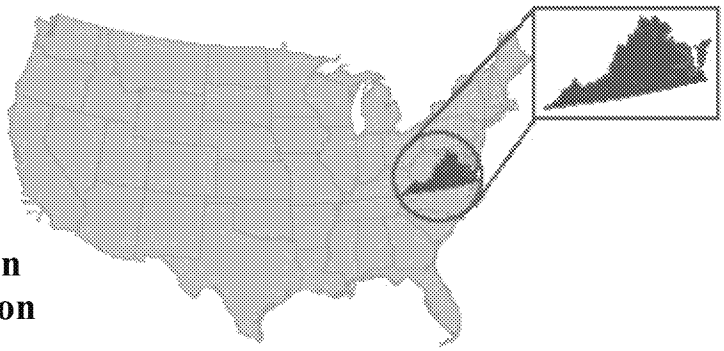
Virginia



Total Jobs: 75,540
Direct Jobs: 38,920

Total Value Added: $6.456 Billion
Direct Value Added: $3.145 Billion

The total jobs or value added is the sum of the direct, indirect, and induced effects.

Sector	Direct Jobs	Direct Value Added
Agriculture & Forestry	5,750	$309.0M
Biobased Chemicals	460	$135.9M
Biorefining	< 50	< $5M
Enzymes	50	$15.3M
Forest Products	29,430	$2.3B
Textiles	3,730	$401.9M
Bioplastic Bottles & Packaging	< 50	< $5M

BioPreferred®

45 Virginia companies currently participate in the BioPreferred Program.

Example Biobased Product Firms

Biobased Chemicals

Earth Friendly Chemicals (Virginia Beach, VA; efchem.com): Earth Friendly Chemicals manufactures "green" chemistry products valued by many markets seeking 100 percent biodegradable and non-toxic products. Biobased product offerings include residential and commercial cleaners, as well as industrial degreasers.

Forest Products

Blue Ridge Fiberboard (Danville, VA; blueridgefiberboard.com): Blue Ridge Fiberboard products are composed of all-natural, earth-friendly wood chips. The binding agent utilized in the manufacturing process is also all-natural, consisting of vegetable starch that contains no added formaldehydes.

uDo Inc. (Arlington, VA; udobrush.com): uDo manufactures eco-friendly, bamboo-handled toothbrushes that are 92 percent biobased.

USDA Rural Development Virginia Office

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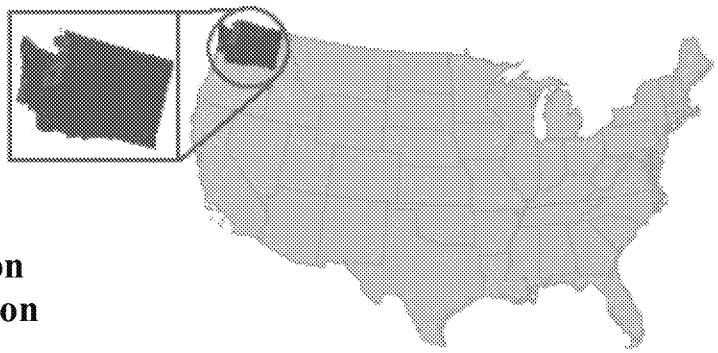
Washington



Total Jobs: 82,640
Direct Jobs: 41,140

Total Value Added: $7.867 Billion
Direct Value Added: $3.808 Billion

The total jobs or value added is the sum of the direct, indirect, and induced effects.

Sector	Direct Jobs	Direct Value Added
Agriculture & Forestry	11,180	$890.2M
Biobased Chemicals	130	$23.3M
Biorefining	< 50	< $5M
Enzymes	< 50	$6.9M
Forest Products	27,780	$2.8B
Textiles	2,080	$89.2M
Bioplastic Bottles & Packaging	< 50	< $5M

BioPreferred®

175 Washington companies currently participate in the BioPreferred Program.

Example Biobased Product Firms

Agriculture & Forestry
WISErg Corporation (Redmond, WA; wiserg.com): WISErg harvests food scraps and turns them into fertilizer. The company sells Harvester machines in which the waste is collected and the resulting fertilizer products.

Forest Products
Weyerhaeuser NR Company (Federal Way, WA; woodbywy.com): Weyerhaeuser makes construction products such as lumber, oriented strand board, and joists. Sustainability policies adopted by Weyerhaeuser include using third-party certifications such as the Sustainable Forestry Initiative (SFI) and the ISO 14001 Environmental Management System.

Bioplastic Bottles & Packaging
Grow Plastics, Inc. (Bothell, WA; growplastics.com): Grow Plastics currently utilizes NatureWorks's Ingeo biobased polymer to produce a variety of biobased plastic products. With an ability to produce nearly any shape or size, Grow Plastic offers a number of custom options

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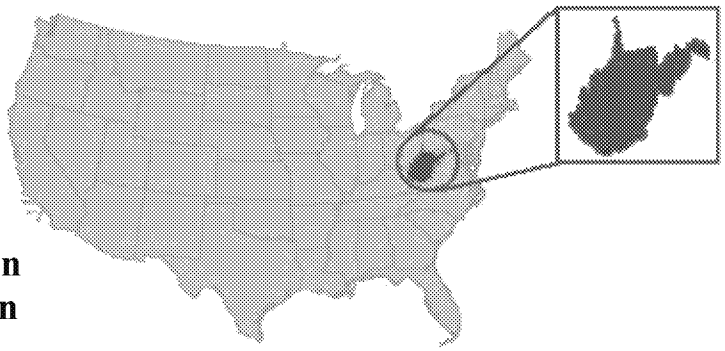
West Virginia



Total Jobs: 17,490
Direct Jobs: 9,960

Total Value Added: $1.107 Billion
Direct Value Added: $601 Million

The total jobs or value added is the sum of the direct, indirect, and induced effects.

Sector	Direct Jobs	Direct Value Added
Agriculture & Forestry	1,920	$89.1M
Biobased Chemicals	210	$45.5M
Biorefining	< 50	< $5M
Enzymes	< 50	$6.5M
Forest Products	7,660	$463.8M
Textiles	200	$5.5M
Bioplastic Bottles & Packaging	< 50	< $5M

BioPreferred®

One West Virginia company currently participates in the BioPreferred Program.

Example Biobased Product Firms

Agriculture & Forestry
AFP Lumber & Logs, LLC (Buckhannon, WV; afpcorp.com): AFP is a leading global provider of high-quality hardwood forest products, offering an array of lumber, timber, and forest products.

Allegheny Wood Products (Petersburg, WV; alleghenywood.com): Allegheny Wood Products offers a variety of wood products, suitable for the manufacturing of cabinets, flooring, furniture, moldings, and millwork. All of the company's facilities are Forest Stewardship Council Chain of Custody certified.

Forest Products
Carter Lumber (Ripley, WV; Parkersburg, WV; New Martinsville, WV; carterlumber.com): Carter Lumber, with three locations in West Virginia, is one of the nation's largest building materials suppliers, with product offerings including building supplies, lumber, flooring, and siding.

USDA Rural Development West Virginia Office

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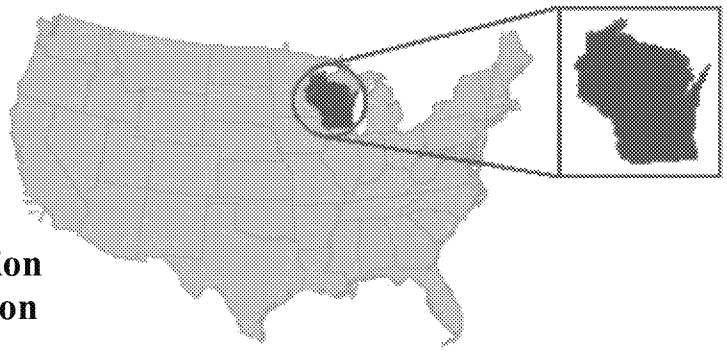
Wisconsin



Total Jobs: 160,010
Direct Jobs: 68,250

Total Value Added: $13.542 Billion
Direct Value Added: $6.252 Billion

The total jobs or value added is the sum of the direct, indirect, and induced effects.

Sector	Direct Jobs	Direct Value Added
Agriculture & Forestry	5,280	$202.5M
Biobased Chemicals	470	$136.5M
Biorefining	< 50	< $5M
Enzymes	130	$25.4M
Forest Products	60,760	$5.8B
Textiles	1,710	$112.1M
Bioplastic Bottles & Packaging	80	$6.7M

BioPreferred

72 Wisconsin companies currently participate in the BioPreferred Program.

Example Biobased Product Firms

Biobased Chemicals
Virent (Madison, WI; virent.com): Virent converts soluble, biomass-derived sugars into products molecularly identical to those made with petroleum. Among its product offerings, Virent manufactured the first ever bio-polyester shirt produced from 100 percent renewable resources.

Enzymes
Enviro-Zyme International, LLC (Beloit, WI; envirozyme.com): Enviro-Zyme offers an assortment of products and services for residential, commercial, and industrial cleaning. Products are made with naturally occurring microbes.

Bioplastic Bottles & Packaging
Plastic Ingenuity (Cross Plains, WI; plasticingenuity.com): Plastic Ingenuity is one of the largest custom thermoformers in North America, offering packaging solutions that encompass every stage of packaging design and manufacturing. The Plastic Ingenuity team created new thermoforming methods that incorporate wood pulp into the packaging material, in addition to producing corn-based polylactic acid materials.

USDA Rural Development Wisconsin Office

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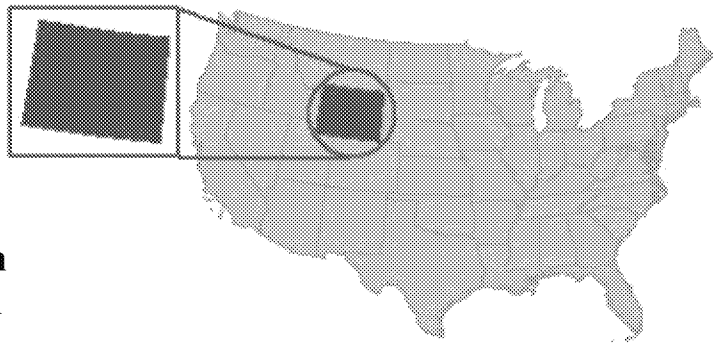
Wyoming



Total Jobs: 2,350
Direct Jobs: 1,610

Total Value Added: $117 Million
Direct Value Added: $58 Million

The total jobs or value added is the sum of the direct, indirect, and induced effects.

Sector	Direct Jobs	Direct Value Added
Agriculture & Forestry	480	$13.6M
Biobased Chemicals	< 50	< $5M
Biorefining	< 50	< $5M
Enzymes	< 50	< $5M
Forest Products	1,020	$36.5M
Textiles	110	< $5M
Bioplastic Bottles & Packaging	< 50	< $5M

BioPreferred®

7 Wyoming companies currently participate in the BioPreferred Program.

Example Biobased Product Firms

Agriculture & Forestry

Bearlodge Forest Products, Inc. (Hulett, WY; bearlodgeforestproducts.com): Bearlodge Forest Products offers an array of wood products, including pallets, timber, lumber, and pellets and is certified with Timber Products Inspection.

Natures Composites (Torrington, WY; naturescomposites.com): Natures Composites manufactures sustainable, high-performing composite products, including fencing, decking, landscaping, lumber, and other composite building materials, produced from recycled high-density polyethylene reinforced with wheat straw cellulose.

Teton West Lumber Company (Cheyenne, WY; tetonwest.com): Teton West Lumber is committed to the health of Wyoming's forests by processing, and repurposing, beetle kill pine into useable lumber products, for both residential and commercial buildings.

USDA Rural Development Wyoming Office

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C1. Case Study: Michigan Biotechnology Institute

The Michigan Biotechnology Institute (MBI) was founded by the State of Michigan in the 1980s to help encourage start-ups in the biobased products industry with the goal of diversifying the State's economy away from the struggling automotive industry. According to Dr. Susanne Kleff, a biologist with a background in metabolic engineering who joined MBI 20 years ago, MBI's mission matured over the years to provide a not-for-profit entity that offered custom-tailored solutions to advance new biobased technologies for its own government-funded technologies and collaboratively for other companies all over the world.

MBI houses fermenters that range from lab-scale up to 1,000 gallons, and they provide the ability to manufacture products in the volumes required to support pre-commercial product development, application testing, and routine production. A general rule of thumb in the biobased products industry is that production at the 1,000-gallon scale identifies the technology's problems and demonstrates its robustness and viability. Other similar facilities in the United States have fermentation capacities in the range of 50 - 200 gallons.

MBI has developed successful technologies of its own, such as processes for organic acid production, and its current focus is on ammonium fiber expansion technologies (AFEX™), but these technologies failed to use the pilot facility at its full potential. This led to MBI's offering to collaboratively advance and scale-up technologies for and with other companies worldwide. Many well-known companies that have biobased capabilities have worked with MBI, including Genomatica, Bolt Threads, DuPont, OPX BIO (acrylic acids), Novozymes, Tepha Medical Devices, and others. Over the past six years, MBI had a 100 percent success rate in technology scale-up.

Very recently, the Process Development and Scale-up Branch of MBI joined Michigan State University's Bioeconomy Institute (MSU-BI) and its sister facility in Holland, Michigan, to expand its downstream processing capabilities. The Holland plant was an old Pfizer pharmaceutical production facility, and it is capable of downstream recovery and chemical extractions. This addition of a chemical pilot plant to the fermentation facility in Lansing provides a unique set of scaling capabilities that is unparalleled in the United States.

Dr. Kleff explained that the process of taking a new product from an idea or concept to commercialization encompasses many hurdles that many start-up entrepreneurs are not aware of, "We had startups who came to us with ideas, but they have only produced their products in shakeflasks or two-liter fermenters. They come to us at a stage where they need to be able to produce a material for application testing, which means they need larger scale fermenters. Acquiring or constructing a facility of their own with larger fermenters would be time consuming, and would

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require substantial additional funding to demonstrate whether the technology is scalable and viable. An organism may be sensitive to the differences in pressure, gas exchange rates, or mixing times at the larger scale. This is essentially the "de-risking" process, to ensure the technology can be scaled. Our team is also able to work with the start-up on the economics of the technology and can provide realistic feedback. Most of the people who come to us know the targets they have to achieve."

MBI also receives grants for some of its technologies. Nevertheless, MBI requires that startups that wish to run product scale-ups in its facility must do so on a fee-for-service basis. Today, representatives from MBI attend meetings seeking contacts, but they indicated that many of their clients approach them after others have recommended them. MBI provides both the facilities and skilled staff members who are well trained and very familiar with fermentation and recovery processes. This provides start-ups with a much lower cost alternative to building their own pilot facilities. Dr. Kleff observed that very few of the companies who come to MBI have the capital to build a platform for a new facility that often requires full capacity utilization to make it economical. As noted above, MBI does not limit itself to supporting only Michigan companies, but it works with many companies throughout the United States (e.g., Bolt Threads in California), and has also begun working with companies from Europe and Asia.

Dr. Kleff emphasized that, given the current low prices of oil, it is important for the biobased products industry to move away from commodity chemicals and focus on the specialty chemicals sector.

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C2. Case Study: Agricultural Utilization Research Institute (AURI)

The Agricultural Utilization Research Institute (AURI) helps develop new uses for agricultural products through science and technology, and it collaborates with businesses and entrepreneurs to bring ideas to reality. AURI was founded by the State of Minnesota to help businesses take advantage of innovative opportunities in four areas: biobased products, renewable energy, coproducts, and food.

AURI has three laboratories located in Crookston, Marshall, and Wauseca, MN. AURI also works closely with the faculty at the University of Minnesota. AURI does not engage in research itself, they provide the space and opportunity for entrepreneurs and other scientists to do research. Researchers conduct applied research on new ideas, which leads to products and businesses that can grow in the State of Minnesota. A significant part of the activity done by AURI involves program evaluation to ensure that the institute is effective. The group also has a Director of Innovation and Commercialization who involves project managers and directors across a variety of innovation networks. AURI intends to make the results of applied research available to businesses and to work with entrepreneurs to facilitate product formulation, troubleshooting, scale-up, and commercialization. Most of AURI's activity involves working side by side with clients in the field, helping them find resources to bring their ideas to market, and helping them network with other providers in the industry.

AURI receives 80 percent of its funding from the State of Minnesota, which is augmented by contributions from a private foundation, research and promotion councils, and some Federal funding. The State of Minnesota is committed to finding new alternative product channels for the agricultural communities, and this funding is seen as being vital for the growth of the biobased products industry in Minnesota. AURI provides assistance, but it does not take equity or intellectual property positions on the projects, even though it has been named on several patents. The bulk of the AURI's work is simply to help businesses move from the laboratory scale to commercialization.

AURI has developed some laboratory space that it has made available to entrepreneurs to conduct early work on formulations. In the early stages of chemical development, there is a need to develop formulations and develop the intellectual property that will enhance the ability to get venture capital funding.

The biobased products facility is intended for use in processing agricultural commodities and co-products at the scale of 1 to 10 kg. Processes have been developed and demonstrated for producing increased value materials by fractionation, chemical conversion, and purification. Key processes that can be piloted include:

- Chemical processing of straw, stover, and other biomass materials
- Extraction and characterization of oils and high-value components from oilseed meal and other feedstocks

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- Transesterification and esterification reactions for demonstration of biodiesel processing
- Small-scale fermentation and digestion processes for the production of fuels
- Distillation and evaporation for process development

The laboratory will host an "entrepreneur in residence", i.e., someone occupies laboratory space when it becomes available. The laboratory space is free of charge, and some analytical work will be provided for the entrepreneur. There may be scientific support as well. A representative noted that some entrepreneurs need R&D assistance beyond the capacity and experience of AURI. To help them, AURI has additional paid assistance available for different R&D efforts.

The process typically starts with a meeting between the entrepreneur and AURI staff, who will get a feel for the business, the concept, and what the entrepreneur is hoping to achieve. This can lead to a deeper conversation concerning AURI's services and programs and to the development of a team to assist with the client's concept. In one case, a client sought to add fibers to plastics to strengthen the material so it would qualify for Leadership in Energy and Environmental Design (LEED) construction:

We brought in different partners to help with funding the R&D that was needed, and we brought in partners who provided $200K. We helped connect them to potential users of the plastics in window manufacturing. We are committed to helping them in the idea stage and through research and prototype partners along the path to commercialization.

According to AURI staff members, there are only two criteria that must be met to qualify for these services. First, the product must fit into an area of service that requires the use of an agricultural commodity. Second, the science must be sound. The business must consider the competition and early discussions may involve evaluating the concept against the reality of the market through industry contacts. The idea must be technical viable and have and opportunities in the market before making further investments in the idea.

AURI also provides consulting to give business insight into other entities that should be part of the new business venture team. The Institute helps identify locations for commercialization and locations where contract packers can provide support. Moreover, the AURI provides introductions to a network of subject matter experts. For instance, the group will host Innovation Networks that focus on a supply net for a particular technology. AURI has held forums on paint stripping materials, duct coatings, and other areas. Users, vendors, and potential users are invited for half a day to share their experiences and to promote discussion. Individuals learn from the presenters, but there also are one-on-one conversations and product demonstrations.

As outlined in its annual report, AURI believes that the "Commercialization Chain" is very important to developing technologies. This is essential in creating a "technology cluster", which is a group of enterprises with common sets of knowledge and expertise that creates a network of support for growth. In a sense, Minnesota hopes to become the "Silicon Valley" for the biobased economy through its support of AURI.

In terms of the biobased products industry, AURI's staff members recognize that there is a strong need for high value uses for soy,

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sugar, and corn beyond biodiesel and bioethanol. Examples include PLA, high value plastics, butanol, and other waste streams. AURI believes that public-private collaboration is essential to grow this industry. Partnerships with larger companies should be beneficial because they will provide the ability to leverage existing facilities. In any case, an AURI staff member we interviewed believes that a long-term perspective is needed:

We have been around for 26 years, and we were not doing in the beginning what we are doing today. We have evolved over time through lessons learned. Investors cannot expect to see a return on biobased products in two years, because the innovation spectrum can take as long as 10 years to get to full fruition. This is the building of an entirely new industry, and investors have to be patient. This is a tough quality to find in investors. However, the State of Minnesota is willing to invest in the long-term, to put money into it, and allow the industry to develop and progress. This is not an easy sell, but it is the key to success.

AURI and Minnesota stakeholders engaged the Battelle Technology Partnership to evaluate the state's potential for growth in the agbioscience sector. The study is a fascinating read, reflecting the development process, the benefits of public investment in growing the industry and the specific areas where Minnesota's core competencies could catalyze significant growth.

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IV. ENVIRONMENTAL BENEFITS

A broad analysis of the biobased products industry was performed using Economic Input-Output Life Cycle Assessment (EIO-LCA) modeling to determine an estimate of the petroleum use savings and GHG emissions reductions resulting from the production and use of biobased products. Using the EIO-LCA methodology, calculated sector sales, and literature, GHG emissions reductions are estimated to be up to 10 million metric tons of CO_2 equivalents in 2014. The estimated petroleum savings from biobased product production and use are up to 6.8 million barrels of oil in 2014. Other environmental impact categories that are not estimated in this report could produce different impacts for biobased products as compared to petroleum-based products. Further analysis should include modeling of additional impact categories and the implications of other parameters such as land use change.

A. Economic Input-Output LCA

The EIO-LCA methodology was developed by Carnegie Mellon University's Green Design Institute as a method to estimate materials and energy resources required for various activities and the subsequent resulting emissions. The EIO-LCA method is one of several techniques used to examine the environmental impacts of a product over its lifecycle. In contrast to a process LCA, which examines a single process or product quantifying flows unique to that product, the EIO-LCA process uses "industry transactions – purchase of materials by one industry from other industries – and the information about direct environmental emission of industries, to estimate the total emissions throughout the supply chain".[55]

The EIO-LCA methodology builds upon the economic impact modeling methods developed by Nobel Prize winner Wassily Leontief, whose original work aimed to create a model of the U.S. economy and was expanded to include environmental metrics by Carnegie Mellon University. The EIO-LCA model and extensive documentation are available at www.eiolca.net.

B. Objectives and Methodology

The production and use of biobased products has the potential to reduce GHG emissions and petroleum use.[56] The reductions in environmental impacts and resource use depend on both product type and other factors influencing the production supply chain and products' lifecycles. Conducting an LCA for thousands of biobased products making up the bioeconomy was not feasible for this report. As a way to estimate the potential GHG emissions and petroleum use reductions, a range of GHG emissions and petroleum use reductions of 0 to 100 percent as compared to petroleum-based alternatives was used. A 0 percent reduction would indicate no difference as compared to petroleum-based products and a 100 percent reduction would indicate no fossil fuel use by biobased products. In reality, most of the biobased products will lie somewhere between 0 and 100 percent reduction; however, it is not possible to determine this for all the products making up the industrial sectors.

Only the biobased chemicals, biorefining, and bioplastic bottles and packaging sectors were considered as they can directly replace

[55] Carnegie Mellon University Green Design Institute, "About the EIO-LCA Method", *Carnegie Mellon University Green Design Institute*, http://www.eiolca.net/Method/index.html.

[56] Cherubini, F., and Ulgiati, S., "Crop residues as raw materials for biorefinery systems–A LCA case study," *Applied Energy* 87, no. 1, (2010): 47-57.

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petroleum-based products. Other industry sectors, such as enzyme production, were not examined in this part of the study because the chemicals or products that enzymes directly replace are not always clear, as opposed to bioplastics, which generally displace other petroleum-based plastic products. This direct replacement assumption was required to perform the analysis described in this section.

The environmental metrics of GHG emissions and petroleum use are two key indicators of interest, but there are other important environmental impacts that should also be considered when making policy decisions. In a previous report by Golden et al., the authors examined a broader suite of environmental impacts in addition to GHG emissions specific to the biobased products industry.[57] These additional impact categories are important to consider and are acknowledged here, but the scope of this work is limited to GHG emissions and petroleum use reductions resulting from the use of biobased products as a substitute for petroleum-based products.

As each biobased product and production process will produce different environmental impacts, this work does not seek to give one number that represents all products; instead, a range of GHG emissions savings and petroleum displacement was determined based on percent reductions compared to petroleum-based materials. The calculated range of reductions was also compared to the peer-reviewed literature, which describes reductions in environmental impacts. The values used to determine the estimated impact reductions were determined using EIO-LCA with the TRACI impact assessment method to calculate the GHG emission equivalents and petroleum use.[58] Economic data used in the environmental analysis was based on 2014 U.S. national data as reported in previous sections of this report.

C. Results Overview

The petroleum saved by the biobased products industry are estimated to be as much as 6.8 million barrels of oil. In terms of GHG emissions reductions, the biobased products industry are estimated to be as much as 10 million metric tons of CO_2 equivalents. The avoided GHG emissions and petroleum use associated with direct replacement of petroleum-based products with biobased products are shown in Figures 10 and 11, respectively. The EIO-LCA model results were generated in terms of kg CO_2 equivalents and terajoules of petroleum, however, the petroleum use was converted to barrels of oil using a heating value of 6.077 MMBTU per barrel of oil.[59] For both impact measures, lines show the potential avoided impacts as a function of percent reduction compared to the petroleum-based alternative ranging from 0 to 100 percent. In addition to the range of avoided impacts, percent reductions from the peer-reviewed literature were also applied to the EIO-LCA output and reported in the following sections.

[57] Golden, J.S., Handfield, R.B., Daystar, J., and McConnell, T.E, An Economic Impact Analysis of the U.S. Biobased Products Industry: A Report to the Congress of the United States of America, A Joint Publication of the Duke Center for Sustainability & Commerce and the Supply Chain Resource Cooperative at North Carolina State University, 2015.

[58] Carnegie Mellon University Green Design Institute, "Economic Input-Output Life Cycle Assessment (EIO-LCA) U.S. 1997 Industry Benchmark Model", *Carnegie Mellon University Green Design Institute*, http://www.eiolca.net/Model/index.html.

[59] http://www.eia.gov/totalenergy/data/monthly/pdf/sec13_2.pdf

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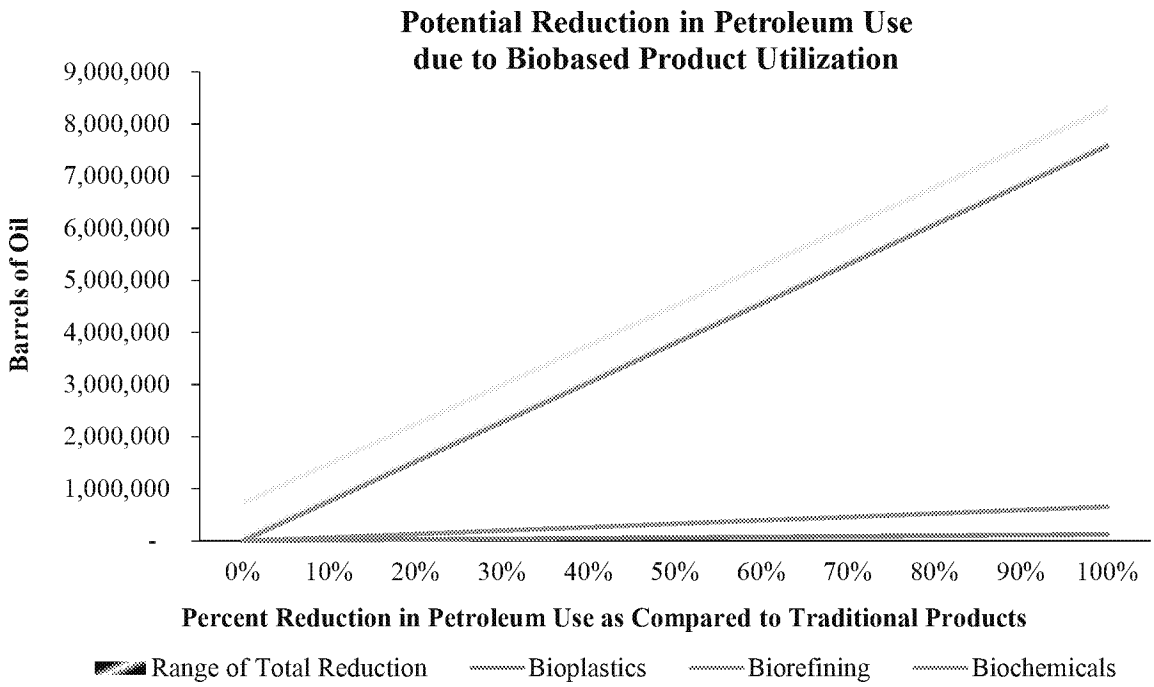

Figure 10: Potential Reductions in Petroleum Use by Biobased Products Manufactured in the United States with a Range of 0% to 100% Reduction in Petroleum Use as Compared to Non-Biobased Product Alternatives (note: assuming a heating value of 6.077 MMBTU per barrel of oil).[60, 61, 62, 63]

1. Avoided Petroleum Use

The avoided petroleum use resulting from biobased product use instead of petroleum counterparts would create petroleum savings up to 6.8 million barrels of oil. The potential petroleum use avoided by direct displacement with biobased chemicals was the largest, as the biobased chemicals market size is significantly larger than the other two sectors. Cherubini and Ulgiati determined that biobased chemicals produced at a biorefinery using a switchgrass feedstock reduced fossil fuel usage well beyond 80 percent as compared to petroleum-based chemical production methods and corresponds to 6 million barrels of oil.[60] The biorefining industry producing biochemicals are reported to use 80 percent less petroleum as traditional refineries and could generate petroleum savings of up to 552,000 barrels of oil.[60] The bioplastic bottles and packaging avoided petroleum use potential was the lowest of the three sectors examined. Using data from Yu and Chen and Harding et al., bioplastic bottles and packaging displacement of petroleum plastics corresponded to a petroleum savings up to 77,000 and 61,000 barrels of oil, respectively.[61 62] The previous economic impact report estimated a petroleum use reduction of 200,000 average passenger cars for a year.[63] This previous

[60] Cherubini, F., and Ulgiati, S., "Crop residues as raw materials for biorefinery systems–A LCA case study," *Applied Energy* 87, no. 1, (2010): 47-57.
[61] Yu, J., and Chen, L.X.L., "The Greenhouse Gas Emissions and Fossil Energy Requirement of Bioplastics from Cradle to Gate of a Biomass Refinery," *Environmental Science & Technology* 42, no. 18, (2008): 6961-6966, doi: 10.1021/es7032235.
[62] Harding, K. G., Dennis, J. S., Von Blottnitz, H., and Harrison, S.T.L., "Environmental analysis of plastic production processes: Comparing petroleum-based polypropylene and polyethylene with biologically-based poly-β-hydroxybutyric acid using life cycle analysis", *Journal of Biotechnology* 130, no. 1, (2007): 57-66.
[63] Golden, J.S., Handfield, R.B., Daystar, J., and McConnell, T.E, An Economic Impact Analysis of the U.S. Biobased Products

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estimate corresponds to a 26 percent reduction of petroleum use when biobased products are used instead of petroleum-based products. Given the data from the literature shown in this analysis, 26 percent appears to be a reasonable and conservative number.

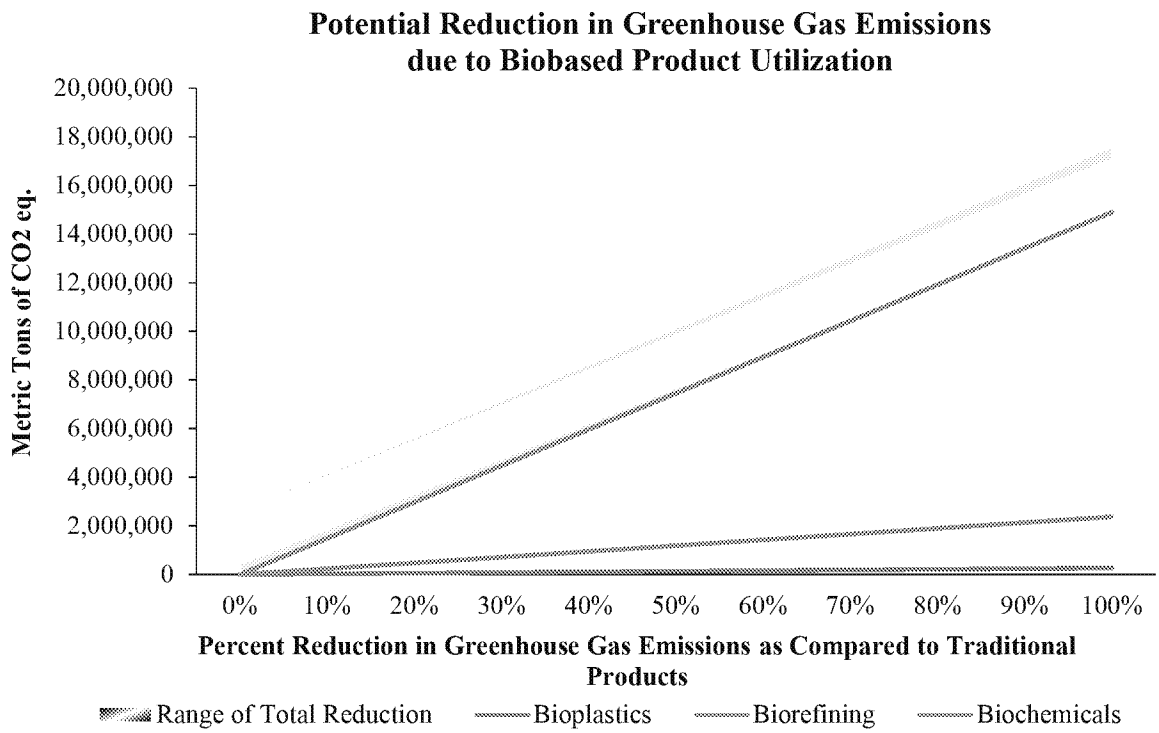

Figure 11: Potential Reductions in Greenhouse Gas Emissions by Biobased Products Manufactured in the United States with a Range of 0% to 100% Reduction in GHG Emissions as Compared to Non-Biobased Product Alternatives.[60, 61, 62, 63]

2. Avoided GHG Emissions

The production and use of biobased products replacing petroleum-based products had the potential to reduce GHG emissions up to 10 million metric tons of CO_2 equivalents in 2014. The potential avoided GHG emissions for each sector grouping are shown in Figure 11. Since the biobased chemicals sector is the largest of the three sectors, it has the highest potential to reduce GHG emissions due to the higher volume of sales. Cherubini and Ulgiati estimated that chemicals produced from switchgrass at a biorefinery reduced GHG emissions compared to petroleum-based chemicals by 49 percent, which corresponds to approximately 7.5 million metric tons of CO_2 equivalents per year. The biorefining sector, with less industrial output than chemical production, has a lower potential to offset GHG emissions. With the same percent reduction of 49 percent, biorefining has the potential to offset GHG emissions up to 1.1 million metric tons per year.[64]

The bioplastic bottles and packaging sector was the smallest by sales of the three

Industry: A Report to the Congress of the United States of America, A Joint Publication of the Duke Center for Sustainability & Commerce and the Supply Chain Resource Cooperative at North Carolina State University, 2015.

[64] Cherubini, F., and Ulgiati, S., "Crop residues as raw materials for biorefinery systems–A LCA case study," *Applied Energy* 87, no. 1, (2010): 47-57.

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examined, but it had the highest GHG emission reductions reported in the literature. Yu and Chen reported an 80 percent reduction of GHG emissions compared to petroleum-based plastics, and Harding et al. reported a 65 percent reduction compared to petroleum-based plastic.[65] [66] When considering these two GHG reduction percentages, GHG emission reductions from bioplastics could correspond to 210,000 and 170,000 metric tons of CO_2 equivalents for the 65 percent and 80 percent reduction scenarios, respectively.

D. Limitations

While the EIO-LCA model is useful in many regards, it is dated and has limitations. The data describing the inter-industry transactions was developed from the 2002 benchmark U.S. input-output table and have likely changed considerably since then.

Additionally, the emissions associated with the various industries also have likely changed due to increased emissions regulations and changing energy production systems. For this study, the U.S. 2002 (428-sector) Producer model was used, and the adjusted industry output was deflated from 2013 dollars to 2002 dollars. For each of the three sectors examined (biobased chemicals, bioplastic bottles and packaging, and biorefining), a custom model was created by entering the adjusted output considered biobased for each of the sector groupings. In addition to the issues with the EIO-LCA model, there is also uncertainty surrounding the percentages of biobased products that make up the total industrial sectors. Because of these ambiguities, the results presented in this study are estimates and should be used cautiously in context. The aim of this analysis was to provide a range of estimates for GHG emission and petroleum use reductions. Additional work in this area is recommended but is outside the scope of the current study.

[65] Yu, J., and Chen, L.X.L., "The Greenhouse Gas Emissions and Fossil Energy Requirement of Bioplastics from Cradle to Gate of a Biomass Refinery," *Environmental Science & Technology* 42, no. 18, (2008): 6961-6966, doi: 10.1021/es7032235.

[66] Harding, K. G., Dennis, J. S., Von Blottnitz, H., and Harrison, S.T.L., "Environmental analysis of plastic production processes: Comparing petroleum-based polypropylene and polyethylene with biologically-based poly-β-hydroxybutyric acid using life cycle analysis", *Journal of Biotechnology* 130, no. 1, (2007): 57-66.

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V. RECOMMENDATIONS

The following recommendations are based on literature reviews, conducting individual and group interviews through conference proceedings, individual meetings with representatives from the biobased products industry, and various non-governmental organizations. This includes workshops hosted by the authors in California, North Carolina, and Washington, D.C. in 2015 and 2016.

To be successful in driving the growth of this national industry will require the active participation of three distinct segments of our society. The first are consumers who we believe that upon being educated on the performance, economic and job benefits at the national and community level in addition to environmental benefits can be the voice to motivate retailers and brands to increase their use of biological feedstocks.

Second are the brands and retailers who can use their purchasing power, supply chains, and marketing strength to promote the industry. Finally, the federal government and especially the USDA BioPreferred Program has the ability to support education of the benefits of biobased products to consumers, retailers, and brands.

These recommendations reflect the opinions of the authors of the study based on their research and interviews. They do not necessarily reflect the opinions of the USDA.

Recommendation 1: Congress should continue to advance the biobased products industry for National Security and Domestic Industrial Strength.

The biobased products industry must be seen through the lens of National Security and Domestic Industrial Strength. This is a non-partisan approach and domestic need. Through continued and increased support of the sectors, we are reducing our reliance on foreign supplies of oil used in petroleum-based products as well as creating needed American jobs throughout the country as has been presented in this report. Additionally, many of these jobs are being created in rural regions of our country where economic development needs are paramount.

It is telling that the Department of Defense considers the biobased products industry a matter of national security and important part of the U.S. economy. Former Deputy Secretary of Defense Gordon England said, "To be clear, this is not like the latest health food fad, where you go to a specialty shop and you buy a lot of additional expensive supplements and ingredients. This is about substituting an equally effective product or approach to meet a requirement you have that may well end up costing less in the end… Our strategy also supports our long-term national security interests by protecting and preserving the environment for the future generations, so they can enjoy life, liberty and the pursuit of happiness to the fullest here in America."[67]

Recommendation 2: Congress should enact a Short-term Production Tax Credit.

Tax policy needs to be changed throughout the supply chain to level the playing field with petroleum-based products. A national short-term Production Tax Credit (PTC) in the United States, coupled with a stronger commitment to market pull policies, would send a strong message to companies in the

[67] U.S. Department of Defense (DOD), "Bio-Based Products Enhance National Security", U.S. DOD, last updated 9/12/06, http://archive.defense.gov/news/newsarticle.aspx?id=8115.

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biobased products industry that the United States is serious about wanting to expand the domestic biobased products industry. More importantly, it would give companies in the biobased products industry the money and support they need to challenge the petroleum industry and the preferential tax treatment it receives. Increasing numbers of companies (including BASF, DSM, BioAmber, Elevance, and Amyris) are exploring global site options for commercial facilities because of the challenges of competing with the petroleum industry in the United States. PTCs would ensure that the United States is a competitive site for these new facilities and new jobs. In fact, the Union of Concerned Scientists documented[68] that between 2007 and 2014 in large part to a PTC, the United States wind capacity almost quadrupled and more than 550 manufacturing facilities located in 43 states produced 70% of the wind turbine and components installed in the United States.

The oil and natural gas sectors have long benefited from PTCs, which has provided great benefits for petroleum-based products as compared to biobased-sourced products. Some of the oil and gas credits include[69]:

- Deductions for the costs of drilling wells 26 U.S.C. 263 (c)
- Deduction for oil and gas production 26 U.S.C.-199

Deductions for the costs of oil shale exploration and development 26 U.S.C. 617 The tax incentives offered to the biobased products industry needs to place them on a level playing field with the petroleum industry, if biobased products are expected to compete on the market. If Congress creates PTCs for biobased product manufacturers, the United States could revitalize the manufacturing and plastics industries.

For a range of biobased product companies, a short-term PTC would provide collateral to help finance plants in the United States. This has been successfully done at the state level in Iowa. In July of 2016, Iowa's Biorenewable Chemical Tax Credit Program was enacted. The program provides a tax credit of up to $100 million over the next 10 years for products that are over 50% biobased, and intended for uses other than food, feed, and fuel.[70] However, there remains a need for PTCs at a national level to support biobased businesses throughout the United States.

On a national level, the Renewable Chemicals Act of 2015 was introduced to the Senate in November of 2015. If enacted, this bill would give a tax credit of $0.15 per pound of biobased content for producers of renewable chemicals who meet certain criteria. This credit would have an aggregate limit of $500 million and would be distributed over five years.[71]

Recommendation 3: Congress should direct the U.S. Department of Commerce to work with the USDA to Develop NAICS Codes in support of the biobased products industry.

The NAICS codes do not currently provide

[68] Union of Concerned Scientists, "Production Tax Credit for Renewable Energy", *Union of Concerned Scientists*, accessed August 2016, http://www.ucsusa.org/clean_energy/smart-energy-solutions/increase-renewables/production-tax-credit-for.html#.V7r_0rsrKM9.

[69] Center for American Progress, "It Is Time to Phase Out 9 Unnecessary Oil and Gas Tax Breaks", *Center for American Progress*, accessed August 2016, https://www.americanprogress.org/issues/green/report/2016/05/26/138049/it-is-time-to-phase-out-9-unnecessary-oil-and-gas-tax-breaks/.

[70] Cultivation Corridor, "Biorenewable Chemicals: The Iowa Advantage", *Cultivation Corridor*, accessed 6/1/16, http://www.cultivationcorridor.org/biochem/.

[71] 114th Congress (2015-2016), "S.2271 - Renewable Chemicals Act of 2015", *Congress.gov*, accessed August 2016, https://www.congress.gov/bill/114th-congress/senate-bill/2271/text.

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an effective means of tracking the economic and job contributions of the biobased products industry in the United States. This results from a lack of biobased products industry-specific codes that are representative of the biobased products sectors of the economy. Many economists and industry groups have recommended that NAICS codes be developed for biobased product sectors and that reporting requirements be established to allow more effective tracking of purchases by Federal agencies. The codes are a necessary first step, but the goal should also be to improve data on the production, import, and export of biobased products. The incorporation of NAICS codes for the biobased product industry should be extended to Federal surveys of U.S. Industrial activity and trade. The appropriate U.S. agencies and industry should add biobased product NAICS codes similar to the biobased products industry specific codes that have been added in Europe (Nomenclature of Economic Activities-NACE codes) and are being added in Canada.

Recommendation 4: Congress should Fund the USDA BioPreferred Program at levels similar to its counterparts.

Federal agencies are required to purchase biobased products designated for mandatory federal purchasing by the USDA BioPreferred® Program, except as provided by Federal Acquisition Regulation (FAR) Part 23.404(b). In general, federal agencies are required to give preference to qualified biobased products over non-biobased alternatives, as prescribed by Title 7 of the U.S. Code of Federal Regulations, section 3201.3.

In addition to the mandatory Federal purchasing initiative, the 2002 Farm Bill authorized USDA to implement an initiative to certify biobased products that are deemed eligible to display the USDA Certified Biobased Product label. The presence of the label indicates that the products have been tested by a third party and verified for biobased content, thus meeting the established minimum biobased content requirement for the product category applicable to that product. The BioPreferred Program was reauthorized and expanded under subsequent U.S. Farm Bills in 2008 and 2014. Increasing the coverage and public awareness of the USDA Certified Biobased Product label is critical. Increasing funding for the BioPreferred Program would give the necessary funding for marketing and to educate consumers on the benefits and availability of biobased products. With additional resources, the BioPreferred Program could increase tracking and use of biobased products. Currently, the BioPreferred Program's budget is about 2.7 million dollars annually. This is very small compared to the budgets of some other government programs like the EPA's Energy Star (about 50 million dollars annually) or the USDA's National Organic Program (about 10 million dollars annually).

In addition to the BioPreferred Program, there are other government drivers in the biobased products industry. For example, on March 19, 2015, President Obama released Executive Order 13693, "Planning for Federal Sustainability in the Next Decade",[72] which includes provisions to increase Federal agencies' accountability for achieving qualified biobased product purchasing requirements. Federal agencies have been directed to establish annual targets for the number of contracts awarded with biobased criteria and to report the dollar value of biobased products under those contracts.

[72] The President, "Executive Order 13693 – Planning for Federal Sustainability in the Next Decade," *Federal Register*, accessed April 2015, https://www.federalregister.gov/articles/2015/03/25/2015-07016/planning-for-federal-sustainability-in-the-next-decade.

