

Message

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**From:** Heidi McAuliffe [hmcauliffe@paint.org]  
**Sent:** 8/6/2018 6:56:29 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** ACA Request for Meeting  
**Attachments:** BB Meeting Request Form 8.6.18.pdf; (3) ACA Second Petition to Add Compounds to EPA's Aerosol Coatings Tables (002).pdf; 2018.04.19 ACA SSM Concern (002).pdf; ACA MCM Concern letter 22018 final version\_ (002).pdf  
**Flag:** Follow up

Hi Will, I hope you are doing well. I have been traveling for the last 10 days but am back in the office now. I would still like to schedule some time to talk with Brittany about a few chronic issues for ACA. I am attaching the meeting request form that you sent me, along with some background documents on the aerosol issue and the MON/MACT RTR dockets.

I hope that you can find some time for us to meet with Brittany in the next couple of weeks. Please let me know if you have any questions at all.

Thanks for your help, Will.

Best regards,

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
202- 719-3686 | **Ex. 6** 202-263-1102 (fax) | [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) | [www.paint.org](http://www.paint.org)

901 New York Ave. NW, Suite 300 West ▪ Washington, DC 20001  
***Coatings protect. Coatings preserve. Coatings provide.***

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**From:** Lovell, Will (William) <lovell.william@epa.gov>  
**Sent:** Thursday, July 26, 2018 4:19 PM  
**To:** Heidi McAuliffe <hmcauliffe@paint.org>  
**Subject:** RE: Contact

Absolutely! In addition, could you please fill out this sheet for the meeting request? Thank you!

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**From:** Heidi McAuliffe [<mailto:hmcauliffe@paint.org>]  
**Sent:** Thursday, July 26, 2018 9:02 AM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** Re: Contact

Will, thank you very much for reaching out. I would like to schedule some time with Brittany; however, I am traveling for the next 10 days. Can you I reach back out to you with some weeks to target and perhaps we could start the process of finding a date that works?

Thank you and it was a pleasure to meet you.

Best regards,

Heidi K. McAuliffe  
Vice President, Government Affairs  
American Coatings Association, Inc.

901 New York Avenue, NW  
Washington, DC. 20001  
202.719.3686

Sent from my iPad

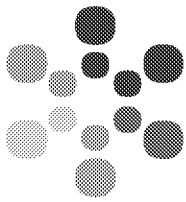
On Jul 25, 2018, at 8:15 PM, Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)> wrote:

Good evening, Heidi,

I just wanted to make sure you had my contact information for future communication.

Thank you,

**Will Lovell**  
Policy Advisor, Office of Policy  
U.S. Environmental Protection Agency  
(202) 564-5713  
[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)



# American Coatings ASSOCIATION<sup>SM</sup>

July 27, 2017

Ms. Kaye Whitfield  
U.S. Environmental Protection Agency (EPA)  
Office of Air Quality Planning and Standards  
109 T.W. Alexander Drive  
Research Triangle Park, NC 27707

**RE: ACA Petition to EPA to Add Compounds to Table 2A of the National Volatile Organic Compound Emission Standards for Aerosol Coatings**

The American Coatings Association (ACA)<sup>1</sup>, whose members consist of entities that are regulated under 40 CFR Part 59, Subpart E, hereby petitions US EPA to add several compounds to Table 2A of the National Volatile Organic Compound Emission Standards for Aerosol Coatings.

Under 40 CFR § 59.511(j), a regulated entity may petition the Administrator to add to EPA's Aerosol Coatings Tables any compounds needed for an aerosol formulation that are not listed in those tables. Petitions must include the "chemical name, CAS number, a statement certifying the intent to use the compound in an aerosol coatings product, and adequate information for the Administrator to evaluate the reactivity of the compound and assign a RF value consistent with the values for the other compounds listed in Table 2A."<sup>2</sup>

After reviewing EPA's Tables, various aerosol coatings manufacturers subject to EPA's regulations concluded that several compounds are being used by formulators that are not yet on EPA's Tables 2A, 2B, or 2C. It is the intent of industry members and the regulated community to use these compounds in aerosol coatings products moving forward.

Furthermore, the reactivity factors of each of the compounds have undergone significant scientific study under the direction of Dr. William P.L. Carter and have been peer reviewed by the scientific community.<sup>3</sup> Dr. Carter's reports reflect the most up-to-date scientific research available and are widely accepted. His research is also the basis for California Air Resources Board's (CARB) Aerosol Coatings Regulations, which has also assigned Maximum Incremental Reactivity (MIR) Values to these compounds.<sup>4</sup>

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<sup>1</sup> The American Coatings Association (ACA) is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory, and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services.

<sup>2</sup> 40 CFR § 59.511(j). [https://www.ecfr.gov/cgi-bin/text-idx?SID=dcbfa03c404c58a04e4ca497c12d13a0&mc=true&node=se40.6.59\\_1511&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=dcbfa03c404c58a04e4ca497c12d13a0&mc=true&node=se40.6.59_1511&rgn=div8).

<sup>3</sup> Dr. William P.L. Carter's 2009a Report: <https://www.arb.ca.gov/research/reactivity/mir09.pdf>.  
Dr. Carter's Investigation of Atmospheric Ozone Impacts of Trans-1-Chloro-3,3,3-Trifluoropropene: <http://www.cert.ucr.edu/~carter/pubs/ZDErept.pdf>.

<sup>4</sup> Title 17, California Code of Regulations, Division 3, Chapter 1, Subchapter 8.6, Article 1, § 94700, et seq. [https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I71C45BF0D60811DE88AE DDE29ED1DC0A&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I71C45BF0D60811DE88AE DDE29ED1DC0A&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)).

Since the reactivity factors of the following compounds have been studied, peer reviewed, and accepted, and these compounds are intended to be used by the regulated community moving forward, ACA petitions US EPA to add them to Table 2A:

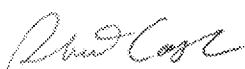
#	Chemical Name	CAS No.	MIR Value
1	Dipropylene Glycol Monomethyl Ether	34590-94-8	2.70
2	2-Nitropropane	79-46-9	0.11*
3	Dibutyl Phthalate	84-74-2	1.25*
4	Dipropylene Glycol Methyl Ether Acetate Isomers	88917-22-0	1.49
5	n-Pentyl Propionate	624-54-4	0.79
6	Dimethoxy Methane	109-87-5	1.04
7	trans-1,2-Dichloroethene	156-60-5	0.81
8	2-Methyl-1-Butyl Acetate	624-41-9	1.17
9	3-Methyl-Butyl Acetate	123-92-2	1.18
10	Benzyl Alcohol	100-51-6	5.11*
11	trans-1,3,3,3-tetrafluoropropene (HFO-1234ze)	1645-83-6	0.10**
12	trans-1-chloro-3,3,3-trifluoropropene (HFO-1233zd)	102687-65-0	0.04**
13	2,2,4-trimethyl-1,3-pentanediol diisobutyrate	6846-50-0	0.38*
14	Diethyl Phthalate	84-66-2	1.62*
15	Tert-butyl benzene	98-06-6	1.89
16	2-Ethyl-1,3-hexanediol	94-96-2	2.62

\* These five new compounds did not have an MIR Value assigned to them at the time that EPA promulgated its aerosol coatings regulation. Thus, the MIR values listed above derive from Dr. Carter's most recent scientific research.

\*\* Please note that both trans-1,3,3,3-tetrafluoropropene (HFO-1234ze) and trans-1-chloro-3,3,3-trifluoropropene (HFO-1233zd) are both considered "exempt" from the definition of "volatile organic compound" by EPA because of their negligible photochemical reactivity.<sup>5</sup> However, paragraph (s)(7) makes it clear that there are no "exempt" compounds in the aerosol coatings regulation.

Thank you for your consideration of ACA's petition. Please do not hesitate to contact us if you have any questions or concerns.

Sincerely,

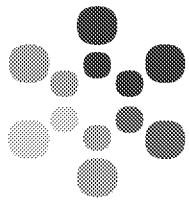


Rhett Cash  
Counsel, Government Affairs



Raleigh Davis  
Assistant Director, Environmental Health and Safety

<sup>5</sup> 40 CFR § 51.100(s)(1). [https://www.ecfr.gov/cgi-bin/text-idx?SID=4b2f372b38103583387646807020fc18&mc=true&node=se40.2.51\\_1100&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=4b2f372b38103583387646807020fc18&mc=true&node=se40.2.51_1100&rgn=div8).



**AmericanCoatings**  
ASSOCIATION<sup>SM</sup>

April 19, 2018

Bill Wehrum  
Environmental Protection Agency  
Mail Code 6101A  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Brittany Bolen  
Office of Policy (1803A)  
US Environmental Protection Agency  
WJC North Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Mick Mulvaney  
The Office of Management and Budget  
725 17th Street, NW  
Washington, DC 20503

**Re: Start-up, Shut-down and Malfunction; American Coatings Association  
(ACA) Concerns**

Dear Mr. Wehrum, Ms. Bolen and Mr. Mulvaney:

The U.S. Environmental Protection Agency (EPA) is currently conducting its Residual Risk and Technology Review (RTR) of the Paper and Other Web Surface Coating MACT in addition to the Miscellaneous Coatings Manufacturing (MCM) and the Miscellaneous Organic Chemical Manufacturing (MON) MACT rules. ACA<sup>1</sup> is concerned that EPA will remove the startup, shutdown, and malfunction (“SSM”) provisions from each of these rules, making it difficult, or in some cases impossible, for some facilities to meet the rules’ emission limitations during SSM periods, and especially during periods of malfunction of an emission control device. ACA therefore requests that, if the SSM provisions are

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<sup>1</sup> The American Coatings Association (ACA) is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory, and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services.

removed, EPA add work practice standards for periods of malfunctions (see attached Malfunction Work Practice Standard). Alternatively, ACA requests that EPA identify the issue clearly and request public comment in the preamble to each proposal of an RTR-related rule revisions, thereby providing EPA an opportunity to “pivot” on the issue without re-proposing the rule. Because EPA is under a compressed, court-ordered schedule for completing the RTRs, ACA requests that both EPA’s Office of Policy and the Office of Management and Budget (OMB) review EPA's development of RTR-related rule revisions to ensure that our concerns are considered, and ensure that each rule is technically sound and fair.

The work practice standards that we are requesting in this letter are specifically provided for in Section 112(h) of the Clean Air Act. Section 112(h) specifically authorizes EPA to establish “a design, equipment, work practice, or operational standard” when it is not feasible to prescribe or enforce a numeric emissions standard. EPA has recognized, and the courts have agreed, that malfunctions of emissions control, process, and manufacturing equipment are inherently unpredictable and non-routine events that are not feasible to include in calculating MACT emissions standards.<sup>2</sup>

In addition, it’s important to note that while we are requesting a work practice standard for malfunctions, the numerical emission standards of most MACT rules involve some sort of averaging period, typically hourly, daily, or monthly. As a consequence, any additional emissions that might occur during a malfunction do not automatically exceed the allowable emission average if the facility is able to shutdown the corresponding source quickly. But even immediate shutdown of a source when it malfunctions is not able to guarantee in all cases that the emission limits will be met during these periods.

In summary, a malfunction workpractice is needed in each of the MACT rules identified in this letter in the event that EPA removes the existing startup, shutdown, and malfunction provisions from these rules. EPA’s authority to create a malfunction workpractice is clear, and failure to do so will place multiple ACA member facilities in needless compliance jeopardy, result in generation of excess solid and hazardous waste, or result in potentially unsafe operating conditions.

Thank you for your consideration of our concerns. Please do not hesitate to contact me if you have any questions.

Sincerely,



David Darling,  
VP, Health, Safety and Environmental Affairs  
American Coatings Association

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<sup>2</sup> National Emission Standards for Hazardous Air Pollutants: Nutritional Yeast Manufacturing Residual Risk and Technology Review, Final Rule, 82 Fed. Reg. 48156, 48159-160 (Oct. 16, 2017) (citing U.S. v. Sugar Corp. v. EPA, 830 F.3d 579, 606-610 (D.C. Cir. 2016))

## **Malfunction Work Practice Standard**

The following work practice standard assures that all malfunctions of process equipment, control devices, and monitoring equipment are identified and corrected as soon as practicable in order to minimize excess HAP emissions, while assuring safe operating conditions, limiting the generation of excess solid and hazardous waste, and minimizing burden on industry.

Malfunction is defined in 40 C.F.R. § 63.2 of the NESHAP General Provisions as “any sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.”

**Malfunctions Will be Identified and Production Suspended** — To the extent practicable, control device operating systems shall be designed to provide an audio and/or visual identification of malfunctions. In the event of an alarm, the facility’s most appropriate responsible official will be notified. If it is determined that repair or restoring malfunctioning equipment to normal operation will take longer than the time needed to discontinue operation of the process equipment consistent with safe operating procedures, the responsible official will initiate procedures to minimize HAP emissions from the process equipment tied to the control equipment.

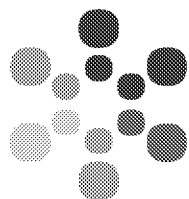
**Paper and Other Web Surface Coating MACT**— In the event of a malfunction of a control device or capture system for a coating line subject to a surface coating MACT, the facility may continue operation without the control device during the malfunction so long as the facility continues to meet the rule’s corresponding emission limits for the current compliance period. If compliance with the emission limits cannot be maintained, the facility shall expeditiously shutdown the coating line that is serviced by the malfunctioning control device or capture system. Expeditious shutdown means that each workstation of the line stops applying coating materials, and the line completes drying any coating materials that had already been applied onto the substrate as of the start of the malfunction. Draining coating materials from the line’s applicators, or from piping, pans, or related equipment that deliver coating materials to the applicator, is not required. Operations associated with the control device that do not produce HAP emissions may continue.

**MCM/MON MACTs** — In the event of a malfunction of a control device or a capture system used to meet the emission limits of the MCM/MON rules, the facility may continue to operate without the control device during the malfunction so long as the facility continues to meet the rule’s corresponding emission limits for the current compliance period. If compliance with the emission limits cannot be maintained, the facility shall expeditiously shutdown all process equipment subject to the MCM/MON rules that are serviced by the malfunctioning control device or capture system. The expeditious

shutdown shall minimize emissions of hazardous air pollutants while assuring worker safety and minimizing the production of hazardous and solid wastes, including suspending operation of each process vessel or reactor that vents to the control system as soon as its batch cycle has been completed. New production or other uses of that equipment subject to the MCM/MON will not resume until the control system is restored to its normal operation. Operations associated with the control device that do not produce HAP emissions may continue.

**Malfunction Event Documentation and Reporting** — Each malfunction will be documented, and each malfunction will be reported to the permitting authority.





**AmericanCoatings**  
ASSOCIATION<sup>SM</sup>

March 1, 2018

Bill Wehrum  
Environmental Protection Agency  
Mail Code 6101A  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Samantha Dravis  
Office of Policy (1803A)  
US Environmental Protection Agency  
WJC North Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Mick Mulvaney  
The Office of Management and Budget  
725 17th Street, NW  
Washington, DC 20503

**Re: Miscellaneous Coatings Manufacturing MACT (MCM) Residual Risk and  
Technology Review (RTR); American Coatings Association (ACA) Concerns**

Dear Mr. Wehrum, Ms. Dravis and Mr. Mulvaney:

The U.S. Environmental Protection Agency (EPA) is currently conducting a Residual Risk and Technology Review (RTR) of the maximum achievable control technology standard (MACT) for Miscellaneous Coatings Manufacturing (MCM) at 40 C.F.R. Part 63, Subpart HHHHH. The MCM rule promulgated on December 11, 2003 imposed unnecessarily burdensome requirements on coatings, adhesives, and ink manufacturing operations. Now that the rule is under consideration in the RTR rulemaking process, The American Coatings Association (ACA<sup>1</sup>) is concerned that EPA will increase the burden on the coatings industry without commensurate environmental benefits. Many of the current requirements for process tanks

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<sup>1</sup> The American Coatings Association (ACA) is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory, and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services.

and leak detection and repair were developed by EPA using several assumptions that were not valid then (in 2003) and continue to be invalid today. ACA is very concerned that EPA will again employ these assumptions to justify more stringent requirements. Consequently, given the relatively short rulemaking schedule, ACA requests that EPA's Office of Policy and the Office of Management and Budget (OMB) review the agency's development of this RTR rulemaking to ensure that our concerns are considered, and that the rule is technically sound and fair.

**EPA Must Account for the Unique Characteristics of Coatings, Adhesive, and Ink Manufacturing Operations, Especially With Regard to Leak Detection and Repair**

To speed its RTR rule-making, EPA is reviewing the MCM, Miscellaneous Organic Chemical Manufacturing<sup>2</sup> (MOCM, or "MON"), and Organic Liquid Distribution<sup>3</sup> (OLD) MACTs simultaneously. ACA is concerned that the unique characteristics of coatings, adhesives and ink manufacturing operations will be lost in a combined Residual Risk and Technology Review of these three rules.

Formulating and blending operations for manufacturing coatings, adhesives and inks are very different than batch/continuous chemical manufacturing operations, especially regarding emissions from equipment leaks. EPA clearly recognized this difference in its "Notice of available information and solicitation of additional information" for the MON MACT<sup>4</sup> as follows:

"...data also indicate that, for purposes of characterizing and controlling process emissions, distinctions based on whether the production of these organic chemicals are a formulation operation or a chemical reaction, and whether the process vessel is a batch or continuous reactor are more significant than differences among the final chemical products themselves. The Agency envisions a set of standards establishing separate control requirements for chemical production processes and formulation/blending operations. Separate control requirements may also be established for emission points associated with continuous reactors, batch reactors, and formulation/blending."<sup>5</sup>

As a consequence, EPA developed two different sets of standards – one for manufacturing coatings, adhesives and ink by blending and formulation operations (the MCM rule) and the other for manufacturing miscellaneous chemical (the MON).

EPA should consider these differences once again during its RTR review of the MCM rule, and especially in connection with the rule's leak detection and repair (LDAR) provisions. Compared with chemical manufacturing operations, coatings, adhesives and ink

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<sup>2</sup> 40 C.F.R. Part 63, Subpart FFFF

<sup>3</sup> 40 C.F.R. Part 63, Subpart EEEE

<sup>4</sup> 61 Fed. Reg. 57602 (November 7, 1996).

<sup>5</sup> Id at 57604.

manufacturing operations have very low leak rates for a number of reasons, including the following:

- The coatings industry strives to minimize leaks because these are a serious worker safety and environmental concern, and directly impact the profitability of a facility;
- MCM facilities typically utilize liquid raw materials having low vapor pressures that are less prone to evaporation;
- Unlike many of the operations in chemical manufacturing, most MCM components operate intermittently and under atmospheric or only a slight pressure head, such as developed by transfer pumps;
- Seal-less magnetic-drive pumps, air-operated diaphragm pumps, dual seal and gear pumps, which are designed specifically to have negligible potential for emissions, are commonly used by our industry for transferring materials;
- Most MCM equipment components are located inside production buildings where equipment leaks are readily detectable by employees working in the vicinity of the equipment; and
- Other programs provide redundant monitoring including storage tank spill prevention control and countermeasure; industrial hygiene, and process safety management requirements.

Because of the coating industry's low emissions from equipment leaks, the MCM rule's current option to check leaks by visual, auditory, and olfactory cues in lieu of instrument methods is appropriate and important to the coatings industry. See Table 3 to 40 C.F.R. Part 63, Subpart HHHHH, referencing 40 C.F.R. §§ 63.424(a)(d) & 63.428(e), (f) & (h)(4). This option, however, is provided in the current rule only for facilities that are existing affected sources under the MCM rule--the same option is warranted for new MCM affected sources as well.

Please note additionally that in the original MCM rulemaking, EPA utilized LDAR component emissions information provided by ACA to revise its cost effectiveness assessment for above-the-floor instrument LDAR. EPA decided that it could not justify instrument methods as the sole option for LDAR based on its 2003 estimated cost of \$15,800/Mg (\$21,181 in 2018 dollars). ACA estimates that the current costs of imposing instrument LDAR would be closer to \$269,208/Mg HAP controlled. Surely there is no reason to impose this burden since the current requirement of sensory LDAR is effective.

**Impact** - ACA is concerned that EPA will significantly increase burden by requiring "Instrument" LDAR for MCM facilities. ACA estimates that the impact on the industry would be a significant increase in the costs to implement instrument LDAR -- to over \$269,208/Mg HAP.

**Recommended Solution** - ACA suggests EPA retain the current and effective “Sensory” LDAR requirement for existing and new affected sources.

## **Process Tank Controls**

### **EPA Process Vent Stream Flow Assumptions**

ACA commented in the proposed MCM that EPA’s model plants and assumptions for process tanks were not accurate. In the 2003 rulemaking, EPA had assumed that closed vent systems on five process tanks would involve an exhaust air flow totaling only 100 scfm. ACA advised EPA that air flows through collection hoods typically range from 500 to 1000 scfm per tank; collection systems range from 5,000 to 35,000 scfm or more; and general room ventilation air flows are typically in the 1,000s of scfm. Actual data gathered by ACA from 10 facilities indicated air flows ranging from 300 scfm to more than 25,000 scfm. High exhaust air flows are typically utilized in our industry to protect workers when opening and closing vessels when sampling or adding raw materials. The necessarily high air flow rates dramatically impact economically viable methods for controlling emissions from a typical plant subject to the MCM rule.

### **EPA Process Vent Stream Concentration Assumptions**

In the MCM MACT floor analysis, EPA assumed 40,000 ppm as the VOC concentration in exhaust vents for process vessels. At that time, ACA commented that that the highest VOC process vent concentration within the plants surveyed was only 1,235 ppm.

Even disregarding data from ACA’s survey, EPA’s 40,000 ppm gas stream concentration has no technical basis. The 40,000 ppm concentration assumed that the displaced vapor from the head space of the vessel is in equilibrium with pure toluene solvent, which (in accordance with physical chemistry principles of partial pressures) could occur only if the process vessel were filled with toluene only. A process vessel at a facility subject to the MCM rule would never contain pure solvent because the products of our industry always contain multiple materials in emulsion, suspension, and colloidal forms, not pure organic solvent. EPA should therefore consider that large air flows at generally low concentrations are characteristic of this industry when conducting its technology review.

### **Cost of Thermal Oxidation**

In 2003, ACA advised EPA that it had underestimated its assumptions about the air flows from stationary process tanks and overestimated the VOC concentrations in vent stream. Reflecting the air flows VOC concentrations that truly characterize our industry, ACA estimated the true cost of installing thermal oxidation in 2003 to be greater than \$16,000/Mg (\$21,449 in 2018 dollars). It is important that EPA utilize more accurate flow rate and vent stream concentration assumptions in any technology review estimates, especially considering that

thermal oxidation units cost in the range of 1-3 million in capital costs (does not include additional expenses including ductwork, process modifications and fire controls) and well over \$500K in annual operation and maintenance costs, as well as increased greenhouse gas emissions.

### **Portable Process Tanks**

EPA correctly concluded in 2003 that installing controls on portable tanks is costly (\$21,000/Mg - \$28,152 in 2018 dollars) and operationally difficult, and therefore required control of portable tanks by covers. ACA believes that the actual cost to install controls on portable tanks is even greater than what EPA previously estimated, and that requiring covers only on portable tanks continues to be justified.

**Impact** - ACA is concerned that EPA will increase burden by increasing the stringency of MCM process tank requirements. The installation of thermal oxidation controls on stationary tanks is not cost justifiable. Also requiring add-on controls on portable tanks is technically challenging, and very expensive (hundreds of thousands of dollars), and would not provide any additional environmental benefit.

**Recommended Solution** - ACA suggests EPA retain the current and effective process tank control requirements.

### **5% Pollution Prevention Option Is Needed**

The 5% pollution prevention option, in accordance with 40 C.F.R. § 63.8055, has been utilized by several MCM facilities. It provides emission reduction with minimum burden, and it provides strong incentives for facilities to reformulate their coatings to containing zero or low-concentrations of HAP substances. ACA strongly requests that EPA retain this important compliance option.

**Impact** - ACA maintains that the 5% option is a very important compliance option, and its removal would be devastating to several coatings manufacturing companies. Eliminating this option would require facilities to install very expensive control technology without environmental benefit given that the 5% option is effective.

**Recommended Solution** - ACA suggests EPA retain this very important compliance option.

### **EPA Must Consider the Facility Closures That Resulted From the MCM and Consolidation**

In the 2003 preamble to the final rule, EPA concluded that only "one plant closure [is] expected out of the 127 facilities affected by the proposed NESHAP." And that it "should be noted that ... the facility predicted to close appears to have low profitability levels currently.

Therefore, it is likely that there is no adverse impact expected to occur for those industries that produce output affected by the proposed.”

The coatings, adhesives and ink manufacturing industry has changed dramatically since 2003. Industry consolidation as well as the promulgation of the MCM rule forced many facilities to close. Of the 128 facilities that EPA considered in 2003, approximately 43 (34%) of the facilities have closed.

**Impact** – The stark reality of 43 facility closures highlights the impact of the MCM rule on the coatings, ink and adhesive manufacturing industry.

**Recommended Solution** - ACA is working diligently with EPA in the RTR rulemaking process. We urge EPA to be open to considering the potential economic impact of the MCM requirements with the knowledge that there are 43 fewer facilities than there were when the original rule was finalized. ACA strives to bring real data to the rulemaking regarding costs and environmental benefits of the current requirements.

Thank you for your consideration of our concerns. As this rulemaking is moving rather quickly and involves several rules, ACA’s goal here is to articulate our concerns as early as possible. Please note that we will be following up later with suggestions on a possible work practice standard for start-up, shut-down and malfunction and a suggested exclusion from the rule applicability for operations that process or use organic HAP substances present only at incidental concentrations. ACA is happy to provide updates on these issues as the rulemaking progresses and we are always available to answer questions.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "David Darling". The signature is written in a cursive, flowing style.

David Darling,  
VP, Health, Safety and Environmental Affairs  
American Coatings Association

Cc: Jennifer Caparoso, EPA



## Meeting Request Form

**Today's Date:** August 6, 2018

**Requesting Group:** American Coatings Association, Inc.

**Purpose:** To discuss Regulatory Reform efforts, including MON/MACT rules; aerosol coatings petition; and Smart Sectors program

**Role of the Associate Administrator:** As chief policy officer, her role is to examine these issues and ensure that the agency is prioritizing activities and that regulatory reform efforts are moving forward. These are regulatory reform issues.

**Background:** The MON/MACT issues have been discussed in our coalition meetings and I am happy to attach recent letters submitted; the aerosol coatings petition has been outstanding for over a year (will attach it as well) and was also included in our regulatory reform submittal.

**Recent meetings with EPA:** Recent meeting with Drew Feeley of Office of Policy; Coalition Meeting (Regulatory Improvement Council) with Brittany Bolen; Also met with Nancy Beck and her team on TSCA issues as well

**Requested Date of Meeting:** August 21, 22 (except for 12 – 2P), 24

**Requested Duration (typically 30 minutes):** 60 minutes, if possible

**Point of Contact for Meeting (Name/Number):**

Heidi McAuliffe

Vice President Government Affairs

American Coatings Association, Inc.

202.719.3686

hmcauliffe@paint.org

Message

---

**From:** Wyman, Christine [christine.wyman@bracewell.com]  
**Sent:** 6/12/2018 7:59:40 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** RE: Meeting Request Form  
**Attachments:** DM-#5717470-v3-INGAA\_Pruitt\_Request.DOCX  
  
**Flag:** Follow up

Will -- Thank you for your assistance. I have attached the request. --Christine

---

**CHRISTINE WYMAN**

Senior Counsel

[christine.wyman@policyres.com](mailto:christine.wyman@policyres.com)

T: Ex. 6 F: +1.800.404.3970

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---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Thursday, May 24, 2018 7:38 PM  
**To:** Wyman, Christine  
**Subject:** Meeting Request Form

Good evening, Christine,

I understand that you expressed interest in submitting a meeting request for Administrator Pruitt. Please find attached EPA's external meeting request form and return it to me once you complete it.

Thanks!

**Will Lovell**

Policy Advisor, Office of Policy

U.S. Environmental Protection Agency

(202) 564-5713

[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)





## *Meeting Request Form for Administrator Scott Pruitt*

**Today's Date:**

June 12, 2018

**Meeting Date:**

Mid-July, or at the Administrator's earliest convenience

**Meeting Time:**

TBD

**Requested Location (if offsite, please list address, parking instructions, etc.):**

EPA Headquarters

**Requestor:**

Interstate Natural Gas Association of America

**Purpose of the Meeting:**

To discuss how EPA can promote the implementation of Clean Water Act Section 401 by federal agencies and States in a manner consistent with the statutory purpose and language in light of recent misuse of the program, applicable case law, Administration guidance, and the significance of Section 401 to maintaining and expanding domestic infrastructure.

**Background on the Meeting:**

Clean Water Act Section 401 provides States the authority to certify that any discharges to regulated waters from infrastructure projects will comply with applicable water quality standards. The statutory scheme reflects a commitment to "cooperative federalism" in which federal and State governments have distinctive roles appropriate to each.

EPA's written guidance on Section 401 is a handbook that is a holdover from 2010 that was never finalized. It presents an expansive scope of Section 401 that conflicts with the statutory language of Section 401 and recent case law. Despite its interim status and conflicts with the statute, some federal agencies have viewed the handbook as authoritative, resulting in inconsistent implementation of Section 401 by federal agencies. Moreover, the handbook aids the minority of states that are using Section 401 to block energy infrastructure in an attempt to dictate national energy and environmental policy. This misuse and the associated unpredictability of the Section 401 process impairs industry's ability to develop needed energy infrastructure.

EPA should re-affirm key principles of Section 401 concerning the State's period of review, the scope of a State's review, and waiver of the certification requirements. Doing so will add predictability to

the certification process and help safeguard that Section 401 is implemented consistent with its statutory purpose.

**Role of the Administrator:**

To provide insight to the interstate natural gas pipeline industry on EPA's role in providing predictability to the Clean Water Act Section 401 process.

**Attendees:**

Representatives from INGAA's Board of Directors and key INGAA staff and consultants

**Point of Contact:**

**Christine Wyman, Senior Counsel, Bracewell LLP**

**Ex. 6**, christine.wyman@bracewell.com

Message

---

**From:** Wyman, Christine [christine.wyman@bracewell.com]  
**Sent:** 5/25/2018 11:53:17 AM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** RE: Meeting Request Form  
  
**Flag:** Follow up

Thanks Will.

---

**CHRISTINE WYMAN**

Senior Counsel

[christine.wyman@policyres.com](mailto:christine.wyman@policyres.com)

T: [Ex. 6] | F: +1.800.404.3970

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Thanks!

**Will Lovell**

Policy Advisor, Office of Policy

U.S. Environmental Protection Agency

(202) 564-5713

[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)

Message

---

**From:** Jaeger, Lisa [lisa.jaeger@bracewell.com]  
**Sent:** 4/26/2018 10:11:42 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Will]  
**Subject:** RE: EPA Follow-up  
**Attachments:** CKRC Final One Pager.docx  
  
**Flag:** Follow up

Greetings Will

Attached is the one page description of CKRC for tomorrow's meeting.

Thank you and see you soon,

Lisa

---

**LISA M. JAEGER**

Senior Counsel

[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)

T: Ex. 6 | F: +1.1.800.404.3970 | M: Ex. 6

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**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Thursday, April 26, 2018 2:14 PM  
**To:** Jaeger, Lisa <lisa.jaeger@bracewell.com>  
**Subject:** RE: EPA Follow-up

Hey, Lisa, just wanted to check back in to see if you had a list of attendees and any materials the group plans to provide.

---

**From:** Lovell, Will (William)  
**Sent:** Tuesday, April 24, 2018 4:35 PM  
**To:** 'Jaeger, Lisa' <lisa.jaeger@bracewell.com>  
**Subject:** RE: EPA Follow-up

Terrific! No, we just need a list of attendees and any materials you plan to provide at the meeting.

---

**From:** Jaeger, Lisa [mailto:lisa.jaeger@bracewell.com]  
**Sent:** Tuesday, April 24, 2018 4:23 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** RE: EPA Follow-up

Thank you Will, that is perfect for us.  
Will you all need clearance info?

Thank you  
Lisa

---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Tuesday, April 24, 2018 2:48 PM  
**To:** Jaeger, Lisa <lisa.jaeger@bracewell.com>  
**Subject:** RE: EPA Follow-up

How about 11-11:30 am?

---

**From:** Jaeger, Lisa [mailto:lisa.jaeger@bracewell.com]  
**Sent:** Tuesday, April 24, 2018 11:14 AM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** RE: EPA Follow-up

Greetings Will  
Friday will work for us with a meeting beginning any time from 10:30 to noon.  
I'll stand by to hear from you what specific time the schedule can accommodate.  
Thank you for your help.  
Lisa

---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Monday, April 23, 2018 2:58 PM  
**To:** Jaeger, Lisa <lisa.jaeger@bracewell.com>  
**Subject:** RE: EPA Follow-up

Lisa, upon conferring with the scheduler after a planning meeting this morning, it looks like that time will not work due to meetings that had not yet been added to Brittany's calendar. Is there any chance Friday could work between 10:30 and 3:30?

---

**From:** Lovell, Will (William)  
**Sent:** Friday, April 20, 2018 5:46 PM  
**To:** 'Jaeger, Lisa' <lisa.jaeger@bracewell.com>  
**Subject:** RE: EPA Follow-up

Lisa,

I will hold that time slot, but please allow me to check with the scheduler to confirm that will work.

Regards,  
Will

---

**From:** Jaeger, Lisa [mailto:lisa.jaeger@bracewell.com]  
**Sent:** Friday, April 20, 2018 5:06 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** Re: EPA Follow-up

Greetings Will  
May we do Thursday 2 to 3 pm please?  
Thank you  
Lisa

**From:** "Lovell, Will (William)" <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Sent:** Apr 19, 2018 10:47 AM  
**To:** "Jaeger, Lisa" <[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)>  
**Subject:** RE: EPA Follow-up

Lisa,

Now I apologize for the delayed response! Would any of the following times work for your group?:

- Thursday (4/26), 10-11 am or 2-3 pm
- Friday (4/27), 2-4 pm

Thank you,  
Will

---

**From:** Jaeger, Lisa [<mailto:lisa.jaeger@bracewell.com>]  
**Sent:** Thursday, April 12, 2018 7:49 PM  
**To:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** RE: EPA Follow-up

Greetings Will

Thank you for your note and please pardon my delay in responding to your note.

CKRC would like to meet with you to discuss its response to EPA's request for suggestions for reducing duplicative and burdensome regulations. CKRC's comments are attached. The comments mention several issues that are already being addressed and that were mentioned by many other organizations. CKRC mentioned some other items, mostly relating to its core competency of waste energy recycling, which were not marquee issues. As part of your ongoing rulemaking/rule review process, CKRC would like to follow up with EPA on its comments.

For background, the link to CKRC is <http://www.ckrc.org/>.

Re availability, if you have availability during the week of April 23, we can make something work with CKRC schedules.

Thank you for your help  
Lisa

---

**LISA M. JAEGER**

Senior Counsel

[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)

T: Ex. 6 F: +1.800.404.3970 | M: +Ex. 6

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**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]

**Sent:** Friday, April 6, 2018 10:07 AM

**To:** Jaeger, Lisa <[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)>

**Subject:** EPA Follow-up

Good morning, Lisa,

I am following up from our phone call yesterday. Please provide the details and availability for the meeting we discussed.

Thank you,

**Will Lovell**

Policy Advisor, Office of Policy

U.S. Environmental Protection Agency

(202) 564-5713

[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)



The Cement Kiln Recycling Coalition (CKRC) is a Washington, D.C. based association representing member companies that operate facilities throughout the United States. Members include cement companies that recover energy from alternative fuels derived from secondary materials, companies involved in the collection, processing, management, and marketing of such fuels for use in cement kilns, as well as professional consultants and companies which provide services to the industry.

Each year, the United States generates millions of tons of secondary materials that have significant energy value. To recover this energy and avoid simple disposal, the cement industry uses these materials as alternative fuels, which replaces a portion of the non-renewable traditional fossil fuels used to provide energy for the manufacture of cement. This beneficial use of alternative fuels is a significant sustainability component incorporated in cement manufacturing operations throughout the U.S. and worldwide.

Last spring, CKRC submitted comments to USEPA and the USDOC in response to their requests for suggestions for reducing duplicative and burdensome regulations. The comments mention several issues that are already being addressed by USEPA and that were mentioned by many other organizations. CKRC mentioned some other items, mostly relating to its core competency of waste energy recycling. As part of your ongoing rulemaking/rule review process, CKRC would like to follow up with EPA on its comments and learn more about the Agency's continuing process.

#### **CKRC Member Companies**

- Ash Grove Cement Co. Cement Producer
- B3 Systems Consultant
- Buzzi Unicem USA Cement Producer
- Cadence Environmental Energy Fuel Supplier
- Continental Cement Company Cement Producer
- Eagle Materials Cement Producer
- Lehigh Hanson ECC Cement Producer
- Geocycle Fuel Supplier
- Giant Cement Holding, Inc. Cement Producer
- Giant Resource Recovery Fuel Supplier
- LafargeHolcim Cement Producer
- Rinco Fuel Blender
- Trinity Consultants/SYA Consultant
- STC Fuel Supplier
- Systech Environmental Corp. Fuel Supplier

*P.O. Box 7553, Arlington, VA 22207 \* 703-624-4513  
Upgraded Website to be launched June 1, 2018 at [www.ckrc.org](http://www.ckrc.org)*



Message

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**From:** Jaeger, Lisa [lisa.jaeger@bracewell.com]  
**Sent:** 4/26/2018 9:00:35 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** RE: EPA Follow-up  
**Attachments:** CKRC\_Comments\_DOC\_Reg\_Burden.pdf; Letter to EPA re Request for Comment -- 5.9.17.pdf  
**Flag:** Follow up

Greetings Will

Our attendees will be:

Michelle Lusk, Executive Director Cement Kiln Recycling Coalition  
Lisa Jaeger, Bracewell and outside general counsel to CKRC

We'll be talking from 2 documents.

1. A one-pager about CKRC (under development).
2. Comments CKRC submitted in response to EPA's Request for Comment regarding regulations that burden manufacturing (attached).

I'll email you the one-pager as soon as it is completed.

When we arrive at the Security clearance area, what is the best contact name and phone number to use to get cleared in?

Thank you,  
Lisa

.....  
**LISA M. JAEGER**

Senior Counsel

[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)

T: [Ex. 6] | F: +1.1.800.404.3970 | M: + [Ex. 6]

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Senior Counsel  
[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)

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**Will Lovell**  
Policy Advisor, Office of Policy  
U.S. Environmental Protection Agency  
(202) 564-5713  
[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)



March 31, 2017

**VIA Electronic Filing**

**RE: US Department of Commerce Office of Policy and Strategic Planning  
Notice, Request for Information  
Impact of Federal Regulations on Domestic Manufacturing  
82 FR 12786 (March 7, 2017)  
Docket 170302221-7221-01**

Dear Director Comstock:

In a Request for Information implementing Executive Order 13771, the Department of Commerce seeks information on federal permitting requirements that impact permitting and regulations that burden domestic manufacturing. The Request seeks General Information, and information about the Manufacturing Permitting Process and Regulatory Burden/Compliance. CKRC is pleased to submit these comments in response to the Request for Information.

## **INTRODUCTION**

The Cement Kiln Recycling Coalition (CKRC) is a national trade association representing cement manufacturers in the U.S. that recycle the value in energy-bearing secondary materials by using them as fuel in kilns that produce Portland cement. CKRC also represents companies that collect, process, manage, and market alternative fuels for use in cement kilns.

CKRC member companies comply with myriad regulatory requirements under many different environmental and health and safety laws. Our members are dedicated to operating in accordance with the regulatory requirements to ensure the protection of human health and the environment. Over the last 30 years, engineers, combustion and testing specialists, risk assessors, and technicians have worked together to develop significant resources to understand the complex combustion and emissions control opportunities accomplished while producing Portland cement. Decades of rulemaking development, regarding both the cement kiln combustion system process emissions and the use of alternative fuel in the process, have resulted in the stringent regulation

of our facilities under the CAA and other environmental laws. Extensive emissions testing to demonstrate compliance and detailed studies have documented the efficacy of using secondary materials as fuel in cement kilns. Agency review of these efforts has concluded that the use of alternative fuel does not pose an unacceptable risk to human health and the environment, and that the regulatory process is in place to support this conclusion.

We believe it is important to develop and implement regulatory requirements in a manner that ensures the manufacture of our important product, Portland cement, remains a viable process in the U.S. Identifying and addressing areas of regulation that are duplicative or overly-burdensome with no related increase in environmental or human health protection is essential. Toward that end, CKRC and its members look forward to working cooperatively with the Department of Commerce as it seeks information on federal permitting requirements that impact permitting and regulations that burden domestic manufacturing. According to the Portland Cement Association (PCA), the “U.S. cement manufacturers employ over 14,300 workers with an annual payroll of nearly \$1 billion. When including related industries such as concrete, the number of employees grows to nearly 535,000 with an annual payroll of approximately \$25 billion.” CKRC’s membership represents the operation of facilities, plants, and offices in almost every state in our country and employs approximately 7,000 workers whose jobs are associated with the process of beneficially recovering energy from alternative fuels in the manufacture of Portland cement.

CKRC member companies’ use of alternative fuels represents a significant sustainability component incorporated in cement manufacturing operations throughout the U.S. Each year, the United States generates millions of tons of secondary materials that have significant energy value. To recover this energy and avoid wasting it, the cement industry uses very substantial quantities of these materials as alternative fuel, which replaces a portion of the non-renewable traditional fossil fuels used to provide energy for the cement manufacturing process.

The U.S. uses over 90 million tons of cement every year, a rate of use that grows when the economy strengthens. Cement is the active ingredient in concrete, the most widely used construction material in the world. Cement is produced in huge rotary kilns by heating a mixture of minerals to over 2,600°F. This is a very energy intensive process and cement manufacturers have developed technology that allows them to use energy-rich secondary materials created by other industrial processes to replace non-renewable fossil fuels. In

addition to alternative fuels derived from hazardous wastes, non-hazardous alternative fuels can be a wide variety (or mixture) of energy-bearing materials such as tires and similar rubber-related materials, paper and plastics, fibers and fabrics, and much more.

The benefits of energy recovery are important for the environment. When cement kilns use alternative fuels derived from secondary materials, substances that would otherwise be regarded as waste are removed from the environment and handled and re-used in a safe and responsible manner. In addition, the amount of fossil fuels needed to produce cement is reduced, thereby conserving non-renewable energy resources and reducing emissions of greenhouse gases. For example, as EPA has noted, “both GHG and PM emissions have been reduced as a co-benefit of the use of secondary materials.” “For example, the GHG rate associated with the combustion of scrap tires is approximately 0.081 MTCO<sub>2E</sub> per MMBtu of scrap tires combusted, while the GHG emissions rate for coal is approximately 0.094 MTCO<sub>2E</sub> per MMBtu. Combined with the avoided extraction and processing emissions 0.006 MTCO<sub>2E</sub>/MMBtu for coal, the total avoided GHG is 0.019 MTCO<sub>2E</sub> per MMBtu.” EPA has also noted additional benefits: “The use of secondary materials, such as use as a fuel in industrial processes may also result in other benefits. These may include reduced fuel imports, reducing negative environmental impacts caused by previous dumping (*e.g.*, tires), and reduced methane gas generation from landfills.” Proposed Rule, *Identification of Non-Hazardous Secondary Materials That Are Solid Waste*, 75 FR 31844, 31849 (June 4, 2010).

CKRC’s member companies represent a prime example of what can be accomplished when manufacturing a vital product and protecting human health and the environment are well-balanced. The energy and materials recovery realized in the cement manufacturing process embraces sustainability goals and reflects the very important interconnections among our economy, society and the environment.

# COMMENTS

CKRC provides the following comments, which follow the format provided in the Request for Information. We first provide GENERAL INFORMATION about facilities that manufacture cement using hazardous and non-hazardous secondary materials (HSM and NHSM) as fuels, including some materials regulated as hazardous waste. Then, regarding the MANUFACTURING PERMITTING PROCESS, we identify several specific permitting requirements of the US Environmental Protection Agency (EPA) that duplicate other federal permitting requirements and identify several States whose permitting procedures are exemplary and should be considered as models for improving federal permitting procedures. Lastly, we provide information regarding unnecessary REGULATORY BURDEN on CKRC members' facilities. Of the rules identified, some are currently in effect and others have been proposed or finalized but are not yet in effect. In the case of the regulations not yet in effect, a pending administrative proceeding offers an opportunity to address the needless duplication, complexity and burden.

## I. GENERAL INFORMATION

### A. NAICS codes:

- 327310 (Cement Manufacturing)
- 562211 (Hazardous Waste Treatment and Disposal)

### B. What do you manufacture:

CKRC's member companies manufacture Portland cement and replace a portion of their fossil fuel needs by recovering energy found in hazardous waste and non-hazardous secondary materials to fuel the cement kilns in this energy-intensive production process. Other non-hazardous secondary materials are also widely used as ingredients in the cement manufacturing process to replace quarried rock.

### C. Location of CKRC-member facilities/plants that are involved in the recovery of energy from hazardous or non-hazardous alternative fuels in the manufacture of cement and/or the use of non-hazardous secondary materials as ingredients in the cement manufacturing process: Alabama, Arkansas, Colorado, Indiana, Kansas, Maine, Mississippi, Missouri, Nevada, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, and Washington.



## II. MANUFACTURING PERMITTING PROCESS

### A. Federal permit that overlaps with another federal permit

#### Resource Conservation and Recovery Act (RCRA) Subparts Duplicate Clean Air Act (CAA) Subparts

<b>Regulatory Application</b>	<b>Duplicative RCRA Provision</b>	<b>Duplicative CAA Provision</b>
Air Emission Standards from Process Vents	Part 264, Subpart AA Part 265, Subpart AA	Part 60, Subpart NNN Part 63, Subpart DD
Air Emission Standards for Equipment Leaks	Part 264, Subpart BB Part 265, Subpart BB	Part 60, Subpart V Part 60, Subpart VV Part 63, Subpart DD (incorporating Subpart H)
Air Emission Standards from Tanks, Surface Impoundments, Containers	Part 264, Subpart CC Part 265, Subpart CC	Part 60, Subpart Kb (Tanks only) Part 61, Subpart FF Part 63, Subpart DD

#### *Description of overlap and burden:*

CKRC member facilities are subject to various provisions of RCRA and the CAA. In many cases, these two statutes do not necessarily cross-reference each other, which can lead to inconsistency and duplication. In the case of the Part B RCRA Permit and the corresponding CAA Permit, the statutes are substantially duplicative. See 40 CFR § 270 and 40 CFR §§ 70-71. Both RCRA and CAA permits cover the same air emissions from the facility for emissions from waste management units if the applicability criteria are met.

This results in needlessly burdensome requirements on facilities that are subject to both statutes, including the submission of duplicative permit application information, development and implementation of duplicative compliance documentation, submission of duplicative reporting requirements, etc. Requiring the facility to provide and regulating the same information twice does not provide any additional protection to human health or the environment. The following explains the duplicative RCRA and CAA air emission standards identified in the above Table.

RCRA incorporates three different air emission standards at 40 CFR Part 264, Subparts AA, BB, and CC.<sup>1</sup> The Subpart AA, BB, and CC regulations are required to be addressed in the RCRA permitting process. *See* 40 CFR §§ 270.24, 270.25, and 270.27.

CAA regulations also apply to the same types of facilities and units as those covered by RCRA regulations in 40 CFR Part 264, Subparts AA, BB, and CC, which are substantively very similar to and significantly overlap with these RCRA standards. Where applicable, these CAA standards must be addressed in a facility's Title V or State Operating Permit. *See* 40 CFR § 70.8(d). The following describes the overlaps and proposes solutions to each issue.

*Issue 1: Regulatory Language Differences in Subparts AA, BB, and CC:*

The overlap between the RCRA and CAA standards is addressed by allowing facilities to comply with CAA standards in lieu of the RCRA standards. *See* Subparts AA, BB, and CC, 40 CFR §§ 264.1030(e), 264.1064(m), and 264.1080(b)(7)).

As such, RCRA Subparts AA and CC specifically exempt, or exclude from applicability under RCRA, equipment that the owner/operator certifies is providing air emission controls in accordance with CAA rules under 40 CFR Parts 60, 61, or 63. *See* 40 CFR §§ 264.1030(e) and 264.1080(b)(7).

However, RCRA Subpart BB language is different. Subpart BB does not fully exclude the relevant equipment from Subpart BB, rather, it requires the facility to “determine compliance” with RCRA – *i.e.* the facility must document compliance with the RCRA provisions by showing compliance with CAA regulations at 40 Part 60, 61, or 63. *See* 40 CFR § 264.1064. In other words, the facility remains subject to RCRA Subpart BB, but may “demonstrate compliance” by documenting compliance with another rule. Therefore, the facility may remain subject to both RCRA and CAA standards for the same equipment and must include this information in each permit application.

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<sup>1</sup> Note that 40 CFR Part 265 contains substantively identical regulations for interim status facilities and Large Quantity Generators (LQGs). The explanation below references Part 264 standards for permitted TSDFs, but should be considered as comments for the applicable Part 265 standards as well.

*Proposed Solution:*

Subpart BB could be revised to incorporate the same applicability exclusionary language of Subparts AA and CC. This revision would be a conforming, technical change to the regulations, which EPA could accomplish under existing regulatory authority.

*Issue 2: CAA Standards Do Not Offer the Same RCRA Exclusionary Options:*

Depending on the types of units at a RCRA Treatment, Storage and Disposal Facility (TSDF), the applicable RCRA standards may be preferable for application at a hazardous waste TSDF than the corresponding CAA standards for the regulated entity. However, the CAA and standards detailed above do not include similar language to allow RCRA permitted treatment storage and disposal facilities (TSDFs) to implement the Subpart AA, BB, or CC standards in lieu of the CAA standards.

*Proposed Solution:*

The CAA could defer to RCRA to specifically exempt, or exclude from applicability under CAA, equipment that the owner operator certifies is “equipped with and operating air emission controls in accordance with the ... requirements of an applicable Resource Conservation and Recovery Act regulation codified under 40 CFR part 264, Subparts AA, BB, and/or CC.”

*Issue 3: RCRA Air Standards Should Mirror Certain CAA Exemptions for Minor Sources*

The RCRA Subparts AA, BB, and CC air emissions standards apply to a TSDF irrespective of whether the facility is a CAA minor or major source. Several TSDF facilities are CAA minor/area sources of volatile organic compounds (VOCs) and hazardous air pollutants (HAPs) and therefore, have minimal impacts on air quality. Demonstrating compliance with air emission standards at these minor/area sources incurs significant costs and is unduly burdensome given their low emissions. For these reasons, EPA has determined that the Part 61 and 63 CAA standards detailed above do not apply to these minor/area sources. However, the RCRA Subparts AA, BB, and CC air emission standards *do* apply no matter the amount of emissions. To achieve consistent RCRA and CAA air emission regulation of sources, minor sources already exempt from CAA standards should likewise be either exempt from RCRA Subparts AA, BB, and CC or be allowed to comply with CAA air emission standards in lieu of RCRA Subparts AA, BB, and CC air standards.

*Proposed Solution that would exclude CAA minor sources:*

RCRA should be amended to be consistent with the CAA and limit applicability of these standards to “major sources” of VOCs and HAPs. This could be accomplished by revising 40 CFR §§ 264.1030(a) and 264.1050(a), as follows (proposed revision in bold underline):

“(a) The regulations in this subpart apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in § 264.1) **and are major sources under the Clean Air Act.**”

and

Revise 40 CFR § 264.1080(a) as follows (proposed revision in bold underline):

“(a) The requirements of this subpart apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either subpart I, J, or K of this part except as § 264.1 and paragraph (b) of this section provide otherwise, **and are major sources under the Clean Air Act.**”

*Alternative Proposed Solution that would allow CAA minor sources to comply with CAA major source standards in lieu of RCRA air emission standards:*

RCRA should be amended to be consistent with the CAA and allow sources that are minor for VOCs and HAPs to comply with CAA major source standards in lieu of RCRA air emission standards. This could be accomplished by revising 40 CFR §§ 264.1030(e), 264.1064(m), and 264.1080(b)(7) as follows (proposed revision in bold underline):

40 CFR § 264.1030(e):

(e) The requirements of this subpart do not apply to the process vents at a facility where the facility owner or operator certifies that all of the process vents that would otherwise be subject to this subpart are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63. **This exemption shall also be available to minor sources under the Clean Air Act that elect to comply with one of these standards.** The documentation of compliance under regulations at 40 CFR part 60, part 61, or part 63 shall be kept with, or made readily available with, the facility operating record.

and

40 CFR § 264.1064(m)

(m) The owner or operator of a facility with equipment that is subject to this subpart and to regulations at 40 CFR part 60, part 61, or part 63 may elect to determine compliance with this subpart either by documentation pursuant to §264.1064 of this subpart, or by documentation of compliance with the regulations at 40 CFR part 60, part 61, or part 63 pursuant to the relevant provisions of the regulations at 40 part 60, part 61, or part 63. **This exemption shall also be available to minor sources under the Clean**

**Air Act that elect to comply with one of these standards.** The documentation of compliance under regulations at 40 CFR part 60, part 61, or part 63 shall be kept with or made readily available with the facility operating record.

and

40 CFR § 264.1080(b)(7):

(7) A hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63. **This exemption shall also be available to minor sources under the Clean Air Act that elect to comply with one of these standards.** For the purpose of complying with this paragraph, a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of §264.1084(i), except as provided in §264.1082(c)(5).

**B. Proposed federal permit that overlaps with another federal permit**

**Proposed Comprehensive Environmental Response, Compensation & Liability Act (CERCLA) Financial Assurance requirements overlap with RCRA provisions**

Statute	Regulatory Provisions that overlap or are needlessly complex
CERCLA § 108(b)	40 CFR § 320—Financial Responsibility Requirements For CERCLA Liabilities Examples of requirements: 40 CFR § 320.1 (financial responsibility to reflect risk) 40 CFR § 320.61(a) (health assessment, response and natural resource damages) 40 CFR §§ 320.25 and 320.27 (requirements apply until EPA releases facility)
RCRA § 3004(a)(6); § 3004(t)	40 CFR §§ 264.140–264.151, Subpart H—Financial Requirements Examples of requirements: 40 CFR § 264.143 (closure) 40 CFR § 264.145 (post-closure care) 40 CFR § 264.147(a) (liability for sudden accidental occurrences) 40 CFR § 264.147(b) (non-sudden accidental occurrences)

*Description of overlap and burden:*

EPA has proposed new requirements under CERCLA § 108(b) that require facilities to demonstrate financial responsibility to cover costs of releases and potential releases of hazardous substances. *Financial Responsibility Requirements Under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry*, 82 FR 3388 (Jan. 11, 2017). EPA intends to apply these new requirements to a number of industry source categories, beginning with the hardrock mining sector.

The proposed financial assurance requirements under CERCLA § 108(b) would duplicate the financial assurance requirements under several other authorities, including RCRA federal requirements, State requirements and other possibly applicable laws. Most CKRC-members have facilities that are permitted under RCRA Subtitle C, and comply with RCRA § 3004 financial responsibility requirements. RCRA § 3004(a)(6) and (t) requires sources to establish financial responsibility, including for corrective action, as EPA determines is “necessary or desirable....” EPA regulations require extensive financial assurances, including, for example, (1) closure of the facility; (2) post-closure care; (3) liability coverage for sudden accidental occurrences; and (4) coverage for non-sudden accidental occurrences. In some cases, CKRC facilities must also meet overlapping State financial assurance requirements.

*Proposed Solution:*

CERCLA Financial Assurance requirements should be drafted so that they do not duplicate already burdensome and protective Financial Assurance requirements of other statutes applicable to the same sources.

Given the status of this rulemaking, EPA has an opportunity to address this duplication and burden *before* it is finalized. EPA is developing the CERCLA § 108(b) rules pursuant to a judicial consent order that sets deadlines for EPA to propose and finalize Financial Assurance rules for several specified source categories, and that requires EPA to assess the need for applying these requirements to other industry sectors. *See In re Idaho Conservation League*, 811 F.3d 502 (DC Cir. 2016). EPA’s new Financial Assurance rules will apply to all other industry sectors for which EPA – at some future date – may determine the rules are appropriate. However, because EPA published the proposed rule as applicable to hardrock mining, all other industry sectors that may be covered in the future have not been given adequate notice of the rules that may affect them. Therefore, CKRC suggests that EPA revise the proposed rule to eliminate the duplication and issue a new

Notice of Proposed Rulemaking. This would resolve the substantive overlap and cure the procedural defect of the pending rulemaking proceeding.

### **C. State Agencies whose permitting practices should be widely implemented**

CKRC members have facilities in a broad geographic range and subject to many different State permitting agencies. Several States have exemplary permitting procedures and could be considered as models for improving federal permitting procedures.

In addition to specific improvements in Federal permitting, CKRC suggests a re-commitment by EPA and other Federal authorities to the *supporting* role of the Federal government clearly enunciated by Congress in the US environmental statutes. In the Clean Air Act, for example, Congress clearly defined the Federal role as leading a research effort and providing support to the States' own pollution prevention programs:

(b) The purposes of this title are— (1) 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; (2) to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution; (3) *to provide technical and financial assistance to State and local governments in connection with the development and execution of their* air pollution prevention and control programs; and (4) to encourage and assist the development and operation of regional air pollution prevention and control programs.

42 U.S.C. § 7401(b), CAA § 101(b) (emphasis added).

In keeping with these principles, EPA and other Federal regulators should defer to State agencies as the primary decision-makers, including when States are running programs under authorized or delegated authority by EPA. State agencies have proven their programs to be environmentally protective and at the same time more agile and able to adapt quickly to circumstances specific to the State or locale.

1. South Carolina Expedited Review Program. The South Carolina Department of Health and Environmental Control (DHEC) Expedited Review Program offers facilities applying for an air construction permit a shortened permit application review time frame in exchange for a fee paid by the facility. For example, a minor source construction permit that is accepted into the Expedited Review Program is expected to be issued within 30 calendar days rather than the regulatory-required 90 days. A large project that requires Prevention of Significant Deterioration (PSD) review has an expected

issuance 120-150 calendar days,<sup>2</sup> including the 30 day public comment period, following acceptance into the program (the required regulatory issuance is within 270 days).<sup>3</sup> The Expedited Review Program offers facilities an opportunity to initiate time-sensitive projects much more quickly. Empirical knowledge suggests the program is widely accepted and utilized by industry. The DHEC's Standard Operating Procedures for this program are attached.

2. Pennsylvania Department of Environmental Protection (PADEP) Request for Determination (RFD) Procedures. The RFD process allows facilities to obtain permit exemption determinations for projects of "minor significance." The on-line RFD process allows users to "self-register" for the program and submit a request following the RFD template forms. This improves the data gathering process for the PADEP's review, resulting in faster evaluations and turn-around time. CKRC member experience ranges from two to three days to three weeks.
3. Texas Permit by Rule Program. Knowing that the air permitting process is often complex and lengthy, the State of Texas has pre-determined that air quality is not threatened by certain types of small-scope construction projects, and has stream-lined the authorization process for such projects via its permit-by-rule (PBR) program. The intent of PBRs is to allow plant operations to carry out small-scope changes without waiting on agency approval—and without overwhelming the agency with reviews. Some PBRs require registration timed with the activity, while others require a notification. A submittal to the agency usually consists of a process description, a project description, an area map, a plot plan, a Core Data form, a simple form, various standardized checklists, a copy of the PBR, a line-by-line description of how the project meets each requirement of the PBR, and the supporting emission calculations. If the PBR does not require site approval from the TCEQ (and many do not), the facility may begin construction (or the activity) right after submittal of registration to TCEQ. Generally, PBRs offer numerous Texas facilities a high degree of permitting flexibility.
4. Indiana Department of Environmental Management (IDEM) presents a positive and cooperative spirit in the air permitting process by working hard to meet internal deadlines in a timely manner. The state also

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<sup>2</sup> A PSD application that does not impact a Class I area (i.e., where modeling is not required) has an issuance date of 120 days following program acceptance, and a PSD application impacting a Class I area has an issuance date of 150 days after acceptance into the program.

<sup>3</sup> In these examples, the fee for a minor construction permit is \$3,000, and a PSD permit ranges from \$20,000 - \$25,000 dependent upon whether or not the project impacts a Class I area.



has authority to do risk assessments which significantly helps streamline the process and make for a much more efficient permitting experience.

### III. REGULATORY BURDEN / COMPLIANCE – EPA REGULATIONS

#### A. How regulatory compliance could be simplified

#### Clean Water Act (CWA) Spill Prevention, Control, and Countermeasure (SPCC) requirements overlap with Resource Conservation and Recovery Act (RCRA) Contingency Plan

Statute	Regulatory Provisions that overlap or are needlessly complex
CWA	40 CFR § 112.7: General Requirements for Spill Prevention, Control, and Countermeasure Plans.
RCRA	40 CFR Part 264, Subpart D: RCRA Contingency Plan Provisions 40 CFR Part 265, Subpart D: RCRA Contingency Plan Provisions

#### *Description of overlap and burden:*

The CWA SPCC regulations are intended to prevent and designed to establish countermeasures for accidental discharges of oil that could affect water quality. These rules apply to tanks/containers where oil is considered a hazardous waste under 40 CFR Part 261 or has been mixed with hazardous waste and the tank is therefore subject to the Federal RCRA standards and, in some cases, the RCRA Contingency Plan provisions. The CWA SPCC requirements duplicate RCRA requirements and thus impose an unnecessary burden and complexity for no apparent environmental benefit.

#### *Proposed Solution:*

SPCC regulations must be revised to exempt oil tanks/containers that contain material defined as hazardous waste and subject to the RCRA Contingency Plan requirements at 40 CFR Part 264, Subpart D or 40 CFR Part 265, Subpart D. To accomplish this, we propose this specific revision:

- Revise 40 CFR § 112.1(d) to exclude from regulation, tanks and containers that are used to store hazardous waste as defined at 40 CFR § 261.3 and are subject to the RCRA Contingency Plan Requirements at Part 264, Subpart D or Part 265, Subpart D.

