

From: [Mishelle Noble-Blair](#)
To: ["Kyle Malone \(kmalone\)"](#)
Subject: RE: **EXTERNAL**Permit Draft Comments
Date: Thursday, December 9, 2021 6:15:07 PM
Attachments: [image002.png](#)
[image003.png](#)
[sept_2020_pfas_sampling_guidelines CA.pdf](#)

Hi Kyle, I am almost done with the updates to the permit and then it will be signed by UOSA's Executive Director.

Before I complete it, though, I think it is important that I respond to the email below. I was looking for an actual letter from your attorney with this information in it, but I am not sure I received one.

Therefore, see below for my comments/responses. Happy to discuss any of it further, if needed.

Mishelle Noble-Blair

Regulatory Affairs Director
Upper Occoquan Service Authority
14631 Compton Rd
Centreville, VA 20121-2506
(703) 227-0202
Mishelle.Noble-Blair@uosa.org

From: Kyle Malone (kmalone) <kmalone@micron.com>
Sent: Monday, November 29, 2021 4:08 PM
To: Mishelle Noble-Blair <Mishelle.Noble-Blair@uosa.org>
Subject: **EXTERNAL**Permit Draft Comments

**** This e-mail has come from outside the UOSA organization. If the e-mail has an attachment and you are not expecting one, please refrain from opening the attachment ****

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Mishelle:

Let's discuss during our zoom meeting tomorrow afternoon; please see the attachment and the comments below regarding the draft:

Thank you for the updated draft Industrial Wastewater Discharge Permit. We have made good progress in updating these terms and would like to continue our discussions on a few items. **Thank you for working diligently with UOSA to get the permit updated.**

Given the broad attention to PFAS, both UOSA and Micron could benefit from greater visibility to potential PFAS concentrations in wastewater discharges. Therefore, we appreciate the additional time to work through sampling challenges and to identify a lab that can properly analyze PFAS. We continue to have concerns about sampling and analytical issues, particularly with the Draft Method 1633, which is not fully validated nor formally approved by EPA. Consequently, there remains uncertainty with potential changes to the

methodology that may result from on ongoing validation efforts, identifying a lab that can correctly analyze constituents based on a draft unvalidated method, and how data will be treated based on a draft versus final methodology. On that last point, and recognizing that the new permit may still be in effect when the method is finally validated, Micron believes that a simple notation on the data reports will help identify both the methodology applied and avoid or reduce miscommunications or misunderstandings. Permit language has been updated for a notation to be added.

Under 40 CFR 403.12(b)(5)(v) and 403.12(g)(5), “[w]here [40 CFR part 136](#) does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator.” In this case, Draft Method 1633 is neither validated or approved by the Administrator. While [EPA’s notice](#) announcing the release of Draft Method 1633 “recommends” its use, we note this is not a scientific validation or formal approval by EPA. <https://www.epa.gov/newsreleases/epa-announces-first-validated-laboratory-method-test-pfas-wastewater-surface-water>. EPA’s website “recommendation” is also inconsistent with the bold text of the Draft Method 1633, which states: **“This method is not required for Clean Water Act compliance monitoring until it has been proposed and promulgated through rulemaking.”** https://www.epa.gov/system/files/documents/2021-09/method_1633_draft_aug-2021.pdf (bold text emphasis in original). It may not be required for compliance monitoring, but our permit language allows its use until the method is finalized. Since we are only requiring monitoring for PFAS at this time, a notation on the lab reports that the method is still draft will suffice.

EPA’s analytical method website acknowledges that “Historically, EPA published draft methods on this Clean Water Act Methods website after completing the single-laboratory validation report. However, due to many public and stakeholder requests, this method is being made available while EPA prepares the single-laboratory validation study report.” <https://www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas>. In bold red text, the Draft Method 1633 itself notes that **“these criteria will change after interlaboratory validation”** (see table 5, bolded red text emphasis in original). EPA’s multi-laboratory validation is ongoing and will be completed next year: “With the support of the agency’s Council on PFAS, EPA and DoD will continue to collaborate to complete a multi-laboratory validation study of the method in 2022.” <https://www.epa.gov/newsreleases/epa-announces-first-validated-laboratory-method-test-pfas-wastewater-surface-water>. Permit language accounts for indicating that the draft method is being used.

