



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

DEC 18 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

Mr. Richard Moore
Chairman
National Environmental Justice Advisory Council
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Mr. Moore:

Thank you for your letter of August 14, 2019, to U.S. Environmental Protection Agency (EPA) Administrator Andrew Wheeler, requesting status of recommendations made by the National Environmental Justice Advisory Council (NEJAC) regarding chemical safety, including aboveground storage tanks (ASTs).

Regarding the NEJAC's interest in the *Clean Water Act Hazardous Substances Discharge Prevention Rulemaking*, on August 22, 2019, the EPA Administrator signed a final action to establish no new regulatory requirements under the Clean Water Act (CWA) section 311(j)(1)(C) authority for CWA hazardous substances (HS) discharge prevention and containment (84 FR 46100). After seeking public comment and based on an analysis of the frequency and impacts of reported CWA HS discharges, as well as the existing framework of EPA regulatory requirements, the agency is not establishing, at this time, new discharge prevention and containment regulatory requirements under CWA section 311.

During the 40 years since CWA section 311(j)(1)(C) was enacted by Congress, EPA has established many statutory and regulatory requirements to prevent and contain CWA HS discharges. Existing EPA regulations include provisions for the prevention, containment and mitigation of discharges. Given existing requirements and the frequency and reported impacts of reported CWA HS discharges, EPA determined the existing framework of EPA regulatory requirements adequately serves to prevent and contain these discharges.

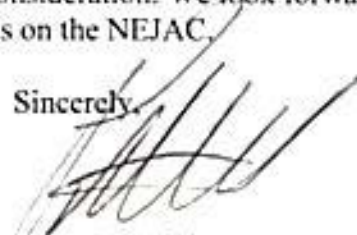
For example, AST owners and operators are required to provide information on the hazardous substances at their facility to their Local Emergency Planning Committees (LEPCs). The LEPCs, with assistance from State Emergency Response Commissions (SERCs), are required to develop a plan to mitigate and/or respond to the risks associated with those chemicals (including identifying water intakes that could potentially be at risk of contamination in the event of a spill) and provide this plan, and information about what to do if a chemical accident occurs, to the community. Members of the public can participate in the development of this plan as members of the LEPC. In addition, AST owners and operators subject to existing regulatory programs (e.g., Spill Prevention, Control, and Countermeasure; National Pollution Discharge Elimination System) have requirements to reduce the potential for leaks from ASTs and secondary containment.

Additional information supporting the *Clean Water Act Hazardous Substances Discharge Prevention Rulemaking* final action can be found under Docket ID No. EPA-HQ-OLEM-2018-0024, at www.regulations.gov. Other information related to your letter that you may find helpful can be found at <https://www.epa.gov/enforcement> and <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/oil-spill-liability-trust-fund>.

You offered additional recommendations which are not specifically addressed in this letter. Some of these recommendations would require new legislation. For your recommendations that relate to EPA's existing legal authority, we direct you to the public docket for the aforementioned *Clean Water Act Hazardous Substances Discharge Prevention Rulemaking* final action, including all the supporting materials for additional relevant information. If you still have questions and/or recommendations, please feel free to contact me or Mr. William Noggle of my staff at (202) 566-1306 or at noggle.william@epa.gov.

Once again, we thank you for your letter and appreciate the time and attention of the NEJAC to offer cogent recommendations for the agency's consideration. We look forward to continuing our engagement and interaction with you and your colleagues on the NEJAC.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter C. Wright", written over a light blue horizontal line.

Peter C. Wright
Assistant Administrator