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Description of document: Correspondence between the Environmental Protection Agency (EPA) and Mike Pence as Governor of Indiana July 2013 - July 2016 and as a member of Congress from April 2008-October 2012

Requested date: 16-August-2016

Released date: 30-November-2017

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Source of document: FOIA Request  
National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460  
[FOIA Online](#)

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

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OFFICE OF  
CONGRESSIONAL AND  
INTERGOVERNMENTAL  
RELATIONS

RE: Freedom of Information Act Request EPA-HQ-2016-009446

This is in response to your Freedom of Information Act (FOIA) request submitted August 16, 2016, requesting correspondence between EPA and Mike Pence as governor from January 2013 to the present and Mike Pence as a member of Congress from January 2008 to December 2012.

The documents enclosed are the responsive records to your request. Some of the documents have been redacted or withheld to maintain the privacy of the personal information contained in them pursuant to FOIA Exemption 6, U.S.C. § 552 (b) (6), as disclosure of such information would constitute an unwarranted invasion of personal privacy.

If you have any concerns, you may appeal this response in writing to the National Freedom of Information Act Officer at:

U.S. Environmental Protection Agency  
William Jefferson Clinton Federal Building  
Records, FOIA, and Privacy Branch  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, D.C. 20460  
Email: [hq.foia@epa.gov](mailto:hq.foia@epa.gov)

Please note that correspondence mailed through only the U.S. Postal Service can be delivered to the address above. If you would like to deliver your appeal in person, via courier service or via an overnight-delivery service, you must address your correspondence to 1301 Constitution Avenue, NW, Room 6416J, Washington, D.C. 20001.

Your written appeal must be received no later than 90 calendar days from the date of this letter and should include the request number listed above. The EPA will not consider appeals received after the 90 calendar-day limit. In addition, appeals received after 5 p.m. eastern time are considered as having been received the next business day. For the quickest possible handling, the subject line of your email or the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

Additionally, you may seek dispute-resolution services from the EPA's FOIA public liaison at [hq.foia@epa.gov](mailto:hq.foia@epa.gov) or (202) 566-1667 or from the National Archives and Records Administration's Office of Government Information Services. You may contact the Office of Government Information Services with an email to [ogis@nara.gov](mailto:ogis@nara.gov); by calling toll free (877) 684-6448 or (301) 837-1996; with a fax to (301) 837-0348; or by mail to National Archives and Records Administration, Office of Government Information Services, 8610 Adelphi Road, Room 2510, College Park, Maryland 20740-6001.

If you have any questions regarding this response, please contact Kenneth Labbe, Information Management Specialist at (202) 564-1486.

Sincerely,

A handwritten signature in black ink, appearing to read "Robin Richardson", with a long horizontal flourish extending to the right.

Robin Richardson

Principal Deputy Associate Administrator

Enclosure



STATE OF INDIANA  
OFFICE OF THE GOVERNOR  
State House, Second Floor  
Indianapolis, Indiana 46204

Michael R. Pence  
Governor

November 1, 2013

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

Dear Administrator McCarthy:

I write to express my concerns that EPA has not solicited comments from the citizens of Indiana concerning two major Clean Air Act rulemakings that will significantly impact our state: EPA's proposal to limit carbon dioxide emissions from existing power plants and EPA's carbon dioxide emission standards for new power plants.

EPA announced on September 30, 2013 that it planned to hold "listening sessions" in several cities to "solicit ideas and input" from the public concerning forthcoming EPA regulations for reducing carbon dioxide emissions from existing power plants. In its September 30 announcement, EPA states that the "feedback" the agency receives from these sessions "will play an important role in helping EPA develop smart, cost-effective guidelines," which "states use to design their own programs to reduce emissions." While the current locations for these sessions coincide with the location of EPA regional offices, they do not include states that stand to be most adversely impacted by such EPA regulations, including Indiana.

I am therefore respectfully requesting that EPA promptly schedule and hold at least one listening session in Indiana to allow citizens throughout our state to have the opportunity to provide meaningful comment on EPA's proposal to limit carbon dioxide emissions from existing power plants.

In addition, I request that EPA hold a separate public hearing to receive comment on EPA's forthcoming and closely-related proposed rule for carbon dioxide emission standards for new power plants. Because of the sweeping nature of EPA's two planned regulations and the significant adverse impact they are likely to have on the people of our state, the additional requested listening session and public hearing in my state is necessary in order for EPA to hear directly from those most adversely impacted – including my administration.

Indiana produces over 80 percent of its electricity from coal-fueled generation, while the states that EPA will visit produce only a combined 30 percent of their electricity from coal. This means our state produces nearly three times the amount of electricity

from coal than the 11 states scheduled for the listening tours combined. This reason alone demonstrates EPA should hear from Hoosiers.

In addition, coal production is vital to our state economy, employing over 3,500 people and producing over 37 million tons every year to provide affordable and accessible energy for our citizens. We expect that approximately 21 coal units will retire due to EPA regulations in Indiana, risking not only our state's most reliable energy source but also the well-paying jobs of thousands of Hoosiers. Indiana proudly produces electricity that is 17 percent less expensive than the national average. Unfortunately, EPA's proposed approach would all but ensure an increase in electricity rates by forcing the retirement of more coal-powered electric generating units, which would have an adverse ripple effect on our businesses and families that rely on affordable and reliable electricity.

Only by EPA making an effort to hold a listening session in Indiana, and a public hearing on its new power plant rule, will EPA be more fully informed about issues associated with its current approach and be in a better position to rethink its plans before finalizing such significant policies.

My office would be pleased to assist EPA in securing an appropriate venue in Indiana.

Respectfully,



Michael R. Pence  
Governor of Indiana

Greg Zoeller, Attorney General of Indiana  
The Honorable Daniel Coats, U.S. Senator  
The Honorable Joe Donnelly, U.S. Senator  
The Honorable Peter Visclosky, Member, U.S. House of Representatives  
The Honorable Jackie Walorski, Member, U.S. House of Representatives  
The Honorable Marlin Stutzman, Member, U.S. House of Representatives  
The Honorable Todd Rokita, Member, U.S. House of Representatives  
The Honorable Susan Brooks, Member, U.S. House of Representatives  
The Honorable Luke Messer, Member, U.S. House of Representatives  
The Honorable André Carson, Member, U.S. House of Representatives  
The Honorable Larry Bucshon, Member, U.S. House of Representatives  
The Honorable Todd Young, Member, U.S. House of Representatives



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

**JAN 15 2014**

THE ADMINISTRATOR

The Honorable Michael R. Pence  
Governor of Indiana  
Office of the Governor  
State House, Second Floor  
Indianapolis, Indiana 46204

Dear Governor Pence:

Thank you for your letter of November 1, 2013, requesting that the U.S. Environmental Protection Agency hold a listening session in Indiana on reducing carbon pollution from existing power plants and a public hearing on the EPA's proposed rule for carbon pollution standards for new power plants.

The agency is working diligently to address carbon pollution from power plants. In June 2013 President Obama called on agencies across the federal government, including the EPA, to take action to cut carbon pollution to protect our country from the impacts of climate change, and to lead the world in this effort. His call included a directive for the EPA "to work expeditiously to complete carbon pollution standards for both new and existing power plants." Currently, there are no federal standards in place to reduce carbon pollution from the country's largest source. The President also directed the EPA to work in partnership with states, as they will play a central role in establishing and implementing standards for existing power plants, and, at the same time, with leaders in the power sector, labor leaders, non-governmental organizations, other experts, tribal officials, other stakeholders, and members of the public on issues informing the design of carbon pollution standards for power plants.

In September, the EPA proposed new source performance standards for emissions of greenhouse gases from new fossil fuel-fired plants. These proposed standards are practical, flexible, achievable, and ensure that power companies investing in new fossil fuel-fired power plants will use modern technologies that limit emissions of harmful carbon pollution. The EPA will finalize these standards in a timely manner, after considering public comments on the proposal. There will be a 60-day comment period beginning when the proposal is published in the *Federal Register*, and we will hold a public hearing on this proposal. I encourage you to share this information widely and look forward to receiving your comments as well as those of your constituents.

As we consider guidelines for existing power plants, the EPA is engaged in vigorous and unprecedented outreach with the public, key stakeholders, and the states, including Indiana. The eleven listening sessions the EPA held throughout the country were attended by thousands of people, representing nearly every state and a broad range of stakeholders, including many from the coal industry. In addition, the EPA leadership and senior staff in Washington, D.C., and our ten regional offices have been meeting with industry leaders and CEOs from the coal, oil, and natural gas sectors; state, tribal, and local government officials from every region of the country, including Indiana; and environmental and public health groups, faith groups, labor groups, and others. Our meetings with state governments have encompassed leadership and staff from state environment departments, state energy departments, and

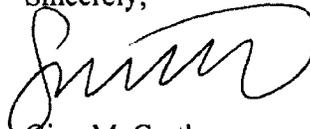
state public utility commissions. We are doing this because we want—and need—all available information about what is important to and unique about each state and stakeholder. We know that guidelines require flexibility and sensitivity to state and regional differences. To this end, we welcome feedback and ideas from you as well as your fellow Hoosiers about how the EPA should develop and implement carbon pollution guidelines for existing power plants under the Clean Air Act.

While our outreach has been among the most extensive in the agency's history, we continue to seek the views of your state's residents, and, in the spirit of partnership, welcome your assistance to use your extensive networks to solicit additional feedback. Interested stakeholders can send their thoughts through email at [carbonpollutioninput@epa.gov](mailto:carbonpollutioninput@epa.gov). Stakeholders can also learn more about what we are doing at [www.epa.gov/carbonpollutionstandard](http://www.epa.gov/carbonpollutionstandard). I welcome you to provide a link to our website from yours, and to share any other information about the EPA's public engagement activities with the citizens of your state.

Please note that the public meetings we've been holding to date and other outreach efforts are happening well before we propose guidelines. When we issue the draft guidelines in June 2014, a more formal public comment period will follow, as with all rules, and more opportunities for public hearings and stakeholder outreach and engagement.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Mark Rupp, Deputy Associate Administrator for Intergovernmental Relations at [rupp.mark@epa.gov](mailto:rupp.mark@epa.gov) or (202) 564-7178.

Sincerely,



Gina McCarthy



STATE OF INDIANA  
OFFICE OF THE GOVERNOR  
State House, Second Floor  
Indianapolis, Indiana 46204

Michael R. Pence  
Governor

January 21, 2014

Administrator Regina A. McCarthy  
Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Room 3000  
Washington, DC 20460  
Email: Mccarthy.gina@epa.gov

Dear Administrator McCarthy:

As Governor of the State of Indiana, I am concerned about the U.S. Environmental Protection Agency's (EPA) proposed rule announcement that would significantly reduce the volumes of corn-based ethanol and biodiesel produced in the U.S., specifically in Indiana.

This announcement, if implemented, will hinder Indiana's development efforts to sustain and grow jobs in rural communities across the state. The growth of our state's ethanol and biodiesel industry in the last nine years has reinvigorated 13 communities, directly and indirectly, and created more than 3,000 jobs.

The proposed reduction in ethanol volume is almost equivalent to the total ethanol production by Indiana's 13 plants. The potential damage to soy-based biofuels is even more significant and threatens the nation's largest biodiesel plant, which is located here in Indiana. Hoosier farmers report that this proposed change comes after they have harvested their 2013 crop and made plans for delivery to our ethanol and soy biodiesel plants. This leaves them trying to figure out how to adjust to this unanticipated market reduction.