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Federal agencies also have been directed to ensure that contractors submit timely annual reports of their biobased purchases.

Recommendation 5: Congress should ensure Federal Policies Strengthen the Biobased Products Industry.
In terms of Federal policy, some of the ideas recommended from our interviews include:

- Fund and administer the USDA BioPreferred Program.
- Fund and administer the USDA Biorefinery Assistance Program, recently expanded to include facilities producing biobased chemicals and biobased products.
- Fund and administer the USDA Biomass Crop Assistance Program.
- Fund and administer the USDA/DOE's Biomass Research and Development Program.
- Work towards promoting the enactment of tax legislation for a biobased chemical Production Tax Credit (PTC), an Investment Tax Credit (ITC), Master Limited Partnerships (MLP), and Research & Development (R&D).
- Ensure biogenic CO_2 emissions related to biobased products are treated as carbon neutral in EPA's carbon accounting framework.

Recommendation 6: Biobased Products Industry Participants Should Work Together on the Challenges Facing Their Industry.

Based on our interviews, we identified six major challenges that should be addressed in the biobased products industry.

1. Examine Public Perceptions vs. Scientific Evidence. Undertake an extensive analysis concerning how the public, NGOs, policy makers, scientists, and institutional buyers perceive the spectrum of biobased feedstocks and biobased products. This includes quantifying the science or lack of science to provide clarity concerning which perceptions are inaccurate, which have a scientific basis, and which need additional research.

2. LCAs and Land-Use Studies. There is a need to create a common LCA structure that provides easy way to compare values and relates LCA results to both consumer and industry audiences. Stakeholders state that there is a need for shared life cycle inventory data and standardized definitions. A shared lifecycle inventory would reduce costs to individual firms and reduce the person-hours required to conduct lifecycle assessments.

3. Supply Chain Mapping and Location Analyses. Existing biobased product supply chains are limited by transportation disparities related to the location of biofuel producing sources. Government influence in the form of grants and tax rebates at the state and local levels can be used to help promote investments to streamline supply chain execution, create more integrated and collaborative facility designs, create shared facilities, and help to stimulate industry development and investment. Industry leaders should work to reduce the burden on upstream supply chain participants and drive more co-development activities to promote biobased in lower tiers of supply chain. Since suppliers source to different types of industries, there is a need to create a common vehicle for marketing products. An example would be a company deciding between two distinct marketing messages. A common platform for messaging would create efficiencies and improve opportunities for aligned investments. If suppliers and industries could work together to identify potential inefficiencies and work to solve

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them using a common approach, it could be easier to implement biobased products across the supply chain.

4. Marketing Messaging and Impact Scores. There is a need to conduct biobased products marketing research and develop marketing materials that support and promote the biobased products message, downstream, upstream, in industrial, and in government procurement processes. An example is an impact score that can translate LCA information to the end consumer to drive and influence buying behavior and decision-making via a standardized scorecard.

Another example might be a biobased material identifier that could be used to award new business to sustainability-focused suppliers as part of a procurement initiative. Better communication with retailers through value-chain maps that provide a clear definition and value proposition for biobased products would create differentiated products that excel in performance.

5. Government Policy and Acquisition Recommendations. Biobased products industry stakeholders should provide input to government policies regarding grants and tax incentives to foster "downstream pull" investments in biobased product development, research, and innovation. Government policy makers should strive to create consistency across regulations and incentives for the biobased products industry, and incentives to drive increased utilization of biobased contracts, especially in light of the new General Services Administration focus on Category Management. Since plants sequester carbon, carbon credits could be given for using biobased products instead of petroleum-based products. Create more access to opportunities for industry to tap into tax incentives, tax credits, and producer credits, and to highlight the availability of these programs to biobased producers. Policy makers need education on biobased products that demystifies the misconceptions about the industry with solid data. Additionally, there is a need for education on how to sell to the government within the context of the biobased products industry, as legislative requirements have not meshed well with acquisition actions, and tracking has been problematic. The DOE's support also could be sought to drive additional support at various points in the value chain. Companies could commit to a certain percentage of biobased sources or get the government to enact policy like CAFE standards.

6. Identify and Model Risks Facing the Biobased products Sector. The interviewees also identified risks that should be considered for the biobased products industry. First, low oil prices may continue for several years, given the current reserves of oil and fracking, leading to a sustained lower price of oil and reduced desire to explore the potential of biobased products. This is problematic considering the amount of time it takes to develop a biobased product. In addition, the amount of venture capital available for biobased products is decreasing. Scaling up new projects and the time required to bring capital investments to scale also are significant challenges.

How to cite this report

Golden, J.S., Handfield, R.B., Daystar, J., Morrison, B., and McConnell, T.E, An Economic Impact Analysis of the U.S. Biobased Products Industry: 2016 Update, A Joint Publication of the Duke Center for Sustainability & Commerce and the Supply Chain Resource Cooperative at North Carolina State University, 2016.

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Appendix A
The Economic Input-Output Model (IMPLAN)

The Economic Input-Output Model

IMPLAN is an economic impact modeling system that uses input-output analysis to quantify economic activities of an industry in a predefined region. IMPLAN was designed in 1976 by the Minnesota IMPLAN Group Inc. under the direction of the U.S. Forest Service to help meet the reporting requirements for Forest Service land management programs. IMPLAN is now used extensively to quantify the economic impacts of various industrial activities and policies. The IMPLAN system is now managed by IMPLAN Group LLC of Huntersville, North Carolina.

IMPLAN quantifies the economic impacts or contributions of a predefined region in terms of dollars added to the economy and jobs produced (IMPLAN Group LLC 2004).[73] Data are obtained from various government sources including agencies and bureaus within the Departments of Agriculture, Commerce, and Labor.

The IMPLAN system's input-output model currently defines 536 unique sectors in the U.S. economy (which are North American Industry Classification System [NAICS] sectors, except in some cases in which aggregates of multiple sectors are used). The IMPLAN system uses its database to model inter-sector linkages, such as sales and purchases between forest-based industries and other businesses. The transactions table within IMPLAN quantifies the number of dollars each sector makes (sales) and uses (purchases). The table separates processing sectors by rows and purchasing sectors by columns; every sector is considered both a processor and purchaser. Summing each row quantifies an industry's output, which includes sales to other production sectors along with those sales to final demand. The total outlay of inputs, which are the sums of the columns, includes purchases from intermediate local production sectors, payments to local value added, and imports (both intermediate and value added inputs) from outside the study region. The transactions table can be used to explain a sector's economic relationships based on the value of the commodities exchanged between the industry of interest and other sectors.

Leontief (1936) defined the relationship between output and final demand as shown below:

$$x = (I - A)^{-1} y$$

where x is the column vector of industrial output, I is an identity (unit) matrix, A is the direct requirements matrix relating input to output, and y is the final demand column vector. The term $(I - A)^{-1}$ is the total requirements matrix or the "multiplier" matrix. Each element of the matrix describes the amount needed from sector i (row) as input to produce one unit of output in sector j (column) to satisfy final demand. The output multiplier for sector j is the sum of its column elements, or sector j's total requirements from each individual sector i. Employment and value added multipliers also can be derived by summing the column's elements.

Employment in IMPLAN is represented as the number of both full time and part time

[73] IMPLAN, Computer Software, IMPLAN, IMPLAN Group LLC, http://www.implan.com.

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jobs supported within an industry to meet final demand. Value added is composed of labor income, which includes employees' compensation and sole proprietor (self-employed) income, other property income (OPI), and taxes on production and imports, less subsidies (TOPI, formerly was labeled 'indirect business taxes')[74]. OPI in IMPLAN includes corporate profits, capital consumption allowance, payments for rent, dividends, royalties, and interest income. TOPI primarily consist of sales and excise taxes paid by individuals to businesses through normal operations. Output is the sum of value-added and the cost of buying goods and services to produce the product.

Key terms:

- Value added: Value added describes the new wealth generated within a sector and is its contribution to gross domestic product (GDP).
- Output: Output is an industry's gross sales, which includes sales to other sectors (where the output as used by that sector as input) and sales to final demand.

When examining the economic contributions of an industry, IMPLAN generates four types of indicators:

1. Direct effects: effects of all sales (dollars or employment) generated by a sector.
2. Indirect effects: effects of all sales by the supply chain for the industry under study.
3. Induced effects: A change in dollars or employment within the study region that represents the influence of the value chain employees spending wages in other sectors to buy services and goods.
4. Total effect: the sum of the direct, indirect, and induced effects.

Economic multipliers quantify the spillover effects, i.e., the indirect and induced contributions. The Type I multiplier describes the indirect effect, which is described by dividing the direct effect into the sum of the direct and indirect effects.[75] A Type I employment multiplier of 2.00 for example, means that for every job in the industry of interest, one additional job is supported in that sector's supply chain.

Type II multipliers are defined as the sum of the direct, indirect, and induced effects divided by the direct effect (Equation 1). The Type II multiplier operates by extending the input-output model to include any contributions induced by final demanders. Type II multipliers differ by how they define value added and account for any of its potential endogenous components. A particular Type II multiplier, the Type social accounting matrix (SAM) multiplier, considers portions of value added to be both endogenous and exogenous to a study region (Equation 2). This generally incorporates labor payments to the households and their subsequent consumption of goods and services. These multipliers indicate the extent to which total activity is generated in the economy due to the sectors under study. A Type SAM value added multiplier of 1.50, for example, indicates that for every $1.00 of value added produced in an industry under study, $0.50 of additional value added would be generated elsewhere in the economy by other industries.

Contributions Analyses of Biobased Products Sectors

[74] IMPLAN refers to value added in this context as "total value added".

[75] U.S. Department of Commerce Bureau of Economic Analysis (BEA), Interactive Data Application, BEA web site, http://www.bea.gov/itable/index.cfm, accessed April 2015.

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A contributions analysis describes the economic effects of an existing sector, or group of sectors, within an economy. The results define the extent to which the economy is influenced by the sector(s) of interest. Changes in final demand, which generally are marginal or incremental, are not assumed here as they are in traditional impact analysis. Based on the number of sectors contained within each industry group, multiple sector contributions analyses were conducted. The bioeconomy at the national level was modeled using IMPLAN's 2013 and 2014 national databases. These models were constructed using the Supply/Demand Pooling method. The 50 states and District of Columbia were modeled using IMPLAN's 2013 database for each economy; these models were constructed using the IMPLAN National Trade Flows Model method. The models were closed with respect to households only in all cases. Output was the basis by which contributions were assessed, but had to be adjusted to eliminate sales and purchases internal to the sectors to avoid double counting. This required five steps using Microsoft Excel: 1) compile the total requirements matrix of detailed Type SAM output multipliers from IMPLAN for the respective economy; 2) from this matrix, build a truncated matrix of the biobased industrial groups' sectors and invert it; 3) calculate the direct contributions vector by multiplying the inverted contributions matrix by the groups' sector outputs found in the economy's transactions table; 4) multiply the economy's total requirements matrix by the direct contributions vector to obtain total output contributions; 5) calculate employment and value added contributions based their respective sectoral output shares. Use of this method avoided the structural changes that result from customizing the model, and at the same time, it preserved the original relationships found in the modeled economy's transactions table.

$$\frac{\text{Direct Effect} + \text{Indirect Effect}}{\text{Direct Effect}} = \text{Type I Multiplier}$$

Equation 1: Type I multiplier calculation

$$\frac{\text{Direct Effect} + \text{Indirect Effect} + \text{Induced Effect}}{\text{Direct Effect}} = \text{Type SAM Multiplier}$$

Equation 2: Type SAM multiplier calculation

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Appendix B
Products Participating in the BioPreferred® Program by Category – 2016

Number of Products	Category
36	2-Cycle Engine Oils
61	Adhesive and Mastic Removers
14	Adhesives
71	Agricultural Spray Adjuvants
136	Air Fresheners and Deodorizers
38	Aircraft and Boat Cleaners - Aircraft Cleaners
31	Aircraft and Boat Cleaners - Boat Cleaners
4	Allergy and Sinus Relievers
5	Animal Bedding
337	Animal Cleaning Products
46	Animal Habitat Care Products
2	Animal Medical Care Products
37	Animal Odor Control and Deodorant
130	Animal Repellents
1	Animal Skin, Hair, and Insect Care Products
1	Anti-Slip Products
2	Aromatherapy
4	Art Supplies
38	Asphalt and Tar Removers
13	Asphalt Restorers
76	Automotive Care Products
26	Baby and Kids
1,176	Bath Products
270	Bathroom and Spa Cleaners
172	Bedding, Bed Linens, and Towels
5	Biodegradable Foams
172	Bioremediation Materials
15	Blast Media
2	Body Powders

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Number of Products	Category
526	Candles and Wax Melts
114	Carpet and Upholstery Cleaners - General Purpose
120	Carpet and Upholstery Cleaners - Spot Removers
104	Carpets
117	Chain and Cable Lubricants
4	Clothing
1	Clothing – Utility Gloves
51	Composite Panels - Acoustical
35	Composite Panels - Countertops
68	Composite Panels - Interior Panels
22	Composite Panels - Plastic Lumber
26	Composite Panels - Structural Interior Panels
18	Composite Panels - Structural Wall Panels
30	Compost Activators and Accelerators
78	Concrete and Asphalt Cleaners
63	Concrete and Asphalt Release Fluids
1	Concrete Curing Agents
2	Concrete Repair Materials
69	Corrosion Preventatives
1	Cosmetics
96	Cuts, Burns, and Abrasions Ointments
8	De-Icers - Specialty
83	Deodorants
14	Dethatchers
66	Diesel Fuel Additives
148	Dishwashing Products
5	Disinfectants
439	Disposable Containers
539	Disposable Cutlery
692	Disposable Tableware
1	Durable Cutlery
13	Durable Tableware
35	Dust Suppressants
10	Electronic Components Cleaners
75	Engine Crankcase Oil

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Number of Products	Category
247	Erosion Control Materials
2	Expanded Polystyrene (EPS) Foam Recycling Products
9	Exterior Paints and Coatings
1	Fabric Stain Preventers and Protectors
14	Facial Care Products
16	Feminine Hygiene
545	Fertilizers
106	Films - Non-Durable
43	Films - Semi-Durable
2	Filters
2	Fingernail/Cuticle Products
2	Fire Retardants
8	Fire Starters, Logs, or Pellets
21	Firearm Cleaner
43	Firearm Lubricants
163	Floor Cleaners and Protectors
357	Floor Coverings (Non-Carpet)
14	Floor Strippers
6	Fluid-Filled Transformers - Synthetic Ester-Based
5	Fluid-Filled Transformers - Vegetable Oil-Based
5	Foliar Sprays
35	Food Cleaners
92	Foot Care Products
23	Forming Lubricants
28	Fuel Conditioners
46	Furniture Cleaners and Protectors
111	Gasoline Fuel Additives
107	Gear Lubricants
29	General Purpose De-Icers
272	General Purpose Household Cleaners
187	Glass Cleaners
327	Graffiti and Grease Removers
23	Greases - Food Grade
48	Greases - Multipurpose
17	Grease - Other

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Number of Products	Category
16	Greases - Rail Track
12	Greases - Truck
2	Greases - Wheel Bearing and Chassis Greases
19	Hair Care Products - Conditioners
472	Hair Care Products - Shampoos
1	Hair Styling Products
470	Hand Cleaners and Sanitizers - Hand Cleaners
130	Hand Cleaners and Sanitizers - Hand Sanitizers
11	Heat Generating Products
1	Heat Transfer Fluid - Additive
68	Heat Transfer Fluids
389	Industrial Cleaners
3	Industrial Enamel Coatings
32	Ink Removers and Cleaners
21	Inks - News
66	Inks - Printer Toner (Greater Than 25 Pages Per Minute)
43	Inks - Printer Toner (Less Than 25 Pages Per Minute)
19	Inks - Sheetfed (Black)
41	Inks - Sheetfed (Color)
52	Inks - Specialty
50	Interior Paints and Coatings - Latex and Waterborne Alkyd
26	Interior Paints and Coatings - Oil-based and Solventborne Alkyd
148	Intermediate Feedstocks
9	Intermediates - Binders
100	Intermediates - Chemicals
17	Intermediates - Cleaner Components
35	Intermediates - Fibers and Fabrics
14	Intermediates - Foams
43	Intermediates - Lubricant Components
20	Intermediates - Oils, Fats, and Waxes
45	Intermediates - Paint & Coating Components
33	Intermediates - Personal Care Product Components
87	Intermediates - Plastic Resins
5	Laboratory Chemicals
2	Laundry - Dryer Sheets

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Number of Products	Category
223	Laundry Products - General Purpose
75	Laundry Products - Pretreatment/Spot Removers
6	Lavatory Flushing Fluid
79	Leather, Vinyl, and Rubber Care Products
179	Lip Care Products
8	Loose-Fill and Batt Insulation
856	Lotions and Moisturizers
14	Lumber, Millwork, Underlayment, Engineered Wood Products
2	Massage Oils
5	Medical Supplies
23	Metal Cleaners and Corrosion Removers - Corrosion Removers
36	Metal Cleaners and Corrosion Removers - Other Metal Cleaners
27	Metal Cleaners and Corrosion Removers - Stainless Steel
63	Metalworking Fluids - General Purpose Soluble, Semi-Synthetic, and Synthetic Oils
50	Metalworking Fluids - High Performance Soluble, Semi-Synthetic, and Synthetic Oils
99	Metalworking Fluids - Straight Oils
286	Microbial Cleaning Products - Drain Maintenance Products
177	Microbial Cleaning Products - General Cleaners
197	Microbial Cleaning Products - Wastewater Maintenance Products
228	Mobile Equipment Hydraulic Fluids
265	Mulch and Compost Materials
459	Multipurpose Cleaners
79	Multipurpose Lubricants
11	Oral Care Products
21	Other
9	Other Lubricants
30	Oven and Grill Cleaners
78	Packing and Insulating Materials
60	Paint Removers
14	Paper Products - Non-writing paper
184	Paper Products - Office Paper
73	Parts Wash Solutions
75	Penetrating Lubricants
1	Perfume

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Number of Products	Category
3	Pest Control-Fungal-Agricultural
5	Pest Control-Fungal-Home and Garden
2	Pest Control-Insect-Agricultural
6	Pest Control-Insect-Home and Garden
2	Pest Control-Insect-Industrial
1	Pest Control-Weeds-Home and Garden
3	pH Neutralizing Products
2	Phase Change Materials
2	Plant Washes
48	Plastic Insulating Foam for Residential and Commercial Construction
21	Plastic Products
37	Pneumatic Equipment Lubricants
12	Polyurethane Coatings
27	Product Packaging
33	Roof Coatings
3	Rugs and Floor Mats
5	Safety Equipment
72	Sanitary Tissues
577	Shaving Products
1	Shipping Pallets
12	Slide Way Lubricants
3	Solid Amendments
1	Solid Fuel Additives
139	Sorbents
7	Specialty Fuels
38	Specialty Precision Cleaners and Solvents
20	Sponges, Scrub Pads, and Cleaning Tools
241	Stationary Equipment Hydraulic Fluids
202	Sun Care Products
2	Thermal Shipping Containers - Durable
1	Thermal Shipping Containers - Non-Durable
58	Topical Pain Relief Products
6	Toys and Sporting Gear
6	Traffic and zone marking paints
2	Transmission Fluids

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Number of Products	Category
5	Turbine Drip Oils
4	Wall Coverings - Commercial
10	Wastewater Systems Coatings
13	Wastewater Treatment Products
37	Water Clarifying Agents
8	Water Tank Coatings
11	Water Turbine Bearing Oils
36	Wood and Concrete Sealers - Membrane Concrete Sealers
90	Wood and Concrete Sealers - Penetrating Liquids
28	Wood and Concrete Stains
12	Woven Fiber Products
2	Writing Utensils - Pens

Note: If applicable, a product may be listed in up to four categories.
Source: USDA BioPreferred Program, May 2016.

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Appendix C
States Ranked by Direct Jobs in the Biobased Products Industry – 2013

Rank	Direct Jobs	State
1	145,080	California
2	90,040	North Carolina
3	88,680	Texas
4	80,520	Georgia
5	71,360	Pennsylvania
6	68,250	Wisconsin
7	52,930	Ohio
8	52,300	New York
9	49,650	Alabama
10	47,690	Florida
11	46,480	Oregon
12	46,050	Indiana
13	44,850	Tennessee
14	41,140	Washington
15	40,350	Mississippi
16	39,940	Illinois
17	38,920	Virginia
18	38,430	South Carolina
19	37,790	Michigan
20	35,850	Minnesota
21	31,400	Arkansas
22	27,290	Missouri
23	27,290	Kentucky
24	22,440	Louisiana
25	21,950	New Jersey
26	20,500	Maine
27	20,110	Iowa
28	19,140	Massachusetts
29	14,790	Arizona
30	13,250	Idaho
31	11,500	Colorado
32	10,770	Utah
33	10,320	Oklahoma
34	9,960	West Virginia

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Rank	Direct Jobs	State
35	9,570	Maryland
36	9,080	Kansas
37	8,970	Connecticut
38	7,090	New Hampshire
39	6,500	Vermont
40	6,340	Montana
41	6,160	South Dakota
42	6,020	Nebraska
43	4,210	New Mexico
44	3,840	Nevada
45	3,500	Rhode Island
46	3,360	North Dakota
47	2,140	Delaware
48	1,930	Hawaii
49	1,610	Wyoming
50	1,420	Alaska
51	220	Washington D.C.

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Appendix D
States Ranked by Direct Value Added by the Biobased Products Industry – 2013

Rank	Direct Value Added	State
1	9,862,930,000	California
2	8,237,608,000	Georgia
3	6,828,425,000	Texas
4	6,522,151,000	Pennsylvania
5	6,437,140,000	North Carolina
6	6,252,403,000	Wisconsin
7	4,977,941,000	Alabama
8	4,429,804,000	Tennessee
9	4,276,668,000	Ohio
10	4,227,162,000	South Carolina
11	4,159,173,000	Oregon
12	3,848,271,000	New York
13	3,807,744,000	Washington
14	3,737,850,000	Florida
15	3,543,046,000	Illinois
16	3,391,516,000	Minnesota
17	3,165,255,000	Arkansas
18	3,144,753,000	Virginia
19	2,882,370,000	Michigan
20	2,842,703,000	Indiana
21	2,692,484,000	Mississippi
22	2,648,699,000	Louisiana
23	2,506,357,000	Missouri
24	2,127,702,000	Kentucky
25	1,877,652,000	New Jersey
26	1,735,341,000	Iowa
27	1,599,745,000	Maine
28	1,416,696,000	Massachusetts
29	995,033,000	Oklahoma
30	963,248,000	Utah
31	912,261,000	Arizona
32	885,697,000	Idaho

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Rank	Direct Value Added	State
33	845,697,000	Connecticut
34	800,959,000	Maryland
35	634,553,000	Colorado
36	601,223,000	West Virginia
37	503,890,000	Kansas
38	425,733,000	Nebraska
39	403,884,000	New Hampshire
40	346,817,000	Delaware
41	333,014,000	Montana
42	331,892,000	South Dakota
43	277,682,000	Vermont
44	237,667,000	North Dakota
45	228,664,000	Nevada
46	227,704,000	Rhode Island
47	208,297,000	New Mexico
48	66,937,000	Alaska
49	65,890,000	Hawaii
50	57,902,000	Wyoming
51	18,364,000	Washington D.C.

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Appendix E
Number of Companies Participating in the BioPreferred® Program, Direct Jobs, and Direct Value Added in Each State (Alphabetical)

State	Number of Companies Participating in the BioPreferred Program (June 2016)	Direct Value Added (2013)	Direct Jobs (2013)
Alabama	16	$4,977,941,000	49,650
Alaska	5	$66,937,000	1,420
Arizona	32	$912,261,000	14,790
Arkansas	14	$3,165,255,000	31,400
California	286	$9,862,930,000	145,080
Colorado	62	$634,553,000	11,500
Connecticut	28	$845,697,000	8,970
Delaware	7	$346,817,000	2,140
Florida	130	$3,737,850,000	47,690
Georgia	79	$8,237,608,000	80,520
Hawaii	8	$65,890,000	1,930
Idaho	13	$885,697,000	13,250
Illinois	132	$3,543,046,000	39,940
Indiana	30	$2,842,703,000	46,050
Iowa	79	$1,735,341,000	20,110
Kansas	28	$503,890,000	9,080
Kentucky	13	$2,127,702,000	27,290
Louisiana	8	$2,648,699,000	22,440
Maine	16	$1,599,745,000	20,500
Maryland	25	$800,959,000	9,570
Massachusetts	56	$1,416,696,000	19,140
Michigan	57	$2,882,370,000	37,790
Minnesota	97	$3,391,516,000	35,850
Mississippi	19	$2,692,484,000	40,350
Missouri	52	$2,506,357,000	27,290
Montana	10	$333,014,000	6,340
Nebraska	25	$425,733,000	6,020
Nevada	15	$228,664,000	3,840
New Hampshire	19	$403,884,000	7,090
New Jersey	70	$1,877,652,000	21,950

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State	Number of Companies Participating in the BioPreferred Program (June 2016)	Direct Value Added (2013)	Direct Jobs (2013)
New Mexico	8	$208,297,000	4,210
New York	95	$3,848,271,000	52,300
North Carolina	71	$6,437,140,000	90,040
North Dakota	5	$237,667,000	3,360
Ohio	105	$4,276,668,000	52,930
Oklahoma	9	$995,033,000	10,320
Oregon	54	$4,159,173,000	46,480
Pennsylvania	90	$6,522,151,000	71,360
Rhode Island	7	$227,704,000	3,500
South Carolina	19	$4,227,162,000	38,430
South Dakota	11	$331,892,000	6,160
Tennessee	29	$4,429,804,000	44,850
Texas	147	$6,828,425,000	88,680
Utah	11	$963,248,000	10,770
Vermont	9	$277,682,000	6,500
Virginia	50	$3,144,753,000	38,920
Washington	77	$3,807,744,000	41,140
Washington D.C.	3	$18,364,000	220
West Virginia	2	$601,223,000	9,960
Wisconsin	78	$6,252,403,000	68,250
Wyoming	7	$57,902,000	1,610

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Authored By
Jay S. Golden[1], Robert B. Handfield[2], Jesse Daystar[2] and T. Eric McConnell[2]
[1]Duke University and [2]North Carolina State University

Managed By
U.S. Department of Agriculture's BioPreferred® Program
October 2016

BIOGENIC CO2 COALITION

Case Studies: Need for Biogenic CO2 De Minimis Exemption from Clean Air Act (PSD and CPP)

(*Note:* Examples are based on a true-life facility permitting situations, which have been sanitized and genericized to protect CBI)

Case Study 1 – Bioproducts Displacing Petrochemical Feedstocks

Modern bioproducts technology allows a host of economically important intermediates and end-products to be made from agricultural feedstocks with substantially less energy and greenhouse gas emissions than fossil fuels. These environmentally preferable products replace the petrochemical refining process and fossil-based industrial chemicals. Ex. 4 CBI

Ex. 4 CBI

Bioproducts are made from a variety of farm-produced feedstocks such as corn, soy, oilseeds (cotton, sunflower, soy), and wheat. These advanced bioproducts are often made through fermentation processes in which special micro-organisms transform biological feedstocks into commercially valuable intermediate and end-use products such as penicillin, silage, acetone, propane and butane-diol, lactic acid, citric acid, lysine, vitamins, cellusase, xanthan, dextran, vinegar, insulin, interferon, ethanol, carbohydrates, and methane.

Commercially valuable products made by members of the Biogenic CO2 Coalition go into clothing, paints, carpet, cosmetics, and compostable cups and plastic ware - all as substitutes for petroleum based fibers and chemicals and manufactured with dramatically lower carbon and energy footprints. Intermediate bio-products are used in medicines and pharmaceuticals, nutritional supplements, food and feed additives, food processing, medical devices, energy fuels, leather tanning, detergents, clothing, textiles, and animal feed.

Although bioproducts improve the environmental footprint, the fermentation process naturally produces biogenic CO2 -- Ex. 4 CBI

Ex. 4 CBI as a natural byproduct of biological respiration as micro-organisms metabolize starch and sugars. However, the biogenic CO2 is carbon neutral on a life-cycle basis and the overall emissions and energy profile of the products are dramatically lower than fossil-based products.

As one example, in the case of a popular intermediate produced though fermentation of corn, which is used in production of bio-plastic fibers, using bioproducts rather than fossil-based products improves the environmental footprint by 42-56% <u>less</u> greenhouse gas emissions and 36-42% <u>less</u> energy consumption compared to displaced petrochemicals. However, if biogenic emissions from fermentation processes are not recognized as carbon neutral, it will be a lost opportunity for sustainable, domestic economic development and compel biotech companies to move this emerging high-tech industry abroad to more enlightened countries offering similar farm-produced feedstocks without the onerous regulation of biogenic carbon.

Case Study 2 - Advanced Bioproducts Expansion Permit

Ex. 4 CBI

Case Study 3 – Co-Firing Agricultural Fuels to Lower EGU Emissions Rate

Ex. 4 CBI

Ex. 4 CBI

Case Study 4 – Bakery Product Line Changes

Baking bread, muffins, pastries and other baked products involves yeast fermentation. Yeast is not some unpronounceable industrial chemical - it is a living organism (as recognized by USDA) that use food, moisture, warmth and air to ferment and help the dough rise Ex. 4 CBI

Ex. 4 CBI

Biogenic CO2 Coalition

OVERVIEW

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Members

American Bakers Association

American Farm Bureau Federation

Corn Refiners Association

National Cotton Council of America

National Cottonseed Products Association

National Corn Growers Association

National Oilseed Processors Association

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EPA Actions on Farm Sustainability

Clean Power Plan pp. 64886-87 –

"Given the importance of sustainable land management in achieving the carbon goals of the President's Climate Action Plan, **sustainably-derived agricultural and forest biomass feedstocks** may also be acceptable as qualified biomass in a state plan, if the state-supplied analysis of proposed qualified feedstocks or feedstock categories can adequately demonstrate that such feedstocks or feedstock categories appropriately control increases of CO2 levels in the atmosphere and can adequately monitor and **verify feedstock sources and related sustainability practices**."

Source: *Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Final Rule*, 80 Fed. Reg. 64,662 (October 23, 2015)

EPA Nov. 19, 2014 McCabe Memo –

"EPA plans to propose revisions to the PSD rules to include an exemption for the [BACT] requirement for GHGs from waste-derived feedstocks and from non-waste biogenic feedstocks **derived from sustainable forest or agricultural practices** . . . if the applicant can demonstrate that these feedstocks in fact come from **sustainably managed lands** . . . all other biogenic feedstocks . . . would remain subject to the GHG BACT requirement at this time"

Source: Janet McCabe, Assistant Administrator, *Addressing Biogenic Carbon Dioxide Emissions from Stationary Sources*, posted at http://www.epa.gov/climatechange/downloads/Biogenic-CO2-Emissions-Memo-111914.pdf

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Concerns

Agriculture should be incentivized to help meet greenhouse gas emissions goals . . .

- Efficient food, fiber and energy production
- Bioproducts (bioplastics, nutraceuticals, composites, etc.)
- Biofuels (ethanol and cellulosic)

Crop-derived feedstocks are scientifically carbon neutral

- Science recognizes that crop lifecycle sequesters carbon before it is later released
- Most governments recognize biogenic emissions are different than fossil fuel emissions

Yet EPA is treating farm products the same as fossil fuels

- EPA default position is biogenic emissions are equal to 100% fossil fuel emissions
- Biogenic emissions are penalized in EPA Clean Air Act permitting and new power plant rules

Also EPA is attempting to impose "sustainability" standards for farms operations and ag products

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Action Items

1) Coalition has opened series of discussions with EPA on biogenic issues

2) Coalition has challenged EPA power plant rules in federal court
   - Agreement with EPA to put case into "abeyance" while discussions continue

3) Requests for EPA corrections:
   - Seek exemption for all agricultural crop biogenic emissions
   - In meantime, change default assumption to carbon neutral for crop-based feedstocks
   - Seek revocation of "sustainability" criterion in EPA documents

4) Action: Coalition asks Members of Congress to write to EPA in support.

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BIOGENIC CO2 COALITION

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National Cotton Council of America

National Cottonseed Products Association

National Oilseed Processors Association

North American Millers' Association

February 21, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.,
Washington, D.C. 20460

Re: Supporting American Agriculture by Removing Illegal Regulation of Biogenic Emissions

Dear Administrator Pruitt,

The Biogenic CO2 Coalition extends its congratulations on your confirmation as EPA Administrator. We look forward to working with you to restore confidence and certainty throughout the regulated community and to ensure EPA rules and actions are rooted in law and guided by science.

We respectfully request a meeting with you or other personnel you deem appropriate regarding critical EPA policy regulatory barrier that is thwarting development of the bioeconomy, which already accounts for $393 billion in economic benefit and 4.2 million American jobs. Investment in the bioeconomy is now discouraged by an EPA policy interpretation which misreads its greenhouse gas endangerment finding implicating "excess CO2" to include biogenic carbon from the processing or use of crops, oilseeds, crop residues, farm wastes and other agricultural feedstocks, a position without significant scientific or political support. Biogenic CO2 emissions were neither considered nor mentioned in the original greenhouse gas endangerment finding. However, EPA has, through its suite of greenhouse gas regulations, refused to recognize that American farmers capture carbon when growing feedstocks that are turned into bioproducts, food, fiber, biofuels and bioenergy and later released as part of its natural carbon lifecycle.

As a result, the Biogenic CO2 Coalition was forced to bring litigation against the agency in three cases now pending, and being held in abeyance, before the U.S. Court of Appeals for the D.C. Circuit, including a challenge to EPA's Clean Power Plan, New Source Performance Standards for power plants, and its recent endangerment finding for aircraft emissions. On January 5, 2017, the Department of Justice contacted us expressing EPA's desire to advance litigation of the aircraft endangerment finding. We respectfully submit that prompt policy action would dispense the need for further litigation and swiftly unleash billions of dollars in new private investment in American economic growth.

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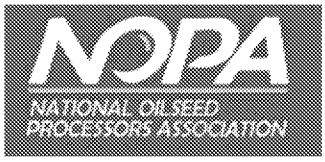
We understand you have many priorities to address and appreciate your consideration.

Best wishes for your success.

Sincerely,



USDA

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

OCT 26 2016

Mr. John Bode
Chair
Biogenic CO_2 Coalition
1701 Pennsylvania Avenue, NW.
Washington, D.C. 20006

Dear Mr. John Bode:

Thank you for your letter of August 12, 2016, regarding climate benefits of agricultural bioproducts. I apologize for the delayed response.

I appreciate your recommendation for the U.S. Department of Agriculture (USDA) to consult with the Environmental Protection Agency about not equivocating biogenic carbon from biomass with carbon from fossil sources when regulating carbon dioxide emissions. Your recommendation will be taken into consideration as USDA reviews this and related issues.

Again, thank you for your letter and your support of the USDA's programs.

Sincerely,

Thomas J. Vilsack
Secretary

BIOGENIC CO2 COALITION

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American Bakers Association

American Farm Bureau Federation

Corn Refiners Association

Enginuity Worldwide

National Corn Growers Association

National Cotton Council of America

National Cottonseed Products Association

National Oilseed Processors Association

North American Millers' Association

August 12, 2016

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

The Honorable Dr. Ernest Moniz
Secretary
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Secretary Vilsack and Secretary Moniz:

The Biogenic CO2 Coalition, representing the agriculture crop community, commends you for your committed support of American agriculture and biomass feedstocks. As you know, the U.S. agricultural system not only helps feed the world, but provides 21st century solutions to climate change and sustainability in the form of bioenergy, biofuels, and bioproducts made from corn, oilseeds, crop residues and other agricultural feedstocks.[1] According to the U.S. Department of Agriculture, in 2013 America's bioeconomy was valued at $369 billion and provided 4 million American jobs.[2] The Department of Energy recently reported that biomass continues to be the Nation's largest single source of domestic renewable energy.[3]

While providing food, fuel and fiber to American families, the bioeconomy also reduces 400 million tons of CO2 every year, thus playing a critical role in achieving the Obama Administration's climate policy goals.[4] Your agencies have long supported bioenergy and bioproducts, particularly as an alternative solution to greenhouse gas emissions associated with the use of fossil fuels. The benefits of agriculture as a renewable and sustainable resource are widely recognized, and the life-cycle carbon benefits of

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[1] *See, e.g.*, Biomass Research and Development Board (Biomass Research and Development Act of 2000), Federal Activities Report on the Bioeconomy at 1 (Feb. 2016) ("*2016 Biomass Board Report*").

[2] *See* U.S. Dept. of Agriculture and Duke Center for Sustainability & Commerce and the Supply Chain Resource Cooperative at North Carolina State University, *An Economic Impact Analysis of the U.S. Biobased Products Industry* at x (June 2015).

[3] *See* U.S. Dept. of Energy and Oak Ridge Nat'l Laboratory, *2016 Billion-Ton Report: Advancing Domestic Resources for a Thriving Bioeconomy* at xvii (July 2016).

[4] *See* 2016 Biomass Board Report at 6 (Feb. 2016).

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biogenic emissions from the use or processing of biomass have been universally acknowledged by policymakers and scientists.[5]

The trajectory of the bioeconomy depends greatly on the recognition of the greenhouse gas benefits of using agricultural feedstocks compared to non-agricultural feedstocks. Companies represented by our coalition have invested and are poised to invest billions of dollars in fermentation biorefineries to make products from natural agricultural feedstocks instead of petrochemicals. Others are developing clean technology to produce drop-in substitute fuels that displace coal in power plants to help electric utilities comply with the Administration's Clean Power Plan. These investments depend on recognizing that agricultural feedstocks have climate benefits compared to fossil fuels.

Although Congress has consistently recognized the climate benefits of agricultural bioproducts, the U.S. Environmental Protection Agency ("EPA") has not yet completed a scientific review of the carbon benefits of agricultural biomass that it began some seven years ago in the context of Clean Air Act regulation of CO2 emissions from manufacturing facilities such as biorefineries, bakeries, breweries, oil seed processors, and agricultural fuels. Because EPA has not yet completed this long overdue science review, by default, EPA mistakenly counts carbon emissions from processing and energy uses of agricultural feedstocks at these facilities as if they were fossil-based emissions.[6]

Farm feedstocks are not the same as fossil fuels or petrochemicals. To the contrary, American farmers growing crop-based feedstocks have already done the hard work of uptaking carbon from the atmosphere during the growth cycle. When agricultural feedstocks are used for energy, turned into bioproducts, or processed for food, fiber and fuel, the "biogenic" emissions from these processes are simply returning carbon to the atmosphere that farmers have already removed from the carbon cycle as part of the natural carbon flow.[7] Until this basic science is embraced fully by Administration policy, the promising bioeconomy will remain stunted.

The Obama Administration, and your agencies in particular, deserve high praise for fostering significant growth of the bioeconomy. As your work to promote the bioeconomy continues and

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[5] *See* Biomass Board Report at 7 ("Biobased products . . . recycle carbon (CO2) from the atmosphere, resulting in air quality improvements when compared to fossil fuel-based products").

[6] EPA has taken this position in its Clean Power Plan and other rulemakings and policy, all of which disqualify agricultural feedstocks as carbon neutral. *See Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Final Rule*, 80 Fed. Reg. 64,662 (October 23, 2015) ("Clean Power Plan"); *Memorandum, Janet McCabe, EPA Assistant Administrator, Addressing Biogenic Carbon Dioxide Emissions from Stationary Sources* (Nov. 19, 2014). As recently as this month, EPA stated that "**there is no distinction between biogenic and non-biogenic CO2.**" *See Finding that Greenhouse Gas Emissions from Aircraft Cause or Contribute to Air Pollution that May Reasonably Be Anticipated to Endanger Public Health and Welfare* at 94-95 (July 25, 2016).

[7] *See, e.g.*, Seungdo Kim, Ph.D and Bruce E. Dale, Ph.D, *The Biogenic Carbon Cycle in Annual Crop-Based Products*, Michigan State University (Nov. 22, 2013) (available at www.biogenicCO2.com).

you have the opportunity to consult with EPA, please consider encouraging EPA to promptly recognize, at least on an interim basis, that annual biomass feedstocks have a negligible carbon footprint compared to fossil fuels and petrochemicals on a lifecycle basis. This important step will be key to advancing our collective investment in the American bioeconomy and rural economic development.

Please do not hesitate to call on us if you require more information by contacting John Bode, Chair at jbode@corn.org or (202) 534-1634.

Sincerely,

Biogenic CO2 Coalition

cc: Dr. David Danielson and Dr. Cathie Woteki, Co-Chairs, Biomass Research & Development Board

Members of the Biogenic CO2 Coalition

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American Farm Bureau Federation

Corn Refiners Association

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National Cotton Council of America

National Cottonseed Products Association

National Corn Growers Association

National Oilseed Processors Association

North American Millers' Association

www.BiogenicCO2.org

Message

From: Subramanian, Hema [Subramanian.Hema@epa.gov]
Sent: 2/26/2018 11:24:56 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: FW: Weekly Report for 2.23.2018
Attachments: Weekly Report 02.23.2018.pdf

I am still swamped with other items today and haven't had time to go through the last weekly report to make an ag excerpt yet (and am not sure if it is priority for you for this week), so I'm just fwding it as-is for the time being…

Hema Subramanian
Acting Special Assistant to the Senior Advisor for Agriculture
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Carroll, Carly
Sent: Friday, February 23, 2018 11:00 AM
Subject: Weekly Report for 2.23.2018

Good afternoon,
Please find the weekly report for the week ending 02.23.18 attached.

Best,

Carly Carroll
Special Assistant to the Acting Deputy Administrator
U.S. Environmental Protection Agency
(202) 564-2769
carroll.carly@epa.gov

Region 1

Hot Topics:

Region 1 Meets with Granite Shore Power to Discuss Final Power Plant Permits

- On February 20th, RA Dunn and staff met with representatives from Granite Shore Power (GSP), the new owner of five NH power plants. The discussion focused on upcoming final permits for Schiller and Merrimack Stations. Region 1 is coordinating closely with OW and OGC on the Schiller final permit. During the meeting Region 1 shared with GSP that the Schiller final permit is imminent and ready for issuance by EPA. GSP also expressed an interest in further discussing the future Merrimack permit.

Region 1 Addresses NH 303(d) Lists of Impaired Water

- Region 1 is expediting the approval backlog of the NH 303(d) lists. The Regional goal is to close the backlog by mid-March.

Region 1 continues to advances bedrock investigations at Coakley in New Hampshire

- On January 18th, EPA sent a letter to the Coakley Landfill Group (CLG) requesting that they initiate a bedrock investigation. Following Administrator Pruitt's visit to the Region, the Region is expediting the bedrock investigation. CLG submitted a proposal to EPA and NHDES for review and compiled existing data and information for the bedrock investigation. CLG will submit a more detailed work plan for the bedrock investigation by March 21st. Region 1 will be briefing Senator Hassan's staff on February 28th.

Upcoming Major Decisions and Events:

EPA Issues FIFRA Notices of Warning to New England Companies

- On February 13th, Region 1 issued seven Notices of Warning to pesticide and pesticide device producing companies in New England for their failure to file annual pesticide production reports as required by Section 7(c) of FIFRA. These reports are EPA's principal source of information on pesticides and devices produced in the U.S. and abroad. EPA uses the reports to protect public health and the environment as well as maintain the integrity of the national pesticides program.

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Region 2

Hot Topics:

Region 2 Laboratory – Perfluoro Alkyl Substances (PFAS) Development. Last year, the Region 2 Laboratory developed EPA Method 537 for the determination of 14 PFAS in water (drinking water, groundwater, surface water). With the recent emphasis on GenX in Region 2, our laboratory undertook to expand EPA Method 537 to include the GenX compounds. In the last month, the laboratory successfully completed method development on GenX and added it to the PFAS list. The laboratory was able to demonstrate very good recovery, in line with the method specifications, and a detection limit of less than 10 parts per trillion.

Update on the OIG's Evaluation of EPA's Preparedness and Response Efforts to the 2017 Hurricanes in EPA Regions 2, 4, and 6: The Region participated in the Kickoff Meeting in January. At that time, the OIG indicated that Region 2 would be contacted beginning in April because R2 informed OIG that response efforts are continuing in Puerto Rico. The OIG has not contacted Region 2 since the Kickoff Meeting. The OIG is currently conducting preliminary research in Regions 4 and 6.

Litigation Regarding NY State Water Quality Criteria. On 2/20/18 the District Court denied EPA's motion for a stay, concluding that several further steps need to be taken with respect to NY State's rulemaking process to result in a package that would then be submitted to EPA for review. The judge took note of the procedures set forth in the CWA statute. Region 2 is now consulting with EPA HQ-OW to consider appropriate next steps (which could potentially involve a disapproval of NY's revisions of its water quality criteria for fecal coliform and total coliform to support the state's revised designated uses for Class I and Class SD waters (including many New York City marine waters) to include primary contact recreation (e.g., swimming).

