

John Newquist

Tony Rich

Mark Winter

Administrator Gina McCarthy
USEPA Headquarters, William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W., Mail Code: 1101A
Washington, DC 20460

August 11, 2016

Dear Administrator McCarthy,

Congratulations on successfully hosting two TSCA implementation stakeholder meetings this week—yet another important step toward protecting public health and the environment from the risk of toxic exposure.

On behalf of the Asbestos Disease Awareness Organization (ADAO), we are excited to continue working with the U.S. Environmental Protection Agency (EPA) on implementing the Frank R. Lautenberg Chemical Safety for the 21st Century Act. As a stakeholder dedicated to preventing asbestos-caused diseases, ADAO urges you to prioritize asbestos in 2016 as a high-risk chemical for evaluation.

According to the law, the EPA is mandated to prioritize 10 high-risk chemicals for the first round of TSCA risk evaluations. These top 10 chemicals must be selected from the 2014 TSCA Work Plan for Chemical Assessments, which has screened and scored nearly 100 chemicals, with preference given to chemicals that have a "persistence and bioaccumulation score of 3," and are "known human carcinogens and have high acute and chronic toxicity."

Asbestos remains the poster child for the failure of the 1976 TSCA and now stands as the litmus test for the success and efficacy of TSCA reform. As we both heard, President Obama became the first sitting U.S. president to publicly acknowledge the dangers of asbestos: "the system was so complex, it was so burdensome, that our country hasn't even been able to uphold a ban on asbestos—a known carcinogen that kills as many as 10,000 Americans every year. I think a lot of Americans would be shocked by all that."

The vast majority of Americans aren't able to identify asbestos or manage the risk of exposure. More than 55 countries have banned asbestos and now use economically viable safer substitutes, yet the United States Geological Survey (USGS) reported that in 2015, the U.S. imported 358 metric tons of asbestos "to meet manufacturing needs." In fact, the chloralkali industry accounted for an estimated 90% of U.S. consumption. Asbestos must be prioritized to reduce and one day eliminate asbestos-caused diseases through the prohibition of asbestos in manufacturing, processing, use, distribution in commerce and disposal.

American consumers are concerned about the lack of regulation over the toxins actively present in commerce. Prioritizing asbestos on the 2016 top ten list will begin to rebuild consumer trust, while also sending a powerful message about the EPA's bolstered authority and strong commitment to protecting public health and the environment.

As you said, "this law is a huge win for public health, and EPA is eager to get to work." Remembering the 200,000 Americans who have died from preventable asbestos-caused diseases in the nearly three decades since the EPA's failed 1989 attempt at an asbestos ban, ADAO urges the EPA to prioritize asbestos as one of the first 2016 10 high-risk chemicals for evaluation and take regulatory action to end the asbestos man-made disaster.

ADAO looks forward to meeting with you in September to discuss startling new mesothelioma mortality data from the Center for Disease Prevention and Control (CDC), and about the impact asbestos continues to have on public health and the environment.

Sincerely,

Linda Reinstein, President and Co-Founder
Asbestos Disease Awareness Organization (ADAO)

Asbestos Disease Awareness Organization is a registered 501(c) (3) nonprofit organization
"United for Asbestos Disease Awareness, Education, Advocacy, and Community Support"
1525 Aviation Boulevard, Suite 318 · Redondo Beach · California · 90278 · (310) 251 -7477
www.AsbestosDiseaseAwareness.org

Correspondence Management System
Control Number: AX-16-001-1230
Printing Date: August 15, 2016 03:52:52

Citizen Information

Citizen/Originator: **Gerard, Jack N.**
Organization: American Petroleum Institute
Address: 1220 L Street, NW, Washington, DC 20005-4070

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1230	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Aug 15, 2016	**Received Date:**	Aug 15, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - American Petroleum Institute's opposition to moving the point of obligation under the Renewable Fuel Standard program.
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OP - Office of Policy
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	OAR	Aug 15, 2016

History

Action By	Office	Action	Date
Ken Labbe	OEX	Forward control to OAR	Aug 15, 2016

ED_001174_00000112

Gaines, Cynthia

From: Herckis, Arian
Sent: Monday, August 15, 2016 12:00 PM
To: Mccarthy, Gina
Subject: FW: Renewable Fuel Standard Point of Obligation

From: Khary Cauthen [mailto:cauthenk@api.org]
Sent: Monday, August 15, 2016 10:41 AM
To: Herckis, Arian <Herckis.Arian@epa.gov>; Ragland, Micah <Ragland.Micah@epa.gov>; Azoolin, Liel <Azoolin.Liel@epa.gov>; Bluhm, Kate <Bluhm.Kate@epa.gov>; knapp.kristian@epa.gov; Vaught, Laura <Vaught.Laura@epa.gov>
Cc: Hope, Brian <Hope.Brian@epa.gov>; Susan Tackish <tackishs@api.org>; Kukla, Alison <Kukla.Alison@epa.gov>; Dewey, Amy <Dewey.Amy@epa.gov>; Will Hupman <HupmanW@api.org>
Subject: FW: Renewable Fuel Standard Point of Obligation

Jack N. Gerard
President and CEO

1220 L Street, NW
Washington, DC 20005-4070
USA
Telephone (202) 682-8500
Fax (202) 682-8110
www.api.org

August 15, 2016

The Honorable Gina A. McCarthy
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Federal Building
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

Re: Renewable Fuel Standard Point of Obligation

Dear Administrator McCarthy,

I am contacting you to express the American Petroleum Institute's (API) opposition to moving the point of obligation under the Renewable Fuel Standard (RFS) program. API is the only national trade association representing all facets of the oil and natural gas industry, which supports 9.8 million U.S. jobs and 8 percent of the U.S. economy. API's more than 650 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. They provide most of the nation's energy and are backed by a growing grassroots movement of more than 30 million Americans.

ED_001174_00000112

Not a Solution to the Blendwall
Changing the point of obligation under the RFS will not fix the blendwall problem or meaningfully impact the overall volume of renewable fuels. Any adjustment to the point of obligation 9 years into the program would create uncertainty in the administration of the RFS and, potentially, in the RIN market. RFS compliance plans, investments and commercial agreements that were premised on the current structure would be disrupted. Furthermore, moving the point of obligation would not address vehicle compatibility and consumer acceptance issues, nor would it address infrastructure constraints throughout the distribution system that inhibit greater penetration of E15 and E85. Simply put, moving the point of obligation will merely shift the compliance responsibility under the RFS from the current group to a different group of entities in the fuel supply chain.

Increased Complexity
Moving the point of obligation would increase complexity for our members, and for EPA to administer and enforce the program. The increased complexity affects the fuel distribution industry as the identification of obligated fuels becomes more difficult. While we believe that the number of obligated parties would increase significantly should the point of obligation be moved, regardless, the number of reporting instances would rise dramatically as RFS reporting would move from larger bulk production and import points to smaller terminal distribution points. Burdens to certain small businesses would also surge through a change to the point of obligation. These newly obligated parties, particularly small businesses, would be forced to acquire the necessary personnel, expertise, and materials needed to navigate the complexities of compliance reporting under EPA fuels programs.

EPA Has Already Considered the Issue
In implementing the RFS, Congress directed EPA to promulgate regulations that "contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate." Based on EPA's consideration of numerous factors, EPA placed the point of RFS obligation where gasoline and diesel are refined or imported. EPA recognized that some obligated parties, including merchant refiners, did not control the downstream blending of ethanol or other biofuels, and would need to have access to RINs. EPA addressed this concern by including provisions in the rule allowing obligated parties the unique ability to separate RINs for biofuels, and limited the amount of RINs that can be carried over, in part to make RINs more accessible in the market. EPA reconsidered the issue following the enactment of the Energy Independence and Security Act of 2007 (EISA), and purposefully decided to not change the point of obligation in the subsequent rulemaking.

Real Solutions to the Blendwall are Needed
API's primary and immediate RFS concern is the ethanol blendwall. Changing the point of obligation does not fix the blendwall problem, and the calls from a broad group of stakeholders to repeal or reform the outdated program will continue. Until Congress addresses the blendwall problem to provide long-term certainty, EPA must continue to exercise its waiver authorities to protect American consumers and their vehicles. Accordingly, we continue to urge EPA to set its final 2017 RFS volumes at or below 9.7 percent ethanol in gasoline for the reasons articulated in API's comments to the 2017 proposed rule and consistent with the **Food and Fuel Consumer Protection Act of 2016 (H.R. 5180)**.

As the only trade association representing all facets of the oil and natural gas industry, we urge EPA to deny the petitions for rulemaking that request EPA to move the current point of obligation under the RFS.

Sincerely,

Jack N. Gerard
President and Chief Executive Officer

---

[1] See comments from Frank J. Macchiarola, Group Director Downstream & Industry Operations, American

ED_001174_00000112

Correspondence Management System
Control Number: AX-17-000-0964
Printing Date: November 02, 2016 12:18:03

Citizen Information

Citizen/Originator: **Riggiola, Lisa**
Organization: The Pompton Lakes Community Advisory Group
Address: P.O. Box 4, Pompton Lakes, NJ 07442

Intintola, Joseph
Organization: The Pompton Lakes Community Advisory Group
Address: P.O. Box 4, Pompton Lakes, NJ 07442

Martens, Helen
Organization: Pompton Lakes Community Advisory Group
Address: P.O. Box 4, Pompton Lakes, NJ 07442

Rubino, Cheryl
Organization: The Pompton Lakes Community Advisory Group
Address: P.O. Box 4, Pompton Lakes, NJ 07442

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0964	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 17, 2016	**# of Extensions:**	0
Letter Date:	Nov 1, 2016	**Received Date:**	Nov 1, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Chemours (DuPont) Toxic Site Permit Modification Approval Wastewater Treatment, Partial Dredge, Reserve Reservoir, Pompton Lake, Pompton Lakes, NJ
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Derek Threet - AO-IO
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	R2	Nov 2, 2016	Nov 17, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Tue Nov 01 14:22:22 EDT 2016
Leavy.Jacqueline@epamail.epa.gov
FW: Chemours (DuPont) Toxic Site Permit Modification Approval Waster-Water Treatment, Partial Dredge, Reserve Reservoir, Pompton Lake, Pompton Lakes, NJ
To: CMS.OEX@epamail.epa.gov

From: Lisa Riggiola [mailto:pomptonlakescag@yahoo.com]
Sent: Tuesday, November 01, 2016 1:35 PM
To: Mccarthy, Gina <McCarthy.Gina@epa.gov>; Enck, Judith <Enck.Judith@epa.gov>
Cc: Helesn Marten <hmbrandy46@optonline.net>; Environmental-Justice <Environmental-Justice@epa.gov>; Zach (Booker) McCue <zach_mccue@booker.senate.gov>; Jefferson H. LaSala <jhlasala@plrei.org>; Tim Hillman <tim_hillmann@menendez.senate.gov>; Charlene Gungil <charleneg@passaiccountynj.org>; Tduffy <tduffy@passaiccountynj.org>; Rsisco <rsisco@plrei.org>; Rachel Farnum <rachel@rachelfarnum.com>; Cheryl Rubino <crubino@theccpl.org>; Joseph Intintola Jr <sonjoe04@optonline.net>
Subject: Chemours (DuPont) Toxic Site Permit Modification Approval Waster-Water Treatment, Partial Dredge, Reserve Reservoir, Pompton Lake, Pompton Lakes, NJ

November 1, 2016

Gina McCarthy

EPA Administrator

United States Environmental Protection Agency

1200 Pennsylvania Avenue

N.W. Office of the Administrator, 1101A

Washington, DC 20460

Administrator Judith Enck

United States Environmental Protection Agency

Region 2

290 Broadway 26th Floor

New York, NY 1007-1866

Dear USEPA Administrator McCarthy and Region 2 Administrator Enck:

A recent emergency issue in regard to the exceedance of levels of Mercury, Copper and Organic Carbon in the waste-water treatment

method being utilized for the partial dredging project of Reserve Reservoir, Pompton Lake is in violation of the New Jersey Department of Environmental Protection's Clean Water Act. Based on the urgent situation that arose, enforcement action and formal permit modification procedures, i.e., public notice and a public hearing should have been implemented. Chemours' contractor (Sevenson Environmental Services, Inc.) dumped of 3700 plus gallons of this toxic waste-water back into Pompton Lake BEFORE the wastewater was collected and stored in holding tanks.

The Pompton Lakes Community Advisory Group is formally protesting the recent approval of a permit modification that WAS GRANTED without public notice or a formal public hearing which would have provided the proper means for the public and technical experts to provide input and receive a responses from the USEPA. The changes implemented into the permit modification were made without any public input or notification before or during this process.

Notification on the permit modification approval came after this process was completed. The fact that we found out about this change and approval through a USEPA newsletter and a newspaper article is unacceptable.

We learned at the recent USEPA Public Information Session on October 20, 2106 that four additional chemicals are being added to try to reduce the exceeded levels or Mercury, Copper and Organic Carbon. These four additives are: Sodium Sulfide, Powder-Activated Carbon, Ferrous Sulfate and Polymer. There was no explanation at the recent USEPA Information Session on how EXACTLY this will help lower the heavy metal levels nor was there an explanation on the side effects of adding these four components!

Some facts you need to take into consideration:

1. The USEPA has FULL oversight of the NJDEP NJPDES Program under the CLEAN WATER ACT.

2. The Pompton Lake DuPont now Chemours Works site is a FEDERAL Lead Corrective Action Site under the 1984 HSWA Provisions.

3. The State of New Jersey's NJDEP has NOT received USEPA Delegation for HSWA Corrective Action.

4. The USEPA and the NJPDES Regulations do apply and both require a Formal Public Process to do this kind of major work!

5. Experts that may want to weigh in on such an important modification on Chemours Engineering Chemistry were not given an opportunity to do so.

We hereby request that a formal public hearing be scheduled immediately.

The Pompton Lakes Community Advisory Group eagerly awaits your immediate response to this extremely important situation that needs to be resolved immediately.

Respectfully,

The Pompton Lakes Community Advisory Group

Joseph Intintola, Jr.

Helen Martens

Lisa Riggiola

Cheryl Rubino

Rachel Farnum, P.E., Technical Advisor

http://www.pomptonlakescag.org/

P. O. Box 4

Pompton Lakes, NJ 07442

Mobile Contact No. 973-979-4392

cc: Senator Robert Menendez, NJ

Senator Cory Booker, NJ

Freeholder Terry Duffy, Passaic County, NJ

Dr. Charlene Gungil, Passaic County Health Dept., NJ

Pompton Lakes Community Advisory Group Members

Pompton Lakes Residents for Environmental Integrity - R. Sisco, J. LaSala

Correspondence Management System
Control Number: AX-17-000-0982
Printing Date: November 02, 2016 03:47:40

Citizen Information

Citizen/Originator: **Limon, Ed**
Organization: United States Steelworker Local 13-432
Address: Route 1 Box 490, Nowata, OK 74048

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0982	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 16, 2016	**# of Extensions:**	0
Letter Date:	Oct 28, 2016	**Received Date:**	Nov 2, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	AA-OAR-Assistant Administrator - OAR	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.
Subject: DRF - RFS and Change Point of Obligation
Instructions: AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OP - Office of Policy
OPA - Office of Public Affairs
R3 - Region 3 - Immediate Office
R6 - Region 6 -- Immediate Office
R7 - Region 7 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
StephanieN Brown	OEX	OAR	Nov 2, 2016	Nov 16, 2016	N/A
	Instruction: AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

RECEIVED
2016 NOV -2 AM 10: 03
OFFICE OF THE
EXECUTIVE SECRETARIAT

The Honorable Gina McCarthy

Administrator

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue NW

Washington, DC 20460

RE: RFS and Change Point of Obligation

Dear Madam Administrator:

As the President of the USW local 13-432 representing over 85 union workers at CVR's Bartlesville Oklahoma, crude oil gathering operation, I'm writing to ask for your help in fixing the Renewable Fuel Standard program. The USW local 13-432 union fully supports changing the point of obligation under the RFS to include all fuel blenders – not just refiners and importers. Prior to making a decision on this important change, we urge you to initiate an open and transparent process that includes both public notice and comments. Our voices should be heard on this issue.

Several refiners have filed petitions to change the point of obligation. This is a serious issue that threatens the viability of merchant refiners like CVR, which provide jobs and tremendous economic support to their surrounding communities. In fact, the Coffeyville, Kansas and Wynnewood, Oklahoma refineries and Crude Gathering Operations are considered major economic engines for the entire region.

Mandating merchant refiners to purchase high-cost RIN credits from integrated refiners, blenders and Wall Street traders has proven disastrous. A Philadelphia refiner recently made the decision to reduce personnel cut health care benefits, freeze pension contributions and delay capital projects due to the skyrocketing cost of RINs. We do not want this to happen in Coffeyville, Wynnewood, or Bartlesville

The RFS is clearly not functioning as Congress intended. Please seriously consider supporting these petitions and provide an opportunity for open discussion about how the RFS can be improved through changing the point of obligation.

Thank you for your consideration.

Sincerely,

USW local President Ed Limon

Correspondence Management System

Control Number: AX-17-000-0994
Printing Date: November 02, 2016 03:43:49

Citizen Information

Citizen/Originator: **Masuret, David**
Organization: Cumberland Farms
Address: 100 Crossing Boulevard, Framingham, MA 01702

Durand, Matthew T.
Organization: Cumberland Farms, Inc.
Address: 100 Crossing Boulevard, Framingham, MA 01702

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0994	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 16, 2016	**# of Extensions:**	0
Letter Date:	Nov 2, 2016	**Received Date:**	Nov 2, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	PHO (Phone)	**Priority Code:**	Normal
Signature:	AA-OAR-Assistant Administrator - OAR	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Comments on behalf of Cumberland Farms, Inc. in opposition to the recent petitions to change the definition of an obligated party under the Renewable Fuels Standard
Instructions: AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OP - Office of Policy
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OAR	Nov 2, 2016	Nov 16, 2016	N/A
	Instruction: AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

ED_001174_00000034

November 2, 2016

VIA ELECTRONIC MAIL & OVERNIGHT COURIER

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, Room 3000
Washington, DC 20460

Re: Opposition to petition(s) for rulemaking to change the definition of an obligated party under the Renewable Fuels Standard, 40 C.F.R. § 80.1406

Dear Administrator McCarthy,

I. INTRODUCTION

Cumberland Farms, Inc. ("Cumberland Farms") respectfully submits these comments in opposition to the above-referenced petition(s) for rulemaking, namely that which was submitted by Valero Energy Corp. and its subsidiaries ("Valero") on June 13, 2016.[1]

Through its petition, Valero requests that the Environmental Protection Agency ("EPA") invoke its rulemaking authority to change the point of obligation under the Renewable Fuels Standard ("RFS") program. Under current rules, "obligated party" is defined as the entity that imports or refines gasoline or diesel fuel. Under the petitioned rule change, that term would instead be defined as the entity holding title just before the rack sale at a bulk terminal— referred to as a "rack seller" in the petition, and as the "position holder" in tax parlance.[2] Such a change would effectively remove Valero and other merchant refiners from the market for Renewable Identification Numbers ("RINs").

[1] *See* Richard Walsh, Valero Energy Corp., *Petition for Rulemaking: Renewable Fuel Standard Definition of Obligated Party—40 C.F.R. § 80.1406* (June 13, 2016) (hereinafter the "Petition"). To the extent other parties may seek the same regulatory changes, our opposition extends to those petitions as well.

[2] Valero correctly identifies Cumberland Farms on its master list of rack sellers that it submitted to EPA. *See* Petition at Attachment D.

Valero alleges that it is "uniquely situated" to advise EPA on the merits of th at proposal, by virtue of its various points of interaction with the RFS. [3] But Cumberland Farms, too, has played several different roles in the fuel marketplace throughout its history—as have many other market participants besides Valero.

Based on our experiences, and confirmed by the information available to us, we firmly believe that the fuels market— and EPA's related policy goals— are better served under the current definition than under the petitioned change. Conversely, the definition sought by Valero would create new inefficiencies and perverse economic incentives that will frustrate the very purpose of the RFS. This problematic and self-serving proposal should be rejected, and EPA should maintain the existing point of obligation.

II. BACKGROUND

A. Company Overview: Cumberland Farms is a large family-owned convenience store chain, and has diverse experience with the RFS and the overall fuel marketplace.

Our company was founded as a dairy farm more than 75 years ago, by an immigrant couple with little more than a cow and the dream of a better life for their children. By 1960 we had opened our first retail stores, and less than two decades later we started adding our first gas pumps outside. As that winning combination continued to grow in popularity, we acquired Gulf Oil from Chevron Corp. through a series of transactions beginning in 1986. [4] Today, we are among the largest convenience store chains in the country, with approximately 560 retail locations—and counting—across the New England states, New York, and Florida. Virtually all of those stores sell motor fuel.

Over the course of those many decades, Cumberland Farms has participated in the fuel marketplace as some combination of (1) an importer and a blendstock component blender— i.e., an obligated party and a buyer of RINs; (2) a spot buyer and biofuel blender—i.e., a position holder and seller of RINs; (3) a rack buyer; (4) a bulk terminal operator; (5) a distributor; and (6) a retailer.

Yet throughout that growth and evolution, we have remained family-owned and family-operated.[5] We have also developed an exceptional team of dedicated employees, with a broad diversity of skillsets and a combined 34,000 years of work experience in the industry. Our

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[3] Petition at 2.

[4] What began as an intellectual property transaction progressed into present-day Gulf Oil Limited Partnership—a major U.S. importer, blender, terminal operator, wholesaler, and franchisor. That company remained a subsidiary of Cumberland Farms until its recent sale to new ownership in December 2015.

[5] This ownership structure has granted Cumberland Farms more freedom to focus on successful long-term business strategies—and, relatedly, on sound long-term public policies—rather than entertaining a myopic obsession with short-term profits and becoming a slave to quarterly reports. *Contrast, e.g.,* Valero Corp., *Q2 2016 Earnings Release* (July 26, 2016) (hereinafter the "Valero Quarterly Report") (reporting RIN purchases and other quarterly financial metrics to investors), *available at* http://www.investorvalero.com/phoenix.zhtml?c=254367&p=quarterlyEarnings.

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company, our customers, and our communities have been well-served by this vast institutional knowledge. It also provides us with a well-informed perspective on public policy issues that impact our operations; here, it informs our position on the RFS point of obligation.

B. Business Model: Cumberland Farms is successful because, in the hypercompetitive convenience store industry, we supply the efficiently-priced products that our customers demand.

Cumberland Farms' retail fuel offering primarily consists of gasoline and, to a lesser extent, diesel fuel. Since at least the 1980s, we have procured those fuels for our retail locations in part by purchasing their bulk components—including oxygenates and petroleum blendstocks—and blending them at the rack, whereby we are the position holder. Today, we additionally purchase blended fuel under the terms of wholesale supply contracts tied to prevailing rack prices, whereby our suppliers are the position holder.

Which of these methods we utilize day- to-day is dictated by the market, and by the terms we negotiate in view of market conditions. Either way, the goal is to procure fuel as efficiently as possible, so that we can provide our retail customers with the best possible products at the best possible value. Consistently achieving that goal is critical to our survival in such a fiercely competitive industry. Indeed, with giant outdoor price signs— and, increasingly, the ability to comparison shop remotely via the internet and mobile applications— retail motor fuel is among the most price-sensitive consumer products on the market today.

To be successful in this environment, a change in product offerings must be driven by a change in market demand, not vice versa. Our customers will not buy a new fuel product simply because we offer it for sale; to the contrary, we can only sell a new fuel product if our customers actually want to buy them— as indicated, e.g., by their purchase of a particular motor vehicle and, in the case of flex vehicles, by their ultimate fuel choice at the pump. The variety and volume of fuel that we sell is, and must continue to be, a reflection of that reality.

III. THE POINT OF OBLIGATION

A. Market Dynamics: Under the current point of obligation, the pass-through of RIN values allows for the competitive pricing of renewable fuels.

A core point of contention in the Valero petition is its assertion that, with the current point of obligation, "the value of the RIN is not passing through to consumers" but instead "is largely being retained" by the position holders who separate and sell the RIN.[6]

This flawed argument relies upon facts not in evidence, and it does not comport with how businesses like Cumberland Farms actually buy and sell fuel in the marketplace. Rather, in our experience, RIN values are indeed reflected in the downstream cost of fuel. To demonstrate this point—i.e., that RINs are credited to rack buyers at the time of wholesale purchase, and ultimately passed through to consumers at retail— we offer the following discussion using real

[6] Petition at 12.

ED_001174_00000034

Correspondence Management System

Control Number: AX-16-000-0641
Printing Date: October 22, 2015 04:00:13

Citizen Information

Citizen/Originator: **O'Rourke, Joc**
Organization: Mosaic
Address: 3033 Campus Drive, Plymouth, MN 55441

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-0641	**Alternate Number:**	N/A
Status:	Closed	**Closed Date:**	Oct 22, 2015
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Sep 21, 2015	**Received Date:**	Oct 21, 2015
Addressee:	Acting Deputy Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - Response to expressed interest in learning more about Mosaic programs
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Matthew Klasen - OW
OAR - Office of Air and Radiation -- Immediate Office
OPA - Office of Public Affairs
Ron Carleton - AO-IO

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	OW	Oct 22, 2015
Diane Jones-Coleman	OW	OW-OWOW	Oct 22, 2015

History

Action By	Office	Action	Date
Ken Labbe	OEX	Control Created	Oct 22, 2015

Joc O'Rourke
President, Chief Executive Officer

Tel 763-577-2700
Fax 763-577-2989

The Mosaic Company
3033 Campus Drive, Suite E490
Plymouth, MN 55441
P. O. Box 5790, MS 190
Minneapolis, MN 55440-5790
USA

www.mosaicco.com

2015 OCT 21 AM 6:35

September 21, 2015

Mr. Stan Meiburg
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101
Washington, DC 20460

Dear Mr. Meiburg:

This is in response to an interest you expressed to learn more about the programs Mosaic has undertaken to address the problem of fertilizer based nutrient loading of our streams and watersheds. Thank you very much for both your interest and the opportunity to provide an update on The Mosaic Company, our operations and our commitment to nutrient stewardship. In more than 10 years as a public company, Mosaic has made enormous progress in critical areas, including safety and the environment. Among our many accomplishments, none shines more brightly than our commitment to sustainability.

Sustainability is one of Mosaic's four corporate values, and we are we are driven to improve how we operate and produce crop nutrients. In our recently published 2014 Sustainability Report, Mosaic set measurable 2020 sustainability targets that are designed to advance innovation across the company and drive resource conservation. As global demand for food, water and precious natural resources increases, Mosaic is striving to:

- Reduce freshwater use by 10% per tonne of product produced, avoiding approximately 38 million cubic meters of freshwater withdrawal.
- Reduce total energy use by 10% per tonne of product produced, avoiding the use of approximately 30 million gigajoules of energy.
- Reduce greenhouse gas emissions by 10% per tonne of product produced avoiding the emission of approximately 3 million tonnes of CO_2e.

These water, energy and emissions targets build on our existing business strategy, and position us to stretch our environmental responsibility efforts even further. Mosaic's many stakeholders have played an important role in helping us identify opportunities to improve

In 2014 we reused or recycled approximately 90 percent of the water used at our Florida phosphate operations. We generated approximately 7 million gigajoules of electricity through cogeneration in our North American operations. We reclaimed approximately 5,990 acres of mined land in Central Florida. And we, invested $17 million in food, water and local community programs and partnerships where Mosaic operates.

While we continue our efforts to advance Mosaic, we are also committed to the sustainable use of our products. Mosaic wants farmers to achieve optimal yield benefits from our crop nutrition products. But we recognize when crop nutrients run off farmland into a waterway, they can contribute to impaired water quality. It is in everyone's best interest that nutrients remain in the crop's root zone. Mosaic has been actively engaged on 4R Nutrient Stewardship and investing in watersheds for years, including:

Field To Market®: The Alliance for Sustainable Agriculture is a diverse alliance working to create opportunities across the agricultural supply chain for continuous improvements in productivity, environmental quality, and human well-being. The group provides collaborative leadership that is engaged in industry-wide dialogue, grounded in science, and open to the full range of technology choices.

4R Nutrient Stewardship Certification Program is a voluntary program that provides agricultural retailers, service providers and other certified professionals in Ohio, Indiana, and Michigan a consistent, recognized standard where surrounding waters drain into Lake Erie.

The Nature Conservancy's Great Rivers Partnership in Minnesota, Iowa and Illinois illustrates Mosaic's commitment to precision conservation practices that address nutrient and sediment run-off in agricultural landscapes. All farms, large and small, must employ best management practices to protect water supplies and water habitats

We recognize there is more to be done to advance sustainable agricultural systems. Good nutrient management is possible, but best management practices differ from farm to farm. Other agronomic and conservation practices, such as tillage practices and cover crops, play a valuable role in good nutrient stewardship. As a result, fertilizer best management practices are most effective when applied with other agronomic and conservation practices. It takes testing, research, planning, measurement and collaboration to determine which nutrient management practices are most effective, adaptive and scalable. We are redoubling efforts to promote good stewardship of phosphorus fertilizer products, drive industry consensus on critical issues and engage in important dialogs concerning the future of agriculture with participants across the value chain.

Thank you again for your time and interest.

Sincerely,

Joc O'Rourke
President, Chief Executive Officer

Correspondence Management System
Control Number: AX-16-000-0687
Printing Date: October 22, 2015 11:16:29

Citizen Information

Citizen/Originator: **Ananich, Jim**
Organization: The Office of State Senator Jim Ananich
Address: P.O. BOX 30036, Lansing, MI 48909

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-0687	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 5, 2015	**# of Extensions:**	0
Letter Date:	Oct 21, 2015	**Received Date:**	Oct 22, 2015
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Daily Reading File - Request that Regional Administrator Hedman review MDEQ?s determinations regarding corrosion control for lead in Flint, Michigan.
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Matthew Klasen - OW
OCIR - Office of Congressional and Intergovernmental Relations
OCIR-ORO - Office of Regional Operations
OP - Office of Policy
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	R5	Oct 22, 2015	Nov 5, 2015	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

SENATE MINORITY LEADER
JIM ANANICH

517.373.0412
senjananich@senate.michigan.gov
senatedems.com/ananich

/jimananich @jimananich

October 21, 2015

Gina McCarthy
Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code 6106A
Washington, DC 20460

Susan Hedman
Regional Administrator
United States Environmental Protection Agency Region 5
Ralph Metcalfe Federal Building
77 West Jackson Boulevard
Chicago, IL 60604

Re: EPA Review Needed on Flint, Michigan Water Treatment

Administrator McCarthy and Regional Director Hedman,

Today Congressman Dan Kildee requested that the United States Environmental Protection Agency c onduct an investigation into the water system in Flint, Michigan. I agree that such an investigation is vital to ensuring that the people responsible for Flint's dangerous water quality are held accountable.Similar to Congressman Kildee's request, I am requesting the EPA conduct a review of the Michigan Department of Environmental Quality's (MDEQ) oversight of water treatment in Flint as provided for in the Lead and Copper Rule, 40 CFR Sec. 141.80.

After decades of relying on water from the Detroit Water and Sewerage Department (DWSD), Flint began treating its own water from the Flint River in April 2014 at the behest of state-appointed Emergency Managers. DWSD had used — and continues to use — anti-corrosion treatments in its water to prevent lead leaching from an aging infrastructure into residents' drinking water. For a number of reasons, raw water from the Flint River is significantly more corrosive than the lake water that DWSD uses. Despite this, Flint chose not to treat the raw Flint River water by any method traditionally associated with preventing lead corrosion. Multiple consultants and the EPA advised the city to use additional corrosion control measures, but that advice went unheeded by the City of Flint and the MDEQ.

Foreseeably, lead has been seeping int o Flint's drinking water for more than a year, causing an alarming rise in the number of children in Flint with elevated blood lead levels. Independent research conducted by Virginia Tech professor Marc Edwards indicated high lead levels in tap water, anda study led by Hurley Medical Center pediatrician Dr. Mona Hanna -Attisha revealed that in high -risk areas of the city, the rate of lead overexposure among children more than doubled since switching water sources. State data have confirmed these results.

Additionally, several questions remain regarding how Flint and state officials conducted water sampling under the Lead and Copper Rule. Allegedly, officials did not target samples in high -risk Tier 1 locations or repeat locations in subsequent tests. Consumers were also instructed to pre-flush their taps prior to collecting samples, resulting in lower lead level results. It is unclear whether a sufficient number of samples were taken or why MDEQ excluded two high lead level samples from Flint's July 2015 water quality report.

Printed in-house

SENATE MINORITY LEADER
JIM ANANICH

517.373.0412
senjananich@senate.michigan.gov
senatedems.com/ananich

/jimananich @jimananich

The State of Michigan has pledged to help reconnect the City of Flint to DWSD and take additional steps to help remediate the lead problem. However, these are stopgap measures that will never undo the damage already done.

Ultimately, the EPA retains the ability and responsibility to oversee the state's efforts to obtain and maintain safe drinking water for its residents. As such, I appreciate that the EPA has established the Flint Safe Drinking Water Task Force. However, it also is within the EPA's power to review the actions of MDEQ and the City of Flint as they pertain to lead testing and treatment under the Lead and Copper Rule. We want to ensure Flint remains compliant once it switches its permanent water source to the Karegnondi Water Authority.

I respectfully request that, under 40 CFR Sec. 142.19, Regional Administrator Hedman review MDEQ's determinations regarding corrosion control for lead in Flint, Michigan. Regardless of the findings, I am also requesting that Regional Administrator Hedman make public all evidence gathered during the course of that review. Michigan citizens deserve to know whether MDEQ is operating safely and effectively.

If you have any questions, please contact my office at senjananich@senate.mi.gov or (517) 373-0142. Thank you for your consideration.

Sincerely,

Jim Ananich
Senate Democratic Leader
District 27

cc:
Governor Rick Snyder
U.S. Representative Dan Kildee
U.S. Senator Debbie Stabenow
U.S. Senator Gary Peters
State Representative Sheldon Neeley, District 34
State Representative Phil Phelps, District 49
Mayor Dayne Walling, City of Flint
Howard Croft, City of Flint
Susan Hedman, EPA
Thomas Poy, EPA
Michael Schock, EPA-ORD
Darren Lytle, EPA-ORD
Denise Fortin, EPA
Dan Wyant, MDEQ
Liane Shekter-Smith, MDEQ
Pat Cook, MDEQ
Stephen Busch, MDEQ
Brad Wurfel, MDEQ
Marc Edwards, Virginia Tech

Printed in-house

Correspondence Management System
Control Number: AX-16-000-0690
Printing Date: October 22, 2015 09:40:27

Citizen Information

Citizen/Originator: **Walsh, Richard J**
Organization: Valero Energy Corporation
Address: PO Box 696000, San Antonio, TX 78269-6000

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-0690	**Alternate Number:**	7014 0150 0000 2459 8787
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Oct 16, 2015	**Received Date:**	Oct 21, 2015
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - Supplement to Valero Comments on Proposed Renewable Fuel Standards for 2014, 2015 and 2016 and Biomass-Based Diesel Volume
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OPA - Office of Public Affairs
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OAR	Oct 22, 2015

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to OAR	Oct 22, 2015

VALERO

Richard J. Walsh
Senior Vice President
and Deputy General Counsel
Litigation and Regulatory Law

October 16, 2015

Via Federal Express No. 7747-5828-9186

EPA Docket Center
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Mail code 28221T
Washington, DC 20460

Attn: Docket ID No. EPA- HQ-OAR-2015-0111

RE: Supplement to Valero Comments on Proposed Renewable Fuel Standards for 2014, 2015 and 2016 and Biomass-Based Diesel Volume

On July 27, 2015, Valero submitted comments on the Proposed Renewable Fuel Standards ("RFS") for 2014, 2015 and 2016 urging EPA to revise the RFS to move the point of obligation to the owner of the fuel at the wholesale rack. When EPA considered revising the structure of the RFS in 2010, EPA argued that at that time "a change in the designation of obligated parties would result in a significant change in the number of obligated parties and the movement of RINs, changes that could disrupt the operation of the RFS program during the transition from RFS1 to RFS2." To address this concern in support of the submitted comments, Valero completed analysis regarding the administrative burden that might result from a change in the point of obligation. As described below, Valero's analysis finds that the change will result in no additional administrative burden because the change will not increase the number of obligated parties under the RFS. An analysis of information available in the Oil Price Information Service ("OPIS") and EPA's list of RFS registered parties shows that the number of directly obligated parties is expected to decrease if the point of obligation is moved to the wholesale rack.

As background, Valero summarizes the comment submitted in July as follows:

> The current problems with the RFS, as outlined below, can largely be resolved by shifting the RFS compliance obligation to the owner of the fuel immediately prior to blending at the rack, ensuring that all parties would have an equal incentive to maximize the generation of additional RINs. The infrastructure that is needed to increase market penetration of renewable fuels is downstream of refiners. As long as those downstream of refiners do not have compliance obligations, there will be few market opportunities for investments in downstream infrastructure. By moving the obligation closest to the place where blending occurs and where renewable fuel is purchased and delivered, EPA would incent blenders to maximize blending and marketing of renewable fuel. No party would have a surplus of RINs by virtue of their downstream position alone, while all parties would be equally obligated and, most importantly, fully incented to push renewable fuels into the market.

Valero's comments explain that the action to correct the flaw in the RFS system is simple and will not create unreasonable additional administrative burden on regulated parties:

> The regulatory change necessary to correct the flaw is simple. To move the point of obligation to the rack is a straightforward edit to the definition of obligated party. The change places insignificant additional administrative burden on regulated parties. Further, even if some degree of additional administrative effort is involved in moving the obligation to blenders, it is not reasonable to compromise a program design that will more effectively achieve the goals of the statute for the sake of administrative convenience.

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richard.walsh@valero.com

Analysis of Potential Administrative Burden Based on Increase in Number of Obligated Parties

As a follow-up to the comments submitted in July, Valero completed analysis of the potential additional administrative burden that might be imposed on regulated parties by the recommended change in the point of obligation. Valero offers the results of this analysis for EPA consideration in the development of the final rule. Valero recognizes that this information is being submitted after the close of the comment period for the proposed rule. However, in light of the enormous benefits associated with a rule change, it is important for EPA to recognize the change will not create additional administrative burden for the agency nor industry. The information provided herein is information that EPA can obtain on its own and the analysis is well within EPA's ability to undertake for evaluating options to resolve the RFS structural flaws. Nonetheless, Valero offers the information to provide EPA support for making the appropriate changes to ensure the success of the RFS program.

The purpose of the analysis was to quantify the number of obligated parties under a revised RFS by identifying the entities that post wholesale rack prices for gasoline and diesel fuels at all terminals in the United States. In meetings with Valero, EPA indicated that there are approximately 200 obligated parties and raised d a concern that moving the point of obligation to the owner of the hydrocarbon immediately prior to sale at the wholesale rack may significantly increase the number of obligated parties. Utilizing wholesale rack pricing data gathered from OPIS, Valero identified potential obligated parties by reviewing the entities who supply gasoline and diesel fuel for sale at wholesale rack terminals as reported in the OPIS Wholesale Rack Pricing Report. The analysis quantified the number of unique "Parties" posting wholesale rack prices at all US terminals and then cross-referenced the parties with EPA's most recent Title 40 CFR Part 80 registration.

The wholesale rack data set included all published finished product price information by posting party for both Branded and Unbranded products, excluding Avgas, Jet Fuel, and LPG's. The analysis consolidated posted products by product group and product type. The Product Groups included; "Gas or Diesel" and "Alternative Fuels". The product group "Gas or Diesel" included all gasoline's (E0 to E15) and all diesel fuels (Motor Vehicle, Non-road, Locomotive, or Marine (MV-NRLM)), including all blends containing biomass based diesel's (B0 to B98). As the purpose of the analysis was to quantify the number of obligated parties under a revised RFS, whereby the obligated party would be the owner of the hydrocarbon immediately prior to sale at the wholesale rack, the entities posting products for sale within the product group "Gas or Diesel" were considered obligated parties for this analysis.

Finding: Rule Revision Will Reduce Number of Obligated Parties

Based on the analysis of the OPIS data, Valero found 107 posting entities; 100 were registered with EPA under the RFS. For 7, direct registration was not found, however they might be exempt, registered under a parent company, or could potentially be RFS non-compliant. (See Appendix) This number is significantly fewer than the number assumed by EPA in its prior discussions. Thus, the analysis indicates that placing the compliance obligation on the owner of the gasoline or diesel fuel immediately before sale at the rack will result in fewer obligated parties than the current RFS structure.

EPA Registration Status	Est of Current Obligated Parties* (per EPA meetings)	Obligated Party at the Rack** (per OPIS rack posting detail)	Favorable Variance
EPA Registered	200	100	(100)
EPA Registration Unknown	-	7	7
Grand Total	**200**	**107**	**(93)**

* Number of currently Obligated Parties as referenced during meetings with EPA

** Obligated Party count based on the number of parties posting rack prices for all finished Gas and Diesel products as published by OPIS

- Finished Gas and Diesel products = Gasoline (includes E0-15), Diesel (includes all MV-NRLM and B0-98)
- Excluded materials = E85, Ethanol, and Biodiesel (B99 and B100)

Data Source: OPIS - All Published Terminals, All Published Finished Product Posting (excluding Avgas, JetFuel, and LPG)

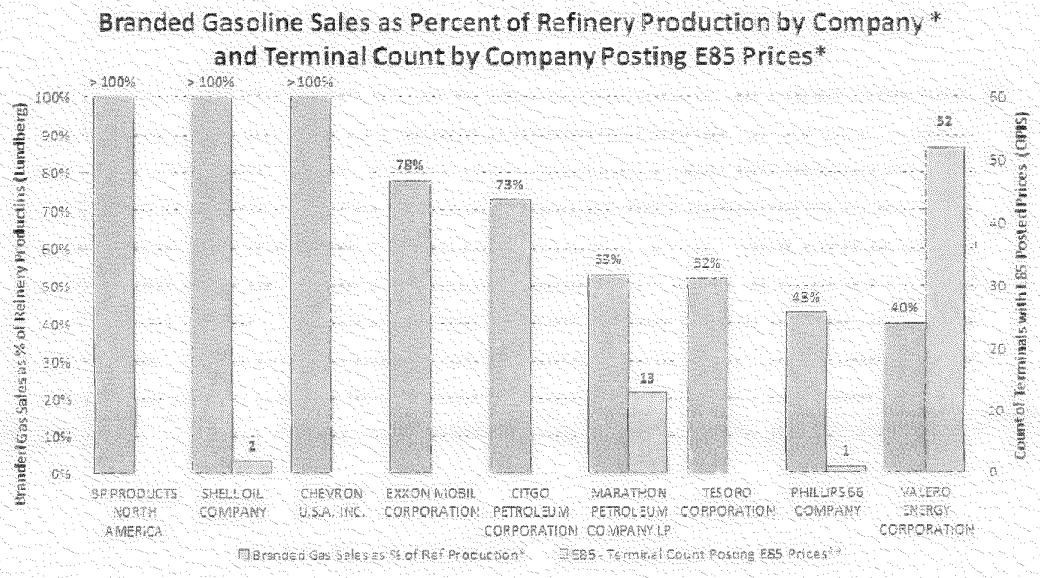
Due to the smaller than anticipated number of unique parties identified in the Rack Posting Analysis, Valero contacted OPIS to confirm the results. OPIS provided a list of 123 "Active Rack Suppliers" posting gas and diesel prices. OPIS refers to any entity posting a rack price as a "rack supplier." After accounting for duplications created by suppliers posting both branded and unbranded prices, OPIS indicated the count of unique supplier's was approximately 110.

When looking at the number of directly obligated parties resulting from moving the point of obligation to the owner of the hydrocarbon immediately prior to sale at the wholesale rack, both the posted price analysis and OPIS supplier validation methodologies yielded similar results and both reflected a significant decrease in the number of directly obligated parties.

Finding: RIN-Long Obligated Parties are Not Offering E85

The analysis yielded additional information regarding obligated parties under the current RFS that supports Valero's comments submitted to EPA in July. Valero's comments, and the comments of others, describe the fact that RIN-long obligated parties do not have any incentive to provide E85. The analysis of the OPIS data confirms that RIN-long obligated parties are not pricing E85.

The data described in the table below identifies the number of terminals at which each company posts E85 prices. EPA already knows that the companies shown below with branded sales that are greater than 70% of their refinery production are also companies that are RIN-long.



This finding confirms that the current point of obligation of the RFS does not incent RIN-long obligated parties to invest in infrastructure to blend additional biofuels, particularly those which would break the E10 blendwall. As can be seen above, the high RIN prices in 2013, 2014, and 2015 did not caused RIN-long obligated parties to offer E85. Further, most RIN-long obligated parties benefit from disproportional obligations under the RFS current point of obligation. In the short term, these parties have no need to make investments to meet increasing RVOs and they enjoy windfall profits from selling high priced RINs to structurally short parties. In the long term, this dysfunction in the RFS creates instability and risk to RFS program and results in failure of program to achieve its goals. The ultimate collapse of the RFS program will benefit RIN-long parties, particularly if it occurs after reducing competition in the market from RIN-short parties.

Conclusion

The two findings from the analysis are important for EPA's consideration of how to remove the constraints on the RFS program. Contrary to EPA's assumptions in 2010, changing the point of obligation to the owner of the hydrocarbon immediately prior to sale at the wholesale rack will not increase the number of obligated parties. Thus, EPA's concern about the additional administrative burden is unfounded; there will be no additional administrative burden on the agency nor parties that are not already participating in the RFS program. Not only will a correction to the regulatory structural flaw allow better market penetration of renewable fuels by ensuring that all relevant parties have the incentive to push renewable fuels to the market, a correction is necessary to provide stability in the RFS program and to prevent the ultimate collapse of the RFS program. The findings support Valero's comments submitted in July. We urge EPA to consider these findings as further support for those comments.

Sincerely,

Richard J. Walsh

cc: Benjamin Hengst
Julia McAllister
Janet McCabe
Chris Grundler
Gina McCarthy

Correspondence Management System
Control Number: AX-16-000-0708
Printing Date: October 22, 2015 03:40:10

Citizen Information

Citizen/Originator: **White, Ronald**
Organization: Center for Effective Government
Address: 2040 South Street NW, 2nd Floor, Washington, DC 20009

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-0708	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Oct 21, 2015	**Received Date:**	Oct 21, 2015
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - Follow up to meeting with the Coalition to Prevent Chemical Disasters
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Eileen Naples - AO-IO
OAR - Office of Air and Radiation -- Immediate Office
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OSWER	Oct 22, 2015

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to OSWER	Oct 22, 2015

October 21, 2015

Dear Administrator McCarthy,

We want to thank you for your time and candid discussion on October 13 of the forthcoming EPA Risk Management Plan (RMP) rulemaking. We are pleased to hear your support for greater transparency and access to more information for local communities, and enhancing emergency response preparation in an updated RMP rule.

However, we were disappointed to hear that the RMP rule may not include new requirements to use inherently safer technologies (IST) where feasible to eliminate or reduce catastrophic hazards – the approach previously endorsed by former EPA administrator Christine Todd Whitman and President Obama when he served in the Senate and as a presidential candidate. Still, we are encouraged to hear your interest in requiring facilities to assess the feasibility of using safer chemicals or processes.

While we agree with previous Agency statements that EPA has the legal authority to require conversion to inherently safer technologies where feasible, and we believe that such requirements can be effectively and efficiently implemented, we appreciate that there are time constraints involved with finalizing a rule in 2016. In order to protect communities at the greatest risk of catastrophic chemical facility hazards in the near term, we respectfully urge you to include at minimum a pilot project which would require assessment and, where feasible, implementation of conversion to safer chemicals and processes for a subset of chemical facilities. We recommend prioritizing sectors for the pilot program based on the magnitude of the hazards facilities pose and whether the sector includes facilities that have already adopted safer alternatives. Such a pilot program will help to demonstrate the effectiveness and practicality of hazard elimination requirements, provides a foundation for future expansion of an IST requirement to other high risk chemical facility sectors, and is consistent with the principles the Obama administration put forward in 2009.

Below is a revision of our priority recommendations presented to you at our October 13th meeting:

1) Require all RMP facilities to conduct and submit alternatives assessments that meet specified criteria to determine the feasibility of using safer chemicals and/or processes, building on lessons from the New Jersey IST program and other relevant state or local programs; require that these assessments include a comprehensive analysis of the financial benefits as well as safety enhancements of options and make these assessments publically available.

2) Begin a pilot program to require IST implementation in a subset of RMP facility categories where the feasibility of safer alternative chemicals and processes have been well demonstrated such as waste water and drinking water treatment plants,

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bleach plants and hydrogen fluoride refineries, and for those facilities among the 2,000 high-risk facilities cited in the EPA's National Enforcement Initiative (NEI) 2017-19 proposal* (excerpted below) where an IST alternative is feasible. In addition, EPA should urge chemical manufacturers of ammonium nitrate (AN) to voluntarily make a non-weaponized formula of AN (which already exists) available for use in fertilizer.

3) Ensure the protection of disproportionately at-risk populations and underserved communities. Launch an immediate national emergency response survey to be completed within six months to assess the capacity of local first responders and medical facilities to respond to worst case chemical disaster scenarios as reported to the EPA through RMP facility reports. This would include assessment of training needs, availability of state-of-the art response and rescue equipment and hospital capacity. Consider providing technical assistance grants (TAG) similar to those available under Superfund that would be available to fence line communities to secure technical assistance for evaluating alternative assessments submitted by local facilities, as well as for other priority community needs related to chemical facility safety. EPA's Office of Environmental Justice could also consider providing Environmental Justice Partnership grants, including potentially to the same communities receiving TAG grants, to support community chemical facility accident prevention and response needs. Provide funding through the NIEHS Worker Education and Training Program for joint community and worker training in IST analysis, implementation and oversight.

4) Require the involvement of workers and their representative unions in the alternatives assessments and feasibility analyses of IST. Ensure that all facility employees have whistleblower protection (i.e., ability to anonymously report safety concerns), participate in inspections and in alternatives analyses assessments, and have adequate education and training to participate in those processes. Ensure that workers and communities are fully trained and empowered to participate in planning and reviewing assessments and decisions.

5) Increase the scope of reportable RMP elements to include "near misses" or process upsets, which will ensure that the industry records these events. In addition, the EPA should establish a clearinghouse of de-registered RMP facilities that have adopted safer chemicals or processes to eliminate catastrophic hazards. This information is critical in preventing future catastrophic events and is an essential transparency tool for future policy changes. There also needs to be improved public access to an expanded scope of RMP information, which currently is not accessible online and is difficult to interpret, even for those with technical training and industry experience.

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Thank you again for your time and consideration. The current decades-old RMP rule is woefully inadequate and is in need of significant modification. The RMP rulemaking provides the agency with a clear window of opportunity to address these deficiencies. We hope we can work together on an updated RMP rule that incorporates requirements which take advantage of technological advances in preventing chemical facility disasters that have been made over the last two decades as well as ensuring that communities have substantially improved access to information about facilities that affect their health and safety. We look forward to the opportunity to discuss these priorities with you and your staff before a proposed rule is issued next year.

Sincerely,

David Halperin
Attorney and Counselor

Charlotte Brody
Vice-President, Health Initiatives, Blue Green Alliance

Racquel Segall
Health Initiatives Manager, Blue Green Alliance

Katherine McFate
President and Chief Executive Officer, Center for Effective Government

Ronald White
Director of Regulatory Policy, Center for Effective Government

Stephen Lester
Science Director, Center for Health, Environment and Justice

Steve Taylor
Campaigns Manager, Coming Clean

David LeGrande
Occupational Safety and Health Director, Communications Workers of America

Michele Roberts
National Co-Coordinator, Environmental Justice Health Alliance for Chemical Policy Reform

Scott Faber
Vice President of Government Affairs, Environmental Working Group

Franklyn Baker
Chief Operating Officer, Greenpeace

ED_001174_00000125

Correspondence Management System

Control Number: AX-16-000-0712
Printing Date: October 22, 2015 03:42:09

Citizen Information

Citizen/Originator: **Aguilar, Temet A.**
Organization: Pauma Band of Mission Indians
Address: P.O. Box 369, Pauma Valley, CA 92061

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-0712	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 6, 2015	**# of Extensions:**	0
Letter Date:	Oct 13, 2015	**Received Date:**	Oct 22, 2015
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: DRF - Daily Reading File - Support for Rural Community Assistance Partnership's Training and Technical Assistance for Small Public Water Systems to Achieve and Maintain Compliance with the Safe Drinking Water Act funding application

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: Matthew Klasen - OW
OITA - Office of International and Tribal Affairs
OPA - Office of Public Affairs
R9 - Region 9 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OW	Oct 22, 2015	Nov 6, 2015	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Pauma Band of Mission Indians

P.O. Box 369 • Pauma Valley, CA 92061 • (760) 742-1289 • Fax (760) 742-3422

Established 1893

October 13, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

RE: Support for Rural Community Assistance Partnership (RCAP)'s Training and Technical Assistance for Small Public Water Systems to Achieve and Maintain Compliance with the Safe Drinking Water Act funding application

Dear Adminstrator McCarthy:

I am writing to express support for the services provided by the Rural Community Assistance Corporation (RCAC), the Western RCAP affiliate. Our small public water system has benefited from valuable compliance assistance from RCAC. The Pauma Water Department recently received assistance from RCAC with updates to the bacteriological sample siting plan which will allow us to be in compliance when the Revised Total Coliform Rule goes into effect in April, 2016.

In addition to the work on our sample siting plan, RCAC has provided training and technical assistance on a variety of technical, managerial and financial needs including one-on-one operator certification training, annual Consumer Confidence Report preparation, water conservation flyers, drought contingency planning, and continuing education contact hours.

The technical assistance and training assistance RCAC provides to bring systems into compliance and to maintain compliance is an invaluable asset to small rural water systems to ensure safe drinking water for our customers.

Please accept this letter of support for RCAP's application. Feel free to contact me if you have any questions or would like additional information.

Sincerely,

Temet A. Aguilar
Tribal Chairman

2015 OCT 22 AM 10: 38
OFFICE OF EXECUTIVE STAFF

Correspondence Management System

Control Number: AX-16-000-0717
Printing Date: October 22, 2015 12:49:41

Citizen Information

Citizen/Originator: **Dempsey, Stan**
Organization: Colorado Petroleum Association
Address: 1700 Lincoln Street, Denver, CO 80203

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-0717	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 5, 2015	**# of Extensions:**	0
Letter Date:	Oct 9, 2015	**Received Date:**	Oct 22, 2015
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Daily Reading File - Colorado Petroleum Association requests 90-day comment period extensions for the Oil and Gas Sector: Emission Standards for New Modified Sources
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OCIR-ORO - Office of Regional Operations
OP - Office of Policy
OPA - Office of Public Affairs
R8 - Region 8 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OAR	Oct 22, 2015	Nov 5, 2015	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

COLORADO PETROLEUM
ASSOCIATION
1700 Lincoln Street, Suite 1530
Denver, Colorado 80203
Tel: 303/860-0099
E-Mail: stan@coloradopetroleumassociation.org

2015 OCT 22 AM 10: 39
OFFICE OF THE
EXECUTIVE SECRETARIAT

October 9, 2015

The Honorable Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Request to Extend the Comment Periods for:

· Oil and Natural Gas Sector: Emission Standards for New and Modified Sources (80 FR 56593)
· Review of New Sources and Modifications in Indian Country: Federal Implementation Plan for Managing Air Emissions from True Minor Sources Engaged in Oil and Natural Gas Production (80 FR 56554)
· Source Determination for Certain Emission Units in the Oil and Natural Gas Sector (80 FR 56579)
· Draft Control Technique Guidelines for the Oil and Natural Gas Industry (80 FR 56557)

Dear Administrator McCarthy:

The Colorado Petroleum Association (CPA) respectfully requests 90-day comment period extensions for the Oil and Natural Gas Sector: Emission Standards for New and Modified Sources (80 FR 56593), Review of New Sources and Modifications in Indian Country: Federal Implementation Plan for Managing Air Emissions from True Minor Sources Engaged in Oil and Natural Gas Production (80 FR 56554), Source Determination for Certain Emission Units in the Oil and Natural Gas Sector (80 FR 56579), and the Draft Control Technique Guidelines for the Oil and Natural Gas Industry (80 FR 56557).

CPA is a non-profit trade association organized to operate in Colorado. CPA members are involved in all aspects of oil and gas exploration, production, refining, processing, marketing, and transportation. In Colorado, CPA represents its members before local, state, and federal government entities on policy, factual, and legal issues.

Colorado's oil and gas industry supports 213,100 jobs directly and indirectly in Colorado and contributes over 25.8 billon dollars to Colorado's economy. CPA's members will be directly

impacted by the proposed regulations.

CPA is uniquely positioned to provide EPA its members collective expertise implementing Colorado's Regulation 7 adopted in 2014 addressing methane emissions. Our membership has worked closely with the Colorado Department of Public Health and Environment in the implementation of the rule which EPA references in its NSPS proposal. We believe we can provide a number of "lessons learned" operators have identified through collective discussion, which should benefit the agency's consideration of operational and technical issues.

CPA believes additional time is needed as these proposed regulations differ substantially from Colorado's existing methane rule. CPA is also concerned these proposed regulations affect several different agencies and Tribes which have a prominent position in Colorado.

CPA respectfully requests that EPA extend the comment period for another 90 days to allow CPA members to provide comments. We also note that the Bureau of Land Management is due to release its venting and flaring rule, which may overlap with EPA's proposal.

Sincerely,

Stan Dempsey, Jr.

Stan Dempsey, Jr.
President
Colorado Petroleum Association

Correspondence Management System
Control Number: AX-16-001-2201
Printing Date: September 14, 2016 03:56:28

Citizen Information

Citizen/Originator: **Vogt, Donna**
Organization: Saint Charles County Council
Address: 100 North 3rd Street, Saint Charles, MO 63301

Brazil, Joe
Organization: Saint Charles County Council
Address: 100 North 3rd Street, Saint Charles, MO 63301

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-2201	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Sep 27, 2016	**# of Extensions:**	0
Letter Date:	Sep 13, 2016	**Received Date:**	Sep 13, 2016
Addressee:	AD-Administrator	**Addressee Org:**	N/A
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.
Subject: DRF - Resolution No. 16-08, Calling upon EPA to Ensure a Sufficient Number of Sulfur Dioxide Monitors are Placed around the Labadie Coal Plant and the Monitors be Placed in Locations where the Highest Levels of Pollution can be detected
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: OAR - Office of Air and Radiation -- Immediate Office
OCIR - Office of Congressional and Intergovernmental Relations
OCSPP - OCSPP - Immediate Office
OPA - Office of Public Affairs

Lead Information

Lead Author: Kimberlye Smith
Office: R7-AWMD-APCO
Due Date: Sep 21, 2016
Assigned Date: Sep 13, 2016
Complete Date: N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Shari King	OEX	R7	Sep 13, 2016	Sep 27, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Sponsored by: Joe Brazil

Resolution No. 16-08

A RESOLUTION CALLING UPON THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ("US EPA") TO ENSURE A SUFFICIENT NUMBER OF SULFUR DIOXIDE MONITORS ARE PLACED AROUND THE LABADIE COAL PLANT AND THE MONITORS BE PLACED IN LOCATIONS WHERE THE HIGHEST LEVELS OF POLLUTION ARE EXPECTED TO BE DETECTED

WHEREAS the St. Charles County Council is concerned about the health and safety of all citizens of St. Charles County; and

WHEREAS, the Labadie power plant is the largest in Missouri and is the largest in the United States that does not employ modern pollution controls (i.e. scrubbers) to reduce sulfur dioxide pollution; and

WHEREAS, in February, 2016, the US EPA proposed to designate the area around the Labadie plant in St. Charles and Franklin Counties as failing to meet public health standards for sulfur dioxide air quality; and

WHEREAS, in July, 2016, the US EPA reversed itself and decided that not enough information was available to determine if the area around the Labadie plant was in compliance with sulfur dioxide air quality standards; and

WHEREAS, the US EPA now intends to use air monitoring data to assess the air quality around the Labadie coal plant; and

WHEREAS, monitoring air quality only works if enough air monitors are placed around the Labadie coal plant and are located in areas where high levels of air pollution are expected.

NOW THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF ST. CHARLES COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The St. Charles County Council calls upon the US EPA to ensure that a sufficient number of sulfur dioxide monitors are placed around the Labadie coal plant and that they are placed in locations where the highest levels of pollution are expected to be detected.

Section 2. If, the air monitoring data eventually determines that the Labadie plant is not in compliance with sulfur dioxide air quality standards, then the St. Charles County Council calls upon Ameren Missouri to be a good neighbor by installing scrubbers to ensure compliant air quality to the citizens of St. Charles County.