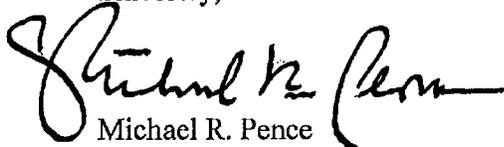
Because ethanol represents the second largest market for Indiana corn farmers, the EPA's proposal represents a severe shift in rural economic policy in our state. It has already had a chilling effect on those companies who are pursuing second generation biofuels from biomass, and if implemented, it would halt investment in additional infrastructure that would lead to more jobs in America's heartland. In addition, corn prices have been dropping steadily in recent months and are now approaching the farmers' cost of production, which is further evidence that now is a bad time to abruptly alter the market for corn.

.My concerns about the EPA's proposal are sincere and heartfelt, and so is my interest in working with you on a sensible resolution. We share the goal of offering consumers more fuel choices, and renewable fuels are on the cusp of solidifying their role in

achieving that goal. Blender pump installations are increasing, as is the number of flex-fuel vehicles available to consumer. Just as we have seen in many other industries, the biofuels industry continues its steady advancements with new technologies that make such production ever more efficient and valuable to many markets and customers. I encourage the ethanol industry to continue making technological strides in process, development, and use, and I ask that the EPA work together with industry leaders on a solution that advances both parties' long-term objectives. The long term future is bright for these fuels and the technology behind them, and I believe we can work together to make that future a reality.

Administrator McCarthy, I urge the EPA to halt this proposed action and work with us and other interested stakeholders in rural America to find ways to continue growing America's biofuels industry and increasing our nation's energy security.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. Pence". The signature is fluid and cursive, with a large initial "M" and a long horizontal stroke at the end.

Michael R. Pence  
Governor of Indiana

cc: Tom Vilsack, Secretary, United States Department of Agriculture



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

**MAR 12 2014**

THE ADMINISTRATOR

The Honorable Michael R. Pence  
Governor of Indiana  
State House, Second Floor  
Indianapolis, Indiana 46204

Dear Governor Pence:

Thank you for your letter dated January 21, 2014, regarding the 2014 volume requirements under the Renewable Fuel Standard program.

On November 29, 2013, the U.S. Environmental Protection Agency published in the *Federal Register* a proposed rule that would establish the 2014 RFS volume standards. In developing the proposed volumes, the EPA used the most recent data available and took into consideration multiple factors. Our analysis included an evaluation of both the expected availability of qualifying renewable fuels as well as factors that, in some cases, limit supplying those fuels to the vehicles and equipment that can consume them. On the basis of our analysis, we proposed to reduce the required volumes from statutory levels for 2014 for cellulosic biofuel, advanced biofuel and total renewable fuel. We proposed to maintain the same volume for biomass-based diesel for 2014 and 2015 as was adopted for 2013, but we have requested comment on whether to raise the biomass-based diesel volume requirement.

I want to emphasize that this is a proposal, and that the EPA has requested comment on many aspects of the proposed rule, including the methodology for determining volumes. The EPA also expects to receive additional data before finalizing the rule. Your letter has been placed in the rulemaking docket, and we will take your input under consideration as we, in conjunction with the U.S. Department of Agriculture and the U.S. Department of Energy, work towards finalizing this rule.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Mark Rupp, Deputy Associate Administrator for Intergovernmental Relations, at [rupp.mark@epa.gov](mailto:rupp.mark@epa.gov) or (202) 564-7178.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy".

Gina McCarthy



June 16, 2014

Honorable Barack Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. President:

As Governors leading diverse States that both produce and consume energy, we ask that you pursue a pragmatic energy policy that balances our nation's economic needs, energy security, and environmental quality objectives.

As you know, the energy industry is a major source of job creation in our country, providing employment to millions of our citizens and bolstering U.S. economic competitiveness. America was able to meet almost 90 percent of its energy needs last year—the most since March 1985—in large part because of increased domestic energy production. We take pride in the fact that domestic production largely powers America and increasingly other economies as well, helping to eradicate poverty and to provide political stability around the globe.

Development of our resources has put more money in the pockets of working families and has helped the poor and elderly on fixed incomes, who can now more easily afford to run their air conditioning in the heat of the summer. For example, American natural gas production is reducing average retail electricity prices by 10 percent, saving households, on average, nearly \$1,000 per year between 2012 and 2015.

This significant accomplishment of increased U.S. energy independence, with its associated economic and health benefits, has been achieved largely by State policies—despite redundant and burdensome

federal regulation. Your proposed rules for regulating greenhouse gas (GHG) emissions from existing power plants and redefining the Waters of the United States (WOTUS) would unnecessarily expand federal authority over the States in energy policymaking and risk undermining our success.

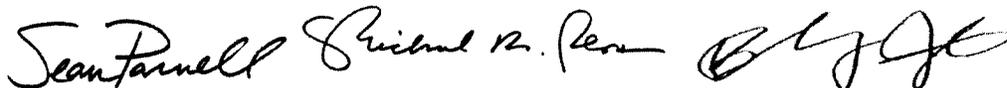
In an unprecedented move, your GHG emissions plan would largely dictate to the States the type of electricity generation they could build and operate. In addition, you seek to essentially ban coal from the U.S. energy mix. Your pursuit of this objective will heavily impact those of our states that rely primarily on coal for electricity generation—such a decision should not be made by unaccountable bureaucrats. Your Administration is also pushing for Washington to seize regulatory control of nearly all waters located in the States by expanding the definition of WOTUS. If successful, the federal government would become the arbiters of how our citizens, State highway departments, county flood control and storm water agencies, utilities, irrigation districts, and farmers use their water and their land.

Although we are still examining the impacts of the GHG proposal released on June 2 and the proposed expansion of WOTUS, we can confidently say that, according to the best available data, millions of jobs will be lost and billions of dollars will be spent over the coming decades in an effort to comply with these and other federal regulations. And those numbers stand to increase with every tightening of those standards – hitting particularly hard working families, poor, and elderly.

Perhaps most disturbing is the fact that your Administration is content to force Americans to bear these substantial costs where there are highly questionable associated environmental benefits. In fact, your EPA Administrator admitted during testimony to the U.S. Senate that there would be no climate mitigation benefits to America pursuing unilateral action. Moreover, in 2008, you personally guaranteed that under your energy plan, “electricity rates would necessarily skyrocket.” You admitted that your energy plan would have the following impact: “[Energy industries] would have to retrofit their operations—that will cost money. They will pass that money onto consumers.”

You rightly acknowledge that American citizens will literally pay the price of your energy agenda. They will also pay the price in the form of lost jobs and less reliable electricity. As representatives of the citizens who stand to lose so much while gaining next to nothing, it is our duty to confront this issue and to ask that you rescind the regulations you have put forth. Disposing of these regulations will protect Americans from the costs and burdens the rules would impose upon them and will ensure the continuation of America’s energy renaissance, which is indispensable to our country’s economic recovery and job creation and which is largely a result of State policies.

Sincerely,



Governor Sean Parnell  
Alaska

Governor Mike Pence  
Indiana

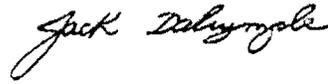
Governor Bobby Jindal  
Louisiana



Governor Phil Bryant  
Mississippi



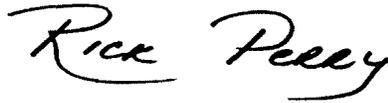
Governor Pat McCrory  
North Carolina



Governor Jack Dalrymple  
North Dakota



Governor Tom Corbett  
Pennsylvania



Governor Rick Perry  
Texas



Governor Matthew H. Mead  
Wyoming





STATE OF INDIANA  
OFFICE OF THE GOVERNOR  
State House, Second Floor  
Indianapolis, Indiana 46204

Michael R. Pence  
Governor

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November 14, 2014

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

The Honorable John McHugh  
Secretary of the Army  
101 Army Pentagon  
Washington, DC 20310

Via email to: [ow-docket@epa.gov](mailto:ow-docket@epa.gov)

Re: Definition of “Waters of the United States” Under the Clean Water Act Proposed Rule:  
Docket ID No. EPA–HQ–OW–2011–0880

Dear Administrator McCarthy and Secretary McHugh:

We write to share our deep concerns about the proposed rule defining the scope of “waters of the United States” protected under the Clean Water Act (CWA) that was released on March 25, 2014, by the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) (collectively, the “Agencies”). We urge the Agencies to withdraw the proposed rule and re-engage stakeholders to craft a set of rules that creates clarity, not confusion.

In the wake of recent U.S. Supreme Court cases, regulated industries and state regulators needed clarification about which waters are subject to the federal CWA and which remain under state jurisdiction. Clarification would bring greater certainty and predictability, and, to the extent that the Agencies seek to provide clarity, it is a goal worthy of pursuit.

However, the proposed rule does not advance this goal. Instead, the proposed rule has created confusion among stakeholders. Many stakeholders in Indiana, most notably our agriculture and energy industries, believe that the proposed rule expands the scope of federal regulation. Our agriculture industry is particularly concerned that the proposed rule expands federal jurisdiction over wet features, rendering normal farming practices like fence construction and drainage maintenance subject to federal permitting requirements. We cannot stand idly by and allow this result.

Indiana’s agriculture industry is working hard to help feed the world with 83 percent of land devoted to farms and forests and ranking 8<sup>th</sup> nationally in agriculture exports. Yet, agriculture finds its efforts thwarted by increasing federal regulation. Recent examples include changes to child labor laws and dust mitigation.

Similarly, Indiana's energy industry finds itself under siege from a barrage of federal regulations. Indiana is the top manufacturing state in the country by percentage of state gross domestic product, and we need a strong energy industry to provide affordable, reliable power for our economy. Their work is made more difficult by ever expanding, new and proposed federal regulations, including regulations on mercury and air toxin emissions, coal ash disposal, cooling water intake, and limitations on carbon dioxide emissions at new and existing power plants. Agriculture and energy are not alone in their concern. Builders, developers, manufacturers, and other stakeholders all fear that the proposed rules represent an expansion of federal jurisdiction. Given the federal government's recent proclivity for new regulations that increase the size and scope of the federal government, we share their fears.

We firmly believe that solutions to the challenges we face will most effectively emanate from our state capitals, not Washington, D.C. In Indiana, we are growing our economy, creating jobs, and feeding the world by eliminating bureaucratic red tape and reducing the size of government. We believe that Indiana knows best how to protect its waters, and we believe that the proposed rules inhibit Indiana's ability to manage its own affairs.

We respectfully urge the Agencies to withdraw the proposed rules, re-engage stakeholders, and prepare a set of proposed regulations that provide the clarity needed while establishing an appropriate balance between state authority and federal jurisdiction. We also draw the Agencies' attention to the comment letter filed by our Indiana Department of Environmental Management and Indiana State Department of Agriculture for further delineation of Indiana's concerns with the proposed rules.

Sincerely,



Michael R. Pence  
Governor of Indiana



Sue J. Ellspermann  
Lt. Governor and Secretary of Agriculture



JAN 15 2015



The Honorable Michael R. Pence  
Governor of Indiana  
State House, Second Floor  
Indianapolis, Indiana 46204

Dear Governor Pence:

Thank you for your letter dated November 14, 2014, to the U.S. Environmental Protection Agency and the Department of the Army providing comments on the proposed rule, "Definition of 'Waters of the United States' Under the Clean Water Act."