Upcoming Major Decisions and Events:

Feb. 26 - March 1: RA Pete Lopez will travel to PR and the USVI. The trip will focus on transitioning from hurricane response to recovery. The meetings with key local leaders, agencies and stakeholders will aid Region 2 in developing a Strategic Recovery Plan which will heavily focus on opportunities for tackling pre-existing environmental challenges that were exacerbated by Hurricanes Irma and Maria. On 3/1 the RA will give the keynote address at the Inter-American Association of Sanitary and Environmental Engineering (AIDIS) Conference. Conditions in the islands remain very difficult, with 15% of the population in PR still without electric power from the grid. EPA remains very actively engaged in carrying out is response missions, with more than 350 personnel (employees and contractors) on the ground in PR and the USVI. Among those missions is the sampling and assessment of the many smaller, non-PRASA drinking water systems in PR, and addressing infrastructure and repair issues for those systems, many of which face profound challenges. Addressing the needs of these systems will continue to be among the most important matters that we focus on as we transition into the recovery phase.

Meeting with Congressman: On 2/23/18 RA Pete Lopez is briefing Congressman Gottheimer (NJ) via phone regarding EPA activities at the Ringwood Mines Superfund site in Ringwood, NJ.

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Region 3

Hot Topics:

Update on North Penn Area 12 Superfund Site, Montgomery County, Pennsylvania
On February 14, 2018, the Remedial Project Manager and Community Involvement Coordinator met at the North Penn Area 12 Superfund Site with representatives for the U.S. Army Public Health Center (APHC). At the request of the U.S. Army Corps of Engineers (ACE), the APHC has been conducting per-fluorinated compound (PFC) sampling in the areas surrounding a former Army Reserve Training Center (Center). Because the Center is located near the Site, ACE approached HSCD for permission to allow APHC to sample wells related to North Penn 12 Site. Also in attendance during the sampling event were contract representatives for the Site's potentially responsible party, who assisted with field access to the five Site monitoring wells that were sampled by APHC. PFCs are not considered site-related contaminants-of-concern at the Site and the homes in proximity of the Site are connected to a municipal waterline.

Flooding in West Virginia
West Virginia Governor Jim Justice declared a statewide flood emergency on Saturday, Feb. 17 for all 55 counties, after heavy rain triggered flooding in multiple locations and was expected to continue for several more days. The State Emergency Operations Center (EOC) is now on enhanced watch status and will continue to monitor the situation. The West Virginia National Guard has also been notified and put on stand-by for potential mobilization to assist local and county emergency agencies. The Ohio River crested above flood stage at several places along West Virginia's western border.

EPA Region III Initiates Reuse Analysis for the Hidden Lane Superfund Site in VA to Spur the Redevelopment and Potentially Support the Cleanup of the Site
On February 15, 2018, Region III's Land Revitalization Action Team initiated a reuse analysis for the Hidden Lane Superfund Site, located in Sterling, Loudoun County, Virginia (Site), after receiving strong support for the project from the Virginia Department of Environmental Quality. The reuse analysis will allow Region III to partner with the Commonwealth of Virginia and County and local governments as well as local community groups and the National Park Service to devise a redevelopment plan for the Site that will address the interests of the various stakeholders, protect human health and the environment, and potentially support the ultimate cleanup of the Site. The reuse analysis will begin with a stakeholder review to ensure that all interested parties have a voice in the process. EPA will then develop an initial set of reuse scenarios and invite the stakeholders comment and revise these options in an iterative fashion until a consensus solution is reached. Consistent with its policy, EPA will also seek to leverage third party redevelopment of the property in the ultimate cleanup of the Site.

Upcoming Major Decisions and Events:

Regional Administrator Cosmo Servidio has the following activities scheduled:

- Feb. 21 – Ft. Meade Office Visit, Fort Meade, MD
- Feb. 22 – Chesapeake Bay Commission Meeting and Meeting with Chesapeake Bay Citizen Advisory Committee, Annapolis, MD
- Feb. 28 – Virginia Introductory Visits with Virginia Department of Health, Department of Environmental Quality, Department of Natural Resources, Department of Agriculture and Forestry, and Department of Mines, Minerals and Energy, Richmond, VA

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Region 4

Hot Topics:

Florida 404 Assumption
Key Message: On February 21, 2018, Regional Administrator Trey Glenn met with Florida Department of Environmental Protection (FDEP) staff to discuss next steps in moving forward FDEP's 404 Assumption package. As of February 21st, the 404 assumption bill passed the Florida House and is currently on the Florida Senate Appropriations Committee agenda for later this week. Next steps include working closely with the Corps of Engineers to identify assumable waters. In addition, the Region will work with FDEP to draft a memorandum of agreement between EPA, FDEP, and U.S. Fish & Wildlife Services to cover activities under §7 of the Endangered Species Act.

Sanitation District – 1 (SD-1, Kentucky)
Key Message: Region 4 anticipates moving forward with the SD-1 compliance schedule extension for the consent decree. We are working closely with the Department of Justice to identify an appropriate date with meaningful milestones for the system to come into compliance. The region plans to schedule a briefing with AA Susan Bodine on next steps.

Upcoming Major Decisions and Events:

Decisions
February 28, 2018 – Regional Administrator Trey Glenn will brief the Administrator on the Non-Time Critical Removal Action for the Mississippi Phosphates Superfund site in Pascagoula, MS.

Events
None

Region 5

Hot Topics:

Lake Erie Domestic Action Plans for Phosphorus Reductions Expected to be Released February 28
Key Message: The United States and Canada will release domestic action plans for reducing phosphorus loadings to Lake Erie to meet the binational targets established in 2016.

To combat the growing threat of toxic and nuisance algal blooms in Lake Erie, the United States and Canada committed to develop domestic action plans by 2018. The plans describe the specific measures each jurisdiction and its partners will implement to achieve 2016 phosphorus reduction targets and ultimately, curb the growth of excess algae that threaten the ecosystem and human health.

Lake Huron Lakewide Action and Management Plan (LAMP) to be Released in Coming Weeks
Key Message: A binational effort to restore and protect Lake Huron, the LAMP provides an assessment of the ecosystem, identifies environmental threats, sets priorities for research and monitoring and outlines further action by governments and the public.

The LAMP was developed by members of the Lake Huron Partnership, a collaborative team of natural resource managers led by the governments of the United States and Canada, in consultation with state and provincial governments, tribal governments, First Nations, Métis, municipal governments and watershed management agencies. Over the next five years, the Partnership will work closely with the public and other groups to address these environmental threats.

Upcoming Major Decisions and Events:

RA Stepp to Tour Northwest Indiana Sites on February 28
Key Message: RA Stepp plans to visit the USS Lead Superfund Site in East Chicago and other Region 5 project sites in Gary and along the Indiana Dunes National Lakeshore. Scheduling is underway for meetings with key local leaders and congressional staff.

RA Stepp will be accompanied by Chief of Staff Kurt Thiede and staff.

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Region 6

Hot Topics:

Lindon Manufacturing and Laboratory, Houston, Texas
On February 16, 2018, Lindon Manufacturing provided documentation on the removal and disposal of incompatible waste chemicals the company was storing. EPA's order required Lindon to provide documentation on the chemical removal/disposal within 15 days. The Region is reviewing the documents Lindon provided to determine if the RCRA 7003 order can be closed.

San Mateo Creek Basin Superfund Site, New Mexico
On February 27, 2018, EPA will begin formal consultation with the Governors of the Pueblos of Acoma and Laguna regarding the potential proposal of the San Mateo Creek Basin to the National Priorities List (NPL). Both Pueblos are located within the Grants Mining District down gradient of the San Mateo Basin. EPA completed consultation with Navajo Nation last week. San Mateo is prepared for proposal to the NPL in May 2018.

Louisiana Requests One Year Extension to Ozone Designation
On February 20, 2018, LDEQ requested up to a one-year extension of the deadline for making the ozone designation for the Baton Rouge area. National ozone designations are currently scheduled for April 30, 2018. LDEQ is asking for additional time for EPA to consider an exceptional event that occurred in September 2017 as part of the designation. The State expects to complete its technical review by the end of February and must provide a 30-day comment period.

Upcoming Major Decisions and Events:

St Bernard Parish, Louisiana
State of Louisiana provided both the modified order and new modeling for sulfur dioxide in St. Bernard Parish. EPA intends to propose approval of the attainment demonstration state implementation plan for sulfur dioxide to prevent highway fund sanctions and Federal Implementation Plan from taking place in mid-April 2018.

February 27	National Oil & Gas Roundtable, Denver, CO
March 1	RA Idsal speaks at Louisiana Mid-Continent Oil and Gas Association, New Orleans, LA
March 2	Environmental Bar Law Section, Austin, Texas

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Region 7

Hot Topics:

West Lake Landfill Site Update (Bridgeton, MO)
Key Message:

- On February 22, Region 7 will host a call with the Technical Community Advisory Group (TCAG) to clarify technical aspects of the Proposed Plan as they prepare to formulate comments ahead of the March 6 public meeting. Although originally planned as an in-person meeting, adverse weather and road conditions has resulted in the meeting being held via conference call. U.S. Army Corps of Engineers and Missouri Department of Natural Resources representatives will also be participating in the discussion with the TCAG.
- Similar to the TCAG, the Potentially Responsible Parties (PRPs) requested to meet with EPA regarding the Proposed Plan. The meeting is scheduled for February 27 and the PRPs have committed to sending their questions on the Proposed Plan in advance.
- Earlier this week, the region learned of a new putative class action petition filed on behalf of an Earth City business owner against Bridgeton Landfill, Republic Services, Allied Services and Rock Road Industries. The petition alleges that radioactive material similar to that found at West Lake Landfill has been discovered at surrounding properties. The region is assessing what actions need to be taken on behalf of the agency in this matter. The agency is not mentioned as a party to the petition.

Coldwater Creek & St. Louis Airport Public Meeting on February 22 (St. Louis, MO)
Key Message:

- A public meeting will be held February 22 regarding the St. Louis Airport site, with a focus on the Coldwater Creek area of the site. The St. Louis Airport site is a radiation waste site with USACE serving as the lead agency under FUSRAP. These meetings are held periodically to keep the community informed and engaged. The USACE leads the meeting, with EPA providing support as needed.
- During the meeting, USACE will provide a progress of accomplishments, current status, and any issues. After the presentation, the meeting is open for community questions and comments. Anticipated participants at the February 22 meeting include EPA, MDNR, ATSDR, health department and other groups who may be interested in this project. Normally attendance is around 150 people, however, with additional community awareness in recent weeks attendance may significantly increase.

Upcoming Major Decisions and Events:

Meeting with Senior Officials from Dico, Inc.
Key Message: On Thursday, March 1, 2018, senior officials from Dico will travel to EPA Region 7 to meet with Regional Administrator Jim Gulliford and Senior Advisor to the Administrator, Albert Kelly. Progress forward on site cleanup will be discussed.

Region 8

Hot Topics:

Cross-Agency Uinta Basin Aerial Infra-Red (IR) Camera Survey Project - Projected start on 2/26/18. A cross-agency team of BLM, Utah Division of Air Quality, Ute Tribe Air Program and EPA R8 has been working together to define, fund and implement a project to survey a large area of the Uinta Basin (UB) to learn about the prevalence and attributes of unintentional emissions from oil & gas well-pads. The projected start date for the helicopter flyover is 2/26/28 and will take about three weeks.

- BLM provided $90k, UDAQ $30k and EPA $25k for a total of $145k for Utah State University (USU) to manage the project and funding for helicopter flyovers.
- The Ute Tribe Business Committee recently passed a Tribal Resolution approving this project.
- USU led an informational meeting to operators in Vernal and by webinar on 2/14/18. BLM provided introductory remarks on the importance of this research and USU presented the project approach, the role operators will play, and addressed questions.
- Western Energy Alliance sent a letter on 2/21/18 asking about flight logistics and the blinding of information collected to strip out identifying information. The steering committee (BLM, UDAQ, Ute Tribe and EPA) is currently discussing the response to the WEA letter.

Region 8 will direct Mann Oil Company, LLC, to apply for an Underground Injection Well Permit from EPA. The well is located within the exterior boundaries of the Fort Berthold Indian Reservation (FBIR) in North Dakota. The company previously held a UIC permit from the North Dakota Industrial Commission (NDIC). NDIC notified EPA of the well, no longer being permitted by NDIC, in recognition that EPA directly implements the UIC Class II program on FBIR. EPA has consulted with the Tribe on this issue.

Upcoming Major Decisions and Events:

Oil and Natural Gas Roundtable – We will be hosting the national Oil and Natural Gas Roundtable Meeting on February 27 and 28 in Region 8's Denver office. Seventy-five participants, primarily from industry and also states, tribes and non-governmental organizations are expected to attend. ECOS and IOGCC are co-sponsors of this meeting. Region 8 is coordinating with OCIR on meeting logistics, including planning for the possibility of protesters and press outside the event.

Region 8 (R8) and Montana Department of Environmental Quality (MT DEQ) release "Smith River Algae App" R8 and MT DEQ co-developed and released the beta version of a phone app that allows citizen scientists to take photos of algae while floating the Smith River, MT. The app is now available on Google Play and Apple App stores for beta testing.

- EPA and DEQ have received numerous reports of nuisance algae growth in the Smith River over the past several years and have been unable to follow up due to the isolated nature of the river.
- The information will allow MT DEQ to identify the areas on the river which are experiencing algal blooms and pinpoint potential causes.
- The app targets people who are awarded 2018 float permits for the Smith River.
- The app was developed with funding from ORD for citizen science projects.

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Region 9

Hot Topics:

None.

Upcoming Major Decisions and Events:

CPP listening session: we are well-prepared for the February 28 Clean Power Plan listening session, to be held in the San Francisco Main Public Library. Just prior to closing registration midweek, we had 265 speakers registered. We have the capacity to accommodate up to 320 speakers, and 1,015 persons in the two rooms for our concurrent sessions, which will be live-streamed/closed captioned, and available for simultaneous Spanish translation. We've been working closely with OCIR, OAR, and OPA, and look forward to hosting our HQ colleagues here next week.

UIC Public Hearing: on February 27, we'll hold a public hearing in Arizona seeking public comment on our proposed issuance of a Class III UIC permit and SDWA aquifer exemption for Excelsior Mining. The applicant proposes to construct and operate an in-situ copper recovery facility near Willcox, Arizona.

CAA New Source Review: on February 20, I signed a Federal Register notice proposing approval of revisions to the San Francisco Bay Area's New Source Review permitting program. This action corrects deficiencies we had previously identified, and proposes to approve a demonstration that sulfur dioxide is not a significant PM2.5 precursor in the Bay Area. Upon publication, the offset ratio sanction that would begin February 28 will be stayed.

Palmdale Energy Project: we'll issue a final CAA Prevention of Significant Deterioration permit for this 645 MW natural gas-fired, combined cycle power plant in Palmdale (inland So. California).

Navajo Nation: we presented to the Navajo Uranium Remediation Advisory Commission a summary of EPA's work to investigate and clean up uranium mine sites and dispose of contaminated tailings, as the Commission toured the western region of the Navajo Nation this week.

CERCLA Remedy: we signed the Record of Decision for an operable unit at Camp Pendleton, the vast Marine Corps base on the So. California coast. This $13 million remedy addresses TCE-contaminated groundwater through treatment, bioremediation and land-use controls.

Hawaii: we approved Hawaii's CWA Sec. 303(d) impaired waters list, which adds 104 new pollutant waterbody combinations and deletes 23. Turbidity and bacteria are the principal impairments associated with marine and inland surface waters.

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Region 10

Hot Topics:

Umatilla Army Depot Property Transfer Update for Representative Walden (Oregon)
Region 10 met with Rep. Walden's staff regarding concerns about delays in transferring Umatilla Army Depot property to the Columbia Development Authority (CDA). RA Hladick also spoke directly with Rep. Walden. Rep. Walden then met with stakeholders on Feb. 21. An article in the East Oregonian indicated that EPA was responsible for delays in finalizing property transfer. The article included many factual errors. EPA explained to Rep. Walden's staff that it has been working closely with Oregon DEQ (the lead agency for the RCRA work at Umatilla); that EPA supports the property transfer; and that the main task remaining is to ensure that enforceable land use controls are in place to protect the public and users of the property from exposure to any remaining contamination. EPA is not requiring a RCRA permit for the transferred property. The existing RCRA permit will be modified to remove the CDA-transferred property from the permit once there is an enforceable mechanism in place to maintain institutional controls on portions of the property which remain contaminated. EPA does not expect any major changes or delays. After conferring with Oregon DEQ and the Army, EPA will follow up with the Congressman's office.

Upcoming Major Decisions and Events:

Seattle Industrial Lead Paint Release
On February 14, Region 10's Emergency Response Program received a referral regarding a potential release of lead-based paint from the KIRO News telecommunications tower in a densely populated neighborhood in Seattle, WA. Complaints received from neighbors near the tower reported a significant amount of paint removal debris being deposited on private property, sidewalks, and streets. EPA completed a survey of the impacted area, which appears to be contained to a roughly one square block radius. Response contractors for the potential responsible party worked to cleanup fallen paint from the street and affected storm drains. A work plan is being developed by the PRP to further assess and cleanup debris from private properties. A public meeting to inform affected parties took place on February 20 with roughly 30 people attending.

Air Quality Education and Outreach
On March 8, 2018, Region 10 and the Washington State Asthma Coalition will be cohosting the "It's In the Air" Meeting at Region 10's Seattle office. Attendees include Air Quality professionals; Asthma Practitioners; State, Federal and Community Based Partners; School Health professionals; Public and Private Health providers; Tribal members and Children's Health advocates. The event includes opportunities to share science and collaborate on strategies to address asthma and air quality issues.

NPDES Permit Actions in Idaho
Region 10 intends to issue a final NPDES permit to the City of Franklin, Idaho, Waste Water Treatment Plant (WWTP), during the week of March 5th. The facility is located in Southeast Idaho. The permit includes limits for nutrients and TSS consistent with the waste load allocations from the Bear River/Malad River TMDL issued by the State of Idaho. The Region also plans to issue a draft NPDES permit for the City of Elk River, Idaho, WWTP. This will initiate a 30-day public comment period. Both permit actions will contribute towards reducing the permit backlog prior to the planned July transfer of the program to the state.

Gaps Analysis Regarding Transboundary Mining
Region 10 is working with the Department of State and the Department of Interior on an analysis of gaps in the existing processes and forums for managing transboundary mining impacts, in preparation for further discussion of this issue with Canada during the April bi-lateral meeting with Global Affairs Canada and Environment and Climate Change Canada. Pertinent information will be used by Dept. of State to communicate to Global Affairs Canada the preliminary findings on gaps for discussion in April.

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Office of Administration and Resources Management

Hot Topics:

Presidential Rank Award Nominations
The U.S. Office of Personnel Management has issued a call for agency nominations for the FY 2018 Presidential Rank Award Program. Each year, an elite group of career members of the senior executive service, senior level, and scientific and professional corps receive the prestigious PRA. These individuals are demonstrated leaders, professionals and scientists who achieve note-worthy results and consistently demonstrate strength, integrity, passion and a relentless commitment to excellence in public service.

There are two categories of rank awards available: Distinguished Rank - to leaders who achieve sustained extraordinary accomplishment, and Meritorious Rank - to leaders who have sustained accomplishment. Award recipients are chosen through a rigorous selection process; including nomination by their agency head; board evaluation and before the final approval by the President. The EPA must submit their nominations by March 30, 2018 to OPM.

Suspension and Debarment
On February 8, 2018, the EPA Suspension and Debarment Official (SDO) terminated the suspensions (imposed on August 15, 2017) against Plains All American Pipeline (PAAP) and its affiliates. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Upcoming Major Decisions & Events:

None

Office of Air and Radiation

Hot Topics:

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Ex. 5 Deliberative Process (DP)

- **OAR actions under review at OMB:**
  - Final Guidance on Significant Impact Levels for Ozone and Fine Particles in the Prevention of Significant Deterioration Permitting Program (SAN#5884)

Upcoming Major Decisions and Events:

Repeal of the Clean Power Plan (CPP): The second of the three listening sessions is February 28 in San Francisco (final one is March 27 in Gillette, Wyoming). The comment period closes April 26.

Oil and Gas Roundtable: Clint will be attending the Oil and Gas Roundtable in Denver on February 27 and 28.

State Implementation Plan (SIP) Training: OAR's Office of Air Quality Planning and Standards (OAQPS) will be hosting a SIP development training workshop for regional staff February 26-28 (rescheduled from January).

Office of Chemical Safety and Pollution Prevention

IMPORTANT DEADLINES

Row	Determination Type	Pending on 2/20/2018	Determinations Completed[1] as 2/20/2018	Determinations Posted on the Website as of 2/20/2018[6]
1	# of "not likely" determinations	**1**	**116[4]**	**116[4]**
2	# of §5(e) Orders signed by both EPA and the submitter	-	**327**	**325**
3	# of §5(e) Orders signed by EPA and awaiting submitter signature	**45**	-	-
4	# of non-Order SNURs/"not likely" determinations	**0**	**0**	**0**
5	# of cases in post-FOCUS final determination development[5]	**343[3, 5]**	-	-
6	# of cases flagged for in-depth review	**42**	-	-
7	# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	**12**	-	-
8	# of LVE/LOREX exemption grants	-	**534**	**534**
9	# of LVE/LOREX exemption denials	-	**120**	**120**
10	**Total number of cases**	**443**	**1097**	-
11	Normal active workload for the New Chemicals Program	300	-	-
12	Number of cases undergoing testing or data development by submitter	74[3]	-	-
13	**Backlog[2]**	69	-	-

[1]"Determinations Completed" means that EPA has completed its reviews on these cases and that final determinations have been made by EPA under TSCA section 5(a)(3).
[2] (Total number of cases) – (Normal active workload for the New Chemicals Program) - (Number of cases undergoing testing or data development) = Backlog
[3] Of these cases, approximately 73 are "active" lung toxicity cases that are suspended while submitters either conduct or are deciding whether to conduct testing to develop data on pchem properties, exposures and toxicity.
[4] "Not Likely" determinations are not posted until the final signed determination document is prepared and has been shared with submitter.
[5] These cases are those for which Post-FOCUS work is underway to develop: not likely determinations; non-Order SNURS coupled with not likely determinations; or section 5(e) or 5(f) Orders. When the OPPT Office Director decides which of these regulatory paths to follow, the case is moved to: Row 3 when the section 5(e) or 5(f) Order is sent to the submitter for signature; Row 4 when the SNUR is published and the not likely determination document is signed; and Row 1 when the determination document is sent to the OPPT OD for signature.
[6] These are all only final determinations posted on the web: grants and denials

Hot Topics:

Fees Rule. On February 26th, EPA announced that it is proposing a rule to require certain fees to defray 25% of the costs of administering certain sections of the Toxic Substances Control Act (TSCA). The rule, if finalized, will secure sustainable funding to defray costs of implementation of new responsibilities under the amended law and to review chemicals for safety with the highest scientific standards. Under the proposed rule, affected

businesses would begin incurring fees on October 1, 2018. The fees rule is the final of four framework rules under amended TSCA.

Upcoming Major Decisions and Events:

World Trade Organization's International Government-Industry on Maximum Residue Levels – Office of Pesticide Program Director, Rick Keigwin will participate in the World Trade Organization's International Government-Industry discussion on the trade implications of missing pesticide maximum residue limits (MRLs), February 26-27, in Geneva, Switzerland.

Association of American Pesticide Control Officials 2018 Spring Meeting – Rick Keigwin and several staff will present at the Association of American Pesticide Control Officials Spring Meeting, March 5-7. Topics that will be presented include: Pollinators, Dicamba, Registration Review Update, PRIA, Biotechnology, Worker Protection and Certification of Pesticide Applicators Rule, EPA's biological evaluations and receipt of NMFS' Biological Opinion.

Global Chemical Regulations Conference (GlobalChem) - Office of Pollution Prevention and Toxics Director, Jeff Morris, and members of his staff will present at the GlobalChem Conference and Exhibition, occurring February 28 - March 2. Jeff will present on OPPT's 2018 priorities and lessons learned from the first year and a half of amended TSCA implementation. Other OPPT staff will be speaking to other TSCA implementation issues, including new chemicals and the "framework rules." The meeting will be held in Washington DC

Office of the Chief Financial Officer

Hot Topics:

- Expect to receive NPMs final draft FY 2018-2019 Agency Priority Goals (APG) Action Plans including Q1 results, that address OMB comments and reflect NPR policy review and concurrence. Will complete policy review next week and make any changes working with NPMs to meet 3/2 OMB deadline.
- OCFO continues to assist the press office in answering media inquiries about the FY 2019 President's Budget and brief internal and external stakeholders on the EPA budget request. OCFO will be participating with the NPMs on a Budget Symposium for the Congressional authorizing committee staffers, scheduled for Friday February 23. OCFO will provide a briefing on the FY 2019 Budget and answer questions.
- OCFO is coordinating with OMB and program offices to clear the Computational Toxicology (CompTox) Report to Congress, which describes EPA's pesticides and research programs' collaboration on evaluating and demonstrating CompTox tools and models.

Upcoming Major Decisions and Events:

None.

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Office of Congressional and Intergovernmental Relations

Hot Topics:

Feb 28- Hearing on: America's Water Resource Infrastructure: Projects and Policies, House T&I Cmte, Witness: TBD (no EPA witness)

Upcoming Major Decisions and Events:

- **February 23** - FY'19 EPA's Budget Symposium @ Capitol Visitor Center-10am
- **February 25** - EPA and Administrator Pruitt will host the Western Governors' Association for a breakfast.
- **February 27** – EPA to meet with West Valley Water District to discuss Agency's grant opportunities for bioremediation, ion exchange wellhead treatment and green living/environmental justice projects
- **February 28** – OAR will have a call with Sen. Cassidy's staff to discuss gas emissions standards for power plants
- **March 1** – EPA to meet with Mayor Richard Bailey and Council member Whitney Benzian to discuss Tijuana River sewage issues
- **March 2-** EPA HQ and Region 9 to meet wih Arizona Officials to discuss uranium mining issues
- **March 5-** EPA to meet with Laredo, TX (per Rep. Cuellar) to discuss funding support and partnership opportunities under the Brownfields Program
- **March 5-** EPA HQ and R9 will meet with Morro Bay, CA officials regarding the City's Water Reclamation Facility project (conference call)
- **March 6** – EPA's OBLR/R10 will meet with Marion County, OR commissioner re: Brownfields grant (conference call)
- **March 7-** EPA to meet with Hi-Desert Water District Official re: WIFIA
- **March 10-11** – EPA hosting State Fly-In seeking input of policy, programmatic and technical delegations from states (AZ, MD, FL, NE, OR, PA, WY, AK)

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Office of Enforcement and Compliance Assurance

Hot Topics:

California Resident Convicted for Illegally Dumping in Wetlands and Other Protected Waters: On February 21, 2018, a federal jury in the Northern District of California found James Lucero guilty on two counts of the unpermitted filling of wetlands and one count of the unpermitted discharge of fill material to a tributary. Lucero, a self-described "dirt broker," orchestrated the illegal discharge of pollutants into waters of the United States adjacent to Mowry Slough, near the Don Edwards San Francisco Bay National Wildlife Refuge located in Newark, California. The defendant caused a minimum of 1000 industrial-sized truckloads of construction debris and fill material to be dumped on private property containing federally-protected wetlands and other waters of the United States. He did so without obtaining permission of the landowner and without applying for or obtaining a permit from the U.S. Army Corps of Engineers or the Environmental Protection Agency.

ECOS Monthly All-Member Call: On February 22, 2018, OECA AA Susan Bodine discussed OECA priorities, the interim guidance on state/regional planning, and other matters with ECOS members.

Discussion with DOD on Superfund Task Force: OECA's Federal Facilities Enforcement Office held a call with representatives from DOD and the Army this week to discuss Superfund Task Force Recommendation 30 and examples of sites with third-party cleanup in order to develop a model FFA amendment to place Federal Facility agreements on hold to allow for third-party cleanup of sites.

Working Agreement on NEPA Review and Permitting for Major Infrastructure Projects: OECA's Office of Federal Activities and OW, along with Coast Guard, Army Crops, Fish and Wildlife, NOAA, and Federal Highways, signed a working agreement to coordinate and improve planning, project development, NEPA review, and permitting for major infrastructure projects requiring the preparation of an EIS in order to achieve the goals set forth in Executive Order 13807.

Upcoming Major Decisions and Events:

Oil and Natural Gas Roundtable: On February 27-28, 2018, EPA, ECOS, and the Interstate Oil and Gas Compact Commission are cosponsoring an oil and natural gas roundtable in Denver, Colorado.

Promoting EPA's Drinking Water Compliance Resource System Pilot with ASDWA Members: During the upcoming Association of State Drinking Water Administrators meeting, OECA's Office of Compliance will promote innovative efforts to improve drinking water compliance, especially for smaller systems that have long term problems. These efforts include a Drinking Water Compliance Resource Center pilot and improvements to the EPA drinking water data system. OECA will be participating with OW in the general EPA Roundtable.

Discharge Monitoring Report-Quality Assurance Study: Since 1980, OECA's Office of Compliance sends an annual request for information to NPDES permit holders asking them to test a blind sample. The results are used to confirm that the laboratories used by the facilities are submitting reliable DMR information to EPA. Results are sent to state coordinators for the NPDES program and are not made public by EPA. Participation in the study helps regulated entities stay in compliance, which in turn helps protect water quality. OECA expects to be ready to mail the study early next week.

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Office of Environmental Information

Hot Topics:

MyProperty Release

- Brief description: On Feb. 28 OEI will release a tool, called MyProperty, that allows the public to search the Facility Registry Service (FRS) for information pertaining to a specified address. The MyProperty tool is an alternative to filing a Freedom of Information Act (FOIA) request. MyProperty, which has been incorporated into to the suite of Envirofacts web accessible tools, takes information from the FRS database and presents it in a format that can be readily used by the general public.
    - Citizens can look up their addresses, the addresses of properties they are interested in purchasing, or the addresses of family and friends.
    - The results of a MyProperty search will be comparable to the information a user would receive by filing a FOIA request with EPA for these records.
    - If no information is found for a specified address, the tool will provide a "No Records" certificate that is usually accepted for due-diligence searches in real estate transactions.
- Who benefits or cares: Real estate agents, mortgage banks, engineering and environmental consulting firms, the public, and EPA.
- Why this is important: EPA receives 11,000 – 12,000 FOIA requests per year, and MyProperty could address up to an estimated 40 percent of these requests, which will save time for both the public and the Agency.
- Additional information:
    - The Office of Environmental Information manages MyProperty.
    - For more information, contact Larry Gottesman (gottesman.larry@epa.gov) or Bill Muldrow (muldrow.bill@epa.gov).

Upcoming Major Decisions and Events:

None to report

Office of General Counsel

Hot Topics:

- *South Coast Air Mgmt. Quality Dist. v. EPA*, No. 15-1115 (D.C. Cir.). New development: On Feb. 16, the D.C. Circuit largely upheld EPA's regulatory approach for implementing the 2008 ozone standard, specifically in the areas of reasonable further progress, reasonably available control technology, and maintenance plans. The court ruled against EPA on a number of specific issues related to EPA's regulatory approach for revocation of the 1997 standard, although it affirmed EPA's general authority to revoke past ozone standards. Notably, the court held that area reclassifications and transportation conformity determinations must continue for revoked standards.

- *American Oversight v. EPA,* No. 18-cv-364 (D.D.C.). New development: On Feb. 16, 2018, Plaintiff filed a FOIA lawsuit challenging EPA's determination that three FOIA requests were improper, alleging EPA has a pattern and practice of denying FOIA requests that identify custodians and date ranges on the grounds that those requests do not provide keywords, search terms, or particular subject matter.

- *Gulf Restoration Network v. EPA,* No. 2:18-cv-01632-MVL-MBN (E.D. La.). New development: On Feb. 16, 2018, Plaintiffs filed a complaint challenging Region 6's approval of Louisiana's revision of its water quality criteria for dissolved oxygen for certain waters. The complaint alleges that EPA's approval of Louisiana's less stringent dissolved oxygen criteria was arbitrary and capricious and not in accordance with law. Plaintiffs ask the court to vacate EPA's approval.

- *Sierra Club v. Pruitt,* No. C 17-06293 JSW (N.D. Cal.). Plaintiffs challenged EPA's compliance extensions for EPA's rule establishing standards for emissions of formaldehyde from composite wood products under TSCA Title VI, arguing the statute creates a mandatory 180-day compliance deadline. New development: On Feb. 16, 2018, the court vacated the rule, concluding that EPA exceeded its statutory authority and ordering the parties to provide the court with a joint proposed submission or simultaneous briefing to address the timing of lifting the stay.

Upcoming Major Decisions and Events:

3/5 Oral Argument in *U.S. v. Luminant*, (5th Cir.), an enforcement case alleging two power plants in Texas violated Clean Air Act requirements by making major modifications without obtaining required air permits and complying with pollution control requirements.

Office of International and Tribal Affairs

Hot Topics:

Mexican Ambassador Meeting: The Administrator had a productive meeting with the Mexican Ambassador to the U.S., which included discussion of the Tijuana spill, North American Development Bank (NADB) and Border Environmental Infrastructure Fund (BEIF) financing, NAFTA and CEC.

Upcoming Events and Decisions:

Commission for Environmental Cooperation (CEC) Call: The U.S., Canada and Mexico will have a call on February 27 to discuss the proposed 2018 budget for CEC projects and operation. Under the President's FY2018 budget, EPA funding for the CEC was significantly reduced.

G7 Environment Ministerial Preparatory Meeting: OITA and AO will attend a preparatory G7 Environment Minister meeting on March 1-2 in Ottawa. The purpose of the meeting is to discuss the proposed agenda and deliverables for the G7 Environment Ministers meeting which will be hosted in Canada later this year.

Office of Land and Emergency Management

Hot Topics:

1. **New Deputy Assistant Administrator (DAA).** On February 20 we welcomed Steven Cook as DAA.

2. **Emergency Responses to Hurricanes and Wildfires.**

3. **Coal Combustion Residuals (CCR).**
   a. **State permit programs.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)

   b. **Remand rule.** It is with OMB for review.

4. **Clean Air Act 112(r) Risk Management Program (RMP).**

5. **Ongoing major Superfund NPL sites (including East Chicago, West Lake, Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates, Oak Ridge).**

6. **CERCLA 108(b) Financial Assurance.**
   a. **Hard Rock Mining.** On February 21, the final rule was published in the Federal Register.
   b. **Other Three Sectors.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)

7. **CERCLA-EPCRA AFO-CAFO Rule**. We are working on a proposed rule package to be ready for OMB review by March 1, addressing a Reportable Quantity adjustment of Ammonia and Hydrogen Sulfide for Air Releases at Farms. We are working closing with OGC, OP, OECA, OCIR, OPA, and the AO on this work.

8. **Aerosol Cans Rule.** Ex. 5 Deliberative Process (DP)

Upcoming Major Decisions and Events:

1. **LEAN Kaizen Events.** We are preparing for our first two LEAN Kaizen events (Superfund sites Ready for Anticipated Use, Brownfields Ready for Anticipated Use).

2. **Underground Storage Tank (UST) Meeting.** On February 27, the EPA regional UST program managers will meet in Washington, D.C.

3. **e-Manifest.** On February 28, there will be a General e-Manifest Webinar to provide the latest e-Manifest updates in preparation for the June 2018 launch of e-Manifest.

4. **Emergency Response: Headquarters Senior Leader On-Boarding**. We will host two briefings (March 7, 5-6 pm, and March 21, 5–6 pm, in the Emergency Operations Center), to orient new senior leaders on their emergency response roles in a national incident.

Office of Policy

Upcoming Major Decisions and Events:

Oil and Gas Stakeholder Meeting: Next week, the Smart Sectors team is co-sponsoring an oil and gas roundtable meeting with industry representatives, state regulators, and NGOs in Denver, CO, with OCIR, EPA Region 8, ECOS, and the Interstate Oil and Gas Compact Commission (IOGCC). The meeting will allow stakeholders to share their expertise and experiences to develop solutions to various regulatory, permitting, and compliance barriers, with the goal of achieving better environmental compliance. This event was originally scheduled for January 23-24 but was rescheduled due to the government shutdown.

Food Waste Learning Opportunity: Next week, Smart Sectors staff will meet with a start-up food distribution company, Food Maven, in Colorado Springs, CO, which offers an innovative approach to addressing food waste. The meeting will include a tour to learn how the company is capturing lost food from the grocery industry and selling it to institutional kitchens, such as restaurants and schools. This event was originally scheduled for January 24 but was rescheduled due to the government shutdown.

Number of Actions to OFR this Year:

- Signed by Regions:
  - Notices: 7
  - Proposed Rules: 27
  - Direct Final Rules: 2
  - Withdrawal of Proposed Rule: 1
  - Withdrawal of Direct Final: 3
  - Final Rules: 25
- Signed by HQ:
  - Notices: 54
  - Proposed Rules: 8
  - Final Rules: 24

Number of Actions to OFR this Week (Feb 16 – Feb 22):

- Signed by Regions:
  - Notices: 0
  - Proposed Rules: 1
  - Direct Final Rules: 0
  - Withdrawal of Proposed Rule: 0
  - Withdrawal of Direct Final: 0
  - Final Rules: 2
- Signed by HQ:
  - Notices: 13
  - Proposed Rules: 3
  - Final Rules: 4

Documents Submitted to OFR from February 14-21, 2018

FRL	Title	Date Submitted to OFR
9974-37-OAR	Alternative Method for Calculating Off-cycle Credits under the Light-duty Vehicle Greenhouse Gas Emissions Program: Applications from General Motors and Toyota Motor North America	2/21/2018

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9974-38-OECA	National Environmental Justice Advisory Council; Notification of Request for Nominations to the National Environmental Justice Advisory Council	2/21/2018
9974-39-OLEM	Agency Information Collection Activities; Proposed Collection; Comment Request; Revisions to the RCRA Definition of Solid Waste	2/21/2018
9974-60-OCSPP	Modification of Significant New Use of a Certain Chemical Substance; Extension of Comment Period	2/21/2018
9974-14-OCSPP	Distillates (petroleum), solvent-dewaxed heavy paraffinic; Exemption from the Requirement of a Tolerance	2/20/2018
9972-30-OCSPP	Quizalofop ethyl; Pesticide Tolerances	2/20/2018
9973-05-OEI	NESHAP for Cellulose Products Manufacturing (Renewal)/ICR No.1974.08	2/20/2018
9972-72-OEI	NESHAP for Epoxy Resin and Non-Nylon Polyamide Production (Renewal), EPA ICR No.1681.09	2/20/2018
9974-79-Region 10	Air Plan Approval; OR: Infrastructure Requirements for the 2010 Nitrogen Dioxide, 2010 Sulfur Dioxide, and 2012 Fine Particulate Matter Standards	2/16/2018
9974-80-OAR	Response to June 1, 2016 Clean Air Act Section 126(b) Petition from Connecticut	2/16/2018
9973-50-OW	Proposed Information Collection Request; Comment Request; National Fish Program (formerly referred to as the National Listing of Fish Advisories) (Renewal)	2/16/2018
9972-04-OCSPP	Methyl-alpha-D-mannopyranoside (Alpha Methyl Mannoside); Exemption from the Requirement of a Tolerance	2/16/2018
9973-10-OCSPP	Indaziflam; Pesticide Tolerances for Emergency Exemptions	2/16/2018
9974-68-Region 9	Approval of Arizona Air Plan Revisions, Arizona Department of Environmental Quality	2/15/2018
9974-67-Region 9	Approval of California Air Plan Revisions, Northern Sierra Air Quality Management District	2/15/2018
9974-62-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Maryland; Emissions Statement Requirement for the 2008 Ozone Standard	2/14/2018
9973-41-OW	Clean Water Act Coverage of "Discharges of Pollutants" via a Direct Hydrologic Connection to Surface Water	2/14/2018
9972-24-OCSPP	Quizalofop ethyl; Pesticide Tolerance	2/14/2018

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Office of Research and Development

Next week Richard Yamada and staff from ORD, Region 9, and OAR-OAQPS will meet with representatives from AZ DEQ, Maricopa County, Arizona State University, local stakeholders and potential funders to scope out an air sensors project in Phoenix. The project aims to advance understanding on the quality of data from sensor technologies and how they can be used to address air quality priorities. On March 1, Richard will attend the Health Effects Institute annual sponsors meeting, and I, along with members of the Cross-Agency PFAS Committee, will provide an EPA PFAS Plan briefing to OMB.

Hot Topics:

Contaminated Forests
ORD, OLEM, OAR, and the U.S. Forest Service (USFS), are investigating the potential impacts of a wildfire in a radiologically-contaminated forest or other biomass-laden outdoor areas. This study was inspired by ORD visits to Japan to assist in the efforts to cleanup areas contaminated as a result of the Fukushima Daiichi nuclear power plant accident, approximately half of which is forested areas. Experiments were performed at the USFS Fire Lab in Missoula, MT, using a non-radioactive isotope of cesium, to assess the partitioning of cesium between the ash that remains on the forest floor and the coarse, fine, and ultra-fine particulate matter that gets lofted into the air during a fire. Results from this study will be coupled with hypothetical contamination scenarios based on previous emergency preparedness exercises, and representative biomass loading estimates from the USFS, and then incorporated into air models by OAQPS to help assess potential exposures of the surrounding public and firefighters.

Upcoming Major Decisions and Events:

ECOS-EPA PFAS Call
ORD is coordinating the ECOS-EPA PFAS call, February 26. The purpose of this bimonthly call is for EPA and state partners to share information on PFAS toxicity, methods and treatment work. Agenda topics include ORD's research on human health/toxicity for PFAS, report out on the Federal Information Exchange on PFAS, and fact sheets and training developed by the ITRC PFAS team.

Training Environmental Health Professionals on Air Pollution and Cardiovascular Risk
On February 28, the National Environmental Health Association (NEHA) the national professional society for environmental health practitioners, will offer a webinar on the health impacts of air pollution and provide tools and approaches that members can use to educate the public. ORD, OAR, the Million Hearts Initiative of the Centers for Disease Control and Prevention (CDC) and the Centers for Medicare and Medicaid Services (CMS), will present the webinar to will further the knowledge base of the NEHA's membership related to air pollution and health. They will also share information about sources of information that EPA, CDC, and CMS provide to mitigate cardiovascular risk.

ORD meeting with Texas Commission on Environmental Quality (TCEQ)
On February 28th ORD will hold an initial meeting with TCEQ to discuss approaches to advancing risk assessment and common threads in systematic review science.

PFAS meeting at Calgon Carbon, Pittsburg, PA
On March 1st, ORD will meet with Calgon Carbon, a manufacturer of granular activated carbon (GAC), to discuss PFAS removal and disinfection byproduct reduction capabilities using GAC. Calgon Carbon manufactures GAC systems for municipal drinking water treatment. Calgon will share data on GAC treatment of PFAS in drinking water. These data will be considered for use in EPA's treatability database and cost models for evaluating PFAS treatment options. OW and consultants from ABT Associates will also attend.

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Office of Water

Hot Topics:

Steam Electric FOIA II Litigation: Next week, EPA will release the first set of documents pursuant to the Waterkeeper Alliance II FOIA litigation regarding EPA's reconsideration of the Steam Electric Effluent Limit Guideline Rule. The Agency is under a court deadline of May 31 to produce all responsive records to the requestor for this FOIA, with interim productions required monthly starting on February 28th.

Edwardsport FDF Variance: This week, I concurred with a final decision by Region 5 on the fundamentally different factors (FDF) variance requested by Duke Energy for the Edwardsport Integrated Gasification Combined Cycle facility.

Waters of the U.S.: This week, EPA and Army held two webinars for states and tribes in support of the Step 2 rulemaking to provide further information on considerations for policy direction and supporting analyses, and to prepare for the upcoming in-person meetings in early March. Over one hundred participants logged into each webinar. Regarding the final applicability rule, an additional lawsuit over this rule has been filed in the Southern District of New York by environmental groups, bringing the total number of lawsuits to three. To date, there have been no requests for a preliminary injunction/stay of the rule. DOJ filed motions to transfer these cases to the Southern District of Texas, Galveston, which has one of the cases challenging the 2015 Rule before it.

Louisiana Dissolved Oxygen litigation: February 16, EPA received a new lawsuit from a coalition of environmental groups, represented by Tulane Environmental Law Clinic, alleging that EPA's June 3, 2016 approval of Louisiana's 1) revised dissolved oxygen criteria of 2.3 mg/L for 31 river and stream segments and 2) revised boundaries for 42 waterbody subsegments in the eastern lower Mississippi River Alluvial Plain ecoregion were arbitrary and capricious. EPA's response will be due 60 days from when the parties are served.

Environmental Finance Advisory Board: This week, EPA held EFAB's two-day winter meeting to bring members up-to-date with respect to the Administration's newly released Infrastructure Plan and EPA 2018 priorities and to engage the Board in regard to specific financial questions that the Board will consider and provide written advice. Alex Herrgott briefed the Board on the Administration's Infrastructure Plan, emphasizing the need to re-tool existing programs and develop new funding programs that incentivize (a) best practices over project lifecycles and (b) non-federal revenue commitment to project funding, operations and maintenance.

Upcoming Major Decisions and Events:

American Iron and Steel Energy and Environment Committee: Next week, Lee will present comments on EPA's water priorities for 2018, including the Waters of the U.S. rulemaking effort and the agency's request for comment on hydrologic connection. This meeting is closed to press.

Oil and Natural Gas Roundtable: Next week, Lee will travel to Denver with a number of our EPA colleagues to participate in the Oil and Natural Gas Roundtable.

California Association of Sanitation Agencies (CASA) and Association of California Water Agencies (ACWA) Policy Forum: Next week, OW leadership will participate in discussions regarding Office of Water priorities at both of these meetings. These meetings are closed to the press.

