

Appointment

From: Voyles, Travis [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1B106CBC235C47EFA550A831B623BF28-F26BBFA8-54]
Sent: 2/11/2025 11:17:40 PM
To: McIntosh, Chad [McIntosh.Chad@epa.gov]; GMoody@afpm.org; sgrissom@afpm.org; lbellas@afpm.org; aringel@afpm.org; Dominguez, Alexander [dominguez.alexander@epa.gov]; Szabo, Aaron [Szabo.Aaron@epa.gov]
BCC: DCOMSLoaner1 [DCOMSLoaner_1@epa.gov]
Subject: EXTERNAL: Virtual Meeting AFPM and the U.S. EPA (Confirmed)
Location: Microsoft Teams Meeting; DCOMSLoaner1
Start: 2/13/2025 6:30:00 PM
End: 2/13/2025 7:00:00 PM
Show Time As: Tentative

Required Attendees: McIntosh, Chad; GMoody@afpm.org; sgrissom@afpm.org; lbellas@afpm.org; aringel@afpm.org; Dominguez, Alexander; Szabo, Aaron

EPA Participants:

Chad McIntosh, Acting Deputy Administrator
Travis Voyles, Assistant Deputy Administrator
Alex Dominguez, OAR Deputy Assistant Administrator
Aaron Szabo, Senior Advisor to the Administrator

AFPM Participants:

Geoff Moody, Senior Vice President, Government Relations & Policy gmoody@afpm.org
Susa Grissom, Chief Industry Analyst sgrissom@afpm.org
Leslie Bellas, VP Regulatory Affairs lbellas@afpm.org
Aaron Ringel, VP Government Affairs aringel@afpm.org

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Tenant key: <sip:teams@video.epa.gov>

Video ID: Ex. 6 Personal Privacy (PP)

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Message

From: Abboud, Michael [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=64EDF8A538154C89B8AFB97C7347AEFE-8A26A0A2-B3]
Sent: 2/17/2025 2:18:33 PM
To: dthoren@afpm.org; rbenedict@afpm.org
CC: Lauman, Lauren [Lauman.Lauren@epa.gov]
Subject: Invitation: Class VI Primacy Regulation Signing with Administrator Lee Zeldin

Hey Don and Rob, Aaron Ringel passed along your contact information this morning. He mentioned you would be the right folks at AFPM that would have interest in this event. Administrator Zeldin is providing primacy authority to the state of West Virginia for their Class VI wells. We are expecting, WV congressional and state representation at the event as well as Secretary Burgum. Would love to have some attendance from AFPM at the event if you are available.

From: Lauman, Lauren <Lauman.Lauren@epa.gov>
Sent: Friday, February 14, 2025 4:38 PM
To: Lauman, Lauren <Lauman.Lauren@epa.gov>
Cc: Abboud, Michael <abboud.michael@epa.gov>
Subject: Invitation: Class VI Primacy Regulation Signing with Administrator Lee Zeldin

Hello,

On behalf of Administrator Lee Zeldin, we invite you to attend the signing of the [West Virginia Class VI Primacy Approval on Tuesday, February 18, at 11:45 AM](#) at the **EPA Headquarters in Washington, D.C.**

Please RSVP by **noon (ET) on Monday, February 17**, with the names of the attendees joining you. Once confirmed, we will send a follow-up email with directions and additional details.

Let me know if you have any questions. We look forward to your attendance!

Thank you,
Lauren Lauman
Environmental Protection Agency
Deputy Associate Administrator for Public Engagement and Environmental Education
202.378.4143

Message

From: Geoff Moody
[GMoody@afpm.org]
Sent: 2/12/2025 3:51:46 PM
To: Voyles, Travis
[voyles.travis@epa.gov];
McIntosh, Chad
[mcintosh.chad@epa.gov]; Susan
W. Grissom
[SGrissom@afpm.org]; Leslie
Bellas [LBellas@afpm.org]; Aaron
Ringel [ARingel@afpm.org];
Dominguez, Alexander
[dominguez.alexander@epa.gov];
Szabo, Aaron
[Szabo.Aaron@epa.gov]
Subject: Re: EXTERNAL: Virtual Meeting
AFPM and the U.S. EPA
(Confirmed)

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Good morning, AFPM's CEO, Chet Thompson may attend as well if he can make it back from a trip in time tomorrow morning.

From: Atkinson, Emily <Atkinson.Emily@epa.gov> on behalf of Voyles, Travis <voyles.travis@epa.gov>
Sent: Wednesday, February 12, 2025 10:49 AM
To: McIntosh, Chad <mcintosh.chad@epa.gov>; Geoff Moody <GMoody@afpm.org>; Susan W. Grissom <SGrissom@afpm.org>; Leslie Bellas <LBellas@afpm.org>; Aaron Ringel <ARingel@afpm.org>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Szabo, Aaron <Szabo.Aaron@epa.gov>
Subject: EXTERNAL: Virtual Meeting AFPM and the U.S. EPA (Confirmed)
When: Thursday, February 13, 2025 1:30 PM-2:00 PM.
Where: WJC-N Room 3412 +; Microsoft Teams Meeting; DCRoomWJCN3406A/DeputyAdministrator

Some people who received this message don't often get email from atkinson.emily@epa.gov.
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EXTERNAL MESSAGE: This email originated outside of our company.

EPA Participants:

Chad McIntosh, Acting Deputy Administrator
Travis Voyles, Assistant Deputy Administrator
Alex Dominguez, OAR Deputy Assistant Administrator
Aaron Szabo, Senior Advisor to the Administrator

AFPM Participants:

Geoff Moody, Senior Vice President, Government Relations & Policy gmoody@afpm.org
Susa Grissom, Chief Industry Analyst sgrissom@afpm.org
Leslie Bellas, VP Regulatory Affairs lbellas@afpm.org
Aaron Ringel, VP Government Affairs aringel@afpm.org

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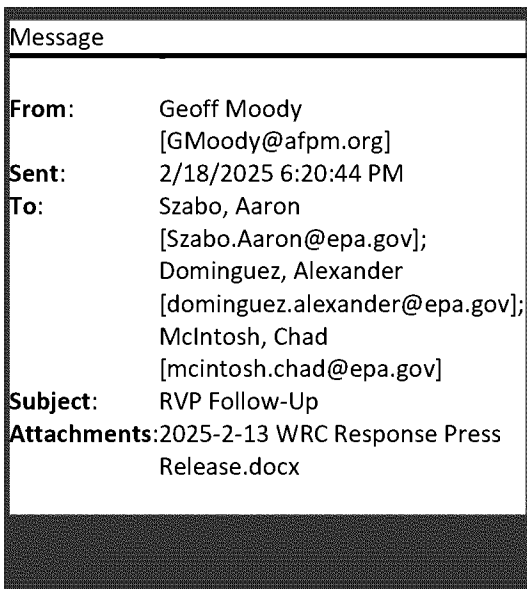
Tenant key: <sip:teams@video.epa.gov>

Video ID:

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Good afternoon,

Thank you all again for taking the time to talk with AFPM last week about the RVP opt-out issue. As a follow up, I wanted to flag that Par Pacific had an incident at their WY refinery on February 12th and will be out of service for the time being. Its a smaller refinery, but it provides a lot of fuel to South Dakota, one of the petitioning states.

Thanks,

Geoff Moody
Senior Vice President
Government Relations & Policy

**American
Fuel & Petrochemical
Manufacturers**
1800 M Street NW
Suite 900 North
Washington, DC 20006
202.457.0480 office
202.844.5489 direct
202.280.0430 mobile

gmoody@afpm.org
Learn more about AFPM at afpm.org



Wyoming Refining Company Operational Update

Newcastle, Wyoming, February 13, 2025 - Wyoming Refinery Company (the “Company”) experienced an operational upset on the evening of February 12, 2025. No one was injured, and refinery fence-line monitoring indicates no safety or environmental concerns. The refinery will remain idled in the near term as refinery personnel investigate the incident and evaluate when to restart the facility. Our top priority remains the health and safety of our employees and local community.

Wyoming Refining Company is wholly owned and operated by Par Pacific Holdings, Inc.

About Par Pacific

Par Pacific Holdings, Inc. (NYSE: PARR), headquartered in Houston, Texas, is a growing energy company providing both renewable and conventional fuels to the western United States. Par Pacific owns and operates 219,000 bpd of combined refining capacity across four locations in Hawaii, the Pacific Northwest and the Rockies, and an extensive energy infrastructure network, including 13 million barrels of storage, and marine, rail, rack, and pipeline assets. In addition, Par Pacific operates the Hele retail brand in Hawaii and the “nomnom” convenience store chain in the Pacific Northwest. Par Pacific also owns 46% of Laramie Energy, LLC, a natural gas production company with operations and assets concentrated in Western Colorado. More information is available at [[.](https://www.globenewswire.com/Tracker?data=WeDmtr3buCHmq2_v3zW2OH7nKceLzcVse6XdFXPdmmpfu28PC25_2oV3IO2T1Eup0yBrv0rQAvmuPxZJVq96v63C5PZJbWbKrOWSTRwAHc0=)

Contact:

Dallas Scholes
Director, Government and Public Affairs
(281) 814-6159
Dscholes@parpacific.com

####

Message

From: Dominguez, Alexander [dominguez.alexander@epa.gov]
Sent: 2/22/2025 12:00:53 AM
To: Geoff Moody [GMoody@afpm.org]
Subject: Fw: Ahead of Summer Driving Season, EPA Allows Expanded E15 Access to Midwest States Year-Round

For your awareness

Sent from iPhone

From: EPA Press Office <Press@epa.gov>
Sent: Friday, February 21, 2025 6:55 PM
To: EPA Press Office <Press@epa.gov>
Subject: Ahead of Summer Driving Season, EPA Allows Expanded E15 Access to Midwest States Year-Round



Ahead of Summer Driving Season, EPA Allows Expanded E15 Access to Midwest States Year-Round

Contact:

EPA Press Office (press@epa.gov)

WASHINGTON (February 21, 2025) – U.S. Environmental Protection Agency (EPA) Administrator Lee Zeldin has announced the agency’s decision to uphold the current April 28, 2025, implementation date to provide parity for E15 and E10 in Midwestern states. This action, requested by the governors of Illinois, Iowa, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin, provides regulatory certainty for fuel suppliers and expands consumer access to E15 year-round in these states.

“Today’s decision underscores EPA’s commitment to consumer access to E15 while ensuring a smooth transition for fuel suppliers and refiners,” **said EPA Administrator Zeldin.** “Our approach provides certainty for states that are ready to move forward with year-round E15 while accommodating those that requested additional time. We will continue working with all stakeholders to ensure available and affordable fuel supply.”

At the same time, in recognition of concerns raised by some regarding fuel supply transitions, EPA intends to consider granting requests for a one-year delay for those states seeking additional time for compliance. Such a request has already been made by the State of Ohio. EPA strongly urges any state requesting a one-year delay to inform the agency in writing no later than Wednesday, February 26, 2025.

EPA intends to consider any additional states' request submitted by February 26 and aims to provide refiners and fuel suppliers with the final opportunity to make necessary adjustments to ensure the long-term success of year-round E15.

A legislative solution before the summer driving season to allow for the permanent, year-round sale of E15 nationwide is an option being negotiated in Congress. In the absence of congressional action, EPA is still considering issuing emergency fuel waivers to allow the year-round sale of E15. EPA is closely monitoring fuel market conditions and considering potential emergency fuel waivers under the Clean Air Act to prevent supply disruptions and protect consumers from price volatility.

EPA.GOV



Message

From: Kemme, Sara [kemme.sara@epa.gov]
Sent: 2/27/2025 3:01:28 PM
To: Jerry Couri [JCouri@afpm.org]
CC: Aaron Ringel [ARingel@afpm.org]; Robert Benedict [RBenedict@afpm.org]; Geoff Moody [GMoody@afpm.org]; Dekleva, Lynn [dekleva.lynn@epa.gov]; Beck, Nancy [beck.nancy@epa.gov]; Altieri, Sonia [Altieri.Sonia@epa.gov]
Subject: RE: Meeting Request

Jerry-

Thanks so much. Sonia will be in touch with you shortly to finalize details for the meeting.

Best regards,

Sara Kemme | [Call by Teams](#) | 202.566.1217
Kemme.sara@epa.gov

From: Jerry Couri <JCouri@afpm.org>
Sent: Wednesday, February 26, 2025 4:05 PM
To: Kemme, Sara <kemme.sara@epa.gov>
Cc: Aaron Ringel <ARingel@afpm.org>; Robert Benedict <RBenedict@afpm.org>; Geoff Moody <GMoody@afpm.org>; Dekleva, Lynn <dekleva.lynn@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>; Altieri, Sonia <Altieri.Sonia@epa.gov>
Subject: Re: Meeting Request

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Sara:

Sorry for the delay. Here is the list and I will get the other materials over to you in short order.

1. HF petition under section 21
2. Section 8(d) rule
3. Equivalency for Class 2/Pyoil SNURs

As time permits:

4. Prioritization
5. Risk Evaluation Framework Rule

- Jerry

Jerry Couri

Senior Policy Director
American Fuel &
Petrochemical
Manufacturers
1800 M Street, NW
Suite 900 North

Washington, DC 20036

Direct: (202) 844-5502

Mobile: (202) 821-7509

Jcouri@afpm.org

From: Kemme, Sara

Sent: Wednesday, February 19, 2025 2:05 PM

To: Jerry Couri

Cc: Aaron Ringel; Robert Benedict; Geoff Moody; Dekleva, Lynn; Beck, Nancy; Altieri, Sonia

Subject: RE: Meeting Request

Some people who received this message don't often get email from kemme.sara@epa.gov.
[Learn why this is important](#)

EXTERNAL MESSAGE: This email originated outside of our company.

Hello Jerry—

Just checking--- Do you have a chance to send a list of topics for the meeting? Sincere apologies if I missed an email.

Best regards,

Sara Kemme | [Call by Teams](#) | 202.566.1217

Kemme.sara@epa.gov

From: Jerry Couri <JCouri@afpm.org>

Sent: Friday, February 14, 2025 1:21 PM

To: Kemme, Sara <kemme.sara@epa.gov>

Cc: Aaron Ringel <ARingel@afpm.org>; Robert Benedict <RBenedict@afpm.org>; Geoff Moody <GMoody@afpm.org>;
Dekleva, Lynn <dekleva.lynn@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>

Subject: Re: Meeting Request

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Sounds good, thanks!

From: Kemme, Sara <kemme.sara@epa.gov>

Sent: Friday, February 14, 2025 1:19 PM

To: Jerry Couri <JCouri@afpm.org>

ED_018475D_00002325-00002

Cc: Aaron Ringel <ARingel@afpm.org>; Robert Benedict <RBenedict@afpm.org>; Geoff Moody <GMoody@afpm.org>; Dekleva, Lynn <dekleva.lynn@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>

Subject: RE: Meeting Request

EXTERNAL MESSAGE: This email originated outside of our company.

Thanks,

I'll be on the lookout for the list of topics and circle back with the team about other timing options.

Best regards,

Sara Kemme | [Call by Teams](#) | 202.566.1217

Kemme.sara@epa.gov

From: Jerry Couri <JCouri@afpm.org>

Sent: Friday, February 14, 2025 1:14 PM

To: Kemme, Sara <kemme.sara@epa.gov>

Cc: Aaron Ringel <ARingel@afpm.org>; Robert Benedict <RBenedict@afpm.org>; Geoff Moody <GMoody@afpm.org>; Dekleva, Lynn <dekleva.lynn@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>

Subject: Re: Meeting Request

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I will try to get something together for you in short order on issues.

Unfortunately, a majority of the folks that would like to attend this first meeting will be unavailable on February 21. If you have times available on Tuesday or Wednesday of next week (February 18-19) or the week thereafter (February 24-28), please let me know.

From: Kemme, Sara

Sent: Friday, February 14, 2025 9:47 AM

To: Jerry Couri

Cc: Aaron Ringel; Robert Benedict; Geoff Moody; Dekleva, Lynn; Beck, Nancy

Subject: RE: Meeting Request

EXTERNAL MESSAGE: This email originated outside of our company.

Thanks Jerry-

A list of topics would be helpful. If you envision this as a listening session for Nancy and Lynn to hear your organization's ideas/issues, we could set something up for as early as next Friday (2/21/25). It looks like we're available 2/21/25 during the 1pm or 2pm time slots for a 45 min meeting, either virtual or at our DC HQ.

Best regards,

Sara Kemme | [Call by Teams](#) | 202.566.1217

Kemme.sara@epa.gov

From: Jerry Couri <JCouri@afpm.org>

Sent: Thursday, February 13, 2025 10:08 AM

To: Kemme, Sara <kemme.sara@epa.gov>

Cc: Aaron Ringel <ARingel@afpm.org>; Robert Benedict <RBenedict@afpm.org>; Geoff Moody <GMoody@afpm.org>;

Dekleva, Lynn <dekleva.lynn@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>

Subject: Re: Meeting Request

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I'm happy to clarify with a list of topics for the first meeting if that helps on your end.

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From: Kemme, Sara <kemme.sara@epa.gov>

Sent: Thursday, February 13, 2025 10:05:11 AM

To: Jerry Couri <JCouri@afpm.org>

Cc: Aaron Ringel <ARingel@afpm.org>; Robert Benedict <RBenedict@afpm.org>; Geoff Moody <GMoody@afpm.org>;

Dekleva, Lynn <dekleva.lynn@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>

Subject: RE: Meeting Request

You don't often get email from kemme.sara@epa.gov. [Learn why this is important](#)

EXTERNAL MESSAGE: This email originated outside of our company.

Hello Jerry-

Thanks for reaching out. I'm going to circle back with the team and I'll be in touch today or tomorrow.

