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Via Electronic Mail

Information Quality Guidelines Staff
United States Environmental Protection Agency
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Re: Request Under the Data Quality Act and EPA's Information Quality Guidelines

Dear Madam or Sir:

In light of recent statements from EPA in the rulemaking for the Mercury and Air Toxics Standards (“MATS Rule”), Environmental Integrity Project (“EIP”) and Chesapeake Climate Action Network (“CCAN”) submit this Request for Correction to ask EPA to resolve the conflict between the statements from the MATS rulemaking and EPA’s earlier position on the accuracy of monitoring of sulfur dioxide (“SO₂”) under the Acid Rain program.

The Data Quality Act and EPA’s Information Quality Guidelines (the “Guidelines”) require information disseminated by EPA to the public to be accurate and reliable. In EPA’s longstanding Acid Rain program, measurement and monitoring of emissions of SO₂ from power plants — including SO₂ emissions during startup and shutdown — is instrumental in ensuring that mandated reductions in SO₂ are achieved. In numerous publications available on EPA’s website and in rulemaking for the Cross-State Air Pollution Rule (referred to here as the “Transport Rule”), EPA has stated that the SO₂ emissions data reported by power plants under the Acid Rain program — which includes data covering emissions during startup and shutdown — is complete and accurate. Likewise, EPA has disseminated SO₂ emissions data from power plants (including data covering emissions from startup and shutdown) through its Clean Air Markets program database — and by relying on that data in determining emissions allocations for power plants under the Transport Rule — without indicating that this data is not accurate or reliable. Yet in the MATS rulemaking, after adopting SO₂ as a surrogate for limiting acid gases from power plants, EPA indicated that plants cannot accurately measure emissions (including emissions of SO₂) during startup and shutdown. If these statements from the MATS Rule about monitoring SO₂ during startup and shutdown are correct, neither the Clean Air Markets data disseminated by EPA nor EPA’s earlier statements regarding the accuracy of monitoring in the

Acid Rain program can be accurate or reliable, as required by the Data Quality Act and EPA's accompanying guidelines.

As explained below in more detail, the information at issue is disseminated by EPA for purposes of EPA's guidelines under the Data Quality Act because it was prepared and/or endorsed by EPA to support agency rulemaking and EPA's viewpoint and guidance on the Acid Rain program. Further, the information at issue is "influential" within the meaning of those guidelines and thus must meet a rigorous standard of quality. Even if the information is not deemed influential, if EPA's statements from the MATS Rule are accurate, the information still fails to meet EPA's required standards for objectivity and utility under the guidelines. Thus, while we have no reason to think that the monitoring data from the Acid Rain program is inaccurate, we ask EPA to clarify how its data from the Clean Air Markets database and its statements about the accuracy of monitoring in the Acid Rain program are themselves accurate and reliable in light of EPA's statements in the MATS rulemaking.

EIP is a non-profit dedicated to advocating for, among other things, more effective enforcement and monitoring under the Clean Air Act. CCAN is also a non-profit that has advocated more effective enforcement and monitoring under the Act. As explained in more detail below, EIP and CCAN therefore have a significant interest in being able to understand the accuracy of emissions data submitted by power plants under the Clean Air Act.

I. The Conflict Between EPA's Statements in the MATS Rulemaking and its Earlier Position Regarding SO₂ Data from the Acid Rain Program

A. EPA Stated in the MATS Rulemaking That SO₂ Emissions Cannot Be Accurately Measured During Startup and Shutdown.

In 2012, pursuant to Section 112 of the Clean Air Act, EPA promulgated the MATS Rule. *See National Emission Standards for Hazardous Air Pollutants from Coal and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units*, 77 Fed. Reg. 9,304 (Feb. 16, 2012) (final rule); 76 Fed. Reg. 24,976 (May 3, 2011) (proposal). In the Rule, EPA set emission limitations for a number of hazardous air pollutants, including mercury, acid gases and non-mercury metallic toxics. To comply with the standard for acid gases, coal-fired power plants with operational Flue Gas Desulfurization systems can comply with a limit for SO₂. 77 Fed. Reg. at 9,367-68. Thus, these power plants can measure SO₂ as a surrogate for acid gases.¹

After promulgating the MATS Rule, EPA granted reconsideration of the startup and shutdown provisions in the Rule. EPA recently took final action on its reconsideration of the startup and shutdown provisions. *See* 79 Fed. Reg. 68,777 (Nov. 19, 2014). In its final action on the reconsideration, EPA established an alternate definition of "startup" under which power plants do not have to meet the MATS Rule's numeric emission limits until 4 hours after they first generate electricity. *Id.* at 68,779. Part of EPA's justification for not requiring plants to meet

¹ Alternately, the MATS Rule allows coal-fired power plants to measure hydrogen chloride as a surrogate for acid gases. *Id.* at 9367.

emission limits during startup is the purported “lack of HAP data for these periods and the *current technical challenges to accurately measure HAP emissions during startup and shutdown.*” *See, e.g., id.* at 68,778 f.n.1 (emphasis added).

