

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

July 14, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

Pursuant to Rule X and XI of the Rules of the U.S. House of Representatives, the Committee on Energy and Commerce seeks information relating to the Environmental Protection Agency's (EPA) current and forthcoming greenhouse gas (GHG) related rules. We wrote on May 18, 2011, specifically to request information to assist the Committee in evaluating EPA's planned establishment and implementation of New Source Performance Standards for sources that emit GHGs, including power plants and refineries. We write separately today to seek additional information to assist us in evaluating other EPA GHG-related rules.

In particular, we request information regarding pending and potential future GHG regulations currently being developed or considered by the agency, including new emissions standards for cars and trucks for Model Years 2017-2025 that your agency has announced will be proposed in September 2011. We also write with regard to the agency's GHG preconstruction and operating permitting requirements that came into effect on January 2, 2011, and were expanded to cover additional facilities beginning July 1, 2011, and potentially will be further expanded through another rulemaking process scheduled to begin in 2011 and be completed by July 1, 2012.

We also request additional information regarding the agency's decision-making processes and analysis relating to the development of your Endangerment Finding and initial GHG rules. We also seek information and documentation relating to economic and employment studies or analyses that EPA has undertaken, or plans to undertake, relating to the agency's current and forthcoming GHG rules.

Accordingly, please find attached to this letter questions and document requests as well as instructions relating to the requests for documents. Please provide the written responses and

documents requested by no later than three weeks from the date of this letter. Thank you for your prompt attention to this request. Should you have any questions, please contact Mary Neumayr of the Majority staff of the Committee at (202) 225-2927.

Sincerely,



Fred Upton
Chairman



Ed Whitfield
Chairman
Subcommittee on Energy and Power



Cliff Stearns
Chairman
Subcommittee on Oversight and Investigations

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Bobby L. Rush, Ranking Member
Subcommittee on Energy and Power

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations

INFORMATION & DOCUMENT REQUESTS

Pending and Future Greenhouse Gas Regulations

1. EPA has a number of petitions pending before it requesting that the agency undertake new rulemakings to regulate greenhouse gas (GHG) emissions under the Clean Air Act (CAA). Please list all such petitions, and for each petition state:
 - a. The sectors of the economy potentially affected by the petition or request;
 - b. The CAA authorities or program(s) that would be used for the requested regulation; and,
 - c. Whether EPA has prepared any studies analyzing the benefits and costs of the requested regulation.
2. In the past, EPA has explored numerous potential mechanisms for regulating GHG emissions under the Act.¹ Please describe or provide a written copy of EPA's current plans for issuing GHG regulations under the CAA (including any potential rules not subject to a petition), and for responding to the petitions to adopt GHG regulations. Include in your response:
 - a. EPA's projected timetable for proposing and finalizing the regulations;
 - b. The sectors of the economy that will be affected; and,
 - c. The specific CAA programs to be used for regulation.
3. Does EPA maintain it is currently legally compelled to adopt further GHG regulations under the CAA?
 - a. If yes, state:
 - i. The CAA programs under which EPA maintains it is now legally required to adopt GHG regulations;
 - ii. The basis for EPA's position that it is legally obligated to adopt such regulations; and,
 - iii. The timetable under which EPA intends to adopt such regulations.
4. Pursuant to a press release issued on January 24, 2011, EPA announced that the agency, together with the Department of Transportation and the State of California, will be proposing fuel economy and greenhouse gas standards for model year 2017-2025 cars and light-duty trucks by September 1, 2011. The press release stated that "[p]rior to today's announcement, [the California Air Resources Board] announced its intention to propose greenhouse gas

¹ See *Advance Notice of Proposed Rulemaking: Regulating Greenhouse Gas Emissions under the Clean Air Act* (July 8, 2008), 73 FR 44,354 (July 30, 2008).

emissions standards for model years 2017 to 2025 in March of this year, while EPA and [the National Highway Traffic Safety Administration] were working on an end of September timeline for proposal.” Our understanding is that the standards are currently scheduled to be proposed in September 2011 and finalized in July 2012.