Best regards,

Sara Kemme | [Call by Teams](#) | 202.566.1217

Kemmc.sara@epa.gov


From: Jerry Couri <JCouri@afpm.org>

Sent: Wednesday, February 12, 2025 3:57 PM

To: Kemme, Sara <kemme.sara@epa.gov>

Cc: Aaron Ringel <ARingel@afpm.org>; Robert Benedict <RBenedict@afpm.org>; Geoff Moody <GMoody@afpm.org>; Dekleva, Lynn <dekleva.lynn@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>

Subject: Re: Meeting Request

 **Caution:** This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Hey Sara,

Nancy sent us your way to set up a meeting.

If possible, we'd like a short meeting now to merely touch base and then a more involved one to understand and discuss this administration's priorities for the Agency.

If that is doable, are there days and times that would work for Nancy, Lynn, or both for either meeting?

Thank you,

Jerry

Jerry Couri

Senior Policy Director

American

Fuel & Petrochemical

Manufacturers

1800 M Street, NW

Suite 900 North

Washington, DC 20036

Direct: (202) 844-5502

Mobile: (202) 821-7509

JCouri@afpm.org

From: Beck, Nancy
Sent: Tuesday, February 11, 2025 8:07 AM
To: Jerry Couri; Dekleva, Lynn
Cc: Aaron Ringel; Robert Benedict; Geoff Moody; Kemme, Sara
Subject: RE: Meeting Request

EXTERNAL MESSAGE: This email originated outside of our company.

Hi Jerry,

Thanks for the good wishes. We are happy to hear from your members. However, if you are looking to hear our priorities, we need a bit more time to get a handle on everything.

Please work with Sara to set something up when the time is right.

Best,
Nancy

Message

From: Jerry Couri
[JCouri@afpm.org]
Sent: 3/18/2025 10:14:08 PM
To: Beck, Nancy
[beck.nancy@epa.gov];
Zeldin, Lee
[Zeldin.Lee@epa.gov];
Dekleva, Lynn
[dekleva.lynn@epa.gov]
CC: Meredith B. Cody
[CodyM@api.org];
Richard Moskowitz
[RMoskowitz@afpm.org];
petkak@api.org; Geoff
Moody
[GMoody@afpm.org];
Lara Swett
[LSwett@afpm.org];
Robert Benedict
[RBenedict@afpm.org];
Chet Thompson
[Cthompson@afpm.org]
Subject: Re: AFPM/AFI Response
to TSCA Section 21
Petition

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Nancy:

Thanks for the receipt notice. Our pleasure to help answer any questions.

Best,

• Jerry

Jerry Couri

Senior Policy Director
American Fuel &
Petrochemical
Manufacturers
1800 M Street, NW
Suite 900 North
Washington, DC 20036
Direct: (202) 844-5502
Mobile: (202) 821-7509
Jcouri@afpm.org

From: Beck, Nancy <beck.nancy@epa.gov>

Sent: Tuesday, March 18, 2025 6:12 PM

To: Jerry Couri <JCouri@afpm.org>; Zeldin, Lee <Zeldin.Lee@epa.gov>; Dekleva, Lynn <dekleva.lynn@epa.gov>

Cc: Meredith B. Cody <CodyM@api.org>; Richard Moskowitz <RMoskowitz@afpm.org>; Keith Petka <PetkaK@api.org>;

Geoff Moody <GMoody@afpm.org>; Lara Swett <LSwett@afpm.org>

Subject: RE: AFPM/AFI Response to TSCA Section 21 Petition

EXTERNAL MESSAGE: This email originated outside of our company.

Thank you Jerry.

I am acknowledging receipt and letting you know I am passing this along to the team working on the petition. Thank you for being available should the team have questions.

Best,
Nancy

Nancy B. Beck, PhD, DABT
Principal Deputy Assistant Administrator
EPA Office of Chemical Safety and Pollution Prevention
(w) 202-564-7031

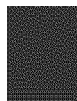
From: Jerry Couri <JCouri@afpm.org>

Sent: Monday, March 17, 2025 10:53 PM

To: Zeldin, Lee <Zeldin.Lee@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>; Dekleva, Lynn <dekleva.lynn@epa.gov>

Cc: Meredith B. Cody <CodyM@api.org>; Richard Moskowitz <RMoskowitz@afpm.org>; petkak@api.org; Geoff Moody <GMoody@afpm.org>; Lara Swett <LSwett@afpm.org>

Subject: AFPM/AFI Response to TSCA Section 21 Petition

 **Caution:** This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Please find attached comments respectfully submitted from AFPM and API regarding the TSCA Section 21 petition filed by NRDC et al. on February 11, 2025, to prohibit the use of hydrogen fluoride in domestic oil refining.

We continue to work on additional technical rebuttal points and will submit them under separate cover.

Please contact us with any questions you may have.

- Jerry

Jerry Couri

Senior Policy Director
American Fuel &
Petrochemical
Manufacturers
1800 M Street, NW
Suite 900 North
Washington, DC 20036
Direct: (202) 844-5502
Mobile: (202) 821-7509
Jcouri@afpm.org

Message

From: Jerry Couri
[JCouri@afpm.org]
Sent: 3/18/2025 2:52:31 AM
To: Zeldin, Lee
[Zeldin.Lee@epa.gov];
Beck, Nancy
[beck.nancy@epa.gov];
Dekleva, Lynn
[dekleva.lynn@epa.gov]
CC: Meredith B. Cody
[CodyM@api.org];
Richard Moskowitz
[RMoskowitz@afpm.org];
petkak@api.org; Geoff
Moody
[GMoody@afpm.org];
Lara Swett
[LSwett@afpm.org]
Subject: AFPM/AFI Response to
TSCA Section 21 Petition
Attachments: DOC031725-
03172025225450.pdf

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Please find attached comments respectfully submitted from AFPM and API regarding the TSCA Section 21 petition filed by NRDC et al. on February 11, 2025, to prohibit the use of hydrogen fluoride in domestic oil refining.

We continue to work on additional technical rebuttal points and will submit them under separate cover.

Please contact us with any questions you may have.

- Jerry

Jerry Couri

Senior Policy Director
American Fuel &
Petrochemical
Manufacturers
1800 M Street, NW
Suite 900 North
Washington, DC 20036
Direct: (202) 844-5502
Mobile: (202) 821-7509
Jcouri@afpm.org



American
Fuel & Petrochemical
Manufacturers



American
Petroleum
Institute

March 17, 2025

To: Lee Zeldin
Administrator, Environmental Protection Agency

Nancy Beck
Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution
Prevention

Lynn Dekleva
Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention

Elissa Reaves
Director, Office of Pollution Prevention and Toxics

*Submitted via email to: Zeldin.Lee@epa.gov; Beck.Nancy@epa.gov;
Dekleva.Lynn@epa.gov; Reaves.Elissa@epa.gov*

Re: Petition to Prohibit the use of Hydrogen Fluoride in Domestic Oil Refining Under Sections 21 and 6(a) of the Toxic Substances Control Act

On February 11, 2025, Clean Air Council, Communities for a Better Environment, and the Natural Resources Defense Council (collectively, "Petitioners") submitted a document titled "Petition To Prohibit The Use Of Hydrogen Fluoride In Domestic Oil Refining Under Sections 21 And 6(A) Of The Toxic Substances Control Act" ("the Petition"). The American Fuel & Petrochemical Manufacturers, together with and the American Petroleum Institute (collectively "AFPM/API"), oppose the Petition because it is legally and factually flawed.

AFPM/API submit the following comments in opposition to the Petition. AFPM/API intend to supplement these comments with additional detail in the coming weeks, but, in the meantime, please contact us if you have any questions or require specific information.

Respectfully submitted,

Jerry Couri
Senior Policy Director
American Fuel & Petrochemical Manufacturers
Direct: (202) 844-5502
Jcouri@afpm.org



American
Fuel & Petrochemical
Manufacturers



American
Petroleum
Institute

Comments of American Fuel & Petrochemical Manufacturers (AFPM) and American Petroleum Institute (API) on Petition to Prohibit the use of Hydrogen Fluoride in Domestic Oil Refining Under Sections 21 and 6(a) of the Toxic Substances Control Act

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I. Introduction

AFPM/API oppose the Petition as factually and legally flawed. Petitioners assert that, based on the information provided in the Petition, the Environmental Protection Agency (EPA) must “establish a Section 6(a) rule prohibiting the use of HF [hydrogen fluoride/hydrofluoric acid] in domestic oil refining,” which it defines to include transport of HF to refineries. Alkylation units in refineries produce alkylate, a necessary blending component for cleaner, high-octane gasoline and aviation fuel. The alkylation process is initiated by one of two primary catalysts — HF or sulfuric acid. It is this use of HF that Petitioners seek to ban.¹

HF is one of the most thoroughly managed and highly regulated industrial chemicals in use today. Facilities that have and use HF are subject to federal and state workplace and community safety requirements. For example, under the Occupational Safety and Health Administration’s (OSHA) regulations, HF is subject to the Process Safety Management of Highly Hazardous Chemicals (PSM) standard. Under the Clean Air Act (CAA), EPA also requires facilities that use or store more than a threshold amount of HF to develop risk management plans pursuant to the Risk Management Program (RMP) requirements. HF is also subject to the Emergency Planning and Community Right-to-know Act (EPCRA). Collectively, these programs work to prevent and manage accidental releases, but they also establish rapid response protocols and emergency mobilization plans, specific to each site and community, that can be initiated in the rare event of a chemical release. Under RMP and PSM, in particular, facilities that utilize or store above-threshold quantities of HF must complete hazard assessments and update them at least every five years. These facilities are required to adhere to a series of risk reduction measures, including process hazard analyses that entail a review of internal and external incidents to identify preventative measures and mitigations to prevent similar events. Before starting equipment operation, sites are required to conduct a pre-start-up review and maintain the process safety information for the unit. If an incident does occur, there are incident investigation requirements that inform future hazard assessments and programs. Facilities are regularly audited under the PSM and RMP regulations to verify the effectiveness of those programs. Training for employees is also a requirement. There are extensive requirements for emergency response planning as well. These elements work together to adequately reduce risk at these facilities.

As part of OSHA’s PSM and EPA’s RMP regulations, facilities review industry codes, standards and recommended practices to determine the Recommended and Generally Acceptable Guidelines for Engineering Practices (RAGAGEP) they will incorporate into their safety programs. The API Recommended Practice, *Safe Operation of Hydrofluoric Acid Alkylation Units*, (API RP-751) contains a menu of options that the refining industry evaluates as they

¹ Globally, refineries use only 2% of the total amount of HF consumed. There are many other uses of HF that are not addressed in the Petition.

https://www.afpm.org/sites/default/files/issue_resources/Alkylation_SafetyRiskMitigation.pdf.



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create facility-specific safety programs.² Facilities in the refining industry must also evaluate multiple incident scenarios of different scales to consider every possible risk factor and multiplier for emergency response planning and procedures.

Petitioners ignore the existing and fulsome protections of the CAA, Occupational Safety and Health Act (OSH Act), PSM, EPCRA, Hazardous Materials Transportation Act, and other federal and state regulations, as well API RP-751 and other safety measures implemented by refineries, to argue that regulation under TSCA is warranted. In reality, this safety regime combined with a robust industry information sharing program has resulted in the petrochemical manufacturing and fuel refining industries being able to claim they are among the safest U.S. manufacturing industries, according to injury and illness rates maintained by OSHA and the U.S. Bureau of Labor Statistics covering all the major U.S. manufacturing sectors.³ The effectiveness of the existing regulatory system at eliminating unreasonable risk is further corroborated by the fact that nationally, there have never been any fatalities in surrounding communities as a result of HF-related incidents at refineries.⁴ Because current regulatory requirements adequately mitigate potential risks from HF alkylation, the Petition should be denied.

In addition to ignoring the protections provided by other laws and regulations, Petitioners inappropriately rely on worst-case assumptions and hypothetical scenarios to portray the transportation and use of HF in refineries as posing unreasonable risks. However, the alleged risks to which Petitioners point are based on scenarios and assumptions that are highly improbable in the real world. Because these scenarios are so speculative, they do not qualify as part of a “condition of use” that may lawfully be regulated under TSCA. EPA has publicly stated that it “does not include in the scope of the risk evaluation [the TSCA Section 6 process prerequisite for determining the presence of an unreasonable risk requiring regulation under TSCA Section 6(a)] catastrophic accidents, extreme weather events, and other natural disasters.”⁵ As such, they are irrelevant to assessing whether HF presents an unreasonable risk under TSCA Section 6, as urged by Petitioners.

Furthermore, even if the extremely rare, highly speculative scenarios posited by Petitioners could be considered “conditions of use” for purposes of TSCA, Petitioners have failed to demonstrate that those scenarios represent an “unreasonable risk,” which is a necessary predicate for EPA to act under Section 6(a) to impose a ban or any other risk management measure.

² The latest version of API RP-751 can be accessed at the following url: <https://www.api.org/products-and-services/standards/important-standards-announcements/751>.

³ See Bureau of Labor Statistics (BLS) data on “incidence rates of nonfatal occupational injuries and illnesses by industry,” available at <https://www.bls.gov/charts/injuries-and-illnesses/number-and-rate-of-nonfatal-work-injuries-by-industry-subsector.htm>.

⁴ https://www.afpm.org/sites/default/files/issue_resources/Alkylation_SafetyRiskMitigation.pdf.

⁵ See [Draft Scope of the Risk Evaluation for Vinyl Chloride](#), p. 17.



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Finally, if EPA ignored the applicability of other laws, found that speculative HF releases qualify as part of the refinery alkylation condition of use, and found that such use poses unreasonable risk, then EPA still could not lawfully grant the relief requested by the Petition but would, instead, need to thoroughly evaluate the risks of HF as well as the risks, benefits and costs of any other available mitigation options, as required by TSCA.

II. Petitioners Have Not Demonstrated That Use of HF In Refineries Presents An Unreasonable Risk To Human Health Or The Environment.

A. Petitioners Have Not Conducted An Adequate Exposure Assessment To Demonstrate Unreasonable Risk.

Under Section 6 of TSCA, the conditions of use of a chemical must be evaluated to determine whether a use presents “unreasonable risk of injury to health or the environment.” Only a determination of unreasonable risk triggers some form of TSCA-specified risk management regulation.

As set forth at 40 C.F.R. § 702.39(a), an assessment of whether a substance presents an unreasonable risk must include several components, including an exposure assessment. EPA’s risk assessment guidance explains that to perform an adequate exposure assessment, “exposures are estimated (usually quantitatively) for the identified conditions of use” based on a consideration of the “*likely* duration, intensity, frequency, and number of exposures under the conditions of use.”⁶ In addition, a valid exposure assessment should take into account “variability in exposures and appropriate exposure distributions” using probabilistic tools such as Monte Carlo and kriging.⁷

As discussed in Section III below, the exposure scenarios pointed to by Petitioners as posing unreasonable risk are highly speculative and unlikely. Moreover, because they are based entirely on hypothetical accidental releases, they are inherently highly variable. Under these circumstances, as EPA’s risk assessment guidance indicates, probabilistic assessment is necessary to ascertain the “likely duration, intensity, frequency, and number” of exposures, as mandated by TSCA Section 6. However, Petitioners have not attempted to conduct a probabilistic analysis of potential exposures. Instead, they assume, contrary to the facts, that catastrophic releases are likely to occur with some frequency, and that those releases will result in massive casualties. These speculative assumptions are not a substitute for a science-based

⁶ EPA, Guidance to Assist Interested Persons in Developing and Submitting Draft Risk Evaluations Under The Toxic Substances Control Act, EPA 740-R17-001 (June 2017) at p 17 (emphasis added); available at: https://www.epa.gov/sites/default/files/2017-06/documents/tsca_ra_guidance_final.pdf.

⁷ EPA, Framework for Human Health Risk Assessment to Inform Decision Making, EPA/100/R-14/001 (April 2014) at p 40-41; available at: <https://www.epa.gov/sites/default/files/2014-12/documents/hhra-framework-final-2014.pdf>.



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probabilistic exposure assessment. And without such an exposure assessment, Petitioners have not and cannot establish that the use of HF in refineries presents an unreasonable risk.

B. Available Data Do Not Support Petitioners' Speculative Exposure Assumptions.

Petitioners have not demonstrated that alkylation using HF or transportation of HF to refineries presents any unreasonable risks. Petitioners couple the presentation of toxicity data with intentionally biased figures, assumptions, and projections regarding exposure, assuming there would be such a release and assuming unrealistic exposures if there were a release, but they do not factor in the exceedingly low likelihood of release and existing risk mitigation measures, as discussed below in Section III.B. Moreover, the available data indicate that if a release were to occur, it would not result in the level of exposure and type of injury hypothesized by Petitioners. In the nearly 80-year history of HF alkylation at fuel refineries, there have been no fatalities caused by HF in the communities surrounding AFPM/API member refineries.⁸ Based on data from the National Safety Council, actual incident reports and mitigation surveys, the theoretical lifetime odds of sustaining a life-threatening injury from HF alkylation in the United States are roughly 1 in 52 million.⁹ For those living in close proximity to refinery HF units, the odds of life-threatening injury from HF are just 1 in 144,000.¹⁰ By comparison, the lifetime odds of dying from a bee sting are much greater at 1 in 59,000, and the chance of being struck by lightning, the quintessential low-probability occurrence, is also greater, at 1 in 138,000.¹¹

Petitioners have similarly overstated the likely harm from an HF release. First, API RP-751, discussed above includes emergency response measures in the case of an HF release, including HF-specific training for emergency response teams and plans covering protocols for coordinating with local first responders, internal and external communications systems, decision criteria to issue evacuation or shelter-in-place instructions, medical responses to HF exposure, strategies for managing potential mitigation water runoff, and mechanisms for decontaminating both the built and natural environments (e.g. equipment, buildings, soil and water). Many of these mitigation measures are already required by the RMPs administered by EPA, and their preparation is legally enforceable.

