

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

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<http://oversight.house.gov>

July 6, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Administrator McCarthy:

According to several media reports, the drinking water in the Village of Hoosick Falls, New York, was contaminated by the chemical Perfluorooctanoic acid, commonly known as PFOA.¹ This chemical has been linked to various types of cancer and other serious medical conditions.² Documents show Environmental Protection Agency officials were aware of PFOA contamination in the Hoosick Falls water supply in December 2014, and that the agency failed to take action until almost one year later.³

In the summer of 2014, residents of Hoosick Falls became concerned about a spike in local cases of cancer and made inquiries to county and state government officials about the safety of the public drinking water.⁴ Government officials were non-responsive, so a group of citizens conducted tests and found PFOA levels in the water exceeded EPA's provisional health advisory level of 400 parts per trillion for short-term exposure.⁵ The village subsequently conducted its own tests in November 2014 and found similarly elevated levels of PFOA.⁶

EPA became aware of the problem when an EPA official communicated with New York State Department of Health officials about tests that found high PFOA levels in the Hoosick Falls water system in December 2014.⁷ The problem was again brought to EPA's attention later that month, when a Hoosick Falls company sent a letter directly to EPA headquarters in

¹ See, e.g., Haimy Assefa, *State to tackle water pollution in northern New York village*, CNN, Feb. 1, 2016.

² Bill Walker and David Andrews, "Teflon Chemical Unsafe at Smallest Doses EPA's 'Safe' Level Is Hundreds Or Thousands Of Times Too Weak", Environmental Working Group, Aug. 2015.

³ Email from Arlene Anderson, EPA, to Teresa Boepple-Swider, *et al*, N.Y. Dept. of Health, Dec. 19, 2014.

⁴ Brendan J. Lyons, *Officials critical of alerts about Hoosick Falls water crisis*, ALBANY TIMES UNION, Feb. 11, 2016.

⁵ EPA website, "Hoosick Falls, New York Drinking Water and Groundwater Contamination Frequently Asked Questions," available at http://www.epa.gov/sites/production/files/2016-01/documents/hoosickfalls_faqs.pdf.

⁶ The Village of Hoosick Falls website, "Timeline," available at <http://www.villageofhoosickfalls.com/Water/timeline.html>.

⁷ Email from Arlene Anderson, EPA, to Teresa Boepple-Swider, *et al*, N.Y. Dept. of Health (Dec. 19, 2014).

Washington, D.C. that disclosed tests that detected PFOA at levels exceeding EPA guidelines in the public drinking water supplies located near their facilities.⁸

EPA Region 2 Administrator Judith Enck, however, said she was first notified about the dangerous levels of PFOA in the Hoosick Falls water supply in November 2015, when a local attorney brought the issue to her attention.⁹ Only then did the agency intervene and notify residents of the problem in a letter sent to the village, which advised citizens to refrain from using the water for cooking and urged the village to provide an alternative drinking water source.¹⁰ Documents and public statements about the crisis in Hoosick Falls show EPA knew that the village water supply was contaminated in December 2014, but did not take any action until nearly one year later, in November 2015. The fact that EPA staff at the agency's headquarters in Washington, D.C, knew or should have known about the problem, and failed to communicate with their counterparts in region 2, raises serious questions, considering the health and safety of the residents of Hoosick Falls was at stake.

Recently, EPA established a new lifetime health advisory for PFOA and PFOS at 70 parts per trillion and reiterated the health risks associated with the chemical.¹¹ Since EPA issued this advisory, residents of Hoosick Falls have undergone blood testing for PFOA.¹² The results of these tests found that the average PFOA levels for residents of Hoosick are five times higher than the national average and many residents found their PFOA levels exceed the limit set by EPA.¹³ Concerns remain over whether these results could have been avoided or mitigated if residents had earlier understood the risk of PFOA in drinking water.

To help the Committee understand how and why EPA failed to remediate the health crisis in Hoosick Falls as soon as possible, please provide all documents and communications to or from any EPA employee referring or relating to Hoosick Falls, PFOA, and/or Perfluorooctanoic acid, since May 1, 2014.

Please provide these records as soon as possible, but no later than by 5:00 p.m. on July 20, 2016.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

⁸ Letter from David G. Savardi, Counsel to Gaint-Gobainto TSCA Confidential Business Information Center, EPA (Dec. 30, 2014).

⁹ Scott Waldman, *Official email exchanges show long response to potential water crisis*, POLITICO, Feb. 26, 2016.

¹⁰ Brendan J. Lyons, *Officials critical of alerts about Hoosick Falls water crisis*, ALBANY TIMES UNION, Feb. 11, 2016.

¹¹ Environmental Protection Agency, *Lifetime Health Advisories and Health Effects Support Documents for Perfluorooctanoic Acid and Perfluorooctane Sulfonate*, 81 Fed. Reg. 101 (May 25, 2016) (Notice of availability) available at <https://www.epa.gov/sites/production/files/2016-05/documents/2016-12361.pdf>.

¹² Rachel Yonkunas, *Questions remain about PFOA blood tests in Hoosick Falls*, NEWS10 ABC, Jun. 7, 2016, <http://news10.com/2016/06/07/officials-to-hold-public-pfoa-informational-meetings-in-hoosick-falls-and-petersburgh/>

¹³ *Id.*

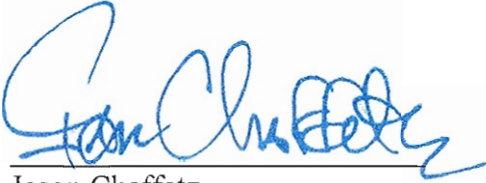
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When producing documents to the Committee, please deliver production sets to the OGR Majority staff in room 2157 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

Please contact Melissa Beaumont of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your prompt attention to this matter.



Jason Chaffetz
Chairman

Sincerely,



Cynthia M. Lummis
Chairman
Subcommittee on the Interior

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.