EPA also made other similar statements regarding the inaccuracy of SO₂ data from startup and shutdown in the final action on reconsideration. In determining the appropriate time after the beginning of generation when the MATS Rule’s numeric limits would apply, EPA evaluated continuous SO₂ data from startup events submitted by power plants to EPA under the requirements of the Acid Rain program. *Id.* at 68,779-80. In discussing this data from the Acid Rain program, EPA specifically noted that “these data *are not reliable for quantifying emissions* for this analysis but, rather, the data allow us to evaluate when controls are turned on for the purpose of determining when startup ends.” *Id.* at 68,780 f.n.6 (emphasis added).

Thus, in the MATS rulemaking, EPA has asserted that SO₂ cannot be accurately measured during startup and shutdown.

B. Despite Its Statements in the MATS Rulemaking, EPA Has Taken the Opposite Position in the Acid Rain Program Regarding the Accuracy of Measuring SO₂ Emissions During Startup and Shutdown.

The Acid Rain program was established by EPA in 1995 and mandates, among other things, reductions in SO₂. John Schakenbach et al. (EPA Office of Atmospheric Programs), “Fundamentals of Successful Monitoring, Reporting, and Verification under a Cap-and-Trade Program,” 56 *Journal of Air & Waste Mgmt. Ass’n.* 1576, 1576 (Nov. 2006) (referred to below as “Fundamentals of Successful Monitoring”).² The program regulates the SO₂ emissions of power plants that burn fossil fuels and that serve a generator greater than 25 MW. *Id.* The SO₂ component of the Acid Rain program is a “cap-and-trade” program. *Id.* EPA has stated that “[e]missions monitoring and accounting are the backbone of cap and trade programs” such as the Acid Rain program. EPA Clean Air Markets Division, “Plain English Guide to the Part 75 Rule,” at 6 (June 2009).³

In general under the regulations governing monitoring for the Acid Rain program, any coal-fired power plant must use a continuous emission monitoring system (“CEMS”).⁴ *See id.* at 10. These regulations require emissions data to be reported for every hour that a power plant is operating, including periods of startup, shutdown and malfunction. *Id.* at 15. Specifically, these regulations provide that, except for certain limited exceptions, power plants “shall ensure that all continuous emission and opacity monitoring systems required by this part are in operation and

² Available at <http://www.epa.gov/airmarkets/cap-trade/docs/fundamentals.pdf>

³ Available at http://www.epa.gov/airmarkets/emissions/docs/plain_english_guide_part75_rule.pdf

⁴ Oil- and gas-fired units, or units that burn “very low sulfur fuel,” may qualify for an alternative monitoring approach other than CEMS. *See id.* at 10.

monitoring unit emissions or opacity *at all times that the affected unit combusts any fuel.*⁵ 40 CFR § 75.10(d) (emphasis added). Likewise, except for certain limited exceptions, 40 CFR § 75.11(a) provides that coal-fired power plants “shall meet the general operating requirements in § 75.10 for an SO₂ continuous emission monitoring system and a flow monitoring system . . . while the unit is combusting coal and/or any other fuel.”⁶ (Emphasis added).

Importantly, in addition to requiring monitoring of SO₂ emissions during startup, shutdown and malfunction, the Acid Rain program also counts these emissions during these periods in determining whether a plant has stayed within its annual limit for tons of SO₂ emitted. The Acid Rain regulations require each plant to “[h]old allowances . . . in the source’s compliance account . . . not less than the total annual *emissions* of sulfur dioxide for the previous calendar year from the affected units at the source.” 40 CFR § 72.9 (emphasis added). These regulations define “emissions” as pollutants exhausted from plants into the atmosphere, as measured and reported “in accordance with the emissions monitoring requirements of part 75 of this chapter” — the monitoring requirements discussed above. *See* 40 CFR § 72.2.