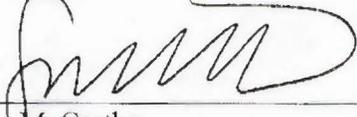
The perspectives of you and your state colleagues are critical to our agencies' efforts to protect clean water. Even before releasing the proposed rule, our agencies began engaging with our stakeholders about how to clarify protection for streams and wetlands under the Clean Water Act. Specifically, since 2011, we have been discussing these changes with our state and tribal partners, the regulated community, and the general public. Our ultimate decision to pursue a rulemaking was in direct response to this earlier engagement and requests from members of Congress, state and local officials, industry, agriculture, environmental groups, and the public.

Since the proposed rule was published on April 21, 2014, the EPA and the Army have participated in more than 400 meetings with stakeholders, including states and state organizations, to better understand their perspectives on the proposed rule. The agencies' close coordination with states continued during the public comment period through a series of conference calls organized by both the Association of Clean Water Administrators and the Environmental Council of the States, helping the agencies to hear valuable state perspectives.

The agencies are committed to carefully reviewing the approximately 800,000 written comments we have received on the proposed rule. Those comments, including your letter, are in the official docket, identified by Docket ID EPA-HQ-OW-2011-0880 at <http://www.regulations.gov>. The states are vital partners in the implementation of Clean Water Act programs, and we will continue our close coordination as we work to develop a final rule.

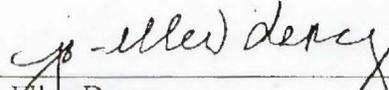
Thank you again for your letter. If you have further questions or concerns, please contact us, or your staff may contact Mr. Mark Rupp in the EPA's Office of Congressional and Intergovernmental Relations at rupp.mark@epa.gov or (202) 564-7178, or Mr. Chip Smith in the Office of the Assistant Secretary of the Army (Civil Works) at charles.r.smith567.civ@mail.mil or (703) 693-3655.

Sincerely,



---

Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency



---

Jo-Ellen Darcy  
Assistant Secretary of the Army (Civil Works)  
Department of the Army



STATE OF INDIANA  
OFFICE OF THE GOVERNOR  
State House, Second Floor  
Indianapolis, Indiana 46204

Michael R. Pence  
Governor

December 1, 2014

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

Re: "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units" under the Clean Air Act Proposed Rule, June 18, 2014, 79 Fed. Reg. 34830

Dear Administrator McCarthy:

I write to express my great dismay and strong opposition to the proposed rules designed to reduce carbon dioxide emissions from existing power plants. I urge you to withdraw the proposed rules without delay.

The proposed rules are ill-conceived and poorly constructed. They exceed the legal authority granted to the U.S. Environmental Protection Agency (EPA) under the Clean Air Act. They seek to fundamentally restructure how our electricity grid functions while making our electricity less reliable. They will contribute to higher electricity prices at a time when our economy can least afford it. They will drive investment to other countries instead of creating jobs here at home. In short, the proposed rules will hurt Indiana and the rest of the country.

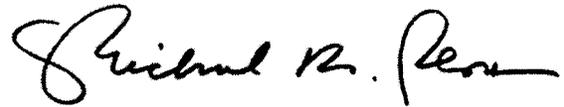
Moreover, the proposed rules will have a negligible impact on global carbon dioxide emissions, the reduction of which is President Obama's explicit goal motivating the creation of these rules. This is too much pain for very little gain.

Home to the highest concentration of manufacturing jobs in the nation, Indiana depends heavily on coal-burning power plants for reliable and affordable energy. More than 28,000 Hoosiers are employed in the coal industry. Those workers, along with Hoosier rate-payers, deserve better than this proposed regulation. The U.S. EPA proposal does not strike the proper balance to protect the health of the environment with the health of our economy and our position in the global marketplace. It will impede economic growth and prosperity at a time when we need to promote it.

I direct your attention to additional comments submitted jointly by agencies within my Administration. Their detailed comments identify a plethora of concerns with the

proposed rules, including policy, legal, and technical perspectives. These comments clearly show the dysfunction represented by the proposed rules and further substantiate the need to withdraw the proposal. I urge you to do so without delay.

Sincerely,

A handwritten signature in black ink that reads "Michael R. Pence". The signature is written in a cursive, flowing style with a prominent initial "M" and a long, sweeping underline.

Michael R. Pence  
Governor of Indiana



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

JAN 12 2015

THE ADMINISTRATOR

The Honorable Mike Pence  
Governor of Indiana  
State Capitol  
Indianapolis, Indiana 46204

Dear Governor Pence:

Thank you for your letter of December 1, 2014, regarding the Clean Power Plan for existing power plants that I signed on June 2, 2014, and published in the *Federal Register* on June 18, 2014.

Climate change induced by human activities is one of the greatest challenges of our time. It already threatens human health and welfare and our economic well-being, and if left unchecked, it will have devastating impacts on the United States and the planet. Power plants are the largest source of carbon dioxide emissions in the United States, accounting for roughly one-third of all domestic greenhouse gas emissions. The proposed Clean Power Plan builds on what states, cities and businesses around the country are already doing to reduce carbon pollution and establishes a flexible process for states to develop plans to reduce carbon dioxide that meet their needs. We have placed your comments in the docket for this rulemaking.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Mark Rupp, Deputy Associate Administrator for Intergovernmental Relations, at [rupp.mark@epa.gov](mailto:rupp.mark@epa.gov) or (202) 564-7178.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy".

Gina McCarthy



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUL 07 2016

THE ADMINISTRATOR

The Honorable Mike Pence  
Governor of Indiana  
State House  
Room 206  
Indianapolis, Indiana 46204-2797

Dear Governor Pence:

I am writing to follow up my letter of February 29, 2016, asking that your state work with the EPA to address deficiencies and improve transparency and public information regarding the implementation of the Lead and Copper Rule (LCR).

Every state has expressly confirmed – either in its initial response to the February 29 letters or in follow-up communications with the EPA – that state protocols and procedures are fully consistent with the LCR and applicable EPA guidance, including protocols and procedures for optimizing corrosion control, and that the state has already posted or will post state LCR sampling protocols and guidance to their public websites. EPA staff will be following up with every state to ensure that these protocols and procedures are clearly understood and are being properly implemented to address lead and copper issues at individual drinking water systems, and to offer EPA assistance if needed. In addition, we will continue to work with states to ensure that lead action level exceedances and LCR violations are promptly and appropriately addressed. I urge you to continue to support your state's efforts in this area.

I am attaching a letter Joel Beauvais, Deputy Assistant Administrator for Water, sent to state environmental and public health commissioners through the Environmental Council of States and the Association of State and Territorial Health Officials. As noted in this letter, a number of states' responses to EPA's February 29 letters identified practices and policies that enhance the implementation of the LCR and increase public transparency. These include posting individual sampling results on a public website, shortening the reporting and notice timeframes under the LCR, providing the public with information on lead service line locations, and working with drinking water systems, school boards and departments of education to identify and address lead risks at schools. I encourage all states to learn from each other and urge you to support your state agency in implementing best practices that strengthen public health protection and promote transparency.

I want to acknowledge that there is also important work to be done to strengthen the LCR, and that certain systems will need continued assistance and oversight while we work with the states to develop proposed revisions to the rule. In the interim, the EPA will continue to work closely with the states to ensure that the proper steps are being taken to implement the current rule and protect the public from harmful exposures to lead and copper in drinking water.

Again, thank you for your active engagement as we work to strengthen the protection of our nation's drinking water. Please do not hesitate to contact me, or your staff may contact Mark Rupp, Deputy Associate Administrator for the EPA's Office of Congressional and Intergovernmental Relations, at [rupp.mark@epa.gov](mailto:rupp.mark@epa.gov) or (202) 564-7178.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy". The signature is fluid and cursive, with a large initial "G".

Gina McCarthy

Enclosure



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

JUL 25 2013

THE ADMINISTRATOR

The Honorable Mike Pence  
Governor of Indiana  
Office of the Governor, Statehouse  
Indianapolis, Indiana 46204-2797

Dear Governor Pence:

The U.S. Environmental Protection Agency is moving forward to identify areas throughout the country where monitors have detected levels of sulfur dioxide above the health-based National Ambient Air Quality Standard set in 2010. This action, required under the Clean Air Act, will assure continued work to reduce sulfur dioxide emissions and improve air quality in these areas.

In 2010, the EPA set a one-hour, health-based national air quality standard for sulfur dioxide at 75 parts per billion. The revised standard will improve public health protection, especially for children, the elderly, and people with asthma. These groups are susceptible to health problems associated with breathing sulfur dioxide, including narrowing of the airways which can cause difficulty breathing and increased asthma symptoms.

After reviewing the most recent certified sulfur dioxide air monitoring data and evaluating nearby areas that contribute to the monitored levels, I have determined that some areas in Indiana violate the revised 2010 health-based standard for sulfur dioxide or contribute to a violation of the standard in a nearby area. As directed by the Clean Air Act, the EPA is designating these areas "nonattainment." I appreciate the information that Indiana shared with the EPA as we take this step to inform citizens about their air quality. I look forward to working with you to continue the process of protecting public health by reducing sulfur dioxide levels in the air.

The enclosed table lists the areas within Indiana that the EPA is designating as nonattainment during this initial round of designations, in agreement with your May 2011 recommendation. These nonattainment designations will take effect 60 days after the notice I signed today defining the area boundaries is published in the *Federal Register*. For these nonattainment areas, measures to reduce sulfur dioxide emissions will be needed. The Clean Air Act directs Indiana to develop a State Implementation Plan that shows how the areas will attain the sulfur dioxide standard as quickly as possible but no later than 5 years from the effective date of these designations. These plans need to be submitted to the EPA within 18 months from the effective date of designation of the nonattainment areas.

At this time the EPA is designating as nonattainment areas in locations where monitoring data indicate violations of the 1-hour sulfur dioxide standard. The EPA intends to address the designations for all other areas in separate future actions. With input from a diverse group of stakeholders, the EPA has developed a comprehensive implementation strategy for these future actions that focuses resources on

identifying and addressing unhealthy levels of sulfur dioxide in areas where people are most likely to be exposed to violations of the standard. The strategy is available at:  
<http://www.epa.gov/airquality/sulfurdioxide/implement.html>.

Thank you for your continued work to improve air quality and protect public health. We look forward to working with you and your staff to implement the 2010 health-based sulfur dioxide standard. For additional information regarding these designations, please visit our website at [www.epa.gov/so2designations](http://www.epa.gov/so2designations).

Sincerely,



Gina McCarthy

Enclosure

Enclosure – Initial Nonattainment Area Designations, Indiana

State	Area Name	County Name	Designation
Indiana	Indianapolis, IN	Marion (p)	Nonattainment
	Morgan County, IN	Morgan (p)	Nonattainment
	Southwest Indiana, IN	Daviess (p)	Nonattainment
		Pike (p)	
	Terre Haute, IN	Vigo (p)	Nonattainment

Designations for the rest of the state will be addressed in a separate future action.





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

APR 1 2008

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Mike Pence  
United States House of Representatives  
Washington, D.C. 20515

Dear Representative Pence:

I am pleased to invite you to attend the U.S. Environmental Protection Agency's (EPA's) 2008 Brownfields grant announcement. This recognition event will take place on Monday, April 7, 2008 at 2:00 p.m. at the Former Donaldson Art Sign Facility in Covington, Kentucky.