Petitioners' consequence analysis is extrapolated from the RMP worst-case scenario data; however, this consequence analysis is a misuse of these data, as EPA expressly disclaimed its use for such purposes. EPA stated when discussing RMPs, "the results you obtain from modeling

⁸ https://www.afpm.org/sites/default/files/issue_resources/Alkylation_SafetyRiskMitigation.pdf.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *See* Attachment 1.



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your worst-case or alternative scenarios should not be considered to predict the likely results of an accidental release.”¹²

Rather, the RMP planning circles relied upon by Petitioners are hypotheticals that have never been replicated in the real world. They are intended solely for emergency response planning purposes, and they should not be misinterpreted or misrepresented as predictors of actual risk. Moreover, the modeling used for RMPs “should be viewed as providing a basis for discussion among the regulated community, emergency planners and responders, and the public, rather than predictions.”¹³ Thus, RMP data cannot be used as “predictions” for outcomes of actual releases. Yet, Petitioners fail to mention these EPA disclaimers and instead base their exposure claims on information the EPA considers unrealistic and invalid for establishing actual consequences for these scenarios.

It is easy to see why these “planning circles” are not predictors of actual exposure or risk. They are designed to identify the largest possible area that could be impacted by a hypothetical worst-case scenario. Multiple unrealistic assumptions are baked into these hypothetical scenarios. First, most there are zero active mitigation technologies that will be deployed in response to an incident.¹⁴ In addition, the worst-case scenarios do not factor in the use of all passive mitigation measures. This means that such calculations cannot consider “automatic shutoff valves, rapid transfer systems (emergency drainage), and water/chemical sprays,” which “have the effect of reducing either the release rate or the duration of the release, or both.”¹⁵ A release without such mitigation measures will simply never be the case in the United States because every refinery with an HF alkylation unit is equipped with multiple forms of mitigation, none of which is “single point-of-failure,” or the only line of defense for a facility or community. Second, to arrive at a hypothetical worst-case scenario, facilities are required to factor in the worst plausible external conditions for an incident and to proceed as though all those conditions will exist simultaneously during an incident. Such a scenario is not just unlikely; it is not physically possible. For example, the RMP uses both the nighttime wind stability and the highest-observed ambient temperature (a daytime reading). These nighttime and daytime assumptions can never happen simultaneously in the real world, so the worst possible real-world release scenario would still never match the RMP. Third, the RMP shows what would happen if an incident occurred while wind was blowing steadily in all directions. Such an assumption would effectively mean that wind was steadily emanating from the refinery in all directions. This assumption would cause the neat “planning circles,” rather than much smaller, and realistic, pie-

¹² See General Guidance on Risk Management Programs for Chemical Accident Prevention (40 CFR Part 68) - CHAPTER 4: OFFSITE CONSEQUENCE ANALYSIS (April 2004) EPA also states “[t]he distance to the endpoint estimated under worst-case conditions should not be considered a zone in which the public would likely be in danger.”

¹³ General Guidance on Risk Management Programs for Chemical Accident Prevention (40 CFR Part 68) - CHAPTER 4: OFFSITE CONSEQUENCE ANALYSIS (April 2004) at 4-4.

¹⁴ 40 CFR 68.165(b)(14).

¹⁵ <https://www.epa.gov/sites/default/files/2013-11/documents/chap-04-final.pdf>.



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shaped wedges or plumes. In reality, if a release were to occur at a facility, the majority of that circle would not be impacted, and the area impacted would depend on actual wind speed and direction, humidity, and turbulence.

RMP worst-case scenarios include other unrealistic assumptions, such as assuming that the entire contents of a tank are completely released in 10 minutes. Such an assumption is particularly unrealistic because a leak from an atmospheric storage tank of HF will not have a strong motive force driving the HF out of the vessel. In addition, these assumptions do not account for physical structures and barriers that limit the offsite consequences of any release.

Because all of Petitioners' calculations and assertions regarding exposure and, therefore, risk are based on the RMPs, they are just as exaggerated and flawed. The faults in these calculations are illustrated by the disparity between the few release incidents that have occurred and the dire predictions by Petitioners. For example, the 2019 Philadelphia incident does not appear to have resulted in any injury from the HF itself. Specifically, the six minor injuries to workers and first responders Petitioners referenced do not appear to have been caused by HF exposure. Relatedly, modeling by the Federal Emergency Management Agency "concluded that 'significant HF [concentrations] was *unlikely to have crossed the facility perimeter* [as a result of the incident]'" and "'HF concentrations outside the facility perimeter [as a result of the incident] were low, on the order of a few parts per billion (ppb) or below These levels are considerably *below generally accepted health hazards for HF.*'" In fact, "[t]he CSB is unaware of any off-site impacts from the HF release" in Philadelphia.¹⁶ Yet, when Petitioners calculate the area and number of people that could be impacted by a release from the nearby Trainer Refinery, they argue that the HF could travel 17 miles, exposing 1,900,000 people. This is an impossible result, since, as explained above, such figures, derived from RMP planning circles, are simply unrepresentative of real-world exposure, weather patterns, operating conditions, and potential injury. Also of note, Petitioners did not provide the equivalent calculation for the Texas City facility, but the 1987 incident at that plant, nearly 40 years ago, resulted in the hospitalization of 95 people and alleged wildlife impacts for three miles, a far cry from what their calculations provided in the Petition, would have predicted -- a minimum of 6.2 miles affecting a minimum of 400,000 people in the area. Petition at 20. The rare instances of real world HF releases have been nothing like the scope and magnitude of releases predicted in the Petition. In the many decades that refineries have used HF alkylation in the U.S., there has never been an HF alkylation release at a U.S. refinery of the type described in the Petition.

Thus, Petitioners' reliance on RMP models to predict exposures, in contravention of EPA recommendations not to rely on such modeling,¹⁷ is misplaced and inappropriate for TSCA

¹⁶ https://www.csb.gov/assets/1/6/pes_final_report_published_october_2022.pdf at 24.

¹⁷ "Since worst-case scenario distances are based on modeling conditions that are unlikely to occur, and since modeling of any scenario that results in large distances is very uncertain, EPA strongly urges communities and industry not to rely on the results of worst-case modeling or any modeling that results in very large toxic endpoint



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purposes (not reasonably foreseen or likely) and cannot be used to support a conclusion of “unreasonable risk.”

C. Any Potential Risk Is Adequately Mitigated Under Existing Regulations

As discussed elsewhere in this document, potential risks from HF alkylation at refineries are comprehensively addressed and thoroughly mitigated under existing regulatory programs including RMP and PSM as well as consensus RAGAGEP standards, most notably API RP-751.¹⁸ In addition, potential risks from transportation and occupational exposures are further mitigated by extensive OSHA and DOT regulations. For example, refineries handling HF must comply with OSHA requirements that include the following:

- Develop and implement a process safety management program in accordance with OSHA standard at 29 CFR 1910.119, if they meet threshold quantities.
- Implement a program of engineering controls, work practices and personal protective equipment to control exposure (*see, e.g.*, 29 CFR 1910.134, 29 CFR 1910.1000);
- Monitor the site to determine the appropriate level of employee respiratory protection and provide suitable respirators where required (29 CFR 1910.134);
- Provide information and training, including first-aid training, to employees with respect to potential hazards of HF at their facilities by implementing a written hazard communication program (29 CFR 1910.1200);
- Develop and implement an emergency response plan, including emergency procedures and training of personnel (*see, e.g.*, 29 CFR 1910.120, 29 CFR 1910.38); and
- Provide adequately trained first aid responders (29 CFR 1910.151).

All refineries with HF alkylation units are required to comply with these regulations, and, although the Petitioners chose to ignore them, they are relevant to the question of whether HF alkylation poses an unreasonable risk under TSCA. EPA must consider these existing requirements that help ensure that HF alkylation units do not pose an unreasonable risk.

Similarly, as indicated previously, the potential risk of HF exposure in transportation is thoroughly and appropriately regulated by the DOT. PHMSA has adopted comprehensive

distances in emergency planning and response activities." -- Source: <https://www.epa.gov/sites/default/files/2013-11/documents/oca-chps.pdf>, Sec. 1.4.

¹⁸ *See, e.g.*, discussion of RMP, PSM and API RP-751 in Section III.B, *supra*.



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regulations governing HF transportation. *See* PHMSA's Hazardous Materials Regulations (HMR) 49 CFR Subtitle B Chapter I Subchapter C Parts 100-185. HF is subject to numerous requirements governing its transportation, including package selection, shipping papers, marking, labeling, and other operational controls. *See* 49 CFR Sec. 172.101.

As discussed, above, most, if not all, U.S. refineries receive HF by truck. The HMR comprehensively regulates HF truck transportation, requiring shippers to use specific performance-oriented packaging (e.g., MC 307 or low-pressure chemical ISO containers) that have undergone extensive testing and periodic requalification to ensure they minimize exposure while in transportation. PHMSA regulations also cover loading and unloading, as well as appropriate hazard communication through regulations governing the proper shipping name, required hazard warning labels, and markings to ensure that the risks of HF are appropriately communicated. These requirements combine to appropriately address the risks of transporting HF by truck.

Although we are not aware of any U.S. refineries that receive HF by rail, the HMR covers those movements as well, requiring specific tank car construction and safety standards, including steel thickness and enhanced safety features, specific valves and valve protection, periodic requalification, loading and unloading requirements, and operational controls (including routing, speed restrictions, and security controls). Regulations related to tank car requirements were recently updated in 2020 to further strengthen the standards for rail tank cars moving HF.

The comprehensive management of potential risks under multiple coordinated regulatory programs governing the use of HF at refineries and the transportation of HF to those facilities ensures that there is no unreasonable risk associated with those conditions of use.

III. The Exposure Scenarios Described By Petitioners Do Not Constitute Conditions Of Use Under TSCA.

Although “the use of HF for alkylation at U.S. refineries” and, separately, transportation of HF are conditions of use of HF, Petitioners are incorrect to treat unlikely, unpredictable, hypothetical releases as part of those conditions of use, subject to risk evaluation and risk management under TSCA Section 6. Moreover, use of HF in a refinery is a separate condition of use from its transportation to such refineries, and transportation to refineries does not utilize rail transport as Petitioners allege.

A. “Conditions of Use” Do Not Include Unlikely Events, Such As Random And Hypothetical Accidents.

The risk scenarios relied on by Petitioners are grossly misleading and are not, in fact, part of HF's “conditions of use,” as defined by TSCA, so EPA cannot impose Petitioner's sought after ban under TSCA Section 6. EPA can only promulgate a ban, or any other restriction under Section 6(a), if it first determines that “a chemical substance presents an unreasonable risk of



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injury to health or the environment . . . under the conditions of use.” 15 U.S.C. § 2605(b)(4)(A). “Conditions of use” means “the circumstances, as determined by the Administrator, under which a chemical substance is *intended, known, or reasonably foreseen* to be manufactured, processed, distributed in commerce, used, or disposed of.” 15 U.S.C. § 2602(4) (emphasis added). As EPA has explained with respect to the identification of conditions of use under TSCA Section 6, “[t]he determination of whether a particular circumstance is known or reasonably foreseen - and therefore an exposure that must be considered within the scope of the risk evaluation - is necessarily going to be a fact-specific, chemical-by-chemical analysis.”¹⁹ When responding to comments suggesting that EPA should include in its evaluations “exposures from chemical spills as conditions of use” and should factor in “spills [and] leaks,” EPA responded that:

where EPA has reasonably available information demonstrating that certain exposures associated with a spill or leak are known or reasonably foreseen to occur (e.g., regular or predictable exposures from equipment leaks as part of the manufacturing process), EPA would expect to include that exposure within the scope of the risk evaluation. Conversely, *where exposures from future releases of a chemical substance are unsubstantiated, speculative, or otherwise not likely to occur (e.g., a future one-time accident involving the chemical substance that could be caused by an atypical one-time set of circumstances), EPA would generally not assess them as part of a risk evaluation.*²⁰

Thus, “conditions of use” that may be evaluated and regulated under TSCA Section 6 exclude releases that are speculative or not likely to occur, such as hypothetical releases from rare accidents caused by an atypical, one-time set of circumstances, because such releases are not reasonably foreseen. TSCA does not permit consideration of, or regulation based on, unlikely scenarios.

B. Catastrophic Release From A Refinery Is Not Reasonably Foreseen.

“The storage, use, recycling, and any mixing or blending of HF for alkylation at U.S. oil refineries are ‘conditions of use’ of HF.” Petition at 3. On that Petitioners and AFPM/API agree. However, these conditions of use do not include the hypothetical catastrophic releases upon which Petitioners base their Petition. The Petition does not look at intended use of HF and equipment maintenance or “regular or predictable exposures from equipment leaks as part of the manufacturing process”²¹; instead, it refers only to risks from highly unlikely and speculative catastrophic releases that might hypothetically result from plant failures and mass HF releases from refineries.

¹⁹ USEPA, Procedures for Chemical Risk Evaluation Under the Toxic Substances Control Act (TSCA) EPA-HQ-OPPT-2023-0496 -- EPA Response to Public Comments (April 2024) at p. 14, *available at*: <https://www.regulations.gov/document/EPA-HQ-OPPT-2023-0496-0431>.

²⁰ *Id.* (emphasis added).

²¹ <https://www.regulations.gov/document/EPA-HQ-OPPT-2023-0496-0431>.



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The plant failures and mass HF releases posited by Petitioners are “unsubstantiated, speculative or otherwise not likely to occur (e.g., a future one-time accident involving the chemical substance that could be caused by an atypical one-time set of circumstances),”²² and, thus, such releases do not qualify as part of a “condition of use” for purposes of TSCA Section 6. First, the industry has used HF alkylation for decades and takes multiple, redundant measures to use HF safely and mitigate the risk of release. Refineries using HF conduct risk assessments that measure the probability of various realistic release scenarios. Facilities then implement the appropriate mitigations to prevent or minimize the impact of those releases. The risk of a release is managed at the facility level and at the process unit itself. Petitioners have been able to point to only two HF releases in the United States in the last 38 years.²³ Two incidents in close to 40 years are very accurately described as “atypical” and “not likely to occur,” and repetition of such events is purely “speculative.”²⁴ It is also notable that Petitioners state that the refinery involved in one of the prior releases is “still operating, and still using HF” 38 years later. Petition at 42.²⁵ This refinery has not experienced any HF releases since that time. Thus, the HF release was, by definition, a “one-time accident” and cannot be treated as a more frequent occurrence that could be considered a “condition of use” of the alkylation process.

Future incidents are particularly unlikely and speculative given industry’s compliance with the existing PSM standard under OSHA and EPA’s RMP requirements. Through those rules, refineries continuously reduce risk through risk management programs that include the identification and mitigation of hazards through Management of Change, Hazard Assessments, and Layers of Protection Analysis, in addition to other measures. Those programs are also audited every three years to ensure their effectiveness. Industry shares lessons learned so that refineries can utilize the information as part of their hazard analyses.

In addition to regulations, API RP-751 provides the recommended operating practices specific to HF alkylation. It covers the specific hazards and characteristics around HF and the corresponding requirements for worker protection, inspections, metallurgy and mechanical integrity, risk assessments, mitigations including early detection and active and passive mitigations, inventory control, and transportation. The document is updated with the latest knowledge every 5 years and, in the most-recent revision (after the incidents identified by Petitioners), changed 107 recommendations to requirements. Although API RP-751 is a US standard, it is recognized globally as the gold standard for HF alkylation operations. The most recent edition of the standard, published in 2021, included updates such as a requirement to

²² *Id.*

²³ Petition at 41-42 (describing a 1987 incident in Texas) and 43 (describing a 2019 incident in Philadelphia). Petitioners also include a “near-release” in 2015 and an assertion of approximately two-dozen “leak[s]” “since 1987.” Petition at 42-44. Notably, however, neither the 2015 “near-release” nor the two-dozen undescribed “leak[s]” in the last 38 years have resulted in any HF exposure to any individual or the environment. They thus do not serve as evidence for a proposition that exposure from unintended releases of HF is “regular or predictable” or “reasonably foreseen.”

²⁴ See Section II.B *infra* for a detailed discussion of comparative risk statistics.

²⁵ The other refinery suffered property damage and was not reopened.



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establish critical limits to prevent any operation that might constitute harm to safety or the environment, additional criteria for personal protection equipment, more robust criteria for PHA team members and more robust guidelines for emergency response and control planning. These more-recent changes to API RP-751 that help prevent future incidents are in addition to many other types of mitigation measures that have been previously implemented.

Under API RP-751, every refinery conducts a specific risk analysis of their HF unit, and that analysis determines realistic scenarios and corresponding mitigation measures, given their location, configuration, and amount of HF on site. Importantly, while RMP and PSM provide the framework to prevent accidental releases and reduce risk, API RP-751 provides the recommendations for how a facility might do that.