- a. What role does the State of California have in setting the standards?
 - b. Will there be three separate proposed regulations issued by EPA, NHTSA and the State of California?
 - c. Explain the basis for the Administration’s decision to set standards for an 8-year period (2017-2025).
 - d. Explain how an 8-year period comports with the provisions of Section 102(b)(3)(B) of the Energy Independence and Security Act of 2007 which directs that the Secretary of Transportation may issue regulations “prescribing fuel economy standards for at least 1, but not more than 5, model years.”
5. Based on EPA documents, raising fuel economy standards to 56 miles per gallon in 2025 would increase the costs per vehicle by an average of \$2,100 to \$2,600 per vehicle.
- a. What would be the increase in average cost per vehicle by 2025 for the following vehicles classes?
 - i. Subcompact
 - ii. Compact
 - iii. Sedan
 - iv. Crossover
 - v. Minivan
 - vi. SUV
 - vii. Pickup Truck
 - b. Would this increase be in addition to the average increase of \$948 per vehicle associated with EPA/NHTSA’s Model Year 2012-2016 vehicles (published in May 2010)?
6. In April 2011, the U.S. Energy Information Administration (EIA) stated: “Setting LDV fuel economy standards 6 to 14 years into the future is a difficult undertaking, given the uncertainties associated with technology availability and cost, consumer acceptance and willingness to pay for unfamiliar technology, and fuel prices. The availability and cost of advanced vehicle technologies are critical in determining the ability of manufacturers to meet more stringent standards, but there is a high degree of uncertainty regarding the cost and availability of key technologies so far into the future.”
- a. If the new EPA/NHTSA fuel economy standards proved not to be commercially feasible, what mechanism would be available to lower the standards?

7. In April 2011, EIA also projected that the new fuel economy standards would result in consumers deferring new vehicle purchases and utilizing older, less fuel-efficient vehicles.
 - a. Could increasing the costs by a several thousand dollars per vehicle price some buyers out of the new car market?
 - b. What is the potential impact of the proposed new standards on low income households?
 - c. What is the potential impact of the new standards on families that need larger vehicles?
 - d. What is the potential impact of the new standards on small businesses, including farmers, that need larger vehicles?
8. Are there safety-related concerns associated with a 56.2 miles per gallon standard?
 - a. Has EPA or NHTSA prepared any analysis concerning potential safety trade-offs associated with such a standard? If yes, please provide copies of all such analyses.

Implementation of Current Greenhouse Gas Permitting Rules for Stationary Sources

9. For the GHG preconstruction permits being processed by EPA or State or tribal permitting agencies under the CAA Prevention of Significant Deterioration (PSD) program:
 - a. How many GHG PSD permits have been issued since January 2, 2011?
 - b. Of the GHG PSD permits that have been issued, how many are currently subject to administrative or judicial challenges?
10. In the Notice of Proposed Rulemaking for the Tailoring Rule,² EPA stated that certain States would be required to change their laws and/or regulations in order to authorize GHG regulations, and indicated that “EPA intends a separate regulatory action in the near future that will identify the [state implementation plans] in question and address them” by March 2010.³ However, EPA did not complete this activity until December 13, 2010,⁴ and did not

²*Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Proposed Rule*, 74 FR 55,292, 55,344 (October 27, 2009).

³ *Id.* at 74 FR 55,346.

⁴ *Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call*, 75 FR 77,698 (December 13, 2010).

publish its related Federal Implementation Plan Rule for GHG permitting until December 30, 2010.⁵

- a. Provide a State-by-State analysis of the States and local permitting authorities which are in the process of changing State laws and/or regulations in order to allow them to regulate GHG emissions under their PSD and Title V programs and to change their permitting thresholds to conform to the Tailoring Rule thresholds for GHGs. For each State and local permitting authority:
 - i. Describe what regulatory changes are needed and why; whether new rules have been issued; whether the regulatory process has been completed; and, if it has not been completed, the status of the regulatory process and when it is expected to be completed.

11. In the GHG Federal Implementation Plan Rule (GHG FIP Rule) announced December 23, 2010, and published in the Federal Register December 30, 2010, EPA stated that it “is working expeditiously to develop recommended approaches for EPA regions and affected states to use in addressing the shared responsibility of issuing PSD permits for GHG-emitting sources.”⁶ EPA further stated that “in this interim period, we intend to delegate permitting responsibility to those states that are able to implement it and that request it. States that request and receive a delegation will be responsible for issuing both the GHG part and the non-GHG part of the permit, and that will moot commenter’s concerns about split permitting.”⁷

- a. What documentation is required and has it been developed?
- b. How long does the delegation process take to complete?
- c. What is the status of the delegation process for each State affected by this rule?