In numerous publications available on EPA’s website, EPA has affirmed that the SO₂ emissions data reported by power plants under the Acid Rain program — which includes data covering emissions during startup and shutdown — is complete and accurate:

- The webpage for emission monitoring for EPA’s Clean Air Markets program (which includes the Acid Rain program) states: “EPA’s emissions monitoring requirements ensure that *the emissions data collected is of a known, consistent, and high quality*, and that the mass emissions data from source to source are collected in an equitable manner. This is essential to support the Clean Air Markets Division’s mission of promoting market-based trading programs as a means for solving air quality problems.” *See* <http://www.epa.gov/airmarkets/emissions/index.html> (emphasis added).
- In a fact sheet for monitoring under the Acid Rain program, available on EPA’s website, EPA states that “[c]omplete and accurate emissions data are key to implementing [the] market-based approach” of the Acid Rain program. EPA Clean Air Markets Division, “Continuous Emissions Monitoring Fact Sheet” (emphasis added), available at <http://www.epa.gov/airmarkets/emissions/continuous-factsheet.html>.

⁵ 40 CFR § 75.11(e) allows the use of certain equations to determine SO₂ emissions while a plant is burning only gaseous fuel. In addition, CEMS is not required under 40 CFR § 75.10(d) during periods of calibration, quality assurance, preventative maintenance, repair, recertification, or backups of data from the data acquisition and handling system.

⁶ The exceptions discussed above apply to § 75.11(a). In addition, 40 CFR § 75.16 contains special provisions for SO₂ emissions from common, bypass or multiple stacks. Finally, Subpart E of Part 75 allows sources to petition EPA for approval of an alternative monitoring system — though EPA has received and approved relatively few of these petitions. *See* “Plain English Guide to the Part 75 Rule” at 14.

- The same fact sheet also states: “An essential feature of smoothly operating markets is a method for measuring the commodity being traded. The CEM data *will supply the gold standard* to back up the paper currency of emissions allowances. The CEM requirements, therefore, will instill confidence in the market-based approach by verifying the existence and value of the traded allowance.” *Id.* (emphasis added).
- The introduction to EPA’s policy manual for monitoring emissions under the Acid Rain program states: “To ensure that allowances are consistently valued and to ensure that all of the projected emission reductions are in fact achieved, it *is necessary that actual emissions from each affected utility unit be accurately determined.* To fulfill this function, Title IV requires that affected units continuously measure and record their SO₂ mass emissions. Most plants will fulfill these requirements by using continuous emission monitoring systems (CEMS).” EPA Clean Markets Division, “Part 75 Emissions Monitoring Policy Manual” (2013) (emphasis added), available at <http://www.epa.gov/airmarkets/emissions/docs/Final-Part75-Policy-Manual-2013-revised-08-27-13.pdf>.
- EPA’s “Plain English” guide to monitoring for the Acid Rain program (also available on EPA’s website) states that the monitoring regulations “[e]nsure that the *emissions from all sources are consistently and accurately measured and reported.* In other words, a ton of emissions from one source is equal to a ton of emissions from any other source.” “Plain English Guide to the Part 75 Rule” at 6 (emphasis added).
- Similarly, the Plain English guide also states that the Acid Rain monitoring regulations “[r]equir[e] *a complete record of emission data to be produced* for each unit in the program (i.e., data are obtained for every hour of unit operation)” and “[v]erify[] that emission caps are not exceeded, thereby *ensuring that emissions are not underestimated* and that emission reduction goals are being met.” *Id.* (emphasis added).
- A Technical Paper written by EPA employees about the Acid Rain program and similar “cap-and-trade” programs and posted on EPA’s website states: “To ensure that emission reduction goals of a cap and trade program are met, it is *important that all of the emissions from affected sources are monitored and reported, including start-up, shutdown, and upset or uncontrolled conditions.*” “Fundamentals of Successful Monitoring” at 1581 (emphasis added).
- The Technical Paper also states: “The authors believe that as a direct result of implementing the strict quality-assurance requirements and substitute data procedures in their cap-and-trade programs, the regulated sources have provided EPA with *highly accurate, reliable emissions data* and have achieved a nearly perfect compliance record.” *Id.* at 1577 (emphasis added).