Finally, we note that the use of Draft Method 1633 conflicts with the permit’s general conditions. Under Part III.C.3, all analysis required under the permit must be “conducted according to procedures approved under Title 40 Code of Federal Regulations Part 136 or alternative methods approved by EPA.” Draft Method 1633 is neither required by Part 136

nor approved in any formal manner by EPA. Permit language has been updated to handle this concern.

However, given that earlier visibility to such concentrations could be helpful to both UOSA and Micron, we propose that Micron collect and submit such data with a notation indicating the methodology used and its status. This will allow both the agency and Micron to work through the sampling and analytical challenges of the draft methodology, identify the data based on the different methodologies that will likely be used during the effective period of the permit, and provide early visibility to the potential concentrations within the context the test methods applied. Here is the notation that will appear on data reports conducted using Draft Method 1633, based on 40 CFR 403.12(b)(5)(v) and 403.12(g)(5):

These data were from samples collected and analyzed based on Draft Method 1633, which has not been fully validated or finalized by EPA. For the pollutants in question (PFAS compounds in Table 3), 40 CFR Part 136 does not contain sampling or analytical techniques. ~~and the Administrator has not determined that the part 136 sampling and analytical techniques are appropriate.~~ UOSA does not support all of this language because EPA has not stated that the sampling and analytical techniques are inappropriate. UOSA recommends that the techniques presented in the attached document, or equivalent, be used for sample collection. UOSA uses similar techniques to these for collecting PFAS samples and the techniques (or equivalent) are being used by several utilities and companies that are collecting PFAS samples. UOSA has added appropriate language to the permit to cover this concern.

We believe this solution would meet the needs of the UOSA and Micron in understanding the data and working through the sampling and analytical challenges that accompany the currently unvalidated (and likely to be updated) test method, while providing an early indication of potential concentrations.

Please let us know if you would like to discuss this matter further.

Regards,



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From: Kyle Malone (kmalone) <kmalone@micron.com>

Sent: Wednesday, November 24, 2021 10:24 AM

To: Mishelle Noble-Blair (Mishelle.Noble-Blair@uosa.org) <mishelle.noble-blair@uosa.org>

Subject: Re: Records Request for 11/15 Meeting

Mishelle,

Wanted to give you an update on legal/corporate comments on the draft permit. I should have it to you by Tuesday (11/30) of next week. Between the holiday and time zone differences, I'm waiting on their final comments.

Please reach out with any questions. Hope you have a great Thanksgiving holiday.

Kyle

571.358.8852

From: Kyle Malone (kmalone)

Sent: Friday, November 19, 2021 1:22 PM

To: Mishelle Noble-Blair (Mishelle.Noble-Blair@uosa.org) <mishelle.noble-blair@uosa.org>

Subject: RE: Records Request for 11/15 Meeting

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Mishelle:

Attached is a word file with all of the information requests from the inspection. Please let me know if you have any questions.

With regards to the draft permit, I hope to compile comments and have them to you by middle of the week as we discussed on Tuesday.

Hope you have a great weekend.

Regards,

Kyle Malone

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From: Kyle Malone (kmalone)

Sent: Monday, November 15, 2021 1:08 PM

To: Mishelle Noble-Blair (Mishelle.Noble-Blair@uosa.org) <mishelle.noble-blair@uosa.org>

Subject: RE: Records Request for 11/15 Meeting

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Sending in a reduced size since previous email returned.

Regards,

Kyle Malone

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From: Kyle Malone (kmalone)

Sent: Monday, November 15, 2021 11:34 AM

To: Mishelle Noble-Blair (Mishelle.Noble-Blair@uosa.org) <mishelle.noble-blair@uosa.org>

Cc: Rithika Motuku Reddy (rreddy) <rreddy@micron.com>; Robert Owen (rowen)

<rowen@micron.com>

Subject: Records Request for 11/15 Meeting

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Mishelle:

In preparation for this afternoon's meeting, please see attachments for the following ...

1. General Environmental Training Material
2. RCRA DOT Training Certificates
3. Slug Spill Plan (was reviewed and no change from last year)
4. STOMP (was reviewed and no change from last year)
5. SWPPP
6. SPCCP Approval Letter
7. Calibration Records
8. Manifests

9. Lab Certifications

Regards,

Kyle Malone

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