12. For PSD permitting in States where there is split permitting (between EPA and State or tribal permitting authorities) because of the new GHG permitting requirement:

- a. What is the appeals process for challenges to the permits?
- b. Will appeals of PSD permits for which there has been split permitting potentially proceed on multiple tracks and in multiple federal and State forums?
- c. What is the maximum length of time that the appeals process could take for appeals relating to the GHG permitting in a PSD permit?

⁵ *Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions; Federal Implementation Plan*, 75 FR 82,246, 82,251 (December 30, 2010).

⁶ *“Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions; Federal Implementation Plan,”* 75 FR 82,246, 82,251 (December 30, 2010).

⁷ *Id.*, 75 FR at 82,252.

- d. Will an applicant be able to proceed with new construction pending appeal of a permit?
13. In October 2009, a “Climate Change Work Group” was formed within EPA’s Clean Air Act Advisory Committee to discuss and identify for EPA the major issues and potential barriers to implementing the PSD program under the CAA for GHGs. The charge for the Work Group anticipated eventual recommendations for EPA.⁸
- a. The Climate Change Work Group produced an interim “Phase I” report to the EPA’s Clean Air Act Advisory Committee (CAAAC) in February 2010. Was there a final report or report on potential barriers to implementing the PSD program under the CAA? Were there final recommendations to the EPA resulting from this group’s work? If recommendations have been made, how has EPA implemented those recommendations?
 - b. Provide all correspondence and records of communications between EPA and members of the Climate Change Work Group, the CAAAC, and any subcommittees of CAAAC concerning the work of the Climate Change Work Group.
14. On November 10, 2010, EPA issued its “Best Available Control Technology” (BACT) Guidance for greenhouse gases from stationary sources. This guidance was issued in final form, and EPA provided only a “few weeks” for public comment and restricted such comments to “any aspect that contains technical or calculation errors or where the guidance would benefit from additional clarity.”
- a. Provide copies of all comments on the BACT Guidance and all summaries of those comments prepared by EPA staff or contractors.
 - b. Is EPA planning further changes to the BACT Guidance based on the comments received?
15. Although EPA is defending its Tailoring Rule and expects to prevail in the litigation, the rule is subject to numerous legal challenges. If it is not upheld in the federal courts, what will happen to those smaller sources that EPA concluded in the Final Tailoring Rule would, absent the Tailoring Rule, be subject to new permitting requirements?
- a. Would tens of thousands of stationary sources become subject to new PSD permitting requirements?
 - b. Would six million or more facilities become subject to new Title V permitting requirements?
 - c. Does EPA have a plan for addressing this outcome, should the Tailoring Rule be overturned?

⁸ See <http://www.epa.gov/oar/caaac/climatechangewg.html>.

Development of Initial Greenhouse Gas Regulations

16. When Administrator Jackson initiated the regulatory development process for making her Endangerment Finding for greenhouse gases,⁹ did EPA as part of its Action Development Process¹⁰ prepare an Analytic Blueprint for developing the finding?
- a. If yes, provide any preliminary Analytic Blueprint and detailed Analytic Blueprint prepared for or relating to the Endangerment Finding or its Technical Support Document.
 - b. If no such documents exist, explain why the documents were not prepared when the Administrator initiated the regulatory development process.
17. When Administrator Jackson initiated the regulatory development process for making her Endangerment Finding, what regulatory or legal analyses were performed or provided to assist or inform her decision-making? Provide all such analyses and briefing or decision memoranda, for the Administrator or for the EPA Assistant Administrator for Air and Radiation, relating to the Endangerment Finding.
18. On May 19, 2009, approximately one month after the Endangerment Finding was proposed and before the public comment period had closed on the proposed finding, President Obama announced at a Rose Garden event that his Administration would be issuing proposed GHG standards under the CAA for cars and trucks. In particular, he stated that as part of an historic agreement, the Department of Transportation (DOT) and EPA would be jointly adopting new national efficiency standards for cars and trucks, and that “a series of major lawsuits will be dropped in support of this new national standard.”¹¹ In May 2009, EPA announced that it would be proposing GHG emissions standards for cars and trucks and that it would be doing so “using its authority under the Clean Air Act.”¹²
- a. Prior to the May 19, 2009, announcement, were the President, the Secretary of Transportation, and other key decision-makers in the Administration made aware by EPA that an agreement committing the agency to establish GHG emissions standards under the CAA for cars and trucks could automatically trigger new permitting requirements for stationary sources?