- Finally, the Technical Paper states: “Making cap and trade program data publicly available creates confidence in the program. Publicly available, *high-quality data* are essential for allowance market pricing to work efficiently and for achieving emission reductions at the lowest possible cost. Publicly available data allow brokerage firms, testing organizations, academic institutions, and other third parties to access and analyze the data. These analyses help keep the program healthy and provide impetus for future program improvements and impact assessments.” *Id.* at 1582 (emphasis added).

Thus, with respect to two different rules, EPA has taken two, contradictory positions regarding the accuracy of SO₂ monitoring during startup and shutdown.

C. EPA Has Disseminated the Actual Emissions Data from the Acid Rain Program with No Indication that the Data is Inaccurate.

In addition to disseminating statements like those quoted above about the accuracy of SO₂ monitoring in the Acid Rain Program, EPA has also disseminated the actual SO₂ data from power plants — which includes data from startup and shutdown — to the public through the online database for EPA’s Clean Air Markets program without any indication that the data is inaccurate or unreliable.⁷ The database is interactive and allows members of the public to access the data reported by plants in several ways, including through maps, graphs, reports on subjects such as top emitters, and custom queries for specific plants and time periods.

EPA has also disseminated SO₂ data from the Clean Air Markets program by relying on it in the rulemaking for the Transport Rule. The Transport Rule requires upwind states to make reductions in emissions of SO₂ and NO_x to reduce the levels of fine particulate matter and ozone in polluted downwind states. 76 Fed. Reg. 48,208 (Aug. 8, 2011). SO₂ and NO_x develop into ozone and fine particles by the time they reach downwind states. *See id.* at 48,209. After determining the tons of emission reductions upwind states must make to improve the air quality of downwind states, EPA allocated the number of relevant allowances (with each allowance being equal to one ton of pollutant) to each covered unit in each state. *See id.* at 48,210-48,212. EPA allocated those allowances to individual units based on each unit’s share of the state’s historic heat input but with the provision that no unit’s allocations could exceed that unit’s historic emissions of SO₂ and NO_x. *Id.* at 48,288. To perform this analysis, EPA pulled each unit’s heat input and SO₂ and NO_x emissions from the data reported by power plants through the Acid Rain program and available in the Clean Air Markets database for the years 2003 through 2010. *See id.* at 48,288-90; EPA Office of Air and Radiation, “Allowance Allocation Final Rule TSD” (June 2011).⁸ In doing so, EPA again disseminated the specific Acid Rain data used for its Transport Rule analysis through its website, making it available as an Excel spreadsheet.⁹

⁷ The Clean Air Markets program database is available here -- <http://ampd.epa.gov/ampd/>.

⁸ The TSD is available at <http://www.epa.gov/airtransport/pdfs/AllowAllocate.pdf>.

⁹ See the second worksheet in the Excel file titled “Final CSAPR Unit Level Allocations under the FIP and Underlying Data,” available on this page -- <http://www.epa.gov/crossstaterule/techinfo.html>.

In relying on the SO₂ data from the Acid Rain program in the Transport Rule, EPA specifically professed its belief that this data was accurate:

EPA finds that quality-assured historic CEMS-quality data used to implement this approach *represent the most technically superior data available* to EPA at the time of this rulemaking for calculating unit-level allocations. The selected approach relies on unmodified historic data reported directly by the vast majority of covered sources, *whose designated representatives have already attested to the validity and accuracy of this data*. EPA agrees with commenters that allowance allocations should be based on quality-assured data to the maximum extent possible. *This approach uses the most accurate data currently available to EPA.*

76 Fed. Reg. at 48,288 (emphasis added).

II. If EPA’s Statements in the MATS Rulemaking are Correct, EPA’s Earlier Statements About SO₂ Monitoring and the Data from EPA’s Clean Air Markets Database Violate the Data Quality Act and EPA’s Information Quality Guidelines.