Because every refinery is unique, with different engineering configurations and physical footprints, and different types and quantities of crude oil being processed and petroleum products being produced, the specific risk mitigation measures implemented vary from refinery to refinery. However, all facilities participate in the federal OSHA, PSM, and RMP programs and implement technical mitigation tools to prevent releases and ensure the earliest possible detection and fastest possible response to any potential release. Each refinery employs some combination of the following technologies and safeguards to prevent, detect and contain HF-related incidents:

- **Prevention of chemical release:** Accomplished using closed-loop systems with redundant engineering safeguards; robust inspection and mechanical integrity programs including Integrity Operating Window (IOW) programs and double-sealed pumps. IOW's identify the safe operating limits, which can be thought of as clear lane markers for acceptable flow, temperature and pressure levels in a unit. In addition, a material verification program, which includes component checks and positive materials identification, to confirm the different metals and alloys in a unit so corrosion rates can be monitored and appropriate maintenance schedules maintained; extensive training programs; and preventive maintenance. Lastly, API RP 751 specifies HF unloading and sampling requirements, corrosion monitoring location requirements, repair requirements, use of tubing requirements, utility connection requirements (to prevent HF incursion into non-HF systems), and requirements for lifting over in-service equipment.
- **Detection:** Accomplished through 24-hour video monitoring, operator rounds, and live-unit diagnostics; acid-detecting paint, which changes color from yellow to red at even the slightest presence of HF (down to the parts per billion level) to allow early responses; multiple individual point sensors and perimeter laser monitors (some of which are programmed to automatically activate other mitigation systems upon alert); multiple targeted, continuously monitored live camera feeds; monitoring of cooling water and steam condensate for fluorides in the event of a tube leak; hydrocarbon detectors; and/or integrated unit and facility alarms that cannot be overridden short of incident resolution.
- **Containment:** Accomplished through rapid acid transfer and remote isolation systems; remotely activated block valves for HF isolation; remote-activated and controlled water



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mitigation systems (e.g. water cannons, water walls, water curtains, or equipment deluges, each of which absorbs and dissolves HF because the chemical is completely soluble in water); use of modified HF (a vapor suppression additive); external flange and equipment barriers; dikes and absorbent booms; and specialized PPE for HF unit operators and emergency responders. An image showing sample HF containment measures can be found in Attachment 1 ([Alkylation Safety & Risk Mitigation in the Production of Cleaner Fuels](#)).

AFPM/API cannot confirm the accuracy of Petitioners' allegations regarding the number of facilities that do not employ a particular mitigation measure, but such a pinpoint statistic demonstrates Petitioners' lack of knowledge regarding safety standards and is irrelevant because it ignores the required engineering controls and implementation of RP-751's other "menu options" that a facility could employ to provide the required degree of risk mitigation, depending on its particular circumstances. This menu of risk mitigation options is provided in API RP-751, which is considered the global standard for safely and reliably managing HF alkylation operations at refineries.²⁶ API RP 751 provides refineries with multiple layers of protection for HF alkylation unit operations. At a minimum, API RP-751 requires each site to maintain an HF chemical detection system, an HF water mitigation system, an HF leak monitoring system, and HF release detection/release isolation systems. The way these items are deployed by a refinery are based upon the risks presented to the facility and the community – making a boilerplate system unrealistic and inappropriate. Moreover, Petitioners also fail to understand or acknowledge that in many instances the mitigation measures listed in the RMP alternate case and worst-case scenarios do not include a comprehensive list of all mitigation measures in place.

The risk of an HF release from a facility is extremely low; however, the likelihood of a release impacting humans or the environment is even lower. Refineries have implemented many safety measures since the 1987 release – the technology for mitigation and automation has significantly improved in almost 40 years – that further reduce the likelihood of such a large-scale release today. As such, the exposures from this event cannot be used as a proxy for exposures from a potential future event. Putting that aside, it is notable that even without the modern mitigation measures that have been implemented in the last four decades²⁷, the number of people requiring medical attention because of the 1987 release, are a mere fraction of the hundreds of thousands of casualties to which Petitioners point to in their hypotheticals. The Petition also alleges that six people were injured in the 2019 Philadelphia release, but those injuries minor and appear to have been unrelated to HF exposure.²⁸ Nationally, there have never been any life-threatening injuries to people in surrounding communities as a result of HF-related

²⁶ The latest version of API RP-751 can be accessed at the following url: <https://www.api.org/products-and-services/standards/important-standards-announcements/751>. We expect to provide EPA with a copy of this document, which contains confidential business information (CBI), as part of a separate submission.

²⁷ RMP and PSM were first enacted in the Clean Air Act Amendments of 1990. In addition, the first Edition of RP-751 was published in 1992.

²⁸ https://www.csb.gov/assets/1/6/pes_final_report_published_october_2022.pdf at 24.



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incidents,²⁹ EPA data show that the number of RMP-reportable events has dropped by half in the last decade³⁰ and has not risen, as alleged by Petitioners. This lack of mass exposure and injury is due to the sorts of protections described above, as well as planning and coordination for emergency response, as described in the RMPs and EPCRA planning, which together ensure community and environmental safety even in the rare event of a release.

HF releases from refineries are speculative and not likely to occur and would be, at most, singular accidents caused by an atypical one-time set of circumstances. As such, they cannot be considered part of a “condition of use” subject to risk evaluation or regulation under TSCA Section 6.

C. Release From A Train Is Not Reasonably Foreseen And Is Already Covered By Other Federal Laws.

Release of HF from a train delivering to a refinery is not reasonably foreseen and cannot be considered part of the alkylation condition of use. Critically, Petitioners have the completely wrong facts. HF is not moved via rail to refineries in the United States for use in the alkylation process. Refineries that use HF for alkylation move the HF solely via truck, not rail. As such, any release of HF for refineries from a train is unrealistic and should not be part of any condition of use related to alkylation. Moreover, the risk of HF transportation is appropriately regulated by PHMSA. *See* discussions in Sections II.C, *supra* and III.D, *infra*.

D. Release From A Truck Is Not Reasonably Foreseen And Is Already Covered By Other Federal Laws.

As a preliminary matter, distribution in commerce is its own condition of use separate and apart from use in a refinery, and EPA must evaluate these conditions separately. The statute itself differentiates between use and distribution when describing conditions of use, stating that “conditions of use” means “the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of.”³¹ This phrase distinguishes between various potential conditions of use, of which use and distribution in commerce are two separate possibilities, not a combined “use, including distribution for that eventual use” as proposed by Petitioners. This divide is reflected in EPA’s prior risk evaluations, which distinguish between use and distribution as separate conditions of use. Such a division makes sense given the vastly different exposure scenarios for use compared to distribution. Thus, any alleged risks related to

²⁹ Attachment 1 (Alkylation Safety & Risk Mitigation in the Production of Cleaner Fuels).

³⁰ *Id.*

³¹ 15 USC 2602(4)



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the transportation of HF would be distinct and cannot be considered when evaluating use in a refinery, which is a separate condition of use.³²

Even considering distribution of HF as a potential condition of use, unlikely and speculative accidental HF releases from trucks are not part of that condition of use. Petitioners identified only two instances in which HF was released from a truck in transit, and one instance in which HF was released during transfer. They have thus identified three instances of some potential exposure during a 16-year period. HF releases from trucks are rare, unpredictable incidents from one-time situations (i.e., unforeseeable), not “regular or predictable exposures.” As such, HF releases from trucks are not appropriately classified as part of the distribution in commerce condition of use of HF.

It is worth noting that even these few releases from trucks are not the type that Petitioners use in their hypothetical scenarios regarding mass exposure. All of the releases identified by Petitioners were slow leaks of relatively small quantities, that did not cause any harm to communities or environments. The 2009 incident involved “a drip leak,” and both of the other truck-related incidents also involved leaks, not large-scale releases. Petition at 47-48. Between the three incidents, one truck driver was injured, but there was no community exposure. Such minimal releases do not support the consideration of the types of catastrophic events hypothesized by Petitioners.

The rarity and incredibly small scale of releases from truck transit of HF is due to risk mitigation measures that are already in place, both as a result of other statutes and industry use of best practices. The Pipeline and Hazardous Materials Safety Administration (PHMSA) within the Department of Transportation (DOT) comprehensively regulates HF in transportation. For example, PHMSA specifies permissible containers for HF (*see*, 49 CFR 173.163; *see also* 49 CFR 172.101, referring to 49 CFR 173.244 for requirements for bulk shipments of HF). PHMSA regulates HF based on a classification as both a corrosive material (49 CFR Appendix D to Part 180) and a poisonous hazardous material.³³ As such, PHMSA imposes additional transport regulations, such as more-frequent inspections of conveyances³⁴ and specific marking and labeling,³⁵ among other precautions. Moreover, there have been significant changes over the years to truck unloading practices, as mentioned in the latest version of API RP-751, such as the

³² Moreover, regulation of distribution of HF for purposes of use in a refinery would be arbitrary; it poses no more risks than distribution of HF for other purposes, which Petitioners do not seek to regulate. Imposing restrictions on the distribution of HF for refinery uses would be arbitrary and capricious.

³³ *See*

<https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/legacy/interpretations/Interpretation%20Files/2000/000256.pdf>

³⁴ 49 CFR Part 180, Subparts E and F.

³⁵ *See*

<https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/legacy/interpretations/Interpretation%20Files/2000/000256.pdf>



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use of emergency stop systems that shut off the truck and the refinery valves simultaneously in the event of a leak, thus further reducing the likelihood of releases during loading or unloading.

IV. EPA Should Deny the Petition Because the Risks Alleged in the Petition are Appropriately Regulated Under Other EPA-Administered Statutes.

TSCA does not operate in a vacuum and does not have primacy over any other statutes, environmental or otherwise. In Section 9(b), Congress commanded EPA to “coordinate actions taken under this chapter with actions under other Federal laws administered in whole or in part by the Administrator.”³⁶ Congress further directed that EPA “shall use such authorities [in other laws] to protect against such risk” if EPA determines that a risk “could be eliminated or reduced to a sufficient extent.”³⁷ EPA may act under TSCA *only* if it is in the public interest. That determination requires EPA to “consider, based on information reasonably available to [EPA], all relevant aspects of the risk . . . and a comparison of the estimated costs and efficiencies of the action” to be taken under TSCA versus a different federal law. *Id.* § 2608(b)(2).

The legislative history for the 2016 TSCA Amendments illustrates Congress’s intent to reinforce the presumption that EPA regulate risks under other laws before using TSCA. A House Report describes the amendments to Section 9, including the addition of the public interest consideration, as “reinforc[ing] TSCA’s original purpose of filling gaps in Federal law that otherwise did not protect against the unreasonable risks,” H. Rep. No. 114-176, at 28 (2015), and “encourag[ing] decisions that avoid confusion, complication, and duplication.” *Id.* Relatedly, Representative Pittenger summarized the amended Section 9 as “reemphasiz[ing] and strengthen[ing] Congress’ intent that TSCA serve as *an authority of last resort* for the regulation of a chemical when another authority under EPA’s jurisdiction, or another Federal agency, *already regulates the chemical and the risk identified* by EPA,” meaning EPA “may not promulgate a rule under Section 6 of TSCA . . . when . . . *the agency . . . already regulates that chemical through a different statute under its own control, like the Clean Air Act, and that authority sufficiently protects against a risk of injury to human health or the environment . . .*” 162 Cong. Rec. H3028 (May 24, 2016) (emphasis added).

EPA has previously denied TSCA Section 21 petitions where the Agency concluded that the concerns presented in the petitions are better addressed under another EPA-administered law or other federal statutes. For example, in denying a petition to initiate a Section 6 rulemaking to address risks related to polyvinyl chloride, vinyl chloride, and phthalates used as plasticizers, EPA noted the Petitioner “has not explained why it believes it would be preferable to address the risks of disposal under TSCA, rather than through other statutory authorities” or how a hypothetical action under TSCA “could be coordinated, consistent with TSCA Section 9(b), with other actions that EPA has already taken with respect to these chemical substances under other

³⁶ 15 U.S.C. § 2605(b)(1).

³⁷ *Id.*



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statutes that EPA administers.”³⁸ Similarly, in denying a petition to initiate a Section 6 rulemaking to “eliminate or reduce the disposal and emission of numerous toxic substances into the air, land, and water of Southeast Chicago,” EPA explained that:

the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation and Liability Act can adequately address the issues raised by the petition and that these other acts are more appropriate than TSCA to address the majority of the environmental pollution problems caused by toxic chemicals in the Southeast Chicago area.³⁹

EPA emphasized that “Congress specifically directed EPA, in Section 9 of TSCA, to use other statutes instead of TSCA if they could be used to eliminate or sufficiently reduce unreasonable risk.”⁴⁰ These prior denials are not outliers.⁴¹

The Petition does not acknowledge the extensive regulatory framework applicable to HF, much less discuss whether other EPA-administered laws could eliminate or sufficiently reduce alleged risks. Nor does the Petition compare estimated costs and efficiencies of a potential TSCA Section 6 action versus action under other EPA-administered laws. As EPA explained in its denial of a different petition to prohibit use of hydrofluoric acid at oil refineries, there are numerous EPA-administered statutes that can be used to address the concerns raised in the Petition, such as CERCLA, EPCRA, and the CAA.⁴² Specifically, hydrogen fluoride (CASRN 7664-39-3) is regulated under CAA Section 112(r)(7), CERCLA, Clean Water Act Section 311(j)(5), and EPCRA Sections 302, 304, 311 and 312. Together, these statutes cover requirements applicable to safe facility design and maintenance as well as preparation for and emergency response to accidental and other nonroutine releases.

V. EPA Cannot Lawfully Grant the Relief Requested in the Petition.

NRDC urges EPA to “promptly begin a TSCA Section 6(a) rulemaking to ban refinery-related HF use[.]”⁴³ But even if EPA were inclined to grant the Petition, it cannot jump straight to promulgating a ban on such use. EPA would have to undergo risk evaluation and a full Section

³⁸ Discarded Polyvinyl Chloride; TSCA Section 21 Petition; Reasons for Agency Response, 79 Fed. Reg. 64,722, 64,724 (Oct. 31, 2014).

³⁹ Investigation and Rulemaking Action Concerning Southeast Chicago; Denial of Citizens’ Petition, 49 Fed. Reg. 43,764, 43,765 (Oct. 31, 1984).

⁴⁰ *Id.*

⁴¹ *Accord* 48 Fed. Reg. 33,739, 33,744 (Jul. 25, 1983) (dioxin levels in pulp and paper effluent best addressed under RCRA); 54 Fed. Reg. 52,993 (Dec. 26, 1989) (stating that it would be neither necessary nor productive for it to develop TSCA rules for PCB disposal facilities in light of the then on-going Office of Solid Waste and Emergency Response (OSWER) efforts to establish standards for monitoring well construction.).

⁴² TSCA Section 21 Petition to Prohibit the Use of Hydrofluoric Acid at Oil Refineries; Reasons for Agency Response, 84 Fed. Reg. 60,896, 60,987 (Nov. 12, 2019).

⁴³ Petition at 56.



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6(a) rulemaking process to decide on appropriate risk mitigation. For purposes of this response, AFPM/API focus on the need for risk evaluation and risk mitigation processes, though AFPM/API do not waive arguments that prioritization would be required before such processes.

Under TSCA Section 21(b)(1), the Petitioner bears the burden of “set[ting] forth the facts which it is claimed establish that it is necessary to issue . . . a rule under [Section 6].”⁴⁴ As EPA has long recognized, Section 21 thus “incorporates the statutory standards that apply to the requested actions.”⁴⁵ The Section 21 citizen petition process does not give EPA a free pass to skip over the three-step process for a Section 6 rulemaking: prioritization, risk evaluation, and risk management. Thus, if a petition does not set forth facts that meet the standards for any of these steps,⁴⁶ EPA must deny the petition.

A. EPA Cannot Engage In Risk Management Rulemaking Without First Conducting A Risk Evaluation.

Before EPA can regulate a substance under TSCA, EPA must “determine whether a use of a chemical substance presents an unreasonable risk of injury to health or the environment without consideration of costs or non-risk factors.”⁴⁷ EPA has recently underscored that “[b]y law, the Agency begins the process of determining appropriate risk management actions under TSCA Section 6(a) *only after a determination of unreasonable risk is made in the risk evaluation.*”⁴⁸ Here, as detailed above in Section II.B, the Petition does not set forth facts demonstrating that use of hydrogen fluoride in oil refining presents an unreasonable risk. Before EPA could propose a ban on such use, it would have to conduct a risk evaluation that meets the requirements applicable to risk evaluations under Section 6(b) and the scientific standards requirements in Section 26.

B. Even If EPA Determines that Hydrogen Fluoride Presents an Unreasonable Risk, It Cannot Proceed Immediately to a Ban on Use in Oil Refining.

If EPA finds that conditions of using a chemical substance present an unreasonable risk of injury to health or the environment, it must move to the third step of the Section 6 rulemaking process: risk management.⁴⁹ The risk management step requires EPA to consider costs, among

⁴⁴ 15 U.S.C. § 2605(b)(1).

⁴⁵ *E.g.*, 84 Fed. Reg. 60,986 (Nov. 12, 2019); 78 Fed. Reg. 48,845 (Aug. 12, 2013).

⁴⁶ Congress outlined a streamlined process for Section 6 rulemaking as to chemicals that are persistent, bioaccumulative, and toxic. *See* 15 U.S.C. § 2605(h). Chemical substances that are identified under this section need not undergo prioritization or risk evaluation. Hydrogen fluoride is not among the chemicals subject to the streamlined Section 6(h) process.

⁴⁷ 15 U.S.C. § 2605(b)(4)(A).

⁴⁸ U.S. EPA, Response to Comments on Procedures for Chemical Risk Evaluation Under the Toxic Substances Control Act (TSCA) EPA-HQ-OPPT-2023-0496, § 1.2, *available at* <https://www.regulations.gov/document/EPA-HQ-OPPT-2023-0496-0431> (emphasis added).

⁴⁹ 15 U.S.C. § 2605(a).