I hope you will have the opportunity to join me to recognize the City of Richmond and many other deserving grantees.

As you may know, on January 11, 2002, President Bush signed the Small Business Liability Relief and Brownfields Revitalization Act to assist States and communities throughout the country in their efforts to revitalize and reclaim brownfields sites. This grant announcement event provides an excellent opportunity to highlight the success that is possible when communities and governments work together to improve the environment.

I hope your schedule allows you to participate in this positive, newsworthy event. The event will begin at 2:00pm, Monday, April 7, 2008 at 2125 Donaldson Ave. in Covington. The event will last approximately one hour and ten grantees from Kentucky, Indiana and Ohio have been invited to attend. The event will be followed by check presentations to all of the attending grantees. I expect national, regional, and local press to attend.

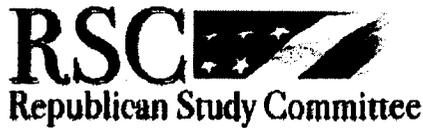
I hope you and the successful Indiana grantees will join us for this important event. If you have any questions, please contact me, or your staff may contact Amy Hayden with EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0555.

Sincerely,

  
Susan Parker Bodine  
Assistant Administrator

760746

From: House  
To: W/W  
L. P. ...  
52



Rep. Jeb Hensarling (R-TX), Chairman  
Russ Vought, Executive Director

132 Cannon House Office Building  
Washington, DC 20515



[www.house.gov/hensarling/rsc](http://www.house.gov/hensarling/rsc)

ph (202) 226-9717 / fax (202) 226-1633

August 1, 2008

The President  
The White House  
Washington, D.C. 20500

Dear Mr. President,

The House of Representatives has not taken a vote since January 2007 that would expand domestic energy production. All the while, Americans are hurting. Every time they go to fill-up their cars, trucks or tractors they feel the pain at the pump. High gas prices are harming the vitality of our families, the elderly, small businesses, and family farms. Each and every American is affected.

Today the Democrat controlled Congress adjourned for a five-week vacation without taking a vote on bipartisan measures that would lessen our dependence on foreign oil by allowing more domestic drilling on the Outer Continental Shelf. In fact, they adjourned without even allowing time for debate on the subject of drilling.

On July 14, 2008, you took the strong action of lifting the executive order that had banned offshore drilling. In so doing, you said that allowing offshore oil drilling is "one of the most important steps we can take" to reduce the burden of high gas prices. Now, all it would take is an act of Congress for that drilling to begin.

Since Speaker Pelosi has decided not to keep the House in session to allow this vote to take place, we urge you to use the power vested in you by the Constitution to convene an immediate energy special session of Congress. Under Article II, Section 3 of the Constitution, you have the power "on extraordinary occasions" to convene the Congress.

We believe that the energy emergency that has increased the pain felt by Americans when they purchase \$4 per gallon gasoline is an extraordinary occasion. We urge you to immediately bring the Congress back into session to do its job and give the bipartisan, pro-drilling majority a vote.

Thank you for your consideration of our request.

Sincerely,

Mike Pence  
Member of Congress

Jeb Hensarling  
Member of Congress

MICHAEL R. PENCE  
SIXTH DISTRICT, INDIANA

COMMITTEES:  
**JUDICIARY**  
SUBCOMMITTEES:  
CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES  
COURTS, THE INTERNET, AND  
INTELLECTUAL PROPERTY  
**FOREIGN AFFAIRS**  
SUBCOMMITTEE:  
MIDDLE EAST AND SOUTH ASIA—RANKING MEMBER

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-1406

WASHINGTON OFFICE:  
1317 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-3021  
FAX: (202) 225-3382

DISTRICT OFFICES:  
1134 MERIDIAN PLAZA 204 SOUTH WALNUT STREET  
ANDERSON, IN 46016 MUNCIE, IN 47305  
(765) 640-2919 (765) 747-5566  
FAX: (765) 640-2922 FAX: (765) 747-5586

50 NORTH 5TH STREET  
RICHMOND, IN 47374  
(765) 962-2883  
FAX: (765) 962-3225

November 14, 2008

Christopher Bliley  
Associate Administrator for Congressional  
Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Ariel Rios Bldg. North, Room 3426  
Washington, D.C. 20460-0001

Dear Friend:

My constituent, [REDACTED] (b) (6) has contacted my office concerning obtaining all paper work pertaining to the site located at [REDACTED] (b) (6) ..

Enclosed is a signed authorization form.

I would appreciate it if you would review this matter and provide me with any information that may be helpful to my constituent. Please direct your response to Kevin Sulc in Anderson Office at 1134 Meridian Plaza, Anderson, Indiana 46016.

I am grateful for any assistance you may be able to provide in this case.

Sincerely,



Mike Pence  
Member of Congress

MRP: kas  
enclosure

Michael R. Pence  
Sixth District, Indiana

Congress of the United  
States

House of Representatives  
Washington, DC 20515-1402

Committees:  
Judiciary  
Foreign Affairs

D.C. Office:  
1317 Longworth House Office Building  
Washington, DC 20515  
(202) 225-3021  
(202) 225-3382

District Offices:  
1134 Meridian Plaza  
Anderson, IN 46016  
(765) 640-2919  
Fax: (765) 640-2922

204 S. Walnut Street  
Muncie, IN 47305  
(765) 747-5566  
Fax: (765) 747-5586

50 North 5<sup>th</sup> Street  
Richmond, IN 47374  
(765) 962-2883  
Fax: (765) 962-3225

Sub Committees:  
Middle East and South Asia  
Constitution Civil Rights & Civil Liberties  
Constitution Internet & Intellectual Properties

Authorization in Accordance with the 1974 Privacy Act

Name: (b) (6)  
Address: [Redacted]  
City: (b) (6) State: (b) (6) Zip: (b) (6)  
Home P: [Redacted]  
Social S: [Redacted]  
Attorne: [Redacted]

Please describe the specific information you are requesting or the exact nature of the problem you are experiencing. Send copies of any relevant information (DO NOT SEND ORIGINALS). Please indicate if you have a representative working for you. Use extra paper if necessary.

*all paper work pertaining to site*

(b) (6) [Redacted]

*with cost for cleanup.*

THE PRIVACY ACT OF 1974 PROHIBITS THE GOVERNMENT FROM REVEALING ANY INFORMATION FROM PERSONAL FILES OF INDIVIDUALS WITHOUT THE EXPRESS PERMISSION OF THE PERSON INVOLVED. DISCLOSURE OF PERSONAL RECORDS TO A MEMBER OF CONGRESS WHO IS ACTING ON BEHALF OF THE CONSTITUENT IS PROHIBITED, UNLESS THE INDIVIDUAL TO WHOM THE RECORD PERTAINS HAS CONSENTED.

I, the undersigned, hereby authorized the office of U.S. Representative Mike Pence to receive information in my (b) (6)

SIGNATURE: [Redacted]



AL-08-001-4915  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

DEC 03 2008

REPLY TO THE ATTENTION OF

R 19J

The Honorable Mike Pence  
Member, United States  
House of Representatives  
1134 Meridian Plaza  
Anderson, Indiana 46016

Dear Congressman Pence:

Thank you for your letter of November 14, 2008 on behalf of your constituent, (b) (6) requesting copies of all paper work pertaining to the site located at (b) (6)

On January 22, 2004, the United States Environmental Protection Agency determined that the site posed a potential threat to public health and the environment and that a removal action was necessary to clean up the site. The removal action was completed by the Superfund Division on August 3, 2004. The clean up was limited to the removal of polychlorinated biphenyl (PCB) materials including PCB contaminated soil and concrete.

There is a significant amount of paperwork related to this site. As my staff informed Kevin Sulc of your Anderson office, we will be handling (b) (6) request for these documents under the Freedom of Information Act and will be responding directly to (b) (6) regarding what materials can be released and any costs associated with copying these records.

Again, thank you for your letter. If you have any questions, please contact me or your staff can contact Mary Canavan or Ronna Beckmann, the Region 5 Congressional Liaisons, at 312-886-3000.

Sincerely,

Lynn Buhl  
Regional Administrator

MICHAEL R. PENCE  
SIXTH DISTRICT, INDIANA

COMMITTEES:  
JUDICIARY

SUBCOMMITTEES:

CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES  
COURTS, THE INTERNET, AND  
INTELLECTUAL PROPERTY

FOREIGN AFFAIRS

SUBCOMMITTEE:

MIDDLE EAST AND SOUTH ASIA—RANKING MEMBER

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-1406**

WASHINGTON OFFICE:  
1317 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-3021  
FAX: (202) 225-3382

DISTRICT OFFICES:  
1134 MERIDIAN PLAZA 204 SOUTH WALNUT STREET  
ANDERSON, IN 46016 MUNCIE, IN 47305  
(765) 840-2919 (765) 747-5566  
FAX: (765) 840-2922 FAX: (765) 747-5586

50 NORTH 5TH STREET  
RICHMOND, IN 47374  
(765) 962-2883  
FAX: (765) 962-3225

December 2, 2008

Christopher Bliley  
Associate Administrator for Congressional  
Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Ariat Rios Bldg. North, Room 3426  
Washington, D.C. 20460-0001

Dear Mr. Bliley:

A constituent has contacted me concerning either a current rule or proposed rule which exempts animal waste at farms from being part of public reports of air quality. They want to know if this is the case. This relates to large confined animal feeding operations.

I would appreciate it if you would review this matter and provide me with any information that may be helpful to my constituent. Please direct your response to Kevin Sulc in Anderson Office at 1134 Meridian Plaza, Anderson, Indiana 46016.

I am grateful for any assistance you may be able to provide in this case.

Sincerely,



Mike Pence  
Member of Congress

MRP: kas



# OFFICE OF CONGRESSMAN MIKE PENCE

To: CONGRESSIONAL AFFAIRS - EPA

From:



**KEVIN A. SULC**  
District Representative  
Congressman Mike Pence

765.640.2919  
765.640.2922 Fax

1134 Meridian Street  
Anderson, IN 46016

kevin.sulc@mail.house.gov  
1.800.382.8655

Date: 12 / 02 / 08

Fax Number: 202-501-1519

Pages: 2 (Including Cover Sheet)

Comments:

**Confidentiality Notice:** The information in this document is intended solely for the designated recipient and may be confidential. If this transmission is received by mistake, please contact the sender to arrange for the return of the document. Thank you.



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

**DEC 31 2008**

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Michael R. Pence  
U.S. House of Representatives  
1134 Meridian Plaza  
Anderson, Indiana 46016

Dear Congressman Pence:

Thank you for your letter of December 2, 2008, requesting information for a constituent about a current rule or proposed rule that exempts animal waste at farms from being part of public reports of air quality. The Office of Solid Waste and Emergency Response issued a final rule that may be the focus of your constituent's query.

EPA finalized an administrative reporting exemption to the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and a limited exemption under the Emergency Planning and Community Right-to-Know Act (EPCRA). The reporting exemption applies to releases of hazardous substances to the air that meet or exceed their reportable quantity when the source of those hazardous substances is animal waste at farms. EPA will still require large concentrated animal feeding operations to provide emergency notifications under EPCRA. This final rule, "CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms," was signed by the EPA Administrator on December 12, 2008 and was published in the Federal Register on December 18, 2009. More information about this rule can be found on our website at [www.epa.gov/emergencies](http://www.epa.gov/emergencies).