Under the Data Quality Act,¹⁰ federal agencies must “[i]ssue their own information quality guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information . . . disseminated by the agency.” Office of Mgmt. & Budget, Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 Fed. Reg. 8,452, 8,458 (Feb. 22, 2002). EPA’s Information Quality Guidelines apply to “information” EPA disseminates to the public. EPA Office of Env’tl. Info., “Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity, of Information Disseminated by the Environmental Protection Agency” (EPA/260-R-02-008), § 5.3 (Oct. 2002). The Guidelines define “information” as “any communication or representation of knowledge such as facts or data, in any medium or form,” and as “generally includ[ing] material that EPA disseminates from a web page.” *Id.* EPA’s statements about the accuracy of SO₂ monitoring under the Acid Rain Program in materials on its web page are “information” as that term is used in EPA’s Information Quality Guidelines — as are EPA’s statements in the rulemaking for the Transport Rule and the SO₂ data from EPA’s Clean Air Markets database. While EPA’s guidelines state that web content from outside sources is not “information” under the Guidelines if that web content is “not adopted, endorsed, or used by EPA to support an Agency decision or position,” *id.*, the SO₂ data from EPA’s Clean Air Markets database is “information” for purposes of EPA’s Information Quality Guidelines: EPA does not simply post the SO₂ emissions data reported by power plants online; instead, EPA works with the data to create an interactive database that allows members of the public to access the data through maps, graphs, various reports and custom queries for specific plants and time

¹⁰ The Data Quality Act was part of the Treasury and General Government Appropriation Act for Fiscal Year 2001, Pub. L. No. 106-554, § 515, 114 Stat. 2763A-153.

periods. At the least the SO₂ emissions data from 2003 through 2010 is clearly “information,” as EPA used that data in support of its decision on the Transport Rule.

For purposes of the Guidelines, EPA disseminates information to the public “when EPA initiates or sponsors the distribution of information to the public.” *Id.* The Information Quality Guidelines specifically note that “EPA initiates a distribution of information if EPA prepares the information and distributes it to support or represent EPA’s viewpoint, or to formulate or support a regulation, guidance, or other Agency decision or position.” *Id.* All of the statements at issue about SO₂ monitoring under the Acid Rain program were disseminated to the public by EPA: these statements were prepared by EPA or its employees and distributed through the preamble to the Transport Rule and through EPA’s web pages related to the Acid Rain program to support EPA’s Transport rulemaking and EPA’s viewpoint and guidance on the Acid Rain program. EPA’s Information Quality Guidelines also state that “EPA initiates a distribution of information if EPA distributes information prepared or submitted by an outside party in a manner that reasonably suggests that EPA endorses or agrees with it . . . or if EPA in its distribution proposes to use or uses the information to formulate or support a regulation, guidance, policy, or other Agency decision or position.” *Id.* Thus, the SO₂ data from the Clean Air Markets database is also “disseminated” by EPA because EPA’s interactive database reasonably suggests that EPA endorses that data and because EPA has used the data to formulate and support the Transport Rule.

EPA’s guidelines state that EPA evaluates the “quality” of information based on the “objectivity, utility, and integrity” of that information. *Id.* at § 5.1. The two quality standards relevant to this petition are objectivity and utility. “Objectivity focuses on whether the disseminated information is being presented in an accurate, clear, complete, and unbiased manner, and as a matter of substance is accurate, reliable, and unbiased.” *Id.* The utility standard “refers to the usefulness of the information to the intended users.” *Id.*

EPA requires influential scientific, financial or statistical information to meet an even higher standard of quality — a “rigorous standard of quality.” *Id.* at §§ 6.1-6.2. Under the Information Quality Guidelines, information is “influential” if EPA “can reasonably determine that dissemination of the information will have or does have a clear and substantial impact (i.e. potential change or effect) on important public policies or private sector decisions.” *Id.* at § 6.2. The Guidelines specifically list information disseminated in support of top Agency actions as an example of influential information. *Id.* Here, EPA’s statements regarding the accuracy of monitoring SO₂ under the Acid Rain program are influential scientific, financial and statistical information: as demonstrated by the statements quoted above, EPA’s website statements regarding the accuracy of monitoring emissions under the Acid Rain program (one of EPA’s key rulemakings) work to instill confidence in investors in that market-based program and ensure that emission allowances are properly valued. Investors surely rely on EPA’s statements regarding the accuracy of monitoring emissions when choosing to invest in allowances. EPA’s statements also instill confidence in owners and operators of power plants that each ton of SO₂ emissions (and thus each allowance) at one power plant is equal to a ton (and allowance) of SO₂ emissions at another plant. In addition, EPA’s statements about the accuracy of SO₂ emissions data were disseminated in support of another top Agency actions — the Transport Rule. Importantly, EPA’s statements about the accuracy of emissions monitoring also instill public

confidence in the Acid Rain program and Transport Rule, both of which are designed to protect public health and the environment.

The SO₂ emissions data itself from the Clean Air Markets database is also “influential” because EPA used that data to formulate and support the Transport Rule. Thus, EPA’s statements about SO₂ monitoring for the Acid Rain program and the data from the Clean Air Markets database must meet a rigorous standard of quality.