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various other statutory factors.⁵⁰ EPA must consider the magnitude of the exposure of humans and the environment to the chemical substance and the benefits of the chemical substance for various uses.⁵¹ *Id.* In addition, EPA must consider the reasonably ascertainable economic consequences and cost effectiveness of any proposed rule, including the likely effect on the national economy, small businesses, technological innovation, the environment, and public health.⁵²

In regulating a chemical substance under Section 6(a), Congress directed EPA to choose from a specific set of regulatory approaches: (1) prohibiting or otherwise restricting the manufacture, processing, or distribution of the substance or limiting the amount of the substance that can be manufactured, processed, or distributed; (2) prohibiting or otherwise restricting the manufacture, processing, or distribution of the substance for a particular use or use in excess of a certain concentration; (3) requiring clear warnings or instructions on the substance; (4) imposing record or testing requirements; (5) prohibiting or regulating a manner of use of the substance; (6) prohibiting or regulating the disposal of the substance; and (7) requiring notice of the determination to the public or affected persons.⁵³ EPA may only apply such measures “*to the extent necessary* so that the chemical substance or mixture no longer presents such risk.”⁵⁴

Again, EPA cannot issue a risk management rule under TSCA section 6 if the risk to human health or the environment can be sufficiently eliminated or reduced by taking action under a different law administered by EPA, unless EPA finds the TSCA Section 6(a) action is in the public interest.⁵⁵ Additionally, if EPA finds that an unreasonable risk “may be prevented or reduced to a sufficient extent” by action under a federal law that EPA does not administer, it “shall submit to the agency which administers such law a report which describes such risk and includes in such description a specification of the activity or combination of activities which [EPA] has reason to believe so presents such risk.”⁵⁶ After this mandatory reporting, EPA cannot take action under TSCA if the other agency either (1) determines that there is no unreasonable risk; or (2) initiates action to protect against such risk.⁵⁷

The Petition does not come close to meeting the requirements for promulgating a prohibition under TSCA Section 6(a). Although the Petition briefly discusses purportedly safer alternatives to using hydrogen fluoride in oil refining,⁵⁸ the Petition fails to address the multitude of other factors that EPA must consider during risk management rulemaking under Section 6(c)(2). EPA must consider the reasonably ascertainable economic consequences of any

⁵⁰ *Id.* § 2605(c)(2).

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.* § 2605(a).

⁵⁴ *Id.* (emphasis added).

⁵⁵ *Id.* § 2608(b).

⁵⁶ *Id.* § 2608(a)(1).

⁵⁷ *Id.* § 2608(a)(2).

⁵⁸ *See* Petition at 55-56.



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proposed rule, including the likely effect on the national economy. The effect of Petitioners' proposed ban would be huge. Contrary to the Petition's assertions, refineries cannot simply switch away from HF. Once a refinery chooses a catalyst and builds its alkylation unit for that technology, it cannot quickly or easily swap to the other. HF and sulfuric acid technology are not interchangeable. HF and sulfuric units have completely different designs, footprints, and technological requirements. Banning HF use in refineries would be an un-strategic move that would impact U.S. energy and economic security.⁵⁹

Of equal importance, were EPA to jump straight to proposing a ban on hydrogen fluoride use for oil refining under Section 6(a), it would flout the requirements in Section 9 to send reports to other agencies when unreasonable risk "may be prevented or reduced to a sufficient extent" by action under a federal law that EPA does not administer⁶⁰ and to coordinate actions taken under TSCA with actions taken under other federal laws that EPA administers.⁶¹ Although the Petition mentions the RMP rule in passing,⁶² it fails to mention that there are numerous other existing laws and regulatory programs that address hydrogen fluoride (*e.g.*, CERCLA; EPCRA⁶³; Hazardous Materials Transportation Act (DOT) (discussed in section II.C and III.D, *supra*), OSHA Process Safety Management (discussed in the Introduction and section III.B, *supra*); Maritime Transportation Security Act (Coast Guard). Before EPA could propose to ban hydrogen fluoride in oil refining under TSCA Section 6(a), it must first analyze whether to defer to other agencies and whether appropriate action can be taken under other EPA-administered laws to address the concerns raised in the Petition.

VI. Conclusion

The Petition does not justify the proposed ban on HF use. The alleged risks to which Petitioners point are based on highly improbable scenarios and assumptions that do not qualify as part of a "condition of use" that may lawfully be regulated under TSCA. Even if the highly speculative scenarios could be considered "conditions of use," Petitioners have failed to demonstrate that those scenarios represent an "unreasonable risk." If there were an unreasonable risk, such concerns would be more appropriately regulated under other EPA-administered

⁵⁹ A study looking at a specific Southern California refinery found the cost to replace its HF unit with a significantly larger sulfuric acid alkylation unit (because more sulfuric catalyst is required to produce the same volume of alkylate) and brand-new sulfuric acid regeneration unit (a requirement for sulfuric alkylation, but not HF alkylation) would approach \$1 billion—significantly more than what this facility was valued at in its last sale. Any loss of U.S. alkylate production and potential loss of U.S. refining capacity stemming from prohibitions on the use of HF would likely result in more expensive gasoline and the potential depletion of already-tight U.S. fuel supplies. The U.S. would likely have to import alkylate from other countries. As a result, the aforementioned study concluded that a Southern California regional loss of alkylate production and the resulting need to import alkylate would likely add an additional 26-cents per gallon to the price of finished gasoline for Southern California consumers.

<https://afpm.org/issues/safety-health/alkylation-safety>

⁶⁰ 15 U.S.C. § 2608(a).

⁶¹ *Id.* § 2608(b).

⁶² *See* Petition at 54.

⁶³



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statutes. Finally, if EPA found that HF releases qualified as part of the manufacturing condition of use, found that such use poses unreasonable risk, and ignored the applicability of other laws, then EPA would still need to thoroughly evaluate the risks of HF and any other available mitigation options. For all of the foregoing reasons, the Petition must be denied.

Message

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Sent: 4/8/2025 6:31:43 PM
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Subject: Supplemental Comments and Technical Rebuttal Points to TSCA section 21 Petition
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In addition to comments filed with you on March 17, 2025, AFPM and API wish to respectfully submit the attached supplemental comments on and technical rebuttal points to the Toxic Substances Control Act Section 21 petition filed by NRDC et al. on February 11, 2025, to prohibit the use of hydrogen fluoride in domestic oil refining.

Please contact us with any questions you may have.

- Jerry

Jerry Couri

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April 7, 2025

To:

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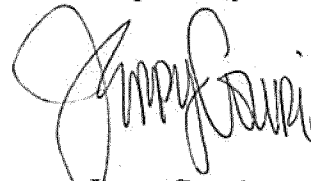
Submitted via email to: Zeldin.Lee@epa.gov; Beck.Nancy@epa.gov; Dekleva.Lynn@epa.gov;
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**Re: Petition to Prohibit the Use of Hydrogen Fluoride in Domestic Oil Refining Under
Sections 21 and 6(a) of the Toxic Substances Control Act**

On February 11, 2025, Clean Air Council, Communities for a Better Environment, and the Natural Resources Defense Council (collectively, "Petitioners") submitted a document titled "Petition To Prohibit The Use Of Hydrogen Fluoride In Domestic Oil Refining Under Sections 21 And 6(A) Of The Toxic Substances Control Act" ("the Petition"). As discussed in our submission dated March 17, 2025, American Fuel & Petrochemical Manufacturers and American Petroleum Institute (collectively "AFPM/API") oppose the Petition, which is legally and factually flawed. Therefore, EPA must deny it. AFPM/API submit the following comments as a supplement to our prior submission in opposition to the Petition.

Please contact us if you have any questions or require additional information.

Respectfully submitted,



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Supplemental Comments of American Fuel & Petrochemical Manufacturers (AFPM) and American Petroleum Institute (API) on Petition to Prohibit the Use of Hydrogen Fluoride in Domestic Oil Refining Under Sections 21 and 6(a) of the Toxic Substances Control Act

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I. Introduction

As discussed in our March 17, 2025, comments (hereafter referred to as our “initial comments”), AFPM/API oppose the Petition as factually and legally flawed. The Petition does not provide a basis for the Environmental Protection Agency (EPA) to promulgate the requested “Section 6(a) rule prohibiting the use of HF [hydrogen fluoride/hydrofluoric acid] in domestic oil refining,” which the Petition defines to include transport of HF to refineries. This supplement presents additional information that further supports the conclusion that the Petition must be denied because it fails to demonstrate that releases of the type described in the Petition are reasonably foreseen and are part of a “condition of use” or that the use of HF poses an unreasonable risk. Furthermore, the information presented herein and in our initial comments affirmatively establishes that HF alkylation does not present an unreasonable risk due to the low likelihood of a release that results in exposure and the even lower likelihood of injury from such a release.

First, it is worth reiterating that **in the nearly 80-year history of HF alkylation use at petroleum refineries, there has never been a fatality or life-threatening injury caused by HF in the communities surrounding AFPM/API member refineries.**¹ Such a history is in stark contrast to the picture painted by the Petition.

Next, to reiterate a key point that must factor into EPA’s evaluation of the Petition: Numerous federal requirements that are in place to minimize risks associated with HF alkylation (discussed in AFPM/API’s initial submission) work together to prevent accidental releases and establish rapid response protocols and emergency mobilization plans to reduce or eliminate injury in the rare event of a release. In addition to these existing regulatory requirements, there is also a consensus industry standard, API Recommended Practice, *Safe Operation of Hydrofluoric Acid Alkylation Units*, (API RP-751), which supplements these existing legal requirements with additional safety and management practices and provides guidance on how refiners may mitigate risks. This safety regime, combined with a robust, industry-driven

¹ https://www.afpm.org/sites/default/files/issue_resources/Alkylation_SafetyRiskMitigation.pdf

information sharing program², has resulted in the petrochemical manufacturing and fuel refining industry ranking among the safest U.S. manufacturing industries, according to injury and illness rates maintained by U.S. Occupational Safety and Health Administration (OSHA) and the U.S. Bureau of Labor Statistics covering all the major U.S. manufacturing sectors.³ Nationally, there have never been any fatalities or life-threatening injuries in neighboring communities as a result of an HF-related incident at an oil refinery.⁴ Accidental catastrophic HF releases from alkylation units, such as those posited by the Petitioners, are speculative, highly unlikely and cannot qualify as part of any reasonably foreseen condition of use for purposes of TSCA Section 6. Moreover, if such improbable and unpredictable releases *were* considered part of a condition of use, the low likelihood of such events together with more realistic consideration of the likelihood of injury from such a release affirmatively establish that use of HF in alkylation does not pose an unreasonable risk. Finally, but importantly, the Petitioners' speculative scenarios do not satisfy the EPA's risk evaluation criteria under 40 C.F.R. Part 702, which require credible evidence of significant risk. For these reasons, in addition to the legal defects discussed in AFPM/API's prior comments, the Petition should be denied.

II. The Petition Vastly Overstates the Likelihood of Significant HF Releases.

Contrary to the unsupported assertions in the Petition, the likelihood of a catastrophic release of the type described in the Petition is infinitesimally small. The low likelihood of such an event precludes its consideration as a condition of use under TSCA.

A. The Petition Vastly Overstates the Likelihood of a Catastrophic Release from a Refinery.

² Robust industry information sharing programs include an annual industry forum, several additional industry conferences, mechanisms to share lessons learned and good practices, and a regional group that engages site operations personnel all specific to safe operations of HF Alkylation process units. See also, March 17, 2025, comments submitted by AFPM/API to the U.S. EPA (Lee Zeldin, Nancy Beck, Lynn Dekleva, and Elissa Reaves) in response to Petition to Prohibit the use of Hydrogen Fluoride in Domestic Oil Refining Under Sections 21 and 6(a) of the Toxic Substances Control Act.

³ See Bureau of Labor Statistics (BLS) data on "incidence rates of nonfatal occupational injuries and illnesses by industry," available at <https://www.bls.gov/charts/injuries-and-illnesses/number-and-rate-of-nonfatal-work-injuries-by-industry-subsector.htm>

⁴ Attachment 1 (Alkylation Safety & Risk Mitigation in the Production of Cleaner Fuels. https://www.afpm.org/sites/default/files/issue_resources/Alkylation_SafetyRiskMitigation.pdf).

At the outset it must be emphasized that refineries account for a tiny fraction of the HF used nationally in the US.⁵ Despite this small footprint in terms of HF usage, refineries are subject to some of the most comprehensive regulatory regimes to prevent releases and, in the extremely unlikely event of a release, ensure swift and effective containment and mitigation responses.

Consistent with the requirements of OSHA's process safety management (PSM) standard and EPA's Risk Management Program (RMP), refineries using HF are required to conduct multiple risk studies, facility siting studies, and audits on a periodic basis to minimize risks. These include, but are not limited to, Process Hazards Analysis (PHA), Layers of Protection Analysis (LOPA), Quantitative Risk Assessment (QRA) studies, Qualitative Risk Assessments, audits for consensus standards like API RP-751, OSHA PSM audits, internal company or corporate safety audits, job safety analyses (JSA), and OSHA Management of Change assessment. These efforts identify the probability of various release scenarios and the optimal measures to minimize the risks of releases. Each facility then implements the appropriate mitigations necessary to prevent those releases.

Under API RP-751, refineries conduct a specific risk analysis of their HF unit, and that analysis informs their determination of appropriate mitigation measures, given their location, configuration, amount of HF on site, and other factors. These risk assessments review a list of realistic scenarios that the refineries mitigate against. Importantly, while RMP and PSM provide the framework to continuously improve safety performance, prevent accidental releases, and reduce risk, API RP-751 provides the recommendations for specific ways a facility might do that—i.e. practices to manage HF safely, including the conducting of a unit-specific risk assessment to identify the appropriate mitigation methodology. After implementing measures in accordance with their risk assessment conducted as part of API RP-751, refineries are audited for compliance with API RP –751 every three years.

Because every refinery is unique, with different engineering configurations and physical footprints, different types and quantities of crude oil being processed, and petroleum products

⁵ Globally, refineries use only 2% of the total amount of HF consumed. There are many other uses of HF that are not addressed in the Petition.

https://www.afpm.org/sites/default/files/issue_resources/Alkylation_SafetyRiskMitigation.pdf.

being manufactured, the specific risk mitigation measures implemented vary from refinery to refinery. However, all facilities are subject to federal OSHA PSM and EPA RMP programs and feature technical mitigation tools to help prevent releases, and ensure the earliest possible detection of, and fastest possible response to, any potential release.

API RP-751 provides refineries with a list of “menu options” for multiple layers of protection that HF alkylation operators consider to minimize risk, based on the facility’s configuration. At a minimum, API RP-751 requires each site to maintain an HF chemical detection system, an HF water mitigation system, an HF leak monitoring system, and HF release detection/release isolation systems. The way these systems are deployed by a refinery is based upon the specific risks presented by the facility and the community’s proximity – making a boilerplate, “cookie cutter” system unrealistic and inappropriate.

Additionally, API RP-751 requires multiple levels of mitigation technologies and emergency procedures that help keep HF contained and prevent exposure to people and the environment.⁶ These measures may include the following in an appropriate combination as determined by the facility:

- Acid-detecting paint
- Multiple individual point sensors and perimeter laser monitors
- Multiple targeted, continuously monitored live camera feeds
- Integrated unit and facility alarms that cannot be overridden short of incident resolution
- Rapid acid transfer and remote isolation systems (RATS)
- Remotely activated block valves for HF isolation
- Water mitigation systems: water cannons; water walls; water curtains; equipment deluges

⁶ AFPM and API RMP Presentation on HF, available at <https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=true&rin=2050-%20AH22&meetingId=225223&acronym=2050-EPA/OLEM%20AFPM%20and%20API>

- Modified HF, a vapor suppression additive
- External flange and equipment barriers
- Extensive training and specialized PPE for HF unit Operators and Emergency Responders
- Double-sealed pumps
- 24-hour unit monitoring through video, operator rounds and live-unit diagnostics
- Inspection and mechanical integrity programs

Of note, API RP-751 was developed after, and as a result of, the 1987 Texas City HF release cited by Petitioners. The goal and effect of API RP-751 was to prevent such a release in the future, which the record shows have occurred. Thus, it is inappropriate for Petitioners to cite or EPA to consider this almost-40-year-old incident when evaluating the likelihood of a release in the future, now that systematic mitigation measures are in place. Similarly, following the 2019 PES incident near Philadelphia, API RP-751 was amended, and edition 5, issued in 2021, included a new, mandatory special emphasis program, requiring thickness testing of all carbon steel in HF service pipe and pipe components. As such, refineries addressed the root cause of the 2019 PES incident and, therefore, this singular occurrence should not be used to predict future incidents.

For the purpose of responding to Petitioners' erroneous allegations, certain of our member companies have provided information regarding mitigation measures already in place at their refineries to prevent a release. One company confirmed that mitigation systems in place at its refineries include dual seal pumps in acid service, water cannons, water deluge, HF detectors, hydrocarbon detectors, cameras, and RATS systems. Another member reported that its refinery HF unit mitigation systems include a water curtain, numerous remote-controlled elevated fire monitors, pump/equipment remote isolation valve, remote shutdown of pumps, pump deluge spray, HF and hydrocarbon fixed gas detectors, HF lasers on the perimeter of the unit, numerous cameras for remote surveillance of the unit, tandem seals on pumps that contain HF, acid-detecting paint on flanges and threaded piping, baffle on acid settler to limit the amount of acid

that could potentially be exposed to a leak, and a RADI system (RATS). Notably, none of these stacked risk mitigation measures are factored into the RMP worst-case scenario circles relied on by the Petitioners to assert unreasonable risk, nor are these measures otherwise discussed by Petitioners. Yet, the reality is these risk mitigation measures all work together to minimize the likelihood of an HF release and, in the unlikely event that a release occurs, minimize the amount of HF released and mitigate against any potential adverse effects.