Section 3. The Executive Assistant to the County Council is hereby directed to forward a copy of this resolution to the U.S. Environmental Protection Agency, U.S. Senators Roy Blunt and Claire McCaskill, Congresswoman Ann Wagner and Congressman Blaine Luetkemeyer.

9-12-16
DATE PASSED

CHAIR OF THE COUNCIL

Correspondence Management System
Control Number: AX-16-001-2212
Printing Date: September 14, 2016 09:10:53

Citizen Information

Citizen/Originator: **Heminger, Gary R**
Organization: Marathon Petroleum Corporation
Address: 1201 F Street, N.W., Washington, DC 20004

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-2212	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Sep 29, 2016	**# of Extensions:**	0
Letter Date:	Sep 9, 2016	**Received Date:**	Sep 13, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Opposition to Petitions for Reconsideration and for Rulemaking: Renewable Fuel Standard Definition of Obligated Party - 40 C.F.R. 80.1406
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OAR	Sep 14, 2016	Sep 29, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date

Gary R. Heminger
Chairman, President and Chief Executive Officer

Marathon Petroleum Corporation

539 South Main Street
Findlay, OH 45840-3229
Tel: 419.421.3315
Fax: 419.421.3837

September 9, 2016

RECEIVED
2016 SEP 13 PM 1:54
OFFICE OF THE
EXECUTIVE SECRETARIAT

BY OVERNIGHT DELIVERY

Gina McCarthy
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Janet McCabe
Acting Assistant Administrator for the Office of Air and Radiation
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 6101A
Washington, DC 20460

Re: Opposition to Petitions for Reconsideration and for Rulemaking: Renewable Fuel Standard Definition of Obligated Party – 40 C.F.R. § 80.1406

Dear Administrator McCarthy and Assistant Administrator McCabe:

Marathon Petroleum Corporation (MPC) respectfully submits these comments on the petitions from the Small Refinery Owners Ad Hoc Coalition, Monroe Energy LLC, Valero Energy Corporation, and the American Fuel & Petrochemical Manufacturers (AFPM) (collectively, the "Petitioners") concerning the definition of "Obligated Party" under the Renewable Fuel Standards (hereinafter, "the Petitions"). The Petitioners ask EPA to revise the definition of Obligated Party from the current entities, refiners and importers, to new entities identified as Rack Sellers[1]. As explained in this letter, moving the point of obligation to the terminal rack will not solve the ethanol blending limitations in the retail infrastructure, will not increase the amount of advanced biofuels in the marketplace, and ultimately may compromise the integrity of the RIN program.

[1] As defined by Valero and AFPM in their Petitions.

Marathon Petroleum Corporation Profile

As an obligated party and renewable fuel producer, MPC is qualified to provide its views to the Petitioners' request to move the point of obligation. MPC is the third-largest U.S. refiner with seven refineries that have the capacity to process approximately 1.8 million barrels of crude oil per day. MPC markets products through two retail brand names: Marathon and Speedway. Marathon brand fuel is available at approximately 5,400 locations, which are owned by independent entrepreneurs in 19 states in the Midwest and Southeast regions of the U.S. Our Speedway LLC subsidiary owns and operates approximately 2,770 retail gasoline convenience stores in 22 states. MPC owns and operates 61 light product terminals. In addition, MPC owns a biodiesel facility in Ohio and has an ownership position in three ethanol plants in the Midwest.

The Renewable Fuel Standards

Congress enacted the renewable fuel standards (RFS) program to ensure that the transportation fuel sold or introduced into commerce in the United States contains an applicable volume of renewable fuel, increasing annually through calendar year 2022.[2] The statute established separate annual volume requirements for four nested categories of renewable fuel – cellulosic biofuel, biomass-based diesel[3], advanced biofuel, and total renewable fuel.

The goal of the statute is to increase the use of advanced biofuel in transportation fuel.[4] The annual volumes were established such that growth of the advanced biofuel volumes would outpace the growth of the total renewable fuel volumes until 2015, at which time the difference between the two requirements would remain constant at 15.0 billion gallons.

[2] 42 U.S.C. §7545(o)(2)(A)(i)
[3] The statute established volume requirements for biomass-based diesel through only 2012.
[4] "Advanced biofuel" is defined as "renewable fuel, other than ethanol derived from cornstarch, that has lifecycle greenhouse gas emissions that are at least 50 percent less than baseline lifecycle greenhouse gas emissions." 40 C.F.R. §80.1401.

Correspondence Management System
Control Number: AX-16-001-2214
Printing Date: September 14, 2016 02:53:32

Citizen Information

Citizen/Originator: **Holleman, Frank S.**
Organization: Southern Environmental Law Center
Address: 601 West Rosemary Street, Chapel Hill, NC 27516-2356

Torrey, Nicholas S.
Organization: Southern Environmental Law Center
Address: 601 West Rosemary Street, Chapel Hill, NC 27516-2356

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-2214	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Aug 31, 2016	**Received Date:**	Sep 13, 2016
Addressee:	S. Jay Zimmerman	**Addressee Org:**	DEQ
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Duke Energy Carolinas Dan River Combined Cycle Station, NPDES No. NC0003468
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Derek Threet - AO-IO
Eileen Naples - AO-IO
OLEM - Office of Land and Emergency Management
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	R4	Sep 14, 2016

History

SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 919-967-1450 601 WEST ROSEMARY STREET, SUITE 220 CHAPEL HILL, NC 27516-2356 Facsimile 919-929-9421

August 31, 2016

RECEIVED
2016 SEP 13 PM 1:54
OFFICE OF THE EXECUTIVE SECRETARIAT

VIA EMAIL AND U.S. MAIL

Mr. S. Jay Zimmerman, Director
DEQ Division of Water Resources
Wastewater Permitting, Attn: Dan River Permit
1617 Mail Service Center
Raleigh, N.C., 27699-1617
publiccomments@ncdenr.gov
jay.zimmerman@ncdenr.gov

RE: Duke Energy Carolinas Dan River Combined Cycle Station, NPDES No. NC0003468

Dear Mr. Zimmerman:

On behalf of the Roanoke River Basin Association, the Southern Environmental Law Center submits the following comments on the draft National Pollutant Discharge Elimination System ("NPDES") permit for the Dan River Combined Cycle Station of Duke Energy Carolinas, LLC, Permit No. NC0003468 (the "Dan River Permit").

As set out below, DEQ has failed to protect the Dan River and its tributaries and to require appropriate limits on numerous coal ash pollutants. This failure is even more egregious in light of the Dan River coal ash spill. The Dan River spill caused arsenic levels of 35 times the maximum contaminant level in the river, and the U.S. Fish and Wildlife Service reported that coal ash lines the river bed for 70 miles downstream, reaching all the way to the Kerr Reservoir. When Duke Energy stopped its cleanup efforts, it left over 90 percent of the coal ash in the Dan River.

Significantly, Duke had no permit authorizing any discharge from the pipe that caused the spill. DEQ now proposes to legalize more previously unpermitted discharges, including seeps from earthen dams that it knows "may result in dam failure," as stated in the Permit's Fact Sheet. In 2013, DEQ filed an enforcement action against Duke Energy for unpermitted seep discharges at Dan River, among other violations, but it now seeks to immunize Duke Energy from prosecution for these same discharges. Moreover, DEQ has failed to impose any limits for many coal ash pollutants discharged to the Dan River by Duke Energy before, during, and after the spill.

The draft NPDES permit for Duke Energy's Dan River coal ash facility (the "Dan River Permit") has a number of serious deficiencies:

Amnesty for Unpermitted Discharges

The Dan River Permit claims that Duke Energy Carolinas is authorized to "[c]ontinue to discharge the following . . . Seep Outfalls 102, 103, 104," but in fact these "seep outfalls" are leaks from the lagoons and are previously illegal, unpermitted discharges that were prohibited by the previous permit, which authorized discharges only from the permitted outfalls from which the lagoons were designed to discharge, pursuant to the requirements of the Clean Water Act.

Rather than attempting to legalize these previously unpermitted discharges, DEQ should require Duke Energy to take action to stop these discharges. That should not be difficult at Dan River, where Duke Energy is already committed to excavating its coal ash to lined, dry storage. Indeed, Duke Energy's own spokesman recently confirmed as much: "Brooks noted that the seeps would be eliminated once the storage ponds have been drained and the ash that's now under several feet of water is moved to a nearby, lined landfill for permanent disposal." Taft Wireback, "Hearing tonight weighs Duke Energy's coal ash plan," Greensboro News & Record, August 31, 2016 (attached as Exhibit 1).

Including a schedule of compliance to remove the source of the seeps and pollution of jurisdictional streams would further the goals of the Clean Water Act, rather than subverting them by attempting to paper over Duke Energy's violations.

Allowing Duke Energy to Use Public Waters as Its Private Wastewater System

As the Dan River Permit states (A.23), these seeps are surface waters of the State, and as jurisdictional tributary streams they are therefore also waters of the United States. Yet the Dan River Permit would designate these streams as "outfalls" – that is, components of Duke Energy's private wastewater treatment system. This is a blatant violation of the Clean Water Act. Duke Energy cannot be allowed to appropriate public waters for its private wastewater system.

An NPDES permit that purports to authorize the use of waters of the United States as internal components of a wastewater treatment system will not shield the polluter. *See Cape Fear River Watch, Inc. v. Duke Energy Progress, Inc.*, 25 F. Supp. 3d 798 (E.D.N.C. 2014).

DEQ Cannot Permit the Seeps into Railroad Branch Stream

NPDES permits control pollution by setting (1) limits based on the technology available to treat pollutants ("technology based effluent limits") and (2) any additional limits necessary to protect water quality ("water quality-based effluent limits") on the wastewater dischargers. 33 U.S.C. §§ 1311(b), 1314(b); 40 C.F.R. § 122.44(a)(1), (d). An NPDES permit must assure compliance with all statutory and regulatory requirements, including state water quality standards. 33 U.S.C. § 1342(a)(1)(A); 40 C.F.R. § 122.43(a); 15A N.C. Admin. Code 2H .0118.

Similarly, North Carolina law provides that "[n]o permit may be issued when the imposition of conditions cannot reasonably ensure compliance with applicable water quality standards." 15A N.C. Admin. Code 2H .0112(c); *see also* N.C. Gen. Stat. §§ 143-215.6a-c

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(authorizing civil and criminal penalties and injunctive relief for violations of surface water standards).

According to the Dan River Permit itself and Duke Energy's own reports, Duke Energy is violating surface water standards in the Railroad Branch stream that flows to the Dan River. The Dan River Corrective Action Plan report submitted to DEQ notes significant exceedances of tributary surface water standards for every listed constituent: aluminum, arsenic, chromium, cobalt, copper, cobalt, and lead – and there may be others as well, in light of the seep sampling described below.

DEQ cannot permit the seep discharges to Railroad Branch as long as surface water quality standards are being violated in the tributary. Instead, DEQ should include provisions in the permit setting out a schedule of compliance based on the coal ash removal activities at Dan River, and evaluate water quality in the stream after removal of the source is complete.

No Limits on Seep Pollutants

The seeps designated as so-called Outfalls 102-103 lack technology-based limits for arsenic – allowing 340 ug/L or 34 times the federal maximum contaminant level to be discharged to Railroad Branch stream – and they lack any limits at all for selenium, chromium, and many other coal ash pollutants. Sampling of these seeps by conservation groups has revealed elevated concentrations of coal ash pollutants including arsenic, boron, chromium, selenium, lead, and zinc. Arsenic concentrations from these seeps have been sampled as high as 221 ppb, over twenty times the maximum contaminant level, and lead concentrations were sampled at almost 100 times the standard.

Outfall 104 lacks limits for arsenic, chromium, and many other coal ash pollutants. Sampling of the seep in this location by conservation groups found arsenic at 187 parts per billion ("ppb"), or over 18 times the maximum contaminant level, along with elevated levels of boron, lead, chromium, cadmium, iron, manganese, copper, zinc, and total suspended solids.

Allowing Duke Energy to Convert Streams Into Wastewater Ditches

This permit illegally allows Duke Energy to convert streams – which are public waters, waters of North Carolina, and waters of the United States – into wastewater ditches.

The Dan River Permit would exempt Duke Energy from having to meet state water quality standards in state waters. The Permit purports to allow Duke Energy to designate the seeps – which the Permit itself admits are waters of the State – as "effluent channels." And indeed, according to the Permit (A.23), Duke Energy has already begun this process.

However, Duke Energy cannot designate a jurisdictional stream as an effluent channel "in accordance with the requirements of 15A NCAC 02B.0228," as the Permit claims, nor under the Clean Water Act.

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The CWA provides no mechanism to convert jurisdictional waters *into* point source discharges. The CWA "requires permits for the discharge of 'pollutants' *from* any 'point source' *into* 'waters of the United States.'" 40 C.F.R. § 122.1(b)(1)(emphasis added). By definition, a "point source" cannot be a "water of the United States;" a point source conveys pollutants *to* a water of the United States. Coal ash and coal ash wastewater are pollutants regulated under the Clean Water Act. In theory, an "effluent channel" could be a type of point source but only if that effluent channel is not a "water of the United States." *See* 33 U.S.C. § 1362(14)(defining point source as "any discernible, confined and discrete conveyance, including but not limited to . . . [a] channel"). In sum, jurisdictional waters cannot be point sources. Instead, water quality standards must be met in the jurisdictional waterbody – in other words, in the so-called seep.

North Carolina law incorporates the same foundational assumption – that a point source cannot be a water of the United States. "Effluent channel means a discernable confined and discrete conveyance which is used for transporting treated wastewater *to* a receiving stream or other body of water." 15A N.C. Admin. Code 2B .0202 (emphasis added). Restated, an effluent channel conveys wastewater to a receiving stream or body of water; the effluent channel cannot itself be the receiving stream. But North Carolina law goes beyond the federal CWA by prohibiting designation of an effluent channel if that channel "contain[s] natural waters except when such waters occur in direct response to rainfall events by overland runoff." 15A N.C. Admin. Code 2B .0228(2). "Natural waters" includes ground and surface waters. As with the CWA, North Carolina law prohibits designation of an effluent channel if that channel contains natural, jurisdictional surface waters. North Carolina law also prohibits designation of an effluent channel if that channel contains groundwater. In other words, an effluent channel can only be designated if that channel would be dry except during rainfall events and as a result of transporting waste water. The seeps identified by Duke Energy are both jurisdictional surface water tributaries and are influenced by natural ground water, preventing their designation as "effluent channels." This approach cannot be implemented consistent with federal and state law.

The Draft Permit Violates the Clean Water Act's Anti-Backsliding Requirements

The proposed permit would allow Duke Energy to operate a leaking wastewater treatment system. By definition, these leaks do not discharge through the permitted outfall structures, which include risers that are designed to ensure that settled pollutants remain in the lagoons and water is discharged from the top of the lagoon to the outfall discharge pipes. Thus, the proposed permit would allow Duke Energy to avoid even the minimal treatment technology in place for its currently permitted ash basin outfall.

The Clean Water Act's NPDES permitting program is structured around progressive improvements in pollution control technology. The requirement of Best Available Technology ("BAT") is predicated on the concept that as treatment technology improves, it will be incorporated into National Pollutant Discharge ***Elimination*** System permits in order to make

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progress towards Congress's "national goal" of eliminating discharges of pollutants to waters of the United States. 33 U.S.C. §§ 1251(a)(1).

For this reason, the CWA includes anti-backsliding requirements to ensure that the limits and conditions imposed new or modified NPDES permits for a facility are at least as stringent as those in previous permits. 33 U.S.C. § 1342(o); 40 C.F.R. § 122.44(l)(1) ("[W]hen a permit is renewed or reissued, interim effluent limitations, standards or conditions must be ***at least as stringent*** as the final effluent limitations, standards, or conditions in the previous permit . . . .").

The CWA's anti-backsliding requirements apply to *all* NPDES permit provisions, not just effluent limits based on BPJ. 40 C.F.R. § 122.44(l)(1); *In the Matter of Star-Kist Caribe, Inc., Petitioner*, 2 E.A.D. 758 at *3 (E.P.A. Mar. 8, 1989) (emphasis added). EPA, NPDES Permit Writers' Manual Chapter 7, § 7.2.2, p. 7-4 (Sept. 2010), *available at* http://water.epa.gov/polwaste/npdes/basics/upload/pwm_chapt_07.pdf.

The proposed permit would, for the first time, allow Duke Energy to avoid using even its existing treatment technology in favor of uncontrolled releases of leaking wastewater. For this reason, the proposed permit violates the CWA's anti-backsliding requirements. Among other things, the proposed permit would for the first time: (1) allow uncontrolled and undesigned releases from the coal ash lagoons; (2) permit a set of undesigned and uncontrolled releases as "outfalls"; (3) allow uncontrolled and undesigned releases from a permitted wastewater treatment facility; (4) allow a permitted wastewater treatment facility to leak and spew polluted water from the facility into State waters and navigable waters; (5) allow a permitted wastewater facility to operate in a way that circumvents and goes around its permitted and designed treatment system and to leak and discharge polluted water; (6) allow the facility to release discharges that are prohibited under its current permit; (7) create a new meaning and permitted category of "outfall" to allow uncontrolled, undesigned leaks and flows of polluted water; and (8) allow previously-prohibited discharges of pollutants into Railroad Branch stream that are currently violating water quality standards.

For the same reasons, the proposed permit's attempt to authorize the seeps violates the CWA's anti-backsliding provisions because it contradicts the Removed Substances provision of the current Dan River NPDES permit, which provides an important limitation in the permit to prevent the entrance of pollutants removed in the course of settling treatment from entering State and navigable waters.

The State of North Carolina has included an important standard condition in its NPDES permits for waste treatment systems like the Dan River coal ash lagoons, known as the Removed Substances provision. The Removed Substances provision of the current Dan River NPDES permit, Part II.C.6, provides:

> "Solids, sludges . . . or other pollutants removed in the course of treatment or control of wastewaters shall be utilized/disposed of . . . in a manner such as to *prevent any pollutant from such materials from entering waters of the State or navigable waters of the United States*." (emphasis added)

ED_001174_00000086

Correspondence Management System

Control Number: AX-17-000-0464
Printing Date: October 18, 2016 12:07:24

Citizen Information

Citizen/Originator: **Holbrook, Anne Harvey**
Organization: Save the Manatee Club
Address: 500 N. Maitland Avenue, Maitland, FL 32751

Smart, Ryan
Organization: 1000 Friends of Florida
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Moritz, David W.
Organization: Alachua County Environmental Protection Advisory Committee
Address: Address Unknown

Tonsmeire, Dan
Organization: Apalachicola Riverkeeper
Address: 232-B Water Street, Apalachicola, FL 32329

Impoco, Vicki
Organization: Brevard NOW
Address: Address Unknown

Maroney, Christopher
Organization: Bullsugar.org
Address: Address Unknown

Smith, Thersia
Organization: Calhoun County Citizens Against Fracking
Address: Address Unknown

Paul, John R.
Organization: Caloosahatchee River Citizens Association
Address: Address Unknown

Ryan, Gayle M.
Organization: Camelot Technology Integration
Address: Address Unknown

Lopez, Jaclyn
Organization: Center for Biological Diversity
Address: 351 California Street, San Francisco, CA 94104

Deen, Traci L.
Organization: Center for Earth Jurisprudence
Address: Address Unknown

Wasserman, Joyce
Organization: Citizens Combating Climate Change
Address: Address Unknown

Byram, Barbara
Organization: Citizens for an Engaged Electorate
Address: Address Unknown

Kirk, Mary Ann
Organization: City of Seminole Community Garden
Address: Address Unknown

Aterno, Kathleen E.
Organization: Clean Water Action
Address: 7300 N Federal Highway, Boca Raton, FL 33487

Brodkin, Steven
Organization: Concerned Citizens of Bayshore Community, Inc.
Address: Address Unknown

Hebert, Carol
Organization: Conradina Chapter of the Florida Native Plant Society
Address: Address Unknown

Hecker, Jennifer
Organization: Conservancy of Southwest Florida
Address: 1450 Merrihue Drive, Naples, FL 34102

Pierce, Pamela B.
Organization: Cypress Chapter Inc. of the Izaak Walton League of America
Address: Address Unknown

Prater, Ben
Organization: Defenders of Wildlife
Address: Address Unknown

Burgess, Candice
Organization: Democratic Women's Club of Bay County
Address: Address Unknown

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0464	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 2, 2016	**# of Extensions:**	0
Letter Date:	Oct 17, 2016	**Received Date:**	Oct 17, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Florida Department of Environmental Protection's Human-Health Based Water Quality Criteria
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Derek Threet - AO-IO
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	R4	Oct 18, 2016	Nov 2, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Assign R4 as lead office	Oct 18, 2016

Comments

Commentator	Comment	Date
No Record Found.		

October 17, 2016

Hon. Gina McCarthy, Administrator
United States Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
McCarthy.Gina@epa.gov

Hon. Heather McTeer Toney, Regional Administrator
U.S. Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-8960
McTeerToney.Heather@epa.gov

CC: FloridaHHC@epa.gov

Submitted via electronic mail and U.S. postal service

Re: Florida Department of Environmental Protection's Human-Health Based Water Quality Criteria, 62-302.530 Fla. Admin. Code.

Dear Mses. McCarthy and Toney:

The undersigned 94 organizations and businesses working in Florida and committed to protecting our state's water resources and citizens' health write in opposition to the Florida Department of Environmental Protection (DEP)'s recent revisions to Human Health-Based Water Quality Criteria, 62-302.530. We ask EPA to invalidate the rule and hold DEP accountable for developing a rule consistent with the substantive and procedural requirements of the Clean Water Act. The rule is not protective of human health or the environment. We ask you not to approve the rule and to instead direct DEP to reissue a rule based on a precautionary and protective approach to human health. Where the state is unwilling to protect the environment and human health, the federal government must step in to ensure that all citizens are protected under the minimum standards set forth in the Clean Water Act.

The rule raises allowable limits on pollution for over two-dozen contaminants, including Benzene, a chemical component of fracking waste that is known to cause leukemia. The vast majority of these new criteria are less protective than your agency recommends. The rule also deems a 1-in-100,000 cancer risk as acceptable for subsistence fishermen, and bases its population risk assessments on fish consumption data that may not accurately reflect the amount of fish that Floridians consume. If the fish are not safe for human consumption, it goes without saying that the revised standards are far from protective of Class III waters for fish and other wildlife.

In developing its rule, DEP also made no attempt to account for synergistic effects of exposure to a combination of chemicals. Finally, the DEP has made no attempt to regulate the additional 25 toxic chemicals for which EPA has offered proposed criteria. Therefore, even if this rulemaking were protective for the contaminants it does regulate, it would only be doing half the job.

Moreover, EPA cannot rely on the sufficiency of Florida's public rulemaking process. The process by which the rule was promulgated was deeply flawed:

1) The Environmental Regulatory Commission, the body responsible for final approval of the rule, has had a vacancy for the seat representing environmental interests for over a year.
2) The Commission is also missing a representative from local government.
3) The seat intended for a lay citizen is currently held by Craig Varn, former DEP general council who has helped to defend a number of the agency's anti-environmental rules.
4) The development of the rule also limited public participation. The Department disingenuously claims it held 11 public hearings during rule development, but the majority of these workshops were held in 2012, since which time the rule has undergone substantial revisions.
5) The timeline for the rule was accelerated from September to July without the statutorily required minimum notice.
6) Lastly, the state's Joint Administrative Procedures Committee (JAPC) sent a letter to DEP stating that the public notice did not meet the requirements, and also noted that the notice of proposed rulemaking was published in a form that was incomprehensible to the general public, effectively preventing full public participation.

The process by which the rule was promulgated was deeply flawed, and unfortunately, this has become all too familiar in Florida. This rulemaking is emblematic of a larger trend on the part of the current state administration to consistently ignore Floridians' concerns regarding human health and the environment. Environmental enforcement is at an all-time low, Florida's waters continue to be beset by harmful algae blooms, and the 2014 conservation constitutional amendment passed by 75% of Florida voters has not been implemented as intended. And now, DEP proposes to increase allowable levels of toxic chemicals in Florida's waters.

DEP has failed Floridians. We are asking EPA to step in and protect our environment and public health from the agency's latest giveaway to polluter interests. Again, we ask EPA to invalidate the rule and hold DEP accountable for developing a rule consistent with the substantive and procedural requirements of the Clean Water Act. If the state again fails to implement meaningful protections, we ask EPA to impose federal water quality criteria that will protect Floridians' health and the environment.

Thank you for your consideration,

1000 Friends of Florida
Ryan Smart, President

Alachua County Environmental Protection Advisory Committee
David W. Moritz, Chairman

Correspondence Management System
Control Number: AX-17-000-0480
Printing Date: October 18, 2016 12:36:36

Citizen Information

Citizen/Originator: **Edwards, Gordon**
Organization: Canadian Coalition for Nuclear Responsibility
Address: 53 Dufferin Hampstead QC, H3X 2X8

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0480	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Oct 17, 2016	**Received Date:**	Oct 17, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Letter regarding elimination of irradiated weapons-grade uranium from Chalk River
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OAR - Office of Air and Radiation -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	OITA	Oct 18, 2016

History

Action By	Office	Action	Date
Ken Labbe	OEX	Forward control to OITA	Oct 18, 2016

Comments

Canadian Coalition for Nuclear Responsibility

Regroupement pour la surveillance du nucléaire

October 17, 2016

The Right Honourable Justin Trudeau
Prime Minister of Canada
House of Commons
Ottawa, ON K1A 0A6
justin.trudeau@parl.gc.ca

President Barack Obama
United States of America
White House, 1600 Pennsylvania Ave. N.W.
Washington, DC 20500
president@whitehouse.gov

Dear Prime Minister Trudeau and President Obama:

Re: Elimination of irradiated weapons-grade uranium from Chalk River

The Canadian Coalition for Nuclear Responsibility (CCNR) and the organizations listed below fully endorse the goals of the Global Threat Reduction Initiative (GTRI) to eliminate stocks of irradiated weapons-grade uranium from civilian facilities, as stated in my letter of September 30. We are convinced that the fastest, safest, and cheapest way of achieving this goal is to down-blend the contents of the Chalk River Fissile Solutions Storage Tank (FISST) on-site, thereby converting the current inventory of highly enriched uranium (HEU) to non-nuclear-weapons-usable low-enriched uranium (LEU). The down-blending of this type of liquid waste has already been carried out in Indonesia just this year, in a matter of months, as documented in my earlier letter.

Because the GTRI is an agreement between Canada and the USA, your intervention in this matter is needed. Down-blending is preferable to transporting 23,000 litres of highly radioactive liquid waste over public roads and bridges in 100 to 150 truckloads, over a period of four years, at a cost of $2600 per litre, thereby endangering the waters of the Great Lakes. Calculations have shown that the cesium-137 concentration in the FISST liquid waste if about four times greater than that of the post-reprocessing liquid waste stored in hundreds of tanks at Hanford Washington, left over from the separation of weapons-grade plutonium for use in nuclear weapons.

Seventeen additional organizations have given their endorsements to the letter that I addressed to you on September 30; please see the attached list.

I look forward to hearing from you on this important matter.

Gordon Edwards

Gordon Edwards, Ph.D., President,
Canadian Coalition for Nuclear Responsibility
53 Dufferin, Hampstead QC, H3X 2X8

Correspondence Management System

Control Number: AX-17-000-0481
Printing Date: October 18, 2016 12:45:00

Citizen Information

Citizen/Originator: **Macmanus, Joseph E.**
Organization: U.S. Department of State
Address: 2201 C Street, NW, Washington, DC 20520

Reeves, Stacey A
Organization: U.S. Department of State
Address: 2201 C Street, NW, Washington, DC 20520

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0481	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Oct 17, 2016	**Received Date:**	Oct 17, 2016
Addressee:	OEX-Director - OEX	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF-NSA - Daily Reading File - National Security Affairs Calendar 10/3/16-10/6/17
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: AO-IO-SO - Scheduling Office
Kristien Knapp - AO-IO
OHS - Office of Homeland Security
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Brenda Salvador	OEX	OITA	Oct 18, 2016

History

S/ES 201613461

United States Department of State

Washington, D.C. 20520

October 17, 2016

SENSITIVE BUT UNCLASSIFIED
FOR OFFICIAL GOVERNMENT USE ONLY

MEMORANDUM FOR SUZANNE A. GEORGE
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL

SUBJECT: National Security Affairs Calendar

The National Security Affairs Calendar for the upcoming months is attached.

Joseph E. Macmanus
Executive Secretary

Attachment:
As stated.

SENSITIVE BUT UNCLASSIFIED
FOR OFFICIAL GOVERNMENT USE ONLY

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Correspondence Management System
Control Number: AX-17-000-0493
Printing Date: October 18, 2016 02:18:07

Citizen Information

Citizen/Originator: **Robinson, Jozetta R.**
Organization: United States Office of Personnel Management
Address: 1900 E Street, NW, Washington, DC 20415

Cobert, Beth F.
Organization: United States Office of Personnel Management
Address: 1900 E Street, NW, Washington, DC 20415

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0493	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Oct 17, 2016	**Received Date:**	Oct 17, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Excused Absence for Voting
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Eileen Naples - AO-IO
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OARM	Oct 18, 2016

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to OARM	Oct 18, 2016

ED_001174_00000049

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

OCT 17 2016

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: BETH F. COBERT
ACTING DIRECTOR

Subject: Excused Absence for Voting

This memorandum provides agencies with information on the Federal Government's longstanding policy of granting employees limited time off from work (i.e., excused absence) to vote in Federal, State, county, or municipal elections, or in referendums on any civic matter in their community. The head of each agency (or his or her designee) has discretion to grant excused absence in limited circumstances under his or her broad authority to govern, unless otherwise prohibited by law. Agencies have discretionary authority to grant excused absence to the extent that such time off does not interfere with agency operations, including the ability to adjust policies to circumstances as they unfold. Typically, polling places throughout the United States are open for extended periods of time, and an increasing number of jurisdictions are offering early voting options. Therefore, excused absence should rarely be needed. Agencies should consider the following guidelines when creating their policies on excused absence for voting in the upcoming election.

Granting Excused Absence for Voting

Generally, the U.S. Office of Personnel Management (OPM) has advised agencies that where the polls are not open at least 3 hours either before or after an employee's regular work hours, an agency may grant a limited amount of excused absence to permit the employee to report for work 3 hours after the polls open or leave from work 3 hours before the polls close, whichever requires the lesser amount of time off. An employee's "regular work hours" should be determined by reference to the time of day the employee normally arrives at and departs from work.

For example, if an employee is scheduled to work from 8:00 a.m. to 4:30 p.m. and the employee's polling place is open from 7:00 a.m. to 8:00 p.m., the employee should not be granted excused absence for voting, since the employee would still have at least 3 hours after the end of his or her workday to vote. However, if an employee is scheduled to work from 8:00 a.m. to 4:30 p.m. and the employee's polling place is open from 7:00 a.m. to 7:00 p.m., the employee may be granted ½ hour of excused absence from 4:00 p.m. to 4:30 p.m., if requested.

Employees on Alternative Work Schedules whose regular day off is scheduled for the day polls are open should not be permitted to change their regular day off solely for the purpose of gaining excused absence for voting.

ED_001174_00000049

Extended Commuting Distance

If an employee's voting place is beyond normal commuting distance and vote by absentee ballot is not permitted, the agency may grant excused absence (not to exceed 1 day) to allow the employee to make the trip to the voting place to cast a ballot. If more than 1 day is needed, the employee may request annual leave or leave without pay for the additional period of absence.

Early Voting

An increasing number of jurisdictions offer a period prior to the day of the election during which voters may cast ballots early. Some employees may find it necessary to vote during this early period because of work requirements on the day of the election. Others, such as those on Alternative Work Schedules, may find it convenient to vote during these early voting periods.

Agencies should grant excused absence for early voting only when (1) the employee will be unable to vote on the day of the election because of activities directly related to the agency's mission (such as Temporary Duty (TDY) travel) and cannot vote by absentee ballot, or (2) early voting hours are the same as, or exceed, voting hours on the day of the election, in which case the information provided under "Granting Excused Absence for Voting" applies. If an employee chooses to vote earlier, but the hours in which polling places are open are shorter than on Election Day, the employee is not eligible for excused absence because the employee has opted to vote at that time.

Additional Information

Agency headquarters-level human resources offices may contact OPM at pay-leave-policy@opm.gov. Employees should contact their agency human resources office for further information on this memo.

cc: Chief Human Capital Officers
Human Resources Directors

Correspondence Management System
Control Number: AX-17-000-0514
Printing Date: October 18, 2016 12:59:11

Citizen Information

Citizen/Originator: **Dauber, Jonas**
Organization: United Steel Workers
Address: P.O. Box 1343, Linwood, PA 19061

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-0514	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 1, 2016	**# of Extensions:**	0
Letter Date:	Oct 14, 2016	**Received Date:**	Oct 18, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Petition to change the point of obligation under the Renewable Fuels Standard
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OCIR-ORO - Office of Regional Operations
OP - Office of Policy
OPA - Office of Public Affairs
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OAR	Oct 18, 2016	Nov 1, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

UNITED STEELWORKERS

USW Local 10-234
P.O. Box 1343
Linwood, PA. 19061

Phone (610) 485-2413
Fax (610) 485-3844

Refinery Workers Local 234 Chartered 1933

UNITY AND STRENGTH FOR WORKERS

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union

October 14, 2016

RECEIVED
2016 OCT 18 AM 10: 37
OFFICE OF THE
EXECUTIVE SECRETARIAT

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

RE: RFS petition to change the point of obligation

Dear Madam Administrator:

As the President of the USW Local 10-234 representing over 200 union brothers and sisters at Monroe Energy's refinery in Trainer, Pennsylvania, I'm writing to you because we need your help. We fully support Monroe's petition to change the point of obligation under the Renewable Fuels Standard and urge you to initiate an open, transparent process that includes public notice and comment as you consider the petition.

Our members' jobs, their families and our region rely on the economic vitality of our refinery. As you may recall, the Pennsylvania Department of Labor conducted a study in 2011 which found that every single refinery job supports 18.3 more jobs in our local community, 22 in Pennsylvania, and over 60 jobs nationwide.

Forcing Monroe and other merchant refiners to buy high-cost RIN credits from integrated refiners, blenders and Wall Street traders is causing tremendous economic pressure which threatens Monroe's ability to stay in business. As seen in a recent Reuters article about the nearby Philadelphia Energy Solutions refinery, these costs are threatening the economic vitality and viability of merchant refiners. Having a public notice and comment element when considering Monroe's petition will give us, and others an opportunity to have a fair and honest conversation about how the RFS is not functioning as Congress originally intended.

Thank you for considering our views.

Sincerely,

Jonas Dauber
President, United Steel Workers Local Union 10-234

Cc: Brian Deese, Senior Advisor to the President
Dan Utech, Deputy Assistant to the President for Energy and Climate Change

Correspondence Management System
Control Number: AX-17-000-1694
Printing Date: November 29, 2016 10:30:41

Citizen Information

Citizen/Originator: **Souza, Regina**
Organization: Honolulu Board of Water Supply
Address: 630 South Beretania Street, Honolulu, HI 96843

Lau, Ernest Y.W.
Organization: City and County of Honolulu- Board of Water Supply
Address: 630 South Beretania Street, Honolulu, HI 96843

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1694	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Dec 14, 2016	**# of Extensions:**	0
Letter Date:	Nov 21, 2016	**Received Date:**	Nov 23, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Modernization of the Accidental Release Prevention Regulations under the Clean Air Act
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Eileen Naples - AO-IO
OAR - Office of Air and Radiation -- Immediate Office
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office
R9 - Region 9 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OLEM	Nov 29, 2016	Dec 14, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

ED_001174_00000008

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843
www.boardofwatersupply.com

KIRK CALDWELL, MAYOR

BRYAN P. ANDAYA, Chair
ADAM C. WONG, Vice Chair
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FORD N. FUCHIGAMI, Ex-Officio

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.
Deputy Manager and Chief Engineer

November 21, 2016

[Via email to McCarthy.Gina@EPA.gov]

The Honorable Gina McCarthy
Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy:

Subject: Modernization of the Accidental Release Prevention Regulations under the Clean Air Act

We would like to express our concerns with the United States Environmental Protection Agency's (EPA) rule entitled, "Accidental Release Prevention Requirements: Risk Management Programs (RMP) Under the Clean Air Act." The Honolulu Board of Water Supply (BWS) recognizes the importance of ensuring the safety of drinking water and wastewater utility operations. However, as the American Water Works Association (AWWA) outlined in public comments on the proposed rule[1], we are concerned that the proposed changes will adversely affect our ability to continue to ensure protection of public health, safety and the environment.

Our concerns focus on several key points. First, water and wastewater treatment facilities have a demonstrated record of safety over the history of the RMP program. According to EPA data in the public docket, the 2,000 drinking water and wastewater treatment facilities regulated under RMP represent about 4.9% of all RMP reportable incidents over the 10-year history of the program, with an approximate annual average of 0.037 incidents per facility over that same period. This incident rate is the lowest of all regulated sectors under RMP. This same data demonstrates that the incidents that do occur at water sector facilities had very few off-site consequences and a low rate of worker injury and fatalities. Water utility treatment operations are safe, and collectively the data for our sector demonstrate that the existing RMP program is working properly.

Second, the drinking water and wastewater treatment sector is unique among the RMP-regulated sectors. All of our members manage critical lifeline infrastructure that protect the nation's public health and have invested substantially to ensure our facilities operate safely. Nearly 50% of the sector's RMP facilities are small business entities, and many of these systems are municipally owned and operated.

[1] https://www.regulations.gov/document?D=EPA-HQ-OEM-2015-0725-0554

The proposed RMP changes are costly to our sector. AWWA estimates these costs will be approximately $160 million per year for the water sector alone. Increased costs for the sector must be passed on to local families in the form of increased water utility rates. With these potential costs, it is essential to ensure that the rulemaking will increase public safety relative to other critical investments necessary to sustain the essential services provided to the community by a water utility. However, the extremely low incident rates in the sector demonstrate that increased compliance costs will not translate into commensurate public health and safety benefits.

We believe there is a better way forward. The facts demonstrate that water systems are appropriately balancing local water conditions, public health considerations and accident prevention within the current RMP requirements. The Agency has the discretion to tailor RMP requirements according to the specific characteristics of regulated entities, including the complexity of chemical process and incident rate-based risk profiles. We support the proposal that AWWA presented to EPA, which would defer new RMP requirements for water and wastewater facilities unless data demonstrates an increased rate of accidents with offsite consequences. We believe this approach will best preserve the ability of the sector to provide safe, reliable and affordable drinking water and wastewater services to the public.

We urge you to adopt this approach in a final RMP rule and thank you for your consideration of this request.

Very truly yours,

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

cc: Mr. David B. LaFrance
American Water Works Association
6666 W. Quincy Avenue
Denver, Colorado 80235-3098

Correspondence Management System
Control Number: AX-17-000-1720
Printing Date: November 28, 2016 04:59:29

Citizen Information

Citizen/Originator: **Dalen, Mark**
Organization: United Auto Workers, Local 1391
Address: Address Unknown

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1720	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Nov 21, 2016	**Received Date:**	Nov 28, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Renewable Fuel Standard and Changing the Point of Obligation
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OPA - Office of Public Affairs
R5 - Region 5 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OAR	Nov 28, 2016

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to OAR	Nov 28, 2016

Comments

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

RECEIVED
2016 NOV 28 AM 11:55
OFFICE OF THE
EXECUTIVE SECRETARIAT

RE: RFS and Changing the Point of Obligation

Dear Madam Administrator:

As the President of the UAW, Local 1391 representing more than 90 union workers at CVR Partners' East Dubuque fertilizer plant, I'm writing you today to ask that you please help fix the broken Renewable Fuel Standard program. The UAW, Local 1391 fully supports changing the point of obligation under the RFS to include all fuel blenders – not just refiners and importers. Prior to making a decision on this important change, we urge you to initiate an open and transparent process that includes a public notice and comment period. We strongly believe that our voices should be heard on this issue.

We are aware of several refiners that have filed petitions to change the point of obligation. This is a serious issue that threatens the viability of merchant refiners like our sister company, CVR Refining, which provide jobs and tremendous economic support to its surrounding communities.

The East Dubuque fertilizer plant produces nitrogen fertilizers, which are predominantly used by farmers across the Midwest to improve the yield and quality of their crops. In fact, many of our customers are involved in ethanol production. We believe changing the point of obligation to include all blenders will incentivize and increase the use of renewable fuels. If blenders became obligated parties, there will be ample opportunity for them to provide E-15 and E-85 to their customers. We feel this is a step in the right direction toward achieving the true intent of the RFS.

The RFS is clearly not functioning as Congress intended. Please seriously consider supporting these petitions and provide an opportunity for open discussion about how the RFS can be improved through changing the point of obligation.

Thank you for your consideration.

Sincerely,

Mark Dalen

Mark Dalen, President
UAW, Local 1391

Cc: Brian Deese, Senior Advisor to the President
Dan Utech, Deputy Assistant to the President for Energy & Climate Change

Correspondence Management System
Control Number: AX-17-000-1823
Printing Date: November 29, 2016 03:18:40

Citizen Information

Citizen/Originator: **Newton, Brian**
Organization: City of Fremont Nebraska Pathfinders
Address: 400 East Military Avenue, Fremont, NE 68025-5141

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1823	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Dec 14, 2016	**# of Extensions:**	0
Letter Date:	Nov 22, 2016	**Received Date:**	Nov 29, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Modernization of the Accidental Release Prevention Regulations under Clean Air Act
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Eileen Naples - AO-IO
OAR - Office of Air and Radiation -- Immediate Office
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office
R7 - Region 7 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OLEM	Nov 29, 2016	Dec 14, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

CITY OF
FREMONT
NEBRASKA PATHFINDERS

400 East Military Avenue, Fremont, NE 68025-5141

November 22, 2016

RECEIVED
2016 NOV 29 PM 2:30
OFFICE OF THE
EXECUTIVE SECRETARIAT

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Modernization of the Accidental Release Prevention Regulations under Clean Air Act

Dear Administrator McCarthy:

We are writing to express our concerns with the Environmental Protection Agency's (EPA) rule entitled, "Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act." The City of Fremont, Department of Utilities recognizes the importance of ensuring the safety of drinking water and wastewater utility operations. However, as the American Water Works Association (AWWA) outlined in public comments on the proposed rule[1], we are concerned that the proposed changes will adversely affect our ability to continue to ensure protection of public health, safety and the environment.

Our concerns focus on several key points. First, water and wastewater treatment facilities have a demonstrated record of safety over the history of the RMP program. According to EPA data in the public docket, the 2,000 drinking water and wastewater treatment facilities regulated under RMP represent about 4.9% of all RMP reportable incidents over the 10-year history of the program, with an approximate annual average of 0.037 incidents per facility over that same period. This incident rate is the lowest of all regulated sectors under RMP. This same data demonstrates that the incidents that do occur at water sector facilities had very few off-site consequences and a low rate of worker injury and fatalities. Water utility treatment operations are safe, and collectively the data for our sector demonstrate that the existing RMP program is working properly.

Second, the drinking water and wastewater treatment sector is unique among the RMP-regulated sectors. All of our members manage critical lifeline infrastructure that protect the nation's public health and have invested substantially to ensure our facilities operate safely. Nearly 50% of the sector's RMP facilities are small business entities, and many of these systems are municipally owned and operated.

[1] https://www.regulations.gov/document?D=EPA-HQ-OEM-2015-0725-0554

The proposed RMP changes are costly to our sector. AWWA estimates these costs will be approximately $160 million per year for the water sector alone. Increased costs for the sector must be passed on to local families and small businesses in the form of increased water utility rates. With these potential costs, it is essential to ensure that the rulemaking will increase public safety relative to other critical investments necessary to sustain the essential services provided to the community by a water utility.

However, the extremely low incident rates in the sector demonstrate that increased compliance costs will not translate into commensurate public health and safety benefits.

We believe that there is a better way forward than what has been proposed by EPA. The facts on the ground demonstrate that water systems are appropriately balancing local water conditions, public health considerations and accident prevention within the current RMP requirements. The Agency has the discretion to tailor RMP requirements according to the specific characteristics of regulated entities, including the complexity of chemical process and incident rate-based risk profiles. We support the proposal that AWWA presented to EPA, which would defer new RMP requirements for water and wastewater facilities unless data demonstrates an increased rate of accidents with offsite consequences.

We believe this approach will best preserve the ability of the sector to provide safe, reliable and affordable drinking water and wastewater services to the public.

We urge you to adopt this approach in a final RMP rule and thank you for your consideration of this request.

Sincerely,

Brian Newton
Interim City Administrator/General Manager

Correspondence Management System
Control Number: AX-17-000-1824
Printing Date: November 29, 2016 03:29:08

Citizen Information

Citizen/Originator: **Frana, Leroy J.**
Organization: Nebraska City Utilities
Address: 100 Central Avenue, PO Box 670, Nebraska City, NE 68410-0670

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1824	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Dec 14, 2016	**# of Extensions:**	0
Letter Date:	Nov 22, 2016	**Received Date:**	Nov 29, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Modernization of the Accidental Release Prevention Regulations under Clean Air Act
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Eileen Naples - AO-IO
OAR - Office of Air and Radiation -- Immediate Office
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office
R7 - Region 7 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OLEM	Nov 29, 2016	Dec 14, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

NEBRASKA CITY UTILITIES

100 CENTRAL AVENUE
PO BOX 670

NEBRASKA CITY, NE 68410-0670

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RECEIVED
2016 NOV 29 PM 2:38
OFFICE OF THE
EXECUTIVE SECRETARIAT

November 22, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W. Washington, DC 20460

RE: Modernization of the Accidental Release Prevention Regulations under Clean Air Act

Dear Administrator McCarthy:

We are writing to express our concerns with the Environmental Protection Agency's (EPA) rule entitled, "Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act." Nebraska City Utilities and the City of Nebraska City recognizes the importance of ensuring the safety of drinking water and wastewater utility operations. However, as the American Water Works Association (AWWA) outlined in public comments on the proposed rule[1], we are concerned that the proposed changes will adversely affect our ability to continue to ensure protection of public health, safety and the environment.

Our concerns focus on several key points. First, water and wastewater treatment facilities have a demonstrated record of safety over the history of the RMP program. According to EPA data in the public docket, the 2,000 drinking water and wastewater treatment facilities regulated under RMP represent about 4.9% of all RMP reportable incidents over the 10-year history of the program, with an approximate annual average of 0.037 incidents per facility over that same period. This incident rate is the lowest of all regulated sectors under RMP. This same data demonstrates that the incidents that do occur at water sector facilities had very few off-site consequences and a low rate of worker injury and fatalities. Water utility treatment operations are safe, and collectively the data for our sector demonstrate that the existing RMP program is working properly.

Second, the drinking water and wastewater treatment sector is unique among the RMP-regulated sectors. All of our members manage critical lifeline infrastructure that protect the nation's public health and have invested substantially to ensure our facilities operate safely. Nearly 50% of the sector's RMP facilities are small business entities, and many of these systems are municipally owned and operated.

The proposed RMP changes are costly to our sector. AWWA estimates these costs will be approximately $160 million per year for the water sector alone. Increased costs for the sector must be passed on to

[1] https://www.regulations.gov/document?D=EPA-HQ-OEM-2015-0725-0554

local families in the form of increased water utility rates. With these potential costs, it is essential to ensure that the rulemaking will increase public safety relative to other critical investments necessary to sustain the essential services provided to the community by a water utility. However, the extremely low incident rates in the sector demonstrate that increased compliance costs will not translate into commensurate public health and safety benefits.

We believe that there is a better way forward than what has been proposed by EPA. The facts on the ground demonstrate that water systems are appropriately balancing local water conditions, public health considerations and accident prevention within the current RMP requirements. The Agency has the discretion to tailor RMP requirements according to the specific characteristics of regulated entities, including the complexity of chemical process and incident rate-based risk profiles. We support the proposal that AWWA presented to EPA, which would defer new RMP requirements for water and wastewater facilities unless data demonstrates an increased rate of accidents with offsite consequences. We believe this approach will best preserve the ability of the sector to provide safe, reliable and affordable drinking water and wastewater services to the public.

We urge you to adopt this approach in a final RMP rule and thank you for your consideration of this request.

Sincerely,

Leroy Frana, General Manager

Nebraska City Utilities

100 Central Avenue

PO Box 670

Nebraska City NE 68410-0670

lfrana@nebraskacityutilities.com

Correspondence Management System
Control Number: AX-17-000-1832
Printing Date: November 30, 2016 11:38:29

Citizen Information

Citizen/Originator: **Roberts, Tom**
Organization: Van Ness Feldman, P.C.
Address: 1050 Thomas Jefferson Street, NW, Washington, DC 20007

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1832	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Dec 15, 2016	**# of Extensions:**	0
Letter Date:	Nov 28, 2016	**Received Date:**	Nov 29, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Perchlorate Rulemaking: Federal Register Notice
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Derek Threet - AO-IO
OPA - Office of Public Affairs
ORD - Office of Research and Development -- Immediate Office
SAB - Science Advisory Board

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OW	Nov 30, 2016	Dec 15, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date

PSG

PERCHLORATE STUDY GROUP

A coalition of aerospace, defense, chemical and allied industries

November 28, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Perchlorate Rulemaking: Federal Register Notice

Dear Administrator McCarthy:

The Perchlorate Study Group (PSG) is writing to reiterate our serious concern with the U.S. EPA's ("EPA" or "the Agency") rulemaking process concerning perchlorate.

First, we have significant reservations about the peer review process the Agency has established for its draft biologically-based dose response model (the "draft model" or "BBDR") and its impact on ascertaining and applying the best available science, as identified in the September 30, 2016 Federal Register Notice, *Request for Public Comments to be Sent to Versar, Inc., on an Interim List of Perchlorate in Drinking Water Expert Peer Reviewers and Draft Peer Review Charge Questions*. 81 Fed. Reg. 67347 (the "Notice").

Second, the Agency's reliance on outdated and flawed occurrence data remains troubling. Put plainly, it's simply not possible for a regulation to meet the requirements of the Safe Drinking Water Act ("SDWA") if its foundation is flawed.

Finally, the PSG has identified significant issues in the language of the October 18, 2016 consent decree between EPA and the Natural Resources Defense Council ("NRDC") regarding EPA's duty under the SDWA, for establishing a Maximum Contaminant Level Goal ("MCLG") and promulgating a Maximum Contaminant Level ("MCL").

1. The PSG previously sent you a letter dated July 6, 2016, expressing strong support for conducting two separate peer reviews on the draft model. We are pleased with EPA's decision to conduct the review in this fashion. However, the PSG continues to have concerns with the peer review process identified in the Notice:

    a. The Federal Register Notice of September 30, 2016 states that "Versar, Inc., will provide a report to EPA summarizing the peer reviewers' evaluation of the scientific and technical merit of the draft model and draft report and their responses to the charge questions." Due to the complexity of the model and the Science Advisory Board, ["SAB"] Perchlorate Panel's call for transparency, the peer review panel should be responsible for drafting the report, not the contractor Versar. Additionally, it is unclear whether Versar has the necessary expertise to summarize the complex science and science policy questions involved with the Biologically Based Dose-Response model and therefore may not accurately reflect the issues, conclusions, and recommendations of the panel.

    b. The Notice states that "Versar, Inc., will provide reviewers with a summary of public comments on the draft BBDR model and report submitted to EPA's docket ...." Due to the complexity of the model and the SAB Perchlorate Panel's call for transparency, all public comments technical in nature should be provided directly to the peer review panel members in their complete form, not merely in summary form. Additionally, as noted above, it is unclear whether Versar has the necessary expertise to summarize the complex science and science policy questions involved with the BBDR model. Therefore, their summaries may not accurately reflect the issues and recommendations contained in the technical comments. The PSG is aware of the potential for overloading the panel with voluminous background material, and numerous comments on this issue were previously received by EPA; however, most were non-unique comments whereas very few comments received by the Agency were technical in nature.

    c. The Notice is unclear as to whether the issues, conclusions, and recommendations to be captured in the report will be based upon consensus of the panel or will simply reflect the individual perspectives of the panel members. Like the SAB process, the report generated by the contractor-led process here should be a consensus-driven report.

2. EPA should update its occurrence data on perchlorate from Unregulated Contaminant Monitoring Rule 1 (UCMR-1) prior to conducting a health risk reduction and cost analysis which EPA will use to set an MCL. The UCMR-1 database is not reliable and is an unsuitable database upon which to base regulatory action.

    a. As several stakeholders, researchers and commenters have noted, more than 30 percent of the perchlorate samples collected during UCMR-1 were not collected at the location required by the UCMR-1 regulations. Instead of being collected at the entry point to the distribution system (EPTDS), 30 percent of the samples were collected in raw source water, before treatment or blending took place.

    b. It is indisputable that the incidence of perchlorate in drinking water has declined significantly since the time of UCMR-1 sampling (between 2001 and 2003). For example, according to UMCR-1, 36 PWSs in California had at least one detection of perchlorate above 6 ppb. Recent data shows that none of these PWSs report perchlorate above 6 ppb.

    c. Samples collected during UMCR-1 were analyzed using EPA Method 314.0, which has been shown to be prone to false detections and interferences. EPA has acknowledged the issues with Method 314.0, which is why Methods 331.0 and 332.0 were subsequently developed.

3. The October 18, 2016 consent decree between EPA and NRDC states that "EPA's Determination to Regulate triggered a mandatory duty under the SDWA ... to propose a maximum contaminant level goal and national primary drinking water regulation for perchlorate ...." Notwithstanding the EPA Administrator's positive determination to regulate a contaminant, the SDWA provides that the Agency retains the discretion to not issue a maximum contaminant level goal and/or a maximum contaminant level where the EPA Administrator makes either of the following findings:

    a. "Regulation of such contaminant does not present a meaningful opportunity for health risk reduction for persons served by public water systems"; and/or

    b. "The benefits of a MCL or treatment requirement ... do not justify the costs of complying with the level."

As noted in our July 6 letter, the SDWA requires EPA to apply the best available, peer-reviewed science. Therefore, EPA should champion a thorough, transparent, technically credible, consensus-driven peer review process, relying on current data that will enable it to render decisions based on the best available science.

Sincerely,

Tom Roberts
Counsel to the Perchlorate Study Group

cc:
Stan Meiburg, Acting Deputy Administrator
Joel Beauvais, Deputy Assistant Administrator
Michael Shapiro, Deputy Assistant Administrator
Peter Grevatt, Director, ODWDW

Correspondence Management System

Control Number: AX-17-000-1833
Printing Date: November 30, 2016 12:07:24

Citizen Information

Citizen/Originator: **Palmer, Cynthia**
Organization: American Bird Conservancy
Address: 4301 Connecticut Avenue, NW, Washington, DC 20008

Cox, Darren
Organization: American Honey Producers Association
Address: PO Box 435, Mendon, UT 84325

Droz, John
Organization: Alliance for Wise Energy Decisions
Address: 1722 River Drive, Morehead City, NC 28557

Cava, Eliza
Organization: Audubon Naturalist Society
Address: 8940 Jones Mill Road, Chevy Chase, MD 20815

Bechtel, Douglas
Organization: Audubon Society of New Hampshire
Address: 84 Silk Farm Road, Concord, NH 03301

Harriott, Nichelle
Organization: Beyond Pesticides
Address: 701 E Street SE, Washington, DC 20003

Dann, Donnie
Organization: Bird Conservation Network - Bird Division
Address: 1400 S Lake Shore Drive, Chicago, IL 60605

Anderson, Jeff
Organization: California Minnesota Honey Farms
Address: 721 Wells Street, Eagle Blend, MN 56446

Clary, Patty
Organization: Californians for Alternatives to Toxics
Address: 600 F Street, Arcata, CA 95521

Aird, Sarah
Organization: Californians for Pesticide Reform
Address: 1611 Telegraph Avenue, Oakland, CA 94612

Burd, Lori Ann
Organization: Center for Biological Diversity
Address: PO Box 11374, Portland, OR 97211-0374

Cox, Caroline
Organization: Center for Environmental Health
Address: 2201 Broadway, Oakland, CA 94612

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number: AX-17-000-1833 **Alternate Number:** N/A
Status: Pending **Closed Date:** N/A

Correspondence Management System
Control Number: AX-17-000-1833
Printing Date: November 30, 2016 12:07:24

Due Date:	Dec 15, 2016	**# of Extensions:**	0
Letter Date:	Nov 29, 2016	**Received Date:**	Nov 29, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: DRF - Petition for Rulemaking on Incident Reporting Required of Pesticide Manufacturers under Section 6(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: OPA - Office of Public Affairs
Susan Burden - AO-IO

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OCSPP	Nov 30, 2016	Dec 15, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Assign OCSPP as lead office	Nov 30, 2016

Comments

Commentator	Comment	Date
No Record Found.		

ED_001174_00000008

By First Class Mail and Email **29 November 2016**

The Honorable Gina McCarthy, Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Mail Code 1101A
Washington, DC 20460

PETITION FOR RULEMAKING TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

The American Bird Conservancy and the other signatories below hereby respectfully petition the Environmental Protection Agency ("EPA") to revise its rules governing the incident reporting required of pesticide manufacturers under Section 6(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136d(a)(2).

We submit this Petition under the First Amendment of the United States Constitution ("Congress shall make no law * * * abridging * * * the right of the people * * * to petition Government for a redress of grievances."), the Administrative Procedure Act, 5 U.S.C. § 553(e) ("Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule."), and EPA's FIFRA-implementing regulations (40 C.F.R., Chapter I, Subchapter E, Pesticide Programs).

As we show below, the current regulatory scheme for reporting wildlife sickened and killed by pesticides is gravely ineffective for several reasons: it has absurdly high reporting triggers and thresholds; its data-submission portals are unintuitive and user-unfriendly; it offers minimal public access to any data that are collected, preventing informed analysis and comment from the public on the effect of pesticides on the environment; and it lacks coordination with other federal agencies. These deficiencies frustrate rather than serve the congressional intent underlying

deficiencies frustrate rather than serve the congressional intent underlying Section 6(a)(2). EPA openly acknowledged the inadequacies of the current system over a decade ago, yet it has little to show for literally years of protracted "consideration" of badly needed revisions. The congressional will remains frustrated and the public remains disserved.

The Statutory and Regulatory Scheme

FIFRA generally governs pesticide regulation in the United States. *See* 7 U.S.C. §§ 136-136y. It regulates the sale, distribution, labeling, and use of pesticides while protecting human health and the environment from associated unreasonable adverse effects. *See Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 991-92 (1984).

Originally passed in 1947, FIFRA was completely revised in the Federal Environmental Pesticide Control Act, Public L. 92-516, October 21, 1971. The legislation was a response to "mounting public concern about the safety of pesticides and their effect on the environment and * * * a growing perception that the existing legislation was not equal to the task of safeguarding the public interest." *Ruckelshaus v. Monsanto Co.*, 467 U.S. at 991. "The general purpose of the FIFRA revisions in 1972 was to strengthen the ability of the EPA to protect the environment." *McGill v. EPA,* 593 F.2d 631 (5th Cir. 1979).

Among other things, the revisions made it clear that registration is not the end of the regulatory process: a pesticide registration may be maintained only if it does not "generally cause[ ] unreasonable adverse effects on the environment." FIFRA section 6(b), 7 U.S.C. § 136d(b). Accordingly, Section 6(a)(2) of FIFRA, also added in 1972, imposes a duty on registrants to report adverse effects from their pesticides on non-target organisms after use of the pesticide has been approved. It provides: "If at

any time after the registration of a pesticide the registrant has additional factual information regarding unreasonable adverse effects on the environment of the pesticide, the registrant shall submit such information to the Administrator." 7 U.S.C. § 136d(a)(2).

EPA's regulations implementing Section 6(a)(2) appear at 40 C.F.R. part 159. In promulgating these regulations, EPA stated:

> Section 6(a)(2) provides an important function by assuring that a previous Agency decision to register a pesticide remains a correct one, and that a registered pesticide can in fact be used without posing unreasonable adverse effects to human health and the environment. * * * Section 6(a)(2) * * * recognizes that registrants may come into the possession of important information that was not anticipated by the Agency, and that without the submission of such information by registrants, EPA would remain without it. * * * Thus, section 6(a)(2) serves to provide an important ongoing check on the correctness of the original decision to register a pesticide.

62 Fed. Reg. 49369 (September 19, 1997). EPA also stated:

> One of the most important routes by which adverse effects information can come to the attention of the Agency is through toxic or adverse effect incident reports. Many of the Agency's registration decisions are predictive in nature. In contrast, incident reports can provide the Agency with information depicting the practical impacts of pesticide use, including real-world effects of pesticide use. The Agency considers incident reporting to be a vital component of section 6(a)(2).

Id. p. 49381.