⁹ *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 FR 66,496 (December 15, 2009).

¹⁰ See <http://www.epa.gov/ttn/ecas/econdata/Rmanual2/3.1.html>.

¹¹ See http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-on-national-fuel-efficiency-standards/ (Remarks by President on May 19, 2009); see also See http://www.whitehouse.gov/the_press_office/President-Obama-Announces-National-Fuel-Efficiency-Policy/ (May 19, 2009 Press Release).

¹² See <http://www.epa.gov/otaq/climate/regulations/420f09028.htm> (May 2009 EPA Regulatory Announcement entitled “EPA Will Propose Historic Greenhouse Gas Emissions Standards for Light-Duty Vehicles”).

- b. Were the President, the Secretary of Transportation, and other key decision-makers in the Administration made aware by EPA that new operating permit requirements could be triggered for potentially millions of stationary sources, and new preconstruction permit requirements for potentially tens of thousands of stationary sources?
 - c. Did EPA, prior to the May 19, 2009, announcement, prepare any assessment of the potential economic costs and employment impacts for stationary sources of this agreement? If yes, was this information shared with the President and other key decision-makers, including the Secretary of Transportation?
 - d. According to a White House press release referenced above, Administrator Jackson said that “The President brought all stakeholders to the table” to reach the agreement announced on May 19, 2009.
 - i. Were any stakeholders representing stationary sources present during the formulation of the agreement announced on May 19, 2009? If yes, please identify those stakeholders and when and where consultations with these stakeholders occurred in advance of announcement of the settlement.
 - e. Did EPA share with any of the stakeholders or participants in the development of the agreement announced on May 19, 2009, any information about the potential implications of the agreement for stationary sources? If so, when did EPA share such information and with whom did EPA share that information? Please provide copies of any documents that were shared relating to stationary source implications.
19. According to EPA’s interpretation of the CAA, the regulation of GHGs from light-duty vehicles automatically triggered stationary source permitting requirements under EPA’s Prevention of Significant Deterioration (PSD) and Title V programs for preconstruction and operating permits. Given this interpretation, in formulating the Light-Duty Vehicle Rule, why did EPA not analyze the full potential costs to stationary sources of complying with PSD and Title V requirements for GHG emissions?
20. Since issuing the Endangerment Finding, EPA published its Tailoring Rule which concluded that once the agency began regulating GHG emissions under its Light-Duty Vehicle Rule, it would automatically trigger new PSD permitting requirements for approximately 82,000 facilities annually (compared to 280 permits currently issued annually), and new Title V permitting requirements for 6.1 million facilities (compared to approximately 14,700 currently issued each year).¹³
- a. Was Administrator Jackson aware at the time she was considering moving forward with the Endangerment Finding that so many stationary sources could be impacted by the

¹³¹³ *Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule*, 75 FR 31,514 at 31,562, 31,576 - 31,577 (June 3, 2010).

finding? When was she made aware that so many stationary sources could be impacted by the finding?

- b. Provide all documents prepared for the Administrator or the Assistant Administrator for Air and Radiation relating to the permitting implications associated with issuing a positive Endangerment Finding and the regulatory actions that would flow from that finding.
21. EPA, in a Fact Sheet accompanying its Tailoring Rule,¹⁴ states that the agency is planning to look at smaller sources of GHGs and that by April 30, 2016, EPA will have completed a study and that the agency “may decide that successful streamlining will allow us to phase in more sources, but we may also decide that certain smaller sources need to be permanently excluded from permitting.”
- a. Upon what specific legal authority can EPA rely to decide “that certain smaller sources need to be permanently excluded from permitting”?
 - b. Upon what specific legal authority would EPA rely to implement that decision?

