

**From:** Kime, Robin  
**Location:** 3513A  
**Importance:** Normal  
**Subject:** Call with the Independent Petroleum Association of America: Prep for the Administrator's 5/1 Meeting: Please call the EPA Polycom (202) 501-1854  
**Start Date/Time:** Wed 4/26/2017 7:00:00 PM  
**End Date/Time:** Wed 4/26/2017 7:30:00 PM

Attendees:

Lee Fuller, Samantha McDonald, Susan Ginsberg of IPAA

Contact: Lee Fuller, [lfuller@ipaa.org](mailto:lfuller@ipaa.org)

**From:** Lee Fuller [<mailto:lfuller@ipaa.org>]  
**Sent:** Friday, April 7, 2017 4:30 PM  
**To:** Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>  
**Subject:** Regulatory Reform and Other Items

Brittany,

I read that one of your assignments is the regulatory reform task force. Consequently, I wanted to reach out on some issues of concern. I've attached an email that I sent to Ryan Jackson that raises several issues that we would like to discuss. (Separately, we are trying to arrange a meeting for Barry Russell, IPAA's President and CEO with Administrator Pruitt through Sydney Hupp.)

Obviously, events are moving quickly. I know that the Administration filed an abeyance petition on the Subpart OOOOa litigation today. There is an issue there that is related that I'd like to call to your attention. The Subpart OOOOa fugitive emissions program – with its costly Leak Detection and Repair (LDAR) requirements – is scheduled to take effect on June 3. It would be helpful if this requirement, at least, could be stayed while the Subpart OOOO and OOOOa requirements are being reconsidered since a different approach might be developed. I know there are other provisions that are already in effect that raise similar issues.

I also spoke with Dave Rostker from the SBA Advocacy office regarding LDAR in a small business context where the issues arises in both the Subpart OOOOa and VOC Control Techniques Guidelines context. He suggested reaching out to EPA as well.

Hopefully, we can discuss these issues soon given your schedule.

Thanks for your consideration,

Lee Fuller

**From:** Lee Fuller  
**Sent:** Thursday, April 6, 2017 2:40 PM  
**To:** Ryan Jackson ([Jackson.Ryan@epa.gov](mailto:Jackson.Ryan@epa.gov)) <[Jackson.Ryan@epa.gov](mailto:Jackson.Ryan@epa.gov)>  
**Subject:** IPAA Issues at EPA; Possible Meeting

Ryan,

I'm reaching out to you but would be happy if you point me to a preferred contact person.

After the recent Energy Executive Order, IPAA would like to discuss a number of pending issues with EPA.

Barry Russell, IPAA's President and CEO, would like to meet with Administrator Pruitt to introduce himself and IPAA. Barry worked for EPA in the 1970s before coming to IPAA.

The issues that we'd like to discuss relate to several matters.

First, EPA's actions in response to the Energy EO with regard to the methane NSPS (Subparts OOOO and OOOOa) are most important to IPAA. While currently engaged in the litigation opposing the regulations, the pathway to reconsideration and possible revision is critical. IPAA wants to be involved as soon as possible and wants to offer its cooperation.

Second, IPAA strongly supports efforts to expand and enhance delegation of regulatory authority to states. We are looking for options to be helpful in identifying pathways, working with our state cooperating associations to encourage state actions and working with Congress if there are barriers that need to be addressed.

Additionally, following are several other items – mostly directly affecting independent oil and natural gas producers – that we would like to identify as issues that we would hope EPA could address:

1. Control Techniques Guidelines (CTG) – As a part of the Energy Executive Order, EPA is directed to reconsider the oil and natural gas methane New Source Performance Standard (NSPS) – Subparts OOOO and OOOOa. When the Obama Administration proposed the NSPS, it also proposed a CTG for existing sources of Volatile Organic Compounds (VOC) in Ozone nonattainment areas. The CTG was finalized in October 2016. It should be suspended or withdrawn until the NSPS issues are resolved and determinations can be made on the appropriateness of the technology being applied to existing sources. Otherwise, the CTG will be applicable in future State Implementation Plans (SIP).
2. RCRA Subtitle D Consent Decree – EPA agreed to a Consent Decree to settle litigation regarding mandatory duties under RCRA Subtitle D related to making determinations regarding the appropriateness of state oil and natural gas production wastes regulations. EPA has until March 2019 to respond but it should act quickly for two reasons. First, EPA's mandate to act does not require an extensive burden and the longer it takes to act, the more state programs appear to be viewed as inadequate. Second, the mandatory duties require action every three years. Action in 2017 would allow EPA to reconfirm its position in 2020 and establish a clear practice for the future.

3. Unconventional Oil and Gas (UOG) Extraction Effluent Limitations Guidelines (ELG) – EPA finalized UOG Extraction ELG for discharges to Publicly Owned Treatment Works (POTW) in June 2016. These ELG should be based on a technology standard – Best Available Technology Economically Achievable (BATEA). EPA concluded that all discharges to POTW should be prohibited based on the availability of underground injection wells and of recycling options. Neither of these are BATEA. EPA should not be making zero discharge determinations based on its perception of other options. It should determine BATEA requirements. If the BATEA requirements are too expensive, it should be the dischargers' choice to use alternative approaches.
  
4. Clean Air Act Enforcement Tactics – Over the past several years, EPA's Enforcement tactics have been excessively aggressive. For example, in North Dakota where the state did not have delegation of the NSPS program for oil and natural gas production, EPA Enforcement initiated direct actions against producers with regard to its interpretation of Subpart OOOO requirements for storage vessels. This interpretation differed from those EPA technical staff had initially indicated. Using its enforcement power, EPA filed proposed penalties against a privately held producer that exceeded the value of its assets. The purpose was clear and predictable. EPA wanted to use its enforcement power to compel a limited asset company to enter into a consent agreement that would require actions that met Enforcement's interpretation of the regulation and to commit to additional actions that were beyond EPA Clean Air Act authority to require. Not only did EPA use a gap in state delegation to step over North Dakota in its zeal, but these types of enforcement tactics reflect poorly on EPA and the federal government and should be ended.
  
5. Ozone National Ambient Air Quality Standards (NAAQS) Revisions – The 2014 revision to the Ozone NAAQS should be reconsidered. Implementation of the 2008 revision to the Ozone NAAQS had yet to be implemented and evaluated when the 2014 revision was finalized. NAAQS attainment should be the target, not promulgating new, unachievable revisions. EPA's own data showed that the same areas it projected to fail to attain the 2008 NAAQS would fail to meet the 2014 revision. In those areas, the regulatory requirements would not change but the 2014 revision would bring new areas into nonattainment regulation. Even though EPA predicted those new areas would reach the 2014 NAAQS without additional local controls, those areas would be subject to new source permitting requirements that hamper their economic development. Where there is no compelling health benefit from a NAAQS revision – like the 2014 action – EPA should devote resources to attainment of the prior standard.

Thanks for considering this request. Please let me know how to proceed from here.

Lee Fuller