Despite these statements of the importance of Section 6(a)(2) to the Agency's mission, EPA acknowledged in 1997 that, "[i]n comparison to previous EPA policy statements, some [of the new] reporting requirements * * * reflect increased flexibility or exemptions for reporting specific types of information." *Id.* p. 49380. As shown below, the new flexibility and exemptions have gravely compromised EPA's ability to implement Section

exemptions have gravely compromised EPA's ability to implement Section 6(a)(2).

Part 159.184 is entitled, "Toxic or adverse effect incident report." Paragraph (a) requires that information about incidents affecting non-target organisms must be submitted if the pesticide registrant is aware that a non-target organism "may have been exposed to a pesticide" and "suffered a toxic or adverse effect" (or may do so in future) and "has or could obtain information concerning where the incident occurred," the pesticide involved, and "the name of a person regarding the incident."

Paragraph (c) describes "Required information on individual incidents," including certain detailed "Administrative" information such as dates and locations ((c)(1)); information about the pesticide ((c)(2)); the circumstances, such as a spill, drift, mislabeling, etc. ((c)(3)); other specific information, which, in the case of exposed wildlife, includes the affected species, their numbers, the adverse effects, the pesticide application rate and method of application, and a habitat description ((c)(4)(iii)).

This looks initially promising, as if registrants will be required to submit thorough and useful information to EPA about the adverse effects of their pesticides on birds, bees, and other animals. But paragraph (c) then torpedoes that promise by providing that none of that information need be reported if "aggregate reporting" is allowed: "The Administrative, Pesticide, Circumstance and Exposure Type(s) of information must be reported for individual incidents, *except where the provisions of paragraph (e) of this section allow for aggregated summary forms of reporting* * * *." (Emphasis added.)

Understanding how paragraph (e) works requires an examination of paragraphs (c)(5) and (d). Paragraph (c)(5) provides for "severity

paragraphs (c)(5) and (d). Paragraph (c)(5) provides for "severity category designations." For "fish or wildlife," the categories are W-A or W-B. Category W-A applies if the incident affects truly huge numbers:

> (B) Fish: Affected 1,000 or more individuals of a schooling species or 50 or more individuals of a non-schooling species.
>
> (C) Birds: Affected 200 or more individuals of a flocking species, or 50 or more individuals of a songbird species, or 5 or more individuals of a predatory species.
>
> (D) Mammals, reptiles, amphibians: Affected 50 or more individuals of a relatively common or herding species or 5 or more individuals of a rare or solitary species.

Incidents affecting smaller numbers of fish, birds, or mammals are categorized as W-B. In adopting these threshold numbers, EPA offered no scientific rationale to support them.

Paragraph (d) addresses "Time requirements for submitting incident information." It provides in (d)(2) that reports for category W-A incidents "may be accumulated for a 30-day period and submitted to the Agency within 30 days" after the end of the accumulation period. In (d)(3), it provides that reports for all other exposures – which includes category W-B incidents – can be accumulated for 90 days and submitted 60 days thereafter.

That brings us now to paragraph (e), "Aggregated reports." It provides that incidents reportable under paragraph (d)(3) – which includes W-B incidents – do not have to "contain[] the information listed in paragraphs (c)(1) through (c)(4)" – *i.e.,* the useful administrative, pesticide, circumstance and exposure types of information, including, for wildlife, affected species, their numbers, the adverse effects, the pesticide application rate and method of application, and a habitat description.

Correspondence Management System

Control Number: AX-17-000-1850
Printing Date: November 30, 2016 11:49:21

Citizen Information

Citizen/Originator: **Simon, Sandy**
Organization: Metropolitan Utilities District
Address: 1723 Harney Street, Omaha, NE 68102-1960

Reisner, Ron K.
Organization: Metropolitan Utilities District
Address: 1723 Harney Street, Omaha, NE 68102-1960

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1850	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Dec 15, 2016	**# of Extensions:**	0
Letter Date:	Nov 29, 2016	**Received Date:**	Nov 29, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Modernization of the Accidental Release Prevention Regulations under Clean Air Act
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Eileen Naples - AO-IO
OAR - Office of Air and Radiation -- Immediate Office
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office
R7 - Region 7 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OLEM	Nov 30, 2016	Dec 15, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

METROPOLITAN
UTILITIES DISTRICT

RON K. REISNER
SENIOR VICE PRESIDENT,
CHIEF OPERATIONS OFFICER
(402) 504-7110
(402) 504-5110 fax
Ron_Reisner@mudnebr.com

November 29, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Modernization of the Accidental Release Prevention Regulations under Clean Air Act

Dear Administrator McCarthy:

We are writing to express our concerns with the Environmental Protection Agency's (EPA) rule entitled, "Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act." The Metropolitan Utilities District of Omaha (District) recognizes the importance of ensuring the safety of drinking water and wastewater utility operations. However, we are concerned that the proposed changes are costly and may adversely affect our ability to reliably protect our drinking water quality.

Water treatment facilities have a demonstrated record of safety over the history of the Risk Management Plan (RMP) program. According to EPA data in the public docket, the 2,000 drinking water and wastewater treatment facilities regulated under RMP represent about 4.9% of all RMP reportable incidents over the 10-year history of the program, with an approximate annual average of 0.037 incidents per facility over that same period. This incident rate is the lowest of all regulated sectors under RMP. This same data demonstrates that the incidents that do occur at water sector facilities had very few off-site consequences and a low rate of worker injury and fatalities. Water utility treatment operations are safe, and collectively the data for our sector demonstrate that the existing RMP program is working properly.

The drinking water treatment sector is unique among the RMP-regulated sectors. All of our members manage critical lifeline infrastructure that protect the nation's public health and have invested substantially to ensure our facilities operate reliably and safely.

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The proposed RMP changes are costly to our sector. AWWA estimates these costs will be approximately $160 million per year for the water sector alone. With these potential costs, it is essential to ensure that the rulemaking will increase public safety while maintaining reliability. The extremely low incident rates in the sector demonstrate that increased compliance costs will not translate into commensurate public health and safety benefits.

We believe that there is a better way forward than what has been proposed by EPA. The facts on the ground demonstrate that water systems are appropriately balancing local water conditions, public health considerations and accident prevention within the current RMP requirements. The Agency has the discretion to tailor RMP requirements according to the specific characteristics of regulated entities, including the complexity of chemical process and incident rate-based risk profiles. We support the proposal that AWWA presented to EPA, which would defer new RMP requirements for water and wastewater facilities unless data demonstrates an increased rate of accidents with offsite consequences. We believe this approach will best preserve the ability of the sector to provide safe, reliable and affordable drinking water and wastewater services to the public.

We urge you to adopt this approach in a final RMP rule and thank you for your consideration of this request.

Sincerely,

Ron K. Reisner
Senior Vice President, Chief Operations Officer

Correspondence Management System
Control Number: AX-17-000-1857
Printing Date: November 30, 2016 02:55:53

Citizen Information

Citizen/Originator: **Bebout, Eli**
Organization: The Energy Council
Address: 5400 LBJ Freeway, Dallas, TX 75240

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1857	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Dec 15, 2016	**# of Extensions:**	0
Letter Date:	Nov 23, 2016	**Received Date:**	Nov 30, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Consideration of policy statement entitled, "The Combined Impacts of Future EPA Regulations for Coal-Fired Power Plants
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OCIR - Office of Congressional and Intergovernmental Relations
OPA - Office of Public Affairs
R10 - Region 10 -- Immediate Office
R4 - Region 4 -- Immediate Office
R6 - Region 6 -- Immediate Office
R7 - Region 7 -- Immediate Office
R8 - Region 8 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OAR	Nov 30, 2016	Dec 15, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				
Martha Faulkner	OAR	OAR-OAQPS	Nov 30, 2016	Dec 13, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

The Energy Council

Wyoming Senator
Eli Bebout
Chairman

Kansas Representative
Kyle Hoffman
Vice Chairman

Lori Cameron
Executive Director

5400 LBJ Frwy.
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Dallas, Texas 75240

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RECEIVED
2016 NOV 30 AM 11:21
OFFICE OF THE
EXECUTIVE SECRETARIAT

November 23, 2016

Ms. Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.; MC 1101A
Washington, DC 20460

Dear Ms. McCarthy:

Formed in 1975, The Energy Council is a legislative organization of 12 energy-producing states. On September 18, 2016, the Energy Council unanimously adopted a policy statement entitled, "The Combined Impacts of Future Environmental Protection Agency (EPA) Regulations for Coal-Fired Power Plants."

That policy urges, "EPA to analyze the cumulative impacts of its future regulations affecting coal-fired power plants and minimize such impacts on the Nation and each state as it develops each individual regulation. If EPA does not analyze the cumulative impacts of its future regulations of coal-fired power plants, the United States Congress should require that EPA analyze the combined potential impacts of such future regulations on the U.S. electricity sector, jobs, energy prices, individual states, and regions of the country and direct EPA to share such analyses with the states."

We would sincerely appreciate your consideration of this policy statement, and I stand ready to answer any questions you may have regarding the Energy Council or the policy position.

Sincerely,

Eli Bebout
Wyoming Senate and
Chairman, The Energy Council

ED_001174_00000008

Policy Statement of
The Energy Council on
The Combined Impacts of Future Environmental Protection Agency (EPA)
Regulations for Coal-Fired Power Plants

Background

The United States is blessed with abundant energy resources and it is in our Nation's interest to have a diverse and balanced energy mix that takes full advantage of all of our energy resources. A reliable and affordable electricity supply is vital to economic growth, energy security, jobs, and the overall interests of our Nation and a diverse and balanced electricity mix includes coal, natural gas, nuclear power, and renewable energy, an "all-of-the-above" approach.

In 2005, coal-fired power plants were responsible for generating 50 percent of U.S. electricity. By 2015, coal-fired power plants generated 33 percent of U.S. electricity. The U.S. Energy Information Administration (EIA) recently issued new energy projections which predict that by 2040 only 18 percent of U.S. electricity will be generated by coal-fired power plants.

Although coal has been subject of a number of recent U.S. Environmental Agency (EPA) regulations, it appears more could be imposed on coal-fired power plants. These may include new ambient air quality standards for ozone, fine particles and sulfur dioxide regulations; new rules addressing interstate transport of air pollutants; ongoing regional haze requirements; regulation of coal combustion residuals; and effluent limitation guidelines.

Future EPA regulations are likely to cause even less fuel diversity, higher electricity prices, the retirement of more coal-fired electric generating units, further reductions in the use of coal to produce electricity, threats to grid reliability and more harm to states that rely on coal for jobs and for reliable and affordably priced electricity. At present, EPA does not either analyze or take into consideration the combined potential impacts of its future regulations when it develops each regulation individually.

Recommendation

The Energy Council urges EPA to analyze the cumulative impacts of its future regulations affecting coal-fired power plants and minimize such impacts on the Nation and each state as it develops each individual regulation. If EPA does not analyze the cumulative impacts of its future regulations of coal-fired power plants, the United States Congress should require that EPA analyze the combined potential impacts of such future regulations on the U.S. electricity sector, jobs, energy prices, individual states, and regions of the country and direct EPA to share such analyses with the states.

Disposition

This policy statement, passed unanimously at the Energy Council on September 18, 2016, shall be distributed to the President of the United States of America; the Majority Leader of the United States Senate; the Speaker of the United States House of Representatives; the Energy Council's Congressional delegations; the Administrator of the U.S. Environmental Protection Agency; and the energy ministers of the Council's member Canadian provinces.

Lori Cameron
Secretary

Correspondence Management System
Control Number: AX-17-000-1863
Printing Date: November 30, 2016 01:21:29

Citizen Information

Citizen/Originator: **Spangler, John**
Organization: New Jersey American Water
Address: 167 JFK Parkway, Short Hills, NJ 07078

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1863	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Dec 15, 2016	**# of Extensions:**	0
Letter Date:	Nov 30, 2016	**Received Date:**	Nov 30, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Modernization of the Accidental Release Prevention Regulations under Clean Air Act
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Eileen Naples - AO-IO
OAR - Office of Air and Radiation -- Immediate Office
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office
R2 - Region 2 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OLEM	Nov 30, 2016	Dec 15, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

NEW JERSEY
AMERICAN WATER

November 30, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W. Washington, DC 20460

RE: Modernization of the Accidental Release Prevention Regulations under Clean Air Act

Dear Administrator McCarthy:

We are writing to express our concerns with the Environmental Protection Agency's (EPA) rule entitled, "Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act." New Jersey American Water recognizes the importance of ensuring the safety of drinking water and wastewater utility operations. However, as the American Water Works Association (AWWA) outlined in public comments on the proposed rule[1], we are concerned that the proposed changes will adversely affect our ability to continue to ensure protection of public health, safety and the environment.

Our concerns focus on several key points. First, water and wastewater treatment facilities have a demonstrated record of safety over the history of the RMP program. According to EPA data in the public docket, the 2,000 drinking water and wastewater treatment facilities regulated under RMP represent about 4.9% of all RMP reportable incidents over the 10-year history of the program, with an approximate annual average of 0.037 incidents per facility over that same period. This incident rate is the lowest of all regulated sectors under RMP. This same data demonstrates that the incidents that do occur at water sector facilities

[1] https://www.regulations.gov/document?D=EPA-HQ-OEM-2015-0725-0554

had very few off-site consequences and a low rate of worker injury and fatalities. Water utility treatment operations are safe, and collectively the data for our sector demonstrate that the existing RMP program is working properly.

Second, the drinking water and wastewater treatment sector is unique among the RMP-regulated sectors. All of our members manage critical lifeline infrastructure that protect the nation's public health and have invested substantially to ensure our facilities operate safely. Nearly 50% of the sector's RMP facilities are small business entities, and many of these systems are municipally owned and operated.

The proposed RMP changes are costly to our sector. AWWA estimates these costs will be approximately $160 million per year for the water sector alone. Increased costs for the sector must be passed on to local families in the form of increased water utility rates. With these potential costs, it is essential to ensure that the rulemaking will increase public safety relative to other critical investments necessary to sustain the essential services provided to the community by a water utility. However, the extremely low incident rates in the sector demonstrate that increased compliance costs will not translate into commensurate public health and safety benefits.

We believe that there is a better way forward than what has been proposed by EPA. The facts on the ground demonstrate that water systems are appropriately balancing local water conditions, public health considerations and accident prevention within the current RMP requirements. The Agency has the discretion to tailor RMP requirements according to the specific characteristics of regulated entities, including the complexity of chemical process and incident rate-based risk profiles. We support the proposal that AWWA presented to EPA, which would defer new RMP requirements for water and wastewater facilities unless data demonstrates an increased rate of accidents with offsite consequences. We believe this approach will best

NEW JERSEY
AMERICAN WATER

preserve the ability of the sector to provide safe, reliable and affordable drinking water and wastewater services to the public.

We urge you to adopt this approach in a final RMP rule and thank you for your consideration of this request.

Sincerely,

John Spangler
Environmental Compliance Specialist
New Jersey American Water
167 JFK Parkway
Short Hills, NJ 07078
(Office) 973-564-5707
john.spangler@amwater.com

Correspondence Management System
Control Number: AX-17-000-1871
Printing Date: November 30, 2016 03:14:41

Citizen Information

Citizen/Originator: **Ohlund, Lisa**
Organization: East Orange County Water District
Address: 185 N. McPherson Road, Orange, CA 92869-3720

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1871	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Dec 15, 2016	**# of Extensions:**	0
Letter Date:	Nov 22, 2016	**Received Date:**	Nov 30, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Modernization of the Accidental Release Prevention Regulations under Clean Air Act
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Eileen Naples - AO-IO
OAR - Office of Air and Radiation -- Immediate Office
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office
R9 - Region 9 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OLEM	Nov 30, 2016	Dec 15, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

EAST ORANGE COUNTY WATER DISTRICT

185 N. McPherson Rd.
Orange, California
92869-3720

714.538.5815 *phone*
714.538.0334 *fax*

www.eocwd.com

BOARD OF DIRECTORS

Douglass S. Davert
President

Richard B. Bell
Vice President

John Dulebohn
Director

Seymour (Sy) Everett
Director

John L. Sears
Director

Lisa Ohlund
General Manager

November 22, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W. Washington, DC 20460

RE: Modernization of the Accidental Release Prevention Regulations under Clean Air Act

Dear Administrator McCarthy:

We are writing to express our concerns with the Environmental Protection Agency's (EPA) rule entitled, "Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act." East Orange County Water District recognizes the importance of ensuring the safety of drinking water and wastewater utility operations. However, as the American Water Works Association (AWWA) outlined in public comments on the proposed rule[1], we are concerned that the proposed changes will adversely affect our ability to continue to ensure protection of public health, safety and the environment.

Our concerns focus on several key points. First, water and wastewater treatment facilities have a demonstrated record of safety over the history of the RMP program. According to EPA data in the public docket, the 2,000 drinking water and wastewater treatment facilities regulated under RMP represent about 4.9% of all RMP reportable incidents over the 10-year history of the program, with an approximate annual average of 0.037 incidents per facility over that same period. This incident rate is the lowest of all regulated sectors under RMP. This same data demonstrates that the incidents that do occur at water sector facilities had very few off-site consequences and a low rate of worker injury and fatalities. Water utility treatment operations are safe, and collectively the data for our sector demonstrate that the existing RMP program is working properly.

Second, the drinking water and wastewater treatment sector is unique among the RMP-regulated sectors. All of our members manage critical lifeline infrastructure that protect the nation's public health and have invested substantially to ensure our facilities operate safely. Nearly 50% of the sector's RMP facilities are small business entities, and many of these systems are municipally owned and operated.

The proposed RMP changes are costly to our sector. AWWA estimates these costs will be approximately $160 million per year for the water sector alone.
Increased costs for the sector must be passed on to local families in the form of increased water utility rates. With these potential costs, it is essential to ensure that the rulemaking will increase public safety relative to other critical investments necessary to sustain the essential services provided to the community by a water utility. However, the extremely low incident rates in the sector demonstrate that increased compliance costs will not translate into commensurate public health and safety benefits.

We believe that there is a better way forward than what has been proposed by EPA. The facts on the ground demonstrate that water systems are appropriately balancing local water conditions, public health considerations and accident prevention within the current RMP requirements. The Agency has the discretion to tailor RMP requirements according to the specific characteristics of regulated entities, including the complexity of chemical process and incident rate-based risk profiles. We support the proposal that AWWA presented to EPA, which would defer new RMP requirements for water and wastewater facilities unless data demonstrates an increased rate of accidents with offsite consequences. We believe this approach will best preserve the ability of the sector to provide safe, reliable and affordable drinking water and wastewater services to the public.

We urge you to adopt this approach in a final RMP rule and thank you for your consideration of this request.

Sincerely,

Lisa Ohlund
General Manager
East Orange County Water District
loheocwd.com

Correspondence Management System

Control Number: AX-16-000-4395
Printing Date: February 16, 2016 11:37:09

Citizen Information

Citizen/Originator: **Pearce, Christopher P.**
Organization: S.C. Johnson & Son, Inc.
Address: 1667 K Street, NW, Washington, DC 20006

Semrau, Kelly M.
Organization: S.C. Johnson & Son, INC
Address: 1525 Howe Street, Racine, WI 53403

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-4395	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Mar 1, 2016	**# of Extensions:**	0
Letter Date:	Feb 11, 2016	**Received Date:**	Feb 11, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	AA-OCSPP-Assistant Administrator - OCSPP	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.
Subject: DRF - Daily Reading File - S.C. Johnson Raises the Bar on Transparency and Shares the Next Step in ongoing Ingredient Disclosure Efforts
Instructions: AA-OCSPP-Prepare draft response for signature by the Assistant Administrator for OCSPP
Instruction Note: N/A
General Notes: N/A
CC: Hyon Kim - AO-IO
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Cynthia Gaines	OEX	OCSPP	Feb 16, 2016	Mar 1, 2016	N/A
	Instruction: AA-OCSPP-Prepare draft response for signature by the Assistant Administrator for OCSPP				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

SC Johnson
A FAMILY COMPANY

Kelly M. Semrau
Senior Vice President
Global Corporate Affairs,
Communication & Sustainability

S. C. Johnson & Son, Inc.
1525 Howe Street
Racine, WI 53403-2236

February 11, 2016

Honorable Gina McCarthy
Administrator
U.S. EPA
1200 Pennsylvania Avenue, NW
Mail Code: 1101A
Washington, DC 20460

Dear Administrator McCarthy,

I am writing to share with you the next step in SC Johnson's ongoing ingredient disclosure efforts.

I am pleased to let you know that in an industry first, SC Johnson today became the first major consumer packaged goods company to disclose 100 percent of fragrance ingredients in a product collection, down to the component level. This differs from those companies who disclose natural fragrances or essential oils in aggregate, even though natural fragrances contain tens or even hundreds of individual components that go undisclosed.

Like all fragrances, natural fragrances are made up of chemical components such as acids, aldehydes, esters, ketones and terpenes. For example, cinnamon essential oil contains myrcene, estragole, methyl eugenol and safrole, which are listed on California Proposition 65 and have been raised as ingredients of concern when used at significantly higher concentrations. In fact, the chemical myrcene is found in many common essential oils such as grapefruit, lemon, rosemary and lemongrass. Another common essential oil, lilac leaf, includes both estragole and methyl eugenol.

The presence of these chemicals does not mean fragrances are unsafe, as the doses or concentrations are so low they pose little if any threat. Yet, they are there.

While the launch of the Glade® Fresh Citrus Blossoms collection is a major step forward in itself, just as importantly, SC Johnson hopes this launch is the beginning of a serious discussion on naturals and nature-identical fragrance components.

For more information, I have attached SC Johnson's news release that was issued this morning, and SC Johnson's Legacy of Leadership history.

Best,

Kelly M Semrau

Attachment: SC Johnson news release, Legacy of Leadership history

Correspondence Management System
Control Number: AX-16-000-4398
Printing Date: February 16, 2016 12:42:56

Citizen Information

Citizen/Originator: **Johnson, Jeh Charles**
Organization: U. S. Department of Homeland Security
Address: U.S. Department of Homeland Security, Washington, DC 20528

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-4398	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Feb 11, 2016	**Received Date:**	Feb 16, 2016
Addressee:	OEX-Director - OEX	**Addressee Org:**	EPA
Contact Type:	MEM (Memo)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - Appointment of a Federal Coordinator for the Papal visit to the U.S.-Mexico Border
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OCIR-ORO - Office of Regional Operations
OHS - Office of Homeland Security
OITA - Office of International and Tribal Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	R6	Feb 16, 2016

History

Action By	Office	Action	Date
Ken Labbe	OEX	Forward control to R6	Feb 16, 2016

ED_001174_00000121

Secretary
U.S. Department of Homeland Security
Washington, DC 20528

February 11, 2016

MEMORANDUM FOR: DISTRIBUTION

FROM: Jeh Charles Johnson

SUBJECT: Appointment of a Federal Coordinator for the Papal Visit to the U.S.-Mexico Border

The Papal Visit to the U.S.-Mexico Border, a Special Event Assessment Rating level 2 event, is scheduled to take place on February 17, 2016. Although Pope Francis is not scheduled to visit the U.S., the City of El Paso will host events in honor of his visit to nearby Ciudad Juarez, Mexico. The celebratory events in El Paso will be widely-attended and high-profile and will require significant coordination among federal, state, and local authorities.

I have appointed Michael Breslin, Assistant Special Agent in Charge, Vice Presidential Protective Division, United States Secret Service, to serve as the Federal Coordinator for this event. His appointment will remain in effect through the event's conclusion.

The Federal Coordinator is my local representative and is the primary, although not exclusive, federal point of contact for the Papal Visit to the U.S.-Mexico Border. Assistant Special Agent in Charge Breslin will facilitate and coordinate federal incident management and security assistance activities, as appropriate. He will not impede or affect the authority of other federal officials to execute their duties and responsibilities under applicable laws, orders, or directives. Moreover, the Federal Coordinator will not direct or replace the local incident command structure, but in the event of an incident, will serve in an advisory capacity to the local incident command structure.

I am confident that Assistant Special Agent in Charge Breslin will provide the leadership necessary for this event, and I request that you provide him with the fullest support in the execution of these responsibilities. Questions can be directed to Don McKinnon, Chief, Special Events Program, Office of Operations Coordination, at 202-447-4150 or donald.mckinnon@hq.dhs.gov.

Attachments:
A. Federal Coordinator Roles and Responsibilities
B. Biography of Michael Breslin

ED_001174_00000121

Correspondence Management System

Control Number: AX-16-000-4402
Printing Date: February 16, 2016 12:32:45

Citizen Information

Citizen/Originator: **Stanton, Greg**
Organization: City of Phoenix
Address: 200 West Washington Street, 11th Floor, Phoenix, AZ 85003-1611

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-4402	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jan 28, 2016	**Received Date:**	Feb 12, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - Thank you to the Administrator for speaking at the Environmental Committee meeting during the U.S. Conference of Mayors
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	R9	Feb 16, 2016

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to R9	Feb 16, 2016

Comments

City of Phoenix
Office of the Mayor

Greg Stanton
Mayor

RECI
2016 FEB 1 AM 11: 00
OFFICE
EXECUTIVE S ARIAT

January 28, 2016

Gina McCarthy
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W. Mail Code: 1101A
Washington, D.C. 20460

Dear Administrator McCarthy,

Thank you very much for speaking at the Environmental Committee meeting during the U.S. Conference of Mayors last week, and for your personal commitment to working closely with mayors across the country. It's a welcome breath of fresh air.

I look forward to working with you on important projects here in Phoenix, and with the EPA on national policies to create positive change and build a sustainable future.

If I can ever be of service, please do not hesitate to contact me at mayor.stanton@phoenix.gov or at 602-262-7111.

Sincerely,

Greg

Greg Stanton
Mayor

Correspondence Management System
Control Number: AX-16-000-4406
Printing Date: February 16, 2016 12:38:39

Citizen Information

Citizen/Originator: **Vollero, David E.**
Organization: York County Solid Waste and Refuse Authority
Address: 2700 Blackbridge Road, York, PA 17406-7901

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-4406	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Mar 2, 2016	**# of Extensions:**	0
Letter Date:	Jan 21, 2016	**Received Date:**	Feb 12, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: DRF - Daily Reading File - Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations; Proposed Rule, EPA-HQ-OAR-2015-0199, 80 Fed. Reg. 64966; Docket ID Number EPA-HQ-OAR-2015-0199

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: Kristien Knapp - AO-IO
OPA - Office of Public Affairs
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OAR	Feb 16, 2016	Mar 2, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

YORK COUNTY
SOLID WASTE and REFUSE AUTHORITY

2700 Blackbridge Road, York, PA 17406-7901 Phone (717) 845-1066 Fax (717) 843-1544

RECEIVED
2016 FEB 12 AM 11:00
OFFICE OF THE
EXECUTIVE SECRETARIAT

January 21, 2016

The Honorable Gina McCarthy
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations; Proposed Rule, EPA–HQ–OAR–2015–0199, 80 Fed. Reg. 64966 (October 23, 2015)

RE: Docket ID Number EPA-HQ-OAR-2015-0199

Dear Administrator McCarthy:

The York County Solid Waste and Refuse Authority provides solid waste management planning, programs and infrastructure to the 450,000 plus residents and businesses of York County, Pennsylvania. The centerpiece of our integrated municipal waste management system is the York County Resource Recovery Center, a waste-to-energy facility that has served the county since 1989. As such, the Authority welcomes the opportunity to submit comments on the Proposed Federal Plan Requirements and the Model Trading Rules. We believe that waste-to-energy (WTE) will make significant contributions to state compliance with the Clean Power Plan's (CPP) goals if the model trading rules and federal plan ultimately maintain the final rule's flexibility allowing states to utilize a diverse set of renewable compliance strategies. By proposing federal plans that credit all electricity generated by WTE facilities as renewable (consistent with state and federal laws), the Environmental Protection Agency (EPA) can further curtail the use of fossil fuel-fired electric generation through the use of WTE, which also provides additional greenhouse gas (GHG) mitigation outside of the power sector.

As EPA finalizes the model trading rules and Federal plan, we urge you to consider the following comments which are intended to ensure that waste-to-energy is treated on par with other renewables and may participate fully in compliance with the CPP. To that end, we respectfully request that you consider the following critical issues:

1) **Finalize a Mass-based Federal Plan that Includes an Allocation Strategy in which EPA Directly Allocates Allowances to Waste-to-Energy.** We support EPA finalizing a mass-based Federal Plan that includes guidance and encouragement of an allocation strategy in which states distribute allowances to verified renewable energy generation, including new and existing waste-to-energy facilities based on the tons of greenhouse gases that are avoided by WTE.

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2) **Include Guidance and Encouragement of a Mass-Based Allowance Allocation Strategy Described above in its Mass-based Model Trading Rule.** The use of model trading rules would help ensure consistency among state programs, which would be useful for the operation of a broad trading program that spans multi-state regions or operates on a national scale. There are compelling reasons that support the provision of an allocation strategy described in the first bullet. Model rules can provide predictability for planning purposes, and it is likely that many states will rely on trading rules rather than fashion an individual plan. Providing specific strategies to encourage allocation to clean technologies, including new and existing WTE, will allow states to harness their unique mix of resources and lower their overall costs of compliance with the CPP.

3) **Maintain waste-to-energy as an eligible resource that may generate emission rate credits in the rate-based model trading rule.** We support EPA's inclusion of WTE in the proposed rate-based model trading rule, making it consistent with EPA's treatment of WTE in the Final Rule.

4) **Include WTE as an eligible emission rate credit generating technology under the proposed Federal plan.** The proposed rate-based Federal Plan is similar to the proposed rate-based Model Rule, with one significant difference: the rate-based Model Rule (and the CPP Final Rule) includes a broader set of zero-emitting resources eligible to create ERCs, including waste-to-energy. Under the proposal, WTE would be ineligible to generate emission rate credits in a state in which EPA is implementing a Federal rate-based plan. EPA must allow <u>all</u> energy generation resources that are ERC-eligible technologies under the CPP Final Rule to generate ERCs in a Federal plan. In addition, we also encourage EPA to allow facilities shuttered for 12 months or more to re-start and qualify as a new, ERC-generating facility.

5) **Include all renewables, including WTE, as eligible to participate in the Clean Energy Incentive Program.** Excluding all renewable technologies except wind and solar from participation in the CEIP hinders EPA from achieving one of the program's primary goals—promoting early investment in renewable energy. Instead of limiting eligibility to only wind and solar, EPA should establish parity among renewable sources in the CEIP by allowing any renewable technologies that meet criteria established under this program to be eligible to earn CEIP credits.

6) **Ensure that measurement of biogenic MSW is consistent with existing regulations.** The draft Federal Plan requires that state include in its EM&V plan for WTE, "the method for determining the specific portion of the total net energy output from the resource that is related to the biogenic portion of the waste materials."[1] In the preamble to the proposed Federal plan, the EPA recognizes the biogenic CO_2 monitoring and reporting provisions of the Greenhouse Gas Reporting Program

[1] See 62.16455(c)(4)(ii) as proposed at 80 Fed. Reg. 205 (October 23, 2015), 65097.

ED_001174_00000121

(GHGRP) as being presumptively approvable to determine the biogenic portion of the waste materials.[2] We concur with this approach, since WTE facilities annually report their gross stack GHG emissions to the U.S. EPA under the GHGRP. The EM&V plan will also need to specify how the determined biogenic portion of waste materials is used to determine the total net energy output from a WTE facility eligible to generate ERCs. We concur with the approach offered by the Energy Recovery Council in its comments on the proposed Federal plan.

A comprehensive renewable policy embedded in the CPP in general, and the proposed Federal plan and model trading rules specifically, should provide equitable benefits and for all renewable technologies, including new and existing waste-to-energy facilities, that will reduce the carbon intensity of the power sector. We sincerely appreciate the important work of the EPA and we stand ready to work with you to maximize the benefits of the program for all renewables, including waste-to-energy.

Sincerely,

David E. Vollero
Executive Director

[2] 80 Fed. Reg. 205 (October 23, 2015), 65005.

ED_001174_00000121

Correspondence Management System
Control Number: AX-16-000-4407
Printing Date: February 16, 2016 02:46:45

Citizen Information

Citizen/Originator: **Brown, J. Paul**
Organization: Colorado House of Representatives
Address: P.O. Box 178, Ignacio, CO 81137

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-4407	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Mar 1, 2016	**# of Extensions:**	0
Letter Date:	Jan 25, 2016	**Received Date:**	Feb 12, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	AD-Administrator	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.

Subject: DRF - Daily Reading File - Work collaboratively with public and private sectors to enable continued operation of the water treatment plant installed on the Cement Creek in Gladstone, Colorado

Instructions: AD-Prepare draft response for the Administrator's signature

Instruction Note: N/A

General Notes: N/A

CC: Matthew Klasen - OW
OCIR - Office of Congressional and Intergovernmental Relations
OCIR-ORO - Office of Regional Operations
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	R8	Feb 16, 2016	Mar 1, 2016	N/A
	Instruction: AD-Prepare draft response for the Administrator's signature				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

State Representative
J. PAUL BROWN
P.O. Box 178
Ignacio, CO 81137
Business: 970-759-4157
Office: 303-866-2914
E-mail: jpaul.brown.house@state.co.us

Member:
Agriculture, Livestock & Natural Resources Committee
Health, Insurance & Environment Committee
Capital Development Committee

COLORADO
HOUSE OF REPRESENTATIVES
STATE CAPITOL
DENVER
80203

RECEIVED
2016 FEB 12 AM 11:00
OFFICE OF THE
EXECUTIVE SECRETARIAT

January 25, 2016

Gina McCarthy, Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Temporary Water Treatment Plant in San Juan County, Colorado

Dear Ms. McCarthy:

As a State Representative for the 59th district in Colorado, I encourage you and the EPA to work collaboratively with both the public and private sectors to continue to enable the operation of the water treatment plant currently installed on the Cement Creek in Gladstone, Colorado as well as looking for a long term solution for the contaminated drainage. As you know, this acidic drainage into the Cement Creek, which flows into the Animas River, is adversely impacting the quality of the Animas and is becoming a large community issue.

Currently, The EPA has commissioned a temporary water treatment plant. It is essential to our community and our state that this plant be funded so that it can continue to treat drainage and ensure the preservation of our environment.

I truly believe that by working together with other public and private stakeholders, the EPA can ensure the operation of a new water treatment plant that will have an immediate positive impact on the health of the Animas River and all those who live around it.

Thank you for your attention to this matter.

Sincerely,

J. Paul Brown
State Representative
House District 59

Correspondence Management System
Control Number: AX-16-000-4411
Printing Date: February 16, 2016 02:32:45

Citizen Information

Citizen/Originator: **Rodin, Judith**
Organization: The Rockefeller Foundation
Address: 420 Fifth Avenue, New York, NY 10018-2702

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-4411	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Feb 4, 2016	**Received Date:**	Feb 12, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - Thanks from the Rockefeller Foundation for EPA partnership
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OAR - Office of Air and Radiation -- Immediate Office
OCFO - OCFO -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	OPA	Feb 16, 2016

History

Action By	Office	Action	Date
Ken Labbe	OEX	Forward control to OPA	Feb 16, 2016

Comments

The ROCKEFELLER FOUNDATION

420 Fifth Avenue
New York, NY 10018-2702
T 212 869 8500
F 212 764 3468
www.rockfound.org

RECEIVED
2016 FEB 12 AM 10: 59
OFFICE OF THE
EXECUTIVE SECRETARIAT

Ms. Gina McCarthy
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Ms. McCarthy, Gina

The plane ride back from the World Economic Forum Annual Meeting in Davos is always a time for reflection. It was a whirlwind week, as it always is. Joined by Coca Cola, Dangote, Nestle and others, we launched YieldWise, our newest $130 million initiative to demonstrate to the world that we can cut food waste and loss by half by 2030. I met with CEOs and investors excited about the next frontier of innovative finance which we are calling Zero Gap. And I joined with the CEOs of Swiss Re and Veolia to announce their new resilience partnership to help cities rebuild faster after disasters. That agreement was brought about through their participation in our 100 Resilient Cities platform.

Across the Atlantic, the US Department of Housing and Urban Development announced the winning 13 cities to receive a total of $1 billion federal recovery funds through the National Disaster Resilience Competition, a sea-change in the way government and philanthropy are partnering on resilience.

As I landed back in snowy New York, the power of these partnerships had my mind swirling. We like to celebrate lone rangers and disruptors because it evokes romance and nostalgia, but if you think back over the last decade, nothing that has been accomplished for the world has been done alone. No transformative innovation has been sparked, nor scaled, without the combination of talents, resources, and reach, increasingly among NGOs, funders, business, and government.

We are the generation of leaders who are breaking down those silos, and building more collaborative and mutually beneficial ways of working in their place. Indeed, never before in human history have we had so many like-minded businesses, philanthropies, and leaders all focused on the same things: a more inclusive, resilient world. And because we do, I truly believe 2016 is the year we're going to see that world take shape.

So as I take a quick breath, I wanted to take this moment to say how grateful we are to call you a partner. We have achieved so much more together than we could working on our own, and I look forward to taking this to new heights in the weeks and months to come.

Warm regards,

Judith Rodin

Correspondence Management System

Control Number: AX-16-000-4419
Printing Date: February 16, 2016 12:46:04

Citizen Information

Citizen/Originator: **Hughes, Krista**
Organization: Perkins Coie LLP
Address: 700 Thirteenth Street, N.W., Washington, DC 20005-3960

Koch, LeAnn J.
Organization: Perkins Coie
Address: 700 13th Street, NW, Washington, DC 20005

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-4419	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Mar 2, 2016	**# of Extensions:**	0
Letter Date:	Feb 11, 2016	**Received Date:**	Feb 11, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Daily Reading File - Petition for Reconsideration of 40 C.F.R. 80.1406 promulgated in EPA-HQ-OAR-2005-0161
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OAR	Feb 16, 2016	Mar 2, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

PERKINSCOIE

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February 11, 2016

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F. +1.202.654.9943

VIA CERTIFIED AND ELECTRONIC MAIL

The Honorable Gina McCarthy
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
McCarthy.Gina@Epa.gov

Re: Petition for Reconsideration of 40 C.F.R. § 80.1406 promulgated in EPA-HQ-OAR-2005-0161

Dear Administrator McCarthy:

Pursuant to Section 307(d)(7)(B) of the Clean Air Act ("CAA"), Alon Refining Krotz Springs, Inc.; American Refining Group, Inc.; Calumet Specialty Products Partners, L.P.; Lion Oil Company; Ergon-West Virginia, Inc.; Hunt Refining Company; Placid Refining Company LLC; U.S. Oil & Refining Co.; and Wyoming Refining Company (hereinafter the "Small Refinery Owners Ad Hoc Coalition" or "Coalition"), hereby petition EPA to convene a proceeding to reconsider the definition of "obligated party" in 40 C.F.R. § 80.1406. Each member of the Coalition is an "obligated party" under 40 C.F.R. § 80.1406(a)(1) and a small refinery under 40 C.F.R. § 80.1401, responsible for ensuring that Congressionally mandated volumes of renewable fuel are blended into the transportation fuel they produce as required by the Renewable Fuel Standard.

The definition of "obligated party" was originally promulgated in 2007 under the original Renewable Fuel Standard Program ("RFS1")[1] and was re-promulgated under the 2010 Renewable Fuel Standard Program ("RFS2"),[2] which replaced RFS1. 75 Fed. Reg. 14,673. The same definition of obligated party was carried over into the final rule establishing the percentage standards for 2014, 2015, and 2016 and biomass-based diesel volume for 2017 ("2014-2016 final rule" or "final rule").[3]

In the 2014-2016 final rule, EPA used its general and cellulosic waiver authorities in CAA Sections 211(o)(7)(A) and 211(o)(7)(D)(i) to reduce the renewable fuel volume mandates in CAA Section 211(o)(2)(B)(i) based on new findings in the final rule and new analyses published with the final rule, for reasons related to the definition of obligated party. Specifically, EPA concluded that: (1) the statutory volume mandates could not be achieved, in part because exempt blenders and distributors were currently unwilling to invest in new blending and distribution infrastructure necessary to meet the statutory volumes and (2) high Renewable Identification Number ("RIN") prices were not, in the near term, expected to increase demand for high gasoline ethanol blends, like E85, because retailers chose to retain much of the RIN value to maximize their profits, rather than passing the RIN value through to consumers in the form of price discounts for E85. *Id.* at 77,459; 77,461.

---

[1] Regulation of Fuel and Fuel Additives: Renewable Fuel Standard Program, 72 Fed. Reg. 23,900 (May 1, 2007).
[2] Regulation of Fuels and Fuel Additives: Changes to the Renewable Fuel Standard Program, 75 Fed. Reg. 14,670 (Mar. 26, 2010).
[3] Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass-Based Diesel Volume for 2017, 80 Fed. Reg. 77,420 (Dec. 14, 2015).

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EPA's use of its waiver authorities based on these new findings and analyses, which arose after the definition of "obligated party" was promulgated, but within the past 60 days, are evidence that the definition of obligated party is now arbitrary and capricious and must be reconsidered in accordance with CAA Section 307(d)(7)(B).

The following sections first explain the legal basis of this Petition and then outline why EPA's current approach to defining the "obligated party" has become arbitrary and capricious and must be re-examined.

I. The Legal Justification for Filing the Coalition Petition

This Petition rests on EPA's statements and analyses in the 2014-2016 Final Rule, which reopened the definition of obligated party in RFS2. In RFS1 and RFS2, EPA placed the compliance obligation on refiners and importers on the theory that the current definition of obligated party would work automatically through market mechanisms to increase the use of renewable fuels regardless of where the point of compliance was located. This was a key part of the justification for leaving the original definition unchanged when RFS2 replaced RFS1. EPA's decision in the 2014-2016 final rule to waive the statutorily mandated volumes acknowledged that placing the obligation on refiners and importers no longer ensures that Congress' statutory volumes can be achieved, which means that the definition of "obligated party" can no longer be justified and must be reconsidered. The Clean Air Act allows the filing of a petition for judicial review of an EPA rule outside the 60 day deadline that normally applies if that petition is based "solely on grounds arising after" that 60th day. CAA § 307(b)(1). Those new grounds arose for the definition of "obligated party" when EPA issued the 2014-2016 final rule and published its

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new conclusions concerning market constraints caused by the definition of obligated party, which necessitated the use of the agency's waiver authority. The Coalition will file a petition for judicial review of the definition of "obligated party" in RFS2, within sixty days of the Federal Register publication of the 2014-2016 final rule.[4]

II. BACKGROUND

1. The Clean Air Act Requirements

Congress directed EPA to promulgate regulations to ensure that transportation fuel sold or introduced into commerce in the United States, on an annual average basis, contains at least the applicable volume of renewable fuel, advanced biofuel, cellulosic biofuel, and biomass-based diesel set by Congress for each calendar year. 42 U.S.C. § 7545(o)(2). To carry out that mandate, the statute requires EPA to promulgate regulations applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that the Congressionally mandated volumes of renewable fuel are blended. *Id.* § 7554(o)(2)(A)(iii). Congress emphasized that for **each calendar year**, EPA has a recurring obligation to: (1) determine the applicable volume percentage of transportation fuel sold or introduced into commerce in the United States; (2) determine to whom the renewable fuel obligation applies – refiners, blenders, and importers – as

[4] The Coalition believes that EPA had to consider whether the existing point of obligation properly served the statutory purposes when it determined that the required volumes of renewable fuel for the 2014-2016 compliance years could not be met. *Id.* at 77,420. That is true for several reasons, but most notably because Congress directed that the compliance obligation for each separate year apply to "refineries, blenders and importers, **as appropriate**" to ensure that the statutory volumes are met, thus directing periodic re-examination to ensure that the "appropriate party" was regulated. 42 U.S.C. § 7545(*o*)(3)(B)(ii)(I)(emphasis added). Though EPA has said this issue lies "outside the scope" of the 2014-2016 rulemaking, given the statutory language, it had no power to decline to consider the point of obligation. For this reason, the Coalition will also file a petition for judicial review of the 2014-2016 final rule. However, this Petition is not filed in support of that challenge because the Coalition believes that issue is ready for the courts to consider as it stands.

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appropriate; and (3) determine a single applicable percentage that applies to the parties identified in (2) above, obligated parties. *See, Id.* § 7545(o)(3)(B)(ii).

2. EPA's Regulatory Response

In response to Congress' directive, EPA, in RFS1, decided to implement the renewable fuel mandate through a credit trading approach whereby those who are able to blend renewable fuel would be able to generate ("separate" under the rule), emission credits known as RINs that could then be freely traded and used to demonstrate compliance by those who are not able to blend renewable fuel. However, EPA did **not** place the compliance obligation on blenders – those best able to produce RINs needed for compliance. Rather, it placed the compliance obligation on refiners and importers, even though many of them, particularly small and merchant refineries, cannot blend to produce the RINs they need for compliance. EPA also chose to exempt blenders and distributors from any compliance obligations, even though they control the means of compliance – the ability to blend – and are best positioned to expand the renewable fuel blending and distribution infrastructure.

This asymmetry between those who can blend and generate the means of compliance (RINs) and those who have the compliance obligation but not the means to comply, raised the obvious prospect that those who generated RINs might not invest in generating more, since they had no compliance obligation, but would instead keep the money as profit or invest it in improving their own market position in ways with no relation to renewable fuels.

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Correspondence Management System

Control Number: AX-16-000-4427
Printing Date: February 16, 2016 12:48:10

Citizen Information

Citizen/Originator: **Johnson, Jeh Charles**
Organization: U. S. Department of Homeland Security
Address: U.S. Department of Homeland Security, Washington, DC 20528

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-4427	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Feb 11, 2016	**Received Date:**	Feb 16, 2016
Addressee:	OEX-Director - OEX	**Addressee Org:**	EPA
Contact Type:	MEM (Memo)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - Appointment of a Federal Coordinator for the 120th Boston Marathon
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: R1 - Region 1 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	OHS	Feb 16, 2016

History

Action By	Office	Action	Date
Ken Labbe	OEX	Forward control to OHS	Feb 16, 2016

Comments

Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

February 11, 2016

MEMORANDUM FOR DISTRIBUTION

FROM: Jeh Charles Johnson

SUBJECT: Appointment of a Federal Coordinator for the 120th Boston Marathon

The 120th Boston Marathon, a Level 2 Special Event Assessment Rating event, is scheduled to take place in Boston, Massachusetts, on April 18, 2016 and will be a widely-attended, high-profile special event that will require significant coordination among federal, state, and local authorities.

I have appointed a member of the local federal community, Lisa Quinn, Special Agent in Charge, Boston Field Office, United States Secret Service, to serve as the Federal Coordinator for this event. Her appointment will remain in effect through the event's conclusion.

The Federal Coordinator is my local representative and is the primary, although not exclusive, federal point of contact for the 120th Boston Marathon. Special Agent in Charge Quinn will facilitate and coordinate federal incident management and security assistance activities, as appropriate. She will not impede or affect the authority of other federal officials to execute their duties and responsibilities under applicable laws, orders, or directives. Moreover, the Federal Coordinator will not direct or replace the local incident command structure, but in the event of an incident, will serve in an advisory capacity to the local incident command structure.

I am confident that Special Agent in Charge Quinn will provide the leadership necessary for this event, and I request that you provide her with the fullest support in the execution of these responsibilities. Questions can be sent to Don McKinnon, Chief, Special Events Program, Office of Operations Coordination, at 202-447-4150 or donald.mckinnon@hq.dhs.gov.

Attachments:
A. Federal Coordinator Roles and Responsibilities
B. Biography of Lisa Quinn

ED_001174_00000121

Correspondence Management System

Control Number: AX-16-000-4433
Printing Date: February 16, 2016 02:36:17

Citizen Information

Citizen/Originator: **White, Arnette C**
Organization: Executive Office of the President, Office of Management Budget
Address: 725 17th Street, N.W., Washington, DC 20503

Donovan, Shaun
Organization: Executive Office of the President, Office of Management and Budget
Address: 725 17th Street, N.W., Washington, DC 20503

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-4433	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Feb 12, 2016	**Received Date:**	Feb 12, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - 2016 Discount Rates for OMB Circular No. A-94
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Matthew Klasen - OW
OARM - OARM -- Immediate Office
OP - Office of Policy
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OCFO	Feb 16, 2016

History

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

February 12, 2016

M-16-05

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

FROM: Shaun Donovan
Director

SUBJECT: 2016 Discount Rates for OMB Circular No. A-94

On October 29, 1992, OMB issued a revision to OMB Circular No. A-94, "Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs." The revision established new discount rate guidelines for use in benefit-cost and other types of economic analysis.

The revised Circular specifies certain discount rates that will be updated annually when the interest rate and inflation assumptions in the budget are changed. These discount rates are found in Appendix C of the revised Circular. The attachment to this memorandum is an update of Appendix C. It provides discount rates that will be in effect for the calendar year 2016.

The rates presented in Appendix C do not apply to regulatory analysis or benefit-cost analysis of public investment. They are to be used for lease-purchase and cost-effectiveness analysis, as specified in the Circular.

Attachment

Correspondence Management System
Control Number: AX-16-000-4439
Printing Date: February 16, 2016 01:42:07

Citizen Information

Citizen/Originator: **Alonso, Richard**
Organization: Bracewell & Giuliani
Address: 2000 K Street, N.W., Washington, DC 20006-1809

Walsh, Richard J
Organization: Valero Energy Corporation
Address: PO Box 696000, San Antonio, TX 78269-6000

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-000-4439	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Mar 2, 2016	**# of Extensions:**	0
Letter Date:	Feb 12, 2016	**Received Date:**	Feb 12, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Daily Reading File - Petition to Reconsider and Revise the Point of Obligation in the Renewable Fuel Standard Program
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OGC - Office of General Counsel -- Immediate Office
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OAR	Feb 16, 2016	Mar 2, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

Richard J. Walsh
Senior Vice President
and Deputy General Counsel
Litigation and Regulatory Law

February 12, 2016

The Honorable Gina McCarthy
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20160

RE: Petition to Reconsider and Revise the Point of Obligation in the RFS Program

Dear Administrator McCarthy:

Pursuant to Section 307(d)(7)(B) of the Clean Air Act, 42 U.S.C. § 7607(d)(7)(B), 5 U.S.C. § 553(e), and *Oljato Chapter of the Navajo Tribe v. Train,* 515 F.2d 654, 666 (D.C. Cir. 1975), Valero Energy Corporation and its subsidiaries ("Valero") hereby submit the attached petition for the U.S. Environmental Protection Agency ("EPA" or "Agency") to reconsider and revise the point of obligation in the Renewable Fuel Standard ("RFS") program. In other words, Valero requests reconsideration of who is an "obligated party" under the RFS program. *See* 75 Fed. Reg. 14,670 (Mar. 26, 2010); 72 Fed. Reg. 23,900 (May 1, 2007), *as amended* in 73 Fed. Reg. 57,248 (Oct. 2, 2008), 73 Fed. Reg. 71,560 (Nov. 25, 2008), and 73 Fed. Reg. 71,940 (Nov. 26, 2008); 70 Fed. Reg. 77,325 (Dec. 30, 2005). Valero petitions EPA to reconsider defining "obligated party" as the entity that holds title to the gasoline or diesel fuel, immediately prior to transfer from the truck loading terminal or bulk terminal to a retail outlet, wholesale purchaser-consumer or ultimate consumer, as reflected in the records maintained for federal excise tax purposes. Making this change will address supply constraints on renewable fuel in the transportation fuel market that impede the market's ability to respond to renewable fuel volume mandates.

Please contact me with any questions regarding this petition.

Sincerely,

Richard J. Walsh
Senior Vice President and
Deputy General Counsel

One Valero Way • San Antonio, Texas 78249-1616
Post Office Box 696000 • San Antonio, Texas 78269-6000 • Telephone (210) 345-2604 • Facsimile (210) 370-4685
richard.walsh@valero.com

Valero's Petition to Reconsider and Revise the Point of Obligation in the RFS Program

Pursuant to Section 307(d)(7)(B) of the Clean Air Act, 42 U.S.C. § 7607(d)(7)(B), 5 U.S.C. § 553(e), and *Oljato Chapter of the Navajo Tribe v. Train,* 515 F.2d 654, 666 (D.C. Cir. 1975), Valero Energy Corporation and its subsidiaries ("Valero") hereby petition the U.S. Environmental Protection Agency ("EPA" or the "Agency") to reconsider and revise the point of obligation in the Renewable Fuel Standard ("RFS") program. Specifically, Valero requests reconsideration of 40 C.F.R. § 80.1406, which defines who is an "obligated party" under the RFS program.[1] In doing so, EPA should move the point of obligation by defining "obligated party" as the entity that holds title to the gasoline or diesel fuel, immediately prior to transfer from the truck loading terminal or bulk terminal to a retail outlet, wholesale purchaser-consumer or ultimate consumer, as reflected in the records maintained for federal excise tax purposes. Making this change will address supply constraints on renewable fuel in the transportation fuel market that impede the market's ability to respond to renewable fuel volume mandates.

Valero is uniquely situated to raise issues associated with the point of obligation in the RFS program, due to its direct experience with the rules from several commercial perspectives. As a refiner, Valero is an obligated party under the RFS rules and must comply with the RFS volume mandates. Valero owns and operates 13 petroleum refineries located in the United States. With a combined throughput capacity of approximately 2.9 million barrels per day, Valero is the world's largest independent refiner. Valero is a major fuel wholesaler and a renewable fuels producer. However, only one-third of its fuel goes into Valero branded or contract wholesale markets. Valero was the first traditional petroleum refiner to enter large-scale ethanol production and now has 11 state-of-the-art plants located throughout the Midwest, including Iowa, Nebraska, South Dakota, Ohio, Indiana, Wisconsin, and Minnesota. This makes Valero the third largest ethanol producer in the United States. Valero has further diversified its renewable investments into Diamond Green Diesel, a 12,000 barrel-per-day renewable diesel plant next to the Valero St. Charles Refinery, making Valero the largest renewable diesel producer in the U.S.

Valero's interests are unique from other refiners, ethanol producers and biofuels producers. Because of its uniquely diversified position, Valero engages with and must balance the interests and concerns of different stakeholders involved in the RFS program. Valero's business interests thus reflect concerns of a broad spectrum of market participants that EPA must consider to ensure that the RFS program functions as Congress intended and to properly implement the terms of the Clean Air Act ("CAA") RFS provisions.

I. Background and Summary of Grounds for Reconsideration

A central feature of the RFS program is to determine the appropriate entity to be obligated to meet the renewable fuel volume requirements. In the first RFS rule, EPA placed the obligation on refiners, blenders and importers of gasoline.[2] Then in the 2007 and 2010

[1] The rules that Valero seeks reconsideration of are: 75 Fed. Reg. 14,670 (Mar. 26, 2010); 72 Fed. Reg. 23,900 (May 1, 2007), *as amended in* 73 Fed. Reg. 57,248 (Oct. 2, 2008), 73 Fed. Reg. 71,560 (Nov. 25, 2008), and 73 Fed. Reg. 71,940 (Nov. 26, 2008); 70 Fed. Reg. 77,325 (Dec. 30, 2005) (establishing the RVO for 2006).
[2] *See* 70 Fed. Reg. 77,325 (Dec. 30, 2005) (establishing the RVO for 2006).

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regulations, the EPA placed the obligation to demonstrate compliance with the RFS program on refiners and importers of gasoline or diesel fuel. In these rules, EPA considered but decided against placing the obligation on the blenders that produce the finished products that contain biofuels.[3]

Grounds warranting reconsideration of these rules, which are identified in the following paragraph and are "of central relevance to the outcome of the rule[s]," arose after the public comment periods for these rules.[4] Because these grounds arose after these rules had been issued, Valero could not have raised them during the public comment periods for the 2006, 2007 and 2010 rules. The CAA requires that EPA "shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed."[5] Separately, the Administrative Procedure Act provides a right to petition for amendment of a rule.[6]

The grounds arising after EPA's prior rule took place in the final rule issued on December 14, 2015.[7] In this rule, for the first time, EPA used its general waiver authority to waive a portion of the advanced biofuels and total renewable fuel requirements based on inadequate supply.[8] Over the course of the RFS program, EPA has acknowledged the existence of constraints on the supply of renewable fuel.[9] But EPA has never before waived Congress's mandated advanced biofuel and total renewable volumes. Also for the first time, EPA concluded that under the RFS program as presently formulated, EPA will not in the near future be able to achieve Congressionally mandated volumes[10] and that the RIN market cannot serve as the instrument to ensure the renewable fuel volumes will be met.[11] In addition, EPA acknowledged the blendwall as a constraint on supply of renewable fuels and EPA nonetheless set volumes higher than the blendwall. These actions and regulatory conclusions demonstrate that EPA cannot now, or in the future, "ensure that the statutory volumes are met," under the existing RFS regulatory program. These constitute new grounds warranting convening a reconsideration proceeding.

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[3] *See* 75 Fed. Reg. 14,670 (Mar. 26, 2010); 72 Fed. Reg. 23,900 (May 1, 2007), *as amended in* 73 Fed. Reg. 57,248 (Oct. 2, 2008), 73 Fed. Reg. 71,560 (Nov. 25, 2008), and 73 Fed. Reg. 71,940 (Nov. 26, 2008).
[4] 42 U.S.C. § 7607(d)(7)(B); *see also Oljato Chapter of the Navajo Tribe v. Train,* 515 F.2d 654, 666 (D.C. Cir. 1975).
[5] 42 U.S.C. § 7607(d)(7)(B).
[6] *See* 5 U.S.C. § 553(e).
[7] *See* 80 Fed. Reg. 77,420 (Dec. 14, 2015).
[8] *See* 80 Fed. Reg. at 77,435 (discussing "inadequate domestic supply").
[9] *See, e.g.,* 78 Fed. Reg. 9,282, 9,288 (Feb.7, 2013) (discussing that cellulosic biofuel production had been "limited to small-scale research and development, pilot, and demonstration-scale facilities"); 75 Fed. Reg. 76,790, 76,795 (Dec. 9, 2010) ("No approved pathway currently exists under the RFS program for the generation of RINs for methanol. . . ."); 58 Fed. Reg. 14,670, 14,758 (Mar. 26, 2010) (acknowledging the need for additional terminal storage capacity, truck receipt facilities for biofuels and equipment to blend biofuels, as well as additional E85 retail facilities).
[10] *See, e.g.,* 80 Fed. Reg. at 77,433 ("In the longer term, sustained ambitious volume requirements are necessary to provide the certainty of a guaranteed future market that is needed by investors").
[11] *See, e.g.,* 80 Fed. Reg. at 77,459 ("Our analysis suggests that the market was not sufficiently responsive to higher RIN prices to drive large increases in E85 sales volumes. . . ."); Memorandum from Dallas Burkholder, Office of Transportation & Air Quality, U.S. EPA, An Assessment of the Impact of RIN Prices on the Retail Price of E85 at 10-11 (Nov. 2015) (the "Burkholder Memo").

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EPA agrees that it has the inherent authority under the CAA to "consider the full range of constraints, including legal, fuel infrastructure and other constraints, that could result in an inadequate supply of qualifying fuels to consumers. . . ."[12] Nevertheless, EPA has steadfastly refused to relieve the one supply constraint that is fully within its control – misplacement of the point of obligation.

As detailed below, the supply constraints created by the existing point of obligation can be redressed with a simple revision to EPA's regulations. EPA should propose and finalize revisions to the definition of "obligated party" in 40 C.F.R. § 80.1406.

Valero supports the use of EPA's waiver authority for 2014, 2015 and 2016, but EPA must also take action to move the point of obligation so that supply constraints are lifted. Doing so will further the statutory goal of meeting increasing statutory volume mandates or any increasing mandates EPA sets while continuing to use the waiver authorities. Given the current difficulties in meeting the statutory volumes established in the RFS program and EPA's recent need to exercise its general waiver authority, the time to reconsider the point of obligation is now. The increased volume mandates and EPA's recognition of market constraints in the 2015 renewable volume obligation ("RVO") rule compel EPA to take action to remove the market constraint imposed by its regulations. As EPA has stated, its authority to interpret the term "inadequate supply" is broad. Therefore, it is not reasonable for EPA to unnecessarily constrain its assessment of the adequacy of supply by failing to review of the impacts of the RFS requirements on obligated parties. Rather, EPA should reconsider the term "obligated party" to verify whether moving the point of obligation might relieve ongoing inefficiencies in the program. By interpreting "inadequate supply" broadly such that it includes reviewing the point of obligation, EPA will be utilizing all means at its disposal to try to fulfill the statutory mandate in conjunction with determining the extent to which it is necessary to exercise its waiver authority.

II. The CAA requires changing the point of obligation to relieve supply constraints

Congress adopted the Clean Air Act "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." CAA § 101(b)(1). The fuels provisions of the CAA are a significant aspect of Congress's effort to accomplish these statutory goals. *See generally* CAA § 211. Through the RFS program, Congress mandated the introduction of statutory volumes of renewable fuel into the pool of transportation fuel. CAA § 211(o)(2)(A)(i).