**B. How regulatory compliance could be simplified**

**Clean Air Chemical Accident Prevention Program Standards Overlap with OSHA PSM Standards**

Statute	Regulatory Provisions that overlap or are needlessly complex
CAA Chemical Accident Prevention Provisions	40 CFR Part 68, Subpart D: Program 3 Prevention Program
OSHA Process Safety Management (PSM) Standards	29 CFR Part 1910.119: Process Safety Management of Highly Hazardous Substances

*Description of needless complexity and burden:*

Section 112(r) of the 1990 Clean Air Act, 42 U.S.C. § 7412(r), required promulgation of regulations for the prevention of accidental releases of regulated substances from certain regulated stationary sources. These regulations are outlined in detail at 40 CFR Part 68, Chemical Accident Prevention Provisions.

The goal of Part 68 (otherwise referred to as the “risk management program (RMP)”), is to prevent accidental releases of substances that can cause serious harm to the public and the environment from short-term exposures and to mitigate the severity of releases that do occur. Part 68 requires facilities to determine their applicability under the rule by performing a threshold determination for all chemicals listed at 40 CFR § 68.130. If a facility determines that it manages one or more regulated substances in a process at or above the appropriate threshold quantity, it must then determine the appropriate Program Level with which it must comply under RMP. These Program Levels range from Program 1, which requires minimal prevention requirements other than to coordinate emergency activities with local emergency response agencies, to Program 3, which requires facilities to implement a rigorous Prevention Program.

As acknowledged by EPA, the Program 3 Prevention Program Requirements of the RMP regulations were modeled after the OSHA Process Safety Management (PSM) Standards promulgated at 29 CFR § 1910.119. So much so, that the RMP Program 3 Prevention Program Requirements are virtually identical to the requirements detailed under the OSHA PSM Standards.

The requirement for facilities regulated under RMP to reproduce this information as part of its Risk Management Plan submission to EPA is the definition of redundant and overly burdensome.

*Proposed Solution:*

The RMP regulations at 40 CFR Part 68 could be revised to exempt facilities from the Program 3 Prevention Program Requirements if the owner/operator certifies that it has implemented a PSM program under 29 CFR § 1910.119 for the regulated process that would normally be subject to the Program 3 Prevention Program Requirements. This certification can be included with the on-line RMP submission to EPA.

**Clean Air Chemical Accident Prevention Program Standards Overlap with RCRA Standards**

Statute	Regulatory Provisions that overlap or are needlessly complex
CAA Chemical Accident Prevention Provisions	40 CFR Part 68, Subpart E: Emergency Response
RCRA TSDF Contingency Plan Standards	40 CFR Part 264, Subpart D: Contingency Plan and Emergency Procedures

*Description of needless complexity and burden:*

40 CFR §§ 68.90 and 68.95 require that owners or operators of a stationary source with Program 2 and Program 3 processes “develop and implement an emergency response program for the purpose of protecting public health and environment...” The requirements for this emergency response program include the following elements:

- (1) An emergency response plan, which shall be maintained at the stationary source and contain at least the following elements:
  - (i) Procedures for informing the public and local emergency response agencies about accidental releases;
  - (ii) Documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures; and
  - (iii) Procedures and measures for emergency response after an accidental release of a regulated substance;
- (2) Procedures for the use of emergency response equipment and for its inspection, testing, and maintenance;
- (3) Training for all employees in relevant procedures; and
- (4) Procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of changes.

40 CFR § 68.95(a). 40 CFR Part 264, Subparts C and D (and Part 265, Subparts C and D for Interim Status Facilities) require TSDFs to prepare and implement a Preparedness and Prevention Procedures and a Contingency Plan and Emergency Procedures to minimize these same risks at facilities that store RCRA hazardous waste, which may also be regulated under the CAA RMP regulations. The RCRA Contingency Plan, Preparedness and Prevention, and Training Requirements also require the following shared elements with the RMP Emergency Response Program:

- Procedures for notifying appropriate State or local agencies with designated response roles (§§ 264.56(a)(2) and (d)(2))
- Procedures for emergency response (§ 264.56)
- Procedures for the use, inspection and testing of emergency equipment (§§ 264.52(e), 264.33)
- Contingency Plan Training (§ 264.16)
- Procedures for updating the Contingency Plan (§ 264.54)

This overlap in regulatory provisions requires RCRA TSDFs to submit to EPA, Emergency Response Plan information that duplicates the Contingency Plan information that has been submitted to, and approved by, the RCRA-authorized State agencies.

*Proposed Solution:*

The CAA RMP regulations should be revised to exempt facilities from the Emergency Response Program requirements at 40 CFR Part 68, Subpart E, if the facility is required to prepare and implement a Contingency Plan under the Federal RCRA Permitting or Interim Status regulations at 40 CFR Parts 264 or 265.

**Clean Air Chemical Accident Prevention Program Applicability and Overlap with RCRA Standards**

Statute	Regulatory Provisions that overlap or are needlessly complex
CAA Chemical Accident Prevention Provisions	40 CFR Part 68.10: Applicability
RCRA TSDF Standards	40 CFR Part 264.72(c): Manifest Discrepancies in Type

*Description of needless complexity and burden:*

For purposes of determining applicability of the RMP regulations, 40 CFR § 68.10(a) states, in part, that:

(a) An owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under §68.115, shall comply with the requirements of this part no later than the latest of the following dates: \*\*\*

(3) The date on which a regulated substance is first present above a threshold quantity in a process.”

A process, under RMP, is defined at § 68.3 as follows:

*Process* means any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

RCRA TSDF facilities many times receive hazardous waste in containers that must be off-loaded from the transportation vehicle and temporarily staged at the facility while personnel sample the incoming containers and implement the facility’s RCRA Permit Waste Analysis Plan (WAP) (i.e., implement its incoming shipment review procedures). At this time, the facility has not accepted the hazardous waste into permitted storage.

However, based on the RMP definition of “process,” in the event that a RCRA TSDF were to identify a waste stream in its temporary staging area that contained an RMP chemical in excess of the applicable RMP threshold quantity, the RMP applicability standards at Section 68.10(a) could be construed to read that the facility is subject to the RMP standards at that time. Due to this potential issue, several facilities may believe it necessary to prepare and submit a “predictive filing” under RMP in the event that a material were to be delivered to the site above the regulatory thresholds, even though it would be rejected and not accepted into permitted storage.

The preparation of an RMP program and submission of a predictive filing is an unnecessary and burdensome process to account for such short-term scenarios.

As detailed above, the Federal RCRA standards allow facilities to “receive” waste streams while they implement its WAP and, if necessary, reject the wastes before they are considered to be part of the “Permitted Storage.” We believe that a similar concept should be incorporated into the RMP standards by excluding from applicability, waste materials received at facilities that are undergoing incoming shipment review procedures under the facility’s WAP and not yet “accepted into storage.”

*Proposed Solution:*

40 CFR § 68.10(a) could be revised as follows (bold underline indicates proposed revisions):

“(a) **Except as provided at §68.10(a)(4),** an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under §68.115, shall comply with the requirements of this part no later than the latest of the following dates: \*\*\*

**(4) RMP chemicals temporarily received and staged at a RCRA treatment storage and disposal facility (TSDF) that are undergoing incoming shipment acceptance review procedures under the facility’s RCRA Waste Analysis Plan shall not be considered to be part of the facility’s “process” until they have been accepted under the facility’s RCRA permit and placed in permitted storage.**”

**C. How regulatory compliance could be simplified**

**Recently amended Clean Air Act Risk Management Plan provisions**

Statute	Regulatory Provisions that overlap or are needlessly complex
CAA	40 CFR Parts 68.60 and 68.81(root cause analysis) 40 CFR Parts 68.58, 68.59, 68.79, and 68.80 (compliance audit) 40 CFR §68.93(a) (local responder coordination)
RCRA	40 CFR Part 264 (contingency plan required field exercises)

*Description of needless complexity and burden:*

EPA recently finalized revisions to its CAA Risk Management Program. Final Rule: *Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act*, 82 FR 4594 (Jan. 13, 2017). Several of the new provisions increase regulatory burden without improving environmental, health or safety protections. For example, the amendments require root cause analysis for events that do not result in a release; impose onerous third-party audit requirements; new requirements for Emergency Response Program to duplicate existing coordination with local responders; mandate new field and table-top emergency response drills; mandate that chemical hazard information be made available to the Local Emergency Planning Committee; and require that certain RMP and chemical hazard information be made available to the public in the

local library or other readily available manner. These provisions duplicate existing law or increase burden but they do not enhance the safety of facilities or provide any additional prevention of harm. Worse, some of the new amendments will create safety risks, for example, by requiring disclosure of sensitive site data that could create security concerns.

*Proposed Solution:*

EPA has granted a Petition for Administrative Reconsideration of the final rule and has stayed the effective date of the rule to June 19, 2017. Final Rule; Delay of Effective Date: *Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Further Delay of Effective Date*, 82 FR 13968 (Mar. 16, 2017). EPA could use the administrative review and proceed with additional rulemaking proceedings to analyze and address this needless duplication. In comments on the proposed rule, CKRC provided specific suggestions for addressing each area of concern. These are attached.

## CONCLUSION

CKRC appreciates the opportunity to bring to the attention of the Department of Commerce and the Environmental Protection Agency, several federal regulations that duplicate other regulations or needlessly impose burdens. The revisions we propose here would not result in less protection of human health or the environment. CKRC would be pleased to provide additional information that may be helpful to a better understanding of the burdens on its member facilities.



May 9, 2017

**VIA Electronic Filing**

**RE: US Environmental Protection Agency  
Office of Regulatory Policy and Management  
Request for Comment, Evaluation of Existing Regulations  
82 FR 17793 (April 13, 2017)  
Docket No. EPA-HQ-OA-2017-0190**

Dear Associate Administrator Dravis:

In a Request for Comment implementing Executive Order 13777, “Enforcing the Regulatory Reform Agenda,” the US Environmental Protection Agency (EPA) seeks input from the public on existing regulations that should be repealed, replaced, or modified. The information EPA seeks will assist the Regulatory Reform Task Force in identifying and prioritizing regulations – per the Executive Order – that interfere with regulatory reform initiatives or that are outdated, unnecessary or ineffective. EPA requests that commenters be specific and include supporting data such as Federal Register citations and suggestions for repeal, replacement or modification.

The Cement Kiln Recycling Coalition (CKRC) is pleased to submit the attached comments suggesting specific EPA regulations for repeal or modification. CKRC filed these comments in response to the earlier US Department of Commerce Request for Information, *Impact of Federal Regulations on Domestic Manufacturing*, 82 FR 12786 (March 7, 2017). The Department of Commerce asked the public to identify regulations that impose duplicate or unnecessary burdens on US manufacturing. CKRC’s submission to the Department of Commerce also directly responds to EPA’s Request: regulations that double the burden on industry without any additional health or environmental benefit are appropriate for repeal, replacement or modification. CKRC’s submission also provides the detail sought by EPA, with specific Federal Register citations and suggestions for how EPA could eliminate the double regulatory burden.

CKRC is a national trade association representing cement manufacturers in the US that recycle the value in energy-bearing secondary materials by using them as fuel in kilns that produce Portland cement. CKRC also represents companies that collect, process, manage, and market alternative fuels for use in cement kilns. According to the Portland Cement Association (PCA), “U.S. cement manufacturers employ over 14,300 workers with an annual payroll of nearly \$1 billion. When including related industries such as concrete, the number of employees grows to nearly 535,000 with an annual payroll of approximately \$25 billion.” CKRC’s membership represents the operation of facilities, plants, and offices in almost every state in our country and employs approximately 7,000 workers whose jobs are associated with the process of beneficially recovering energy from alternative fuels in the manufacture of Portland cement.

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Environmental Protection Agency  
May 9, 2017  
Page 2

CKRC and its members appreciate the opportunity to bring to the attention of the EPA several federal regulations that duplicate other regulations or needlessly impose burdens and should be modified. As noted above, the revisions we propose in the attached comments would not result in less protection of human health or the environment. CKRC would be pleased to provide additional information that may be helpful to a better understanding of the burdens on its member facilities.

Sincerely,

/s/ Michelle G. Lusk

Michelle G. Lusk  
Executive Director

Attached: Comments of CKRC in response to US Department of Commerce Request for Information, *Impact of Federal Regulations on Domestic Manufacturing*, 82 FR 12786 (March 7, 2017).



March 31, 2017

**VIA Electronic Filing**

**RE: US Department of Commerce Office of Policy and Strategic Planning  
Notice, Request for Information  
Impact of Federal Regulations on Domestic Manufacturing  
82 FR 12786 (March 7, 2017)  
Docket 170302221-7221-01**

Dear Director Comstock:

In a Request for Information implementing Executive Order 13771, the Department of Commerce seeks information on federal permitting requirements that impact permitting and regulations that burden domestic manufacturing. The Request seeks General Information, and information about the Manufacturing Permitting Process and Regulatory Burden/Compliance. CKRC is pleased to submit these comments in response to the Request for Information.

## **INTRODUCTION**

The Cement Kiln Recycling Coalition (CKRC) is a national trade association representing cement manufacturers in the U.S. that recycle the value in energy-bearing secondary materials by using them as fuel in kilns that produce Portland cement. CKRC also represents companies that collect, process, manage, and market alternative fuels for use in cement kilns.

CKRC member companies comply with myriad regulatory requirements under many different environmental and health and safety laws. Our members are dedicated to operating in accordance with the regulatory requirements to ensure the protection of human health and the environment. Over the last 30 years, engineers, combustion and testing specialists, risk assessors, and technicians have worked together to develop significant resources to understand the complex combustion and emissions control opportunities accomplished while producing Portland cement. Decades of rulemaking development, regarding both the cement kiln combustion system process emissions and the use of alternative fuel in the process, have resulted in the stringent regulation

of our facilities under the CAA and other environmental laws. Extensive emissions testing to demonstrate compliance and detailed studies have documented the efficacy of using secondary materials as fuel in cement kilns. Agency review of these efforts has concluded that the use of alternative fuel does not pose an unacceptable risk to human health and the environment, and that the regulatory process is in place to support this conclusion.

We believe it is important to develop and implement regulatory requirements in a manner that ensures the manufacture of our important product, Portland cement, remains a viable process in the U.S. Identifying and addressing areas of regulation that are duplicative or overly-burdensome with no related increase in environmental or human health protection is essential. Toward that end, CKRC and its members look forward to working cooperatively with the Department of Commerce as it seeks information on federal permitting requirements that impact permitting and regulations that burden domestic manufacturing. According to the Portland Cement Association (PCA), the “U.S. cement manufacturers employ over 14,300 workers with an annual payroll of nearly \$1 billion. When including related industries such as concrete, the number of employees grows to nearly 535,000 with an annual payroll of approximately \$25 billion.” CKRC’s membership represents the operation of facilities, plants, and offices in almost every state in our country and employs approximately 7,000 workers whose jobs are associated with the process of beneficially recovering energy from alternative fuels in the manufacture of Portland cement.

CKRC member companies’ use of alternative fuels represents a significant sustainability component incorporated in cement manufacturing operations throughout the U.S. Each year, the United States generates millions of tons of secondary materials that have significant energy value. To recover this energy and avoid wasting it, the cement industry uses very substantial quantities of these materials as alternative fuel, which replaces a portion of the non-renewable traditional fossil fuels used to provide energy for the cement manufacturing process.

The U.S. uses over 90 million tons of cement every year, a rate of use that grows when the economy strengthens. Cement is the active ingredient in concrete, the most widely used construction material in the world. Cement is produced in huge rotary kilns by heating a mixture of minerals to over 2,600°F. This is a very energy intensive process and cement manufacturers have developed technology that allows them to use energy-rich secondary materials created by other industrial processes to replace non-renewable fossil fuels. In

addition to alternative fuels derived from hazardous wastes, non-hazardous alternative fuels can be a wide variety (or mixture) of energy-bearing materials such as tires and similar rubber-related materials, paper and plastics, fibers and fabrics, and much more.

The benefits of energy recovery are important for the environment. When cement kilns use alternative fuels derived from secondary materials, substances that would otherwise be regarded as waste are removed from the environment and handled and re-used in a safe and responsible manner. In addition, the amount of fossil fuels needed to produce cement is reduced, thereby conserving non-renewable energy resources and reducing emissions of greenhouse gases. For example, as EPA has noted, “both GHG and PM emissions have been reduced as a co-benefit of the use of secondary materials.” “For example, the GHG rate associated with the combustion of scrap tires is approximately 0.081 MTCO<sub>2E</sub> per MMBtu of scrap tires combusted, while the GHG emissions rate for coal is approximately 0.094 MTCO<sub>2E</sub> per MMBtu. Combined with the avoided extraction and processing emissions 0.006 MTCO<sub>2E</sub>/MMBtu for coal, the total avoided GHG is 0.019 MTCO<sub>2E</sub> per MMBtu.” EPA has also noted additional benefits: “The use of secondary materials, such as use as a fuel in industrial processes may also result in other benefits. These may include reduced fuel imports, reducing negative environmental impacts caused by previous dumping (*e.g.*, tires), and reduced methane gas generation from landfills.” Proposed Rule, *Identification of Non-Hazardous Secondary Materials That Are Solid Waste*, 75 FR 31844, 31849 (June 4, 2010).

CKRC’s member companies represent a prime example of what can be accomplished when manufacturing a vital product and protecting human health and the environment are well-balanced. The energy and materials recovery realized in the cement manufacturing process embraces sustainability goals and reflects the very important interconnections among our economy, society and the environment.

# COMMENTS

CKRC provides the following comments, which follow the format provided in the Request for Information. We first provide GENERAL INFORMATION about facilities that manufacture cement using hazardous and non-hazardous secondary materials (HSM and NHSM) as fuels, including some materials regulated as hazardous waste. Then, regarding the MANUFACTURING PERMITTING PROCESS, we identify several specific permitting requirements of the US Environmental Protection Agency (EPA) that duplicate other federal permitting requirements and identify several States whose permitting procedures are exemplary and should be considered as models for improving federal permitting procedures. Lastly, we provide information regarding unnecessary REGULATORY BURDEN on CKRC members' facilities. Of the rules identified, some are currently in effect and others have been proposed or finalized but are not yet in effect. In the case of the regulations not yet in effect, a pending administrative proceeding offers an opportunity to address the needless duplication, complexity and burden.

## I. GENERAL INFORMATION

### A. NAICS codes:

- 327310 (Cement Manufacturing)
- 562211 (Hazardous Waste Treatment and Disposal)

### B. What do you manufacture:

CKRC's member companies manufacture Portland cement and replace a portion of their fossil fuel needs by recovering energy found in hazardous waste and non-hazardous secondary materials to fuel the cement kilns in this energy-intensive production process. Other non-hazardous secondary materials are also widely used as ingredients in the cement manufacturing process to replace quarried rock.

### C. Location of CKRC-member facilities/plants that are involved in the recovery of energy from hazardous or non-hazardous alternative fuels in the manufacture of cement and/or the use of non-hazardous secondary materials as ingredients in the cement manufacturing process: Alabama, Arkansas, Colorado, Indiana, Kansas, Maine, Mississippi, Missouri, Nevada, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, and Washington.

## II. MANUFACTURING PERMITTING PROCESS

### A. Federal permit that overlaps with another federal permit

#### Resource Conservation and Recovery Act (RCRA) Subparts Duplicate Clean Air Act (CAA) Subparts

<b>Regulatory Application</b>	<b>Duplicative RCRA Provision</b>	<b>Duplicative CAA Provision</b>
Air Emission Standards from Process Vents	Part 264, Subpart AA Part 265, Subpart AA	Part 60, Subpart NNN Part 63, Subpart DD
Air Emission Standards for Equipment Leaks	Part 264, Subpart BB Part 265, Subpart BB	Part 60, Subpart V Part 60, Subpart VV Part 63, Subpart DD (incorporating Subpart H)
Air Emission Standards from Tanks, Surface Impoundments, Containers	Part 264, Subpart CC Part 265, Subpart CC	Part 60, Subpart Kb (Tanks only) Part 61, Subpart FF Part 63, Subpart DD

#### *Description of overlap and burden:*

CKRC member facilities are subject to various provisions of RCRA and the CAA. In many cases, these two statutes do not necessarily cross-reference each other, which can lead to inconsistency and duplication. In the case of the Part B RCRA Permit and the corresponding CAA Permit, the statutes are substantially duplicative. See 40 CFR § 270 and 40 CFR §§ 70-71. Both RCRA and CAA permits cover the same air emissions from the facility for emissions from waste management units if the applicability criteria are met.

This results in needlessly burdensome requirements on facilities that are subject to both statutes, including the submission of duplicative permit application information, development and implementation of duplicative compliance documentation, submission of duplicative reporting requirements, etc. Requiring the facility to provide and regulating the same information twice does not provide any additional protection to human health or the environment. The following explains the duplicative RCRA and CAA air emission standards identified in the above Table.

RCRA incorporates three different air emission standards at 40 CFR Part 264, Subparts AA, BB, and CC.<sup>1</sup> The Subpart AA, BB, and CC regulations are required to be addressed in the RCRA permitting process. *See* 40 CFR §§ 270.24, 270.25, and 270.27.

CAA regulations also apply to the same types of facilities and units as those covered by RCRA regulations in 40 CFR Part 264, Subparts AA, BB, and CC, which are substantively very similar to and significantly overlap with these RCRA standards. Where applicable, these CAA standards must be addressed in a facility's Title V or State Operating Permit. *See* 40 CFR § 70.8(d). The following describes the overlaps and proposes solutions to each issue.

*Issue 1: Regulatory Language Differences in Subparts AA, BB, and CC:*

The overlap between the RCRA and CAA standards is addressed by allowing facilities to comply with CAA standards in lieu of the RCRA standards. *See* Subparts AA, BB, and CC, 40 CFR §§ 264.1030(e), 264.1064(m), and 264.1080(b)(7)).

As such, RCRA Subparts AA and CC specifically exempt, or exclude from applicability under RCRA, equipment that the owner/operator certifies is providing air emission controls in accordance with CAA rules under 40 CFR Parts 60, 61, or 63. *See* 40 CFR §§ 264.1030(e) and 264.1080(b)(7).

However, RCRA Subpart BB language is different. Subpart BB does not fully exclude the relevant equipment from Subpart BB, rather, it requires the facility to “determine compliance” with RCRA – *i.e.* the facility must document compliance with the RCRA provisions by showing compliance with CAA regulations at 40 Part 60, 61, or 63. *See* 40 CFR § 264.1064. In other words, the facility remains subject to RCRA Subpart BB, but may “demonstrate compliance” by documenting compliance with another rule. Therefore, the facility may remain subject to both RCRA and CAA standards for the same equipment and must include this information in each permit application.

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<sup>1</sup> Note that 40 CFR Part 265 contains substantively identical regulations for interim status facilities and Large Quantity Generators (LQGs). The explanation below references Part 264 standards for permitted TSDFs, but should be considered as comments for the applicable Part 265 standards as well.

*Proposed Solution:*

Subpart BB could be revised to incorporate the same applicability exclusionary language of Subparts AA and CC. This revision would be a conforming, technical change to the regulations, which EPA could accomplish under existing regulatory authority.

*Issue 2: CAA Standards Do Not Offer the Same RCRA Exclusionary Options:*

Depending on the types of units at a RCRA Treatment, Storage and Disposal Facility (TSDF), the applicable RCRA standards may be preferable for application at a hazardous waste TSDF than the corresponding CAA standards for the regulated entity. However, the CAA and standards detailed above do not include similar language to allow RCRA permitted treatment storage and disposal facilities (TSDFs) to implement the Subpart AA, BB, or CC standards in lieu of the CAA standards.

*Proposed Solution:*

The CAA could defer to RCRA to specifically exempt, or exclude from applicability under CAA, equipment that the owner operator certifies is “equipped with and operating air emission controls in accordance with the ... requirements of an applicable Resource Conservation and Recovery Act regulation codified under 40 CFR part 264, Subparts AA, BB, and/or CC.”

*Issue 3: RCRA Air Standards Should Mirror Certain CAA Exemptions for Minor Sources*

The RCRA Subparts AA, BB, and CC air emissions standards apply to a TSDF irrespective of whether the facility is a CAA minor or major source. Several TSDF facilities are CAA minor/area sources of volatile organic compounds (VOCs) and hazardous air pollutants (HAPs) and therefore, have minimal impacts on air quality. Demonstrating compliance with air emission standards at these minor/area sources incurs significant costs and is unduly burdensome given their low emissions. For these reasons, EPA has determined that the Part 61 and 63 CAA standards detailed above do not apply to these minor/area sources. However, the RCRA Subparts AA, BB, and CC air emission standards *do* apply no matter the amount of emissions. To achieve consistent RCRA and CAA air emission regulation of sources, minor sources already exempt from CAA standards should likewise be either exempt from RCRA Subparts AA, BB, and CC or be allowed to comply with CAA air emission standards in lieu of RCRA Subparts AA, BB, and CC air standards.



*Proposed Solution that would exclude CAA minor sources:*

RCRA should be amended to be consistent with the CAA and limit applicability of these standards to “major sources” of VOCs and HAPs. This could be accomplished by revising 40 CFR §§ 264.1030(a) and 264.1050(a), as follows (proposed revision in bold underline):

“(a) The regulations in this subpart apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in § 264.1) **and are major sources under the Clean Air Act.**”

and

Revise 40 CFR § 264.1080(a) as follows (proposed revision in bold underline):

“(a) The requirements of this subpart apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either subpart I, J, or K of this part except as § 264.1 and paragraph (b) of this section provide otherwise, **and are major sources under the Clean Air Act.**”

*Alternative Proposed Solution that would allow CAA minor sources to comply with CAA major source standards in lieu of RCRA air emission standards:*

RCRA should be amended to be consistent with the CAA and allow sources that are minor for VOCs and HAPs to comply with CAA major source standards in lieu of RCRA air emission standards. This could be accomplished by revising 40 CFR §§ 264.1030(e), 264.1064(m), and 264.1080(b)(7) as follows (proposed revision in bold underline):

40 CFR § 264.1030(e):

(e) The requirements of this subpart do not apply to the process vents at a facility where the facility owner or operator certifies that all of the process vents that would otherwise be subject to this subpart are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63. **This exemption shall also be available to minor sources under the Clean Air Act that elect to comply with one of these standards.** The documentation of compliance under regulations at 40 CFR part 60, part 61, or part 63 shall be kept with, or made readily available with, the facility operating record.

and

40 CFR § 264.1064(m)

(m) The owner or operator of a facility with equipment that is subject to this subpart and to regulations at 40 CFR part 60, part 61, or part 63 may elect to determine compliance with this subpart either by documentation pursuant to §264.1064 of this subpart, or by documentation of compliance with the regulations at 40 CFR part 60, part 61, or part 63 pursuant to the relevant provisions of the regulations at 40 part 60, part 61, or part 63. **This exemption shall also be available to minor sources under the Clean**

**Air Act that elect to comply with one of these standards.** The documentation of compliance under regulations at 40 CFR part 60, part 61, or part 63 shall be kept with or made readily available with the facility operating record.

and

40 CFR § 264.1080(b)(7):

(7) A hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR part 60, part 61, or part 63. **This exemption shall also be available to minor sources under the Clean Air Act that elect to comply with one of these standards.** For the purpose of complying with this paragraph, a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of §264.1084(i), except as provided in §264.1082(c)(5).

**B. Proposed federal permit that overlaps with another federal permit**

**Proposed Comprehensive Environmental Response, Compensation & Liability Act (CERCLA) Financial Assurance requirements overlap with RCRA provisions**

Statute	Regulatory Provisions that overlap or are needlessly complex
CERCLA § 108(b)	40 CFR § 320—Financial Responsibility Requirements For CERCLA Liabilities Examples of requirements: 40 CFR § 320.1 (financial responsibility to reflect risk) 40 CFR § 320.61(a) (health assessment, response and natural resource damages) 40 CFR §§ 320.25 and 320.27 (requirements apply until EPA releases facility)
RCRA § 3004(a)(6); § 3004(t)	40 CFR §§ 264.140–264.151, Subpart H—Financial Requirements Examples of requirements: 40 CFR § 264.143 (closure) 40 CFR § 264.145 (post-closure care) 40 CFR § 264.147(a) (liability for sudden accidental occurrences) 40 CFR § 264.147(b) (non-sudden accidental occurrences)

*Description of overlap and burden:*

EPA has proposed new requirements under CERCLA § 108(b) that require facilities to demonstrate financial responsibility to cover costs of releases and potential releases of hazardous substances. *Financial Responsibility Requirements Under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry*, 82 FR 3388 (Jan. 11, 2017). EPA intends to apply these new requirements to a number of industry source categories, beginning with the hardrock mining sector.

The proposed financial assurance requirements under CERCLA § 108(b) would duplicate the financial assurance requirements under several other authorities, including RCRA federal requirements, State requirements and other possibly applicable laws. Most CKRC-members have facilities that are permitted under RCRA Subtitle C, and comply with RCRA § 3004 financial responsibility requirements. RCRA § 3004(a)(6) and (t) requires sources to establish financial responsibility, including for corrective action, as EPA determines is “necessary or desirable....” EPA regulations require extensive financial assurances, including, for example, (1) closure of the facility; (2) post-closure care; (3) liability coverage for sudden accidental occurrences; and (4) coverage for non-sudden accidental occurrences. In some cases, CKRC facilities must also meet overlapping State financial assurance requirements.

*Proposed Solution:*

CERCLA Financial Assurance requirements should be drafted so that they do not duplicate already burdensome and protective Financial Assurance requirements of other statutes applicable to the same sources.

Given the status of this rulemaking, EPA has an opportunity to address this duplication and burden *before* it is finalized. EPA is developing the CERCLA § 108(b) rules pursuant to a judicial consent order that sets deadlines for EPA to propose and finalize Financial Assurance rules for several specified source categories, and that requires EPA to assess the need for applying these requirements to other industry sectors. *See In re Idaho Conservation League*, 811 F.3d 502 (DC Cir. 2016). EPA’s new Financial Assurance rules will apply to all other industry sectors for which EPA – at some future date – may determine the rules are appropriate. However, because EPA published the proposed rule as applicable to hardrock mining, all other industry sectors that may be covered in the future have not been given adequate notice of the rules that may affect them. Therefore, CKRC suggests that EPA revise the proposed rule to eliminate the duplication and issue a new

Notice of Proposed Rulemaking. This would resolve the substantive overlap and cure the procedural defect of the pending rulemaking proceeding.

### **C. State Agencies whose permitting practices should be widely implemented**

CKRC members have facilities in a broad geographic range and subject to many different State permitting agencies. Several States have exemplary permitting procedures and could be considered as models for improving federal permitting procedures.

In addition to specific improvements in Federal permitting, CKRC suggests a re-commitment by EPA and other Federal authorities to the *supporting* role of the Federal government clearly enunciated by Congress in the US environmental statutes. In the Clean Air Act, for example, Congress clearly defined the Federal role as leading a research effort and providing support to the States' own pollution prevention programs:

(b) The purposes of this title are— (1) 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; (2) to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution; (3) *to provide technical and financial assistance to State and local governments in connection with the development and execution of their* air pollution prevention and control programs; and (4) to encourage and assist the development and operation of regional air pollution prevention and control programs.

42 U.S.C. § 7401(b), CAA § 101(b) (emphasis added).

In keeping with these principles, EPA and other Federal regulators should defer to State agencies as the primary decision-makers, including when States are running programs under authorized or delegated authority by EPA. State agencies have proven their programs to be environmentally protective and at the same time more agile and able to adapt quickly to circumstances specific to the State or locale.

1. South Carolina Expedited Review Program. The South Carolina Department of Health and Environmental Control (DHEC) Expedited Review Program offers facilities applying for an air construction permit a shortened permit application review time frame in exchange for a fee paid by the facility. For example, a minor source construction permit that is accepted into the Expedited Review Program is expected to be issued within 30 calendar days rather than the regulatory-required 90 days. A large project that requires Prevention of Significant Deterioration (PSD) review has an expected

issuance 120-150 calendar days,<sup>2</sup> including the 30 day public comment period, following acceptance into the program (the required regulatory issuance is within 270 days).<sup>3</sup> The Expedited Review Program offers facilities an opportunity to initiate time-sensitive projects much more quickly. Empirical knowledge suggests the program is widely accepted and utilized by industry. The DHEC's Standard Operating Procedures for this program are attached.

2. Pennsylvania Department of Environmental Protection (PADEP) Request for Determination (RFD) Procedures. The RFD process allows facilities to obtain permit exemption determinations for projects of "minor significance." The on-line RFD process allows users to "self-register" for the program and submit a request following the RFD template forms. This improves the data gathering process for the PADEP's review, resulting in faster evaluations and turn-around time. CKRC member experience ranges from two to three days to three weeks.
3. Texas Permit by Rule Program. Knowing that the air permitting process is often complex and lengthy, the State of Texas has pre-determined that air quality is not threatened by certain types of small-scope construction projects, and has stream-lined the authorization process for such projects via its permit-by-rule (PBR) program. The intent of PBRs is to allow plant operations to carry out small-scope changes without waiting on agency approval—and without overwhelming the agency with reviews. Some PBRs require registration timed with the activity, while others require a notification. A submittal to the agency usually consists of a process description, a project description, an area map, a plot plan, a Core Data form, a simple form, various standardized checklists, a copy of the PBR, a line-by-line description of how the project meets each requirement of the PBR, and the supporting emission calculations. If the PBR does not require site approval from the TCEQ (and many do not), the facility may begin construction (or the activity) right after submittal of registration to TCEQ. Generally, PBRs offer numerous Texas facilities a high degree of permitting flexibility.
4. Indiana Department of Environmental Management (IDEM) presents a positive and cooperative spirit in the air permitting process by working hard to meet internal deadlines in a timely manner. The state also

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<sup>2</sup> A PSD application that does not impact a Class I area (i.e., where modeling is not required) has an issuance date of 120 days following program acceptance, and a PSD application impacting a Class I area has an issuance date of 150 days after acceptance into the program.

<sup>3</sup> In these examples, the fee for a minor construction permit is \$3,000, and a PSD permit ranges from \$20,000 - \$25,000 dependent upon whether or not the project impacts a Class I area.

has authority to do risk assessments which significantly helps streamline the process and make for a much more efficient permitting experience.

### III. REGULATORY BURDEN / COMPLIANCE – EPA REGULATIONS

#### A. How regulatory compliance could be simplified

#### Clean Water Act (CWA) Spill Prevention, Control, and Countermeasure (SPCC) requirements overlap with Resource Conservation and Recovery Act (RCRA) Contingency Plan

Statute	Regulatory Provisions that overlap or are needlessly complex
CWA	40 CFR § 112.7: General Requirements for Spill Prevention, Control, and Countermeasure Plans.
RCRA	40 CFR Part 264, Subpart D: RCRA Contingency Plan Provisions 40 CFR Part 265, Subpart D: RCRA Contingency Plan Provisions

#### *Description of overlap and burden:*

The CWA SPCC regulations are intended to prevent and designed to establish countermeasures for accidental discharges of oil that could affect water quality. These rules apply to tanks/containers where oil is considered a hazardous waste under 40 CFR Part 261 or has been mixed with hazardous waste and the tank is therefore subject to the Federal RCRA standards and, in some cases, the RCRA Contingency Plan provisions. The CWA SPCC requirements duplicate RCRA requirements and thus impose an unnecessary burden and complexity for no apparent environmental benefit.

#### *Proposed Solution:*

SPCC regulations must be revised to exempt oil tanks/containers that contain material defined as hazardous waste and subject to the RCRA Contingency Plan requirements at 40 CFR Part 264, Subpart D or 40 CFR Part 265, Subpart D. To accomplish this, we propose this specific revision:

- Revise 40 CFR § 112.1(d) to exclude from regulation, tanks and containers that are used to store hazardous waste as defined at 40 CFR § 261.3 and are subject to the RCRA Contingency Plan Requirements at Part 264, Subpart D or Part 265, Subpart D.

**B. How regulatory compliance could be simplified**

**Clean Air Chemical Accident Prevention Program Standards Overlap with OSHA PSM Standards**

Statute	Regulatory Provisions that overlap or are needlessly complex
CAA Chemical Accident Prevention Provisions	40 CFR Part 68, Subpart D: Program 3 Prevention Program
OSHA Process Safety Management (PSM) Standards	29 CFR Part 1910.119: Process Safety Management of Highly Hazardous Substances

*Description of needless complexity and burden:*

Section 112(r) of the 1990 Clean Air Act, 42 U.S.C. § 7412(r), required promulgation of regulations for the prevention of accidental releases of regulated substances from certain regulated stationary sources. These regulations are outlined in detail at 40 CFR Part 68, Chemical Accident Prevention Provisions.

The goal of Part 68 (otherwise referred to as the “risk management program (RMP)”), is to prevent accidental releases of substances that can cause serious harm to the public and the environment from short-term exposures and to mitigate the severity of releases that do occur. Part 68 requires facilities to determine their applicability under the rule by performing a threshold determination for all chemicals listed at 40 CFR § 68.130. If a facility determines that it manages one or more regulated substances in a process at or above the appropriate threshold quantity, it must then determine the appropriate Program Level with which it must comply under RMP. These Program Levels range from Program 1, which requires minimal prevention requirements other than to coordinate emergency activities with local emergency response agencies, to Program 3, which requires facilities to implement a rigorous Prevention Program.

As acknowledged by EPA, the Program 3 Prevention Program Requirements of the RMP regulations were modeled after the OSHA Process Safety Management (PSM) Standards promulgated at 29 CFR § 1910.119. So much so, that the RMP Program 3 Prevention Program Requirements are virtually identical to the requirements detailed under the OSHA PSM Standards.

The requirement for facilities regulated under RMP to reproduce this information as part of its Risk Management Plan submission to EPA is the definition of redundant and overly burdensome.

*Proposed Solution:*

The RMP regulations at 40 CFR Part 68 could be revised to exempt facilities from the Program 3 Prevention Program Requirements if the owner/operator certifies that it has implemented a PSM program under 29 CFR § 1910.119 for the regulated process that would normally be subject to the Program 3 Prevention Program Requirements. This certification can be included with the on-line RMP submission to EPA.

**Clean Air Chemical Accident Prevention Program Standards Overlap with RCRA Standards**

Statute	Regulatory Provisions that overlap or are needlessly complex
CAA Chemical Accident Prevention Provisions	40 CFR Part 68, Subpart E: Emergency Response
RCRA TSDF Contingency Plan Standards	40 CFR Part 264, Subpart D: Contingency Plan and Emergency Procedures

*Description of needless complexity and burden:*

40 CFR §§ 68.90 and 68.95 require that owners or operators of a stationary source with Program 2 and Program 3 processes “develop and implement an emergency response program for the purpose of protecting public health and environment...” The requirements for this emergency response program include the following elements:

- (1) An emergency response plan, which shall be maintained at the stationary source and contain at least the following elements:
  - (i) Procedures for informing the public and local emergency response agencies about accidental releases;
  - (ii) Documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures; and
  - (iii) Procedures and measures for emergency response after an accidental release of a regulated substance;
- (2) Procedures for the use of emergency response equipment and for its inspection, testing, and maintenance;
- (3) Training for all employees in relevant procedures; and
- (4) Procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of changes.



40 CFR § 68.95(a). 40 CFR Part 264, Subparts C and D (and Part 265, Subparts C and D for Interim Status Facilities) require TSDFs to prepare and implement a Preparedness and Prevention Procedures and a Contingency Plan and Emergency Procedures to minimize these same risks at facilities that store RCRA hazardous waste, which may also be regulated under the CAA RMP regulations. The RCRA Contingency Plan, Preparedness and Prevention, and Training Requirements also require the following shared elements with the RMP Emergency Response Program:

- Procedures for notifying appropriate State or local agencies with designated response roles (§§ 264.56(a)(2) and (d)(2))
- Procedures for emergency response (§ 264.56)
- Procedures for the use, inspection and testing of emergency equipment (§§ 264.52(e), 264.33)
- Contingency Plan Training (§ 264.16)
- Procedures for updating the Contingency Plan (§ 264.54)

This overlap in regulatory provisions requires RCRA TSDFs to submit to EPA, Emergency Response Plan information that duplicates the Contingency Plan information that has been submitted to, and approved by, the RCRA-authorized State agencies.

*Proposed Solution:*

The CAA RMP regulations should be revised to exempt facilities from the Emergency Response Program requirements at 40 CFR Part 68, Subpart E, if the facility is required to prepare and implement a Contingency Plan under the Federal RCRA Permitting or Interim Status regulations at 40 CFR Parts 264 or 265.

**Clean Air Chemical Accident Prevention Program Applicability and Overlap with RCRA Standards**

Statute	Regulatory Provisions that overlap or are needlessly complex
CAA Chemical Accident Prevention Provisions	40 CFR Part 68.10: Applicability
RCRA TSDF Standards	40 CFR Part 264.72(c): Manifest Discrepancies in Type

*Description of needless complexity and burden:*

For purposes of determining applicability of the RMP regulations, 40 CFR § 68.10(a) states, in part, that:

(a) An owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under §68.115, shall comply with the requirements of this part no later than the latest of the following dates: \*\*\*

(3) The date on which a regulated substance is first present above a threshold quantity in a process.”

A process, under RMP, is defined at § 68.3 as follows:

*Process* means any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

RCRA TSDF facilities many times receive hazardous waste in containers that must be off-loaded from the transportation vehicle and temporarily staged at the facility while personnel sample the incoming containers and implement the facility’s RCRA Permit Waste Analysis Plan (WAP) (i.e., implement its incoming shipment review procedures). At this time, the facility has not accepted the hazardous waste into permitted storage.

However, based on the RMP definition of “process,” in the event that a RCRA TSDF were to identify a waste stream in its temporary staging area that contained an RMP chemical in excess of the applicable RMP threshold quantity, the RMP applicability standards at Section 68.10(a) could be construed to read that the facility is subject to the RMP standards at that time. Due to this potential issue, several facilities may believe it necessary to prepare and submit a “predictive filing” under RMP in the event that a material were to be delivered to the site above the regulatory thresholds, even though it would be rejected and not accepted into permitted storage.

The preparation of an RMP program and submission of a predictive filing is an unnecessary and burdensome process to account for such short-term scenarios.

As detailed above, the Federal RCRA standards allow facilities to “receive” waste streams while they implement its WAP and, if necessary, reject the wastes before they are considered to be part of the “Permitted Storage.” We believe that a similar concept should be incorporated into the RMP standards by excluding from applicability, waste materials received at facilities that are undergoing incoming shipment review procedures under the facility’s WAP and not yet “accepted into storage.”

*Proposed Solution:*

40 CFR § 68.10(a) could be revised as follows (bold underline indicates proposed revisions):

“(a) **Except as provided at §68.10(a)(4),** an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under §68.115, shall comply with the requirements of this part no later than the latest of the following dates: \*\*\*

**(4) RMP chemicals temporarily received and staged at a RCRA treatment storage and disposal facility (TSDF) that are undergoing incoming shipment acceptance review procedures under the facility’s RCRA Waste Analysis Plan shall not be considered to be part of the facility’s “process” until they have been accepted under the facility’s RCRA permit and placed in permitted storage.**”

**C. How regulatory compliance could be simplified**

**Recently amended Clean Air Act Risk Management Plan provisions**

Statute	Regulatory Provisions that overlap or are needlessly complex
CAA	40 CFR Parts 68.60 and 68.81(root cause analysis) 40 CFR Parts 68.58, 68.59, 68.79, and 68.80 (compliance audit) 40 CFR §68.93(a) (local responder coordination)
RCRA	40 CFR Part 264 (contingency plan required field exercises)

*Description of needless complexity and burden:*

EPA recently finalized revisions to its CAA Risk Management Program. Final Rule: *Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act*, 82 FR 4594 (Jan. 13, 2017). Several of the new provisions increase regulatory burden without improving environmental, health or safety protections. For example, the amendments require root cause analysis for events that do not result in a release; impose onerous third-party audit requirements; new requirements for Emergency Response Program to duplicate existing coordination with local responders; mandate new field and table-top emergency response drills; mandate that chemical hazard information be made available to the Local Emergency Planning Committee; and require that certain RMP and chemical hazard information be made available to the public in the

local library or other readily available manner. These provisions duplicate existing law or increase burden but they do not enhance the safety of facilities or provide any additional prevention of harm. Worse, some of the new amendments will create safety risks, for example, by requiring disclosure of sensitive site data that could create security concerns.

*Proposed Solution:*

EPA has granted a Petition for Administrative Reconsideration of the final rule and has stayed the effective date of the rule to June 19, 2017. Final Rule; Delay of Effective Date: *Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Further Delay of Effective Date*, 82 FR 13968 (Mar. 16, 2017). EPA could use the administrative review and proceed with additional rulemaking proceedings to analyze and address this needless duplication. In comments on the proposed rule, CKRC provided specific suggestions for addressing each area of concern. These are attached.

## CONCLUSION

CKRC appreciates the opportunity to bring to the attention of the Department of Commerce and the Environmental Protection Agency, several federal regulations that duplicate other regulations or needlessly impose burdens. The revisions we propose here would not result in less protection of human health or the environment. CKRC would be pleased to provide additional information that may be helpful to a better understanding of the burdens on its member facilities.



**Standard Operating Procedures  
Expedited Review Program  
Bureau of Air Quality  
Air Quality Construction Permits**

**Scope**

S.C. Code of Laws, Title 44, Section 44-1-165 authorizes the Department of Health and Environmental Control (Department) to pilot an Expedited Review Program to provide a process for expedited permit application review for entities applying for an air construction permit. During the pilot period, the Department is allowed to collect additional fees to adjust staffing levels to accommodate the demand for expedited review. Applications that do not request expedited review under this program will be reviewed in accordance with the normal regulatory timeframes on a first received, first reviewed basis.

**Goal**

The goal is to have a project reviewed by the deadlines specified below for Air Quality Construction Permit activities:

<b>Expedited Review Time Frames</b>		
<b>Permit Type</b>	<b>Required Regulatory Issuance Dates<sup>*</sup></b>	<b>Expedited Review Issuance Dates<sup>*</sup></b>
Minor Source Construction Permit	90 days	30 days
Synthetic Minor Construction Permit**	90 days	65 days
Prevention of Significant Deterioration (PSD)** Not impacting a Class I Area (no Class I modeling required)	270 days	120 days
Prevention of Significant Deterioration (PSD)** Impacting a Class I Area (Class I modeling is required)	270 days	150 days

<b>Expedited Review Time Frames General Permit Program</b>		
<b>Permit Type</b>	<b>Required Regulatory Issuance Dates<sup>*</sup></b>	<b>Expedited Review Issuance Dates<sup>*</sup></b>
<b>Concrete</b> Minor Source Construction Permit Relocation Request	90 days	10 days
<b>Asphalt</b> Synthetic Minor Construction Permit Relocation Request	90 days	15 days

\* All days above are calendar days, but exclude State holidays, and building closure dates due to severe weather or other emergencies. Expedited days for asphalt and concrete also exclude weekends.

\*\* These permits require a 30-day public comment period. The timeframes above include the 30-day public comment period.

**Pre-Application Meeting:**

All applicants requesting an expedited PSD construction permit must request and participate in a pre-application meeting. Applicants requesting an expedited Synthetic Minor construction permit are highly recommended to request and participate in a pre-application meeting. Applicants requesting an expedited minor construction permit can request a pre-application meeting, if desired. Pre-application meetings for PSD applications must take place at least 90 days prior to submitting a PSD construction permit application. Other pre-application meetings must take place at least 30 days prior to submitting an application requesting expedited review. The Department may request an additional meeting with the applicant during the technical review of the application as needed.

### Quality Applications:

The Department expects the highest of quality in applications that are selected for expedited review.

### Procedures:

1. The applicant seeking expedited review will indicate interest in participating in this program by completing the provided application form. The construction permit application must be considered administratively complete in order to be considered for the program. **DO NOT SEND PAYMENT UNTIL THE APPLICATION HAS BEEN ACCEPTED INTO THE EXPEDITED PROGRAM.**
2. The Division will accept all PSD construction permit projects for expedited review if they are eligible for the program. However, due to limited modeling resources, the Department may limit PSD modeling reviews to one project at a time. The Division will accept all requests for expedited review for new facilities (i.e., greenfield sites). For the purpose of this program, a "new facility" is defined as a stationary source (or group of stationary sources) that will be located on property that is undeveloped or has no industrial activity at the time of permit application submission. For the purpose of this program, expansions to existing facilities are not considered new facilities. The Division currently has four permit sections. A permit section may decide not to accept any requests for expedited review if the section has less than 50% of its permit writer full-staff level or based on the number of already accepted expedited projects.
3. The applicant will be notified of selection for expedited review by phone within five business days by the expedited review staff. Once contacted, the applicant must verbally accept or reject their entry into the program. If the Department is not able to get in touch with the applicant, that project will be passed over and the normal regulatory timeframes will apply. The applicant must provide multiple phone numbers so he/she can be contacted easily. Individuals should not call the Department to determine if their project was selected for expedited review.
4. The expedited review timeframes specified in the table above will not begin until the applicant has been contacted and he/she has accepted their entry into the program. If the applicant at this point decides not to be considered for expedited review, a letter must be emailed to the expedited review staff member immediately requesting that the project not be considered for expedited review.
5. The applicant must pay the expedited review fee within five business days of verbally accepting entry into the program. The expedited review fee may be paid by check, credit card, or electronic check. Checks must be made payable to S.C. DHEC. If the expedited review fee is not received by the specified deadline above, the project will no longer qualify for expedited review and will be reviewed in accordance with the normal regulatory timeframes.
6. Projects selected for the expedited review program in the eight coastal counties must comply with the necessary S.C. DHEC - Office of Ocean and Coastal Resource Management (OCRM) "Coastal Zone Consistency Certification"\* review and public notice requirements.
7. The review staff will only review the application that was submitted unless the Department requests a modified application.
8. During the technical review of the permit application, staff may request clarifications or additional information needed to complete the review. The days needed to submit additional information to the Department will not be included in the timeframes listed in the table above. The review clock will stop when the staff makes a written (via letter or e-mail) request to the applicant. The Department will specify a deadline to submit the additional information. The review clock will restart when the information requested is received by the Department.
9. In most cases, the expedited review permit application will be reviewed by the permit writer currently assigned to that facility, county, or specialty category. This will allow staff that are more familiar with the facility or facility type to work on the project and issue the permit quicker. Other projects the permit writer has will be re-assigned to other staff as needed within the section or division.

Additional staff will be hired to ensure other projects being reviewed under the normal review timeframes are continued to be issued in a timely manner.

\* "Coastal Zone Consistency Certification": Before any state or federal permit can be issued for a project in the Coastal Zone, S.C. DHEC-OCRM must review the project for consistency with the Coastal Zone Management Plan. This certification is required of any project taking place in the eight coastal counties: Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry and Jasper. Facilities located in any of these eight coastal counties, must submit a copy of this Expedited Review Request along with the appropriate Construction Permit Application Forms to:

John Cox  
CZC Section Coordinator  
S.C. DHEC OCRM Charleston 1362 McMillan Ave., Suite 400 Charleston, SC 29405

### Eligibility

All minor source, synthetic minor, and PSD construction projects, except as outlined below, will be eligible for expedited review. The following construction permits are not eligible for expedited review, or may no longer be eligible for expedited review:

1. A construction project that is subject to the Non-attainment New Source Review (NSR) requirements is not eligible for expedited review.
2. If an adverse comment relating to the proposed expedited review project is received from the public, the Department reserves the right to determine if the project will continue to be eligible for expedited review depending upon the nature of the comment received. If the Department receives a request for a public hearing related to a proposed expedited review project and the Department decides to grant the request, the review clock will stop for up to 60 days to schedule and notify the public of the hearing and to respond to all comments received during the public comment period and hearing.
3. The Department reserves the right to deny an applicant's request for expedited review if past projects at the facility (or a similar project at another facility) have received adverse public comments.
4. The Department reserves the right to deny an applicant's request for expedited review if the facility has had a recent Air Quality enforcement action taken against them by the Department.
5. When an applicant does not submit additional information requested in item 8 above by the deadline specified by the Department, that application will no longer be eligible for expedited review. The Department may grant the applicant an extension to submit additional information upon request.
6. An applicant that has failed to pay fees or fines owed to the Department is not eligible for expedited review.
7. Applicants (facilities or consultants) that submit insufficient permit applications more than once may not be eligible for participation in this program for a period of one year. Insufficiencies would include, but are not limited to, applications that are not high in quality; are incomplete; or fail to address information discussed during the pre-application meeting; and applicants that fail to submit requested additional information by the requested deadline, or fail to submit fee payment on time.

### Fees

The expedited review fee is in addition to the normal annual air emission fees. The fees are as follows:

Expedited Review Fees	
Permit Type	Expedited Review Fee***
Minor Source Construction Permit	\$3,000

June 27, 2007 (Revised January 28, 2013; August 1, 2016)

<b>Expedited Review Fees</b>	
<b>Permit Type</b>	<b>Expedited Review Fee***</b>
Synthetic Minor Construction Permit	\$4,000
Prevention of Significant Deterioration (PSD) Not impacting a Class I Area	\$20,000
Prevention of Significant Deterioration (PSD) Impacting a Class I Area	\$25,000

<b>Expedited Review Fees General Permit Program</b>	
<b>Permit Type</b>	<b>Expedited Review Fee***</b>
<b>Concrete</b> Minor Source Construction Permit Relocation Request	\$1,500
<b>Asphalt</b> Synthetic Minor Construction Permit Relocation Request	\$3,500

\*\*\* The expedited review fee may be periodically reviewed and adjusted (increased or decreased) to ensure the Department has the resources to adequately fund the program.





P.O. Box 7553, Arlington, VA 22207

*May 13, 2016*

USEPA

Submitted via <http://www.regulations.gov>

Docket ID Number EPA-HQ-OEM-2015-0725

FRL-9940-94-OLEM; RIN 2050-AG82

**CKRC Comments on the March 14, 2016, Proposed Rule: Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act**

Dear Sir/Madam:

The Cement Kiln Recycling Coalition (CKRC) is a national trade association representing cement manufacturers that use hazardous waste and other secondary materials as alternative fuels and raw materials in cement kilns. Our membership also includes companies that collect, process, and manage secondary materials and companies that provide services to the industry. CKRC appreciates this opportunity to comment on EPA's Proposed Rule: *Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act*, (Docket ID: EPA-HQ-OEM-2015-0725) (81 FR 13638, March 14, 2016).

The following provides comments on selected sections of the Proposed Rule:

**1.0 Revisions to Incident Investigation Requirements (40 CFR 68.60 and 68.81)**

EPA is proposing to require all facilities with Program 2 and 3 processes to conduct a root cause analysis as part of an incident investigation of a catastrophic release or an incident that could have reasonably resulted in a catastrophic release (i.e., a near-miss).<sup>1</sup> These requirements are to be codified at 40 CFR Parts 68.60 and 68.81. EPA is also proposing to require that incident investigations be performed even if the process involving the regulated substance is destroyed or decommissioned following, or as the result of, the incident. Finally, EPA is requiring that an incident investigation be performed prior to any de-registration of a process or stationary source that is no longer subject to the RMP Rule and that the accident be reported to EPA under the requirements of §68.42.

CKRC generally supports the requirement to conduct a root cause analysis as part of an incident investigation of a catastrophic release or an incident that could have reasonably resulted in a catastrophic release. However, we do not believe that the requirement to perform the incident

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<sup>1</sup> 81 FR 13640

investigation “including when the affected process is decommissioned or destroyed following, or as a result of, an incident” is warranted. We also do not believe that the requirement to submit the accident information under §68.42 for such instances is necessary to enhance the RMP program structure or to provide information to the former regulated facility which it can rely on to improve its safety performance.

The performance of an incident investigation on a process that will no longer operate, and the revision of the RMP registration on file with EPA to include the accident, only to immediately withdraw the RMP registration will result in the preparation of paperwork at an undue cost, with little or no benefit to the public or the regulated community.

## **2.0 Revisions to the Compliance Audit Provisions (40 CFR Parts 68.58, 68.59, 68.79, and 68.80)**

### *2.1 Third Party Compliance Audits:*

As detailed in the preamble to the proposed rule, EPA asserts that “in some cases, self-auditing may be insufficient to prevent accidents, determine compliance with the RMP rule’s prevention program requirements, and ensure safe operation.”<sup>2</sup> Therefore, EPA is proposing to require regulated facilities with Program 2 and 3 processes to contract with an independent third-party to perform a compliance audit under the following circumstances:

- After the facility has a release meeting the criteria in Section 68.42(a) from a covered process, or
- When an implementing agency requires such third party audit as a result of non-compliance with Subparts C or D of Part 68.

EPA is also proposing at §§68.59(b)(1)(i) through (iv) and §§68.80(b)(1)(i) through (iv), certain “qualifications” for “third party auditors.” Specifically, these Sections propose that third party auditors be:

- Knowledgeable with the requirements of part 68;
- Experienced with the facility type and processes being audited and the applicable recognized and generally accepted good engineering practices (RAGAGEP);
- Trained or certified in proper auditing techniques; and
- Be a licensed Professional Engineer (PE), or include a licensed PE on the audit team.

CKRC does not believe that third party audits should be required under the revised RMP regulations. While we believe that there may be circumstances where smaller owner/operators may not have the expertise to perform such compliance audits, larger companies, with more substantial environmental resources and experienced environmental/safety personnel may, in fact, employ personnel that are the most qualified to perform such compliance audits.

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<sup>2</sup> 81 FR 13654

As detailed above, EPA has proposed specific “qualifications” for third party auditors. CKRC does not object to these “qualifications” for personnel involved in performing compliance audits that are triggered by accidents meeting the criteria in Section 68.42(a) or when required by the implementing agency as a result of significant non-compliance.

However, we do believe that internal company personnel who meet these criteria are equally qualified to perform these audits. Site personnel frequently represent personnel that are most familiar with the subject RMP process and its applicability under the RMP regulations. Therefore, CKRC requests that the requirement that compliance audits triggered by the criteria detailed above be performed by “third parties” be removed from the final rule.

In addition, the preamble to the proposed rule indicates that EPA is concerned about facilities with poor compliance histories. CKRC does not believe that the occurrence of a regulated accident is necessarily an indicator of a poor compliance program. Therefore, in the event that EPA believes that third party audits are beneficial, we request that third party audits be required only under the criteria of §§68.58(f)(2) and 68.79(f)(2) (i.e., at the request of the implementing agency due to significant non-compliance), and not simply by the occurrence of an accidental release meeting the criteria in Section 68.42(a).

## 2.2 *Independence and Impartiality Requirements for Third Part Audits:*

Notwithstanding our position that third party audits are inappropriate, CKRC also has strong objections to the third party audit “Independence and Impartiality Requirements” proposed at 40 CFR Parts 68.58(b)(2) and 68.80(b)(2).

Specifically, these sections require that the auditor/audit team shall:

- “(i) Act impartially when performing all activities under this section;
- (ii) Receive no financial benefit from the outcome of the audit, apart from payment for the auditing services;
- (iii) Not have conducted past research, development, design, construction services, or consulting for the owner or operator within the last 3 years. For purposes of this requirement, consulting does not include performing or participating in third-party audits pursuant to § 68.59 or § 68.80;
- (iv) Not provide other business or consulting services to the owner or operator, including advice or assistance to implement the findings or recommendations in an audit report, for a period of at least 3 years following submission of the final audit report;
- (v) Ensure that all personnel involved in the audit sign and date the conflict of interest statement in § 68.59(c)(1)(v); and
- (vi) Ensure that all personnel involved in the audit do not accept future employment with the owner or operator of the stationary source for a period of at least 3 years following submission of the final audit report. For purposes of this requirement, employment does not include performing or participating in third-party audits pursuant to §§ 68.59 or 68.80.”

EPA appears to be attempting to eliminate potential bias on the part of the third party audit team. CKRC believes that this concern is unfounded, and several of the resulting “independence and impartiality requirements” detailed above are unnecessary to ensure that compliance audits are performed in a professional and unbiased manner. In addition, these “independence and

impartiality requirements” may actually result in less qualified individuals performing the compliance audits for the reasons set forth below.

First, and most importantly, compliance audits under these circumstances are most effectively performed by personnel who are most familiar with the regulated process and the applicable RMP requirements for that process. Many facilities subject to the RMP regulations utilize consulting firms that perform a variety of environmental/safety services for that facility, that industry, and other industries. It is these consultants that are most familiar with the regulated processes and are most capable of performing a thorough and complete audit of the facility’s RMP compliance status.

Secondly, many facilities already utilize third parties to perform compliance audits as required under the existing RMP regulations. We are not aware of any systemic cases of bias or fraudulent audits being performed by third parties so that they may obtain further compensation or work from the regulated community. The proposed regulations already require that the third party be a “licensed Professional Engineer (PE) or include a licensed PE on the audit team.” The purpose of this requirement is to maintain the integrity of the audit process under the ethical and professional standards of the auditor’s PE license. In fact, the first fundamental canon of ethics for a PE is: “Engineers shall hold paramount the safety, health, and welfare of the public.”<sup>3</sup> The qualifications detailed in Sections (iii) through (vi) are therefore unwarranted.

Finally, the existing RMP and PSM regulations require extensive qualification and training requirements for new contractors and consultants (see the RMP Program 3 “Contractor” requirements at §68.87 and the OSHA PSM “Contractor” requirements at 29 CFR §1910.119(h)). Additionally, cement companies such as those represented by CKRC are also required to comply with the MSHA contractor training requirements at 30 CFR Part 46. Requiring owner/operators to identify, qualify, and train new consultants in the event a third party audit is required can be burdensome and can incur significant cost to the regulated community.

For these reasons, we do not believe that the third party “Independence and Impartiality” requirements at §§68.58(b)(2)(iii), (iv), (v),(vi) and §§68.80(b)(2)(iii), (iv), (v),(vi) are necessary or warranted and we request that they be removed from the final regulation.

### **3.0 Revisions to the Requirements for Emergency Response Program Coordination with Local Responders**

EPA is proposing to require facilities with Program 2 or 3 processes to coordinate with the local emergency response agencies at least once a year to ensure that resources and capabilities are in place to respond to an accidental release of a regulated substance.