Even if the statements and emissions data at issue are not “influential” information, they still violate EPA’s objectivity and utility standards under the Information Quality Guidelines if EPA’s statements in the MATS rulemaking are accurate. If EPA is correct that emissions cannot be accurately measured during startup and shutdown, EPA’s contradictory assertions in materials for the Acid Rain program and the preamble to the Transport Rule regarding the accuracy of SO₂ monitoring for all periods when fuel is burned under the Acid Rain program cannot be accurate or reliable — and thus violate the objectivity standard: if the SO₂ emissions data is inaccurate during periods of startup and shutdown (as EPA asserts in the MATS rulemaking), then that same data cannot be accurate during these periods, as EPA has asserted in the Transport rulemaking and materials in support of the Acid Rain program. Likewise, if the startup and shutdown data is inaccurate, then the SO₂ emissions data that EPA has used in support of the Transport Rule and posted online in its Clean Air Markets database (which, under the regulations for the Acid Rain program, includes data from periods of startup and shutdown) cannot be accurate or reliable.

If EPA’s statements from the MATS Rule are correct, EPA’s statements from the Acid Rain program and Transport Rule about the accuracy of SO₂ emissions data (which includes periods of startup and shutdown) are also not useful for intended users (affected members of the public, owners and operators of power plants and investors) — and thus violate the utility standard as well. Members of the public rely on these statements from EPA in assessing the effectiveness of these rules designed to protect public health and the environment and in assessing the soundness of EPA’s approach in the rules. Likewise, members of the public relied on the Clean Air Markets data cited by EPA in the Transport Rule in evaluating EPA’s approach in that rule. In addition, as discussed above, investors rely on EPA’s statements regarding the accuracy of monitoring SO₂ emissions when choosing to invest in allowances. If EPA’s statements and the data from Clean Air Markets are not accurate or reliable, they are also not useful for these purposes for the public and investors. Similarly, members of the public rely on EPA’s Clean Air Markets database to assess emissions from power plants and dangers to the public health, and if this data is not reliable, it is not useful for these purposes.

In sum, the statements and data at issue fail both the objectivity and utility standards from EPA’s Information Quality Guidelines.

III. EIP and CCAN Are “Affected Persons.”

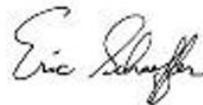
EIP and CCAN are “affected persons” entitled to seek correction of disseminated information that fails to meet quality standards under the Data Quality Act.¹¹ EIP is a non-profit organization dedicated to advocating for more effective enforcement of environmental laws, with a specific focus on the Clean Air Act and power plants like those regulated under the Acid Rain program and the MATS and Transport Rules. CCAN is a non-profit organization dedicated to raising awareness about the impacts and solutions associated with global warming in Maryland, Virginia and Washington, D.C. CCAN’s mission includes ensuring that facilities that contribute to global warming, such as coal-fired power plants, do not threaten the environment or the health of the public or CCAN’s members. Thus, CCAN’s efforts have also focused on the Clean Air Act and power plants. The accuracy of emissions monitoring data and the soundness of rules like the Transport Rule are central to EIP’s and CCAN’s efforts to enforce emission limits at specific power plants and to ensure that EPA sets standards that meet the requirements of the Clean Air Act. EIP and CCAN therefore have a significant interest in confirming whether emissions data from startup and shutdown periods at power plants under the Acid Rain program is accurate and reliable. Thus, EIP and CCAN are “affected persons” under the Data Quality Act and EPA’s Information Quality Guidelines and are entitled to the relief sought in this petition.

IV. Conclusion and Relief Requested

In light of the important public-health and financial impacts of the Acid Rain program and Transport Rule, and given the inconsistency between EPA’s assertions regarding the accuracy of monitoring during startup and shutdown in the Acid Rain program and Transport Rule and EPA’s assertions in the MATS rulemaking, EIP and CCAN request that EPA immediately resolve the conflict between its dueling positions and clarify how its statements about the accuracy of monitoring during startup and shutdown in the Acid Rain program are accurate and reliable.

Please let us know your response as soon as possible.

Sincerely,



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¹¹ EPA’s Information Quality Guidelines do not define “affected person,” noting that “a more open approach would be to ask complainants to describe how they are an affected person with respect to the information that is subject to their complaint.” *Id.* at § A.3.7.