Congress set the initial statutory volumes at levels that were considerably lower than they are now. Unsurprisingly, the deficiencies of the current program mechanisms were not as obvious at these lower volumes. The current higher volume mandates have exacerbated the problems created by the misplaced point of obligation. Congress foresaw the need for revisions to the RFS program and thus, mandated an ongoing obligation for EPA to "conduct periodic reviews of . . . the impacts of the requirements . . . on each individual and entity" regulated under the program "[t]o allow for appropriate adjustment" of the statutory volumes.[13] This obligation

[12] 80 Fed. Reg. at 77,438.
[13] CAA § 211(o)(11).

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Correspondence Management System
Control Number: AX-16-001-1162
Printing Date: August 16, 2016 10:13:33

Citizen Information

Citizen/Originator: **Slagle, Dennis R**
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Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1162	**Alternate Number:**	7769 7190 11859
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Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	AA-OAR-Assistant Administrator - OAR	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.
Subject: DRF - Daily Reading File - The Volvo Group and our coalition colleagues committed to meeting all the requirements in the NPRM despite the risky market forces in play and the looming NOx reductions.
Instructions: AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OP - Office of Policy
OPA - Office of Public Affairs

Lead Information

Lead Author: Joseph Simon
Office: OAR-OTAQ-ASD
Due Date: Aug 24, 2016
Assigned Date: Aug 15, 2016
Complete Date: N/A
Instruction: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Brenda Salvador	OEX	OAR	Aug 12, 2016	Aug 26, 2016	N/A
	Instruction: N/A				
Martha Faulkner	OAR	OAR-OTAQ	Aug 12, 2016	Aug 24, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

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VOLVO

Volvo Group Trucks

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OFFICE OF THE
EXECUTIVE SECRETARIAT

August 11, 2016

Ms. Gina McCarthy, Administrator, U.S. Environmental Protection Agency
Dr. Mark Rosekind, Administrator, National Highway Traffic Safety Administration, U.S. Dept of Transportation

Dear Ms. McCarthy and Dr. Rosekind,

On July 11th this year, the Volvo Group wrote to you as part of a coalition of heavy-duty truck manufacturers, raising concerns about the Agencies' second *Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium and Heavy-Duty Engines and Vehicles* ("Phase 2"). In that letter, Daimler Trucks, Inc., Navistar Inc., PACCAR Inc., and the Volvo Group, the regulated entities making up almost 80% of US medium-duty and heavy-duty engine sales, all stressed how critical it is to the success of this important rule that the Agencies not finalize even more stringent CO2 emissions standards than the already aggressive targets in the Notice of Proposed Rulemaking. We explained that significant reductions in fuel prices have dramatically extended projected customer payback periods, and that an independent research group is already forecasting a pre-buy/no-buy market outcome based on the proposed standards. Furthermore, looming NOx reductions in the timeframe of the Phase 2 rule will frustrate our ability to comply with the engine program CO2 standards, and vice-versa.

The Volvo Group would like to take this opportunity to address you directly on matters more specific to our company. As mentioned, the *proposed* regulation is already very aggressive. A 32% reduction in fuel consumption from the tractor-trailer combination within the next decade will be an extraordinary achievement for an industry whose customers have upheld fuel efficiency as a top priority for over a century. Most fleets monitor fuel consumption to the tenth of a mile per gallon, and can choose one manufacturer's product over another's on the basis of less than a 1% fuel efficiency advantage. While we and other OEMs have opposed the adoption of separate engine standards as unnecessary and even damaging to the goals of the program, the Agencies wisely set these engine program standards at levels that give manufacturers the necessary flexibility to offer the most *cost effective* balance of engine and vehicle technologies to our customers, and that minimized the risk of the unintended consequences the Agencies carefully and accurately articulated in the Regulatory Impact Analysis. The Volvo Group and our coalition colleagues committed to meeting all the requirements in the NPRM despite the risky market forces in play and the looming NOx reductions.

In response to the coming Phase 2 requirements, the Volvo Group has taken a serious look at technology development plans and US product launches over the span of this challenging regulation. We have pulled forward the introduction of technologies and major platform

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launches. In this process, when weighing the merits of various technology solutions, we have accelerated, and directed a larger portion of our planned investments toward *vehicle* efficiency technologies and platform launches than we have toward *engine* investments and platform launches – precisely because our analyses indicated this would provide the most cost effective path to compliance. The Phase 2 NPRM, and more particularly the engine program targets proposed, gave us the flexibility to make these decisions on the basis of *cost effectiveness*, a key component of the rule's success.

Any increases in the stringency of the engine program at this late date will introduce substantial uncertainty in Volvo's planning, without opportunity to provide input and feedback to EPA through the rulemaking process. We expect that any increase in engine stringency **will force our hand to take a more costly technology path, inevitably increasing costs for our customers without any net efficiency gains or CO2 reductions.** Increasing engine stringency is all risk, with no reward. Any such Agency action undermines an important tenet of rulemaking, cost effectiveness.

Please also recognize:

- Any engine efficiency gains are already, and more accurately, assessed and accounted for within the complete vehicle programs and their standards which are the foundation of this rule.
- The Agencies should be in the business of setting targets, leaving manufacturers the freedom of innovation to comply. Apportioning minimum gains to specific components, such as the engine, amounts to dictating technology winners and losers, at the expense of the optimal solutions.
- Make no mistake about it -- adjustments to "baselines" that drive more aggressive standards force the adoption of more technology to comply.
- Truck OEM dealers come face-to-face with their customers to decide on the optimal balance of engine and vehicle technologies to satisfy the demands of the customers' specific applications. The Agencies should not be swayed to compromise this optimization process toward *engine* technologies due to pressure from component suppliers, or from NGO's who don't have a full appreciation for the negative impacts on future NOx reductions they would likely also be seeking to protect.
- The pre-buy/no-buy experience of 2006/2007 in response to the introduction of diesel particulate filters, a market disruption that led to the loss of thousands of jobs for Volvo and other OEMs' employees, is something we all desperately need to avoid repeating. We know from this experience that the heavy-duty customer base can be highly skeptical of new engine technology. Downtime is extremely costly, and will quickly erase any customer's business case projections of technology payback.
- Increasing engine stringency does not augment the total CO2 tons saved by this rule. Why invite all of the unintended consequences your Agencies and others have outlined, for no environmental gain?

The Volvo Group, in full alignment with our heavy-duty truck OEM colleagues, maintains our position that that the Agencies must not increase the stringency of vehicle or engine standards beyond levels proposed in the NPRM.

The Volvo Group thanks you for giving us the opportunity to voice our concerns in this critical matter. It's imperative that we express these concerns on behalf of our customer base as well, as it's difficult for most to be sufficiently informed to comment independently. Clearly, however, they will make their opinions known with their purchase decisions in the timeframe of the Phase

2 rule. We are hopeful you will direct your staffs to finalize the rule in a way that truly benefits the environment, while ensuring the shared success of your agencies, the manufacturers, and truck customers.

Sincerely,

Dennis Slagle
Executive Vice President, Volvo Group,
and President, Mack Trucks

Cc:

Dr. Mark Rosekind
Administrator
National Highway Traffic Safety Administration, U.S. Dept of Transportation

Mr. Ryan Posten
Associate Administrator, Rulemaking
National Highway Traffic Safety Administration, U.S. Dept of Transportation

Janet McCabe
Acting Assistant Administrator, Office of Air and Radiation
U.S. Environmental Protection Agency

Chris Grundler
Director, Office of Transportation and Air Quality
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Howard Shelanski
Administrator, Office of Information and Regulatory Affairs
White House

Dan Utech
Special Assistant to the President for Energy and Climate Change
White House

Correspondence Management System

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Citizen Information

Citizen/Originator: **White, Arnette C**
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Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

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Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - Guidance on Awards for SES and SL/ST employees for Fiscal Year 2017
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Eileen Naples - AO-IO
OCFO - OCFO -- Immediate Office
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OARM	Aug 16, 2016

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

August 12, 2016

THE DIRECTOR

M-16-22

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: BETH F. COBERT
ACTING DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT

SHAUN DONOVAN
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

SUBJECT: Guidance on Awards for SES and SL/ST employees for Fiscal Year 2017

As required by Executive Order (EO) 13714, – "Strengthening the Senior Executive Service (SES)" (https://www.whitehouse.gov/the-press-office/2015/12/15/executive-order-strengthening-senior-executive-service), issued on December 15, 2015, the U.S. Office of Personnel Management (OPM) and the U.S. Office of Management and Budget (OMB) are providing additional guidance related to performance awards for members of the SES and Senior Level (SL) and Senior Professional and Scientific (ST) employees. In EO 13714, the President stated that starting in Fiscal Year (FY) 2017 agencies should limit their aggregate spending on agency performance awards for SES and SL/ST employees to 7.5 percent. Prior to 2010, there was no spending limit on SL/ST performance awards and the statutory limit of 10 percent applied to SES performance awards. The President also stated that agencies should grant awards in a manner that provides meaningfully greater rewards to top performers. Pursuant to EO 13714's direction to provide additional guidance as to the distribution of such awards, OPM now further advises that agencies should allocate awards made under the new recommended limit to be able to reward and retain more top performers by:

- providing substantial monetary awards for the very best SES and SL/ST performers; and,
- allowing more variance of award amounts among rating levels, which is a common attribute of pay-for-performance systems.

Agencies are encouraged to support good performance management throughout the year by providing ongoing feedback and promptly and appropriately recognizing excellent achievements. Agencies should use all authorized categories of awards, as appropriate, to recognize the accomplishments of their executives throughout the year, including time-off and individual contribution awards (e.g., special act, suggestion, invention, etc.). Agencies are reminded, however, that individual contribution awards must be granted in adherence with 5 CFR Part 451 and not as a substitute or an enhancement of annual performance-based awards granted pursuant to 5 CFR 534.405. In addition, agencies can use such awards to recognize executives' significant contributions toward mission even if they are not rated at the highest rating levels, which is also a common attribute of pay for performance.

Budgetary Limitations for Individual Monetary Awards

For FY 2017, these recommended budgetary limits apply to agency spending for individual monetary awards only, which include rating-based performance awards and individual contribution (e.g., special act) awards. The funding limits for the different award categories for SES and SL/ST are to be managed separately.

Agencies are advised to limit total awards spending on the following categories of awards:

- **SES individual rating-based performance awards:** Agencies may spend up to 7.5 percent of the aggregate salaries of their career executives at the end of the previous fiscal year on individual rating-based performance awards for career members of the SES.

- **SL/ST individual rating-based performance awards:** Agencies may spend up to 7.5 percent of the aggregate salaries of their SL/ST employees in career, career-conditional, or equivalent positions in the excepted service at the end of the previous fiscal year on individual rating-based performance awards for those SL/ST employees.

- **SES individual contribution awards:** Agencies may spend up to 1.0 percent of the aggregate salaries of their career executives at the end of the previous fiscal year on individual contribution awards (e.g., special act awards) that are paid throughout the fiscal year for career members of the SES.

- **SL/ST individual contribution awards:** Agencies may spend up to 1.0 percent of the aggregate salaries of their SL/ST employees in career, career-conditional, or equivalent positions in the excepted service at the end of the previous fiscal year on individual contribution awards (e.g., special act awards) that are paid throughout the fiscal year for those SL/ST employees.

Previous awards spending guidance focused on the following two groups of awards and set spending limitations on each: (1) SES/SL/ST rating-based performance awards and (2) individual contribution awards for SES/SL/ST combined with both ratings-based performance awards and individual contribution awards for non-SES/SL/ST. To promote clarity and increased precision in applying and tracking awards spending, this guidance is now further separating the respective award categories and spending limitations to address SES and SL/ST personnel separate from non-SES/SL/ST personnel (e.g., General Schedule employees).

Guidance on funding for non-SES/SL/ST awards will be addressed in a separate memorandum.

Additional Guidance on Meaningful Use of Individual Monetary Awards for Top SES and SL/ST Performers

Recognizing that the impact of the application of an agency's revised program may not be determined until the performance ratings are received and finalized, agencies should start discussing the philosophy of how the agency expects to apply the new 7.5 percent limit, solicit input and ideas, and generally communicate what changes can be expected.

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To ensure the continued integrity of the awards programs, agencies should allocate awards in a manner that provides meaningfully greater rewards to top performers. Agencies should ensure only SES and SL/ST employees who have demonstrated the highest levels of individual performance and/or contribution to the agency's performance receive the highest annual summary ratings and the largest corresponding performance awards, pay adjustments, and rates of pay. Agencies are encouraged to use these awards to recognize those senior leaders who take on the most challenging assignments, use exemplary innovative and collaborative methods, take on challenging rotational assignments, and/or have the greatest impact on agency priorities and mission imperatives in a given performance period. Agencies should ensure differentiation is evident individually in the performance awards, pay adjustments, and rates of pay; and OPM and OMB will review and verify this through the appraisal system certification process.

OPM and OMB will continue to monitor awards data that agencies provide to OPM under the agencies' regular reporting procedures for compliance with these limitations. Agencies may be asked to provide additional data regarding award categories and amounts, and OPM would use this data to conduct further analysis at a more granular level. OPM will provide more information to agencies regarding specific data requests as needed.

Coverage

These recommended budgetary limits apply to all departments and agencies for all members of the SES and SL/ST employees, except political appointees covered by the freeze on discretionary spending. The President's August 3, 2010, memorandum freezing discretionary awards, bonuses, and similar payments for political appointees continues to be in effect. Agencies should continue to apply this freeze in accordance with OPM's guidance at https://www.chcoc.gov/content/guidance-freeze-discretionary-awards-bonuses-and-similar-payments-federal-employees-serving.

Effective Date

The budgetary limits specified in this memorandum apply to awards paid during FY 2017, with effective dates from October 1, 2016 through September 30, 2017.

Additional Information

Agency Chief Human Capital Officers and/or Human Resources Directors should contact Stephen T. Shih, Deputy Associate Director for Senior Executive Services and Performance Management, in OPM's Employee Services, at (202) 606-8046 or performance-management@opm.gov, for any questions regarding this policy. Employees should contact their agency human resources offices for assistance.

cc: Chief Human Capital Officers
Human Resources Directors
Council of the Inspectors General on Integrity and Efficiency
Inspectors General
Small Agency Council

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Correspondence Management System

Control Number: AX-16-001-1221
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Citizen Information

Citizen/Originator: **Cook, Kenneth A.**
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Brockovich, Erin
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Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

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Signature:	AD-Administrator	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.
Subject: DRF - Daily Reading File - Concern about the continued delay in the setting of a federal maximum contaminant level for hexavalent chromium in drinking water
Instructions: AD-Prepare draft response for the Administrator's signature
Instruction Note: N/A
General Notes: cc: Beauvais, Shapiro, Gilinsky, Peck, Lousberg, Orvin
CC: Derek Threet - AO-IO
OCIR-ORO - Office of Regional Operations
OCSPP - OCSPP - Immediate Office
OP - Office of Policy
OPA - Office of Public Affairs
R9 - Region 9 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OW	Aug 16, 2016	Aug 30, 2016	N/A
	Instruction: AD-Prepare draft response for the Administrator's signature				
Wanda Fields	OW	OW-OGWDW	Aug 17, 2016	Aug 26, 2016	N/A
	Instruction: N/A				

Supporting Information

ED_001174_00000105

Aug. 16, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Federal Building
1200 Pennsylvania Ave. NW
Washington, D.C.

Re: Hexavalent Chromium – Urgent Need to Set MCL

Dear Administrator McCarthy,

The Environmental Working Group (EWG) is a nonprofit research and advocacy organization with significant experience and expertise on drinking water contaminants, including hexavalent chromium. Erin Brockovich is a consumer protection advocate whose work on hexavalent chromium goes back to 1993, when she uncovered the severe contamination of drinking water in Hinkley, Calif., by hexavalent chromium from Pacific Gas and Electric Company's power plant cooling towers.

After Brockovich's work brought the contaminant to national attention, tests commissioned by EWG in 2010 found hexavalent chromium in the drinking water supplies in 31 out of 35 U.S. cities.[1] In response to these findings, and a subsequent petition by EWG and other groups, EPA added hexavalent chromium to the list of pollutants tested under the Unregulated Contaminant Monitoring Rule 3. The results of those tests revealed that hexavalent chromium contaminates drinking water supplies serving millions of Americans in all 50 states.[2] Yet the process of setting a federal Maximum Contaminant Level for hexavalent chromium in drinking water remains stalled in the Integrated Risk Information System.

We write with deep concern about this continued delay. It is clear that the delay is sowing confusion among state and local regulators, utilities and the public about how much hexavalent chromium is safe in drinking water. This confusion is resulting many Americans' exposure to unregulated levels of hexavalent chromium, which federal, state and independent scientists agree pose health hazards.

Federal regulation of hexavalent chromium is woefully inadequate. The current MCL of 100 µg/L for *total* chromium was set 25 years ago, in 1991. This MCL is badly outdated and

[1] Rebecca Sutton, Ph.D., Environmental Working Group, Chromium-6 in U.S. Tap Water (2012), http://www.ewg.org/research/chromium6-in-tap-water
[2] U.S. Environmental Protection Agency, Monitoring the Occurrence of Unregulated Drinking Water Contaminants, http://water.epa.gov/lawsregs/rulesregs/sdwa/ucmr/ (last visited Aug. 14, 2016).

numerous studies and reviews, including those by the National Toxicology Program[3] and the California Office of Health Hazard Assessment[4], indicate that this level is far too high to protect human health. While questions remain about what level of exposure to hexavalent chromium is safe, there is scientific consensus that the chemical is hazardous at extremely low concentrations. Yet the MCL is only for *total* chromium, not just hexavalent chromium. Hexavalent chromium or chromium-6 is far more toxic than trivalent chromium, or chromium-3, the other commonly occurring form of the chemical. Setting an MCL maximum level for these two kinds of chromium combined conflates the individual risk of each chemical and allows for legally permissible hexavalent chromium levels that do not adequately protect public health. EPA should instead set an MCL specifically for hexavalent chromium to more accurately reflect the actual level of risk posed by hexavalent chromium alone.

Since 2008, EPA has taken modest steps to re-assess the current MCL for total chromium and to monitor current levels of hexavalent chromium in some systems. EWG commented on EPA's 2010 Toxicological Review of Hexavalent Chromium[5] and the 2014 IRIS review.[6] Despite comments from numerous advocates and significant evidence that hexavalent chromium poses substantial health risks, industry delay tactics have stalled federal action. As a result, there is still neither an updated MCL for total chromium nor a specific MCL for hexavalent chromium.

In the absence of a federal standard, only California has set an enforceable legal limit for hexavalent chromium in drinking water – 10 µg/L, or tenfold lower than the federal MCL for total chromium. California's Public Health Goal – the level protective against cancer and other diseases if consumed for a lifetime – is far lower, 0.02 µg/L. EWG has criticized the California Department of Public Health for underestimating the benefits and overestimating water treatment costs in setting the drinking water standard. The MCL at 10 µg/L is inadequate to protect public health, in light of the 500-fold gap between the PHG and the MCL.[7] Nonetheless, the MCL provides unambiguous guidance to regulators, utilities and citizens on the legally acceptable level of hexavalent chromium in drinking water.

Contrast that with recent events in North Carolina, which exemplify the discord that has resulted in the absence of federal action. Last week, North Carolina's state epidemiologist, Dr. Megan

[3] National Toxicology Program, NTP Technical Report on the Toxicology and Carcinogenesis Studies of Sodium Dichromate Dihydrate (Cas No. 7789-12-0) in F344/N Rats and B6C3F1 Mice (Drinking Water Studies), NTP TR 546 (2008), https://ntp.niehs.nih.gov/ntp/htdocs/lt_rpts/tr546.pdf.

[4] Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency, Final Technical Support Document On Public Health Goal For Hexavalent Chromium In Drinking Water (2011), http://www.oehha.ca.gov/water/phg/072911Cr6PHG.html.

[5] Letter from Rebecca Sutton, Ph.D., and Renee Sharp, Senior Scientists, Environmental Working Group, to Vincent Cogliano, Acting Director, Integrated Risk Information System, Environmental Protection Agency (Aug. 30, 2011), http://www.ewg.org/news/testimony-official-correspondence/ewg-urges-epa-protect-public-chromium-6-tap-water.

[6] Environmental Working Group, Comment Letter on EPA's Integrated Risk Information System Toxicological Review for Hexavalent Chromium (June 9, 2014), http://www.ewg.org/testimony-official-correspondence/hexavalent-chromium-carcinogenic-humans-comments-environmental.

[7] Clean Water Action, Center for Public Environmental Oversight, Integrated Resource Management, and Natural Resources Defense Council, Comment Letter on California Department of Health's Proposed Rule to Set Maximum Contaminant Level of 10 µg/L for Hexavalent Chromium (Oct. 11, 2013), http://www.ewg.org/testimony-official-correspondence/ewg-comments-california-department-public-health-proposed-chromium.

Davies, publicly resigned after seven years, due to disputes over how to limit citizens' exposure to hexavalent chromium in wells near Duke Energy's coal ash pits. Until March, well owners had been advised not to drink the well water because hexavalent chromium levels represented a risk greater than one in a million for cancer – a temporary state standard for those wells.[8] Both Davies and Ken Rudo, a state toxicologist who helped set the one in a million risk standard, have testified that they were later pressured by state officials to lower those standards, allowing the drinking water advisories to be rescinded. State officials also repeatedly denied Rudo's requests to extend the standard beyond the wells close to the coal ash pits to the entire state, claiming the standard was too cautious. The same officials allegedly told Rudo to inform citizens whose water comes from the contaminated wells that the water met all state and federal standards. While this was true, it was disingenuous and dangerous.

While Davies claimed in her resignation letter[9] that the administration is deliberately misleading the public about safe levels of hexavalent chromium, there is little that she or other concerned state officials or citizens can do under current law, as there is no federal enforceable health-protective standard to which she can point. Further, because North Carolina's guidelines are within the outdated limit set for total chromium levels, there is little room for legal recourse, even if those levels pose unacceptable risks.

States like North Carolina, where industrial byproducts like coal ash increase the risk of hexavalent chromium contamination, need a federal mandate to set strong, health-protective standards for levels of the contaminant in drinking water. Without it, states will continue to use inconsistent and potentially unsafe guidelines, and leave citizens confused about whether their drinking water is safe.

It has been 25 years since EPA set a total chromium MCL and eight years since EPA began reviewing the health effects of hexavalent chromium. A health protective MCL specific to hexavalent chromium is overdue and urgently needed. We respectfully request that you use your authority under the Safe Drinking Water Act to set this standard as soon as possible.

Sincerely,

Ken Cook
President
Environmental Working Group
Washington, D.C.

Erin Brockovich
Consumer Protection Advocate
Weitz & Lutzengberg, P.C.
Los Angeles, Calif.

[8] North Carolina Department of Environmental Quality, Final Report on the Study of Standards and Health Screening Levels for Hexavalent Chromium and Vanadium (2016) http://www.ncleg.net/documentsites/committees/ERC/ERC%20Reports%20Received/2016/Department%20of%20Environmental%20Quality/2016-April%20Study%20of%20Cr(VI)%20and%20V%20Stds.pdf.

[9] Letter from Megan Davies, MD, Epidemiology Section Chief and State Epidemiologist, North Carolina Department of Health and Human Services, to Richard Brajer, Secretary, North Carolina Department of Health and Human Services (Aug. 10, 2016), https://mgtvwncn.files.wordpress.com/2016/08/daviesresignationpdf10aug2016.pdf

Correspondence Management System

Control Number: AX-16-001-1233
Printing Date: August 16, 2016 02:34:31

Citizen Information

Citizen/Originator: **Kirmayer, Kathryn D.**
Organization: Association of American Railroads
Address: 425 Third Street, S.W., Washington, DC 20024

Strafford, Timothy J.
Organization: Association of American Railroads
Address: 425 3rd Street, SW, Washington, DC 20024

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1233	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Aug 15, 2016	**Received Date:**	Aug 15, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Daily Reading File - Petition for Rulemaking of Valero Energy Corporation
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OAR	Aug 16, 2016

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to OAR	Aug 16, 2016

ASSOCIATION OF AMERICAN RAILROADS
425 3rd Street, SW, Suite 1000
Washington, D.C. 20024

Timothy J. Strafford
Associate General Counsel

Phone: (202) 639-2506
Fax: (202) 639-2868
E-mail: tstrafford@aar.org

August 15, 2016

Via FedEx and email

Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Room 3000
Washington D.C. 20460
mccarthy.gina@epa.gov

Janet McCabe
Assistant Administrator for Air and Radiation
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW,
Room 5406,
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Christopher Grundler
Director, Office of Transportation and Air Quality
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW,
Room 6420,
Washington, DC 20460
grundler.christopher@epa.gov

Re: Petition for Rulemaking of Valero Energy Corporation

Dear Ms. McCarthy, Ms. McCabe, and Mr. Grundler:

On June 13, 2016 the Valero Energy Corporation and its subsidiaries ("Valero") filed a petition for rulemaking to amend the rules of the U.S. Environmental Protection Agency ("EPA") regarding the Renewable Fuel Standard ("RFS") program, 40 C.F.R. Part 80 Subpart M. The proposal put forth by Valero would redefine the "obligated party" under the RFS program.

By this letter, the Association of American Railroads ("AAR") replies to express its concern regarding the petition.

The AAR is a non-profit trade association whose membership includes freight railroads that operate 83 percent of the line-haul mileage, employ 95 percent of the workers, and account for 97 percent of the freight revenues of all railroads in the United States, as well as passenger railroads that operate intercity passenger trains and provide commuter rail service.

The AAR takes no position with regard to whether any railroad would qualify as an obligated party if the proposal were ultimately adopted as a final rule, but notes that three Class I freight railroads are included by Valero in Appendix D as entities that qualify as "rack sellers."

The EPA should not move forward on any proposal that would make railroads obligated parties under the RFS program. In its cover letter, Valero expresses its concerns with the current rules because they do not take into account "the ability to affect the amount of renewable fuels blended and sold to consumers." Any change to the RFS program that creates obligations on railroads would suffer from this same infirmity. Railroads use large quantities of diesel fuels in their operations and therefore receive diesel fuels in a variety of physical and commercial ways, but are end-users not resellers, and in no way connected to the production, blending or sale of fuel to retail consumers.

Similarly, Valero advocates adjustments to the RFS program "to ensure that (1) it promotes renewable fuels in the U.S. transportation fuel system and (2) the renewable fuel market operates efficiently without irrational and disproportionate burdens." Creating obligations on railroads would frustrate both of these goals. Obligating railroads would not promote renewable fuels and could create huge administrative compliance and Renewable Identification Number burdens on railroads for no public policy benefit.

In light of the foregoing, the AAR has grave concerns regarding Valero's petition.

Respectfully submitted,

T.J. Strafford / by KAL

Timothy J. Strafford
Counsel for the Association
of American Railroads

Correspondence Management System

Control Number: AX-16-001-1236
Printing Date: August 17, 2016 04:08:46

Citizen Information

Citizen/Originator: **Robinson, Jozetta R.**
Organization: United States Office of Personnel Management
Address: 1900 E Street, NW, Washington, DC 20415

Cobert, Beth F.
Organization: United States Office of Personnel Management
Address: 1900 E Street, NW, Washington, DC 20415

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1236	**Alternate Number:**	N/A
Status:	Closed	**Closed Date:**	Aug 16, 2016
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Aug 5, 2016	**Received Date:**	Aug 16, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - CFC 2016 memorandum for department and agency heads
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: This is a duplicate of AX-16-001-1171
CC: N/A

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	OARM	Aug 16, 2016

History

Action By	Office	Action	Date
Ken Labbe	OEX	Control Created	Aug 16, 2016
Ken Labbe	OEX	Forward control to OARM	Aug 16, 2016

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2016 Combined Federal Campaign

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

Friday, August 5, 2016
From: BETH F. COBERT, ACTING DIRECTOR

Through the Combined Federal Campaign (CFC), our Federal family demonstrates that our shared commitment to public service extends far beyond the workplace. Last year, Federal employees participating in the CFC contributed more than $177 million to the causes they care about across the nation and around the world—and we are all better for it.

I am asking for your help in ensuring that this year's campaign is also a success. As a Federal employee benefit program, the CFC is available to the entire Federal workforce. With your help on the following items, we can make sure that Federal employees everywhere, no matter where they work, know how they can make a voluntary contribution and how they care, help the program minimize administration costs, ensuring that more of their contributions reach people in need.

Suggested Email to Employees

Please consider sending the following email message to all employees:

The Combined Federal Campaign (CFC) is the world's largest and most successful workplace giving campaign. Since the first campaign in 1964, Federal employees have donated more than $8 billion for the charities and causes that are near and dear to them. This year, you can choose from more than 18,000 participating charities at the local, national, and international levels. If your favorite charity is not on the paper Charity List, please visit **www.opm.gov/cfc** to search for it online. During the 2016 CFC solicitation period, I encourage you to consider giving through the CFC because:

- Payroll deduction lets you spread your contribution across the entire year.
- A CFC pledge gives your charity a steady source of revenue throughout the year.
- It is convenient for you (in many cases, you can pledge online) and provides you with tax records.
- It shows all Americans that Federal employees care about our communities.

You will have an opportunity to make a pledge this fall. CFC funds go only to the charities that you and your fellow Federal employees designate. Charities that do not receive pledges will not receive CFC funds. You can decide how much to contribute and which participating organization receives your contribution. Even the smallest donation can go a long way to making a difference in a needy person's life.

Encourage Support to Administer the CFC

The CFC's success can be attributed to the dedication of the employees that administer the campaign within their agencies. Without a personal solicitation from a colleague, employees are less likely to participate in the program.

I recommend allowing your employees to serve as CFC loaned executives, coordinators, and keyworkers to the extent possible during the campaign period as well as encouraging employees to serve on their Local Federal Coordinating

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Committees. These positions are often a great way to develop professional skills, such as public speaking, financial accountability, and expertise in building public-private sector partnerships. Employees selected to administer the CFC should be, whenever possible, those employees with demonstrated passion for and commitment to its success. Simply assigning CFC administration responsibilities to the newest or lowest ranking employee tends to render less than desirable results. The best managers tend to identify employees best suited to achieve success. Since the CFC is a recognized Federal program, it is not appropriate to place these employees on leave or make employees take leave to administer the CFC within your agency.

Suggested Email to Senior Executives, Supervisors, and Managers

I also encourage you to send the following message to your senior executives, supervisors, and managers located at your headquarters and regional/field offices:

What do cancer research, protecting the environment, ensuring access to affordable education, and protecting civil rights have in common? They are just a few of the important causes that you can support by making a Combined Federal Campaign (CFC) pledge.

The CFC is the world's largest workplace giving campaign. Just last year, Federal employees contributed more than $177 million to charitable organizations across the country and overseas. I am asking for your help to ensure that employees have the opportunity to give to the participating charities of their choice again this year.

In addition to making a financial pledge, please encourage your employees to consider a formal role with the program. Federal employees may serve as CFC loaned executives, coordinators, and keyworkers to the extent possible during the campaign period to ensure a smooth campaign is administered with little or no disruption to the business of your department/agency. Employees selected to administer the CFC should be, whenever possible, those employees with demonstrated passion for and commitment to its success. Simply assigning CFC administration responsibilities to the newest or lowest ranking employee tends to render less than desirable results. The best managers tend to identify employees best suited to achieve success.

I encourage you to provide the local CFC office with resources, as available, to assist in a successful CFC at your location. Please contact [insert contact name and phone number/email] if you can provide staff to help administer the CFC at your location.

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In addition, I would like *you* to consider serving on the Local Federal Coordinating Committee (LFCC) in your CFC region. To do so, please go to OPM's website at **www.opm.gov/cfc/Search/Locator.asp** to find the LFCC point of contact in your area. The LFCC can provide you with more information about how to serve in this oversight role.

Since the CFC is a recognized Federal program, it is not appropriate to place these employees on leave or make employees take leave to administer the CFC within your agency. Thank you for your consideration and support of the CFC.

CFC Charity Fairs

The best way for Federal employees to learn about the program and how their charitable dollars are spent is to hold charity fairs in Federal facilities. Please consider holding several charity fairs at your locations throughout the solicitation period to give Federal empl›yees the opportunity to learn more about the participating charities directly from representatives of those organizations. Your local CFC office (**www.opm.gov/cfc/Search/Locator.asp**) can provide more information about how to set up a charity fair and/or invite charitable organizations.

CFC Geographic Boundaries

The CFC comprises 125 geographic regions throughout the U.S. and overseas. Each region sets its own campaign dates and has a unique listing of local charities. Federal employees may participate only in the campaign area where their official duty station is located. Please make sure that agency-wide campaign communications do not specify information or include links to CFC websites that may not be applicable to all employees. I encourage you to contact the Office of the CFC at (202)606-2564 or **cfc@opm.gov** for more information.

Thank you for your support of the Combined Federal Campaign.

Stakeholders: MEMORANDUM FOR DEPARTMENT AND AGENCY HEADS

Printer-friendly version

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Correspondence Management System

Control Number: AX-16-001-1254
Printing Date: August 16, 2016 03:12:02

Citizen Information

Citizen/Originator: **Garcia, Indira G**
Organization: United States Department of State
Address: 2201 C Street, NW, Washington, DC 20520

Macmanus, Joseph E.
Organization: U.S. Department of State
Address: 2201 C Street, NW, Washington, DC 20520

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1254	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Aug 15, 2016	**Received Date:**	Aug 16, 2016
Addressee:	OEX-Director - OEX	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF-NSA - Daily Reading File - National Security Affairs Calendar 8/5/16-7/27/17 (August 5, 2016 - July 27, 2017)
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: AO-IO-SO - Scheduling Office
Kristien Knapp - AO-IO
OHS - Office of Homeland Security
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Brenda Salvador	OEX	OITA	Aug 16, 2016

History

United States Department of State

Washington, D.C. 20520

August 15, 2016

SENSITIVE BUT UNCLASSIFIED
FOR OFFICIAL GOVERNMENT USE ONLY

MEMORANDUM FOR SUZANNE A. GEORGE
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCIL

SUBJECT: National Security Affairs Calendar

The National Security Affairs Calendar for the upcoming months is attached.

Joseph E. Macmanus
Executive Secretary

Attachment:
As stated.

SENSITIVE BUT UNCLASSIFIED
FOR OFFICIAL GOVERNMENT USE ONLY

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Correspondence Management System
Control Number: AX-16-001-1257
Printing Date: August 17, 2016 03:57:01

Citizen Information

Citizen/Originator: **Fuller, Lee O.**
Organization: Independent Petroleum Association of America
Address: 1201 15th Street, N.W., Washington, DC 20005

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1257	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Aug 31, 2016	**# of Extensions:**	0
Letter Date:	Aug 16, 2016	**Received Date:**	Aug 17, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Comments submitted by the Independent Petroleum Association of America with regard to the SAB Review of EPA's Hydraulic Fracturing Study
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Hyon Kim - AO-IO
OPA - Office of Public Affairs
OW - Office of Water -- Immediate Office
SAB - Science Advisory Board

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	ORD	Aug 17, 2016	Aug 31, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				
Kathi Harty	ORD	ORD-NCEA	Aug 17, 2016	Aug 31, 2016	N/A
	Instruction: Attention Jeff Frithsen				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA

August 16, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator McCarthy:

This letter is being sent on behalf of the Independent Petroleum Association of America (IPAA). IPAA represents the thousands of independent oil and natural gas explorers and producers, as well as the service and supply industries that support their efforts, that will most directly be impacted by the U.S. Environmental Protection Agency (EPA) policy decisions to regulate methane directly from the oil and natural gas sector. Independent producers develop about 95 percent of American oil and natural gas wells, produce 54 percent of American oil, and produce 85 percent of American natural gas. Historically, independent producers have invested over 150 percent of their cash flow back into American oil and natural gas development to find and produce more American energy. IPAA is dedicated to ensuring a strong, viable American oil and natural gas industry, recognizing that an adequate and secure supply of energy is essential to the national economy.

Back in December, IPAA wrote to you regarding its concern that the Hydraulic Fracturing Panel of the Environmental Protection Agency's (EPA) Science Advisory Board (SAB) was preparing to pressure the agency into reversing its topline finding, namely that "hydraulic fracturing activities have not led to widespread, systemic impacts to drinking water resources."

The SAB has now released its final recommendations[1] on EPA's landmark groundwater study. Despite producing four drafts coming in at almost 200 pages each, not once has the SAB ever pointed to any evidence that contradicts EPA's finding that hydraulic fracturing has "not led to widespread, systemic impacts" on drinking water sources. Therefore, the SAB ultimately was not able to justify officially asking EPA to change or eliminate its topline finding in its final recommendations.

The SAB does, however, make a request that borders on the absurd: it asks EPA to *prove that there are not* widespread, systemic impacts to groundwater from hydraulic fracturing. The section of the recommendations that perhaps best illustrates this occurs when the SAB requests that EPA alter its finding that fracturing fluid spills have not impacted groundwater because "this major finding is supported only by an absence of evidence rather than by evidence of absence of impact."

[1] SAB Review of the EPA's draft Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources: https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebReportsLastMonthBOARD/BB6910FEC10C01A18525800C00647104/$File/EPA-SAB-16-005+Unsigned.pdf

INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA ▪ 1201 15TH STREET, NW ▪ SUITE 300 ▪ WASHINGTON, DC 20005
202-857-4722 ▪ FAX 202-857-4799 ▪ WWW.IPAA.ORG

Correspondence Management System

Control Number: AX-16-001-1261
Printing Date: August 17, 2016 01:23:23

Citizen Information

Citizen/Originator: **Caldwell, J.F.**
Organization: Department of the Navy
Address: 1333 Isaac Hull Avenue, SE, Washington, DC 20376-0001

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1261	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Aug 8, 2016	**Received Date:**	Aug 16, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Executive Summary of the Naval Nuclear Propulsion Program's most recent reports on environmental monitoring and radioactive waste disposal, radiation exposure and occupational safety and health
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Eileen Naples - AO-IO
Kristien Knapp - AO-IO
OHS - Office of Homeland Security
OLEM - Office of Land and Emergency Management

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	OAR	Aug 17, 2016

History

Action By	Office	Action	Date
Ken Labbe	OEX	Forward control to OAR	Aug 17, 2016

ED_001174_00000105

DIRECTOR, NAVAL REACTORS

8 August 2016

Dear Administrator McCarthy,

Enclosed is the Executive Summary of the Naval Nuclear Propulsion Program's latest reports on environmental monitoring and radioactive waste disposal, radiation exposure, and occupational safety and health. The Executive Summary also contains a link for accessing the full reports online, as well as contact information for my office if you would like to receive paper copies.

The enclosed summary highlights the Program's continued commitment to maintaining the highest standards for protecting the public, the environment, and the workforce while employing an unforgiving and complex technology. Issued annually, the reports summarized in the enclosure continue to show that:

- In over 60 years of operation, naval nuclear-powered ships and their support facilities have had no discernible effect on public health or the quality of the environment.
- Average occupational radiation exposure was much less than the yearly exposure received by the average U.S. citizen due to natural background radiation.
- All Program personnel received less than 40% of Federal radiation exposure limits.
- The recordable injury and illness incidence rate at Program Department of Energy facilities was significantly lower than the rate for general industry.

An essential factor in the achievement of the records on environmental safety and radiation exposure demonstrated in these reports has been the cooperation between my Program and the Environmental Protection Agency. Thank you for your support of the Naval Nuclear Propulsion Program.

Very respectfully,

J. F. CALDWELL, JR.
Admiral, U.S. Navy

The Honorable Gina McCarthy
Administrator, U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington DC 20460

Enclosure

RECEIVED
2016 AUG 16 AM 10: 34
OFFICE OF THE
EXECUTIVE SECRETARIAT

Correspondence Management System
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CC: Eileen Naples - AO-IO
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August 16, 2016

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Dear Ms. Sasseville and Ms. Kreuger:

This letter constitutes the comments of the Interstate Mining Compact Commission (IMCC) concerning the Environmental Protection Agency's (EPA) anticipated rulemaking to require financial assurance for hardrock mining under Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). The comments are being submitted as part of EPA's consultation with the states pursuant to the terms of the "Federalism" Executive Order (EO 13132), which directs federal agencies to consult with elected state and local government officials, or their representative national organizations, when developing regulations and policies that may impose substantial compliance costs on state and local governments or may preempt current or future state or local laws and regulations. We appreciate the opportunity to provide these comments on behalf of our member states. IMCC has also been collaborating with several state government organizations and non-member states. In this regard, IMCC also endorses the individual comments being submitted by the states of

Nevada, South Dakota, and Utah, and the comments of the Western Governors' Association and The Environmental Council of the States.

The IMCC is a multi-state governmental organization representing the natural resource and environmental protection interests of its 25 member states, several of which implement comprehensive and robust regulatory programs for hardrock mining within their borders, particularly in the West. An important component of state regulatory programs is the requirement that companies provide financial assurances that are sufficient to fund required reclamation, post-closure monitoring and water treatment, and the handling and disposal of hazardous and acid-forming substances resulting from mining processes, should the company for some reason fail to do so in accordance with the state reclamation program requirements.

As noted in IMCC's resolution on "Financial Assurance for Hardrock Mine Reclamation" dated April 20, 2016, the states have acquired extensive expertise on and understanding of the various mining methods and technologies used by their hardrock industries, and have years of experience in evaluating mining operations, calculating bond amounts based on the unique circumstances of each mining operation, assuring that completion of reclamation and proper mine closure takes place, addressing public health risks and environmental risks, regulating hazardous substances utilized in mining, and preventing and remediating hazardous releases. The states have also developed the staff and expertise necessary to make informed predictions of how the real value of financial assurance may change over the life of the mine, including post-closure, and they have the authority to make adjustments to financial assurance requirements over time when necessary. In the West, hardrock mining operations on public lands are also subject to comprehensive regulation and financial assurance requirements under the authority of the U.S. Bureau of Land Management (BLM), and the U.S. Forest Service (USFS), in many cases in cooperation with the states through memoranda of understanding (MOUs).

Under CERCLA 108(b), EPA intends to address financial assurance requirements for hardrock mining operations and processing facilities in the event of a hazardous release, should a company declare bankruptcy or be otherwise unable to conduct necessary response activities. EPA intends to take into account the "degree and duration of risks" associated with the use and management of hazardous substances at these sites. EPA has repeatedly stated that what CERCLA 108(b) would regulate is different from what the states are doing, emphasizing that states' programs are "preventive" in nature and only address mine reclamation and closure requirements, as opposed to addressing releases of hazardous substances. The fact is, state reclamation programs are designed to prevent such releases from ever occurring and to thereby eliminate the risk. Several state programs include financial assurance coverage not only for the handling and treatment of hazardous substances, but also for remediation of hazardous releases, should it become necessary.

Despite EPA's stated good intentions to avoid preemption of state laws and regulations, we remain concerned that, as structured, EPA's anticipated rule appears to duplicate state financial assurance requirements, and that preemption of existing state

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programs is a certainty based on the limited information EPA has shared with us to date. This is in direct contradiction to EO 13132, Section 2, *Fundamental Federalism Principles,* which states "(i) The national government should be deferential to the States when taking action that affects the policymaking discretion of the States." Preemption would be devastating for the states' ability to effectively regulate the hardrock mining industry within their borders. As explained in a letter sent to EPA in 2011 by the New Mexico State Attorney General, preemption would create huge gaps in the state's regulatory system. For instance, in situations where a mine operator fails to implement reclamation requirements without resulting in a significant release of hazardous substances, the state might be prompted to call in the financial assurance to correct the violation, whereas EPA would not (under CERCLA 108(b)). If the state law is preempted, the state will no longer have that ability. The same could be true where a state regulates mine contaminants that are not hazardous substances. These scenarios would leave the state with no effective remedy to ensure reclamation.

Based on our analysis, the effect of state programs is to substantially reduce, if not eliminate, the risk that a mine will have a release of hazardous substances that might otherwise result in a National Priorities List (NPL) listing. Therefore, there is no reason to require CERCLA 108(b) financial assurance at mines that have state approved reclamation plans and financial assurance in place. To the extent that EPA perceives that there are gaps in state financial assurance requirements, the agency has failed to clearly identify them, despite repeated requests in past years by the states and Congress to do so. Without more to establish otherwise, the states continue to maintain that their programs for financial assurance are sufficient for purposes of CERCLA 108(b).

Any gap analysis by EPA should follow a thorough understanding of existing state and federal programs. If it is determined that regulatory enhancements are needed in some states or under certain circumstances to address hazardous releases, a much narrower rule should be developed, rather than a nationwide one-size-fits-all rule for which no need has been demonstrated. EPA should also specifically exempt operations from CERCLA 108(b) financial assurance in states where the state program's financial assurance requirements are determined to be sufficient.

The approach above would be consistent with EO 13132, Section 2 (f), which states "The nature of our constitutional system encourages a healthy diversity in the public policies adopted by the people of the several States according to their own conditions, needs, and desires. In the search for enlightened public policy, individual States and communities are free to experiment with a variety of approaches to public issues. One-size-fits-all approaches to public policy problems can inhibit the creation of effective solutions to those problems."

EO 13132, Section 3, *Federal Policymaking Criteria*, also supports this approach:

"(d) When undertaking to formulate and implement policies that have federalism implications, agencies shall:

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(1) encourage States to develop their own policies to achieve program objectives and to work with appropriate officials in other States;

(2) where possible, defer to the States to establish standards;

(3) in determining whether to establish uniform national standards, consult with appropriate State and local officials in developing those standards.

EO 13132, Section 6 (c) states that "no agency shall promulgate any regulation that has federalism implications and that preempts State law, unless the agency, *prior to the formal promulgation of the regulation, (1) consulted with State and local officials early in the process of developing the proposed regulation*" (Emphasis added). Should EPA continue to move forward, the states request that as part of the "early consultation," EPA provide the states with a draft of the rule to enable the states to better understand and respond to the potential conflicts with state requirements, as well as preemption impacts. The states also request access to the model and formula being developed to calculate required amounts of financial assurance under CERCLA 108(b). This would include the specific measures and engineering controls being considered for reducing the amounts of financial assurance, the percentages associated with those reductions, and the basis for calculating those percentages. To date, the agency has only shared vague conceptual information and sample scenarios that do not necessarily reflect conditions and characteristics of actual mining operations within the various states. Without having detailed information about the draft rule and model, we can only comment on what we "think" EPA intends to include, and it is impossible to understand and comment on the relationship between the draft rule and existing state programs. As regulators, the states should be given an opportunity to comment substantively on specific provisions of the draft rule and model prior to publication of the rule and the public comment period. This is necessary for a true and meaningful federalism consultation to take place. It is also consistent with EO 13132, Section 4, *Special Requirements for Preemption*, (d) "When an agency foresees the possibility of a conflict between State law and Federally protected interests within its area of regulatory responsibility, the agency shall consult, to the extent practicable, with appropriate State and local officials in an effort to avoid such a conflict."

During a July 19 conference call between EPA and the states, EPA stated the agency will not be looking at state programs that are in place, or legal requirements such as the presence of a required reclamation plan or permit, when calculating reductions in the financial assurance required under the CERCLA 108(b) rule. Instead, EPA will only consider physical controls on the ground, such as individual measures and engineering controls in place at a mining operation. We are concerned that EPA will "miss the forest for the trees" with this approach by not fully understanding, and taking into account, the programs as a whole and how they work together in their entirety to eliminate and reduce risk. Depending on the operation and circumstances on the ground, a particular engineering control may or may not be appropriate and/or result in the same reduction of risk in every case. The states have the expertise and knowledge to determine the appropriateness and likely effectiveness of these controls on a site-specific basis. Mining

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and reclamation plans required for state permits are effective ways to reduce risk, along with the associated financial assurance. In addition, many existing state and federal programs go beyond these measures and directly address hazardous substances and hazardous releases. It is essential for EPA to fully understand these programs in order to avoid duplication and preemption. Due to their effectiveness, state programs in their entirety should be taken into account in the formula for reducing, and in many cases eliminating, the amounts of financial assurance that will be required under the model EPA is developing for calculating bond amounts as part of the CERCLA 108(b) rulemaking.

The results of existing state, BLM and USFS programs in eliminating or reducing the risk of hazardous releases are testimony to their effectiveness. These comprehensive programs make Superfund sites like those that occurred in the past extremely unlikely. If the key component of the draft rule is risk, reduction of risk pursuant to state and federal program requirements together with the bond already in place should be taken into account. For example, according to a March 8, 2011 letter sent by Senator Murkowski to Secretaries Salazar and Vilsack, there have been no modern mine sites permitted by BLM or USFS since 1990 added to the CERCLA NPL (e.g. zero out of 659 BLM permitted mine sites, and zero out of 2,685 USFS permitted mine sites have been added to the NPL).

Following are descriptions of some existing state program and financial assurance requirements that demonstrate why we believe these programs are adequate, and how they eliminate or greatly reduce the risk and need for CERCLA 108(b) financial assurance protection. [Note: Italicized sections relate directly to hazardous substances/hazardous releases, though we believe all of the requirements contribute to the reduction of risk.]

Nevada

Nevada reclamation bonding requirements that are designed to be consistent with federal regulations are in place for exploration projects and mining operations with proposed disturbance greater than 5 acres or removing in excess of 36,500 tons of material (ore plus overburden) from the earth per year. The bonds ensure productive post-mining land use and protect waters in the state by ensuring adequate funding is set aside to complete reclamation on privately owned and federal land in the event operators are unable or unwilling to meet their reclamation obligations. Bonds are required for projects on private or public lands. On public lands, bonding is a joint process between the state and federal land managers (BLM and USFS) under a formal MOU, most recently updated in 2014. The bulk of financial assurance is held in surety bonds, but other instruments authorized for use include trust funds, corporate guarantees, letters of credit, insurance, cash, and a State Bond Poll (no CD's). Both the state and federal land managers review and approve the cost estimates when setting bond amounts. Bond release is also coordinated between the agencies. The financial assurance must be in place prior to initiation of any land disturbance activities. Currently over $2.66 billion of financial assurance is posted in Nevada. The bonds may be held by BLM, USFS, or the

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state, and the bonds are updated at least once every three years and more often, if needed. The bond amount is calculated to include:

- *Regrading to stable slopes and installing covers to reduce infiltration for: waste rock piles, heap leach pads, and tailings storage facilities.*
- Recontouring and backfilling to establish original topography, including: roads, borrow areas, ponds and yard areas; demolition of buildings; pits must be safe and stable; and revegetation of disturbed areas.
- Closure and reclamation of portals, adits, shafts, and vent raises.
- Plugging of water wells.
- *Disposal of hazardous and mercury-bearing waste products – all hazardous substances, along with ongoing monitoring as needed.*
- *Construction of cover systems for waste rock piles and tailings storage facilities.*
- *Monitoring, sampling, and site maintenance during the mine closure period.*
- *Management of mine impacted waters, including releases, are covered by the bond. Mine impacted waters are defined as any contaminated water resulting from a mining operation requiring stabilization, management, control or treatment to prevent or mitigate degradation of waters of the state. Included are stabilization, management, control, or treatment of mine impacted waters from waste rock piles, open pits, and underground mines. Both short-term impacts during operations and long-term (perpetual) impacts during post-closure are covered.*

Nevada also maintains an Interim Fluid Management (IFM) Fund to fund responses to potential releases at heap leach pad facilities, tailings impoundments, or other fluids management facilities. In the event the mine owner abandons the mine or stops managing fluids at the mine, the state can access the IFM fund to manage fluids while the surety bond forfeiture process proceeds and plans are completed to place the site in permanent closure. Nevada maintains a standby contractor capable of performing interim fluids management. Alternatively, the bond issuer can perform interim fluids management. The cost of interim fluids management is factored into and reimbursed by the bond.

Nevada regulations at NAC 519A.360 (amount of surety required) require the operator to consider the following in determining the cost of executing the plan for reclamation:

- *Process fluid stabilization.*
- *Stabilization, management, control, and treatment of mine-impacted waters.*
- Equipment mobilization and demobilization.
- Removal and disposal or salvage of buildings, structures, equipment, piping, scrap and regents.
- *Activities required to ensure the continuation of post-reclamation stabilization, management, control, and treatment of mine-impacted waters.*

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August 15, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
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Re: Opposition to Petition for Rulemaking to Change Definition of Obligated Party Under the Renewable Fuels Standards 40 C.F.R. § 80.1406

Dear Administrator McCarthy,

The Society of Independent Gasoline Marketers of America ("SIGMA") and the National Association of Convenience Stores ("NACS") hereby oppose the petition for rulemaking to change the point of obligation under the Renewable Fuel Standard p rogram, which was submitted by Valero Energy Corporation and its subsidiaries ("Petitioner") on June 13, 2016, as well as a similar petition submitted by the American Fuel & Petrochemical Manufacturers ("AFPM") on August 4, 2016.[1]

Congress created the Renewable Fuels Standard to reduce U.S. dependence on unstable petroleum sources, promote environmental benefits, and enhance price and supply stability. Thus far, the Renewable Fuels Standard program ("RFS" or the "Program") has been working.[2] Contrary to Petitioner's assertion, the current structure has incentivized SIGMA's and NACS' members to blend as many renewable fuels as they possibly can. Fuel retailers do not create demand; they respond to demand. The Environmental Protection Agency ("EPA" or the "Agency") designed the RFS to encourage consumption of renewable fuels. Under the existing RFS structure, the associations' members are able to use Renewable Identification Number ("RIN") value to lower the cost of goods sold. Put another way, SIGMA's and NACS' members are able to use RIN value to sell products blended with renewables at a price that is competitive with unblended products. Because consumers are hyper-price conscious, they do not normally want to purchase a renewable fuel blend that costs more than an unblended alternative. Thus, if

[1] Valero, Petition for Rulemaking: Renewable Fuel Standard Definition of Obligated Party– 40, C.F.R. § 80.1406 (June 13, 2016); American Fuel & Petrochemical Manufacturers, Petition for Rulemaking: Renewable Fuel Standard Definition of Obligated Party–40, C.F.R. § 80.1406 (Aug. 4, 2016). While this letter directly responds to the Valero Petition, all of the statements and arguments herein apply to the petition submitted by AFPM as well.

[2] The RFS is largely working as intended: U.S. Ethanol production has increased dramatically since 2007 and the marketplace has adapted to increased renewable fuels. In 2015, for example, ethanol displaced the gasoline equivalent of 527 million barrels of crude oil. *See* Renewable Fuels Association, Energy Security, http://ethanolrfa.org/issues/energy-security/.

fuel retailers were unable to price blended product competitively, U.S. consumption of renewable product would decrease, ultimately frustrating the goals of the RFS.

Petitioner calls on EPA to change the point of obligation to address so-called inequities and "distortions and disincentives" in the marketplace. [3] Before going into the specifics about why changing the point of obligation would be a disastrous policy move, let us first acknowledge the elephant in the room: SIGMA's and NACS' members have, for the most part, successfully adjusted their business models to function efficiently under the RFS. This is not a bad thing. Despite Petitioner's contentions to the contrary, all parties involved in the fuel supply chain (including Petitioner) have one underlying similarity: they all want to turn a profit. Unfortunately for Petitioner, one reason the RFS has been successful is because it has channeled stakeholders' profit-motives in a manner that will achieve the Program's objectives. The RFS has created financial incentives for private companies to behave and go to market in ways that result in positive externalities for American society. In all, the Program has been a success in terms of implementing its policy objectives. Changing the point of obligation, however, will impede achievement of the Program's objectives.

If EPA changes the point of obligation, it will decrease the penetration of biofuels into the marketplace because it will remove the incentive to blend renewable fuels into the fuel supply that currently exists. Currently, the RFS supports robust competition in the wholesale and retail markets for motor fuels. That competition benefits consumers above all others. Should EPA change the point of obligation, however, many companies that currently buy fuel above the terminal may move further downstream, reducing competition at the rack. When that happens, businesses like Petitioner will have reduced incentives to price competitively at wholesale— a result that will harm independent retailers and will lead to higher retail fuel prices for consumers. At that point, the incentives to expand renewable fuels blending and consumption will be reduced to the Program's detriment. Moreover, EPA will face additional administrative burdens that will make it more difficult and costly to administer and enforce the Program. Taken together, changing the point of obligation will guarantee reduced consumption of renewable fuels, ultimately undermining the very goals of the RFS.

Although Petitioner may be at a disadvantage compared to other RIN-long refiners, any perceived "inequity" Petitioner is experiencing is entirely of its own making. Petitioner bemoans that its business is "harmed by an inefficient renewable fuel market that artificially increases price of RINs and the risks associated with RIN acqui sition"—however, Petitioner elected to spin off its reta il store locations while the Program was in place. [4] Ownership of retail locations could have guaranteed a supply of RINs to allow Petitioner to fulfill renewable volume

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[3] Valero, Petition, *supra* note 1, at 4.

[4] Business Wire , *CST Brands, Inc. Spins Off from Valero Energy Corporation* (May 1, 2013), http://www.businesswire.com/news/home/20130501005416/en/CST-Brands-Spins-Valero-Energy-Corporation; *see also* Reuters, *Valero may raise $3.5 billion through retail arm auction* (Sept. 27, 2012), http://www.reuters.com/article/us-valero-retail-auction-idUSBRE88Q12D20120927; MarketWatch, *Valero retail spinoff CST Brands to start trading Thursday* (May 1, 2013), http://blogs.marketwatch.com/energy-ticker/2013/05/01/valero-retail-spinoff-cst-brands-to-start-trading-thursday/; Vicki Vaughan, *Valero sells remainder of CST Brands shares* (Nov. 14, 2013), http://www.mysanantonio.com/business/local/article/Valero-sells-remainder-of-CST-Brands-shares-4984168.php.

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obligations ("RVOs") under the RFS. Therefore, any statements that Petitioner is unfairly placed at a RIN-short disadvantage are misplaced. In fact, Petitioner essentially is asking EPA to fix a business decision it made while fully cognizant of how the Program worked. Were EPA to initiate a rulemaking to change the point of obligation (and ultimately change the point of obligation), the Agency would be helping Petitioner fix a problem of its own making.

For the reasons presented below, SIGMA and NACS respectfully urge EPA to deny these petitions and keep the RFS functioning the way it has functioned successfully over the past decade.

I. Introduction and Background

A. Overview of SIGMA and NACS

Collectively, SIGMA and NACS represent approximately 80 percent of retail fuel sales in the United States.

SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel. NACS is an international trade association representing the convenience store industry with more than 2,200 retail and 1,800 supplier companies as members, the majority of whom are based in the United States.

In 2015, the fuel wholesaling and convenience industry employed more than 2.5 million workers and generated $574.8 billion in total sales, representing approximately 3.2 percent of the U.S. Gross Domestic Product. Of those sales, approximately $349 billion came from fuel sales alone. Because of the number of fuel and other transactions in which the industry engages, fuel retailers and marketers handle approximately one of every 30 dollars spent in the United States. Fuel retailers serve about 160 million people per day—around half of the U.S. population— and the industry processes over 73 billion payment transactions per year.

Nevertheless, the convenience store and fuel retail industry is truly an industry of small businesses. Approximately 63 percent of convenience store owners operate a single store, and approximately 75 percent of the industry is composed of companies that operate ten stores or less.

The fuel wholesaling and convenience store market is one of the most competitive in the United States. SIGMA's and NACS' members operate on tiny margins (around 2 percent or less) and are unable to absorb incremental cost increases without passing them on to consumers.

B. The Retailer's Objective – An Overview of the Retail Fuels Marketplace

These associations' members' sole objective is to sell legal products, in a lawful way, to customers who want to buy them. As new fuels enter the market, they want to be able to sell those fuels lawfully and with minimal volatility and risk. While agnostic on which liquid fuel they sell to satisfy consumer demand, SIGMA's and NACS' members do have a bias: they believe it is best for the American consumer and America's industrial position in the world marketplace to have reasonably low and stable-priced energy.

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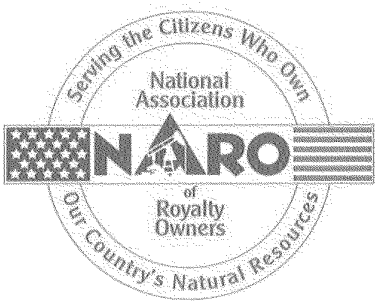

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator McCarthy:

We are the National Association of Royalty Owners. It is estimated that there are between 8-12 million of us who receive royalty income from the production of oil and gas on our private mineral property. We assume you know that approximately 70% of the lower 48 states mineral estate is owned by us – private citizens. So we have been watching with great interest the Hydraulic Fracturing Panel of the Environmental Protection Agency's (EPA) Science Advisory Board (SAB) and the release of its final recommendations on EPA's landmark groundwater study related to hydraulic fracturing.