Message

From: Subramanian, Hema [Subramanian.Hema@epa.gov]
Sent: 12/5/2017 4:37:32 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: FW: Weekly Report 12-01-2017
Attachments: Final Weekly Report 12.01.2017_Ag.docx

Attached are ag excerpts from the AO weekly report. Down from 54 pages to 8.

Your call w/PA is in there for R3. Other highlights:

- Deliberative Process / Ex. 5
- 12/4-5 SFIREG Meeting
- CERCLA/EPCRA extension
- Court denied EPA's motion for extension of a December 15, 2017 deadline for notice of proposed rulemaking for new or revised water quality standards for nutrients for Missouri lakes.
- OGC/legal activity re: FIFRA/ESA challenge to pesticide registrations, a challenge to extensions of effective date of the FIFRA Certification of Pesticide Applicators final rule.
- The Administrator met w/Disney re: their goal of reducing food waste by 60%.
- Workshop w/small dairies in Louisiana, using, "the Decision Analysis for a Sustainable Environment, Economy, and Society (DASEES) process and tool to develop alternative approaches for addressing the environmental, social, and economic challenges"faced by the industry and "to help farmers identify innovative and economically-viable solutions for nutrient and sediment runoff control".
- WOTUS:
  - 3 rulemakings underway.
  - Published proposal to add an applicability date to the 2015 Rule (step 0 rule); comment period closes 12/13
  - Reviewing 685,000 comments on the step 1 rule. Docket for pre-proposal recommendations for a new definition of WOTUS closed: > 2,600 unique letters.
  - 12/12 Webinar for states, local gov't, tribes and federal agencies on status update & feedback. Further engagement with co-regulators is planned for the February, March 2018 timeframe.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Carroll, Carly
Sent: Friday, December 01, 2017 11:34 AM
Subject: Weekly Report 12-01-2017

Hello,

Please find the report for the week ending in December 1 attached.

Have a good weekend.

Carly Carroll
Special Assistant to the Acting Deputy Administrator
U.S. Environmental Protection Agency
(202) 564-2769
carroll.carly@epa.gov

Region 3

Past Events:

November 30 Meet-and-Greet Call with Jeff Sands and Cecil Rodrigues
The EPA Administrator's new Senior Advisor on Agricultural Policy, Jeff Sands, asked for Region 3 to set up a "Meet and Greet" call with PA ag leaders. Although his scope is national, Jeff Sands' roots are in PA. Since he often comes up to PA to visit his parents and in-laws in Tunkhannock, PA, he would like to explore opportunities to get out on PA farms with the Regional Administrator to promote "good news stories." Cecil Rodrigues and Kelly Shenk will participate. PA participants will be PA Farm Bureau, PA Department of Agriculture, PA State Conservation Commission, PA Association of Conservation Districts, PA No Till Alliance, Penn State, and NFWF Chesapeake Bay grants coordinator.

November 17 PA Farm Tours & Ag Roundtable in Franklin County
Penn Ag Industries invited EPA to the northern tip of Franklin County, Pennsylvania, to visit Country View Family Farms sow operations. Cecil Rodrigues was joined by Kate McManus, Acting Director of the Water Protection Division, and Kelly Shenk, Ag Advisor for Region 3. PA Agriculture Secretary Russell Redding joined along with colleagues from the PA Farm Bureau, PA State Conservation Commission, and PA Department of Environmental Protection. The two farm tours and Ag Roundtable discussion focused on topics such as protecting animal health through strong biosecurity measures, managing manure storage and application on cropland, meeting consumer needs in a way that is good for the animals, environment, and business sustainability, and farming in a way that supports local communities and the local economy.

Region 8

Hot Issues:

Visits with South Dakota Officials - Nov. 28-29
Key Message: Region 8 Regional Administrator Doug Benevento visited with SD Governor Dennis Daugaard, SD Attorney General Marty Jackley, SD Department of Environment and Natural Resources Director Steve Pirner, and Agriculture Secretary Mike Jaspers earlier this week. While in SD, the RA also met with representatives from the SD Public Utilities Commission, Senator Mike Rounds' office, and representatives from several SD Ag associations.

Last Week Highlights:

Region 8 multi-media site visit to Ute Mountain Ute Reservation in Colorado
Key Message: In response to a request from the Ute Mountain Ute (UMU) Tribe's Environmental Program, EPA staff from RCRA, emergency response, water and oil programs travelled to the UMU reservation to evaluate chronic crude oil leaks and spills, and soil disposal areas in an aging oilfield on the reservation.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

- Members of the UMU Environmental and Minerals/Energy Programs, representatives from the Bureau of Indian Affairs, and the oilfield operators participated in the visit.

Region 10

Last Week Highlights:

Issuance of Leavenworth, Washington National Fish Hatchery NPDES Permit: On November 22, Region 10 issued a final NPDES permit to the Leavenworth National Fish Hatchery. The hatchery, operated by the U.S. Fish and Wildlife Service, discharges wastewater into Icicle Creek in Leavenworth, Washington. Regulatory agencies, including EPA Region 10, involved with authorizing its operations have been subject to lawsuits and public disclosure requests by Wild Fish Conservancy and the Center for Environmental Law Policy since the late 1990s. EPA needed to issue this permit in November in order for it to be in effect by January 1, 2018. Failure by EPA to meet these dates would trigger court-ordered monitoring and other requirements. We expect the permit to be challenged by WFC and CELP after issuance. EPA had been waiting for Ecology to complete its final Clean Water Act Section 401 certification that the federal permit meets the state's water quality standards. The final state certification was delivered to EPA on November 22.

Office of Air and Radiation

Upcoming Decisions:

Ex. 5 Deliberative Process (DP)

Past Week's Highlights:

Actions signed this week:

- Renewable Fuel Volume Standards for 2018 and Biomass-Based Diesel Volume (BBD) for 2019

Office of Chemical Safety and Pollution Prevention

Upcoming Meetings and Public Events:

SFIREG Full Committee Meeting, December 4-5. OPP's Office Director, Richard Keigwin, and other staff will present at the State FIFRA Issues Research and Evaluation Group (SFIREG) Full Committee Meeting on various pesticide topics. SFIREG working committees provide a platform for the states and EPA to resolve challenges to successful implementation of pesticide programs and policies in the USA and territories. The SFIREG consists of state representatives from the 10 EPA regions who come together biannually to meet with EPA staff. SFIREG's activities are supported by EPA through a grant, which acknowledges the strong co-regulatory relationship required by the states' primacy role in pesticide enforcement and/or certification programs. The SFIREG meeting agenda is available [HYPERLINK "https://aapco.files.wordpress.com/2017/11/full-sfireg-agenda-december-2017_11-3-171.pdf"]. (https://aapco.files.wordpress.com/2017/11/full-sfireg-agenda-december-2017_11-3-171.pdf)

Consumer Specialty Products Association Annual Meeting, December 4-6. Deputy Assistant Administrator Nancy Beck will be virtually presenting on TSCA and PRIA Implementation at the Consumer Specialty Products Association Annual Meeting being held in Ft. Lauderdale, Florida. Additionally, senior management from OPP will be presenting in-person at the meeting. Topics presented will include: updates on projects and priorities; the Antimicrobial Testing Program; PRIA and Registration Review; Data Call-ins; the efficacy questions mailbox; the industry feedback reporting form; and the status of draft documents. An ingredient disclosure session will also be held on December 6th. Meetings with individual companies will also take place during this time.

Last Week Highlights:

FIFRA Scientific Advisory Panel (SAP) Meeting, November 28-29. The topic of the FIFRA SAP meeting was "the Continuing Development of Alternative High-Throughput Screens to Determine

Endocrine Disruption, Focusing on Androgen Receptor, Steroidogenesis, and Thyroid Pathways." The FIFRA SAP is a FACA committee. The SAP commended the scientific rigor and transparency of EPA's presentations and background materials.

Office of Congressional and Intergovernmental Relations

Past Week Accomplishments:

- **Week of November 27** - Follow up call with Senators Schatz/Cardin/EPW staff on Clean Water Rule
- **November 30** – EPA finalized the volume requirements that apply under the Renewable Fuel Standard (RFS) program in calendar year 2018 for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel. EPA also finalized the volume requirement for biomass-**based diesel for 2019.**

Office of Environmental Information

Last Week's Highlight:

EPA Celebrated Geographic Information Systems (GIS) Day

- Brief description: On November 15, multiple regions held activities across the agency in recognition of [HYPERLINK "http://www.gisday.com"]. Some of the activities were:
    - Chesapeake Bay Program participated in a Smart and Spatial Bay: A Conservation GIS Showcase.

Office of General Counsel

New Judicial Decisions:

- The District Court for the Northern District of Texas issued a decision in *Valero Energy Corporation v. EPA* granting EPA's motion to dismiss for lack of subject matter jurisdiction Valero's lawsuit alleging EPA's failure to perform mandatory duties under the Renewable Fuel Standard (RFS) program. District Judge Reed O'Connor held that the court lacked jurisdiction over the suit because the statutory provisions relied upon by Valero did not impose mandatory duties on the agency. The decision also ended an ongoing discovery, freeing EPA from providing discovery responses and producing documents to Valero as early as next week. (*Valero Energy Corporation v. EPA*, No. 7:17-CV-00004)

- The DC Circuit Court of Appeals granted EPA's motion to further stay the mandate to enforce CERCLA/EPCRA reporting requirements for farms until January 22, 2018. Farms with continuous releases do not have to submit their initial continuous release notification until the DC Circuit issues its mandate, enforcing the Court's opinion of April 11, 2017. No reporting is necessary until the mandate is issued, which will not occur before January 22, 2018. (*Waterkeeper v. EPA*, No. 09-1017)
- The District Court for the Western District of Missouri issued an order denying EPA's motion for extension of a December 15, 2017 consent decree deadline for EPA to sign a notice of proposed rulemaking proposing new or revised water quality standards for nutrients for Missouri lakes. The court found that EPA failed to demonstrate a basis warranting a modification of the consent decree. The consent decree deadline for EPA action remains December 15, 2017. (*Missouri Coalition for the Environment Foundation v. Pruitt*, No. 2:16-CV-04069)

Upcoming Major Deadlines in the Next Two Weeks:

12/06 Call with a mediator is scheduled in *Ellis v. Keigwin*, a FIFRA and ESA challenge to clothianidin and thiamethoxam registrations.

12/06 EPA's mediation statement submission due in *City of Bolivar v. EPA*, a challenge to EPA TMDL for nutrients and suspended solids in Piper Creek, Mo. Parties are participating in court-ordered mediation.

12/07 Oral Argument in *Ergon-West Virginia, Inc. v. EPA*, petitions for review of EPA's final action: Denial of Request for Extension of Small Refinery Temporary Exemption Under the Renewable Fuel Standards Program for Ergon-West Virginia, Inc.'s Newell, WV Refinery.

12/08 Oral Argument in *Pineros v. Pruitt*, a challenge to extensions of effective date of the FIFRA Certification of Pesticide Applicators final rule, originally published Jan. 4, 2017.

12/15 EPA's Answer or Motion to Dismiss due in *Small Retailers Coalition v. EPA*, litigation alleging the EPA is noncompliant with sections 603 and 604 of the RFA in issuing the 2017 RFS standards, and for failing to annually review the point of obligation of the RFS.

12/15 Answer due in *James River Dischargers Coalition v. EPA*, a challenge to the plaintiff's wasteload allocations under the Chesapeake Bay TMDL.

12/15 Consent Decree deadline to to either propose nutrient water quality criteria for Missouri lakes or approve criteria adopted by Missouri in *Missouri Coalition for the Environment Foundation v. Pruitt*.

Office of International and Tribal Affairs

Past Week Highlights:

Disney Food Waste Event – The Administrator met with senior executives of Disney World to discuss Disney's goal of reducing waste by 60% and to see firsthand their innovative practices to prevent food waste and recover energy from food waste. This visit highlighted the economic and environmental benefits associated with reducing food waste.

- At this year's G7 Environment Ministers Meeting in Italy, food waste was identified as an important component of international resource efficiency efforts.
- EPA's Food Recovery Challenge works with organizations in the U.S. who pledge to improve sustainable management of food practices and report their results.
- OITA/OLEM will work to identify potential opportunities to expand government and private sector cooperation to reduce food waste both domestically and internationally.

Commission for Environmental Cooperation (CEC) - The U.S. (EPA Administrator) is chair of the CEC this year and CEC Council Session 2018 is scheduled for June 26-27 in Oklahoma City. This year's theme is "Innovation and Partnerships for Green Growth" and in lead up to the Council Session, several activities are being planned.

- The CEC approved the North American Partnership for Environmental Community Action (NAPECA) grants which will engage local communities in U.S., Canada and Mexico in innovation and partnerships for green growth.
- The CEC approved the Youth Innovation Challenge to seek proposals from youth on innovation and partnerships for green growth which will be reviewed by a trilateral panel of private sector and academic experts.
- EPA (OITA/OLEM) also held a meeting to discuss how to engage tribal youth in the CEC project on "Measuring and Mitigating Food Loss and Food Waste." A key component of this project is to engage youth, including tribal and indigenous youth, to create awareness and promote action to mitigate food loss and waste in households.

Office of Land and Emergency Management

<u>Last Week Highlights:</u>

Wasted Food. OLEM joined in the Administrator's travel to Orlando regarding food waste approaches and opportunities. In addition, on November 21, EPA HQ and Regions 1, 5, 6, 8 and 9 issued press releases announcing the 2017 Food Recovery Challenge (FRC) Award winners. The national press release highlighted the accomplishments of the 16 national award winners, and included 2016 results of wasted food prevention and diversion activities by the over 950 businesses, governments and organizations participating in the FRC.

Office of Policy

Documents Submitted to OFR from November 21 - 29, 2017

FRL	Title	Date Submitted to OFR
9970-01-OCSPP	Prometryn; Pesticide Tolerances	11/29/2017
9970-05-OCSPP	Quinclorac; Pesticide Tolerances	11/29/2017
9970-76-OCSPP	Receipt of a Pesticide Petition Filed for á-Methyl Mannoside for Residues of Pesticide Chemicals in or on Various Commodities	11/29/2017
9966-69-OCSPP	Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations	11/27/2017
9967-73-OCSPP	Nitrapyrin; Pesticide Tolerances	11/27/2017
9968-95-OCSPP	Boscalid; Pesticide Tolerance	11/27/2017
9969-13-OCSPP	Ethofumesate; Pesticide Tolerances	11/27/2017
9970-38-OCSPP	Ziram; Pesticide Tolerances	11/22/2017

Office of Research and Development

Upcoming Public Events:

National EPA-Tribal Science Council Meeting
On December 4-8, the National EPA-Tribal Science Council's (TSC) meeting will be hosted by the Salt River Pima-Maricopa Indian Community in Phoenix, AZ. Research discussions will focus on EPA's new lead education curriculum, Region 1's RARE project on a fisheries study risk assessment, and trainings on tribal water quality. On December 7, ORD's Fred Hauchman will facilitate a TSC-hosted listening session on tribal science priorities.

Last Week Highlights:

Prescribed Burn Video Footage Supports Smoke Emissions Study
Video footage of the Kansas Field Study conducted Nov. 13 at the Tallgrass Prairie National Preserve in the Flint Hills of Kansas is providing compelling visuals of the emissions research and smoke plumes from a prescribed burn. The footage shows the use of a novel air sampling system developed in the lab and sent aloft in a tethered balloon (aerostat) to take measurements in the smoke plumes. The purpose of this effort is to partner with Region 7 to create a proposed educational video supporting best smoke management practices that protect public health and an endangered ecosystem, while promoting sustainable agriculture. Additionally, the effort is advancing wildland fire science with unique footage of smoke plumes for more accurate modeling while also providing ORD scientists with new resources to engage stakeholders.

Wildland Fire Sensors Challenge
On November 22, the Wildland Fire Sensors Challenge closed. ORD received 27 proposals describing prototypes for wildland fire air quality sensor systems. The written submissions will be evaluated by a

group of experts from EPA and federal agency partners to determine which prototypes will be accepted for testing. Prototypes will be sent to EPA in early January for first round testing, which will be followed by second round testing by US Forest Service in their Montana fire lab. A judging panel is being organized to review the final results of the two-tiered testing.

State Support: Second workshop with State of Louisiana, Franklinton, LA, November 29
As a follow-up to the meeting with state and federal agencies held on September 21 and a workshop conducted on October 24 staff from ORD, Region 6 and Neptune are conducting the second in a series of three workshops with dairy farmers, communities, and interested state and federal agency staff in Region 6 and Louisiana. This workshop will use the Decision Analysis for a Sustainable Environment, Economy, and Society (DASEES) process and tool to develop alternative approaches for addressing the environmental, social, and economic challenges faced by the small dairy industry in Louisiana. The goal of these workshops is to help farmers identify innovative and economically-viable solutions for nutrient and sediment runoff control. In addition to community members and dairy farmers, workshop participants will include staff from the Louisiana Department of Agriculture and Forestry, Louisiana Department of Environmental Quality, Louisiana Department of Health and Hospitals, Louisiana State University, and U.S. Department of Agriculture's Natural Resources Conservation Service.

Office of Water

Hot Issues:

Missouri Nutrient Criteria Rulemaking: This week, the court denied EPA's request for an extension to the existing consent decree. As a result, EPA must propose a rule by December 15, 2017 to address EPA's 2011 disapproval under the CWA of Missouri's Water Quality Standards for nitrogen, phosphorus, and chlorophyll a for Missouri lakes/reservoirs. The rule will be ready for Administrator signature by December 14, 2017.

Waters of the U.S.: The agencies continue to work expeditiously on the three rulemakings underway. The proposal to add an applicability date to the 2015 Rule (step 0 rule) published in the FR on November 22 for a 21-day comment period. The comment period will close on December 13. The interagency team continues to review the 685,000 comments on the step 1 rule. On November 28, the administrative docket for pre-proposal recommendations for a new definition of WOTUS closed. The agencies received over 2,600 unique letters. Finally, the agencies will hold a webinar for states, local gov't, tribes and federal agencies on December 12 to provide an update for our partners on the status of the three rulemakings, the feedback we received through the federalism and tribal consultations and general outreach webinars, and next steps. Further engagement with co-regulators is planned for the February, March 2018 timeframe.

Upcoming Public Events:

Meeting with Region 7 State Directors: Next week, Lee will travel to Region 7 to join the Region 7 leadership in meeting with the state environmental directors. He will speak to OW's priorities. While there he will meet individually with the Directors of the Iowa and Missouri programs.

Message

From: Kaiser, Sven-Erik [Kaiser.Sven-Erik@epa.gov]
Sent: 12/4/2017 4:46:02 PM
To: Palich, Christian [palich.christian@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: FW: Fifth Draft (?): Sen. Udall PRIA Letters
Attachments: Response to Senator Udall Version5.docx

Forwarding the latest draft. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753 (o)
Ex. 6 (c)

From: Beck, Nancy
Sent: Monday, December 04, 2017 11:19 AM
To: Keigwin, Richard <Keigwin.Richard@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>; Dourson, Michael <dourson.michael@epa.gov>
Cc: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Keller, Kaitlin <keller.kaitlin@epa.gov>; Bolen, Derrick <bolen.derrick@epa.gov>; Schaible, Stephen <Schaible.Stephen@epa.gov>; Dyner, Mark <dyner.mark@epa.gov>; Perlis, Robert <Perlis.Robert@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>; Guilaran, Yu-Ting <Guilaran.Yu-Ting@epa.gov>; Lowit, Anna <Lowit.Anna@epa.gov>; Dyner, Mark <dyner.mark@epa.gov>
Subject: Fifth Draft (?): Sen. Udall PRIA Letters

Rick,
Attached is an updated draft Udall response. Some comments remain but I would greatly appreciate further input.
Thanks.
Nancy

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: Ex. 6
beck.nancy@epa.gov

From: Keigwin, Richard
Sent: Wednesday, November 8, 2017 7:50 AM
To: Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>; Dourson, Michael <dourson.michael@epa.gov>
Cc: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Keller, Kaitlin <keller.kaitlin@epa.gov>; Bolen, Derrick <bolen.derrick@epa.gov>; Schaible, Stephen <Schaible.Stephen@epa.gov>; Dyner, Mark <dyner.mark@epa.gov>; Perlis, Robert <Perlis.Robert@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>; Guilaran, Yu-Ting <Guilaran.Yu-Ting@epa.gov>; Lowit, Anna <Lowit.Anna@epa.gov>; Dyner, Mark <dyner.mark@epa.gov>
Subject: Second Draft: Sen. Udall PRIA Letters

Thanks for everyone's comments and feedback. I think this draft addresses the comments provided. If it doesn't, I'm sure you'll let me know – I'd like to blame it on the altitude here in Guanajuato.

From: Keigwin, Richard
Sent: Sunday, November 05, 2017 5:07 PM
To: Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>; Louise Wise (Wise.Louise@epa.gov) <Wise.Louise@epa.gov>; Dourson, Michael <dourson.michael@epa.gov>
Cc: Sven-Erik Kaiser (Kaiser.Sven-Erik@epa.gov) <Kaiser.Sven-Erik@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Keller, Kaitlin <keller.kaitlin@epa.gov>; Bolen, Derrick <bolen.derrick@epa.gov>; Schaible, Stephen <Schaible.Stephen@epa.gov>; Mark Dyner (dyner.mark@epa.gov) <dyner.mark@epa.gov>; Bob Perlis (Perlis.Robert@epa.gov) <Perlis.Robert@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>; Guilaran, Yu-Ting <Guilaran.Yu-Ting@epa.gov>; Anna Lowit (Lowit.Anna@epa.gov) <Lowit.Anna@epa.gov>
Subject: FW: Sen. Udall PRIA Letters

I've taken a stab at developing a response to Senator Udall's October 2017 letter to Senators Roberts and Stabenow, reflecting the discussion Nancy and I had with Jonathan Black last week as well as the input recently received from the PPDC.

All comments are welcome.

From: Kaiser, Sven-Erik
Sent: Tuesday, October 31, 2017 11:55 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>; Dourson, Michael <dourson.michael@epa.gov>; Keller, Kaitlin <keller.kaitlin@epa.gov>; Bolen, Derrick <bolen.derrick@epa.gov>; Keigwin, Richard <Keigwin.Richard@epa.gov>; Schaible, Stephen <Schaible.Stephen@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Sen. Udall PRIA Letters

PRIA Team – following up on this morning's call, attached are the two letters from Sen. Udall and others to Sens. Roberts and Stabenow concerning the PRIA hold. Possible next steps include: Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP) Please let me know if any questions. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

Message

From: Subramanian, Hema [Subramanian.Hema@epa.gov]
Sent: 2/12/2018 5:14:41 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: FW: Weekly Report for 2.9.2018
Attachments: Weekly Report 2-12-2018_ag excerpt.docx

Jeff,

Ag excerpt attached.

Some Highlights:

- R9 finalized the **largest worker-protection-standard settlement nationwide** with Syngenta. In one incident, 10 farmworkers in Kauai were sent to the hospital after entering a field treated with **Chlorpyriphos**. The settlement features a $400,000 SEP, in which Syngenta will provide worker-protection-standard training for small growers in Hawaii, Guam and the Northern Marianas Islands in Mandarin, Korean, Tagalog and Ilocano, and pay an additional $150,000. The case was referred to us by the Hawaii Department of Agriculture.

- R9 lodged a **CAA/CERCLA/EPCRA consent decree to address a fatal ammonia release by Gibson Wine** at its Fresno County (CA) facility. Gibson will pay a $330K penalty and implement many facility safety upgrades to protect their workers and the surrounding community (a mix of industrial, commercial and residential land uses). *[HS note: Unsure, but this may be a growing winery.]*

- 2/12 – OW & OLEM bipartisan budget briefing for House T&I Water Resources and Environment Subcommittee staff

- 2/21 - Minor Crop Farmer Alliance Water Monitoring Workshop

- 2/6 - three complaints were filed challenging **WOTUS** rule adding an applicability date: one in D.S.C., and two in S.D.N.Y. (two brought by ENGOs, another by states). The complaints generally seek vacatur of the rule, claiming that it is arbitrary and capricious, violated notice and comment requirements, and issued the rule in excess of statutory authority.

- **Hydrologic Connection Request for Comment**: OW sending to OP for FR publication a request for input from states and stakeholders on how pollutants that are released into groundwater and flow through a direct hydrologic connection into a jurisdictional surface water should be treated under the CWA.

Hema Subramanian
Acting Special Assistant to the Senior Advisor for Agriculture
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Carroll, Carly
Sent: Friday, February 09, 2018 12:17 PM
Subject: Weekly Report for 2.9.2018

Good afternoon,
Please find the weekly report for the week ending 02.09.18 attached.

Best,

Carly Carroll
Special Assistant to the Acting Deputy Administrator
U.S. Environmental Protection Agency
(202) 564-2769
carroll.carly@epa.gov

Region 1

RA and OW AA Meet with NH Communities to Hear Concerns About Nutrient Pollution and NPDES Permitting

• On February 6th, OW AA Dave Ross and RA Alex Dunn met with Portsmouth, Dover, and Rochester NH to discuss the communities' concerns about the NPDES permit process and potential nitrogen limits. The meeting was very productive. The communities presented their views on the latest scientific data about Great Bay. NHDES Commissioner Bob Scott and staff from the Senate and House delegation were all in attendance. A meeting was also held with representatives of the Conservation Law Foundation to hear their concerns.

Region 5

Hot Topics:

EPA to Issue Order to Medline Industries for Distribution/Sale of Unregistered Pesticide

Key Message: Region 5 has prepared a FIFRA Section 13(a) Stop Sale, Use or Removal Order (SSURO) to be issued to Medline Industries on February 9, for the sale of "Micro-Kill 70 Isopropyl Wipes."

The region has documented approximately 1,290 separate distributions of the product and plans to address these FIFRA violations through a civil penalty action. According to its website, Medline is the largest privately held manufacturer and distributor of medical supplies and is ranked 47th on Forbes 2016 list of largest privately held companies in the U.S.

Region 8

Hot Topics:

Wyoming Environmental Quality Council (EQC) to Consider Provisions Authorizing Variances for Water Quality Standards

At its February 21, 2018 hearing, the EQC will consider adopting variance-authorizing rules for ammonia and nutrient water quality standards. The provisions are generally approvable except for one sentence indicating that individual variances will go into effect "either upon EPA approval or 90 days after submittal, whichever comes first." The "90-day effective date" language is inconsistent with federal regulations.

Upcoming Decisions and Events:

North Dakota Annual Environmental Ag Tour – June 15-29, 2018

As part of an annual ag tour hosted by the North Dakota Grain Growers Association (NDGGA) a 1-day mini-tour is being designed for EPA leaders to participate and experience North Dakota agriculture. At the request of NDGGA the Region 8 Agriculture Advisor will coordinate and develop options for senior leaders interested in participating.

Region 9

Hot Topics:

FIFRA SETTLEMENT: we finalized the largest worker-protection-standard settlement nationwide with Syngenta. In one incident, 10 farmworkers in Kauai were sent to the hospital after entering a field treated with Chlorpyriphos. The settlement features a $400,000 SEP, in which Syngenta will provide worker-protection-standard training for small growers in Hawaii, Guam and the Northern Marianas Islands in Mandarin, Korean, Tagalog and Ilocano, and pay an additional $150,000. The case was referred to us by the Hawaii Department of Agriculture.

AMMONIA: we lodged a CAA/CERCLA/EPCRA consent decree to address a fatal ammonia release by Gibson Wine at its Fresno County (CA) facility. Gibson will pay a $330K penalty and implement many facility safety upgrades to protect their workers and the surrounding community (a mix of industrial, commercial and residential land uses). At the Regional level, we continue to invest in ammonia safety days, and will sponsor a 4-day risk management plan ammonia class for local responders later this year.

Region 10

Region 10 Administrator to Meet with Stakeholders and State Partners in Olympia, WA: On February 15, Region 10's Administrator, Chris Hladick will visit the Washington capital to meet with key stakeholders and partners including Governor Jay Inslee and key policy staff, the Northwest Indian Fisheries Commission, the Directors of the Departments of Ecology and Agriculture and the State Conservation Commission. Chris will also meet with staff in Region 10's Washington Operations Office.

Office of Chemical Safety and Pollution Prevention

Upcoming Major Decisions and Events:
National Agricultural Aviation Association's Spring Board Meeting (NAAA) - Office of Pesticide Program Director, Rick Keigwin, will present at the NAAA meeting on Friday, February 16. Rick will present on OPP's 2018 priorities and issues affecting pesticide aerial applicators. The meeting will be held at the Hilton Alexandria Old Town.

Minor Crop Farmer Alliance Water Monitoring Workshop – On February 21, Office of Pesticide Programs staff, Mark Corbin and Dana Spatz (Environmental Fate and Effects Division), will present at the annual meeting of the Minor Crop Farmer Alliance (MCFA) in Washington, DC. Topics they plan to present on include: Overview of Drinking Water Assessments, Models and Monitoring Data Use in DWA, and Future Developments in the Use of Monitoring Data for Risk Assessments for Pesticides. MCFA members include national, regional, state and local associations representing specialty crop producers. Other meeting attendees may include non-specialty crop organizations, registrants, and USDA.

Office of Congressional and Intergovernmental Relations

Upcoming Major Decisions and Events:
• **February 12** - OW & OLEM bipartisan budget briefing for House Transportation and Infrastructure, Water Resources and Environment Subcommittee staff.

• **February 25** - EPA and Administrator Pruitt will host the Western Governors' Association for a breakfast.

Office of General Counsel

Hot Topics:

• WOTUS. New development: On Feb. 6, 2018, three complaints were filed challenging the Army Corps and EPA's rule adding an applicability date to the 2015 Rule defining WOTUS: one in D.S.C., and two in S.D.N.Y. (two brought by ENGOs, another by states). The complaints generally seek vacatur of the rule, claiming that it is arbitrary and capricious, violated notice and comment requirements, and issued the rule in excess of statutory authority.

Office of Land and Emergency Management

Hot Topics:

6. CERCLA-EPCRA AFO-CAFO Rule Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Office of Policy

Documents Submitted to OFR From January 31 - February 7, 2018

FRL	Title	Date Submitted to OFR
9974-33-OARM	National and Governmental Advisory Committees	2/7/2018
9974-20-OW	Definition of "Waters of the United States" – Addition of Applicability Date to 2015 Clean Water Rule	2/1/2018

Office of Research and Development

Upcoming Major Decisions and Events:

Presentation on stream continuous data quality control to Wisconsin Department of Natural Resources (DNR). On February 14th ORD will demonstrate a web app being developed for performing Quality Control checks on continuous temperature and water level data from stream sensors. Wisconsin D ested in using the web app for their water quality monitoring and citizen science sensor programs.

Office of Water

Hot Topics:

Hydrologic Connection Request for Comment: As early as this week, OW anticipates sending forward to OP for Federal Register publication a request for input from states and stakeholders on how pollutants that are released into groundwater and flow through a direct hydrologic connection into a jurisdictional surface water should be treated under the Clean Water Act. EPA is requesting comments on whether the Agency should consider clarification or revision of previous statements and if so, comments on how that clarification or revision should be provided.

Waters of the U.S.: This week, the final rule adding an applicability date to the 2015 Clean Water Rule was published in the Federal Register, ensuring the 2015 rule will not be implemented before February 6, 2020. Two lawsuits over this rule have been filed in district courts: in Southern District of New York by the States of New York, California, Connecticut, Maryland, Oregon, Rhode Island, Vermont, Washington, Massachusetts, and DC; and in the U.S. District Court for the District of South Carolina in Charleston by the Southern Environmental Law Center on behalf of American Rivers, Clean Water Action, Defenders of Wildlife, Charleston Waterkeeper, Chattahoochee Riverkeeper, Coastal Conservation League, Friends of the Rappahannock, North Carolina Coastal Federation, and North Carolina Wildlife Federation.

Message

From: Bennett, Tate [Bennett.Tate@epa.gov]
Sent: 12/4/2017 3:12:23 PM
To: Nitsch, Chad [Nitsch.Chad@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: RE: Link to EPA pics

I have some funny stories to share about the whole day offline.

From: Nitsch, Chad
Sent: Monday, December 4, 2017 10:08 AM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: RE: Link to EPA pics

Thanks for looping me in Hema. I had a very small breakfast, so the corn picture really caught my eye.

Chad Nitsch
Acting Director of State and Regional Partnerships
Office of Congressional and Intergovernmental Relations
United States Environmental Protection Agency
202-564-4714

From: Subramanian, Hema
Sent: Monday, December 04, 2017 9:45 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Cc: Nitsch, Chad <Nitsch.Chad@epa.gov>
Subject: RE: Link to EPA pics

Yes, it's just a public flickr account (no login). Looping Chad in here.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Bennett, Tate
Sent: Monday, December 04, 2017 9:42 AM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: RE: Link to EPA pics

Has he/can he access them? I'm worried he can't without an EPA account.

From: Subramanian, Hema
Sent: Monday, December 4, 2017 9:11 AM

To: Bennett, Tate <Bennett.Tate@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: FW: Link to EPA pics

Thanks for forwarding the release, Tate. FYI Jeff, Bill Couser also fwded us the link to the full set of photos below.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Bill Couser Ex. 6 - Personal Privacy
Sent: Monday, December 04, 2017 6:33 AM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>; Nagle, Deborah <Nagle.Deborah@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: Fwd: Link to EPA pics

Hey Guys,
All we can say about our day is WOW! What a honor to host him for the day.
I did some bragging about my very good friends and team mates that I have known to Love and trust in his office. I hope all of you know and understand the doors you have helped open across this country that will and have made it so much better. Our team work is starting to pay off!
We still have a lot to do but I have a promise from him that he will continue to support all of you.
Looking forward to the next time we are all together.
Your Friend,
Bill

---------- Forwarded message ----------
From: **Kevin Cooper** <kcooper@nevadacubs.org>
Date: Sun, Dec 3, 2017 at 7:35 PM
Subject: Fwd: Link to EPA pics
To: Bill Couser Ex. 6 - Personal Privacy

---------- Forwarded message ----------
From: **Vance, Eric** <Vance.Eric@epa.gov>
Date: Sun, Dec 3, 2017 at 9:28 AM
Subject: Link to EPA pics
To: "coursercattle@iowatelcom.net" <coursercattle@iowatelcom.net>, "iowariverranch@heartofiowa.net" <iowariverranch@heartofiowa.net>, "kcooper@nevadacubs.org" <kcooper@nevadacubs.org>

Good morning Gents,
Here's the link to the Iowa gallery...

Ex. 6 Personal Privacy (PP)

Bill, sorry I had to rush off before thanking you and Nancy for your warm hospitality. It was a real pleasure meeting you.

David, there are a few pics of you with the Administrator sprinkled through the farm set.

Kind regards,

e

Eric Vance

Chief Photographer, USEPA
Office of the Administrator
1200 Pennsylvania Ave, NW
Washington, DC 20640
WJC-North, Room 6330K

202.564.2655 office
Ex. 6 - Personal Privacy

***
Link to Office of Multimedia photo galleries, accessible from within EPA's network.
http://intranet.epa.gov/media/
***

Message

From: Beck, Nancy [Beck.Nancy@epa.gov]
Sent: 1/16/2018 9:58:23 PM
To: Domesle, Alexander R. EOP/CEQ Ex. 6 - Personal Privacy
CC: Baptist, Erik [Baptist.Erik@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Prandoni, Christopher D. Ex. 6 - Personal Privacy Ex. 6 - Personal Privacy
Subject: RE: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement
Attachments: ESA MOA Draft 2018-01-10.OCSPP.docx

Alex,
Attached are some coordinated comments from EPA.
Please let us know if you have questions for us (its getting a bit messy).

Many thanks for the opportunity to review.
Nancy

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: Ex. 6 - Personal Privacy
beck.nancy@epa.gov

From: Domesle, Alexander R. EOP/CEQ [mailto: Ex. 6 - Personal Privacy
Sent: Wednesday, January 10, 2018 1:51 PM
To: Baptist, Erik <Baptist.Erik@epa.gov>; Catanzaro, Michael J. EOP/WHO < Ex. 6 - Personal Privacy Starling, Ray A. EOP/WHO < Ex. 6 - Personal Privacy >; Stephen.Vaden@ogc.usda.gov; Rebeckah.Adcock@osec.usda.gov; Beck, Nancy <Beck.Nancy@epa.gov>; todd_willens@ios.doi.gov; Bernhardt, David <dwbernhardt@ios.doi.gov>; JUthmeier@doc.gov; Brooke, Francis J. EOP/OVP < Ex. 6 - Personal Privacy Moran, John S. EOP/WHO < Ex. 6 - Personal Privacy >; Herz, James P. EOP/OMB Ex. 6 - Personal Privacy
Cc: Neumayr, Mary B. EOP/CEQ Ex. 6 - Personal Privacy ; Prandoni, Christopher D. EOP/CEQ < Ex. 6 - Personal Privacy
Subject: RE: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement

Dear colleagues,

Attached is the revised draft of the MOA between EPA, DOI, and DOC on establishing a working group on the ESA pesticide consultation process. Since the previous draft was circulated by Erik on December 15, we received very helpful feedback from EPA, DOI, DOC, and USDA, in addition to reviewing it internally here at CEQ. All resulting changes to the document have been captured in tracked changes. A few of the edits submitted we think could be further improved; in these cases we proposed alternative language in a comment in the margin.

Please review this document, including our proposed language in the margins. We intend for this to be the final review, so please identify any outstanding objections or concerns. **We would very much appreciate receiving any final comments by COB Tuesday, January 16.**

Please don't hesitate to reach out if you have any questions.
Thank you,

Alex

Alexander Domesle

Senior Advisor for Natural Resources
Council on Environmental Quality
Executive Office of the President
Ex. 6 - Personal Privacy
Alexander.R.Domesle Ex. 6 - Personal Privacy
www.whitehouse.gov/ceq

From: Domesle, Alexander R. EOP/CEQ
Sent: Monday, December 18, 2017 10:13 AM
To: Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Catanzaro, Michael J. EOP/WHO < Ex. 6 - Personal Privacy Starling, Ray A. EOP/WHO Ex. 6 - Personal Privacy ; Bonfitto, Jordan P. EOP/WHO < Ex. 6 - Personal Privacy Stephen.Vaden@ogc.usda.gov; Rebeckah.Adcock@osec.usda.gov; Beck, Nancy <Beck.Nancy@epa.gov>; todd_willens@ios.doi.gov; Bernhardt, David <dwbernhardt@ios.doi.gov>; JUthmeier@doc.gov; Neumayr, Mary B. EOP/CEQ < Ex. 6 - Personal Privacy ; Brooke, Francis J. EOP/OVP < Ex. 6 - Personal Privacy ; Moran, John S. EOP/WHO < Ex. 6 - Personal Privacy ; Prandoni, Christopher D. EOP/CEQ Ex. 6 - Personal Privacy
Subject: Re: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement

Thanks, Erik. If possible, please send any final feedback by the end of this week. CEQ is happy to collect the comments and identify any areas of disagreement that may need to be resolved. After that, the signatory agencies can discuss how and when to get this signed.

Thank you,
Alex

Alexander Domesle
Senior Advisor for Natural Resources
Council on Environmental Quality
Executive Office of the President
Ex. 6 - Personal Privacy

On Dec 15, 2017, at 17:04, Baptist, Erik <Baptist.Erik@epa.gov> wrote:

> All,
>
> Attached for your review and consideration, please find a revised draft Memorandum of Agreement. I will defer to CEQ on process from here.
>
> Best,
>
> **Erik Baptist**
> Senior Deputy General Counsel
> Office of General Counsel
> U.S. Environmental Protection Agency
> 1200 Pennsyvlania Ave., NW
> Washington, DC 20460
> (202) 564-1689
> baptist.erik@epa.gov

<ESA MOA draft 2017-12-15.docx>

Message

From: Beck, Nancy [Beck.Nancy@epa.gov]
Sent: 1/16/2018 4:27:34 PM
To: Baptist, Erik [Baptist.Erik@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: RE: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement
Attachments: ESA MOA Draft 2018-01-10.OCSPP.docx

I added some suggestions (based on OPP input) to your version. Its getting a bit messy.
Jeff- please send me any additional comments by 4pm- if you could flag them that would help review.
Thanks.
Nancy

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
Ex. 6 - Personal Privacy
beck.nancy@epa.gov

From: Baptist, Erik
Sent: Thursday, January 11, 2018 9:22 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: FW: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement

Nancy,

Attached please find my edits. Once you complete your review, we can share EPA's comments with CEQ.

Erik Baptist
Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsyvlania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Domesle, Alexander R. EOP/CEQ [Ex. 6 - Personal Privacy
Sent: Wednesday, January 10, 2018 1:51 PM
To: Baptist, Erik <Baptist.Erik@epa.gov>; Catanzaro, Michael J. EOP/WHO <Ex. 6 - Personal Privacy>; Starling, Ray A. EOP/WHO <Ex. 6 - Personal Privacy; Stephen.Vaden@ogc.usda.gov; Rebeckah.Adcock@osec.usda.gov; Beck, Nancy <Beck.Nancy@epa.gov>; todd_willens@ios.doi.gov; Bernhardt, David <dwbernhardt@ios.doi.gov>; JUthmeier@doc.gov; Brooke, Francis J. EOP/OVP <Ex. 6 - Personal Privacy Moran, John S. EOP/WHO <Ex. 6 - Personal Privacy>; Herz, James P. EOP/OMB <Ex. 6 - Personal Privacy
Cc: Neumayr, Mary B. EOP/CEQ <Ex. 6 - Personal Privacy> Prandoni, Christopher D. EOP/CEQ Ex. 6 - Personal Privacy
Subject: RE: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement

Dear colleagues,

Attached is the revised draft of the MOA between EPA, DOI, and DOC on establishing a working group on the ESA pesticide consultation process. Since the previous draft was circulated by Erik on December 15, we received very helpful feedback from EPA, DOI, DOC, and USDA, in addition to reviewing it internally here at CEQ. All resulting changes to the document have been captured in tracked changes. A few of the edits submitted we think could be further improved; in these cases we proposed alternative language in a comment in the margin.

Please review this document, including our proposed language in the margins. We intend for this to be the final review, so please identify any outstanding objections or concerns. **We would very much appreciate receiving any final comments by COB Tuesday, January 16.**

Please don't hesitate to reach out if you have any questions.
Thank you,

Alex

Alexander Domesle
Senior Advisor for Natural Resources
Council on Environmental Quality
Executive Office of the President
Ex. 6 - Personal Privacy
Ex. 6 Personal Privacy (PP)
www.whitehouse.gov/ceq

From: Domesle, Alexander R. EOP/CEQ
Sent: Monday, December 18, 2017 10:13 AM
To: Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Catanzaro, Michael J. EOP/WHO <Ex. 6 - Personal Privacy; Starling, Ray A. EOP/WHO Ex. 6 - Personal Privacy; Bonfitto, Jordan P. EOP/WHO <Ex. 6 - Personal Privacy; Stephen.Vaden@ogc.usda.gov; Rebeckah.Adcock@osec.usda.gov; Beck, Nancy <Beck.Nancy@epa.gov>; todd_willens@ios.doi.gov; Bernhardt, David <dwbernhardt@ios.doi.gov>; JUthmeier@doc.gov; Neumayr, Mary B. EOP/CEQ <Ex. 6 - Personal Privacy>; Brooke, Francis J. EOP/OVP <Ex. 6 - Personal Privacy; Moran, John S. EOP/WHO <J Ex. 6 - Personal Privacy; Prandoni, Christopher D. EOP/CEQ Ex. 6 - Personal Privacy
Subject: Re: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement

Thanks, Erik. If possible, please send any final feedback by the end of this week. CEQ is happy to collect the comments and identify any areas of disagreement that may need to be resolved. After that, the signatory agencies can discuss how and when to get this signed.

Thank you,
Alex

Alexander Domesle
Senior Advisor for Natural Resources
Council on Environmental Quality
Executive Office of the President
Ex. 6 - Personal Privacy

On Dec 15, 2017, at 17:04, Baptist, Erik <Baptist.Erik@epa.gov> wrote:

All,

Attached for your review and consideration, please find a revised draft Memorandum of Agreement. I will defer to CEQ on process from here.

Best,

Erik Baptist
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<ESA MOA draft 2017-12-15.docx>

Message

From: Carroll, Carly [Carroll.Carly@epa.gov]
Sent: 2/9/2018 5:16:41 PM
Subject: Weekly Report for 2.9.2018
Attachments: Weekly Report 02.09.2018 final.pdf

Good afternoon,
Please find the weekly report for the week ending 02.09.18 attached.

Best,

Carly Carroll
Special Assistant to the Acting Deputy Administrator
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(202) 564-2769
carroll.carly@epa.gov

Region 1

Hot Topics:

Housatonic River Cleanup Plan Largely Affirmed by Environmental Appeals Board (EAB); Region 1 Working to Address Issues Remanded

- To promptly address the EAB decision, the Region has proceeded on three tracks:
  - On February 5th the Region filed a motion for the EAB to reconsider its determination on the only cleanup claim not affirmed; the limitation sought by the EAB in remand already is in the Site Consent Decree and Permit.
  - The Region has already begun gathering the information sought by the EAB to support the off-site disposal determination.
  - The Region is proactively reaching out to Massachusetts, Connecticut, GE and the local communities to explore ways to speed up the cleanup.