CKRC is in general support of such a requirement. However, it should be noted that RCRA-permitted facilities pose a unique situation because they are already required to coordinate their emergency response activities (i.e., contingency plans) with the local emergency responders. Therefore, we believe that the proposed revisions to the RMP regulations requiring this annual coordination is duplicative for RCRA facilities. CKRC requests that the proposed RMP regulations exempt “RCRA-permitted facilities for whom the regulated RMP process is covered

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<sup>3</sup> <http://www.nspe.org/resources/ethics/code-ethics#sthash.uX6dbPLe.dpuf>

by the RCRA permit” from the annual coordination requirements of §68.93(a).<sup>4</sup>

#### **4.0 Proposed Emergency Responder Notification Exercises:**

EPA is proposing to revise the emergency response preparedness requirements by requiring facilities with Program 2 or 3 processes to conduct annual notification exercises to ensure that their emergency contact information is accurate and complete.

CKRC agrees that it is important to maintain accurate and complete contact information for purposes of notifying emergency responders in the event of an emergency. However, we do not believe that the “notification exercises” proposed at §68.96(a) and as described in the proposed rule preamble are warranted.

Specifically, the preamble to the proposed rule provides an expectation that an actual “test” notification be made and describes these notification exercises as follows:

“The purpose of these notifications is to ensure facility personnel understand how to initiate the notification system and to test the emergency contact information to ensure it is up-to-date. As part of the notification exercise, the individual making the notifications should clearly indicate that the call is part of an exercise to test the notification system. The owner or operator would be required to document these notification exercises and maintain a written record of each exercise conducted for a period of five years. The owner or operator would also be required to provide copies of the report to local response officials, and to make the report available to the public in accordance with §§ 68.205 and 68.210.”

Again, while CKRC agrees that confirming contact information is current and accurate is appropriate, we believe that requiring the performance of an actual “notification exercise” would represent an unnecessary burden on the regulated community as well as the responding organizations. Local responding agencies are typically required to maintain a response program that details the procedures for coordinating emergency response. Calling these agencies (in many cases, calling 911) as part of a “test” notification would be waste of resources associated with these agencies.

Finally, as discussed above, RCRA-permitted facilities are already required to coordinate their emergency response activities (i.e., contingency plans) with the local emergency responders. This includes the requirement to maintain current coordination agreements with local responding agencies. Therefore, we believe that the proposed requirement to perform emergency notification exercises is duplicative for these RCRA facilities. In the event that EPA maintains these notification exercise requirements in the rule, CKRC requests that the proposed RMP regulations exempt “RCRA-permitted facilities for whom the regulated RMP process is covered by the RCRA permit” from the annual notification exercise requirements of §68.96(a).

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<sup>4</sup> “Each agency shall avoid regulations that are inconsistent, incompatible, or duplicative with its other regulations or those of other Federal agencies.” E.O. 12866, 58 FR 51735, Oct. 4, 1993.

## **5.0 Proposed Field and Table-top Emergency Response Drills:**

EPA is proposing to require that all facilities subject to the emergency response program requirements of Subpart E of the rule conduct a full field exercise at least once every five years and one tabletop exercise annually in other years.

CKRC is in general support of such a requirement. However, it should be noted that RCRA-permitted facilities already perform such field exercises under the contingency plan requirements of 40 CFR Part 264. Therefore, we believe that the proposed revisions to the RMP regulations requiring these field and tabletop drills impose duplicative requirements for these RCRA facilities. CKRC requests that the proposed RMP regulations exempt "RCRA-permitted facilities for whom the regulated RMP process is covered by the RCRA permit" from the five-year field exercises and annual table-top exercises.

## **6.0 Proposed Information Availability Requirements:**

### *6.1 LEPC Information:*

EPA is proposing to require that certain RMP and chemical hazard information be made available to the LEPC upon request. This information is detailed at proposed §68.205. While CKRC does not object to providing the majority of the chemical hazard information detailed at §68.205(b) to the LEPC, we do have significant concerns with the distribution of information associated with the facility's compliance audits and incident investigation reports. Specifically, compliance audit and incident investigation reports may contain detailed process information that may be used by unauthorized persons in nefarious ways. For instance, information identified in the root cause portion of an incident investigation could expose potential "soft-spots" of the regulated process or "target areas" for outside forces to exploit.

In response to concerns of vandalism, sabotage, and even terrorist attacks at RMP-regulated sites, EPA previously removed several public information requirements associated with the original RMP regulations published in 1999. For these same reasons, CKRC requests that either the compliance audits and incident investigation reports be removed from §68.205(b), or this section of the regulation be revised to allow the local LEPC to review these documents at the regulated facility, without taking the documents off-site.

### *6.2 Public Information:*

EPA is proposing to require that certain RMP and chemical hazard information be made available to the public in a readily available manner. EPA has proposed the use of company web-sites or information repositories such as a local library or maintaining the information at the facility for public review.

We also note that under EPCRA, facilities may be required to submit Tier II forms. The Tier II form is intended to provide State and local officials and the public with specific information on hazardous chemicals present at facilities.

CKRC does not generally object to making this information available to the public. However, we believe that the RMP requirements should utilize existing data submission requirements and repositories to avoid duplicative efforts wherever possible. Therefore, we believe that this information can be easily made part of the EPA's ECHO database. The use of the existing ECHO database would provide the public with a "one-stop" web interface and provide consistency in the presentation of the information to the public and surrounding community.

CKRC appreciates the opportunity to provide input on EPA's Proposed Rule. Should you have questions or need additional information, please feel free to contact me.

Respectfully,



Michelle G. Lusk  
Executive Director, CKRC  
703-624-4513

Message

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**From:** Wyman, Christine [christine.wyman@bracewell.com]  
**Sent:** 5/23/2018 12:21:42 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** RE: Follow Up

Sounds good. I'll be joined by Sandra Snyder at INGAA. She was with us when we met with Brittany in April. Thanks!

---

**CHRISTINE WYMAN**

Senior Counsel

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---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Wednesday, May 23, 2018 6:02 AM  
**To:** Wyman, Christine <christine.wyman@bracewell.com>  
**Subject:** Re: Follow Up

We will call you. Thank you.

Sent from my iPhone

On May 22, 2018, at 9:30 PM, Wyman, Christine <[christine.wyman@bracewell.com](mailto:christine.wyman@bracewell.com)> wrote:

Thanks so much. Whatever is more convenient for you. My direct line is Ex. 6 if that's best for you.

-Christine

---

**CHRISTINE WYMAN**

Senior Counsel

[christine.wyman@policyres.com](mailto:christine.wyman@policyres.com)

T: Ex. 6 | F: +1.800.404.3970

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---

**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]  
**Sent:** Tuesday, May 22, 2018 4:57 PM  
**To:** Wyman, Christine <[christine.wyman@bracewell.com](mailto:christine.wyman@bracewell.com)>  
**Subject:** RE: Follow Up

Terrific. Would you care to call or shall we call you?

Thank you,  
Will

---

**From:** Wyman, Christine [<mailto:christine.wyman@bracewell.com>]  
**Sent:** Monday, May 21, 2018 10:02 PM  
**To:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** Re: Follow Up

Wednesday at 11 works. Thanks so much.

On May 21, 2018, at 8:58 PM, Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)> wrote:

Good evening, Christine,

Would 11 am work?

Best,  
Will

---

**CHRISTINE WYMAN**

Senior Counsel

[christine.wyman@policyres.com](mailto:christine.wyman@policyres.com)

T: [Ex. 6] | F: +1.800.404.3970

**BRACEWELL LLP**

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---

**From:** Wyman, Christine [<mailto:christine.wyman@bracewell.com>]  
**Sent:** Monday, May 21, 2018 6:00 PM  
**To:** Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>  
**Cc:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** RE: Follow Up

Thanks so much.

Will – Please let me know if there is a convenient time Wednesday morning for a call.

-Christine

---

### CHRISTINE WYMAN

Senior Counsel

[christine.wyman@policyres.com](mailto:christine.wyman@policyres.com)

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**From:** Bolen, Brittany [<mailto:bolen.brittany@epa.gov>]  
**Sent:** Monday, May 21, 2018 5:45 PM  
**To:** Wyman, Christine <[christine.wyman@bracewell.com](mailto:christine.wyman@bracewell.com)>  
**Subject:** RE: Follow Up

Hi Christine –

I should have availability Wednesday. Please coordinate with Will Lovell (cc'd) to set this up.

Best,  
Brittany

---

**From:** Wyman, Christine [<mailto:christine.wyman@bracewell.com>]  
**Sent:** Monday, May 21, 2018 10:42 AM  
**To:** Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>  
**Subject:** Follow Up

Hi Brittany – I wanted to follow up with a meeting that we had with you, Scott Segal, and a few folks from INGAA to discuss Section 401 of the Clean Water Act. By chance do you have time for a quick call this week? We could do anytime today, tomorrow from 12-2:30, Wednesday before noon or after 3pm, or Thursday morning.

Thanks!  
Christine

---

**CHRISTINE WYMAN**

Senior Counsel

[christine.wyman@policyres.com](mailto:christine.wyman@policyres.com)

T: Ex. 6 F: +1.800.404.3970

**POLICY RESOLUTION GROUP | BRACEWELL LLP**

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Message

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**From:** Jaeger, Lisa [lisa.jaeger@bracewell.com]  
**Sent:** 4/23/2018 9:35:17 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Will]  
**Subject:** Re: EPA Follow-up

Hi Will

I will check, get right back to you!  
thanks, Lisa

---

**From:** "Lovell, Will (William)" <lovell.william@epa.gov>  
**Sent:** Apr 23, 2018 2:59 PM  
**To:** "Jaeger, Lisa" <lisa.jaeger@bracewell.com>  
**Subject:** RE: EPA Follow-up

Lisa, upon conferring with the scheduler after a planning meeting this morning, it looks like that time will not work due to meetings that had not yet been added to Brittany's calendar. Is there any chance Friday could work between 10:30 and 3:30?

---

**From:** Lovell, Will (William)  
**Sent:** Friday, April 20, 2018 5:46 PM  
**To:** 'Jaeger, Lisa' <lisa.jaeger@bracewell.com>  
**Subject:** RE: EPA Follow-up

Lisa,

I will hold that time slot, but please allow me to check with the scheduler to confirm that will work.

Regards,  
Will

---

**From:** Jaeger, Lisa [mailto:lisa.jaeger@bracewell.com]  
**Sent:** Friday, April 20, 2018 5:06 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** Re: EPA Follow-up

Greetings Will  
May we do Thursday 2 to 3 pm please?  
Thank you  
Lisa

---

**From:** "Lovell, Will (William)" <lovell.william@epa.gov>  
**Sent:** Apr 19, 2018 10:47 AM  
**To:** "Jaeger, Lisa" <lisa.jaeger@bracewell.com>  
**Subject:** RE: EPA Follow-up

Lisa,

Now I apologize for the delayed response! Would any of the following times work for your group?:

- Thursday (4/26), 10-11 am or 2-3 pm

- Friday (4/27), 2-4 pm

Thank you,  
Will

---

**From:** Jaeger, Lisa [<mailto:lisa.jaeger@bracewell.com>]  
**Sent:** Thursday, April 12, 2018 7:49 PM  
**To:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** RE: EPA Follow-up

Greetings Will

Thank you for your note and please pardon my delay in responding to your note.

CKRC would like to meet with you to discuss its response to EPA's request for suggestions for reducing duplicative and burdensome regulations. CKRC's comments are attached. The comments mention several issues that are already being addressed and that were mentioned by many other organizations. CKRC mentioned some other items, mostly relating to its core competency of waste energy recycling, which were not marquee issues. As part of your ongoing rulemaking/rule review process, CKRC would like to follow up with EPA on its comments.

For background, the link to CKRC is <http://www.ckrc.org/>.

Re availability, if you have availability during the week of April 23, we can make something work with CKRC schedules.

Thank you for your help  
Lisa

---

**LISA M. JAEGER**

Senior Counsel

[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)

T: [Ex. 6] | F: +1.800.404.3970 | M: [Ex. 6]

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**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]  
**Sent:** Friday, April 6, 2018 10:07 AM  
**To:** Jaeger, Lisa <[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)>  
**Subject:** EPA Follow-up

Good morning, Lisa,

I am following up from our phone call yesterday. Please provide the details and availability for the meeting we discussed.

Thank you,

**Will Lovell**

Policy Advisor, Office of Policy

U.S. Environmental Protection Agency

(202) 564-5713

[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)

Message

---

**From:** Foley, Allison D. [ADFoley@Venable.com]  
**Sent:** 2/12/2018 6:02:51 PM  
**To:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**CC:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** RE: Following up: Request to meet regarding EO 13777 comments -- PCB regulatory reform and burden reduction

Hi Robin,

Thank you for your email. I am checking with my client and will get back to you as soon as possible.

Best,

Allison D. Foley, Esq. | Venable LLP

Ex. 6 | 202.344.8300 | Ex. 6  
600 Massachusetts Avenue, NW, Washington, DC 20001

[ADFoley@Venable.com](mailto:ADFoley@Venable.com) | [www.Venable.com](http://www.Venable.com)

---

**From:** Kime, Robin [mailto:Kime.Robin@epa.gov]  
**Sent:** Monday, February 12, 2018 12:52 PM  
**To:** Foley, Allison D. <ADFoley@Venable.com>  
**Cc:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** FW: Following up: Request to meet regarding EO 13777 comments -- PCB regulatory reform and burden reduction

Hi Allison,

I hope you are well. Samantha would be glad to meet with you. Would any of the following dates/times work for your schedule?

2/22 at 1:30 or 2:00 or 2:30 or 3:00  
2/23 at 2:00 or 2:30 or 3:00  
3/2 at 11:00 or 11:30  
3/6 at 3:00

If it helps, I can propose additional dates. Thanks and take care.  
Robin

---

**From:** Foley, Allison D. [mailto:]  
**Sent:** Monday, January 29, 2018 2:34 PM  
**To:** Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** Following up: Request to meet regarding EO 13777 comments -- PCB regulatory reform and burden reduction

Dear Ms. Kime:

I'm writing on behalf of the Utility Solid Waste Activities Group (USWAG) to follow up on a letter sent to Ms. Samantha Dravis in December regarding USWAG's comments on Executive Order 13777 (copy of December letter attached). In particular, we request a meeting with Ms. Dravis to discuss specific comments regarding regulatory reform and burden

reduction in the context of the federal PCB program administered by EPA under TSCA, and the corresponding regulations set forth at 40 C.F.R. Part 761.

Of particular urgency are requests for:

- Clarification of the PCB disposal regulations at 40 C.F.R. § 761.50 to expressly allow for the disposal of all PCB remediation wastes with as-found concentrations of <50 ppm PCB in non-TSCA landfills (see Exhibit A at 10-11); and
- Modification of the PCB analytical rules throughout 40 C.F.R. Part 761 to expressly authorize the use of the most recent EPA-approved extraction method available for the chemical extraction of PCBs from individual and composite samples (currently the automated soxhlet extraction method, Method 3541, though these methods are constantly evolving and the regulatory text should therefore allow for use of whatever the most current method is at any particular time).

We are requesting a meeting to discuss these regulatory amendments which would eliminate unnecessary and costly regulatory burdens and logistical challenges that significantly delay PCB cleanup projects, without any risk-based justification. The requested regulatory changes are consistent with EO 13777 and the objectives of EPA’s Smart Sector Initiative as they would not only reduce unnecessary regulatory burden but will improve environmental outcomes by streamlining and accelerating PCB cleanup projects and associated compliance efforts by electric and gas utilities.

Please advise if Ms. Dravis has availability for a meeting in the second half of February. Please let me know if you have any questions or need more information from me. Thank you for your attention to this.

Best,

Allison D. Foley, Esq. | Venable LLP  
 ☎ Ex. 6 | 202.344.8300 | m Ex. 6  
 600 Massachusetts Avenue, NW, Washington, DC 20001

[ADFoley@Venable.com](mailto:ADFoley@Venable.com) | [www.Venable.com](http://www.Venable.com)

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Message

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**From:** Kime, Robin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7EF7B76087A6475B80FC984AC2DD4497-RKIME]  
**Sent:** 2/12/2018 5:52:17 PM  
**To:** ADFoley@Venable.com  
**CC:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** FW: Following up: Request to meet regarding EO 13777 comments -- PCB regulatory reform and burden reduction  
**Attachments:** USWAG PCB mtg request\_Dravis\_12.05.2017.pdf

Hi Allison,

I hope you are well. Samantha would be glad to meet with you. Would any of the following dates/times work for your schedule?

2/22 at 1:30 or 2:00 or 2:30 or 3:00

2/23 at 2:00 or 2:30 or 3:00

3/2 at 11:00 or 11:30

3/6 at 3:00

If it helps, I can propose additional dates. Thanks and take care.

Robin

---

**From:** Foley, Allison D. [mailto:]  
**Sent:** Monday, January 29, 2018 2:34 PM  
**To:** Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** Following up: Request to meet regarding EO 13777 comments -- PCB regulatory reform and burden reduction

Dear Ms. Kime:

I'm writing on behalf of the Utility Solid Waste Activities Group (USWAG) to follow up on a letter sent to Ms. Samantha Dravis in December regarding USWAG's comments on Executive Order 13777 (copy of December letter attached). In particular, we request a meeting with Ms. Dravis to discuss specific comments regarding regulatory reform and burden reduction in the context of the federal PCB program administered by EPA under TSCA, and the corresponding regulations set forth at 40 C.F.R. Part 761.

Of particular urgency are requests for:

- Clarification of the PCB disposal regulations at 40 C.F.R. § 761.50 to expressly allow for the disposal of all PCB remediation wastes with as-found concentrations of <50 ppm PCB in non-TSCA landfills (see Exhibit A at 10-11); and
- Modification of the PCB analytical rules throughout 40 C.F.R. Part 761 to expressly authorize the use of the most recent EPA-approved extraction method available for the chemical extraction of PCBs from individual and composite samples (currently the automated soxhlet extraction method, Method 3541, though these methods are constantly evolving and the regulatory text should therefore allow for use of whatever the most current method is at any particular time).

We are requesting a meeting to discuss these regulatory amendments which would eliminate unnecessary and costly regulatory burdens and logistical challenges that significantly delay PCB cleanup projects, without any risk-based justification. The requested regulatory changes are consistent with EO 13777 and the objectives of EPA's Smart Sector Initiative as they would not only reduce unnecessary regulatory burden but will improve environmental outcomes by streamlining and accelerating PCB cleanup projects and associated compliance efforts by electric and gas utilities.

Please advise if Ms. Dravis has availability for a meeting in the second half of February. Please let me know if you have any questions or need more information from me. Thank you for your attention to this.

Best,

Allison D. Foley, Esq. | Venable LLP

t [Ex. 6] | f 202.344.8300 | m [Ex. 6]  
600 Massachusetts Avenue, NW, Washington, DC 20001

[ADFoley@Venable.com](mailto:ADFoley@Venable.com) | [www.Venable.com](http://www.Venable.com)

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\*\*\*\*\*

**Allison D. Foley**T Ex. 6  
F 202.344.8300  
adfoley@venable.com

December 5, 2017

Samantha Dravis  
Senior Counsel and Associate Administrator for Policy  
Regulatory Reform Officer for Executive Order 13777  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

Re: Request for Meeting Regarding Polychlorinated Biphenyl (PCB) Regulatory Reform and EPA's Burden Reduction/Smart Sector Initiatives

Dear Ms. Dravis:

I write on behalf of the Utility Solid Waste Activities Group (USWAG) to request a meeting with you and your staff to discuss important regulatory and burden reduction reform objectives that USWAG believes are consistent with Executive Order 13777 as well as EPA's Smart Sector Initiative. USWAG, formed in 1978, is an association of over one hundred and ten electric utilities, power producers, utility operating companies, and utility service companies located throughout the United States, including the Edison Electric Institute (EEI), the American Gas Association (AGA), the American Public Power Association (APPA), and the National Rural Electric Cooperative Association (NRECA). Together, USWAG members represent more than 73% of the total electric generating capacity of the United States, and service more than 95% of the nation's consumers of electricity and 92% of the nation's consumers of natural gas.

The regulatory reform/burden reduction issues at the heart of this request were described in detail in USWAG's comments on EO 13777, submitted to EPA on May 12, 2017 and attached hereto as Exhibit A. Specifically, USWAG requests a meeting to discuss certain of the regulatory reform/burden reduction issues related to the federal regulations applicable to polychlorinated biphenyl (PCB)-containing wastes. Of particular urgency are requests for:

- Clarification of the PCB disposal regulations at 40 C.F.R. § 761.50 to expressly allow for the disposal of all PCB remediation wastes with as-found concentrations of < 50 ppm PCB in non-TSCA landfills (*see* Exhibit A at 10-11); and
- Modification of the PCB analytical rules throughout 40 C.F.R. Part 761 and including 40 C.F.R. §§ 761.61(a)(5)(B)(iv), 761.253, 761.272, 761.292, 761.358 and 761.395 to expressly authorize the use of the most recent EPA-approved extraction method available for the chemical extraction of PCBs from individual and composite samples (currently the automated soxhlet extraction method, Method 3541, though these

Ms. Samantha Dravis  
US EPA  
December 5, 2017  
Page 2 of 2

methods are constantly evolving and the regulatory text should therefore allow for use of whatever the most current method is at any particular time) (see Exhibit A at 11).

These regulatory amendments would eliminate unnecessary and costly regulatory burdens and logistical challenges that significantly delay PCB cleanup projects—without any risk-based justification. The requested regulatory changes would not only reduce unnecessary regulatory burden but will improve environmental outcomes by streamlining and accelerating PCB cleanup projects and associated compliance efforts by electric and gas utilities. The contemplated regulatory improvements would therefore be consistent with EO 13777 and the objectives of EPA's Smart Sector Initiative.

USWAG respectfully requests a meeting with you and your staff to discuss these issues in greater detail. Please suggest some times that would work for you.

Thank you for considering USWAG's request. We look forward to discussing these issues with you.

Respectfully,



Allison D. Foley  
On behalf of the Utility Solid Waste Activities Group

# **EXHIBIT A**

## **USWAG COMMENTS ON EO 13777**

May 12, 2017

Via Email

Samantha Dravis  
Senior Counsel and Associate Administrator for Policy  
Regulatory Reform Officer for Executive Order 13777  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

Re: Identification of Regulations for Repeal, Modification or Replacement Under  
Executive Order 13777 (Docket ID No. EPA-HQ-OA-2017-0190)

Dear Ms. Dravis:

The Utility Solid Waste Activities Group (“USWAG”)<sup>1</sup> submits these comments in response to Executive Order 13777 (“EO 13777”) on “Enforcing the Regulatory Agenda,”<sup>2</sup> which furthers the policy goal of alleviating unnecessary regulatory burdens on the American people. EO 13777 directs the heads of federal agencies to establish Regulatory Reform Task Forces (“RRTF”), under the direction of an agency Regulatory Reform Officer (“RRO”), to oversee the implementation of reform activities and policies to ensure the effective carrying out of regulatory reforms including, among others, Executive Order 13771 (“EO 13771”) on “Reducing Regulations and Controlling Regulatory Costs.”

One of the key directives in EO 13777 is for RRTFs to “evaluate existing regulations<sup>3</sup> and make recommendations to the agency head regarding their repeal, replacement, or modification, consistent with applicable law.”<sup>4</sup> In undertaking this task, EO 13777 directs that the RRTF shall attempt to identify regulations that, among other things:

---

<sup>1</sup> USWAG, formed in 1978, is an association of over one hundred and ten electric utilities, power producers, utility operating companies, and utility service companies located throughout the United States, including the Edison Electric Institute (“EEI”), the American Gas Association (“AGA”), the American Public Power Association (“APPA”), and the National Rural Electric Cooperative Association (“NRECA”). Together, USWAG members represent more than 73% of the total electric generating capacity of the United States, and service more than 95% of the nation’s consumers of electricity and 92% of the nation’s consumers of natural gas.

<sup>2</sup> Executive Order 13777 (Feb. 24, 2017) (“EO 13777”); *see* 82 Fed. Reg. 12285 (March 1, 2017).

<sup>3</sup> EO 13777 refers to the definition of “regulation” or “rule” as defined in EO 13771, which includes, in pertinent part, “an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency ... .”

<sup>4</sup> EO 13771 § 4.

- (i) eliminate jobs or inhibit job creation;
- (ii) are outdated, unnecessary, or ineffective;
- (iii) impose costs that exceed benefits; or
- (iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies.<sup>5</sup>

In performing this evaluation, the RRTF is to seek input from entities significantly affected by Federal regulations including, among others, trade associations. USWAG is a trade association representing over one hundred and twenty power companies and four major utility trade associations significantly affected by hundreds of federal regulations arising under the Resource Conservation and Recovery Act (“RCRA”), the Toxic Substances Control Act (“TSCA”), the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), and provisions of the Clean Air Act (“CAA”). In particular, USWAG has represented the electric and natural gas industries for over 35 years on federal regulations involving the management of solid and hazardous waste under RCRA; hazardous substances under CERCLA, the combustion of solid wastes under section 129 of the CAA; and the management of chemical substances under TSCA. USWAG is therefore well positioned to identify regulations arising under the above-referenced federal statutes impacting the power industry that meet EO 13777’s criteria for repeal, replacement, or modification.

Below we identify those regulations falling under the various EPA offices. These regulations relate to: both the Office of Resource Conservation and Recovery (“ORCR”) and the Office of Emergency Management (“OEM”) within EPA’s Office of Land and Emergency Response (“OLEM”); the Office of Pollution Prevention and Toxics (“OPPT”) within EPA’s Office of Chemical Safety and Pollution Prevention (“OCSPP”); and the Office of Air Quality Planning and Standards (“OAQPS”) within EPA’s Office of Air and Radiation (“OAR”).

## **I. OLEM Regulations Warranting Repeal, Replacement or Modification**

### **A. Coal Combustion Residuals Rule**

One of the most significant rulemakings within OLEM in need of immediate modification and, in the case of some provisions, repeal, is the coal combustion residuals (“CCR”) rule under 40 C.F.R. Part 257. As EPA itself recognized upon promulgation of the CCR rule, the rule imposes costs on the regulated community that far exceed its benefits.<sup>6</sup> As discussed below, the recent enactment of the Water Infrastructure Improvement for the Nation (“WIIN”) Act, which establishes procedures for states and EPA to implement the CCR rule through state or EPA permit programs, further warrants the modification of many provisions in the CCR rule to reflect its implementation through permit programs, as opposed to the rule’s original self-implementing regime.

---

<sup>5</sup> EO 13777 § 3(d)(i)-(iv).

<sup>6</sup> See 80 Fed. Reg. 21302, 21460 (April 17, 2015).

In particular, EPA removed certain provisions from the final CCR rule—which were contained in the 2010 CCR proposal<sup>7</sup> and drawn from EPA’s Part 258 municipal solid waste landfills (“MSWLF”) program—that would have allowed for tailoring of the rule’s groundwater monitoring and corrective action programs based on site-specific conditions. EPA did this because, under the existing CCR rule and in contrast to the MSWLF program, there is no regulatory body overseeing implementation of the CCR rule through an enforceable permit program. EPA explained, “[i]n particular, the possibility that a state may lack a permit program for CCR units made it impossible to include some of the alternatives available in 40 CFR Part 258 [the MSWLF program], which establish alternative standards that allow a state, as part of its permit program to tailor the default requirements to account for site specific conditions at the individual facility.”<sup>8</sup>

With the enactment of the WIIN Act, however, the states and EPA may now implement the CCR Rule through a permit program or other system of “prior approval” (collectively “state CCR permit programs”). Therefore, EPA’s rationale for not including these risk-based provisions in the final rule no longer exists. The rule should be modified to include these common sense, risk-based management options. Given the time necessary to transition to CCR permit programs as contemplated under the WIIN Act and make the substantive risk-based revisions to the CCR rule, it also is necessary for EPA to immediately extend upcoming deadlines in the CCR rule to avoid large capital expenditures by the regulated community for elements of rule that may be implemented differently under future CCR permits.

These modifications to the CCR rule and additional recommended changes to the CCR rule identified below find further support in the President’s recent Executive Order on “Promoting Energy Independence and Economic Growth.” (“EO 13783”).<sup>9</sup> EO 13783 directs, among other things, that heads of federal agencies immediately “review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (collectively, agency actions) that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, *coal*, and nuclear energy resources.”<sup>10</sup> The CCR rule is an “agency action” that directly burdens the use of coal as an energy resource by imposing unduly stringent and extremely costly regulations on the management of CCR—the byproduct from the use of coal as an energy source. Indeed, the CCR rule can be as problematic as the Clean Water Act Effluent Limitations Guidelines Rule for the Steam Electric Power Generating Point Source Category (“ELG Rule”) on coal-fired power generation. Put simply, the use of coal as an energy source is significantly frustrated, and in some cases rendered untenable because the costs of managing residuals from this energy source (*i.e.*, CCR) are unduly burdensome and/or force the premature closure of CCR disposal units. Therefore, repeal and/or modification of the provisions of the CCR rule identified below are warranted under both EO 13777 and EO 13783.

---

<sup>7</sup> 75 Fed. Reg. 35128 (June 21, 2010).

<sup>8</sup> 80 Fed. Reg. at 21396-97.

<sup>9</sup> Executive Order 13783 (Mar. 28, 2017) (“EO 13783”); *see* 82 Fed. Reg. 16093 (Mar. 31, 2017).

<sup>10</sup> *Id.* at § 2 (emphasis added).



1. Extensions of Compliance Deadlines: It is critical that EPA extend compliance dates established in the CCR rule to provide time for implementation of state permit programs. This will avoid capital expenditures for elements of the rule that may be implemented differently by a state permit program (e.g., the use of risk-based standards that are equally protective). Extension of the deadlines also is necessary to ensure alignment of the CCR Rule's requirements with EPA's recent postponement of the compliance dates for implementation of the ELG Rule. Coordination of the CCR and ELG Rules' compliance time frames has been one of the overarching objectives of the Agency to ensure that owners/operators of CCR units are not forced to make decisions affecting these units under the CCR Rule without first understanding the ELG requirements. Such extensions should include the time schedules in 40 C.F.R. § 257.90(b) and § 257.90(e) for initiating groundwater monitoring, as well as the time schedules in 40 C.F.R. §§ 257.60-.64 for assessing compliance with the CCR rule's location restrictions.
2. Alternative Risk-Based Groundwater Protection Standards: The Agency should incorporate into the CCR rule the option set forth in the proposal allowing for the use of alternative risk-based standards in establishing groundwater protection standards for Appendix IV constituents that do not have an MCL.<sup>11</sup> This provision should be added to the final CCR rule at 40 C.F.R. § 257.95(h).
3. Selection of Corrective Action Remedy: The rule's corrective action remedy provision needs to be amended to allow for the consideration of "the desirability of utilizing technologies that are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives." And, as set forth in the proposed rule and allowed for under the MSWLF program, the final rule should be amended to allow for a determination that corrective action is not necessary as it would not result in any meaningful environmental benefit (e.g., where the groundwater is not a source of drinking water and there is a low likelihood of contamination migrating off-site). These provisions should be added to 40 C.F.R. § 257.97.
4. Alternative Points of Compliance & Site-Specific Groundwater Monitoring Constituents: EPA should incorporate into the rule provisions already in the MSWLF program providing a permitting authority (1) the option to determine the appropriate point of compliance for the groundwater monitoring system based on site-specific conditions, and (2) the ability to tailor the constituents subject to groundwater monitoring based on site-specific conditions. These provisions should be added to 40 C.F.R. § 257.91 and § 257.94, respectively.

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<sup>11</sup> See Proposed 40 C.F.R. § 257.95(h); 75 Fed. Reg. at 35249-50.

5. Adjustments to Post-Closure Care Period: EPA should incorporate into the final CCR rule a provision (as is available under RCRA's MSWLF and Subtitle C hazardous waste programs) allowing for a determination that a decreased period of post-closure care, as opposed to the mandatory 30-year period, is sufficient to protect human health and the environment. This provision should be added to 40 C.F.R. § 257.104(c).
6. Alternative Closure: EPA should modify the CCR rule at 40 C.F.R. § 257.103 to allow for the consideration of alternative disposal capacity for non-CCR wastewaters for purposes of qualifying for extended closure and avoiding premature closure of the facility. The goal of § 257.103 is to prevent the premature closure of power plants in circumstances where a surface impoundment otherwise required to close is authorized to continue operating for a limited period of time if there is no alternative disposal capacity to dispose of CCR.<sup>12</sup>

The rule currently only allows for the consideration of the lack of available disposal capacity for CCR in determining eligibility for continued operation. In developing the rule, however, EPA was well aware of, and the rule in fact fully contemplates, surface impoundments ceasing the receipt of CCR but continuing to receive non-CCR wastewaters and continuing to operate under the rule.<sup>13</sup> Therefore, this provision needs to be amended to allow for the continued operation of surface impoundments otherwise required to close, if there is no available disposal capacity for non-CCR wastewater managed in the impoundment.<sup>14</sup>

7. Regulation of Inactive Units: For the first time in its 35-year implementation of the RCRA program, EPA made the unprecedented decision in the CCR rule to regulate “inactive units”—that is, impoundments that had ceased receiving CCR before the effective date of the CCR rule. EPA does *not* regulate “inactive” units under its Subtitle C hazardous waste program but rather relies on its statutory “imminent and substantial endangerment” authorities under RCRA and CERCLA to address any potential risks from inactive hazardous waste surface impoundments. EPA’s asserted jurisdiction over inactive CCR surface impoundments is not mandated by the statute, but rather was a policy decision by the former EPA administration.<sup>15</sup>

This provision is imposing hundreds of millions of dollars of inflexible, one-size-fits-all remediation costs on the power industry, overriding state risk-based cleanup programs. It is also one of the reasons why the rule’s costs far exceed its benefits.

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<sup>12</sup> This issue is currently the subject of litigation brought by USWAG and other industry petitioners challenging aspects of the CCR rule. *See USWAG et al. v. EPA*, No. 15-1219 (D.C. Cir.).

<sup>13</sup> *See* 40 C.F.R. §§ 257.102(e)(1)(i), 257.102(e)(2)(i).

<sup>14</sup> EPA has already agreed to re-evaluate this issue, and issue a proposed rule as appropriate, pursuant to a settlement agreement entered into with USWAG as a result of the CCR litigation referenced above in n. 12.

<sup>15</sup> This issue also is the subject of litigation brought by USWAG and other industry petitioners challenging aspects of the CCR rule. *See USWAG et al. v. EPA*, No. 15-1219 (D.C. Cir.).

Therefore, EPA should repeal the provisions at 40 C.F.R. § 257.50(c) and § 257.100 subjecting inactive surface impoundments (*i.e.*, impoundments that did not receive CCR after the rule's effective date) to regulation under the rule. EPA and the states can address any risks from these units in a more cost-effective manner under pre-existing RCRA and CERCLA imminent hazard provisions.

8. CCR Beneficial Use for Closure: The CCR rule does not apply to the beneficial use of CCR provided such use meets the definition of "beneficial use" as set forth in 40 C.F.R. § 257.53. There are no prohibitions in the rule on beneficially using CCR for closure of CCR units. Indeed, the rule's preamble specifically identifies the beneficial use of CCR for waste stabilization/solidification, which occurs as part of closing a CCR unit.<sup>16</sup> Nonetheless, subsequent to enactment of the CCR rule, EPA has been ambiguous regarding the appropriateness of beneficially using CCR for closing CCR units. There should be no ambiguity with respect to the environmentally sound and cost-effective use of CCR in lieu of virgin materials for the closure of CCR units. Therefore, EPA should eliminate any ambiguity regarding this issue and confirm that the exclusion for CCR beneficial use includes beneficially using CCR to close CCR landfills and surface impoundments.
9. CCR Beneficial Use at Clay Mine Sites: The plain language of the CCR rule's definition of "beneficial use" places no limitations on what activities can constitute beneficial use, with the only exception being the placement of CCR in a "sand and gravel pit or quarry." The phrase "sand and gravel pit or quarry," in turn, is defined as "an excavation for the extraction of aggregate, minerals or metals." Based on this language, EPA has taken a position prohibiting the environmentally sound and beneficial practice of using CCR to reclaim clay mines on the grounds that the placement of CCR in a clay mine cannot be a beneficial use, irrespective of purpose or function, because a clay mine is or was a site used for the extraction of minerals—*i.e.*, clay. This interpretation is needlessly prohibiting a cost-effective and environmentally sound CCR beneficial use practice and is imposing unnecessary disposal costs on CCR when the CCR can otherwise be beneficially used to reclaim clay mines in lieu of using virgin materials.

EPA should therefore clarify that the definition of "sand and gravel pit or quarry" does not include clay mines and that owners/operators of such sites be provided the opportunity, as is the case with other CCR beneficial use structural fill activities, to demonstrate that the use of CCR to reclaim such sites meets the CCR rule's beneficial use criteria.

10. State-Approved Liner Systems: In promulgating the CCR rule, EPA established liner design criteria that failed to include liner systems that state regulatory bodies have found to be acceptable for CCR units. This means, for example, some CCR units that

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<sup>16</sup> See 80 Fed. Reg. at 21353.

are considered to be “lined” under applicable state CCR requirements are nonetheless classified as “unlined” under the CCR rule, subjecting those CCR units to extremely burdensome requirements not imposed on lined units and, in some circumstances, including mandatory closure requirements.<sup>17</sup> Given that the WIIN Act now allows the CCR rule to be imposed through enforceable state permit programs, this disregard for acceptable state liner requirements is at odds with the Administration’s principles of federalism. Therefore, EPA should modify the rule at 40 C.F.R. § 257.71 to allow for a determination that a CCR unit with an existing state-approved liner system qualifies as a lined CCR unit under the rule.

11. Definition of Beneficial Use: In promulgating the definition of “beneficial use” at 40 C.F.R. § 257.3, EPA mistakenly relied on a mathematical error in calculating the volume of CCR beneficially used in an unencapsulated manner that triggers the need to make an environmental safety demonstration. While the rulemaking record shows that the volume threshold triggering this requirement should have been 75,000 tons, EPA mistakenly calculated the number to be 12,400 tons. The Agency’s refusal to correct this figure despite its awareness of the error unnecessarily burdens power companies attempting to beneficially use CCR. EPA should therefore amend the definition of “beneficial use of CCR” at 40 C.F.R. § 257.53 such that the fourth condition applies only to unencapsulated uses exceeding 75,000 tons of CCR.<sup>18</sup>
12. Aquifer Location Restrictions as Applied to Existing Impoundments: In the final Rule, EPA subjected all existing impoundments to a location restriction requiring that the base of the unit be five feet above the uppermost aquifer. *See* 40 C.F.R. § 257.60(a).<sup>19</sup> Failure to meet this requirement mandates closure of the unit. Because this mandatory closure requirement does not allow for the consideration of site-specific considerations, this requirement should be modified to provide the permitting authority with the ability to provide an alternative compliance option other than mandatory unit closure.

#### **B. Federal CERCLA Financial Responsibility Standards**

Another rulemaking with potentially severe impacts on our industry in the ORCR within OLEM is the pending rulemaking to establish and impose financial assurance standards pursuant to CERCLA § 108(b) on the electric power generation, transmission and distribution industry.<sup>20</sup> EPA’s rulemaking is intended to protect the federal government from having to pay for cleanups caused by an insolvent company. The Agency insisted on moving forward with the regulatory

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<sup>17</sup> *See id.* at 21370 (finding that the State of Florida’s criteria for a liner system does not qualify as a “liner” under the federal CCR rule).

<sup>18</sup> This issue also is the subject of litigation brought by USWAG and other industry petitioners challenging aspects of the CCR rule. *See USWAG et al. v. EPA*, No. 15-1219 (D.C. Cir.).

<sup>19</sup> This issue also is part of the CCR litigation. *See USWAG et al. v. EPA*, No. 15-1219 (D.C. Cir.).

<sup>20</sup> 82 Fed. Reg. 3512 (Jan. 11, 2017).

process to determine whether to impose these requirements on the electric utility industry (along with the chemical manufacturing and petroleum and coal products manufacturing industries) even though USWAG and others submitted comments on an earlier Advance Notice of Proposed Rulemaking (“ANPRM”) indicating that utilities pose little to no risk of defaulting on their financial responsibilities due to the nature of their business.

Electric utilities are stable companies, have strong balance sheets, an extremely low rate of insolvency and have not historically shifted cleanup costs to federal or state programs. The utility industry does not have a history of failing to cover remediation costs, health assessments and natural resource damages. As such, the risk that the federal government would need to cover costs associated with the release of hazardous substances at utilities facilities is extremely low.

The imposition of financial assurance requirements on electric utilities would force utilities to spend unnecessary funds, impeding job creation, limiting growth and increasing costs to customers. Additionally, the costs of these regulations will far exceed their benefits; utilities will in all likelihood be forced to pay significant funds for financial responsibility instruments which will far exceed any nominal benefit that this extra protection will provide. EPA should determine that a rulemaking establishing CERCLA financial assurance obligations for the electric utility industry is unnecessary and indicate that it will not impose these requirements on the electric utility industry.

### **C. Revisions to RCRA Hazardous Waste Generator Requirements**

A final rule that imposed numerous stringent changes to a federal regulatory program of broad applicability without commensurate improvements in environmental safety is the hazardous waste generator improvements final rule that also originated in OLEM’s ORCR.<sup>21</sup> One of the most problematic aspects of the final rule is that in the preamble of the rule EPA “clarified” that states were not permitted to provide relief for the consolidation of hazardous wastes from remote or unstaffed sites. EPA provided a limited form of relief for this type of consolidation in the final rule and maintained that state programs that had provided other types of commonsense relief for the same concerns were not permitted under the hazardous waste regulations.<sup>22</sup> Specific states have already provided relief allowing the consolidation of unknown wastes by postponing hazardous waste determinations until waste is received at a staffed facility or authorizing the direct transfer of hazardous waste to central locations. A similar problem exists in the preamble discussion of episodic waste generation where EPA suggests that the relief the rule offers is the only relief available for episodic generation events. The discussion ignores the fact that some states have used their enforcement discretion to not penalize those facilities that are out of compliance due to abnormal hazardous waste generation patterns. In both these instances state programs have provided a functional, pragmatic approach that is as environmentally protective as any other regulatory option. EPA’s failure to

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<sup>21</sup> 81 Fed. Reg. 85732 (Nov. 28, 2016).

<sup>22</sup> *Id.* at 85776.

acknowledge these alternative approaches necessarily undermines RCRA-delegated states and their role as the primary regulator for facilities located within their jurisdictions.

While the statements made in the final rule relating to the consolidation of hazardous waste and the limited relief offered for episodic waste generation, the final rule also contains dozens of other revisions that make a mature regulatory program more stringent without providing environmental benefit. These revisions including imposing (i) onerous re-notification requirements, (ii) drastically increasing the penalties associated with generator compliance, and (iii) expanding and unnecessarily making the preparedness, prevention and emergency response procedures that apply to small and large quantity generators more stringent. EPA should withdraw interpretations in the final rule that eliminate state discretion and should withdraw those components of the rule that make the already functional RCRA program more stringent.

Another issue not included in the recent hazardous waste generator improvements final rule but that directly impacts hazardous waste generators is the unduly limited nature of the trivalent chromium exemption. This is the exemption at 40 C.F.R. § 261.4(b)(6)(i) for potentially hazardous wastes that meet the toxicity characteristic for chromium. The exemption allows specific wastes that contain chromium that is exclusively (or nearly exclusively) trivalent chromium (and meet other specific conditions) to be exempt from hazardous waste regulation. Unfortunately, this exemption is limited to only a few specific waste streams and generators of other wastes including utility boiler chemical cleaning wastes are required to submit a petition to their RCRA regulator in order to obtain the same relief for the same type of chromium. EPA should expand the trivalent chromium exclusion to cover all waste streams that meet the conditions of the exemption.

#### **D. Federal Standards for the Aboveground Storage of Hazardous Substances**

Another pending rulemaking originating in EPA's OLEM but within its OEM is the development of regulations to cover the aboveground storage of hazardous substances. While the Agency has provided very few details about how it will proceed with this rulemaking, we are concerned that the developed regulations will be largely redundant and/or inconsistent with the many varieties of state regulatory programs that already effectively protect releases and discharges from the same types of facilities and substances that the federal program will eventually cover. We are also concerned that the upcoming federal regulations will be unnecessarily proscriptive and not allow for performance-based controls that facility owners/operators will be able to tailor to the unique characteristics of their facilities. Duplicative, inconsistent or proscriptive regulations could inhibit job creation, be unnecessary, or have costs that exceed their expected benefits for facilities subject to these pending federal rules.

#### **E. Federal PCB Regulations**

Over the course of the past four decades, USWAG has engaged with EPA on the development, implementation, and enforcement of the federal regulations applicable to the use

and disposal of polychlorinated biphenyls (“PCBs”). This work has included commenting over the years on EPA requests for public input in connection with the Agency’s periodic retrospective review of rules that may be “outmoded, ineffective, insufficient, or excessively burdensome.”<sup>23</sup> In response to such a request in 2015, USWAG submitted written comments identifying several provisions that continue to impose unnecessary administrative and financial burdens on the regulated community far in excess of any environmental benefit. USWAG incorporates those 2015 comments (attached hereto as “Attachment A”) by reference herein, and addresses certain of these issues in greater detail below.

Note that all of the PCB-focused regulatory provisions discussed below involve the disposal of PCBs, falling under the purview of ORCR and therefore requiring consideration by OLEM. In some cases as noted below, these issues also relate to the use of PCBs, overseen by OPPT, and therefore warrant consideration by OCSPP and/or coordination between OLEM and OCSPP.

1. Disposal of PCB Remediation Wastes: EPA has found that PCB remediation wastes found at concentrations of < 50 ppm PCB can be disposed of in non-TSCA landfills, including MSWLFs, without presenting an unreasonable risk of injury to health or the environment. The federal PCB disposal regulations, when considered as a whole, implicitly acknowledge and allow for this.<sup>24</sup> However, over the years the Agency has developed policy that restricts the option to dispose of as-found < 50 ppm PCB remediation waste in a non-TSCA landfill—an option that is not only cost effective but which the Agency has found to present no unreasonable risk<sup>25</sup>—to as-found < 50 ppm PCB remediation wastes generated under a particular PCB cleanup option (the “self-implementing clean-up option,” 40 C.F.R. § 761.61(a)). That flawed policy illogically requires *identical* < 50 ppm PCB remediation wastes to be disposed of in TSCA landfills, at far greater expense and frequently involving long-distance transport of the PCB remediation wastes, if those wastes are generated under other cleanup options. This disparity in the treatment of different categories of < 50 ppm PCB remediation wastes has no basis in TSCA or the PCB regulations, nor from an environmental or health risk perspective. Nonetheless, compliance with this policy imposes significant and wholly unnecessary costs on the regulated community and can complicate and extend cleanup efforts.

In light of conflicting EPA policy and in order to provide USWAG members some level of regulatory certainty, and at EPA’s suggestion, USWAG applied in 2012 for a risk-based disposal approval expressly authorizing the disposal of certain non-liquid

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<sup>23</sup> 80 Fed. Reg. 12372 (Mar. 9, 2015); Docket ID No. EPA-HQ-OA-2011-0156.

<sup>24</sup> See 40 C.F.R. § 761.50(b)(3) (“PCB remediation waste ... is regulated for cleanup and disposal in accordance with § 761.61”); § 761.61 (“Any person cleaning up and disposing of PCBs under this section shall do so based on the concentration at which PCBs are found”).

<sup>25</sup> See 68 Fed. Reg. 4934, 4937 (Jan. 31, 2003) (acknowledging that < 50 ppm PCB remediation waste “has little inherent potential to pose an unreasonable risk to health or the environment”).

PCB remediation wastes found at concentrations below 50 ppm in MSWLFs and other non-TSCA facilities. The final approval document,<sup>26</sup> issued to USWAG members in June 2014 pursuant to 40 C.F.R. § 761.61(c), is based on EPA's finding that such disposal presents no unreasonable risk to health or the environment. EPA has issued a similar risk-based disposal approval expressly authorizing the disposal of certain as-found < 50 ppm PCB remediation waste to members of the National Rural Electric Cooperative Association ("NRECA").<sup>27</sup> While these approvals have provided members of USWAG and NRECA with some level of comfort in the absence of clarified Agency policy or regulations, the approvals are limited in scope and, in many cases, the problematic policy EPA has articulated in the past still imposes disparate disposal standards on different categories of waste that are identical in terms of PCB content and from a risk perspective.

EPA should therefore clarify the PCB disposal regulations at 40 C.F.R. §§ 761.50 to expressly allow for the disposal of all PCB remediation wastes with as-found concentrations of < 50 ppm PCB in non-TSCA landfills. This clarification should make clear that this non-TSCA disposal option applies equally to PCB remediation wastes generated under the PCB Spill Cleanup Policy as well as PCB remediation wastes generated under the PCB spill cleanup options at 40 C.F.R. § 761.61. This modification would also require the revision of EPA's PCB Question and Answer manual to revise or remove responses that are based on flawed policy regarding the disposal of as-found < 50 ppm PCB remediation waste.<sup>28</sup>

2. Analysis of PCB Remediation Wastes: EPA's PCB disposal regulations specify particular analytical methods that must be employed when extracting samples of PCB wastes for purposes of determining appropriate disposal options and cleanup verification. In particular, the regulations specify the use of a traditional soxhlet extraction procedure (Method 3540) rather than the equally effective, significantly faster and much more cost-effective automated soxhlet extraction method (Method 3541). EPA's own labs acknowledge the advantages of Method 3541, and Method 3541 is routinely used by EPA in other contexts including Superfund cleanups. There is no scientific, environmental, or risk-based rationale for not allowing the regulated community to use the automated soxhlet extraction method to analyze PCB content under the federal PCB program. Accordingly, EPA should modify the PCB analytical rules throughout 40 C.F.R. Part 761 and including 40 C.F.R. §§ 761.61(a)(5)(B)(iv), 761.253, 761.272, 761.292, 761.358 and 761.395 to expressly authorize the use of the most recent EPA-approved extraction method available for the chemical extraction of PCBs from individual and composite samples (currently Method 3541).

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<sup>26</sup> Available online at <https://www.epa.gov/pcbs/nationwide-risk-based-pcb-remediation-waste-disposal-approvals-under-title-40-code-federal> (current as of May 8, 2017).

<sup>27</sup> *Id.*

<sup>28</sup> See EPA PCB Question and Answer Manual (June 2014) at 48.



3. Satellite Accumulation of PCBs: There is a need to amend EPA's PCB regulations to accommodate the on-site accumulation of small amounts of PCB wastes to facilitate the cost-effective management and off-site disposal of these materials. EPA provides this waste management option under the federal hazardous waste program (referred to as "satellite accumulation"), but the Agency has never promulgated a similar common sense accumulation provision under the federal PCB program. The absence of this regulatory option imposes unnecessary costs and operating challenges for the accumulation of small amounts of PCB waste. Therefore, EPA should amend 40 C.F.R. § 761.65 to include a "satellite accumulation" provision patterned after the provision in RCRA's hazardous waste rules that allows for streamlined management of small amounts of PCBs stored for disposal.
  
4. Amendments to PCB Regulations Applicable to Natural Gas Pipelines (for consideration by OLEM (ORCR) and OCSPP (OPPT)): EPA's PCB rules regulate the presence of PCBs in natural gas pipeline systems, including requiring owners/operators to identify any "potential source" of PCBs in the system.<sup>29</sup> The term "source" of PCBs has long been erroneously and unnecessarily applied to certain types of natural gas equipment. The regulations also impose conditions for characterizing and then controlling the "abandonment" of pipeline systems at the end of their useful lives.<sup>30</sup> These use and abandonment requirements can be extremely burdensome and impractical. Moreover, they are unnecessary when the owner/operator of the pipeline system can otherwise demonstrate that the pipeline system does not contain PCBs. Currently, however, there is no clear method within the regulations for owners/operators to make such a demonstration and bypass the unwarranted use and abandonment requirements.

EPA should therefore modify the regulations for PCBs in natural gas pipeline systems at 40 C.F.R. §§ 761.30(i) & 761.60(b)(5) to establish a method for owners/operators to demonstrate that the pipeline system does not contain PCBs at regulated levels and to thereafter be excluded from the use and abandonment/disposal requirements for PCBs in natural gas pipelines. In addition, EPA should clarify and limit the scope of the term "potential sources" at 40 C.F.R. § 761.30(i) to eliminate the unnecessary evaluation of components of pipeline systems that do not serve as potential sources of PCBs into the system. Note that, because these issues arise under both the PCB use regulations (administered by OCSPP's OPPT) and the PCB disposal regulations (administered by OLEM's ORCR), these issues require coordination between OLEM and OCSPP.

5. Allow PCB Bulk Product Waste or PCB Bulk Remediation Waste for Storage up to 180 days in a Container: To facilitate the remediation of PCB-contaminated sites, EPA's current PCB regulations at 40 C.F.R. § 761.65(c)(9) allow for the on-site

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<sup>29</sup> See 40 C.F.R. § 761.30(i)(1)(iii)(A).

<sup>30</sup> See *id.* at § 761.60(b)(5).

storage of PCB bulk remediation wastes or PCB bulk product wastes for up to 180 days if the waste is managed in piles meeting specified performance standards. However, a significant shortcoming in this regulation is that the management option is limited exclusively to the storage of PCB wastes in a “pile,” and does not include any other type of unit. As a practical matter, facilities can more readily manage PCB bulk remediation wastes or PCB bulk product wastes (such as dirt and debris, coal tar wrap, or components of pipe removed during natural gas pipeline construction activities) in roll-offs and other similar containers. Management of PCB bulk remediation wastes or PCB bulk product wastes in these types of containers is common in the utility industry and, in fact, allows for more secure management with far less potential for releases to the environment. The Agency’s unfortunate interpretation of the 180-day storage provision, restricting the availability of this regulatory option to wastes managed in a pile, significantly undermines the utility of this provision and has no basis from a risk perspective. While USWAG members have succeeded in securing individual risk-based storage approvals to store PCB remediation wastes such as contaminated pipe in roll-offs for 180 days, such approval is applied for and granted on a case-by-case and/or company-by-company basis—representing a waste of both company and administrative resources. EPA should correct this deficiency in the rule by amending 40 C.F.R. § 761.65(c)(9) to include the storage of PCB bulk remediation wastes and PCB bulk product wastes in “PCB Containers,” as that term is defined in 40 C.F.R. § 761.3.

In addition, there are circumstances where the most practical and environmentally sound option for managing bulk PCB remediation wastes or PCB bulk product wastes generated in the field is to bring the materials back to a company-owned site (that is, not the site of generation) for storage prior to off-site disposal in a qualified TSCA disposal facility. The current regulations (at § 761.65(c)(1)) allow for temporary storage of such materials for only thirty days. This is often insufficient time to allow for the cost-effective storage of PCB bulk remediation wastes or PCB bulk product wastes prior to off-site disposal. This is true, for example, in cases where utilities conduct pipeline related-operations where coal tar wrap or segments of pipe are removed. In fact, EPA Region 2 has recognized the appropriateness of extended storage of these materials, leading it to issue a risk-based disposal approval under 40 C.F.R. § 761.62(c) allowing a USWAG member to store coal tar wrap at a service center for up to 180 days. The approval reflects EPA’s conclusion that, provided certain conditions are met, such storage will not pose an unreasonable risk of injury to health or the environment. Because the storage of PCB bulk remediation wastes and PCB bulk product wastes at a site other than the point of generation for greater lengths of time (*i.e.*, up to 180 days) will not present an unreasonable risk of injury to health or the environment, USWAG recommends that EPA amend its storage for disposal regulations at 40 C.F.R. § 761.65 to expressly authorize such storage.

## II. OAR Regulations Warranting Repeal, Replacement or Modification

A final rule developed several years ago warranting immediate modification and/or clarification is EPA's final rule establishing operational and emission controls for units identified as commercial and industrial solid waste incineration ("CISWI") units.<sup>31</sup> The rule establishes standards for CISWI units which are identified by statute as those units that "combust[] any solid waste."<sup>32</sup> USWAG has long maintained that several types of materials have been historically introduced into utility boilers, including boiler cleaning waste and refined coal, as a practical way to manage material without increasing emissions and to reduce the emissions of certain contaminants, respectively. Due to the nature of this material, boiler cleaning waste and refined coal are not being combusted as EPA has defined combustion in other contexts<sup>33</sup> and therefore should not trigger CISWI regulation. USWAG sought confirmation on this point through the CISWI rulemaking, and EPA responded to this comment by requesting that we submit this issue directly to the Agency outside the scope of the rulemaking.<sup>34</sup> Accordingly, USWAG submitted a request for an interpretation on these materials on November 4, 2013. EPA has not yet provided a response to this request.

The evaporation of boiler cleaning waste in utility boilers is a practical, cost-effective method for managing materials that are mostly or entirely water-based. Requiring shipments of what can be over a million gallons of this material increases transportation costs and emissions as well as costs associated with more expensive and inefficient downstream management. These inefficiencies inhibit growth for our industry and imposes costs far exceeding benefits. The use of refined coal whereby inorganic materials are added to coal to reduce the resulting air emissions of burning coal provides tremendous benefit given the significant reduction in air emissions from this operation. EPA's failure to provide guidance exempting these practices from CISWI regulation is particularly egregious given that Congress, recognizing the need to provide policy support for the use of refined coal, provides a tax credit for these operations.<sup>35</sup> The Agency should respond to our nearly three-and-a-half-year-old request for an interpretation by clarifying that boiler cleaning waste and refined coal do not trigger CISWI regulation when introduced into utility boilers.

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<sup>31</sup> 78 Fed. Reg. 9112 (Feb. 7, 2013).

<sup>32</sup> 42 U.S.C. § 7429(g)(1).

<sup>33</sup> See Keith Barnett, EPA Environmental Engineer, Combustion in A Cement Kiln and Cement Kilns' Use of Tires as Fuel, EPA-HQ-OAR-2002-0051-3582 (April 25, 2011).

<sup>34</sup> See Summary of Public Comments and Responses for Commercial and Industrial Solid Waste Incineration Units: Reconsideration and Final Amendments; Non-Hazardous Secondary Materials That Are Solid Waste, EPA-HQ-OAR-2003-0119-2686, at 320-321.

<sup>35</sup> 26 U.S.C. §§ 45(c)(7)&(e)(8).

Samantha Dravis  
US EPA  
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USWAG appreciates the opportunity to submit comments on the implementation of EO 13777. If you have questions regarding the above comments, please contact me or USWAG counsel Douglas Green (202-344-4483) at Venable LLP.

Sincerely,

A handwritten signature in black ink, appearing to read "James Roewer", with a large, stylized initial "J" and a long horizontal flourish extending to the right.

James Roewer  
Executive Director  
Utility Solid Waste Activities Group

Samantha Dravis  
US EPA

# Attachment A

April 8, 2015

VIA ELECTRONIC DELIVERY AT [WWW.REGULATIONS.GOV](http://WWW.REGULATIONS.GOV)

Office of Policy  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, DC 20460  
Attn: Docket ID No. EPA-HQ-OA-2011-0156

Re: Comments on Improving EPA Regulations;  
Docket ID No. EPA-HQ-ORD-2011-0391;  
80 Fed. Reg. 12372 (March 9, 2015)

To whom it may concern:

The Utility Solid Waste Activities Group (“USWAG”) submits these comments to the Environmental Protection Agency (“EPA” or the “Agency”) in response to EPA’s request for public input on the Agency’s periodic retrospective review of its regulations. 80 Fed. Reg. 12372 (Mar. 9, 2015). USWAG appreciates EPA’s effort to undertake a retrospective analysis of rules that may be “outmoded, ineffective, insufficient, or excessively burdensome and to modify, streamline, expand, or repeal them in accordance with what has been learned,” in keeping with Executive Orders 13563 and 13610. *Id.* These comments identify certain regulations that EPA has established for polychlorinated biphenyls (“PCBs”) under 40 C.F.R. Part 761 that warrant review as part of this effort.

USWAG, formed in 1978, is a consortium of approximately 130 electric utilities, power producers, utility operating companies, and utility service companies located throughout the country, including the Edison Electric Institute (“EEI”), the American Gas Association (“AGA”), the American Public Power Association (“APPA”), and the National Rural Electric Cooperative Association (“NRECA”).<sup>1</sup> Together, USWAG members represent more than 73% of the total

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<sup>1</sup> EEI is the principal national association of investor-owned electric power and light companies. AGA is the principal national association of investor-owned natural gas utilities. APPA is the national association of publicly-owned electric utilities. NRECA is the national association of rural electric cooperatives. Throughout these comments, we refer to our industry as the “utility” or “electric utility” industry. This term is intended to include those portions of the industry and those USWAG members that generate electricity but do not directly provide electricity to the public and are technically not “utilities.”

electric generating capacity of the United States, and service more than 95% of the nation's consumers of electricity and 92% of the nation's consumers of natural gas.

For the past three and a half decades, USWAG has worked with EPA on the development and implementation of the federal PCB regulations applicable to electric and gas company operations. USWAG has raised each of the issues discussed below with EPA on prior occasions and in other contexts; we appreciate the opportunity to comment on these regulations once more in the context of EPA's efforts to review and improve its existing regulations in order to address regulations that may be outdated, inefficient, duplicative, or overly burdensome.

These comments address the following PCB regulatory issues:

- Need for inclusion in regulatory text of all PCB extraction methods approved for use in EPA Method 8082 in connection with PCB gas chromatography analysis;
- PCB waste storage issues arising under § 761.65;
- Need for a regulatory avenue for the deregistration of PCB Transformers from the PCB Transformer Registration Database under § 761.30;
- Batch testing authorizations under § 761.60(g); and
- Need for regulatory relief options for PCB cleanups during and following natural disasters.

These issues are discussed in detail below.

\* \* \* \* \*

1. Inclusion of EPA SW-846 Method 8082-Approved PCB Extraction Methods in PCB Regulations

EPA's PCB regulations in several places require the use of specific PCB extraction methods for chemical analysis, including EPA Method 3500B/3540C, "or methods validated under subpart Q" of the PCB regulations. See, e.g., 40 C.F.R. § 761.61(a)(5)(i)(B)(iv); 40 C.F.R. § 761.253(a); 40 C.F.R. § 761.272; 40 C.F.R. § 761.292; 40 C.F.R. § 761.358; and 40 C.F.R. § 761.395(b)(1). As currently written, validation of any non-enumerated extraction method – including methods that EPA has approved for PCB extraction in other contexts – under subpart Q requires a comparison study be conducted as prescribed in 40 C.F.R. § 761.326. This time-consuming (requiring 60-day notice to EPA; see 40 C.F.R. § 761.320, 40 C.F.R. § 761.81(i)(1)) and potentially resource-intensive effort is wholly unnecessary for those methods that EPA has already approved for use in other PCB extraction contexts (e.g., Method 3541, automated Soxhlet extraction method).