Last year we heard that the SAB was preparing to pressure the agency into reversing its finding that "hydraulic fracturing activities have not led to widespread, systemic impacts to drinking water resources". As far as we know the SAB has never pointed to any evidence that contradicts EPA's finding that hydraulic fracturing has "not led to widespread, systemic impacts" on drinking water sources. Therefore, the SAB ultimately was not able to justify officially asking EPA to change or eliminate its finding in its final recommendations.

The SAB does, however, make a request that borders on the absurd: it asks EPA to *prove that there are not* widespread, systemic impacts to groundwater from hydraulic fracturing. The section of the recommendations that perhaps best illustrates this occurs when the SAB requests that EPA alter its finding that fracturing fluid spills have not impacted groundwater because "this major finding is supported only by an absence of evidence rather than by evidence of absence of impact."

In other words, SAB is asking EPA to prove a negative. The fact that EPA spent five years gathering data and information and, in that time, could find nothing to support widespread or systemic impacts on underground sources of drinking water is indeed evidence of absence. Importantly, the SAB itself provided no evidence to contradict EPA's finding. If SAB has such evidence, it should release it for public review. Absent any such evidence, however, SAB's request is unsustainable.

There is nothing ambiguous about EPA's finding. The terms "widespread" and "systemic" are clearly defined and unequivocal. EPA even offers more clarity, noting that while there were some instances of water impacts (not from the process of hydraulic fracturing itself but from related activities, such as well casing failures or fluid spills on the surface), the number of these instances "was small compared to the number of hydraulically fractured wells."

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If there were anything to suggest widespread or systemic impacts to drinking water as a result of hydraulic fracturing, it would have been uncovered during the extensive study of the process and the SAB would be able to point to that evidence in its recommendations. The lack of such evidence means the EPA's conclusion is scientifically sound.

According to EPA, a "key priority" for the Agency is to "base Agency actions on sound scientific data, analysis, and interpretations". EPA should now follow these guidelines and base its final groundwater study solely on the science and the facts.

Sincerely,

Jerry R. Simmons
Executive Director

Correspondence Management System

Control Number: AX-16-001-1308
Printing Date: August 17, 2016 02:43:33

Citizen Information

Citizen/Originator: **Jenkins, Brad**
Organization: Pilot Flying J
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Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1308	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Aug 31, 2016	**# of Extensions:**	0
Letter Date:	Aug 16, 2016	**Received Date:**	Aug 17, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Opposition to Petitions for Rulemaking to Change Definition of Obligated Party Under the Renewable Fuels Standards
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OCIR-ORO - Office of Regional Operations
OP - Office of Policy
OPA - Office of Public Affairs
R4 - Region 4 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OAR	Aug 17, 2016	Aug 31, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

August 16, 2016

Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington D.C. 20460

Re: Opposition to Petitions for Rulemaking to Change Definition of Obligated Party Under the Renewable Fuels Standards, 40 C.F.R. § 80.1406

Dear Administrator McCarthy:

Pilot Travel Centers LLC and Pilot Corporation (collectively "Pilot") write to oppose the petitions for a rulemaking to change the point of obligation under the Renewable Fuel Standard program ("RFS" or the "Program"), which were submitted by Valero Energy Corporation and its subsidiaries and the American Fuel and Petrochemical Manufacturers trade association (collectively "Petitioners" and "Petitions").[1]

Pilot urges EPA to deny these Petitions.

Petitioners assert three central points: (1) changing the point of obligation will increase incentives for companies like Pilot to blend more renewable fuels; (2) Petitioners are unfairly disadvantaged by the current structure of the RFS; and (3) changing the point of obligation will result in a more "equitable" retail market. These assertions are unfounded.

Our position against changing the point of obligation is based on the fact that any cost of the RFS to obligated parties is part of the manufacturing/refining process and, as such, cannot simply be stripped off as a cost and delegated to marketers, resellers, "mom and pop" businesses or anyone else who may have a position "above the rack" for supplying fuel "below the rack." Petitioners are simply trying to eliminate a cost of doing business, while retaining all the other inherent advantages that they are afforded by their position in the petroleum supply chain.

Should EPA grant these Petitions and change the point of obligation, it will ultimately drive up the cost of on-road fuel to the end consumer. Such an increase in cost may result from an exit of competition in the petroleum marketplace as "above the rack" position holders choose to leave the marketplace (and only acquire fuel "below the rack") rather than assume the various regulatory burdens associated with being an obligated party.

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[1] Valero, Petition for Rulemaking: Renewable Fuel Standard Definition of Obligated Party–40, C.F.R. § 80.1406 (June 13, 2016) ("Valero Petition"); American Fuel & Petrochemical Manufacturers, Petition for Rulemaking: Renewable Fuel Standard Definition of Obligated Party–40, C.F.R. § 80.1406 (Aug. 4, 2016).

Correspondence Management System
Control Number: AX-16-001-1310
Printing Date: August 17, 2016 02:57:42

Citizen Information

Citizen/Originator: **Seggos, Basil**
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Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1310	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Aug 31, 2016	**# of Extensions:**	0
Letter Date:	Aug 16, 2016	**Received Date:**	Aug 17, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	AD-Administrator	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.

Subject: DRF - Request that EPAundertake a thorough, scientifically based examination of the need for further regulatory reductions of ambient air quality standard levels and of benzene and NOx emissions from motor vehicles and fuels

Instructions: AD-Prepare draft response for the Administrator's signature

Instruction Note: N/A

General Notes: N/A

CC: OCIR-ORO - Office of Regional Operations
OCR - Office of Civil Rights
OP - Office of Policy
OPA - Office of Public Affairs
R2 - Region 2 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OAR	Aug 17, 2016	Aug 31, 2016	N/A
	Instruction: AD-Prepare draft response for the Administrator's signature				

Supporting Information

Supporting Author: N/A

OFFICE OF THE COMMISSIONER

New York State Department of Environmental Conservation
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August 16, 2016

Honorable Gina McCarthy
Administrator
United States Environmental Protection Agency
USEPA Headquarters – Mail Code 1101A
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Administrator McCarthy:

New York is deeply committed to ensuring that all New Yorkers, especially residents of environmental justice communities, have healthful air to breathe. The state has pioneered many advances in air regulation and monitoring to safeguard air quality throughout state. However, many environmental justice communities across New York State and beyond, from the South End of Albany to our Nation's capitol, are burdened on a daily basis by emissions from passenger cars and heavy duty trucks. As the United States Environmental Protection Agency (USEPA) sets national ambient air quality standards and has primary authority over regulation of motor vehicle emissions and fuel composition, I urge you to develop stronger national emission and fuel standards that are protective of public health.

New York State has one of the largest air monitoring networks in the country, working to ensure air quality meets USEPA standards. Those standards are designed to be protective of public health, but the public does not believe that USEPA standards are achieving that goal. For example, the public remains concerned about the air they breathe in Albany's South End despite an extensive New York State air monitoring network that shows levels below USEPA standards. The public looks to the state to improve their air quality, which we are accomplishing through programs like the Regional Greenhouse Gas Initiative, the Clean Energy Standard and myriad regulations limiting pollution from sources ranging from power plants to consumer products. Since I took office at DEC last November, we have done 63 truck pull-over events, including two in Albany's South End, specifically to look for harmful pollutants from these vehicles. In addition, Department staff test trucks during routine patrols around the state. These events show that we still have progress to make on emissions. Although the state's environmental programs have dramatically reduced emissions from stationary sources and improved our overall air quality, our actions will not fully satisfy public health concerns unless the USEPA meets its obligation to adequately address other major contributors to ambient air pollution, namely motor vehicles and petroleum fuels.

NEW YORK STATE OF OPPORTUNITY | Department of Environmental Conservation

Emissions from mobile sources, such as cars and trucks, include several pollutants of concern, especially benzene, a hazardous air pollutant and a known carcinogen, and nitrogen oxides (NOx), which contribute to formation of ozone and fine particulate matter, which are respiratory irritants that are associated with increased incidence of asthma. New York is using its authority to address pollution from motor vehicles by investing substantial public resources to support the transition to non-emitting electric vehicles. New York's own air quality monitoring, however, has shown elevated levels of benzene and toxic pollutants from cars and trucks across the state, and unhealthy levels of ozone downstate. This monitoring illustrates once again the need for a stronger federal response to the concerns of residents of South Albany and other communities located near busy highways or adjacent to industrial zones about levels of ozone, particulate matter and benzene in the air they breathe.

EPA's most recent National Air Toxic Assessment, released in 2015, demonstrates that emissions of benzene, primarily from motor vehicle fuels, are contributing to elevated cancer risk across New York State, particularly in New York City and other large urban areas. Yet, USEPA has not reviewed benzene in fuel since its two rulemakings in 2007 and 2008 that set current standards. A comprehensive assessment of these outdated fuel standards is urgently needed.

In addition, New York State has, on February 2, 2008, October 1, 2010, June 20, 2012, December 10, 2013, March 13, 2015, March 17, 2015, February 1, 2016, April 6, 2016, July 18, 2016 and July 25, 2016 requested USEPA to use its authority to reduce NOx emissions, including from motor vehicles (enclosed). Strengthening the NOx standards for diesel vehicles is critical to improving air quality, particularly in urban areas, as emissions from on-road diesel vehicles are responsible for an increasing portion of NOx emissions. Last month, New York State joined a multistate petition requesting EPA to undertake a rulemaking to revise the on-road heavy-duty engine exhaust emission standards for NOx.

New York State has also requested EPA use its authority to require NOx emission reductions from power plants and other large emission sources located outside New York that impact our state's air quality. In 2013, New York, along with other states, petitioned USEPA to use its authority under the Clean Air Act (section 176A) to expand the ozone transport region and require reduction of NOx emissions transported from upwind states. To date, USEPA has taken no action, despite clear Clean Air Act deadlines and clear evidence that these states contributed to New York's non-attainment area. Unfortunately, we have not yet received a response to this petition.

EPA Region 2's Notice of Violation dated July 29, 2016, directed at the Global facility (the "NOV"), does not substitute for these important efforts that EPA should take to protect air quality. EPA Region 2 appears to base that NOV on a stack test that DEC required in 2013 to ensure that Global's vapor recovery unit is meeting the permit's specified emission rate.

The test showed that the unit was performing much better than required, in fact emitting at approximately one one-hundredth of permitted levels. EPA Region 2 has not shared the basis for their calculation with New York State, but Region 2 appears to be using the stack test for another purpose, i.e. to question the EPA-designated emission factor that Global used in its application for the 2012 modification to its Title V permit. I ask EPA to support our effort to protect air quality in the Port of Albany area by providing clear direction to the states for stack tests, rather than relying on states to develop their own requirements. In the absence of any such federal direction, we request EPA to refrain from using stack tests required solely by state law for purposes for which they were not designed.

USEPA has the responsibility to use its authority to protect public health, particularly in environmental justice areas, and I urge you to exercise that authority expeditiously before the end of President Obama's term. Specifically, I respectfully request that USEPA undertake a thorough, scientifically based examination of the need for further regulatory reductions of ambient air quality standard levels and of benzene and NOx emissions from motor vehicles and fuels. Following that examination, I request that USEPA expeditiously promulgate regulations to reduce these pollutants, and improve air quality for all Americans. Additionally, I request that you provide clear guidance on the use of stack tests as improving air quality is a national concern.

Sincerely,

Basil Seggos
Commissioner

Enclosures

c: Judith Enck

Correspondence Management System
Control Number: AX-16-001-1312
Printing Date: August 17, 2016 02:47:13

Citizen Information

Citizen/Originator: **Fichthorn, Norman W.**
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Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1312	**Alternate Number:**	N/A
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Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Supplemental Comments of the Utility Air Regulatory Group on the Proposed Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS; Docket ID No. EPA-HQ-OAR-2015-0500
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OAR	Aug 17, 2016

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to OAR	Aug 17, 2016

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NORMAN W. FICHTHORN
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August 16, 2016

Via First-Class Mail and Electronic Mail

The Honorable Gina McCarthy
Administrator, U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Mail Code 1101A
Washington, D.C. 20460

Docket ID No. EPA-HQ-OAR-2015-0500

Supplemental Comments of the Utility Air Regulatory Group on the Proposed Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS 80 Fed. Reg. 75706 (Dec. 3, 2015), EPA-HQ-OAR-2015-0500

Dear Administrator McCarthy:

On February 1, 2016, the Utility Air Regulatory Group ("UARG") submitted extensive legal and technical comments on EPA's proposed Cross-State Air Pollution Rule ["CSAPR"] Update for the 2008 Ozone NAAQS, 80 Fed. Reg. 75706 (Dec. 3, 2015) ("Proposed Rule").[1] One of UARG's primary concerns about the Proposed Rule is that EPA's 2017 base case modeling incorrectly and improperly assumed that an extraordinarily large amount of coal-fired electric generating capacity will be retired by 2018—with the great majority of that capacity projected by EPA to be retired by 2016—and therefore does not reflect real-world conditions.

As UARG explained in its February 1 comments and in the technical report submitted as Attachment 2 to those comments,[2] EPA's modeling, using the Integrated Planning Model ("IPM"), assumed that a total of 75,093 MW of coal-fired electric generating capacity will be retired by 2018, with 64,454 MW of that capacity projected by EPA to be retired in 2016. *See* UARG February 1 Comments at 43; Technical Report (Attachment 2 to UARG February 1 Comments) at 2-3 to 2-4 & Tables 2-1 & 2-2. Based on information provided by owners of

[1] UARG's comments are in the docket for the Proposed Rule at EPA-HQ-OAR-2015-0500-0253 ("UARG February 1 Comments"). Those comments are incorporated herein by reference.

[2] J. Marchetti and J. E. Cichanowicz, "Critique of the Technical Basis for the Proposed Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS," Feb. 1, 2016.

coal-fired electric generating units ("EGUs" or "units") that EPA's modeling projected would be retired, as well as other, publicly available information, UARG found that there were plans to retire only 16,713 MW of that capacity by 2018 and only 6,869 MW of that capacity in 2016. Technical Report (Attachment 2 to UARG February 1 Comments) at 2-3 to 2-4 & Table 2-2. The foregoing figures reflect EGU capacity and projected retirements nationwide.

With respect to the region covered by the Proposed Rule (the "CSAPR II Region"), EPA's modeling projected that 56,505 MW of coal-fired electric generating capacity will be retired by 2018 in that region, with 47,690 MW of that capacity projected to be retired in 2016. *Id.* at 2-3 to 2-4 & Tables 2-1 & 2-2. Based on information provided by owners of EGUs that EPA's modeling projected would be retired, as well as other, publicly available information, UARG found that there were plans to retire only 11,669 MW of that capacity in the CSAPR II Region by 2018 and only 6,224 MW of that capacity in 2016. *Id.* at 2-4 & Table 2-2.

An appendix to the Technical Report[3] identified the EGUs that EPA's modeling projected would be retired by 2016 and 2018 and indicated whether there were plans to retire each such unit by 2016 or 2018. The first table in the Appendix lists 234 coal-fired EGUs in the CSAPR II Region that EPA projected would retire by 2016 and indicates that UARG found, based on real-world information, that 161 of these 234 units were *not* in fact expected to retire by 2016.

On June 1, 2016, UARG submitted supplemental comments on the Proposed Rule to EPA, citing unit-level operational data for the first quarter of 2016 that EPA made available on its website.[4] UARG attached to those comments reports generated by EPA's Air Markets Program Data ("AMPD") website (https://ampd.epa.gov/ampd/)[5] that showed that 152 of the 161 CSAPR II Region coal-fired units that EPA projected would retire by 2016—and that UARG found were not expected to retire by 2016—in fact reported data showing that they

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[3] "Appendix to 'Critique of the Technical Basis for the Proposed Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS,'" Feb. 1, 2016 ("Appendix").

[4] A copy of those comments ("UARG June 1 Comments") is attached hereto (Attachment 1 to this letter). Those comments are incorporated herein by reference. Because a draft of the final CSAPR Update rule is undergoing interagency review and review by the Office of Management and Budget ("OMB") at this time, UARG is submitting the present comments, together with the UARG June 1 Comments, to OMB as well as to EPA.

[5] *See* UARG June 1 Comments at 3 n.6 (explanation of reports generated using EPA's AMPD website results).

operated during the first quarter of 2016. As those comments explained, of the nine remaining units, four were not required to report quarterly data to EPA because of their very small size (*i.e.*, nameplate capacity below 25 MW);[6] one unit (Dan E Karn unit 1 in Michigan) did not operate during the first quarter of 2016 but has not been retired and is expected to operate in future years; and another unit (Chesterfield Power Station unit 3 in Virginia) did not operate during the first quarter of 2016 but is expected to remain commercially operable. UARG June 1 Comments at 3. First-quarter 2016 data for one of the three remaining units—WPS Westwood Generation unit 031 in Pennsylvania—appeared to be unavailable on the AMPD website at that time, but UARG reported that it understood that that unit was not retired. *Id.* at 3-4. UARG's comments also noted that the other two remaining units, S A Carlson units 5 and 6 in New York, are very small units that were operating as natural gas-fired steam units. *Id.* at 4. Accordingly, the operational data for the first quarter of 2016 confirmed that EPA's modeling in this rulemaking, and therefore EPA's proposed statewide emission budgets that the Agency calculated based on that modeling, relied on seriously flawed assumptions of coal-fired capacity retirements.

Unit-level operational data for the second quarter of 2016 have recently been reported and have become publicly available. These data show that, contrary to EPA's projections, the vast majority of the 161 relevant units continued to operate in the second quarter of 2016.

Submitted with this letter as Attachment 2 hereto are reports generated by EPA's AMPD website in the same manner in which the reports submitted with UARG's June 1 comments were generated.[7] These reports show that 140 of the 161 relevant units reported

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[6] *See* UARG June 1 Comments at 3 n.7 (listing these four small units as Muscatine Plant #1 unit 7 in Iowa, Streeter Station unit 6 in Iowa, White Pine Electric Power unit BLR 1 in Michigan, and Orrville unit 12 in Ohio).

[7] As UARG explained in its June 1 comments, *see* UARG June 1 Comments at 3 n.6, the parameters established by the query options on EPA's AMPD website result in generation of reports for all data-reporting EGUs located at a given facility. Thus, the reports attached to UARG's June 1 comment letter and to this letter list *all* units for which operating data were available on the AMPD website for the first quarter and the second quarter of 2016, respectively, and which are located at a facility that includes *any* unit that (a) is listed in the first table in the Appendix and (b) UARG found was *not* in fact expected to retire by 2016 (as noted in that table). Accordingly, due to the parameters of the report-generating function on the AMPD website, the reports attached to UARG's June 1 comments and to this letter list a large number of units that are not relevant to this analysis. Units that UARG found are—contrary to EPA's modeling projections—not expected to retire by 2016 are highlighted in

data showing that they operated during the second quarter of 2016.[8] With respect to the 21 other units, the status of seven of those units during the second quarter of 2016 remains the same as those units' reported status for the first quarter of 2016, which was addressed in the UARG June 1 Comments.[9] Although second-quarter 2016 data for two of the 14 remaining units—J. H. Campbell units 1 and 2 in Michigan—appear to be unavailable on the AMPD website at this time, the owner of those units has advised UARG that both of those units operated during the second quarter of 2016. UARG also understands that major emission control technology was installed at these two units during the second quarter of 2016,[10] a fact that indicates they likely will remain operational for at least the next few years (*e.g.*, past the 2016-2018 timeframe applicable to EPA's retirement projections). Similarly, Weston unit 3 in Wisconsin—which the available data indicate did not operate during the second quarter of 2016—is currently undergoing installation of a Regenerative Activated Coke Technology system; installation of that technology is expected to be completed by the end of 2016, a fact that indicates continued operation of that unit in the future. Of the 11 remaining units, one (Brunner Island unit 1 in Pennsylvania) is undergoing conversion to become a natural gas co-fired unit, and the conversion project is currently expected to be completed by the end of 2016; one (G G Allen unit 5 in North Carolina) recently was taken out of service to allow for replacement of a low-pressure turbine and has since resumed operation; two (Northampton unit NGC01 and WPS Westwood Generation unit 031, each located in Pennsylvania) are

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yellow in the reports; the non-highlighted units listed in the reports are not pertinent to this analysis.

[8] In the present comments and its June 1 comments, UARG has used recorded heat input as an indicator of operation. This is consistent with the CSAPR definition of "operate" as meaning "to combust fuel." *See* 76 Fed. Reg. 48208, 48383 (Aug. 8, 2011). There is one relevant unit (Sibley unit 2 in Missouri) that reported unit operating time during the second quarter of 2016 but reported no heat input for that quarter.

[9] As noted above, four of these seven units—Muscatine Plant #1 unit 7 in Iowa, Streeter Station unit 6 in Iowa, White Pine Electric Power unit BLR 1 in Michigan, and Orrville unit 12 in Ohio—were not required to report quarterly data to EPA because each of those units' nameplate capacity is below 25 MW. Chesterfield Power Station unit 3 in Virginia did not operate during the first or second quarter of 2016 but is expected to remain commercially operable for at least the next several years. As noted above, S A Carlson units 5 and 6 in New York are very small units that are operating as natural gas-fired steam units.

[10] UARG understands that in spring 2016, a baghouse and dry sorbent injection ("DSI") system were added to J. H. Campbell unit 1 and a DSI system was added to J. H. Campbell unit 2.

small waste-coal fluidized bed combustion units and do not operate continuously;[11] and one (Yorktown unit 1 in Virginia) is expected to continue to be operational through the end of 2016 and is not scheduled to retire until the second quarter of 2017 at the earliest. Another unit, Sibley unit 2 in Missouri, reported an operating time of 33.79 hours in the second quarter of 2016. UARG understands that Sibley unit 2 has not been retired and is expected to continue to operate as a coal-fired unit past 2018.

UARG is aware of no information indicating that any of the remaining five units[12] that did not report data showing that they operated during the second quarter of 2016 have been retired, or that any of these units will be retired by the end of 2016. All five units operated during the first quarter of 2016. *See* reports attached to UARG June 1 Comments. In fact, 14 of the 21 relevant units that did not report data indicating that they operated during the second quarter of 2016 *did* report data indicating that they operated during the first quarter of 2016.[13] Thus, in the absence of any announcement regarding planned retirement of these units, it stands to reason that the absence at the present time of data showing second-quarter 2016 operation is attributable to factors other than retirement and that these units will continue to operate in the future. Indeed, information on EPA's website indicates that Dan E Karn unit 1 in Michigan, which did not operate during the first quarter of 2016, resumed operation during the second quarter of 2016. *Compare* reports attached to UARG June 1 Comments *with* Attachment 2 hereto.

In sum, EPA's own publicly available data for the second quarter of 2016 reconfirm the conclusion that critically important assumptions regarding unit retirements on which EPA relied in determining statewide emission budgets lack any sound basis and undermine the

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[11] Although, as noted above, first-quarter 2016 data did not appear to be available for WPS Westwood Generation unit 031 in Pennsylvania at the time UARG prepared its June 1 comments, EPA's AMPD website now provides data indicating that this unit *did* operate during the first quarter of 2016.

[12] These five units are Charles R. Lowman unit 1 in Alabama, John S. Cooper unit 2 in Kentucky, Westmoreland Partners Roanoke Valley II unit 2 in North Carolina, and Mercer units 1 and 2 in New Jersey.

[13] The only relevant units that did not report data indicating that they operated during either the first quarter or the second quarter of 2016 were the seven units described in footnote 9 above (*i.e.*, the four units that were not required to report quarterly data due to their small size; one unit that is expected to remain commercially operable for at least the next several years; and two very small units that are operating as natural gas-fired steam units).

Correspondence Management System
Control Number: AX-16-001-1318
Printing Date: August 17, 2016 03:35:03

Citizen Information

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Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1318	**Alternate Number:**	N/A
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Due Date:	N/A	**# of Extensions:**	0
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Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - EPA should base its final groundwater study on science and the facts
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Derek Threet - AO-IO
OCIR-ORO - Office of Regional Operations
OPA - Office of Public Affairs
ORD - Office of Research and Development -- Immediate Office
R8 - Region 8 -- Immediate Office
SAB - Science Advisory Board

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	OW	Aug 17, 2016

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Greg Brown, President
CHS Inc.

Monica Mainland, Vice President,
Downstream, ExxonMobil

Kent Beers, Vice President,
Upstream, Empire Resources LLC

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Denbury Resources, Inc.

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SM Energy Company

WBI Energy, Inc.

Burt Todd
Montana Tech

Tad True
True Oil LLC

Stephanie Williams
Phillips 66

August 16, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator McCarthy:

Recently, the Hydraulic Fracturing Panel of the Environmental Protection Agency's (EPA) Science Advisory Board (SAB) released its final recommendations[1] on the EPA's landmark groundwater study related to hydraulic fracturing.

In December 2015, concerns arose that the SAB was preparing to pressure the agency into reversing its topline finding; namely, that "hydraulic fracturing activities have not led to widespread, systemic impacts to drinking water resources". Despite producing four drafts coming in at nearly 200 pages each, the SAB has never pointed to any evidence that contradicts the EPA's finding that hydraulic fracturing has "not led to widespread, systemic impacts" on drinking water sources. Therefore, the SAB ultimately was not able to justify officially asking the EPA to change or eliminate its topline finding in its final recommendations.

To be clear, there is nothing ambiguous about the EPA's finding. The terms "widespread" and "systemic" are clearly defined and unequivocal. The EPA offers further clarity, noting that while there were some instances of water impacts (not from the process of hydraulic fracturing itself, but from related activities such as well casing failures or fluid spills on the surface) the number of these instances "was small compared to the number of hydraulically fractured wells."

If there were anything to suggest widespread or systemic impacts to drinking water as a result of hydraulic fracturing, it would have been uncovered during the past decade of extensive study of the process, and the SAB would be able to point to that evidence in its recommendations. The lack of such evidence means the EPA's conclusion is scientifically sound. These points are addressed more extensively in the attached letter submitted on this issue by the Independent Petroleum Association of America.

The SAB has requested that the EPA *prove that there are not* widespread, systemic impacts to groundwater from hydraulic fracturing. The section of the recommendations that perhaps best illustrates this occurs when the SAB suggests that the EPA alter its finding that fracturing fluid spills have not impacted groundwater because "this major finding is supported only by an absence of evidence rather than by evidence of absence of impact".In other words, the SAB is asking the EPA to prove a negative.

---

[1] SAB Review of the EPA's draft Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources:
https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebReportsLastMonthBOARD/BB6910FEC10C01A18525800C00647104/$File/EPA-SAB-16-005+Unsigned.pdf

The fact that the EPA spent five years gathering data and information and, in that time, could find nothing to support widespread or systemic impacts on underground sources of drinking water is indeed evidence of absence. Importantly, the SAB itself provided no evidence to contradict the EPA's topline finding. If the SAB has such evidence, it should release it for public review. Absent any such evidence, however, the SAB's request is unsustainable.

According to the EPA, a "key priority" for the Agency is to "base Agency actions on sound scientific data, analysis, and interpretations". The EPA should now follow these guidelines and base its final groundwater study exclusively on the science and the facts.

Sincerely,

Alan Olson
Executive Director
Montana Petroleum Association

Correspondence Management System

Control Number: AX-16-001-1330
Printing Date: August 17, 2016 03:11:46

Citizen Information

Citizen/Originator: **Smith, Phil**
Organization: United Mine Workers of America
Address: 18354 Quantico Gateway Drive, Triangle, VA 22172-1779

Roberts, Cecil E
Organization: United Mine Workers of Americia
Address: 18354 Quantico Gateway Drive, Triangle, VA 22172-1779

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-16-001-1330	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Aug 16, 2016	**Received Date:**	Aug 17, 2016
Addressee:	Governor Terence McAuliffe, Molly Joseph Ward	**Addressee Org:**	State of Virginia
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Potential for alternative paths for compliance with the Clean Power Plan
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OCIR - Office of Congressional and Intergovernmental Relations
OPA - Office of Public Affairs
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OAR	Aug 17, 2016

History

United Mine Workers of America

CECIL E. ROBERTS
INTERNATIONAL PRESIDENT

TELEPHONE
(703) 291-2420
FAX (703) 291-2451

UNITED MINE WORKERS' HEADQUARTERS
18354 QUANTICO GATEWAY DRIVE, SUITE 200
Triangle, VA
22172-1779

August 16, 2016

The Honorable Terence McAuliffe
Governor of the Commonwealth of Virginia
P.O. Box 1475
1111 East Broad Street
Richmond, VA 23219

and

The Honorable Molly Joseph Ward
Virginia Secretary of Natural Resources
Patrick Henry Building
1111 East Broad Street
Richmond, VA 23219

Dear Governor McAuliffe and Secretary Ward:

President Obama has made global warming emissions reduction a national policy. The scientific community has established that the three leading sources of manmade global warming are:

A. CO_2 emissions from fossil-fueled power plants and industrial sources;
B. Methane (CH_4) emissions from landfills and other sources; and
C. Tailpipe emissions from transportation fuel.

As you know, U.S. EPA recently issued the Clean Power Plan setting forth state requirements for fossil-based electric generation to reduce CO_2 stack gas emissions. A number of states have challenged the CPP contending that it lacks legal authority and usurps traditional state energy regulatory processes. The United Mine Workers of America (UMWA), along with other labor organizations, also are opposing the CPP rule, which has been stayed by the Supreme Court pending the outcome of litigation.

It is our position that EPA's plan to require a national policy of CO2 reductions that falls primarily on the coal mining and electric generating sectors is unfair and will cause unacceptable

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loss of jobs, destruction of coalfield communities, and excessive increases in electric rates to Virginia's ratepayers.

Apart from our concerns about the legality of EPA's plan, we believe the CPP is flawed due to its focus on the electric generation sector and its failure to consider other greenhouse gas emissions, including the more damaging methane emissions from landfills and sources such as the oil and gas industry. As you know, the plan gives each state the responsibility to develop and submit a plan to the EPA detailing how it will meet their targeted GHG reductions. By delegating to each state the discretion to develop its own specific plan - currently being developed in Virginia pursuant to your Executive Order 57 - Virginia can be in the forefront of compliance if the plan were to include greater compliance flexibility mechanisms, such as an aggressive methane reduction program exceeding applicable EPA requirements to provide offsets to CO_2 emissions from coal generating facilities.

Recently, the three leaders of Canada, Mexico and the United States specifically targeted methane emissions as a serious contributor to global warming. According to U.S EPA, methane emissions are 25 times worse than CO_2 at trapping heat in the atmosphere, and landfills are the third largest source of methane in the country. The elimination of landfill methane emissions should be pursued by Virginia and other States as an alternative to the job-killing retirements of coal mines and power plants envisioned by the Clean Power Plan.

Greater compliance flexibility also could be achieved by adding forestry-related offsets for CO2 to Virginia's plan. The recent Paris Agreement calls for a "balancing" of manmade greenhouse gas emissions and biogenic sinks. Forestry-related offset programs have long been recognized as a highly cost-effective means to reduce the effects of CO2 emissions while helping to preserve biologic diversity.

On behalf of the UMWA, I recommend that Virginia send a strong signal to EPA that alternative compliance paths should be developed in any final rules implementing the CPP - or in any replacement rule that may be developed as a consequence of the ongoing legal challenges to the rule. Alternative compliance paths such as I am suggesting here would result in fewer coal electric generating plant shutdowns and related losses of mining, utility and railroad jobs.

Sincerely,

Cecil E. Roberts

cc: Honorable Gina McCarthy, US EPA

ED_001174_00000105

Correspondence Management System
Control Number: AX-17-000-1082
Printing Date: November 07, 2016 04:22:03

Citizen Information

Citizen/Originator: **Davis, Carletta**
Organization: We Matter Eight Mile Association
Address: Address Unknown

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1082	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 22, 2016	**# of Extensions:**	0
Letter Date:	Nov 4, 2016	**Received Date:**	Nov 4, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	Division Director, R4-SFD	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - We Matter Eight Mile Association's Concerns with Mercaptan Chemical Spill in Eight Mile, Alabama
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: Assigned to Superfund Division for response.
CC: Eileen Naples - AO-IO
OLEM - Office of Land and Emergency Management
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	R4	Nov 7, 2016	Nov 22, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				
Wanda Hudson	R4	R4-SFD	Nov 7, 2016	Nov 22, 2016	N/A
	Instruction: R4-DD-Please prepare response for Division Director's signature. When signed, originating office should mail original and any cc's. Please hand-carry or email signed copy of response to Wanda Hudson, OGR for close-out of control. If any questions, contact Wanda at X29351. THANKS.				

Supporting Information

Supporting Author: N/A

Fri Nov 04 16:35:53 EDT 2016
Leavy.Jacqueline@epamail.epa.gov
FW: Chemical Katrina in Eight Mile Al
To: CMS.OEX@epamail.epa.gov

From: Carletta Davis [mailto:carlettadavis81@gmail.com]
Sent: Friday, November 04, 2016 4:18 PM
To: Mccarthy, Gina <McCarthy.Gina@epa.gov>; McTeerToney, Heather <McTeerToney.Heather@epa.gov>
Subject: Chemical Katrina in Eight Mile Al

Good Afternoon Director McCarthy,

It is with great distress and quite frankly dismay that I write you about my community of Eight Mile Al. We have been subjected to a "chemical Katrina" for eight long years. In 2008 our gas local gas Company spilled accord to them 6000 pounds of mercaptan in our community. They did not report it to the National Response Center and they tried to cover it up. It was not until 2011 when the community started complaining about the overwhelming odor and the illnesses behind it, did Mobile Gas even say that they had a spill.

So, this was a clear violation of Federal Law in that they failed to report a "reportable quantity" of chemical being spilled in our community. This chemical has now gone into our groundwater and is still making people very ill due to the exsposure. Children are suffering from seizures, respiratory problems, headaches, nosebleeds etc. We have been left in the murky, dirty, contaminated, "chemical Katrina" drowning for eight long years with no help from officials.

I don't understand how a private company can be allowed to place profits over people's lives and not be held accountable when there are laws clearly in place for matters such as this. This disheartening and a true lack of justice for our community. We have been feed excuse after excuse as to why the violator has been allow to get away with this and quite frankly I'm tired. I have tried to run this through proper channels and I have been ignored. It is my sincere hope Director that I have to go no further than you because you will see fit to have justice done.

We Matter 8mile Association has a electronic diary of people documenting what they are going through down here please visit our Facebook page. I hope that you will take time to review this information and take action.

My request is for a full investigation into this matter.

Sincerely

Carletta Davis

President, WMECA

251-229-1106

https://www.facebook.com/groups/469837626552292/

Correspondence Management System
Control Number: AX-17-000-1084
Printing Date: November 07, 2016 03:38:40

Citizen Information

Citizen/Originator: **Donovan, Shaun**
Organization: Executive Office of the President, Office of Management and Budget
Address: 725 17th Street, N.W., Washington, DC 20503

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1084	**Alternate Number:**	N/A
Status:	Appropriate Action	**Closed Date:**	N/A
Due Date:	Nov 21, 2016	**# of Extensions:**	0
Letter Date:	Nov 4, 2016	**Received Date:**	Nov 7, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Fiscal year 2016-2017 guidance on Federal Information Security and Privacy Management Requirements
Instructions: AR - ACTION REQUIRED - Please take the action requested in this communication.
Instruction Note: N/A
General Notes: N/A
CC: Derek Threet - AO-IO
OARM - OARM -- Immediate Office
OHS - Office of Homeland Security
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OEI	Nov 7, 2016	Nov 21, 2016	N/A
	Instruction: AR - ACTION REQUIRED - Please take the action requested in this communication.				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

November 4, 2016

M-17-05

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Shaun Donovan
Director

SUBJECT: Fiscal Year 2016 – 2017 Guidance on Federal Information Security and Privacy Management Requirements

Purpose

This memorandum establishes current Administration information security priorities and provides agencies with Fiscal Year (FY) 2016-2017 Federal Information Security Modernization Act (FISMA) and Privacy Management reporting guidance and deadlines, as required by the *Federal Information Security Modernization Act of 2014* (Pub. L. No. 113-283, 128 Stat. 3073) (FISMA 2014), to ensure consistent government-wide performance and best practices to protect national security, privacy and civil liberties while limiting economic and mission impact of incidents.

This memorandum is directed to Federal Executive Branch agencies and does not apply to national security systems. Agencies operating national security systems, however, are encouraged to adopt the initiatives herein and abide by the spirit of this memorandum.

Background

The Federal Government has seen a marked increase in the number of information security incidents that have the potential to affect the integrity, confidentiality, and/or availability of government information, systems, and services. These incidents demonstrate the need to ensure that we comprehensively address information security practices, policies, and governance. In response to these persistent threats, the Federal Government has taken a number of significant actions to improve Federal information security.

Earlier this year, the President directed his Administration to implement the *Cybersecurity National Action Plan (CNAP)* to increase the level of cybersecurity in both the Federal Government and the larger digital ecosystem. The CNAP builds on the initiatives set forth in *OMB Memorandum M-16-04, Cybersecurity Strategy and Implementation Plan (CSIP) for the Federal Civilian Government*. Concurrent with the release of the CNAP, President Obama

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issued an Executive Order establishing the Federal Privacy Council.[1] Furthermore, in July 2016, the Office of Management and Budget (OMB) issued the first update since 2000 to *Circular A-130, Managing Information as a Strategic Resource*, the Federal Government's governing document for the management of Federal information resources. A-130 provides the foundation for the planning, budgeting, governance, acquisition, security, privacy, and management of Federal information resources and codifies a number of important best practices in these areas.

Summary of Contents

Section I: Information Security and Privacy Program Oversight and Reporting Requirements

This section is comprised of requirements to assist agencies with the adoption of Administration priorities and provide OMB the performance indicators necessary to conduct oversight and understand risk through an enterprise-wide lens. Furthermore, this section refines existing guidance to agencies on addressing requirements established in FISMA 2014. Specifically, this section:

- Provides Federal agencies with timelines and requirements for quarterly and annual reporting; and
- Establishes detailed instructions for preparing the annual agency FISMA reports, which must be submitted through the Department of Homeland Security's (DHS) CyberScope reporting system **no later than November 10, 2016**.

Section II: Updated Major Incident Definition and DHS US-CERT Incident Notification Guidelines

This section includes updates to both the definition of "major incident" and the DHS United States Computer Emergency Readiness Team (US-CERT) Incident Notification Guidelines.

In addition to the sections referenced above, updates to the Frequently Asked Questions can be found at the following link: https://community.max.gov/x/ewJhRQ

[1] Executive Order 13719, Establishment of the Federal Privacy Council (February 9, 2016) https://www.whitehouse.gov/the-press-office/2016/02/09/executive-order-establishment-federal-privacy-council

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Correspondence Management System
Control Number: AX-17-000-1091
Printing Date: November 07, 2016 03:24:15

Citizen Information

Citizen/Originator: **Ramsburg, Robert**
Organization: Frederick County Farm Bureau
Address: 7200 Dogwood Lane, Middletown, MD 21769

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1091	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 22, 2016	**# of Extensions:**	0
Letter Date:	Nov 2, 2016	**Received Date:**	Nov 5, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Opposition to the Proposed Renewable Volume Obligation for 2017
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OCIR - Office of Congressional and Intergovernmental Relations
OPA - Office of Public Affairs
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OAR	Nov 7, 2016	Nov 22, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date

November 2, 2016

The Honorable Gina A. McCarthy
USEPA headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

RE: Opposition to the EPA's Proposed RVO for 2017

Dear Administrator McCarthy;

I write to you regarding the Environmental Protection Agency's proposed rule setting blending targets under the Renewable Fuel Standard (RFS) for 2017. As the president of the Frederick County Farm Bureau, it is my responsibility to stand up for the agricultural community. I urge you to ensure that the final rule promotes growth in the U.S. biofuel sector and captures economic opportunity rather than drive investment overseas.

The 2017 RFS proposed by the EPA will set the Renewable Volume Obligation (RVO) limit of homegrown ethanol at 200M gallons less than federal statute allows. Not only will this limitation be felt in the agricultural communities, but it could also have an impact on the nation's mission to reduce dependence on foreign oil.

The grain producers of Maryland and across America will have to again adapt to function within the regulations set by the EPA. It is my stance that not only does the agricultural community do their part in the great undertaking of environmental protection, but that lowering the allowed homegrown ethanol production could be detrimental to much more than the rural economies of America. Ethanol emissions are proven to be less harmful greenhouse gases, in some instances up to 50% less than gasoline. This could actually be harmful to the environment that the EPA is so titled to protect.

I ask that you please use your influence to protect rural Marylanders from this ineffectual regulation proposed by the EPA. Members of the agricultural community cannot afford take any steps backward from the progress we've made within the RFS.

Sincerely,

Robert Ramsburg - 240-446-4163

Robert Ramsburg
President, Frederick County Farm Bureau

CC: Sen. Barbara A. Mikulski
Sen. Benjamin L. Cardin
Rep. Christopher Van Hollen, Jr.
Rep. Donna F. Edwards
Rep. Steny H. Hoyer
Rep. John P. Sarbanes
Rep. Elijah E. Cummings
Rep. C.A. Dutch Ruppersberger III
Rep. Andrew P. Harris
Honorable Gina A. McCarthy, EPA

Correspondence Management System

Control Number: AX-17-000-1097
Printing Date: November 07, 2016 03:57:12

Citizen Information

Citizen/Originator: **Schaffer, Amy**
Organization: BOLD Nebraska
Address: 208 South Burlington Avenue, Box 325, Hastings, NE 68901

Depew, Brian
Organization: Center for Rural Affairs
Address: 145 Main Street, P.O. Box 136, Lyons, NE 68038

Gerhart, Matthew
Organization: Earthjustice
Address: 633 17th Street, Denver, CO 80202

Learner, Howard A
Organization: Environmental Law and Policy Center
Address: 35 East Wacker Drive, Chicago, IL 60601

Mollhoff, Janece
Organization: League of Women Voters of Nebraska
Address: 4600 Valley Road, Lincoln, NE 68510

Hovorka, Duane
Organization: Nebraska Wildlife Federation
Address: Box 81437, Lincoln, NE 68501

Kodish, Stephanie
Organization: National Parks Conservation Association
Address: 706 Walnut Street, Knoxville, TN 37902

Bender, Holly
Organization: Sierra Club-Beyond Coal Campaign
Address: 133 South Butler Street, Madison, WI 53703

Knott, Andy
Organization: Sierra Club
Address: 2818 Sutton Boulevard, St Louis, MO 63143

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1097	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 22, 2016	**# of Extensions:**	0
Letter Date:	Nov 7, 2016	**Received Date:**	Nov 7, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: DRF - Letter from eight state, regional and local organizations urging EPA to quickly issue a proposed new reasonable progress plan to address Nebraska Regional Haze

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OCIR-ORO - Office of Regional Operations
OPA - Office of Public Affairs
R7 - Region 7 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OAR	Nov 7, 2016	Nov 22, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				
Barbara Matthews	OAR	OAR-OAQPS	Nov 7, 2016	Nov 18, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
Ken Labbe	OEX	Assign OAR as lead office	Nov 7, 2016
Barbara Matthews	OAR	Accepted the group assignment	Nov 7, 2016
Barbara Matthews	OAR	Assign OAR-OAQPS as lead office	Nov 7, 2016

Comments

Commentator	Comment	Date
No Record Found.		

BOLD Nebraska Center for Rural Affairs
Earthjustice Environmental Law & Policy Center
League of Women Voters of Nebraska
National Parks Conservation Association Nebraska Wildlife Federation
Sierra Club

November 7, 2016

Gina McCarthy
Administrator
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Ave, NW
Mail Code: 1101A
Washington, DC 20460

Re: Nebraska Regional Haze

Dear Administrator McCarthy,

The eight undersigned state, regional and national organizations strongly urge U.S. EPA to expeditiously issue a proposed new reasonable progress plan to address the ongoing regional haze problem caused by Nebraska Public Power District's (NPPD) Gerald Gentleman Station (GGS) coal plant. As you know, in early 2015, the EPA sought and received a voluntary remand to reconsider its decision regarding reasonable progress requirements under the Regional Haze rule at GGS. Sulfur dioxide (SO_2) pollution from GGS travels hundreds of miles and negatively impacts visibility at six national parks and wilderness areas in Colorado, South Dakota, Missouri, and Oklahoma.

The GGS coal plant causes unhealthy haze pollution because it lacks modern pollution controls - or scrubbers - for SO_2 pollution. Installing scrubbers would reduce SO_2 pollution dramatically - by up to 99%. Scrubbers are in operation or being required across the country at similar coal plants. EPA should now move ahead and require scrubbers at GGS.

Two different legal provisions compel EPA to require controls at GGS in order to make reasonable progress at affected Class I areas. First, where Nebraska sources impact the region's Class I areas and controls pass the four-factor reasonable progress analysis required by 40 C.F.R. § 51.308(d)(1)(i)(A), EPA should require such controls as part of Nebraska's long-term strategy. In recent federal implementation plans, such as in Texas and Arkansas, EPA required controls for the sources that are large contributors to impairment and for which controls would be cost-effective and advance reasonable progress towards natural conditions. EPA must be consistent and apply this same framework to Nebraska. EPA's prior analysis shows that GGS impairs Class I area visibility and that post-combustion controls are feasible, meet the four reasonable progress factors, and would help achieve reasonable progress.

Second, EPA must require controls at GGS in order to comply with the requirement to include an approvable long-term strategy for Class I areas that are affected by emissions from the state. 40 C.F.R. § 51.308(d)(3). Under EPA's approach in Texas and Arkansas, the requirement to make reasonable progress is primary and must be met regardless of the status of any reasonable progress goals, which are designed to reflect required controls. In this instance, post-combustion controls are reasonable and should be required. This is particularly true given that (a) existing reasonable progress goals for Badlands, Wind Cave, and Rocky Mountain National Parks already reflect the reasonable, but unfulfilled, assumption of a scrubber at GGS; and (b) Nebraska lags far behind neighboring states taking measures to achieve reasonable progress, and especially in reducing EGU emissions.

Taking action on GGS also enjoys broad public support. Since August 2016, EPA has received nearly 2,000 comments from citizens urging the agency to require a scrubber at GGS. EPA has also received letters from four Nebraska state senators urging action on GGS.

On October 3, we held a meeting with EPA Region 7 to convey our concerns about GGS and regional haze. Participants included representatives from Sierra Club, Earthjustice, National Parks Conservation Association, and Nebraska State Senator Ken Haar.

In 2015, 5.8 million people visited Rocky Mountain, Badlands, and Wind Cave National Parks, contributing significantly to the economies of surrounding communities. Studies have shown that visitors value clean air in our national parks, are able to tell when it is hazy, and enjoy their visit less when haze is bad. Moreover, visitors are willing to alter the length of their stay based on their perception of air quality. Shorter park visits, or none at all, means less time and money spent in gateway communities.

We urge U.S. EPA to move quickly to complete a federal regional haze plan for Nebraska that would require installation of a scrubber at GGS. This would reduce the impact on visibility at important natural areas and benefit their millions of annual visitors. Thank you.

Sincerely,

Amy Schaffer
Program Coordinator
BOLD Nebraska
208 S. Burlington Ave., Ste 103, Box 325
Hastings, NE 68901

Brian Depew
Executive Director
Center for Rural Affairs
145 Main St, PO Box 136
Lyons, NE 68038

Matthew Gerhart
Senior Associate Attorney
Earthjustice
633 17th St., Suite 1600
Denver, CO 80202

Howard A. Learner
Executive Director
Environmental Law & Policy Center
35 E. Wacker Dr., Suite 1600
Chicago, IL 60601

Correspondence Management System

Control Number: AX-17-000-1100
Printing Date: November 07, 2016 03:48:43

Citizen Information

Citizen/Originator: **Griffin, Randall G.**
Organization: International Union of Operating Engineers
Address: 111 East Coolidge, Borger, TX 79007

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1100	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 22, 2016	**# of Extensions:**	0
Letter Date:	Oct 28, 2016	**Received Date:**	Nov 7, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Petition for Rulemaking to Revise the Renewable Fuel Standard Definition of Obligated Party
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OPA - Office of Public Affairs
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OAR	Nov 7, 2016	Nov 22, 2016	N/A
	Instruction: DX-Respond directly to this citizen's questions, statements, or concerns				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date

INTERNATIONAL UNION OF OPERATING ENGINEERS

LOCAL 351

111 E. Coolidge • Borger, Texas 79007 • Phone 806.274.4501 • Fax 806.274.7305
6967 Commerce Ave. • El Paso, Texas 79915 • Phone 915.771.0224 • Fax 915.771.9018
58 Broadlawn • Ardmore, Oklahoma 73402 • Phone 580.223.8854 • Fax 580.223.0376
Affiliated with the American Federation of Labor and Congress of Industrial Organization
Chartered November 1, 1941

October 28, 2016

Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Petition for Rulemaking to Revise the RFS Definition of Obligated Party

Dear Administrator McCarthy:

As the Business Manager of IUOE Local 351 representing 200 union workers at CVR Refining's Wynnewood, Oklahoma, refinery, I'm writing to ask for your help in fixing the Renewable Fuel Standard program. The IUOE Local 351 fully supports changing the point of obligation under the RFS to include all fuel blenders - not just refiners and importers. Prior to making a decision on this important change, we urge you to initiate an open and transparent process that includes both public notice and comments. Our voices should be heard on this issue.

Several refiners have filed petitions to change the point of obligation. This is a serious issue that threatens the viability of merchant refiners like CVR, which provide jobs and tremendous and tremendous economic support to their surrounding communities. In fact, the Wynnewood refinery is considered a major economic engine for its entire region.

Mandating merchant refiners to purchase high-cost RIN credits from integrated refiners, blenders and Wall Street traders has proven disastrous. A Philadelphia refiner recently made the decision to reduce personnel, cut health care benefits, freeze pension contributions and delay capital projects due to the skyrocketing cost of RINs. We do not want this to happen in Wynnewood.

The RFS is clearly not functioning as Congress intended. Please seriously consider supporting these petitions and provide an opportunity for open discussion about how the RFS can be improved through changing the point of obligation.

Thank you for your consideration.

Sincerely,

Randy Griffin

Randy Griffin
12th Vice President
Business Manager, Local 351
International Union Of Operating Engineers

RECEIVED
2016 NOV -7 AM 11:51
OFFICE OF THE
EXECUTIVE SECRETARIAT

Correspondence Management System

Control Number: AX-17-000-1107
Printing Date: November 07, 2016 02:58:43

Citizen Information

Citizen/Originator: **Alvarez, Yude**
Organization: Town of Hillsboro Beach
Address: 1210 Hillsboro Mile, Hillsboro Beach, FL 33062

Tarrant, Deborah L.
Organization: City of Hillsboro Beach, Florida
Address: 1210 Hillsboro Mile, Hillsboro Beach, FL 33062

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1107	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Nov 1, 2016	**Received Date:**	Nov 7, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Resolution No. 2016-873 opposing the Florida Department of Environmental Protection's weakening of restrictions that would allow an increase of toxic chemicals into Florida's waters
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Derek Threet - AO-IO
OCIR-ORO - Office of Regional Operations
OCSPP - OCSPP - Immediate Office
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	R4	Nov 7, 2016
Wanda Hudson	R4	R4-WPD	Nov 7, 2016

RESOLUTION NO. 2016-873

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA, OPPOSING THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S (DEP) WEAKENING OF RESTRICTIONS THAT WOULD ALLOW AN INCREASE IN THE RELEASE OF TOXIC CHEMICALS INTO FLORIDA'S WATERS; URGING THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA) NOT TO APPROVE THE FLORIDA DEP'S NEW RESTRICTIONS; SUPPORTING THE LAWSUIT FILED BY THE SEMINOLE TRIBE OF FLORIDA AGAINST THE FLORIDA DEP AND THE FLORIDA ENVIRONMENTAL REGULATIONS COMMISSION (FERC) ON AUGUST 5, 2016 TO HALT THE INCREASE OF TOXINS IN FLORIDA'S WATER; OPPOSING ANY EFFORT BY THE DEP OR THE FERC TO OPPOSE THE SEMINOLE LITIGATION; AND DIRECTING THE TOWN CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, THE BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS, THE FLORIDA LEAGUE OF CITIES, AND THE BROWARD COUNTY LEAGUE OF CITIES.

WHEREAS, the Florida Department of Environmental protection (DEP) is Florida's lead agency for environmental management, including protection of Florida's surface waters in accordance with Chapter 403, Florida Statutes, Chapters 62-302 and 62-303, Florida Administrative Code, and the Clean Water Act; and

WHEREAS, DEP is in the process of revising its human health-based surface water quality criteria to update the limits for 43 regulated chemical compounds and to adopt standards for 39 previously unregulated compounds; and

WHEREAS, DEP held three public workshops in May 2016 during which the public expressed their concern with the proposed increases to chemical concentrations and the possible ramifications to public health and the health of our waterways, including the discrepancy between the United States Environmental Protection Agency's (EPA) and the DEP's cancer risk measurements used to revise the standards; and

WHEREAS, on July 26, 2016, the Florida Environmental Regulations Commission (FERC) voted to approve DEP's proposed rule changes through revisions to Chapters 62-302 and 62-303 of the Florida Administrative Code; and

WHEREAS, on August 5, 2016, the Seminole Tribe of Florida filed a lawsuit against DEP and FERC to halt the increase of toxins in Florida's waters; and

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WHEREAS, the Town of Hillsboro Beach (Town) is a barrier island surround by the Atlantic Ocean, and an interconnected system of waterways that provide habitat for fish and wildlife, opportunities for recreation, and an enhanced quality of life; and

WHEREAS, protecting Hillsboro Beach's watershed and keeping our waterways clean is critical to our local ecosystem, our residents, and our economy; and

WHEREAS, the Town works hard to keep pollutants out of its waterways, but the Town depends on the County, State, and Federal governments to establish water quality regulations that help preserve local water quality; and

WHEREAS, DEP's revision to the State's surface water quality standards will increase the discharge limits for several of the compounds under review, allowing the release of these chemicals in greater concentrations into Florida's waterways and potentially degrading the quality of local surface waters; and

WHEREAS, opposing the DEP's reduced standards, urging the EPA to not approve these new restrictions, and supporting the Seminole Tribe's litigation will serve to protect the health, safety, welfare, and economy of the citizens and residents of the Town of Hillsboro Beach.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA, that the Town Commission hereby oppose Florida DEP's weakening of restrictions that would allow an increase in the release of toxic chemicals into Florida's waters; urge the EPA not to approve DEP's new restrictions; support the lawsuit filed by the Seminole Tribe of Florida against DEP and FERC on August 5, 2016 to halt the increase of toxins in Florida's water; oppose any efforts by the DEP or the FERC to oppose the Seminole litigation; and, direct the Town Clerk to transmit a copy of this Resolution to the EPA, the DEP, the Broward County Board of County Commissioners, the Florida League of Cities, and the Broward County League of Cities.

PASSED AND ADOPTED by the Town Commission of the Town of Hillsboro Beach, Florida, this 1st day of November, 2016.

TOWN OF HILLSBORO BEACH, FLORIDA

Deborah L. Tarrant

Deborah L. Tarrant, Mayor

ATTEST:

Yude Alvarez, CMC
Town Clerk

TOWN OF HILLSBORO BEACH FLORIDA

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Correspondence Management System
Control Number: AX-17-000-1115
Printing Date: November 07, 2016 02:04:42

Citizen Information

Citizen/Originator: **Selfridge, Peter A.**
Organization: United States Department Of State
Address: 2201 C Street, NW, Washington, DC 20520

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1115	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Nov 23, 2016	**# of Extensions:**	0
Letter Date:	Oct 31, 2016	**Received Date:**	Nov 7, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	MEM (Memo)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: DRF - Submission to the Department of State of listings of gifts of more than minimal value given to foreign individuals during fiscal year 2016
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: Amir Ingram - AO-IO
OITA - Office of International and Tribal Affairs
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OGC	Nov 7, 2016	Nov 23, 2016	N/A
	Instruction: N/A				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date

United States Department of State

Washington, D.C. 20520

RECEIVED

2016 NOV -7 AM 11:48

OFFICE OF
EXECUTIVE SEC

October 31, 2016

MEMORANDUM

TO: Heads of all Departments, Independent Agencies, and Offices of the Executive, Legislative and Judicial Branches

FROM: Peter A. Selfridge, Chief of Protocol

SUBJECT: Submission to the Department of State of Listings of Gifts of More Than Minimal Value Given to Foreign Individuals during Fiscal Year 2016

All federal departments and agencies are required to submit to the Office of the Chief of Protocol a listing of all gifts given with more than minimal value. The current minimal value as defined by the General Services Administration is a gift with a U.S. fair market retail value of $375 or less. These gifts have been given by representatives of the United States Government to foreign individuals during Fiscal Year 2016 (the period of October 1, 2015 through September 30, 2016). This year's submission deadline is Wednesday, November 23, 2016. See below for further instructions.

Section 515(b) of Public Law 95-105, 91 Stat. 866, 22 USC 2694, effective August 17, 1977, prohibits the use of appropriated funds, other than funds from the "Emergencies in the Diplomatic and Consular Service" account of the Department of State, to purchase any tangible gift of more than minimal value (currently defined by the General Services Administration as a gift with a retail value of $375 or less) for any foreign individual unless such gift has been approved by Congress. In addition, Section 515(b) requires the Secretary of State to transmit a report annually to the Speaker of the House of Representatives and the Chairman of the Senate Foreign Relations Committee, the report contains the following details:

(1) any gifts of more than minimal value purchased with appropriated funds, which were given to foreign individuals during the previous fiscal year, and

(2) any other gifts of more than minimal value given by the United States Government to a foreign individual which were not obtained using appropriated funds.

Please note that the second part of the report includes all official gifts of more than minimal value, regardless of their origin, e.g., donations, and the valuation of the gift must be based upon the fair market value in the United States.

United States Department of State

Washington, D.C. 20520

To ensure compliance with PL 95-105, each agency should:

- include the prohibition on purchase of gifts for foreign individuals of more than minimal value without Congressional approval in their fiscal regulations, and

- designate a central point of contact for reporting of all such gifts at the end of each fiscal year and advise the Office of the Chief of Protocol of this designation.

The Department of State requires each agency to transmit a compilation listing all gifts given to foreign individuals that fall under either category described above. Each agency should prepare its compilation for Fiscal Year 2016 in the format of the enclosed report sheet.

Please submit the report via e-mail to Jennifer Wham at ProtocolGiftOfficer@state.gov by Wednesday, November 23, 2016. If your agency does not have any reportable gifts, **you are required to indicate a negative response via e-mail.**

In submitting the report, please provide the **name, telephone number, and e-mail address** of the individual who may be contacted, if necessary, concerning its contents and future reports.

Inquiries regarding this report should be directed to the Department of State, Office of the Chief of Protocol, Attn: Jennifer Wham at (202) 647-1297 or **ProtocolGiftOfficer@state.gov**.

Attachments:
- Example Enclosure: Reporting Sheet
- Copy of 22 U.S.C. § 2694

Correspondence Management System
Control Number: AX-17-000-1129
Printing Date: November 07, 2016 01:21:34

Citizen Information

Citizen/Originator: **Skorton, David J.**
Organization: Smithsonian Institution
Address: 1000 Jefferson Drive, SW, Washington, DC 20560-0016

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1129	**Alternate Number:**	7776 3342 9822
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Oct 24, 2016	**Received Date:**	Nov 7, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Invitation for Administrator to participate in Global Earth Optimism Summit on Earth Day Weekend, April 21-23, 2017
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: Original invite to be hand carried to scheduling by Cynthia Gaines (jl)
CC: Kristien Knapp - AO-IO
OAR - Office of Air and Radiation -- Immediate Office
OPA - Office of Public Affairs
ORD - Office of Research and Development -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	AO-IO-SO	Nov 7, 2016

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to AO-IO-SO	Nov 7, 2016

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Smithsonian Institution

David J. Skorton
Secretary

RECEIVED
2016 NOV -7 AM 11:48
OFFICE OF THE
EXECUTIVE SECRETARIAT

October 24, 2016

Honorable Gina McCarthy
Administrator, Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave. NW
Washington, DC 20460

Dear Ms. McCarthy:

On 21-23 April 2017, Earth Day Weekend, the Smithsonian Institution will convene scientists, policymakers, practitioners, thought leaders and philanthropists from around the world for a Smithsonian-sponsored *Global Earth Optimism Summit*. The event will occur in Washington DC at the Ronald Reagan Building and International Trade Center, and partners will be hosting companion events around the world.

We invite you to be a part of *Earth Optimism*, showcasing your agency's important work in this area.

We will seek perspectives and creative solutions surrounding the health of planet's ecosystems to answer these questions:

- What is working in conservation, and why?
- What are the best minds, and boldest experiments, telling us about how to preserve biodiversity and protect natural resources?
- What successful projects currently exist, ready for adaptation and scaling?