RA and OW AA Meet with NH Communities to Hear Concerns About Nutrient Pollution and NPDES Permitting

- On February 6th, OW AA Dave Ross and RA Alex Dunn met with Portsmouth, Dover, and Rochester NH to discuss the communities' concerns about the NPDES permit process and potential nitrogen limits. The meeting was very productive. The communities presented their views on the latest scientific data about Great Bay. NHDES Commissioner Bob Scott and staff from the Senate and House delegation were all in attendance. A meeting was also held with representatives of the Conservation Law Foundation to hear their concerns.

NH and CT SIP Approvals

- On February 6th, RA Alex Dunn signed two final *Federal Register* notices: one approving New Hampshire's rules for open burning and incinerators and another approving Connecticut's nonattainment new source review certification for the 2008 ozone standard. Both SIPs were signed using new digital signature software that expedites SIP approvals.

Region 1 Engagement Leads to Community Agreement on Waterline Construction

- EPA has been working for five years with the towns of Middletown and Durham, CT to provide a public source of drinking water to hundreds of Durham residents whose private wells were contaminated by the Durham Meadows Superfund site. On February 5th, the Middletown Common Council unanimously approved a Water Purchase and Sale Agreement with the neighboring town of Durham, CT to supply drinking water.

Upcoming Major Decisions and Events:

Maine's §303(d) List Meets Clean Water Act Requirements

- Region 1 has determined that Maine's 2016 §303(d) list meets regulations and requirements of the Clean Water Act and expects to approve the impaired waters list in the next few days.

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Region 2

Hot Topics:

Region 2 Issuing Administrative Orders to Address Violations of SDWA Revised Total Coliform Rule. Region 2 continues to make protecting public health a priority by taking measures to insure that public water systems (PWSs) in the Region are providing safe drinking water to their customers. Over the last two months the Region has issued close to 20 administrative orders to address violations of the Revised Total Coliform Rule (RTCR), by water systems in New York and New Jersey. Those states have not yet been delegated primacy for the RTCR, and therefore, EPA has primary responsibility for enforcement of the rule. As the states identify violations to the Region, we are issuing orders for failure to comply with the monitoring, reporting, maximum contaminant level, treatment technique and/or site sampling plan requirements of the RTCR. The systems are a mix of community water systems and non-community water systems. The orders require compliance with the rule as well as demonstration that the appropriate public notification is performed.

Hurricane Irma/Maria: Electric Power Sector Recovery Meeting: On February 6, 2018, Region 2 participated in a meeting of the Energy Sector Working Group in Puerto Rico, a body comprised of representatives from various federal agencies, Puerto Rico government entities, and the Financial Oversight and Management Board for Puerto Rico. The group's focus is planning the recovery of the electric power sector, which was heavily damaged by the hurricanes. There will be regular meetings of the Working Group, going forward. At the meeting, Noel Zamot, the Revitalization Coordinator for the Oversight Board, provided a vision for Puerto Rico's energy future, which he said would be provided for in the revised fiscal plan to be submitted by PREPA on February 12. A revised Integrated Resource Plan is being prepared consistent with this vision, but Zamot said that it is the PREPA fiscal plan that will be the key document.

Zamot said that the best estimate of the overall cost of rebuilding Puerto Rico's energy system is around $12 billion. Work is being done now to develop ways to incentivize private investment in the system. He also said that he believes there could be 600-700 MW of new renewables on the island in the next five or six years, but that in order to bring such renewable energy online, the Commonwealth will need to divest of a lot of excess capacity in conventional power sources. Zamot also said that Puerto Rico could eventually be a net energy exporter, including to the USVI.

Meeting with NYC DEP: Regional Administrator Lopez and staff engaged with NYC DEP Commissioner Vincent Sapienza to address a number of key concerns for the City.

Included in the discussion were the Gowanus and Newtown Creek Superfund sites, addressing complications of combined sewer overflow remedial work in concert with Superfund mitigation.

Attention was also directed to the City's drinking water infrastructure, notably the Hillview Reservoir and the NYC Filtration Avoidance Determination. Hillview Reservoir is an uncovered, finished water supply which is currently the subject of enforcement action from Region 2 and HQ. The FAD is an area of specific engagement by RA Lopez, who is working with stakeholders to achieve improved balance between protecting the water supply for the City with the economic and other community needs of the people residing within the Catskill Mountain Watershed.

Upcoming Major Decisions and Events:

Feb. 26 - March 1: RA Pete Lopez will travel to PR and the USVI. The trip will focus on transitioning from hurricane response to recovery. The meetings with key local leaders, agencies and stakeholders will aid Region 2 in developing a Strategic Recovery Plan which will heavily focus on opportunities for tackling pre-existing environmental challenges. On 3/1 the RA will give the keynote address at the Inter-American Association of Sanitary and Environmental Engineering (AIDIS) Conference.

Withdrawal of Long Island TMDLs by NYSDEC: CWD and ORC will be briefing the RA on February 14 on the NYSDEC's plan to withdraw TMDLs established for pathogens in Long Island and EPA's options for responding to the withdrawal. The NYSDEC submitted a letter to EPA on January 31 outlining its plan to withdraw the TMDLs through public notice of its 2018 Section 303(d) list. The state contends that the TMDLs had several flaws which were discovered through the implementation of the MS4 General permit.

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Region 3

Hot Topics:

Region 3 Provides Lead Paint Rule Training to City of Philadelphia
On January 31 and February 1, 2018, Region 3 staff presented six (6) seminars to approximately 200 representatives from City of Philadelphia Departments of Licenses and Inspections and Health. There were also several participants from the Philadelphia School District. The purpose of the seminars was to raise awareness about the Lead Renovation, Repair, and Painting Rule (RRP) to the audience and explain how to identify compliance with the rule. The goal is for increased awareness and communication between the City and EPA regarding potential concerns while out in the field.

Roundtable Meeting on Fish Advisories near Westinghouse Electric Corp. (Sharon Plant) Superfund Site, Pennsylvania
On February 8, 2018 representatives from Region 3 attended a roundtable meeting hosted by the Pennsylvania Department of Environmental Protection Northwest Regional Office. The topic of roundtable will be Pennsylvania fish consumption advisories focusing on the Shenango River. The roundtable meeting is in response to the August 2017 update that set a do not eat fish advisory for all fish in the Shenango River from the Shenango Lake dam to the mouth of the river. The previous fish advisory was "do not eat" for muskellunge, carp and channel catfish with a one meal per month limit for largemouth bass, smallmouth bass, black crappie, white crappie, walleye, bluegill, sunfish and all suckers. The revised advisory came about because of PCB concentrations in fish tissue samples that were collected in support of the most recent five-year review for the Westinghouse Electric Corp. (Sharon Plant) Superfund Site. The Region is working with the potentially responsible parties (PRPs) to investigate and cleanup PCBs at the Site. The PRPs have cleaned PCBs from the storm sewer. Region 3 participation at the meeting will help address one of the recommendations from the five-year review, which was to continue outreach and educational efforts about consuming fish.

Comfort Letter Prepared for Former Nansemond Ordnance Depot Superfund Site, Suffolk, Virginia
The Region 3 Land Revitalization Action Team (LRAT) has prepared a CERCLA Comfort letter, at the request of the Tidewater Community College Real Estate Foundation (TCCREF), for the Former Nansemond Ordnance Depot Superfund Site (FNOD), located in Suffolk, Virginia. TCCREF is the owner of two parcels of property which are a part of FNOD. TCCREF plans to demolish the existing structures on its property, perform sampling, and undertake environmental remediation if necessary. TCCREF plans to market the property for future mixed-use development. The comfort letter outlines the liability protections afforded to TCCREF as a Bona Fide Prospective Purchaser (BFPP) under CERCLA, and reasonable steps and statutory requirements that TCCREF must abide by to maintain its BFPP status. In preparing this letter the LRAT conferred with the Army Corps of Engineers, the responsible party for FNOD, and the Virginia Department of Environmental Quality.

Upcoming Major Decisions and Events:

Region 3 welcomes Henry Darwin on Tuesday, February 13, 2018 to participate in the business review meeting.

Region 3 RA Cosmo Servidio will be meeting with representatives of Contura Energy on Thursday, February 15, 2018.

Region 4

Hot Topics:

Rockwell International (Grenada, MS)
Key Message: Over 125 participants attended the public meeting on 2/6. The primary concern from the community about the NPL listing focused on whether the Eastern Heights neighborhood is included. We received a letter from Congressman Thompson's office raising the same issues.

Nashville, TN Metro Long Term Control Plan (LTCP)
Key Message: Regarding a CSO/SSO consent decree, Nashville Metro's LTCP does not propose control measures designed to meet end of pipe requirements. TN prefers a partial approval of the LTCP. RA Trey Glenn is planning to meet with the Tennessee Department of Environment and Conservation Commissioner, Bob Martineau, next week to discuss the path forward.

Florida Human Health Criteria
Key Message: It is anticipated that Florida will formally withdraw its Human Health Criteria rule this week. Given the litigation surrounding this issue, including against EPA, there may be inquiries. The state has faced ongoing challenges associated with this rulemaking from numerous parties. The State has been unable to settle the matter and thus plans to do a new rulemaking on this matter. The state will post a notice of upcoming rulemaking for the HHC at the same time that they withdraw the existing rule, and will note that they are going to undertake a fish consumption study to address one area that has been a challenge.

Koppers Company, Inc. NPL Site (Charleston, SC)
Key Message: The ROD Amendment, including TI Waiver, will be signed today. This is the first step in allowing for cleanup, potential residential use, and partial deletion from the NPL. This site was on the recent list regarding the top sites with redevelopment potential.

Upcoming Major Decisions and Events:

Decisions
None

Events
- RA Trey Glenn meeting with Tennessee Department of Environment and Conservation Commissioner, Bob Martineau the week of February 12.
- RA Trey Glenn potential site visit of Daicel Manufacturing facility on February 15.

Region 5

Hot Topics:

City of Dayton Has Notified Residents of Potential PFAS Contamination in Drinking Water
Key Message: While PFAS levels are currently well below the federal health advisory level, the city has concerns that the contamination will continue to migrate from the Wright Patterson Air Force Base into the community's drinking water source.

Dayton's Department of Water sent a notification to all municipal water customers stressing that the water is currently safe, but that the city, Ohio EPA and U.S. EPA are monitoring the situation closely. The air force base is a federal facility Superfund site being cleaned up by the Air Force. Significant press interest is expected.

EPA to Issue Order to Medline Industries for Distribution/Sale of Unregistered Pesticide
Key Message: Region 5 has prepared a FIFRA Section 13(a) Stop Sale, Use or Removal Order (SSURO) to be issued to Medline Industries on February 9, for the sale of "Micro-Kill 70 Isopropyl Wipes."

The region has documented approximately 1,290 separate distributions of the product and plans to address these FIFRA violations through a civil penalty action. According to its website, Medline is the largest privately held manufacturer and distributor of medical supplies and is ranked 47th on Forbes 2016 list of largest privately held companies in the U.S.

Upcoming Events and Major Decisions:

Regional Administrator Stepp to Meet with Rep. Dan Lipinski (D-IL) and U.S. Army Corps of Engineers Colonel Aaron Reisinger to Discuss Bubbly Creek
Key Message: The February 22, 2018 meeting will focus on the restoration of Bubbly Creek, a historically-contaminated section of the Chicago River system.

Rep. Lipinski called the meeting to bring EPA and the Corps together to ensure that Superfund is not an impediment to Corps' Bubbly Creek restoration efforts.

Region 6

Hot Topics:

Bird Creek, Osage County, Oklahoma
EPA received a Summons from Warren American that the Agency had been served the complaint on February 2, 2018. Jireh and Novy intend to serve complaints as well. Meanwhile, the companies continue to have technical discussions with EPA and conduct tests and surveys to better understand how nearby wells are impacting Bird Creek.

City of Ft. Smith, Arkansas
Region 6 is expecting a request for extension of consent decree deadlines from the city of Fort Smith in the next few days. The Consent Decree was entered on April 6, 2015 and the city has continued to have sanitary sewer overflow problems.

Takata, Eagle Pass, Texas
The state of Texas may require Takata to remove over 2 million recalled airbag inflators that are currently stored in Eagle Pass, Texas. The inflators are under a DOT Preservation Order requiring Takata to store all inflators returned to the company under the recall. Ex. 5 Deliberative Process (DP) Ex. 5 Deliberative Process (DP) h. The state is worried the company will fail and abandon the materials to be addressed by the state.

San Mateo Creek Basin Uranium Legacy Site, Albuquerque, NM
Region 6 will conduct government-to-government consultation with the Navajo Nation in Albuquerque on February 14, 2018 regarding the possible addition of the San Mateo Basin site to the National Priorities List. Groundwater in the Basin has been contaminated by discharges from 26, now inactive, uranium mines. Navajo Nation President Russell Begaye and the Navajo Nation EPA Executive Director Dr. Donald Benn are expected to attend.

Oklahoma Coal Combustion Residuals State Permit Program
After Region 6 proposed approval of the Oklahoma CCR program, EPA received a joint request from several environmental groups for a public hearing. The public hearing is scheduled for February 12 in Oklahoma City, OK. According to reports, Sierra Club representatives are expected to attend and oppose the approval claiming the state's inability to run the program.

St Bernard Parish, Louisiana
State of Louisiana provided a modified order and new modeling is expected shortly. Once complete, EPA intends to propose approval of the attainment demonstration state implementation plan for sulfur dioxide to prevent highway fund sanctions and Federal Implementation Plan from taking place in mid-April 2018. We expect a short gap between the completion of this action and the FIP deadline, however the highway sanction clock will stop.

Upcoming Major Decisions and Events:

No Major Decisions scheduled during the next reporting period.

February 13	RA Idsal meets with members of the House and Senate, Washington, D.C.
February 14	RA Idsal tours Santa Clara Pueblo, NM

Region 7

Hot Topics:

West Lake Site Update (Bridgeton, MO)
Key Message: Region 7 announces start of the public comment period and develops proposal for additional sampling.

- Last Thursday, the Administrator announced the preferred alternative for the West Lake Landfill site as Excavation Plus. The Region followed up on February 6 with a notification to the public of the availability of the Proposed Plan and Administrative Record File which includes the final versions of the Remedial Investigation Addendum, Final Feasibility Study, and a host of other documents that form the basis for the Agency's decision. The notification to the public also declared the start of the public comment period, which will run through March 22, and the date of the public meeting on March 6.
- This week the Region, along with representatives from the US Army Corps of Engineers and the Missouri Department of Natural Resources, met with the Community Advisory Group to obtain their input for performing additional sampling in the North Quarry of the Bridgeton Landfill. The discussion resulted in a proposal of four sampling locations.
- Next week the Region will schedule a meeting with the Potentially Responsible Parties to discuss the proposal.

Public Meeting on Meramec and Lower Big River Feasibility Study (Hillsboro, MO)
Key Message: EPA holds public meeting with federal, state, and congressional partners on river restoration.

- On February 6, Region 7 staff participated in a public meeting hosted by the US Army Corps of Engineers and Missouri Department of Natural Resources to inform the public about the upcoming feasibility studies and river ecosystem restoration projects. The meeting included a short presentation followed by group Q&A and individual agency discussions with attendees.
- EPA presented information about pilot projects to address migrating lead contaminated river sediment. Potential project sites have been identified but are voluntary and will be constructed without cost to willing landowners. A list and map of potential locations for projects will be released soon.
- The meeting was attended by many interested landowners and staffers from Senator Blunt's and Senator McCaskill's offices.

Upcoming Major Decisions and Events:

Regional Administrator Meets with Greater Kansas City Chamber of Commerce Leadership
Key Message: On February 9, 2018, the regional administrator will meet with the President and CEO and the Senior Vice President, Public Policy of the Greater Kansas City Chamber of Commerce.

- Potential discussion topics include: Brownfields work in the metro area; the listening session being held in Kansas City on the proposed repeal of the Clean Power Plan; and program work that may be of interest to Chamber members.

Region 8

Hot Topics:

Sierra Club Petitions for Review on Hunter Title V Decision
The Sierra Club filed a petition for review with the District of Columbia Circuit Court of Appeals, seeking review of the EPA's decision to deny the Sierra Club's petition to object to the title V operating permit for the PacifiCorp Energy Hunter Power Plant in Emery County, Utah. Air Program staff are working with ORC, OGC and DOJ to prepare the Administrative Record (due March 19, 2018).

Wyoming Environmental Quality Council (EQC) to Consider Provisions Authorizing Variances for Water Quality Standards
At its February 21, 2018 hearing, the EQC will consider adopting variance-authorizing rules for ammonia and nutrient water quality standards. The provisions are generally approvable except for one sentence indicating that individual variances will go into effect "either upon EPA approval or 90 days after submittal, whichever comes first." The "90-day effective date" language is inconsistent with federal regulations.

Earlier this week Region 8 briefed HQ on a Region 8 Lead Action Plan to reduce childhood lead exposure
The plan highlights actions EPA will support through cooperative federalism with our states, collaboration with other federal agencies, and outreach to drinking water associations. The plan also emphasizes EPAs role in opening creative opportunities to leverage infrastructure funding.

Upcoming Decisions and Events:

North Dakota Annual Environmental Ag Tour – June 15-29, 2018
As part of an annual ag tour hosted by the North Dakota Grain Growers Association (NDGGA) a 1-day mini-tour is being designed for EPA leaders to participate and experience North Dakota agriculture. At the request of NDGGA the Region 8 Agriculture Advisor will coordinate and develop options for senior leaders interested in participating.

February 13, 2018 Public Meeting to Present Draft Baseline Ecological Risk Assessment and Human Health Risk Assessment Findings for the Smurfit Stone Mill Superfund Site in Frenchtown (Missoula), Montana
EPA will present its preliminary human health and ecological risk assessment findings for the Smurfit-Stone Mill Superfund site to the Frenchtown, Montana community. Missoula County, Montana Fish, Wildlife & Parks, and the Confederated Salish and Kootenai Tribe (CSKT) are likely to express disappointment that the preliminary results for human and ecological risk assessments show no unacceptable risk at the site.

February 14, 2018 Anaconda School Board Meeting to Present Revised School Interiors Quality Assurance Project Plan and Sampling and Analysis Plan for the Anaconda Smelter Superfund Site, Anaconda, Montana
EPA will present to the Anaconda School Board Wednesday its revised Quality Assurance Project Plan/Sampling and Analysis Plan for lead sampling of indoor dust at public schools in Anaconda, Montana in response to concerns from the local community. EPA has also begun the process with the Agency for Toxic Substances and Disease Registry (ATSDR) to work with stakeholders and develop a work plan for a public health study for Anaconda to be completed by March 2019.

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Region 9

Hot Topics:

FIFRA SETTLEMENT: we finalized the largest worker-protection-standard settlement nationwide with Syngenta. In one incident, 10 farmworkers in Kauai were sent to the hospital after entering a field treated with Chlorpyriphos. The settlement features a $400,000 SEP, in which Syngenta will provide worker-protection-standard training for small growers in Hawaii, Guam and the Northern Marianas Islands in Mandarin, Korean, Tagalog and Ilocano, and pay an additional $150,000. The case was referred to us by the Hawaii Department of Agriculture.

9th CIRCUIT CWA RULING: the Ninth Circuit Court of Appeals ruled that an NPDES permit is required for County of Maui wastewater injection wells where "pollutants are fairly traceable from the point source to a navigable water such that the discharge is the functional equivalent of a discharge into the navigable water," and pollutant levels reaching the navigable waters are more than *de minimis*. This important decision establishes a broad, but not fully defined, standard for discharges of pollutants that reach navigable waters indirectly. We'll work with the Hawaii Department of Health on next steps, as we presently regulate this facility with a SDWA UIC permit.

AMMONIA: we lodged a CAA/CERCLA/EPCRA consent decree to address a fatal ammonia release by Gibson Wine at its Fresno County (CA) facility. Gibson will pay a $330K penalty and implement many facility safety upgrades to protect their workers and the surrounding community (a mix of industrial, commercial and residential land uses). At the Regional level, we continue to invest in ammonia safety days, and will sponsor a 4-day risk management plan ammonia class for local responders later this year.

REFINERIES: as California's new risk regulations for refineries took effect, we met with local co-regulators, CalOSHA, CalEPA and the Western States Petroleum Association to discuss implementation. We also attended the statewide conference of local regulators, who administer portions of the RCRA (tanks, generators), CAA 112r and EPCRA/CERCLA 103 programs.

LEAN: we held a very productive Kaizen event with Arizona DEQ partners as we expand the existing Performance Partnership Grant to include all CAA, CWA, SDWA and RCRA grants.

TRIBES: we hosted a quarterly 3-day meeting of Region 9 tribes, drawing participation of over 150 tribal colleagues from around the Region.

Upcoming Major Decisions and Events:

USAF CERCLA DISPUTE: we're working with OECA to brief AA Susan Bodine on the USAF request for Administrator review of our Edwards Air Force Base (CA) remedy decision.

NAVAJO NATION: next week, Region 8 and 9 senior managers will convene a tribal consultation re Bonita Peak Mining District Site (CO), followed by Region 9 discussions with the tribe regarding a recently awarded EPA $85 mil. contract for uranium mine remediation, then Regions 6 and 9 will consult with Navajo President Begay regarding the San Mateo Creek Basin listing.

CLEAN POWER PLAN: we'll convene a public listening session on February 28 on the proposed repeal of the Clean Power Plan. We'll be live-streaming and offering Spanish translation. We're working closely with HQ on staffing and logistics.

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Region 10

Hot Topics:

None this week.

Upcoming Major Decisions and Events:

Region 10 to Approve Oregon Clean Air Act State Implementation Plans: Region 10 is proposing to approve Oregon's Infrastructure SIP submissions for the nitrogen dioxide, sulfur dioxide, and fine particulate matter standards as meeting Clean Air Act requirements. The Regional Administrator signed the Federal Register Notice this week. Whenever a new or revised ambient air quality standard is promulgated, each state must submit a plan for the implementation, maintenance, and enforcement of the standard – commonly referred to as "infrastructure" requirements. Oregon submitted two such plans: one to address the nitrogen dioxide and sulfur dioxide standards revised in 2010, and a second plan to address the fine particulate matter standard revised in 2012.

Region 10 Administrator to Attend Alaska Forum on the Environment and Meet with Range of Stakeholders: During the week of February 12, Regional Administrator Chris Hladick will be introduced at the annual Alaska Forum on the Environment conference in Anchorage. RA Hladick will attend a plenary session and two sessions focused on successes in the Indian General Assistance Program. In addition, while in Anchorage, the RA will meet with a wide range of Alaska stakeholders and have two press interviews. A number of other Region 10 staff will also participate in the conference as presenters or session moderators. From the Alaska Forum website: "*The Alaska Forum on the Environment is a statewide gathering of environmental professionals from government agencies, non-profit and for-profit businesses, community leaders, Alaskan youth, conservationists, biologists and community elders. The diversity of attendees sets this conference apart from any other. The 2018 event will be our 20th year providing a strong educational foundation for all Alaskans and a unique opportunity to interact with others on environmental issues and challenges...As many as 1,800 people attend AFE at the Dena'ina Center in Anchorage, Alaska to learn more about the environment and meet other Alaskans that work in the environmental field or are interested in the environment.*

Region 10 Completes Review of Washington's Clean Water State Revolving Fund: In early February Region 10's State Revolving Fund team met with the Washington Department of Ecology to complete the annual onsite review of Washington's Clean Water State Revolving Fund program. During Fiscal Year, Ecology signed $74.8 million into assistance agreements. Ecology continues to either meet or exceed EPA's programmatic and financial measures. The agency is effective at quickly obligating funds into new projects and their fund utilization rate, a key EPA measure, continues to exceed 100%.

Region 10 to Participate in Groundbreaking Event Announcing First WIFIA Loan for $129M to King County, WA: On March 1, Region 10 will participate in an event hosted by King County commemorating the groundbreaking of its "Georgetown Wet Weather Treatment Station" which will be nearly 50 percent funded by a $129M loan from the Water Infrastructure Finance and Innovation Act. With the WIFIA loan, King County will construct a new Wet Weather Treatment Station to treat combined sewer overflows prior to discharge into the Lower Duwamish Waterway. The Georgetown Treatment Station will collect and clean up to 70 million gallons per day of wastewater and storm water that would have spilled into the river during bad weather. This project will not only help protect aquatic life and people's health, but also help safeguard the Duwamish River Superfund Cleanup investment and in the restoration of Puget Sound. This will be the first-ever loan from EPA's WIFIA program. Anticipated attendees at the event include the EPA Regional Administrator, King County Executive, County Department of Public Works leadership, community leaders, and local and state representatives.

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Region 10 Administrator to Meet with Stakeholders and State Partners in Olympia, WA: On February 15, Region 10's Administrator, Chris Hladick will visit the Washington capital to meet with key stakeholders and partners including Governor Jay Inslee and key policy staff, the Northwest Indian Fisheries Commission, the Directors of the Departments of Ecology and Agriculture and the State Conservation Commission. Chris will also meet with staff in Region 10's Washington Operations Office.

Office of Administration and Resources Management

Hot Topics:

Las Vegas Human Resources Shared Service Center Consolidation
Beginning in June 2018, work performed at EPA's human resources shared service center in Las Vegas, Nevada leased space will transition to EPA's owned locations in Research Triangle Park, NC and Cincinnati, OH. This consolidation will improve the utilization of EPA's real property portfolio and will positively impact staff coordination and service delivery. Staff affected by this consolidation will be given the option to relocate to RTP or Cincinnati at the same job series and grade level, separate from the agency, or find other federal employment. Other options for the effected employees are also being considered by management. The space will be released by September 30, 2018.

OARM Kaizen Event to Improve Procurement Quality and Efficiency
The week of February 5th, OARM's Office of Acquisition Management conducted its first Kaizen event to identify ways to improve the quality and efficiency of EPA's procurement requests in support of the Agency's lean management system. The goal of the event is to develop processes that will decrease deficiencies in procurement request packages by 75%, reducing the need to rework packages and reducing the time it takes to award contracts.

Upcoming Major Decisions and Events:

None

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Office of Air and Radiation

Hot Topics:

- Ex. 5 Deliberative Process (DP)
- Ex. 5 Deliberative Process (DP)
- **OAR actions under review (or soon to be under review) at OMB:**
  - Notice of Proposed Withdrawal of the Control Techniques Guidelines for the Oil and Natural Gas Industry
  - Final Guidance on Significant Impact Levels for Ozone and Fine Particles in the Prevention of Significant Deterioration Permitting Program
  - Ex. 5 Deliberative Process (DP)

Upcoming Major Decisions and Events:

Repeal of the Clean Power Plan (CPP): Registration for the upcoming listening sessions is open on EPA's website. (As a reminder, the listening sessions are: February 21 in Kansas City, Missouri; February 28 in San Francisco; and March 27 in Gillette, Wyoming. The comment period has been reopened until April 26).

SIP Lean Event: Next week staff from the Regions, OGC, and OAR will be meeting here in DC to define an improved process for EPA action on SIPs (one of the 10 priority areas to which lean tools are being applied). Several states will also participate in the event.

Targeted Airshed Grants: EPA soon will award nine recipients in Regions 8, 9, and 10 with Targeted Airshed Grants of $3-4 million each. The funding will support state and local programs that replace vehicles and woodstoves with cleaner versions. (Background: Congress directed EPA to make $30 million available for competitive grants to reduce air pollution in nonattainment areas that the Agency determined ranked as the top five most polluted areas relative to ozone and PM2.5 standards).

Office of Chemical Safety and Pollution Prevention

IMPORTANT DEADLINES

Row	Determination Type	Pending on 2/6/2018	Determinations Completed[1] as 2/6/2018	Determinations Posted on the Website as of 2/6/2018[6]
1	# of "not likely" determinations	**1**	**116[4]**	**116[4]**
2	# of §5(e) Orders signed by both EPA and the submitter	-	**325**	**324**
3	# of §5(e) Orders signed by EPA and awaiting submitter signature	**43**	-	-
4	# of non-Order SNURs/"not likely" determinations	**0**	**0**	**0**
5	# of cases in post-FOCUS final determination development[5]	**342[3, 5]**	-	-
6	# of cases flagged for in-depth review	**41**	-	-
7	# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	**15**	-	-
8	# of LVE/LOREX exemption grants	-	**529**	**525**
9	# of LVE/LOREX exemption denials	-	**120**	**120**
10	**Total number of cases**	**442**	**1090**	-
11	Normal active workload for the New Chemicals Program	300	-	-
12	Number of cases undergoing testing or data development by submitter	74[3]	-	-
13	**Backlog[2]**	68	-	-

[1]"Determinations Completed" means that EPA has completed its reviews on these cases and that final determinations have been made by EPA under TSCA section 5(a)(3).
[2] (Total number of cases) – (Normal active workload for the New Chemicals Program) - (Number of cases undergoing testing or data development) = Backlog
[3] Of these cases, approximately 73 are "active" lung toxicity cases that are suspended while submitters either conduct or are deciding whether to conduct testing to develop data on pchem properties, exposures and toxicity.
[4] "Not Likely" determinations are not posted until the final signed determination document is prepared and has been shared with submitter.
[5] These cases are those for which Post-FOCUS work is underway to develop: not likely determinations; non-Order SNURS coupled with not likely determinations; or section 5(e) or 5(f) Orders. When the OPPT Office Director decides which of these regulatory paths to follow, the case is moved to: Row 3 when the section 5(e) or 5(f) Order is sent to the submitter for signature; Row 4 when the SNUR is published and the not likely determination document is signed; and Row 1 when the determination document is sent to the OPPT OD for signature.
[6] These are all only final determinations posted on the web: grants and denials

Hot Topics:

Fees Rule. On February 8th, EPA announced that it is proposing a rule to require certain fees to defray 25% of the costs of administering certain sections of the Toxic Substances Control Act (TSCA). The rule, if finalized, will secure sustainable funding to defray costs of implementation of new responsibilities under the amended law and to review chemicals for safety with the highest scientific standards. Under the proposed rule, affected businesses would begin incurring fees on October 1, 2018.The fees rule is the final of four framework rules under amended TSCA.

Unique Identifiers. On February 7th, OCSPP requested comment on an additional potential approach to assigning and applying unique identifiers under the Toxic Substances Control Act (TSCA). OCSPP developed this additional approach after a previous comment period (announced in a May 8, 2017, Federal Register document) on three other potential approaches. Under amended TSCA, whenever EPA approves a confidential business information (CBI) claim for chemical identity, EPA is required to: assign a "unique identifier" to that chemical identity; apply this unique identifier to other information or submissions concerning the same substance; and ensure that any non-confidential information received by the Agency identifies the chemical substance using the unique identifier - while the specific chemical identity of the chemical substance is protected from disclosure. Written comments are due March 12, 2018.

TSCA Chemical Substance Inventory Update. One of the requirements under the Lautenberg Act was for EPA to update the TSCA Chemical Substance Inventory by designating every substance on it either "active" or "inactive" in U.S. commerce. Currently there are about 85,000 chemicals on the Inventory. Manufacturers and processors have been reporting whether they've manufactured, imported or processed the chemicals on the inventory for nonexempt commercial purposes in the 10-year period ending on June 21, 2016. The reporting period for manufacturers (including importers) closed on February 7, 2018. As of January 9th, the number of unique reported chemicals was 28,266. The reporting period for processors will end on October 5, 2018.

Upcoming Major Decisions and Events:

National Agricultural Aviation Association's Spring Board Meeting (NAAA) - Office of Pesticide Program Director, Rick Keigwin, will present at the NAAA meeting on Friday, February 16. Rick will present on OPP's 2018 priorities and issues affecting pesticide aerial applicators. The meeting will be held at the Hilton Alexandria Old Town.

Minor Crop Farmer Alliance Water Monitoring Workshop – On February 21, Office of Pesticide Programs staff, Mark Corbin and Dana Spatz (Environmental Fate and Effects Division), will present at the annual meeting of the Minor Crop Farmer Alliance (MCFA) in Washington, DC. Topics they plan to present on include: Overview of Drinking Water Assessments, Models and Monitoring Data Use in DWA, and Future Developments in the Use of Monitoring Data for Risk Assessments for Pesticides. MCFA members include national, regional, state and local associations representing specialty crop producers. Other meeting attendees may include non-specialty crop organizations, registrants, and USDA.

Office of the Chief Financial Officer

Hot Topics:

- The current Continuing Resolution expires tonight February 8. Today the Congress is scheduled to vote on another CR providing funding through March 23. OCFO has prepared reports for shutdown contingency planning and are ready to load a new CR if one is passed.
- The CR legislation also provides $89.3 billion in emergency supplemental funding for hurricane disasters of which the agency is provided $63.2 million:
    - $6.2 million for the Superfund program to help repair damage sustained to remedies at Superfund sites, including removal of damaged tanks and containers and repair of groundwater monitoring wells, aeration towers and fencing.
    - $7.0 million for the Leaking Underground Storage Tank program to repair damage to storage tanks to prevent spills and contaminants from leaking into the environment.
    - $50 million for debris and technical assistance to inspect and clean up hazardous waste facilities and to provide additional support for solid waste management activities.
    - Also provides Puerto Rico access to previously appropriated State Revolving Fund money to help rebuild the island's clean water and drinking water systems.

Upcoming Major Decisions and Events:

- OMB clearance has been received for the *FY 2018-2022 EPA Strategic Plan*, the *FY 2019 Annual Performance Plan* and the *FY 2017 Annual Performance Report*, which are included in EPA's *FY 2019 Congressional Justification*, for issuance on February 12. OCFO will issue an advance copy of the *Strategic Plan* to senior leaders on February 9.
- The FY2019 President's Budget will be transmitted to Congress on Monday, February 12. OCFO is incorporating the recent funding changes from OMB to the budget documents and working with OMB for clearance of all documents. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

- The inaugural E-Enterprise Bulletin (newsletter) is slated for release by February 16, 2018. The primary audience for the Bulletin are EPA, states and tribes. The EPA Strategic Plan, which includes an objective focused on shared governance/cooperative federalism, will be highlighted. This first Bulletin also includes a statement by the EELC co-chair, Henry Darwin, and the state and tribal co-chairs, regarding the value of E-Enterprise.

Office of Congressional and Intergovernmental Relations

Hot Topics:

- **February 14** – House Energy and Commerce Committee will hold a hearing on NSR program entitled, "New Source Review Permitting Challenges for Manufacturing and Infrastructure"

Upcoming Major Decisions and Events:

- **February 12** - OW & OLEM bipartisan budget briefing for House Transportation and Infrastructure, Water Resources and Environment Subcommittee staff.
- **February 14** - The next Quarterly Outreach Meeting Troy Lyons, OCIR Associate Administrator, will open the session. Part I of the meeting will feature an Overview of EPA's PFAS Action Agenda, as well as an Overview of the State of Michigan's PFAS Action Response Team.
- **February 25** - EPA and Administrator Pruitt will host the Western Governors' Association for a breakfast.

Office of Enforcement and Compliance Assurance

Hot Topics:

FY 2017 Enforcement Results: On February 8, 2018 EPA announced its Fiscal Year 2017 annual enforcement and compliance results, highlighting site remediation and civil and criminal enforcement results (https://www.epa.gov/enforcement/enforcement-annual-results-fiscal-year-2017).

Edwards Air Force Base CERCLA Dispute: The U.S. Air Force has appealed the Region 9 Acting RA's decision on a dispute related to the Air Force's preference to apply the EPA IRIS toxicity value for PCE, rather than California's more stringent toxicity value, to determine the vapor intrusion boundary at the site. The Air Force would like to provide supplemental information to EPA by March 2 prior to a meeting they requested with the Administrator. The Air Force has agreed to meet with the OECA AA, OLEM Acting AA, and Region 9 before meeting with the Administrator to discuss the dispute and attempt to narrow or resolve the issues at dispute. The Air Force recognizes that this timeline will result in the Administrator issuing a decision after the 21-day time period set out in the FFA.

Man Sentenced to Over Seven Years in Federal Prison after Pleading Guilty in Multi-State Biodiesel Fraud Scheme: Andre Bernard was sentenced in the Middle District of Florida to 87 months in federal prison for conspiracy to commit wire fraud, making false statements related to the Clean Air Act, and participating in a multi-state scheme to defraud biodiesel buyers and U.S. taxpayers by fraudulently selling biodiesel credits and fraudulently claiming tax credits. The court also entered a money judgment in the amount of $10.5 million. Bernard and his co-conspirators operated entities that purchased renewable fuel on which credits had already been claimed and used a series of false transactions to transform the old fuel into "feedstock" for new fuel, generating new credits for the same fuel.

Illinois Man Sentenced to Over Three Years in Prison for Violating the Clean Air Act Related to Asbestos Removal at Former Pillsbury Plant: On February 5, 2018, Joseph J. Chernis, IV was sentenced in the Central District of Illinois to serve 37 months in federal prison for failure to adequately remove and dispose of asbestos material, violations of the Clean Air Act, at the former Pillsbury Mills facility in Springfield, Illinois. In 2014, Chernis hired an untrained, homeless man to illegally remove dry asbestos pipe insulation from the 18-acre site and plant. The asbestos debris was left inside vacant buildings which were then building demolished, potentially contaminating workers on site and nearby homes less than approximately 1,000 feet away.

Meeting with DOD on cleanup and redevelopment of Nansemond Ordnance Depot: On Thursday February 8, 2018, representatives from OECA, OLEM, and Region 3 met with the Deputy Assistant Secretary of Defense (Environment, Safety and Occupational Health) regarding the future redevelopment of part of the former Nansemond Ordnance Depot in Suffolk, VA, where the Tidewater Community College was previously located. The Tidewater Community College Real Estate Foundation is in the process of preparing the parcel for future development. EPA has offered to provide a Comfort/Status Letter to help expedite the cleanup and redevelopment of the site.

Upcoming Major Decisions and Events:

On Monday, DOJ is planning to lodge a consent decree on behalf of EPA resolving Clean Air Act violations relating to industrial flares at the Shell Chemical LP facility in Norco, Louisiana.

Office of Environmental Information

Hot Topics:

None to report

Upcoming Major Decisions and Events:

None to report

Office of General Counsel

Hot Topics:

- *Connecticut v. Pruitt*, No. 17-796 (D. Ct). New development: On Feb. 7, 2018, the court granted plaintiffs' motion for summary judgment and denied EPA's. The Court ordered EPA to hold a required hearing within 30 days, and make a final ruling within the statutory deadline of 60 days, on the state's pending petition under Clean Air Act §126 seeking a finding that emissions from a coal-fired power plant in Pennsylvania interfere with air quality in CT in violation of the Act's "good neighbor"/interstate transport provisions. The Court rejected EPA's requested deadline of Dec. 31, 2018. EPA is in the process of reaching out to CT to discuss requesting a potential modification to extend the deadlines.
- WOTUS. New development: On Feb. 6, 2018, three complaints were filed challenging the Army Corps and EPA's rule adding an applicability date to the 2015 Rule defining WOTUS: one in D.S.C., and two in S.D.N.Y. (two brought by ENGOs, another by states). The complaints generally seek vacatur of the rule, claiming that it is arbitrary and capricious, violated notice and comment requirements, and issued the rule in excess of statutory authority.
- *Blue Water Baltimore, et al. v. Pruitt,* No. 17-1253 (D. Md.). New development: On Feb. 5, 2018, the district court partially granted and partially denied EPA's motion to dismiss for lack of jurisdiction where the plaintiff had alleged EPA had failed to perform a mandatory duty under its regulations to determine whether certain discharges contribute to violations of water quality standards. The district court agreed with EPA that no such duty existed, but disagreed that exclusive jurisdiction lies in the court of appeals, relying on the Supreme Court's recent WOTUS decision.
- *Clean Water Action v. Pruitt*, No. 17-1216 (D.C. Cir.). New development: On Feb. 1, 2018, the D.C. Circuit granted EPA's motion to transfer a "protective" petition for review filed by eight environmental groups of EPA's Sep. 2017 final rule postponing certain compliance dates in the 2015 Steam Electric Postponement Rule to the Fifth Circuit, recognizing the Steam Electric Postponement Rule is "closely related" to petitions for review pending before that court.

Upcoming Major Decisions and Events:

02/14	Oral argument in *Montana Envt'l Info. Ctr. v. EPA* (9th Cir.). Plaintiffs allege MT's implementation of their EPA-approved PSD does not meet CAA requirements.
02/20	Oral arguments in *Sunnyside Gold Corp. v. EPA* and *AIMCO/Genuine Parts Co. v. EPA* (D.C. Cir), challenging EPA's listing on the NPL of Bonita Peak Mining District Site (Gold King Mine-related) and West Vermont Drinking Water Site in Indianapolis.
02/22	Hearing in *American Lung Association, et al. v. EPA,* (N.D. Cal.), for failure to designate areas under the 2015 Ozone NAAQS by the statutory deadline.

Office of International and Tribal Affairs

Hot Topics:

U.S.-Japan Decommissioning and Environmental Management Working Group - EPA co-chairs this group which is a part of the U.S.-Japan Bilateral Commission on Civil Nuclear Cooperation. The Ministry of the Environment reported that the nuclear decontamination effort for zones surrounding the Fukushima-Daiichi Nuclear Power Station is nearly complete, but Japan wants to continue to exchange information with the U.S. on how to handle and remove highly contaminated soil.

U.S.-Morocco Enviro-Tech Tiger Team - OITA joined the first interagency coordination call led by the State Department to discuss the EnviroTech Tiger Team engagement in Morocco. The discussion focused on emerging environmental topics in Morocco and potential opportunities to engage the private sector in the areas of water, air, and waste technologies.

Upcoming Major Decisions and Events:

Transboundary Mining Meetings – A delegation from Alaska and Montana will be meeting with EPA and State Department on February 13 to discuss transboundary waters concerns from mining operations in British Columbia. The Central Council of the Tlingit and Haida Indian Tribes of Alaska has also requested a meeting with EPA and State Department next week to discuss transboundary mining issues.

Japanese Ambassador Meeting – The Administrator will be meeting with the Japanese Ambassador on February 15 to discuss bilateral cooperation on mercury pollution, regional air quality, sustainable materials management, and environmental technology and innovation.

Israel Mission – The Administrator will be traveling to Israel on February 19 to 22 to discuss bilateral cooperation on rule of law, water quality management and wastewater recycling, site remediation, and environmental technology and innovation.

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Office of Land and Emergency Management

Hot Topics:

1. **Emergency Responses to Hurricanes and Wildfires.**
   a. **Hurricanes.** Ex. 5 Deliberative Process (DP)
   Ex. 5 Deliberative Process (DP)
   b. **Wildfires.** The current forecast is that we will be at 100% on the mission assignment until March 27.

2. **Coal Combustion Residuals (CCR).**
   a. **State permit programs.** Ex. 5 Deliberative Process (DP)
   Ex. 5 Deliberative Process (DP)
   b. **Remand rule.** It is with OMB for review.

3. **Clean Air Act 112(r) Risk Management Program (RMP).**

4. **Ongoing major Superfund NPL sites (including East Chicago, West Lake, Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates).** Ex. 5 Deliberative Process (DP)
   Ex. 5 Deliberative Process (DP)

5. **CERCLA 108(b) Financial Assurance.**
   a. **Hard Rock Mining.** Ex. 5 Deliberative Process (DP)
   Ex. 5 Deliberative Process (DP)
   b. **Other Three Sectors.** Ex. 5 Deliberative Process (DP)

6. **CERCLA-EPCRA AFO-CAFO Rule.** Ex. 5 Deliberative Process (DP)
   Ex. 5 Deliberative Process (DP)

7. **NHSM rule.** The final rule, "Additions to List of Categorical Non-Waste Fuels: Other Treated Railroad Ties" was published in the FR on February 7, 2018.

Upcoming Major Decisions and Events:

1. **Business Review.** OLEM held its monthly business review meeting today to discuss our performance metrics and countermeasures reviews.

2. **CCR Public Hearing.** There will be a public hearing on February 13 in Oklahoma City on the proposed State CCR Permit Program. (See item #2 above).

3. **LEAN Kaizen Events.** OLEM is planning two LEAN Kaizen events (Superfund sites Ready for Anticipated Use, Brownfields Ready for Anticipated Use).

Office of Policy

Upcoming Major Decisions and Events:

Tracking High Priority Rulemakings: OP is working with Henry Darwin to begin tracking the progress of high priority rulemakings to ensure EPA's regulatory priorities are being accomplished in a timely manner. As part of the spring 2018 Regulatory Agenda, each office is currently reviewing rulemaking schedules in ADP Tracker. Offices should carefully review the planned schedules for these high priority rules and make any necessary updates before February 13. These schedules will be used as the target dates for the monthly tracking report. After February 13, the Office of Policy will confirm the list of rules to be tracked, and program offices will have one week to make final revisions to those schedules.