Each of the regulatory provisions cited above references EPA Method 8082, "Polychlorinated Biphenyls (PCBs) by Capillary Column Gas Chromatography" of SW-846 ("Method 8082"), as a method for gas chromatography ("GC") analysis of PCBs.<sup>2</sup> Method 8082, in turn, provides at section 2.1.2 that "[s]olid samples may be extracted with hexane-acetone (1:1) or methylene chloride-acetone (1:1) using Method 3540 (Soxhlet), Method 3541 (automated Soxhlet), Method 3545 (pressurized fluid extraction, Method 3546 (microwave extraction), Method 3550 (ultrasonic extraction), Method 3562 (supercritical fluid extraction), or other appropriate technique or solvents." Therefore, EPA regulations requiring the use of GC for PCB analysis *already allow* for the use of the methods enumerated in Method 8082 (though not expressly called out in the text of the regulations themselves) in connection with these chemical analyses.

However, as currently written, the regulatory text addressing chemical extraction methods suggests that any extraction methods other than Method 3500B/3540C may only be used after a subpart Q comparison study has been conducted. The result is the waste of time and resources, both on the part of the party undertaking the comparison study and the Agency in reviewing the petition required under subpart Q. This is especially true given that EPA has already evaluated and approved the methods enumerated in Method 8082 as appropriate for PCB extraction in connection with PCB GC analysis.

EPA should therefore amend the existing regulatory text to expressly include among available extraction methods "any extraction method allowed under Method 8082 from SW-846, as that method may be revised." This approach will not only provide clarity under the existing regulatory structure but will also allow for adaptability as other methods may be added to Method 8082 going forward.

In the alternative and at a minimum, if EPA is for some reason unwilling to make this change, EPA should modify each reference to chemical extraction cited above to expressly allow for the use of Method 3541, automated Soxhlet extraction, in connection with GC analysis for purposes of disposal. EPA has acknowledged the comparable effectiveness and increased speed of this method relative to other analytical methods, stating in the summary document for Method 3541 that "[t]he method uses a commercially available, unique, three stage extraction system to achieve analyte recovery comparable to Method 3540, but in a much shorter time," and that "[i]t has been statistically evaluated at 5 and 50 µg/g of Arochlors 1254 and 1260, and found to be equivalent to Method 3540 (Soxhlet Extraction)." EPA, "Method 3541: Automated Soxhlet Extraction,"

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<sup>2</sup> Note that the most current version of Method 8082 is Method 8082A (Feb. 2007); references in these comments to Method 8082 include Method 8082A and any subsequent revisions of this method.



summary document at Section 1.1.<sup>3</sup> In another context – approving a petition by the Oak Ridge National Laboratory requesting the use of the SOXTEC extraction system (Method 3541) in place of the conventional Method 3540 for the preparation of PCB samples – EPA stated that “these preparative techniques [Method 3541 and Method 3540] are equivalent, within allowable standard deviation limits,” adding that Method 3541 “actually proved to be the superior technique when time constraints were considered, taking only 2 hours for sample preparation vs. 17 hours for [Method 3540].” See EPA Letter from D. Friedman, Chief, OSW-Methods Sections, to U.S. EPA Region IV, RCRA Online No. 13187 (May 31, 1988).

If EPA is unwilling to amend all of the regulatory references to PCB extraction methods to include Method 8082-approved methods, the Agency should at a minimum expressly allow the use of Method 3541 (or the most current version of that method) as an available alternative to Methods 3500B/M3540C.

## 2. PCB Waste Storage Issues (40 C.F.R. § 761.65)

### A. Satellite Accumulation

EPA should develop a satellite accumulation provision for PCB wastes under 40 C.F.R. § 761.65 to allow for extended on-site storage of small volumes of PCB wastes, provided certain volume limitations (e.g., a 55-gallon drum) and storage and marking conditions are met. This would prevent the impractical, costly, and inefficient scenario created by the current rules, which require transport off-site of small volumes of PCB wastes (e.g., only two or three articles in a drum) simply because of the short storage for disposal time limits. Further, this approach to efficient waste accumulation has precedent in EPA's existing hazardous waste regulations.

Specifically, a PCB satellite accumulation rule could be patterned after the satellite accumulation provision in EPA's Resource Conservation and Recovery Act (“RCRA”) regulations. This RCRA provision allows a generator of hazardous waste to accumulate 55 gallons of hazardous waste at or near the point of generation where such wastes initially accumulate and where such activity is under the control of the generator. See 40 C.F.R. § 262.34(c)(1). Further, the RCRA provision requires that the storage containers be (1) in good condition and not leaking; (2) made of or lined with a material that is compatible with the waste so that the ability of the container to hold the waste is not impaired; (3) kept closed, except when it is necessary to add additional wastes to the container; and (4) marked with the words “hazardous waste” (in the PCB context, the container could be marked with the ML label or the words “PCB Waste”). See *id.* A PCB

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<sup>3</sup> Available online at <http://www.epa.gov/sam/pdfs/EPA-3541.pdf>.

satellite accumulation rule modeled after RCRA's satellite accumulation rule would allow for far more efficient management of PCB waste while remaining protective of human health and the environment.

#### B. Storage of PCB Bulk Product and Bulk Remediation Wastes

Under the current regulations, qualified PCB wastes may be stored at the clean-up site or site of generation in a pile for up to 180 days, provided the waste meets certain conditions, including wind dispersion controls and liner requirements to prevent runoff and migration from the waste. 40 C.F.R. § 761.65(c)(9). On its face, the regulatory text refers to a "pile" and, as a result, EPA guidance suggests that the management of qualifying PCB wastes in a roll-off or any other type of container is automatically precluded from qualifying for this management option. This has been the case even where such units meet or exceed the performance-based standards referenced above. See EPA 2014 PCB Q and A Manual at 114-15. There is no risk-based justification for a blanket prohibition on PCB wastes stored in roll-offs or other types of containers qualifying for this management option, provided of course that the regulation's performance-based standards are met.

Therefore, USWAG recommends that EPA clarify in the regulatory text or in interpretive guidance that the rule is intended to encompass roll-offs, containers, and similar devices meeting the performance standards set forth in 40 C.F.R. § 761.65(c)(9). Alternatively, USWAG recommends that EPA amend the regulatory text to specifically reference such units.

In addition, USWAG urges EPA to extend the 180-day accumulation provision to scenarios where isolated pieces of electrical equipment from off-site, intra-company sources are consolidated at a central collection facility meeting the performance standards in 40 C.F.R. § 761.65(c)(9). EPA should also amend the regulations to allow for 180-day storage in drums and roll-offs of PCB bulk product and remediation wastes generated off-site by intra-company sources. This would allow for the efficient consolidation of isolated PCB-containing electrical equipment in the field while further promoting PCB reduction efforts.

#### C. Storage of Non-Liquid PCB Wastes

The secondary containment and berm requirements set forth at 40 C.F.R. § 761.65(b)(1) for the storage of PCB wastes are presumably designed to prevent the release of PCB *liquid* wastes from storage areas. However, non-liquid PCB wastes, such as bulk PCB remediation wastes and PCB bulk product wastes, do not present the same run-off concerns as PCB liquid wastes and therefore do not necessitate the secondary containment controls built into the current regulations. EPA should amend 40 C.F.R. § 761.65(b)(1) to expressly provide that the

secondary containment and berm requirements do not apply to non-liquid PCB wastes. This would facilitate establishment of more cost-efficient storage areas that would, in turn, encourage non-liquid PCB waste cleanup and remediation.

#### D. Clarification of Thirty-Day Temporary Storage Provision for PCB Wastes

The existing regulatory provision regarding 30-day temporary storage for PCB wastes (40 C.F.R. § 761.65(c)(1)) is in need of clarification to make plain that the provision's requirement to prepare an SPCC plan for containers holding liquid PCBs at  $\geq 50$  ppm applies *only* if such a plan would otherwise be required under the applicable SPCC regulations (e.g., the SPCC threshold volumes are exceeded and releases from the facility could reasonably be expected to discharge oil into or upon the navigable waters of the United States or adjoining shorelines). In the context of other storage for disposal practices, EPA has used explicit language to indicate that the preparation and implementation of an SPCC plan is required. See 40 C.F.R. § 761.65(c)(7)(ii). In contrast, the regulatory language in 40 C.F.R. § 761.65(c)(1) directs that an owner/operator of a temporary 30-day storage unit shall prepare an SPCC plan "in accordance" with the SPCC regulations, meaning that the requirements attach *only* when the threshold and location criteria triggering an SPCC plan have been met.

Unfortunately, the regulatory language referenced above ("in accordance with") has created persistent confusion on this issue. Clarification is necessary to increase regulatory certainty and to relieve the regulated community of the inordinate resource burden associated with designing an SPCC program for 30-day temporary storage locations in circumstances that simply do not warrant these types of controls. There is no risk-based or practical reason to apply SPCC protections to the storage of small volumes of PCB wastes that pose no risk to navigable waters of the United States and that would not otherwise trigger the SPCC controls – and so there is no risk-based or practical reason to withhold clarification of the regulatory language that has created regulatory uncertainty. Even if, for some reason, EPA does construe this regulatory language as mandating the creation of an SPCC plan for the 30-day temporary storage of PCB liquids when an SPCC plan would not otherwise be required, then EPA should amend the regulations to explicitly state that such plans are *only* required when the SPCC threshold volume and location criteria are met.

#### 3. Creation of Regulatory Avenue for Deregistration of PCB Transformers from PCB Transformer Registration Database (40 C.F.R. § 761.30)

USWAG has been working with EPA for several years to improve both the accuracy and the clarity of the Agency's PCB Transformer Registration Database. While EPA has undertaken efforts to correct inaccurate records in the Database,

the lack of a regulatory avenue for *deregistration* of PCB Transformers results in unnecessary administrative burden as well as a misleading Database.

To resolve this confusion, we suggest that EPA establish a procedure under 40 C.F.R. § 761.30(a)(1)(vi) to ensure removal from the PCB Transformer Database, at the owner's request, of PCB Transformers removed from service for disposal or reclassified to non-PCB Transformer status. This regulatory avenue for deregistration should be optional, at the election of the PCB Transformer owner, but should require EPA to remove from the PCB Transformer Database all PCB Transformers for which a deregistration request is properly made. This will reduce confusion regarding the current universe of PCB Transformers and make the PCB Transformer Database a more useful tool for regulators, legislators, local response agencies, and the public.

4. Modification of Batch Testing Authorization (40 C.F.R. § 761.60(g))

Also in need of amendment are the batch testing rules set forth at 40 C.F.R. § 761.60(g). These rules require updating to reflect the assumptions incorporated in 40 C.F.R. 40 C.F.R. § 761.2 in the 1998 disposal amendments. Specifically, 40 C.F.R. § 761.60(g) needs to be amended to allow for batch testing of mineral oil from equipment identified in the 1998 disposal amendments as non-PCB (*i.e.*, post-1979 electrical equipment, small transformers, and rectifiers) with mineral oil from equipment that was previously presumed to be non-PCB (*i.e.*, circuit breakers, reclosers, and oil-filled cable).

This change could be accomplished by modifying the last sentence in 40 C.F.R. § 761.60(g)(1)(i) to read, in relevant part: "If dielectric fluid from untested, oil-filled circuit breakers, reclosers, cable, electrical equipment manufactured after July 2, 1979, transformers with less than three pounds of fluid, or rectifiers is collected in a common container with dielectric fluid from other oil-filled electrical equipment, the entire contents of the container ..." This revision would update the batch testing rules so that they conform with the 1998 disposal amendments, and would serve to eliminate unnecessary confusion.

5. Provision for PCB Regulatory Relief During Natural Disasters

Ten years ago, in the wake of the devastation wrought by Hurricane Katrina, USWAG worked with EPA to identify ways to provide regulatory relief for PCB cleanups in other circumstances involving natural disasters. In response, EPA issued enforcement discretion guidance (Attachment A) that outlined risk-based relief in the form of cleanup and disposal standards for damaged electrical equipment and related spills resulting from either Hurricane Katrina or Hurricane Rita. This guidance was critical because, as EPA correctly recognized, the traditional method for obtaining such relief – namely, through a risk-based

variance request under 40 C.F.R. § 761.61(c) – would not be practical from a timing or administrative resources perspective in times of natural disasters, where immediate action is required.

While this relief proved helpful to USWAG members responding to those particular hurricanes, it was limited in scope and duration, expiring at the end of 2005 and applying only to events caused by those storms. More recent disasters such as severe snow, ice, and wind storms throughout the country, hurricanes in the Gulf region, and wildfires on the west coast have made clear that the type of emergency situation necessitating prompt and straightforward regulatory relief for facilities attempting post-storm cleanups is bound to recur year after year. As requested in 2008 (Attachment B) and reiterated in comments to this docket in 2011, USWAG urges EPA to develop guidance similar to the temporary relief issued in 2005, but broader in scope and available for use during and immediately after any natural disaster meeting specified conditions, without prior notice or approval from EPA. This would remove significant barriers to the timely and cost-effective restoration of power following severe natural weather events.

\* \* \* \* \*

USWAG appreciates the opportunity to provide input as EPA pursues this important effort. Please contact USWAG counsel Allison Foley (202-344-4416) or Douglas Green (202-344-4483) at Venable LLP with questions regarding these comments.

Respectfully submitted,



James R. Roewer  
Executive Director

# Attachment A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

NOV 09 2005

4APT-TS

Mary E. Davis  
American Electric Power  
501 N. Allen Avenue  
Shreveport, LA 71101

Dear Ms. Davis:

The enclosed guidance addresses cleanup of polychlorinated biphenyls (PCBs) spills from electrical equipment damaged by Hurricanes Katrina and Rita, and management of the damaged equipment. This guidance was developed based on input from your organization as well as from others who are engaged in cleanup and recovery efforts in the wake of the hurricanes.

We hope that you find this guidance useful. EPA recognizes the challenges faced by those engaged in hurricane-related cleanup and recovery efforts. We believe that this guidance addresses the needs of those dealing with damaged electrical equipment that may contain PCBs, and spills from such equipment. Based on the information we currently have, we do not believe that additional regulatory flexibility or emergency relief is needed.

Please feel free to share this guidance with utilities throughout the hurricane impacted areas. The guidance will remain in effect through the remainder of this calendar year.

Should you or any of your utility industry colleagues have questions about the enclosed guidance, please contact your Regional PCB coordinator. Contact information for the Regional PCB coordinators may be found at [www.epa.gov/pcb](http://www.epa.gov/pcb).

Sincerely,

A handwritten signature in black ink that reads "Jesse Baskerville".

Jesse Baskerville  
Acting Director  
Air, Pesticides and Toxics  
Management Division

Enclosure

cc: Lou Roberts, EPA Region 6  
Maria Doa, OPPT

Internet Address (URL) • <http://www.epa.gov>

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## Guidance for Addressing Spills from Electrical Equipment

EPA is providing the following guidance for addressing spills from electrical equipment damaged by Hurricane Katrina or Hurricane Rita. Areas of primary federal concern include the proper disposal of electrical equipment containing PCBs (i.e., distribution transformers and capacitors). EPA recognizes that individuals, contractors or others involved in removing electrical equipment or utilities restoring electrical service in areas damaged by Hurricane Katrina or Hurricane Rita face difficult circumstances that may impede full compliance. However, in any event, you should take the actions set forth below to the extent feasible.

Efforts to restore the damaged areas to their pre-disaster condition often involve removing or repairing damaged electrical equipment. There may be a natural tendency at this stage to overlook certain hazards, such as those associated with PCBs, that are not immediately life threatening. However, such hazards are serious and may manifest themselves many years from the time of exposure and should be taken into consideration. Given the health hazards associated with PCBs, adequate measures should be taken during emergency situations to minimize exposure.

This guidance remains in effect through December 31, 2005, and applies only to damage and spills resulting from Hurricane Katrina and Hurricane Rita. The guidance in this document supersedes the PCB guidance in EPA's "DEMOLITION GUIDANCE FOR STRUCTURALLY UNSOUND BUILDINGS DAMAGED BY HURRICANE KATRINA."

To the extent feasible, efforts should be made to perform the following steps:

### *Identifying Downed Electrical Equipment Which May Contain PCBs*

Caution! Downed electrical equipment including transformers may still be energized which could cause injury. De-energized capacitors and batteries may still contain a charge.

Downed electrical equipment may contain PCBs

- Generally, transformers that were mounted on utility poles are liquid filled and some may contain PCBs.
- Air cooled or dry type transformers do not contain PCBs.
- In the absence of identifying information, it is best to assume a transformer may contain PCBs. To screen transformers for the presence of PCBs, you can use a field screening test kit. A positive test indicates the potential presence of PCBs. A negative test indicates no presence of PCBs.
- The location of the downed equipment should be identified using e.g., GPS, some kind of visual marker along with a log book with descriptive locations, etc., because this will help you address future clean-up of any spill associated with the downed equipment.



### *Handling the Electrical Equipment*

- If the electrical equipment is intact, it can be stored for reuse, preferably in a clean, dry area.

If the electrical equipment has a small leak that can be controlled so that no additional liquid leaks from the unit, it can be stored for repair and reuse after controlling the leak, preferably in a clean, dry area.

- Intact electrical equipment and equipment that has small leaks that have been controlled can then be shipped without a manifest to a repair facility for evaluation and repair.
- If the electrical equipment has significant leaks, any remaining liquid should be drained into a non-leaking container. If the field screening test kit indicates the liquid contains PCBs, the container should be labeled with the PCB M<sub>1</sub> as containing PCB liquids, and ultimately sent to a chemical or hazardous waste incinerator for disposal. The drained electrical equipment carcass should be disposed properly.

If containers with drained liquids must be stored temporarily, they should be placed on hard surface areas, such as a concrete or asphalt parking lot for no more than 90 days.

If the leaking electrical equipment cannot be drained, the electrical equipment should be placed in shipping containers, or covered roll-offs with a poly liner or sorbent material to prevent further spread of the spill, intermodal containers with a poly liner or sorbent material to prevent further spread of the spill, or other weather-tight containers.

If these containers must be stored temporarily, they should be placed on hard surface areas, such as a concrete or asphalt parking lot, for no more than 90 days.

- Electrical equipment from parties unable to manage their equipment may be consolidated at electrical utility-owned locations or other temporary storage or staging areas.

### *Handling the Spill*

- Where possible, temporary measures should be implemented to prevent, treat, or contain further releases or mitigate migration to the environment of PCBs.
- Where possible, the location of the spill should be identified to determine if it correlates with downed equipment. Where possible, the boundaries of the spill area should be identified with paint or flags to facilitate future clean-up. Generally, after the equipment has been sent to the repair facility, the presence and concentration of PCBs in the

equipment is determined. This information can be used to address the spill. If the PCB concentration in the equipment was greater than 50 ppm, you should clean-up the spill.

- All soil with visible traces of the spill should be excavated and placed in weather-tight containers, such as a covered and lined roll-off or intermodal container.

If these containers must be stored temporarily, they should be placed on hard surface areas, such as a concrete or an asphalt parking lot for no more than 90 days.

- The excavated material should be disposed in a TSCA or hazardous waste landfill.
- If the spill is the result of an empty or leaking piece of equipment which has not been tested, some testing of the soil may be necessary to identify if PCBs are present. If PCBs are present in the excavated material, the waste should be sent to a TSCA or hazardous waste landfill.

For further information, please contact the EPA Regional PCB Coordinator for your area.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 1 2005

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**MEMORANDUM**

**SUBJECT:** OECA Concurrence on Guidance for Addressing Spills from Electrical Equipment

**FROM:** Granta Y. Nakayama *Granta Y. Nakayama*  
Assistant Administrator

**TO:** Susan B. Hazen  
Principal Deputy Assistant Administrator  
Office of Prevention, Pesticides, and Toxics Substances

Thank you for taking the lead in addressing the evolving environmental issues associated with returning electrical service to areas of the Gulf Coast affected by Hurricane Katrina and Hurricane Rita. We have reviewed your supplemental guidance titled "Guidance for Addressing Spills from Electrical Equipment" and I concur with the issuance of the guidance.

The issuance and use of the guidance is clearly necessary to serve the public interest in this wide-spread emergency and no other mechanism can adequately address the situation within the stipulated timeframe. Therefore, I am also granting a no action assurance from the PCB regulations issued pursuant to Section 6(e) of the Toxic Substances Control Act for persons operating under the terms, conditions and limitations of the guidance. This exercise of enforcement discretion is effective immediately and will continue until midnight on December 31, 2005. Any person conducting operations under the guidance would need to be able to demonstrate the applicability of the guidance to their situation and that their actions are consistent with the terms and conditions of the guidance. Persons operating under this guidance also need to take any necessary actions to protect public health and safety.

If any questions arise concerning this exercise of enforcement discretion, they should be referred to Mr. Gerald Stubbs at (202) 564-4178.

Internet Address (URL) » <http://www.epa.gov>

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# Attachment B

Utility Solid Waste Activities Group  
c/o Edison Electric Institute  
701 Pennsylvania Avenue, NW  
Washington, DC 20004-2696  
202-508-5645  
www.uswag.org

USWAG

October 27, 2008

**VIA ELECTRONIC AND CERTIFIED MAIL**

Mr. Matthew Hale  
Director, Office of Solid Waste  
United States Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Mail Code: 5301P  
Washington, DC 20460

**RE: PCB Regulatory Relief During Natural Disasters**

Dear Mr. Hale:

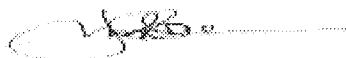
During your visit with the USWAG PCB Committee in April, we discussed the need for the development of guidance that would provide practical PCB regulatory relief in times of natural disasters. Three years ago, in the wake of the devastation wrought by Hurricane Katrina, USWAG worked with EPA to identify ways to provide similar relief for PCB cleanups in other circumstances involving natural disasters. At the time, we sought relief in the form of risk-based guidance that provided streamlined PCB sampling and storage options that would become effective during a range of natural disasters including, but not limited to, hurricanes, tornadoes, earthquakes, floods, ice storms, and wildfires.

In response, EPA issued enforcement discretion guidance (enclosed) that outlined risk-based relief in the form of cleanup and disposal standards for damaged electrical equipment and related spills resulting from either Hurricane Katrina or Hurricane Rita. This guidance was necessary because EPA appropriately recognized that the traditional method for obtaining such relief – namely, through a risk-based variance request under 40 C.F.R. § 761.61(c) – would not be practical or useful in times of natural disasters where immediate action is required. While this relief proved helpful in our response to those particular hurricanes, it was limited in scope and duration, expiring at the end of 2005, and applying only to events caused by those storms.

As recent storms such as Hurricanes Gustav, Hanna, and Ike have demonstrated, the type of emergency situation, brought on by Katrina and Rita, necessitating regulatory relief for utilities attempting post-storm cleanups, is one that is certain to recur every year. Hurricane Ike alone was responsible for power outages affecting nearly 4 million customers throughout Louisiana, Arkansas, Ohio, Kentucky, and Texas. According to the Department of Energy, nearly one-fourth of both Kentucky and Texas lost power during the storm.<sup>1</sup> Such massive power outages will continue to arise as a result of other natural events as well, as demonstrated by the recent wildfires in California and flooding throughout the Midwest. Given the inevitability and unpredictability of natural disasters and the importance of responding quickly and safely to damage and spills resulting from those disasters, we urge the Office of Solid Waste to issue guidance similar to the temporary relief issued in 2005, but broader in scope and available for use during and immediately after *any* natural disaster meeting specified conditions, without prior notice to or approval from EPA. Enclosed please find the list of conditions we believe would be appropriate for such emergency regulatory relief guidance; this is the same list we submitted to EPA in the Fall of 2005.

USWAG would be pleased to work with EPA in developing this emergency regulatory relief guidance. Issuance of this guidance is crucial, as utilities and municipalities across the country will need this assistance in helping to restore power to millions of customers in an efficient and environmentally sound manner following storms and other natural disasters. Thank you for your attention to this matter. We look forward to speaking with you regarding this important issue.

Sincerely,



James Roewer  
Executive Director

Enclosures

cc: David Hockey, Branch Chief  
EPA Office of Solid Waste Corrective Actions Programs

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<sup>1</sup> See Department of Energy Hurricane Ike Situation Report #3 (Sept. 15, 2008), available online at [http://www.oenr.doe.gov/docs/2008\\_SitRep\\_3\\_Ike\\_091508\\_10AM.pdf](http://www.oenr.doe.gov/docs/2008_SitRep_3_Ike_091508_10AM.pdf).

Message

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**From:** Jaeger, Lisa [lisa.jaeger@bracewell.com]  
**Sent:** 4/19/2018 8:29:44 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** Re: EPA Follow-up

Thanks Will for your note. I'll check with Michelle and get right back to you.  
Thanks,  
Lisa

---

**From:** "Lovell, Will (William)" <lovell.william@epa.gov>  
**Sent:** Apr 19, 2018 10:47 AM  
**To:** "Jaeger, Lisa" <lisa.jaeger@bracewell.com>  
**Subject:** RE: EPA Follow-up

Lisa,

Now I apologize for the delayed response! Would any of the following times work for your group?:

- Thursday (4/26), 10-11 am or 2-3 pm
- Friday (4/27), 2-4 pm

Thank you,  
Will

---

**From:** Jaeger, Lisa [mailto:lisa.jaeger@bracewell.com]  
**Sent:** Thursday, April 12, 2018 7:49 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** RE: EPA Follow-up

Greetings Will

Thank you for your note and please pardon my delay in responding to your note.

CKRC would like to meet with you to discuss its response to EPA's request for suggestions for reducing duplicative and burdensome regulations. CKRC's comments are attached. The comments mention several issues that are already being addressed and that were mentioned by many other organizations. CKRC mentioned some other items, mostly relating to its core competency of waste energy recycling, which were not marquee issues. As part of your ongoing rulemaking/rule review process, CKRC would like to follow up with EPA on its comments.

For background, the link to CKRC is <http://www.ckrc.org/>.

Re availability, if you have availability during the week of April 23, we can make something work with CKRC schedules.

Thank you for your help  
Lisa

---

**LISA M. JAEGER**  
Senior Counsel  
[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)

T: Ex. 6 | F: +1.800.404.3970 | M: +Ex. 6

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---

**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]  
**Sent:** Friday, April 6, 2018 10:07 AM  
**To:** Jaeger, Lisa <[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)>  
**Subject:** EPA Follow-up

Good morning, Lisa,

I am following up from our phone call yesterday. Please provide the details and availability for the meeting we discussed.

Thank you,

**Will Lovell**  
Policy Advisor, Office of Policy  
U.S. Environmental Protection Agency  
(202) 564-5713  
[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)



Message

---

**From:** Heidi McAuliffe [hmcauliffe@paint.org]  
**Sent:** 10/6/2017 4:51:57 PM  
**To:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**CC:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** RE: Cancelling todays meeting

Robin, thanks for the notice. I am really disappointed but am really looking forward to seeing Samantha on Tuesday afternoon.

Can you set up another appointment for me for 3 weeks from now? I would like to be able to follow up with her about some of this issues we will discuss on Tuesday.

Thank you, Heidi

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
202- 719-3686 | **Ex. 6** (m) | 202-263-1102 (fax) | [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) | [www.paint.org](http://www.paint.org)

901 New York Ave. NW, Suite 300 West ▪ Washington, DC 20001  
***Coatings protect. Coatings preserve. Coatings provide.***

---

**From:** Kime, Robin [mailto:Kime.Robin@epa.gov]  
**Sent:** Friday, October 6, 2017 9:13 AM  
**To:** Heidi McAuliffe <hmcauliffe@paint.org>  
**Cc:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** Cancelling todays meeting

I am sorry to do this but Samantha cannot make the meeting today work. She would appreciate any info that you would or have already sent to Will to prepare her for Tuesday's meeting. She will see you there. Again, my sincere apologies for this. Please take care.

Message

---

**From:** Lopez, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FBA73EF46EED476EB9CCFAA49C49782D-LOPEZ, GEOR]  
**Sent:** 8/9/2017 1:28:10 PM  
**To:** donp@fb.org  
**CC:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]; Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**Subject:** EPA | Farm Bureau Meeting (8/17)  
**Flag:** Follow up

Mr. Parrish,

My name is Max Lopez and I am with the Office of Policy at the EPA. We are looking forward to meeting with you and the Farm Bureau on the 17<sup>th</sup>. I have noted that you would like to discuss water issues, but if there any specific rules, regulations, or other topics you would like to discuss let me know. I can pass that information along to ensure a productive discussion. Additionally, if you respond to this email after the 11<sup>th</sup> please CC Robin Kime: [Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov) and Will Lovell: [lovell.william@epa.gov](mailto:lovell.william@epa.gov) as I will be out of the office.

Thanks,

Max Lopez  
[lopez.george@epa.gov](mailto:lopez.george@epa.gov)  
U.S. Environmental Protection Agency  
Office of Policy

Message

---

**From:** Jennifer Butler [butler@spn.org]  
**Sent:** 6/21/2017 9:14:55 PM  
**To:** Lovell, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** State Policy Network - EPA meeting  
**Attachments:** 2017 Affiliate Roster.pdf; ATT00001.htm; State handout with names.docx; ATT00002.htm

**Flag:** Follow up

See attached - does this suffice? It is a brief description of the people attending tomorrow's meeting. And I also include a one pager with the list of all the tanks in our organization

# STATE POLICY NETWORK

State Solutions. National Impact.

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[bipps.org](http://bipps.org)

## LOUISIANA

**Pelican Institute for Public Policy**  
[pelicaninstitute.org](http://pelicaninstitute.org)

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**Maine Heritage Policy Center**  
[mainepolicy.org](http://mainepolicy.org)

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**Freedom Foundation of Minnesota**  
[freedomfoundationofminnesota.com](http://freedomfoundationofminnesota.com)

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[empowerms.org](http://empowerms.org)

**Mississippi Center for Public Policy**  
[mspolicy.org](http://mspolicy.org)

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**Show-Me Institute**  
[showmeinstitute.org](http://showmeinstitute.org)

## MONTANA

**Montana Policy Institute**  
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[npri.org](http://npri.org)

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**Josiah Bartlett Center for Public Policy**  
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[gardenstateinitiative.org](http://gardenstateinitiative.org)

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**Oklahoma Council of Public Affairs**  
[ocpathink.org](http://ocpathink.org)

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**Cascade Policy Institute**  
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**Commonwealth Foundation for Public Policy Alternatives**  
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**Center for Integrity and Public Policy**  
[cipp-pr.org](http://cipp-pr.org)

## RHODE ISLAND

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[rifreedom.org](http://rifreedom.org)

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[palmettopromise.org](http://palmettopromise.org)

**South Carolina Policy Council**  
[scpolicycouncil.org](http://scpolicycouncil.org)

## SOUTH DAKOTA

**Great Plains Public Policy Institute**  
[greatplainsppi.org](http://greatplainsppi.org)

## TENNESSEE

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[beacontn.org](http://beacontn.org)

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**Texas Public Policy Foundation**  
[texaspolicy.com](http://texaspolicy.com)

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[thomasjeffersoninst.org](http://thomasjeffersoninst.org)

**Virginia Institute for Public Policy**  
[virginiainstitute.org](http://virginiainstitute.org)

## WASHINGTON

**Freedom Foundation (WA)**  
[myfreedomfoundation.com](http://myfreedomfoundation.com)

**Washington Policy Center**  
[washingtonpolicy.org](http://washingtonpolicy.org)

## WEST VIRGINIA

**Cardinal Institute for West Virginia Policy**  
[cardinalinstitute.com](http://cardinalinstitute.com)

**Public Policy Foundation of West Virginia**  
[ppfwv.org](http://ppfwv.org)

## WISCONSIN

**Maclver Institute for Public Policy**  
[maclverinstitute.com](http://maclverinstitute.com)

**Wisconsin Policy Research Institute**  
[wpri.org](http://wpri.org)

**Wisconsin Institute for Law and Liberty**  
[will-law.org](http://will-law.org)

## WYOMING

**Wyoming Liberty Group**  
[wyliberty.org](http://wyliberty.org)

STATE POLICY NETWORK | [spn.org](http://spn.org)

1655 North Fort Meyer Drive, Suite 360  
Arlington, VA 22209

P: 703.243.4655 | F: 703.740.0314  
[info@spn.org](mailto:info@spn.org)

**Jennifer Butler**  
**State Policy Network**  
[Butler@spn.org](mailto:Butler@spn.org)  
**(561) 352-0011**

Sent from my iPad

## Energy and Environment State Policy Experts

### **Amy Oliver Cooke - Independence Institute (Colorado) - Amy@i2i.org**

Executive Vice President and Director of the Energy and Environmental Policy Center for the Independence Institute. Amy began working in energy policy in 2010 and leads a ratepayer coalition promoting affordable power.

### **Jason Hayes - Mackinac Center for Public Policy (Michigan) - hayes@mackinac.org**

Director of environmental policy for the Mackinac Center for Public Policy, a nonpartisan research and educational institute dedicated to improving the quality of life for all Michigan citizens. He holds a Master of Environmental Design (Environmental Science) degree from the University of Calgary, a B.Sc. in Natural Resource Conservation from the University of British Columbia and a Technical Diploma in Renewable Resource Management from Selkirk College.

### **Todd Myers - Washington Policy Center - tmyers@washingtonpolicy.org**

Director of the Center for the Environment at Washington Policy Center. He is one of the nation's leading experts on free-market environmental policy. Todd is the author of the landmark 2011 book *Eco-Fads: How the Rise of Trendy Environmentalism Is Harming the Environment* and was a *Wall Street Journal* Expert Panelist for energy and the environment.

### **Matt Anderson - Sutherland Institute (Utah) - MAnderson@sutherlandinstitute.org**

Policy analyst for Sutherland Institute's Coalition for Self-Government in the West. He has been featured in local and national media, including NPR, C-SPAN and a number of regional publications and radio shows.

### **Brent Mead – Montana Policy Institute - brent.mead@gmail.com**

Executive director of the Montana Policy Institute, the state's leading voice for pro-freedom policies and exists to form, equip, and mobilize a network of citizens dedicated to securing a free and prosperous future for Montana.

### **David Stevenson – Caesar Rodney Institute (Delaware) - davidstevenson1948@gmail.com**

Dave has spent the last four years as the Director of the Center for Energy Competitiveness for the Caesar Rodney Institute, and started Alternative Strategies Consulting, LLC in response to requests for private consulting services. Dave has published over 100 analytic studies including major studies on the EPA Clean Power Plan, electric grid reliability, and the public policy drivers of energy cost.

### **Mike Thompson – Thomas Jefferson Institute for Public Policy (VA) - mikethompson31@verizon.net**

Chairman and President of the Thomas Jefferson Institute for Public Policy, a non-partisan Virginia focused foundation dealing with the issues of improving education, government reform, economic development and environmental stewardship. This foundation is the state's premier independent public policy foundation and has gained broad based respect from political and business leaders throughout Virginia.

### **Daniel Peterson – James Madison Institute (Florida) - dpeterson@jamesmadison.org**

As the director for the Center for Property Rights at The James Madison Institute, he oversees the efforts of securing the fundamental right to property for all Floridians. Dan has been deeply involved in the central Florida business and political communities since 1999.

### **Brian Seasholes - Property and Environment Research Center - brian.seasholes@gmail.com**

Researcher and writer with extensive knowledge of issues relating to wildlife conservation, land use, and the interface between natural resource use and environmental conservation. Focus includes conservation of endangered species, international wildlife conservation, and unconventional sources of oil, especially oil sands. Previous Director of the Endangered Species Project at the Reason Foundation.

*More information on state experts contact Jennifer Butler, State Policy Network at [butler@sfn.org](mailto:butler@sfn.org) (561) 352-0011*

Message

---

**From:** Don Parrish [donp@fb.org]  
**Sent:** 8/1/2017 2:34:25 PM  
**To:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**CC:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** RE: Meeting with Samantha Dravis  
**Flag:** Follow up

I look forward to your response. Thanks again for keeping me informed.

*Don R Parrish*  
*American Farm Bureau Federation®*

Ex. 6

*donp@fb.org*

---

**From:** Kime, Robin [mailto:Kime.Robin@epa.gov]  
**Sent:** Tuesday, August 01, 2017 10:27 AM  
**To:** Don Parrish  
**Cc:** Lovell, Will (William)  
**Subject:** Meeting with Samantha Dravis

Hi Don,

I hope you are well. Samantha is glad to meet with you and also, her calendar is in flux at the moment. I will sort a few things out and be in touch within the next day to propose times to meet soon. When we set this up on the calendar, I'd appreciate it if you'd let me know who will join you for the discussion. Thanks and take care.

Robin

---

**From:** Don Parrish [mailto:donp@fb.org]  
**Sent:** Monday, July 31, 2017 11:29 AM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** RE: Meeting Request

Will

Can I suggest we do a quick phone call to work the timing out ...but I will float the following dates for a meeting with Ms Dravis.

August 1, and until early afternoon on August 2<sup>nd</sup>,  
The afternoon of August 7 or anytime on August 8<sup>th</sup> – 11<sup>th</sup>.

*Don R Parrish*  
*American Farm Bureau Federation®*

Ex. 6

*donp@fb.org*

---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Friday, July 28, 2017 5:14 PM  
**To:** Don Parrish  
**Subject:** RE: Meeting Request

Absolutely.

---

**From:** Don Parrish [mailto:donp@fb.org]  
**Sent:** Friday, July 28, 2017 5:12 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** RE: Meeting Request

Can I let you know Monday morning?

*Don R Parrish*  
*American Farm Bureau Federation®*  
Ex. 6  
*donp@fb.org*

---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Friday, July 28, 2017 5:11 PM  
**To:** Don Parrish  
**Subject:** RE: Meeting Request

Don,

We can certainly process this request and let you know if it works on our end. What date and time works for you?

Thanks,  
Will

---

**From:** Don Parrish [mailto:donp@fb.org]  
**Sent:** Thursday, July 27, 2017 4:21 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** Meeting Request

Will

I would like to request a meeting with Samantha Dravis to discuss the Clean Water Act. I would also like to bring several key individuals to this meeting as well. Thank you and I look forward to hearing from you very soon.

*Don R Parrish*  
*American Farm Bureau Federation®*  
Ex. 6  
*donp@fb.org*



Message

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**From:** Traci Kraus [traci.kraus@cummins.com]  
**Sent:** 6/14/2017 8:25:14 PM  
**To:** Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Lovell, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**CC:** Brian C Mormino [brian.c.mormino@cummins.com]  
**Subject:** Thank you and follow up  
**Attachments:** EMA\_s Comments to EPA Regarding Evaluation of Existing Regulations.pdf; 2-16-2017 NACAA Recommendations.pdf; OTC Reiterates Call For EPA To Craft Stricter Heavy.pdf

Hi Mandy, Brittany and Will,

Thanks so much for taking the time to meet with Brian and me today to discuss the heavy duty on highway truck regulatory program.

Per our discussion I have attached a few follow ups:

- EMA's comments to EPA on regulatory reform
- NACAA's recommendations to EPA
- Article regarding the Ozone Transport Commission of Northeast and Mid-Atlantic states calling for stricter NOx limits

Please let me know if there's any additional information we can get you, or if you have any questions.

All the best,

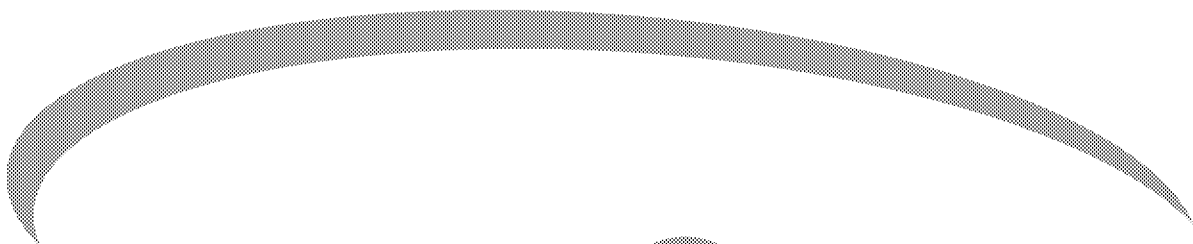
**Traci Kraus**  
Director, Government Relations  
Cummins Inc.

601 Pennsylvania Ave. NW  
Suite 1100N  
Washington, DC 20004  
Office: 202-654-4285  
Cell: Ex. 6

# Improving Our Nation's Clean Air Program:

Recommendations from the  
National Association of  
Clean Air Agencies  
to President Trump's Administration

February 17, 2017



# Introduction

The National Association of Clean Air Agencies (NACAA)<sup>1</sup> is pleased to offer the following recommendations for consideration by Environmental Protection Agency (EPA) Administrator Scott Pruitt and other members of the Administration of President Donald J. Trump related to key issues associated with our nation's clean air program.

The Clean Air Act vests state and local governments with primary responsibility for ensuring that everyone in this nation breathes clean, healthful air. The state and local air pollution control agencies that comprise NACAA's membership are front and center in fulfilling this critically important responsibility. They are uniquely positioned to identify the greatest air quality challenges of the day and to offer advice for confronting those challenges. In short, our recommendations include the following:

1. Improve Technical Assistance to State and Local Agencies
2. Ensure State and Local Air Agencies Have the Resources They Need to Implement Federal Requirements
3. Improve Regulatory Assistance to State and Local Air Agencies Through Effective Federal Measures for Mobile and Stationary Sources
4. Continue and Expand Efforts to Address the Transport of Air Pollution
5. Ensure Effective Establishment and Implementation of the National Ambient Air Quality Standards (NAAQS)
6. Address Critical Air Monitoring Challenges

7. Identify and Address Toxic Air Pollution Challenges
8. Support State and Local Efforts to Address Climate Change
9. Improve the Integration of Federal, State and Local Data Programs and Requirements

We elaborate on each of these issues in the following pages.

NACAA's most important recommendation is that the Trump Administration make working in close collaboration with state and local air pollution control agencies a top priority. We encourage the White House and EPA to forge a truly cooperative partnership with state and local air agencies, which are co-implementers of the Clean Air Act. We invite this Administration not only to reach out to NACAA in the initial stages of any rulemaking and policymaking processes, but also to seek input from and engage NACAA on an ongoing basis. Throughout his campaign, President Trump stated strongly his support for clean air and his desire to ensure it. NACAA urges the Trump Administration to draw on the expertise of state and local air agencies and empower them in every way possible to protect public health and welfare and fulfill their clean air goals.

---

1 NACAA is a national, non-partisan, non-profit association of air pollution control agencies in 40 states, the District of Columbia, four territories and 116 metropolitan areas. The air quality professionals in our member agencies have vast experience dedicated to improving air quality in the U.S. These recommendations are based upon that experience. The views expressed in these recommendations do not represent the positions of every state and local air pollution control agency in the country. <http://www.cleanair.org>

# 1

## Improve Technical Assistance to State and Local Air Agencies

### Background

Technical assistance from EPA is crucial to the ability of states and localities to carry out their mission to clean up air pollution. EPA's technical support comes in many forms, including educational programs, implementation guidance, and guidance for the performance of complex technical tasks. Over the past decade, however, the agency has dramatically scaled back its support in a number of critical areas.

One area in which EPA's technical assistance is particularly needed is training. Historically, the agency has provided an array of online and classroom courses for state and local agency personnel on a wide variety of air pollution topics — as required under Section 103(a)(5) of the Clean Air Act. State and local agencies relied heavily on this training to familiarize their employees with the intricacies of Clean Air Act requirements that are central to their job functions.

In recent years, funding and staff support for EPA's training functions have declined dramatically and most of the remaining resources have been devoted to newly

issued rules. Accordingly, regional air quality planning organizations have had to shoulder much of the burden of developing and coordinating training opportunities for state and local air agencies.

State and local agencies also rely on EPA to provide direction and guidance for the highly technical work they must perform in areas such as air quality modeling. EPA is often slow in providing such guidance and in addressing complex issues that arise with new rules and policies.

A final area where EPA's technical support has been lagging is in the development of emission factors. Emission factors are representative values that estimate the amount of pollutants discharged into the atmosphere by specific processes, fuels, equipment or sources. State and local agencies rely heavily on emission factors in developing emissions inventories and control strategies, determining the applicability of permitting and control programs, and ascertaining and mitigating the pollution effects of individual sources. Unfortunately, over the past decade EPA has only rarely updated existing emission factors, many of which are decades old.

### NACAA's Recommendation

The Administration should improve the breadth and timeliness of technical assistance programs that are crucial to state and local air agencies. In particular, EPA should significantly increase the resources it devotes to developing, updating and providing training opportunities in the air pollution control field. The agency should strive to issue technical guidance and support, including the development of new and revised emission factors, in a timelier manner.

## 2

# Ensure State and Local Air Agencies Have the Resources They Need to Implement Federal Requirements

## Background

The Administration has expressed a desire to reset the existing state and federal relationship for implementing the Clean Air Act. In light of that, we urge that such changes include ensuring that state and local agencies have the resources to meet their responsibilities.

Funding for state and local air pollution control programs comes from a variety of sources, including the federal Title V permit fee program, state and local permit and emissions fees and federal grants under Sections 103 and 105 of the Clean Air Act. Section 105 grants support a host of essential activities to attain and maintain healthful air quality. These include ongoing, day-to-day responsibilities that constitute the foundation or “core” of state and local programs. Such activities include efforts to develop and implement State Implementation Plans, monitor emissions, develop emissions inventories, conduct sophisticated modeling of emissions impacts, analyze data, inspect sources of pollution, conduct oversight and enforcement, issue minor source permits, provide technical assistance to regulated sources and respond to citizens’ complaints. Section 103 grants have typically funded specific monitoring efforts, such as the fine particulate matter (PM<sub>2.5</sub>) monitoring network.

Clean Air Act Section 105 authorizes federal grants to cover up to 60 percent of the cost of state and local air programs and requires states and localities to contribute a 40-percent match. In reality, however, state and local air agencies provide over 75 percent of their budgets (not including fees collected under the federal Title V program, which can fund only activities related to the Title V permitting), while the federal government provides approximately 25 percent of the total state/local air budget. Although states and localities supply significant resources to their air quality programs, they also rely heavily on the federal grant contribution.

State and local air agencies have done their best to operate with insufficient resources for many years, but it

has been a struggle. Recent federal annual appropriations under Sections 103 and 105 of the Clean Air Act have been approximately \$228 million – amounts far short of what is needed, especially if there is a shift in responsibilities from EPA to the states. Exacerbating the situation is the fact that federal grants have decreased by nearly 17 percent in purchasing power since 2000 due to inflation. NACAA has calculated that state and local air programs face an annual shortfall of \$550 million in federal grants,<sup>2</sup> which has caused many agencies to reduce or eliminate important air pollution programs. This not only harms public health, it can slow down the permitting process for businesses, creating delays and uncertainties.

Recent Administration budget requests have identified specific programs for increased funding (for example, on climate change). Instead, state and local air agencies should be given flexibility on how the funds would be used so that they can target the resources to address the issues that are most pressing in their communities.

A related issue of concern is federal funding for PM<sub>2.5</sub> monitoring grants. In recent budget requests, the Administration has proposed to begin to shift the PM<sub>2.5</sub> monitoring grant program from Section 103 authority to Section 105 authority. Unlike funds provided under Section 103, Section 105 grants require states and localities to provide matching funds – something many agencies can ill afford.

Finally, EPA’s methodology for allocating Section 105 air grants among the EPA Regions is far out of date. Under refinements to the formula that EPA has proposed to be phased in over five or ten years, some Regions will experience decreased funding. Since Section 105 grants already are inadequate to fund all the programs they

2 *Investing in Clean Air and Public Health: A Needs Survey of State and Local Air Pollution Control Agencies*, NACAA, April 2009, <http://www.4cleanair.org/sites/default/files/Documents/Reportneedsurvey042709.pdf>

are designed to support, few if any agencies can afford to suffer reductions in their grants. In recognition of this concern, the Senate Appropriations Committee included in its FY 2017 appropriations legislation report language instructions to EPA to ensure that all states and Regions are held harmless (i.e., do not experience a reduction) in

fiscal year 2017. One way to avoid cuts and to address the Senate's concern is for EPA to request, and Congress to appropriate, adequate additional Section 105 grants so that the revised formula can be fully implemented without reductions to any state or local agency's budget.

### **NACAA's Recommendation**

NACAA recognizes that there are many programs that compete for federal assistance and that increases to provide full funding (an additional \$550 million) may not be possible. However, the Administration should propose to Congress, and advocate for, increases in federal grants for state and local air agencies. Increases in an amount that would allow EPA to institute the new allocation formula without reducing any state or local agency's budget would be a very helpful start toward filling the gap. Additionally, EPA should provide state and local air pollution control agencies with the flexibility to use the additional resources on the highest priority activities in their areas. Finally, grants for PM<sub>2.5</sub> monitoring should remain under Clean Air Act Section 103 authority, rather than being shifted to Section 105 authority.

# 3 Improve Regulatory Assistance to State and Local Air Agencies Through Effective Federal Measures for Mobile and Stationary Sources

## Background

While the Clean Air Act requires state and local air pollution control agencies to implement the national air quality program, these agencies rely on EPA to establish strong federal rules to reduce emissions from mobile and industrial sources of air pollution. This work is important for several reasons.

First, the interstate transport of air pollution has a substantial adverse impact on air quality in downwind states, particularly on levels of ozone and fine particulate matter. Downwind states are usually unable to overcome the impact of these transported emissions without federal action.

Second, many state and local air pollution control agencies are precluded by state or local laws or policies from adopting rules that are more stringent than federal requirements. If the federal rules are not sufficiently rigorous to effectively address air quality problems, those agencies may not be able to meet their air quality goals.

Third, the Clean Air Act generally precludes states, with the exception of California, from establishing standards to address emissions from mobile sources (certain states can, under Section 177 of the Act, opt into motor vehicle standards adopted by California – an important statutory authority that should be preserved). With mo-

tor vehicles being dominant contributors to air pollution throughout the country, complying with our statutory obligations to attain and maintain the NAAQS and reduce exposure to hazardous air pollutants, such as diesel particulate matter, requires strong federal standards.

Fortunately, there are opportunities, for additional, meaningful emission reductions from the transportation sector. In particular, for many areas throughout the country, attainment and maintenance of the ozone NAAQS will require additional reductions in nitrogen oxides (NO<sub>x</sub>). There is a clear opportunity to garner substantial additional NO<sub>x</sub> reductions from heavy-duty vehicles and engines. In June 2016, at least 16 state and local air agencies petitioned EPA to adopt an “ultra-low” NO<sub>x</sub> standard of 0.02 grams per brake horsepower hour (g/bhp-hr), down from the current standard of 0.2 g/bhp-hr established in 2000. These improved standards can help states and local agencies achieve their required duty of coming into attainment with existing federal ozone standards. In addition, given the rapid pace at which mobile source greenhouse gas (GHG) emission control technologies are being developed for onroad light-duty and heavy-duty vehicles, there is a great opportunity for further GHG reductions from these vehicles post-model years (MYs) 2025 and 2027, respectively.

## NACAA's Recommendation

EPA should assist states and localities in meeting their public-health driven clean air goals by developing in a timely manner appropriately stringent federal rules that address nationally significant stationary and mobile sources, as well as by preserving effective regulations that are already in place.

Specifically, we urge the President to issue specific directives and schedules for the timely development and promulgation by EPA of an ultra-low NO<sub>x</sub> standard of 0.02 g/bhp-hr and additional phases of GHG emission standards for light-duty vehicles post-MY 2025, and for heavy-duty vehicles post-MY 2027. This work has and can be done in collaboration with the California Air Resources Board and other stakeholders to ensure the standards are sufficiently stringent, as well as practical and achievable.

# 4

## Continue and Expand Efforts to Address the Transport of Air Pollution

### Background

The transport of air pollution across state boundaries from “upwind” sources can impede or even prevent entirely the ability of “downwind” states to attain and maintain the National Ambient Air Quality Standards (NAAQS) for ozone and/or particulate matter (PM). Emissions of nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>), both of which are precursors to ozone and PM pollution, and even ozone itself, can travel great distances, affecting air quality and public health hundreds, and even thousands, of miles away.

The problem of interstate transport first rose to prominence in the Eastern and Midwestern United States. In response, EPA adopted regulations to reduce NO<sub>x</sub> and SO<sub>2</sub> emissions from electric power plants in those regions of the country; first, the Clean Air Interstate Rule, which

was promulgated in 2005 and ultimately vacated by the U.S. Court of Appeals for the D.C. Circuit; and then the Cross-State Air Pollution Rule (CSAPR), promulgated in July 2011. Even with CSAPR and its recent update, transport in the East and Midwest remains a serious problem.

Further, although transport in the Eastern half of the country has dominated the conversation over the past few decades, it is now eminently clear not only that transport is a pervasive and substantial problem in the Western U.S., but also that there are some unique issues associated with it, including that of international transport. Western states are struggling with how to meet their statutory clean air obligations in light of the challenges posed by transport.

### NACAA's Recommendation

EPA should continue and expand its efforts related to transport by: (1) developing and promulgating another regulatory update to CSAPR to address the 70-ppb ozone standard; (2) developing a strategy for addressing Eastern and Midwestern transport that ensures region-wide attainment; and (3) working closely with state and local air pollution control agencies to assess transport in the Western U.S. and put in place appropriate programs to address this problem.



## 5

# Ensure Effective Establishment and Implementation of the National Ambient Air Quality Standards

## Background

Under the Clean Air Act, EPA is required every five years to review and, if necessary, revise the National Ambient Air Quality Standards (NAAQS) for six common “criteria” pollutants that are harmful to public health and the environment: ozone, particulate matter, carbon monoxide, lead, sulfur dioxide and nitrogen dioxide. The Clean Air Act makes clear that new or revised NAAQS must be based on the most current scientific evidence without regard to the cost or feasibility of implementation.

Once EPA promulgates a new or revised NAAQS, state and local air pollution control agencies are charged with implementing the standard and are dependent upon EPA to provide timely implementation rules and guidance. Without such tools, state and local air agencies' abilities to meet their statutory deadlines are greatly impeded. Further, because implementation rules and guidance are developed specifically for use by state and local air agencies, it is critical that EPA work closely with these agencies as the materials are drafted.

A key component of state and local air agencies' NAAQS implementation efforts is the development of emission reduction strategies and programs to attain

and maintain the standard. These strategies are set forth in State Implementation Plans (SIPs), which must be approved by EPA. The manner in which SIPs are developed and submitted by state and local air agencies and evaluated and processed by EPA has been an issue of considerable concern and discussion for a number of years. In 2010, NACAA, the Environmental Council of the States (ECOS) and EPA established a joint SIP Reform Workgroup to work collaboratively to make the SIP process more efficient and effective while ensuring fulfillment of statutory responsibilities to attain the NAAQS as expeditiously as practicable. A February 2014 agreement, NACAA-ECOS-EPA SIP Reform Workgroup Commitments and Best Practices for Addressing the SIP Backlog, sets forth a total of six commitments and seven best practices, including a commitment by EPA to “clear the SIP backlog (as of October 1, 2013) by no later than the end of 2017, and manage the review of other SIPs consistent with Clean Air Act deadlines.”

With respect to implementation of the ozone NAAQS in particular, states across the country, and especially in the West, are confronted with the vexing issue of “background” ozone, which can contribute significantly to monitored ozone concentrations.

## NACAA's Recommendation

EPA should: (1) continue the science-based process for reviewing and revising the NAAQS, leaving consideration of cost or feasibility of attainment to the implementation phase; (2) issue timely rules and guidance related to implementation of the NAAQS, developed in close consultation with state and local air agencies; (3) continue to implement the February 2014 NACAA-ECOS-EPA SIP Reform Workgroup Commitments and Best Practices for Addressing the SIP Backlog, including clearing the SIP backlog by the end of 2017; and (4) work with state and local air agencies to better understand the sources and contributions of background ozone.

# 6

## Address Critical Air Monitoring Challenges

### Background

Air monitoring is the backbone of the nation's air pollution control program. The routine, systematic collection of ambient air monitoring data is necessary for determining the extent and location of air pollution problems and for assessing the efficacy of existing emissions control strategies. Monitoring is also used to provide air quality information to the public on a continuous basis, to provide information on air quality trends, to evaluate air quality models, and for research purposes.

The vast majority of the nation's ambient air monitoring networks are operated and maintained by state and local agencies, in accordance with design and operational criteria established by EPA. These monitoring networks comprise hundreds of sites across the country with thousands of monitors measuring ground-level concentrations of criteria pollutants and their precursors, air toxics, meteorological conditions and other parameters. A very significant portion of state and local air program resources is devoted to routine monitoring tasks that must be performed on an ongoing basis by knowledgeable employees.

Unfortunately, state and local agencies are now facing

unprecedented challenges in carrying out their critical air monitoring activities. As they struggle to modernize aging monitoring equipment and stave off further deterioration, state and local agencies must also regularly address important new EPA monitoring requirements. For example, over the next several years, many states and localities will contend with expanded ozone monitoring seasons under existing federal requirements.

While they confront major challenges to traditional air monitoring networks, state and local agencies are also contending with rapid developments in small, portable air sensor technologies. Sensor technologies hold a great deal of promise in providing readily available ambient data, not only for individuals, but also for air pollution agencies. On the other hand, many devices are unreliable and the data they produce is not readily comparable to monitoring data measured against the health-based National Ambient Air Quality Standards. State and local agencies are working collaboratively with each other and with EPA to evaluate new sensor technologies, identify goals for their use and to address how to best communicate and educate the public about how to interpret the data they provide.

### NACAA's Recommendation

The Administration should address the need for significant federal resources to maintain the nation's ambient air monitoring networks. EPA should continue to work with state and local agencies to prioritize the implementation of any new monitoring requirements to make the best possible use of limited state and local resources. EPA should also expand its efforts to confront the opportunities and challenges associated with rapidly advancing air sensor technologies.

## 7

## Identify and Address Toxic Air Pollution Challenges

### Background

Hazardous air pollutants (HAPs), also referred to “toxic air pollutants” or “air toxics,” are substances that are known or suspected to cause cancer or other serious, adverse health effects. The Clean Air Act outlines a multi-pronged process for EPA to address HAP emissions. First, Section 112(b) of the Act identifies 187 HAPs that EPA must regulate. Second, Section 112(c) requires EPA to identify the categories of sources that emit the listed HAPs and to update that list every eight years. Finally, Section 112(d) requires EPA to establish standards to control emissions from the source categories it has identified.

NACAA recently collected information from its members about numerous facilities located throughout the country that emit major amounts of listed HAPs but do not fall under any of the source categories listed by EPA under Section 112(c) of the Act. Methyl bromide fumigation facilities, which are located in multiple locations across the country, are a source of particular concern.

Another issue of concern is HAP emissions from sources that are not large enough to be considered “major” sources, including what are referred to as “non-point,” “minor” or “area” sources. These sources are often numerous and widespread, and in some areas, they collectively emit more HAPs than major sources.

They tend to be located in highly populated areas, many of which face disproportionate risks from toxic air pollution.

Mobile sources are also significant emitters of HAPs, including diesel particulate matter. State and local air agencies (with the exception of California) are generally precluded from establishing emission standards for mobile sources. Therefore, they are unable to address this significant source of HAP emissions on their own, yet they are expected to reduce the public’s exposure to these dangerous substances.

The National Air Toxics Assessment (NATA) is EPA’s comprehensive evaluation of HAPs across the United States. NATA includes emissions data as well as modeled estimates of health risks associated with exposures to HAPs. Federal, state and local air quality agencies, as well as the public, use this important tool to help identify the locations and pollutants of greatest concern and to help prioritize programs. Unfortunately, due to the tremendous effort necessary to collect the information and run the models, by the time the NATA results are released they are several years out of date. EPA has recently begun efforts, involving state and local input, to streamline and improve the NATA process.

### NACAA’s Recommendation

EPA should take the following actions related to hazardous air pollutants: (1) evaluate the completeness of and update as necessary the source category list under Clean Air Act Section 112(c) and, specifically, promulgate a Maximum Achievable Control Technology standard for the methyl bromide fumigation source category; (2) continue and ensure programs address non-major (i.e., non-point, minor or area) and mobile sources of HAPs that can significantly affect local communities; and (3) continue to support NATA and expand on EPA efforts to accelerate the NATA process so that the results can be made available to state and local agencies and the public more quickly.

# 8

## Support State and Local Efforts to Address Climate Change

### Background

Greenhouse gas (GHG) emissions contribute to global climate change. EPA has adopted a number of federal programs to reduce GHG emissions, including regulations to limit GHG emissions from motor vehicles, mandatory GHG reporting requirements and GHG permitting regulations. State and local agencies are required under the Clean Air Act to implement and enforce many of these programs.

Aside from their federal obligations, many states and localities have exercised leadership through local, state and regional action plans and initiatives to address the serious risks that climate change poses to public health and the environment. These efforts have focused largely on emissions from the power sector and involve a wide variety of reduction strategies, including increasing power generation from low- and zero-emitting

resources, modernizing the electric grid and reducing electricity demand through improved energy efficiency. Importantly, many GHG reduction approaches offer substantial corollary benefits, including reductions of non-GHG pollutants such as ozone.

States have diverging views over how best to reduce GHG emissions and adapt to climate change. Nonetheless, there has been increased dialogue over the last few years among state and local air agencies, energy regulators, utilities and other stakeholders over how to achieve multiple goals of clean air, cleaner transportation and energy production, grid modernization and GHG emission reductions. NACAA's members are critical parties to these discussions, and federal decisions and requirements may affect their work. The experiences of state and local agencies can serve as guideposts when crafting responses to global climate change.

### NACAA's Recommendation

As the Administration considers federal policies related to GHG emissions, we encourage the White House and EPA to consult with state and local air pollution agencies. Further, to the extent that state and local air agencies are obligated to implement and enforce federal GHG-related programs, we request that EPA provide them with the appropriate level of financial and technical resources to meet those responsibilities.

# 9 Improve the Integration of Federal, State and Local Data Programs and Requirements

## Background

The national air pollution control program relies heavily on electronic data collected by federal, state and local air agencies, including emissions data, facility operational data and many other types of information. These data are vital for assessing air quality and for purposes of compliance assurance, program evaluation, enforcement, regulatory development and other activities. Therefore, it is useful if the data can be shared among the various levels of government. The public must be provided with timely access to air quality data as well.