We are committed to leveraging the expertise and convening power of the Smithsonian to explore answers to critical issues. Ranking high among contemporary challenges is the threat posed by human activities to the health of our ecosystems—the life support for all of us. Decades of careful study have documented the rapid pace of species extinction, the dangers of pollution, and the threat of global climate change. Scholars at the Smithsonian and other organizations have communicated these issues to a concerned public and have their attention.

Smithsonian Institution Building
1000 Jefferson Drive SW
Washington DC 20560-0016
202.633.1846 Telephone
202.786.2515 Fax

David J. Skorton
Secretary

Earth Optimism is the beginning of a global conversation. With this event, the Smithsonian celebrates a change in focus from problem to solution, from a sense of loss to one of hope, in the dialogue about conservation and sustainability. Please join us in pursuit of the models and success stories that will inspire progress, grounded in sound science and collective experience.

Event updates will be available on our website: http://earthoptimism.si.edu

Your staff can contact Ruth Stolk, Senior Program Officer, at Stolkr@si.edu to learn more about how you can participate.

Respectfully,

David J Skorton

Smithsonian Institution Building
1000 Jefferson Drive SW
Washington DC 20560-0016
202.633.1846 Telephone
202.786.2515 Fax

Correspondence Management System

Control Number: AX-17-000-1130
Printing Date: November 07, 2016 03:32:55

Citizen Information

Citizen/Originator: **Berti, Jessica**
Organization: United States Council for International Business
Address: 1212 Avenue of the Americas, New York, NY 10036

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-17-000-1130	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Nov 7, 2016	**Received Date:**	Nov 7, 2016
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - United States Council for International Business Letter Sharing Business Community Views in the Lead Up to COP22
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Kristien Knapp - AO-IO
OITA - Office of International and Tribal Affairs
OPA - Office of Public Affairs

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OAR	Nov 7, 2016

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to OAR	Nov 7, 2016

Mon Nov 07 13:29:05 EST 2016
Leavy.Jacqueline@epamail.epa.gov
FW: USCIB Letter sharing business community views in the lead up to COP22 [WARNING: DKIM validation failed]
To: CMS.OEX@epamail.epa.gov

From: Jessica Berti [mailto:jberti@uscib.org]
Sent: Monday, November 07, 2016 12:32 PM
To: Mccarthy, Gina <McCarthy.Gina@epa.gov>
Subject: USCIB Letter sharing business community views in the lead up to COP22 [WARNING: DKIM validation failed]

Dear Administrator McCarthy,

Please find attached a copy of a letter conveyed to Secretary Kerry sharing business community views in the lead up to COP22, as well as 4 issue papers supporting the noted recommendations.

Best regards,

Jessica

Jessica Berti
Executive Assistant, Office of the President

and Human Resources Manager
United States Council for International Business (USCIB)

1212 Avenue of the Americas, New York, NY 10036
Tel: 1+ 212-703-5049 Fax: 1+ 212-575-0327
Email: jberti@uscib.orgWeb:www.uscib.org

Global Business Leadership as U.S. Affiliate of:

- International Chamber of Commerce

- International Organization of Employers

- Business and Industry Advisory Committee to the OECD

- ATA Carnet System

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USCIB
UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

Peter M. Robinson
President & CEO

November 4, 2016

The Hon. John F. Kerry
Secretary of State
United States Department of State
Harry S. Truman Building
2201 C Street, NW - Room 7226
Washington, DC 20520

Dear Mr. Secretary,

The United States Council for International Business (USCIB) looks forward to the entry into force of the Paris Agreement at the 22nd Conference of the Parties (COP22) of the UN Framework Convention on Climate Change in Marrakesh, and USCIB members will be on hand at COP22 to mark this important landmark for sustainability, innovation and energy security. USCIB has walked the long path from COP1 with U.S. delegations over many years, and we recognize this historic moment as a shared achievement of our government and the U.S. business community.

This rapid entry into force brings with it the necessity to move quickly to take up the unfinished elements of the Paris Agreement, and to create the institutional infrastructures and enabling frameworks to animate an all of economy, all of society effort. U.S. companies will require clarity for decision-making on investment and long term planning, and in that regard, the unique nature of the Paris Agreement, with its diverse national pledges, makes strong and credible transparency measures more important than ever. In addition, the specifics associated with the Paris Agreement's Article 6 will have fundamental importance to U.S. companies which engage in GHG markets around the world.

The U.S. business community has these priorities in common with the broader global business community. The Major Economies Business Forum (BizMEF) has developed a series of papers elaborating these shared views for COP22. BizMEF is a partnership of major multi-sectoral business organizations from developed and developing countries, as well as important business sectoral associations. USCIB is among the 25 partner business entities comprising BizMEF.

Among BizMEF's recommendations:

- **Transparency and the Five Year Review**: Business has significant experience in measuring, reporting, and verification which will be essential to assess policy impacts, environmental integrity, and comparative effort among nations as part of the transparency framework. Early and continuous involvement of business (and others) will be essential to help understand the feasibility and implications of proposed INDCs. Business can also provide insight on implications of the entire portfolio of proposed INDCs for global commerce, investment, competitiveness and aggregate consequences for emissions and the economy.

- **GHG Markets and Article 6**: BizMEF calls for regulatory restraint in the guidance to Article 6.2 Paris Agreement; transparent reporting is the best way of enabling GHG markets to develop while guaranteeing an international "level playing field" and enhancing competitiveness. Governments that choose to use market mechanisms should enable their continued use, expansion, and evolution and ensure the flexibility of future GHG markets by allowing differentiation in cooperative approaches.

1212 Avenue of the Americas
New York, NY 10036-1689
212.703.5046 tel
212.575.0327 fax
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Global Business Leadership as the U.S. Affiliate of:
International Chamber of Commerce (ICC)
International Organization of Employers (IOE)
Business and Industry Advisory Committee (BIAC) to the OECD
ATA Carnet System

- **Business in the Paris Agreement**: Business has a wealth of knowledge, experience and expertise to offer concerning creation and dissemination of innovative technologies and approaches to manage risk and promote opportunities that should be at the very heart of discussions—formal and informal, domestic and international—to strengthen implementation. The Paris Agreement needs to establish new institutional architecture to allow representative business to inform discussions, provide technical and expert input and support stronger implementation efforts in mitigation and adaptation. As COP22 moves to advance tasks relating to entry into force, it should consider including recognized representative business engagement as an important element in all of them.

The United States has shown leadership in its emphasis on strong frameworks inside and outside the UNFCCC and Paris Agreement to advance and deploy private sector innovation, such as through the negotiations of the Environmental Goods Agreement under the WTO. We are grateful for the continuing vigilance of the U.S. in ensuring that neither the Paris Agreement nor other UNFCCC efforts undermine protection of intellectual property rights that are fundamental to U.S. competitiveness, prosperity and sustainability.

Today, we ask you, as other BizMEF members will also be asking their governments, to advance necessary clarity on transparency and markets in the Paris Agreement that will be needed for long term business investment and planning, and to engineer into the Paris Agreement substantive opportunities to involve and recognize U.S. business technical and economic expertise and views, and strengthen business implementation.

Sincerely,

Peter M. Robinson

Cc: The Honorable Ernest J. Moniz, Secretary of Energy
The Honorable Penny Pritzker, Secretary of Commerce
Ambassador Michael Froman, U.S. Trade Representative
The Honorable Gina A. McCarthy, Administrator, United States Environmental Protection Agency

EPA Daily News Briefing

Bulletin INTELLIGENCE

Online version available at epa.bulletinintelligence.com

TO: **ADMINISTRATOR AND SENIOR EXECUTIVES**

DATE: **MONDAY, NOVEMBER 14, 2016 7:00 AM EST**

TODAY'S EDITION

Administrator

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ADMINISTRATOR:

Federal Employees React To Transition To Trump Administration.

E&E Publishing (11/11) reported on the emotional reaction of many EPA employees following Tuesday's election results. If the Trump administration follows through on its campaign pledges, "EPA employees stand to see some of the most drastic changes...and they may be taking things a bit harder than other government workers." EPA managers "have stressed to staff to stay professional and work with Trump's transition team," while EPA Administrator Gina McCarthy "emphasized that there should be a smooth transition." The American Spectator (11/14, Menken) reports similarly.

EPA Reportedly Working To Pass Regulations Before Obama Leaves Office.

The Washington Examiner (11/14, Klimas) reports that EPA Administrator Gina McCarthy said the agency was "running — not walking — through the finish line of President Obama's presidency," and is reportedly "telling staff to quickly finish up the last round of regulations before President-elect Donald Trump enters the Oval Office next year." The Daily Caller (11/10, Bastasch) claims that the "EPA and other regulatory agencies are likely to push through a slew of 'midnight regulations' before Obama leaves office."

Press Asks How Trump Will Carry Out Some Campaign Themes And Promises.

Several articles dealt with the election, going into details on the results or examining the support base and what President-elect Trump may be able to do to help his supporters.

The Washington Post (11/12, Schneider) reports from coal country in the southwest of Virginia, where a barber said, "The first thing I'd like him to do is fire that lady that runs the EPA." The Post says that many people in the area "were unhappy with the way Trump talked or conducted himself. But they voted for him by a huge margin."

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They are wondering what Trump will do and whether it will help them.

BROWNFIELDS/SUPERFUND/OTHER CLEANUPS:

Toxic Chemical Detected At New Jersey's Ringwood Superfund Site. The AP (11/11) reports that the dangerous chemical 1,4-dioxane has been detected at the Ringwood Superfund site in New Jersey "where Ford Motor Co. dumped paint sludge decades ago." An EPA spokeswoman said the agency would issue cleanup options for the contaminated water by next summer.

Duke Energy To Store Coal Ash At 10 Plants. The AP (11/11, Press) reports Duke Energy will "cap unlined and potentially leaking coal ash pits at 10 generating plants." The move comes ahead of the EPA deadline next week for "utilities to declare their plans for storing decades of waste left after burning coal for power." Duke will store "almost 70 percent of its ash by dehydrating the storage pools and covering the area with a waterproof liner and dirt to encase the waste." Activists worry that the unlined pits will leak heavy metals into the groundwater, but Duke denies the allegation.

EPA Approves Long Island Dumping Site, Cuomo Threatens To Sue. The Hartford (CT) Business Journal (11/10) reports that the EPA issued a final rule allowing dredged silt to continue being dumped at the eastern Long Island Sound. While Andrew Cuomo has threatened to sue if the plan moves forward, Connecticut Governor Dannel Malloy said the decision allows for a safe method of disposing of silt when it cannot be reused. Newsday (NY) (11/11) reports that up to 20 million cubic yards of waste can be poured into the dumpsite over the next three decades. New York is concerned that the dumping site, which is 0.2 miles from New York territorial waters, will introduce mercury, lead and pesticides into the area.

Local TV Coverage: Long Island Sound Dumping Site. 12-TV Bronx, NY (11/11, 7:37 p.m. EST) reported, "Environmentalists are calling on Governor Cuomo to help stop a federal plan to set up a new dumping site in the Long Island Sound. The Environmental Protection Agency has approved the dumping of dredged sediment of the east end. Some argue the long-term dumping will worsen water quality and kill marine life." Adrienne Esposito, Citizens Campaign for the Environment: "Court action is the last remedy, it's the final one and it's the one that we need New York state and Governor Cuomo to aggressively pursue." Reporter: "A spokesperson for the governor says his office is concerned about the potential environmental impact of the dumping site and is having a legal team look into options to stop the plan."

Local Officials Collaborate With EPA For Cleanup Fund. The Portland (OR) Business Journal (11/11) reports that the EPA will release a "record of decision" on a cleanup plan for the Portland Harbor. A recent report from the US Government Accountability Office (GAO) focused on involving local officials with the $746 million superfund cleanup project. The report said, "Region 10 officials told us that headquarters was directly involved in the development of the remedy. ... This increased level of involvement by headquarters is unique and reflects the importance and political sensitivity of the site, according to regional officials."

EPA Will Start Dayton Park Cleanup Spring 2017. The San Francisco Chronicle (11/14) reports that the EPA plans to start a $3.1 million cleanup of a lead-contaminated park near Dayton, Ohio, in March or April of next year.

EPA Orders Nebraska Railcar Cleaning Services To Properly Handle Waste. The Omaha (NE) World-Herald (11/11) reports that the EPA issued an "imminent and substantial endangerment" order to the Nebraska Railcar Cleaning Services LLC for "failing to identify, handle and properly dispose of waste that 'presents a potential danger to public health and the environment.'" In April 2015, the company's waste products were responsible for an explosion at a company facility that killed two and injured a third.

CLIMATE CHANGE:

EPA Transition Team Led By Climate Change Denier Ebell. CBS News (11/11) reported that Donald Trump has appointed Myron Ebell, a climate change skeptic, to lead his EPA

transition team. Ebell previously said, "We believed that the so-called global warming consensus was not based on science, but was a political consensus, which included a number of scientists." The New York Times (11/11, Fountain) reports that Ebell is a director of environmental and energy policy at the Competitive Enterprise Institute, a Washington DC libertarian advocacy group "financed in part by the coal industry."

The Washington Post (11/11, Dennis) describes Ebell as a "Washington fixture who has long been a cheerful warrior against what he sees as an alarmist, overzealous environmental movement that has used global warming as a pretext for expanding government." For years, Ebell has "questioned the overwhelming scientific consensus" that climate change is caused by human activity. He is also a vocal opponent to what he calls "energy rationing," and instead argues for increased fossil fuel production as a means to "fuel economic growth and job creation."

Trump's Team To Begin Interior, Energy, EPA Transition This Week. Greenwire (11/10, Bravender) reported President-elect Donald Trump's transition team will began "moving into agencies including US EPA, the Interior Department and the Energy Department as early as next week, according to sources close to the transition." Following a presidential election, "the incoming administration's team is granted access to agency buildings and staffers to conduct interviews with top officials and prepare policy documents." Prior to officially entering the agencies, transition staff is required to receive credentials and training from the General Services Administration. The leaders of Trump's agency review teams include Myron Ebell of the Competitive Enterprise Institute leading the EPA team, energy lobbyist Mike McKenna in charge of the DOE transition, and former Interior solicitor David Bernhardt heading the Interior operation.

California Lawmakers Vow To Protect Climate Change Policies. The AP (11/11) reports that Gov. Brown released a statement Thursday saying that California will do its part to find common ground with the incoming Republican administration "whenever possible," but that "as Californians, we will also stay true to our basic principles...and continue to confront the existential threat of our time – devastating climate change." President-elect Trump has "pledged to roll back federal environmental regulations, and a Republican Congress is a threat to Brown's signature issue." Similarly, Assembly Speaker Anthony Rendon, D-Paramount, and Senate President Pro Tem Kevin de Leon, D-Los Angeles wrote that if necessary, "We will lead the resistance to any effort that would shred our social fabric or our Constitution."

Trump Unlikely To Pre-empt California Climate Rules. The San Jose (CA) Mercury News (11/13, Rogers) reports that while the Donald Trump administration will likely roll back many Obama-era energy and environmental regulations, it is unlikely to overturn California's climate rules. Frank Maisano, a spokesman for Houston-base energy lobby Bracewell & Giuliani, said, "Congress can do a lot of things, but I highly doubt this Congress, which has a heavy states-rights focus, will start meddling in the affairs of states on energy policy issues." Mary Nichols, chair of the California Air Resources Board, agreed on Friday, saying were Congress to try to pre-empt California's state laws, it would need to "impose a one-size-fits-all law for all states."

Trump's Promise To Scrap Environmental Regulations Would Likely Be Held Up By Legal Challenges. The Los Angeles Times (11/10, Lauter) reports on Trump's promise to withdraw the US from the Paris climate change agreement and scrap the Obama Administration's Clean Power Plan and other environmental regulations. The Times explains that those policies were adopted by the EPA "using its authority under the Clean Air Act," and therefore could be reversed by the EPA under a Trump administration. However, "environmental groups could — and almost certainly would — go to court to try to block any such reversal. At minimum, the groups could tie up the Trump administration for a long time."

Forbes, (11/10) referring to the Clean Power Plan, reports that "if a Washington appeals court upholds the plan, the government technically will have won, meaning states suing to block the rule will have to appeal to the Supreme Court or Trump will have to convince the Republican-controlled Congress to pass a law reversing the plan." Likewise, the Waters of the US rule is currently being challenged in an appeals court, and "if the Obama administration wins, Trump will again technically be the winner and forced to take other actions to reverse the rule."

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Donald Trump Seeking Way To Exit Paris Climate Agreement. Reuters (11/12, Volcovici, Doyle) reported a transition team source said President-elect Donald Trump "is seeking quick ways of withdrawing from a global agreement to limit climate change." The source called the decision to enter into the Paris agreement so close to an election "reckless," saying that this would not be a problem "if Obama hadn't rushed the adoption." Greenwire (11/11) reports on legal scholars' sentiment that any effort by Donald Trump's EPA "to rescind or revoke major scientifically based rules — like the air standard for ozone pollution — would be met with a barrage of lawsuits." Congress can pass legislation revoking any environmental regulation, and Trump can unilaterally withdraw or abandon commitments under the Paris Agreement, "but history suggests that presidents have rarely sought to rescind earlier regulations under their own executive power," and when they do "they run into problems — including two Supreme Court precedents."

Trump Has Multiple Paths To Withdraw From Paris Climate Agreement. Bloomberg News (11/10, Ryan, Shankleman) reported on four options for President-elect Donald Trump to withdraw the U.S. from the Paris climate agreement. Trump could take advantage of the exit clause, although the U.S. would still be bound by it until 2020. The so-called "nuclear option" would "entail withdrawing from the United Nations Framework Convention on Climate Change," which would take effect by 2018. He could also "dispose of the accord by sending it to the Senate," or "simply ignore" the goals laid out in the agreement. All of these options are expected to hurt the U.S. diplomatically, as "climate change has become a geopolitical issue of the top order."

UN Legal Experts: Trump Could Pull US Out Of Paris Accord Within A Year. Reuters (11/10, Doyle) reports that according to UN legal experts, Trump could implement legal short-cuts to pull the US out of the Paris climate agreement within one year, despite a clause in the accord requiring country's to wait four years before leaving the agreement. However, "Trump could pull out of the parent treaty of the Paris Agreement, the 1992 U.N. Framework Convention on Climate Change with just a year's notice, also voiding U.S. participation in the Paris Agreement, U.N. legal experts say." Daniel Bodansky, a professor of the Arizona State University Sandra Day O'Connor College of Law, said, "If Trump acts with the approval of Congress there is no problem under U.S. law," as the accord has no sanctions for non-compliance. Separately, Reuters (11/10) reports that on Thursday, three European science organizations said in a report that if the US leaves the Paris accord, its emissions may not be cut before 2030. Niklas Hoehne, of NewClimate Institute, said, "If President Trump abandons current policies as he has threatened to do, we estimate that in 2030, U.S. emissions will be similar to what they are today."

Trump's Climate Change Stance May Influence International Efforts. The Washington Post (11/12, Faiola, Mooney) reported that Trump's opposition to climate deals may have a significant impact on international climate change efforts. Policy director at Germanwatch Christoph Bals said that "the rest of the world has to make a decision whether it will slow down or speed up" in reaction to the US' policy. A chief concern is India, which may "revert back to a claim that developed countries caused this problem in the first place and they're the ones who should solve it," according to Andrew Light, former US senior climate negotiator at the State Department. However, no nation at the UN conference "has indicated its will to walk away if the United States does so."

China Could Take Climate Leadership Role With Trump Victory. Reuters (11/11) reports the election of Donald Trump "is likely to end the US leadership role in the international fight against global warming" and may allow China to emerge as a "new and unlikely champion." Zou Ji, a senior Chinese climate talks negotiator, told Reuters, "Proactively taking action against climate change will improve China's international image and allow it to occupy the moral high ground." Zou sees a potential failure of the US to implement the Paris agreement as a boost to China's influence in" global climate governance." Erik Solheim, executive director of the UN Environment Programme, said he was "confident China will take a lead role" as it is "acting on climate for the benefit of its own people."

France's Royal Calls Trump's Climate Plan "Catastrophic." Reuters (11/11) reports Segolene Royal, France's environment minister, said on Friday that Donald Trump's plan to drop out of the Paris climate agreement would be "absolutely catastrophic" and weaken the US.

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Royal "I dare to believe that such things are campaign promises to please a certain electorate which has not understood that global warming is a reality."

UN Envoy: US Would Be "Rogue Country" If It Exits Climate Accord. Reuters (11/13, Goering) reports former Irish president and human rights advocate Mary Robinson said the US would become a "kind of rogue country" if it backs out of the UN climate accord. It would be a "tragedy for the United States" if it "becomes a kind of rogue country, the only country in the world that is somehow not going to go ahead with the Paris Agreement," Robinson said in an interview with Reuters on Sunday.

Kerry Discusses Climate Change In Antarctica. The AP (11/11) reported that at the McMurdo Station in Antarctica, Secretary Kerry told hundreds of scientists and staff that on the issue of climate change, "We need to get more of a movement going." He cautioned that Antarctica's ice could eventually melt and increase sea levels throughout the world and that "we haven't won the battle yet," despite the landmark Paris Agreement. Kerry's aides said the visit served as a learning opportunity for Kerry. Kerry will return to New Zealand for discussions with Prime Minister John Key, after which he will fly to Morocco for a major speech on climate change.

Pentagon Officials Discuss Impact Of Global Warming On Operations. The Los Angeles Times (11/11, Hennigan) reported that the Pentagon does not maintain climate change data because scrutiny from lawmakers opposed to global warming theories could threaten its military budget. Pentagon officials conceded that the consequences of global warning, such as droughts, floods, higher temperatures, and higher sea levels, threaten global security and increase poverty and migration. Additionally, the 2014 Quadrennial Defense Review also labeled climate change a "threat multiplier" and "accelerant of instability." The Times highlights areas throughout the world--including Africa, the Asia Pacific area, the Arctic, and military bases in the US--that evidence how climate change poses key challenges to the Pentagon's operations.

UN Discusses Trump's Possible Impact On Global Climate Initiatives. The AP (11/11, Ritter) reported that on Friday, United Nations delegates warned that President-elect Trump could jeopardize the $100 billion plan to help poor nations adapt to climate change and shift to cleaner energy. Rich nations pledged to mobilize $100 million per year for poor nations, and in 2009, Hillary Clinton announced that rich nations will scale up their financing efforts by 2020. The UN's immediate concern is that Trump could cease the US' $3 billion pledged to the Green Climate Fund this year; only $500 million has thus far been disbursed.

Pakistan Ratifies Paris Climate Agreement. The AP (11/11) reported Pakistan's Foreign Ministry said Friday that Islamabad has ratified the Paris climate agreement. In a statement , the ministry said the pact was ratified in a ceremony at the UN headquarters in New York.

Trump's Election Increases Interest In Environmental Groups. Reuters (11/11) reported on Trump's effect on the environmental movement. Trump "said global warming was a hoax and called for the Environmental Protection Agency to be gutted" during his campaign, and his election has filled environmentalists meetings, according to some organizers. One participant called the election a "wake up call" to fight against fossil fuel use. One organizer called the response a "relief," saying that "we are going to have a real fight here, or maybe an actual argument" because of increased participation.

Climate Scientists Warn That US Emissions May Not Decrease Under Trump. Reuters (11/10, Doyle) reports three European scientific groups have warned in a study "that in 2030, US emissions will be similar to what they are today" if President-elect Donald Trump abandons the Paris climate agreement. While there are "huge uncertainties" regarding the potential fallout of Trump's environmental policies, the study shows a continuing trend toward renewables, allowing global leaders "to ride through the turbulence that a climate skeptic in the White House could bring."

Jackson: "Half Of All Global Warming Papers Might Be Untrue." Kerry Jackson said in an Investor's Business Daily (11/10) column that "half of all global warming papers might...be untrue." Donna Laframboise, for the Global Warming Policy Foundation, wrote in "Peer Review: Why Skepticism Is Essential" that "a significant part of the references in the fourth assessment (of the IPCC report were made) to

press releases, 'reports' from pressure groups and the like, which are not remotely the normal peer-reviewed scientific literature." According to Laframboise, the "science is plagued with a 'reproducibility crisis'," which casts doubt on the credibility of the reports.

Donald Trump's Climate Agenda Draws Differing Responses From Climate Leaders. Politico (11/12, Guillén, Schor, Whieldon, Wolff) reported "the road ahead looks bleak" for environmentalists faced with President-elect Donald Trump's opposition to fighting climate change. Trump, who called global warming a hoax, is expected to overturn regulations on fossil fuels and exit the Paris climate accord. Activist Bill McKibben doesn't "see the path forward," but others are trying to "develop arguments that would appeal to Trump's business sense" to preserve existing rules and regulations. Others are attempting to fight, like Environmental Defense Fund President Fred Krupp who said "above all, we're ready to protect the significant climate progress of recent years."

The Christian Science Monitor (11/12, Trumbull) reported that drastic rollbacks of climate regulations could result in fights "that make climate loom larger in the public square." Since "about two-thirds of Americans say they're concerned about climate change," their reaction to Trump's policies may "drive social norms and ultimately influence local and federal policy." The article suggested that while Trump may follow through with his climate promises, "it's possible his positions will evolve or be constrained because of public opinion, a divided Senate, diplomatic pressure, or market conditions."

Judge Rules Youth Climate Change Lawsuit Against US May Proceed. The AP (11/10, Le) reports from Seattle that "a lawsuit filed by young climate activists who contend the U.S. government is failing to protect them from the harmful effects of greenhouse gas emissions can move forward, a federal judge in Oregon ruled Thursday." US District Judge Ann Aiken in Eugene, OR "denied motions by the federal government and trade groups representing big energy companies to dismiss the lawsuit." They had argued "that lawmakers and federal agencies, not by the court, should determine climate change policy." The plaintiffs, "including 21 youths and climate scientist James Hansen, allege the federal government has known for decades that carbon pollution causes climate change but has failed to curb greenhouse gas emissions," and they argue that "the federal government's actions violate their constitutional rights to life, liberty, and property, and the government has violated its obligation to hold certain natural resources in trust for future generations."

21 Children, Teenagers Sue Government Claiming Fossil Fuel Use Violates Rights. The Chicago Tribune (11/11) reports that a lawsuit brought by 21 children and teenagers claiming the US government violated their constitutional rights to life, liberty and property through the use of fossil fuels may force Donald Trump to decide "how far he'll go to downplay the threat from global warming." The lead plaintiff Kelsey Juliana said, "If the government continues to delay urgent annual emissions reductions, my generation's well-being will be inexcusably put at risk."

ENERGY:

Monterey County Approves Ban On Hydraulic Fracturing. Upstream Online (11/10, Evans) reports, in continuing coverage, on the passage of Measure Z to "ban hydraulic fracturing and other oil and gas activities in the oil-rich Monterey County." Chevron, one of the largest oil companies operating in the county, "said it was disappointed with the outcome." In a statement, the company wrote, "It could have a devastating impact on oil and gas production in Monterey County, with loss of tax revenue and jobs." Natural Gas Intelligence (11/10, Nemec) also provides coverage.

Coal Industry On Pace To Hit Worst Declines In 30 Years, Looks To Trump. The Deseret (UT) News (11/11, O'Donoghue) reported the US' three major coal-producing regions "are on pace this year to hit declines even more severe" than in 2015. While some in the industry are hopeful that a Donald Trump presidency will revive the industry, by rolling back regulations including "a three-year federal moratorium on any new coal leasing and Obama's Clean Power Plan." Others don't believe the industry can be revived, saying that "time has largely marched past coal production and coal-fired power plants in this country."

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Industry Leaders Worry Nothing Can Revitalize Coal. Bloomberg News (11/10, Loh) reported most energy industry leaders don't believe Trump can revitalize the coal industry. Coal's share of electricity production in the US has dropped to "less than a third," from its nearly half in 2008. Robert E. Murray, CEO of Murray Energy Corp, praises Trump's commitment, but does not "see an increase in the market for coal." Murray still wants to maintain the industry, calling on Trump to roll back several regulations, and pushes for exiting climate agreements, calling global warming a "total hoax."

Even Trump's Pro-Coal Policies Can't "Turn Back The Clock." Forbes (11/10) contributor Ken Silverstein states that if Trump pushes his campaign pledges to close borders and restrict international commerce, "the coal business that Trump would like to revive would be less able to sell its product overseas and into China and India." Meanwhile, as American utilities move toward retiring their aging coal-fired power plants, "a pro-coal policy at here would keep some coal plants alive a bit longer." Silverstein also points to competition from natural gas, which is cleaner and cheaper than coal. He concludes that "saving coal would either involve subsidizing it or clamping down on natural gas production."

Coal Industry Expected To Benefit Under Trump Administration. The Wall Street Journal (11/10, Kantchev) reports that analysts expect US coal miners to benefit under a Trump administration that could seek to reverse environmental regulations that forced mines to close and impeded demand. In a separate article, the Wall Street Journal (11/13, Smith) reported that Donald Trump's pledge to revive the coal industry in the US will be difficult to meet considering since most electric utilities have been transitioning away from the fuel in favor of lower-cost and cleaner-burning natural gas.

Report Requires "Rich Countries" To Close All Coal Plants By 2030 To Stop Global Warming. Bloomberg News (11/12, Shankleman) reported a Climate Analytics study requires "rich countries" to "close all their coal-fired power plants by 2030 to have a chance of holding global warming to tolerable levels." The study also required China to cut out fossil fuel by 2040, and the entire world by 2050. It said that "pollution from coal plants could create 2.5 times more carbon dioxide emissions than allowed by scenarios consistent with 2 degrees of warming," and suggested that we "would have to rely instead on geoengineering" if the targets aren't met.

Sen. Hoeven Stresses Importance Of Coal For North Dakota. Bakken Magazine (ND) (11/10) reports that Republican Senator from North Dakota John Hoeven stressed the importance of coal and traditional fuels in supporting the economy and for growth opportunities in North Dakota's energy industry. Hoeven said, "Our ability to provide low-cost, reliable energy drives the country's economy and impacts families and businesses from coast to coast. ... North Dakota is leading the way in developing some truly innovative technology, such as the Allam Cycle, Project Tundra and other clean coal projects, which will help our energy industry to produce more energy with better environmental stewardship and less emissions. We are working to ensure that the federal government has the programs and policies in place that industry needs to advance these projects and make this technology commercially-viable."

Trump Administration Expected To Increase Use Of Coal, Fracking, Offshore Drilling. The AP (11/11, Dearen) reported President-elect Donald Trump has said he "loathes regulation and wants to increase use of coal, offshore drilling and fracking." Trump is skeptical of climate change and said he would "cancel" US involvement in the Paris Agreement on global warming. Trump's Administration is likely "to weaken or kill the Clean Power Plan," which is currently being challenged in federal court. Trump has also "vowed to tap into America's coal reserves in an effort to put the shrinking energy sector back to work" and has said "he would increase hydraulic fracturing, or fracking, in the nation's shale and natural gas reserves to further remove any dependence on foreign energy sources." Trump could also target the Atlantic and Arctic for offshore drilling: "two areas the Obama administration had made off-limits for oil leases in the immediate future."

New Report: Hydraulic Fracturing Did Not Contaminate Wyoming Wells. E&E Publishing (11/10) said that a new report from the Wyoming Department of Environmental Quality

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found that hydraulic fracturing most likely did not contaminate the wells near Pavillion. While the report did say that some gas wells were seeping, "it would be 'very difficult' to differentiate between gas seeping from wells and natural upward migration." The AP (11/10, Mead Gruver |, Ap) reported that the new report blames bacteria for the well water contamination. ABC News (11/10) reported that fracking advocates approved of the report as Colorado Director of Energy in Depth Randy Hildreth said, "Today's announcement from the Wyoming DEQ doesn't just close the case on Pavillion, it's a knockout blow for activists who have tried to use Pavillion as a key talking point for their ban-fracking agenda." The report failed to reassure residents, as John Fenton, chair Pavillion Area Concerned Citizens, said, "The data indicates that domestic water wells have been impacted by oil and gas extraction. ... It's past time for both the state of Wyoming and Encana to publicly acknowledge the public health consequences and do something to make us whole."

Maryland City Will Ban Fracking. The AP (11/11, Press) reported that officials in Frostburg, Maryland "are promising measures to prohibit hydraulic fracturing for natural gas and oil" in the city. The city attorney explained to fracking opponents that zoning regulations will be changed to prohibit extraction, and "a separate ordinance will prohibit gas and oil extraction on city-owned land."

Faith Leaders Becoming Involved In Climate Change As Maryland Considers Fracking Ban. The Baltimore Sun (11/13) reports that more than 40 Maryland faith leaders became involved in the "Climate in the Pulpits/on the Bimah Campaign," which seeks to bring climate activism into church. The state is considering a statewide ban on hydraulic fracturing, so the campaign seeks "to recast environmentalism from a political objective to a moral imperative by making their case in church." Director of Interfaith Power & Light Joelle Novey said, "I'm a huge believer in the critical importance of talking about climate change in faith communities. ... To me, climate change is one of the most important ways we need to reckon, in this generation, with the impact we have on our neighbors."

Renewable Energy Industry Fears Potential Downturn From Trump's Energy Policy. Bloomberg News (11/9, Martin) reports executives in the renewable energy industry are afraid of the effect of a Donald Trump presidency on renewable development. SunPower, a solar panel maker, has seen its "worst decline in three months" this week, as have several other companies, on fears that Trump will weaken demand for renewables by reversing current policies like the Clean Power Plan and pulling out of the Paris climate agreement. One industry executive called it "a disaster," stressing that Trump will need to be taught "that solar energy is a business and not a political issue."

Bloomberg News: Trump Will Not Stop Tesla. Bloomberg News (11/11, Randall) reports that analysts do not expect the Trump Administration to impact renewables. Tesla is primarily an electric car company and Elon Musk's plan to purchase SolarCity Corp for $2.2 billion would make the company the biggest US rooftop solar installer. Tesla should not be overly affected because "Solar and wind subsidies are probably safe. ... Even without incentives, renewables will get cheaper. ... Electric vehicle incentives will expire on their own. ... States wield the power of their own incentives. ... Keystone's resurrection won't make gasoline cheaper. ... Trade barriers with Mexico would hurt Tesla's rivals." As a result "the precipitous decline of coal and increasing affordability of renewable sources of energy, is probably too strong to be reversed by the incoming Republican administration."

Op-Ed Urges Trump To "Stick To Instincts" On Energy Policy. In an open letter to President-elect Donald Trump, Forbes (11/10) contributor David Blackmon urges him to "stick to his instincts" when it comes to developing his administration's energy policy. In particular, he cites specific pledges to "open up more federal lands and waters to leasing, 2) rescind and revamp much of the heavy-handed regulations the Obama Administration's EPA and Interior Department have handed down over the last 8 years, and 3) level the playing field among all energy sources in the nation's tax policies."

Texas Moves To Regulate Wastewater Disposal Wells Following Earthquake Increase. The Houston Chronicle (11/11, Handy) reported following the earthquake which hit Cushing, Oklahoma last week, the state's regulators plan to "shut more of the wells used to

dispose of wastewater from drilling, which scientists have tied to increased seismic activity in areas near oil and gas fields." Texas, however, is "moving more slowly to regulate the disposal of drilling wastewater." Last week, a legislative review panel called Sunset Commission, "dropped modest recommendations...requiring companies to report on the wells monthly instead of annually and raise permit fees." In recent years, Texas has also "experienced a series of unusual earthquakes." Since 2008, "the rate of Texas earthquakes greater than magnitude 3 has increased from two to 12 a year," and, "Most of the increase has occurred within 3 kilometers of wastewater disposal wells."

ENFORCEMENT:

Consumers Claim VW Outfitted Audi Gas Cars With Emissions-Cheating Devices. Bloomberg News (11/9, Mehrotra) reports a class action lawsuit claims Volkswagen's emissions-cheating devices were not limited to diesel engines, effecting "at least six models of Audi 3.0-liter gasoline engines." The lawsuit, filed by owners of more than 100,000 vehicles, claim VW's Audi unit installed emissions cheating software "in its A6, A8, Q5 and Q7 cars since February 2013 and possibly earlier." The complaint says Audi executives encouraged the use of the software as recently as May. Neither VW nor Audi has commented on the lawsuit. The participating consumers are pursuing "unspecified damages including restitution from Audi's sales and profit."

US, Europe Investigating VW Brand Audi For Carbon Dioxide Emissions Software. Reuters (11/12, Cremer, Shepardson) reports that the EPA is now investigating Volkswagen's Audi brand after the "discovery of a new cheat software device," according to sources at the German weekly newspaper Bild am Sonntag. The paper said that this summer, the California Air Resources Board found "cheating software in an automatic transmission Audi" that isn't related to the previous software that led to Audi parent VW's diesel emissions investigation. The software CARB found lowered carbon dioxide emissions "by detecting whether a car's steering wheel was turned as it would be when driving on a road."

The New York Times (11/12, Ewing) notes that in a statement, the carmaker "tacitly confirmed a report in the Süddeutsche Zeitung newspaper that some Audis with automatic transmissions behaved differently when the cars were being tested." While Audi has not identified the involved car models, "a lawsuit filed on behalf of Audi owners in United States District Court in Minnesota on Thursday" says that "they include 100,000 Audi A6 and A8 luxury sedans and Q5 and Q7 S.U.V.s with 3-liter gasoline engines manufactured through May." The Wall Street Journal (11/12, Boston) also covers the story.

OTHER NEWS:

Trump's Energy Adviser Suggests Methane Emission Regulations Will Be Rolled Back. The Washington Post (11/11, Mooney) reported President-elect Donald Trump may be rolling back regulations limiting methane emissions put in place by the current Administration. Trump energy adviser Kevin Cramer reaffirmed Trump's "commitment to rolling back regulations and returning more oversight back to states, things like the fracking rule, methane emissions rules, for example," and stated that the fossil fuel industry is feeling "tremendous renewed optimism."

Donald Hoffman May Be Trump's Secretary Of Energy. Rod Adams, in a Forbes (11/10) opinion piece, speculates that Donald Hoffman will likely be near the top of the candidate pool for the Secretary of Energy position. Hoffman is the founder, President and CEO of Excel Services Corporation and is a strong supporter of nuclear energy development. According to Adams, "I imagine that both [Sen.] Sessions and Hoffman have convinced Trump that nuclear energy has vast untapped potential." Trump has consistently referred to many of the factors that contributed to nuclear energy's decline in the US, including "'cost-is-no-object' regulation, poor management, bad trade deals, efforts to handicap US-based manufacturing and narrowed visions of the potential for human growth and development."

Additional Reading.

- ***Trump's Rumored Pick To Lead The EPA Wants Everyone To "Love Global Warming".*** Vice (11/11).

- ***What the Future Looks Like with a Climate Change Denier in the White House.*** Vice (11/10).

PESTICIDES:

EPA Approves Monsanto's XtendiMax. The Wall Street Journal (11/13, Bunge) reports that the EPA has approved Monsanto's XtendiMax weedkiller for soybean and cotton plants. The new herbicide, however, has faced criticism from farmers because Monsanto released the seeds with which it planned to use the herbicide ahead of the herbicide's approval this year. Monsanto fears that farmers will use older and cheaper herbicides on the seeds, which would cause crop damage. XtendiMax is designed not to drift to neighboring fields.

CDC: Zika Infecting Women At Higher Rates Than Men. Reuters (11/10, Steenhuysen) reports that a study published by the Centers for Disease Control and Prevention finds that "adult women in Puerto Rico were significantly more likely to develop Zika than men." According to the data, 62 percent of those infected were female, which patterns "similar observations from Brazil and El Salvador." According to Reuters, "one obvious explanation might be that pregnant women are more likely than men to seek treatment for Zika because of the potential risk of birth defects." Additional coverage is provided by NBC News (11/10, Fox).

Researchers Studying How To Use Bacteria To Fight Mosquitoes With Zika. Fortune (11/10, Mukherjee, Leaf) reports that researchers "are studying how to use a group of bacteria called Wolbachia, which normally prey on insects ...to infect mosquitoes that carry Zika—homing in on the bugs' reproductive systems and making them infertile." The article explains that the Environmental Protection Agency, not the Food and Drug Administration, would be responsible for approving the use of the bacteria in such a manner.

RULES/REGULATIONS/POLICY:

EPA To Deny Oil Company Petitions Seeking Changes To Biofuels Program. Reuters (11/10, Prentice) reports that the EPA said it will not review petitions from several oil companies requesting a changes to the Renewable Fuel Standard, particularly changes to the so-called "point of obligation." Several merchant refiners "said they are being squeezed by annual government mandates that require increasing volumes of biofuels." According to the EPA, the changes requested by the oil companies "would not address the challenges associated" with increasing advanced fuels and ethanol into the fuel system.

WATER:

New York Officials Launch Ambitious Effort To Offer Blood Tests For PFOS Exposure. The AP (11/13, Esch) reports that state officials in Newburgh, New York conducted blood testing for 28,000 residents after the chemical PFOS "was found in the city's drinking water reservoir at levels exceeding federal guidelines." While PFOS has been linked to cancer, the blood tests cannot diagnose specific illnesses. Nevertheless, "some residents hope they will shed some light on nagging health worries."

US District Judge Rules Michigan Officials Must Deliver Bottled Water To Flint Residents. The Wall Street Journal (11/11, Maher) reports US District Court for the Eastern District of Michigan Judge David Lawson on Thursday issued a preliminary injunction requiring city and state officials to deliver bottled water to residents in Flint, Michigan given continued danger from lead poisoning. The Journal says the judge ordered that four cases of water be delivered to each of the 30,000 residents in the city and that the water was requested by several local entities, including Flint-area pastors, the ACLU and the Natural Resources Defense Council. The Washington Post (11/10, Dennis) reports that advocacy groups "that had been a part of the federal lawsuit praised the ruling, saying it marked a victory for residents who face the exhausting, ongoing task of picking up bottled water each week to bathe their children, cook their food and brush their teeth."

The New York Times (11/10, Chokshi) reports under the ruling, "state and city officials must immediately begin providing each Flint resident with at least 96 half-liter bottles of water per week as the city works toward a permanent

ED_001174_00000014

solution." Judge Lawson "also ordered that officials provide information in multiple languages, including English, Spanish, Chinese, Arabic and Hmong, to residents about lead levels of city water and how to install filters that properly reduce the contamination." Additional coverage is provided by the AP (11/10, White), Reuters (11/10), the Detroit Free Press (11/10), the Detroit News (11/10), and MLive (MI) (11/10).

Flint Mayor Seeks To Renew State Of Emergency Over Water Crisis. MLive (MI) (11/13) reports, Flint "Mayor Karen Weaver has asked for a renewal of the state emergency...declared nearly one year ago over Flint's water crisis." A resolution "is on the agenda for Flint City Council members to approve or deny the request at Monday evening's meeting as the declaration is due to expire Nov. 14."

Flint Mayor Wants 1,000 Homes To Have New Pipes By End Of The Year. MLive (MI) (11/10, Johnson) reports, "Mayor Karen Weaver says she wants at least 1,000 Flint homes to have new pipes by the end of the year." Crews "are working to replace lead tainted pipes throughout the city under Weaver's Fast Start initiative." Since the launch of the initiative, "an estimated 300 homes have had pipes replaced." Now in its third phase, "workers are plugging along to replace pipes at 788 homes before winter weather hits Flint."

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
Cc: Hengst, Benjamin[Hengst.Benjamin@epa.gov]
From: Meekins, Tanya
Sent: Fri 3/10/2017 3:00:32 PM
Subject: RE: Search Term Suggestions and Custodians - Rich Alonzo FOIA on POO

Got it. Awaiting your final word……

From: Argyropoulos, Paul
Sent: Wednesday, March 08, 2017 1:50 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Meekins, Tanya <Meekins.Tanya@epa.gov>
Subject: Search Term Suggestions and Custodians - Rich Alonzo FOIA on POO

Ben,

Alright, (Tanya – just FYI for now. Don't do anything on this until Ben and I chat)

After reviewing the FOIA terms, here's my suggestions for specific search Terms:

- "Proposed Denial of Petitions for Rulemaking to Change the RFS Point of Obligation" or

- "RFS Point of Obligation" or

- "Point of Obligation"

- "POO" (Note: I'm happy not to offer this one if we don't think we have to)

Tanya will have to refer to the FOIA for all the items requested, which is extensive – correspondence, memoranda, presentations, communications, written communications, meetings, etc. etc. to and from third parties and held by EPA, etc. etc.

I note it appears from to both internal and external but give it requests records specifically or

related to changing the POO.

As far as custodians, as discussed, it's likely more appropriate to include DD's or senior staff and higher because these would capture the majority of the requested materials. As we know, most of the internal, if not all, will likely be deliberative.

Thoughts on Custodians:

- Gina McCarthy
- Janet McCabe
- David Orlin
- Roland Dubois
- Christopher Grundler
- Ben Hengst
- Paul Machiele
- Paul Argyropoulos

Others that might need to be included:

- Dallas Burkholder
- Lauren Reid (and under new name too?)

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Hengst, Benjamin
Sent: Wednesday, March 08, 2017 12:44 PM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>
Subject:

Hey Paul—did you send around a list of custodians/search terms for the Valero POO FOIA? I may have missed it. You know what I'm talking about?

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Meekins, Tanya[Meekins.Tanya@epa.gov]
From: Hengst, Benjamin
Sent: Mon 2/6/2017 1:13:48 PM
Subject: Point of obligation FOIA--Rich Alonso

I had a conversation with Rich on Friday. Sadly, I made no headway. They still want the FOIA and we need to do a full search.

Paul--I'll fill you in on a bit of what I learned. They are doing this as part of representing Valero.

I think the next step is to create the search terms, etc. The review itself should be done by the team (including ASD)--not just the IO.

Ben

To: Wade, Samuel@ARB[Samuel.Wade@arb.ca.gov]; Lie, Sharyn[Lie.Sharyn@epa.gov]; Levy, Aaron[Levy.Aaron@epa.gov]; Anderson, Robert[Anderson.Robert@epa.gov]; Gustafson, Kurt[Gustafson.Kurt@epa.gov]; Machiele, Paul[machiele.paul@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]; Parsons, Nick[Parsons.Nick@epa.gov]; Prabhu, Anil@ARB[aprabhu@arb.ca.gov]
Cc: Borgert, Kyle[borgert.kyle@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Weihrauch, John[Weihrauch.John@epa.gov]; Manners, Mary[manners.mary@epa.gov]
From: Le, Madison
Sent: Wed 2/1/2017 1:42:11 AM
Subject: RE: CARB and EPA coordination meetings for RFS and LCFS program

Agenda for EPA/CARB fuels team coordination meeting for tomorrow at 1pm (EST):

- Siloxane concerns in biogas

- Biogas digestion projects

-Point of obligation for petroleum fuels

- Co-processing biogenic feedstocks in refineries

- QAP/RIN fraud

-RIN invalidation process

-REGS clarification of current prohibition of appearance of conflict of interest for QAP auditors

-----Original Appointment-----
From: Le, Madison
Sent: Wednesday, January 18, 2017 1:54 PM
To: Le, Madison; Wade, Samuel@ARB; Lie, Sharyn; Levy, Aaron; Anderson, Robert; Gustafson, Kurt; Machiele, Paul; Burkholder, Dallas; Parsons, Nick; Prabhu, Anil@ARB
Cc: Borgert, Kyle
Subject: CARB and EPA coordination meetings for RFS and LCFS program
When: Wednesday, February 01, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: call-in #: 866-299-3188; code #: 202-564-5754

We are re-initiating monthly coordination meetings between EPA and CARB for RFS and LCFS

programs.

We are collecting agenda items, and will send it out prior to the meeting.

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Michael.McAdams@hklaw.com
Sent: Tue 1/31/2017 8:00:12 PM
Subject: FW: BIOFUELS UPDATE: ***Renewable Fuels Panel Predicts EPA Likely to Move RFS Point of Obligation

Fyi get a load of these comments.

Michael McAdams | Holland & Knight
Sr Policy Advisor
Holland & Knight LLP
800 17th Street N.W., Suite 1100 | Washington DC 20006
Phone 202.469.5140 | Fax 202.955.5564
michael.mcadams@hklaw.com | www.hklaw.com

-----Original Message-----
From: alertsadmin@opisnet.com [mailto:alertsadmin@opisnet.com]
Sent: Tuesday, January 31, 2017 2:53 PM
To: McAdams, Michael J (WAS - X75140) <Michael.McAdams@hklaw.com>
Subject: BIOFUELS UPDATE: ***Renewable Fuels Panel Predicts EPA Likely to Move RFS Point of Obligation

2017-01-31 02:51:49 EST

***Renewable Fuels Panel Predicts EPA Likely to Move RFS Point of Obligation

ALTOONA, Iowa -- A panel of renewable fuels policy experts at the Iowa Renewable Fuel Summit on Tuesday came close to a consensus that EPA under a Trump administration is likely to move the Renewable Fuel Standard's (RFS) compliance obligation.

When polled onstage by panel moderator and Iowa Renewable Fuels Association (IRFA) Executive Director Monte Shaw, the majority of the five panelists asked to peek into a crystal ball predicted EPA eventually will shift the point of obligation from the refiners and importers of gasoline and diesel fuel to the blenders at the rack.

"Yes, I believe it will be shifted, but maybe not until 2018," said biofuels lobbyist Jim Massie of Jim Massie & Partners LLC.

"I think it's a 50/50 coin flip," said former Rep. Kenny Hulshof (R-Mo.) said.

"I think it's going to be changed," said Valero VP of Alternative Fuels Martin Parrish.

"I'm not foolish enough to answer the question," said Renewable Fuels Association President and CEO Bob Dinneen with a grin.

"I would also say it's about a 50/50 chance but slightly on the upside that it will be changed," Shaw said.

EPA in November proposed denying petitions to initiate a rulemaking to change the point of obligation for compliance under the RFS, opening a 60-day comment period before making a decision on the matter. In December, EPA added an additional 30 days to the original Jan. 23 deadline for the comment period.

The issue has proved to be complex one for both the biofuels and petroleum industries as there are strong divides even within organizations such as the American Petroleum Institute (API) and the American Fuel & Petrochemical Manufacturers (AFPM).

RFA said in November that it supports EPA's proposed denial of the petition to reform the RFS obligation, adding that, "any discussion related to changing the structure of the RFS should be open, transparent, and informed by sound analysis."

"It's a very tough place to be as a trade organization when you face an issue where you have members on both sides of the table," Dinneen admitted. "I just

want to make sure that the program works. At the end of the day, if there's a change, I want to make sure that the ethanol industry is in the position where we're getting something out of it."

Shaw said IRFA also opposes the reform, saying it would jeopardize the high blend levels achieved in Iowa by retailers committed to growing renewable fuels consumption.

"We work very hard to get retailers to move into the higher-blend space," Shaw said. "We feel a pretty strong emotional connection to stand by those early adopters of higher blends, and I can tell you that they are not fans of this idea."

Parrish made Valero's case for moving the point of obligation. The merchant refiner, which is net short on Renewable Identification Numbers (RINs) due to a lack of blending capacity to match its gasoline and diesel output, said in a fourth-quarter earnings call Tuesday that it spent $749 million in 2016 on RFS compliance.

Parrish cited surveys the company has conducted, EPA data as well as OPIS rack information to suggest that the policy impact would be minimal.

At his Senate confirmation hearing on Jan. 18, EPA Administrator nominee Scott Pruitt on six different instances refused to weigh in on the point of obligation issue, saying it would be inappropriate to make a judgment before the comment period ends.

Meanwhile, Trump's special advisor on regulatory reform, billionaire investor

Carl Icahn, has been one of the most outspoken advocates for moving the point of obligation to blenders. Icahn is the majority stakeholder of CVR Energy, an obligated refiner under the RFS.

"It's a really challenging issue," Dinneen said. "At the end of the day, I would love to be a fly on the wall when Mr. Pruitt goes into Mr. Icahn's office to talk about the point of obligation."

--Jordan Godwin, jgodwin@opisnet.com

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Michael.McAdams@hklaw.com
Sent: Mon 1/23/2017 4:45:27 PM
Subject: RE: process

Thanks.

Michael McAdams | **Holland & Knight**
Sr Policy Advisor
Holland & Knight LLP
800 17th Street N.W., Suite 1100 | Washington, DC 20006
Phone 202.469.5140 | Fax 202.955.5564
michael.mcadams@hklaw.com | www.hklaw.com

From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Monday, January 23, 2017 11:45 AM
To: McAdams, Michael J (WAS - X75140) <Michael.McAdams@hklaw.com>
Subject: RE: process

That is just a draft decision, so no bets on what happens with that……..at least not yet.

Paul Argyropoulos

Senior Policy Advisor

US EPA

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Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Michael.McAdams@hklaw.com [mailto:Michael.McAdams@hklaw.com]
Sent: Monday, January 23, 2017 11:44 AM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>
Subject: RE: process

The denial of the moving the point of obligation

Michael McAdams | **Holland & Knight**
Sr Policy Advisor
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Phone 202.469.5140 | Fax 202.955.5564
michael.mcadams@hklaw.com | www.hklaw.com

From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Monday, January 23, 2017 11:43 AM
To: McAdams, Michael J (WAS - X75140) <Michael.McAdams@hklaw.com>
Subject: RE: process

I would expect REGS goes forward. I don't think there would be anything in there they would want to target.

What waiver are you asking about?

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Michael.McAdams@hklaw.com [mailto:Michael.McAdams@hklaw.com]
Sent: Monday, January 23, 2017 11:39 AM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>
Subject: process

Paul: Number one call is what is happening to the REGS rule and the Waiver now that Trump has put out the regs review exec order. These were both published so they continue forward, Right?

Michael McAdams | **Holland & Knight**
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To: Simon, Joseph[Simon.Joseph@epa.gov]; Reid, Lauren[Reid.Lauren@epa.gov]
Cc: Korotney, David[korotney.david@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]
From: Machiele, Paul
Sent: Sun 1/22/2017 5:31:58 AM
Subject: RE: New Control AL-17-000-3428 and FYI Control AX-17-000-3405

You have to love it when you get a letter from the Senate asking that we somehow revise the statute…

Lauren, would you care to take the lead on this one, or has Dallas already started on it? In the response we should make reference to the new proposed pathway in REGS

Paul

From: Simon, Joseph
Sent: Thursday, January 19, 2017 1:40 PM
To: Machiele, Paul <machiele.paul@epa.gov>
Cc: Korotney, David <korotney.david@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>
Subject: New Control AL-17-000-3428 and FYI Control AX-17-000-3405

Hello Paul,

1/19/17	17004	AL-17-000-3428	**RFS** - NATURALLY REGENERATIVE BIOMASS IN RFS	Senators - Angus S. King, Jr and Susan M. Collins	
1/19/17	FYI Only	AX-17-000-3405	**RFS** - Proposed Denial of Petitions for Rulemaking to Change the Renewable Fuel Standards (RFS)Point of Obligation (EPA-HQ-OAR-2016-0544)	James R. McNutt	N/A

Please see attached.

Any questions, please let me know.

Thanks

Joe Simon

Senior Service America, Inc.

Supporting the USEPA through a Cooperative Agreement

under the Senior Environmental (SEE) Program

Assessment and Standards Division

Direct line 734-214-4835

Email: Simon.Joseph@epa.gov

To: Machiele, Paul[machiele.paul@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]
Cc: Reid, Lauren[Reid.Lauren@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Burkholder, Dallas
Sent: Thur 1/19/2017 2:41:29 PM
Subject: RE: Renewable Fuels Standards

For what it's worth, I've added this letter to the docket.

From: Machiele, Paul
Sent: Wednesday, January 18, 2017 9:58 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Reid, Lauren <Reid.Lauren@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>
Subject: Re: Renewable Fuels Standards

No. You're the chosen one. We'll add it to the docket

Sent from my iPhone

On Jan 18, 2017, at 6:10 PM, Hengst, Benjamin <Hengst.Benjamin@epa.gov> wrote:

You guys get this?

Begin forwarded message:

From: David Nelson <dnelson@studygroups.com>
Date: January 18, 2017 at 9:09:48 PM EST
To: Hengst.benjamin@epa.gov
Subject: Renewable Fuels Standards

My name is David M. Nelson. I am a professor of Economics at Western Washington University in Bellingham. An area of interest for me is the economics of energy. I am writing about the "point of obligation" issue with the current RFS regulations. I am asking for your support in leveling the playing field as the current system is enriching Wall Street and major oil and hurting small retailers and the general public by driving up prices at the pump.

These unintended consequences are the result of the point of obligation for

RINS and the way the current law is written. *The EPA can correct this inequity with a simple one sentence change* to the regulation without the President or Congress. *This change to the regulation would read* "**The Point of Obligation is at the Rack".**

Rarely can such a straightforward and simple change do so much to put all petroleum marketers on a level playing field and ensure that consumers are not overpaying for the product that they buy. I urge you to support this change.

--

David M. Nelson, Ph.D.
1200 Chuckanut Crest Lane
Bellingham, WA 98229
Office Phone: 360.738.3868
Fax: 360,734-3639
Mobile Phone: 360.201.6044
email: dnelson@studygroups.com

<Nelson EPA RIN POO.doc>

To: Grundler, Christopher[grundler.christopher@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Machiele, Paul[machiele.paul@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: McCabe, Janet
Sent: Wed 1/18/2017 4:07:04 AM
Subject: Fwd: Third Party End-User Obligated Party Opposition Letter
FINAL Third Party Obligated Party Opposition Letter.pdf
ATT00001.htm

FYI

Sent from my iPhone

Begin forwarded message:

From: "Rigamonti, Eva" <erigamonti@steptoe.com>
Date: January 17, 2017 at 6:06:59 PM EST
To: "McCarthy.Gina@epa.gov" <McCarthy.Gina@epa.gov>
Cc: "McCabe.Janet@epa.gov" <McCabe.Janet@epa.gov>
Subject: Third Party End-User Obligated Party Opposition Letter

Dear Administrator McCarthy,

Please find attached a letter opposing efforts to change the point of obligation under the Renewable Fuel Standard Program. The letter is signed by the following organizations:

- Association of American Railroads;
- American Short Line and Regional Railroad Association;
- American Trucking Associations; and
- Owner-Operator Independent Drivers Association.

A hard copy of this letter will be delivered to you at your office tomorrow morning.

Thank you for your continued attention to this important matter,

Respectfully,

Eva V. Rigamonti

Eva Rigamonti

Associate

erigamonti@steptoe.com

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Washington, DC 20036

www.steptoe.com

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Hengst, Benjamin
Sent: Thur 12/1/2016 1:01:02 PM
Subject: Re: Joint Trade Association Obligated Party Opposition Letter

I think it it went to poet but agree not an issu e

On Dec 1, 2016, at 7:43 AM, Argyropoulos, Paul <Argyropoulos.Paul@epa.gov> wrote:

Weird. I didn't click on him or anything related to him. It came from Steptoe so not an issue. Public letter as well.

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Hengst, Benjamin
Sent: Thursday, December 01, 2016 7:41 AM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>
Subject: Re: Joint Trade Association Obligated Party Opposition Letter

You sent that to a non EPA person.

On Dec 1, 2016, at 7:30 AM, Argyropoulos, Paul <Argyropoulos.Paul@epa.gov> wrote:

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Rigamonti, Eva [mailto:erigamonti@steptoe.com]
Sent: Wednesday, November 30, 2016 6:12 PM
To: Grundler, Christopher <grundler.christopher@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Columbus, R. Timothy <tcolumbus@steptoe.com>
Subject: Joint Trade Association Obligated Party Opposition Letter

Good evening—

Attached to this email is a letter, which was sent earlier to Administrator McCarthy and Acting Assistant Administrator McCabe, opposing efforts to change the point of obligation under the Renewable Fuel Standard Program. The letter is signed by the following organizations:

- Advanced Biofuels Association (ABFA)
- American Petroleum Institute (API)
- Growth Energy
- National Association of Convenience Stores (NACS)
- National Association of Truckstop Operators (NATSO)
- Petroleum Marketers Association of America (PMAA)
- Renewable Fuels Association (RFA)
- Society of Independent Gasoline Marketers of America (SIGMA)

Thank you for your continued attention to this important matter,

Respectfully,

Eva V. Rigamonti

Eva Rigamonti

Associate

erigamonti@steptoe.com

Steptoe

+1 202 429 6457 direct

+1 202 429 3902 fax

Steptoe & Johnson LLP

1330 Connecticut Avenue, NW

Washington, DC 20036

www.steptoe.com

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<Obligated Party Joint Assn Opposition Letter FINAL.pdf>

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Hengst, Benjamin
Sent: Thur 12/1/2016 12:40:35 PM
Subject: Re: Joint Trade Association Obligated Party Opposition Letter

You sent that to a non EPA person.