The final administrative reporting exemption is limited to releases of hazardous substances to the air where the source of those hazardous substances is animal waste at farms. Notifications must still be made to response authorities when hazardous substances are released to the air from sources other than animal waste (e.g., ammonia tanks), and when hazardous substances are released to soil and water. Furthermore, the final rule does not limit any of the Agency's other authorities under CERCLA sections 104 (response authorities), 106 (abatement actions), 107 (liability), or any other provisions of CERCLA or EPCRA.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Carolyn Levine, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-1859.

Sincerely,

A handwritten signature in black ink that reads "Susan Parker Bodine". The signature is written in a cursive style with a large initial "S".

Susan Parker Bodine  
Assistant Administrator

**MICHAEL R. PENCE**  
SIXTH DISTRICT, INDIANA

COMMITTEES:  
**JUDICIARY**

SUBCOMMITTEES:  
CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES  
COURTS, THE INTERNET, AND  
INTELLECTUAL PROPERTY

**FOREIGN AFFAIRS**

SUBCOMMITTEE:  
MIDDLE EAST AND SOUTH ASIA—RANKING MEMBER

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-1406

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50 NORTH 5TH STREET  
RICHMOND, IN 47374  
(765) 962-2883  
FAX: (765) 962-3225

January 27, 2009

Christopher Bliley  
Associate Administrator for Congressional  
Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Ariat Rios Bldg. North, Room 3426  
Washington, D.C. 20460-0001

Dear Friend:

My constituent, [REDACTED] (b) (6) [REDACTED] has contacted my office concerning a proposed penalty due to a violation of NESHAP regulations.

Enclosed is his signed authorization form and letter to me.

I would appreciate it if you would review this matter and provide me with any information that may be helpful to my constituent. Please direct your response to Kevin Sulc in Anderson Office at 1134 Meridian Plaza, Anderson, Indiana 46016.

I am grateful for any assistance you may be able to provide in this case.

Sincerely,



Mike Pence  
Member of Congress

MRP: kas  
enclosure

Michael R. Pence  
Sixth District, Indiana

Congress of the United States  
House of Representatives  
Washington, DC 20515-1402

Committees:  
Judiciary  
Sub Committees:  
Constitution, Civil rights & Civil Liberties  
Courts, Internet & Intellectual Property

Foreign Affairs  
Middle East and South Asia  
Subcommittee:  
Middle East and South Asia

D.C. Office:  
1431 Longworth House Office Building  
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(202) 225-3021  
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204 S. Walnut Street  
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Fax: (765) 747-5586

50 North 5th Street  
Richmond, IN 47374  
(765) 962-2883  
Fax: (765) 962-3225

Authorization in Accordance with the 1974 Privacy Act

Name: (b) (6)  
Address: (b) (6)  
City: (b) (6)  
Home Phone: (b) (6)  
Social Security: (b) (6)  
Attorney: (b) (6)

Please describe the specific information you are requesting or the exact nature of the problem you are experiencing. Send copies of any relevant information (DO NOT SEND ORIGINALS). Please indicate if you have a representative working for you. Use extra paper if necessary.

- 1.) LETTER ATTACHED
- 2.) EPA "FINDING OF VIOLATION" ATTACHED

THE PRIVACY ACT OF 1974 PROHIBITS THE GOVERNMENT FROM REVEALING ANY INFORMATION FROM PERSONAL FILES OF INDIVIDUALS WITHOUT THE EXPRESS PERMISSION OF THE PERSON INVOLVED. DISCLOSURE OF PERSONAL RECORDS TO A MEMBER OF CONGRESS WHO IS ACTING ON BEHALF OF THE CONSTITUENT IS PROHIBITED, UNLESS THE INDIVIDUAL TO WHOM THE RECORD PERTAINS HAS CONSENTED.

I, the undersigned, hereby authorized the office of U.S. Representative Mike Pence to receive information in my file pertinent to his inquiry on my behalf.

SIGNATURE: (b) (6) Date: (b) (6)

(b) (6)

January 7, 2009

Michael R. Pence  
Sixth District, Indiana  
Unites States House of Representatives  
Washington, DC 20515-1402

Dear Congressman Pence,

#### PURPOSE OF LETTER

On May 2, 2008, (b) (6) was issued a Finding of Violation by the EPA alleging that the Company had exceeded the applicable limit of organic HAP per gallon as allowed by our air permit. On December 4, 2008 the Company was informed of a proposed penalty in the amount of \$54,000. The proposal from EPA provides for "some additional deductions for cooperation and quick settlement". *The Company believes the proposed penalty to be very onerous and requests the assistance of your office to help in a reasonable settlement being achieved.*

We want to clearly state that our issue is not directed towards the EPA or with the process the EPA has taken. We are very frustrated and disappointed in that we believe that we have done all of the things that the EPA would like to see a manufacturer such as us do, and the system is penalizing us unfairly for a technical violation.

#### ABOUT THE COMPANY

(b) (6) and its predecessor company (b) (6) has been in existence since the 1940's. The Company currently has more than 200 employees producing sales that approach \$30,000,000 annually. Primary customers include Caterpillar, Toyota Industrial Products, International Truck and Engine and Bendix. The Company culture and its philosophy as stated in it's mission statement published in 2001 is to be an "exemplary citizen" in the community and to be compliant with all regulations and laws.

(b) (6) products and services include metal stamping, fabrication and powder coat finishing.

The Company is privately held with (b) (6) each owning a 50% interest.

(b) (6)

Page 2.

## COMPANY REGISTRATIONS

(b) (6) was first registered to the QS9000 standard in 1996. In 2006 this registration migrated to the ISO9001: 2000 standard which is in force currently.

In 2006 the Company was registered to the ISO14001 environmental standard. The Company has an extensive compliance/recycling program in place that would exceed that of most other USA companies.

## TIME LINE OF SOLVENT COATING AT (b) (6)

(b) (6) installed a high volume solvent based metal coating system utilizing a zinc phosphate pre-treatment process in 1978. Air and wastewater permits were applied for and granted.

In 1994 the system was upgraded to eliminate the zinc phosphate process and convert to an iron phosphate process which was environmentally favorable.

In 2001 the Company added the powder coating process, which is the most favorable coating system environmentally. Both the solvent coating system and the powder coating system were utilized depending upon the process specified by our customers. The initial investment to add powder coating to our system was \$100,000. The intent of the Company was to, over a reasonable period of time convert all coating to the powder coat process.

In addition, the primary curing oven was recently upgraded with additional insulation to more effectively handle the higher curing temperatures required with powder coating and to help the environment by making more efficient use of the natural gas that fuels the oven and to reduce the loss of heat into the atmosphere.

In 2006, as originally planned, all customers who were still specifying solvent coating material were informed that the Company was going to totally eliminate solvent based coating and that it would be necessary for them to approve a powder coat alternative. This decision to convert totally to powder coating was not based upon economic considerations. Powder coating costs the same as solvent coating. The decision was made to minimize the impact on our environment.

It was determined that there were certain customer parts that could not be converted to powder coat. The most significant was for Caterpillar. CAT was required to resource these parts elsewhere. The annual sales that the Company lost for those parts were almost \$1,000,000.

A major positive environmental impact of the conversion to powder coating means that the Company no longer qualifies for a Clean Air Act "Major Source" designation for either Volatile

Page 4.

### WHAT DOES THE COMPANY REQUEST

The Company does not deny the violation. It occurred inadvertently in the process of the Company taking a major positive step forward to dramatically reduce environmentally undesirable air emissions from our painting operation.

The Company believes the proposed penalty to be very onerous and requests the assistance of your office to help in a reasonable settlement being achieved.

The Company does not expect the violation, even though it is a technicality, to be reversed.

What the Company does request is that the penalty be more realistic. The Company has totally discontinued the solvent coating process. *And the decision to discontinue the process was made long before the violation occurred – not as a result of it.*

Metal fabrication and manufacturing in the United States is under fire from every quadrant. A recession; global competition; the cost, availability and price volatility of steel; fuel for process, heating and trucking; the preceding all add up to a complex and difficult environment in which to survive - let alone prosper.

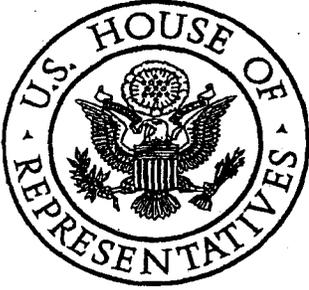
We do not need to add our government to the above list of difficulties. And in our case, we as a Company did every thing right and for the right reason. We should not be penalized so severely for the technical violation. Onerous penalties such as this make us that much less competitive in a global economy. This leads to lost jobs and a declining manufacturing base in the United States.

Time is of the essence in a resolution being determined. The Company does not desire to be anything but “cooperative” in resolving this issue. The EPA point person communicating with the Company is an attorney. Consequently, the Company has had no choice but to retain legal council to represent its interests and, if necessary, defend it.

### THANK YOU

(b) (6) [REDACTED] and all of its associates appreciate your interest and help. Please advise me of any additional information you need or questions you have. Since time is sensitive could I be contacted by your office to update me on what assistance I can expect?

(b) (6) [REDACTED]



# OFFICE OF CONGRESSMAN MIKE PENCE

To: Christopher Bliley

From:



KEVIN A. SULC  
District Representative  
Congressman Mike Pence

765.640.2919  
765.640.2922 Fax

kevin.sulc@mail.house.gov  
1.800.382.8655

1134 Meridian Street  
Anderson, IN 46016

Date: 01 / 27 / 09

Fax Number: (202) 501-1519

Pages: 7 (Including Cover Sheet)

Comments:

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AL-09-000-1065



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

FEB 12 2009

REPLY TO THE ATTENTION OF:

R-19J

The Honorable Michael R. Pence  
Member, U.S. House of Representatives  
1134 Meridian Plaza  
Anderson, Indiana 46016

Dear Congressman Pence:

Thank you for your letter of January 27, 2009, concerning the Finding of Violation issued to (b) (6) and the resulting proposed penalty. I share your interest in seeking equitable penalties in the resolution of environmental enforcement actions.

As you know, the air quality of the United States, and particularly the Region, is an ongoing concern. Enforcement of the Clean Air Act is an essential component in protecting public health, and we are charged with assessing penalties based upon our policies that are proportionate and warranted by the specifics of each case. In this instance, (b) (6) was among numerous facilities required by the Clean Air Act to be in compliance with the National Emission Standards for Hazardous Air Pollutants: Surface Coating of Miscellaneous Metal Parts by January of 2007. Unfortunately, the company was not in compliance by that date. Since it identified the violation, (b) (6) has worked cooperatively with the Agency. We can and will take that cooperation into account as we continue to negotiate an appropriate penalty to conclude the matter.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Mary Canavan or Ronna Beckmann, the Region 5 Congressional Liaisons at 312-886-3000.

Sincerely,

*Walter W. Karatich*  
Bharat Mathur for  
Acting Regional Administrator

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

September 22, 2010

Lisa P. Jackson  
Administrator, U.S. Environmental Protection Agency  
Ariel Rios Bldg., 1200 Pennsylvania Ave., NW  
Washington, DC 20460

Dear Administrator Jackson:

As members of the bipartisan Congressional Sportsmen's Caucus, the largest and most active caucus on Capitol Hill, we are writing to urge you to dismiss the petition to ban the use of lead in fishing products. The attached letter from leading hunting, fishing and conservation organizations clearly points out that there is no scientific basis to warrant such a far reaching ban on traditional fishing equipment. A similar proposal to ban lead fishing tackle was dismissed by the EPA in the mid-1990s, because there was insufficient data to support such a ban – there is no additional data to support a ban today.