State and local air agencies have been collecting air quality data for years, and many have expended significant resources to develop sophisticated systems for gathering and analyzing the information. These state and local information collection systems reflect the agencies' own data needs as well as requirements for electronic data submission to the federal government. However, in recent years, EPA has made changes to its compliance and enforcement program's minimum data requirements,

some of which may require significantly more data to be submitted than in years past. State and local agencies have traditionally been willing to provide additional data to EPA when requested, but it is not always clear why the data are needed or how they will be used to further the shared goal of improving the environment. Some of this newly required information is too vast for EPA to properly store and process. Moreover, some of EPA's requirements call for the data to be submitted in a format that does not necessarily mesh with or accommodate the needs of existing state and local programs.

Finally, federal efforts to provide the public with access to data on a faster track have led to state and local concerns that information may be made publicly available before federal, state and local agencies have had the opportunity to conduct quality assurance and quality control checks on it. Providing inadequately reviewed, or even flawed data will not serve the public's needs and could undermine the credibility of the air quality program.

## NACAA's Recommendation

Federal, state and local data collection programs should be more effectively integrated to address concerns about minimum data requirements, data quality and data use (including public access to data that have not been quality assured). Federal efforts to improve efficiency and streamline data reporting requirements must accommodate existing data collection systems in which state and local agencies have already invested significant resources.

**UNITED STATES OF AMERICA  
ENVIRONMENTAL PROTECTION AGENCY**

**Evaluation of Existing Regulations;     )  
Request for Comments                     )**

**Docket ID No.:  
EPA-HQ-OA-2017-0190**

**COMMENTS OF  
THE TRUCK AND ENGINE MANUFACTURERS ASSOCIATION**

May 15, 2017

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**UNITED STATES OF AMERICA  
ENVIRONMENTAL PROTECTION AGENCY**

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**COMMENTS OF  
THE TRUCK AND ENGINE MANUFACTURERS ASSOCIATION**

**Introduction**

The Truck and Engine Manufacturers Association (“EMA”) hereby submits its comments in response to the request that the U.S. Environmental Protection Agency published in the Federal Register on April 13, 2017, “seeking input on regulations that may be appropriate for repeal, replacement or modification.” (82 FR 17793.)

EMA is the trade association that represents the world’s leading manufacturers of internal combustion engines and heavy-duty on-highway commercial vehicles. The engines that EMA’s members produce are used in virtually all applications, other than aircraft and passenger cars, and cover products that include on-highway trucks and buses, nonroad farm and construction equipment, marine vessels and locomotives, stationary generators and pumps, and lawn and garden equipment.

Over the past several decades, EPA has adopted myriad and increasingly stringent regulations establishing emission standards for each of the foregoing engine-product categories, and specifying how those engine products must demonstrate compliance with those various emission standards and related requirements. While EPA has regularly added to the number of regulations that govern the design and certification of emissions-compliant engine products, including regulations relating to the measurement and control of in-use emissions, EPA has rarely, if ever, eliminated any of the regulations (especially those that only add burden and cost, and no longer provide any cost-effective environmental benefit) that have accumulated in the Code of Federal Regulations over the past 30-plus years. Given that trend, EMA welcomes this opportunity to comment on the EPA regulations that are appropriate at this juncture for repeal, replacement or modification.

Set forth below are the regulations that EMA believes are ripe for repeal or modification. The first set of identified regulations include those that apply generally to all of the engine categories that are covered by EMA member-company products. The second set of identified regulations are applicable to specific engine and vehicle applications and are organized by product category. In assembling this list of regulations, and consistent with EPA’s request, EMA has

attempted to focus on regulations that: (i) eliminate jobs or inhibit job creation; (ii) are outdated, unnecessary, or ineffective; (iii) impose costs that exceed benefits; or (iv) create inconsistencies with regulatory reform initiatives and policies. For the most part, the regulations that EMA has identified are those the costs of which have greatly outstripped their putative benefits. EMA looks forward to follow-up discussions with the Agency on the repeal or modification of each of the identified regulations.

### **Cross-Cutting Regulations**

EPA has over the years adopted a number of engine-certification regulatory programs that apply to multiple categories of engine products. While certain of those regulatory programs may have had a reasonable basis for a claim of cost-effectiveness at the time of their initial adoption, which in some instances was more than thirty years ago, the more recent adoption of additional increasingly stringent regulations, coupled with the significant advancements in emission control technologies and diagnostics, have made several of those regulatory programs outdated and decidedly out-of-balance when assessed against any reasonable cost-benefit scale.

The cross-cutting programs at issue include production line testing, selective enforcement audit testing, the determination of deterioration factors, and the process for certifying “carry-over” engine families. EMA will address each of those programs in turn.

#### **Production Line Testing**

Under the various production line testing (PLT) regulations, EPA requires engine manufacturers, generally on a quarterly basis, and for each engine family, to select randomly a specified sample size of engines from the end of the manufacturers’ assembly line. Engine manufacturers are required to test the randomly selected engines over the applicable certification test cycles to assess and confirm whether the engine family complies with the applicable emissions standards, based on the sampling of randomly selected engines. (*See, e.g.*, 40 C.F.R. §§ 1033.305, 1033.310, 1042.301, 1042.315, 1042.302, 1048.301, 1048.310, 1054.301, 1054.310, 1060.301 and 1060.310.)

The prescribed PLT testing is exceedingly expensive and time-consuming. Moreover, it is inherently duplicative and redundant since it amounts to little more than a costly repeat of the already rigorous initial engine testing required to obtain EPA’s certification and approval to introduce engines into commerce. EPA should repeal the PLT regulations.

#### **Selective Enforcement Audits**

Under the various regulations relating to selective enforcement audits (SEAs), EPA may conduct, or may require an engine manufacturer to conduct, additional emission certification tests on specified production engines at a designated engine testing facility, which could be a facility other than the manufacturer’s. This SEA testing is in addition to the PLT testing discussed above. (*See, e.g.*, 40 C.F.R. §§ 86.094-22, 1033.601, 1036.15, 1037.15, 1036.301, 1037.305, 1037.315, 1039.15, 1042.15, 1048.15, and 1054.15.)



As with PLT testing, SEA testing has become unreasonably costly and burdensome, especially since those SEA tests must be performed in Part 1065-compliant testing facilities. In addition, the rigorous engine family certification program, coupled with in-use testing requirements, often render SEAs an inherently duplicative and wasteful exercise. Accordingly, the SEA regulations should be modified to only allow the Agency to utilize SEAs as an enforcement tool when the Agency has a good faith basis to suspect a manufacturer's non-compliance. The Agency should be precluded from utilizing SEAs as a random enforcement mechanism or as a means to investigate a generic issue relating to engine technologies. EPA should amend and pare-back the SEA regulations accordingly.

### Deterioration Factors

EPA has adopted multiple regulations over the years that relate to the calculation of deterioration factors or "DFs." The DF requirements force manufacturers to test the emissions from a sample of new engines, and then to run the engines continuously for many months to reach a point where, based on "good engineering judgement," the manufacturer can reasonably predict the engines' emissions performance at the end of their full "useful lives" (*i.e.*, 435,000 miles for HDOH engines). Typically, engine manufacturers use various techniques to age their engines to 35% of their full useful lives, and then test the aged engines' emissions to assess (based on an extrapolation out to 100% of the engines' useful lives) whether any emission constituents have increased (deteriorated) due to their operation over time. If so, manufacturers must ensure that their new engine emissions are sufficiently below the applicable emission standards to account for any observed DF. (*See, e.g.*, 40 C.F.R. §§ 86.004-26, 86.004-28, 1033.240(b), 1033.245, 1034.241(c), 1039.240(c), 1039.245, 1042.240 (c), 1042.245, 1048.240(c), 1048.245, and 1054.240(c).)

DF testing is exceedingly time-consuming and expensive, and its intended purpose is already served to a large extent by the advanced engine systems that can alert and induce engine operators to obtain any needed emission-related engine repairs. In light of that, EPA should initiate the necessary steps to substantially reduce the DF requirements as currently implemented by the Agency.

In particular, in its oversight of the DF-determination process, EPA should specifically allow for increased flexibilities and streamlining, including by allowing for the following: the expanded use of accelerated-aging bench tests; greater use of good engineering judgement to focus DF testing on specific regions of the engine-aging process (again, with the use of rapid-aging bench tests); greater use of good engineering judgement to address component part failures during testing; greater use of assigned DFs based on experience with similar technologies; expanded allowances for small volume exemptions from DF testing; and greater deference to manufacturers' engineering judgements regarding whether DFs are additive or multiplicative and whether the estimated deterioration is linear or not. Those increased flexibilities and opportunities for a more streamlined process are becoming increasingly important as DFs become a larger percentage component of the progressively lower emission standards. Similarly, the costs and burdens of DF testing are becoming increasingly disproportionate to their putative benefit as the underlying tailpipe standards continue their progression towards near-zero levels. Accordingly, EPA should implement the recommended revisions for simplifying and streamlining the DF requirements.

## Carry-Over Engine Families

From one model year to another, manufacturers frequently produce engine families that do not incorporate any changes to their emissions-control systems or to their emissions profiles. For those types of engine families – referred to as “carry-over” engine families – engine manufacturers should not be required to go through the full EPA engine-certification process, since they will be inherently duplicative of the certification process for the prior engine model year. Rather, manufacturers should be allowed to notify and certify to EPA when a carry-over engine family is being manufactured, and EPA should issue a certification for that carry-over family based on the previously submitted certification application data relating to the prior model year engine family. In other words, for carry-over engine families, the annual certification renewal process should be largely automatic once a manufacturer attests to the Agency that a carry-over engine family is at issue. To that end, EPA should adopt guidance and regulations clarifying that carry-over engine families are exempt from the otherwise applicable annual engine-certification requirements, and that a more simplified attestation process will apply that will not require the resubmission of additional engine-test data.

## Replacement Engine Provisions

Certificate holders use replacement engines to enable customers and operators to repair their equipment and trucks, and get back to their businesses, whether it be harvesting fields, constructing roads, or delivering goods. EPA’s current replacement engine regulations are unduly burdensome, since they prevent certificate holders (*i.e.*, engine manufacturers) from quickly responding to the needs of customers and operators, while they also create significant recordkeeping and reporting challenges. The current replacement engine regulations are specified in 40 C.F.R. Part 1068.240, which limits where engines can be staged in the repair and maintenance process – specifically, not at facilities operated by a manufacturer’s distributors and dealers – and delineates four different types of replacement engines that can be introduced into commerce. While originally written for nonroad engines, subsequent revisions have resulted in the same regulatory provision being applicable to heavy-duty on-highway engines as well. EPA’s general regulatory principle is that the replacement engine must be at the same or at a lower emission level than the engine being replaced.

The regulation of replacement engines is important to ensure a level regulatory playing field for all marketplace participants. As currently prescribed, however, EPA’s regulations are overly-burdensome due to onerous record-keeping and reporting requirements, in addition to a recently added provision that restricts the replacement of engines in equipment that is more than 40 years-old.

The four categories of replacement engines are as follows:

- Previous-tier replacement engines with tracking
- Previous-tier replacement engines without tracking
- Partially complete replacement engines
- Partially complete current-tier replacement engines

The first category requires annual reporting if any of the replacement engines are sold to distributors under the waiver described in 40 C.F.R. § 1068.240(b)(6). The second category requires annual reporting of not only the untracked engines produced, but of all other replacement engines regardless of the regulatory category. As a consequence, manufacturers are, in effect, required to submit annual reports to EPA for all replacement engines with information regarding which regulatory category applies.

The Agency should amend the replacement engine regulations to allow an engine manufacturer to stage replacement engines at dealers, distributors or other similar locations to better service customers and operators. As noted, those engines should be accounted for by the manufacturer in a simplified reporting process. Additionally, EPA should adopt a significantly simpler approach whereby all replacement engines would be considered as one category with one annual production report provided to EPA. In essence, the previous-tier replacement engines without tracking provisions would be applicable to all replacement engines (both complete and incomplete), but without volume limitations, and the reporting requirement for a given engine would be based on when that engine was introduced into commerce. In addition, the requirement that replacement engines be installed in equipment newer than 40 years-old would be removed. Under the recommended approach, where replacement engine reporting is required, there would not be any required tracking of replacement engines that are beyond an engine manufacturer's direct control, and reporting would be simplified to cover the engines that a manufacturer ships in a given calendar year.

#### Administrative Reporting Requirements

The administrative reporting requirements that are regularly included as components of EPA's emissions compliance programs are extremely burdensome and impose costs that far exceed their benefits. The frequency of submission for the required reports varies. Some are required on a quarterly basis, while others are required to be submitted within a certain number of days from a particular milestone. There are also reports that need to be submitted on a preliminary basis and then again later in the year as a final report. The high frequency of the submissions creates significant costs and paperwork, and adds no real-world emissions benefits. While it may be necessary for EPA to receive certain data to help assess whether manufacturers are in compliance with the Agency's numerous programs, receiving manufacturers' reports on more than an annual basis does not facilitate the data analysis or compliance reviews, which are the purported rationales for the reports. Accordingly, EMA recommends that EPA reduce the frequency of all periodic reports to one-time annual submissions, which will provide EPA with the necessary data on its various programs, while reducing the unnecessary burdens associated with duplicative and iterative reporting.

#### Technical Amendments

Over the years, and given the hundreds of EPA regulations that impact EMA's members' products, numerous technical issues arise that need to be accounted for through specific corrections or additions to the relevant regulatory text. Currently, there are many of those types of technical amendments that the Agency should consider and implement. EMA regularly provides feedback to EPA staff regarding the necessary technical changes to the Code of Federal Regulations, and

we will continue to do so. Given the technical and very specific nature of those issues, they are not spelled out in detail in the body of these comments, but are set forth separately in Appendix A.

There is, however, one over-arching issue relating to technical amendments that the Agency should address as a component of this regulatory review process. Typically, before codifying the technical amendments that accumulate over a given year (or period of years), the Agency will wait to include those amendments as an add-on to a separate substantive rulemaking effort. That approach can result in needed technical amendments remaining uncodified for years. To address that issue, EPA should commit to adopting a technical amendment regulatory package on an annual basis.

## Engine Category-Specific Regulations

### Heavy-Duty On-Highway Engines and Vehicles

#### On-Board Diagnostics

By far the costliest regulatory requirements facing manufacturers of heavy-duty on-highway (HDOH) engines are those that relate to the design and implementation of on-board diagnostic (OBD) systems. Under the operative EPA regulations, and to a larger extent under the OBD regulations that EPA has authorized the California Air Resources Board (CARB) to adopt and implement, HDOH engine manufacturers are required to equip their engines with exceedingly complex and costly software and emission-sensor systems to detect and provide alerts relating to the potential malfunction of hundreds of emissions-related engine components. The mandated OBD systems are covered by numerous pages of regulatory detail (*i.e.*, EPA's HD OBD regulation (40 C.F.R. § 86.010-18) is 67-pages in length, while CARB's HD OBD regulations are nearly 100-pages in length) and go far beyond the efficacy of common-sense functional diagnostics.

To put the OBD burden into perspective, HDOH engine manufacturers, on average, have spent approximately \$75 million per manufacturer over the past 5 years to develop and implement the prescribed OBD requirements, and the projected annual average costs for the current OBD requirements (which now include in-use testing provisions) are more than \$25 million per year per HDOH engine manufacturer. Those cost impacts are 10-20 times greater than the estimated costs that EPA relied on in adopting its (and authorizing CARB's) OBD regulations. Just as important, the ever-increasing OBD burdens are unsustainable. Engine manufacturers simply do not have sufficient test cell resources, among other capital and manpower constraints, to engineer and demonstrate compliance with the mushrooming OBD technical specifications and performance criteria. Nor do they have the resources to construct and maintain the additional new test cells that would be required to accommodate the steadily increasing burdens of the CARB/EPA HD OBD requirements. The net result is an inherently unreasonable HD OBD program.

EPA's HD OBD regulations are spelled out in 40 C.F.R. § 86.010-18. Those regulations include requirements for the verification and demonstration testing of the OBD systems of production vehicles, and multiple other onerous provisions. Even more significant, however, under section 86.010-18(a)(5), EPA has specified that the Agency will accept evidence that a manufacturer has complied with CARB's OBD requirements as a sufficient demonstration that the manufacturer has complied with EPA's OBD requirements. Over the years, as CARB's OBD

program has become more and more comprehensive and complex, EPA has, in effect, subordinated its OBD program to CARB's. That subordination has reached the point where EPA now requires engine manufacturers to submit to California's authority by obtaining a CARB Executive Order (showing approval of the manufacturer's OBD systems) as a prerequisite to obtaining EPA's certification of an HDOH engine family, and thus, as a prerequisite to being able to sell the covered engines in the rest of the country. EPA's wholesale delegation to CARB of the development and implementation of HD OBD requirements has led to the untenable results that pertain today.

CARB's authority to adopt and enforce HDOH OBD requirements stems in relevant part from EPA's grant of preemption waivers on September 8, 2008, December 10, 2012, and November 7, 2016. (*See*, 73 FR 52042, 77 FR 73459, and 81 FR 78149.) Those preemption waivers, however, were premised on OBD cost assumptions that have proved to be understated by a factor of 10-20 (*i.e.*, OBD costs amount to more than \$1000 per individual HDOH engine, as opposed to CARB's original estimate of approximately \$60 per engine), as noted above. That raises, among other things, significant concerns regarding the assumed cost-effectiveness of the current onerous OBD requirements.

In light of the foregoing, EPA should pare down its OBD regulations to focus on functional diagnostics for exhaust aftertreatment systems, and should work in earnest to ensure that CARB does the same. Real regulatory relief in this area is absolutely vital.

#### In-Use Testing Requirements

HDOH engine manufacturers are required to obtain and test a sampling of in-use vehicles equipped with HDOH engines to assess the engines' compliance with the applicable "not-to-exceed" emission standards. (*See*, 40 C.F.R. § 86.1901, et seq.) To implement the heavy-duty in-use testing (HDIUT) program, engine manufacturers use two sets of portable emissions measurement systems (PEMS), one to assess the engine's gaseous emissions, such as NO<sub>x</sub> and NMHC, and one to assess PM emissions. The average cost per engine family for in-use PM and NMHC testing (not including the costs attributable to testing for NO<sub>x</sub> or any other gaseous pollutants) is approximately \$150,000. The average cost per HDOH engine/vehicle is approximately \$30,000.

Since the implementation of the HDIUT program in 2006, experience has shown that the overall level of compliance with the in-use PM and NMHC NTE-based emission standards is extremely high, with almost no "failures" over a ten-year period. The flip side of that coin is that the continuing burden of in-use testing for PM and NMHC cannot be shown to be cost-effective, as there is no ongoing need for it. The only HDOH vehicles tested under the HDIUT program are those that are equipped with DPFs, and that have passed the screening process for in-use testing. Those engine/vehicles operate at emission levels well below the in-use standards. The utility of an in-use PM testing program for those vehicles is not sustainable. Likewise, the NMHC emissions from HDOH vehicles are inherently low and again well below the in-use standards. As a result, the costs of an in-use NMHC testing program are excessive and have little relationship to any potential benefits.

In-use testing for PM requires a separate PEMS, elaborate installation configuration and vehicle mountings, significant additional vehicle recruiting and set-up time, and significant additional de-installation and post-processing time. Testing for NMHC requires the use of FID gas bottles and other unique in-use testing issues (including PEMS failures) that create inordinate expenditures of time and money. Consequently, the in-use testing costs for those two pollutants add significant incremental costs, and no significant incremental benefits, to the HDIUT program.

The final rulemaking for the HDIUT program contained the following provision, which was specifically negotiated by EMA:

Recognizing that experience may show that the effectiveness, durability and overall performance of new engine technologies and exhaust aftertreatment systems may demonstrate that in-use testing for certain pollutants is unnecessary, we will consider requests from engine manufacturers to discontinue reporting and/or measurement of one or more pollutants from some or all engines based on future test experience.  
(70 Fed. Reg. at 34610)

EPA should repeal the requirements of the HDIUT program as they pertain to PM and NMHC emissions.

### GHG Phase 2 Regulations

EMA is supportive of the recently finalized GHG Phase 2 regulations. (*See*, 81 FR 73478-74274, Oct. 25, 2016.) EMA did not file a petition challenging those standards, nor did EMA support any Congressional review of the Phase 2 regulations. Notwithstanding EMA's general support, there are a number of regulatory revisions and technical amendments that EPA should implement to enhance the feasibility and efficacy of the GHG Phase 2 standards, as described in further detail below. In implementing the recommended improvements to the GHG Phase 2 program, EPA will need to coordinate with, and work to ensure parallel action by, the National Highway Transportation Safety Administration, which also oversees the implementation of its own fully-aligned fuel-efficiency regulations. EPA also will need to ensure that CARB adopts harmonized and fully-aligned regulations when it proceeds to adopt its own version of the Phase 2 regulations.

### GHG Phase 2 Chassis Dynamometer Test Requirement

As an element of the recently adopted GHG Phase 2 regulations, EPA requires that HDOH vehicle manufacturers conduct chassis-dynamometer testing of five (5) tractors every year, beginning with the 2021 model year. (*See*, 40 C.F.R. § 1037.655.) Manufacturers are required to measure and report emissions of NO<sub>x</sub>, PM, CO, NMHC, CO<sub>2</sub>, CH<sub>4</sub>, and N<sub>2</sub>O. Along with reporting the dynamometer test results, manufacturers must also provide the corresponding greenhouse gas emissions model (GEM) results for the vehicles. In the preamble to the final GHG Phase 2 Rule, EPA acknowledged the inherent differences between chassis-dynamometer testing and GEM simulations, and stated that the Agency will not use the dynamometer data for compliance auditing purposes. Thus, the only rationale that EPA provided for the annual five-

tractor dynamometer test requirement is for the vague purposes of “data collection and informational purposes.” (*See*, 81 Fed. Reg. 73,548.)

Testing Class 8 HDOH vehicles on a chassis-dynamometer is a time-consuming and resources-intensive undertaking. Many heavy-duty manufacturers do not have a chassis-dynamometer and therefore will have to pay an independent laboratory to conduct the testing for them. Moreover, there are substantial questions about the usefulness of the data, or even whether statistically valid conclusions can be drawn from year-over-year trends in the data. Vehicle changes that may show up in dynamometer test results may be unrelated to the vehicle aspects assessed in a GEM-based simulation, and therefore may be unrelated to the GHG Phase 2 Rule. Heavy-duty chassis-dynamometer testing also likely includes a significant amount of test-to-test and lab-to-lab variability that has not been analyzed and may eliminate the possibility of drawing any meaningful conclusions from the data. Furthermore, the onerous chassis-dynamometer test requirement includes measuring criteria pollutant emissions that are outside the scope of the GHG rule.

For the reasons stated above, EPA should eliminate the chassis-dynamometer testing requirement that is set forth at 40 C.F.R. § 1037.655.

#### Eliminate Unnecessary Coastdown Testing Requirements

Pursuant to 40 C.F.R. § 1037.525(b)(4), EPA requires that HDOH vehicle manufacturers perform new “coastdown tests” in 2021, 2024, and 2027, to determine new computational values for their alternative aerodynamic measurement methods. That mandate is inconsistent with the common-sense requirement contained in the very next sentence of the regulatory text, which states that a coastdown test “continues to be valid for later model years until you change the tractor model in a way that causes the test results to no longer represent production vehicles.” (*See*, 40 C.F.R. § 1037.525(b)(4).) The mandate that manufacturers conduct new coastdown testing at each regulatory step would require additional testing even in the absence of any change to vehicle design that would affect the aerodynamic results. It is an unnecessary and extremely costly regulatory test burden that is at odds with its companion regulatory provisions.

EPA should eliminate the regulatory mandate (40 C.F.R. § 1037.525(b)(4)) to conduct coastdown tests at every regulatory stringency step, and instead should only require new coastdown tests when design changes are made that affect aerodynamic performance.

#### Encourage Early Adoption of GHG-Reducing Technologies

Under the current GHG regulations, EPA provides for the enhanced generation of emission credits when certain GHG Phase 2 technologies are deployed during the “Phase 1” time-frame. *See*, 40 C.F.R. § 1037.150(y)(2). Specially, the regulations allow manufacturers to generate credits for the early deployment of automatic tire inflation systems on tractors, automatic engine shutdown systems, stop-start systems, and neutral-idle systems. EPA should expand those provisions to include additional Phase 2 technologies, such as automatic tire inflation systems on vocational vehicles, predictive cruise control, and extended-idle shutdown systems.

Similarly, the GHG Phase 2 Rule provides for the generation of extended-life emission credits for the early deployment of Phase 2-compliant light and medium heavy-duty vocational vehicles during the Phase 1 time-frame. *See*, 40 C.F.R. § 1037.150(y)(1). EPA should expand that provision to provide extended-life credits for the early deployment of Phase 2 heavy heavy-duty vocational vehicles as well.

To encourage the early deployment of Phase 2 engine technologies, the regulations provide an alternative compliance schedule for medium and heavy heavy-duty tractor engines that meet the Phase 2 standards one-year early. *See*, 40 C.F.R. § 1036.150(p). That provision also obligates manufacturers to meet the vocational engine standards one-year early, but does not likewise provide for any alternative CO<sub>2</sub> standards for those vocational engines in subsequent years. EPA should provide a similar compliance path that incentivizes the early deployment of Phase 2 light, medium and heavy heavy-duty vocational engines.

In the GHG Phase 2 preamble discussion about revising the “baseline” vocational engine emission level (from which EPA derived the Phase 2 engine-emission reductions), the Agency stated that it would not allow “engine credits generated against the Phase 1 [vocational vehicle engine] standards to be carried over into the Phase 2 program.” *See*, 81 Fed. Reg. 73,569 (October 25, 2016). However, the Final Rule failed to include any replacement mechanism to provide incentives for vocational engines produced during the Phase 1 time period that out-perform EPA’s new medium and heavy-duty Phase 2 vocational baselines. To create such an early-deployment incentive, and as an alternative to credit-calculation on the basis of the tractor engine standards, EPA should allow manufacturers to carry-over credits generated by vocational engines during Phase 1 to the extent that they out-perform EPA’s Phase 2 baselines for light, medium and heavy heavy-duty vocational engines.

#### Avoid Unintended Consequences of Stop-Start Technologies

The Phase 2 Rule assumes the use of a technology to automatically shut-down the engine no more than five seconds after a medium and heavy heavy-duty vocational vehicle comes to a complete stop. While stop-start technologies have been deployed on passenger cars for years, it is completely new to commercial vehicles. The Rule provides for certain override conditions that are utilized on passenger cars to avoid creating the unintended consequences that can occur when an engine is shut-down automatically, such as providing for overrides when the vehicle cab temperatures are too low for the driver’s safety or when the main battery’s state-of-charge is too low to restart the engine. *See*, 40 C.F.R. § 1037.660(b)(4). As EMA requested during the rule-making process, we request that EPA work with manufacturers to identify additional override conditions necessary to ensure safe and effective vehicle operation that are not specified in the final regulations to reduce the occurrence of unintended consequences from the use of stop-start technologies on medium and heavy heavy-duty vocational vehicles.

#### Align the Audit Procedures for Aerodynamic Performance

EPA has recognized that there are multiple methods for measuring the aerodynamic drag of a heavy-duty vehicle, and that “no single test procedure is superior in all aspects to other approaches.” *See*, 81 Fed. Reg. 73,625 (October 25, 2016). Accordingly, in 40 C.F.R. § 1037.525, the GHG Phase 2 Rule allows for measuring aerodynamic drag using any of several different



procedures. However, in the selective enforcement audit procedures for aerodynamic testing, regulations specify the use of only the coastdown method for measuring aerodynamic drag, yet they also provide that EPA may require a manufacturer to use the same method it used for certification. To reduce audit complexity and increase compliance predictability, EPA should revise the regulations to clarify that a manufacturer will only be required to conduct a selective enforcement audit test of aerodynamic performance using the same measurement method the manufacturer used for certification.

#### Refine Greenhouse Gas Emission Model (GEM) Simulations

The GEM simulation used in the Phase 2 Rule includes a model of a hydrodynamic torque converter used in automatic transmissions. The torque converter model uses various calculations to simulate how an actual hydrodynamic torque converter would slip at slow speeds and lockup at high speeds. EPA's Regulatory Impact Analysis (RIA) for the Phase 2 Rule acknowledges that the GEM simulation only approximates the K-factor torque curve that defines how an actual torque converter functions, but predicts that "for the vast majority of vehicles, the effect of this approximation on simulated CO<sub>2</sub> emissions is negligible. *See*, RIA § 4.2.2.3.3.4. However, EMA has found that when simulating certain engines in GEM, they consume significantly more fuel during low-speed operation than in the real world. EPA should reassess the K-factor used in the automatic transmission torque converter model in GEM to ensure that it is representative of actual torque converters, or provide a method for determining K-factors for different transmissions and inputting the values in GEM.

#### Promote Deployment of Hybrid Technologies

The GHG Phase 2 Rule requires that manufacturers conduct a powertrain test to assess the benefits of mild hybrid technologies. However, powertrain testing is very complicated, time consuming and expensive. To promote the deployment of mild hybrids without mandating the burden of powertrain testing, EPA should provide a fixed benefit for mild hybrids that could be added to GEM in lieu of actual powertrain test results.

The Phase 2 Rule provides an advanced credit multiplier for plug-in electric hybrid vehicles to promote their deployment. Similarly, EPA should also provide an appropriate advanced credit multiplier for the deployment of hybrid powertrains that do not have the plug-in feature.

#### Reduce Certification Burdens

The GHG Phase 2 Rule is primarily structured as a credit-averaging regulation whereby manufacturers assess vehicles in the GEM simulation and ensure that at the end of the year all the vehicles they have sold, on average, meet the mandated emission standards. Under such a scheme, much of the initial information manufacturers provide EPA to obtain certification is merely a prediction of where the manufacturer's credit balances will be at the end of the year. Accordingly, we recommend streamlining the up-front certification requirements as follows:

- Eliminate the need to submit GEM results for prospective vehicles
- Eliminate credit projections

- Allow carry-over certification after the first year of a new GHG standard

The GHG Phase 2 Rule includes detailed and complicated Delegated Assembly requirements for auxiliary power units (APUs) and for natural gas fuel tanks that are often installed by specialized manufacturers after the vehicle leaves the truck-manufacturing plant. Such multi-stage manufacturing occurs because the APU and natural gas tank installers are experts in their trades and receive minimal input from the truck manufacturer. Accordingly, EPA should streamline the requirements so that the truck manufacturer simply validates that the components were actually installed.

#### Class 2b/3 Testing Burden

Testing 10% of the sub-configurations of Class 2 and 3 cab-complete vehicles will create disproportionate and extreme amounts of testing compared to other vehicle categories. While there are high volumes of Class 2 and 3 sub-configurations compared to light-duty vehicles, the actual sales volumes for Class 2 and 3 vehicles are generally very low. This leads to a disproportionately high test burden for a relatively small fraction of manufacturers' vehicle sales. The testing requirements for Class 2 and 3 vehicles should be proportionate to their total volume. Accordingly, EPA should modify the testing requirement in the regulations to cover either a smaller percentage, or the Agency should set a cap at 20 tests. (*See*, 40 C.F.R. § 86.1819-14(d)(9)(i).)

#### Air Conditioning (AC) Credits

EPA and NHTSA recognize AC improvements in the regulations for light-duty vehicles, but not for heavy-duty vehicles, even though EPA and NHTSA both recognize the benefits of AC technologies that reduce GHGs and fuel-consumption. Since the benefits of those technologies are not measured in the certification process, they are applied as credits. Although the benefits are just as real for heavy-duty vehicles as they are for light-duty vehicles, neither EPA nor NHTSA allows credits for AC technologies. Manufacturers believe those credits should be harmonized between the light-duty and heavy-duty programs. To that end, EPA (and NHTSA) should modify (harmonize) the heavy-duty vehicle regulations to include AC credits, using a list of pre-approved default credits. (*See*, 40 C.F.R. § 86.1867-12 – CO<sub>2</sub> credits for reducing leakage of air conditioning refrigerant; 40 C.F.R. § 86.1868-12 – CO<sub>2</sub> credits for improving the efficiency of air conditioning systems; and 40 C.F.R. § 600.510-12 – calculation of average fuel economy and average CREE.)

#### Off-Cycle Credits

Similarly, EPA recognizes off-cycle improvements in the regulations for light-duty vehicles, but not for heavy-duty vehicles. As with the AC credits described above, EPA and NHTSA recognize the benefits of off-cycle technologies, yet do not offer credits for heavy-duty vehicles. (Off-cycle means that the benefits are not fully measured in the certification test cycle.) Manufacturers believe those credits should be harmonized between the light-duty and heavy-duty programs. Accordingly, EPA (and NHTSA) also should modify (harmonize) the heavy-duty vehicle regulations to include credits for CO<sub>2</sub>-reducing off-cycle technologies, using a list of pre-approved default credits. (*See*, 40 C.F.R. § 86.1869-12 – CO<sub>2</sub> credits for off-cycle CO<sub>2</sub>-reducing technologies; and 40 C.F.R. § 600.510-12 – calculation of average fuel economy and average CREE.)

## Drive-By Noise Requirements

EPA's drive-by noise requirements are found at 40 C.F.R. Part 205, Subpart B. Those requirements are outdated and EPA has not attempted to enforce them for many years. In fact, the enforcement office associated with those regulations was disbanded in the 1980s. In light of the foregoing, EPA should eliminate those regulations.

## Nonroad Engines

### Global Harmonization

The machinery and equipment that are powered by nonroad engines are sold into a global marketplace. As a result, it is critically important to engine manufacturers' ability to compete effectively in the global market for nonroad engines that the applicable engine-certification regulations be as fully aligned and harmonized as possible. To that end, EPA should work proactively to ensure that its nonroad engine regulations do not create any unwarranted barriers to international trade and commerce.

### Specific Recommendations

- EPA should eliminate the NTE requirements for nonroad engines that are less than 19kW and that do not have electronic controls. (*See*, 40 C.F.R. § 1039.101(e).) Under the European Union's (EU) Stage V regulations, mechanically-controlled nonroad engines do not need to comply with the NTE requirements.
- EPA should eliminate the requirement that nonroad engines less than 19kW be tested over the nonroad transient test cycle (NRTC). The EU Stage V regulations exclude all variable-speed nonroad engines less than 19kW from the NRTC-testing requirements.
- EPA should eliminate the requirement that nonroad engine manufacturers measure and report GHG emissions. Specifically, EPA should eliminate the requirements that nonroad engine tests include the measurement of CH<sub>4</sub> and N<sub>2</sub>O emissions. The required investments in measurement systems, testing processes, and dedicated personnel are widely disproportionate to any putative benefits.
- EPA should eliminate the requirement that nonroad engines used in auxiliary power units (APUs) be equipped with diesel particulate filters (DPFs). That requirement (*See*, 40 C.F.R. § 1039.699) is not cost-effective.
- Certain regulations restrict cost-effective emissions solutions from being deployed in specialized, low-volume agricultural and construction equipment, and so have potentially negative emissions impacts. In that regard, EPA should eliminate the percentage limit on the annual production of "Alternate FEL Cap" engines, which is currently set at 5%. (*See*, 40 C.F.R. § 1039.101(d)(2).) Using Alternate FEL Caps allows for a more cost-effective emissions solution for low-volume specialty products when a fully-compliant Tier 4 solution can be cost-prohibitive. Removing this volume limit would allow full market demands to be met, without any net emissions impact, since credits are required to offset

the higher-emissions products. Additionally, the provisions which allow exemptions from transient testing, not-to-exceed requirements, and crankcase emissions for the first four years of the Tier 4 standards should be re-instated. Those exemptions provide another means for allowing the development of cost-effective engines for low-volume specialty products, while maintaining a neutral emissions impact by adjusting the required credits upward based upon appropriate correction factors. Accordingly, the previously-used correction factors should be re-established without expiration. Those two changes would ensure cost-effective options for low-volume specialized equipment that powers America's agricultural and construction industries without negative emissions impacts.

- EPA should eliminate the smoke testing requirements for nonroad engines. (*See*, 40 C.F.R. § 1039.105.)

## **Marine and Locomotive Engines**

### **Alignment with IMO Standards**

EPA's Tier 4 marine engine standards are aligned with the IMO Tier III limits for engines with power ratings greater than 600kW, but not for engines with power ratings between 130-600kW. One result of this mis-alignment is that advanced NO<sub>x</sub>-control technologies have been developed and implemented for certain commercial marine engines above the 600kW power threshold, but not below. That result, in turn, means that there is a potential shortage or unavailability of IMO Tier-III-compliant engines below 600kW. That situation has arisen in Canada and has required that annual exemptions be implemented for the IMO Tier III standards as applied to commercial marine engines rated between 130-750kW on vessels with combined propulsion power less than 750kW.

Additionally, commercial marine vessels built in 2016 are in service now with EPA Tier 3-compliant engines ranging from 130kW-1400kW that do not incorporate aftertreatment systems. Those engines are IMO Tier II- compliant. Vessel builders and owners need guidance from EPA confirming that they may continue to operate their EPA Tier 3-compliant engines under the scenarios described below.

Given the regulatory mis-alignment and potential product unavailability at issue, EPA should issue a regulatory guidance document confirming that the following reasonably anticipated scenarios will be permitted for U.S. domestic vessels equipped with EPA Tier 3 engines, and for U.S.-flagged or foreign-flagged international vessels equipped with EPA Tier 3/IMO Tier II engines and IMO Tier II engines, respectively.

#### **Scenario 1**

Guidance should allow unimpeded travel between all U.S. port cities for EPA Tier 3 engine-equipped vessels that are only engaged in domestic U.S. commerce.

## Scenario 2

Guidance should provide a process for allowing exemptions on a case-by-case basis, based on IMO Tier III product unavailability for engines less than 1400kW, during vessel planning or construction phases. Those exemptions could be granted by the U.S. or any other flag-state. In such cases, EPA Tier 3/IMO Tier II engines would be acceptable. Such vessels would be allowed to enter and operate in U.S. waters as compliant vessels without triggering any IMO Tier III requirements for the exempted engines. It is anticipated that IMO Tier III-compliant engines will become available within the next 12-24 months to fill product gaps below 1400kW.

## Scenario 3

Guidance should allow U.S.-domestic vessels to travel to Canada with EPA-certified engines, as Canada currently allows, and to return to U.S. ports as domestic vessels.

In assessing the scope of the necessary guidance, it is important to note that the foregoing scenarios could apply not just to vessels with propulsion engines less than 600kW, but also on larger vessels having propulsion engines greater than 600kW, which also are equipped with auxiliary marine engines less than 600kW. In such cases, the EPA Tier-3-compliant auxiliary engine would not be compliant with IMO Tier III due to product unavailability.

Additionally, the IMO regulations have an exemption from emissions requirements for marine emergency-power gensets. EPA's current marine regulations, however, do not contain such an exemption. Most emergency gensets installed on vessels are radiator-cooled, and so are different from the types of sea water-cooled engines on which the current marine engine standards are premised. While there is an exemption under the marine regulations for the use of engines certified to the land-based standards, those engines typically lack the other marine hardware (SOLAS, USCG hoses, etc.) required in order to be installed on a vessel. Accordingly, EMA recommends that the marine regulations be harmonized with the IMO regulations, which contain an exemption for marine emergency-power gensets.

## Useful Life Determination

The "useful life" regulations applicable to marine engines are inconsistent with the useful life regulations that apply to nonroad engines. (*Compare* 40 C.F.R. § 1042.101(e)(2) *with* 40 C.F.R. § 1039.101(g)(2).) More specifically, under the marine engine regulations, it is possible that an engine family's useful life could be extended if a manufacturer advertises or markets a longer time to rebuild, even if the manufacturer is not seeking EPA approval of an alternative useful life different from the generally specified useful life values. EPA should revise section 1042.101(e)(2) to conform to the language utilized in section 1039.101(g)(2).

## California Requirements For Engines Below 37kW

EPA has previously granted a preemption waiver authorizing CARB to adopt certain emission standards for certain categories of marine engines. Over time, this has created an unacceptable inconsistency in marine engine standards, since, in at least once significant instance, CARB has not kept pace with EPA.

Currently, CARB's regulations require that marine engines less than 37kW need to be certified to EPA's Tier 2 emission standards. (*See*, 13 CCR § 2421(b)(1)(A). Table 1a.) However, EPA's current standards for marine engines less than 37kW are the Tier 3 emission standards, not the Tier 2 standards. Thus, in this instance, CARB's regulations are less stringent than the corollary federal standards and, as such, are not entitled to a preemption waiver.

California's emission standards for marine engines less than 37kW no longer meet the requirement for a preemption waiver under Section 209(e) of the federal Clean Air Act (42 U.S.C. § 7543(e)), and, thus, California's waiver for those standards should be withdrawn.

## Recreational Marine Engines

EPA should allow high-performance Category 1/Tier 3 diesel-fueled recreational marine engines below 600kW to be used in commercial vessels, with certification testing allowed under the E5 test cycle and with a specified useful life of 1000 hours. Currently, those engines are tested under the E3 test cycle and are required to meet a longer useful life. (*See*, 40 C.F.R. § 1042.101.) Nonetheless, the type of high-performance diesel-fueled marine engines at issue have an inherently more limited service life given their high power rating and power-density, and in that regard, are more similar to gasoline-fueled inboard and outboard engines.

Gasoline-fueled marine engines may be installed in commercial vessels based on the certification as recreational marine engines under the E4 test cycle, and with a limited useful life requirement. Similar treatment and accommodation should be afforded to high-performance diesel-fueled recreational marine engines. This regulatory amendment will simplify the treatment of recreational marine engines and will level the regulatory playing field.

## DFs For Marine Engines

As noted previously, the current DF requirements should be eliminated or substantially streamlined. In the specific case of marine engines, EPA should allow engine manufacturers to utilize fixed multiplicative DFs based on the application of good engineering judgement in the context of known engine technologies. EMA proposes the following multiplicative DFs for the following pollutants: CO 1.1, HC 1.1, NO<sub>x</sub> 1.05, and PM 1.05.

## Production Line Testing

As noted earlier, PLT requirements are outdated and should be eliminated. This requirement is especially burdensome and costly as applied to marine engines, and is a requirement that EPA has not imposed on the manufacturers of nonroad engines. In particular, special consideration should be given to Category 2 marine engines. Category 2 marine engine families currently are not allowed the low-volume family exemption that is provided for Category 1 marine

engines under 40 C.F.R. §1042.301(a)(2). As such, if even a single engine is sold in a Category 2 family during a model year, it must have a PLT test. With Tier 4 standards forcing the use of aftertreatment, and with the advent of 40 C.F.R. 1065 test methods, the cost of PLT testing on such large engines and aftertreatment systems has become exorbitant, and the testing process has become exceedingly burdensome. PLT testing is so expensive, in fact, that it can limit the number of low-emission Category 2 engines that can be placed on the market. In that regard, there are very few test cells in the world that can accommodate such large engines with aftertreatment, and setting up and running a PLT test consumes a wholly disproportionate amount of the time available in those few test cells. That it turn limits manufacturers' ability to develop new products. Accordingly, PLT requirements should be eliminated across the board, and especially with respect to Category 2 marine engines. At a bare minimum, Category 2 marine engines should be allowed to use the low-volume family exemption in 40 C.F.R. §1042.301(a)(2).

Also, if all marine PLT's are not eliminated, quarterly reporting of PLT results should be eliminated. (*See*, 40 C.F.R. § 1042.345.) That reporting requirement puts an extra burden on marine engine manufacturers, and, again, is a burden that is not placed on nonroad engine manufacturers.

### **Stationary Engines**

#### **“Grand-Fathered” Emergency Backup Engines**

On May 1, 2015, in the case of Delaware Dept. of Natural Resources v. EPA, Case No. 13-1093 (D.C. Cir. 2015), the Court of Appeals struck down the 100-hour exemption from air pollution controls that EPA had allowed for emergency backup generators, including during emergency demand-response operations. *See*, 40 C.F.R. § 60.4211(f). To address the uncertainties caused by the Court of Appeals decision, EPA should adopt “grand-fathering” provisions for engines that were manufactured to function as emergency backup engines during the period from January 1, 2011, through May 1, 2015. More specifically, EPA should clarify that the grand-fathered engines may operate for an unlimited number of hours in emergency situations, and may operate for up to 100 hours for non-emergency demand-response purposes if they are retrofitted with selective catalytic reduction systems that can demonstrate Tier 4 emission levels through established on-site emissions testing procedure at typical engine-operating loads.

### **Small Spark-Ignited Engines**

Small spark-ignited (SSI) engines are used to power a broad array of products, ranging from lawn mowers to portable generators. Over the years, EPA has adopted an increasingly comprehensive and stringent regulatory program to control and reduce the emissions from SSI engines. Certain of those regulations, however, have proved to be overly burdensome and unduly costly, including the following:

- EPA should adopt a clear and straight-forward small-volume engine family threshold definition for SSI engines.

## **Conclusion**

EMA appreciates the opportunity to submit these comments on the regulations that the Agency should consider for repeal, replacement or modification. We look forward to discussing these issues in further detail with the Agency in the near future.

Respectfully submitted,

TRUCK & ENGINE  
MANUFACTURERS ASSOCIATION



## Appendix A

### Necessary Technical Amendments

As noted in the body of EMA's comments, the implementation of EPA regulations regularly identifies technical issues that were not foreseen or adequately addressed when those regulations were initially drafted and adopted. EMA and EPA staff typically sort through those technical issues in a collaborative manner, but there is no established procedure for implementing agreed-upon technical amendments in a timely manner. EPA should adopt a policy whereby a package of technical amendments is proposed for adoption on an annual basis. In that regard, the following items, among others, should be included in the next round of technical amendments that the Agency undertakes:

- Eliminate the limitation on the use of replacement engines in stationary equipment that is more than 15 years-old, as specified in 40 C.F.R. § 60.4210(i).
- Establish separate NESHAP limits for liquid-fueled compression-ignition stationary engines with displacements larger than 30 liters per cylinder, especially for engines operating on fuels other than ultra-low sulfur diesel fuel.
- Simplify and enhance the flexibility of the engine labeling regulations, including those that pertain to the content and location of engine labels.
- Allow more flexibility in the Agency's DEF quality guidance to permit more widespread use of NO<sub>x</sub>-sensor-based DEF quality monitoring.
- Revise the marine replacement engine notification requirements from the current 30-day deadline (from the date of shipment) to match the nonroad replacement engine notification deadline of 270 days after the end of the relevant calendar year.
- Streamline the EIAPP application and certification process.
- Align and harmonize the EPA and IMO certification test fuel requirements for Category 1 and 2 marine engines. Currently, EPA requires the ASTM fuel specifications, while IMO requires fuels meeting the specifications of ISO 8217.
- Eliminate the requirement under 40 C.F.R. § 1042.820 for NO<sub>x</sub> and PM reductions relative to a baseline engine to determine authorization for a certified remanufactured engine, and instead use the standards of the respective Tiers as the basis for cost-effectiveness calculations under 40 C.F.R. § 1042.815.
- Allow for the use of natural gas kits for remanufacturing engines, even though the fuel does not need to be registered. *See*, 40 C.F.R. § 1042.801(f)(1).
- Change the altitude specified in 40 C.F.R. § 1033.115 (e)(1) from 7000 feet to 4000 feet to correspond with 40 C.F.R. § 1033.505.

- Remove the following language from Maintenance Instruction (See, 40 C.F.R. § 1033.220): “If owners/operators follow the original maintenance instructions rather than the newly specified maintenance, this does not allow you to disqualify those locomotives from in-use testing or deny a warranty claim.” To help ensure in-use compliance, the updated Maintenance Instructions need to be controlling. To that end, EPA should allow manufacturers to require that the most current maintenance instructions be followed prior to in-use testing.
- Revise 40 C.F.R. § 1033.645 so that engine manufacturers will not be subject to in-use liability for engines that have been identified to contain non-OEM parts, and such engines will be excluded from in-use testing.
- Eliminate the prohibition against deeming Category 1 and 2 IMO Stage II-III engines to be interchangeable with EPA Tier 4-certified marine engines for use on U.S.-flagged vessels.
- Reduce or eliminate stationary performance test requirements for stationary engine operators if the engines are EPA-certified (*e.g.*, NSPS-certified engines).
- Reduce the administrative burdens associated with Delegated Final Assembly, including through the elimination of the requirement to submit annual affidavits.
- Under EPA 40 C.F.R. § 1068, allow engines to be moved from one exemption to another (*e.g.*, from test exemption to manufacturer-owned).
- Align marine and locomotive annual PLT reporting requirements to eliminate reports if no testing took place. *See*, 40 C.F.R. §1033.320(e), and §1042.345(a).
- Change Inducement-Override reporting (40 C.F.R. § 60.4201(g)) to events where a 120-hour reset is requested from the manufacturer. Eliminate reporting of each and every activation.
- Eliminate the requirement to add a DPF to an engine in remote regions of Alaska, as required by 40 C.F.R. § 60.4216 if a marine engine is used pursuant to § 60.4201(g).
- 40 C.F.R. § 10033.250 and § 1033.335 – Combine locomotive quarterly sales report and locomotive quarterly installation audit report into one annual report.
- 40 C.F.R. § 1033.135 – Reduce the required label information to a minimum to match the information on EPA-issued certificates. Eliminate other details.
- 40 C.F.R. § 1068.210 – Formal requests for test exemption approval should be web-based and the approval process should be streamlined for expedited approval.

## OTC Reiterates Call For EPA To Craft Stricter Heavy-Duty Vehicle NOx Rule

June 13, 2017

SARATOGA SPRINGS, NY -- The Ozone Transport Commission (OTC) of Northeast and Mid-Atlantic states is reiterating its call for EPA to issue stricter limits on ozone-forming nitrogen oxides (NOx) emissions from heavy-duty trucks, as the region searches for more ways to meet the agency's tough 2015 federal ozone limit.

At its June 6 spring meeting in Saratoga Springs, NY, OTC issued a formal statement calling on EPA to revise its rules governing NOx emissions from trucks, in order to help states meet the 2015 national ambient air quality standard (NAAQS) of 70 parts per billion (ppb). Many areas in the region “are expected to be in nonattainment for the 2015 health-based standard” of 70 ppb “and face continued challenges meeting the 2008 health-based standard” of 75 ppb.

In its statement, OTC calls on EPA to “assist the states by implementing emission reduction programs to reduce NOx emissions from high priority mobile sources,” listing heavy-duty trucks and also locomotive engines as targets for tougher regulation. Heavy-duty trucks are already the largest source type contributing to NOx emissions in the OTC area, according to EPA's 2011 emissions inventory, and by 2018 locomotive engines will be the fourth-largest emitter, OTC says.

“These two categories have some of the greatest potential for reductions of NOx emissions moving forward, yet federal emission standards for heavy-duty onroad vehicles have not been tightened since 2000 and locomotive engines since 2008,” OTC says. States are largely prohibited under the Clean Air Act from regulating mobile sources, although California can ask for a waiver from EPA to set stricter standards than the federal government. If the agency approves a waiver request, other states can then adopt California's mobile source rules.

California is already pursuing updated heavy-duty NOx standards, and OTC notes that Southern California air regulators petitioned EPA in 2016 calling for updated federal standards. Eight OTC member states have since signed the petition, arguing that stricter NOx limits would help them meet the 70 ppb ozone standard -- although EPA recently announced it will delay by one year issuing designations for whether areas are meeting the limit.

Further, the California Air Resources Board, the state's air regulator, in April petitioned EPA to issue updated locomotive emission standards that would bring them into line with existing heavy-duty truck standards.

### **NOx Standards**

However, whether the Trump EPA will look favorably on these requests is highly uncertain, despite assurances by the agency toward the end of President Barack Obama's term that it will move toward rulemaking on heavy-duty NOx. [EPA in a Dec. 20 memo](#) formally agreed to write a rule to tighten NOx standards for heavy-duty engines and trucks that would take effect with the 2024 model year, but did not commit to specific emissions limits.

Staff with EPA's Office of Transportation and Air Quality (OTAQ) have recently indicated that they so far lack direction on the issue from EPA's new political leadership. To date, no political appointee has been nominated to head the agency's air office. OTAQ head Chris Grundler said at a recent Clean Air Act Advisory Committee mobile sources technical review committee meeting that locomotives regulation remains a low priority.

However, OTAQ staffer Lee Cook at the OTC meeting said that with respect to heavy-duty NOx rules, "one could certainly look at the timetable" of when heavy-duty NOx standards were last tightened, "and say it is time to take another look."

EPA is now thinking about how to comply with President Donald Trump's executive orders aimed at reducing regulations and streamlining compliance with environmental and other rules for industry, and "these standards have the potential to be a 'win-win,'" for the environment and industry, with a streamlining effect, Cook said.

According to [a presentation](#) to the meeting by Massachusetts air regulator Christine Kirby, the current research available to OTC shows that a while a standard of 0.04 grams of NOx per brake-horsepower hour (g/bhp) "appears to be achievable," 0.02g/bhp "needs more research." The latter level is the limit sought by California regulators, who plan to approve their own standards in 2019.

### **Trucking Emissions**

Meanwhile, OTC continues to investigate steps its member states can take to reduce truck NOx emissions, including boosting electrification of truck stops and other measures to reduce engine idling.

For example, Kirby said OTC is examining the feasibility of reducing idling by "reefer" trucks that carry refrigerated food, by using electrified trucks.

OTC's mobile sources committee is drafting recommendations on truck-stop electrification, Kirby said, including: filling in gaps along major transportation

corridors and requiring new truck stops to electrify through regulation; enforcing electric only use at electrified spaces; introducing a system to reserve electric spaces for specific trucks; and requiring gas cards be accepted at electrification stops.

The panel may not, however, proceed with recommendations on idling of locomotives and ships due to perceived technical and legal difficulties, Kirby said. Massachusetts and Rhode Island currently have locomotive idling rules, but Delaware's attempt to introduce them has run into a legal challenge by the federal Surface Transportation Board, which believes the state's effort to be preempted by federal law.

Also, OTC is looking further into possible measures to improve heavy-duty truck inspection and maintenance programs, Kirby said. -- *Stuart Parker*  
([sparker@iwopnews.com](mailto:sparker@iwopnews.com))

Message

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**From:** Lacey, Pam [PLacey@aga.org]  
**Sent:** 9/11/2017 2:01:20 PM  
**To:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]; Lopez, George [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fba73ef46eed476eb9ccfaa49c49782d-Lopez, Geor]; Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**CC:** Clay, Kathryn [KClay@aga.org]; Clarke, Jeff [jclarke@ngvamerica.org]; Cunningham, Allison [ACunningham@ngvamerica.org]  
**Subject:** FW: AGA NGVA-EPA meeting Tues. 9/12 - resending AGA's specific topics list and comments - who from EPA will likely attend?  
**Attachments:** AGA 05 15 2017 Comments on EPA Rule Review Docket EPA-HQ-OA-2017-0190.pdf; NGVA EPA Regulatory Review May 2017 Final.pdf  
**Flag:** Follow up

Robin, George and Will -- In response to Will's email on Friday, I am resending this email from August, but providing a little more detail. AGA's issues are detailed in the attached AGA written comments. At tomorrow's meeting, we would like to focus on our comments regarding just two regulatory programs:

1) 40 C.F.R. Part 98, Subpart W (see our attached written comments for our particular issues); and

2) 40 C.F.R. Part 761.30, the PCB use authorization rules for natural gas pipelines and distribution systems (see our written comments).

Note:

- We do *not* plan to discuss WOTUS issues at the meeting. AGA is a member of the Waters Advocacy Coalition (WAC), which is taking the lead on this issue.
- We also do not plan to discuss the PCB disposal and remediation issues at the meeting; AGA is a member of the Utility Solid Waste Activities Group (USWAG), which has covered those issues in detail in the USWAG written comments.

I look forward to our meeting tomorrow. - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**

American Gas Association

400 N. Capitol St., NW | Washington, DC | 20001

P: 202-824-7340 | M: Ex. 6 | F: 202-824-9190 | [placey@aga.org](mailto:placey@aga.org)

The American Gas Association represents more than 200 local energy companies committed to the safe and reliable delivery of clean natural gas to more than 69 million customers throughout the nation.

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**From:** Lacey, Pam

**Sent:** Tuesday, August 15, 2017 5:23 PM

**To:** 'Kime, Robin' <Kime.Robin@epa.gov>

**Cc:** Clay, Kathryn <KClay@aga.org>; Clarke, Jeff <jclarke@ngvamerica.org>; Cunningham, Allison

<ACunningham@ngvamerica.org>

**Subject:** AGA NGVA-EPA meeting - who from EPA will likely attend?

Robin - For your convenience, I am again attaching the comments AGA and NGVA filed in the rule review docket, as this may help Samantha and Brittany in determining if there are others at EPA they would like to include - either at this meeting or perhaps at a focused topical follow up meeting. AGA's comments address several programs, but at this meeting, we will want to focus on revisions we have suggested to improve: (1) the Subpart W reporting rule and (2) the PCB rules.

Please let me know who is likely to participate in the meeting from EPA, and please let me know if you have any questions. Thank you! - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**

American Gas Association

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**From:** Lacey, Pam

**Sent:** Tuesday, August 15, 2017 5:07 PM

**To:** 'Kime, Robin' <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>

**Cc:** Clay, Kathryn <[KClay@aga.org](mailto:KClay@aga.org)>; Clarke, Jeff <[jclarke@ngvamerica.org](mailto:jclarke@ngvamerica.org)>; Cunningham, Allison <[ACunningham@ngvamerica.org](mailto:ACunningham@ngvamerica.org)>

**Subject:** RE: Rescheduling AGA NGVA-EPA meeting

Robin – Thanks for sending the revised calendar invite. Would you please let us know who at EPA will be likely to attend? (in addition to Samantha and Brittany?) Thanks! - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**

American Gas Association

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**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]

**Sent:** Tuesday, August 15, 2017 4:32 PM

**To:** Lacey, Pam <[PLacey@aga.org](mailto:PLacey@aga.org)>

**Cc:** Clay, Kathryn <[KClay@aga.org](mailto:KClay@aga.org)>; Clarke, Jeff <[jclarke@ngvamerica.org](mailto:jclarke@ngvamerica.org)>; Cunningham, Allison <[ACunningham@ngvamerica.org](mailto:ACunningham@ngvamerica.org)>

**Subject:** RE: Rescheduling AGA NGVA-EPA meeting

Let's do 9/12 at 1:30 – will have it changed on the calendar.

---

**From:** Lacey, Pam [<mailto:PLacey@aga.org>]  
**Sent:** Tuesday, August 15, 2017 4:00 PM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Cc:** Clay, Kathryn <[KClay@aga.org](mailto:KClay@aga.org)>; Clarke, Jeff <[jclarke@ngvamerica.org](mailto:jclarke@ngvamerica.org)>; Cunningham, Allison <[ACunningham@ngvamerica.org](mailto:ACunningham@ngvamerica.org)>  
**Subject:** RE: Rescheduling AGA NGVA-EPA meeting

Robin – I checked with our group, and the times you offer on Sept. 12 and 13 would work for us. On Sept. 12<sup>th</sup>, 1:30 pm is better, but we can make the other times work if needed. Please send a new calendar invitation for the time you want to pick. Thank you! - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**  
**American Gas Association**  
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**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]  
**Sent:** Tuesday, August 15, 2017 12:31 PM  
**To:** Lacey, Pam <[PLacey@aga.org](mailto:PLacey@aga.org)>  
**Cc:** Clay, Kathryn <[KClay@aga.org](mailto:KClay@aga.org)>; Clarke, Jeff <[jclarke@ngvamerica.org](mailto:jclarke@ngvamerica.org)>; Cunningham, Allison <[ACunningham@ngvamerica.org](mailto:ACunningham@ngvamerica.org)>  
**Subject:** RE: Rescheduling AGA NGVA-EPA meeting

Hi

So nice of you. Thanks you very much for understanding. Here are a few dates that I think would work, I am sorry but Samantha is traveling internationally with the Administrator which is why some of the dates are further out than we'd like (I can go back and find more if that's helpful).

8/28 at 1:00 or 2:30

8/29 at 1:30

9/12 at 1:30 or 2:00 or 2:30

9/13 at 1:30 or 2:00 or 2:30



9/14 at 11 or 1:30 or 2:00 or 2:30

9/15 at 1:30

Thanks again for your patience!

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**From:** Lacey, Pam [<mailto:PLacey@aga.org>]  
**Sent:** Tuesday, August 15, 2017 12:23 PM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Cc:** Clay, Kathryn <[KClay@aga.org](mailto:KClay@aga.org)>; Clarke, Jeff <[jclarke@ngvamerica.org](mailto:jclarke@ngvamerica.org)>; Cunningham, Allison <[ACunningham@ngvamerica.org](mailto:ACunningham@ngvamerica.org)>  
**Subject:** RE: Rescheduling AGA NGVA-EPA meeting

Robin – I understand. We will look for some other possible times in the next couple of weeks and let you know. Are there any times that would be better for Brittany and Samantha? (As far as you know...) - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**  
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**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]  
**Sent:** Tuesday, August 15, 2017 12:14 PM  
**To:** Lacey, Pam <[PLacey@aga.org](mailto:PLacey@aga.org)>  
**Subject:** Rescheduling

Hello

I am sorry about this but Brittany and Samantha's schedules just changed quite abruptly and they are no longer able to take meetings this week. My apologies for the very short notice. May we regroup to find some alternative dates/times soon to reschedule your discussion?



Electronic Filing: [www.regulations.gov](http://www.regulations.gov)

May 15, 2017

Ms. Samantha Dravis  
Senior Counsel and Associate Administrator for Policy  
Regulatory Reform Officer for Executive Order 13777  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

**Re:** Identification of Regulations for Repeal, Modification or Replacement under Executive Order 13777, 82 Fed. Reg. 17793 (April 13, 2017) (EPA Request for Comment) -  
**Docket No. EPA-HQ-OA-2017-0190**

Dear Ms. Davis:

The American Gas Association (AGA) appreciates the opportunity to suggest how certain EPA regulations could be repealed, modified or replaced to better serve EPA's mission, while reducing unnecessary duplication and burdens that divert resources from infrastructure projects and ongoing maintenance and upgrades needed to ensure the safe reliable delivery of energy. A more efficient approach will help achieve EPA's environmental goals in a less burdensome manner, and it will allow our members to channel more resources to improve their systems and increase good-paying, career utility jobs that sustain middle class families in communities across the country.