Studies Relating to the Costs/Job Impacts of Greenhouse Gas Regulations

22. What studies or analyses has EPA undertaken concerning the benefits and costs of regulating GHGs under the CAA (excluding analyses on legislative proposals)? Please include in your response any studies or analyses relating to the amount of emissions reductions that could be expected, and the potential impacts on U.S. jobs, economic growth or competitiveness in energy-intensive and trade-exposed industries in the United States. Provide all such studies and analyses.
23. What studies or analyses has EPA undertaken of the potential cumulative economic impacts of its GHG rulemakings taken together with other CAA rulemakings? Provide all such studies and analyses. If EPA has not done a cumulative analysis, state whether there are any plans to undertake such an evaluation, and the timetable for the completion of such an evaluation.
24. In the Tailoring Rule announced on May 13, 2010, EPA states that “[p]romulgating the [Light Duty Vehicle Rule] now provides important advantages because the [stationary] sources that would be affected by the initial steps [of the Tailoring Rule] are responsible for most of the GHG emissions from stationary sources.”¹⁵

¹⁴ See <http://www.epa.gov/nsr/documents/20100413fs.pdf> (Fact Sheet Re: “Final Rule: Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule”).

¹⁵ *Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule*, 75 FR 31,514, 31,576 (June 3, 2010).

- a. Has EPA conducted a study examining or quantifying the benefits to the public health and welfare of regulating GHG emissions from the stationary sources? If yes, provide the results of any such analysis.
 - b. How much of the potential benefits from regulating GHG emissions are expected to come from reductions in traditional pollutants versus reductions in greenhouse gases?
 - c. Does EPA contend that there is a health or welfare emergency or necessity justifying commencing GHG regulation of stationary sources under the PSD and Title V permitting programs as of January 2, 2011? If yes, please provide the results of any such analysis.
25. In the Notice of Proposed Rulemaking for the Tailoring Rule,¹⁶ EPA states that “[t]he EPA recognizes the importance of reducing climate change emissions for all sources of GHG emissions including those sources afforded regulatory relief in this rule and plans to address potential emission reductions from these small sources using voluntary and energy efficiency approaches.”
- a. How does EPA define “small source”? Provide examples of the types of sources that would be covered.
 - b. What are the “voluntary and energy efficiency approaches” EPA is planning for these small sources?
 - c. Has EPA performed a cost-benefit study or analysis of such approaches to determine their appropriateness before committing to this policy?
 - d. What statutory authority does EPA intend to rely on for using such approaches?
 - e. Does EPA intend to work with the Small Business Administration prior to acting to obtain input from potentially affected businesses?

¹⁶ *Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Proposed Rule*, 74 FR 55,292, 55,344 (October 27, 2009).

RESPONDING TO COMMITTEE DOCUMENT REQUESTS

In responding to the document request, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.
4. Each document should be produced in a form that may be copied by standard copying machines.
5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.
6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.
7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.
8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.
9. The Committee requests electronic documents in addition to paper productions when possible. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.
11. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
12. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
13. All documents should be bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.
14. Two sets of the documents should be delivered to the Committee, one set to the majority staff in Room 316 of the Ford House Office Building and one set to the minority staff in Room 564 of the Ford House Office Building. You should consult with Committee staff regarding the method of delivery prior to sending any materials.
15. In the event that a responsive document is withheld on any basis, you should provide the following information concerning any such document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; (e) the relationship of the author and addressee to each other; and (f) any other description necessary to identify the document and to explain the basis for not producing the document.
16. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.
17. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to

the Committee, identified in a privilege log provided to the Committee, as described in (15) above, or identified as provided in (10) above.

DEFINITIONS

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("e-mail"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term "document" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term "document" also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. A document bearing any notation not part of the original text is considered to be a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.
3. The term "communication" means each manner or means of disclosure, transmission, or exchange of information, in the form of facts, ideas, opinions, inquiries, or otherwise, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, instant message, discussion, release, personal delivery, or otherwise.
4. The terms "and" and "or" should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be

construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.

5. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.
6. The terms "referring" or "relating," with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.
7. The terms "you" or "your" means and refers to you as a natural person and the United States Environmental Protection Agency (the "EPA") and any of its offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, or any other persons acting on behalf or under the control or direction of the EPA; and includes any other person(s) defined in the document request letter.
8. The term "EPA" refers to the United States Environmental Protection Agency and any of its offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, or any other persons acting on behalf or under the control or direction of the EPA.