B. The Petition Vastly Overstates the Likelihood Of a Catastrophic Release From Transport.

The rarity and remarkably small scale of releases from truck transit of HF are due to existing risk mitigation measures in statutes, regulations, and industry use of best practices. The Pipeline and Hazardous Materials Safety Administration (PHMSA) within the Department of Transportation (DOT) comprehensively regulates HF in transportation. For example, as noted in our initial comments, PHMSA specifies permissible containers and truck types for HF and imposes additional transport requirements on the basis of HF being classified as both a corrosive material and a poisonous hazardous material, including more frequent inspection of specification cylinders and specification cargo tank motor vehicles, loading and unloading requirements, safety and security plans, specific marking and labeling requirements, among others.⁷

In addition, there have been significant changes over the years to truck loading/unloading practices to reduce the likelihood of HF releases during transport. For example, when feasible, emergency stop systems that shut off truck and refinery valves simultaneously in the event of a leak dramatically reduce the possibility of leaks during off-loading and have increasingly become an industry-wide practice in recent years. Additionally, many HF deliveries are coordinated as “hot shots,” where the truck will not stop during transport to reduce potential incidents or exposures. Once on site at a refinery, trucks are placed within the mitigation systems of the refinery, such as the water curtain system, until the unloading procedure is complete, to ensure that the refinery’s protections minimize the likelihood of a release during the transfer.

III. The Petition Vastly Overstates the Risk of Injury Associated With a Hypothetical HF Release and, in Fact, There Is No Unreasonable Risk.

⁷ <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-I/subchapter-C>

A. The Petition Overstates the Risks of HF Exposure to Humans.

The Petition overstates the risks of HF exposure to humans and misrepresents the significance of different AEGL values. First, Petitioners' argument that "HF exposure can be difficult to recognize and treat" is incorrect. HF has a sharp, penetrating odor that humans can detect at a concentration of 0.04 ppm⁸, well below the 1.0 ppm AEGL (Acute Exposure Guideline Level)-1 level⁹ that corresponds to temporary, reversible effects.¹⁰ Importantly, refinery personnel who "smell" an HF leak, have been trained to leave the area to avoid being exposed to HF. In this way, contrary to Petitioners' assertions that "HF exposure can be difficult to recognize," (Petition at 8) any potential, meaningful exposure to HF would be readily detected, preventing prolonged, unknown exposure to HF, plus medical attention would be available as a precautionary measure.

Additionally, Petitioners misrepresent the significance of AEGL values and, in so doing, overstate the potential risks associated with hypothetical releases of HF from refineries. This is especially true with respect to the Petitioners' discussion of RMP worst-case scenario planning circles and the suggestion that exposures to concentrations of up to the AEGL-1 (1 ppm) within the planning circle represents an unreasonable risk. AEGL-1 corresponds to effects that "are transient and reversible upon cessation of exposure."¹¹ Such fleeting and inconsequential effects, by their nature, are incapable of supporting a finding of "unreasonable risk."

Petitioners also suggest that AEGLs may not be sufficiently protective because they do not account for potentially susceptible sub-populations. This is incorrect. As EPA explains, AEGLs "are designed to protect the elderly and children, and other individuals who may be susceptible."¹² Thus, the AEGLs are designed to include and be protective of susceptible sub-populations without further reductions or changes.

B. In the Unlikely Event of a Release at a Refinery, Injury to Humans and the Environment is Likely to be Minimal.

⁸ <https://ehs.wisc.edu/wp-content/uploads/sites/1408/2020/08/SafeHandlingOfHydrogenFluorideAndHydrofluoricAcid.pdf>

⁹ https://19january2021snapshot.epa.gov/sites/static/files/2018-08/documents/compiled_aegls_update_27jul2018.pdf

¹⁰ <https://cameochemicals.noaa.gov/chemical/2013>

¹¹ <https://www.epa.gov/aegl/about-acute-exposure-guideline-levels-aegls>

¹² <https://www.epa.gov/aegl/about-acute-exposure-guideline-levels-aegls>

Petitioners have failed to demonstrate that alkylation using HF or transportation of HF to refineries present an unreasonable risk. Instead, Petitioners attempt to conjure up unreasonable risk by coupling the presentation of toxicity data with intentionally exaggerated figures, assumptions, and projections regarding exposure, including, most importantly, the assumption that unrealistic catastrophic accidental releases will occur and will result in unrealistic exposures. Crucially, Petitioners both provide no statistical analysis of exposure levels or injury rates from their cited “incidents”¹³ -- rendering their risk claims unsubstantiated -- and ignore the exceedingly low likelihood of a release as well as the robust, redundant regulatory requirements and risk mitigation measures already in place, as discussed above in Section II and in our initial comments. Moreover, the best available data indicate that if a release were to occur, it would not result in the level of exposure and type of injury hypothesized by Petitioners. The risk of an HF release from a facility is extremely low; however, the likelihood of a release impacting humans or the environment is even lower.

In the nearly 80-year history of HF alkylation use at petroleum refineries, there has never been a fatality or life-threatening injury caused by HF in the communities surrounding AFPM/API member refineries.¹⁴ Comparing data from the National Safety Council, actual incident reports and risk assessments with statistics provided by the National Safety Council, the theoretical lifetime odds of sustaining a life-threatening injury from HF alkylation in the United States are roughly 1 in 52 million.¹⁵ More granularly, for those living in close proximity to refinery HF units, the odds of life-threatening injury from HF are just 1 in 144,000.¹⁶ By comparison, the lifetime odds of dying from a bee sting are nearly 2.5 times greater (1 in 59,000), and the chance of being struck by lightning, the quintessential low-probability occurrence, is also more likely to occur than someone living in close proximity to the refinery sustaining life-threatening injuries from HF (1 in 138,000).¹⁷ Similarly, risks to on-site workers are extremely low, as reflected in the Bureau of Labor Statistics data discussed in Section I above and in our initial comments.

¹³ The industry has documented 0.0001 ppm as the off-site HF threshold (Lemont data),

¹⁴ https://www.afpm.org/sites/default/files/issue_resources/Alkylation_SafetyRiskMitigation.pdf

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See Attachment 1.

To bolster their assertion that catastrophic releases are likely to occur and result in substantial injury to human health and the environment, Petitioners point to previous incidents that have occurred at refineries. In fact, many incidents cited in the Petition were very minor due to the prevention, detection, and mitigation systems working as designed and therefore none of these events came close to being the type of catastrophic release hypothesized by Petitioners, further evidence their petition is so speculative it rises to the level of misleading. Nearly all incidents were contained within the refinery and adequately mitigated. Moreover, in the very few instances when injuries occurred, most were minor and most occurred on-site at the facility. Most also occurred prior to the most recent revisions to API RP-751, and some occurred many years ago, before the development of API RP-751 or when it was a less mature program. A more detailed analysis of these past incidents is provided in Appendix A to these comments.

In addition to the attached analysis and more broadly, statistics reflecting the number of people seeking medical evaluation or first aid indicate that precautions were followed, rather than reflecting significant adverse effects from HF, since they capture individuals that merely smelled HF or another sharp, unpleasant odor and sought medical attention. Odor is a subjective criterion for seeking medical attention. As discussed above, humans can smell the displeasing odor of HF at levels that are unlikely to require medical intervention for most of the population and are associated with transient, reversible effects. Thus, is ability to smell small amounts of HF has likely led to precautionary first aid treatment for people who were not adversely impacted.

To sidestep the fact that the Petition seeks to conjure unreasonable risk from catastrophic releases that are hypothesized rather than having occurred at US refineries, Petitioners point to a 2012 HF release at a chemical plant in South Korea that manufactures HF for sale rather than a US refinery.¹⁸ Therefore, the facility was not subject to the relevant US regulations or API RP-751 guidelines. As such, referring to an incident involving loading HF into an open rail car in South Korea is irrelevant to the likelihood of an incident at a U.S. refinery, and the incident does not contradict the fact that HF releases from a refinery are rare and largely inconsequential and

¹⁸ <https://cen.acs.org/articles/90/i42/South-Korea-Battles-Plant-Leak.html>

completely unlike the unrealistic releases and potential exposures posited in the Petition as the basis for an unreasonable risk finding.

Petitioners have similarly overstated the likely injury from an HF release. First, API RP-751 includes emergency response measures in the rare case of an HF release, including HF-specific training for emergency response teams and plans covering protocols for coordinating with local first responders, internal and external communications systems, decision criteria to issue evacuation or shelter-in-place instructions, medical responses to potential and actual HF exposure, strategies for managing potential mitigation water runoff, and mechanisms for decontaminating both the built and natural environments (e.g. equipment, buildings, soil and water). In addition to their own personnel, refineries train local emergency responders and hospitals on the hazards of HF and proper treatment of HF injuries to avoid the hypothetical injuries Petitioners allege.

API RP-751 also covers the frequency and methodology for testing all communication systems and the scope and frequency of emergency response drills. Testing of mitigation systems such as RATS, Emergency Isolation Valves, and water mitigation, also takes place with regular frequency to ensure readiness in case of an incident. This, coupled with extensive operator training and Recognized and Generally Accepted Good Engineering Practices, ensures that both the equipment and the personnel are prepared in the rare instance of a release to activate the mitigation measures and respond to an incident.

Ignoring the precautionary measures in the RMP, Petitioners, instead, misuse the RMP data by only referring to portions they allege identify the geographic areas that would be exposed to a release. These areas and resulting estimates of impacted people are misleading; the RMP worst-case scenario planning circles rely upon worst-case hypotheticals that assume refinery personnel do not act to mitigate an incident, and they have never been replicated in the real world. As such, these circles are exaggerated and intended solely for emergency response planning purposes. The Petitioners are purposefully misinterpreting or misrepresenting these worst-case scenarios as predictors of actual risk. As EPA stated when discussing RMP data, “the results you obtain from modeling your worst-case or alternative scenarios should not be

considered to predict the likely results of an accidental release. The worst-case assumptions are very conservative, and, regardless of the model used, you can expect very conservative results.”

Moreover, the modeling used for RMP plans “should be viewed as providing a basis for discussion among the regulated community, emergency planners and responders, and the public, rather than predictions.”¹⁹ Thus, by positioning RMP data as “predictions” for outcomes of actual releases, the Petitioners fail to heed, or mention, these EPA disclaimers, instead basing their entire exposure claims (and thus their risk hypothesis) on information the EPA considers unrealistic and invalid for establishing actual consequences for these scenarios.

These “planning circles” are not predictors of actual exposure or risk; they are designed to identify the largest possible area that could be impacted by a hypothetical worst-case scenario, without any mitigation or response. As addressed in our initial comments, EPA has baked multiple unrealistic assumptions into these hypothetical scenarios.

First, every RMP worst-case scenario for HF presumes there are zero active mitigation technologies or human responses that can or will be deployed in response to an incident.²⁰ This means that the scenarios exclude consideration of “automatic shutoff valves, rapid transfer systems such as emergency drainage, and water/chemical sprays,” which “have the effect of reducing either the release rate or the duration of the release, or both.”²¹ A release without such mitigation measures will simply never be the case in the United States, because every refinery with an HF alkylation unit is equipped with multiple forms of mitigation, none of which is “single point-of-failure,” or the only line of defense for a facility or community. Second, to arrive at a hypothetical worst-case scenario, facilities are required to factor in the worst plausible external conditions for an incident and to proceed as though all those conditions will exist simultaneously during an incident. Such a scenario is unlikely and physically impossible.

For example, the RMP worst-case-scenario uses both nighttime wind stability and highest-observed ambient temperature, a daytime reading. These nighttime and daytime

¹⁹ General Guidance on Risk Management Programs for Chemical Accident Prevention (40 CFR Part 68) - CHAPTER 4: OFFSITE CONSEQUENCE ANALYSIS (April 2004) at 4-4

²⁰ 40 CFR 68.165(b)(14).

²¹ <https://www.epa.gov/sites/default/files/2013-11/documents/chap-04-final.pdf>.

assumptions can never happen simultaneously in the real world, so the worst possible real-world release scenario would still never match the RMP worst-case scenario.

Third, the RMP plan shows what would happen if an incident occurred while wind was blowing steadily in all directions, an assumption that would effectively mean wind can steadily emanate from the refinery in all directions at the same time. This assumption is the basis for the neat “planning circles,” rather than much smaller, and realistic, pie-shaped wedges or plumes. In reality, if a release were to occur at a facility, the majority of that circle would not be impacted, and the affected area would depend on ambient wind speed and direction, humidity, and turbulence.

RMP plans are also based on other unrealistic assumptions, such as that all of a facility’s HF is immediately released at once. Specifically, the rule states that RMP plans must be based on a release of all the material in a single vessel, which has been interpreted to include the rapid acid transfer drum during an outage or immediately after a transfer, when all of the facility’s HF acid is stored in this vessel. However, this is a rare condition, occurring less than 10% of the time, so the other 90% of the time, the facility’s HF is split between multiple vessels, a compartmentalized vessel, or piping.

As such, an incident capable of releasing all of a refinery’s HF at one time, as the RMP assumes, is improbable. Such an assumption is even more unrealistic because the rapid acid transfer drum is kept at atmospheric pressure, and a leak from an atmospheric storage tank of HF will not result in a high-pressure release of HF out of the vessel. Instead, any releases would be slow, over time, which would allow for mitigation responses.

Because all of Petitioners’ calculations and assertions regarding exposure and, therefore, risk are based on the RMP worst-case-scenarios, they are, ultimately, exaggerated and unrealistic. The faults in these calculations are illustrated by the disparity between the few release incidents that have occurred and the dire, hyped predictions by Petitioners.

For example, the 2019 Philadelphia incident described by the Petitioners does not appear to have resulted in any injury from HF exposure. Relatedly, modeling by the Federal Emergency Management Agency “concluded that ‘significant HF was unlikely to have crossed the facility

perimeter [as a result of the incident]” and “HF concentrations outside the facility perimeter [as a result of the incident] were low, on the order of a few parts per billion (ppb) or below These levels are considerably *below generally accepted health hazards for HF.*” In fact, the Chemical Safety Board (CSB) “is unaware of any off-site impacts from the HF release” in Philadelphia.²² Yet, when Petitioners calculate the area and number of people that could be impacted by a release from the nearby Trainer Refinery, they argue that the HF could travel 17 miles, exposing 1,900,000 people. This is an impossible result, as such figures are simply unrepresentative of real-world exposure, atmospheric conditions, and potential injury. Similarly, Petitioners did not provide the equivalent calculation for the Texas City facility, but the 1987 incident at that plant, nearly 40 years ago, resulted in the hospitalization of 95 people and alleged wildlife impacts for three miles, a far cry from the calculations provided in the Petition, which alleges impacts for a minimum of 6.2 miles and a minimum of 400,000 people in the area. Petition at 20. Thus, the rare instances of HF releases have been nothing like the scope and magnitude of releases predicted in RMPs and in the Petition. In the eight decades refineries have used HF alkylation in the U.S., there has simply never been an HF alkylation release at a U.S. refinery of the scope and scale described by the Petition.

Thus, Petitioners’ reliance on RMP models to predict exposures is misplaced and inappropriate for TSCA purposes, in terms of whether the prediction is reasonably foreseen or likely, and, therefore, the RMP models cannot be used to support a conclusion of “unreasonable risk.” As EPA has explained, the RMP analysis “does not require you to assess the likelihood, type, or severity of potential impacts on either public or environmental receptors. Identifying them as within the circle simply indicates that they could be adversely affected by the release.”²³ The RMP worst-case scenario planning circles thus explicitly do not indicate a likelihood of any impact, nor the severity of any potential impact. Reliance on planning circles for a risk analysis is misguided.

²² https://www.csb.gov/assets/1/6/pcs_final_report_published_october_2022.pdf at 24.

²³ Risk Management Program Guidance for Offsite Consequence Analysis (March 2009)

C. In the Unlikely Event of a Release During Transport, Injury to Humans and the Environment is Likely to be Minimal.

HF transportation to refineries does not pose an unreasonable risk. The likelihood of such a release is incredibly small, particularly given safety mitigations and other precautions already in effect, but any injuries from such a release would likely be minimal.

As discussed in AFPM/API's initial submission, HF is transported to refineries via trucks, not rail, so only transportation via truck can be considered relevant to this Petition. Although, the Petition identifies two incidents involving trucks carrying HF, it is unclear whether these were trucks heading to refineries or destined for other industries using HF that are not subject to this Petition. The Petition also references many other, unrelated incidents since 2021 involving trucks carrying chemicals,²⁴ but the source for Petitioners' statement makes clear these incidents exclude HF, as there have not been any identifiable HF transportation incidents during that timeframe.²⁵

Moreover, the two releases from trucks the Petitioners reference did not result in the types of impacts Petitioners assume in their hypothetical scenarios regarding mass exposure. No one in the surrounding communities was injured or even exposed to the relatively small releases of HF from those trucks, and there were no environmental injuries.

These two minimal incidents do not show potential catastrophic releases, and, in fact, show that there is not an unreasonable risk from the transportation of HF. Existing mitigation measures, imposed both because of the PHMSA regulations discussed in AFPM/API's prior submission as well as API RP-751, have resulted in very low risks from the transportation of HF.

IV. The Petition Ignores the Impact of its Proposed Ban.

Catastrophic, improbable releases such as those imagined by the Petitioners are unprecedented, not reasonably foreseen, and for these reasons cannot be considered part of any TSCA "condition of use" for HF alkylation at domestic refineries. Furthermore, the Petition fails to establish that HF alkylation presents an unreasonable risk for purposes of TSCA Section 6.

²⁴ Petition at 48.

²⁵ <https://preventchemicaldisasters.org/chemical-incident-tracker/incidents/searchform> (not identifying any road incidents for the keyword "hydrofluoric").

To the contrary, the best available data affirmatively demonstrate that HF alkylation does **not** present an unreasonable risk. On these bases alone, EPA should deny the Petition.

Before EPA could pursue a ban, the agency would have to consider whether a ban is appropriate, considering factors such as “the benefits of the chemical substance or mixture for various uses,” the economic consequences of the rule, including “the likely effect of the rule on the national economy,” and “the costs and benefits of the” rule.²⁶ All of these factors weigh decisively against the Petitioners’ proposed ban.²⁷ Alkylate, the product produced in alkylation units, is the high-octane ingredient in gasoline blends, and required in all blends of gasoline sold in California. HF alkylation accounts for almost half of all alkylation units; therefore, based on that alone, a reasonable person would conclude that a ban would result in significant adverse impacts to the nation’s fuel supply and economy.