The American Gas Association, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 73 million residential, commercial and industrial natural gas customers in the U.S., of which 95 percent — more than 69 million customers — receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international

natural gas companies and industry associates. Today, natural gas meets more than one-fourth of the United States' energy needs.

I. Air Office — Revise 40 C.F.R. Part 98 Subpart W and Repeal Subpart NN

**A. Revise Subpart W to Reduce Unnecessary Burdens and Improve Accuracy:**

The Subpart W Reporting Program is providing value to AGA members as a source of credible data to demonstrate their progress in reducing emissions. However, several revisions are needed to improve the accuracy of the data and to eliminate unnecessary cost burdens that divert resources from more productive, job-creating energy projects. We believe a few simple changes can achieve this goal.

***1. Replace Unnecessary Leak Surveys with Emission Factors Based on Robust Data:***

Companies in the natural gas industry have conducted annual Subpart W leak surveys of equipment since 2011, and now have a robust set of data that could be used to establish updated emission factors. While natural gas operators will of course continue to perform leak detection and repair to ensure safety - as required pursuant to Department of Transportation (DOT) pipeline safety regulations and related state requirements - there is no value or benefit in performing duplicative surveys using different timing and criteria for Subpart W. The surveys were originally required because EPA lacked data on certain emission sources. The costly Subpart W surveys can now be replaced with a simple arithmetic calculation using emission factors based on data collected to date. An emission factor approach for calculating GHG emissions is common for many sources in Subpart W, as well as other industries that report under the Part 98 reporting program.

This change should be made to eliminate, for example, Subpart W leak surveys under 40 C.F.R. 98.233(q) for natural gas Transmission to Distribution pressure reduction stations (T-D transfer stations), Liquefied Natural Gas (LNG) import-export terminals, peak-shaving LNG storage facilities, and transmission compression facilities. Instead of continuing these costly annual surveys, EPA should establish default emission factors based on the past six years of

reporting data, with an option for companies to use their own company-specific emission factors based on their own past Subpart W leak survey data.

Similarly, transmission compressor station and underground storage operators are required to conduct annual leak measurements under 40 C.F.R. 98.233(o) and (p) for reciprocating and centrifugal compressors, and under 40 C.F.R. 98.233(k) for scrubber dump valve leakage through condensate storage tank vents. These costly annual surveys should be replaced with default emission factors based on the past six years of reporting data, with an option for companies to use their own company-specific emission factors based on their own past Subpart W leak survey data. The leak survey requirement for other compressor station or storage facility components required under 40 C.F.R. 98.233(q) should also be replaced with emission factors.

***2. Improve Accuracy by Updating Emission Factors to Reflect Current Practices:***

To improve the accuracy of Subpart W data, EPA should update the default emission factors promptly as new, reliable scientific data becomes available. For example, Subpart W should use the same updated emission factors for natural gas distribution pipe as are already adopted for use for the annual EPA Inventory, based on the peer-reviewed study by Dr. Brian Lamb at Washington State University (WSU) published in the *Journal of Environmental Science & Technology* (March 2015). It is inaccurate and, frankly, misleading to continue overestimating natural gas emissions by using emission factors developed in a study conducted more than 20 years ago that evaluated a much smaller data set and reflected emissions from equipment and practices that have changed and improved dramatically since 1992. Additional robust data is expected to be available in 2018 from a series of studies co-funded by industry and Department of Energy (DOE). The Subpart W default emission factors should be updated as that new data becomes available.

As to the emission factor for metering and regulating (M&R) equipment in particular, there is also no legitimate reason to continue applying an outdated and highly-inflated emission factor to this equipment. At least in the past, EPA appears to have been under the impression that M&Rs emit more if they are located below grade rather than above grade. Modern

measurement data demonstrates this is not true. The same type of equipment is used in both above and below grade M&Rs and their emissions are far lower than the outdated default emission factor implies. EPA already allows up-to-date, company-specific emission factors for above grade M&Rs. The agency should allow the same updated emission factor for below grade M&Rs – based on the past six years of Subpart W emission surveys.

***3. Eliminate Subpart W Throughput Reporting:***

EPA should delete the recently added requirements in 40 C.F.R. Part 98, § 98.236(aa)(9) to report the quantity of natural gas received, delivered, stored, consumed and stolen. This provides no useful data for the purposes of Part 98 and duplicates natural gas throughput reporting under Subpart NN, which in turn already duplicates reporting to the DOE Energy Information Administration (EIA), as we note below.

**B. Eliminate Throughput Reporting under Subpart NN:**

EPA should review Subpart NN and consider, in a notice and comment rulemaking, whether to repeal it. At a minimum, Subpart NN reporting of natural gas deliveries to customers should be eliminated for natural gas distribution companies (LDCs), as this largely duplicates data companies are required to report to the DOE EIA and serves no useful purpose. The volume of natural gas delivered to customers in any year is mainly a function of annual weather fluctuations (i.e. colder or warmer winters), not commercial or industrial process changes.

**II. Water Office**

**Review and Revise Waters of the U.S. Rule:**

The Administration has already initiated a review of the federal rule defining the scope of waters of the United States (WOTUS). We want to emphasize the need for a revised rule that provides a clear dividing line between water features that are or are not subject to federal jurisdiction – without the need for subjective, arbitrary and unduly burdensome case-by-case

decisions that can delay natural gas utility and pipeline projects, impede job creation, impede economic development projects to be served by the pipeline, and increase costs.

### III. OEM - Federal Standards for Aboveground Storage of Hazardous Substances

AGA is a member of the Utility Solid Waste Activities Group (USWAG), and we support USWAG's request that the Office of Emergency Management (OEM), within EPA's Office of Land and Emergency Response (OLEM), should avoid duplicative, unnecessary or proscriptive requirements in the pending federal standards for the aboveground storage of hazardous substances. This rulemaking is of interest to AGA because it could adversely affect operations for natural gas utilities. We agree with USWAG that any such regulatory program should allow for performance-based controls, as a more prescriptive approach could harm job creation, impose unnecessary burdens, and/or impose costs that exceed benefits.

### IV. ORCR — Revise RCRA Generator Requirements for Remote Sites

AGA also agrees with USWAG that EPA should revise a recent final rule regarding hazardous waste generator requirements that imposed many stringent changes without commensurate improvements in environmental safety. The rule originated in OLEM's Office of Resource Conservation and Recovery (ORCR).<sup>1</sup> Of particular concern for natural gas utility operations is a provision in the preamble of the rule in which EPA "clarified" that states were not permitted to provide relief for the consolidation of hazardous wastes from remote or unstaffed sites. As USWAG notes, EPA provided limited relief for this type of consolidation in the final rule and then contended that state programs that had provided other types of commonsense relief for the same concerns were not permitted under the hazardous waste regulations.<sup>2</sup> This is highly disruptive for utility operations, particularly given that several states have already provided relief by allowing unknown wastes to be collected and consolidated from remote sites and postponing

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<sup>1</sup> 81 Fed. Reg. 85732 (Nov. 28, 2016).

<sup>2</sup> *Id.* at 85776.

hazardous waste determinations until the waste is received at a staffed facility, or by authorizing the direct transfer of hazardous waste to central locations. A similar problem arises in the preamble where EPA suggests that the relief the rule offers is the only available for episodic generation events, when in fact, some states have used their enforcement discretion to address abnormal hazardous waste generation patterns. We urge EPA to acknowledge and encourage the availability of state programs, such as the ones mentioned above, that achieve equivalent environmental protections in a far more practical and cost-effective manner. This would be consistent with the role of RCRA-delegated states as the primary regulator for facilities located within their jurisdictions.

#### V. OPPT & ORCR - Revise and Simplify Federal PCB Regulation

EPA should review, revise and simplify certain provisions in the federal regulations governing the use, remediation and disposal of polychlorinated biphenyls (PCBs). The PCB regulations adopted in 1998<sup>3</sup> under 40 C.F.R. Part 761 were tailored to the agency's understanding of interstate pipelines, not natural gas local distribution systems, and are long overdue for modernization and simplification.

Under the Toxic Substances Control Act (TSCA) Section 6(e) (15 U.S.C. § 2605(e)), the use of PCBs other than in a "totally enclosed manner" was banned after 1977 except as authorized by EPA regulatory action. EPA included a use authorization with respect to PCBs in pipeline systems because an EPA-commissioned human health risk assessment in 1984 demonstrated the PCBs in enclosed pipelines do not pose an unacceptable risk to human health. PCBs were used in the last century as a fire retardant to improve safety in some products such as compressor lubricants and electric transformer fluid, but their manufacture and purchase ended in the last century. Their occasional presence and discovery makes it appropriate for EPA to maintain some form of "use authorization," but this can be

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<sup>3</sup> The so-called "PCB Mega Rule" in 1998 was last significant amendment to the PCB regulations. See 63 Fed. Reg. 35384 (June 29, 1998).

accomplished in a less burdensome manner, especially for operators that did not originally introduce PCBs into their own systems, but rather received them from an upstream source.

The use authorization rule is now a relic of a former time, and the rule makes even less sense now than it did originally. EPA staff have recognized this and have suggested they may consider a new approach – replacing the old rule with a very simple authorization for the presence of PCBs in natural gas utility and pipeline systems, provided the operator follows reasonable requirements for managing and disposing of PCBs when they are discovered.

The use authorization rule for natural gas systems, administered by the Office of Pollution Prevention and Toxics (“OPPT”) within EPA’s Office of Chemical Safety and Pollution Prevention (“OCSP”) could be boiled down to a few words, eliminating significant and completely unnecessary cost burdens and complexity, as we explain below. The disposal and remediation rules in Part 761 are generally more risk-based and functional, but they too could be improved to eliminate some provisions that impose severe and unnecessary costs. Because the use authorization and disposal rules are interrelated but administered by two different offices at EPA, their revision should be coordinated. In fact, pursuant to Executive Order 13781 (March 13, 2017) establishing a comprehensive plan for reorganizing the Executive Branch, it would make sense to reduce confusion and duplication by consolidating the two functions and moving any remaining use authorization issues into one PCB use, remediation and disposal group within the Office of Resource Conservation and Recovery (ORCR) under the Office of Land and Emergency Management (OLEM).

#### **A. Revise and Simplify PCB Use Authorization**

Having a simple yet effective PCB use authorization is important to affected natural gas companies as they continue to rid their systems of PCBs over time. The existing use authorization rules governing PCBs in natural gas systems, however, are replete with vague, confusing, cumbersome, burdensome and irrational provisions, particularly for local natural gas distribution utilities. The confusion stems in part from trying to create natural gas regulations on a foundation of electrical equipment regulations developed 40 years ago, when in fact, the



use of PCBs in electric and gas systems was completely different. The confusion in the 1998 natural gas regulations also stems from the fact that EPA developed the regulations based on the agency's partial understanding of the interstate natural gas transmission pipelines where PCBs were discovered by EPA, and a complete misunderstanding about how local distribution systems operate. For example, the existing rule was drafted based on an incorrect assumption that both transmission and distribution systems are comprised of straight, level pipelines that flow in only one direction for many miles. Another misunderstanding that has caused serious confusion and excessive costs relates to the "source" of legacy PCBs in systems. A local distribution company that did not introduce PCBs into its own system, but rather received PCBs from an upstream interstate pipeline, does not have a source of PCBs in its system, yet it can become subject to the unduly burdensome use authorization requirements to eliminate "sources" that do not exist under such circumstances. These and other problems related to the use authorization rule have been compounded as local distribution systems have modernized and grown since 1998.

We encourage EPA to repeal the current use authorization regulations in 761.30 and replace them with a simple statement that liquid and non-liquid PCBs and PCBs in porous surfaces are authorized for use at any concentration in electric utility, natural gas distribution utility, storage and pipeline systems and operations, provided the operator complies with applicable requirements for PCB remediation, storage and disposal under Sections 761.60, 761.60, 761.61, 761.65, and 761.120 as PCBs are removed and eliminated from pipeline systems over time. We also urge EPA (1) to eliminate any reference to "potential sources,"<sup>4</sup> (2) clearly eliminate any flawed concept that devices designed to remove liquids (and PCBs if present) from natural gas systems somehow reintroduce them, and (3) eliminate extensive, unnecessary procedures for "characterizing" natural gas systems to look for PCB deposits today -- long after they were first introduced more than 50 years ago. Resources should instead be focused on responding appropriately and reasonably when any remaining PCBs are found.

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<sup>4</sup> See 40 C.F.R. § 761.30(i)(1)(iii)(A).

Requirements for such response and disposal should be based on standard best practices that are self-implementing and clearly described in the rule, to eliminate the need for any EPA involvement in day-to-day operations.

## **B. Revise Certain PCB Analysis, Storage and Disposal Regulations**

### **1. Change PCB Rules to Facilitate Gas & Electric Utility Operations**

AGA agrees with USWAG that EPA should: (1) allow disposal of PCB remediation wastes at “as-found” levels <50 ppm in non-TSCA landfills; (2) modify the PCB analytical rules at 40 C.F.R. § 761.272 to expressly authorize the use of the automated soxhlet extraction procedure (Method 3541) for the chemical extraction of PCBs from individual and composite samples; and (3) amend 40 C.F.R. § 76165 to allow satellite accumulation of PCBs.

### **2. Change Storage and Disposal Rules to Facilitate Natural Gas Utility Operations**

#### **a. Reduce Costs by Allowing Rational Method to Identify Areas Not Subject to PCB Concerns and Disposal Restrictions**

EPA’s PCB disposal rules under Section 761.60 describe how to characterize and manage natural gas distribution and transmission pipelines from PCB-impacted systems when no longer fit for service, including restrictions on how pipe can be abandoned in place or disposed of, depending on PCB levels.<sup>5</sup> Pipe removal and replacement are becoming more common in response to DOT pipeline safety regulations, so the cost of complying with the PCB regulations for natural gas systems continues to rise while PCB levels continue to decline.

Natural gas companies strive to rid their systems of liquids in general and PCBs in particular to eliminate these added costs. However, it is not clear under the existing rules how an operator can “delist” a system or portion thereof from the costly and onerous pre-requisites for abandoning pipe in place. Nor are the rules clear regarding how and where to send pipe for disposal or recycling once PCBs are no longer found in the system or a portion thereof above the regulatory threshold. It is wasteful and very costly to continue applying restrictions designed for systems with PCBs in liquids to dry pipe that has salvage value and no longer poses a risk. Testing each section of pipe as it is taken out of service in such systems is also costly and

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<sup>5</sup> See 40 C.F.R. § 761.60(b)(5).

wasteful. We would welcome the opportunity to work with EPA to develop a rational method for “delisting” systems or portions of systems that actually results in some incremental environmental benefit, so that resources can be focused on projects that improve safe and reliable energy delivery, create good paying utility jobs, and facilitate economic development.

**b. Allow PCB Bulk Product Waste Storage or PCB Bulk Remediation Waste for Storage Up to 180 Days -- in a Roll-Off or Similar Container -- at Either the Site of Generation or Other Company-Owned Site**

Pipe wrap and cathodic protection are two effective methods that have been used over the years for protecting metal pipe from corrosion. Coal tar pipe wrap was often used on steel and cast iron pipe for gas utility systems in the first half of last century. Sometimes oil containing PCBs was applied to the wrap to improve its flexibility. Gas utilities have been removing and replacing cast iron pipe over recent years as they modernize their systems, and they sometimes encounter sections of coal tar pipe wrap that contain PCBs at concentrations of  $\geq 50$  ppm. In such cases, utilities need a cost-effective method for managing this waste.

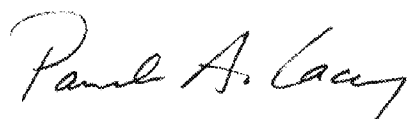
AGA agrees with USWAG that PCB-containing Coal Tar Wrap (CTW) material meets the definition of “PCB bulk product waste” under 40 C.F.R. § 761.3. The existing PCB storage regulations at 40 C.F.R. § 761.65(c)(9) allow temporary storage of PCB bulk product waste or PCB bulk remediation wastes at the site of generation for up to 180 days, but only in a “pile” that meets several restrictive performance standards. A better, simpler and more cost-effective option in many circumstances would be to use a roll-off or similar container. AGA agrees with USWAG that the rule should be amended to allow the use of a roll-off or similar container.

Further, since the site of generation could be in a city street or utility right-of-way, it is often not feasible or the best environmental option to store bulk PCB remediation wastes or bulk PCB product wastes there. It is often more practical and environmentally sound to bring such bulk wastes back to a utility service center or other company-owned central site. The existing regulations at 40 C.F.R. § 761.65(c)(1) allow operators to move PCB bulk product waste or PCB remediation waste from the site of generation back to a company-owned site for temporary storage before shipment off-site to a qualifying TSCA disposal facility – but such temporary storage at a company-owned central site (other than the site of generation) is limited to only 30

days. This short time period often does not allow adequate time for cost-effective storage prior to off-site shipment. For the reasons explained in USWAG's comments in this docket, extending this time period would not present an unreasonable risk of injury to health or the environment. EPA should amend its storage for disposal regulations at 40 C.F.R. § 761.65 to expressly authorize operators to move PCB remediation wastes and PCB bulk product wastes such as CTW or pipe covered with CTW from remote sites to a central company-owned location for storage up to 180 days.

AGA appreciates the opportunity to comment. If you have any questions, please contact me.

Respectfully Submitted,

A handwritten signature in black ink that reads "Pamela A. Lacey". The signature is written in a cursive, flowing style.

Pamela Lacey  
Chief Regulatory Counsel  
American Gas Association  
400 N. Capitol St., NW  
Washington, DC 20001  
202.824.7340  
[placey@aga.org](mailto:placey@aga.org)

**May 15, 2017**

Ms. Samantha Davis  
Senior Counsel and Associate Administrator for Policy  
Regulatory Reform Officer for Executive Order 13777  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

**Re: Identification of Regulations for Repeal, Modification or Replacement Under Executive Order 13777, 82 Fed. Reg. 17793 (April 13, 2017) (EPA Request for Comment) - Docket No. EPA-HQ-OA-2017-0190**

Dear Ms. Davis:

NGVAmerica appreciates the opportunity to provide comments on the U.S. Environmental Protection Agency's regulatory review effort announced on April 13, 2017.

NGVAmerica is a national trade association dedicated to creating a profitable, sustainable and growing market for compressed natural gas, liquefied natural gas, and renewable natural gas powered vehicles. NGVAmerica represents more than 200 companies, including vehicle manufacturers; natural gas vehicle component manufacturers; natural gas distribution, transmission, and production companies; natural gas development organizations; non-profit advocacy organizations; state and local government agencies; and fleet operators.

The United States is the world's largest producer of clean-burning natural gas. The abundance of this domestic resource means that it is a clean, low-cost, stable energy source that can secure America's energy needs for decades to come. Using more domestic natural gas results in expanded job opportunities for workers that produce this fuel and it also provides cost-savings for the consumers and businesses that consume this fuel. It also adds much needed revenue to the state budgets in areas of the country where natural gas is produced.

To expand the opportunities for using this domestic fuel here in the U.S., more should be done to ensure that the right types of incentives and common sense regulations govern its use in the transportation sector. Using compressed natural gas (CNG), liquefied natural gas (LNG), and renewable natural gas (RNG) in transportation can displace demand for imported energy and deliver the lowest emissions among all fuels.

NGVAmerica offers the following comments relating to the regulation of natural gas vehicles. The requested regulatory and policy changes are intended to remove unnecessary impediments to the increased use of natural gas vehicles and domestic natural gas resources and, if adopted, will promote job creation, clean air, reduced emissions of greenhouse gases, and improved energy security.

**I. Amend the Driving Range Requirements for NGVs to provide fair treatment relative to other technologies, and to provide additional incentive for manufacturers to produce natural gas vehicles**

EPA should remove the requirements in 40 CFR § 600.510–12, *Calculation of average fuel economy and average carbon-related exhaust emissions*, part (c)(2)(vii)(B) for fuel economy and (j)(2)(vii)(B) for emissions, that require NGVs to have a driving range on natural gas that is two times the driving range on gasoline or diesel fuel. This requirement is wholly impractical as it would require automakers to install significantly larger and more expensive natural gas fuel systems on dual-fuel vehicles, or alternatively require automobile manufacturers to reduce the size of gasoline fuel systems installed on dual-fuel NGVs, to access the utility factors available to other vehicles. This latter requirement would impose significant costs as it would require the design and manufacturer of smaller gasoline tanks and changes in the assembly production of base gasoline vehicles to fit vehicles with unique gasoline tanks.

NGVAmerica previously petitioned EPA to remove this requirement but to date EPA has not acted on this petition. We would again urge EPA to revisit this issue and amend its regulations accordingly by removing this burdensome and unnecessary requirement. Amending the rules as requested would level the playing field with other technologies and increase the incentive for manufacturers to offer more light duty NGVs. It also could be expected to encourage manufacturers to begin to commercial new low-pressure and absorbed natural gas systems.

NGVAmerica wishes to indicate its support for separate comments submitted by VNG.CO addressing this same issue, and would appreciate an opportunity to provide additional information in support of this request.

**II. Amend the marine engine certification requirements for dual-fuel natural gas engines so that compliance is based on the intended use of these engines and recognizes that when operating on natural gas/diesel mixtures these engines comply with and exceed the Tier III requirements. 40 CFR Part 1042 – Control of Emissions from New and In-Use Marine Compression-Ignition Engines and Vessels.**

Natural gas, including liquefied natural gas, holds significant potential to displace petroleum as marine fuel and reduce emissions of harmful pollutants. Today, there are over 200 LNG ships in operation and on order. About 15 percent of new orders for these ships will operate in the US waters. There is growing interest in using LNG because it is a virtually sulfur free fuel and offers a significant reduction in particulates and NOx emissions compared to conventional marine fuels. LNG also provides a reduction in greenhouse gas emissions. In addition to the environmental benefits, encouraging the use

of more LNG as a fuel for marine vessels will lead to new economic development as bunkering facilities, ships and other fueling infrastructure are built to support this market.

In the US, Tier III NOx requirements are in effect for all category 3 new built vessels (range in size from 2,500 to 70,000 kW (3,000 to 100,000 hp) – large engines that propel ocean-going vessels such as container ships, oil tankers, bulk carriers, and cruise ships). The more demanding NOx emission levels required by the Tier III regulation is readily met by ships when they operate on LNG. In fact, using LNG results in NOx emissions that are well below required levels. To use LNG, most marine vessels rely on dual-fuel operation, which here refers to operation on a mixture of LNG and diesel fuel in a diesel cycle or compression-ignition engine.

The problem today is that the Tier III emission regulations do not distinguish between fuel types, or provide any allowance for dual-fuel engines that operate on mixture of LNG and diesel fuel. The regulations therefore require that these vessels meet the NOx emission levels on both fuels including when operating on 100 percent diesel fuel even though that is not how the dual-fuel engines are intended to operate. The result is that manufacturers must equip their dual-fuel natural gas/diesel engines with expensive after-treatment equipment (Selective Catalyst Reduction – SCR – Technology) that is not necessary to achieve the required emission levels. Installing SCR systems on these vessels adds an additional cost of 1 - 2 million dollars per ship, even for ships utilizing diesel only for ignition purposes and whose fuel use is primarily LNG.

While the number of LNG powered vessels is growing, economies of scale are not yet reached, and the expertise and knowledge in building these ships is still fledgling, especially in the US/Jones Act vessels. The fact that ship builders must install costly SCR systems can and does discourage the development of the market for LNG ships and the use of natural gas in the marine market.

NGVAmerica requests that EPA amend its rules to allow a waiver for dual-fuel engines that operate the majority of the time on LNG and that have demonstrated through testing that they meet the Tier III NOx regulation when operating as intended (e.g., 70%NG/30% diesel or 90%NG/10% diesel). Providing this waiver will stimulate growth and jobs in shipbuilding in the US and encourage a faster paced adoption of cleaner-burning natural gas in this market.

### **III. Amend the DERA Program to remove scrappage requirement for replacement vehicles that exceed current federal standards by 50% or more for NOx emissions**

This issue concerns EPA guidance for the Diesel Emission Reduction Act (DERA) Program. Current guidance provides additional funding (i.e. 35% instead of 25%) for the cost of new replacement vehicles that have been certified to optional low-NOx standards. Thus, the program provides a larger incentive for cleaner engines. NGVAmerica strongly supports this provision as it currently stands but also urges EPA to expand the incentive for low-NOx engines by providing a larger incentive, or by removing the scrappage requirement.

The DERA program seeks to ensure emission reductions by removing older, dirtier equipment from operation. The removal of more polluting equipment is ensured by requiring scrappage of vehicles and engines. Assuming equipment is retired earlier than it otherwise would be the case, this essentially locks in excess emission reductions. Scrappage however comes at a cost for businesses that lose the opportunity to sell their equipment and receive compensation for the remaining value. For new diesel vehicles, it can be argued that providing 25 percent incentive for the cost of new replacement vehicle is more than sufficient to offset the economic loss associated with scrappage, and still provide an incentive to encourage the purchase of new, cleaner vehicles.

For natural gas vehicles, however, the DERA incentive of 25 percent or even 35 percent for the cost of a new vehicle is not sufficient to cover the economic loss associated with scrappage and the added costs associated with new natural gas trucks, which, like other advanced technology vehicles, cost more than conventionally fueled diesel vehicles. To remedy this situation, we would urge EPA to consider providing an even larger incentive for natural gas low-NOx vehicles. This could include providing 50 percent of the purchase for low-NOx alternative fuel trucks, or removing the scrappage requirement for low-NOx trucks. Such a policy would align with the DERA intent by delivering additional emission reductions because low-NOx engines are 50 – 90 percent cleaner than required.

#### **IV. Amend the testing and sampling requirements for cellulosic fuel produced in anaerobic digesters to be less burdensome and encourage increased production of qualifying cellulosic fuel**

Renewable natural gas produced from a variety of feedstocks has proved to be a huge success story, and today accounts for a significant portion of natural gas used to fuel natural gas vehicles. This clean-burning, low-carbon fuel accounts for more than 20 percent of all on-road natural gas demand and is expected to account for more than 40 percent of on-road demand by 2018. The success of renewable natural gas is due in no small part to the inclusion of various incentives and regulatory programs that encourage the production of this fuel including the U.S. EPA's Renewable Fuel Standard (RFS) Program.

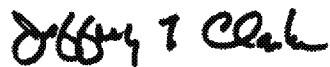
To expand the opportunity for renewable natural gas and remove burden on industry, NGVAmerica requests that EPA address the sampling and testing requirements required for anaerobic digesters (AD) that process crop waste to produce cellulosic fuel. AD producers have indicated that the testing requirements to demonstrate that 75 percent of the feedstock used in these facilities is cellulosic based are too burdensome and therefore discourage the production of more cellulosic qualifying fuel. Specifically, we request a change in the testing requirements found in 40 CFR 80.1426 so that instead of requiring the testing of every truck load that is delivered to an AD facility, that the testing is instead done quarterly and on random samples.



## Conclusion

NGVAmerica appreciates the opportunity to provide these comments and would welcome the opportunity to discuss these issues further with EPA as it moves forward with its regulatory review. In addition to the comments offered here, NGVAmerica would like to offer its support for the comments submitted in the docket by VNG.CO, which address several other issues related to the certification of light duty vehicles that are not included in our submission but nevertheless we strongly support. We believe that the changes requested will provide more fair treatment for NGVs and level of the playing field with other transportation technologies, and thereby increase the use of domestic natural gas as a transportation fuel.

Sincerely,

Handwritten signature of Jeffrey T. Clark in black ink.

Message

---

**From:** Lacey, Pam [PLacey@aga.org]  
**Sent:** 9/11/2017 1:41:41 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Will]  
**CC:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**Subject:** RE: EPA | AGA and NGVA Meeting (8/18)  
**Flag:** Follow up

Will – I will resend the email I sent to Robin in August in a moment. It appears I did not copy you on that earlier message – my apologies! I look forward to meeting with you tomorrow. If you have questions in the meantime, please let me know. Also, if you know who will be joining the meeting from EPA, that would be good to know. Thanks!– Pam

**Pamela A. Lacey | Chief Regulatory Counsel**

**American Gas Association**

400 N. Capitol St., NW | Washington, DC | 20001

P: 202-824-7340 | M: Ex. 6 | F: 202-824-9190 | [placey@aga.org](mailto:placey@aga.org)

The American Gas Association represents more than 200 local energy companies committed to the safe and reliable delivery of clean natural gas to more than 69 million customers throughout the nation.

---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]

**Sent:** Friday, September 08, 2017 4:11 PM

**To:** Lacey, Pam <PLacey@aga.org>

**Cc:** Kime, Robin <Kime.Robin@epa.gov>

**Subject:** RE: EPA | AGA and NGVA Meeting (8/18)

Hello, Ms. Lacey,

I wanted to follow up on Max's request. Do you have any read-ahead material to provide for the meeting on Tuesday?

Thank you,  
Will

---

**From:** Lopez, George

**Sent:** Wednesday, August 9, 2017 9:37 AM

**To:** [placey@aga.org](mailto:placey@aga.org)

**Cc:** Kime, Robin <Kime.Robin@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>

**Subject:** EPA | AGA and NGVA Meeting (8/18)

Ms. Lacey,

My name is Max Lopez and I am with the Office of Policy at the EPA. We are looking forward to meeting with AGA and NGVA on the 18<sup>th</sup> to discuss important topics effecting the gas industries. In order to ensure a productive discussion it would be helpful to have a list of specific topics on hand before the meeting. If you do have any specific rules, regulations, or other policy topics in mind let me know and I can pass that information along. Additionally, if you respond to this email after the 11th please CC Robin Kime: [Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov) and Will Lovell: [lovell.william@epa.gov](mailto:lovell.william@epa.gov) as I will be out of the office.

Thanks,

Max Lopez

[lopez.george@epa.gov](mailto:lopez.george@epa.gov)

U.S. Environmental Protection Agency

Office of Policy

Message

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**From:** Don Parrish [donp@fb.org]  
**Sent:** 7/28/2017 9:14:47 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Will]  
**Subject:** Re: Meeting Request

Thanks!

Sent from my iPhone

On Jul 28, 2017, at 5:13 PM, Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)> wrote:

Absolutely.

---

**From:** Don Parrish [mailto:[donp@fb.org](mailto:donp@fb.org)]  
**Sent:** Friday, July 28, 2017 5:12 PM  
**To:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** RE: Meeting Request

Can I let you know Monday morning?

*Don R Parrish*  
*American Farm Bureau Federation®*

**Ex. 6**

*[donp@fb.org](mailto:donp@fb.org)*

---

**From:** Lovell, Will (William) [mailto:[lovell.william@epa.gov](mailto:lovell.william@epa.gov)]  
**Sent:** Friday, July 28, 2017 5:11 PM  
**To:** Don Parrish  
**Subject:** RE: Meeting Request

Don,

We can certainly process this request and let you know if it works on our end. What date and time works for you?

Thanks,  
Will

---

**From:** Don Parrish [mailto:[donp@fb.org](mailto:donp@fb.org)]  
**Sent:** Thursday, July 27, 2017 4:21 PM  
**To:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** Meeting Request

Will

I would like to request a meeting with Samantha Dravis to discuss the Clean Water Act. I would also like to bring several key individuals to this meeting as well. Thank you and I look forward to hearing from you very soon.

*Don R Parish*  
*American Farm Bureau Federation®*

Ex. 6

*donp@fb.org*

Message

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**From:** Kime, Robin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7EF7B76087A6475B80FC984AC2DD4497-RKIME]  
**Sent:** 1/12/2018 6:41:18 PM  
**To:** anna.burhop@bracewell.com  
**CC:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** FW: rescheduling to next week please  
**Attachments:** DenkaAOCcompletion.pdf

**Flag:** Follow up

Thank you!

---

**From:** Burhop, Anna [mailto:anna.burhop@bracewell.com]  
**Sent:** Friday, January 12, 2018 1:36 PM  
**To:** Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** RE: rescheduling to next week please

Robin,  
I have one more thing for the meeting on the 17<sup>th</sup>, which I've attached.  
Thank you, and have a good weekend,  
anna

---

**ANNA BURHOP**

Principal

[anna.burhop@policyres.com](mailto:anna.burhop@policyres.com)

T: [Ex. 6] | F: +1.800.404.3970

**BRACEWELL LLP**

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**From:** Kime, Robin [mailto:Kime.Robin@epa.gov]  
**Sent:** Wednesday, January 10, 2018 1:54 PM  
**To:** Burhop, Anna <[anna.burhop@bracewell.com](mailto:anna.burhop@bracewell.com)>  
**Subject:** RE: rescheduling to next week please

Thx! 3:00 on the 17<sup>th</sup> it is!

---

**From:** Burhop, Anna [mailto:anna.burhop@bracewell.com]  
**Sent:** Wednesday, January 10, 2018 1:49 PM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Subject:** RE: rescheduling to next week please

That's okay - I know how it goes!  
11am on the 18<sup>th</sup> or 3pm on the 17<sup>th</sup>?

---

**ANNA BURHOP**

Principal

[anna.burhop@policyres.com](mailto:anna.burhop@policyres.com)

T: [-----Ex. 6-----] | F: +1.800.404.3970

**BRACEWELL LLP**

2001 M Street NW, Suite 900 | Washington, D.C. | 20036-3310

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**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]  
**Sent:** Wednesday, January 10, 2018 1:44 PM  
**To:** Burhop, Anna <[anna.burhop@bracewell.com](mailto:anna.burhop@bracewell.com)>  
**Subject:** RE: rescheduling to next week please

Hi,  
I am sorry, the Administrator just added a meeting then – would anything on the 17<sup>th</sup> work? Please bear with us!

---

**From:** Burhop, Anna [<mailto:anna.burhop@bracewell.com>]  
**Sent:** Wednesday, January 10, 2018 1:38 PM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Subject:** RE: rescheduling to next week please

Hi Robin  
Sorry for the delay in responding! Is 1.30 on the 16th still available? That'd be the best for us.  
Thanks!  
Anna

---

**From:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Date:** Wednesday, Jan 10, 2018, 9:57 AM  
**To:** Burhop, Anna <[anna.burhop@bracewell.com](mailto:anna.burhop@bracewell.com)>  
**Subject:** rescheduling to next week please

Hi  
I am sorry but Samantha's travel schedule changed again and she will be out on Friday. May I ask you to revisit those times next week to see if something works for you all? Much appreciated.

1/16 at 10:30 or 1:30 or 3:00  
1/17 at 1:30 or 2:00 or 2:30 or 3:00 or 3:30

1/18 at 11:00 or 11:30 or 1:30 or 2:00 or 2:30 or 3:00

1/19 at 1:30 or 2:00 or 2:30 or 3:00

---

**ANNA BURHOP**

Principal

[anna.burhop@policyres.com](mailto:anna.burhop@policyres.com)

T: Ex. 6 F: +1.800.404.3970

**BRACEWELL LLP**

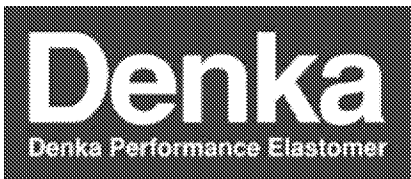
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Denka Performance Elastomer LLC  
560 Highway 44  
LaPlace, LA 70068

**FOR IMMEDIATE RELEASE**  
JANUARY 11, 2018

Contact:

Jim Harris

Harris Deville & Associates

[jharris@hdaissues.com](mailto:jharris@hdaissues.com)

Phone:  Ex. 6

**Denka Performance Elastomer Begins Operation of Regenerative Thermal Oxidizer (RTO) Unit at LaPlace Facility**

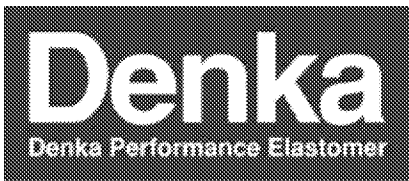
LaPlace, LA – Denka Performance Elastomer (Denka) began operating all the equipment by the end of 2017 specified in the Administrative Order on Consent (AOC) the company signed with the Louisiana Department of Environmental Quality (LDEQ) on January 6, 2017.

Included in the new emissions control technology is Denka’s Regenerative Thermal Oxidizer (RTO), the most significant voluntary emissions reducing project undertaken by the company under the AOC. The RTO is one of four main projects in the AOC designed to significantly reduce chloroprene emissions from operations of the LaPlace facility. The equipment included in the four projects was installed at a cost of nearly \$30 million.

“We are pleased to have completed installation and started operation of all of our emission reduction projects,” said Jorge Lavastida, Denka plant manager. “Our voluntary emissions reduction plan represents Denka’s commitment to our community. We have followed through on a promise made to our neighbors, employees and the state of Louisiana. I want to congratulate our many employees and contractors who committed their time over the last year to making these four projects a reality.” In addition to the RTO, these projects included installing a brine condenser on the poly kettles vent, a vacuum pump and vent condenser on the CD Refining Column and routing various emission sources to an existing combustion unit.

Denka will continue to monitor ambient air concentration alongside the U.S. Environmental Protection Agency (EPA) through the first half of 2018 to determine the impact and effectiveness of its reduction efforts and track its progress. The company expects to see significant reductions in ambient concentrations of chloroprene measured over that period.

- MORE -



Denka Performance Elastomer LLC  
560 Highway 44  
LaPlace, LA 70068

The LaPlace facility produces Neoprene, a product used in a wide variety of applications including laptop sleeves, orthopedic braces, electrical insulation and automotive parts.

Denka purchased the Neoprene business at DuPont's Pontchartrain Works Site in late 2015. The Neoprene plant employs 235 full-time workers. More than 250 additional contractors were also employed to install the emissions reduction equipment.

The emissions reduction projects were developed in response to an EPA National Air Toxics Assessment (NATA) report published in December 2015 that suggested a high risk of health impacts in the area surrounding the LaPlace was published in December 2015, one month after Denka began to operate the facility. External experts and reviewers have disputed the report's findings and Denka has submitted information to the EPA in a formal Request for Correction of the underlying information.

Since the NATA report was published, and throughout the process of reviewing and contesting the federal scientific information, Denka has voluntarily worked with EPA, LDEQ and parish officials to listen to and address the local community's concerns. Denka held community meetings with officials from regulatory agencies and St. John residents.

For additional information on the company and the voluntary emissions reduction projects, visit [Denka-pe.com](http://Denka-pe.com).

###

**About Denka Performance Elastomer**

*Denka Performance Elastomer LLC acquired DuPont's Neoprene manufacturing operations at the Pontchartrain Works site in LaPlace. Denka employs 235 individuals at the site and its new LaPlace, LA headquarters.*

*Denka intends to make strategic investments in the LaPlace facility while adhering to a key Denka guideline to develop and supply products that are safe and environmentally friendly. Denka considers the careful handling of materials and products and the prevention of their unauthorized release into the environment as its most important mission as a chemical manufacturer.*

Message

---

**From:** Juliette Garesche [jgaresche@afsinc.org]  
**Sent:** 10/25/2017 9:08:37 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** RE: 29th AFS EHS Conference Speaker Confirmation

Thanks Will, for getting in touch with us. I'll await your presentation. If you can send it as a PowerPoint via e-mail that's best.

Thanks again,  
Juliette

---

**From:** Laura Kasch  
**Sent:** Wednesday, October 25, 2017 2:56 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Cc:** Juliette Garesche <jgaresche@afsinc.org>  
**Subject:** RE: 29th AFS EHS Conference Speaker Confirmation

Will,  
Thank you. Tomorrow will be my last day with AFS, so I have Cc'd my colleague Juliette who is also coordinating the EHS conference. If you do make changes to the PowerPoint, please send her the updated version.

Take care!

Laura

---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Wednesday, October 25, 2017 11:14 AM  
**To:** Laura Kasch <lkasch@afsinc.org>  
**Subject:** RE: 29th AFS EHS Conference Speaker Confirmation

Hey, Laura,

FYI since I know you mentioned uploading the PPT to Dropbox – since Drew is taking over for Brittany, he is going to review and see if he might change the presentation or use it for his own speech. I will let you know what he decides.

Thanks!

Will

---

**From:** Lovell, Will (William)  
**Sent:** Wednesday, October 4, 2017 2:18 PM  
**To:** 'Laura Kasch' <lkasch@afsinc.org>  
**Subject:** RE: 29th AFS EHS Conference Speaker Confirmation

Hello, Laura,

Please find attached a copy of the PowerPoint presentation that Brittany will present. We will let you know if we make any changes.

Thank you,  
Will

---

**From:** Laura Kasch [mailto:lkasch@afsinc.org]  
**Sent:** Friday, September 15, 2017 3:06 PM  
**To:** Bolen, Brittany <bolen.brittany@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>  
**Cc:** 'doman@haleyaldrich.com' <doman@haleyaldrich.com>  
**Subject:** 29th AFS EHS Conference Speaker Confirmation  
**Importance:** High

Dear Brittany,

Thank you for accepting our invitation to speak at the **29<sup>th</sup> Environmental, Health & Safety Conference** to be held October 31-November 2, 2017 at Hyatt Regency Birmingham – The Wynfrey Hotel. Attached is the latest version of the agenda. You will be afforded full complimentary registration to the conference.

To facilitate the publication of the conference proceedings and speaker information, please send us the following **on or before September 29, 2017**:

- 1) **Email me a copy of your PowerPoint presentation.** You can use the attached AFS template OR the official template of your agency.
  - If your presentation is over 10 megabytes, please upload to our FTP site:  
<http://www.afsinc.net/uploadsite/index.asp>. Username: consultant; Password: safe
- 2) **Submit your speaker bio form here:**
  - <https://americanfoundrysociety.wufoo.com/forms/2017-ehs-conference-speaker-form/>

Here are a few details to help your planning:

**Hyatt Regency Birmingham**

The Wynfrey Hotel  
1000 Riverchase Galleria  
Birmingham, AL 35244

**AFS Room Rate**            \$149 Standard / Double Guestroom  
                                     \$169 Standard / Double – Regency Club\*

AFS Room Rate includes complimentary internet in guest rooms and meeting space.

*\*Regency Club accommodations are located on restricted access floors and include private Concierge, continental breakfast and evening hors d'oeuvres in a private lounge.*

Reservations must be made no later than, **Friday, October 6**. Click this link to reserve a room at the conference rate:  
<https://aws.passkey.com/go/AmericanFoundrySocietyOct2017>.

Check-in time begins at 3:00 p.m. / Check-out time is 12:00 p.m.

The Hotel will extend the conference rate up to 2 days prior and/or 2 days following the conference arrival and departure dates, based on room and rate availability.

**Airport Transportation**

The Hyatt Regency Birmingham – The Wynfrey Hotel provides **complimentary** airport transportation for individuals. Reservations are **REQUIRED**.

**Parking**

Registered overnight guests will be provided parking in the hotel garage at the daily discounted rate of \$10 and valet parking is available at \$12 per day.

Again, thank you for agreeing to speak and for your prompt attention to this request. Your presence and materials are vital to the success of the conference. If you have any questions, please don't hesitate to contact me.

Sincerely,

*Laura J. Kasch*

Technical Assistant  
American Foundry Society  
1695 N. Penny Lane  
Schaumburg, IL 60173  
Phone: 847/824-0181, Ext. 246  
[lkasch@afsinc.org](mailto:lkasch@afsinc.org)

Message

---

**From:** Heidi McAuliffe [hmcauliffe@paint.org]  
**Sent:** 10/3/2017 5:24:45 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]; Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**CC:** Marcus James [mjames@paint.org]  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Will, two points of contact:

1. Marcus James, [mjames@paint.org](mailto:mjames@paint.org) and **Ex. 6** cell and
2. Heidi McAuliffe, [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) and **Ex. 6**

Thank you, Heidi

---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Tuesday, October 3, 2017 1:19 PM  
**To:** Heidi McAuliffe <hmcauliffe@paint.org>; Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Thank you, Heidi. I also meant to ask – who can be our point of contact for the day of the event?

---

**From:** Heidi McAuliffe [mailto:hmcauliffe@paint.org]  
**Sent:** Tuesday, October 3, 2017 10:35 AM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>; Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi Will, thank you for your note. I am looking forward to talking with Samantha on Friday and will certainly provide a briefing for the Summit presentation.

1. I am attaching a draft agenda for our Policy Summit. It will likely remain in draft form until Friday as several speakers are still working on their schedules. This is a private industry event and **there will not be any press or media in attendance.**
2. Ms. Dravis is scheduled to speak for 15 – 20 minutes followed by Q&A.
3. The topics we are most interested in include the following:
  - a. Status of reg reform at EPA;
  - b. The Ozone Standard;
  - c. “Once in, Always in” Policy under NESHAP;

- d. Preserving Flexible Permits Strategy; and
- e. Other issues listed by ACA in our reg reform submission (also attached).
4. The format for the day will likely be auditorium seating and Ms. Dravis will have a podium and microphone. She is welcome to bring a powerpoint presentation if that is her preference.
5. I will also provide you with a list of our Board of Directors and invited guests.
6. There will be approximately 35 to 40 in attendance.

Please let me know if there is anything else that I can provide for you. I look forward to talking with Samantha on Friday.

Best regards,

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
202- 719-3686 | **Ex. 6** (m) | 202-263-1102 (fax) | [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) | [www.paint.org](http://www.paint.org)

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---

**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]  
**Sent:** Monday, October 2, 2017 5:40 PM  
**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>; Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Heidi,

We are hoping that the Friday meeting can act as a sort of briefing for the speaking engagement next week. Ahead of Friday, I wanted to ask a few questions:

1. Could you please provide an agenda for the event and a guest list? Is this event open to the press?
2. How long would you like for Samantha to speak?
3. What topics are of primary interest to the group?
4. How will Samantha present? Will there be a roundtable or a podium? Will she be microphoned?

Any information you can provide would be most appreciated.

Thank you,  
Will

---

**From:** Heidi McAuliffe [<mailto:hmcauliffe@paint.org>]  
**Sent:** Friday, September 29, 2017 1:39 PM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Cc:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Perfect, thank you

---

**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]  
**Sent:** Friday, September 29, 2017 1:36 PM  
**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>  
**Cc:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi, October 6<sup>th</sup> at 2:30 would be great. I am copying Will who will connect with you to help prepare Samantha for the 10/10 event. Thanks!

---

**From:** Heidi McAuliffe [<mailto:hmcauliffe@paint.org>]  
**Sent:** Friday, September 29, 2017 11:44 AM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

October 6 at 2:30

October 9 at 11:00 or 11:30

I hope that one of these works. Thank you so much.

Heidi

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
202- 719-3686 | **Ex. 6** (m) | 202-263-1102 (fax) | [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) |  
[www.paint.org](http://www.paint.org)

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---

**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]  
**Sent:** Friday, September 29, 2017 11:39 AM  
**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi,

We are in the process of booking her travel next week with the Administrator. Can you meet with her Oct 6 at 2:30 or Oct 9 at 11:00 or 11:30 or 1:00 or 1:30 or 2:00 or 2:30?

---

**From:** Heidi McAuliffe [<mailto:hmcauliffe@paint.org>]  
**Sent:** Friday, September 29, 2017 11:11 AM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi Robin,

Any of the days and times for next week work for me. Samantha is scheduled to present at the ACA Policy Summit on October 10. Consequently, I would really like to be able to find some time to meet with her prior to the 10<sup>th</sup>. So October 2, 5 and 6 all work for me. Hopefully, they will work for her as well.

I look forward to talking with her. Thanks, Heidi

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---

**From:** Kime, Robin [mailto:Kime.Robin@epa.gov]  
**Sent:** Tuesday, September 12, 2017 11:17 AM  
**To:** Heidi McAuliffe <hmcauliffe@paint.org>  
**Subject:** Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi

I hope you are well. I am sorry to say this but Samantha will be traveling with the Administrator next week. May I suggest the following alternative dates?

Oct 2 at 11:30

Oct 5 at 11:30

Oct 6 at 1:30

Oct 9 at 11:30

Oct 13 at 1:30

**To:** Dravis, Samantha; Bolen, Brittany; Lovell, Will (William); Inge, Carolyn; Dominguez, Alexander; Gunasekara, Mandy; 'Heidi McAuliffe'; Beck, Nancy; Milhouse, Gloria  
**Subject:** Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform  
**When:** Tuesday, September 19, 2017 1:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).

Message

---

**From:** Heidi McAuliffe [hmcauliffe@paint.org]  
**Sent:** 10/3/2017 2:35:02 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]; Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform  
**Attachments:** ACA 2017 Policy Summit Speaker concept draft 1.docx; Dravis Ltr. Reg Reform 5.15.17 final.pdf  
**Flag:** Follow up

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1. I am attaching a draft agenda for our Policy Summit. It will likely remain in draft form until Friday as several speakers are still working on their schedules. This is a private industry event and **there will not be any press or media in attendance.**
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**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
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**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>

**Subject:** Rescheduling: 9/19 Meeting to Discuss the American Coatings Association  
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**To:** Dravis, Samantha; Bolen, Brittany; Lovell, Will (William); Inge, Carolyn; Dominguez,

Alexander; Gunasekara, Mandy; 'Heidi McAuliffe'; Beck, Nancy; Milhouse, Gloria

**Subject:** Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

**When:** Tuesday, September 19, 2017 1:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).

**ACA 2017 Coatings Industry Policy Summit**

**Oct. 9 – 11, 2017**

**Speaker Schedule (as of October 1, 2017)**

**Monday, October 9**

ACA Headquarters, 901 New York Avenue, NW Suite 300 West

---

**PAINTCARE BOARD/ACA BOARD DINNER**

*Speaker - The Honorable Israel Hernandez, Deputy Chief of Staff for the US Secretary of Commerce  
Performing the Duties of Under Secretary of Commerce for International Trade,  
U.S. Department of Commerce, International Trade Administration (confirmed)*

**Tuesday, October 10**

---

**BOARD OF DIRECTORS MEETING – 9:00 am to 11:00 am**

**ACA Headquarters**

*Speaker – Representative Tim Murphy (R-PA) (Invited)??*

**OPENING LUNCH – 12:30 - 1:45 PM**

**Marriott Metro D.C.**

*Speaker – Representative John Shimkus (R-IL) (confirmed)*

*Topic – Coatings Industry Leadership Award for work on TSCA amendments*

*Introduction and Presentation of Award: Andy Doyle, CEO and President, ACA*

**GOVERNMENT AFFAIRS PROGRAM – 2:00 – 5:00 PM**

*Master of Ceremonies: Heidi McAuliffe, Vice President, Government Affairs, ACA*

**Trump Administration Panel – 2:00-3:00 PM**

*Speaker – Samantha Dravis, RRO, Office of Policy EPA (confirmed)*

*Topic – Regulatory Reform at EPA*

*Speaker – Rosario Palmieri, Office of Management and Budget, The White House (invited)*

*Topic – Administration Priorities/Regulatory Reform*

*Speaker – Jennifer Korn, Office of Public Liaison, The White House (invited)*

*Topic – Administration Priorities for Trade/Infrastructure/Role of Trade Associations*

**115<sup>th</sup> Congress – Senate Staff Panels – 3:30-5:00 PM**

*Speaker – Steve Bell, Senior Advisor, Bipartisan Policy Center and Bruce M. Evans, Staff Director,  
Senate Committee on Appropriations (invited)*

*Topic – Tax Reform*

**RECEPTION – 5:00-7:00 PM**

**ROOFTOP TERRACE - ACA HEADQUARTERS**



Wednesday, October 11

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**Transportation to Capitol Hill – 7:30**  
**Marriott Metro D.C.**

**Photograph on Capitol Steps – 8:00 AM**

**CAPITOL HILL BREAKFAST @ TownHouse, 27 D St. SE – 8:30-9:30 AM**

*Welcome and Introductions: Andy Doyle*

*Speaker – Representatives Joe Barton (R-TX) (confirmed) & Mike Doyle (D-PA) (confirmed)*

*Topic – Energy & Commerce Issues affecting the coatings industry*

*Introduction – Andy Doyle, CEO and President, ACA*

**Congressional Office Visits by Teams – 10:00 AM – 12:00 Noon**  
**House and Senate Office Buildings**

**CONGRESSIONAL LUNCH INDUSTRY BRIEFING – 12:30 – 2:00 PM**

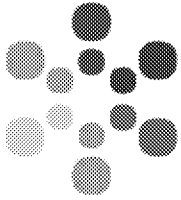
**Kennedy Caucus Room, 325 Russell Senate Office Building**

*Speakers – Dr. Barry Snyder, Axalta; Remi Briand, Tnemec; Dr. Phillip Yu, PPG*

*Topic – Innovations in the Coatings Industry*

*Introduction – Andy Doyle, CEO and President, ACA*

*Representatives Tim Murphy or Keith Rothfus (invited?) to make brief comments and to introduce ACA Member panel to talk about innovation in the coatings industry.*



**AmericanCoatings**  
ASSOCIATION

May 15, 2017

Samantha K. Dravis  
Regulatory Reform Officer and Associate Administrator  
Office of Policy  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Re: Docket Number EPA-HQ-OA-2017-0190;  
Executive Order 13777, Enforcing the Regulatory Reform Agenda

Dear Associate Administrator Dravis:

The American Coatings Association, Inc. (ACA) is a voluntary, nonprofit trade association working to advance the needs of the paint, coatings and adhesives industry and the professionals who work in it. Our membership includes paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA member companies collectively produce some 95% of the total dollar volume of architectural paints and industrial coatings in the United States.

ACA member companies operate nearly 1,300 manufacturing facilities, warehouses and distribution centers in all 50 states. More than 275,000 people in the United States are employed in the paint and coatings industry, including those who manufacture, distribute, store, sell, and apply our products. Product shipments by U.S. paint and coatings producers totaled an estimated \$28 billion in 2015.

ACA appreciates the opportunity to participate in this regulatory reform effort and provide the agency with the benefit of its experience regarding certain EPA regulations and requirements. We have participated in several of the public meetings, providing information about regulatory requirements that have been costly and problematic for our industry for many, many years.

ACA is hopeful that the regulatory reform effort will allow the agency to take a holistic approach to regulations and modernize requirements with an eye towards synergistic compliance. ACA urges EPA to examine those regulations and requirements that are unnecessary, costly and inconsistent with other requirements and do not further the mission of environmental protection. Below we highlight such requirements and provide cost data along with a specific recommendation for repeal, replacement or modification.

ACA is providing comments on the following regulations and requirements:

1. The 8-Hour Ozone Standard, EPA-HQ-OAR-2008-0699;
2. "Once-in, Always-in" Policy Under National Emissions Standards for Hazardous Air Pollutants for Source Categories;
3. National Volatile Organic Compound Emission Standards for Aerosol Coatings, EPA—HQ—OAR—2006—0971;
4. Triennial Reporting for Aerosol Coatings, EPA—HQ—OAR—2006—0971;
5. TSCA Nanomaterials Reporting Rule, EPA-HQ-OPPT-2010-0572;
6. TSCA, Section 5(e) Consent Orders: Regulation of Chemicals Pending Development of Information During the PMN Process;
7. FIFRA: Requirement to Gain Final Approval for a Reformulated FIFRA-registered Paint Product prior to Distribution or Marketing;
8. FIFRA, Prohibition of Truthful Comparative Information on a Label;
9. FIFRA, Language Requirements for Export Labels;
10. FIFRA, Review of Label Elements upon Application for a Label Amendment;
11. FIFRA, Regulation of Product Claims for Paint Products with Antimicrobial Agents; and
12. EPA Environmentally Preferable Purchasing Program Pilot to Assess Standards and Ecolabels for EPA's Recommendations to Federal Agencies

**1. The 8-Hour Ozone Standard, EPA-HQ-OAR-2008-0699**

**Issue:** In October 2015, the National Ozone Standard was lowered from 0.75 ppm to 0.70 ppm.

Implementation of the new standard requires U.S. states to identify whether they are in attainment or in non-attainment by February 2017. Reviewing the ozone standard is a recurring mandate under the Clean Air Act.

**Concern:** EPA's final rule on the ozone standard is forcing a significant number of states that are currently "in attainment" to "non-attainment" status, triggering a requirement to revise their State Implementation Plans and adopt even stricter volatile organic compound (VOC) emission regulations for coatings. This triggering event is being realized as ozone monitors across the country are demonstrating a marked improvement in air quality under the 2008 standard of 0.75 ppm. Indeed, the previous standard of 0.75 ppm was not yet fully implemented.

**Cost to the Coatings Industry:** EPA's final stringent ozone standards will limit business expansion in nearly every populated region of the United States. and impair the ability of U.S. companies to create new jobs. EPA's lowered range adds unnecessary red tape for companies seeking to expand even in areas that can attain those standards. Increased costs associated with restrictive and expensive permit requirements will likely deter companies from siting new facilities in a nonattainment area. ACA shares the practical concerns of

manufacturers regarding potential exorbitant costs this regulation would create for the paint and coatings industry without commensurate benefits to public health or the environment. *A study conducted by the National Association of Manufacturers (NAM) and NERA Economic Consulting, estimated this final rule could cost the economy \$140 billion per year, result in 1.4 million fewer jobs, and cost the average household \$830 per year in the form of lost consumption — making this the “costliest regulation in history” and threatening manufacturing.*

**Recommended Solution:** ACA urges a two-step solution to this problem: 1) EPA should revert to the 2008 standard of 0.75 ppm and fully implement this standard so that the forward progress already achieved can be extended without unnecessarily burdening the paint and coatings industry with increased standards and costs for many years to come; and 2) EPA should amend the Clean Air Act Regulations to extend the time for review of the ozone standard to every 10 years. Currently the law requires a review every five (5) years. Extending the review of the ozone standard to every 10 years will allow for more stability in the marketplace for formulators while still protecting human health and the environment.

## 2. **“Once in, Always in” Policy under National Emission Standards for Hazardous Air Pollutants for Source Categories**

This “regulation” is a May 16, 1995 EPA memorandum titled, “Potential to Emit (PTE) for MACT Standards – Guidance on Timing Issues,” from John Seitz, Director, Office of Air Quality Planning and Standards (OAQPS), to Regional Air Division Directors — commonly known as the “Once in, Always in” memo — and may be found here: <https://www.epa.gov/sites/production/files/2015-08/documents/pteguid.pdf>.

**Issue:** A “major source” is defined as a source that has the potential to emit (PTE) hazardous air pollutants (HAP) up to 10 tons per year (tpy) of any single HAP or 25 tpy of any combination of HAPs. Sources below this threshold are considered “area sources.”

Under the “once in, always in” policy, a major source may become an area source (i.e., minor source) by limiting its PTE HAP below the major source thresholds by no later than the first compliance deadline listed under the applicable Maximum Achievable Control Technology (MACT) standard (also referred to as National Emission Standards for Hazardous Air Pollutants or NESHAP). However, a source that fails to achieve “area source status” by the first MACT compliance deadline must remain subject to the MACT *even if it subsequently reduces HAP emissions below major source levels at a later date*. In other words, sources will always be subject to the MACT rules, regardless of whether the source is no longer a major source of HAP.

Note that that EPA published a proposed rule on January 3, 2007 to replace the "once-in always in" policy rule - (docket number EPA-HQ-OAR-2004-0094. <https://www3.epa.gov/ttn/atw/gp/fr03ja07.pdf>). However, this rulemaking was never finalized.

**Concern:** The coatings manufacturing industry has substantially reduced the use of HAPs since the 1990s. In fact, many facilities subject to the Miscellaneous Coatings Manufacturing (MCM) and Miscellaneous Organic Chemical Manufacturing MACT (MON) MACTs are now "area source" facilities, but still must comply with the MCM requirements even though they are not major source facilities. While many coating and resin manufacturing operations could reduce emissions prior to the first compliance date of the MCM and MON, other facilities could not. Facilities that could not reduce their emissions have since installed expensive thermal oxidation units.

This guidance is outdated and unnecessary and imposes a substantial burden on industry that well exceeds any benefits. This "policy" or "guidance" has been applied by EPA as a "rule," with binding effects on the regulated community, including very burdensome compliance costs. Industry resources spent on compliance could be used instead for R&D, or modernization activities. This policy also acts as a disincentive for industry, since facilities have no incentive to voluntarily reduce HAP emissions below major source thresholds.

**Cost to the Coatings Industry:** Thermal oxidation units require a significant capital investment (millions of dollars per facility) and annual operation and maintenance costs (several hundred thousand dollars per facility per year in fuel cost alone). These units consume large amounts of electricity and natural gas, which results in additional emissions of carbon dioxide, nitrogen oxides and carbon monoxide. *EPA has estimated that installation and operating of air pollution controls for the MCM and MON rules would require an overall energy demand increase of 5.83 trillion BTUs; a total capital expenditure of \$184 million; yearly operating costs of nearly \$91 million; and an increase in NOx, CO, SOx emissions of 987 tons per year.*

**Recommended Solution:** ACA recommends that EPA withdraw or rescind this policy.

### **3. National Volatile Organic Compound Emission Standards for Aerosol Coatings, EPA—HQ—OAR—2006—0971**

**Issue:** The regulatory landscape for aerosol coatings has historically been relatively simple. There are two primary regulating agencies that govern aerosol coatings: the U.S. EPA and the California Air Resources Board (CARB). In 2008, EPA finalized a national rule for aerosol coatings that largely mirrored CARB's 1999 aerosol coatings regulation. Since EPA's initial rulemaking in 2008, scientific research has resulted in a more accurate mechanism for calculating the

reactivity of specific compounds. As a result, CARB amended its aerosol coatings regulations and updated its reactivity values in 2010. CARB's standards are now more stringent than EPA's standards.

**Concern:** There are no longer consistent, uniform categories or standards for aerosol coatings throughout the country. EPA's Table of Maximum Incremental Reactivity (MIR) Values are outdated and no longer align with CARB's Table of MIR Values. Thus, a significant compliance challenge exists as there are now two different MIR Values for a single compound: one that needs to be employed for compliance calculations in California and a different one that will apply for the EPA national rule. This has complicated classification, formulation, calculation, and labeling for aerosol coatings manufacturers.

**Impact on Industry:** The impact of CARB's amendments has been substantial on the aerosol coatings industry because EPA's standards are no longer consistent with CARB's standards. The most pressing concern for aerosol coatings manufacturers is calculating two different values for compliance purposes. The process takes more time, costs more money, and expends more resources. In addition, EPA's outdated standards are stifling innovation and not utilizing the most recent scientific research available. Under EPA's current regulations, it is not worth it for industry members to come up with different formulations using new compounds with lower VOC emissions because the trade-off is having to use a high default value. Overall, the inconsistencies between EPA and CARB's aerosol coatings regulations have created burdens with compliance that is costly for industry.

