To: Garvin, Shawn[garvin.shawn@epa.gov]
Cc: White, Terri-A[White.Terri-A@epa.gov]; Johnson, Alisha[Johnson.Alisha@epa.gov]; Bloomgren, David[Bloomgren.David@epa.gov]
From: Behringer, Caroline
Sent: Thur 1/30/2014 1:01:11 PM
Subject: Fw: Questions for EPA

Hey Shawn - See below from Ken Ward. Do we still have OSCs? I recall you saying we might be pulling them out.

Thanks
CB

Caroline Behringer
Deputy Press Secretary
Office of the Administrator
U.S. Environmental Protection Agency
Office: (202) 564-0098
Cell: (202) 760-1732

From: Ken Ward <kward@wvgazette.com>
Sent: Thursday, January 30, 2014 7:58:48 AM
To: Behringer, Caroline
Cc: 'Ken Ward'
Subject: FW: Questions for EPA

Following up -- I would like to interview one of the EPA officials who is on-scene coordinator to ask some follow-up questions. When can that person be available to talk with me?

-----Original Message-----
From: Ken Ward [mailto:kward@wvgazette.com]
Sent: Thursday, January 23, 2014 5:32 PM
To: 'Behringer, Caroline'
Subject: RE: Questions for EPA

Thanks ... I'll have some follow up questions. Can we get the EPA on-scene person on the phone tomorrow to handle them?

-----Original Message-----
From: Behringer, Caroline [mailto:Behringer.Caroline@epa.gov]
Sent: Thursday, January 23, 2014 5:27 PM
To: kward@wvgazette.com
Subject: RE: Questions for EPA

Hey Ken, here are the answers to your other questions:

1. How as the 1 ppm "safe level" calculated? What was EPA's involvement, and how does this method match EPA's standard approach to such things?

RESPONSE: State and federal (ATSDR/CDC) health officials determined that a level of 1 part per million (ppm) of MCHM is protective of public health and the state/WVAWC will use the flushing process to assure that this level is achieved throughout the system. EPA has offered technical assistance to the state during the restart efforts.

2. EXACTLY what is being done to contain and remediate the site? What is the process going forward for dealing with that?

RESPONSE: West Virginia and WVAWC are working to remediate the site and are in the best position to explain the steps they've undertaken to date and what remains to be done. EPA continues to be available for technical assistance.

3. How is EPA's response to Sen. Rockefeller's letter asking for a long-term study?

RESPONSE: We've received the letter and will respond appropriately.

4. Has EPA reviewed the enforcement actions DEP had to take at the Nitro site where Freedom was taking this material? Is EPA concerned that, given that, neither Freedom nor DEP can be trusted with the cleanup? How could that stuff not have been watched more closely?

RESPONSE: EPA is aware of the enforcement actions DEP has taken at the Nitro site. Along with other federal agencies, EPA is working closely with our West Virginia state and local partners responding to the Freedom Industries incident and support the actions taken thus far. We are evaluating the full range of federal environmental authorities that may assist in responding to the environmental and public health risks, address any environmental violations, and minimize threats to our waters and public health.

5. Is EPA concerned that DEP never inspected this site before?

RESPONSE: Under the Clean Water Act and the Safe Drinking Water Act, EPA has the mission and the authority to protect the quality of water bodies and drinking water through a wide range of programs and policies. It is important to note that, for the most part, the states have the primary responsibility for implementing these programs. EPA's water security program covers a host of topics from surveillance and response systems for contamination, emergency response tools, laboratory support in an emergency, risk assessment tools, community based water resiliency exercises, water and energy sector interdependencies training, state and mutual aid tabletop exercises, and climate change tools.

6. Is there something about this chemical that might mask its impacts or its continued presence in our water?

RESPONSE: Please contact ATSDR/CDC for information about the impacts of these chemicals.

7. How do we know the flushing methods given to the public work, and what will the long-term impact on home plumbing systems be of having this industrial chemical in them?

RESPONSE: The State and WVAWC continue to report diminishing presence of MCHM in sampling results, demonstrating that the flushing methods have been effective. With limited available information about this chemical, it is difficult to say what long-term impacts, if any, would be on home plumbing systems.

8. Can the local wastewater treatment plant properly filter this material from water being put back into the river?

RESPONSE: Please reach out to the State and WVAWC, who are the lead on this clean up.

9. Has EPA reviewed the study or studies that were the basis for the LD50 for this material?

RESPONSE: While EPA has not provided a formal peer review of any study that was the basis for the LD-50, EPA scientists did provide comments on a draft analysis of the value for MCHM.

10. Is EPA concerned about the lack of emergency planning, the lack of data about this chemical, and the lack of it being considered in the source water protection plan for the Elk site?

RESPONSE: MCHM was one of more than 60,000 chemicals in commerce when the Toxic Substances Control Act (TSCA) was passed in 1976. The 1976 statute "grandfathered" in existing chemicals, and provided EPA with very limited ability to require testing on those existing chemicals to determine if they are safe. EPA continues to support much needed legislative reform to ensure that the Agency has updated authority to more effectively assess and regulate potentially harmful chemicals.