A. A Switch From HF To Alternative Technologies Would Not Reduce Risks to Public Health or the Environment.

A ban on HF would not reduce risks to public health or the environment. Sulfuric acid is the only proven, scalable HF alternative currently available. However, as discussed in more detail below, sulfuric acid alkylation could present its own environmental and personnel risks. Petitioners ignore that each alkylation technology presents a different set of risks, and the Petition fails to analyze the severity of those risks.

There are three hypothetical alternative alkylation technologies, but “only one has undergone sufficient commercial testing and broad scale adoption.”²⁸ The alternatives to HF alkylation are sulfuric acid alkylation (which accounts for about 50% of US alkylate production), ionic liquids alkylation technology, and solid catalyst alkylation technology. Ionic liquids alkylation technology is undergoing commercial testing on a small scale at one US refinery and is used in less than 10 units worldwide, mostly in China.²⁹ Solid catalyst alkylation technology

²⁶ 15 USC 2605(c)(2)(A), including clause (iii) and subclauses (iv)(I) and (iv)(II), thereof.

²⁷ Additionally, as discussed in AFPM/API’s prior comments, EPA would need to undertake the full risk evaluation and risk mitigation process; the agency could not simply skip such steps in response to the Petition.

²⁸ Critical Considerations and Factors for US Refiners to Address as Part of an HF Alkylation Technology Conversion, Becht, available at

<https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=true&rin=2050-%20AH22&meetingId=225223&acronym=2050-EPA%20OLEM%20AFPM%20and%20API>

²⁹ Id.

is undergoing commercial testing in just two units outside the US and has not been tested or adopted by any US refinery.³⁰

Despite the claims about alternatives to HF, only sulfuric acid alkylation technology has been commercially proven and adopted to any significant degree. Based on the short history and limited use of ionic liquids and solid catalyst alkylation technologies, “[t]here simply isn’t enough commercial history or completed testing at this point to recommend” them “for broader adoption.”

Additionally, the large footprint required for ionic liquids alkylation technology and sulfuric acid alkylation technology would make it impossible for many HF units to convert at their present sites, so replacement with ionic liquids alkylation technology or sulfuric acid technology is particularly unlikely for refineries with limited space.

There are also technical reasons that inform the choice of alkylation catalysts.

- 1) Square footage and feedstock volume. Sulfuric units require more energy and space than HF units. Sulfuric alkylation requires more acid catalyst, which means there must be additional feedstock deliveries and a larger overall reactor. Additionally, sulfuric acid units require a refrigeration system and access to acid regeneration units either onsite or nearby. These are not considerations for facilities with HF units. In most cases, a sulfuric acid alkylation unit will have much larger plot space requirements than an HF alkylation unit.
- 2) Location and waste reduction. Alkylation technology is often a reflection of other feedstocks produced onsite. That means other refinery processes and proximity to petrochemical plants factor into the decision around alkylation catalysts.

Refineries do not waste products, and complex refineries with fluid catalytic cracking units (FCC units) need to have a system in place to utilize propylene and butylene byproducts.

³⁰ *Id.*

Refineries that are close to chemical facilities may have the option of selling their propylene and butylene as feedstocks to manufacture plastics. For refineries without this option, HF alkylation technology provides an answer where sulfuric acid technology does not. HF units can co-process both propylene and butylene to make alkylate.

Such a switch also comes with its own risks. “Sulfuric acid alkylation uses approximately 200 times more acid than HF alkylation and requires storage tanks for both fresh and spent acid.”³¹ “The shuttering of HF alkylation technology and replacement with sulfuric acid alkylation simply shifts the risk profile, by introducing new risks at refineries and other points along the supply chain.”³²

In summary, banning HF and replacing alkylation with an alternative catalyst technology would not guarantee any benefit to public health or the environment while causing major disruptions to gasoline supply across America.

B. A Ban on HF Would Have Far-Reaching, Adverse Impacts.

The proposed ban on the use of HF in refineries would have significant adverse impacts that EPA would be required to consider before adopting such a proposal. A ban on HF would impose exorbitant costs on refineries that currently use HF, likely resulting in some closures based on each refinery’s individual business decisions. This, in turn could result in significant upward pressure on the costs of producing gasoline for American consumers, which could lead to potential shortages of gasoline, and increased reliance on imports.

Such a result is imprudent given that the President has declared that we face a national energy emergency because the “refining, and [energy] generation capacity of the United States [is already] far too inadequate to meet our Nation’s needs,” resulting in an “active threat to the American people from high energy prices” as well as an energy security concern from our

³¹ Critical Considerations and Factors for US Refiners to Address as Part of an HF Alkylation Technology Conversion, Becht, available at

<https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=true&rin=2050-%20AH22&meetingId=225223&acronym=2050-EPA%20OLEFM%20AFPM%20and%20API>

³² *Id.*

Nation's diminished capacity to insulate itself from hostile foreign actors."³³ An HF ban risks closing American refineries, reducing domestic refining capacity, which can impact our national energy security, and potentially adversely impact gasoline production costs at a time when America cannot afford such impacts.

An alkylation unit uses the light olefins (propylene and butylene) as well as isobutane produced by the fluid catalytic cracking ("FCC") unit of the refinery to make a high-octane gasoline blending component called alkylate. If EPA were to agree with the Petitioners and ban HF as an alkylation catalyst, refineries would be left with three options:

- (1) Construct a new alkylation unit utilizing an alternate technology to process the light olefins and isobutane from the FCC;
- (2) shut down the alkylation and FCC units and sell the feedstocks that are routinely processed in the Alkylation unit; or
- (3) shut down the entire refinery.

Options 2 and 3 would have dramatic impacts on the supply of gasoline in the United States. As to Option 2, shutting down the alkylation unit would result in less gasoline production and less capacity to make certain high value blends of gasoline (e.g., high-octane gasoline blends).³⁴

"For refineries with both alkylation and FCC units, the total of FCC gasoline plus alkylate makes up approximately 60 vol% of the gasoline pool."³⁵ Additionally, it is unlikely that the FCC unit feed could simply be sold to another US refiner that uses an alternative technology for alkylation. Only certain parts of the US (primarily those with heavy petrochemical industry presence) have a market for FCC feed, and the local open market would likely only be able to absorb a portion of that excess feed generated by refineries without alkylation units, making this

³³ [Declaring a National Energy Emergency - The White House](#)

³⁴ **Critical Considerations and Factors for US Refiners to Address as Part of an HF Alkylation Technology Conversion**, Becht, available at <https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=true&rin=2050-2020AH22&meetingId=225223&acronym=2050-EPA-OLEM%20AFPM%20and%20API>

³⁵ *Id.*

option marginal at best. As a result, shutting down both the FCC and HF alkylation units would reduce the US gasoline pool.³⁶

Option #3 is even worse. Refinery shutdowns would drive the biggest reduction to total US gasoline supplies, at a time when there is little available capacity for other refiners to make up for any potential lost capacity from shutdowns.³⁷

Importantly, this would increase U.S. reliance on importing fuels, sold to the highest bidder in global markets, raising the costs of producing gasoline for consumers, and severely restricting the average American's mobility.

Unfortunately, a unilateral ban on HF use in refineries would likely cause many refineries to resort to Option 2 or Option 3, because Option 1, switching to an alternative alkylation technology presents financial risks for refiners due to escalating costs, unpredictable returns on investment, and excessively prolonged permit, design, and build processes. Given the technology differences between HF and sulfuric acid alkylation units, replacing one catalyst with the other would require the complete removal of the existing HF alkylation unit and the construction of a completely new sulfuric acid alkylation unit.

Experts have estimated that replacing an HF alkylation unit with sulfuric acid technology would cost between \$200 million to \$850 million per facility, depending on unit throughput and location, which totals \$15 billion to \$41 billion nationwide.³⁸ The refineries would also have to pay "to decontaminate, deconstruct and decommission existing HF units" and "manage spent sulfuric acid."³⁹ Many refineries could not or would not undertake such large expenses. As shown below, replacing HF alkylation units with sulfuric acid alkylation units at a refinery would cost between 30 and 110% of each refinery's value. The higher the percentage, the greater the likelihood of a refinery making the individual business decision to shut down if HF is banned.⁴⁰

³⁶ *Id.*

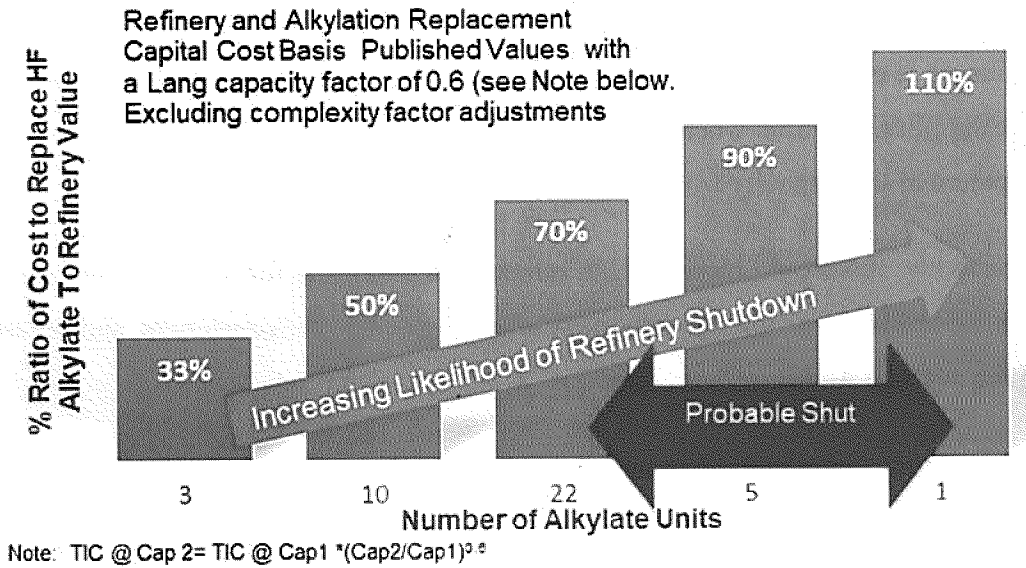
³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

Figure 1: Cost to Adopt Sulfuric Acid Alkylation Compared to Refinery Value



As this study shows, the cost of replacing an HF alkylation unit with a sulfuric acid alkylation unit would, in many cases, come close to the entirety of a refinery’s value. Thus, multiple refineries would likely make individual business decisions to close as a result of the proposed ban. According to Becht, “It is estimated that four to nine refineries would shut down rather than either build a new alkylation unit or attempt to operate with both their HF alkylation and FCC units shut down.”⁴¹ Such shutdowns would increase US reliance on imported fuels and gasoline blending components and would put significant upward pressure on the cost of producing gasoline.

The facts show the Petition does not justify the proposed ban on HF use. The alleged risks to which Petitioners point are based on highly improbable scenarios, distorted facts, and assumptions that fail to constitute an “unreasonable risk.” Regardless, to justify whether a ban under TSCA section 6(a) is the appropriate risk management action, EPA would need to first thoroughly evaluate available mitigation options and the impacts of banning HF. Because the proposed ban would not meaningfully reduce risks and fails to analyze the risks of alternative technologies, it would not be justified.

⁴¹ *Id.*

V. Conclusion

For all the reasons set forth above the EPA must deny this Petition to uphold TSCA's science-based risk evaluation standard and prevent catastrophic economic disruption unsupported by high quality, relevant evidence.

Pursuant to numerous federal regulations as well as API RP-751, refineries and trucks carrying HF to refineries already work to protect against HF releases. The numerous measures that are already in place make releases highly unlikely, such that they cannot be considered part of a condition of use. The Petition's attempt to characterize releases as likely is based on mischaracterizations of and willful disregard for the facts.

Even the far-fetched release events alleged by the Petition would be unlikely to result in the type of injuries Petitioners allege. There simply is no unreasonable risk from HF alkylation in refineries. EPA may only issue a TSCA regulation if the unreasonable risk of injury is present, which is not the case here. Finally, a ban on the use of HF in refineries would come with significant potential societal and economic risks and without any human health or environmental benefit, so it would not be justified. Accordingly, AFPM/API request that EPA deny the Petition.

APPENDIX A

Detailed Analysis of Past Incidents

Petitioners cite to 79 “documented HF leaks” where HF was allegedly released from a refinery, to support their assertion that HF alkylation presents an unreasonable risk. However, Petitioners overstate the severity and significance of these incidents.⁴² In fact, none of the incidents cited in the Petition come close to being the type of catastrophic release alleged by Petitioners. Nearly all incidents were contained within the refinery and adequately mitigated. Moreover, in the very few instances when injuries occurred, most were minor.

For example, Petitioners cite to a release of 100 pounds of HF at the Ferndale Refinery in Ferndale, Washington, in 2023. This “release” was contained to the refinery and adequately mitigated, with no injuries reported and no threat to the public identified. Similarly, at the Mandan Refinery in North Dakota, in 2022, 3 pounds of HF were released within the refinery, which was successfully evacuated. Contrary to the catastrophic effects portrayed in the Petition, the release at the Mandan facility was stopped quickly, and no threat to the public was reported.⁴³ Petitioners also cite to a 2021 release at the Galveston Bay Refinery in Texas City, Texas, resulting from a pipe failure. This release, like most others, was contained to the unit. In addition, subsequent testing of wastewater in the vicinity showed no detectable levels of acid, and air monitoring confirmed there was no exposure to the surrounding community.⁴⁴ Similarly, at the Torrance refinery in 2019, an employee was exposed to modified hydrofluoric acid while replacing a pressurized pipe. Sensor alarms went off and emergency services quickly responded to the incident. The incident was contained to the refinery and caused no threat to the public. The exposed employee was treated for non-life-threatening injuries.⁴⁵

⁴² See Petr’s Appx. B at 3-6.

⁴³ See “Hydrofluoric acid release at Mandan Refinery quickly contained, officials say no threat to public,” KFYR TV, April 4, 2022: <https://www.kfyrtv.com/2022/04/04/hydrofluoric-acid-release-mandan-refinery-quickly-contained-officials-say-no-threat-public/>.

⁴⁴ See “Hydrogen fluoride leak at Marathon’s Galveston Bay refinery came from piping -CSB,” Reuters, May 5, 2021: <https://www.reuters.com/business/energy/hydrogen-fluoride-leak-marathons-galveston-bay-refinery-came-piping-csb-2021-05-05/>.

⁴⁵ See OSHA, “Inspection: 1375314.015 - Schultz Industrial Services, Inc.” https://www.osha.gov/ords/imis/establishment.inspection_detail?id=1375314.015. Another leak at the Torrance facility in 2018 was so small that the fire department did not see cause to report it. See “AQMD reviewing new toxic chemical leak at Torrance Refinery,” LAist, Dec. 27, 2018: <https://laist.com/news/kpcc-archive/aqmd-reviewing-new-toxic-chemical-leak-at-torrance>.

The misleading nature of the Petitioners' narrative is also illustrated by multiple releases cited by Petitioners at the Wilmington refinery. For example, a 2018 leak did not leave the facility, and injuries cited by petitioners were unrelated to HF exposure. A 2017 leak from an alkylation unit that uses HF was also contained to the refinery and did not involve a release of HF to the public.⁴⁶ A similar incident at the Navajo refinery in Artesia, New Mexico, involved a "small amount and low concentration" of HF. All cited incidents, including this one, were reported to the appropriate local, state, and federal authorities in compliance with applicable law. Some of the "incidents" cited by the Petitioners did not even involve reportable releases but merely indicate that "sensors detected leaking," which merely indicates that sensor alarm systems were working properly. In the 2017 and 2018 Wilmington incidents, for example, sensors were set at 5 ppm and workers were able to immediately stop the leaks when sensors went off. A release of 5 ppm, as detected on the unit, does not constitute a risk to the community, and sensors set at that low level of detection are an additional layer of protection that helps to minimize the possibility of off-site impacts.

Importantly, when incidents have occurred, they have been analyzed to identify root causes and, when appropriate, those lessons learned are shared and may be incorporated into revisions to the consensus standards in API RP-751. There are examples of this starting with the 1987 Marathon Texas City incident that initiated the development of API RP 751 and more recently the 2019 Philadelphia Energy Solutions incident where API RP 751 adopted the practice of 100% component checks on welded piping.

Petitioners also allege that "[m]itigation systems ... failed during the 2009 Corpus Christi release"⁴⁷ and argue that "the mitigation spray system ran out of water."⁴⁸ In fact, the mitigation spray system did not fail, and the refinery utilized water from the nearby ship channel to maintain the on-site backup supply of water.⁴⁹ Moreover, this event occurred before the refinery

⁴⁶ By contrast, a 2013 incident at the Wilmington Refinery did cause minor injuries, where one employee received first aid for skin contact with MHF when a drip contacted his neck from activity above. Clinic personnel determined that there was no serious impact on the affected area and the employee was released back to work with no restrictions. In a similarly minor incident at the same facility in 2014, a worker was exposed to HF vapor from a small leak in a case drain. There, the employee received a nebulizer with calcium gluconate which was ruled to be "treatment beyond first aid," and thus reportable. The employee was released back to work with no restrictions.

⁴⁷ Pet. at 54.

⁴⁸ See Petr's Appx. B at 4.

⁴⁹ <https://www.csb.gov/csb-deploys-to-investigate-release-of-hydrofluoric-acid-at-citgo-refinery-in-corpus-christi-texas#:~:text=On%20July%2019%2C%202009%2C%20hydrocarbons,for%20possible%20hydrogen%2>

installed the deinventory system, so it is more accurate to say that, in 2009, some mitigation systems had not yet been installed, not that they failed.