The American wildlife management model is the best in the world, and one of the pillars of this model is that the states retain the authority to manage most of their fish and wildlife. These state agencies are already monitoring and addressing any of the localized issues surrounding lead, making this draconian ban not only unnecessary, but intrusive. In a letter to you on this very issue dated September 2nd, the Association of Fish and Wildlife Agencies, which represents the collective perspectives of the 50 state fish and wildlife agencies, concludes, "A national ban on lead fishing sinkers is therefore neither necessary nor appropriate."

The President's "America's Great Outdoors" initiative is aimed at reconnecting Americans to the outdoors; fishing is an accessible, fun, family oriented activity that should be embraced and encouraged as part of this initiative. A ban on traditional fishing tackle will drive up costs substantially and serve as a disincentive for more Americans to get outside and enjoy this great pastime.

There are 60 million recreational anglers in America that contribute \$125 billion to our economy annually. Penalizing these men, women and children that are the best stewards of our environment, as well as the financial backbone to fish and wildlife conservation in our country, would be a terrible and unnecessary injustice.

We urge you to deny the petition to ban the use of lead in fishing products.

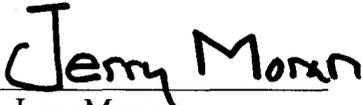
Sincerely,



Rep. Dan Boren



Rep. Paul Ryan



Rep. Jerry Moran



Rep. Jo Bonner



Rep. John Boozman



Rep. Michael K. Simpson



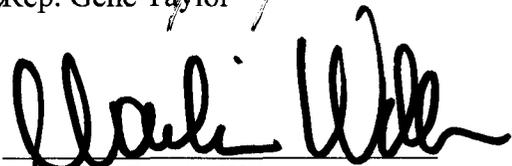
Rep. Donald A. Manzullo



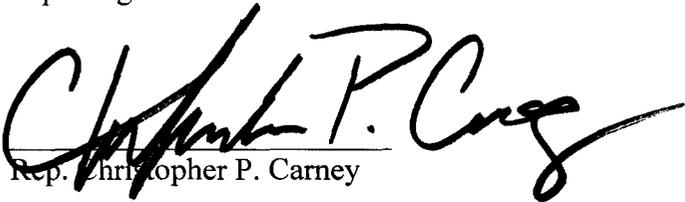
Rep. Gene Taylor



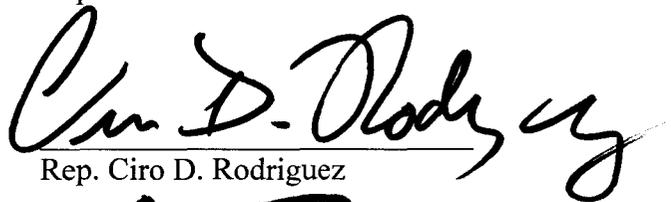
Rep. Virginia Foxx



Rep. Charles A. Wilson



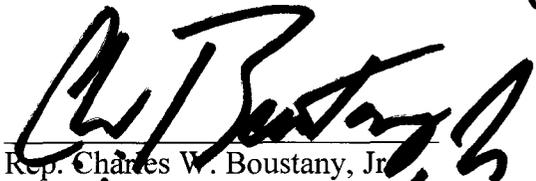
Rep. Christopher P. Carney



Rep. Ciro D. Rodriguez



Rep. Marsha Blackburn



Rep. Charles W. Boustany, Jr.

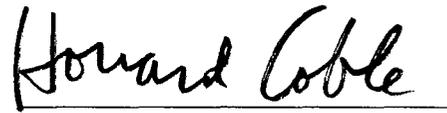


Rep. Michael T. McCaul

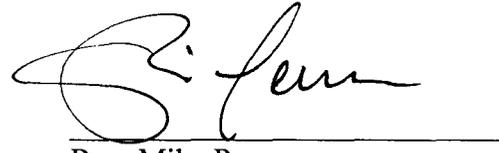


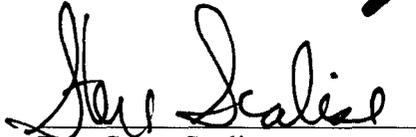
Rep. Jeff Miller

  
Rep. Bart Stupak

  
Rep. Howard Coble

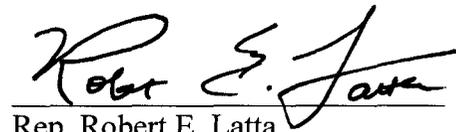
  
Rep. Fred Upton

  
Rep. Mike Pence

  
Rep. Steve Scalise

  
Rep. Harold Rogers

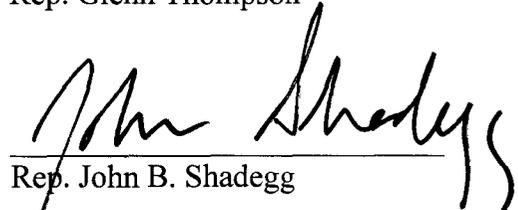
  
Rep. Adrian Smith

  
Rep. Robert E. Latta

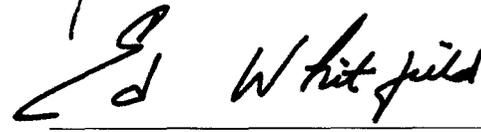
  
Rep. Solomon P. Ortiz

  
Rep. Glenn Thompson

  
Rep. Steve Austria

  
Rep. John B. Shadegg

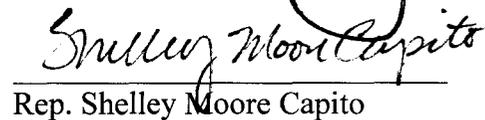
  
Rep. Sue Wilkins Myrick

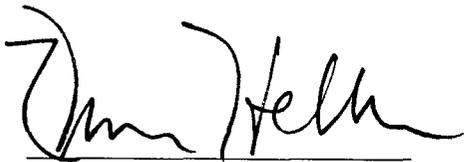
  
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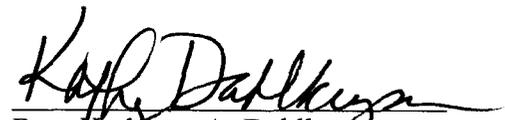
  
Rep. John A. Boehner

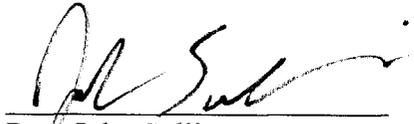
  
Rep. John Fleming

  
Rep. Duncan Hunter

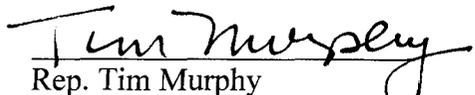
  
Rep. Shelley Moore Capito

  
Rep. Dean Heller

  
Rep. Kathleen A. Dahlkemper

  
Rep. John Sullivan

  
Rep. John Shimkus

  
Rep. Tim Murphy

  
Rep. Roy Blunt

  
Rep. Don Young

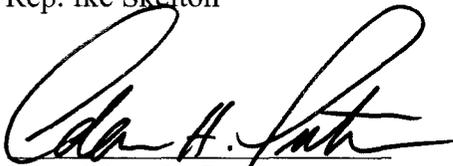
  
Rep. Candice S. Miller

  
Rep. Larry Kissell

  
Rep. Geoff Davis

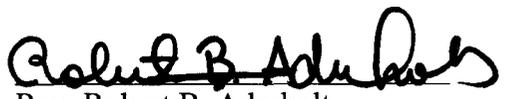
  
Rep. Ike Skelton

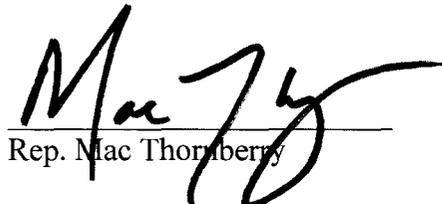
  
Rep. Jeb Hensarling

  
Rep. Adam H. Putnam

  
Rep. Jason Altmire

  
Rep. Steven C. LaTourette

  
Rep. Robert B. Aderholt

  
Rep. Mac Thornberry

  
Rep. Walter B. Jones

*Jason Chaffetz*

Rep. Jason Chaffetz

*Ken Calvert*

Rep. Ken Calvert

*Baron P. Hill*

Rep. Baron P. Hill

*Mike McIntyre*

Rep. Mike McIntyre

*Robert J. Wittman*

Rep. Robert J. Wittman

*Spencer Bachus*

Rep. Spencer Bachus

*Michele Bachmann*

Rep. Michele Bachmann

*Peter A. DeFazio*

Rep. Peter A. DeFazio

*Tom Petri*

Rep. Thomas E. Petri

*John Kline*

Rep. John Kline

*Joe Courtney*

Rep. Joe Courtney

*Henry Brown*

Rep. Henry Brown

*Paul C. Broun*

Rep. Paul C. Broun, M.D.

*Patrick J. Tiberi*

Rep. Patrick J. Tiberi

*David P. Roe*

Rep. David P. Roe

*Barney Frank*

Rep. Barney Frank

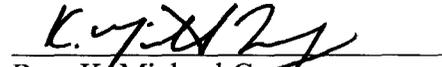
*Dale E. Kildee*

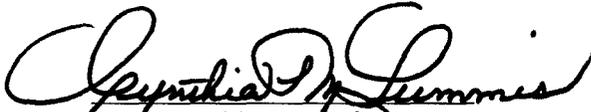
Rep. Dale E. Kildee

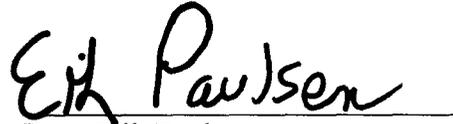
*Jeff Fortenberry*

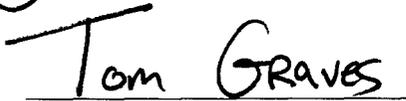
Rep. Jeff Fortenberry

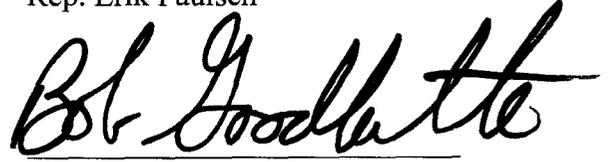
  
Rep. Lynn Jenkins

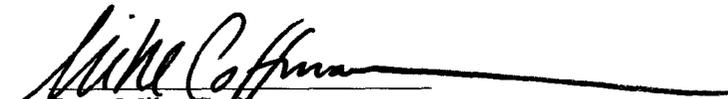
  
Rep. K. Michael Conaway

  
Rep. Cynthia Lummis

  
Rep. Erik Paulsen

  
Rep. Tom Graves

  
Rep. Bob Goodlatte

  
Rep. Mike Coffman

  
Rep. Ron Kind



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

NOV 12 2010

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

The Honorable Mike Pence  
U.S. House of Representatives  
Washington, DC 20515-1406

Dear Congressman Pence:

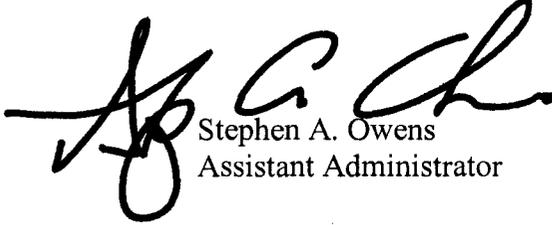
Thank you for your letter of October 1, 2010, to the U.S. Environmental Protection Agency's (EPA's) Administrator, Lisa Jackson, regarding an August 3, 2010, petition the Agency has received from the American Bird Conservancy and a number of other groups requesting that the EPA take action under the Toxic Substances Control Act (TSCA) to prohibit the manufacture, processing, and distribution in commerce of lead shot, bullets, and fishing sinkers. EPA denied the portion of the petition related to lead in ammunition on August 27, 2010, because the Agency does not have the legal authority to regulate this type of product under TSCA.