Number of Actions to OFR this Year:

- Signed by Regions:
  - Notices: 7
  - Proposed Rules: 21
  - Direct Final Rules: 2
  - Withdrawal of Proposed Rule: 1
  - Withdrawal of Direct Final: 3
  - Final Rules: 17
- Signed by HQ:
  - Notices: 36
  - Proposed Rules: 5
  - Final Rules: 18

Number of Actions to OFR this Week (Feb 2 – Feb 8):

- Signed by Regions:
  - Notices: 0
  - Proposed Rules: 7
  - Direct Final Rules: 1
  - Withdrawal of Proposed Rule: 1
  - Withdrawal of Direct Final: 0
  - Final Rules: 7
- Signed by HQ:
  - Notices: 12
  - Proposed Rules: 2
  - Final Rules: 3

Documents Submitted to OFR From January 31 - February 7, 2018

FRL	Title	Date Submitted to OFR
9974-25-Region 5	OHIO: Final Authorization of State Hazardous Waste Management Program Revision	2/7/2018
9974-34-ORD	Ambient Air Monitoring Reference and Equivalent Methods: Designation of One New Reference Method	2/7/2018
9974-33-OARM	National and Governmental Advisory Committees	2/7/2018
9974-08-OEI	Modification of Secondary Treatment Requirements for Discharges into Marine Waters/ICR 0138.11	2/7/2018

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9974-27-Region 2	Outer Continental Shelf Air Regulations Update to Include New Jersey State Requirements	2/7/2018
9974-28-Region 1	Outer Continental Shelf Air Regulations; Consistency Update for Massachusetts	2/7/2018
9972-05-OCSPP	Certain New Chemicals or Significant New Uses; Statements of Findings for October 2017	2/6/2018
9972-07-OCSPP	Certain New Chemicals or Significant New Uses; Statements of Findings for November 2017	2/6/2018
9972-36-OCSPP	Rimsulfuron; Pesticide Tolerances	2/6/2018
9972-61-OCSPP	Cyflufenamid; Pesticide Tolerances	2/6/2018
9972-69-OCSPP	Zoxamide; Pesticide Tolerances	2/6/2018
9973-55-Region 9	Approval of California Air Plan Revisions, Mojave Desert Air Quality Management District	2/6/2018
9974-11-Region 9	Air Quality State Implementation Plans; Approvals and Promulgations: California; South Coast Moderate Area Plan for the 2006 PM2.5 Standards; Correction of Deficiency	2/6/2018
9974-05-Region 2	New York: Incorporation by Reference of State Hazardous Waste Management Program	2/6/2018
9974-06-Region 2	New York:: Incorporation by Reference of State Hazardous Waste Management Program	2/6/2018
9973-56-Region 9	Approval of California Air Plan Revisions, Mojave Desert Air Quality Management District	2/6/2018
9971-89-OCSPP	Proposed Information Collection Request; Comment Request; Submission of Unreasonable Adverse Effects Information under FIFRA Section 6(a)(2)	2/5/2018
9972-94-OCSPP	Assignment and Application of the "Unique Identifier" under TSCA Section 14; Notice of Additional Information and Opportunity to Comment	2/5/2018
9974-04-OAR	Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2016	2/5/2018
9974-07-OEI	Application for Reference and Equivalent Method Determination (Renewal)/ICR 0559	2/5/2018
9974-22-OECA	National Environmental Justice Advisory Council; Notification of Public Teleconference and Public Comment	2/5/2018
9974-24-Region 4	Air Plan Approval; KY; Fine Particulate Matter and Ozone NAAQS Revisions	2/2/2018
9974-16-Region 10	Air Plan Approval; OR, Oakridge; PM2.5 Moderate Plan, Finding of Attainment and Clean Data Determination	2/2/2018
9973-02-OCSPP	Modification of Significant New Uses of Certain Cjemical Substances	2/2/2018

9974-12-Region 3	Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Removal of Clean Air Interstate Rule Trading Programs Replaced by Cross-State Air Pollution Rule Trading Programs	2/2/2018
9974-10-Region 9	Approval and Promulgation of Air Quality State Implementation Plans; California; Interstate Transport Requirements for Ozone, Fine Particulate Matter, and Sulfur Dioxide	2/2/2018
9970-37-OCSPP	Agency Information Collection Activities; Proposed Collection; Comment Request	2/1/2018
9974-01-Region 2	Proposed CERCLA Cost Recovery Settlement for the Frankfort Asbestos Superfund Site, Village of Frankfort, Herkimer County, New York	2/1/2018
9974-03-Region 10	Proposed CERCLA Administrative Cost Recovery Settlement; Post Road Drum Site, Anchorage, Alaska	2/1/2018
9973-51-OAR	Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act	2/1/2018
9969-80-OLEM	Additions to List of Section 241.4 Categorical Non-Waste Fuels	2/1/2018
9973-60-Region 10	National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Vancouver Water Station #4 Superfund Site	2/1/2018
9973-62-Region 10	National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Vancouver Water Station #1 Superfund Site	2/1/2018
9973-53-OARM	National Advisory Council for Environmental Policy and Technology	2/1/2018
9973-54-Region 3	Clean Air Act Operating Permit Program; Petition to Object to Title V Permit for Raven Power, Fort Smallwood Complex; Maryland	2/1/2018
9972-66-OCSPP	Fomesafen; Pesticide Tolerances	2/1/2018
9972-75-OCSPP	Isoxaben; Pesticide Tolerances	2/1/2018
9974-20-OW	Definition of "Waters of the United States" – Addition of Applicability Date to 2015 Clean Water Rule	2/1/2018
9974-15-Region 7	Approval of State Plans for Designated Facilities and Pollutants; Missouri; Hospital, Medical, and Infectious Waste Incineration (HMIWI) Units	2/1/2018

Office of Research and Development

Next week, ORD's senior management team will meet in Research Triangle Park, NC on a wide range of topics including the development of the next versions of our Strategic Research Action Plans, workforce strategy, and what EPA's lean management system means for ORD.

Hot Topics:

Technical Support
During the first quarter FY18, 215 people across ORD provided more than 8200 hours of technical support to EPA, states, and other partners. This support was provided to all major EPA program offices and ten EPA regions, 48 U.S. states and territories, and numerous federal agencies, educational institutions, and international agencies.

ORD Supports Region 9 on Asbestos Removal Related to Wildfires
Recent wildfires in northern California damaged many buildings, some of which have asbestos containing material (ACM). One large facility (approximately 20,000 square feet) has debris throughout (e.g., steel, roofing materials, and framing) that is piled up to 10 feet high. The debris piles make ACM removal dangerous. ORD is providing technical support to Region 9 on how to handle ACM from debris piles and the structures. In areas of the building that are structurally sound, undamaged ACM can be abated using current regulations and the volume of debris that must go to an asbestos landfill can be reduced, thereby reducing costs. All debris piles materials will go to the asbestos landfill.

Evaluating decontamination methods for benzene-contaminated drinking water following wildfires
Last week Region 9 contacted ORD asking for technical assistance associated with the recent California wildfires. Following the fires, residents of Santa Rosa's Fountaingrove neighborhood complained of water taste and odor issues. The Santa Rosa Water Department discovered elevated levels of benzene in the drinking water, although the source was unknown. ORD provided data from our studies at the Water Security Test Bed, demonstrating that flushing with clean water was effective at removing benzene from cement-mortar lined pipe and copper plumbing. ORD notified R9 that flushing could be a decontamination strategy, but may take longer to clear the PVC water pipes of detectable benzene.

ORD ending all operations in Las Vegas
On February 6 we announced that all ORD operations in Las Vegas, Nevada will be ending as of September 30, 2018. Previously, the decision was made to end laboratory operations in Las Vegas by the end of this fiscal year but this new decision impacts all ORD staff in Las Vegas, both non-laboratory and laboratory personnel. The decision was made as a way of reducing the amount of ORD's federally leased space and reducing operational costs.

Upcoming Major Decisions and Events:

Inorganic Arsenic Briefing for New Hampshire Department of Environmental Services and Region 1
On February 12th, ORD will be meeting with the New Hampshire Department of Environmental Services and EPA Region 1 to provide a briefing on state of the science and progress on the inorganic arsenic assessment.

Presentation on stream continuous data quality control to Wisconsin Department of Natural Resources (DNR). On February 14th ORD will demonstrate a web app being developed for performing Quality Control checks on continuous temperature and water level data from stream sensors. Wisconsin DNR is interested in using the web app for their water quality monitoring and citizen science sensor programs.

Office of Water

Hot Topics:

Hydrologic Connection Request for Comment: As early as this week, OW anticipates sending forward to OP for Federal Register publication a request for input from states and stakeholders on how pollutants that are released into groundwater and flow through a direct hydrologic connection into a jurisdictional surface water should be treated under the Clean Water Act. EPA is requesting comments on whether the Agency should consider clarification or revision of previous statements and if so, comments on how that clarification or revision should be provided.

Waters of the U.S.: This week, the final rule adding an applicability date to the 2015 Clean Water Rule was published in the Federal Register, ensuring the 2015 rule will not be implemented before February 6, 2020. Two lawsuits over this rule have been filed in district courts: in Southern District of New York by the States of New York, California, Connecticut, Maryland, Oregon, Rhode Island, Vermont, Washington, Massachusetts, and DC; and in the U.S. District Court for the District of South Carolina in Charleston by the Southern Environmental Law Center on behalf of American Rivers, Clean Water Action, Defenders of Wildlife, Charleston Waterkeeper, Chattahoochee Riverkeeper, Coastal Conservation League, Friends of the Rappahannock, North Carolina Coastal Federation, and North Carolina Wildlife Federation.

Unconventional Oil and Gas *Rule CWA Section 308 Letters*: This week, OW sent letters to nine companies in Pennsylvania requesting information needed to consider the effects of the 2016 Unconventional Oil and Gas Effluent Guidelines final rule, as part of a court commitment. The letters request that the companies provide financial information and information related to their oil and gas wastewater management practices and expenditures by March 15. OW has taken several steps to reduce the burden to the respondents.

Perchlorate Peer Review Meeting: At the recent Perchlorate Peer-Review public meeting, eight panelists provided their feedback on the scientific work developed by EPA. Stakeholders including AWWA, Perchlorate Study Group (via Intertox) and NRDC, provided public comments to the panel during the first day of the meeting. Panelists had generally favorable remarks on the technical work developed by EPA as the scientific basis for decision-making on perchlorate in drinking water. EPA expects the peer review panel to submit a final Peer Review report outlining all recommendations and responses by early March.

LCR Consultation Meetings: OW continues to hold follow up Lead and Copper Rule (LCR) Federalism and Tribal consultation meetings, meeting recently with the Association of State Drinking Water Administrators, the American Public Works Association Government Affairs Committee, and the United South and Eastern Tribes. Additional Federalism consultation meetings will be held with the American Water Works Association, the National Rural Water Association, the National Association of Counties, and the U.S. Conference of Mayors and the National League of Cities. Federalism consultation is scheduled to close on March 8 while Tribal consultation will continue until March 16.

Upcoming Major Decisions and Events:

None

Message

From: Baptist, Erik [baptist.erik@epa.gov]
Sent: 12/3/2017 9:35:27 PM
To: Beck, Nancy [Beck.Nancy@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]
CC: Palich, Christian [palich.christian@epa.gov]
Subject: RE: Udall response--draft
Attachments: Response to Senator Udall Version4clean.docx

Attached please find a few edits/comments.

Erik Baptist
Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsyvlania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Beck, Nancy
Sent: Saturday, December 2, 2017 3:38 PM
To: Baptist, Erik <baptist.erik@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>
Subject: Udall response--draft

Attached is an updated response. I've not shared this latest version with staff yet as I don't want to spin them if there are bigger concerns.
Please take a look and send me any comments.

Thanks,
Nancy

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
Ex. 6 - Personal Privacy
Beck.Nancy@epa.gov

Message

From: Ford, Hayley [ford.hayley@epa.gov]
Sent: 12/1/2017 11:28:32 PM
To: Abboud, Michael [abboud.michael@epa.gov]; Baptist, Erik [baptist.erik@epa.gov]; Beck, Nancy [Beck.Nancy@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Bolen, Derrick [bolen.derrick@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Burke, Marcella [burke.marcella@epa.gov]; Chmielewski, Kevin [chmielewski.kevin@epa.gov]; Cory, Preston (Katherine) [Cory.Preston@epa.gov]; Daniell, Kelsi [daniell.kelsi@epa.gov]; Darwin, Henry [darwin.henry@epa.gov]; Darwin, Veronica [darwin.veronica@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]; Dourson, Michael [dourson.michael@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; Falvo, Nicholas [falvo.nicholas@epa.gov]; Feeley, Drew (Robert) [Feeley.Drew@epa.gov]; Ferguson, Lincoln [ferguson.lincoln@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Forsgren, Lee [Forsgren.Lee@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Gordon, Stephen [gordon.stephen@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Hanson, Paige (Catherine) [hanson.catherine@epa.gov]; Harlow, David [harlow.david@epa.gov]; Hewitt, James [hewitt.james@epa.gov]; Hupp, Millan [hupp.millan@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Kelly, Albert [kelly.albert@epa.gov]; Konkus, John [konkus.john@epa.gov]; Kundinger, Kelly [kundinger.kelly@epa.gov]; Letendre, Daisy [letendre.daisy@epa.gov]; Lovell, Will (William) [lovell.william@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; McMurray, Forrest [mcmurray.forrest@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Ringel, Aaron [ringel.aaron@epa.gov]; Rodrick, Christian [rodrick.christian@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]; Shimmin, Kaitlyn [shimmin.kaitlyn@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Wagner, Kenneth [wagner.kenneth@epa.gov]; Wehrum, Bill [Wehrum.Bill@epa.gov]; White, Elizabeth [white.elizabeth@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Yamada, Richard (Yujiro) [yamada.richard@epa.gov]
CC: Dickerson, Aaron [dickerson.aaron@epa.gov]; Woodward, Cheryl [Woodward.Cheryl@epa.gov]; Willis, Sharnett [Willis.Sharnett@epa.gov]
Subject: Draft LxL / Weekly Report / No COS Meeting Monday
Attachments: Final Weekly Report 12.01.2017.docx; December 4-15 2017- Draft Line X Line.pdf

See attached for draft LxL for the next 2 weeks and weekly report. No COS meeting Monday.

Have a nice weekend!

Hayley Ford
Deputy White House Liaison and Personal Aide to the Administrator
Environmental Protection Agency
ford.hayley@epa.gov
Phone: 202-564-2022
Ex. 6 - Personal Privacy

Region 1

Hot Issues:

Town of Eliot, ME Withdraws CAA Section 126 Petition

- On Nov 9th, the Eliot, Maine Board of Selectmen voted to withdraw the town's Clean Air Act section 126 petition. The Board found that the town's substantive concerns in its August 2013 petition were sufficiently addressed.
- The town's petition alleged Schiller Station of Portsmouth, NH was causing SO_2 NAAQS violations within the town's boundary.
- The Board rationale for withdrawal included the results of a recent monitoring study, new SO_2 permit restrictions at Schiller Station, and EPA's attainment/unclassifiable proposal for the 2010 SO_2 NAAQS in the ME/NH seacoast area.

Upcoming Public Events:

Region 1 to Host State-EPA Quarterly Environmental Enforcement and Compliance Committee

- On December 6th Region 1 will host a quarterly meeting with New England states' enforcement and compliance assistance managers at the Region's laboratory facility in Chelmsford, MA.
- The committee will discuss, plan, and coordinate enforcement and compliance assistance activities.
- Agenda topics include early notice of violations to facilities, applicability of EPCRA and CAA 112r to storage of hazardous chemicals in rail cars, and a state presentation on criminal enforcement.

Upcoming Major Decisions

None

Highlights from Last Week

Regional Science Council Holds Forum on Contaminants of Emerging Concern

- On Nov 28th, several Region 1 staff led, coordinated and spoke during breakout sessions at a Regional Science Council Forum on Contaminants of Emerging Concern.
- Approximately 100 people attended. The Forum included speakers from Region 1 as well HQ OSRTI and TSCA offices, and the New Hampshire Department of Environmental Services.

Region 1 Conducts Chemical Warfare Agent (CWA) Multi-state Exercise

- On Nov. 28-29, Region 1 and National Guard Weapons of Mass Destruction Civil Support Teams from five New England states conducted an exercise to test communication, coordination and information sharing among local, state and federal response agencies during a simulated intentional release of a chemical warfare agent.
- A variety of state and local agencies and the FBI also participated.
- The goal of the exercise is to work toward a more efficient and coordinated response to an intentional attack.

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EPA Celebrates Completion of a 3.5-Megawatt Solar Plant at the Charles George Superfund Site

- On November 30th, EPA, Mass DEP, Citizen's Energy, and the Towns of Tyngsborough and Dunstable, MA participated in a press event to celebrate a public-private partnership that transformed a closed 70- acre landfill at the Charles George Superfund Site into a 3.5-megawatt solar plant.
- At the event, elected officials from both towns were highly appreciative of the project and EPA's role.

Region 2

Hot Issues:

Delaware River Basin Commission (DRBC) proposed regulations to ban hydraulic fracturing: On 11/30 DRBC plans to post on its website draft rules and notice on its website and open a public comment period. EPA can provide comments during the public notice period. Region 2 is in communication with Region 3 and HQ to determine the best course of action. Currently Jim Kenney, the Senior Advisor for Oil and Gas, is consulting with officials at HQ to make a determination as to whether EPA should provide comments. Background: In February 2017 DRBC issued draft regulations to the Delaware Basin Federal Interagency Team (DBFIT) for comment and review. The rules (1) prohibit high-volume hydraulic fracturing for the exploration and/or production of natural gas in the Delaware River Basin, (2) require commission approval for water exports from the Basin to serve natural gas development activities outside the Basin, and (3) require that wastewater from natural gas development activities receive special provisions to manage them and not allow their treatment at domestic wastewater treatment plants in the Basin. Changes were also proposed to existing thresholds for the Commission's review of pipelines and other linear infrastructure, landfills, and wetlands. On 9/13 DRBC Commissioners voted on a resolution to ban fracking, with the Federal Partners voting no. On 11/20 we received a table from DRBC setting background pollutant levels for the proposed wastewater discharge regulations. The Commissioners requested comment by 11/22 and met on 11/27 to resolve any remaining issues. EPA and the Federal Partners informed DRBC that we did not have adequate time to comment on the proposed rules in November.

Hudson River PCBs Superfund Site Five Year Review and Certificate of Completion: During December, 2017 Region 2 expects to issue the final Second Five Year Review (FYR) report for this site. The region also expects to respond to the request from the General Electric Company that we issue it a Certificate of Completion, as provided in the judicial Consent Decree pursuant to which the company did the dredging project. Both actions are likely to generate press attention and criticism. The proposed FYR was published in June, followed by a 90-day public comment period during which we held three public meetings. We received over a thousand comments. Most commenters, including the State of New York, urged us not to determine that the remedial action "will be protective of human health and the environment," as stated in the proposed FYR. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

In addition, we have recently received comments from New York State Department of Environmental Conservation, New York State Attorney General and NOAA (as well as other stakeholders) urging us not to issue the Certificate of Completion to GE. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Limetree Bay Terminal, St. Croix, U.S. Virgin Islands: On 11/9 Limetree Bay Terminals, LLC (LBT) met OAR to discuss LBT's proposal to restart parts of the old HOVENSA refinery operations and to construct 2 new projects. Incoming Air AA Bill Wehrum will be briefed on 12/7. LBT requests that by mid-December, EPA amend the Consent Decree to allow LBT to proceed with: (1) a single-point mooring (SPM) project; (2) a refinery restart project; and (3) a renewable biodiesel production project. EPA must determine whether the Reactivation policy applies to the refinery restart project (LBT believes it does not); whether the project can use "project netting" for a project that only involves existing emissions units (LBT believes it can); and whether the refinery restart and renewable diesel projects are separate (LBT believes they are). LBT also seeks confirmation that SPM is part of the existing docks emissions unit and not separately a new emissions unit.

In a related matter, the Corps of Engineers published a public notice for the construction/installation of a SPM and underwater fuel transfer system at LBT. The purpose is to allow very large fuel carriers (requiring depths of -76 feet) to enter the existing channel and discharge fuel without the need to transfer the fuel to smaller vessels (fuel lightering). The 4.33-acre project area includes 1.65 acres that support corals listed as endangered under the Endangered Species Act (ESA). Concerns include the potential dragging impacts from the large mooring chain, the removal of hard limestone and possibly bedrock as part of the required dredging, safety requirements, and lack of a NEPA document to assess alternatives. Region 2 will be requesting a 15-day time extension from the 12/8 comment deadline. During this time, the RA will also be reviewing the Limetree Bay proposed actions.

Past Week:

Threatened litigation challenging proposed mass incineration of vegetative hurricane debris in the US Virgin Islands. On 11/22 attorneys for the Island Green Living Association, the Virgin Islands Conservation Society, and the Sierra Club, sent a written notification of their intent to file a citizen's suit against FEMA and the Army Corps of Engineers under Section 7002(a)(1)(B) of RCRA if those agencies commence burning hurricane-related wood debris in the USVI. Based on the large volume of vegetative debris, the Corps believes burning is necessary and the Governor agrees. The notice letter asserts that the "air curtain incineration" (ACI) devices that would be used have no emission controls; and that burning the debris would result in emissions of contaminants that could cause adverse health effects, such as particulates, carbon monoxide, polycyclic aromatic hydrocarbons, and heavy metals; and that the Corps plans to burn the debris at locations near several public school campuses. Under RCRA, suit can be filed 90 days after the date of the notice letter.

Upcoming:

Long Island Sound Futures Fund Event: On December 4, Region 2 RA Pete Lopez will join Rep. Zeldin (NY-1), and Carrie Meek Gallagher, Region 1 Director of the New York State Department of Environmental Conservation, at an event in Old Field, NY to announce the 2017 Long Island Sound Futures Fund awardees. The event will announce 31 grants, 15 of them in New York, totaling $2 million to local government and community groups to improve the health and ecosystem of Long Island Sound. The projects, which are funded through the Long Island Sound Futures Fund, administered by the National Fish and Wildlife Foundation under an EPA cooperative agreement, are projected to restore 39 acres of habitat, including coastal forest, grassland, river, and tidal marshes. This grant program combines funds from the EPA and the National Fish and Wildlife Foundation.

Region 3

Hot Issues:

[HYPERLINK "https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0301842"] **Community Meeting Held, Montgomery County, Pennsylvania**
Whitpain Township hosted a community meeting on November 20, 2017, at the Daniel W Dowling Legion Post to discuss their West Ambler Revitalization Initiative. The Township presented their areas of focus which included redevelopment of the BoRit Site. The meeting focused on different reuse scenarios and solicited the community's feedback. There will be one more public session before the Township moves forward with finalizing the Site reuse plan. The Township will then submit grant funding requests to Pennsylvania Department of Conservation and Natural Resources (DCNR) and Department of Community and Economic Development (DCED) for the projected $10M in master plan development and capital costs. After the session concluded, Whitpain and the EPA representative discussed exploring hosting a meeting with all of the State elected officials in advance of the grant submittals.

Maryland Department of Natural Resources Managers EJ Training
Region 3's EJ Coordinator Reggie Harris conducted Environmental Justice Training for managers of the Maryland Department of Natural Resources at the request of the Department. Managers were present both in person and on-line for the training that took place in their office in Annapolis, Maryland. The managers were also joined by the EJ Coordinator from the National Fish and Wildlife Service and an Instructor at Morgan State university. Topics covered in the training included the History of Environmental Justice in the US, EPA's definition of Environmental justice, and case studies exemplifying the wide array of issue of Environmental Justice concern, and instances exemplifying the collaborations among citizens, state and local government, business and industry, and federal partners to address Environmental Justice concerns. Topics discussed among the participants included, identifying stakeholders, engaging communities, building capacity, communication strategies, where EJ fits into the programs at DNR and ideas that may help DNR to enhance its program development. Reactions to the training were positive, and a desire to hold further dialogues was expressed.

Upcoming Public Events:

RA Servidio is meeting with the PA Delegates on Friday, December 1, 2017 to listen to their concerns on the Pennsylvania General Permit for stormwater construction. Additional topics regarding environmental policies will also be discussed. Five local representatives and two Senators will be in attendance at this meeting. This is a closed meeting.

Brownfields National Conference Is Next Week, Pittsburgh, Pennsylvania
After over a year of planning, Region 3 is honored to host the Brownfields National Conference, in Pittsburgh next week (December 5-7, 2017). The conference currently has nearly 1,900 registrants from community groups, academia, state and local governments, private sector, and other interested parties. Registrants are representative of every U.S. state and eight countries. The conference has a full agenda of educational sessions covering 7 tracks, mobile workshops, networking events, and opportunities for communities to engage with potential developers. Regional Administrator Cosmo Servidio is attending and will be providing opening remarks for the Mayors' Roundtable and the Environmental Justice Caucus.

Past Events:

November 30 Meet-and-Greet Call with Jeff Sands and Cecil Rodrigues
The EPA Administrator's new Senior Advisor on Agricultural Policy, Jeff Sands, asked for Region 3 to set up a "Meet and Greet" call with PA ag leaders. Although his scope is national, Jeff Sands' roots are in PA. Since he often comes up to PA to visit his parents and in-laws in Tunkhannock, PA, he would like to explore opportunities to get out on PA farms with the Regional Administrator to promote "good news stories." Cecil Rodrigues and Kelly Shenk will participate. PA participants will be PA Farm Bureau, PA Department of Agriculture, PA State Conservation Commission, PA Association of Conservation Districts, PA No Till Alliance, Penn State, and NFWF Chesapeake Bay grants coordinator.

November 17 PA Farm Tours & Ag Roundtable in Franklin County
Penn Ag Industries invited EPA to the northern tip of Franklin County, Pennsylvania, to visit Country View Family Farms sow operations. Cecil Rodrigues was joined by Kate McManus, Acting Director of the Water Protection Division, and Kelly Shenk, Ag Advisor for Region 3. PA Agriculture Secretary Russell Redding joined along with colleagues from the PA Farm Bureau, PA State Conservation Commission, and PA Department of Environmental Protection. The two farm tours and Ag Roundtable discussion focused on topics such as protecting animal health through strong biosecurity measures, managing manure storage and application on cropland, meeting consumer needs in a way that is good for the animals, environment, and business sustainability, and farming in a way that supports local communities and the local economy.

Region 4

Hot Issues:

B.F. Goodrich (Calvert City, Kentucky)
Key Message: Public comment period officially started on November 30, 2017, and the Region plans to hold a public meeting on December 7th in Calvert City, KY.

Tennessee's 303(d) List
Key Message: Region 4's Water Protection Division plans to approve Tennessee's 303(d) list next week. This is a full approval of the state's submittal.

Oakridge Reservation Formal Dispute
Key Message: During the week of December 4, 2017, Region 4 plans to circulate the draft Decision Memo on the formal dispute to headquarters for review and comment.

Highlights from Last Week:

None

Upcoming Travel for the RA:

- December 4-6: Brownfields Conference. Pittsburgh, PA
- December 7: Meeting with the Tennessee Department of Environment and Conservation (TDEC) and the Department of Energy regarding the Oakridge Reservation dispute. Nashville, TN
- December 7: Meet and greet with TDEC staff. Nashville, TN
- December 7: Business Roundtable. Nashville, TN. Closed Press.

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Region 5

Hot Issues:

Long-Term Water Source for Flint Has Been Finalized
Key Message: On November 30, 2017, the city of Flint signed a 30-year agreement with the Great Lakes Water Authority.

On November 30, 2017, the city of Flint signed a 30-year Master Agreement to purchase its drinking water from Great Lakes Water Authority (GLWA), thus ensuring a long-term source of drinking water for the city that is protective of public health. The timing of the Master Agreement is critical since the city's short-term contract with GLWA is set to expire on November 30, 2017. EPA has been informed that all parties have approved the Master Agreement and signatures are being gathered today. Both the Receivership Transition Advisory Board, which reviews the city's major financial and policy decisions, and the GLWA board unanimously approved the contract on November 29th, following the Flint City Council's approval on November 21. Other parties to the Master Agreement include the Genesee County Drain Commissioner (GCDC), Karegnondi Water Authority (KWA), and Michigan Department of Environmental Quality (MDEQ).

Wolverine PFAS Site in Rockford, Michigan
Key Message: Wolverine World Wide (WWW) Tannery continues to work under Michigan's Voluntary Cleanup Program to address releases from their Rockford facility and EPA is coordinating with the state to evaluate the contamination.

EPA is continuing to review preliminary well water data shared by Michigan Department of Environmental Quality and has requested additional information from the state. While MDEQ is in the lead, EPA has offered its assistance and is in discussions with the state about potential approaches to working together. This message will be reinforced on a December 1 call between EPA and the MDEQ, which was requested by the state. EPA anticipates receiving an update from MDEQ and sharing our perspective on the ongoing investigation. In close coordination with MDEQ, EPA intends to send out a request for information to Wolverine on December 1.

On November 29, the Kent County Health Department and Michigan Department of Environmental Quality hosted a public meeting for residents. Roughly 800 concerned citizens attended the meeting, which lasted several hours. Tensions were high as state, local, and Wolverine officials fielded questions. On November 17, the Kent County Health Department sent a letter to MDEQ expressing concerns regarding site communications and urging the state to request EPA and Agency for Toxic Substances and Disease Registry assistance at the site.

WWW used PFAS compounds, including Scotchgard, to waterproof shoe products at the former Rockford tannery. Wastes were disposed of at its licensed 76-acre House Street landfill in Belmont throughout the 1960-70s. In 2017, a plume from the House Street landfill was discovered to have contaminated residential wells at levels above the USEPA drinking water health advisory (HA) of 70 parts per trillion. Recent results also have shown concentrations of PFAS in the Rogue River downstream from the demolished Rockford tannery. The State's investigation continues to evolve as the list of potential disposal locations has grown beyond House Street landfill to 75 total sites. WWW has voluntarily conducted response activities at the request of MDEQ. However, some citizens are concerned about WWW's lack of commitment to remediating the groundwater and question WWW's

long-term assurance of helping future residential areas yet to be identified. As such, they have filed two RCRA Section 7002 lawsuits.

State of Michigan and Enbridge Energy LP Enter Agreement Regarding Line 5 in the Straits of Mackinac

Key Message: On November 27, 2017, the State of Michigan entered into an agreement with Enbridge to establish additional measures and undertake further studies concerning Enbridge's stewardship of Line 5 within Michigan and the transparency of its operation.

The November 27, 2017, agreement with Enbridge requires the following: (1) increased coordination between Michigan and Enbridge; (2) the replacement of the Line 5 St. Clair River Crossing; (3) discontinuation of Line 5 operations during sustained adverse weather conditions in the Straits of Mackinac; (4) an evaluation of technologies to detect leaks and damage to the coating on the Dual Pipelines in the Straits of Mackinac; (5) an evaluation and implementation of measures to mitigate anchor strikes in the Straits; (6) an evaluation of alternatives to replace the Dual Pipelines that cross the Straits (including the use of a tunnel); and (7) an evaluation of Line 5 water crossings other than the Straits to minimize risks of a release. After the completion of the required evaluations, the agreement provides that the parties will initiate discussions regarding further agreement on Enbridge's operations in the Straits of Mackinac. The agreement has received national press coverage.

In May 2017, a Consent Decree was entered between EPA and Enbridge to resolve violations from the 2010 Kalamazoo River oil spill in Marshall, Michigan. The CD includes substantial injunctive relief concerning Line 5 in the Straits of Mackinac. Based on an initial analysis, it does not appear that the state agreement will immediately impact Enbridge's commitments under the federal CD. If, however, the state agreement ultimately leads to another agreement that provides for the replacement of the Dual Pipelines, several requirements of the federal CD would likely be impacted.

Upcoming Events:

Acting Regional Administrator to Participate in McCook Reservoir Ribbon Cutting

Key Message: On December 4, 2017, Acting RA Bob Kaplan will give remarks at the Metropolitan Water Reclamation District of Greater Chicago's (MWRD) celebration of the completion of Phase I of the McCook Reservoir.

The McCook Reservoir is part of MWRD's Tunnel and Reservoir Plan (TARP). TARP was started by MWRD more than 40 years ago to help control the hundreds of combined sewer overflows (CSOs) running into Lake Michigan and Chicago area waterways every year. In 2011, a Consent Decree between MWRD, the state of Illinois, and the United States was reached to accelerate the pace of TARP. As required by the Consent Decree, the completion of Phase I of the McCook Reservoir will provide storage capacity for 3.5 billion gallons of wastewater that would be otherwise discharged as CSOs. By the completion of Phase II in 2029, the storage capacity of the reservoir will increase to 10 billion gallons. This project will significantly decrease the amount of pollutants entering the nearby waters.

This event will be open press.

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Upcoming Major Decisions:

None

Past Week Accomplishments/Highlights:

Acting RA Bob Kaplan and Congressman Rick Nolan Discussed UTAC Mine Permit On November 29
Key Message: The call was held at the request of Rep. Nolan to discuss concerns regarding EPA's comments on the Army Corps of Engineers' issuance of a 404 permit.

Region 5 acknowledged his concerns and agreed to coordinate closely with MPCA and the Corps.

Region 6

Hot Issues:

EPA Meets with Consulate General of the Republic of Korea, Houston, Texas
EPA will meet with representatives of the Consulate General of the Republic of Korea in Houston on Thursday, December 7, 2017. The meeting was requested by the Consulate to discuss the region's experience with disaster response and recovery, and how EPA and collaborating agencies are dealing with the aftermath of Hurricane Harvey. EPA attendees will include staff representing Regional contingency planning, Local Emergency Planning Committee outreach, inter-agency coordination and disaster response recovery. The Regional Director for the Office of Environmental Justice, Tribal, and International Affairs will also participate.

Anadarko Petroleum
The Region anticipates receiving Anadarko's signed Consent Agreement and Final Order (CAFO) by December 1, and anticipates filing during the week of December 4, 2017. Anadarko is a large off shore exploration and production oil and gas company conducting operations in the Gulf of Mexico. Additionally, Anadarko has on shore facilities, respectively in Louisiana and Texas. The CAFO addresses violations at seven offshore locations in Federal waters and two onshore locations located in Port Fourchon LA and Galveston TX. The CAFO was issued in response to violations of RCRA, including, among other things, failure to notify as to current generator status, failing to meet the requirement of a generator of hazardous waste, and failure to make adequate hazardous waste determinations. The CAFO requires Anadarko Petroleum to: 1. Pay a civil penalty of $1,383,164.00, within 30 days of the effective date of the CAFO; 2. Certify that it has assessed all its solid waste streams at each Facility listed in the CAFO to determine the accurate waste codes and has developed and implemented standard operating procedures ("SOPs") for each Facility to ensure that Anadarko is operating in compliance with RCRA and the regulations promulgated thereunder; 3. Certify that it has accurately and adequately complied with its RCRA Section 3010 Notification, where applicable, for each Facility; and 4. Provide, with its certification, a copy of SOPs as described in #2 above to EPA Region 6.

Lindon Manufacturing and Laboratory, in Houston, Texas
EPA has identified numerous incompatible materials being stored at the Lindon Manufacturing location that may present a substantial risk of fire, explosion, and danger to human health. Region 6 will issue a letter by December 1, 2017 requesting that Lindon Manufacturing arrange for the removal and disposal of the hazardous material within 5 days of receipt of this letter. The letter will also request the facility to provide a report detailing the steps they have taken to address areas of concern detailed in inspection reports previously provided to the company. If the company fails to respond to the letter, Region 6 is considering the issuance of a Unilateral Order (UAO) either under RCRA §3008(a) (enforcement) or a RCRA §7003 (Imminent and Substantial Endangerment (ISE)) to Lindon Manufacturing and Laboratory, LLC, in Houston, Texas. The facility was referred to Region 6 by the Texas Commission on Environmental Quality (TCEQ) for investigation and appropriate action. EPA's investigation, beginning with the initial site visit (May 2015) and subsequent information request (February 2016) and sampling inspection analytical results (January 2017), confirmed regulatory violations including storing hazardous waste without a permit and storage of incompatible wastes together. The UAO action, if undertaken, will require Lindon to address regulatory violations and the potential ISE issues. The Region has notified the Office of Site Remediation and Enforcement of the potential ISE UAO and has kept the State apprised of the case status.

San Jacinto River Waste Pits, Highlands, TX- Community Meeting
On December 4, 2017, EPA, in cooperation with the Texas Commission on Environmental Quality (TCEQ) and state and local agencies, plans to conduct a community meeting from 6:30 p.m. to 8:00 p.m. at the Highlands Community Center in Highlands, Texas. This meeting will provide the community with the opportunity to ask questions about and to get involved in the remediation process for the site. Discussion topics include the Record of Decision selected remedy, site activities, river channel stabilization work and timetables.

Bird Creek, Osage County, Oklahoma
EPA continues to work on the response to comments from the public comment period and the hearing held on October 11, 2017 related to Proposed Administrative Orders (SDWA) sent to Warren American Oil Company, Jireh Resources LLC, and Novy Oil and Gas, Inc. All three respondents believe the contamination is a one-time occurrence and dispute EPA's contention that the Mississippi Chat is over-pressurized. A tentative date for pumping out North Bird Creek at Monitoring Station No. 6 between the landowner and two respondents is set for the week of December 4th. EPA will be on site to observe the action, if it occurs. EPA will be collecting additional in-stream monitoring data the week of December 4th. On November 27, 2017, EPA mailed out an Administrative Order (AO) to Warren American Oil Company, LLC under the Clean Water Act (CWA) for an unauthorized discharge of produced waters of the U.S observed during an EPA inspection on October 30-31, 2017. After receipt, the Respondent (Warren) has 30 days to comply with the AO.

Grace Sierra, Hope, AR
EPA intends to conduct indoor air sampling at the former Grace Sierra facility. Although most indoor dust samples collected in July of 2017 showed non-detect for asbestos, one sample detected an elevated level of chrysotile asbestos. To help assure the plant manager and his employees that there are no exceedances of the OSHA air standard, EPA offered to conduct 8-hour sampling in the warehouse.

Oklahoma Corporation Commission – Final End of Year Report for UIC Program Oversight
During the first week of December, EPA intends to send the Underground Injection Control End-of-Year review to the Oklahoma Corporation Commission (OCC) for state fiscal years of 2016 and 2017. The review covers basic program activities and the OCC's actions with respect to induced seismicity. The OCC staff have already reviewed the draft and had no problems or comments on it. Additionally, the transmittal letter will praise OCC for their efforts to address natural gas seeps affecting the Pawhuska High School this fall.

Texas Small MS4 General Permit, State Permit Review
EPA may issue an Interim Objection letter requesting information on how the permit is consistent with the requirements of the Clean Water Act and implementing regulations will be submitted by its regulatory deadline of Monday, December 4, 2017. Issues that could be included in the interim objection, if not resolved, include: 1) controls for discharges to impaired waters or discharges to waters with Total Maximum Daily Loads, 2) whether compliance schedules improperly extend deadlines for activities that should have already been completed, and 3) procedures for meeting requirements of the MS4 Remand Rule in the proposed two-step process.

Spill Prevention Control and Countermeasure (SPCC) Class I Consent Agreement and Final Order (CAFO), Lincoln County, OK
EPA intends to issue a Class I CAFO to Palm Operating, LLC, for the following violations of 40 CFR part 112: failure to develop a SPCC Plan; implement discharge prevention measures, drainage controls, and countermeasures for discharge discovery, response and cleanup; and maintain appropriate containment and/or diversionary structures or equipment at the facility to prevent a discharge. The violations were documented during an inspection of the SFPSU Tank Battery in Lincoln County, OK, on June 26, 2017. The proposed penalty is $28,847.

NEPA:

Texas-Oklahoma Passenger Rail Development Program Combined Service
The Department of Transportation, Federal Railway Administration (FRA) prepared a Final Environmental Impact Statement (FEIS) to consider the development of an intercity passenger rail system that enhances existing passenger rail service and provides new passenger rail service between Oklahoma City and South Texas (Laredo, Corpus Christi, Brownsville), with potential extension to Monterrey, Mexico. The development could provide new and upgraded passenger rail service along an 850-mile corridor extending approximately from Oklahoma to south Texas. Region 6 will support the FRA by meeting our basic statutory requirements for participating in the environmental review process.

Upcoming Public Events:

- December 4 – San Jacinto Waste Pits Superfund Site Community Meeting, Highland Community Center, Highland, Texas.
- December 5 -- EPA will participate in the General Session at the 2017 Clean Gulf Conference to present and update on regional oil spill prevention and response activities. Over 500 people are expected to attend.
- December 11 – TCEQ meeting with environmental organizations on Hurricane Harvey response, Austin, Texas. EPA invited to participate.
- December 14 – Georgia Pacific Public meeting hosted by Arkansas DEQ, Crossett, Arkansas.

Upcoming Decisions:

Action to Concur with the TCEQ El Paso Exceptional Events Demonstration
EPA intends to concur on the document for the El Paso Exceptional Event demonstration presented by the Texas Commission on Environmental Quality (TCEQ). TCEQ has asked to except the air quality 8-hour ozone concentration value of 77 parts per billion and flag the hours of 1100-1800 local standard time (LST) on June 21, 2015, at the University of Texas at El Paso (UTEP) monitor. TCEQ submitted the demonstration package on September 27, 2016, after completing a 30-day public review period. Additional information was submitted for review on January 19, 2017, January 20, 2017, and May 20, 2017. After careful consideration of the information provided, the EPA concurs, based on the weight of evidence, that the TCEQ has made such demonstration.

Request for Title V Permit for Monarch Waste Technologies
EPA intends to request a complete Part 71 permit application by June 1, 2018 in order to permit operation of the Pyromed 550 system incinerator on Pueblo of Nambe tribal lands. An operating permit is required pursuant to the New Source Performance Standards for Hospital/Medical/Infectious

Waste Incineration (HMIWI) regulations. EPA's federal operating permit rules require operating permits to be submitted within 12 months after the source becomes subject to the permit program, or on or before such earlier dates as the permitting authority may require. EPA may request permit applications earlier than 12 months provided the source is notified of an earlier submittal date at least 6 months in advance of that date. Because of expected interest in this operation, we are requesting the Title V permit application by June 1, 2018.

Past Week Accomplishments:

Revisions to Emissions Banking and Trading Programs, Texas
EPA approved Texas revisions to Emissions Banking and Trading Programs for Area and Mobile Sources. This final action addressed the revisions to the Texas Emissions Credit (EC) and Discrete Emission Credit (DEC) that clarify and expand the existing SIP approved programs for area and mobile source credit generation. The regulated community and the public have been active participants in the TCEQ stakeholder process for the development of these regulations.

Pending Actions (Pending Federal Register Publication):

Oklahoma: Final Approval of State Underground Storage Tank Program Revision
FRL 9968-28-Region 6 and 9968-29-Region 6

Region 7

Hot Issues:

Westlake Landfill (Bridgeton, MO)
Key Message: Work continues on the Final Feasibility Study.

- On November 28, 2017, EPA sent a letter to the Responsible Parties requesting that the revised Final Feasibility Study include evaluation of on-site disposal of the excavated radiological materials.
- Discussions were held this week with the Responsible Parties, OLEM/OSRTI, the state of Missouri, and the US Army Corps of Engineers regarding finalization of the Remedial Investigation Addendum, the Final Feasibility Study, and the Proposed Plan on an expedited schedule. Region 7 is lining up resources to assist with writing of the RIA and FFS documents in the event that is necessary in order to meet deadlines.

Santee Sioux Tribal LEAN Project with Region 7
Key Message: Working collaboratively with our tribal partner to improve the grant work plan process.

- Region 7 representatives from the planning, tribal, water, air and emergency planning/Brownfields programs met with members of the Santee Sioux Tribal environmental program to develop a value stream mapping overview of the work plan negotiation process.
- Members from both offices saw the need to engage in a mapping exercise to outline the process as the starting point for finding ways to LEAN the process. The meeting was very productive and useful in developing a common understanding of the steps involved in negotiating program work plans in a timely manner. The group also spent time crafting solutions to problems areas that were identified.
- The map is being refined and will be shared with the other regional tribes at the RTOC meeting in January. The intent is to use the new process to guide our LEAN processes and be the framework used for future work plan negotiations.
- In addition, the regional staff will be training our tribal partners in a Lean 101 White Belt session at the January meeting.

Upcoming:

Integrated Error Correction Process Meeting
Key Message: Region 7 is participating in the national effort to ensure efficiency and effectiveness in enforcement reporting is a priority.

- IECP LEAN Event: December 6-8, Washington DC - A LEAN event to improve the Integrated Error Correction Process (IECP) in the Enforcement Compliance History Online (ECHO) that is shared by both OEI and OECA is planned.
- Region 7's Neal Gilbert has been asked to participate, providing perspective as a regional data steward, to help identify places in which the IECP could be improved. Only Regions 7 and 8 participating with HQ.

Region 8

Hot Issues:

Federally-led Bilateral Effort for Lake K Requested by Montana Governor Bullock and Senator Tester

Key Message: The Governor and Senator signed a letter on November 27 to Secretary of State Tillerson requesting the State Department coordinate with Montana, Tribes, EPA, DOI and other stakeholders to identify and support long-term bilateral watershed protection needs for the Kootenai Watershed including Lake Koocanusa.

- This is the strongest statement that the state of Montana has made in recent years regarding the need for a bilateral approach in the Kootenai watershed that straddles British Columbia, Montana and Idaho.
- Previously the State Department and EPA have received written requests and visits from the Joint Councils of the Ktunaxa Nations, which includes the Confederated Salish and Kootenai Tribe in Montana and the Kootenai Tribe of Idaho, for a federally-led bilateral approach to contamination and other concerns in the watershed. The Tribes have fishing treaty rights in the watershed, including Lake Koocanusa.
- Regions 8 and 10 are working with the State Department and OITA to develop a paper following up on recent bilateral discussions of transboundary mining impacts from BC to US waters. The paper will identify gaps in the current processes in place to address these concerns that prompt the calls for US and Canadian federal involvement.

Region 8 finalizes CERCLA administrative order on consent with Stratus Redtail Ranch LLC for time-critical removal action at the Neuhauser Landfill Site in Erie, Colorado.