Depending on the nature of the spill, EPA has statutory response authorities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and the Oil Pollution Act (OPA). EPA provides support when requested or when state and local first responder capabilities have been exceeded. In carrying out these responsibilities, EPA coordinates with other EPA programs, other federal agencies, states, tribes, and local governments.

With respect to prevention and preparedness in advance of a spill or release, EPA also has statutory regulatory authority for oil storage facilities under the Clean Water Act (Spill Prevention, Control, and Countermeasure Program - SPCC, which pertains to oil spills but currently does not cover spills of hazardous substances) and for chemicals under the Clean Air Act (Risk Management Program - RMP - to address methods to minimize and respond to releases).

The Freedom Industries facility in West Virginia is not regulated under the EPA's RMP since MCHM is not on the list of hazardous substances and the SPCC program does not apply to the tanks that released MCHM since that is not an oil. Also, the facility does not fall under EPA's Resource Conservation and Recovery Act (RCRA) program because the material leaked is a "product" and not a "solid waste" or hazardous waste that would require a permit and storage and management requirements, as defined under RCRA Subtitle C. However, from a response perspective, RCRA is being examined for applicability.

Under the Emergency Planning and Community Right-to-Know Act (EPCRA), state and local responders are to be provided hazardous information from the facility owners or operators. The state and local responders can then use this information to minimize risk and develop response plans.

Thanks,
Caroline

Caroline Behringer
Deputy Press Secretary
Office of the Administrator
U.S. Environmental Protection Agency
Office: (202) 564-0098
Cell: (202) 760-1732

-----Original Message-----
From: Ken Ward [mailto:kward@wvgazette.com]
Sent: Wednesday, January 22, 2014 4:11 PM
To: Behringer, Caroline
Subject: RE: Questions for EPA

So, when might West Virginians expect answers from EPA to the other questions?

-----Original Message-----
From: Behringer, Caroline [mailto:Behringer.Caroline@epa.gov]
Sent: Wednesday, January 22, 2014 4:09 PM
To: kward@wvgazette.com
Subject: Re: Questions for EPA

Correct. This was just in response to your email to Terri about PPH.

Thanks,
Caroline

Caroline Behringer
Deputy Press Secretary
Office of the Administrator
U.S. Environmental Protection Agency
Office: (202) 564-0098
Cell: (202) 760-1732

From: Ken Ward <kward@wvgazette.com>
Sent: Wednesday, January 22, 2014 4:06:10 PM
To: Behringer, Caroline
Subject: FW: Questions for EPA

These were follow-up questions from an interview with Sean Garvin on Jan. 15 -- still nothing from EPA on them.

-----Original Message-----
From: Ken Ward [mailto:kward@wvgazette.com]
Sent: Wednesday, January 22, 2014 2:22 PM
To: 'behringer.caroline@epa.gov'
Subject: FW: Questions for EPA

Following up, as I understand Alisha is out ... have previously tried

several times and gotten no response from Region 3.

-----Original Message-----
From: Ken Ward [mailto:kward@wvgazette.com]
Sent: Wednesday, January 15, 2014 7:59 PM
To: 'White, Terri-A'; 'Johnson, Alisha'
Cc: 'kenwardjr@gmail.com'
Subject: Questions for EPA

Terri and Alisha,

Perhaps you two could be in touch, so Alisha could pass on what I had intially told her I wanted to talk to the appropriate EPA people about.

But here are things I would like to talk to the appropriate EPA staffers about --

1. How as the 1 ppm "safe level" calculated? What was EPA's involvement, and how does this method match EPA's standard approach to such things?

2. EXACTLY what is being done to contain and remediate the site? What is the process going forward for dealing with that?

3. How is EPA's response to Sen Rockefeller's letter asking for a long-term study?

4. Has EPA reviewed the enforcement actions DEP had to take at the Nitro site where Freedom was taking this material? Is EPA concerned that, given that, neither Freedom nor DEP can be trusted with the cleanup? How could that stuff not have been watched more closely?

5. Is EPA concerned that DEP never inspected this site before?

6. Is there something about this chemical that might mask its impacts or its continued presence in our water?

7. How do we know the flushing methods given to the public work, and what will the long-term impact on home plumbing systems be of having this industrial chemical in them?

8. Can the local wastewater treatment plant properly filter this material from water being put back into the river?

9. Has EPA reviewed the study or studies that were the basis for the LD50 for this material?

10. Is EPA concerned about the lack of emergency planning, the lack of data about this chemical, and the lack of it being considered in the source water protection plan for the Elk site?

Please let me know ASAP when someone from EPA will be available to discuss these issues.

Ken.

Ken Ward Jr.
Staff Writer
The Charleston Gazette
1001 Virginia St., East
Charleston, W.Va. 25301
(304) 348-1702
Fax: (304) 348-1233

http://wvgazette.com or http://wvgazette.com/News/MiningtheMountains

Read my blog, Coal Tattoo at http://blogs.wvgazette.com/coaltattoo/ and follow me on Twitter, http://twitter.com/Kenwardjr And check out Sustained Outrage, a Gazette watchdog journalism blog, http://blogs.wvgazette.com/watchdog/

ÿ