**Recommended Solution:** ACA recommends that EPA modify its aerosol coatings regulations by updating the reactivity values in MIR Tables 2A, 2B and 2C, adjusting the default value, amending the regulatory language to allow for changing the value of existing compounds, and adding new compounds to the tables. These slight modifications would align EPA's aerosol coatings regulations with the most recent scientific research available and promote uniformity and consistency throughout the country. ACA is not asking EPA to impose California's regulations across the country; rather, ACA is asking EPA to update its standards and reactivity values. Since EPA's aerosol coatings regulations are originally based on CARB's regulations, this harmonization seems to be natural and practical. Most importantly, it will resolve inconsistencies and reduce burdens and costs on the aerosol coatings industry.

#### **4. Triennial Reporting for Aerosol Coatings, EPA—HQ—OAR—2006—0971**

**Issue:** EPA's current aerosol coatings regulations require regulated entities to report certain information to EPA every three years (40 CFR § 59.511(i)). In these triennial reports, aerosol coatings manufacturers must report VOC formulation data, VOC amounts, individual product codes, and other identification information.

**Concern and Impact on Industry:** These triennial reporting requirements are not only burdensome and costly for aerosol coatings manufacturers, but they also provide little, if any, useful value or information to EPA. This additional reporting requirement costs the industry in time, money, and resources. Plus, if there are compliance issues, this same information can be requested by the Agency and manufacturers would then be required to provide it. So, this additional triennial reporting requirement is unnecessary.

**Recommended Solution:** ACA urges EPA to eliminate the triennial reporting requirements for aerosol coatings manufacturers. This same information can be requested by EPA at any time should compliance issues arise.

##### **5. TSCA Nanomaterials Reporting Rule, EPA-HQ-OPPT-2010-0572**

EPA's "Chemical Substances When Manufactured or Processed as Nanoscale Materials; TSCA Reporting and Recordkeeping Requirements - Final Rule" was published on January 12, 2017.

**Issue:** Our industry consists of downstream processors of emulsions and dyes containing some particles in the nanoscale. These raw materials are used during manufacture to produce a final product with no inhalation risk for nanomaterials. Reporting from such downstream processors is duplicative, unnecessary, and costly

The final EPA "Nanomaterial Reporting" rule requires a one-time report and recordkeeping of existing exposure and health and safety information on nanoscale chemical substances in commerce. This rule requires companies that manufacture, import or process certain chemical substances already in commerce as nanoscale materials to notify EPA of certain information, including specific chemical identity; production volume; methods of manufacture; processing, use, exposure and release information; and available health and safety data. The compliance deadline for this report is August 14, 2018.

**Impact on Coatings Industry:** The use of emulsion polymers and the milling of pigments during the coating manufacturing process could fall below the 100 nanometers threshold and potentially trigger reporting under the final rule. Emulsion polymers and milling processes have been conducted for decades in the coatings industry and there is minimal opportunity for exposure to the nanoscale material after the film cures. Nanoscale materials which may be incorporated into paint products would not be available since they would be bound in the dry coating film. During the manufacturing process, existing OSHA requirements for engineering controls and PPE adequately control any risks. A requirement to report on these materials would be unnecessary and duplicative. Given the low exposure and low risk of these applications, EPA should exempt these substances from the reporting requirements.

ACA estimates that about 10 to 15 coatings companies would report under this rule. Using a conservative estimate, the reporting requirement alone would cost at least \$3.5 million to the coatings industry. These figures are based on EPA estimates and information from ACA member companies. EPA estimates that across all industry sectors, about 823 companies will be affected by this rule, with a distribution of 80/20 of large to small companies.<sup>1</sup> The agency estimates 295 companies will report each year, at 4.7 reportable substances per company.<sup>2</sup> However, this is contrary to the information industry has provided. Companies estimate upwards of 50 reportable substances. EPA estimates each report would take up to 175 hours to complete,<sup>3</sup> at a cost of \$10,533 just to complete the form, excluding other related activities.<sup>4</sup> A company with 30 to 50 reportable substances could easily spend \$300,000 to \$530,000 to comply, bearing in mind some companies will have more than 50 substances to report.

**Recommended Solution:**

ACA recommends that EPA exempt processors from this reporting requirement. Reporting imposes significant costs on processors and does not provide EPA with new information. Exemption of processors would allow EPA to more effectively gather relevant information by reducing the number of superfluous processor reports.

ACA is also recommending that EPA exempt nanoscale materials that are incorporated into paint products. These processes are known to be low risk and the final product has a low exposure risk because nanoscale materials are encapsulated in a dried paint film. Existing OSHA regulations provide adequate safety standards. The addition of this reporting rule would be overbearing on industry and is duplicative as OSHA requirements address this risk.

ACA also urges EPA to extend the compliance period from one year after the effective date to two years after the effective date. This extension would allow upstream and downstream users of nanomaterials an appropriate amount of time to prepare these reports, which EPA estimated will take 175 hours to complete.

**6. TCA, Section 5(e) Consent Orders: Regulation of Chemicals Pending Development of Information During the PMN Process**

Under the revised Toxic Substances Control Act (TSCA), EPA must render a determination after considering each Pre-manufacture Notice (PMN) submission. (TSCA, Section 5(a)(3)). Companies expect EPA to increase the number of

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<sup>1</sup> RIN 2070-AJ54, *Economic Analysis for the Final TSCA Section 8(a) Reporting Requirements for Certain Chemical Substances as Nanoscale Materials*, p. 2-8, prepared by: Economic and Policy Analysis Branch; Chemistry, Economics, and Sustainable Strategies Division; Office of Pollution Prevention and Toxics.

<sup>2</sup> *Id.* at p. 2-6

<sup>3</sup> *EPA Nanomaterials Reporting Form*, available at Docket No. EPA-HQ-OPPT-2010-0572 (EPA reporting form estimates 175 hours to complete).

<sup>4</sup> *Id.* at f.n. 1, p. 3-3.



consent orders under Section 5(e), allowing restricted use of a PMN substance after EPA determines information is insufficient for a final determination. A Section 5(e) consent order allows a company to use a chemical while developing information that assists EPA in coming to a final determination. EPA issues complex consent orders with a variety of requirements including:

- Testing requirements for environmental fate and toxicity;
- Personal protective equipment;
- New chemical exposure limits;
- Hazard communication requirements;
- Restrictions on releases to water, air and/or land; and
- Recordkeeping.

These requirements are detailed in consent orders that are often more than 70 pages.

ACA supports EPA's efforts to expeditiously evaluate the current backlog of PMN submissions and control risks with consent orders while companies develop test data. EPA can reduce duplicative and excessive requirements in consent orders while maintaining the same degree of protection to public health and the environment.

With revisions to TSCA, EPA will now issue an interim consent order or a final determination for every PMN filed by a company – compounding costs and administrative difficulties associated with compliance. Requirements in consent orders often address issues covered under other EPA programs or OSHA requirements. Industry is burdened with developing a secondary compliance program for consent orders. Requirements in consent orders may also vary from requirements in other programs, creating a patchwork of compliance obligations and sometimes irregular compliance dates, as explained below.

Such requirements do not advance protections to public health or the environment, but increase the regulatory burden and associated costs to industry. Companies that remain committed to environmental responsibility find certain requirements in consent orders unnecessary and burdensome. One such company maintains a staff of five of employees devoted to product compliance full time at the corporate level, with 75% of time devoted to TSCA compliance. At the facility level, one employee at each facility devotes about 10% of their time to TSCA compliance activities. This company estimates at least 11760 hours per year devoted to TSCA compliance. Reduction in duplicative and inconsistent requirements in consent orders would reduce the administrative burden on such companies.

ACA suggests the following improvements:

- Reduce the number of requirements imposed in consent orders by referencing other statutory programs where an issue is already covered. Water discharges could be regulated through National Pollutant Discharge Elimination System (NPDES) permits or Resource Conservation and Recovery Act (RCRA) requirements rather than a restriction in a Section 5(e) consent order.
- EPA could repeal duplicative EPA hazard communication and burdensome PPE testing requirements while maintaining references to OSHA hazard communication and PPE requirements in consent orders.
- EPA could also stop requiring reporting of production and/or processing volumes while companies develop test data required in consent orders.

Additional details are included below:

a. Limits to discharges into waterways

**Issue:** Restrictions on effluent discharges in consent orders may duplicate or sometimes impose additional restrictions not included in a facility's NPDES permit, although the chemical at issue does not pose an eco-toxicological risk. To comply, companies must implement new control and monitoring systems, beyond those used to comply with NPDES requirements. Although an NPDES permit may not cover discharges from new pollutants, NPDES permits restrict overall percent nitrogen and phosphorous discharged, including contributions from new pollutants. Hazardous waste requirements under RCRA require containment and disposal of effluent discharge with new chemicals where appropriate.

**Concern:** Limits to discharge in consent orders do not enhance protections to environment and public health while imposing significant costs to industry. These restrictions are interim measures while companies submit additional eco-toxicological data. Similar protections are included in a facility's NPDES permit or through RCRA requirements.

**Impact/Cost to the Coatings Industry:** Companies can incur significant costs with little to no additional protection to public health or the environment. One company reports additional costs of \$600,000 per year to comply with discharge requirements in just one order. This estimate does not include employee hours. Costs are compounded since companies are now subject to multiple consent orders. One company reports that it anticipates about 40 consent orders where it previously only had to comply with one or two orders per year.

**Recommended Solution:** ACA recommends that EPA issue consent orders that reference NPDES permit requirements and RCRA requirements without imposing additional restrictions to discharge. EPA should also rescind existing discharge requirements in consent orders currently in effect.

b. Hazard Communication standards (HCS) in consent orders

**Issue:** Human health hazard and precautionary statements required on safety data sheets for PMN substances are not aligned with OSHA's HCS. Consent orders typically replicate hazard communication specified for chemicals subject to SNURs at 40 CFR 721.72(g) and (h). In addition to health hazard and precautionary statements, consent orders include basic information that must appear on SDS and labels, such as manufacturer's identity, exposure levels and chemical identity. Although EPA largely replicates OSHA's SDS and labeling requirements, requirements are not identical, placing companies in a tenuous position by requiring compliance evaluations under both EPA and OSHA requirements.

**Concern:**

ACA believes that the human health hazard and precautionary statements prescribed in consent orders pose duplicative and unnecessary burdens on the coatings industry and create confusion among the workers. Given that the intention of these requirements is to communicate hazards to employees, providing similar hazard statements to employees in two different verbiages (HCS statements vs EPA statements) creates unnecessary complexity for employers and simply confuses workers. EPA's data requirements for SDS add another layer of complexity, requiring companies to check for compliance with both EPA and OSHA data requirements.

**Impact to the Coatings Industry:**

Our members must develop two compliance systems for hazard communication requirements, while evaluating differences and similarities of both systems to comply. This seemingly benign dual hazard communication system has aggregate impacts for management. Written hazard communication programs must be aligned with EPA and OSHA requirements. Companies must also align management systems, train workers, and correct SDS and labels as necessary to comply.

**Recommended Solution:**

ACA recommends that EPA minimize hazard communication requirements in consent orders to those relevant to environmental hazards (not covered by OSHA); and that EPA include one sentence requiring compliance with OSHA's HCS for all other requirements.

c. PPE testing requirement in consent orders

**Issue:** Consent orders adopt two standards related to permeation tests for PPE not required by OSHA: 1) ASTM F739, "Standard Test Method for Permeation of Liquids and Gases through Protective Clothing Materials under Conditions of Continuous Contact," and 2) ASTM F1194-99(2010), "Standard Guide for Documenting the Results of Chemical Permeation Testing of Materials Used in Protective Clothing Materials." Companies must test and maintain records as specified in these standards.

**Concern:** EPA creates a secondary permeability assessment that may vary from a company's current testing practice for compliance with OSHA's requirement. EPA's testing standards may not be the most current or effective test methods. In contrast to EPA's requirement, OSHA's PPE maintenance requirement gives companies flexibility in implementing appropriate and current tests.

**Impact / Cost to the Coatings Industry:** Companies must modify policies and practices designed for OSHA compliance to meet EPA testing requirements. The costs of EPA-specified tests are in the range of \$5,000-\$10,000.

**Recommended Solution:** ACA recommends that EPA modify consent order language to delete references to permeability testing standards while maintaining reference to OSHA requirements for PPE at 29 CFR 1910.38 (hand protection) and 29 CFR 1910.133 (eye and face protection).

d. Volume reporting in consent orders

**Issue:** Consent orders require companies to report cumulative manufacture volumes every six months from the date of commencing manufacture, while developing test data. Reports must be submitted every six months until the PMN submitter develops final submission of test data.

**Concern:** This reporting requirements is of marginal use to EPA, but imposes administrative costs on industry. Moreover, the requirement causes staggered reporting dates that can be difficult to track when attempting to comply with several consent orders. EPA presumably uses data to enforce production limits for PMN substances, but other methods of reporting could achieve the same result.

**Impact/Cost to the Coatings Industry:** Administrative costs to industry can be significant when tracking compliance dates and drafting multiple reports. This burden is compounded by irregular compliance dates set every six months from the date of manufacture of each PMN substance.

**Recommended Solution:** ACA recommends that EPA repeal this requirement. Reported information is of little to no value to EPA, but significantly adds to a company's administrative burden. EPA could require a one-time submission of production volumes with final test data, once developed. In the interim, companies could report to EPA, if they exceed production limits or anticipate excess manufacture. At a minimum, EPA should require annual volume reporting at one set time during the year, instead of requiring reporting every six months from the date of manufacture.

**7. FIFRA: Requirement to gain final approval for a reformulated FIFRA registered paint product prior to distribution or marketing**

**Issue:** Paint and coatings manufacturers sometimes modify a FIFRA registered paint product with an active ingredient registered under FIFRA, triggering an application for amended registration under 40 CFR 152.44. Product reformulation does not alter the active ingredient. Coatings manufacturers must obtain EPA approval prior to marketing or distributing the reformulated product, potentially leading to delays or temporary withdrawal from market, pending final approval.

**Concern:** EPA has already deemed the active ingredient in the reformulated product as safe for the use at issue. Requiring prior approval inhibits innovation and delays bringing new formulations to market.

**Impact on the Coatings Industry:** ACA member companies can lose profits from delays in bringing a reformulated product to market while waiting for final approval.

**Recommended Solution:** ACA recommends that after submitting an application for amended registration, but prior to final approval, EPA allow formulators to market or distribute a reformulated product that is substantially similar to an existing FIFRA registered paint product. EPA can implement this change by amending language in 40 CFR 152.44.

**8. FIFRA - Prohibition of Truthful Comparative Information on a Label**

**Issue:** FIFRA prohibits the sale of misbranded pesticides (FIFRA Section 12(1)(E)), including pesticides with labels that are "false or misleading in any particular" (FIFRA Section 2(q)(1)(A)). FIFRA details its prohibition on false or misleading claims on labels at 40 CFR 156.10(a)(5) with specific examples, including, "A false or misleading comparison with other pesticides or devices..." In practice, EPA interprets this section to refuse approval of labels with truthful, non-misleading claims on a proposed label.

**Concern:** Manufacturers of FIFRA-registered paint products and non-registered paint products containing antimicrobials are barred from providing accurate information about their product, due to EPA's broad interpretation of "false or

misleading” claims. Paint and coatings manufacturers carefully formulate products with antimicrobials to optimize performance. Accurate comparative information on a label can assist buyers in purchasing a paint product that best meets their needs. Comparative statements also encourage competition and drive down product costs. Moreover, the prohibition of “false or misleading” claims under FIFRA is duplicative of Section 5 in the Federal Trade Commission Act prohibiting unfair or deceptive practices.

**Cost to the Coatings Industry:** Paint and coatings companies may not be maximizing market share for certain high-performance products because, in practice, EPA prohibits even truthful comparative information on labels of paints and coatings containing antimicrobials.

**Recommended Solution:** ACA recommends that EPA modify language in 40 CFR 156.10(a)(5)(ix) and (x), currently prohibiting safety claims in general to prohibit only “false or misleading” safety claims, thereby allowing legitimate safety claims and comparative statements. EPA should also generate guidance for industry and EPA staff encouraging truthful statements in labels while discouraging EPA staff from misinterpreting FIFRA prohibitions against false and misleading statements to prohibit truthful comparison claims.

#### 9. FIFRA - Language Requirements for Export Labels

**Issue:** EPA requires that pesticides prepared for export include a label on the immediate product container in multiple languages — namely, in English — the language of the country of destination, and the official language of the importing country. (40 CFR 168.69(c)). To place a product in a foreign market, exporters must comply with domestic labelling laws of the foreign country, including language requirements. In effect, EPA’s language requirement is burdensome and unnecessary, requiring compliance with a U.S. label requirement for products placed in foreign markets.

**Concern:** EPA’s requirement creates an unnecessary labeling requirement that can significantly increase costs when EPA requires a label in a language not required by the product’s destination country. EPA’s requirement also creates an additional administrative burden to evaluate compliance.

**Cost to the Coatings Industry:** Companies may be forced to design, print and place multi-language labels on a product. Associated costs can be significant.

**Recommended Solution:** ACA recommends that EPA repeal 40 CFR 168.69(c) in its entirety.

## **10. FIFRA - Review of Label Elements upon Application for a Label Amendment**

**Issue:** Amendments to labels of FIFRA-registered products, including FIFRA-registered paint products, require an application under section 40 CFR 152.108. EPA review of applications often results in EPA re-evaluating and requiring changes to label elements that it had previously approved, beyond the text of the requested amendment. These changes are due to shifts or evolution of EPA policy or practice regarding existing claims made on the label.

**Concern:** Upon application to amend a label, a paint or coatings manufacturer may be disadvantaged in the marketplace when EPA requires a change to previously approved label elements beyond the requested amendment when competitors are not required to change labels at the same time. EPA's approach creates an unlevel playing field by reopening review of settled label elements only for an applicant seeking an amended label.

**Cost to the Paint and Coatings Industry:** Paint and coatings manufacturers may lose market share due to varying label requirements.

**Recommended Solution:** ACA recommends that during review of an application for an amended label, EPA should reserve any issues with previously approved label elements, beyond the requested amendment, for a separate process, while focusing evaluation of the application on requested amendments. EPA should then require all registrants comply at the same time with any decisions about the reserved label elements. To require this approach, EPA can amend text of 40 CFR § 152.108 to require a separate proceeding when it initiates changes to label elements not proposed by the applicant.

## **11. FIFRA - Regulation of Product Claims for Paint Products with Antimicrobial Agents**

**Issue:** Under an exemption to FIFRA registration requirements at 40 CFR §152.25, articles — including paints and coatings — containing antimicrobial pesticides are not subject to registration when the antimicrobial agent is used to protect the article itself and any related claims on the label relate to protection of the article, rather than any benefit to the user. However, where a product label includes claims that antimicrobial agents used to treat the article may also benefit the user, a manufacturer must register the paint or coating as a pesticide.

**Concern:** A paint or coating treated with an antimicrobial agent reduces bacterial contamination in the paint or coating itself. The antimicrobial agent prevents contamination since water is a highly sensitive breeding ground for bacterial growth; minimizes additional transportation and refrigeration during the distribution stage; and increases the products' lifespan and minimizes waste. In addition, the antimicrobial agent may also provide an ancillary public health benefit. Yet, manufacturers that wish to indicate any ancillary public health benefit on a label are required to register their paint or coating product as a

pesticide. Registration can be costly and time consuming while adding a disincentive for manufacturers to reformulate products containing antibacterial agents, thereby stifling innovation.

**Cost to the Paint and Coatings Industry:** Paint and coatings manufacturers may not be maximizing market share by failing to fully describe benefits of paints containing antimicrobial agents, without registering the paint or coating as a pesticide.

**Recommended Solution:** EPA should create a list of standard approved phrases for use with articles treated with specified antimicrobials. This approach would provide truthful public health claims for articles treated with antimicrobials where the article might have some ancillary public health benefit, but that benefit is not the main purpose of using the antimicrobial agent. This approach would also relieve manufacturers from registering articles whose main function is not as a pesticide, thereby conserving both agency and manufacturer resources.

## **12. EPA Environmentally Preferable Purchasing Program Pilot to Assess Standards and Ecolabels for EPA's Recommendations to Federal Agencies**

**Issue:** Executive Order 13693 directed the U.S. Government to specify federal standards and ecolabels, such as Energy Star, WaterSense, and Safer Choice - labels that identify products meeting strict federal standards for energy efficiency, water efficiency, and safer chemicals. EPA developed "Guidelines for the Assessment of Environmental Performance Standards and Ecolabels for Federal Procurement" to create a "transparent, fair, and consistent approach to selecting environmental performance standards and ecolabels to support the agency's mission and federal sustainable acquisition mandates." The guidelines were developed and piloted with participation and comments from multiple stakeholders, including industry, and finalized in December 2016.

**Concern:** ACA supports the stated goals of the pilot, "to create a transparent, fair, and consistent approach to selecting environmental performance standards and ecolabels that support the Agency's mission and federal environmentally preferable purchasing mandates." However, ACA is concerned that major changes were made to the guidance document after the public comment period closed and without participation and feedback from the interested and impacted participants on the paint panel. While the results of the pilot indicate that many Standards Development Organizations (SDOs) could not comply with certain criteria, we understood that those criteria would signal the SDO community to improve their standards in the future. Instead, it appears that where the SDOs were unable to achieve critical criteria, such as open, transparent stakeholder involvement in standard development, the bar has been lowered to allow for closed door, arbitrary standard development.



**Impact on the Coatings Industry:** By requiring select standards or certification for products specified and purchased by the federal government industry must expend time and money to achieve or certify products to these multiple, and in some cases, arbitrary standards and ecolabels.

**Recommended Solution:** ACA recommends that EPA consider abandoning the guidelines or amendments to provide manufacturers flexibility to accommodate the variety of approaches to and types of standards and ecolabels that exist in the marketplace today.

### Conclusion

ACA is encouraged by EPA's efforts to solicit the opinions and comments from affected parties. Our members are constantly working to understand and comply with the environmental requirements imposed by the agency and are pleased to see this Administration undertake such a comprehensive effort. We believe that there is a significant number of modifications and changes that can be made to some of the regulations that will streamline compliance efforts without jeopardizing the environment or the health and safety of customers, employees and the public. We have provided twelve (12) examples of regulations that are ineffective, outdated and inconsistent with other more relevant requirements. Regulatory reform is desperately needed to ensure a competitive and sustainable coatings industry.

Thank you for the opportunity to submit comments on this very important matter; we look forward to talking with you further about efforts to modernize these specific requirements.

If I may answer questions or provide additional information, please do not hesitate to contact me at 202.719.3686 or [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org).

Respectfully submitted,



Heidi K. McAuliffe  
Vice President, Government Affairs

Courtesy Copies:

Sarah Rees, US EPA, Office of Policy  
Brittany Bolen, US EPA, Office of Policy

Keith Barnett, US EPA, Office of Air and Radiation  
Kim Teal, US, EPA, Office of Air and Radiation  
Kaye Whitfield, US EPA, Office of Air and Radiation

Message

---

**From:** Heidi McAuliffe [hmcauliffe@paint.org]  
**Sent:** 9/29/2017 5:39:18 PM  
**To:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**CC:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform  
**Flag:** Follow up

Perfect, thank you

---

**From:** Kime, Robin [mailto:Kime.Robin@epa.gov]  
**Sent:** Friday, September 29, 2017 1:36 PM  
**To:** Heidi McAuliffe <hmcauliffe@paint.org>  
**Cc:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi, October 6<sup>th</sup> at 2:30 would be great. I am copying Will who will connect with you to help prepare Samantha for the 10/10 event. Thanks!

---

**From:** Heidi McAuliffe [mailto:hmcauliffe@paint.org]  
**Sent:** Friday, September 29, 2017 11:44 AM  
**To:** Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

October 6 at 2:30

October 9 at 11:00 or 11:30

I hope that one of these works. Thank you so much.

Heidi

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
202- 719-3686 | Ex. 6 (m) | 202-263-1102 (fax) | [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) | [www.paint.org](http://www.paint.org)

901 New York Ave. NW, Suite 300 West ▪ Washington, DC 20001

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**Sent:** Friday, September 29, 2017 11:39 AM  
**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi,

We are in the process of booking her travel next week with the Administrator. Can you meet with her Oct 6 at 2:30 or Oct 9 at 11:00 or 11:30 or 1:00 or 1:30 or 2:00 or 2:30?

---

**From:** Heidi McAuliffe [<mailto:hmcauliffe@paint.org>]  
**Sent:** Friday, September 29, 2017 11:11 AM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi Robin,

Any of the days and times for next week work for me. Samantha is scheduled to present at the ACA Policy Summit on October 10. Consequently, I would really like to be able to find some time to meet with her prior to the 10<sup>th</sup>. So October 2, 5 and 6 all work for me. Hopefully, they will work for her as well.

I look forward to talking with her. Thanks, Heidi

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---

**From:** Kime, Robin [mailto:Kime.Robin@epa.gov]  
**Sent:** Tuesday, September 12, 2017 11:17 AM  
**To:** Heidi McAuliffe <hmcauliffe@paint.org>  
**Subject:** Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi

I hope you are well. I am sorry to say this but Samantha will be traveling with the Administrator next week. May I suggest the following alternative dates?

Oct 2 at 11:30

Oct 5 at 11:30

Oct 6 at 1:30

Oct 9 at 11:30

Oct 13 at 1:30

**To:** Dravis, Samantha; Bolen, Brittany; Lovell, Will (William); Inge, Carolyn; Dominguez, Alexander; Gunasekara, Mandy; 'Heidi McAuliffe'; Beck, Nancy; Milhouse, Gloria  
**Subject:** Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform  
**When:** Tuesday, September 19, 2017 1:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).

Message

---

**From:** Kime, Robin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7EF7B76087A6475B80FC984AC2DD4497-RKIME]  
**Sent:** 9/29/2017 5:35:36 PM  
**To:** Heidi McAuliffe [hmcauliffe@paint.org]  
**CC:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform  
**Flag:** Follow up

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**Sent:** Friday, September 29, 2017 11:39 AM  
**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>

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**Subject:** Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

**When:** Tuesday, September 19, 2017 1:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).



Message

---

**From:** Heidi McAuliffe [hmcauliffe@paint.org]  
**Sent:** 10/10/2017 2:00:03 PM  
**To:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**CC:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** Re: Cancelling todays meeting

That is correct. Thank you.

Sent from my iPhone

On Oct 10, 2017, at 9:55 AM, Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)> wrote:

Thank you.  
This is the Marriott at Metro Center not the JW Marriott on Penn Ave, right?

On Oct 10, 2017, at 8:03 AM, Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)> wrote:

Good morning, Will, Robin

We are looking forward to seeing Samantha this afternoon at 2PM at the Marriott at MetroCenter. Our event will be held in Ballroom C/D.

If you have any questions or have any timing issues, please feel free to call my cell at Ex. 6 or Marcus James at Ex. 6

Thank you, Heidi

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
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**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]  
**Sent:** Friday, October 6, 2017 3:10 PM  
**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>  
**Cc:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Subject:** RE: Cancelling todays meeting

Thank you, Heidi.

---

**From:** Heidi McAuliffe [<mailto:hmcauliffe@paint.org>]  
**Sent:** Friday, October 6, 2017 2:38 PM  
**To:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Cc:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Subject:** RE: Cancelling todays meeting

Hi Will,

It was nice to talk with you. I am looking forward to meeting Samantha next week. As indicated, attached please find a list of our Board of Directors along with a list of attendees for this Summit.

Please note that the meeting on Tuesday will be held at the Marriott at Metro Center in Ballroom C/D.

Please let me know if you have any further questions.

Best regards,

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President,  
Government Affairs  
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| [www.paint.org](http://www.paint.org)

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**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]  
**Sent:** Friday, October 6, 2017 9:13 AM  
**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>  
**Cc:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** Cancelling todays meeting

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Message

---

**From:** Lacey, Pam [PLacey@aga.org]  
**Sent:** 9/22/2017 8:48:42 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** Automatic reply: AGA Call-in w/EPA

I will be out of the office through Friday Sept. 22 on AGA business travel. If you need immediate assistance, please contact my assistant Michele McDermott. mmcdermott@aga.org

Message

---

**From:** Heidi McAuliffe [hmcauliffe@paint.org]  
**Sent:** 10/6/2017 6:37:50 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**CC:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**Subject:** RE: Cancelling todays meeting  
**Attachments:** BOD 2017.docx; ACA Summit Attendess 10.5.17.pdf

**Importance:** Low

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**Sent:** Friday, October 6, 2017 9:13 AM  
**To:** Heidi McAuliffe <hmcauliffe@paint.org>  
**Cc:** Lovell, Will (William) <lovell.william@epa.gov>  
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ACA Coatings Industry Policy Summit Attendees  
October 10-11, 2017  
Washington, DC

---

Kenneth Armstrong  
Charles Bennett  
Sandra Berg  
Brock Brownrigg  
Stuart Clawson  
Russell Clevenger  
Barrett Cupp  
Gian Luca Facchini  
Corey Fowler  
Julie Fuell  
Christine Hesse  
MaryAnn Hoff  
Tom Kelly  
Gary LeRoux  
George Loder  
Tanis Marquette  
John McLaughlin  
John Metzger  
John Milgram  
Kenneth Moran  
Tabitha Oman  
Thomas Osborne  
Arthur Pang  
Gabe Pellathy  
Jason Perdion  
Phil Phillips  
Jeffrey Powell  
Gary Regulski  
Steve Reiser  
William Rotner  
Richard Sabatine  
Bruce Seeber  
Melissa Skolnick  
Carlos Verdejo  
Drew Vogel  
Meika Vogel  
Amy Woodard

RPM International Inc  
Randolph Products, Inc.  
Berg Lacquer Company  
Sheboygan Paint Company  
Specialty Polymers, Inc.  
Corob North America  
The Sherwin-Williams Co.  
Corob North America  
Covestro  
Polynt-Reichhold  
Calfee, Halter & Griswold  
PPG  
allnex  
Canadian Paint and Coatings Association  
Tremco Incorporated  
Hexion  
RPM International  
3M  
Aexcel Corp  
Peninsula Polymers LLC  
Axalta Coating Systems  
Grace Matthews, Inc.  
PPG Industries, Inc.  
PPG Industries, Inc.  
The Sherwin-Williams Company  
Chemark Consulting  
Vogel Paint, Inc.  
Axalta Coating Systems  
Specialty Polymers  
Corob North America  
Covestro  
BYK USA Inc  
Axalta Coating Systems  
Chemours Company  
Vogel Paint, Inc.  
Vogel Paint, Inc.  
Tremco Incorporated

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**Board of Directors 2017**

**Charles W. Shaver**  
Chairman & CEO  
Axalta Coating Systems  
ACA Chairman

**Charles E. Bennett**  
CEO  
Randolph Products  
ACA Vice Chairman and Treasurer

**J. Andrew Doyle**  
ACA President and CEO

**Thomas J. Graves**  
ACA Vice President, General Counsel and Corporate Secretary

**Karl E. Altergott**  
CEO  
Dunn-Edwards Corporation

**Scott Becker**  
CEO  
Chromaflo Technologies

**Greg Bengston**  
Group VP, North America  
Hempel North America

**Sandra Berg**  
CEO and Director  
Ellis Paint Company

**Brock Brownrigg**  
CEO  
Sheboygan Paint Company

**Raymond Chlodney**  
President & CEO  
Valentus Specialty Chemicals

**Steve Dearborn**  
President & CEO  
Miller Paint Company, Inc.

**Steven W. DeVoe**  
CEO/Chairman  
Kelly-Moore Paint Co. Inc.

**John J. Duchardt**  
President & CEO  
U.S. Paint Corporation

**Bernhard Ehrenreich**  
Head of BU Pigments NA/Head of Coatings Globally  
Clariant Corporation

**Jeffrey D. Filley**  
President  
Behr Process Corp.

**Julie Fuell**  
Director of Coatings Sales North America  
Reichhold LLC

**Charles Giaudrone**  
General Manager, Coatings AFP  
Eastman Chemical Company

**Gary Hendrickson**  
Chairman & CEO  
The Valspar Corporation

**Thomas Kelly**  
Vice President, Americas  
Allnex USA Inc.

**John D. Kennedy**  
Vice President & General Manager  
Evonik Corporation

**Gary LeRoux**  
President & CEO  
Canadian Paint & Coatings Association

**Joseph Maas**  
Vice President, Market Development  
Kronos Worldwide Inc.

**Kerry Mattox**

President

Egyptian Lacquer Manufacturing Company, Inc.

**Douglas Mattsheck**

CEO

Innovative Chemical Products (The ICP Group)

**Michael McGarry**

President & CEO

PPG Industries, Inc.

**John S. Milgram**

President

Aexcel Corporation

**John Morikis**

President & CEO

The Sherwin-Williams Company

**Kenneth Roessler**

President & CEO

BWAY Corporation

**Suzanne B. Rowland**

Group Vice President

Ashland, Inc.

**Mike Searles**

President & CEO

Benjamin Moore & Co.

**Bruce Seeber**

Head of Key Account Management

BYK USA Inc.

**Adhinav Shukla**

COO

True Value Manufacturing Co.

**Frank C. Sullivan**

Chairman & CEO

RPM International Inc.

**John M. Tacca**

VP, Polymers Americas

Wacker Chemical Corporation



**James Tates**

President and CEO  
UGL Corporation

**Rick Tolin**

President  
Lubrizol Corporation

**Christopher Toomey**

SVP for Coatings NA  
BASF Corporation

**Carlos Verdejo**

Global Accounts Manager  
Chemours Company

**Drew F. Vogel**

President/CEO  
Vogel Paint, Inc.

**Tim Vogel**

CEO  
Cloverdale Paint, Inc.

**Michael Weber**

President  
Hirshfield's Paint Manufacturing, Inc.

**Jack Wickham**

VP of Manufacturing  
NB Coatings

Message

---

**From:** Laura Kasch [lkasch@afsinc.org]  
**Sent:** 10/5/2017 2:03:45 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Will]  
**Subject:** RE: 29th AFS EHS Conference Speaker Confirmation

Thanks Will!

Laura

---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Wednesday, October 04, 2017 1:18 PM  
**To:** Laura Kasch <lkasch@afsinc.org>  
**Subject:** RE: 29th AFS EHS Conference Speaker Confirmation

Hello, Laura,

Please find attached a copy of the PowerPoint presentation that Brittany will present. We will let you know if we make any changes.

Thank you,  
Will

---

**From:** Laura Kasch [mailto:lkasch@afsinc.org]  
**Sent:** Friday, September 15, 2017 3:06 PM  
**To:** Bolen, Brittany <bolen.brittany@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>  
**Cc:** 'doman@haleyaldrich.com' <doman@haleyaldrich.com>  
**Subject:** 29th AFS EHS Conference Speaker Confirmation  
**Importance:** High

Dear Brittany,

Thank you for accepting our invitation to speak at the **29<sup>th</sup> Environmental, Health & Safety Conference** to be held October 31-November 2, 2017 at Hyatt Regency Birmingham – The Wynfrey Hotel. Attached is the latest version of the agenda. You will be afforded full complimentary registration to the conference.

To facilitate the publication of the conference proceedings and speaker information, please send us the following **on or before September 29, 2017**:

- 1) **Email me a copy of your PowerPoint presentation.** You can use the attached AFS template OR the official template of your agency.
  - If your presentation is over 10 megabytes, please upload to our FTP site:  
<http://www.afsinc.net/uploadsite/index.asp>. Username: consultant; Password: safe
- 2) **Submit your speaker bio form here:**
  - <https://americanfoundrysociety.wufoo.com/forms/2017-ehs-conference-speaker-form/>

Here are a few details to help your planning:

**Hyatt Regency Birmingham**  
The Wynfrey Hotel  
1000 Riverchase Galleria

Birmingham, AL 35244

**AFS Room Rate**            \$149 Standard / Double Guestroom  
                                     \$169 Standard / Double – Regency Club\*

AFS Room Rate includes complimentary internet in guest rooms and meeting space.

*\*Regency Club accommodations are located on restricted access floors and include private Concierge, continental breakfast and evening hors d'oeuvres in a private lounge.*

Reservations must be made no later than, **Friday, October 6**. Click this link to reserve a room at the conference rate:  
<https://aws.passkey.com/go/AmericanFoundrySocietyOct2017>.

Check-in time begins at 3:00 p.m. / Check-out time is 12:00 p.m.

The Hotel will extend the conference rate up to 2 days prior and/or 2 days following the conference arrival and departure dates, based on room and rate availability.

**Airport Transportation**

The Hyatt Regency Birmingham – The Wynfrey Hotel provides **complimentary** airport transportation for individuals. Reservations are **REQUIRED**.

**Parking**

Registered overnight guests will be provided parking in the hotel garage at the daily discounted rate of \$10 and valet parking is available at \$12 per day.

Again, thank you for agreeing to speak and for your prompt attention to this request. Your presence and materials are vital to the success of the conference. If you have any questions, please don't hesitate to contact me.

Sincerely,

*Laura J. Kasch*

Technical Assistant  
American Foundry Society  
1695 N. Penny Lane  
Schaumburg, IL 60173  
Phone: 847/824-0181, Ext. 246  
[lkasch@afsinc.org](mailto:lkasch@afsinc.org)

Message

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**From:** Liz Roberts [lroberts@capitolineconsulting.com]  
**Sent:** 7/6/2017 3:49:59 PM  
**To:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**CC:** Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Rees, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Rees, Sarah]; hmcauliffe@paint.org; Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** RE: Invitation to speak at the Coatings Industry Policy Summit - Oct 11, 2017  
**Flag:** Follow up

Hi Robin,

This is wonderful news. We are thrilled to have Samantha's participation!

I look forward to working with you on logistics and will be in touch.

Best regards,  
Liz

**Liz Roberts**  
Principal  
Capitoline Consulting  
571-243-4807  
[www.capitolineconsulting.com](http://www.capitolineconsulting.com)

---

**From:** Kime, Robin [mailto:Kime.Robin@epa.gov]  
**Sent:** Thursday, July 6, 2017 11:42 AM  
**To:** Liz Roberts <lroberts@capitolineconsulting.com>  
**Cc:** Bolen, Brittany <bolen.brittany@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>; hmcauliffe@paint.org; Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** RE: Invitation to speak at the Coatings Industry Policy Summit - Oct 11, 2017

Hi Liz,  
I hope you are well. Samantha appreciates the invitation and would be glad to participate in the Summit. We've blocked off 2:00-3:00 on 10/11 and will be in touch as we get closer to the event for additional planning details. In the meantime, please feel free to contact me with any questions. Thanks and take care.  
Robin  
202-564-6587

---

**From:** Liz Roberts [mailto:lroberts@capitolineconsulting.com]  
**Sent:** Thursday, June 29, 2017 6:00 PM  
**To:** Dravis, Samantha <dravis.samantha@epa.gov>  
**Cc:** Bolen, Brittany <bolen.brittany@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>; Kime, Robin <Kime.Robin@epa.gov>; hmcauliffe@paint.org  
**Subject:** Invitation to speak at the Coatings Industry Policy Summit - Oct 11, 2017

Dear Samantha,

It is my pleasure to share with you and your team this letter of invitation from the American Coatings Association (ACA) to speak at the Coatings Industry Policy Summit on Wednesday, October 11, 2017 at the Marriott at Metro Center, Washington DC. ACA's member company executives are extremely supportive of the Administration's regulatory reform efforts and will be very interested in hearing your thoughts on this important issue.

Capitoline supports ACA's advocacy efforts on Capitol Hill and is assisting in coordinating the Policy Summit. Please let us know if we may answer any questions as you consider this invitation.

We would be thrilled to have your participation.

Best regards,  
Liz

**Liz Roberts**  
**Principal**  
**Capitoline Consulting**  
**571-243-4807**  
[www.capitolineconsulting.com](http://www.capitolineconsulting.com)

Message

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**From:** Lacey, Pam [PLacey@aga.org]  
**Sent:** 9/27/2017 6:29:48 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]; McDermott, Michele [MMcDermott@aga.org]  
**CC:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**Subject:** RE: AGA Call-in w/EPA

Thanks!

Pam Lacey

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

**From:** "Lovell, Will (William)"  
**Date:** 09/27/2017 12:18 PM (GMT-07:00)  
**To:** "Lacey, Pam", "McDermott, Michele"  
**Cc:** "Kime, Robin"  
**Subject:** RE: AGA Call-in w/EPA

That is correct, Brittany will not be using slides.

---

**From:** Lacey, Pam [mailto:PLacey@aga.org]  
**Sent:** Wednesday, September 27, 2017 2:16 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>; McDermott, Michele <MMcDermott@aga.org>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** RE: AGA Call-in w/EPA

I assume Brittany won't be using slides this afternoon, right?

Pam Lacey

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

**From:** "Lovell, Will (William)"  
**Date:** 09/26/2017 4:47 PM (GMT-07:00)  
**To:** "McDermott, Michele", "Lacey, Pam"  
**Cc:** "Kime, Robin"  
**Subject:** RE: AGA Call-in w/EPA

Thank you very much!

---

**From:** McDermott, Michele [mailto:MMcDermott@aga.org]  
**Sent:** Tuesday, September 26, 2017 6:46 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>; Lacey, Pam <PLacey@aga.org>

Cc: Kime, Robin <Kime.Robin@epa.gov>

Subject: RE: AGA Call-in w/EPA

Will,

The full agenda is attached. Let me know if you need anything else.

**Michele McDermott | Senior Staff Associate**

American Gas Association

400 N. Capitol St., NW | Washington, DC | 20001

P: 202-824-7233 | F: 202-824-9134 | [mmcdermott@aga.org](mailto:mmcdermott@aga.org)

The American Gas Association represents more than 200 local energy companies committed to the safe and reliable delivery of clean natural gas to more than 69 million customers throughout the nation.

---

**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]

**Sent:** Tuesday, September 26, 2017 6:38 PM

**To:** Lacey, Pam <[PLacey@aga.org](mailto:PLacey@aga.org)>

**Cc:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>; McDermott, Michele <[MMcDermott@aga.org](mailto:MMcDermott@aga.org)>

**Subject:** RE: AGA Call-in w/EPA

Thank you, Pam, that does make sense. Would it be possible to get the entire agenda for the day? That way, Brittany can have some context for previous and future conversations.

Thank you.

---

**From:** Lacey, Pam [<mailto:PLacey@aga.org>]

**Sent:** Tuesday, September 26, 2017 3:21 PM

**To:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>

**Cc:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>; McDermott, Michele <[MMcDermott@aga.org](mailto:MMcDermott@aga.org)>

**Subject:** RE: AGA Call-in w/EPA

Will – I am at the EPA-AGA Renewable Natural Gas Workshop in Colorado today. Sorry about the delay!

Michele is sending the registration list so you can see who will be in the room.

Here is the relevant portion of the agenda:

1:30 -2 pm        **EPA Regulatory Reform Agenda: including Methane NSPS, Subpart W, WOTUS**  
**Speaker: Brittany Bolen, EPA Deputy Associate Administrator, Office of Policy (by phone)**

The topics are listed above, but she has flexibility regarding how much she wants to get into these specific topics. I would say, start with an overview of the regulatory reform effort at EPA and next steps in the process. And we can ask questions or suggest rules that could be revised. Does that make sense? - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**

American Gas Association

400 N. Capitol St., NW | Washington, DC | 20001

P: 202-824-7340 | M: Ex. 6 | F: 202-824-9190 | [placey@aga.org](mailto:placey@aga.org)

The American Gas Association represents more than 200 local energy companies committed to the safe and reliable delivery of clean natural gas to more than 69 million customers throughout the nation.

---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Tuesday, September 26, 2017 12:22 PM  
**To:** Lacey, Pam <PLacey@aga.org>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>; McDermott, Michele <MMcDermott@aga.org>  
**Subject:** RE: AGA Call-in w/EPA

Hello, Pam,

Did you have any time to review these questions below? Michele, I am CCing you in case you might know the answers.

Thank you,  
Will

---

**From:** Lovell, Will (William)  
**Sent:** Friday, September 22, 2017 4:49 PM  
**To:** 'Lacey, Pam' <PLacey@aga.org>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** AGA Call-in w/EPA

Good afternoon, Pam,

In preparation for Brittany Bolen's call-in to AGA's Fall Committee meeting, could you please provide the following information?:

- An agenda of the meeting
- A list of people who will be on the call
- Any topic(s) she should focus on

Thank you,

**Will Lovell**  
Policy Assistant, Office of Policy  
U.S. Environmental Protection Agency  
(202) 564-5713  
[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)



Message

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**From:** Laura Kasch [lkasch@afsinc.org]  
**Sent:** 9/15/2017 7:06:22 PM  
**To:** Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**CC:** 'doman@haleyaldrich.com' [doman@haleyaldrich.com]  
**Subject:** 29th AFS EHS Conference Speaker Confirmation  
**Attachments:** 29EHSConf\_PptTemplate.pptx; 29thEHS CONF-AGENDA.docx

**Importance:** High  
**Flag:** Follow up

Dear Brittany,

Thank you for accepting our invitation to speak at the **29<sup>th</sup> Environmental, Health & Safety Conference** to be held October 31-November 2, 2017 at Hyatt Regency Birmingham – The Wynfrey Hotel. Attached is the latest version of the agenda. You will be afforded full complimentary registration to the conference.

To facilitate the publication of the conference proceedings and speaker information, please send us the following **on or before September 29, 2017**:

- 1) **Email me a copy of your PowerPoint presentation.** You can use the attached AFS template OR the official template of your agency.
  - If your presentation is over 10 megabytes, please upload to our FTP site:  
<http://www.afsinc.net/uploadsite/index.asp>. Username: consultant; Password: safe
- 2) **Submit your speaker bio form here:**
  - <https://americanfoundrysociety.wufoo.com/forms/2017-ehs-conference-speaker-form/>

Here are a few details to help your planning:

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Birmingham, AL 35244

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                                     \$169 Standard / Double – Regency Club\*

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*\*Regency Club accommodations are located on restricted access floors and include private Concierge, continental breakfast and evening hors d'oeuvres in a private lounge.*

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<https://aws.passkey.com/go/AmericanFoundrySocietyOct2017>.

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**Parking**

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Again, thank you for agreeing to speak and for your prompt attention to this request. Your presence and materials are vital to the success of the conference. If you have any questions, please don't hesitate to contact me.

Sincerely,

*Laura J. Kasch*

Technical Assistant  
American Foundry Society  
1695 N. Penny Lane  
Schaumburg, IL 60173  
Phone: 847/824-0181, Ext. 246  
[lkasch@afsinc.org](mailto:lkasch@afsinc.org)



29<sup>th</sup> Environmental, Health & Safety Conference  
Birmingham, AL

[www.afsinc.org](http://www.afsinc.org) | [CastingConnection.afsinc.org](http://CastingConnection.afsinc.org) | [@AmerFoundrySoc](https://twitter.com/AmerFoundrySoc)



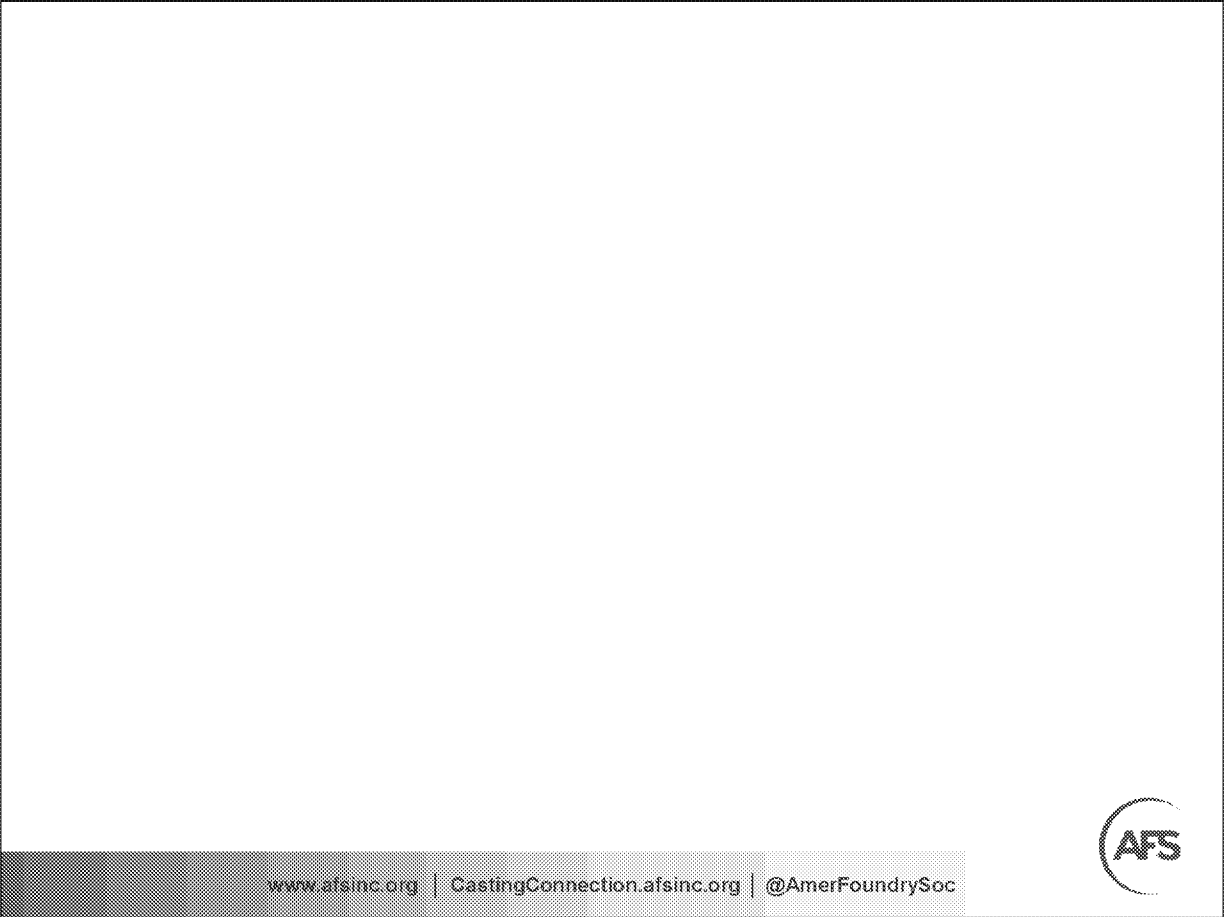
[www.afsinc.org](http://www.afsinc.org) | [CastingConnection.afsinc.org](http://CastingConnection.afsinc.org) | [@AmerFoundrySoc](https://twitter.com/AmerFoundrySoc)





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**29<sup>th</sup> AFS ENVIRONMENTAL, HEALTH & SAFETY CONFERENCE**

**October 31 – November 2, 2017**

**Birmingham, AL**

(Program, Speakers & Agenda Subject to Change)

**TUESDAY, October 31, 2017**

**Environmental Session**

- 7:00am-3:45 pm      **CONFERENCE REGISTRATION**
- 7:00 am-8:00 am      **CONTINENTAL BREAKFAST**
- 8:00 am-8:30 am      **WELCOME / ANNOUNCEMENTS**  
**Dan Oman, Haley & Aldrich, Inc. AFS EHS Division (10) Chair**
- INTRODUCTION**
- **Division 10 Committee Overview**
  - **Recognition of Division 10 Members in Attendance**
  - **CONFERENCE CO-CHAIRS**
- 8:30am-9:15 am      **USEPA's Next Generation Compliance Initiative**  
**David Hindin USEPA Office of Enforcement and Compliance Assurance (invited)**
- How EPA Is using Next Generation techniques to enhance enforcement and compliance
  - Summary of advanced air monitoring technology
- 9:15am-10:00 am      **Management of Change; Planning for compliance instead of reacting to change**  
**Greg Kramer, Corporate Environmental Engineer – ME Global, Inc.**  
**Rob Campbell-Watt, Vice President of EHS Services - Arcadis**
- Change happens
  - Identifying the “gatekeepers of change” at each level of the organization
  - Implementing controls that ensure the right people are involved when planning for change
- 10:00am-10:15 am      **REFRESHMENT BREAK**
- 10:15am-11:00 am      **Environmental Information Management Systems**  
**Ward Pate, McWane, Inc. and Jeff Cross, Dakota Software**
- How EIMS Systems help achieve and maintain compliance
  - The Benefits of an EIMS
- 11:00 am-11:45 am      **Community Relations Foundry Panel**  
**Moderator:      Mike Lenahan, Fairmount Santrol**  
**Panelists:      Bryant Esch, Waupaca Foundry**  
**Dan Plant, Metal Technologies**  
**Dave Robinson, AB&I**
- Initiatives undertaken to proactively work with the community
  - How to handle unplanned interruptions and challenges presented by the local community
- 11:45 am-12:45 pm      **LUNCH**
- 12:45 pm-1:30 pm      **Benchmarking Stormwater Compliance**  
**Larry Bowers; Group Environmental Compliance Director – McWane, Inc.**
- Benchmarks: The good, the bad and the ugly
  - What are “Best Industry Standards”
  - Surviving a surprise EPA stormwater Inspection
- 1:30 pm-2:15 pm      **Centralized Environmental Baghouse Monitoring Systems: Benefits, Limitations and Pitfalls**  
**Dave Sarvela, ME Global, Inc.**

- Minimum requirements and maximum capabilities
- Advantages/Disadvantages of different types of systems
- Need for real-time and historical data from baghouses, associated equipment, and other environmental control equipment
- How data can be used to improve operational performance, identify trends and troubleshoot performance issues

2:15 pm-2:30 pm

**REFRESHMENT BREAK**

2:30 pm-3:15 pm

**Beneficial Reuse Foundry Panel**

**Moderator:** Mike Lenahan, Fairmount Santrol

**Panelists:** Earl Miller, Hiler Industries  
Bill Crabtree, RRC  
Bryant Esch, Waupaca Foundry

- Elements of a successful beneficial reuse project
- What does it take to get started?

3:15 pm-4:00 pm

**Foundry Emission Factors Update**

**Craig Schmeisser, Fairmount Santrol**

- Presentation of AFS database of foundry emission factors
- Where do we go from here?

4:00 pm – 4:30 pm

**Green Foundry Practices Update**

**Holly Hurst, McWane Ductile-Utah**

- What green practices have other metalcasters implemented?
- How can you showcase your best practices?

4:30 pm – 6:00 pm

**Environmental Session for “Metalcasters Only”**

**Moderator:** Bryant Esch, Waupaca Foundry

**Panelists:** Tonya Burgess, Sivyer Steel Corporation  
Jeet Radia, McWane, Inc.  
Kim Myers, Amsted Rail/Griffin Wheel  
Dan Plant, Metal Technologies, Inc.

**WEDNESDAY, November 1, 2017 Combined Environmental /Health & Safety Session**

7:00 am - 8:00 am

**REGISTRATION / CONTINENTAL BREAKFAST**

8:00 am – 8:45 am

**Regulatory Reform at USEPA**

**Brittany Bolen, Deputy Associate Administrator at the Office of Policy, EPA**

8:45 am – 9:30 am

**Weathering an EHS Hurricane: A Case Study on the Value of EHS Compliance**

**Jim M. Proctor II, Senior Vice President and General Counsel, McWane, Inc.**

- Benefits of a robust EHS compliance program
- Consequences of ignoring or shortchanging EHS

9:30 am-10:15 am

**Washington Update**

**Stephanie Salmon, AFS Washington, DC**

**Jeff Hannapel, The Policy Group**

- The immediate Impact of the New Administration on EPA and OSHA
- What can metalcasters expect from the New Administration going forward

10:15am-10:30 am

**REFRESHMENT BREAK**



- 10:30 am-11:30 am      **EHS Hot Topics**  
**Air Quality - Jeet Radia, McWane, Inc.**  
**Water & Waste - Mark Remlinger, Matthews International**  
**Health & Safety - Tom Slavin, Cardno ChemRisk**
- What are the latest regulatory issues keeping metalcasters awake at night?
  - How is AFS helping metalcasters anticipate and prepare for new regulatory impacts?
- 11:30 am-12:15 pm      **The Role of Environmental Advocacy Groups**  
**Moderator:      Jeet Radia, McWane, Inc.**  
**Panelists:      Keith Johnston, Managing Attorney, The Southern Environmental Law Center**  
**Beth Stewart, Cahaba River Society**  
**Cindy Lowry, Executive Director, Alabama Rivers Alliance**
- Different approaches used with pro's and con's
  - Explore ways in which we can work together
- 12:15 pm – 12:30 pm      **DIVISION 10 AWARD PRESENTATIONS:**  
   **AFS DIVISION INDIVIDUAL AWARDS**  
   **2017 AFS METALCASTING SAFE YEAR AWARDS**
- 12:30 pm-1:30 pm      **LUNCH with Exhibitors**
- 1:30 pm-2:15pm      **Silica Litigation and OSHA Update**  
**Brad Hammock, Jackson Lewis**
- Status of silica litigation
  - Other silica legislative and regulatory developments
- 2:15 pm-3:00 pm      **Silica Key Compliance Issues Panel**  
**Bob Scholz, TRC Environmental**  
**Fred Simpson, McWane, Inc.**  
**Tom Slavin, Cardno ChemRisk**
- Focus on key compliance issues
  - Question and answer format
- 3:00 pm-3:30 pm      **REFRESHMENT BREAK with Exhibitors**
- 3:30 pm -4:15 pm      **Dust Mapping**  
**Fred Simpson, McWane, Inc.**
- How mapping has been used as a practical tool
  - Benefits and lessons from first-hand experience
- 4:15 pm-5:00 pm      **Improving the Performance of a Dust Collector**  
**Mike Johnson, Clarcor Industrial Air**
- Common problems encountered in metal casting facilities
  - Optimizing performance through predictive and preventive maintenance
- 5:30 pm-      **ANNUAL RECEPTION with EXHIBITORS**  
**-Networking, an Exhibitor Experience, Hors D'Oeuvres, & Refreshments for All**

7:30 am-8:00 am	<b>REGISTRATION / CONTINENTAL BREAKFAST</b>
8:00 am-8:45 am	<p><b>PPE Changes You Should Know About</b>  <b>Matt Block, Magid Glove</b></p> <ul style="list-style-type: none"> <li>• Major changes in PPE technology and standards</li> <li>• Implications for foundry applications</li> </ul>
8:45 am-9:15 am	<p><b>PPE Testing Presentation by UAB</b>  <b>Robin Foley, University of Alabama Birmingham</b></p> <ul style="list-style-type: none"> <li>• Molten metal splash protection equipment</li> <li>• How testing is done at UAB</li> </ul>
9:15 am-10:00 am	<p><b>Highlights of the New ANSI/ASSE Z244.1 Lockout Standard – Benefits for Your Business</b>  <b>Todd Grover, Master Lock</b></p> <ul style="list-style-type: none"> <li>• What you should know about the ANSI standard</li> <li>• What it means for your lockout tagout program</li> </ul>
10:00 am-10:15 am	<b>REFRESHMENT BREAK</b>
10:15 am-11:00 am	<p><b>Neptune Foundry Ventilation/Ergonomics Case Study</b>  <b>Bob Forrester, Neptune Technologies and Ben Lemley, TRC Environmental</b></p> <ul style="list-style-type: none"> <li>• Design of controls for casting cleaning task</li> <li>• Results and lessons learned</li> </ul>
11:00 am-11:45 am	<p><b>Foundry Practices and Experiences in Controlling Silica Exposures</b>  <b>Bob Scholz, TRC Environmental</b></p> <ul style="list-style-type: none"> <li>• Common ventilation mistakes</li> <li>• Keys to making sure you get the performance and efficiency you pay for</li> </ul>
11:45 am to 12:45 pm	<b>LUNCH</b>
12:45 pm-1:30 pm	<p><b>Top Ten Ways to Screw Up Your Ventilation System</b>  <b>Marshal Rudman, Consultant</b></p> <ul style="list-style-type: none"> <li>• Common ventilation mistakes</li> </ul>
1:30 pm–2:15 pm	<p><b>Identification of Root Causes of Silica Exposure in Foundries</b>  <b>Rebecca Ferrell, TRC Environmental</b></p> <ul style="list-style-type: none"> <li>• Need for real time dust monitoring</li> <li>• Results of research on new equipment and methods</li> </ul>
2:15 pm-3:30 pm	<p><b>Health and Safety Session for “Metalcasters Only”</b>  <b>Moderator: Tonya Burgess, Sivyer Steel</b>  <b>Panelists: Glenn Huneycutt, Charlotte Pipe</b>  <b>Bob Forrester, Neptune Technology</b>  <b>Fred Simpson, McWane, Inc.</b></p>
3:30 pm	<b>Adjourn</b>

Message

---

**From:** Oman, Daniel [DOman@haleyaldrich.com]  
**Sent:** 9/15/2017 5:35:07 PM  
**To:** Rees, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Rees, Sarah]  
**CC:** jhannapel@thepolicygroup.com [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=02e73026873e4e39ac26777c9b39f776-jhannapel@thepolicygroup.com]; Muller, Brad [BMuller@charlottepipe.com]; Stephanie Salmon [ssalmondc@gmail.com]; Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]; Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]; Laura Kasch (lkasch@afsinc.org) [lkasch@afsinc.org]  
**Subject:** RE: American Foundry Society EHS Conference  
**Flag:** Follow up

Sarah,

This is great news. Thank you for following up on this and Brittany, thanks for “volunteering” to speak and the 2017 AFS EHS Conference in Birmingham, AL. I am going to cc Laura Kasch of AFS on this email and Laura will get in contact with Brittany (via Will) to make certain that you have the necessary information for making a presentation at our conference.

We are looking forward to Brittany’s presentation at the conference.

Hope everyone has a great weekend and thanks again!  
Dan

**Dan Oman, P.E.**

Senior Associate

**Haley & Aldrich, Inc.**

455 E. Eisenhower Parkway, Suite 210  
Ann Arbor, MI 48108-3323

T: (734) 887.8404

C: Ex. 6

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---

**From:** Rees, Sarah [mailto:rees.sarah@epa.gov]  
**Sent:** Friday, September 15, 2017 1:26 PM  
**To:** Oman, Daniel <DOman@haleyaldrich.com>  
**Cc:** jhannapel@thepolicygroup.com; Muller, Brad <BMuller@charlottepipe.com>; Stephanie Salmon <ssalmondc@gmail.com>; Bolen, Brittany <bolen.brittany@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** RE: American Foundry Society EHS Conference

Hi Dan - thanks so much for reaching out. We really appreciate opportunities to hear directly from regulated entities, and you guys have provided us with very helpful and constructive comments.