Key Message: On November 28, 2017, EPA and Stratus Redtail Ranch LLC entered a CERCLA administrative order on consent for a time critical removal action at the Neuhauser Landfill Site in Erie, Colorado.

- The Site is adjacent to old landfills, and was purchased for residential and recreational development by Stratus.
- Drums containing hazardous substances were discovered during development work at the Site. Stratus agreed to remove and dispose of approximately 150 drums from the Site.
- The EPA and the State are working to coordinate this removal action in concert with the longer term state-lead remedial efforts at the Site.
- IBM is a PRP at the Site, and has so far declined to participate in any removal efforts.
- The EPA has received media requests regarding this removal.

Visits with South Dakota Officials - Nov. 28-29

Key Message: Region 8 Regional Administrator Doug Benevento visited with SD Governor Dennis Daugaard, SD Attorney General Marty Jackley, SD Department of Environment and Natural Resources Director Steve Pirner, and Agriculture Secretary Mike Jaspers earlier this week. While in SD, the RA also met with representatives from the SD Public Utilities Commission, Senator Mike Rounds' office, and representatives from several SD Ag associations.

Upcoming Public Events:

Region 8 Staff Attending Fountain, Colorado Town Hall Meeting to Discuss Local Groundwater Contamination

Key Message: El Paso County Commissioner Lojino Gonzales and State Representative Lois Landgraf are hosting a town hall meeting on Monday, December 4 in Fountain, Colorado to discuss perfluoroalkyl substances (PFAS) groundwater contamination with local residents.

- We expect Ex. 5 Deliberative Process (DP)
  Ex. 5 Deliberative Process (DP) d
  private wells has largely been placed on the public water utilities and residents.
- Staff from the Region 8 communications, drinking water and site assessment programs plan to attend to answer questions about EPA's role and the drinking water health advisories for PFOS and PFOA.
- Region 8 will coordinate with OPA regarding talking points for this meeting.

Upcoming Major Decisions

None

Last Week Highlights:

Region 8 multi-media site visit to Ute Mountain Ute Reservation in Colorado

Key Message: In response to a request from the Ute Mountain Ute (UMU) Tribe's Environmental Program, EPA staff from RCRA, emergency response, water and oil programs travelled to the UMU reservation to evaluate chronic crude oil leaks and spills, and soil disposal areas in an aging oilfield on the reservation.

- Follow-up actions include: 1) Ex. 5 Deliberative Process (DP)
  Ex. 5 Deliberative Process (DP)
- Members of the UMU Environmental and Minerals/Energy Programs, representatives from the Bureau of Indian Affairs, and the oilfield operators participated in the visit.

Region 9

Hot Issues:

Anaconda NPL deferral: We reached agreement with NV DEP on language describing our proposed NPL Listing Deferral of this complex mine site. Next week, BP/Atlantic Richfield will join us and NDEP at our Regional Office to discuss the proposed agreement, and any remaining issues to be addressed among us. Much other work remains for us in resolving past costs with BP/ARC, and in finalizing MOUs with the two tribes, who may not consent to the proposed EPA language despite extensive in-person consultation.

No. California wildfire response: As our household hazardous waste collection is 99% complete, FEMA has asked us to shift our emphasis to asbestos removal in four counties, to aid the Army Corps' pace of debris removal. We have 190 employees and contractors engaged at present. At FEMA and EPA's urging, the Corps has co-located its command post with us in Rohnert Park, is joining our daily coordination meetings, and has agreed to use and update our publicly accessible data. This past week, the Napa County Board of Supervisors recognized EPA with a formally adopted proclamation (see attached). Next week, we'll convene emergency response partners, USGS, researchers and water utilities to discuss post-fire water quality monitoring, mitigation, and possible future guidance.

CA Water Quality Standards: We've forwarded for the Administrator's signature the proposed withdrawal of federal water quality criteria for lead, chlorodibromethane, and dichlorobromomethane. We had promulgated these many years ago as part of the California Toxics Rule, and they are now superseded by new EPA-approved site-specific State criteria.

External Engagements:

Guam Gov. Calvo: on Monday, Dec. 4 I'll meet with Guam Gov. Eddie Calvo to discuss various infrastructure issues, primarily related to the DOD expansion on Guam.

Chem Waste Mgt. Kettleman Hills: we held a joint State/EPA open house and public meeting in this central California community on Nov. 16 to present (in English and Spanish) the proposed PCB and RCRA permit renewals for this major commercial disposal facility. Although our EPA PCB permitting role is several months into the future, it will continue to present a high level of concern for various community groups.

Drinking Water outreach: we held the first of five California workshops on the Lead-and-Copper rule, aiming to provide more technical assistance and help systems return to compliance.

Superfund site remedy: following the Administrator's support of our proposed Casmalia landfill remedy, we are now convening a December 6 public meeting in Santa Barbara county. This landfill had operated as a large commercial disposal site from 1973 to 1989.

Past Week's Highlights:

UIC Permit: Last year we issued a UIC permit for an in-situ copper mining operation in Florence, AZ. The town and a local developer, having unsuccessfully petitioned the EAB for review, have now

petitioned the 9th Circuit for review of our permit and our related 1997 aquifer exemption, and have asked us to stay effectiveness of the already-issued permit.

NV Pretreatment: we've finalized a consent decree with the City of No. Las Vegas to address CWA violations regarding their pretreatment program. We'll split a $385K penalty with NDEP. The City will establish pretreatment requirements for industrial users to protect its downstream sewage treatment plant, which discharges to the receiving waters of Lake Mead, a multi-state source of drinking water.

DOE RCRA Variance: we approved DOE's petition for a one-time, site-specific variance from RCRA Land Disposal requirements to allow 21 cubic yard of mixed low-level radioactive waste to be disposed of at the Nevada National Security Site (formerly NV Test Site). The soil met all universal waste thresholds except for PCBs. TSCA's PCB regs allow for higher levels of PCB to be disposed of in a RCRA landfill. We worked closely with Region 4 and NV DEP. This action saves the federal government $1.3 million in disposal costs.

CWA decision: the Northern District of California granted EPA's Motion for Summary Judgment in the NRDC v. Pruitt case. The plaintiffs claimed that certain "Temporary Urgency Change Orders" (TUCPs) issued by the State Water Resources Control Board during the drought years constituted revisions to the State's water quality standards, and therefore required EPA's review under CWA Section 303. The judge found that the claims were moot, noting that the TUCPs had all expired, that the Governor's drought proclamation had been revoked, and that EPA had made a formal determination that these state actions were not water quality standards changes

Region 10

Hot Issues:

Alaska Small Remote Incinerators: On November 20, Region 10 and HQ staff met with representatives of ConocoPhillips and the Alaska Oil and Gas Association to discuss their concerns regarding their ability to meet the numeric air standards for small remote incinerators. The groups believe that EPA has the discretion under Sections 111 and 129 of the Clean Air Act to adopt work practice standards for small remote incinerators instead of numeric standards. This issue was argued before the courts in 2015 and EPA prevailed, i.e. the judge ruled that the agency does not have discretion to set standards in lieu of numeric standards. Without statutory changes, the only route is to reopen the rule-making process with the opportunity for public input to establish less stringent numerical standards that the remote incinerators can meet or perhaps justify an exemption like that for remote institutional incinerators. The industry representatives may seek to elevate this issue and to have the rule-making identified as a priority.

Upcoming Decisions:

Washington PM2.5 Interstate Transport SIP Finding of Failure to Submit: On November 30th, the acting Regional Administrator signed a Finding of Failure to Submit (FFS) Federal Register Notice. In a court order issued September 18, 2017, the United States District Court found that Washington was one of five states to miss the December 14, 2015, deadline for submitting an interstate transport Clean Air Act State Implementation Plan for the fine particulate matter annual standard. This order requires that EPA issue a FFS no later than December 17, 2017. While Washington is actively working on this SIP revision, they do not expect to submit the SIP until February 2018. The FFS would start a two-year clock for the EPA to either fully approve a Washington SIP revision or issue a Federal Implementation Plan (FIP) to remedy any deficiencies.

Washington State Review Framework report for OECA review: Region 10 will be sending to OECA for concurrence the final Washington State Review Framework report, which assesses the compliance enforcement programs for CAA, NPDES, and RCRA at the Washington Department of Ecology and local air agencies. The report assesses data and files for activities occurring in Fiscal Year 2015. The state has provided comments on the draft report, which have been incorporated into the final. After OECA concurrence, we will transmit the report to the state and local air agencies and load our recommendations into the national SRF tracking database. We are planning for a transmittal to the state in mid-December, ahead of the December 31, 2017 Annual Commitment System deadline.

Upcoming Public Events:

Briefing for the Idaho Oil and Gas Commission on Underground Injection Control Program Transfer: On December 7, as requested, EPA Region 10 management and staff will provide a briefing at the Idaho Oil and Gas Commission meeting in Boise on the process, timeline, and issues associated with Idaho's request to transfer UIC Class II wells to EPA. The Commission meeting is open to the public. EPA Region 10 and Headquarters have been coordinating closely with the Idaho agencies in preparation for the briefing. The meeting follows the November 27 Federal Register Notice of a proposed rule announcing the voluntary transfer. The FRN opened a 45-day public comment period. Notice of the voluntary transfer action has been placed in local newspapers, and reported in the media, including local radio.

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EPA R10 Attendance at West Coast Regional Planning Body Meeting: Region 10 staff will attend the West Coast Regional Planning Body and West Coast Ocean Partnership Annual Meeting in Long Beach, CA from December 5-7, 2017. There will be federal, state, and tribal caucus updates, a recap of activities since the last meeting in October 2016, updates from planning teams, discussion of the Regional Ocean Assessment and West Coast Ocean Data Portal, and identification of next steps. One day of the meeting is open to the public and two days are for discussions amongst the representatives from tribal governments, states, and federal agencies.

Washington Department of Health to Propose Transfer of 91 Tribal Drinking Water Systems to EPA: On November 30, 2017, the Washington Department of Health and EPA Region 10 hosted a government-to-government consultation with tribal chairs and the American Indian Health Commission in Washington to propose a process to transfer regulatory oversight for all Group A public water systems located entirely within tribal reservation land boundaries from WADOH to EPA. There are 91 such systems in Washington. EPA and WADOH will work together to transfer a few systems at a time, matching EPA's capacity to absorb these new systems within our regulatory structure.

Last Week Highlights:

Issuance of Leavenworth, Washington National Fish Hatchery NPDES Permit: On November 22, Region 10 issued a final NPDES permit to the Leavenworth National Fish Hatchery. The hatchery, operated by the U.S. Fish and Wildlife Service, discharges wastewater into Icicle Creek in Leavenworth, Washington. Regulatory agencies, including EPA Region 10, involved with authorizing its operations have been subject to lawsuits and public disclosure requests by Wild Fish Conservancy and the Center for Environmental Law Policy since the late 1990s. EPA needed to issue this permit in November in order for it to be in effect by January 1, 2018. Failure by EPA to meet these dates would trigger court-ordered monitoring and other requirements. We expect the permit to be challenged by WFC and CELP after issuance. EPA had been waiting for Ecology to complete its final Clean Water Act Section 401 certification that the federal permit meets the state's water quality standards. The final state certification was delivered to EPA on November 22.

Region 10 Delists Two Superfund Sites in Vancouver, Washington: Region 10 will remove the Vancouver Water Stations 1 and 4, from the National Priorities/Superfund List. NPL sites are proposed for deletion once all response actions are complete and all cleanup goals have been achieved. These sites had significant groundwater contamination from tetrachloroethylene (PCE). Cleanup actions have successfully treated the groundwater such that it now meets drinking water standards. Delisting will make the properties available for economic re-development and productive re-use. EPA added the sites stations to the NPL in the mid-1990s.

Office of Administration and Resources Management

Hot Issues:

Arthur S. Flemming Awards
OARM is coordinating the agency's nominations for the Arthur S. Flemming Awards which recognize outstanding and meritorious achievement in working for the federal government; encourage the highest standards of performance in the federal service; enhance appreciation of our form of government and the opportunities and responsibilities that it presents, and attract outstanding individuals to a career in federal service. There are twelve awards annually in five categories: leadership and/or management; legal achievement; social science, clinical trials and translational research; applied science and engineering, and basic science. EPA can submit no more than two nominations per each category and eligibility is restricted to individuals currently engaged in federal government service and who have served 3-15 years. During the last two years, EPA has had three winners. Nominations, signed by the Administrator, are due to the George Washington University by the January 31, 2018.

The Human Capital Operating Plan
The Human Capital Operating Plan is the agency's human capital implementation document. The HCOP describes the agency's human capital activities and demonstrates their linkage to our Strategic Plan and Annual Performance Plan. Developed in collaboration with the agency's senior management team, it provides ongoing opportunities to influence the agency's strategic human capital direction. The agency submitted its HCOP to the Office of Personnel Management today.

Contingency Planning

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Federal Advisory Committees
The Government Accountability Office is initiating a new engagement with the agency, "EPA Advisory Committees." The GAO will be examining the legal requirements and policies for ensuring the balance and independence of EPA advisory committee members, the extent to which EPA is following requirements, and how the composition of EPA's committees have changed over time. The GAO Natural Resources and Environment Team will be performing the work. The entrance conference is scheduled for December 12, 2017.

Suspension and Debarment
On November 28, 2017, the EPA Suspension and Debarment Official (SDO) issued notices of suspension for causes based on Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) The SDO found an immediate necessity to suspend these respondents from participating in future procurement and non-procurement programs with the federal government. A suspension is a preliminary exclusion from receiving federal contracts and covered transactions to protect the public interest pending completion of legal proceedings

Upcoming Public Events:

None

Upcoming Major Decisions:

None

Last Week's Highlights:

Visit to the Hill

Ex. 5 Deliberative Process (DP)

Office of Air and Radiation

Hot Issues and Important Deadlines:

Tracking SIP Actions:

Ex. 5 Deliberative Process (DP)

OAR actions under review at OMB:

- Municipal Solid Waste (MSW) Landfills New Source Performance Standards (NSPS) and Emission Guidelines (EG) – Stay Notices
- Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach – Supplemental Proposal
- Greenhouse Gas Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (Advance Notice of Proposed Rulemaking)

State Implementation Plan (SIP)-Related Actions:

The Regions report that the following SIP-related action was signed this week:

- **Region 3: Final Rule -** RACT for 2008 Ozone NAAQS - DE

Upcoming Meetings, Public Events, or Other Public Releases:

Glider Public Hearing: EPA will hold a public hearing on the proposed repeal of emission requirements for glider vehicles, glider engines, and glider kits in Washington, DC on Monday, December 4, 2017.

Light Duty Trends Report: As early as Wednesday, December 6, 2017, EPA will release the annual "Trends" report is the authoritative reference for tailpipe carbon dioxide (CO2) emissions, fuel economy, and technology trends for new personal vehicles sold in the U.S. every year since 1975. The report does not address compliance or policy but mainstream media use the report to document short-term and long-term trends, especially for fuel economy, and researchers use it to calibrate their models to real world performance.

Greenhouse Gas Performance Report: As early as Wednesday, December 6, 2017, EPA will release the annual "GHG Performance" report details compliance data, both for individual automakers and fleet wide, with the National Program greenhouse gas (GHG) emissions standards as part of the agency's continuing commitment to provide the public with transparent and timely information. This year's report addresses compliance through Model Year (MY) 2016, the last year for which we have final compliance data.

Clean Air Act Advisory Committee (CAAAC) Annual Fall Meeting: On Tuesday, December 12, 2017, EPA staff will attend the CAAAC Fall meeting being held in Washington, D.C.

Upcoming Decisions:

Ex. 5 Deliberative Process (DP)

Past Week's Highlights:

Clean Power Plan (CPP) Public Hearing: EPA held a public hearing on the proposed repeal of the CPP in Charleston, WV on November 28-29, 2017.

Actions signed this week:

- Renewable Fuel Volume Standards for 2018 and Biomass-Based Diesel Volume (BBD) for 2019

Office of Chemical Safety and Pollution Prevention

Important Deadlines:

TSCA New Chemicals Determinations				
Row	**Determination Type**	**Pending on 11/28/2017**	**Determinations Completed[1] as of 11/28/2017**	**Determinations Posted on the Website as of 11/28/2017**
1	# of "not likely" determinations	**1**	**105[4]**	**105[4]**
2	# of §5(e) Orders signed by both EPA and the submitter	-	**292**	**292**
3	# of §5(e) Orders signed by EPA and awaiting submitter signature	**69**	-	-
4	# of non-Order SNURs/"not likely" determinations	**0**	**0**	**0**
5	# of cases in post-FOCUS final determination development[5]	**304[3, 5]**	-	-
6	# of cases flagged for in-depth review	**54**	-	-
7	# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	**27**	-	-
8	# of LVE/LOREX exemption grants	-	**482**	**484**
9	# of LVE/LOREX exemption denials	-	**101**	**94**
10	**Total number of cases**	**455**	**980**	-
11	Normal active workload for the New Chemicals Program	300	-	-
12	Number of cases undergoing testing or data development by submitter	79[3]	-	-
13	**Backlog[2]**	76	-	-

[1] "Determinations Completed" means that EPA has completed its reviews on these cases and that final determinations have been made by EPA under TSCA section 5(a)(3).

[2] (Total number of cases) – (Normal active workload for the New Chemicals Program) - (Number of cases undergoing testing or data development) = Backlog

[3] Of these cases, approximately 73 are "active" lung toxicity cases that are suspended while submitters conduct testing to develop data on pchem properties and toxicity.

[4] "Not Likely" determinations are not posted until the final signed determination document is prepared and has been shared with submitter.

[5] These cases are those for which Post-FOCUS work is underway to develop: not likely determinations; non-Order SNURS coupled with not likely determinations; or section 5(e) or 5(f) Orders. When the OPPT Office Director decides which of these regulatory paths to follow, the case is moved to: Row 3 when the section 5(e) or 5(f) Order is sent to the submitter or signature; Row 4 when the SNUR is published; and Row 1 when the determination document is sent to the OPPT OD for signature.

Hot Issues:

Glyphosate Draft Risk Assessments - In mid-December, OPP will post the draft human health and ecological risk assessments for glyphosate on the Web and later on [HYPERLINK "http://www.regulations.gov"] (docket EPA-HQ-OPP-2009-0361). In early 2018, OPP will open a 60-day public comment period. The ecological risk assessment includes an evaluation of the potential for effects on non-target organisms from exposure to glyphosate, incorporating available exposure and effects data, and using the most current risk assessment methods. EPA's analysis indicates that there is a potential for effects on birds, mammals, and terrestrial and aquatic plants. The human health risk assessment includes an evaluation of dietary, residential/non-occupational, aggregate, and occupational exposures. Additionally, an in-depth review of the glyphosate cancer database was performed. An OPP Update will announce a new web page to host the draft risk assessments and several supporting documents.

Upcoming Meetings and Public Events:

SFIREG Full Committee Meeting, December 4-5. OPP's Office Director, Richard Keigwin, and other staff will present at the State FIFRA Issues Research and Evaluation Group (SFIREG) Full Committee Meeting on various pesticide topics. SFIREG working committees provide a platform for the states and EPA to resolve challenges to successful implementation of pesticide programs and policies in the USA and territories. The SFIREG consists of state representatives from the 10 EPA regions who come together biannually to meet with EPA staff. SFIREG's activities are supported by EPA through a grant, which acknowledges the strong co-regulatory relationship required by the states' primacy role in pesticide enforcement and/or certification programs. The SFIREG meeting agenda is available [HYPERLINK "https://aapco.files.wordpress.com/2017/11/full-sfireg-agenda-december-2017_11-3-171.pdf"]. (https://aapco.files.wordpress.com/2017/11/full-sfireg-agenda-december-2017_11-3-171.pdf)

Consumer Specialty Products Association Annual Meeting, December 4-6. Deputy Assistant Administrator Nancy Beck will be virtually presenting on TSCA and PRIA Implementation at the Consumer Specialty Products Association Annual Meeting being held in Ft. Lauderdale, Florida. Additionally, senior management from OPP will be presenting in-person at the meeting. Topics presented will include: updates on projects and priorities; the Antimicrobial Testing Program; PRIA and Registration Review; Data Call-ins; the efficacy questions mailbox; the industry feedback reporting form; and the status of draft documents. An ingredient disclosure session will also be held on December 6th. Meetings with individual companies will also take place during this time.

Washington State Tree Fruit Association Meeting, December 6. A staff representative from OPP's Field and External Affairs Division will attend the Washington State Tree Fruit Association meeting to discuss the Worker Protection Standard and what is expected from the grower community in implementing the new standard.

Public Meeting on New Chemicals, December 6. OCSPP is hosting a public meeting to update and engage with the public on the Agency's progress in implementing changes to the New Chemicals Review Program as a result of the 2016 amendments to TSCA, including discussion of EPA's New Chemicals Decision-Making Framework. OCSPP will describe its review process for new chemicals under the amended statute, and interested parties will have the opportunity to provide input on their experiences with the New Chemicals Review Program since the statute was amended and to ask

questions. The meeting will be held December 6, 2017, 9:00 a.m. to 5:00 p.m. at the Ronald Reagan Building and International Trade Center, Horizon Ballroom.

Public Meeting on Approaches for Identifying Potential Candidates for Prioritization for Risk Evaluation, December 11. OCSPP is hosting a public meeting to focus on possible approaches for identifying potential candidate chemicals for EPA's prioritization process under TSCA. As amended, TSCA requires that EPA establish processes for prioritizing and evaluating risks from existing chemicals. EPA will describe and take comment on a number of possible approaches that could guide the Agency in the identification of potential candidate chemicals for prioritization. The meeting will be held December 11, 2017, 8:30 a.m. to 5:00 p.m. at the Ronald Reagan Building and International Trade Center, Horizon Ballroom.

American Wood Preservative Association Technical Meeting, December 14-16. A staff representative from the Antimicrobials Division (AD) will travel to Key West, FL to participate in an American Wood Preservative Association (AWPA) technical meeting. In August 2017, AD provided written comments on an AWPA proposal on raising retention rates for treating wood that will be discussed during the meeting. The AD representative will present verbal comments on the proposal as well as convey the need for registrants to amend their EPA registered product labels with wood preservative uses to appropriately reference AWPA standards.

Last Week Highlights:

FIFRA Scientific Advisory Panel (SAP) Meeting, November 28-29. The topic of the FIFRA SAP meeting was "the Continuing Development of Alternative High-Throughput Screens to Determine Endocrine Disruption, Focusing on Androgen Receptor, Steroidogenesis, and Thyroid Pathways." The FIFRA SAP is a FACA committee. The SAP commended the scientific rigor and transparency of EPA's presentations and background materials.

Inventory Reporting Webinar, November 29. Beginning in September, EPA held a series of three webinars to assist the regulated community with reporting under the TSCA Inventory Notification (Active-Inactive) Rule, published in the Federal Register on August 11, 2017. This rule requires industry to report chemicals manufactured or imported into the U.S. over the past 10 years. Each identical webinar included an overview of reporting requirements, a demo of the electronic reporting application (Central Data Exchange (CDX)), and time for questions and answers. The last of these three webinars occurred on November 29, 2017.

Small Business Determination. On November 30, OCSPP published a final determination, as required under the amended TSCA, that an update is warranted to the size standards for small manufacturers and processors currently used to determine which small businesses are exempt from reporting regulations under TSCA Section 8(a). OCSPP reviewed the adequacy of the existing standards that define what constitute small manufacturers and processors used in connection with reporting regulations under TSCA section 8(a). After reviewing public comments and consulting with the Small Business Administration (SBA), OCSPP has determined that a revision to the existing standards is warranted. The future revisions to the standards will occur by subsequent rulemaking, which allows for further opportunities for consultation with the SBA and public notice and comment.

Office of the Chief Financial Officer

Hot Issues:

- With the current Continuing Resolution, which provides funding to federal agencies, set to expire on December 8, there are reports that Congress is considering a second CR for another two weeks with the possibility of a third CR that will go in to January. The additional time will allow Congress to complete action on the FY 2018 appropriations bills. There also is the possibility of a shutdown should Congress not be able to agree on another short term CR and steps are being taken in OCFO, in coordination with OARM, to prepare for this outcome.
- OMB issued the FY 2019 Passback this past Tuesday. OCFO prepared options and materials for senior leader consideration to respond to the OMB's FY 2019 Passback. The agency's response is due to OMB on December 1 and we are on schedule to meet this deadline.

Upcoming Public Events:

N/A

Upcoming Major Decisions:

- Ex. 5 Deliberative Process (DP)
  Ex. 5 Deliberative Process (DP) OCFO also is working with the agency Performance Improvement Officer to summarize results to date of the Chief Operation Officer's ambitious target-setting meetings with the NPMs on strategic measures and Agency Priority Goals. Target date for all decisions is December 8 to provide OMB an initial review during the week of December 11-15 and incorporate into the final draft *FY 2018-2022 EPA Strategic Plan* due to OMB no later than December 22.
- Next week, OCFO will initiate Policy Team Review of the draft *FY 2017 Annual Performance Report* and two-page performance highlights, which reflects results in meeting 2017 budget measure targets and will be part of the *FY 2019 Congressional Justification* submitted to Congress and made available to the public in early February 2019.
- OCFO has commenced pre-planning for the FY 2018 Interim Operating Plan budget and met with the Acting Deputy Administrator, COO, and Chief of Staff to discuss. Once Congress passes a final appropriation bill, EPA has 30 days to create and submit the Operating Plan to Congress, after getting Policy Team and then OMB approval.

Last Week Highlights:

- After last week's briefing for the COO and Acting DA, the top three agency enterprise risks as result of senior leader risk assessments of 11 strategic objectives in draft *FY 2018-2022 EPA Strategic Plan* have been finalized. OCFO will be engaging with senior leaders on next steps to identify actions to mitigate the enterprise risks in FY 2018. Agency Priority Goal action plans will be due to OCFO by mid-December to support the *FY 2019 Congressional Justification* submission to OMB.
- The E-Enterprise Permitting Working Group comprised of EPA, states, and tribes met earlier this week to discuss refinements to the measures and metrics options. The options are intended to support assessment of the effectiveness of permitting programs where EPA has a shared intergovernmental program implementation responsibility with states and tribes. Discussion

focused on two primary areas of measurement: 1) timeliness of permitting decisions, and 2) quality of permitting.

Other:

N/A

Office of Congressional and Intergovernmental Relations

Upcoming Hot Issues and Important Deadlines:

- **Dec 6** – Public meeting on TSCA New Chemicals program w/OCSPP
- **Dec 7** - the House Energy & Commerce Committee will hold a hearing on "The Mission of the U.S. Environmental Protection Agency." The Administrator is scheduled to testify.

Upcoming Events:

- **Week of Dec 4** – Transmittal of 2017 National Water Quality Indicators Report to Congress
- **December 5** – HSST briefing to discuss IRIS RFC
- **December 5** – Meet and Greet with Lee Forsgren and Mayor Dan Horrigan of Akron, OH. The meeting will give Mayor Horrigan an opportunity to get acquainted with the new Office of Water leadership, and to share highlights about the city's continuing efforts to address Combined Sewer Overflow (CSO) issues, and advance its Integrated Plan for Stormwater Management.
- **December 5** –EPA's National Brownfields Training Conference is the Agency's largest gathering of communities, non-profits and private sector stakeholders. The conference draws over 3,000 attendees who are leaders in promoting community revitalization.
- **December 8** – Environmental Justice briefing request from Senator Kamala Harris on EJ Screen

Past Week Accomplishments:

- **Week of November 27** - Follow up call with Senators Schatz/Cardin/EPW staff on Clean Water Rule
- **November 27** – The Priority Area Kaizen State Oversight Lean team met to finalize the survey template, the survey will be sent out to the Regions for final review.
- **November 28** – EPA met with Southern Sandoval County local government official, Chuck Thomas to discussed continuing efforts to promote technical information exchange and guidance relating to funding for a new Water Infrastructure Project.
- **November 28th and 29th** – EPA held a public hearing in Charleston, WV on the proposed repeal of the Clean Power Plan. Approximately 300 people spoke at the hearing, including staff from the offices of Sen. Capito and Reps. Jenkins and Mooney.
- **November 28th** – Ken Wagner, Senior Advisor to the Administrator traveled to Lansing, MI to meet with MDEQ, some of the topics of discussion were SO2 and PFOA.
- **November 28th and 29th** – PDAA, Robin Richardson along with Mike Flynn facilitated the two-day Executive Management Council Meeting, which topics consisted of Mission Measures, Cooperative Federalism, and Workforce Planning.
- **November 29** - HOGR Hearing on Regulatory Reform Chairman Farenthold (R-TX) (Sub-IEE) and Chairman Palmer (R-AL) (Sub IGA) hosted the hearing along with Ranking Members Plaskett (D-VI) and Deming's (D-FL) to receive an update from EPA, DOE, and DOI on agency progress on reducing unnecessary and duplicative regulations affecting States, Local Government and the business community. DAA Brittany Bolen (OP) was the EPA Witness.
- **November 29** – Office of Sustainable Communities and Region IV joined OIR for a meeting with the City of Frankfort and Franklin County, County local officials to discuss efforts to revitalize the Second Street and Holmes Street Corridors.

- **November 29** - Senate Environment and Public Works Committee held a business meeting to vote on EPA Deputy Administrator Nominee for Andrew Wheeler. He favorably reported, 11-10 out of committee for consideration by the full Senate.
- **November 30** – OBLR and Region IX staff met with Mayor of Tolleson, Arizona Anna Tovar to discuss potential support for the city's efforts to redevelop a small-developed area.
- **November 30** – EPA finalized the volume requirements that apply under the Renewable Fuel Standard (RFS) program in calendar year 2018 for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel. EPA also finalized the volume requirement for biomass-**based diesel for 2019.**
- **December** 1 – CERCLA 108(b) financial assurance requirements

Ongoing activities:

- **FY18 Appropriations**: A short-term continuing resolution to keep the government running past a Dec. 8 deadline is being discussed as negotiations on fiscal 2018 spending levels have yet to conclude. There may be a chance that other legislative riders will be tacked on to a year-end spending bill.

Office of Enforcement and Compliance Assurance

Hot Issues:

VW Case – Significant Milestone: Thanks to the efforts of OECA's Air Enforcement Division, OAR's Office of Transportation and Air Quality, OCIR, and the State of New York AG's Office, every state, Puerto Rico and the District of Columbia have filed their certifications for beneficiary status under the mitigation trust established pursuant to the consent decrees resolving the VW case. Failure to have timely filed would have precluded a potential beneficiary from using its allocated share of the $3 billion trust. This is the culmination of a nearly year-long effort to select an appropriate trustee, develop a trust agreement that would meet the needs of the states, and help states timely submit the required paperwork. Hurricane Maria added its own challenge by crippling Puerto Rico's communications system and disrupting normal governmental operations; the team responded to Puerto Rico's need and provided critical support to help ensure a timely filing. The team also worked closely with multiple states to help correct filing errors.

Ex. 5 AC/AWP

Upcoming Events/Public Meetings

On December 4th, Patrick Traylor will speak at the American Law Institute CLE "Clean Water Act: Law and Regulation." Patrick will speak about EPA trends in water enforcement. Open press.

On December 8th, Patrick Traylor will meet with representatives from the Natural Resources Defense Council to discuss enforcement and compliance issues.

Upcoming Major Decisions:

None.

Last Week's Highlights

TSCA Civil Complaint Filed: On November 29th, EPA filed an administrative complaint against Magnolia Waco Properties, LLC alleging 187 violations of the EPA's Lead Renovation, Repair and Painting (RRP) Rule. Many of the alleged violations were depicted in the television show "Fixer Upper," including failing to contain lead paint dust and debris during in-home renovations on numerous occasions. EPA had made numerous efforts to settle the case short of filing the complaint, including reaching out again to the company this past week, but ultimately those attempts were not successful.

Criminal Safe Drinking Water Act Sentencing: On November 27th, two saltwater disposal well operators were sentenced in the District of North Dakota to three years of supervised release and a fine for violations of the Safe Drinking Water Act. They injected saltwater (potentially including a wide array of drilling waste fluids and radioactive substances) into a well without first allowing the State of North Dakota to witness a test of the well's integrity, despite an order from the state to stop. The two operators also continued to inject the substance even after the well eventually failed a pressure test, which showed that the well did not have integrity, posing a risk of contaminating drinking water. This case was investigated by the North Dakota Attorney General's Office and EPA's Criminal Investigation Division. Restitution for harm caused will be addressed at a future hearing.

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Office of Environmental Information

Hot Issues: None

Upcoming Public Events: None

Upcoming Major Decisions: None

Last Week's Highlight:

OEI Publishes FY 2018 Exchange Network Grant Solicitation Notice

- Brief description:
  - Office of Information Management (OIM) published the solicitation notice for the [HYPERLINK Ex. 6 Personal Privacy (PP) Ex. 6 Personal Privacy (PP) on Wednesday, November 15.
  - EPA expects to award about $6 million (20-25 assistance agreements) to states, federally recognized tribes and territories for Exchange Network (EN) projects.
  - Applications are due to EPA by January 26, 2018.
- Who benefits or cares: States, tribes, and territories.
- Why this is important: The primary outcome expected from EN assistance agreements is improved access to and exchange of, high-quality environmental data from and between public and private sector sources.
- Additional information:
  - The grant program funds projects in line with EN priorities:
    - Integrate foundational EN services into environmental business processes.
    - Increase the number of co-regulator data flows involved in e-reporting.
    - Expand data access and availability.
    - Improve environmental management business processes through advanced data monitoring and transmittal processes.
    - Augment the data and technology management capacity of potential EN partners.
  - The EN consists of all 50 States, 6 territories and 75 federal recognized tribes, all of which use the EN to flow data.
  - All major programs flow data through the EN – this encompasses 15 program systems.
    - OAR – 3 systems
    - OCSPP – 1 system
    - OECA – 2 systems
    - OEI – 2 systems
    - OLEM – 2 systems
    - OW – 5 systems
  - Between FY 2002 and FY 2017, EPA provided approximately $219 million for state, tribal and territorial awards and associated program support through the Exchange Network grant program.

EPA Celebrated Geographic Information Systems (GIS) Day

- Brief description: On November 15, multiple regions held activities across the agency in recognition of [HYPERLINK "http://www.gisday.com"]. Some of the activities were:
    - Region 1 held a mobile app demo and training sessions on EPA's GeoPlatform.
    - Region 2 showed how staff are using the GeoPlatform and story map templates.
    - Region 3 hosted talks by staff about geospatial analysis using tools like Python and ArcGIS.
    - Chesapeake Bay Program participated in a Smart and Spatial Bay: A Conservation GIS Showcase.
    - Region 5 gave demos on story maps, web app templates and [HYPERLINK "https://www.qlik.com/us/"], a data visualization tool.
    - Region 6 invited the GIS Manager from The Nature Conservancy's Louisiana Operations to speak about their Freshwater Assessment Tool.
- Who benefits or cares: All EPA Government and Contractor Employees, General public, International community.
- Why this is important: GIS Day "provides an international forum for users of geographic information systems technology to demonstrate real-world applications that are making a difference in our society."
- Additional information: NA

Office of General Counsel

New Judicial Decisions:

- The District Court for the Northern District of Texas issued a decision in *Valero Energy Corporation v. EPA* granting EPA's motion to dismiss for lack of subject matter jurisdiction Valero's lawsuit alleging EPA's failure to perform mandatory duties under the Renewable Fuel Standard (RFS) program. District Judge Reed O'Connor held that the court lacked jurisdiction over the suit because the statutory provisions relied upon by Valero did not impose mandatory duties on the agency. The decision also ended an ongoing discovery, freeing EPA from providing discovery responses and producing documents to Valero as early as next week. (*Valero Energy Corporation v. EPA*, No. 7:17-CV-00004)
- EPA received a favorable decision granting EPA's motion for summary judgment and dismissing NRDC's mandatory suit against the agency, for lack of jurisdiction. NRDC argued that EPA had a duty to conduct a CWA review of a series of Temporary Urgency Change Petition (TUCP) Orders that California had issued while operating under a state emergency declared by the Governor. The district court held that NRDC's claims were moot, given that: (1) The orders have all since expired; (2) The Governor's declaration of drought emergency has since expired; and (3) EPA has since completed an administrative review detailing why these TUCP Orders were not water quality standards changes requiring a review. (*NRDC v. Pruitt*, No. 16-CV-2184)
- The D.C. District Court granted our cross-motion for summary judgement and ordered us to respond to Sierra Club's Title V petition for the Gallatin (Tennessee) power plant by January 31, 2018, which was the date we requested. The Court denied Sierra Club's motion for summary judgment, which would have required us to respond to the petition within 60 days of the Court order. (*Sierra Club v. Pruitt*, No. 17-906)
- The DC Circuit Court of Appeals granted EPA's motion to further stay the mandate to enforce CERCLA/EPCRA reporting requirements for farms until January 22, 2018. Farms with continuous releases do not have to submit their initial continuous release notification until the DC Circuit issues its mandate, enforcing the Court's opinion of April 11, 2017. No reporting is necessary until the mandate is issued, which will not occur before January 22, 2018. (*Waterkeeper v. EPA*, No. 09-1017)
- The District Court for the Western District of Missouri issued an order denying EPA's motion for extension of a December 15, 2017 consent decree deadline for EPA to sign a notice of proposed rulemaking proposing new or revised water quality standards for nutrients for Missouri lakes. The court found that EPA failed to demonstrate a basis warranting a modification of the consent decree. The consent decree deadline for EPA action remains December 15, 2017. (*Missouri Coalition for the Environment Foundation v. Pruitt*, No. 2:16-CV-04069)
- The U.S. Court of Appeals for the Ninth Circuit issued a decision affirming criminal convictions for violating the Clean Water Act (CWA) by knowingly discharging dredged or fill material from a point source into a water of the United States without a permit; willfully injuring and committing depredation of property of the United States, causing more than $1,000 worth of damage to the property; and knowingly discharging dredged or fill material from a point source into a water of the United States. The Ninth Circuit rejected the defendant's contention that the Government did not establish that there was jurisdiction under the CWA. (*U.S. v. Joseph David Robertson*, No. 16-30178)

New Complaints Filed:

- A lawsuit was filed in the District of Massachusetts by Stephanie Rauseo and a neighborhood organization. The complaint is against the Army Corps, Mass DEP, EPA, and a developer and alleges a failure to take action to address the filing of wetlands in the development of a housing parcel. While the complaint names EPA as a defendant, the counts and relief sought do not appear to mention EPA specifically. (*Stephanie Rauseo, et al. v. US Army COE*, No. 1:17-CV-12026)
- The Town of Florence, Arizona and SWVP-GTIS MR, LLC filed two petitions for review in the U.S. Court of Appeals for the Ninth Circuit. One petition seeks review of EPA's issuance of an Underground Injection Control (UIC) permit to Florence Copper, Inc. and one petition challenges EPA's 1997 approval of an aquifer exemption based on grounds arising after the expiration of the otherwise applicable filing period. Earlier this year, the Environmental Appeals Board (EAB) issued a favorable decision in its review of the UIC permit. The EAB did not resolve the Town/SWVP's direct challenge of the 1997 exemption on the grounds that aquifer exemption decisions are discrete final agency actions that are not part of UIC permitting decisions, are separately operable from any UIC permit, and are subject to challenge in the Court of Appeals under section 1448 of SDWA. (*Town of Florence, et al. v. EPA*, No. 17-73168; *Town of Florence, et al. v. EPA*, No. 17-73170)
- Oklahoma Keepers and a number of individuals filed a complaint making numerous allegations related to an alleged injury based on alleged exposure to drinking water above regulatory levels and alleged exposure to fugitive natural gas emissions. There is no cause of action against EPA although EPA, along with other federal agencies, is a named defendant in the complaint. (*Oklahoma Keepers, et al. v. State Farm Insurance Co., et al.*, No. 5:17-cv-01221)
- three New FOIA Cases
    - Waterkeeper Alliance, Sierra Club, Clean Water Action, and Environmental Integrity Project filed litigation in the U.S. District Court Southern District of New York alleging the EPA failed to respond to one FOIA request, EPA-HQ-2017-010217, for records related to EPA's reconsideration, and postponement of compliance deadlines, of the "Effluent Limitation Guidelines Rule" submitted in August 2017. (*Waterkeeper Alliance, Inc. et al v. EPA*, No. 1:17-CV-9184)
    - Cause of Action filed litigation today in the U.S. District Court in the District of Columbia alleging the EPA failed to respond to two FOIA requests, EPA-HQ-2017-010970 (submitted August 30, 2017) and EPA-HQ-2017-011341 (submitted September 11, 2017). Both requests sought specific records generated during EPA's efforts to investigate the use of the Signal mobile application by EPA employees. (*Cause of Action Institute v. EPA*, 1:17-CV-02549)
    - Environmental Integrity Protect initiated FOIA litigation concerning three unrelated September 2017 FOIA requests submitted by Environmental Integrity Project. The first FOIA request (HQ-2017-010628) sought records concerning the Torrance Refinery Company, LLC. OCEFT provided a no records response. The Plaintiff alleges that it also sought records from OECA and Region 9 and did not receive a response from those offices. Plaintiff did not file an administrative appeal. The second FOIA request (HQ-2017-011630) sought various records for the last three years concerning Shell Oil Puget Sound Refinery in Anacotes, WA. Plaintiff alleges that EPA failed to respond to the request. This request is assigned to Region 10. The third FOIA request (HQ-2017-011836) sought various records for the last three years concerning all refineries located in Region 9, except Torrance Refinery LLC. Plaintiff alleges that EPA closed the request notwithstanding that EPA failed to respond to request. (*Environmental Integrity Project v. EPA*, No. 1:17-CV-2490)

Hot Issues:

- EPA received notice from the Government Accountability Office (GAO) of a bid protest filed by Project Performance Company, LLC (PPC). The GAO docket number is B-415728. The Agency Report is due on December 22, 2017. GAO's decision is due on March 02, 2018. PPC is protesting the award of a $30M task order to IBM under a multiple award Indefinite Delivery, Indefinite Quantity contract. The task order would support a variety of information security-related activities such as reviewing, drafting and updating information security documents, assisting with information security planning, assisting with information security website development and maintenance, assisting with data calls, audits and reporting, etc. Work on the task order has been suspended in accordance with the Competition in Contracting Act, pending the resolution of the protest.

New Petitions that OGC is Aware Of:

- Petition submitted on behalf of The Puget Sound NDZ Marine Alliance seeking reversal of Region 10's CWA Section 312 determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for Puget Sound; the Alliance also requests that EPA enhance the data requirements for applications for future such determinations via policy or regulation. There is no mandatory duty to act on this petition.
- Request by Massachusetts Water Works Association and Massachusetts Coalition for Water Resources Stewardship to the Administrator requesting him to direct Region 1 to rescind the Potable Water Treatment Facility General Permit. There is no mandatory duty to act on this petition.

Upcoming Public Events & Important Meetings in the Next Two Weeks:

- Acting General Counsel Kevin Minoli spoke at Vermont Law School on Monday November 27th and at an annual environmental law symposium hosted by Hunton and Williams on Thursday November 30th.
- On December 14th, Wendy Blake, Associate General Counsel for our General Law Office, will join Donna Vizian and Patrick Sullivan in speaking to a Partnership for Public Service event explaining how the agency has become a model for how and OIG and an agency can work together to effectively respond to employee conduct matters.

Upcoming Major Deadlines in the Next Two Weeks:

12/01 Motion to Govern Further Proceedings due in *Association of Battery Recyclers, Inc., et al. v. EPA*, an Issue 21 - Petition for review of secondary lead RTR (CAA sections 112 (d)(6) and (f)(2)).

12/01 Cross motion for summary judgment and opposition to plaintiff's motion for summary Judgment due in *Environmental Integrity Project, et al. v. Pruitt* (and consolidated cases), a CAA § 304 action alleging failure to respond to a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for various facilities.

12/01 Response due in *Murray Energy Corp., et al. v. EPA*, a Petition for a writ of certiorari of in *Murray Energy Corp. v. EPA*, 861 F.3d 529 (4th Cir. 2017).

12/01 Court ordered deadline to sign, for publication, a notice of final action on rulemaking for financial assurance requirements under CERCLA 108(b) for the hard rock mining industry in *In re: Idaho Conservation League, et al.*

12/04 EPA's opposition and cross motion for summary judgment due in *Center for Biological Diversity, et al. v. EPA*, litigation alleging the EPA failed to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans.

12/04 Reply Brief due in *Wild Fish Conservancy v. EPA*, an ESA claim that re-initiation of consultation required related to EPA approval of WA sediment standards.

12/05 Reply Brief in support of EPA's motion to transfer due in *Clean Water Action v. Pruitt*, a protective petition of steam electric postponement rule.

12/05 Oral Argument in *CLF v. EPA*, litigation centering on whether EPA approvals of state TMDLs constitute residual designation of unregulated stormwater discharges for NPDES permitting.

12/06 Response Brief is due in *State of Connecticut v. EPA*, litigation where plaintiff alleges that the EPA failed to grant or deny a section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania.

12/06 Response due in *Murray Energy Corporation, et al. v. EPA*, a petition for a writ of certiorari of in *Murray Energy Corp. v. EPA*, 861 F.3d 529 (4th Cir. 2017).

12/06 **Ex. 5 AC/AWP/DP**

12/06 Response to Petitions due in *American Petroleum Institute v. EPA*, where all parties petitioned for clarification on the issued opinion of the court.