On Dec 1, 2016, at 7:30 AM, Argyropoulos, Paul <Argyropoulos.Paul@epa.gov> wrote:

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Rigamonti, Eva [mailto:erigamonti@steptoe.com]
Sent: Wednesday, November 30, 2016 6:12 PM
To: Grundler, Christopher <grundler.christopher@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Columbus, R. Timothy <tcolumbus@steptoe.com>
Subject: Joint Trade Association Obligated Party Opposition Letter

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Thank you for your continued attention to this important matter,

Respectfully,

Eva V. Rigamonti

Eva Rigamonti

Associate

erigamonti@steptoe.com

Steptoe

+1 202 429 6457 direct

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<Obligated Party Joint Assn Opposition Letter FINAL.pdf>

To: Grundler, Christopher[grundler.christopher@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Dubois, Roland[Dubois.Roland@epa.gov]
From: McCabe, Janet
Sent: Thur 12/1/2016 12:19:08 AM
Subject: FW: Joint Trade Association Obligated Party Opposition Letter
Obligated Party Joint Assn Opposition Letter FINAL.pdf

fyi

From: Rigamonti, Eva [mailto:erigamonti@steptoe.com]
Sent: Wednesday, November 30, 2016 6:01 PM
To: Mccarthy, Gina <McCarthy.Gina@epa.gov>
Cc: McCabe, Janet <McCabe.Janet@epa.gov>
Subject: Joint Trade Association Obligated Party Opposition Letter

Dear Administrator McCarthy,

Please find attached a letter opposing efforts to change the point of obligation under the Renewable Fuel Standard Program. The letter is signed by the following organizations:

- Advanced Biofuels Association (ABFA)
- American Petroleum Institute (API)
- Growth Energy
- National Association of Convenience Stores (NACS)
- National Association of Truckstop Operators (NATSO)
- Petroleum Marketers Association of America (PMAA)
- Renewable Fuels Association (RFA)
- Society of Independent Gasoline Marketers of America (SIGMA)

A hard copy of this letter will be delivered to you at your office tomorrow morning.

Thank you for your continued attention to this important matter,

Respectfully,

Eva V. Rigamonti

Eva Rigamonti

Associate

erigamonti@steptoe.com

Steptoe

+1 202 429 6457 direct

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To: Grundler, Christopher[grundler.christopher@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]
Cc: Columbus, R. Timothy[tcolumbus@steptoe.com]
From: Rigamonti, Eva
Sent: Wed 11/30/2016 11:11:46 PM
Subject: Joint Trade Association Obligated Party Opposition Letter
Obligated Party Joint Assn Opposition Letter FINAL.pdf

Good evening—

Attached to this email is a letter, which was sent earlier to Administrator McCarthy and Acting Assistant Administrator McCabe, opposing efforts to change the point of obligation under the Renewable Fuel Standard Program. The letter is signed by the following organizations:

- Advanced Biofuels Association (ABFA)
- American Petroleum Institute (API)
- Growth Energy
- National Association of Convenience Stores (NACS)
- National Association of Truckstop Operators (NATSO)
- Petroleum Marketers Association of America (PMAA)
- Renewable Fuels Association (RFA)
- Society of Independent Gasoline Marketers of America (SIGMA)

Thank you for your continued attention to this important matter,

Respectfully,

Eva V. Rigamonti

Eva Rigamonti

Associate

erigamonti@steptoe.com

Steptoe

+1 202 429 6457 direct

+1 202 429 3902 fax

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Columbus, R. Timothy
Sent: Mon 11/21/2016 3:22:54 PM
Subject: FW: 11/21 Press Release - Metroplex Energy Supports EPA Proposal
Metroplex EPA Release_FINAL.pdf

Just fyi

From: Bursch, Karissa [mailto:kbursch@racetrac.com]
Sent: Monday, November 21, 2016 9:34 AM
Subject: 11/21 Press Release - Metroplex Energy Supports EPA Proposal

Good morning,

Today Metroplex Energy, a wholly-owned subsidiary of RaceTrac Petroleum, Inc., announced its support of the Environmental Protection Agency's proposal to deny moving the "point of obligation" under the Renewable Fuel Standard program. Please see below and attached for the full announcement.

Please let me know if you have any questions or would like to speak to somebody at our organization about this information and I'm here to help.

Regards,

Karissa

Karissa Bursch | Manager of Communications
RaceTrac | o. 770.431.7600 x1502 | c. 770.852.0137 | racetrac.com

Metroplex Energy Announces Support of Environmental Protection Agency Proposal

Atlanta, GA – (November 21, 2016) - Metroplex Energy, a wholly-owned subsidiary of RaceTrac Petroleum, Inc., today announced it is in support of the Environmental Protection Agency's (EPA) proposal to deny moving the "point of obligation" under the Renewable Fuel Standard (RFS) program. Through its efforts to deny recent petitions to move the "point of obligation," the EPA asserts the responsibility to adhere to the RFS program should remain on refiners, manufacturers and importers - not on position holders, like fuel marketers and blenders.

"Metroplex Energy thanks the EPA for its opposition to change the point of obligation under RFS," said Max McBrayer, Chief Supply Officer at RaceTrac and President of Metroplex Energy. "The current structure is the best approach to ensure that RFS program goals can be achieved."

Recently, the EPA completed a comprehensive analysis of the existing RFS structure to highlight why the current point of obligation furthers RFS objectives. That analysis demonstrates that the current RFS structure incentivizes the blending and sale of renewable fuel products by fuel retailers and marketers, while supporting continued supply and stable prices for consumers.

Metroplex Energy will continue to support the EPA in its efforts to maintain current regulations regarding the point of obligation under the RFS as this action is best to ensure stable, low-priced retail fuels for consumers.

# # #

-

About Metroplex Energy

Metroplex Energy is a wholly-owned subsidiary of RaceTrac Petroleum, Inc. and a wholesale fuel supplying company that secures bulk fuel to supply RaceTrac and RaceWay stores and other third-party companies by rail, pipeline, truck, barge and vessel.

-

For More Information

Karissa Bursch

Manager, Communications

RaceTrac Petroleum Inc.

770-431-7600 x 1502

kbursch@racetrac.com

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Metroplex Energy Announces Support of Environmental Protection Agency Proposal

Atlanta, GA – (November 21, 2016) - Metroplex Energy, a wholly-owned subsidiary of RaceTrac Petroleum, Inc., today announced it is in support of the Environmental Protection Agency's (EPA) proposal to deny moving the "point of obligation" under the Renewable Fuel Standard (RFS) program. Through its efforts to deny recent petitions to move the "point of obligation," the EPA asserts the responsibility to adhere to the RFS program should remain on refiners, manufacturers and importers - not on position holders, like fuel marketers and blenders.

"Metroplex Energy thanks the EPA for its opposition to change the point of obligation under RFS," said Max McBrayer, Chief Supply Officer at RaceTrac and President of Metroplex Energy. "The current structure is the best approach to ensure that RFS program goals can be achieved."

Recently, the EPA completed a comprehensive analysis of the existing RFS structure to highlight why the current point of obligation furthers RFS objectives. That analysis demonstrates that the current RFS structure incentivizes the blending and sale of renewable fuel products by fuel retailers and marketers, while supporting continued supply and stable prices for consumers.

Metroplex Energy will continue to support the EPA in its efforts to maintain current regulations regarding the point of obligation under the RFS as this action is best to ensure stable, low-priced retail fuels for consumers.

###

About Metroplex Energy

Metroplex Energy is a wholly-owned subsidiary of RaceTrac Petroleum, Inc. and a wholesale fuel supplying company that secures bulk fuel to supply RaceTrac and RaceWay stores and other third-party companies by rail, pipeline, truck, barge and vessel.

For More Information

Karissa Bursch
Manager, Communications
RaceTrac Petroleum Inc.
770-431-7600 x 1502
kbursch@racetrac.com

November 30, 2016

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
William Jefferson Clinton Federal Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy,

The undersigned associations represent a significant majority of participants across the United States' transportation fuels value chain. While each association has an individual, unique position – often conflicting – regarding the broader Renewable Fuel Standard (RFS) program, we write to express our unified position in opposition to efforts by petitioners to move the point of obligation for RFS compliance. It is unprecedented for all of these undersigned groups to unite in a single letter to express a uniformly held position.

Each of the undersigned associations strongly supports the Environmental Protection Agency's (EPA) proposed denial of petitions for a rulemaking to change the point of obligation under the RFS. There is no sound public policy rationale for moving the point of obligation and further, such a change would add complexity and uncertainty to the current RFS program.

We urge EPA to finalize its conclusion and deny the petitions to move the point of obligation.

Sincerely,

To: Sutton, Tia[sutton.tia@epa.gov]
Cc: Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Meekins, Tanya
Sent: Thur 11/17/2016 5:26:39 PM
Subject: RE: Outstanding controls for the OTAQ front office.....

Tia,

So, unfortunately I have to add three more to your list. See red highlight below……

From: Sutton, Tia
Sent: Thursday, November 17, 2016 11:41 AM
To: Meekins, Tanya <Meekins.Tanya@epa.gov>
Cc: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>
Subject: Re: Outstanding controls for the OTAQ front office.....

Depressing, but correct! :-)

On Nov 17, 2016, at 9:22 AM, Meekins, Tanya <Meekins.Tanya@epa.gov> wrote:

Hi Tia/Ben

I'm trying to keep track of the controls that are pending in my CMS inbox. Below is a list of controls that are pending with you. Let me know if there is anything inaccurate.

Thanks

Eight (8) Congressional Letters

AL-16-001-2581	Iowa Governor Terry Branstad	Tia
AL-16-001-1790	Diane Black	Ben
AL-17-000-0260 +	Senator Tom Udall	Tia
AL-16-001-2197	Sensenbrenner	Ben

AL-17-000-1051 David Roe (awaiting template response from Madison) Tia

AL-17-000-0746 David Roe (awaiting template response from Madison) Tia

AL-16-001-2740 Jack Markell (RFS) Tia

AL-16-001-2663 Jerry Moran (RFS) Tia

Nine (9) AX Controls

AX-17-000-0030 Raymond Poe (template from Governor Branstad) Tia

AX-17-000-1173 George Moore (RFS Point of Obligation) Tia

AX-17-000-1105 Randall Griffin (RFS Point of Obligation) Tia

AX-17-000-1100 Randall Griffin (RFS Point of Obligation/separate ltr) Tia

AX-17-000-1091 Robert Ramsburg (RFS Point of Obligation) Tia

AX-17-000-0994 David Masuret + (RFS Point of Obligation) Tia

AX-17-000-0982 Ed Limon (RFS Point of Obligation) Tia

AX-17-000-0936 Anthony Gallagher (RFS Point of Obligation) Tia

AX-17-000-0752 Ryan O'Callaghan (RFS Point of Obligation) Tia

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Prentiss Searles
Sent: Thur 11/10/2016 9:23:12 PM
Subject: FW: Proposed Denial of Petitions for Rulemaking to Change the RFS Point of Obligation

Good afternoon Paul, can you add me to the list so that I receive these emails directly?

Prentiss

From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Thursday, November 10, 2016 11:04 AM
Subject: Proposed Denial of Petitions for Rulemaking to Change the RFS Point of Obligation

Dear Interested Parties:

Today, EPA is proposing to deny requests from petitioners to initiate a rulemaking to change the point of obligation for compliance under the Renewable Fuel Standard program. Due to the importance, complexity, and broad stakeholder interest in this issue, the agency is taking public comment on the proposed denials to ensure we receive input from the wide variety of stakeholders that could be affected. Details and links to documents, including the Federal Register Notice on this action can be found at: https://www.epa.gov/renewable-fuel-standard-program/2016-announcements-renewable-fuel-standard-program

Best Regards, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]
From: Frank Macchiarola
Sent: Thur 11/10/2016 5:34:57 PM
Subject: FW: News Release: API supports EPA decision on Point of Obligation and urges action to fix broken RFS

From: Michael Tadeo <TadeoM@api.org>
Date: Thursday, November 10, 2016 at 12:12 PM
To: _All API Staff <_AllAPIStaff@api.org>
Cc: Sabrina Fang <fangs@api.org>
Subject: News Release: API supports EPA decision on Point of Obligation and urges action to fix broken RFS

The following release, API supports EPA decision on Point of Obligation and urges action to fix broken RFS, went out to news media. Read the full release below or go to the API Newsroom.

Sabrina Fang | 202.682.8114 | FangS@api.org

API supports EPA decision on Point of Obligation and urges action to fix broken RFS

WASHINGTON, November 10, 2016 – API Downstream Group Director Frank Macchiarola said EPA's proposal to deny the petitions to change the point of obligation is the right call and now the focus must be on reforming the broken Renewable Fuel Standard.

"We are pleased that EPA recognizes that passing this burdensome requirement from one entity to another would add complexity and have negative impacts to a program that we believe is already deeply flawed. In short, moving the point of obligation would be irresponsible, and EPA's proposal confirms this," said Macchiarola. "Requiring businesses to blend increasing amounts of ethanol into gasoline, which consumers have demonstrated they don't particularly want or need, is the central flaw of the RFS mandate that must be addressed.

"Policymakers from both sides of the aisle agree that the current RFS policy is broken, and bipartisan support is growing in Congress to fix it by passing Flores-Welch. It's time to put consumers first by taking action to address the broken RFS.

"We were pleased that based on data and thoughtful analysis EPA affirms our view and proposes to reject efforts to move the point of obligation. And, we look forward to commenting further on this during the public comment period so that we can put this issue to rest and return the focus back to meaningful RFS reform."

API is the only national trade association representing all facets of the oil and natural gas industry, which supports 9.8 million U.S. jobs and 8 percent of the U.S. economy. API's more than 625 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. They provide most of the nation's energy and are backed by a growing grassroots movement of more than 30 million Americans.

###

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Karen, Catherine
Sent: Thur 11/10/2016 4:08:12 PM
Subject: RE: Proposed Denial of Petitions for Rulemaking to Change the RFS Point of Obligation

Thanks. Interesting on the comment period?!

Sent with Good Work (www.blackberry.com)

From: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>
Date: Thursday, Nov 10, 2016, 8:04 AM
Subject: Proposed Denial of Petitions for Rulemaking to Change the RFS Point of Obligation

Dear Interested Parties:

Today, EPA is proposing to deny requests from petitioners to initiate a rulemaking to change the point of obligation for compliance under the Renewable Fuel Standard program. Due to the importance, complexity, and broad stakeholder interest in this issue, the agency is taking public comment on the proposed denials to ensure we receive input from the wide variety of stakeholders that could be affected. Details and links to documents, including the Federal Register Notice on this action can be found at: https://www.epa.gov/renewable-fuel-standard-program/2016-announcements-renewable-fuel-standard-program

Best Regards, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

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****

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
Cc: Hengst, Benjamin[Hengst.Benjamin@epa.gov]
From: Price, Matthew E.
Sent: Thur 11/10/2016 3:38:11 PM
Subject: RE: RFS Petitions

Thanks.

From: Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]
Sent: Thursday, November 10, 2016 10:34 AM
To: Price, Matthew E. <MPrice@jenner.com>
Cc: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: RFS Petitions

Dear Mr. Price:

I have attached a cover letter and proposed denial document responding to your petition relating to the RFS point of obligation. Details and links to other documents, including the Federal Register Notice on this action can be found at: https://www.epa.gov/renewable-fuel-standard-program/2016-announcements-renewable-fuel-standard-program

Please feel free to give me a call if you have any questions.

Best Regards, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

Matthew E. Price

Jenner & Block LLP
1099 New York Avenue, N.W.
Suite 900, Washington, DC 20001-4412 | jenner.com
+1 202 639 6873 | TEL
MPrice@jenner.com
Download V-Card | View Biography

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
Cc: Sutton, Tia[sutton.tia@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]
From: Meekins, Tanya
Sent: Thur 11/10/2016 3:02:02 PM
Subject: Petition letters.....Decision document
Petition response_AFPM.pdf
Petition response_Holly Frontier.pdf
Petition response_Monroe.pdf
Petition response_Perkins Coie.pdf
Petition response_Valero.pdf
Proposed Denial of Petitions for Rulemaking RFS Point of Obligation 11-10-16 new.pdf

Tanya Meekins

Office of Transportation

And Air Quality

202-564-6002

To: Birgfeld, Erin[Birgfeld.Erin@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Mylan, Christopher[Mylan.Christopher@epa.gov]; Richards, David[Richards.David@epa.gov]
Cc: Millett, John[Millett.John@epa.gov]; Conger, Nick[Conger.Nick@epa.gov]
From: Sutton, Tia
Sent: Thur 11/10/2016 3:01:16 PM
Subject: One minor but important edit to rollout doc- please use this version if you send to anyone else today
Point of Obligation Roll Out 11-10-16 FINAL.docx

Hi all,

Hopefully this isn't a problem since we've technically locked down the rollout doc, but OCIR

Ex. 5 - Deliberative Process

Thanks,

Tia

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]
From: Sutton, Tia
Sent: Thur 11/10/2016 2:53:43 PM
Subject: RE: HollyFrontier - 9/28 pt of obligation meeting request

Perfect- that's the same guy that I just sent you from the petition itself.

From: Argyropoulos, Paul
Sent: Thursday, November 10, 2016 9:50 AM
To: Sutton, Tia <sutton.tia@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: FW: HollyFrontier - 9/28 pt of obligation meeting request

This is the contact I have for Holley Frontier

Blake D. Barfield

Government Affairs

The HollyFrontier Companies

2828 N. Harwood, Suite 1300

Dallas, TX 75201

(214) 954-6506

blake.barfield@hollyfrontier.com

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Sutton, Tia
Sent: Friday, September 30, 2016 12:34 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>
Cc: Burch, Julia <Burch.Julia@epa.gov>
Subject: FW: HollyFrontier - 9/28 pt of obligation meeting request

I know you're both out, but sending your way to see if we have thoughts on this - seems like we would want Janet to just go ahead and take the meeting, but just checking to see if thoughts would change on that based on the earlier email I forwarded you from Millett on POO possibly moving next week. (Emily wanted to respond to these folks today, I asked her if she could hold off til first thing Monday.)

From: Atkinson, Emily
Sent: Friday, September 30, 2016 12:04 PM
To: Sutton, Tia <sutton.tia@epa.gov>
Cc: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: FW: HollyFrontier - 9/28 meeting request

Hi Tia,

Following up on this with you because Ben it out . . . let me know what OTAQ recommends at this point. I would like to get back to the requestor today to either setup the meeting or decline.

Thanks.

Emily

Emily Atkinson
Management Analyst/Office Manager

Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Atkinson, Emily
Sent: Wednesday, September 28, 2016 11:07 AM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: FW: HollyFrontier - 9/28 meeting request

Hi Ben,

Another ask is on the table now – what do you all think of Janet taking this meeting on October 13?

Emily

From: Barfield, Blake [mailto:Blake.Barfield@HollyFrontier.com]
Sent: Friday, September 23, 2016 12:55 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: RE: HollyFrontier - 9/28 meeting request

Emily

Thanks for the response; certainly understand scheduling challenges particularly on short notice.

Is Acting Administrator McCabe available to meet with George Damiris on October 12th or the morning of October 13th?

Thanks

Blake

From: Atkinson, Emily [mailto:Atkinson.Emily@epa.gov]
Sent: Thursday, September 22, 2016 1:59 PM
To: Barfield, Blake
Subject: FW: HollyFrontier - 9/28 meeting request

Hi Blake,

I apologize for the delay in getting back to you. We regret that Acting Assistant Administrator McCabe does not have time in her schedule to meet on Wednesday, September 28 when Mr. Damiris is in Washington.

If need any additional assistance, feel free to contact me directly.

Emily

Emily Atkinson
Management Analyst/Office Manager

Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA

Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Barfield, Blake [mailto:Blake.Barfield@HollyFrontier.com]
Sent: Wednesday, September 21, 2016 3:43 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: RE: HollyFrontier - 9/28 meeting request

Sorry again to bug – do you think we'll know on meeting request today?

From: Barfield, Blake
Sent: Tuesday, September 20, 2016 2:00 PM
To: 'Atkinson, Emily'
Subject: RE: HollyFrontier - 9/28 meeting request

Thanks, much.

From: Atkinson, Emily [mailto:Atkinson.Emily@epa.gov]
Sent: Tuesday, September 20, 2016 1:58 PM
To: Barfield, Blake
Subject: FW: HollyFrontier - 9/28 meeting request

Hi Blake,

I apologize for the delay - this request is still under review.

I hope to have scheduling options available soon and will be in touch shortly.

Emily Atkinson
Management Analyst/Office Manager

Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Barfield, Blake [mailto:Blake.Barfield@HollyFrontier.com]
Sent: Tuesday, September 20, 2016 2:48 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: FW: HollyFrontier - 9/28 meeting request

Hi Emily

Just wanted to quickly touch base and see if Administrator McCarthy or Acting Assistant Administrator McCabe had a few minutes to visit with HollyFrontier CEO, George Damiris, next Wednesday, September 28th?

Appreciate your consideration.

Best,

Blake

--

Blake D. Barfield

Government Affairs

The HollyFrontier Companies

2828 N. Harwood, Suite 1300

Dallas, TX 75201

(214) 954-6506

blake.barfield@hollyfrontier.com

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From: Barfield, Blake
Sent: Saturday, September 17, 2016 12:51 PM
To: 'Atkinson.emily@epa.gov'
Subject: HollyFrontier - 9/28 meeting request

Emily:

Hope this finds you well.

Earlier this month on behalf of HollyFrontier Corporation, we mailed the attached petition to Administrator McCarthy regarding the Point of Obligation under the Renewable Fuel Standard.

On September 28th our CEO, George Damiris, will be in Washington and as such I wanted to request the opportunity to discuss our petition with Administrator McCarthy or Acting Assistant Administrator McCabe.

If that date is not available on their schedules, we would welcome the chance to meet on an alternate date in the near future.

Thanks for your help and consideration.

Best regards,

Blake

--

Blake D. Barfield

Government Affairs

The HollyFrontier Companies

2828 N. Harwood, Suite 1300

Dallas, TX 75201

(214) 954-6506

blake.barfield@hollyfrontier.com

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Sutton, Tia
Sent: Thur 11/10/2016 2:43:12 PM
Subject: FW: POO
Proposed Denial of Petitions for Rulemaking, RFS Point of Obligation, 11-10-16 new.pdf
Proposed Denial of Petitions for Rulemaking, RFS Point of Obligation, 11-10-16 new.docx

Doc is attached (I deleted the FRN since I assumed you didn't need it). Wasn't sure if you needed Word or pdf.

From: Sutton, Tia
Sent: Wednesday, November 09, 2016 6:43 PM
To: McCabe, Janet <McCabe.Janet@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Cyran, Carissa <Cyran.Carissa@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Subject: RE: POO

No problem at all – FRN and Word & pdf versions of the TSD are attached. (Files have been sent to web, and to Tanya for the letters, so we should be all set for the morning.)

From: McCabe, Janet
Sent: Wednesday, November 09, 2016 6:31 PM
To: Sutton, Tia <sutton.tia@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Cyran, Carissa <Cyran.Carissa@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Subject: RE: POO

Thanks, Tia.

Could you please send me the FRN and TSD electronically this evening? Thanks.

From: Sutton, Tia
Sent: Wednesday, November 09, 2016 6:20 PM
To: McCabe, Janet <McCabe.Janet@epa.gov>; Hengst, Benjamin

<Hengst.Benjamin@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Cyran, Carissa <Cyran.Carissa@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Subject: RE: POO

Thank you, Janet!

These are small tweaks that shouldn't change pagination, so I can make these edits in the doc before I leave, and will get a new pdf to the web folks and Tanya so they can swap out the pages before we go live/send the letters tomorrow.

From: McCabe, Janet
Sent: Wednesday, November 09, 2016 6:03 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Cyran, Carissa <Cyran.Carissa@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Subject: POO

I have signed all the letters and the FRN too.

Thank you for the various changes to the RFN and the technical support document. I did note (sorry) just a couple of typos in the latter, which, if you have time to fix before the letters go out, would be great. Here they are

On p.3 in the TOC, under II.C. it says "Impac" rather than "Impact"

On p.6, middle of the page, there is a "petitioners" that should be "petitioners'", and later in that same paragraph, you say "Petitioners" with a capital P. Everywhere else, you say "petitioners."

I've marked these nits with sticky notes, but thought you might like a roadmap this evening.

--Janet

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Hengst, Benjamin
Sent: Thur 11/10/2016 1:50:45 PM
Subject: draft email to send to the 5 petitioners

Dear Mr. Price:

I have attached a cover letter and proposed denial document responding to your petition relating to the RFS point of obligation.

Please feel free to give me a call if you have any questions.

Sincerely,

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]
Cc: Birgfeld, Erin[Birgfeld.Erin@epa.gov]; Richards, David[Richards.David@epa.gov]; Mylan, Christopher[Mylan.Christopher@epa.gov]
From: Sutton, Tia
Sent: Wed 11/9/2016 10:53:14 PM
Subject: RE: POO Web Mock Up

Remind me to yell at you tomorrow…

From: Argyropoulos, Paul
Sent: Wednesday, November 09, 2016 5:47 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Sutton, Tia <sutton.tia@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Mylan, Christopher <Mylan.Christopher@epa.gov>
Subject: Re: POO Web Mock Up

We need to start over on these.....just kidding, meds kicking in. I looked at them erlier and had no commets either.

Paul Argyropoulos

Senior Policy Advisor

USEPA

Office of Transportation and Air Quality

Office: 202-564-1123

Mobile: 202-577-9354

On Nov 9, 2016, at 5:41 PM, Hengst, Benjamin <Hengst.Benjamin@epa.gov> wrote:

> All looks good to me.
>
> On Nov 9, 2016, at 4:15 PM, Sutton, Tia <sutton.tia@epa.gov> wrote:
>
> > Thanks, David! Fine by me, but I'll of course defer to others if you would like to make edits.

From: Richards, David
Sent: Wednesday, November 09, 2016 3:45 PM
To: Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: POO Web Mock Up

Hey Tia,

All three are very very slightly different (kind of on purpose). POO page and main petition page are in past tense. Announcement page is in present (present perfect) tense, example is proposing. And finally the POO page doesn't include the date, while the others do.

(POO Page) EPA proposed to deny requests from petitioners to initiate a rulemaking to change the point of obligation for compliance under the Renewable Fuel Standard program. Due to the importance, complexity, and broad stakeholder interest in this issue, the agency is taking public comment on the proposed denials to ensure we receive input from the wide variety of stakeholders that could be affected.

(Main Petition Page) On November 10, 2016, EPA proposed to deny requests from petitioners to initiate a rulemaking to change the point of obligation for compliance under the Renewable Fuels Standards program. Due to the importance, complexity, and broad stakeholder interest in this issue, the agency is taking public comment on the proposed denials to ensure we receive input from the wide variety of stakeholders that could be affected.

(Announcement Page) On November 10, 2016, EPA is proposing to deny requests from petitioners to initiate a rulemaking to change the point of obligation for compliance under the Renewable Fuel Standards (RFS) program. Due to the importance, complexity, and broad stakeholder interest in this issue, the agency is taking public comment on the proposed denials to ensure we receive input from the wide variety of stakeholders that could be affected.

Let me know if you want me to change it or clarify.

From: Sutton, Tia
Sent: Wednesday, November 09, 2016 3:34 PM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>
Cc: Mylan, Christopher <Mylan.Christopher@epa.gov>; Richards, David <Richards.David@epa.gov>
Subject: POO Web Mock Up

Just in case anyone wants to make any add'l edits – here's the POO web mock-up.

As we discussed Monday, the blurb is being added to the "2016 Announcements" page and the "Petitions" page, and the "For More Info" links under each of those blurbs will go to a stand-alone POO page that has the FR notice & analysis document. (We'll post the letters on the main Petitions page next week.)

(**David**- one thing I just noticed is that the blurb on the 2016 page doesn't match the one on the Petitions page; could you follow up with Lisa to make sure she updates the blurb on the 2016 Announcements page to match what's currently on the Petitions page? Thanks!)

Ex. 5 - Deliberative Process

To: Machiele, Paul[machiele.paul@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]
Cc: Reid, Lauren[Reid.Lauren@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]; Le, Madison[Le.Madison@epa.gov]
From: Hengst, Benjamin
Sent: Wed 11/9/2016 10:25:06 PM
Subject: POO roll-out materials
Point of Obligation Roll Out 11-10-16 FINAL.docx
Point of Obligation Talking Points.docx
Proposed Denial of Petitions for Rulemaking, RFS Point of Obligation, 11-10-16.pdf

We are on for tomorrow morning—heads-up calls at 9am. See assignments in attached roll-out plan.

Attached:

- Final determination doc
- Final roll-out document
- Talking points for the backgrounder calls tomorrow morning

To: Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Machiele, Paul[machiele.paul@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Korotney, David[korotney.david@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]; Reid, Lauren[Reid.Lauren@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Dubois, Roland[Dubois.Roland@epa.gov]; Parsons, Nick[Parsons.Nick@epa.gov]; Lie, Sharyn[Lie.Sharyn@epa.gov]; Shelby, Michael[Shelby.Michael@epa.gov]; Sobel, Aaron[Sobel.Aaron@epa.gov]; VanLare, Paula[VanLare.Paula@epa.gov]; Nagelhout, Peter[Nagelhout.Peter@epa.gov]
From: Sutton, Tia
Sent: Wed 11/9/2016 9:10:42 PM
Subject: Materials for API E.O. 12866 Meeting
API OMB 2017 RFS Final.pptx

Subject: E.O. 12866 Meeting on Renewable Fuel Volume Standards for 2017 and Biomass Based Diesel Volume (BBD) for 2018
When: Wednesday, November 9, 2016 4:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Room 238 EEOB, 17th Street & State Place, NW

This meeting was requested by Patrick Kelly, American Petroleum Institute.

Call-in: 202-395-6392; code 3862485.

To: Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Birgfeld, Erin[Birgfeld.Erin@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
Cc: Mylan, Christopher[Mylan.Christopher@epa.gov]
From: Richards, David
Sent: Wed 11/9/2016 7:06:55 PM
Subject: FW: Pub number request for Point of Obligation Draft Analysis document

Hey Ben and Paul,

Here is the final mock up for the website the links are below.

Ex. 5 - Deliberative Process

From: Mylan, Christopher
Sent: Wednesday, November 09, 2016 1:59 PM
To: Richards, David <Richards.David@epa.gov>
Subject: RE: Pub number request for Point of Obligation Draft Analysis document

Hey,

Do you want to send this around to Ben and Paul for their review? Just for a final check…

From: Sun, Lisa
Sent: Wednesday, November 09, 2016 9:20 AM
To: Levin, David <Levin.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Cc: Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Mylan, Christopher <Mylan.Christopher@epa.gov>; Richards, David <Richards.David@epa.gov>; Dietrich, Gwen <Dietrich.Gwen@epa.gov>; Suarez, Patricia <suarez.patricia@epa.gov>; France, Jennifer <france.jennifer@epa.gov>
Subject: RE: Pub number request for Point of Obligation Draft Analysis document

Good morning!

Thanks David.

Tia, the publication number is added on page for Draft Analysis.

Ex. 5 - Deliberative Process

- Draft Analysis (PDF)(1 pg, 3 MB, November 2016, EPA-420-D-16-004)

Thanks,

Lisa Sun

Web Coder ***(ASRC)***

734-214-4599

~ Your Posting is Under Construction ~

https://www.epa.gov/air-pollution-transportation

http://otaqintranet.epa.gov/ (OTAQ@Work)

From: Levin, David
Sent: Wednesday, November 09, 2016 8:30 AM
To: Sutton, Tia <sutton.tia@epa.gov>
Cc: Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Mylan, Christopher <Mylan.Christopher@epa.gov>; Richards, David <Richards.David@epa.gov>; Dietrich, Gwen <Dietrich.Gwen@epa.gov>; Suarez, Patricia <suarez.patricia@epa.gov>; Sun, Lisa <Sun.Lisa@epa.gov>; France, Jennifer <france.jennifer@epa.gov>
Subject: RE: Pub number request for Point of Obligation Draft Analysis document

Hi Tia,

As per your request, I have assigned an OTAQ Publication Number to the "draft" document:

Proposed Denial of Petitions for Rulemaking to Change the RFS Point of Obligation
Publication number: **EPA-420-D-16-004**

When you have the final version, please forward it on to Gwen and myself for Web formatting.

Thanks,

David

David Levin

Communications / Information Management Specialist

Senior Service America, Inc. (Grantee)

Supporting the Office of Transportation and Air Quality

Phone: 734-214-4353

From: Sutton, Tia
Sent: Tuesday, November 08, 2016 5:44 PM
To: Levin, David <Levin.David@epa.gov>; Dietrich, Gwen <Dietrich.Gwen@epa.gov>
Cc: Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Mylan, Christopher <Mylan.Christopher@epa.gov>; Richards, David <Richards.David@epa.gov>
Subject: Pub number request for Point of Obligation Draft Analysis document

Hi David and Gwen,

Attached is a pub number request for a document that we'll be posting on the web later this week (as soon as I have the final edits on the document itself, we'll be sending to you for formatting).

Thank you!

-Tia

To: Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Machiele, Paul[machiele.paul@epa.gov]; Reid, Lauren[Reid.Lauren@epa.gov]; Dubois, Roland[Dubois.Roland@epa.gov]; Orlin, David[Orlin.David@epa.gov]
Cc: Sutton, Tia[sutton.tia@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Burkholder, Dallas
Sent: Tue 11/8/2016 3:01:04 PM
Subject: RE: POO Petition Response 11 7 16jm.docx
POO Petition Response 11 7 16jm DB.docx

I made changes based on Janet's comments in the attached version. I think the only outstanding issue in this is **Ex. 5 - Deliberative Process Attorney Client**

From: Hengst, Benjamin
Sent: Tuesday, November 08, 2016 5:52 AM
To: Burkholder, Dallas <burkholder.dallas@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Cc: Sutton, Tia <sutton.tia@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>
Subject: Fw: POO Petition Response 11 7 16jm.docx

Dallas, Roland, and team:

Janet asked last night that I send her the current POO decision doc. She made some edits/comments and sent it back--see below. By and large her comments look good/helpful.

She has a few suggestions/questions. Dallas, can you take the lead on responding? There's also **Ex. 5 - Deliberative Process Attorney Client**

Thanks

Ben

From: McCabe, Janet
Sent: Monday, November 7, 2016 10:33 PM

To: Hengst, Benjamin; Grundler, Christopher
Subject: POO Petition Response 11 7 16jm.docx

Here are my comments—not that many—and mostly in the first few pages, with a couple of

Ex. 5 - Deliberative Process

The bulk of the document looks great to me.

Also, to the extent I've suggested edits here to language that's also included in the FR notice, the edits should be made there as well.

We can chat tomorrow.

2017 RFS Rulemaking

- Similar to the 2014-2016 RFS rules:
  - EPA should continue to exercise its waiver authorities and lower the statutory volumes
  - Carryover RINs should not be considered when setting the standards
- EPA should set 2017 standards below the E10 blendwall
  - Ethanol should not exceed 9.7% of the gasoline pool
  - Limited E85, E15 demand; not solutions to the blendwall
- Feasible advanced standards; cellulosic should be based on demonstrated actual production
- EPA should not change the point of RFS obligation

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EPA should set 2017 Standards Below the Blendwall

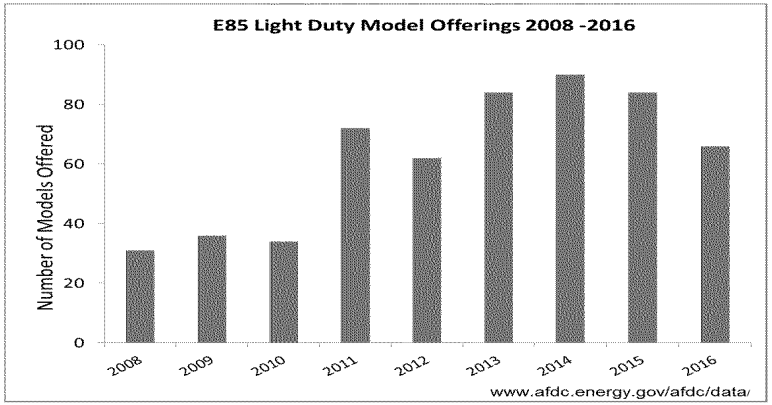
- EPA has clear authority to waive the statutory volumes

- Total ethanol volume should not exceed 9.7% of the gasoline pool
  - Significant E0 demand, estimated by EIA[1] at 5.3 billion gallons or 3.8% of gasoline demand in 2015, *100 fold larger than the combined E85, E15 demand*
  - EPA should use the same E0 methodology outlined in the May 2016 EIA memo[1] vs. EPA's low E0 estimate of 200 million gallons stated in the 2017 proposal

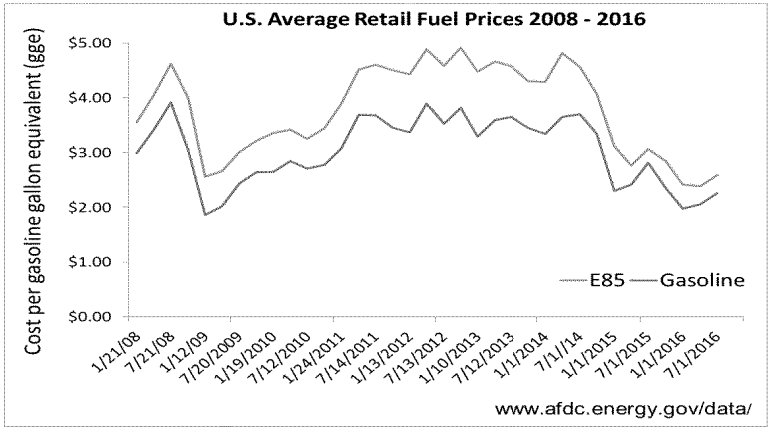
[1] Today in Energy, *Almost all U.S. Gasoline is Blended with 10% Ethanol,* May 4, 2016.

Limited E85 Demand

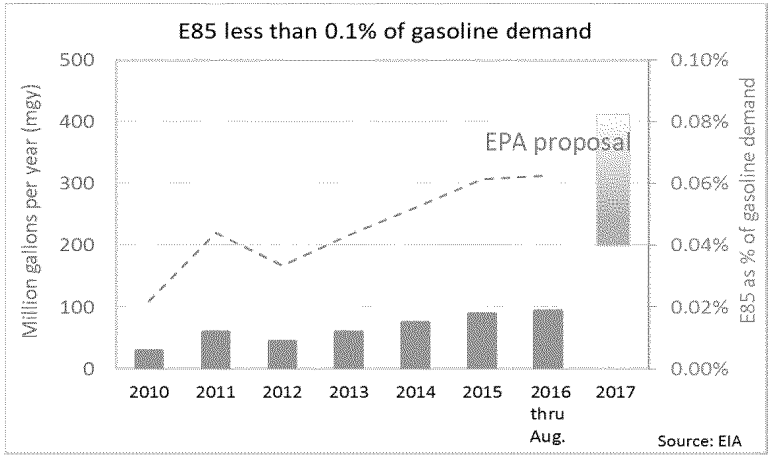
- Only ~ 8% of fleet are Flex Fuel Vehicles (FFVs); automakers reducing number of FFV models



- E85 has lower energy density, not in cost parity with gasoline
- Range reduction means 4 tanks of E85 = 3 tanks of gasoline
- According to fueleconomy.gov data: cost per mile using E85 increases ~9-14%



- Lack of consumer demand: E85 is less than 0.1% of gasoline demand
- EPA's E85 estimate of 200 – 400 million gallons for 2017 is unrealistic



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E15 is Not a Solution to the Blendwall

- E15 potential liability and compatibility concerns = not desirable for consumers
  - Coordinating Research Council: E15 can cause engine and fuel system damage
  - E15 is suitable for fueling in ~15% of the current fleet (incl. FFV's) based on auto manufacturer owner's manuals – use of E15 may void warranty
  - GAO: half of the retail infrastructure is incompatible with E15

Manufacturer	Model Year															
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
BMW	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
Chrysler	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	Most[6]
Ford	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes
GM	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Most[4]	Most[4]
Honda/Acura	No	No	No	No	No	No	No	No	No	No	No	No	No	Some[1]	Yes	Yes
Hyundai/Kia	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
Jaguar/Land Rover	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes
Mazda	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
Mercedes	No	No	No	No	No	No	No	No	No	No	No	No	No	No[2]	No[2]	No
Mitsubishi	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
Nissan/Infiniti	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
Subaru	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
Toyota/Lexus	No	No	No	No	No	No	No	No	No	No	No	No	No	Some[3]	Most[5]	Most[5]
VW/Audi/Porsche	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes
Volvo	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No

Source: Edmunds.com and auto company statements. See Endnotes for specific model information

Carryover RINs should not be relied upon for setting annual standards

- EPA correctly recognizes that standards should not rely on carryover RINs
  - Carryover RINs are needed to help ensure market liquidity and in the event of unforeseen circumstances
  - Reliance on carryover RINs only provides a short term relief, compounding the blendwall problem in subsequent years

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Feasible Advanced Standards

- Advanced Renewable Fuel standards should be feasible, taking into account feedstock availability, renewable fuel production and blending infrastructure
  - EPA proposed an 11% increase of the 2017 advanced standard vs. 2016 – after a 25% increase in 2016
- DC Circuit Court of Appeals instructed EPA to "aim at accuracy"
- Cellulosic standard should be based on at least three months of actual production
  - Production ramp-up projections for liquid cellulosic biofuels have not materialized
  - Projections from cellulosic producers have consistently been wrong (e.g., Abengoa, Kior)
- Biomass Based Diesel volumes in 2018:
  - EPA should not increase the BBD standard
    - Reduces flexibility in meeting Advanced standard
    - Stakeholders have raised concerns with feedstock availability and costs
    - An increased biodiesel standard could be met with imports
  - Volume should have been set by October 31

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EPA Should Not Change the RFS Point of Obligation

- **Changing the point of obligation:**
  - Will not fix the blend wall problem or impact the overall volume of renewable fuels.
  - Will create additional uncertainty in the RFS Program and RIN market.
  - Will complicate administration and function of the program.

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ED_001174_00000905

Changing the RFS Point of Obligation:

Doesn't impact the overall volume of renewable fuels

- **Will not fix the blend wall problem or impact the overall volume of renewable fuels**
  - Will not alleviate infrastructure constraints throughout the distribution system
    - E15 and E85 will still face the current infrastructure hurdles including retail equipment compatibility
    - The current structure does not prevent renewable infrastructure investments; EPA recognized that renewable producers are free to make such investments
  - Will not increase the number of vehicles that are able to use higher ethanol content fuels
    - E15 still faces the potential liability hurdle due to vehicle incompatibility
    - E85 is still limited to use in Flex Fuel Vehicles
  - Will not change consumer behavior
    - E85 has faced the difficulty of consumer acceptance when discounted at a rate that corresponded to the mileage penalty, given consumers' past purchasing behavior
  - It will only shift the compliance responsibility to a different group of RFS participants, and will not impact the overall volume of renewable fuels
    - According to MIT and EPA studies, independent and merchant refiners are not competitively disadvantaged under the current system as they allege. Like other obligated parties, they recover RIN costs in the sale price of their products (see endnotes).

ED_001174_00000905

Changing the RFS Point of Obligation: Creates Additional Uncertainty

- **Will create additional uncertainty in the RFS Program and the RIN market**
  - Changing the point of obligation nine years into the RFS program disrupts RFS compliance plans -- investments and commercial agreements -- which were based on the current RFS structure
  - Deemphasizes development of petroleum refinery pathways for drop-in fuels which utilize existing facilities and infrastructure
    - e.g. renewable diesel
  - Creates additional uncertainty about whether other critical components of the RFS program might be changed in the future
  - Will create uncertainty even if EPA were only to request comments on making the change
    - Could affect the RIN market, investment decisions throughout the supply chain, and investments in renewable fuels and infrastructure

ED_001174_00000905

Changing the RFS Point of Obligation: Complicates Administration for EPA

- **Will complicate administration and function of the program**
  - EPA has twice considered placing the obligation on the blender and has declined to do so, due in part to concerns regarding the increase in the number of obligated parties
  - Will increase the number of obligated parties, adding complexity and cost for EPA to administer and enforce the program
  - The identification of covered fuels becomes more difficult, which could result in under-compliance or over-compliance with an obligated party's RVO
  - The RFS already includes provisions to facilitate compliance for all obligated parties, including the ability for obligated parties to separate RINs, and a 20% limit on the quantity of carryover RINs
  - Greater number of points of compliance means greater opportunity for error and/or fraud

Other Organizations Opposed to Moving the Point of RFS Obligation:

- Marketer Groups:
  - Society of Independent Gasoline Marketers of America (SIGMA)
  - National Association of Convenience Stores (NACS)
  - National Association of Truck Stop Operators (NATSO)
- Biofuel Producers:
  - Advanced Biofuels Association (ABFA)
  - Renewable Fuels Association (RFA)
  - Growth Energy
  - Renewable Energy Group (REG)
- Bulk Fuel Consumers:
  - UPS
  - Association of American Railroads

ED_001174_00000905

ED_001174_00000905

Endnotes

Slide 3 – E15 compatibility chart:
[1]Accord, Civic, Crosstour, CR-V, CR-Z, Insight, Odyssey, Pilot; Acura: ILX, MDX, RDX, RLX, but not TL, TSX, TSX Wagon
[2]Some owner manuals for 2014 and 2015 incorrectly stated that E15 was allowed.
[3]Avalon, Camry, Corolla, Highlander, iQ, Prius, RAV-4, Scion tC, Sienna, Venza; Lexus: CT200H, ES350, GS300/350, GS450H, IS250, IS350, LS460, RX350, RX450H, but not 4Runner, FJ Cruiser, Land Cruiser, Sequoia, Tacoma, Tundra, Yaris; Lexus: IS250C, IS350C, IS F, GX460, LX570
[4]Not Chevrolet City Express
[5]Not FR-S, xB (model discontinued after 2015).
[6]Not Dodge Viper

Slide 8 - Per MIT: "… [A]n obligated party with a net RIN obligation, such as a merchant refiner, is able to recoup their RIN costs on average through the prices they receive in the wholesale market, although this mechanism would not be apparent on the balance sheet of the obligated party because there is no explicit revenue line item offsetting the explicit cost of purchasing RINs."

Petitions for Reconsideration of RFS2 Rule to Change the Point of Obligation

Roll Out Plan

Target Roll-out Date: November 10

Web posting time: 10:30am

HEADS-UP CALLS START AT 9am

Overview

The obligation for complying with the RFS program's annual standards is currently placed, by regulation, on refiners and importers of gasoline and diesel. EPA has received requests asking that we change the point of obligation, though the alternatives suggested by petitioners vary. The requests include petitions for rulemaking, as well as petitions for reconsideration of the 2010 RFS2 rule (75 FR 14671, March 26, 2010). Those requesting this change include Valero (the nation's largest independent refiner), a group of small refiners, Delta Airlines refining subsidiary and others.

Key Messages

- EPA has looked closely at the information submitted by the petitioners, and at other information available to us from other stakeholders in addition to our own analysis. Based on this review, the agency does not currently believe that changing the regulatory point of obligation for compliance with the RFS program is appropriate.

- Due to broad stakeholder interest in and the complexity of this issue, the agency is asking for public comment on the draft denial to ensure we receive input from the wide variety of stakeholders that could be affected.

- Our proposal presents EPA's rationale and analysis for proposing to deny the requests based on the information we have evaluated thus far, and we have opened a public docket on this topic.

- The RFS program affects stakeholders along multiple points of the nation's fuel production and distribution systems. This issue affects multiple stakeholders in the fuels marketplace – not just the refiners that have petitioned EPA. Granting the relief requested by the petitioners would significantly change the dynamics of the program and the behavior of numerous potentially affected parties.

- A final decision will take into account any new information and perspectives from all interested parties received during the comment period.

Messages on basis for proposed denial (use as needed)

- We believe that the current structure of the RFS program is working to incentivize the production, distribution, and use of renewable transportation fuels in the United States, while providing obligated parties a number of options for acquiring the RINs they need to comply with the RFS standards.
    - Production and import of renewable transportation fuel in the United States has increased from approximately 7 billion ethanol-equivalent gallons in 2010 to almost 18 billion ethanol-equivalent gallons in 2015, the most recent year for which complete data are available. This represents an increase of over 250% in just five years.
    - Obligated parties have flexibility in securing RINs under the program. They can obtain RINs through blending, purchasing or trading.
    - Changing the point of obligation could cause significant confusion and uncertainty in the fuels marketplace, and would likely delay investment in biofuel production facilities if the structure of the RFS program becomes uncertain. Most of the growth in biofuel production in future years must come from advanced and cellulosic fuels, fuels that have the lowest carbon footprint. Near term investment in facilities that produce these fuels is critical. Changing the point of obligation could jeopardize investments in advanced biofuel production.
    - The primary issues that inhibit biofuel growth today are the lack of large scale commercial facilities that produce cellulosic biofuels. Based on our current assessment, we believe that changing the point of obligation would not address either of these challenges.
    - Changing the point of obligation could disrupt investments in renewable fuel infrastructure already made by participants in the fuels industry in reliance on the current regulatory structure the agency established in 2007 and confirmed in 2010.
    - Changing the point of obligation would significantly increase the complexity of the RFS program, which could negatively impact its effectiveness.

Desk Statement

Today, the U.S. Environmental Protection Agency (EPA) proposed to deny requests from petitioners to initiate a rulemaking to change the point of obligation for compliance under the Renewable Fuels Standards program. Due to the importance, complexity, and broad stakeholder interest in this issue, the agency is taking public comment on the proposed denials to ensure we receive input from the wide variety of stakeholders that could be affected.

Background

- All relevant documents are available in a public docket that EPA has established for this Notice (Docket ID No. EPA–HQ–OAR–2016–0544). The comment period will be open for 60 days from the date of publication of a Federal Register notice on this topic. EPA will review the comments and consider them in light of the Agency's current decisions.

- For more information on please visit https://www.epa.gov/renewable-fuel-standard-program/2016-announcements-renewable-fuel-standard-program

- The current structure of the RFS program is working to incentivize the production, distribution, and use of renewable transportation fuels in the United States, while providing obligated parties a number of options for acquiring the RINs they need to comply with the RFS standards.

    - Production and import of renewable transportation fuel in the United States has increased from approximately 7 billion ethanol-equivalent gallons in 2010 to almost 17 billion ethanol-equivalent gallons in 2015, the most recent year for which complete data is available. This represents an increase of over 250% in just five years.

- Obligated parties have flexibility in securing RINs under the program. They can obtain RINs through blending, purchasing or trading.

- Changing the point of obligation could cause significant confusion and uncertainty in the fuels marketplace, and would likely delay investment in biofuel production facilities if the structure of the RFS program becomes uncertain.

- EPA is interested in further assessing these topics and is encouraging interested stakeholders to submit data and comment on the issue.

Materials
Internal:
Press ready Q and A

External:
Web update / include actual petition letters
Desk statement
FR NOTICE

Tick Tock
Evening before:
Day of:
9-10 am: Stakeholder calls

9-10:30 am: background interviews with 2-3 outlets (Politico, Platts, Bloomberg)
10:30 am: Web posting, Email desk statement to Argus/OPIS (Christie)
Web posting consists of posting FR notice and decision document, **AND** link to FR notice/decision document from RFS petitions page

Afternoon: Follow up calls with Ben, Paul, Dallas/Lauren and others available as needed

Anticipated Public and Stakeholder Reactions

Petitioners: Monroe Energy, Valero, the Ad-Hoc Small Refinery Coalition and others in favor of changing the point of obligation will have a significant negative reaction to this announcement

Refiners: Split – small and merchant refiners will have a negative reaction to EPA's proposed denial. Larger refiners (BP, Chevron, Shell, Marathon) will support EPA's stance.

Retailers: Majority of retailers will support decision

Stakeholder engagement/call-list

HEADS-UP CALLS START AT 9AM

Biofuels groups			
RFA	Geoff Cooper	Ex. 6 - Personal Privacy	**Ben**
Growth Energy	Emily Skor or Chris Bliley		**Ben**
NBB	Anne Steckel		**Paul A**
ADM	Chuck Corr		**Paul A**
POET	Mark Devries		**Paul A**
Petitioners, small refiners, others who support moving POO			
AFPM	Chet Thompson		**Janet**
Valero	Rich Walsh		**Janet**
Delta Monroe	Matthew Price (representing		**Ben**

	Monroe)	Ex. 6 - Personal Privacy	
Delta Monroe	Steve Shimberg, representing Delta		**Ben**
PBF	Matt Lucey, President		**Janet**
Small Refinery Ad Hoc Coalition	LeAnn Johnson-Koch, counsel to coalition		**Janet**
Small Retailer Coalition	Bill Douglass Suzanne Murray, counsel for		**Ben**
Ad-Hoc Coalition of Small Business Refiners	Matt Smorch		**Tia**
Large refiners, retailers, others who opposed moving POO			
API	Frank Macchiarola		**Ben**
Terminal Operators	Andrea Grant		**Ben**
Individual retailers who wrote or met with us • Sheetz • Wawa • Race Trac • Murphy			**Ben**
Marathon	Fred Wallas		**Paul M**
Shell	John Reese		**Paul A**
BP	Jim Simnick		**Paul A**
NATSO	David Fialkov		**Ben**
SIGMA/NACS	Tim Columbus Eva Rigamonti		**Ben**
USG			

USDA	Trevor		**Ben**
DOE	Tom White		**Paul M**
OMB			
Hill: OCIR developing plan separately			

QAs on RFS Point of Obligation

Q: Who are the petitioners?
A: The petitioners are several independent large and merchant refiners as well as an Ad-Hoc Small Refinery Coalition.
List:

- Monroe Energy LCC
- Alon Refining Krotz Springs, Inc.; American Refining Group, Inc.; Calumet Specialty Products Partners, L.P.; Lion Oil Company; Ergon-West Virginia, Inc.; Hunt Refining Company; Placid Refining Company LLC; U.S. Oil & Refining Company (the "Small Refinery Owners Ad Hoc Coalition" or "Coalition")
- Valero
- American Fuel and Petrochemical Manufacturers ("AFPM")
- Holly Frontier

Q: What is EPA's rationale for proposing to deny the petitions to change the point of obligation?
A: Current regulations hold refiners and importers of gasoline and diesel fuel responsible for complying with the annual renewable fuel percentage standards set under the RFS. Based on careful review of all relevant information, EPA believes the current structure of the RFS program is working to incentivize the production, distribution, and use of renewable transportation fuels in the United States, and that importers and refiners of gasoline and diesel fuel have sufficient options for acquiring the RINs necessary to demonstrate compliance. Based on the information currently before us, EPA believes that changing the point of obligation could increase market uncertainty leading to delays in the investments necessary to expand the supply of renewable fuels, particularly the cellulosic and advanced biofuels which have the lowest carbon footprint, and that under the statute are required to grow the most in future years.

Q What is the agency's assessment of petitioners' claims that changing the POO will provide greater incentive for biofuels?
A: We do not believe these claims are accurate. The RFS program has provided a significant incentive for parties to invest in the production, distribution, and use of renewable fuels. The main challenge continues to be breakthroughs in the development of cellulosic biofuel technology causing their volumes to lag far behind the statutory volumes. Changing the point of obligation would provide no benefit to speeding the development of cellulosic biofuel technology. Furthermore, changing the point of obligation would introduce significant uncertainty into the RFS program, which could result in parties delaying further investments in the renewable fuels market until the uncertainties are resolved. EPA has also received a letter from various renewable fuel associations, including the Renewable Fuels

Association, Growth Energy, and the Advanced Biofuels Business Council requesting that EPA deny the requests to change the point of obligation.

Q: Does the EPA have to take public comment on the petitions?
A: No. However, given the complexity and importance of this issue, EPA is choosing to take public comment on our proposed denial. We are particularly interested in any data and quantitative analysis that could inform our consideration of the matter.

The docket for this action will remain open for 60 days from the date of publication in the Federal Register.

Q: What are the potential impacts of changing the point of obligation?
A: Based on our analysis and input we have received from a variety of stakeholders, EPA believes that if the changes requested by the petitioners were made, many of the parties that would become obligated parties as a result of the change in the definition would reposition themselves in an effort to avoid or minimize their obligations under the RFS program.

Repositioning could entail changes in contracts for what the point of purchase is, where blending is considered, and other such efforts to avoid obligation. Such market repositioning would likely minimize any potential long term impacts of the proposed change on the production, distribution, and use of renewable fuel, but may also have far-reaching negative consequences across the fuels marketplace, and increase the costs of the program.

Data currently available to EPA indicates that changing the point of obligation should significantly increase the number of obligated parties further complicating the effective implementation and oversight of the program. We are soliciting comment on this matter, however.

Q: What about the claims by merchant and small refiners that they are suffering extreme harm as a result of the point of obligation?
A: EPA has reviewed claims by small and merchant refiners that they are suffering harm as a result of the point of obligation in the RFS program. We believe this information does not demonstrate that merchant and small refiners are suffering disproportionate harm, as some have claimed. We acknowledge that RINs represent a significant cost to all refiners, including merchant and small refiners, that choose to acquire the RINs they need to demonstrate compliance by purchasing separated RINs, however we believe all obligated parties, including these parties, generally recover the cost of these RINs through higher prices for the refined products (i.e. gasoline blendstocks and diesel) they sell than they would receive in the absence of the RFS program. We also note that small refineries can petition EPA for hardship relief if they demonstrate disproportionate economic hardship in complying with the RFS program. EPA has granted a number of these waiver petitions.

Q: Are small refiners going to go out of business?
A: There are numerous factors that influence any particular business decision. EPA has already received substantial input on this issue from the petitioners, as well as those parties opposed to any change, including several large refiners, retailers, and terminal operators. The RFS program is only one factor that may determine the viability of a small refiner. The refining market is affected by the costs to procure crude, the costs to refine it into finished products, energy costs, overall supply and demand balance, and many other market based factors. We believe that the current structure of the RFS program is flexible providing obligated parties a number of options for acquiring the RINs they need to comply with the RFS standards.

Q: When will the EPA make a final decision?
A: We do not currently have a timeline for issuing a final decision. The comment period will last for 60 days, and EPA will thoroughly consider the information we receive before making a final decision.

Q: Is it true that small retailers are getting undercut by big retailers with RIN prices? Would changing the point of obligation help the small guys?
A: Based on the information before us, we do not believe that changing the point of obligation would assist independent owners of gas stations to become more profitable. Instead we believe larger market forces are at work, including the relative low cost of gasoline, and the lack of bargaining power of small operators to secure contracts that result in competitive pricing and larger profit margins.

Q: Isn't this a winner and loser game, where you are determining that merchant refiners are the losers?
A: We are carefully evaluating the structural impacts of the current point of obligation, but based on data before us now, it appears costs are distributed among all obligated parties. There are many factors that impact profitability in this industry, of which RINs are only one.

Empirical evidence before us, and now in the docket, shows that the costs of RINs that refiners must obtain to comply with the RFS program is ultimately passed through and recovered through the pricing and sale of the gasoline blendstock sold in the market. We welcome further data and analysis on this point.

Q: **Experts are saying that changing the point of obligation would make the market less susceptible to fraud and exploitation. How do you respond? Does this proposed denial mean that we can expect more fraud to come?**
A: We do not believe that changing the point of obligation would result in less fraud in the RFS program. EPA has been actively working to reduce incidences of fraud through actions such as the Quality Assurance Program and believe our actions will be successful in limiting fraud going forward. To the contrary, we are concerned that changing the point of obligation in the manner suggested could in fact increase fraud, as the point of obligation would likely be placed on smaller companies with less experience with the RFS program and less resources to ensure the validity of the RINs they use for

compliance. Furthermore, changing the point of obligation would not, as some parties have suggested, result in all parties meeting their RFS obligations by blending renewable fuels. We believe that even if the point of obligation were changed, RIN trading would continue to be a significant element of the RFS program in order to increase the efficiency of compliance and reducing costs to obligated parties and consumers.

Q: Murphy's CEO actually bragged about profiting from RIN sales? How can EPA claim that that's not the case, if Murphy themselves said it?

A: Just because a company receives revenue from RIN sales does not mean that this revenue is a "windfall profit," or the result of a structural advantage in the RFS program. Financial statements EPA has reviewed from Murphys indicate that while the company has realized revenue from RIN sales, their average margins (including both RIN sales and operations) have not changed appreciably with high RIN prices. This is consistent with our belief that while they are able to sell the RINs they acquire, they do not acquire those RINs for free.

Q: Merchant refiners are saying they are disadvantaged because they have to go out and buy RINs, but retailers get them for free. Wouldn't changing the point of obligation fix that inequity? Is it true that RINs are free when you buy ethanol?