Brittany Bolen will be happy to speak at your conference. Brittany is the Deputy Associate Administrator at the Office of Policy, and also a member of EPA's Regulatory Reform Task Force. I've cc'd Brittany on this email; please coordinate with Will Lovell (also cc'd) regarding logistics, etc. And if there is anything else you need from me, please let me know how I can be of service!

Cheers,  
Sarah

-----Original Message-----

From: Oman, Daniel [mailto:[DOman@haleyaldrich.com](mailto:DOman@haleyaldrich.com)]

Sent: Thursday, September 14, 2017 3:22 PM

To: Rees, Sarah <[rees.sarah@epa.gov](mailto:rees.sarah@epa.gov)>

Cc: [jhannapel@thepolicygroup.com](mailto:jhannapel@thepolicygroup.com); Muller, Brad <[BMuller@charlottepipe.com](mailto:BMuller@charlottepipe.com)>; Stephanie Salmon <[ssalmond@gmail.com](mailto:ssalmond@gmail.com)>

Subject: FW: American Foundry Society EHS Conference

Good afternoon Sarah,

I wanted to forward this email to you from Jeff Hannapel who is one of the American Foundry Society (AFS) representatives in Washington, DC. The AFS puts on an EHS Conference every year and this year the conference will be held in Birmingham, AL from October 31st thru November 2nd. On Wednesday November 1st we are hoping to have someone from USEPA give our membership a presentation on the Regulatory Reform process within the agency. As you note from Jeff's email, we as a trade association have provided comments to USEPA on two occasions regarding regulatory reform and we have also provided comments to the Department of Commerce.

Since we mentioned (and attached) the comments that we made to USEPA at your request, I thought I should make you aware of our request to the agency for someone to speak at our conference. Our membership is very interested in learning more about how regulatory reform is being implemented and a presentation by someone from the Office of Policy would be well received by the audience. I hope you will assist us in making this happen.

Finally, I wanted to remind you that AFS is committed to providing additional feedback regarding the air issues that were the subject of our July 29th letter to you. We have a number of industry experts within our EHS Division that are willing to meet with subject matter experts from USEPA to provide more detail and examples surrounding the comments that were in our letter. I made a similar offer to Patrick Davis via voice mail in August.

Please let us know how we can follow up on our meeting of June 20th and our letter of July 29th.

Thanks,  
Dan Oman

Dan Oman, P.E.  
Senior Associate  
Haley & Aldrich, Inc.  
455 E. Eisenhower Parkway, Suite 210  
Ann Arbor, MI 48108-3323  
T: (734) 887.8404  
C: Ex. 6  
[www.haleyaldrich.com](http://www.haleyaldrich.com)

-----Original Message-----

From: Jeff Hannapel [<mailto:jhannapel@thepolicygroup.com>]  
Sent: Wednesday, September 06, 2017 5:31 PM  
To: [Dravis.samantha@epa.gov](mailto:Dravis.samantha@epa.gov)  
Cc: [Bolen.brittany@epa.gov](mailto:Bolen.brittany@epa.gov); [Kime.robin@epa.gov](mailto:Kime.robin@epa.gov); Oman, Daniel <[DOman@haleyaldrich.com](mailto:DOman@haleyaldrich.com)>  
Subject: American Foundry Society EHS Conference

Ms. Samantha Dravis  
Senior Advisor and Associate Administrator Office of Policy U.S. Environmental Protection Agency William Jefferson Clinton Building  
1200 Pennsylvania Avenue, N.W. (1804A)  
Washington, D.C. 20460

Re: Request to Speak at American Foundry Society EHS Conference

Dear Ms. Dravis:

On behalf of the American Foundry Society (AFS), I would like to invite you to present a review and update on EPA's regulatory review process at the AFS Environmental, Health and Safety (EHS) Conference in Birmingham, Alabama on November 1, 2017. AFS has been active in providing input to EPA on the regulatory reform process. For your reference, I have attached a copy of the regulatory reform comments that AFS submitted to EPA in May. In addition, representatives of AFS met with Administrator Pruitt's office in June and provided a follow up letter on regulatory reform issues in July, which is also attached. The current regulatory reform efforts appear to provide opportunities to minimize regulatory burdens on U.S. manufacturing, while continuing to promote superior environmental protection. We would be honored if you could make a presentation that focused on the regulatory reform process and how the agency is managing the process.

The annual AFS EHS Conference is attended by EHS professionals in the metalcasting industry and highlights the most critical EHS issues facing the metalcasting industry. We expect to have over 100 participants at this year's conference that is scheduled from October 31 to November 2. I would be happy to provide you with additional details on the AFS EHS Conference.

I hope that you or someone from your office would consider joining us at the AFS EHS Conference in Birmingham. If I can provide any additional information or answer any questions, please contact me by email or phone at 202-257-3756. I look forward to hearing from you soon.

Best regards,

Jeffrey S. Hannapel  
The Policy Group  
On Behalf of the American Foundry Society

Message

---

**From:** McDermott, Michele [MMcDermott@aga.org]  
**Sent:** 9/26/2017 10:46:09 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]; Lacey, Pam [PLacey@aga.org]  
**CC:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**Subject:** RE: AGA Call-in w/EPA  
**Attachments:** ERAC Fall 2017 Agenda Sept 27 Mtg.docx

Will,

The full agenda is attached. Let me know if you need anything else.

**Michele McDermott | Senior Staff Associate**

American Gas Association

400 N. Capitol St., NW | Washington, DC | 20001

P: 202-824-7233 | F: 202-824-9134 | [mmcdermott@aga.org](mailto:mmcdermott@aga.org)

The American Gas Association represents more than 200 local energy companies committed to the safe and reliable delivery of clean natural gas to more than 69 million customers throughout the nation.

---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Tuesday, September 26, 2017 6:38 PM  
**To:** Lacey, Pam <PLacey@aga.org>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>; McDermott, Michele <MMcDermott@aga.org>  
**Subject:** RE: AGA Call-in w/EPA

Thank you, Pam, that does make sense. Would it be possible to get the entire agenda for the day? That way, Brittany can have some context for previous and future conversations.

Thank you.

---

**From:** Lacey, Pam [mailto:PLacey@aga.org]  
**Sent:** Tuesday, September 26, 2017 3:21 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>; McDermott, Michele <MMcDermott@aga.org>  
**Subject:** RE: AGA Call-in w/EPA

Will – I am at the EPA-AGA Renewable Natural Gas Workshop in Colorado today. Sorry about the delay!

Michele is sending the registration list so you can see who will be in the room.

Here is the relevant portion of the agenda:

1:30 -2 pm      **EPA Regulatory Reform Agenda: including Methane NSPS, Subpart W, WOTUS**  
                    **Speaker: Brittany Bolen, EPA Deputy Associate Administrator, Office of Policy (by phone)**

The topics are listed above, but she has flexibility regarding how much she wants to get into these specific topics. I would say, start with an overview of the regulatory reform effort at EPA and next steps in the process. And we can ask questions or suggest rules that could be revised. Does that make sense? - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**

**American Gas Association**

400 N. Capitol St., NW | Washington, DC | 20001

P: 202-824-7340 | M: 202-809-6565 | F: 202-824-9190 | [placey@aga.org](mailto:placey@aga.org)

The American Gas Association represents more than 200 local energy companies committed to the safe and reliable delivery of clean natural gas to more than 69 million customers throughout the nation.

---

**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]

**Sent:** Tuesday, September 26, 2017 12:22 PM

**To:** Lacey, Pam <[PLacey@aga.org](mailto:PLacey@aga.org)>

**Cc:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>; McDermott, Michele <[MMcDermott@aga.org](mailto:MMcDermott@aga.org)>

**Subject:** RE: AGA Call-in w/EPA

Hello, Pam,

Did you have any time to review these questions below? Michele, I am CCing you in case you might know the answers.

Thank you,

Will

---

**From:** Lovell, Will (William)

**Sent:** Friday, September 22, 2017 4:49 PM

**To:** 'Lacey, Pam' <[PLacey@aga.org](mailto:PLacey@aga.org)>

**Cc:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>

**Subject:** AGA Call-in w/EPA

Good afternoon, Pam,

In preparation for Brittany Bolen's call-in to AGA's Fall Committee meeting, could you please provide the following information?:

- An agenda of the meeting
- A list of people who will be on the call
- Any topic(s) she should focus on

Thank you,

**Will Lovell**

Policy Assistant, Office of Policy

U.S. Environmental Protection Agency

(202) 564-5713

[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)

**ENVIRONMENTAL REGULATORY ACTION COMMITTEE  
FALL 2017 MEETING AGENDA**

Renaissance Flatiron Hotel, Broomfield, Colorado  
Red Rocks Room  
Committee Meeting: Sept. 27, 2017

**Wednesday, Sept. 27, 2017**

7:30 a.m. – 8:30 a.m. *Continental Breakfast*

8:30 a.m. *Open conference line*

- Welcome to Committee Members & Introduce Officers –  
2017 ERAC Chairman Dan Norden, BGE, An Exelon Company
- AGA Antitrust Compliance Reminder – Antitrust Guidelines Attached  
Pam Lacey, Staff Executive; AGA Chief Regulatory Counsel
- Approve Fall 2016 Meeting Minutes
- Review and approve Meeting Agenda

8:45 am **115th Congress & AGA Legislative Strategy –Bree Raum, AGA Senior Director, Federal Affairs**  
(by phone)

9:15 am **Trump Administration – Latest on People and Policies relevant to Environmental Issues**  
Pam Lacey, AGA Chief Regulatory Counsel

9:45 am **Meanwhile in Canada – Methane and Other Regulatory Initiatives North of the Border**  
**Jamine Urisk, Executive Director,**  
**Canadian Energy Partnership for Environmental Innovation**

10:15 am **Break**

10:30 am **Renewable Natural Gas (RNG) – Follow-up for Sept. 26 EPA-AGA RNG Workshop**  
*Report and Discussion regarding market and policy issues for RNG – Pam Lacey*

11:15 am **Fayetteville Basin Methane Reconciliation Study Update – Dr. Gabrielle Petron, NOAA /Univ. of Colorado at Boulder**

12:00 pm **Lunch - Buffet outside meeting room**



**Wed. Sept. 27, 2017 Afternoon**  
**EMC Joins ERAC Meeting**

1:15 pm      **ERAC Chair Dan Norden Welcomes EMC, and EMC Chair Greg Jones**  
Introductions  
Antitrust Compliance Reminder – Pam Lacey

1:20 pm      **Regulatory Reform at EPA and Other Agencies**  
Pam Lacey, AGA Chief Regulatory Counsel  
Brief Recap/ Debrief and Discussion regarding next steps

**Note: We will use a different phone line 1:30 pm – 2 pm, for our EPA speaker. Call in numbers will be provided in advance via email to ERAC and EMC.**

1:30 am      **EPA Regulatory Reform Agenda: including Methane NSPS, Subpart W, WOTUS**  
**Speaker: Brittany Bolen, EPA Deputy Associate Administrator, Office of Policy (by phone)**

**Note: We will switch back to the original call in number, to be provided via email to the committees.**

2:00 pm      **Committee Debrief and discussion**

2:15 pm      **GTI OTD NETL Methane Measurement Study – Report by Kristine Wiley, GTI (by phone)**

2:30 pm      **Break**

3:00 pm      **WOTUS, Corps of Engineers & Status of Permit Streamlining –**  
**Deidre Duncan, Partner, Hunton & Williams**

3:30 pm      **PCBs Developments in the Absence of EPA Action – John Woodyard**

4:00 pm      **Committee Discussion re PCB advocacy strategy**

4:15 pm      **ECOS ITRC Evaluation of Methane Detection Technologies**  
Report and Discussion regarding potential implications for state regulations- Pam Lacey

4:30 pm      **AGA Operations Section Managing Committee Update**  
Tal Centers, Managing Committee Sponsor, CenterPoint Energy

5 pm      **ERAC Meeting Adjourns**

6 pm      **Bus to Dinner (location to be announced at the meeting)**

6:30 pm      **ERAC-EMC Joint Committee Dinner in Boulder – The Kitchen**

Message

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**From:** McDermott, Michele [MMcDermott@aga.org]  
**Sent:** 9/26/2017 7:18:17 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** RE: AGA Call-in w/EPA  
**Attachments:** ERAC Fall 2017 Registrants.xlsx  
  
**Flag:** Follow up

Will,

Pam will be responding to your questions regarding agenda and topics to be covered. The list of attendees is attached. Please let me know if you need anything else. Thank you.

**Michele McDermott | Senior Staff Associate**

American Gas Association

400 N. Capitol St., NW | Washington, DC | 20001

P: 202-824-7233 | F: 202-824-9134 | [mmcdermott@aga.org](mailto:mmcdermott@aga.org)

The American Gas Association represents more than 200 local energy companies committed to the safe and reliable delivery of clean natural gas to more than 69 million customers throughout the nation.

---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Tuesday, September 26, 2017 2:22 PM  
**To:** Lacey, Pam <PLacey@aga.org>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>; McDermott, Michele <MMcDermott@aga.org>  
**Subject:** RE: AGA Call-in w/EPA

Hello, Pam,

Did you have any time to review these questions below? Michele, I am CCing you in case you might know the answers.

Thank you,  
Will

---

**From:** Lovell, Will (William)  
**Sent:** Friday, September 22, 2017 4:49 PM  
**To:** 'Lacey, Pam' <PLacey@aga.org>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** AGA Call-in w/EPA

Good afternoon, Pam,

In preparation for Brittany Bolen's call-in to AGA's Fall Committee meeting, could you please provide the following information?:

- An agenda of the meeting
- A list of people who will be on the call
- Any topic(s) she should focus on

Thank you,

**Will Lovell**

Policy Assistant, Office of Policy  
U.S. Environmental Protection Agency  
(202) 564-5713  
[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)

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Andrew	Bauer	andrew.bauer@nwnatural.com	NW Natural
Lisa	Beal	lisa.s.beal@dominionenergy.com	Dominion Energy
Bernard	Beaudin	bernie.beaudin@swgas.com	Southwest Gas Corporation
Rob	Bennett	robert.bennett@atmosenergy.com	Atmos Energy Corporation
Christopher	Bradley	cbradley@geiconsultants.com	GEI Consultants
Donald	Chahbazpour	Donald.Chahbazpour@nationalgrid.com	National Grid
Gregory	Corbett	gcorbett@southernco.com	Southern Company Gas
Anne	Davis	anne.davis@pseg.com	Public Service Electric and Gas
Alicia	DePalma	alicia.depalma@piedmontng.com	Duke Energy
Nance	Donati	nad6@pge.com	Pacific Gas and Electric
Steven	Donatiello	Steven.Donatiello@SpireEnergy.com	Spire Inc.
Heather	Dziedzic	heather.dziedzic@cmsenergy.com	CMS Energy Corporation
Sue	Flood	sue_flood@rge.com	Rochester Gas & Electric
Kelly	Guertin	guertink@dteenergy.com	DTE Energy
Gregory	Jones	gjones@southernco.com	Southern Company Gas
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Maureen	Turman	mturman@nisource.com	NiSource Inc.
Jasmine	Urisk	jtu@sentex.net	CEPEI
Jeff	West	jeffrey.l.west@xcelenergy.com	Xcel Energy Inc.
John	Woodyard	Ex. 6	John P. Woodyard, PE

Product Manager
Environmental Consultant
Environmental Projects Advisor, Environmental Policy
Manager, Environmental Programs
Manager, Environmental
Vice President
Director, Climate Change Compliance
Managing Director, Environment Services
Environmental Compliance Manager
Environmental Engineer
Principal, Environmental Policy
Environmental Engineer III
Environmental Services, Land & Waste Management
Lead Analyst, Environmental Compliance
Staff Engineer, Environmental
Manager, Environmental Programs
Chief Regulatory Counsel
Environmental Scientist
Manager, Environmental Programs
Manager, Environmental Management
Vice President / Mid Atlantic Area Manager
Environmental Policy Manager - Air
Associate Analyst - Climate Change Compliance
Vice President, Asset and Risk Management
Director - EHS
Director, Environmental Policy
Executive Director
Director, Environmental Services
Consultant

Message

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**From:** Lacey, Pam [PLacey@aga.org]  
**Sent:** 9/26/2017 6:22:26 PM  
**To:** Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]  
**Subject:** Automatic reply: AGA Call-in w/EPA

I will be out of the office through Friday Sept. 29 on AGA business travel. If you need immediate assistance, please contact my assistant Michele McDermott. mmcdermott@aga.org

Message

---

**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 5/24/2018 11:38:19 PM  
**To:** Wyman, Christine [christine.wyman@bracewell.com]  
**Subject:** Meeting Request Form  
**Attachments:** External Meeting Request Form.docx

Good evening, Christine,

I understand that you expressed interest in submitting a meeting request for Administrator Pruitt. Please find attached EPA's external meeting request form and return it to me once you complete it.

Thanks!

**Will Lovell**

Policy Advisor, Office of Policy  
U.S. Environmental Protection Agency  
(202) 564-5713  
[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)



## *Meeting Request Form for Administrator Scott Pruitt*

**Today's Date:**

**Meeting Date:**

**Meeting Time:**

**Requested Location (if offsite, please list address, parking instructions, etc.):**

**Requestor:**

**Purpose of the Meeting:**

**Background on the Meeting:**

**Role of the Administrator:**

**Attendees:**

**Point of Contact:**



Message

---

**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 5/22/2018 12:56:58 AM  
**To:** Wyman, Christine [christine.wyman@bracewell.com]  
**Subject:** RE: Follow Up

Good evening, Christine,

Would 11 am work?

Best,  
Will

---

**From:** Wyman, Christine [mailto:christine.wyman@bracewell.com]  
**Sent:** Monday, May 21, 2018 6:00 PM  
**To:** Bolen, Brittany <bolen.brittany@epa.gov>  
**Cc:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** RE: Follow Up

Thanks so much.

Will – Please let me know if there is a convenient time Wednesday morning for a call.

-Christine

---

**CHRISTINE WYMAN**

Senior Counsel

[christine.wyman@policyres.com](mailto:christine.wyman@policyres.com)

T: {Ex. 6} | F: +1.800.404.3970

**BRACEWELL LLP**

2001 M Street NW, Suite 900 | Washington, D.C. | 20036-3310

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**From:** Bolen, Brittany [mailto:bolen.brittany@epa.gov]  
**Sent:** Monday, May 21, 2018 5:45 PM  
**To:** Wyman, Christine <[christine.wyman@bracewell.com](mailto:christine.wyman@bracewell.com)>  
**Subject:** RE: Follow Up

Hi Christine –

I should have availability Wednesday. Please coordinate with Will Lovell (cc'd) to set this up.

Best,

Brittany

---

**From:** Wyman, Christine [mailto:[christine.wyman@bracewell.com](mailto:christine.wyman@bracewell.com)]  
**Sent:** Monday, May 21, 2018 10:42 AM  
**To:** Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>  
**Subject:** Follow Up

Hi Brittany – I wanted to follow up with a meeting that we had with you, Scott Segal, and a few folks from INGAA to discuss Section 401 of the Clean Water Act. By chance do you have time for a quick call this week? We could do anytime today, tomorrow from 12-2:30, Wednesday before noon or after 3pm, or Thursday morning.

Thanks!  
Christine

---

**CHRISTINE WYMAN**

Senior Counsel

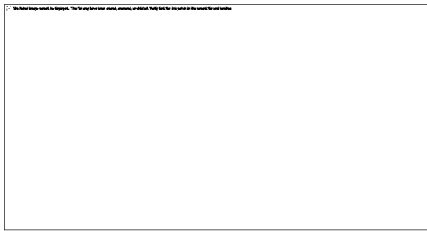
[christine.wyman@policyres.com](mailto:christine.wyman@policyres.com)

T: Ex. 6 | F: +1.800.404.3970

**POLICY RESOLUTION GROUP | BRACEWELL LLP**

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Message

---

**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 8/6/2018 9:12:42 PM  
**To:** Heidi McAuliffe [hmcauliffe@paint.org]  
**Subject:** RE: ACA Request for Meeting

Thank you, Heidi.

---

**From:** Heidi McAuliffe [mailto:hmcauliffe@paint.org]  
**Sent:** Monday, August 6, 2018 2:56 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** ACA Request for Meeting

Hi Will, I hope you are doing well. I have been traveling for the last 10 days but am back in the office now. I would still like to schedule some time to talk with Brittany about a few chronic issues for ACA. I am attaching the meeting request form that you sent me, along with some background documents on the aerosol issue and the MON/MACT RTR dockets.

I hope that you can find some time for us to meet with Brittany in the next couple of weeks. Please let me know if you have any questions at all.

Thanks for your help, Will.

Best regards,

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
202- 719-3686 | **Ex. 6** (m) | 202-263-1102 (fax) | [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) | [www.paint.org](http://www.paint.org)

901 New York Ave. NW, Suite 300 West ▪ Washington, DC 20001

*Coatings protect. Coatings preserve. Coatings provide.*

---

**From:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Sent:** Thursday, July 26, 2018 4:19 PM  
**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>  
**Subject:** RE: Contact

Absolutely! In addition, could you please fill out this sheet for the meeting request? Thank you!

---

**From:** Heidi McAuliffe [mailto:hmcauliffe@paint.org]  
**Sent:** Thursday, July 26, 2018 9:02 AM  
**To:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** Re: Contact

Will, thank you very much for reaching out. I would like to schedule some time with Brittany; however, I am traveling for the next 10 days. Can you I reach back out to you with some weeks to target and perhaps we could start the process of finding a date that works?

Thank you and it was a pleasure to meet you.

Best regards,

Heidi K. McAuliffe  
Vice President, Government Affairs  
American Coatings Association, Inc.

901 New York Avenue, NW  
Washington, DC. 20001  
202.719.3686

Sent from my iPad

On Jul 25, 2018, at 8:15 PM, Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)> wrote:

Good evening, Heidi,

I just wanted to make sure you had my contact information for future communication.

Thank you,

**Will Lovell**  
Policy Advisor, Office of Policy  
U.S. Environmental Protection Agency  
(202) 564-5713  
[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)

Message

---

**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 4/26/2018 10:14:02 PM  
**To:** Jaeger, Lisa [lisa.jaeger@bracewell.com]  
**Subject:** RE: EPA Follow-up

Thank you, Lisa.

---

**From:** Jaeger, Lisa [mailto:lisa.jaeger@bracewell.com]  
**Sent:** Thursday, April 26, 2018 6:12 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** RE: EPA Follow-up

Greetings Will  
Attached is the one page description of CKRC for tomorrow's meeting.  
Thank you and see you soon,  
Lisa

**LISA M. JAEGER**  
Senior Counsel

[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)

T: **Ex. 6** | F: +1.1.800.404.3970 | M: + **Ex. 6**

**BRACEWELL LLP**

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---

**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Thursday, April 26, 2018 2:14 PM  
**To:** Jaeger, Lisa <lisa.jaeger@bracewell.com>  
**Subject:** RE: EPA Follow-up

Hey, Lisa, just wanted to check back in to see if you had a list of attendees and any materials the group plans to provide.

---

**From:** Lovell, Will (William)  
**Sent:** Tuesday, April 24, 2018 4:35 PM  
**To:** 'Jaeger, Lisa' <lisa.jaeger@bracewell.com>  
**Subject:** RE: EPA Follow-up

Terrific! No, we just need a list of attendees and any materials you plan to provide at the meeting.

---

**From:** Jaeger, Lisa [<mailto:lisa.jaeger@bracewell.com>]  
**Sent:** Tuesday, April 24, 2018 4:23 PM  
**To:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** RE: EPA Follow-up

Thank you Will, that is perfect for us.  
Will you all need clearance info?  
Thank you  
Lisa

---

**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]  
**Sent:** Tuesday, April 24, 2018 2:48 PM  
**To:** Jaeger, Lisa <[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)>  
**Subject:** RE: EPA Follow-up

How about 11-11:30 am?

---

**From:** Jaeger, Lisa [<mailto:lisa.jaeger@bracewell.com>]  
**Sent:** Tuesday, April 24, 2018 11:14 AM  
**To:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** RE: EPA Follow-up

Greetings Will  
Friday will work for us with a meeting beginning any time from 10:30 to noon.  
I'll stand by to hear from you what specific time the schedule can accommodate.  
Thank you for your help.  
Lisa

---

**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]  
**Sent:** Monday, April 23, 2018 2:58 PM  
**To:** Jaeger, Lisa <[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)>  
**Subject:** RE: EPA Follow-up

Lisa, upon conferring with the scheduler after a planning meeting this morning, it looks like that time will not work due to meetings that had not yet been added to Brittany's calendar. Is there any chance Friday could work between 10:30 and 3:30?

---

**From:** Lovell, Will (William)  
**Sent:** Friday, April 20, 2018 5:46 PM  
**To:** 'Jaeger, Lisa' <[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)>  
**Subject:** RE: EPA Follow-up

Lisa,

I will hold that time slot, but please allow me to check with the scheduler to confirm that will work.

Regards,  
Will

---

**From:** Jaeger, Lisa [<mailto:lisa.jaeger@bracewell.com>]  
**Sent:** Friday, April 20, 2018 5:06 PM

**To:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>

**Subject:** Re: EPA Follow-up

Greetings Will

May we do Thursday 2 to 3 pm please?

Thank you

Lisa

---

**From:** "Lovell, Will (William)" <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>

**Sent:** Apr 19, 2018 10:47 AM

**To:** "Jaeger, Lisa" <[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)>

**Subject:** RE: EPA Follow-up

Lisa,

Now I apologize for the delayed response! Would any of the following times work for your group?:

- Thursday (4/26), 10-11 am or 2-3 pm
- Friday (4/27), 2-4 pm

Thank you,

Will

---

**From:** Jaeger, Lisa [<mailto:lisa.jaeger@bracewell.com>]

**Sent:** Thursday, April 12, 2018 7:49 PM

**To:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>

**Subject:** RE: EPA Follow-up

Greetings Will

Thank you for your note and please pardon my delay in responding to your note.

CKRC would like to meet with you to discuss its response to EPA's request for suggestions for reducing duplicative and burdensome regulations. CKRC's comments are attached. The comments mention several issues that are already being addressed and that were mentioned by many other organizations. CKRC mentioned some other items, mostly relating to its core competency of waste energy recycling, which were not marquee issues. As part of your ongoing rulemaking/rule review process, CKRC would like to follow up with EPA on its comments.

For background, the link to CKRC is <http://www.ckrc.org/>.

Re availability, if you have availability during the week of April 23, we can make something work with CKRC schedules.

Thank you for your help

Lisa

---

**LISA M. JAEGER**

Senior Counsel

[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)

T: Ex. 6 | F: +1.800.404.3970 | M: Ex. 6

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---

**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]

**Sent:** Friday, April 6, 2018 10:07 AM

**To:** Jaeger, Lisa <[lisa.jaeger@bracewell.com](mailto:lisa.jaeger@bracewell.com)>

**Subject:** EPA Follow-up

Good morning, Lisa,

I am following up from our phone call yesterday. Please provide the details and availability for the meeting we discussed.

Thank you,

**Will Lovell**

Policy Advisor, Office of Policy

U.S. Environmental Protection Agency

(202) 564-5713

[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)



Message

---

**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 7/26/2018 8:18:32 PM  
**To:** Heidi McAuliffe [hmcauliffe@paint.org]  
**Subject:** RE: Contact  
**Attachments:** BB Meeting Request Form.doc

Absolutely! In addition, could you please fill out this sheet for the meeting request? Thank you!

---

**From:** Heidi McAuliffe [mailto:hmcauliffe@paint.org]  
**Sent:** Thursday, July 26, 2018 9:02 AM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** Re: Contact

Will, thank you very much for reaching out. I would like to schedule some time with Brittany; however, I am traveling for the next 10 days. Can you I reach back out to you with some weeks to target and perhaps we could start the process of finding a date that works?

Thank you and it was a pleasure to meet you.

Best regards,

Heidi K. McAuliffe  
Vice President, Government Affairs  
American Coatings Association, Inc.

901 New York Avenue, NW  
Washington, DC. 20001  
202.719.3686

Sent from my iPad

On Jul 25, 2018, at 8:15 PM, Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)> wrote:

Good evening, Heidi,

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Thank you,

**Will Lovell**  
Policy Advisor, Office of Policy  
U.S. Environmental Protection Agency  
(202) 564-5713  
[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)



## Meeting Request Form

**Today's Date:**

**Requesting Group:**

**Purpose:**

**Role of the Associate Administrator:**

**Background:**

**Recent meetings with EPA:**

**Requested Date of Meeting:**

**Requested Duration (typically 30 minutes):**

**Point of Contact for Meeting (Name/Number):**

Message

---

**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 1/19/2018 3:55:38 PM  
**To:** DHGreen@Venable.com  
**Subject:** EPA

**Will Lovell**  
Policy Advisor, Office of Policy  
U.S. Environmental Protection Agency  
(202) 564-5713  
[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)

Message

---

**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 10/3/2017 5:19:14 PM  
**To:** Heidi McAuliffe [hmcauliffe@paint.org]; Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Thank you, Heidi. I also meant to ask – who can be our point of contact for the day of the event?

---

**From:** Heidi McAuliffe [mailto:hmcauliffe@paint.org]  
**Sent:** Tuesday, October 3, 2017 10:35 AM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>; Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi Will, thank you for your note. I am looking forward to talking with Samantha on Friday and will certainly provide a briefing for the Summit presentation.

1. I am attaching a draft agenda for our Policy Summit. It will likely remain in draft form until Friday as several speakers are still working on their schedules. This is a private industry event and **there will not be any press or media in attendance.**
2. Ms. Dravis is scheduled to speak for 15 – 20 minutes followed by Q&A.
3. The topics we are most interested in include the following:
  - a. Status of reg reform at EPA;
  - b. The Ozone Standard;
  - c. “Once in, Always in” Policy under NESHAP;
  - d. Preserving Flexible Permits Strategy; and
  - e. Other issues listed by ACA in our reg reform submission (also attached).
4. The format for the day will likely be auditorium seating and Ms. Dravis will have a podium and microphone. She is welcome to bring a powerpoint presentation if that is her preference.
5. I will also provide you with a list of our Board of Directors and invited guests.
6. There will be approximately 35 to 40 in attendance.

Please let me know if there is anything else that I can provide for you. I look forward to talking with Samantha on Friday.

Best regards,

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
202- 719-3686 | Ex. 6 | 202-263-1102 (fax) | [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) | [www.paint.org](http://www.paint.org)

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---

**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]  
**Sent:** Monday, October 2, 2017 5:40 PM  
**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>; Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Heidi,

We are hoping that the Friday meeting can act as a sort of briefing for the speaking engagement next week. Ahead of Friday, I wanted to ask a few questions:

1. Could you please provide an agenda for the event and a guest list? Is this event open to the press?
2. How long would you like for Samantha to speak?
3. What topics are of primary interest to the group?
4. How will Samantha present? Will there be a roundtable or a podium? Will she be microphoned?

Any information you can provide would be most appreciated.

Thank you,  
Will

---

**From:** Heidi McAuliffe [<mailto:hmcauliffe@paint.org>]  
**Sent:** Friday, September 29, 2017 1:39 PM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Cc:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Perfect, thank you

---

**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]  
**Sent:** Friday, September 29, 2017 1:36 PM  
**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>  
**Cc:** Lovell, Will (William) <[lovell.william@epa.gov](mailto:lovell.william@epa.gov)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi, October 6<sup>th</sup> at 2:30 would be great. I am copying Will who will connect with you to help prepare Samantha for the 10/10 event. Thanks!

---

**From:** Heidi McAuliffe [<mailto:hmcauliffe@paint.org>]  
**Sent:** Friday, September 29, 2017 11:44 AM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

October 6 at 2:30

October 9 at 11:00 or 11:30

I hope that one of these works. Thank you so much.

Heidi

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
202- 719-3686 | **Ex. 6** (m) | 202-263-1102 (fax) | [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) | [www.paint.org](http://www.paint.org)

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---

**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]  
**Sent:** Friday, September 29, 2017 11:39 AM  
**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi,

We are in the process of booking her travel next week with the Administrator. Can you meet with her Oct 6 at 2:30 or Oct 9 at 11:00 or 11:30 or 1:00 or 1:30 or 2:00 or 2:30?

---

**From:** Heidi McAuliffe [<mailto:hmcauliffe@paint.org>]  
**Sent:** Friday, September 29, 2017 11:11 AM

**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>

**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi Robin,

Any of the days and times for next week work for me. Samantha is scheduled to present at the ACA Policy Summit on October 10. Consequently, I would really like to be able to find some time to meet with her prior to the 10<sup>th</sup>. So October 2, 5 and 6 all work for me. Hopefully, they will work for her as well.

I look forward to talking with her. Thanks, Heidi

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
202- 719-3686 | **Ex. 6** (m) | 202-263-1102 (fax) | [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) |  
[www.paint.org](http://www.paint.org)

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---

**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]

**Sent:** Tuesday, September 12, 2017 11:17 AM

**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>

**Subject:** Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Hi

I hope you are well. I am sorry to say this but Samantha will be traveling with the Administrator next week. May I suggest the following alternative dates?

Oct 2 at 11:30

Oct 5 at 11:30

Oct 6 at 1:30

Oct 9 at 11:30

Oct 13 at 1:30

**To:** Dravis, Samantha; Bolen, Brittany; Lovell, Will (William); Inge, Carolyn; Dominguez, Alexander; Gunasekara, Mandy; 'Heidi McAuliffe'; Beck, Nancy; Milhouse, Gloria  
**Subject:** Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform  
**When:** Tuesday, September 19, 2017 1:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).



Message

---

**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 10/2/2017 9:40:03 PM  
**To:** Heidi McAuliffe [hmcauliffe@paint.org]; Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

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1. Could you please provide an agenda for the event and a guest list? Is this event open to the press?
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3. What topics are of primary interest to the group?
4. How will Samantha present? Will there be a roundtable or a podium? Will she be microphoned?

Any information you can provide would be most appreciated.

Thank you,  
Will

---

**From:** Heidi McAuliffe [mailto:hmcauliffe@paint.org]  
**Sent:** Friday, September 29, 2017 1:39 PM  
**To:** Kime, Robin <Kime.Robin@epa.gov>  
**Cc:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Perfect, thank you

---

**From:** Kime, Robin [mailto:Kime.Robin@epa.gov]  
**Sent:** Friday, September 29, 2017 1:36 PM  
**To:** Heidi McAuliffe <hmcauliffe@paint.org>  
**Cc:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

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---

**From:** Heidi McAuliffe [<mailto:hmcauliffe@paint.org>]  
**Sent:** Friday, September 29, 2017 11:44 AM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

October 6 at 2:30

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---

**From:** Heidi McAuliffe [<mailto:hmcauliffe@paint.org>]  
**Sent:** Friday, September 29, 2017 11:11 AM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

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I look forward to talking with her. Thanks, Heidi

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
202- 719-3686 | **Ex. 6** (m) | 202-263-1102 (fax) | [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) | [www.paint.org](http://www.paint.org)

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**Sent:** Tuesday, September 12, 2017 11:17 AM  
**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>  
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**To:** Dravis, Samantha; Bolen, Brittany; Lovell, Will (William); Inge, Carolyn; Dominguez, Alexander; Gunasekara, Mandy; 'Heidi McAuliffe'; Beck, Nancy; Milhouse, Gloria

**Subject:** Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

**When:** Tuesday, September 19, 2017 1:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).

Message

---

**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 10/5/2017 6:19:58 PM  
**To:** Heidi McAuliffe [hmcauliffe@paint.org]; Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**CC:** Marcus James [mjames@paint.org]  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Heidi, would you happen to have a guest/attendee list you could share? Thank you.

---

**From:** Lovell, Will (William)  
**Sent:** Thursday, October 5, 2017 10:57 AM  
**To:** 'Heidi McAuliffe' <hmcauliffe@paint.org>; Kime, Robin <Kime.Robin@epa.gov>  
**Cc:** Marcus James <mjames@paint.org>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Thank you very much for all this information, Heidi. We will be sure to let you know if we need anything else. In the meantime, please find attached a photo of Ms. Dravis as well as her professional biography.

Thank you,  
Will

---

**From:** Heidi McAuliffe [mailto:hmcauliffe@paint.org]  
**Sent:** Tuesday, October 3, 2017 1:25 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>; Kime, Robin <Kime.Robin@epa.gov>  
**Cc:** Marcus James <mjames@paint.org>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

Will, two points of contact:

1. Marcus James, [mjames@paint.org](mailto:mjames@paint.org) and Ex. 6 cell and
2. Heidi McAuliffe, [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) and Ex. 6

Thank you, Heidi

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**Sent:** Tuesday, October 3, 2017 1:19 PM  
**To:** Heidi McAuliffe <hmcauliffe@paint.org>; Kime, Robin <Kime.Robin@epa.gov>

**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

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Please let me know if there is anything else that I can provide for you. I look forward to talking with Samantha on Friday.

Best regards,

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
202- 719-3686 | Ex. 6 | 202-263-1102 (fax) | [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) | [www.paint.org](http://www.paint.org)

901 New York Ave. NW, Suite 300 West ▪ Washington, DC 20001

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**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

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October 9 at 11:00 or 11:30

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I look forward to talking with her. Thanks, Heidi

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
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---

**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]

**Sent:** Tuesday, September 12, 2017 11:17 AM

**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>

**Subject:** Rescheduling: 9/19 Meeting to Discuss the American Coatings Association  
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Hi

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Oct 5 at 11:30

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Oct 13 at 1:30

**To:** Dravis, Samantha; Bolen, Brittany; Lovell, Will (William); Inge, Carolyn; Dominguez, Alexander; Gunasekara, Mandy; 'Heidi McAuliffe'; Beck, Nancy; Milhouse, Gloria  
**Subject:** Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform  
**When:** Tuesday, September 19, 2017 1:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).

Message

---

**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 10/5/2017 2:56:57 PM  
**To:** Heidi McAuliffe [hmcauliffe@paint.org]; Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**CC:** Marcus James [mjames@paint.org]  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform  
**Attachments:** Dravis Bio.docx; Dravis Photo.jpg

Thank you very much for all this information, Heidi. We will be sure to let you know if we need anything else. In the meantime, please find attached a photo of Ms. Dravis as well as her professional biography.

Thank you,  
Will

---

**From:** Heidi McAuliffe [mailto:hmcauliffe@paint.org]  
**Sent:** Tuesday, October 3, 2017 1:25 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>; Kime, Robin <Kime.Robin@epa.gov>  
**Cc:** Marcus James <mjames@paint.org>  
**Subject:** RE: Rescheduling: 9/19 Meeting to Discuss the American Coatings Association Comment Letter on EPA Regulatory Reform

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**When:** Tuesday, September 19, 2017 1:00 PM-1:30 PM (UTC-05:00) Eastern Time (US &  
Canada).

Samantha Dravis serves as Senior Counsel and Associate Administrator for the Office of Policy at the U.S. Environmental Protection Agency. The Office of Policy is the primary policy arm of EPA, providing multi-disciplinary analytic skills, management support, and special expertise in the areas of regulatory policy and management, environmental economics, strategic environmental management, and sustainable communities. Samantha was also selected by Administrator Pruitt to serve as the EPA's Regulatory Reform Officer (RRO), who oversees the implementation of regulatory reform initiatives and policies to ensure that the Agency effectively carry out regulatory reforms. Before joining the EPA, Samantha worked as President of the Rule of Law Defense Fund, a 501(c)(4) public policy organization affiliated with the Republican Attorneys General Association. She has also previously served as Associate Director of Political Affairs at The White House during the administration of President George W. Bush, as Legislative Assistant to Congressman Dan Lungren of California, and as a litigation associate at the law firm Taft, Stettinius & Hollister. Samantha is an honors graduate of the University of Kansas and the University of Notre Dame Law School, where she was Executive Solicitation Editor of the Notre Dame Journal of Law, Ethics, and Public Policy.



Message

---

**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 10/4/2017 6:18:11 PM  
**To:** Laura Kasch [lkasch@afsinc.org]  
**Subject:** RE: 29th AFS EHS Conference Speaker Confirmation  
**Attachments:** Regulatory Reform at EPA.pptx

Hello, Laura,

Please find attached a copy of the PowerPoint presentation that Brittany will present. We will let you know if we make any changes.

Thank you,  
Will

---

**From:** Laura Kasch [mailto:lkasch@afsinc.org]  
**Sent:** Friday, September 15, 2017 3:06 PM  
**To:** Bolen, Brittany <bolen.brittany@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>  
**Cc:** 'doman@haleyaldrich.com' <doman@haleyaldrich.com>  
**Subject:** 29th AFS EHS Conference Speaker Confirmation  
**Importance:** High

Dear Brittany,

Thank you for accepting our invitation to speak at the **29<sup>th</sup> Environmental, Health & Safety Conference** to be held October 31-November 2, 2017 at Hyatt Regency Birmingham – The Wynfrey Hotel. Attached is the latest version of the agenda. You will be afforded full complimentary registration to the conference.

To facilitate the publication of the conference proceedings and speaker information, please send us the following **on or before September 29, 2017**:

- 1) **Email me a copy of your PowerPoint presentation.** You can use the attached AFS template OR the official template of your agency.
  - If your presentation is over 10 megabytes, please upload to our FTP site:  
<http://www.afsinc.net/uploadsite/index.asp>. Username: consultant; Password: safe
- 2) **Submit your speaker bio form here:**
  - <https://americanfoundrysociety.wufoo.com/forms/2017-ehs-conference-speaker-form/>

Here are a few details to help your planning:

**Hyatt Regency Birmingham**

The Wynfrey Hotel  
1000 Riverchase Galleria  
Birmingham, AL 35244

**AFS Room Rate**            \$149 Standard / Double Guestroom  
                                     \$169 Standard / Double – Regency Club\*

AFS Room Rate includes complimentary internet in guest rooms and meeting space.

*\*Regency Club accommodations are located on restricted access floors and include private Concierge, continental breakfast and evening hors d'oeuvres in a private lounge.*

Reservations must be made no later than, **Friday, October 6**. Click this link to reserve a room at the conference rate: <https://aws.passkey.com/go/AmericanFoundrySocietyOct2017>.

Check-in time begins at 3:00 p.m. / Check-out time is 12:00 p.m.

The Hotel will extend the conference rate up to 2 days prior and/or 2 days following the conference arrival and departure dates, based on room and rate availability.

#### **Airport Transportation**

The Hyatt Regency Birmingham – The Wynfrey Hotel provides **complimentary** airport transportation for individuals. Reservations are **REQUIRED**.

#### **Parking**

Registered overnight guests will be provided parking in the hotel garage at the daily discounted rate of \$10 and valet parking is available at \$12 per day.

Again, thank you for agreeing to speak and for your prompt attention to this request. Your presence and materials are vital to the success of the conference. If you have any questions, please don't hesitate to contact me.

Sincerely,

*Laura J. Kasch*

Technical Assistant  
American Foundry Society  
1695 N. Penny Lane  
Schaumburg, IL 60173  
Phone: 847/824-0181, Ext. 246  
[lkasch@afsinc.org](mailto:lkasch@afsinc.org)

# Regulatory Reform at EPA

November 1, 2017

1



## EPA's Back-to-Basics Agenda

- ✓ **Environment:** Protecting the environment and fulfilling our core mission
- ✓ **Engagement:** Engaging with state and local partners, enhancing public participation
- ✓ **Economy:** Providing regulatory certainty with sensible rules that produce real results

EPA will achieve these goals by focusing on rule of law, process, and cooperative federalism.



## President Trump's Regulatory Reform Agenda

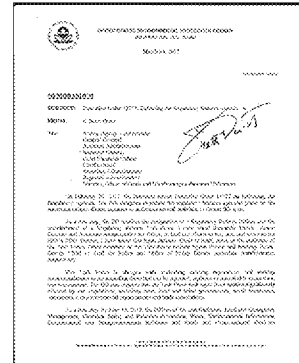
- **Presidential Memorandum** – Streamlining Permitting and Reducing Regulatory Burdens for Domestic Manufacturing (January 24, 2017)
- **EO 13771** – Reducing Regulation and Controlling Regulatory Costs (January 30, 2017)
- **EO 13777** – Enforcing the Regulatory Reform Agenda (February 24, 2017)
- **EO 13778** – Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the “Waters of the United States” Rule (February 28, 2017)
- **EO 13783** – Promoting Energy Independence and Economic Growth (March 28, 2017)
- **EO 13790** – Promoting Agriculture and Rural Prosperity in America (April 25, 2017)



# EPA Regulatory Reform Actions

On March 24, Administrator Pruitt issued an Agency-wide memo:

- Designating a Regulatory Reform Officer,
- Establishing a Regulatory Reform Task Force, and
- Directing program offices to host public meetings.





## Public Participation

- **Public Meetings:** EPA program offices held nearly a dozen public meetings in April and May.
  - More than 200,000 stakeholders were independently invited by the program offices to participate.
  - Program offices provided a list of rules mentioned at the meetings and identified those that may be appropriate for review.

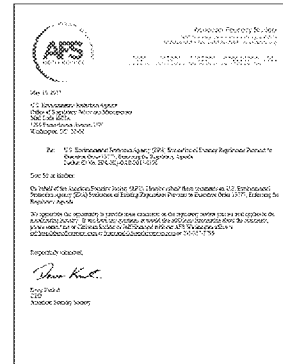
5



# Public Participation

- **Public Comment:** On April 13, EPA opened a 30-day public comment period to solicit input on opportunities for regulatory reform and received over 460,000 comments, including a record-breaking number of individual comments (63,416).

Thank you, AFS, for submitting your comments!







# Transparency

- **New Webpage:** On April 11, EPA launched a new webpage that details the agency's regulatory reform efforts.
- **Upcoming:** EPA's Task Force Report per EO 13783.





## Task Force Review

- The Task Force developed strategic factors to determine which rules to review, including:
  - Associated with a Presidential directive or initiative,
  - Timing and urgency of the needed regulatory relief,
  - Associated costs and employment impacts, and
  - Review would be swift and simple.



## Key Rules under Reconsideration

- WOTUS
- Steam Electric Effluent Limitation Guidelines
- Risk Management Plan
- Clean Power Plan
- Coal Combustion Residuals
- Methane Oil and Gas Rule



## Progress

- Spring Semiannual Regulatory Agenda
  - Announced more than 2 dozen “deregulatory” actions
- For FY17, EPA finalized 16 “deregulatory” actions subject to President Trump’s EO 13771.
  - These actions produced an estimated net annualized cost savings of \$70.69 million in 2017.
- Currently working on the Fall Agenda (submissions due this week), as well as Regulatory Budget, per EO 13771.



**Questions?**

Message

---

**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 9/26/2017 10:38:19 PM  
**To:** Lacey, Pam [PLacey@aga.org]  
**CC:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]; McDermott, Michele [MMcDermott@aga.org]  
**Subject:** RE: AGA Call-in w/EPA

Thank you, Pam, that does make sense. Would it be possible to get the entire agenda for the day? That way, Brittany can have some context for previous and future conversations.

Thank you.

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**From:** Lacey, Pam [mailto:PLacey@aga.org]  
**Sent:** Tuesday, September 26, 2017 3:21 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>; McDermott, Michele <MMcDermott@aga.org>  
**Subject:** RE: AGA Call-in w/EPA

Will – I am at the EPA-AGA Renewable Natural Gas Workshop in Colorado today. Sorry about the delay!

Michele is sending the registration list so you can see who will be in the room.

Here is the relevant portion of the agenda:

1:30 -2 pm        **EPA Regulatory Reform Agenda: including Methane NSPS, Subpart W, WOTUS**  
                      **Speaker: Brittany Bolen, EPA Deputy Associate Administrator, Office of Policy (by phone)**

The topics are listed above, but she has flexibility regarding how much she wants to get into these specific topics. I would say, start with an overview of the regulatory reform effort at EPA and next steps in the process. And we can ask questions or suggest rules that could be revised. Does that make sense? - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**

American Gas Association

400 N. Capitol St., NW | Washington, DC | 20001

P: 202-824-7340 | M: Ex. 6 | F: 202-824-9190 | [placey@aga.org](mailto:placey@aga.org)

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**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Tuesday, September 26, 2017 12:22 PM  
**To:** Lacey, Pam <PLacey@aga.org>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>; McDermott, Michele <MMcDermott@aga.org>  
**Subject:** RE: AGA Call-in w/EPA

Hello, Pam,

Did you have any time to review these questions below? Michele, I am CCing you in case you might know the answers.

Thank you,  
Will

---

**From:** Lovell, Will (William)  
**Sent:** Friday, September 22, 2017 4:49 PM  
**To:** 'Lacey, Pam' <PLacey@aga.org>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** AGA Call-in w/EPA

Good afternoon, Pam,

In preparation for Brittany Bolen's call-in to AGA's Fall Committee meeting, could you please provide the following information?:

- An agenda of the meeting
- A list of people who will be on the call
- Any topic(s) she should focus on

Thank you,

**Will Lovell**  
Policy Assistant, Office of Policy  
U.S. Environmental Protection Agency  
(202) 564-5713  
[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)

Message

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**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 9/26/2017 10:36:10 PM  
**To:** McDermott, Michele [MMcDermott@aga.org]  
**Subject:** RE: AGA Call-in w/EPA

Thank you, Michele!

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**From:** McDermott, Michele [mailto:MMcDermott@aga.org]  
**Sent:** Tuesday, September 26, 2017 3:18 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Subject:** RE: AGA Call-in w/EPA

Will,

Pam will be responding to your questions regarding agenda and topics to be covered. The list of attendees is attached. Please let me know if you need anything else. Thank you.

**Michele McDermott | Senior Staff Associate**  
American Gas Association  
400 N. Capitol St., NW | Washington, DC | 20001  
P: 202-824-7233 | F: 202-824-9134 | [mmcdermott@aga.org](mailto:mmcdermott@aga.org)

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**From:** Lovell, Will (William) [mailto:lovell.william@epa.gov]  
**Sent:** Tuesday, September 26, 2017 2:22 PM  
**To:** Lacey, Pam <PLacey@aga.org>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>; McDermott, Michele <MMcDermott@aga.org>  
**Subject:** RE: AGA Call-in w/EPA

Hello, Pam,

Did you have any time to review these questions below? Michele, I am CCing you in case you might know the answers.

Thank you,  
Will

---

**From:** Lovell, Will (William)  
**Sent:** Friday, September 22, 2017 4:49 PM  
**To:** 'Lacey, Pam' <PLacey@aga.org>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** AGA Call-in w/EPA

Good afternoon, Pam,

In preparation for Brittany Bolen's call-in to AGA's Fall Committee meeting, could you please provide the following information?:

- An agenda of the meeting
- A list of people who will be on the call



- Any topic(s) she should focus on

Thank you,

**Will Lovell**

Policy Assistant, Office of Policy

U.S. Environmental Protection Agency

(202) 564-5713

[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)

Message

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**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 9/11/2017 9:07:39 PM  
**To:** Lacey, Pam [PLacey@aga.org]  
**Subject:** RE: AGA NGVA-EPA meeting Tues. 9/12 - resending AGA's specific topics list and comments - who from EPA will likely attend?

Thank you, Pam.

---

**From:** Lacey, Pam [mailto:PLacey@aga.org]  
**Sent:** Monday, September 11, 2017 10:01 AM  
**To:** Kime, Robin <Kime.Robin@epa.gov>; Lopez, George <lopez.george@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>  
**Cc:** Clay, Kathryn <KClay@aga.org>; Clarke, Jeff <jclarke@ngvamerica.org>; Cunningham, Allison <ACunningham@ngvamerica.org>  
**Subject:** FW: AGA NGVA-EPA meeting Tues. 9/12 - resending AGA's specific topics list and comments - who from EPA will likely attend?

Robin, George and Will -- In response to Will's email on Friday, I am resending this email from August, but providing a little more detail. AGA's issues are detailed in the attached AGA written comments. At tomorrow's meeting, we would like to focus on our comments regarding just two regulatory programs:

1) 40 C.F.R. Part 98, Subpart W (see our attached written comments for our particular issues); and

2) 40 C.F.R. Part 761.30, the PCB use authorization rules for natural gas pipelines and distribution systems (see our written comments).

Note:

- We do *not* plan to discuss WOTUS issues at the meeting. AGA is a member of the Waters Advocacy Coalition (WAC), which is taking the lead on this issue.
- We also do not plan to discuss the PCB disposal and remediation issues at the meeting; AGA is a member of the Utility Solid Waste Activities Group (USWAG), which has covered those issues in detail in the USWAG written comments.

I look forward to our meeting tomorrow. - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**

American Gas Association

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**From:** Lacey, Pam  
**Sent:** Tuesday, August 15, 2017 5:23 PM  
**To:** 'Kime, Robin' <Kime.Robin@epa.gov>  
**Cc:** Clay, Kathryn <KClay@aga.org>; Clarke, Jeff <jclarke@ngvamerica.org>; Cunningham, Allison <ACunningham@ngvamerica.org>  
**Subject:** AGA NGVA-EPA meeting - who from EPA will likely attend?

Robin - For your convenience, I am again attaching the comments AGA and NGVA filed in the rule review docket, as this may help Samantha and Brittany in determining if there are others at EPA they would like to include - either at this meeting or perhaps at a focused topical follow up meeting. AGA's comments address several programs, but at this meeting, we will want to focus on revisions we have suggested to improve: (1) the Subpart W reporting rule and (2) the PCB rules.

Please let me know who is likely to participate in the meeting from EPA, and please let me know if you have any questions. Thank you! - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**  
American Gas Association  
400 N. Capitol St., NW | Washington, DC | 20001  
P: 202-824-7340 | M: Ex. 6 | F: 202-824-9190 | [placey@aga.org](mailto:placey@aga.org)

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**From:** Lacey, Pam  
**Sent:** Tuesday, August 15, 2017 5:07 PM  
**To:** 'Kime, Robin' <Kime.Robin@epa.gov>  
**Cc:** Clay, Kathryn <KClay@aga.org>; Clarke, Jeff <jclarke@ngvamerica.org>; Cunningham, Allison <ACunningham@ngvamerica.org>  
**Subject:** RE: Rescheduling AGA NGVA-EPA meeting

Robin – Thanks for sending the revised calendar invite. Would you please let us know who at EPA will be likely to attend? (in addition to Samantha and Brittany?) Thanks! - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**  
American Gas Association  
400 N. Capitol St., NW | Washington, DC | 20001  
P: 202-824-7340 | M: Ex. 6 | F: 202-824-9190 | [placey@aga.org](mailto:placey@aga.org)

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**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]  
**Sent:** Tuesday, August 15, 2017 4:32 PM

**To:** Lacey, Pam <PLacey@aga.org>  
**Cc:** Clay, Kathryn <KClay@aga.org>; Clarke, Jeff <jclarke@ngvamerica.org>; Cunningham, Allison <ACunningham@ngvamerica.org>  
**Subject:** RE: Rescheduling AGA NGVA-EPA meeting

Let's do 9/12 at 1:30 – will have it changed on the calendar.

---

**From:** Lacey, Pam [mailto:PLacey@aga.org]  
**Sent:** Tuesday, August 15, 2017 4:00 PM  
**To:** Kime, Robin <Kime.Robin@epa.gov>  
**Cc:** Clay, Kathryn <KClay@aga.org>; Clarke, Jeff <jclarke@ngvamerica.org>; Cunningham, Allison <ACunningham@ngvamerica.org>  
**Subject:** RE: Rescheduling AGA NGVA-EPA meeting

Robin – I checked with our group, and the times you offer on Sept. 12 and 13 would work for us. On Sept. 12<sup>th</sup>, 1:30 pm is better, but we can make the other times work if needed. Please send a new calendar invitation for the time you want to pick. Thank you! - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**  
**American Gas Association**  
400 N. Capitol St., NW | Washington, DC | 20001  
P: 202-824-7340 | M: **Ex. 6** | F: 202-824-9190 | [placey@aga.org](mailto:placey@aga.org)

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**From:** Kime, Robin [mailto:Kime.Robin@epa.gov]  
**Sent:** Tuesday, August 15, 2017 12:31 PM  
**To:** Lacey, Pam <PLacey@aga.org>  
**Cc:** Clay, Kathryn <KClay@aga.org>; Clarke, Jeff <jclarke@ngvamerica.org>; Cunningham, Allison <ACunningham@ngvamerica.org>  
**Subject:** RE: Rescheduling AGA NGVA-EPA meeting

Hi

So nice of you. Thanks you very much for understanding. Here are a few dates that I think would work, I am sorry but Samantha is traveling internationally with the Administrator which is why some of the dates are further out than we'd like (I can go back and find more if that's helpful).

8/28 at 1:00 or 2:30

8/29 at 1:30

9/12 at 1:30 or 2:00 or 2:30

9/13 at 1:30 or 2:00 or 2:30

9/14 at 11 or 1:30 or 2:00 or 2:30

9/15 at 1:30

Thanks again for your patience!

---

**From:** Lacey, Pam [<mailto:PLacey@aga.org>]  
**Sent:** Tuesday, August 15, 2017 12:23 PM  
**To:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>  
**Cc:** Clay, Kathryn <[KClay@aga.org](mailto:KClay@aga.org)>; Clarke, Jeff <[jclarke@ngvamerica.org](mailto:jclarke@ngvamerica.org)>; Cunningham, Allison <[ACunningham@ngvamerica.org](mailto:ACunningham@ngvamerica.org)>  
**Subject:** RE: Rescheduling AGA NGVA-EPA meeting

Robin – I understand. We will look for some other possible times in the next couple of weeks and let you know. Are there any times that would be better for Brittany and Samantha? (As far as you know...) - Pam

**Pamela A. Lacey | Chief Regulatory Counsel**  
**American Gas Association**  
400 N. Capitol St., NW | Washington, DC | 20001  
P: 202-824-7340 | M: **Ex. 6** | F: 202-824-9190 | [placey@aga.org](mailto:placey@aga.org)

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**From:** Kime, Robin [<mailto:Kime.Robin@epa.gov>]  
**Sent:** Tuesday, August 15, 2017 12:14 PM  
**To:** Lacey, Pam <[PLacey@aga.org](mailto:PLacey@aga.org)>  
**Subject:** Rescheduling

Hello

I am sorry about this but Brittany and Samantha's schedules just changed quite abruptly and they are no longer able to take meetings this week. My apologies for the very short notice. May we regroup to find some alternative dates/times soon to reschedule your discussion?

Message

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**From:** Lovell, William [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 6/21/2017 9:23:13 PM  
**To:** Jennifer Butler [butler@spn.org]  
**Subject:** RE: State Policy Network - EPA meeting

Yes. Thank you, Jennifer.

---

**From:** Jennifer Butler [mailto:butler@spn.org]  
**Sent:** Wednesday, June 21, 2017 5:15 PM  
**To:** Lovell, William <lovell.william@epa.gov>  
**Subject:** State Policy Network - EPA meeting

See attached - does this suffice? It is a brief description of the people attending tomorrow's meeting. And I also include a one pager with the list of all the tanks in our organization

Message

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**From:** Lovell, William [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 6/21/2017 6:22:14 PM  
**To:** |butler@spn.org  
**Subject:** EPA Meeting w/SPN

Jennifer,

I am gathering materials for your group's meeting with the EPA. Do you have any information for background that could help foster discussion? Information such as attendee biographies or prior rulemaking comments would be greatly appreciated.

Thanks,

**Will Lovell**

Policy Assistant, Office of Policy  
U.S. Environmental Protection Agency

(202) 564-5713

[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)

Message

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**From:** Lovell, Will (William) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3B150BB6ADE640F68D744FADCB83A73E-LOVELL, WIL]  
**Sent:** 8/22/2017 7:46:49 PM  
**To:** Heidi McAuliffe [hmcauliffe@paint.org]  
**CC:** Kime, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]  
**Subject:** RE: EPA Meeting

Thank you, Heidi. Are there any read-ahead materials you would like to provide?

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**From:** Heidi McAuliffe [mailto:hmcauliffe@paint.org]  
**Sent:** Tuesday, August 22, 2017 1:41 PM  
**To:** Lovell, Will (William) <lovell.william@epa.gov>  
**Cc:** Kime, Robin <Kime.Robin@epa.gov>  
**Subject:** RE: EPA Meeting

Hi Will,

Thank you for your email. I am looking forward to talking with Ms. Dravis tomorrow afternoon.

My staff that will attend the meeting include:

- Heidi McAuliffe, Vice President, Government Affairs
- Rhett Cash, Counsel, Government Affairs
- Riaz Zaman, Counsel, Government Affairs

The issues that we would like to discuss include the following:

1. ACA's Coatings Industry Policy Summit in October;
2. EPA Progress on Regulatory Reform – the process;
3. "Once-in, Always-in" Policy Under National Emissions Standards for Hazardous Air Pollutants for Source Categories;
4. National VOC Standards for Aerosol Coatings, EPA—HQ—OAR—2006—0971;
5. TSCA Rulemakings and Litigation;
6. FIFRA: Requirement to Gain Final Approval for a Reformulated FIFRA-registered Paint Product prior to Distribution or Marketing;
7. FIFRA: Labeling Issues;
8. Flexible Permits; and
9. EPA Environmentally Preferable Purchasing Program Pilot to Assess Standards and Ecolabels for EPA's Recommendations to Federal Agencies.

I know that this lists seems very long but I think that we can cover some of these issues fairly quickly.

Please let me know if there is anything else that I can provide prior to the meeting.

Best regards,

**Heidi K. McAuliffe** ▪ American Coatings Association ▪ Vice President, Government Affairs  
202- 719-3686 | **Ex. 6** (m) | 202-263-1102 (fax) | [hmcauliffe@paint.org](mailto:hmcauliffe@paint.org) | [www.paint.org](http://www.paint.org)



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**From:** Lovell, Will (William) [<mailto:lovell.william@epa.gov>]

**Sent:** Tuesday, August 22, 2017 7:55 AM

**To:** Heidi McAuliffe <[hmcauliffe@paint.org](mailto:hmcauliffe@paint.org)>

**Cc:** Kime, Robin <[Kime.Robin@epa.gov](mailto:Kime.Robin@epa.gov)>

**Subject:** EPA Meeting

Good morning, Heidi,

I am gathering information for your group's meeting tomorrow with EPA. Could you please provide a list of attendees and any topics they wish to discuss?

Thank you,

**Will Lovell**

Policy Assistant, Office of Policy

U.S. Environmental Protection Agency

(202) 564-5713

[Lovell.William@epa.gov](mailto:Lovell.William@epa.gov)