



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY - 1 2009

OFFICE OF
AIR AND RADIATION

Mr. Robert Steinwurtzel
Bingham McCutchen, LLP
2020 K Street, N.W.
Washington, D.C. 20006-1806

Dear Mr. Steinwurtzel:

Thank you for your letter dated March 18, 2009, on behalf of the Association of Battery Recyclers (ABR). In this letter, you express concerns about the March 6, 2009, U.S. Environmental Protection Agency (EPA) decision to defer consideration of the ABR Request for Correction (RFC) dated October 14, 2008, due to pending litigation related to the revised National Ambient Air Quality Standards (NAAQS) for lead. You also request that EPA provide the underlying data and an explanation of methodology and calculations for the Lanphear study¹ that was referenced in the ABR RFC because this information was requested in a 2007 Freedom of Information (FOIA) request.

The *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by the Environmental Protection Agency* (EPA IQG) are not intended to impose legally binding requirements or obligations on EPA or the public or to contravene any other legal requirements that may apply to particular agency determinations or other actions.² When EPA issued the January 8, 2009, interim response,³ an internal review of the draft response was being conducted. Shortly thereafter, we were informed that the ABR had filed a petition for review of the Lead NAAQS rule.⁴ Consistent with the approach the Agency has taken in its response to other IQG requests when the issues raised in the request may be related to open litigation, EPA made the decision to defer consideration of the ABR IQG request until the conclusion of this litigation.

On August 9, 2007, a requester submitted a FOIA request to EPA seeking the underlying data for the Lanphear study pursuant to 2 C.F.R. § 215.36. After granting the

¹ Lanphear, B.L., Hornung, R., Khoury, J., Yolton, K., Baghurst, P., Bellinger, D.C., Canfield, R.L., Dietrich, K.N., Bornschein, R., Greene, T., Rothenberg, S.J., Needleman, H.L., Schnaas, L., Wasserman, G., Graziano, J., Roberts, R. (2005) Low-level environmental lead exposure and children's intellectual function: An international pooled analysis. *Environ Health Persp* 113(7): 894-899.

² *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency*, EPA, 2002. (67 FR 63657), pg 4

³ <http://www.epa.gov/quality/informationguidelines/documents/09001-interim.pdf>

⁴ *Coalition of Battery Recyclers Association v. EPA*, No. 09-1011 (D.C. Cir., filed Jan. 12, 2009)

requester's appeal, EPA referred her request to the Department of Health and Human Services for further processing, as that agency appeared to have been the primary source of federal funds for the study. If you are interested in reviewing the underlying data for this study, you may wish to submit a similar request to the Department of Health and Human Services.

If you have additional questions or require further information on the EPA IQG administrative mechanism, please contact Reggie Cheatham at (202) 564-7713.

Sincerely,

A handwritten signature in black ink that reads "Elizabeth Craig". The signature is written in a cursive style with a large, looping "E" and "C".

Elizabeth Craig
Acting Assistant Administrator

cc: Linda Travers, Acting Assistant Administrator
and Chief Information Officer, OEI
Robert Eckert, FOIA Officer, HHS