A: RINs are not free to parties that purchase renewable fuels with attached RINs, rather the price they pay for these renewable fuels reflects both the value of the fuel they are purchasing as well as the value of the RIN. This is evident from the fact that renewable fuel prices do not rise and fall with RIN prices, just the proportion of the total value of the renewable fuel that is reflected in the RIN value vs its value as fuel. Furthermore, changing the point of obligation would not change this way that the RIN operates. It would simply change the players that are obligated to purchase them. It is very likely that some parties would still acquire the RINs they need for compliance by purchasing separated RINs, while others would acquire RINs by blending renewable fuels.

Q: Some refiners say that not doing anything to change the point of obligation means that they go out of business and hundreds if not thousands of jobs will be lost. Have you done a jobs analysis for this? Will not changing the POO mean lost jobs?

A: The competitiveness of merchant refiners has everything to do with the fact that currently we have an excess supply of gasoline in the market, reducing prices and refinery profit margins along with it. This reduces refining profits (for all refiners), but reduces prices to fuel distributors, retailers, and consumers. This is the opposite dynamic that existed in prior years, and it will likely change again.

Changing the POO is not likely to impact overall fuel supply and therefore is not expected to have a direct impact on jobs. We don't believe the current RIN price under the current POO is responsible for competitive issues between refiners or retailers. However, changing the POO could have significant negative impacts on the ongoing functioning of the RFS program, which would then likely have ripple effects on jobs throughout the market sector. Introducing a fundamental change to the renewable fuels market at this time would only add to the challenges and volatility faced by the fuels market, refiners and other stakeholders.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 10 2016

OFFICE OF
AIR AND RADIATION

Mr. Chet M. Thompson
President
American Fuel & Petrochemical Manufacturers
1667 K Street, N.W.
Suite 700
Washington, D.C. 20006

Dear Mr. Thompson:

This letter is in regard to your August 4, 2016 petition to the U.S. Environmental Protection Agency for rulemaking to change the definition of "obligated party" under the Renewable Fuel Standard program.

This letter is to notify you of the EPA's proposed denial of your petition as well as those of others seeking similar EPA action, as described in the enclosed "Proposed Denials of Petitions to Change the Point of Obligation." This document is also available at: https://www.epa.gov/renewable-fuel-standard-program/2016-announcements-renewable-fuel-standard-program. The EPA has designated a 60-day public comment period for this proposal that will follow publication of a notice in the Federal Register.

Should you have any questions, please contact Paul Argyropoulos, in the Office of Transportation and Air Quality, at (202) 564-1123 or argyropoulos.paul@epa.gov.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

Enclosure

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 10 2016

OFFICE OF
AIR AND RADIATION

Mr. George J. Damiris
Chief Executive Officer and President
Holly Frontier
2828 N. Harwood
Suite 1300
Dallas, Texas 75201

Dear Mr. Damiris:

This letter is in regard to your September 2, 2016 petition to the U.S. Environmental Protection Agency for rulemaking to change the definition of "obligated party" under the Renewable Fuel Standard program.

This letter is to notify you of the EPA's proposed denial of your petition as well as those of others seeking similar EPA action, as described in the enclosed "Proposed Denials of Petitions to Change the Point of Obligation." This document is also available at: https://www.epa.gov/renewable-fuel-standard-program/2016-announcements-renewable-fuel-standard-program. The EPA has designated a 60-day public comment period for this proposal that will follow publication of a notice in the Federal Register.

Should you have any questions, please contact Paul Argyropoulos, in the Office of Transportation and Air Quality, at (202) 564-1123 or argyropoulos.paul@epa.gov.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 10 2016

OFFICE OF
AIR AND RADIATION

Mr. David W. DeBruin
Jenner & Block LLP
1099 New York Avenue, N.W.
Suite 900
Washington, D.C. 20001-4412

Dear Mr. DeBruin:

This letter is in regard to your January 27, 2015, and January 28, 2016 petitions to the U.S. Environmental Protection Agency for reconsideration of 40 CFR 80.1406, finalized in "Regulation of Fuels and Fuel Additives: Renewable Fuel Standards," 75 FR 14670, March 26, 2010. In your petitions you requested revision and reconsideration of the definition of "obligated party" in the Renewable Fuel Standard program.

This letter is to notify you of the EPA's proposed denial of your petitions as well as those of others seeking similar EPA action, as described in the enclosed "Proposed Denials of Petitions to Change the Point of Obligation." This document is also available at: https://www.epa.gov/renewable-fuel-standard-program/2016-announcements-renewable-fuel-standard-program. The EPA has designated a 60-day public comment period for this proposal that will follow publication of a notice in the Federal Register.

Should you have any questions, please contact Paul Argyropoulos, in the Office of Transportation and Air Quality, at (202) 564-1123 or argyropoulos.paul@epa.gov.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 10 2016

OFFICE OF
AIR AND RADIATION

Ms. LeAnn Johnson Koch
Perkins Coie
700 13th Street, N.W.
Suite 600
Washington, D.C. 20005-3960

Dear Ms. Johnson Koch:

This letter is in regard to your February 11, 2016 petition to the U.S. Environmental Protection Agency for reconsideration of the 40 CFR 80.1406, finalized in "Regulation of Fuels and Fuel Additives: Renewable Fuel Standards," 75 FR 14670, March 26, 2010. In your petition you requested reconsideration of the definition of an "obligated party" in the Renewable Fuel Standard program.

This letter is to notify you of the EPA's proposed denial of your petition as well as others seeking similar EPA action, as described in the enclosed"Proposed Denials of Petitions to Change the Point of Obligation." This document is also available at: https://www.epa.gov/renewable-fuel-standard-program/2016-announcements-renewable-fuel-standard-program. The EPA has designated a 60-day public comment period for this proposal that will follow publication of a notice in the Federal Register.

Should you have any questions, please contact Paul Argyropoulos, in the Office of Transportation and Air Quality, at (202) 564-1123 or argyropoulos.paul@epa.gov.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 10 2016

OFFICE OF
AIR AND RADIATION

Mr. Richard J. Walsh
Valero
Senior Vice President and Deputy General Counsel
Litigation and Regulatory Law
One Valero Way
San Antonio, Texas 78249-1616

Dear Mr. Walsh:

This letter is in regard to your February 11, 2016 petition to the U.S. Environmental Protection Agency for reconsideration of 40 CFR 80.1406, defining "obligated party," and your June 13, 2016 petition to the U.S. Environmental Protection Agency for rulemaking on the Renewable Fuel Standard definition of "obligated party."

This letter is to notify you of the EPA's proposed denial of your petitions as well as those of others seeking similar EPA action, as described in the enclosed "Proposed Denials of Petitions to Change the Point of Obligation." This document is also available at: https://www.epa.gov/renewable-fuel-standard-program/2016-announcements-renewable-fuel-standard-program. The EPA has designated a 60-day public comment period for this proposal that will follow publication of a notice in the Federal Register.

Should you have any questions, please contact Paul Argyropoulos, in the Office of Transportation and Air Quality, at (202) 564-1123 or argyropoulos.paul@epa.gov.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

Enclosure

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To: Burkholder, Dallas[burkholder.dallas@epa.gov]; Reid, Lauren[Reid.Lauren@epa.gov]; Machiele, Paul[machiele.paul@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Hengst, Benjamin
Sent: Tue 11/8/2016 1:52:21 PM
Subject: POO roll-out strategy
Point of Obligation Roll Out 11-08-16.docx

For discussion/use at our 9am

I will call Paul's polycom at 9

To: Machiele, Paul[machiele.paul@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Reid, Lauren[Reid.Lauren@epa.gov]
Cc: Le, Madison[Le.Madison@epa.gov]
From: Hengst, Benjamin
Sent: Mon 11/7/2016 9:12:02 PM
Subject: RE: Point of Obligation Response

I will

The title, as used in the FR notice, is

Proposed Denial of Petitions for Rulemaking to Change the RFS Point of Obligation

From: Machiele, Paul
Sent: Monday, November 07, 2016 11:40 AM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>
Cc: Le, Madison <Le.Madison@epa.gov>
Subject: RE: Point of Obligation Response

Is someone going to put a title on this document?

Paul

From: Hengst, Benjamin
Sent: Monday, November 07, 2016 10:38 AM
To: Burkholder, Dallas <burkholder.dallas@epa.gov>; Argyropoulos, Paul

<Argyropoulos.Paul@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>
Cc: Le, Madison <Le.Madison@epa.gov>
Subject: RE: Point of Obligation Response

No objections. The current draft is attached

From: Burkholder, Dallas
Sent: Monday, November 07, 2016 10:10 AM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>
Subject: FW: Point of Obligation Response

Any objections to sending the most recent POO response document to Jeff Kodish?

From: Kodish, Jeff
Sent: Monday, November 07, 2016 9:40 AM
To: Burkholder, Dallas <burkholder.dallas@epa.gov>
Subject: Re: Point of Obligation Response

Thanks for the heads up. Can you send me the most recent version.

Sent from my iPhone

On Nov 7, 2016, at 7:30 AM, "Burkholder, Dallas" <burkholder.dallas@epa.gov> wrote:

> Jeff,
>
> Just wanted to let you know that (at least as of this morning) our plan is to sign the point of obligation document I shared with you back in September on Thursday. The document is a proposed denial of the requests to begin a rulemaking process to change the point of obligation. Given the resources that parties on both sides of this issue have invested in making their voices heard we suspect this document will get a fair amount of attention, and

didn't want you all to be surprised by the timing of signature. Please feel free to share this information with others as appropriate at OECA, though obviously as with the document itself please keep a close hold on the timing information.

Dallas Burkholder

Office of Transportation & Air Quality

US Environmental Protection Agency

(734)214-4766

Burkholder.Dallas@epa.gov

To: Machiele, Paul[machiele.paul@epa.gov]; Reid, Lauren[Reid.Lauren@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Hengst, Benjamin
Sent: Fri 11/4/2016 6:51:20 PM
Subject: FW: Valero NOI
Valero Notice of Intent to Sue-11-3-16.pdf

From: McCabe, Janet
Sent: Friday, November 04, 2016 11:51 AM
To: Orlin, David <Orlin.David@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Cc: Grundler, Christopher <grundler.christopher@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: FW: Valero NOI

How timely.

From: Alonso, Rich [mailto:Rich.Alonso@bracewelllaw.com]
Sent: Friday, November 04, 2016 11:43 AM
To: McCabe, Janet <McCabe.Janet@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: Valero NOI

Please find attached Valero's Notice of Intent to Sue on the issue of Point of Obligation, which was mailed today.

Rich

RICH ALONSO
Partner
Rich.Alonso@bracewelllaw.com
T: +1.202.828.5861 | F: +1.800.404.3970 | M: +1.703.314.2247

BRACEWELL LLP
2001 M Street NW, Suite 900 | Washington, D.C. | 20036-3310
bracewelllaw.com | profile | download v-card

CONFIDENTIALITY STATEMENT
This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

To: Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Dubois, Roland[Dubois.Roland@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Machiele, Paul[machiele.paul@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]
From: Reid, Lauren
Sent: Fri 11/4/2016 5:41:42 PM
Subject: RE: POO Documents / UPDATE
POO letter - Monroe FINAL.docx
POO letter - HollyFrontier FINAL.docx
POO letter - AFPM FINAL.docx
POO letter - Valero FINAL.docx
POO letter - Coalition FINAL.docx

Here's another batch of the letters with Roland's edits and the 60-day comment period reflected.

From: Hengst, Benjamin
Sent: Friday, November 04, 2016 8:57 AM
To: Dubois, Roland <Dubois.Roland@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: POO Documents / UPDATE

Lauren—can you pls keep pen on these and circulate a batch with appropriate edits? thanks

Ex. 5 - Deliberative Process Attorney Client

From: Reid, Lauren
Sent: Thursday, November 3, 2016 4:11 PM
To: Argyropoulos, Paul; Hengst, Benjamin; Machiele, Paul; Burkholder, Dallas; Dubois, Roland;

Orlin, David; Sutton, Tia
Subject: RE: POO Documents / UPDATE

Here's new letters.

From: Argyropoulos, Paul
Sent: Thursday, November 03, 2016 12:47 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: POO Documents / UPDATE

Team,

Final closure and prep for routing. Launch Date in November 10.

- **Based on my continued pestering, David O. came up with some language that works for the FR notice summary that captures / consolidates what we are doing in the POO document. I've edited the FR notice, cleaned it up and attached it for our next steps.**

- **I've also gone back into the POO proposed decision document and made minor changes to make it consistent with the language in the revised FR. These changes are only in the summary section. The rest of the document remains unchanged.**

- **Ben has the Rollout document and we will recirculate soon. We want to make sure it is consistent with the FR language. Only thing likely that needs changing is the first / primary key language.**

- **Dallas was completing the Typesetting request and will send to Tia when it's ready.**

- **NOTE: Once Lauren makes edits to the letters, we can ship them back around again.**

Thanks, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

To: Machiele, Paul[machiele.paul@epa.gov]; Reid, Lauren[Reid.Lauren@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]
Cc: Sutton, Tia[sutton.tia@epa.gov]; Korotney, David[korotney.david@epa.gov]; Le, Madison[Le.Madison@epa.gov]
From: Hengst, Benjamin
Sent: Fri 11/4/2016 1:54:05 PM
Subject: POO roll-out doc, the next episode
Point of Obligation Roll Out 11-04-16.docx

I've taken all the edits so far (including responding to some from our press team downstairs)

There are a few areas that still need attention, including a few new Q&As to answer (Dallas/Lauren?), a number fact-check (David K), and an outstanding comment bubble from Paul M

To: Scoville, Pat[Scoville.Pat@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Hengst, Benjamin
Sent: Fri 11/4/2016 1:37:24 PM
Subject: RE: POO Documents / UPDATE

Saved in x drive

X-drive (DC IO shared)\Rules & Notices\Point of obligation (RFS)\Memos & Typeset Req

From: Burkholder, Dallas
Sent: Thursday, November 03, 2016 5:50 PM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: POO Documents / UPDATE

Typesetting request is now done. Document is attached.

From: Argyropoulos, Paul
Sent: Thursday, November 03, 2016 12:47 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: POO Documents / UPDATE

Team,

Final closure and prep for routing. Launch Date in November 10.

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- **Ben has the Rollout document and we will recirculate soon. We want to make sure it is consistent with the FR language. Only thing likely that needs changing is the first / primary key language.**

- **Dallas was completing the Typesetting request and will send to Tia when it's ready.**

- **NOTE: Once Lauren makes edits to the letters, we can ship them back around again.**

Thanks, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]
From: Hengst, Benjamin
Sent: Fri 11/4/2016 1:14:33 PM
Subject: RE: POO Documents / UPDATE

I accepted edits, cleaned it up, and put in x-drive. This should not change from here on out.

It's here:

X-drive (DC IO shared)\Rules & Notices\Point of obligation (RFS)\FR Notice

Ex. 5 - Deliberative Process Attorney Client

From: Argyropoulos, Paul
Sent: Thursday, November 3, 2016 12:46 PM
To: Hengst, Benjamin; Machiele, Paul; Reid, Lauren; Burkholder, Dallas; Dubois, Roland; Orlin, David; Sutton, Tia
Subject: POO Documents / UPDATE

Team,

Final closure and prep for routing. Launch Date in November 10.

- **Based on my continued pestering, David O. came up with some language that works for the FR notice summary that captures / consolidates what we are doing in the POO document. I've edited the FR notice, cleaned it up and attached it for our next steps.**

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Thanks, Paul

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Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

Ex. 5 - Deliberative Process Attorney Client

From: Reid, Lauren
Sent: Thursday, November 3, 2016 4:11 PM
To: Argyropoulos, Paul; Hengst, Benjamin; Machiele, Paul; Burkholder, Dallas; Dubois, Roland; Orlin, David; Sutton, Tia
Subject: RE: POO Documents / UPDATE

Here's new letters.

From: Argyropoulos, Paul
Sent: Thursday, November 03, 2016 12:47 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: POO Documents / UPDATE

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Thanks, Paul

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To: Reid, Lauren[Reid.Lauren@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Dubois, Roland[Dubois.Roland@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]
From: Machiele, Paul
Sent: Fri 11/4/2016 3:00:20 AM
Subject: RE: POO roll-out doc
Point of Obligation Roll Out 11-03-16 DB lar pm.docx

I edited it in several places. Including revising Dallas attempt at responding to Janet's comment

PaulM

From: Reid, Lauren
Sent: Thursday, November 03, 2016 3:07 PM
To: Burkholder, Dallas <burkholder.dallas@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: POO roll-out doc

I edited the small refinery hardship language a bit. Tia, please take a look as well.

From: Burkholder, Dallas
Sent: Thursday, November 03, 2016 2:43 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: POO roll-out doc

I did my best to address the question without an answer and clarify the response as requested by Janet. Tia should look at the first response I added to make sure I use the right terminology with respect to the small refiner (or small refinery?) exemptions.

From: Hengst, Benjamin
Sent: Thursday, November 03, 2016 1:37 PM
To: Dubois, Roland <Dubois.Roland@epa.gov>; Argyropoulos, Paul

<Argyropoulos.Paul@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: POO roll-out doc

Gang—roll-out document attached. This has gone through Janet's review, so there shouldn't be much to do on this one. Dallas—there's one question for you take a stab at.

The next step on this is to send to the WH (which Janet or our coms team will be doing).

In the meantime, if you have further edits or questions to add, please do so. I'll keep the pen on this.

Ben

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Machiele, Paul[machiele.paul@epa.gov]; Reid, Lauren[Reid.Lauren@epa.gov]; Dubois, Roland[Dubois.Roland@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]
From: Burkholder, Dallas
Sent: Thur 11/3/2016 9:49:51 PM
Subject: RE: POO Documents / UPDATE
POO Typesetting Request.pdf

Typesetting request is now done. Document is attached.

From: Argyropoulos, Paul
Sent: Thursday, November 03, 2016 12:47 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: POO Documents / UPDATE

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From: Reid, Lauren
Sent: Thur 11/3/2016 8:11:35 PM
Subject: RE: POO Documents / UPDATE
POO letter - Monroe2.docx
POO letter - AFPM2.docx
POO letter - Valero2.docx
POO letter - Coalition2.docx
POO letter - HollyFrontier2.docx

Here's new letters.

From: Argyropoulos, Paul
Sent: Thursday, November 03, 2016 12:47 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
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To: Burkholder, Dallas[burkholder.dallas@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Dubois, Roland[Dubois.Roland@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Machiele, Paul[machiele.paul@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]
From: Reid, Lauren
Sent: Thur 11/3/2016 7:07:16 PM
Subject: RE: POO roll-out doc
Point of Obligation Roll Out 11-03-16 DB lar.docx

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Subject: RE: POO roll-out doc

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Sent: Thursday, November 03, 2016 1:37 PM
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In the meantime, if you have further edits or questions to add, please do so. I'll keep the pen on this.

Ben

To: Hengst, Benjamin[Hengst.Benjamin@epa.gov]
Cc: Sutton, Tia[sutton.tia@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]
From: Reid, Lauren
Sent: Thur 11/3/2016 1:50:57 PM
Subject: RE: POO: cover letters to petitioners
POO letter - Valero.docx
POO letter - AFPM.docx
POO letter - HollyFrontier.docx
POO letter - Coalition.docx
POO letter - Monroe.docx

With attachments.

From: Reid, Lauren
Sent: Thursday, November 03, 2016 9:50 AM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Sutton, Tia <sutton.tia@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>
Subject: RE: POO: cover letters to petitioners

Here are the cover letters for the petitioners. However, I wrote them not as cover letters, but as notification letters that our response was published on our website, and that we were seeking public comment.

If we'd like to actually enclose our proposed denial, I can edit the letters to reflect that.

Thanks,

Lauren

From: Hengst, Benjamin
Sent: Tuesday, November 01, 2016 3:57 PM

To: Reid, Lauren <Reid.Lauren@epa.gov>
Cc: Sutton, Tia <sutton.tia@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>
Subject: POO: cover letters to petitioners

Hi Lauren—can you re-circulate the cover letters you wrote? I checked in the Sharepoint site but didn't see them, and sadly I didn't see them in my email either. (You were the one that wrote them, right?)

Tia, Paul: I'm going to put these in the X-drive as well, so we can have a set of decision-ready documents.

Thanks

Ben

To: Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Le, Madison[Le.Madison@epa.gov]
Cc: Manners, Mary[manners.mary@epa.gov]; Mylan, Christopher[Mylan.Christopher@epa.gov]; Richards, David[Richards.David@epa.gov]
From: Birgfeld, Erin
Sent: Tue 11/1/2016 9:12:52 PM
Subject: RE: Press inquiry re RINs (DDL today/tomorrow AM)

And FYI here is some language we have used in the past for fraud issues:

Congress passed the Renewable Fuels Standard to reduce GHG emissions and help the U.S. meet its energy independence goals, and the program has succeeded in increasing biofuel production and use in the United States to approximately 14 billion gallons annually, more than double the volume when the program started. While a small number of criminal actors have committed fraud under this program, that fraud has represented less than 1 percent of all the renewable fuel produced under the program.

The RFS program is structured so that each party involved in renewable identification number (RIN) generation, RIN distribution and RIN use is obligated to help ensure that the RINs they generate or transfer are valid – incorporating the awareness of most RFS stakeholders to help monitor the program. EPA has also created a third-party quality assurance plan program that gives private industry a tool to monitor and help ensure the fuel is compliant.

Importantly, the Agency has also developed and implemented a sophisticated database system to track and monitor RINs. Finally, EPA, the U.S. Department of Justice, and other law enforcement partners are aggressively pursuing both civil and criminal enforcement of those individuals that have generated invalid RINs in this program, and are holding them accountable to the full extent of the law. The actions EPA has taken to date show that we are committed to an effective RFS program and a level playing field for all RIN producers, owners and users.

From: Birgfeld, Erin
Sent: Tuesday, November 01, 2016 5:11 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Le, Madison <Le.Madison@epa.gov>
Cc: Manners, Mary <manners.mary@epa.gov>; Mylan, Christopher <Mylan.Christopher@epa.gov>; Richards, David <Richards.David@epa.gov>
Subject: FW: Press inquiry re RINs (DDL today/tomorrow AM)
Importance: High

Hi RIN Fraud Team!

See questions from Politico below. My quick draft (or non-drafted) answers in highlight below for review.

Thanks,

Erin

From: Senn, John
Sent: Tuesday, November 01, 2016 4:46 PM
To: Birgfeld, Erin <Birgfeld.Erin@epa.gov>
Subject: Press inquiry re RINs (DDL today/tomorrow AM)
Importance: High

Hey Erin—I think Nick may have copied you in at some point on a couple of the questions a reporter from Politico is asking about RINs fraud (and one of our staff may have already flagged these for Madison Le).

After talking to a couple folks on our end, they would like OTAQ to weigh in on a couple of these questions, namely these two:

-- Why is biodiesel so prone to fraud?

[?]

-- Would changing the point of obligation reduce or eliminate fraud from the biodiesel market specifically?

Ex. 5 - Deliberative Process

I'm putting together some general language on OECA's criminal and civil RINs work, which I'll share with you when I have it (I think we have something in the can on this already from not too far back), but let me know if you think you guys will be able to weigh in on these.

As you'll see from Nick's note below, he's looking to get something back to the Politico reporter today or tomorrow morning.

Thanks,

John

John Senn

Acting Communications Director

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-8996 - senn.john@epa.gov

https://twitter.com/EPAJustice

From: Conger, Nick
Sent: Tuesday, November 01, 2016 4:13 PM
To: Senn, John <Senn.John@epa.gov>; Hornbuckle, Wyn (OPA) <Wyn.Hornbuckle@usdoj.gov>
Subject: RE: biofuels, redux (TTB stab at reporter's question about ethanol)

I just spoke with Eric. He's wrapping up his story in the morning, so I don't think we have too much room to add stuff. I will send him the stats that you pulled, John.

I don't think we'll need to do an interview if we can answer his questions in writing. Do you think that's doable today?

-- All of the RFS-related fraud deemed worthy of a press release from EPA or DOJ is biodiesel related. Is EPA aware of any non-biodiesel RFS fraud? If so, can you share some examples?

-- Why is biodiesel so prone to fraud? What is being done to limit that?

-- Would changing the point of obligation reduce or eliminate fraud from the biodiesel market specifically?

Nick Conger

U.S. Environmental Protection Agency

Office: (202) 564-6287

Cell: (202) 412-2655

From: Senn, John
Sent: Tuesday, November 01, 2016 11:00 AM
To: Hornbuckle, Wyn (OPA) <Wyn.Hornbuckle@usdoj.gov>
Cc: Conger, Nick <Conger.Nick@epa.gov>
Subject: RE: biofuels, redux (TTB stab at reporter's question about ethanol)

We're also working with this reporter, Wyn—adding Nick so he can see the traffic on your end.

We have provided him a pretty broad list of cases on the both the criminal and civil side and are working today on some language about how we address fraud in a developing marketplace. I can share that language with you once we have something together.

Any info on non-biodiesel cases would definitely be helpful—I don't think we've been able to find any of those cases so far.

Thanks,

John

From: Hornbuckle, Wyn (OPA) [mailto:Wyn.Hornbuckle@usdoj.gov]
Sent: Tuesday, November 01, 2016 10:29 AM
To: Senn, John <Senn.John@epa.gov>
Subject: FW: biofuels, redux (TTB stab at reporter's question about ethanol)

John – See Politico request below, and some guidance/background from our folks who have suggested folks in EPA who might be able to help answer these questions. Do you want me to send the reporter to you as well on this?

From: Hettenbach, Wayne (ENRD)
Sent: Tuesday, November 01, 2016 10:09 AM
To: Ballantine, Thomas (ENRD) <TBallantin@ENRD.USDOJ.GOV>; Hornbuckle, Wyn (OPA) <whornbuckle@jmd.usdoj.gov>; Harris, Deborah (ENRD) <DHarris@ENRD.USDOJ.GOV>
Cc: Cullman, Adam (ENRD) <ACullman@ENRD.USDOJ.GOV>
Subject: RE: biofuels, redux (TTB stab at reporter's question about ethanol)

Also in conversations I recall with the EPA program folks we suspect less fraud in the ethanol market because its maturity also means it is a more consolidated market, with most ethanol being produced by fewer large-scale producers. Biodiesel is a more diffuse production market with more small producers.

But again, EPA program people are better to talk about that kind of thing.

Wayne

From: Ballantine, Thomas (ENRD)
Sent: Tuesday, November 01, 2016 10:04 AM
To: Hornbuckle, Wyn (OPA) <whornbuckle@jmd.usdoj.gov>; Harris, Deborah (ENRD) <DHarris@ENRD.USDOJ.GOV>
Cc: Cullman, Adam (ENRD) <ACullman@ENRD.USDOJ.GOV>; Hettenbach, Wayne (ENRD) <WHettenb@ENRD.USDOJ.GOV>
Subject: RE: biofuels, redux (TTB stab at reporter's question about ethanol)

Hi,

Trying to provide some information to a reporter from Polico asking Wyn "where are the ethanol fraud cases?"

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Happy to speak with the guy on background if you want. Fundamentally, I think the answers are in the history of the program, which I don't have to mind.

From: Hornbuckle, Wyn (OPA)
Sent: Tuesday, November 01, 2016 9:16 AM
To: Harris, Deborah (ENRD) <DHarris@ENRD.USDOJ.GOV>; Ballantine, Thomas (ENRD) <TBallantin@ENRD.USDOJ.GOV>
Subject: FW: biofuels, redux

Any insight we can provide? Is his perception right, that the vast or total # of RFS cases are biofuel, as opposed to ethanol production? If he is missing some context, please let me know.

From: Eric Wolff [mailto:ewolff@politico.com]
Sent: Tuesday, November 01, 2016 8:20 AM
To: Hornbuckle, Wyn (OPA) <whornbuckle@jmd.usdoj.gov>
Subject: biofuels, redux

Hi Wyn -- I sent that first email from my personal account by mistake. Would you mind responding to this, my Politico account? Thanks.

As I said in my earlier note, I'm working on a story related to RFS policy, but the prevalence of biofuels fraud has become an argument in the debate. From what I can tell, in reviewing all the press releases put out by EPA and DOJ on this subject, all of the big fraud cases have been related to biodiesel and not ethanol.

I'm wondering what the standard is for whether something gets a press release -- might there be hundreds of small-time ethanol fraud cases out there that I just don't know about?

Also, is there a big ethanol fraud case that you know of? As I said, from what I can tell, it's 100% biodiesel, but I don't want to mis-speak, in case I overlooked something.

Thanks for your help.

--

Eric Wolff

Energy Reporter

POLITICO

760-303-1927

ewolff@politico.com

@ericwolff

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
Cc: Burkholder, Dallas[burkholder.dallas@epa.gov]; Reid, Lauren[Reid.Lauren@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]; Machiele, Paul[machiele.paul@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Dubois, Roland[Dubois.Roland@epa.gov]
From: Hengst, Benjamin
Sent: Tue 11/1/2016 7:51:48 PM
Subject: POO
POO Petition Response 11.1.16.docx

Gang—

I'll continue to hold the pen for now on the POO document, and let's just switch to making edits to this document, which I'll maintain (as opposed to editing in Sharepoint).

Argy—please send your edits around to the group, including OGC, when you have made them, in redline.

Thanks

Ben

From: Renewable Fuels Association
Sent: Tue 11/1/2016 1:48:45 PM
Subject: RFA Daily Brief

Top Story

U.S. Gasoline Jumps Most Since 2008 After Pipeline Blast

Bloomberg - 31 October 2016
By Dan Murtaugh and Laura Blewitt. Gasoline in New York jumped the most in almost eight years, and its premium to crude prices soared 60 percent after an explosion and fire in Alabama shut the largest fuel pipeline in the U.S., killing one person and injuring more. Traders rushed to book cargoes from Europe.

Policy & Politics

DTN/PF Poll Shows 46% of Rural Respondents Support Trump

DTN - 01 November 2016
The 2016 DTN/The Progressive Farmer Pulse of Rural America poll finds most U.S. farmers stand with recent history in supporting the Republican presidential nominee. Forty-six percent of Pulse of Rural America respondents indicate they will vote for Trump. Twenty-four percent plan to vote for Clinton.

US-Mexico ethanol workshop shares information of ethanol benefits

Biofuels International - 01 November 2016
By RFA, USGC, and Growth Energy. Mexico's Secretariat of Energy (SENER) and the US Department of Agriculture (USDA) recently hosted a workshop to inform Mexican authorities of ethanol's quality of life benefits. US researchers, alongside with Colombian and Paraguayan regulators, held information sessions at the two-day meeting in Mexico City on the quality of life benefits and successful implementation of biofuel programmes.

RFS Point-Of-Obligation Issue Fragmenting Downstream Sector

Downstream Business - 31 October 2016
By Bryan Sims. The RFS has long been a contentious policy topic between oil, agriculture and biofuel industry trade groups and other industry stakeholders for over a decade. But recently the EPA has set off a debate within the petroleum industry by suggesting that the point of obligation under the RFS be moved from obligated parties further downstream.

New poll suggests farmers are voting Trump

Farms.com - 31 October 2016
By Diego Flammini. With just over a week until the United States elects its next president, a new poll suggests farmers will vote Republican. According to an Agri-Pulse Farm and Ranch survey 55 percent of respondents said they will vote for Donald Trump, compared to 18 per cent for Hillary Clinton.

WATCH: Despite Increase, EPA Still Behind on 2007 Ethanol Statute

AgWeb - 31 October 2016

In a few short months, the EPA will release new renewable fuel standards, including how much ethanol should be blended into gasoline. Currently, the EPA has set the blend rate at a minimum of 10 percent. Bob Dinneen, president and CEO of the Renewable Fuels Association says he's optimistic the EPA will break down the barrier.

Biodiesel Board Names New CEO

AgWired - 31 October 2016

By Cindy Zimmerman. The National Biodiesel Board (NBB) today named Donnell Rehagen as the trade group's chief executive officer. Rehagen has been chief operating officer for NBB since 2004 and was named interim CEO in June. The NBB Governing Board search committee led the effort to identify and sort through nearly 300 potential candidates for the CEO position.

EPA schedules public hearing on proposed rule to update RFS

Ethanol Producer Magazine - 31 October 2016

By Erin Voegele. The EPA has announced plans to hold a public hearing on Dec. 6 in Chicago for its proposed Renewables Enhancement and Growth Support Rule. Those who wish to testify must contact the EPA by Nov. 22. The EPA released the proposed rule on Oct. 3.

Opinion

Developing new markets will help MN corn farmers become the most sustainable and environmentally responsible in the U.S.

Fillmore County Journal - 31 October 2016

By Jerry Demmer. One of the ways corn farmers remain financially sustainable is by developing new markets for corn. That's why our plan also includes new investments for cleaner-burning homegrown biofuels like ethanol. Within a year, the MCR&PC, working closely with a broad coalition of partners, expects to have supported the installation of hundreds of flex-fuel pumps throughout the state.

Market Watch

Archer Daniels Midland beats profit expectations

MarketWatch - 01 November 2016

By Joshua Jamerson. Archer Daniels Midland Co. said the global market has started to rely on North American crops, boosting results at the commodities giant after challenging market conditions earlier this year. Shares rose 2.6% to $44.68 in premarket trading.

Green Plains earnings rise; strong 4th quarter expected

Omaha World-Herald - 01 November 2016

Omaha-based Green Plains Inc., a large maker of ethanol, reported improving earnings for the third quarter of this year when compared with the same quarter last year. The company reported net income of $7.9 million, or 20 cents per diluted shared, compared with $6.2 million, or 16 cents per diluted share, for the same period in 2015.

SeaTac aims to be national leader in jet biofuels, announces study with Richard Branson's nonprofit

GeekWire - 31 October 2016

By John Stang. One big hurdle in getting airlines to use biofuels is the cost difference biofuels and petroleum-based fuels. Right now, petroleum-based jet fuels are cheaper. But biofuels produce fewer carbon emissions. So the Port of Seattle, sustainable jet fuel company SkyNRG and Sir Richard Branson's nonprofit Carbon War Room announced today that they are partnering on a study to find out how to compensate airlines for the difference in fuel prices. Backers of the study hope to have some results by February.

Ener-Core delivers 2 MW power oxidizers to Pacific Ethanol plant

Ethanol Producer Magazine - 31 October 2016
By Ener-Core Inc. Ener-Core Inc., a developer of innovative gas conversion technologies for global commercial and industrial facilities, has delivered two of its 2 MW sized power oxidizers to the Stockton biorefinery site owned by Pacific Ethanol.

Fiberight breaks ground while PERC appeals permits decision

Biofuels Digest - 31 October 2016
By Meghan Sapp. In Maine, Fiberight has broken ground on its MSW-to-ethanol facility despite the company allegedly having failed to secure all of its construction financing required. The company is still awaiting the final resolution of its appeal to finalize permits from the state's department of environmental protection.

Murphy USA: A Misunderstood Model

ValueWalk - 31 October 2016
Murphy USA caters to a price-sensitive customer who values affordable fuel. Because of Murphy's buying power (more than four billion gallons a year) and sourcing infrastructure (pipeline access, terminals and distribution), they have a low-cost advantage. Murphy also makes a sizeable portion of its earnings from selling environmental credits (called RINs) to refiners.

Economist Assesses Potential for Higher Corn Prices

Ag Professional - 31 October 2016
By Darrel Good. The monthly average price of corn received by U.S. producers has been less than $4 per bushel for 27 consecutive months and prices below $4 are expected to persist well into 2017. Even with reductions in the cost of producing corn, prices remain below levels that would result in positive returns for many producers.

Global Trends

Brazil's CS sugarcane crush in H1 October down 12% year on year: UNICA

Platts - 31 October 2016
By Alessandra Rosete. Brazil's Center-South crushed 31.99 million mt of cane in the first half of October, down 24% from H2 September and down 12% year on year, data from industry association UNICA showed Monday. The volume crushed was below the market expectation of 33.9 million mt.

Backers of Paris climate pact play down Trump threat to deal as election looms

Reuters - 31 October 2016
By Alister Doyle. Backers of a global accord to fight climate change that formally comes into force on Friday say they are confident the deal can survive any legal challenges by U.S. Republican candidate Donald Trump if he wins next week's presidential election.

Brazil's Grade B ethanol exporters halt sales to Asia with eye on domestic market

Platts - 31 October 2016
By Anthony Garcia, Nicolle Castro and Xiaojuan Gao. Brazilian Grade B ethanol exporters have halted their sales to Asia, preferring instead to keep the product in the domestic market in view of soaring local prices, with Asian buyers now seeking out regional cargoes in place of Brazilian supply, trade sources said last week.

Cross River ethanol processing plant to be ready in December — Aide

Premium Times - 31 October 2016
Augustine Oqua, the Special Assistant to Gov. Ben Ayade on Religious Matters, says the proposed

Cross River Ethanol Processing Plant will be completed in December. The aide said the ethanol project would serve as an alternative revenue source for the state.

mailto:cfindlay@ethanolrfa.org?subject=Subscribe
mailto:cfindlay@ethanolrfa.org

Unsubscribe

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]; Scoville, Pat[Scoville.Pat@epa.gov]
Cc: Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Birgfeld, Erin[Birgfeld.Erin@epa.gov]
From: Burkholder, Dallas
Sent: Tue 11/1/2016 12:20:59 PM
Subject: RE: POO FR Notice

I sent around a "final" version of the document on October 7, however I believe Ben said he intended to make some tweaks to the language. I think Ben has the pen on this currently, so probably best to get the current version from him. Otherwise the 10/7 version is the most up to date (if you can't find that in your email let me know and I can forward you a copy).

Dallas

From: Argyropoulos, Paul
Sent: Tuesday, November 01, 2016 7:24 AM
To: Sutton, Tia <sutton.tia@epa.gov>; Scoville, Pat <Scoville.Pat@epa.gov>
Cc: Burkholder, Dallas <burkholder.dallas@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>
Subject: RE: POO FR Notice

Where is the most recent version of the response document housed? I'm looking on the X Drive and the last one there is from 9/23. Thanks, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Argyropoulos, Paul
Sent: Tuesday, November 01, 2016 6:56 AM
To: Sutton, Tia <sutton.tia@epa.gov>; Scoville, Pat <Scoville.Pat@epa.gov>
Cc: Burkholder, Dallas <burkholder.dallas@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Rick@Downtoearthenergy. Net <rick@downtoearthenergy.net>
Subject: POO FR Notice

Team,

Final closure and prep for routing. Based on my continued pestering, David O. came up with some language that works for the FR notice summary that captures / consolidates what we are doing in the POO document. I've edited the FR notice, cleaned it up and attached it for our next steps.

Dallas, we are retaining the title as it was. It still works based on the edits. Here it is: "Notice of Opportunity to Comment on Proposed Denial of Petitions for Rulemaking to Change the RFS Point of Obligation"

Tia, based on this document, how do we calculate the number of FR pages? Dallas needs that for the typesetting request. Once he finishes that, he'll forward it around.

I'm going to look at the POO document, at least the opening / summary to see if we need to carry the FR summary language into it as well. I believe we do.

Finally, I think our key message doc should be updated to be consistent with the FR language. Only thing likely that needs changing is the first / primary key language.

Thanks, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

Ex. 5 - Attorney Client Deliberative Process

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Ex. 5 - Attorney Client Deliberative Process

From: Argyropoulos, Paul

Sent: Thursday, October 27, 2016 9:38 AM
To: Dubois, Roland <Dubois.Roland@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: POO FR Language and Response Document

Erin and David.

In the spirit of these changes, I've updated the primary key message in the Roll out doc (attached). Erin, it you guys have made additional changes to the Roll out, please clean up and send around to Ben and I.

I'm moving on to the FR notice now to make sure it aligns with the text below. I'll then look toward the actual decision doc.

Thanks, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

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From: Machiele, Paul
Sent: Wednesday, October 19, 2016 10:34 AM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Burkholder,

Dallas <burkholder.dallas@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: POO FR Language and Response Document

This looks great to me. Not sure how its different

From: Argyropoulos, Paul
Sent: Wednesday, October 19, 2016 9:08 AM
To: Machiele, Paul <machiele.paul@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: POO FR Language and Response Document

Team,

Tia, Erin, Chris, David and I have been meeting on the Rollout / COMs documents in preparation for our November release of the POO decision documents.

I'm still looking at this from an eye on messaging in the COMs world and also the reality of what we are / aren't doing. I pulled some key text from the FR notice and made some revisions which I wanted to get your thoughts / reaction to. See below to see if this still correctly states what we are doing. I'm not providing the current text because I want to get your reaction to the new text first.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Haman, Patricia
Location: 1-866-299-3188,conf code = 202-564-3689#
Importance: Normal
Subject: Confirmed: RFS point of obligation discussion with Feinstein staff
Start Date/Time: Fri 10/28/2016 8:00:00 PM
End Date/Time: Fri 10/28/2016 9:00:00 PM

To: Haman, Patricia[Haman.Patricia@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]; Bunker, Byron[bunker.byron@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]
From: Hengst, Benjamin
Sent: Fri 10/28/2016 7:05:31 PM
Subject: RE: new request for a phone call

Thanks, Pat

Dallas, Byron and I will be on the call.

From: Haman, Patricia
Sent: Friday, October 28, 2016 2:28 PM
To: Sutton, Tia <sutton.tia@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Bunker, Byron <bunker.byron@epa.gov>; Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>
Subject: Re: new request for a phone call

Hi, Given that all of you were not on my original email, I thought I would send it around again before our 4:00.

1-866-299-3188, conf code **Ex. 6 - Personal Privacy**

Thanks, Pat
Sent from my iPhone

On Oct 21, 2016, at 11:43 AM, Haman, Patricia <Haman.Patricia@epa.gov> wrote:

<image001.gif>

All, Senator Feinstein's staffer had contacted me back in September with these questions and said he would like to schedule a call during recess. He reached out today and said he would like to schedule the call.

My first inclination was to pick up the phone and tell him we are not at a point to discuss the p.o.o. but reading these questions a second time, I think maybe this is closer to the discussion we had the other day with Senator Lee's staff than a straight p.o.o. discussion except Trevor is a bit more knowledgeable. So think more 201 than 101 when it comes to the RFS overall. He is very thoughtful and has been helpful in the past.

I believe Tia is on leave today so I am cc'g Ben to get things rolling. Here are his questions: Pat

The debate over whether to support moving the point of obligation for the Renewable Fuel Standard is getting some attention right now, and I've heard arguments that it would be an easy solution for ending speculation in the RINS market.

Can we find a time later this month (once we're in recess) for a briefing on how well the RINS market is functioning, whether there is speculation occurring, what impacts speculation could be expected to have on consumers, how well equipped EPA is for oversight of a financial market, the nature of EPA's collaboration with the CFTC, and whether EPA believes there may be a relationship between the point of obligation and RIN speculation?

Patricia Haman

Office of Congressional Affairs

U.S. EPA

202-564-2806

To: Reid, Lauren[Reid.Lauren@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]; Machiele, Paul[machiele.paul@epa.gov]
Cc: Dubois, Roland[Dubois.Roland@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Hengst, Benjamin
Sent: Thur 10/27/2016 3:54:09 PM
Subject: biofuels groups on poo
PointObligationRFS.PDF

More on-the-record stuff

From: Brooke Coleman [mailto:bcoleman@advancedbiofuels.org]

R. Brooke Coleman

Executive Director

Advanced Biofuels Business Council (ABBC)

www.AdvancedBiofuels.org

857.719.9766 (m)

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Subject: RE: POO FR Language and Response Document

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Thanks, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

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Cc: Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
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<Reid.Lauren@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: POO FR Language and Response Document

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Ex. 5 - Deliberative Process

Paul Argyropoulos

Senior Policy Advisor

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Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Dubois, Roland[Dubois.Roland@epa.gov]; Machiele, Paul[machiele.paul@epa.gov]
Cc: Orlin, David[Orlin.David@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]; Reid, Lauren[Reid.Lauren@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Mylan, Christopher[Mylan.Christopher@epa.gov]; Richards, David[Richards.David@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]
From: Birgfeld, Erin
Sent: Thur 10/27/2016 2:50:14 PM
Subject: RE: POO FR Language and Response Document

Thanks Paul.

David and I will keep the pen for now. We have a draft from Ben that is now with Chris G, and the press team. We will incorporate edits and recirculate the next draft after those edits are incorporated.

Go team POO!

-Erin

From: Argyropoulos, Paul
Sent: Thursday, October 27, 2016 9:38 AM
To: Dubois, Roland <Dubois.Roland@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: POO FR Language and Response Document

Erin and David.

In the spirit of these changes, I've updated the primary key message in the Roll out doc (attached). Erin, it you guys have made additional changes to the Roll out, please clean up and send around to Ben and I.

I'm moving on to the FR notice now to make sure it aligns with the text below. I'll then look toward the actual decision doc.

Thanks, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

Ex. 5 - Attorney Client Deliberative Process

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From: Machiele, Paul
Sent: Wednesday, October 19, 2016 10:34 AM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: POO FR Language and Response Document

This looks great to me. Not sure how its different

From: Argyropoulos, Paul
Sent: Wednesday, October 19, 2016 9:08 AM
To: Machiele, Paul <machiele.paul@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Cc: Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: POO FR Language and Response Document

Team,

Tia, Erin, Chris, David and I have been meeting on the Rollout / COMs documents in preparation for our November release of the POO decision documents.

Ex. 5 - Deliberative Process

Paul Argyropoulos

Senior Policy Advisor

US EPA

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Cc: Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
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Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Machiele, Paul
Sent: Mon 10/24/2016 10:24:56 PM
Subject: RE: POO FR Language and Response Document

But since I don't know who has the pen on this, are you the one working it into the documents?

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Cc: Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
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Cc: Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
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Ex. 5 - Deliberative Process

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US EPA

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Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]
Cc: Richards, David[Richards.David@epa.gov]
From: Birgfeld, Erin
Sent: Mon 10/24/2016 5:57:56 PM
Subject: RE: Edits on POO - aka Erin got stuck in the toilet

How about … read it and cry tears of happiness… ?

From: Argyropoulos, Paul
Sent: Monday, October 24, 2016 1:45 PM
To: Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Richards, David <Richards.David@epa.gov>
Subject: RE: Edits on POO - aka Erin got stuck in the toilet

Full document. Used Erin's Thursday document, accepted changes and provided new edits. Read it and weep. Let me know if you have any questions.

Thanks, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Argyropoulos, Paul
Sent: Monday, October 24, 2016 1:20 PM
To: Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Richards, David <Richards.David@epa.gov>
Subject: RE: Edits on POO - aka Erin got stuck in the toilet

Erin, see if you can work with this desk statement. I've incorporated my thoughts on the text and moved things around a bit. Feel free to scrub it and run it back by us.

I'm looking at the other Q/A's and messages now as well.

Thanks, Paul

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Birgfeld, Erin
Sent: Thursday, October 20, 2016 12:39 PM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Richards, David <Richards.David@epa.gov>
Subject: Edits on POO - aka Erin got stuck in the toilet

Ben and Argy

I went down the toilet bowl on this one and edited it to death, trying to distill the most critical arguments so they would be easily understandable. I'm just sending it to the two of you for your input and review. Let me know what you think. We can go back to the more complicated version if I've gone too far.

Please review in simple edit mode to save your eyes!

Thanks,

Erin

Erin Birgfeld

Communications Director

Office of Transportation and Air Quality

U.S. EPA

202-564-6741 (work)

202-255-4434 (cell)

Work Schedule:

8-6 M,T,Th

8-2:30 W,F

Flexiplace every Wed (call 202-255-4434 to reach me on Wednesday).

From: Atkinson, Emily
Location: WJC-N 5400 + 1-866-299-3188; Participant Code: Ex. 6 - Personal Privacy
Importance: Normal
Subject: Meet with AFPMA re: point of obligation (Confirmed)
Start Date/Time: Mon 10/24/2016 7:00:00 PM
End Date/Time: Mon 10/24/2016 7:30:00 PM
20160928 EPA_POOB Meeting Request.pdf
RE: AFPM Meeting Request
Confirmed 10/24 at 4:30pm: AFPM Meeting Request
RE: Confirmed 10/24 at 4:30pm: AFPM Meeting Request
Outside visitors for Janet McCabe on 10/24

To: Janet McCabe, Paul Argyropoulos, Ben Hengst
Outside Attendees (in person):

- Chet Thompson, President, AFPM
- Brendan Williams, Executive Vice President, AFPM
- Geoff Moody, Senior Director, Government Relations, AFPM
- Joe Gorder, Chairman, President and CEO, Valero Energy Corporation
- Jack Lipinski, CEO, CVR Energy
- Matt Lucey, Vice President, Financial Analysis, PBF Energy
- Rich Walsh, Assistant General Counsel and Vice President, Valero Energy

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Cyran, Carissa
Sent: Fri 10/21/2016 6:38:20 PM
Subject: RE: Will there be any meeting material for the Monday meeting with AFPMA re: POO? Thank you!

Thank you Paul.

From: Argyropoulos, Paul
Sent: Friday, October 21, 2016 2:00 PM
To: Cyran, Carissa <Cyran.Carissa@epa.gov>
Cc: Burch, Julia <Burch.Julia@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>
Subject: RE: Will there be any meeting material for the Monday meeting with AFPMA re: POO? Thank you!

Carissa,

Here are the two letters relevant to Monday's meeting with AFPM and its member company representatives.

The letter provides background and detail supporting their request/Petition for Rulemaking: Renewable Fuel Standard Definition of Obligated Party under the RFS Regs (40 C.F.R §80.1406).

In a nutshell, they are requesting a rulemaking to change the point of obligation under the RFS program and as such, support us making the change.

Please let me know if you need anything else from our end.

Thanks, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Cyran, Carissa
Sent: Friday, October 21, 2016 1:18 PM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>
Cc: Burch, Julia <Burch.Julia@epa.gov>
Subject: RE: Will there be any meeting material for the Monday meeting with AFPMA re: POO? Thank you!

Is this the letter? It was the one attached to the invite.

From: Argyropoulos, Paul
Sent: Friday, October 21, 2016 1:12 PM
To: Cyran, Carissa <Cyran.Carissa@epa.gov>
Cc: Burch, Julia <Burch.Julia@epa.gov>
Subject: Re: Will there be any meeting material for the Monday meeting with AFPMA re: POO? Thank you!

Hi Carrisa. We hadn't plan on it but if Janet needs anything let me know. I can dig up the AFPM letter if that helps. Thanks, Paul

Paul Argyropoulos

Senior Policy Advisor

USEPA

Office of Transportation and Air Quality

Office: 202-564-1123

Mobile: 202-577-9354

On Oct 21, 2016, at 11:44 AM, Cyran, Carissa <Cyran.Carissa@epa.gov> wrote:

Carissa Cyran

Office of Air and Radiation

U.S. Environmental Protection Agency
Phone: (202) 564-5437

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
Cc: Hengst, Benjamin[Hengst.Benjamin@epa.gov]
From: Burch, Julia
Sent: Fri 10/21/2016 3:56:11 PM
Subject: FW: new request for a phone call

Would you and Ben want to take this call? Or should I punt it to/include others?

Thanks!

Regards,

Julia Burch

Office of Transportation and Air Quality

U.S. Environmental Protection Agency

202-564-0961

From: Haman, Patricia
Sent: Friday, October 21, 2016 11:43 AM
To: Sutton, Tia <sutton.tia@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>
Cc: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: new request for a phone call

All, Senator Feinstein's staffer had contacted me back in September with these questions and said he would like to schedule a call during recess. He reached out today and said he would like to schedule the call.

My first inclination was to pick up the phone and tell him we are not at a point to discuss the p.o.o. but reading these questions a second time, I think maybe this is closer to the discussion we had the other day with Senator Lee's staff than a straight p.o.o. discussion except Trevor is a bit more knowledgeable. So think more 201 than 101 when it comes to the RFS overall. He is very thoughtful and has been helpful in the past.

I believe Tia is on leave today so I am cc'g Ben to get things rolling. Here are his questions: Pat

The debate over whether to support moving the point of obligation for the Renewable Fuel Standard is getting some attention right now, and I've heard arguments that it would be an easy solution for ending speculation in the RINS market.

Can we find a time later this month (once we're in recess) for a briefing on how well the RINS market is functioning, whether there is speculation occurring, what impacts speculation could be expected to have on consumers, how well equipped EPA is for oversight of a financial market, the nature of EPA's collaboration with the CFTC, and whether EPA believes there may be a relationship between the point of obligation and RIN speculation?

Patricia Haman

Office of Congressional Affairs

U.S. EPA

202-564-2806

To: Machiele, Paul[machiele.paul@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]; Reid, Lauren[Reid.Lauren@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Hengst, Benjamin
Sent: Fri 10/21/2016 2:49:18 AM
Subject: Fw: 10-19-16 SRC letter to Congressional Members regarding the RFS in response to letter from NACS and SIGMA to Congress
10-19-16 SRC letter to Congressional Members.pdf

fyi

From: Murray, Suzanne <Suzanne.Murray@haynesboone.com>
Sent: Thursday, October 20, 2016 12:33 PM
To: McCabe, Janet; Hengst, Benjamin
Cc: Bill Douglass (bill@douglassdist.com)
Subject: 10-19-16 SRC letter to Congressional Members regarding the RFS in response to letter from NACS and SIGMA to Congress

Dear Janet and Ben,

Mr. Douglass from the Small Retailers Coalition asked that I forward you a copy of a letter he sent to members of Congress on behalf of the Small Retailers Coalition asking that they support moving the point of obligation to the rack sellers. He wanted to make sure that you knew of communications outside of EPA. The letter was written in response to a letter that NACS and SIGMA sent to Congress asking that Congress not amend the point of obligation in the RFS. The NACS/SIGMA letter was sent on the eve of the national NACS meeting and only represents the viewpoint of large retailers who profit from RIN sales.

Mr. Douglass is at the NACS meeting this week trying to discuss the issue will colleagues, but the NACS Board of Directors would not allow the SRC to advertise or distribute materials this year talking about the impact of the point of obligation on small retailers. He said that the message at the conference is for large retailers to continue to capitalize on the RIN as a major profit stream.

As always, thank you for your time and if you have any questions or need any follow-up please let us know.

Best,

Suzanne

haynes*boone*
Suzanne Murray
Partner
suzanne.murray@haynesboone.com

Haynes and Boone, LLP
2323 Victory Avenue
Suite 700
Dallas, TX 75219-7672

(t) 214.651.5697
(f) 214.200.0710
(m) 214.908.8631

vCard | Bio | Website

From: Madej, Cecelia
Sent: Thursday, October 20, 2016 11:17 AM
To: Murray, Suzanne
Subject: 10-19-16 SRC letter to Congressional Members

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Birgfeld, Erin
Sent: Thur 10/20/2016 7:51:19 PM
Subject: Re: Edits on POO - aka Erin got stuck in the toilet

Sorry... I'm not wedded to the edits..,

Sent from my iPhone

On Oct 20, 2016, at 3:39 PM, Argyropoulos, Paul <Argyropoulos.Paul@epa.gov> wrote:

Wow. Just Wow. I'll have to look in real time tomorrow. Ex. 5 - Attorney Client Deliberative Process

Ex. 5 - Attorney Client Deliberative Process Either way, I know we will need to add a "However" in the first message point. Without it we'll be on the phone for many hours with reporters and stakeholders. See below:

Ex. 5 - Deliberative Process

As for the rest of it, I'll digest it and provide some thoughts tomorrow…….

Thanks.

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

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Sent: Thursday, October 20, 2016 12:39 PM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Richards, David <Richards.David@epa.gov>
Subject: Edits on POO - aka Erin got stuck in the toilet

Ben and Argy

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Please review in simple edit mode to save your eyes!

Thanks,

Erin

Erin Birgfeld

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Flexiplace every Wed (call 202-255-4434 to reach me on Wednesday).

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Burch, Julia
Sent: Thur 10/20/2016 3:29:49 PM
Subject: FW: p.o.o. letter
Small Retailers Coalition Response to NACS-SIGMA Letter to Congressional Committee Members.pdf

Thought you might be interested in the attached letter that is going around the Hill.

Regards,

Julia Burch

Office of Transportation and Air Quality

U.S. Environmental Protection Agency

202-564-0961

From: Haman, Patricia
Sent: Thursday, October 20, 2016 11:12 AM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>
Subject: p.o.o. letter

Got a call from Senator Vitter's staff asking us to open a rulemaking process where we take comment on the point of obligation issue.

They sent this letter over fyi because it is being sent to everyone on the Hill.

Pat

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Sent: Wednesday, October 19, 2016 3:27 PM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Reid, Lauren <Reid.Lauren@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>
Cc: Sutton, Tia <sutton.tia@epa.gov>
Subject: Rep Olson POO letter

Folks—for most of our Congressional POO letters we've been using a template. I've customized our responses here and there if the letter demands it, but most have been easy.

For the attached incoming from Rep Olson (Texas), I've added a bit more detail in response to his questions. Can folks take a quick look and let me know if you have objections?

Thanks

Ben

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Machiele, Paul[machiele.paul@epa.gov]; Burkholder, Dallas[burkholder.dallas@epa.gov]; Reid, Lauren[Reid.Lauren@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Dubois, Roland[Dubois.Roland@epa.gov]
Cc: Sutton, Tia[sutton.tia@epa.gov]
From: Hengst, Benjamin
Sent: Wed 10/19/2016 7:27:03 PM
Subject: Rep Olson POO letter
AL-16-001-1834 Response Letter_Oct 18 bh.docx
AL-16-001-1834_incoming.pdf

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Thanks

Ben

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Cc: Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: POO FR Language and Response Document

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Cc: Mylan, Christopher <Mylan.Christopher@epa.gov>; Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: POO FR Language and Response Document

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Ex. 5 - Deliberative Process

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

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Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

To: Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
Cc: Birgfeld, Erin[Birgfeld.Erin@epa.gov]; Mylan, Christopher[Mylan.Christopher@epa.gov]
From: Richards, David
Sent: Wed 10/19/2016 3:55:36 PM
Subject: POO Roll Out Materials
Point of Obligation Roll Out 10-19-16.docx

Hey Ben,

We're hoping to get the POO roll out document to Nick, Christie, and John Millet sometime this week. Did you want to take a look at it before going to them? Here is the most recent draft with edits from Paul A, Paul M., and Dallas. The only part waiting on Is an updated contact list. Let me know if you need anything more. Thanks.

David Richards

ORISE Research Participant

Office of Transportation and Air Quality

US Environmental Protection Agency

ph. 202.564.4964

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
Cc: Birgfeld, Erin[Birgfeld.Erin@epa.gov]; Sutton, Tia[sutton.tia@epa.gov]
From: Richards, David
Sent: Wed 10/19/2016 2:38:34 PM
Subject: RE: The Questions You Asked For

Hey everyone. All the changes and edits have been made. It's saved on the x drive as today's date. I think the only thing it needs now is a final contact list. Thanks.

David

From: Machiele, Paul
Sent: Wednesday, October 19, 2016 10:22 AM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>
Cc: Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: The Questions You Asked For

Sorry – I was in PARS discussions. I like all the changes. Here's a file with a few typos I caught.

Paul

From: Argyropoulos, Paul
Sent: Wednesday, October 19, 2016 9:36 AM
To: Burkholder, Dallas <burkholder.dallas@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>
Cc: Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: The Questions You Asked For

Great, thanks Dallas.

Given Dallas agrees with most of my suggested edits and comments and has added in the other edits, let's accept all and insert the revised ones in the rollout doc.

Thanks, Paul

Cleaned up / revised text.

Ex. 5 - Deliberative Process

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Paul Argyropoulos

Senior Policy Advisor

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Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

From: Burkholder, Dallas
Sent: Wednesday, October 19, 2016 9:29 AM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>
Cc: Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: The Questions You Asked For

With attachment

From: Burkholder, Dallas
Sent: Wednesday, October 19, 2016 9:28 AM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>
Cc: Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
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A few edits in this Q+A document. In general I think we should try to have our responses focused on the POO impacts, and to the degree possible say as little as we can about broader market changes that might affect refining margins, small vs. large retailers, etc.

From: Argyropoulos, Paul
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To: Machiele, Paul <machiele.paul@epa.gov>; Burkholder, Dallas

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Cc: Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Richards, David <Richards.David@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: The Questions You Asked For
Importance: High

Ahhh,

I did already comment on this.

Paul and Dallas, any response / thoughts based on my review? I need to put these into the COMs rollout materials this morning.

Thanks, Paul

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From: Machiele, Paul
Sent: Tuesday, October 11, 2016 2:02 PM
To: Argyropoulos, Paul <Argyropoulos.Paul@epa.gov>; Burkholder, Dallas

<burkholder.dallas@epa.gov>
Subject: Re: The Questions You Asked For

My attempt. Please edit as its stream of conscience

Sent from my iPhone

On Oct 11, 2016, at 12:43 PM, Argyropoulos, Paul <Argyropoulos.Paul@epa.gov> wrote:

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To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]
From: Richards, David
Sent: Wed 10/19/2016 1:44:28 PM
Subject: RE: The Questions You Asked For

Thanks Paul,

I'll add it to the document, along with your edits.

David

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To: Burkholder, Dallas <burkholder.dallas@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>
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