On behalf of the Administrator, I am writing to inform you that we have completed our review of the remaining portion of the petition and have determined that the petitioners did not demonstrate that the request for a uniform national ban of lead in fishing gear is necessary to protect against an unreasonable risk of injury to health or the environment, as required by TSCA section 21. EPA also determined that the petition did not demonstrate that the action requested is the least burdensome alternative to adequately protect against the concerns, as required by section 6 of TSCA. For these reasons, EPA denied the petitioners' request for a national ban on lead in all fishing gear.

EPA believes that the petition does not provide a sufficient justification for why a national ban of lead fishing sinkers and other lead fishing tackle is necessary given the actions being taken to address the concerns identified in the petition. There are an increasing number of limitations on the use of lead fishing gear on some Federal lands, as well as Federal outreach efforts. A number of states have established regulations that ban or restrict the use of lead sinkers and have created state education and fishing tackle exchange programs over the last decade. The emergence of these programs and activities over the past decade calls into question whether the broad rulemaking requested in the petition would be the least burdensome, adequately protective approach, as required by TSCA. We also noted to the petitioners that the prevalence of non-lead alternatives in the marketplace continues to increase.

Again, thank you for your letter and I hope the information on EPA's response to this petition is helpful to you. If you have additional questions, please feel free to contact me or your staff may contact Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,



Stephen A. Owens  
Assistant Administrator

**MICHAEL R. PENCE**  
SIXTH DISTRICT, INDIANA

WASHINGTON OFFICE:  
100 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-3021  
FAX: (202) 225-3382

DISTRICT OFFICES:  
1134 MERIDIAN PLAZA    107 WEST CHARLES STREET  
ANDERSON, IN 46016    MUNCIE, IN 47305  
(765) 640-2919    (765) 747-5588  
FAX: (765) 640-2922    FAX: (765) 747-5588

50 NORTH 5TH STREET  
RICHMOND, IN 47374  
(765) 962-2883  
FAX: (765) 962-3225

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-1406

COMMITTEES:  
**FOREIGN AFFAIRS**  
SUBCOMMITTEE:  
MIDDLE EAST AND SOUTH ASIA  
VICE-CHAIRMAN  
**JUDICIARY**  
SUBCOMMITTEE:  
CONSTITUTION  
VICE-CHAIRMAN  
SUBCOMMITTEE:  
INTELLECTUAL PROPERTY, COMPETITION,  
AND THE INTERNET

June 30, 2011

Mr. David McIntosh  
Associate Administrator for Congressional  
Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Room 3426, ARN  
Washington, D.C. 20460-0003

Dear Mr. McIntosh:

My constituent, (b) (6) has contacted my office concerning the USEPA, Region 5's review of their Significant Modification to their Part 70 Operation Permit (b) (6).

The resin processing equipment changes at (b) (6) location were necessitated by the closure and consolidation of Tegrant Corporation's existing Michigan City, Indiana foam molding operation. (b) (6)'s equipment total emission potential will now meet the definition of Significant Source Modification, thus a need for the permits. The Significant Modification to their Part 70 Operation Permit is now in a Public Comment period and a USEPA review period.

I am writing to request an expedited review of (b) (6)' Significant Modification to their Part 70 Operating Permit (b) (6) so that the pending permits can be issued as soon after the Public Comment period ends as possible. Please direct your response or any questions to Kevin Sulc in my Anderson Office at 1134 Meridian Plaza, Anderson, Indiana 46016 or 765-640-2919.

I am grateful for any assistance you may be able to provide in this case.

Sincerely,



Mike Pence  
Member of Congress

MRP:ks



# OFFICE OF CONGRESSMAN MIKE PENCE

To: USEPA - Congressional Affairs

From:



KEVIN A. SULC  
District Representative  
Congressman Mike Pence

765.640.2919  
765.640.2922 Fax

kevin.sulc@mail.house.gov  
1.800.882.8655

1134 Meridian Street  
Anderson, IN 46016

Date: 06 / 30 / 2011

Fax Number: 202-501-1519

Pages: 2 (Including Cover Sheet)

Comments:

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUL 21 2011

REPLY TO THE ATTENTION OF:

The Honorable Mike Pence  
Member, U. S. House of Representatives  
1134 Meridian Plaza  
Anderson, Indiana 46106

11-0-2011-0039

Dear Congressman Pence:

Thank you for your June 30, 2011, letter regarding the Title V permit for (b) (6) (b) (6)

The Indiana Department of Environmental Management (IDEM) is accepting public comment on the draft permit through July 27, 2011. After the public comment period ends, IDEM is required to provide the U.S. Environmental Protection Agency with any public comments, IDEM's response to comments, and a proposed permit which includes any changes needed as a result of those comments. EPA will work with IDEM to expeditiously resolve any concerns about the permit.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Ronna Beckmann or Denise Gawlinski, the Region 5 Congressional Liaisons, at (312) 886-3000.

Sincerely,

Susan Hedman  
Regional Administrator



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

November 18, 2011

The Honorable Lisa Jackson  
Administrator  
United States Environmental Protection Agency  
Ariel Rios Building, Mail Code 1001A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson:

In the January 19, 2011 Federal Notice announcement, your agency issued a Proposed Order to withdraw the tolerances for residues of sulfur fluoride (SF) on food and cancel associated uses by 2014. This Proposed Order concerns the agricultural industry, as it has spent considerable resources and time over the past sixteen years transitioning to sulfur fluoride.

Sulfur fluoride has been adopted by the agricultural industry as a means to control pests in a variety of food commodities including dried fruits, tree nuts, cocoa, coffee, seeds, and grain milling, food processing, handling and storage facilities. Its use has been strongly encouraged by the EPA as an alternative to methyl bromide and many of these sectors are now 100 percent dependent on its use.

We are concerned about the impact this Proposed Order will have on the U.S. food and agriculture industries. As members of the agricultural community, we take great interest in policies that affect America's agriculture economy and producers. We would ask that you provide answers to the following questions:

As a function of the aggregate risk associated with fluoride, what portion of that risk is attributed to SF?

What percentage of aggregate fluoride exposure risk comes from all food-related uses of SF? Conversely, what percentage of fluoride exposure comes from individual additional sources?

Considering the aggregate risk of fluoride, what public health benefits will be observed by withdrawing the tolerances for residues of SF on food and canceling its associated uses?

Please outline all agronomic benefits associated with SF, including its use as an alternative fumigant to methyl bromide.

How does the withdrawal of food tolerances for SF impact our obligations under the Montreal Protocol? (Please provide a complete list of all alternatives to methyl bromide and SF including their associated costs and benefits.)

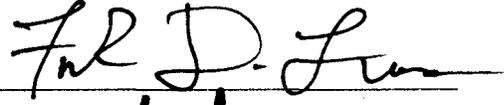
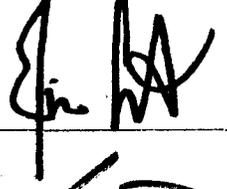
In a January 10, 2011 EPA Public Announcement, the EPA noted *"Use of sulfuryl fluoride is responsible for a tiny fraction of aggregate fluoride exposure... Elimination of sulfuryl fluoride does not solve, or even significantly decrease, the fluoride aggregate exposure problems identified earlier."* Has the EPA since found credible scientific data that contradicts this previous statement?

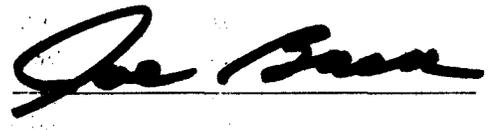
Please provide a complete list of administrative options available to you short of a phase-out of this food safety tool.

Because other statutory provisions are available to address public health exposures, why has EPA not excluded drinking water, beverages and dental treatment exposures from the aggregate exposure assessment for SF?

Before this proposal moves forward, it is important that we consider and understand the impact it will have on the agricultural industry. Thank you for your attention to this matter and we look forward to your response.

Sincerely,

  
  
  
  
MO-6


Alan Amundson

✓ Paul S. H.

Clayton Dunt

Bob Hill

Joseph R. Pitts

John Emerson  
Alan Burton

T. H. H.

Blake Farnhold

Steph F.

Bill Cassidy

Tom Griffith

Shibe Penn

Kurt Schuch

THMM

Guil E. Longen  
Mild Penn

Danny K. Davis

D. C. J.

Robert J. Oshel



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

FEB - 6 2012

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

The Honorable Mike Pence  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Pence:

Thank you for your letter of November 18, 2011, to U.S. Environmental Protection Agency Administrator Lisa P. Jackson, regarding EPA's proposal to withdraw food tolerances of sulfuryl fluoride and its potential impact on the agricultural community. I am responding on behalf of the agency since my office is responsible for regulating pesticides.

In March 2006, the National Research Council (NRC) of the National Academies of Science (NAS) released a review of fluoride in drinking water that recommended that EPA update its fluoride risk assessment to include new data on health risks and better estimates of total exposure. To address these recommendations, EPA's Office of Water (OW) completed new assessments that consider health effects data on skeletal and dental fluorosis and updated exposure estimates to reflect current conditions. EPA will consider these scientific assessments along with other relevant information in making a determination of whether to lower the maximum amount of fluoride allowed in drinking water, which is set to prevent adverse health effects.

These assessments also provide the basis for EPA's proposal to withdraw tolerances (legal residue limits on food) for the pesticide sulfuryl fluoride, a fumigant that breaks down into fluoride and is commonly used in food storage and processing facilities. EPA's Office of Pesticide Programs (OPP) built upon the work of OW by updating its human health risk assessment for sulfuryl fluoride using the new OW dose-response and relative source contribution documents and the more sensitive health endpoint of severe dental fluorosis, as recommended by the NRC. The work to reassess the risks from sulfuryl fluoride is part of the agency's response to objections filed in 2004 by the Fluoride Action Network (FAN), Environmental Working Group, and Beyond Pesticides in exercise of their statutory rights to seek administrative review of the original establishment of the sulfuryl fluoride tolerances.

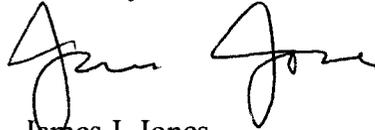
As noted in your letter, EPA recognizes that sulfuryl fluoride is an important replacement for several post-harvest uses of methyl bromide and that many industries that previously relied on methyl bromide now depend on sulfuryl fluoride. For these reasons, EPA is proposing to allow several years for users to develop new treatment options. Under EPA's current proposal, tolerances for uses currently lacking alternatives would remain in place for three years following the issuance of the final decision. In the interim, EPA will work with users of sulfuryl fluoride to identify potential alternatives and work collaboratively with other government agencies to address fluoride comprehensively.