In addition to citing incidents involving a “release” of HF, petitioners list a number of “major fires and explosions that have taken place at HF-using refineries since 1987.”⁵⁰ It is a stretch to assume that a fire at any location in a refinery is likely to result in or be the result of a release of HF, because only three of the cited fires occurred anywhere near HF.⁵¹ Unrelated incidents such as a fire breaking out “a few weeks after Hurricane Harvey, leading to a shelter-in-place order for nearby residents,” bear no weight on whether HF alkylation presents an “unreasonable risk” when the adverse impacts of those incidents are unrelated to an HF alkylation unit.⁵² Examples cited at the Wilmington Refinery in 1995, Memphis Refinery in 2011, 2012, and 2023, and Port Arthur and Three Rivers refineries in 2017, among others, were fires unrelated to the HF alkylation unit at the refinery. Additionally, AFPM/API have confirmed that, despite Petitioners identifying multiple incidents at both the Pasadena and Ponca refineries, none of them were specific to HF. Additionally, incident 86, which Petitioners allege took place at the Lemont Refinery, in fact occurred at the Seneca Petroleum plant, which does not even handle HF.⁵³

Two incidents where HF *was* involved—2001 and 2015 fires at the Three Rivers refinery—were effectively managed. The 2001 fire was caused by over-pumping a temporary leak repair in the trace acid service, and it was mitigated by both water and rapid acid transfer systems. The 2015 fire in the HF alkylation unit did not result in any release of HF. Finally, some of the incidents cited by the Petitioners are so vague as to simply list “fire” or “explosion.”⁵⁴

None of the incidents cited in the Petition even come close to the catastrophic scenarios Petitioners outline in their hypotheticals. This is due to extensive regulation and effective mitigation measures implemented across the industry, as outlined elsewhere in our comments.⁵⁵

⁵⁰ See Petr’s Appx. B at 6-11.

⁵¹ See *id.* at #6, 48, 70.

⁵² See *id.* at #65.

⁵³ [Lemont refinery explosion, fire: Andrew HS mourning wrestling coach Dru Worker, killed while working at Seneca Petroleum plant - ABC7 Chicago](#)

⁵⁴ See *id.* at #5, 49-55, 67, 83, 85, 96.

⁵⁵ See Part 1, at 3.

Petitioners' attempts to use these incidents to support an assertion of "unreasonable risk" from HF exposure to the public is misleading. Quantitative risk assessment data from the Lemont Refinery in Chicago serves as a representative example of the extremely low probability of any life-threatening offsite impacts due to HF. Lemont has many unit mitigation systems including a water curtain, remote controlled elevated fire monitors, remote shutdown of pumps, and tandem seals on pumps that contain HF, fixed gas detection systems, and a RADI (RATS) system. With mitigation measures like these in place at every refinery that uses HF, the risk to the public remains low – as evidenced by the fact that in the 80-year history of HF alkylation, there have been no reported instances of off-site fatalities from HF releases.

Importantly, Petitioners fail to address subsequent advancements in technology and safety standards that have ensured the safety of HF use. Regardless of advancements in technology since incidents over twenty years ago, though, Petitioners still mischaracterize the severity of these older HF-related incidents. For example, a 1989 incident at the Joliet Refinery in Channahon, Illinois, injured one employee who was quickly reported to be in "fair condition."⁵⁶ All other employees were able to clear the area before the HF release, thanks to adequate alert systems that were already in place 36 years ago. Another cited incident at the Memphis Refinery in 2006 was contained to the facility and reported as causing no environmental threat to the community.⁵⁷ Workers on site during this incident smelled HF and transported themselves to the hospital, but did not have any serious injuries. Note that more recent updates to API RP-751 have been made since the 2019 PES incident. The 2021 API RP-751 edition 5 included a new, required special emphasis program, where all carbon steel in HF service pipe and pipe components had to be tested for thickness. This was an enormous effort to address the root cause of the 2019 PES pipe failure incident and to prevent a repeat occurrence. No similar incident has occurred at the Trainer facility.

Petitioners further argue that because some refineries that utilize HF are old, they are inherently more dangerous. The dates Petitioners cite are the original construction dates of each refinery. These dates are misleading in that they do not reflect the age of the equipment in the HF unit, nor do they account for the numerous equipment and structural changes in the intervening

⁵⁶ See "CHEMICAL-PLANT BLAST INJURES WOMAN," Chicago Tribune, May 24, 1989: <https://www.chicagotribune.com/1989/05/24/chemical-plant-blast-injures-woman/>.

⁵⁷ See "Refinery employees recover from chemical leak," Action News 5, Mar. 7, 2006: <https://www.actionnews5.com/story/4593858-refinery-employees-recover-from-chemical-leak/>.

years, including upgrades made since 2021 in response to API RP-751. There is no evidentiary connection between the age of HF-containing refineries and their safety record or ability to respond to an HF release.

Finally, Petitioners inappropriately infer that problems at a particular facility reflect an industry-wide failure to adequately mitigate potential risks. Petitioners highlight one particular “near-miss” incident at the Torrance Refinery in Torrance, California, where an electrostatic precipitator exploded during maintenance in 2015. Significantly, the Petition misleadingly claims on Page 54 that the safeguards in the 2015 event ‘were absent or nonfunctional’ – referencing CSB work in this matter. CSB, though, was discussing the issues on the FCC, not the HF Alkylation unit. The safeguards on the HF Alkylation unit performed as designed. The acid evacuation system was successfully manually activated within seconds of the explosion on the FCC due to effective operator training, even though there was no HF release.

Of note, the Torrance refinery has not had an offsite HF release since its inception in 1966,⁵⁸ this incident posed no threat to the nearby community, and significant, additional mitigation devices have been installed since that event. Any potential, future failures are better addressed through EPA’s inspection and enforcement program and should not be included within the “condition of use” for HF alkylation under TSCA.

⁵⁸ See “Setting the Record Straight The Truth About Torrance Refinery MHF,” Torrance Refining Co., Jan. 16, 2018: <https://torrancerefinery.com/wp-content/uploads/2018/03/MHF-MVF-TechDeck-Complete-1.16.18-FINAL.pdf> at 8.

Message

From: Aaron Ringel
[ARingel@afpm.org]
Sent: 3/5/2025 1:35:52 PM
To: Vaseliou, Molly
[Vaseliou.Molly@epa.gov];
Abboud, Michael
[abboud.michael@epa.gov]
Subject: AFPM Letter of Support for
David Fotouhi, Deputy
Administrator
Attachments: 03.04.2025 - David Fotouhi
SEPW - AFPM Letter of
Support.pdf

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Molly/Mike, please find attached our letter of support that was sent to EPW for David's nomination. We'll keep the drumbeat going!

Best,
Aaron

Aaron Ringel
Vice President
Government Relations

American
Fuel & Petrochemical
Manufacturers
1800 M Street NW
Suite 900 North
Washington, DC 20006
202.457.0480 office
202.844.5531 direct
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ARingel@afpm.org

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American
Fuel & Petrochemical
Manufacturers

1800 M Street, NW
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afpm.org

4 March 2025

The Honorable Shelley Moore Capito
Chairman, Committee on Environment & Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

Chairman Capito,

On behalf of the American Fuel & Petrochemical Manufacturers (AFPM), we ask you to schedule a full committee vote as soon as possible to confirm David Fotouhi to be the next Deputy Administrator of the U.S. Environmental Protection Agency (EPA).

Mr. Fotouhi has extensive experience with the inner workings of the agency, having previously served as Acting General Counsel and Principal Deputy General Counsel at the EPA during President Trump's first administration. Without a doubt, his expertise and skill in providing legal counsel to the Administrator and overseeing nearly every major environmental statute and office within the EPA make him uniquely qualified for the role of Deputy Administrator.

Mr. Fotouhi's leadership would undoubtedly bring a fresh perspective to the EPA and help strengthen the agency's role in addressing the complex environmental challenges we face.

I strongly urge the Senate Committee on Environment and Public Works to advance his nomination swiftly, and we offer our full support for his appointment as Deputy Administrator of the EPA.

Sincerely,

Chet Thompson
President and CEO
American Fuel & Petrochemical Manufacturers

Message

From: Aaron Ringel
[ARingel@afpm.org]
Sent: 3/17/2025 8:57:49 PM
To: Abboud, Michael
[abboud.michael@epa.gov]
Subject: FW: AFPM Fotouhi & Szabo
Support Letter
Attachments: 03.17.2025 - AFPM Letter
to Majority Leader Thune
re Fotouhi-Szabo
Nominations FINAL.pdf

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See attached.



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Fuel & Petrochemical
Manufacturers

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afpm.org

17 March 2025

The Honorable John Thune, Majority Leader
The Honorable Chuck Schumer, Minority Leader
United States Senate
Washington, DC 20510

Majority Leader Thune and Minority Leader Schumer,

On behalf of the American Fuel & Petrochemical Manufacturers (AFPM), we ask that as the Senate works through scheduling cloture votes on the Administration's nominees you prioritize the consideration of Mr. David Fotouhi, Deputy Administrator of the U.S. Environmental Protection Agency (EPA), and Aaron Szabo, Assistant Administrator of the U.S. Environmental Protection Agency (EPA) Office of Air and Radiation.

Both men are uniquely qualified for the positions of which they have been nominated. Mr. Fotouhi has extensive experience of the inner workings of the EPA, having previously served as Acting General Counsel and Principal Deputy General Counsel. His expertise in providing legal counsel to the Administrator and overseeing nearly every major environmental statute and office within the EPA further enhances his qualification.

Similarly, Mr. Szabo's over a decade of experience at the White House Council on Environmental Quality, the Office of Information and Regulatory Affairs, and the U.S. Nuclear Regulatory Commission have equipped him with the understanding needed to succeed in this role.

Undoubtedly, Mr. Fotouhi's and Mr. Szabo's leadership would bring a fresh perspective to the agency, helping to strengthen the EPA's role in tackling the complex environmental challenges we face. With the President's aggressive agenda and EPA's extensive role in executing on the Administration's priorities the need for both of these nominees to assume their roles is of the utmost importance.

I strongly urge the Senate to advance their nominations swiftly, and we offer our full support for their appointments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chet Thompson'.

Chet Thompson
President and CEO
American Fuel & Petrochemical Manufacturers

Message

From: Brown, Ashley [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8D0606BC1F694C6AA1C3A90C00B7825D-51E37D1D-82]
Sent: 3/31/2025 7:35:20 PM
To: C. Travis Cone [ctcone@cgcn.com]
CC: Lisa Dichoso [ldichoso@afpm.org]
Subject: RE: AFPM meeting request 3/27

Thank you!

Ashley Brown
U.S. Environmental Protection Agency
Director of Scheduling – Office of Administrator

From: C. Travis Cone <ctcone@cgcn.com>
Sent: Monday, March 31, 2025 2:59 PM
To: Brown, Ashley <Brown.Ashley@epa.gov>
Cc: Lisa Dichoso <ldichoso@afpm.org>
Subject: Re: AFPM meeting request 3/27

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Ashley,

Thanks for checking in. Just confirmed with Aaron - the day-of POC - this is all set. Appreciate the help!

Best,
Travis

C. TRAVIS CONE

1307 NEW YORK AVE., NW, 6th FLOOR, WASHINGTON, D.C. 20005

859-379-2130 / CTCONE@CGCN.COM / WWW.CGCN.COM



From: Brown, Ashley
Sent: Monday, March 31, 2025 2:40 PM
To: C. Travis Cone
Cc: Lisa Dichoso
Subject: RE: AFPM meeting request 3/27

Hi Travis,

Just confirming the meeting tomorrow at 9:30am ET.

Ashley Brown

U.S. Environmental Protection Agency

Director of Scheduling – Office of Administrator

From: Brown, Ashley

Sent: Wednesday, March 19, 2025 5:25 PM

To: C. Travis Cone <ctcone@cgcn.com>

Cc: Lisa Dichoso <ldichoso@afpm.org>

Subject: RE: AFPM meeting request 3/27

Not a problem Travis. I am no stranger to that 😊

Ashley Brown

U.S. Environmental Protection Agency

Director of Scheduling – Office of Administrator

From: C. Travis Cone <ctcone@cgcn.com>

Sent: Wednesday, March 19, 2025 3:17 PM

To: Brown, Ashley <Brown.Ashley@epa.gov>

Cc: Lisa Dichoso <ldichoso@afpm.org>

Subject: Re: AFPM meeting request 3/27

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Ashley,

So sorry for the delay - I promised this morning and then my best-laid plans for today fell apart.

Adding Lisa Dichoso, Chet Thompson's administrative lead, to help if anything comes up between now and the meeting.

Attending will be:

Chet Thompson (CEO)

Geoff Moody

Aaron Ringel (day-of POC) Ex. 6 Personal Privacy (PP)

Thanks again for all of your help with this one!

Best,
Travis

C. TRAVIS CONE

1307 NEW YORK AVE., NW, 6th FLOOR, WASHINGTON, D.C. 20005

859-379-2130 / CTCONE@CGCN.COM / WWW.CGCN.COM

cgcn

From: Brown, Ashley
Sent: Tuesday, March 18, 2025 7:38 PM
To: C. Travis Cone
Subject: Re: AFPM meeting request 3/27

Roger that :)

Get [Outlook for iOS](#)

From: C. Travis Cone <ctcone@cgcn.com>
Sent: Tuesday, March 18, 2025 7:36:01 PM
To: Brown, Ashley <Brown.Ashley@epa.gov>
Subject: Re: AFPM meeting request 3/27

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Perfect! Will send the info your way in the morning. Thanks so much!

C. TRAVIS CONE

1307 NEW YORK AVE., NW, 6th FLOOR, WASHINGTON, D.C. 20005

859-379- / CTCONE@CGCN.COM / WWW.CGCM.COM
2130

cgcn

From: Brown, Ashley <Brown.Ashley@epa.gov>
Sent: Tuesday, March 18, 2025 7:33:13 PM
To: C. Travis Cone <ctcone@cgcn.com>
Subject: RE: AFPM meeting request 3/27

Hey! I legitimately thought I responded. 9:30am April 1 works here. There will be a hard stop at 10:00am ☺.
Please just confirm the attendee list (their full names) and a cell for the POC.

The best place for visitors to arrive at the U.S. EPA via cab, uber, or on foot is at the Federal Triangle Station Metro Stop entrance on 12th Street in between Constitution and Pennsylvania Ave. Once arrived, please use the South Entrance near the metro stop escalators. A photo ID will be required to enter the building. I have also attached a PDF with helpful instructions.

Ashley Brown
U.S. Environmental Protection Agency
Director of Scheduling – Office of Administrator

From: C. Travis Cone <ctcone@cgcn.com>
Sent: Tuesday, March 18, 2025 4:26 PM
To: Brown, Ashley <Brown.Ashley@epa.gov>
Subject: Re: AFPM meeting request 3/27

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Ashley, would 9:30 AM on April 1 work?

C. TRAVIS CONE

1307 NEW YORK AVE., NW, 6th FLOOR, WASHINGTON, D.C. 20005

859-379- / CTCONE@CGCN.COM / WWW.CGCM.COM
2130



From: Brown, Ashley <Brown.Ashley@epa.gov>
Sent: Tuesday, March 18, 2025 3:51 PM
To: C. Travis Cone <ctcone@cgcn.com>
Subject: Re: AFPM meeting request 3/27

Roger that

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From: C. Travis Cone <ctcone@cgcn.com>
Sent: Tuesday, March 18, 2025 3:36:09 PM
To: Brown, Ashley <Brown.Ashley@epa.gov>
Subject: Re: AFPM meeting request 3/27

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Thanks Ashley! Checking with AFPM and will get back to you ASAP.

C. TRAVIS CONE

1307 NEW YORK AVE., NW, 6th FLOOR, WASHINGTON, D.C. 20005

859-379- / CTCONE@CGCN.COM / WWW.CGCM.COM
2130



From: Brown, Ashley <Brown.Ashley@epa.gov>
Sent: Tuesday, March 18, 2025 2:37 PM
To: C. Travis Cone <ctcone@cgcn.com>
Subject: Re: AFPM meeting request 3/27

Would love to look at the week of March 31 then! Thank you so much. April 1 in the morning before noon would work.

let me know if anytime in that block works for you!

Ashley

From: C. Travis Cone <ctcone@cgcn.com>
Sent: Tuesday, March 18, 2025 1:25:23 PM
To: Brown, Ashley <Brown.Ashley@epa.gov>
Subject: Re: AFPM meeting request 3/27

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Whoops. Sorry for the double email - just chipping out after a meeting.

AFPM can be flexible if there are other dates that work. AFPM is based in DC, and I think Chet is here full-time. If you have a few options, I am sure they can accommodate.

Thanks!

C. TRAVIS CONE

1307 NEW YORK AVE., NW, 6th FLOOR, WASHINGTON, D.C. 20005

859-379-2130 / CTCONE@CGCN.COM / WWW.CGCN.COM



From: Brown, Ashley
Sent: Tuesday, March 18, 2025 12:29 PM
To: C. Travis Cone
Subject: Re: AFPM meeting request 3/27

im working on this but do you have any other days in the future where you are in DC?

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From: Brown, Ashley <Brown.Ashley@epa.gov>
Sent: Tuesday, March 18, 2025 12:11:28 PM
To: C. Travis Cone <ctcone@cgcn.com>
Subject: Re: AFPM meeting request 3/27

Thank you for the follow up. Looking at this now.

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From: C. Travis Cone <ctcone@cgcn.com>
Sent: Tuesday, March 18, 2025 11:46:37 AM
To: Brown, Ashley <Brown.Ashley@epa.gov>
Subject: AFPM meeting request 3/27

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Ashley,

It's me again. Thanks again for all of your help with Highland.

AFPM is another client of ours. They asked me to check in on the status their meeting request for their president to meet with the Administrator. Anything you can share?

Thanks so much!

Best,
Travis

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