At each stage of its fluoride review process, EPA has worked closely with the other federal agencies that have an interest in fluoride. EPA plans to continue this approach as it moves forward. In addition, the comment period on EPA's proposed decision on sulfuryl fluoride closed in July 2011, and EPA is currently reviewing and considering all of the comments received. Many provide new details about the feasibility, expected costs, and anticipated timelines for transitioning to treatment methods other than sulfuryl fluoride and methyl bromide. The agency will fully consider this information before reaching a final decision on the sulfuryl fluoride tolerances. As always, EPA remains committed to using sound science to protect public health and the environment.

Your letter asks EPA to answer eight specific questions about fluoride and sulfuryl fluoride. Detailed answers to those questions are provided in the enclosure to this letter.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

A handwritten signature in black ink, appearing to read 'James J. Jones', written in a cursive style.

James J. Jones  
Acting Assistant Administrator

Enclosure

**Question 1: As a function of the aggregate risk associated with fluoride, what portion of that risk is attributed to SF?**

EPA estimates that fluoride exposure from sulfuryl fluoride accounts for between 2-5% of total aggregate fluoride exposure. Estimates of aggregate fluoride exposure depend on a number of factors, including the frequency with which people brush their teeth, how much drinking water they consume, the concentration of fluoride in their drinking water, and the age group of interest. These factors result in a range of aggregate exposure estimates and, therefore, a range in the relative contribution attributable to sulfuryl fluoride.

**Question 2: What percentage of aggregate fluoride exposure risk comes from all food-related uses of SF? Conversely, what percentage of fluoride exposure comes from individual additional sources?**

In assessing exposure to fluoride from the use of sulfuryl fluoride, OPP separately examined direct food fumigation and structural fumigation. While the structural fumigation does not target food commodities for treatment, residual amounts of food left in the structure may be inadvertently treated with the fumigant. As such, both direct food fumigation and structural fumigation are considered “food uses” and there is therefore no significant difference between Questions 1 and 2.

**Question 3: Considering the aggregate risk of fluoride, what public health benefits will be observed by withdrawing the tolerances for residues of SF on food and canceling its associated uses?**

Withdrawal of the sulfuryl fluoride tolerances will not result in aggregate fluoride exposure falling below the level of concern for all individuals that are currently over-exposed. In communities where EPA has estimated that average chronic fluoride exposures exceed the safe dose for fluoride, there is a distribution of different exposure values for different individuals that depends on a variety of factors including amount of fluoride dental products used and drinking water consumption. For individuals whose exposure only marginally exceeds the safe dose, the contribution of fluoride from sulfuryl fluoride residues may be the difference between safe and unsafe exposure.

**Question 4: Please outline all agricultural benefits associated with SF, including its use as an alternative fumigant to methyl bromide.**

Sulfuryl fluoride is the primary alternative to post-harvest uses of methyl bromide. It is used to control stored product pests in cereal grains (e.g., wheat, corn, and rice, and the mills that process these grains), tree nuts (e.g., walnuts, almonds), dried fruits (e.g., raisins, dried plums); dried legumes (e.g., garbanzo beans, black-eyed peas), cocoa beans, and coffee beans. These pests infest not only the foodstuff but also food handling and food processing structures, so sulfuryl fluoride is also used for fumigation of food handling and processing facilities and food warehouses.

Sulfuryl fluoride is applied by Precision Fumigation™, a program that determines the minimum gas necessary by taking into account the pests, temperature, half-life, volume, and desired level of control. Like methyl bromide, sulfuryl fluoride can accommodate the rapid fumigation time

needed by the tree nut industry during peak harvest. Commodities often become infested with insects during storage. Similar to methyl bromide, sulfuryl fluoride kills the insects quickly and without corrosion to electronic or electrical equipment.

The one fumigant other than sulfuryl fluoride currently available for direct commodity fumigations is phosphine. It requires a longer exposure time than sulfuryl fluoride and is corrosive to copper and silver metals and their alloys. There is no other chemical available to fumigate structures such as mills, food processing facilities, or food warehouses. Without sulfuryl fluoride or methyl bromide, mills and food processing facilities have only heat as a potential option to control their pests.

**Question 5: How does the withdrawal of food tolerances for SF impact our obligations under the Montreal Protocol? (Please provide a complete list of all alternatives to methyl bromide and SF including their associated costs and benefits.)**

The withdrawal of food tolerances for SF would have no impact on U.S. obligations under the Montreal Protocol. Methyl bromide is an ozone-depleting pesticide whose production and import was phased out in developed countries under the Montreal Protocol and the Clean Air Act in 2005, apart from limited exemptions. The critical use exemption allows for the continued production and import of methyl bromide when the Parties to the Protocol agree there are no technically and economically feasible alternatives available and where the lack of methyl bromide would result in a significant market disruption. EPA fully supports our nation's commitment to phase out methyl bromide and comply with its obligations under the Montreal Protocol.

The costs and benefits of methyl bromide and sulfuryl fluoride for post-harvest fumigation (structures and commodities) are comparable; application costs and efficacy are similar though there is evidence to suggest that sulfuryl fluoride is less effective on insect eggs and methyl bromide gas is now nearly twice as expensive as sulfuryl fluoride per pound.

If neither methyl bromide nor sulfuryl fluoride were available for fumigating mills and food processing facilities, the only other technically feasible option would be heat treatment to disinfest these structures. If facilities choose to have a contractor conduct heat treatments, the cost of disinfesting structures would be significantly higher than fumigation with either fumigant. If the facilities chose to purchase their own heaters and equipment and train their own personnel to conduct the treatments, the long-term cost would be much lower and comparable to methyl bromide or sulfuryl fluoride fumigation but successful transition could take years. It should also be noted that some older mills might not be able to transition to heat treatment because the heating and cooling process could damage the buildings. Without methyl bromide or sulfuryl fluoride, these structures would be left with no disinfestation options.

If neither methyl bromide nor sulfuryl fluoride was available for fumigating commodities (e.g., tree nuts, dried fruit, cocoa beans), the only technically feasible alternative for these uses would be phosphine. Phosphine is less expensive per fumigation but takes nearly five times as long to be effective. For commodities that require fast fumigation times at harvest (e.g., walnuts) or because of their location (e.g., cocoa beans in a warehouse) this would necessitate the purchase of additional fumigation chambers or additional warehouse space, which would be a costly initial

investment and may not be possible for all operations since additional space to store the chambers would be necessary. In addition, some commodities (e.g., dates) cannot accommodate the additional time required by phosphine due to freshness issues.

**Question 6: In a January 10, 2011 EPA Public Announcement, the EPA noted “Use of sulfuranyl fluoride is responsible for a tiny fraction of aggregate fluoride exposure...Elimination of sulfuranyl fluoride does not solve, or even significantly decrease, the fluoride aggregate exposure problems identified earlier.” Has the EPA since found credible scientific data that contradicts this previous statement?**

To date, EPA has not found data that contradicts the referenced statement. But EPA is currently reviewing and analyzing public comments that were received on the proposed order to withdraw sulfuranyl fluoride tolerances, which contained the cited statement.

**Question 7: Please provide a complete list of administrative options available to you short of a phase-out of this food safety tool.**

Section 408(b)(1)(A) of the FFDCA directs EPA to “modify or revoke a tolerance if the Administrator determines it is not safe.” In the proposed order on the sulfuranyl fluoride tolerance objections, EPA concluded that these tolerances were not safe. In comments on that proposal, one commenter provided a number of legal arguments, designated as “administrative options,” in support of the conclusion that the sulfuranyl tolerances do meet the safety standard. Included as an administrative option was the assertion that it is appropriate to interpret section 408’s safety standard as having an exception for pesticides posing a de minimis risk. Another administrative option cited by that commenter was that EPA could create an extraordinary circumstances policy that would permit retention of the sulfuranyl fluoride tolerances. EPA is closely examining these arguments in reviewing the comments submitted on the proposed order.

**Question 8: Because other statutory provisions are available to address public health exposures, why has EPA not excluded drinking water, beverages and dental treatment exposures from the aggregate exposure assessment for SF?**

FFDCA section 408 requires EPA to aggregate and cumulate exposures to pesticides and other related substances. EPA is aware of no exception to these aggregation and cumulation requirements in circumstances where the other related substance is regulated directly under another federal statute. As noted above, however, in our answer to question 7, one commenter has argued that there are some circumstances where EPA is not required to aggregate pesticides and non-pesticidal substances. EPA is closely reviewing these arguments in reviewing the comments submitted on the proposed order.



**Congress of the United States**  
**Washington, DC 20510**

October 16, 2012

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

Dear Administrator Jackson:

We write to express concern that the EPA has not moved forward to issue the final PM 2.5 attainment designation for Marion County and the surrounding counties located in Central Indiana. These counties currently meet the attainment designation criteria for Particulate Matter (PM 2.5) as required by the National Ambient Air Quality Standards. As such, they are entitled to re-designation as attainment under the Clean Air Act. We call on the EPA to move forward with re-designation without delay, as the improper designation constrains economic development in the Marion County area.

On April 5, 2005, the EPA designated Marion and the surrounding counties as nonattainment for the annual PM 2.5 National Ambient Air Quality Standard. But by the end of 2008, all air quality measurements in these counties fully met the annual PM 2.5 standard as determined by air monitors. Subsequently, in October 2009, the Indiana Department of Environmental Management filed its application with the EPA to re-designate the area as attainment for all pollutants. The EPA chose not to act upon Indiana's October 2009 submittal, however. Instead, Indiana was required to go through another public consultation process and file another request for designation to attainment in May 2011.

The EPA had pointed to the expected court decision at the U.S. Circuit Court for the D.C. Circuit regarding the Cross-State Air Pollution Rule as reason for delaying action on re-designating the Marion County area. The court has since handed down its decision. Indeed, it vacated the Cross-State Rule. Thus, the uncertainty has vanished, as a new rule will require years to promulgate and implement. There is no longer any reason to delay re-designation.

At this time of economic uncertainty, Central Indiana remains disadvantaged due to the EPA's reluctance to fulfill its duties. The EPA should move forward right away on the final PM 2.5 designation for Marion and the surrounding counties. These areas continue to meet the attainment criteria for Particulate Matter (PM 2.5) as required by the National Ambient Air Quality Standards.

Sincerely,



Dan Coats  
U.S. Senator



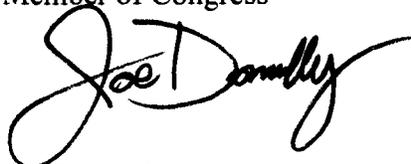
Richard Lugar  
U.S. Senator



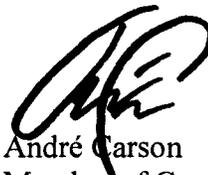
Dan Burton  
Member of Congress



Mike Pence  
Member of Congress



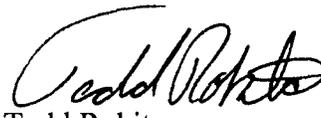
Joe Donnelly  
Member of Congress



André Carson  
Member of Congress



Larry Bucshon  
Member of Congress



Todd Rokita  
Member of Congress



Todd Young  
Member of Congress



Marlin Stutzman  
Member of Congress

CC: The Honorable Mitch Daniels, Governor, State of Indiana  
The Honorable Susan Hedman, Administrator for EPA's Region V  
The Honorable Thomas Easterly, Commissioner of the Indiana Department of Environmental Management  
The Honorable Janet McCabe, Deputy Assistant Administrator of the Office of Air and Radiation