12/06 The Index to the Administrative Record due in *Massachusetts Rivers Alliance, et al. v. EPA*, a protective petition for review of EPA's APA section 705 postponement of effective date of MA small MS4 general permit from July 1, 2017 to July 1, 2018.

12/06 EPA's mediation statement submission due in *City of Bolivar v. EPA*, a challenge to EPA TMDL for nutrients and suspended solids in Piper Creek, Mo. Parties are participating in court-ordered mediation.

12/07 Oral Argument in *Ergon-West Virginia, Inc. v. EPA*, petitions for review of EPA's final action: Denial of Request for Extension of Small Refinery Temporary Exemption Under the Renewable Fuel Standards Program for Ergon-West Virginia, Inc.'s Newell, WV Refinery.

12/07 Oral Argument in *U.S., et al. v. Volkswagen AG, et al.*, litigation on the denial of intervention.

12/07 Motion on Scope of Hearing due in *Food and Water Watch v. EPA*, a challenge to denial of TSCA fluoride petition.

12/08 EPA's Brief due in *Air Alliance Houston, et al. v. EPA*, a petition for review of EPA's final action titled "Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Further Delay of Effective Date."

12/08 *Certiorari* Recommendation Letter due in Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP

12/08 Response to Summary Judgment Motion and Cross-motion due in *Sierra Club, et al. v Pruitt*, a challenge to extension of compliance date for TSCA formaldehyde rule.

12/08 Oral Argument in *Pineros v. Pruitt*, a challenge to extensions of effective date of the FIFRA Certification of Pesticide Applicators final rule, originally published Jan. 4, 2017.

12/08 Report to court on reconsideration decisions due in *State of Maine v. Pruitt*, a challenge to EPA's approvals of sustenance fishing designated uses and disapproval of human health criteria for waters in Indian country.

12/11 Motion to Govern Further Proceedings due in *Natural Resources Defense Council, et al. v. EPA*, a petition for review of EPA's final action titled "Air Quality Designations for the 2010 Sulfur Dioxide (S02) Primary National Ambient Air Quality Standard."

12/11 Oral Argument in *U.S. v. U.S. District Court of Oregon and Juliana*, et al., a petition for writ of mandamus over denial of motion to dismiss in Juliana v. United States, a case alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change.

12/11 The Reply to the Opposition Motion to EPA's Renewed Motion for Summary Judgment is due in *Hunton & Williams v. EPA*, a FOIA lawsuit pertaining to a Region 9 and OW response to a request that sought certain records relating to an AJD for the DMB Redwood City Saltworks site.

12/12 Opposition to Motion for Summary Judgment/Answer due in *Massachusetts Rivers Alliance, et al. v. EPA*, a protective petition for review of EPA's APA section 705 postponement of effective date of MA small MS4 general permit from July 1, 2017 to July 1, 2018.

12/13 EPA's Reply on Pattern and Practice claim is due in *NRDC v. EPA*, a FOIA litigation concerning a request that sought policy or guidance for removing information or web pages from an EPA website.

12/13 EPA's Appellee Brief is due in *Hall & Assoc. v. EPA*, a FOIA litigation regarding the District Court's denial of Hall's fee request and motion for reconsideration.

12/13 EPA response to petition for writ of certiorari due in *Center for Regulatory Reasonableness v. EPA*, a challenge to D.C. Circuit decision.

12/14 EPA's Reply due in *Sierra Club v. EPA*, litigation concerning Clean Air Act deadlines related to Commercial and Industrial Solid Waste Incinerators and other categories of Solid Waste Incinerators.

12/14 Consent Decree deadline to issue a final Integrated Science Assessment addressing health effects of SOx in *Center for Biological Diversity, et al. v. EPA*.

12/15 Parties to file stipulation of dismissal or proposed briefing schedule in *Sierra Club v. EPA*, litigation where plaintiff alleges the EPA failed to promulgate a good neighbor FIP for Texas.

12/15 EPA's Answer or Motion to Dismiss due in *Small Retailers Coalition v. EPA*, litigation alleging the EPA is noncompliant with sections 603 and 604 of the RFA in issuing the 2017 RFS standards, and for failing to annually review the point of obligation of the RFS.

12/15 Consent Decree deadline for final RTR for the Wool Fiberglass NESHAP in *Sierra Club v. EPA*.

12/15 Consent Decree deadline to take final action on Louisiana's regional haze SIP in *Sierra Club v. Pruitt*, a complaint alleging EPA's failure to perform a non-discretionary duty to promulgate a FIP within two years of EPA's partial disapproval of Louisiana's Regional Haze SIP.

12/15 Response to Application for Attorneys' Fee in *CBD, et al. v. EPA*, a challenge to registration of cyantraniliprole.

12/15 Motion for Summary Judgment due in *Exxon Mobil Corp. v. U.S.*, where plaintiff alleges RCRA work constitutes "necessary costs of response...consistent with the national contingency plan" for which the U.S. is liable under CERCLA.

12/15 Answer due in *James River Dischargers Coalition v. EPA*, a challenge to the plaintiff's wasteload allocations under the Chesapeake Bay TMDL.

12/15 Consent Decree deadline to to either propose nutrient water quality criteria for Missouri lakes or approve criteria adopted by Missouri in *Missouri Coalition for the Environment Foundation v. Pruitt*.

12/15 Reply Brief due in *Riverkeeper v. Pruitt*, a mandatory duty challenge to EPA's inaction on NYS recreational water quality criteria submission.

Office of International and Tribal Affairs

Hot Issues:

Canada Transboundary Pollution - Montana Senator Jon Tester and Governor Steve Bullock sent a joint letter to the Department of State (DOS) requesting the agency's involvement to address bilateral water quality concerns in the Kootenai River watershed.

- Contamination from British Columbia's coal extraction facilities is threatening the water quality in the binational Lake Koocanusa and downstream drinking water sources in the Kootenai River, which traverses Montana and Idaho before flowing back into B.C. Tribes and other citizens on both sides of the U.S.-Canada border are impacted by the increasing degradation of these waters.
- The letter notes the importance of a joint bilateral site-specific selenium standard for Lake Koocanusa as critical to preserving the water quality in the watershed and requests that DOS identify federal resources, including EPA, to support long-term fish tissue and water quality monitoring in the Kootenai River watershed in Montana and Idaho.
- EPA (OITA, Region 8 and 10) raised this issue with our counterparts in Environment Climate Change Canada (ECCC) and Global Affairs Canada (GAC) in the last U.S.-Canada bilateral meeting in October, requested assistance from the federal government of Canada.

Upcoming Engagements:

December 4-6: United Nations Environmental Assembly High Level Dialogue in Nairobi
December 7-13: U.S.-Morocco Environmental Cooperation Agreement Workshop and Meetings

Past Week Highlights:

Disney Food Waste Event – The Administrator met with senior executives of Disney World to discuss Disney's goal of reducing waste by 60% and to see firsthand their innovative practices to prevent food waste and recover energy from food waste. This visit highlighted the economic and environmental benefits associated with reducing food waste.

- At this year's G7 Environment Ministers Meeting in Italy, food waste was identified as an important component of international resource efficiency efforts.
- EPA's Food Recovery Challenge works with organizations in the U.S. who pledge to improve sustainable management of food practices and report their results.
- OITA/OLEM will work to identify potential opportunities to expand government and private sector cooperation to reduce food waste both domestically and internationally.

Commission for Environmental Cooperation (CEC) - The U.S. (EPA Administrator) is chair of the CEC this year and CEC Council Session 2018 is scheduled for June 26-27 in Oklahoma City. This year's theme is "Innovation and Partnerships for Green Growth" and in lead up to the Council Session, several activities are being planned.

- The CEC approved the North American Partnership for Environmental Community Action (NAPECA) grants which will engage local communities in U.S., Canada and Mexico in innovation and partnerships for green growth.
- The CEC approved the Youth Innovation Challenge to seek proposals from youth on innovation and partnerships for green growth which will be reviewed by a trilateral panel of private sector and academic experts.

- EPA (OITA/OLEM) also held a meeting to discuss how to engage tribal youth in the CEC project on "Measuring and Mitigating Food Loss and Food Waste." A key component of this project is to engage youth, including tribal and indigenous youth, to create awareness and promote action to mitigate food loss and waste in households.

ECOS- NTC Partnership - OITA met with outgoing ECOS Executive Director, Alex Dunn, and staff to plan implementation of a new project under an EPA-ECOS cooperative agreement. The project is focused on identifying and developing best practices for state and tribal coordination to address and improve management of solid waste in rural and tribal areas.

- The team is developing a state and tribal outreach plan that focuses on state commissioners and National Tribal Caucus (NTC) representatives in an advisory role.
- The group also discussed actions for responding to ECOS commitments made during the National Tribal Operations Committee (NTOC) meeting in October.
- ECOS will share resources that states have developed with respect to LEAN processes in a database, as examples for tribes, and will identify opportunities to discuss and share EPA's tribal consultation practices with state commissioners as part of implementing the ECOS Cooperative Federalism 2.0 principles.

Office of Land and Emergency Management

Hot Issues:

Emergency response to hurricanes and wildfires. Large-scale responses continue in both Region 2 (Puerto Rico and the US Virgin Islands) and Region 9 (California).

Coal Combustion Residuals.

CERCLA 108(b) Financial Assurance for Hard Rock Mining and Mineral Processing. Tomorrow is the judicial deadline. We are on track to meet it.

Clean Air Act 112(r) Risk Management Program (RMP).

Ongoing major Superfund NPL sites (for example, B.F. Goodrich, East Chicago, West Lake, Gold King Mine/Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates).

CERCLA-EPCRA AFO-CAFO Rule. The DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018. No reporting is necessary until the mandate is issued.

Upcoming Public Events:

Brownfields Conference. The national Brownfields Conference will take place next week in Pittsburgh. To date, approximately 2,000 attendees are registered.

National Association of Remedial Project Managers Training Program (NARPM). The national meeting is taking place next week in Denver.

Upcoming Major Decisions:

E-Manifest User Fee Final Rule. Ex. 5 Deliberative Process (DP)

CCR Q's and A's. We are working with the AO and OGC on answers to questions posed.

Last Week Highlights:

RMP Rule Reconsideration. Ex. 5 Deliberative Process (DP)

Superfund Division Directors (SF DD) Meeting. The SF DD in-person meeting took place November 28 – 30, at EPA/Potomac Yards.

Wasted Food. OLEM joined in the Administrator's travel to Orlando regarding food waste approaches and opportunities. In addition, on November 21, EPA HQ and Regions 1, 5, 6, 8 and 9 issued press releases announcing the 2017 Food Recovery Challenge (FRC) Award winners. The national press release highlighted the accomplishments of the 16 national award winners, and included 2016 results of wasted food prevention and diversion activities by the over 950 businesses, governments and organizations participating in the FRC.

Office of Policy

Documents Submitted to OFR from November 21 - 29, 2017

FRL	Title	Date Submitted to OFR
9968-23-OAR	Protection of Stratospheric Ozone: Revision to References for Refrigeration and Air Conditioning Sector to Incorporate Latest Edition of Certain Industry, Consensus-based Standards	11/29/2017
9969-94-OCSPP	Pseudomonas fluorescens 4-hydroxyphenylpyruvate dioxygenase (HPPD-4); Exemption from the Requirement of a Tolerance	11/29/2017
9970-01-OCSPP	Prometryn; Pesticide Tolerances	11/29/2017
9970-05-OCSPP	Quinclorac; Pesticide Tolerances	11/29/2017
9970-27-Region 10	Air Plan Approval; AK: Updates to Materials Incorporated by Reference	11/29/2017
9970-43-OCSPP	Bacillus thuringiensis Cry14Ab-1 Protein in or on Soybean; Temporary Exemption from the Requirement of a Tolerance	11/29/2017
9970-33-OCSPP	Certain New Chemicals; Receipt and Status Information for September 2017	11/29/2017
9970-76-OCSPP	Receipt of a Pesticide Petition Filed for á-Methyl Mannoside for Residues of Pesticide Chemicals in or on Various Commodities	11/29/2017
9971-25-Region 2	Approval of Air Quality Implementation Plans; New York; Cross-State Air Pollution Rule; NOx Annual and SO2 Group 1 Trading Programs	11/29/2017
9971-40-Region 3	Approval and Promulgation of Air Quality Implementation Plans; West Virginia; 2015 Ozone National Ambient Air Quality Standards; Withdrawal of Direct Final Rule	11/29/2017
9968-24-OAR	DRAFT - Protection of Stratospheric Ozone: Revision to References for Refrigeration and Air Conditioning Sector to Incorporate Latest Edition Certain Industry, Consensus-based Standards	11/29/2017
9971-28-Region 2	Approval and Revision of Air Quality Implementation Plans; State of New York; Regional Haze State and Federal Implementation Plans	11/28/2017
9971-29-OW	Information Session; Implementation of the Water Infrastructure Finance and Innovation Act of 2014; Correction	11/28/2017

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9971-31-Region 1	National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Hatheway & Patterson Superfund Site	11/28/2017
9971-32-Region 1	National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Hatheway & Patterson Superfund Site	11/28/2017
9971-33-Region 10	Air Plan Approval; ID; 2012 PM2.5 Standard Infrastructure Requirements	11/28/2017
9960-05-Region 5	Air Plan Approval; Minnesota and Michigan; Regional Haze SIP; FIP for Regional Haze; Final Action on Petitions for Reconsideration	11/28/2017
9970-68-Region 9	Revisions to California State Implementation Plan; Bay Area Air Quality Management District; Emission Reduction Credit Banking	11/28/2017
9970-92-Region 9	Approval of California Air Plan Revisions, Sacramento Metropolitan Air Quality Management District	11/28/2017
9970-93-Region 9	Approval of California Air Plan Revisions, Sacramento Metropolitan Air Quality Management District	11/28/2017
9971-07-Region 8	Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Logan Nonattainment Area Fine Particulate Matter State Implementation Plan for Attainment of 2006 24-Hour Fine Particulate Matter National Ambient Air Quality Standards	11/28/2017
9968-41-OCSPP	TSCA Reporting and Recordkeeping Requirements; Standards for Small Manufacturers and Processors; Final Determination	11/27/2017
9966-69-OCSPP	Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations	11/27/2017
9967-73-OCSPP	Nitrapyrin; Pesticide Tolerances	11/27/2017
9968-95-OCSPP	Boscalid; Pesticide Tolerance	11/27/2017
9969-13-OCSPP	Ethofumesate; Pesticide Tolerances	11/27/2017
9969-16-OCSPP	Extension of Tolerances for Emergency Exemptions (Multiple Chemicals)	11/27/2017
9968-30-OCSPP	1,3-dibromo-5,5-dimethylhydantoin; Exemption from the Requirement of a Tolerance	11/27/2017
9970-06-OCSPP	Polyethyleneimine; Exemption from the Requirement of a Tolerance	11/22/2017
9971-30-OW	Proposed Withdrawal of Certain Federal Water Quality Criteria Applicable to California: Lead, Chlorodibromomethane, and Dichlorobromomethane	11/22/2017

9970-38-OCSPP	Ziram; Pesticide Tolerances	11/22/2017
9971-18-OW	Peer Review to Inform the Safe Drinking Water Act Decision Making on Perchlorate in Drinking Water	11/22/2017
9971-09-Region 1	PROPOSED CERCLA ADMINISTRATIVE COST RECOVERY SETTLEMENT; ROWAYTON TRADING COMPANY, INC., BRIDGEPORT FIRE SITE, BRIDGEPORT, CONNECTICUT	11/22/2017
9971-21-Region 7	State of Missouri; Withdrawal of Direct Final Rule; Approval of Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2008 Ozone National Ambient Air Quality Standard	11/21/2017
9971-22-Region 7	State of Missouri; Withdrawal of Direct Final Rule; Approval of Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standard	11/21/2017
9971-20-Region 9	Approval of Arizona Air Plan Revisions, Arizona Department of Environmental Quality	11/21/2017
9970-26-OEI	Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Tennessee	11/21/2017
9970-09-OEI	Cross-Media Electronic Reporting: Authorized Program Revision Approval, Commonwealth of Kentucky	11/21/2017
9971-15-Region 7	State of Nebraska; Withdrawal of Direct Final Rule; Approval of Nebraska's Air Quality Implementation Plan, Operating Permits Program, and 112(l) Program; Revision to Nebraska Administrative Code	11/21/2017

Office of Research and Development

I'm looking forward to meeting with OCSPP senior leadership next week to discuss methods for promoting transparency in chemical assessments, and participating in a meeting with the ECOS Environmental Research Institute of States on December 8th. This week Richard Yamada travelled to our lab in Corvallis, Oregon to meet with scientists and learn more about the great work being done in our Western Ecology Division.

Hot Issues:

PFAS: Technical Support Request from Region 5 for Wolverine, MI Tannery Site
ORD has been contacted by Region 5 for technical support at the Wolverine tannery site in Rockford, MI. ORD has been sharing information about typical tannery effluents and analytical techniques to help in the environmental assessment (type and extent of metals, solvents and PFAS contamination). Currently, the Region is developing a broader scope request for ORD help. The Region 5 Superfund Division will be briefing their RA on the status of the Wolverine site this Friday.

Upcoming Public Events:

National EPA-Tribal Science Council Meeting
On December 4-8, the National EPA-Tribal Science Council's (TSC) meeting will be hosted by the Salt River Pima-Maricopa Indian Community in Phoenix, AZ. Research discussions will focus on EPA's new lead education curriculum, Region 1's RARE project on a fisheries study risk assessment, and trainings on tribal water quality. On December 7, ORD's Fred Hauchman will facilitate a TSC-hosted listening session on tribal science priorities.

Meeting with Congressional Staff
On December 5th, ORD leadership will meet with staff from the House Committee on Science, Space, and Technology to discuss IRIS approaches to respond to Requests for Corrections.

TSCA Chemical Pre-Prioritization Meeting
EPA has scheduled a public meeting to discuss options for the chemical pre-prioritization process. The public meeting with be held December 11 in Washington, DC. ORD has been actively involved in the development of the discussion document for pre-prioritization and has drafted a key chapter in that document describing the systematic integration of traditional and new approach methods for chemical evaluation. ORD scientists and leadership including Dr. Rusty Thomas will be participating and presenting materials at this meeting. View the agenda and meeting materials: [HYPERLINK "http://links.govdelivery.com:80/track?type=click&enid=ZWFzPTEmbXNpZD0mYXVpZD0mbWFpbGluZ2lkPTIwMTcxMTE0LjgwODg2MDcxJm1lc3NhZ2VpZD1NREItUFJELUJVTC0yMDE3MTExNC44MDg4NjA3MSZkYXRhYmFzZWlkPTEwMDEmc2VyaWFsPTE3MTUxNzg0JmVtYWlsaWQ9ZnJpdGhzZW4uamVmZkBlcGEuZ292JnVzZXJpZD1mcml0aHNlbi5qZWZmQGVwYS5nb3YmdGFyZ2V0aWQ9JmZsPSZtdmlkPSZleHRyYT0mJiY=&&&100&&&https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/possible-approaches-identifying-potential-candidates"]

Last Week Highlights:

Prescribed Burn Video Footage Supports Smoke Emissions Study

Video footage of the Kansas Field Study conducted Nov. 13 at the Tallgrass Prairie National Preserve in the Flint Hills of Kansas is providing compelling visuals of the emissions research and smoke plumes from a prescribed burn. The footage shows the use of a novel air sampling system developed in the lab and sent aloft in a tethered balloon (aerostat) to take measurements in the smoke plumes. The purpose of this effort is to partner with Region 7 to create a proposed educational video supporting best smoke management practices that protect public health and an endangered ecosystem, while promoting sustainable agriculture. Additionally, the effort is advancing wildland fire science with unique footage of smoke plumes for more accurate modeling while also providing ORD scientists with new resources to engage stakeholders.

ORD report well-received by Environmental Council of the States (ECOS) partners, November 17

The EPA report, "[HYPERLINK "https://nepis.epa.gov/Exe/ZyPDF.cgi/P100SSJP.PDF?Dockey=P100SSJP.PDF"]," was shared with ECOS partners by OLEM's Office of Resource Conservation and Recovery. The ECOS Executive Director and General Counsel, Alexandra Dapolito Dunn, Esq., called the report "amazing." This report summarizes the current state of the practice regarding construction and demolition material recovery in the continental United States, and the economic, community and material specific factors that influence the rate of recovery. Thabet Tolaymat, a co-author of the report, has been invited to present to ECOS in late January 2018.

ORD delivers Modeling Results to State of California

On November 17, ORD delivered the results from [HYPERLINK "https://www.epa.gov/chemical-research/stochastic-human-exposure-and-dose-simulation-sheds-estimate-human-exposure"]-High Throughput (SHEDS-HT) model runs for over 9,000 chemical-product combinations to California's Department of Toxic Substance Control. This is part of a collaboration with the State of California to help inform the selection of consumer product categories for priority evaluation under California's Consumer Safer Products program. The SHEDS model is used to estimate the exposures people have to chemicals from the use of consumer products such as personal care products, cleaning products, and home improvement products. The model is able to generate predictions of the range of chemical exposures within a population via different exposure routes (e.g., inhalation, ingestion, dermal absorption). SHEDS can also help identify critical exposure factors and uncertainties.

Camp Minden Superfund Site

Superfund. On November 20-22, ORD provided technical support for the [HYPERLINK "https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0600770"] in Doyline, LA, a former U.S. Army ammunition depot where explosive-laden wastewater has contaminated the groundwater. ORD helped Region 6 Superfund staff calculate the projected rate of decay for the contaminated material and evaluate the site's remediation timeline. This will help determine if a new, more effective remedy should be used at the site.

Wildland Fire Sensors Challenge

On November 22, the Wildland Fire Sensors Challenge closed. ORD received 27 proposals describing prototypes for wildland fire air quality sensor systems. The written submissions will be evaluated by a group of experts from EPA and federal agency partners to determine which prototypes will be accepted for testing. Prototypes will be sent to EPA in early January for first round testing, which will be followed by second round testing by US Forest Service in their Montana fire lab. A judging panel is being organized to review the final results of the two-tiered testing.

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Society of Environmental Toxicology and Chemistry (SETAC)
Last week, ORD scientists participated in the Society of Environmental Toxicology and Chemistry (SETAC) North America Annual Meeting. Our scientists presented their work to over 1,700 of their peers from academia, industry, tribes, state and local governments, and other federal agencies. ORD scientists also participated in a unique networking event with researchers from the Minnesota Pollution Control Agency (MPCA) and other state agencies. The goal of this networking event was to share current and ongoing research to facilitate federal and state partnerships. MPCA Commissioner John Linc Stine opened the session with remarks about cooperative federalism and working together to advance environmental protection in the U.S. ORD was also honored to see two of our researchers, Dr. Kay Ho and Dr. Diane Nacci, receive the prestigious SETAC Eugene Kenaga Membership Award and the Herb Ward Exceptional Service Award, respectively.

Natural Gas Leak in Porto Ranch, California
On November 27 ORD participated in a meeting with Region 9 to discuss plans for a study in response to a natural gas leak in Porto Ranch, California. Local residents expressed concerns regarding the health effects of being exposed to natural gas, and a local physician found elevated levels of uranium, styrene, and lithium in collected samples, prompting the study. The California South Coast Air Quality Management District has reached out to EPA to identify existing data for two common natural gas odorants, and has expressed interest in working with EPA to identity and/or develop data for their upcoming study. The purpose of the meeting was for ORD scientists to provide Region 9 an overview of existing toxicity data on the two chemicals and to have a discussion about additional actions that could be taken to fill knowledge gaps.

Meeting with Water Research Foundation (WRF) to discuss PFAS
On November 28, ORD met with the WRF to discuss their formation of a Technical Advisory Committee (TAC) for planning future PFAS research that will likely focus on treatment for PFAS in drinking water. Future collaborations could potentially include advancement of the drinking water Treatability Database for PFAS and Treatment technology development.

Small systems webinar to help schools and the public reduce drinking water lead levels attracts 1,200 attendees
On November 28, OW and ORD combined efforts to provide information and tools on reducing lead levels in schools and households, which included recommended steps for ensuring effective school sampling, remediation and communication measures, and an ORD developed tool designed to help consumers identify lead free plumbing products.

State Support: Second workshop with State of Louisiana, Franklinton, LA, November 29
As a follow-up to the meeting with state and federal agencies held on September 21 and a workshop conducted on October 24 staff from ORD, Region 6 and Neptune are conducting the second in a series of three workshops with dairy farmers, communities, and interested state and federal agency staff in Region 6 and Louisiana. This workshop will use the Decision Analysis for a Sustainable Environment, Economy, and Society (DASEES) process and tool to develop alternative approaches for addressing the environmental, social, and economic challenges faced by the small dairy industry in Louisiana. The goal of these workshops is to help farmers identify innovative and economically-viable solutions for nutrient and sediment runoff control. In addition to community members and dairy farmers, workshop participants will include staff from the Louisiana Department of Agriculture and Forestry, Louisiana Department of Environmental Quality, Louisiana Department of Health and Hospitals, Louisiana State University, and U.S. Department of Agriculture's Natural Resources Conservation Service.

Publication: [HYPERLINK "https://doi.org/10.1016/j.jenvman.2017.11.027"]
In the event of a wide-area release of *Bacillus anthracis s*pores within a subway system, rapid remediation will be a challenge due to the vast and complex system of tunnels and platforms. There are several factors that should be considered if cleanup and remediation of a subway system is needed following the intentional release of a biological agent. These include surface area and volume of the contaminated space, composition and porosity of contaminated surfaces, environmental conditions (temperature and relative humidity), type of decontaminant(s), and method of delivery (e.g., fumigant). This study focused on the decontamination of eleven types of subway railcar materials and a common subway tunnel structural material, such as concrete. In addition, provides data to assist in selection of an a virulent surrogate for *B.a*. Ames, for use in future field studies and additional lab-based investigations utilizing peracetic acid/hydrogen peroxide (PAA) and hydrogen peroxide (H2O2).

Office of Water

Hot Issues:

Missouri Nutrient Criteria Rulemaking: This week, the court denied EPA's request for an extension to the existing consent decree. As a result, EPA must propose a rule by December 15, 2017 to address EPA's 2011 disapproval under the CWA of Missouri's Water Quality Standards for nitrogen, phosphorus, and chlorophyll a for Missouri lakes/reservoirs. The rule will be ready for Administrator signature by December 14, 2017.

Steam Electric FOIA Litigation: Next week, OW and OGC anticipates initiating senior management review of responsive documents for the Steam Electric FOIA that was submitted to the Agency by the Waterkeeper Alliance on April 3, 2017. Earlier this month, in response to a lawsuit filed by the Waterkeeper Alliance for failure to respond, the Court issued an order for EPA to (1) inform the Plaintiffs and the Court, by November 9, 2017, of the date on which the responsive paper documents will be produced to Plaintiffs and (2) produce electronic documents in response to Plaintiffs' request by December 31, 2017. In addition, last week the Waterkeeper Alliance filed a second lawsuit in the U.S. District Court Southern District of New York for failure to response to their August 2017 FOIA request seeking additional records related to EPA's reconsideration, and postponement of compliance deadlines, of the Steam Electric ELG rule.

Maine Human Health Criteria: On December 8, EPA will report to the court, which, if any, of the challenged decisions on Maine's water quality standards (WQS) EPA intends to change. In 2015, EPA approved and disapproved a number of Maine WQS under Clean Water Act section 303(c). Maine sued EPA over the disapprovals and one of the approvals, and the litigation is pending. EPA subsequently finalized a federal promulgation to remedy the disapprovals when Maine did not do so. Maine is challenging EPA's approvals of a designated use for tribal waters, and disapprovals of the associated human health criteria.

Waters of the U.S.: The agencies continue to work expeditiously on the three rulemakings underway. The proposal to add an applicability date to the 2015 Rule (step 0 rule) published in the FR on November 22 for a 21-day comment period. The comment period will close on December 13. The interagency team continues to review the 685,000 comments on the step 1 rule. On November 28, the administrative docket for pre-proposal recommendations for a new definition of WOTUS closed. The agencies received over 2,600 unique letters. Finally, the agencies will hold a webinar for states, local gov't, tribes and federal agencies on December 12 to provide an update for our partners on the status of the three rulemakings, the feedback we received through the federalism and tribal consultations and general outreach webinars, and next steps. Further engagement with co-regulators is planned for the February, March 2018 timeframe.

Water System Partnership Story Map Launch: Next week, EPA anticipates launching a new interactive website to increase awareness about the importance of drinking water partnerships. EPA's new website highlights ways partnerships can address these challenges, leading to increased public health by working together and sharing information. EPA's Water System Partnership website provides states, communities, utilities and others with a user-friendly format to explore the different types of partnerships, success stories across the nation, and national and state resources.

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Upcoming Public Events:

Meeting with Region 7 State Directors: Next week, Lee will travel to Region 7 to join the Region 7 leadership in meeting with the state environmental directors. He will speak to OW's priorities. While there he will meet individually with the Directors of the Iowa and Missouri programs.

NAFSMA Leadership Meeting: Next week, I will speak at the National Association of Flood and Stormwater Management Agencies' Leadership Meeting. This will be an opportunity to update the directors and committee chairs on our work around stormwater management, integrated permitting, and other activities of interest.

Last Week Highlights:

PFAS: This week, OW released a one-page fact sheet on the agency's website on our efforts to protect public health and address PFAS. OW worked through the agency's formal PFAS coordinating committee, which included representatives from across the headquarters offices and the regions. The document provides the agency and our partners at the state, Tribal and local levels consistent messages on this issue.

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Message

From: Kyle Harris [kharris@corn.org]
Sent: 1/5/2018 5:46:35 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: Ag Biogenic CO2
Attachments: Biogenic CO2 Coalition - 1-pg Overview (3-13-17).pdf

My name is Kyle Harris and I manage the Environmental Affairs for the Corn Refiners Association, who chairs the Biogenic CO2 Coalition (please find our 1-pager attached).

I would appreciate the opportunity to come and brief you on our issue, which involves air emissions from the processing and/or combustion of short-cycle herbaceous crops. The Ag sector is poised to invest billions of dollars throughout the United States to expand the bioeconomy, which can provide 21st century solutions to economic growth, domestic energy security, and environmental benefits in the form of bioenergy, biofuels, and bioproducts made from corn, oilseeds, crop residues, farm wastes and other agricultural feedstocks.

We have been working on this issue closely with OAR, and Alex Dominguez has kindly given me your contact information.

Please advise any times that may work for you and your team where we could sit down and further discuss.

Thanks in advance,

Kyle

Kyle A. Harris, Esq.
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Message

From: Beck, Nancy [Beck.Nancy@epa.gov]
Sent: 1/30/2018 1:55:40 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: FW: FW: Final MOA
Attachments: ESA MOA Draft 2018-01-29+NOAA GC edits_NMFS.docx

FYI NMFS still has comments on the MOA. I hope CEQ can resolve quickly.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: Ex. 6
beck.nancy@epa.gov

From: Stuart Levenbach - NOAA Federal [mailto:stuart.levenbach@noaa.gov]
Sent: Tuesday, January 30, 2018 6:55 AM
To: Prandoni, Christopher D. EOP/CEQ <Ex. 6>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Comstock, Earl (Federal) <ecomstock@doc.gov>; Uthmeier, James (Federal) <JUthmeier@doc.gov>; Kevin Wheeler - NOAA Federal <kevin.wheeler@noaa.gov>; Brandon Elsner - NOAA Federal <brandon.elsner@noaa.gov>; Bernhardt, David <dwbernhardt@ios.doi.gov>
Subject: Fwd: FW: Final MOA

All-

NMFS added a comment to the version with comments from NOAA GC. Attached is the consolidated document and DOC/NOAA has no further comments on the MOA.

Stu

Message

From: Prandoni, Christopher D. EOP/CEQ Ex. 6
Sent: 1/29/2018 9:54:09 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: Fwd: Final MOA
Attachments: ESA MOA Draft 2018-01-29.docx; ATT00001.htm

Sorry for the delay

MEMORANDUM OF AGREEMENT

between

the Environmental Protection Agency, the Department of the Interior, and the Department of Commerce

on

Establishment of an Interagency Working Group to Coordinate Endangered Species Act Consultations for Pesticide Registrations and Registration Review

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I. PURPOSE

This Memorandum of Agreement (MOA) establishes an interagency working group ("Working Group") comprised of representatives from the Environmental Protection Agency (EPA), the Department of the Interior (DOI), which includes the Fish and Wildlife Service (FWS), and the Department of Commerce (DOC), which includes the National Marine Fisheries Service (NMFS) (collectively, "the Signatory Agencies"). The Working Group will provide recommendations to EPA, FWS, and NMFS leadership on improving the Endangered Species Act (ESA)[1] consultation process for pesticide registration and registration review ("pesticide consultation process") and will ensure that the new process is recorded and formalized as appropriate.

II. BACKGROUND

Statutory Framework and Pending Reviews

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)[2] governs pesticide registration, distribution, and use. EPA implements FIFRA, while consulting with the Department of Agriculture (USDA) on pesticide-related rulemakings. Most pesticides distributed or sold in the United States must obtain a registration from EPA prior to their use. FIFRA additionally requires that EPA review pesticide registrations every 15 years. As of July 1, 2017, EPA has been processing 725 registration review cases that cover approximately 1,140 pesticide active ingredients.

The ESA seeks to conserve threatened and endangered species and the ecosystems upon which they depend. Pursuant to ESA section 7(a)(2), federal agencies shall "insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence" of any listed species or result in adverse modification of critical habitat.[3] Section 7(a)(2) further requires agencies to consult with FWS, NMFS, or both (collectively, "the Services") when contemplating an agency action subject to ESA. Courts have found specific registrations and registration reviews of pesticides under FIFRA to be agency actions subject to ESA's consultation requirements.

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[1] 16 U.S.C. § 1531 *et seq.*
[2] 7 U.S.C. § 136 *et seq.*
[3] 16 U.S.C. § 1536(a)(2).

Status of Pesticide Consultations

America's 3.2 million farmers operate over 2 million farms and annually produce billions of pounds of food. Responsible pesticide use is an essential tool for managing America's estimated 915 million acres of farmland. At the same time, pesticides may impact non-target organisms, including fish and wildlife.

For decades, EPA and the Services have worked to determine how best to fulfill ESA's consultation requirements when registering and reregistering pesticides:

- Initially, EPA and FWS conducted ESA consultations on individual pesticides but ended this practice after it was deemed too lengthy and ineffective in protecting listed species.[4]
- In 1981, EPA in cooperation with FWS adopted a "cluster" approach pursuant to which all pesticides registered for the same use pattern were examined concurrently. At that time, EPA received biological opinions from the Services for four clusters and began drafting implementation plans for the biological opinions. However, the implementation plans proved to be unworkable because they were "far more complex and time-consuming than originally anticipated," and as a result, the cluster approach was abandoned in 1998.[5]
- In 1989, after collaboration among EPA, the Services, and USDA, and the conclusion of a notice-and-comment period, the agencies published a revised Endangered Species Protection Plan and returned to species-based assessments. Under this approach, EPA identified species most vulnerable to pesticides, the Services identified the counties where those species lived, and USDA provided information on crop growth and pesticide application.
- In 2001, a non-government organization successfully challenged EPA's failure to consult with NMFS on 54 pesticide active ingredients and their effect on 25 listed species of salmon and steelhead.[6] Partially in response to this challenge, in 2004, EPA and the Services issued counterpart regulations, which created a number of different procedures to conduct informal and formal ESA pesticide consultations.[7] The implementation of one such procedure for informal consultation, the alternative consultation procedure, was challenged and, in 2006, held to be arbitrary and capricious.[8]

In an effort to address issues between federal agencies related to identifying and implementing appropriate scientific and technical approaches, EPA, the Services, and USDA requested the National Research Council (NRC) "to examine scientific and technical issues related to determining risks posed to

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[4] ENVIRONMENTAL PROTECTION AGENCY, REPORT TO CONGRESS ON THE ENDANGERED SPECIES PROTECTION PROGRAM AS IT RELATES TO PESTICIDE REGULATORY ACTIVITIES, at 6 (1991), *available* [HYPERLINK "https://nepis.epa.gov/Exe/ZyNET.exe/91012TX9.TXT?ZyActionD=ZyDocument&Client=EPA&Index=1991+Thru+1994&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5Czyfiles%5CIndex%20Data%5C91thru94%5CTxt%5C00000027%5C91012TX9.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=hpfr&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1&SeekPage=x&ZyPURL"].

[5] *Id.* at 8.

[6] Wash. Toxics Coal. v. EPA, 413 F.3d 1024 (9th Cir. 2005), *cert. denied*, 546 U.S. 1090 (2006).

[7] 50 C.F.R. § 402.40-48 (2016).

[8] Wash. Toxics Coal. v. United States Dep't of the Interior, 457 F. Supp. 2d 1158 (W.D. Wash. 2006).

listed species by pesticides."[9] In 2013, the NRC released a report that identified categories of issues the agencies should seek to resolve and strategies to improve interagency coordination. As a result of the NRC report, EPA and the Services developed and are implementing a set of "interim agreements" and a "stakeholder engagement process."

Deliberative Process / Ex. 5

III. ACTIONS

Creation of Interagency Working Group

This MOA establishes a Working Group to support EPA and the Services in meeting their obligations related to the pesticide consultation process. The Working Group shall consist of the Signatory Agencies to this memorandum. In addition, the Signatory Agencies request that USDA, the Council on Environmental Quality (CEQ), and the Office of Management and Budget (OMB) join the Working Group, and that CEQ serve as Chair of the Working Group. The Signatory Agencies may also request the participation of other federal agencies or offices in the Working Group as appropriate.

Action Plan

Federal agency coordination and support is necessary to meet ESA obligations with regard to pesticide consultations. The Working Group will (1) outline a legal and regulatory framework by analyzing the relevant statutes, regulations, and case law, (2) review past pesticide consultation practices to learn from those experiences, (3) develop scientific and policy approaches that will increase the accuracy and timeliness of the pesticide consultation process, and (4) memorialize the proposed approach through a memorandum of understanding, revised regulations, or another legal mechanism:

1. ***Analyze relevant statutes, regulations, and case law.*** The Working Group will review (1) the statutory requirements under ESA and FIFRA, (2) the case law that has developed on the intersection of ESA and FIFRA, and (3) existing regulations for the pesticide consultation process. For example, the Working Group will review 50 C.F.R. § 402.46-47 (the optional formal consultation procedure) and determine whether its application would improve the pesticide consultation process. The Working Group should also provide advice on how best to define the scope of the agency action subject to consultation, and on how to properly identify and classify direct and indirect effects of the agency action. The Working Group will identify statutory obligations and limitations, providing a legal and regulatory framework to guide the Working Group as it develops its scientific and policy recommendations for the pesticide consultation process.

[9] ASSESSING RISKS TO ENDANGERED AND THREATENED SPECIES FROM PESTICIDES, at 3 (2013) available [HYPERLINK "https://www.nap.edu/catalog/18344/assessing-risks-to-endangered-and-threatened-species-from-pesticides"].

2. ***Review past ESA pesticide consultation practices to learn lessons from recent experience.*** The Working Group will review current and previous pesticide consultation practices to identify problems and areas for improvement, as well as best practices that should be used in future pesticide consultations.

3. ***Prepare recommendations to improve scientific and policy approaches.*** The Working Group will provide recommendations on how to improve scientific and policy approaches to ESA pesticide consultations. For example, the Working Group will develop a streamlined process for identifying which actions require no consultation, informal consultation, or formal consultation. The Working Group will also help provide clarity as to what constitutes the "best scientific and commercial data available" in the fields of pesticide use and ecological risk assessment, which EPA and the Services are required to use under ESA section 7(a)(2).

4. ***Document the approach.*** To the extent that current authorities and practices do not allow for the timely and accurate review of pesticides consistent with governing authorities, Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Documenting the new approaches would promote lasting cooperation between the agencies.

IV. OTHER PROVISIONS

1. ***Period of Agreement.*** The term of this MOA will commence upon full execution by the Signatory Agencies, and shall remain in effect until such time as the MOA is terminated by any Signatory Agency or its successor.

2. ***Modification.*** This MOA, or subsequent annexes, may only be modified by mutual agreement of the Signatory Agencies or their successors. Such modifications shall be in writing and will take effect upon execution by the Signatory Agencies or their successors.

3. ***Rights and Benefits.*** Nothing in this MOA is intended to diminish or otherwise affect the authority of any agency to carry out its statutory, regulatory or other official functions, nor does it create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies or officers, State agencies or officers carrying out programs authorized under Federal law, or any other person.

4. ***Agreement Does Not Involve Funding.*** This MOA, in and of itself, does not result in the transfer of funds or other financial obligations between the Signatory Agencies. No provision of this MOA shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. Funding arrangements, if any, shall be the subject of separate agreements that will be subject to the availability of funds.

5. ***Stakeholder Input.*** In carrying out Section III of the MOA, the Working Group is not prohibited from seeking or receiving stakeholder expertise, experience, input, information, or other items deemed appropriate.

Message

From: Burton, Tamika [burton.tamika@epa.gov]
Sent: 12/22/2017 6:07:30 PM
Subject: Weekly Report 12.22.2017
Attachments: Weekly Report 12.22.2017.docx

Happy Holidays Everyone!
Please see the weekly report attached!

Best regards,
Tamika Burton
Staff Assistant to the Deputy Administrator
Immediate Office of the Administrator
MC 1104A Room 3412 WJC North
(202) 564-4771 (d)
Ex. 6 *(c)*
burton.tamika@epa.gov

Region 1

Hot Issues

Lead Action Levels Exceeded in Four Massachusetts Communities

- Region 1 was informed by the Massachusetts DEP that four large community systems exceed the drinking water lead action level of 15 ppb.
- The communities of Melrose, Medford, Winthrop and Quincy are all served by the Massachusetts Water Resources Authority (MWRA).
- Region 1 will help MA DEP develop and oversee response strategies.
- Issues to be discussed include requesting full rather than partial lead service line replacements, updating lead line inventories, reviewing system-wide water quality data, and ensuring adequate public education.

Chinese Delegation Visits Region 1 to Learn about U.S. Enforcement of Environmental Laws

- Region 1 welcomed a group of 25 Chinese officials from the Ministry of Environmental Protection (MEP) and local environmental bureaus.
- The delegation met with staff to learn how environmental laws and regulations are enforced and how violations are identified and litigated.
- The meeting was a part of a two-week study tour to learn about U.S. experience in enforcement and compliance to achieve environmental protection.

Upcoming Public Events

None.

Upcoming Major Decisions

None.

Highlights from last week

Vineyard Wind Submits Notice of Intent for 800 MW Offshore Wind Farm

- On Dec. 11 Vineyard Wind submitted a notice of intent to submit a Clean Air Act preconstruction permit application within 18 months, pursuant to the Outer Continental Shelf (OCS) regulations.
- The 800 MW proposed project will help satisfy the Massachusetts state law requiring utilities to purchase up to 1,600 MW of electricity from offshore wind farms by 2027.
- EPA will be the permitting authority and, consistent with Clean Air Act OCS regulations, will initiate a consistency review of applicable regulations in the corresponding onshore area that will be published in the Federal Register.

Region 1 and MA DEP Conduct Lead & Copper Rule Training

- MA DEP, with the assistance of Region 1's Lead and Copper Rule expert, conducted one day training workshops in each of the state's four DEP Regions on December 8, 11, 13, and 21. Approximately 120 water suppliers were trained.

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- In preparation for the workshops, Region 1 conducted a "train the trainer" workshop on November 14 for Mass DEP staff.
- Workshop topics included new LCR protocols, testing in schools, consumer notification requirements, corrosion control treatment, and setting water quality parameters.

Region 1 Conducts Community Stormwater Webinar

- On Dec. 14 Region 1 provided technical assistance to 181 participants through the Soak Up the Rain New England Webinar: Engaging Urban Residents: Innovative Approaches to Promoting Community-Based Stormwater Management. Participants were from government agencies, NGO's (mostly watershed associations), and academic institutions.

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Region 2

Hot Issues:

Hurricane Irma/Maria: Close to half of the residents in Puerto Rico and the U.S. Virgin Islands remain without electric power, and this remains a major obstacle to improvements in other areas, including proper management of wastewater and providing drinking water to residents. Use of generators is widespread, but there are frequent failures because the units are not suited to such extended operation. Nevertheless, EPA is making good progress on our mission assignments. To date we have collected over 83.000 household hazardous waste and orphan containers, e-waste items and white goods (for extraction of refrigerant); and we are managing large quantities of medical waste in the USVI. The US Coast Guard has also started removing sunken and stranded vessels, and EPA is managing the oil and hazardous materials from those boats. EPA remains on standby to provide air monitoring in the event that either PR or the USVI authorize the Army Corps of Engineers to carry out air curtain incineration of vegetative debris. In the USVI the question of whether or not to do such burning has become a matter of considerable public controversy. The Corps has advised the USVI government that it will very soon run out of space to stockpile debris – particularly the very large amount of vegetative debris – and will need to terminate collection operations if no decision on how to manage the material is made. There is a lawsuit pending to prohibit the air curtain incineration (ACI) of vegetative debris in the USVI. All ACI operations have been stopped until the legal actions are resolved. In PR, the local government is also wary of ACI operations, anticipating strong negative public reaction to such a plan. Regional Administrator Pete Lopez and regional senior staff met on Dec. 20 with Tania Vasquez, head of Puerto Rico's Environmental Quality Board; this issue was among the main topics of discussion.

Dewey Loeffel: On Dec 12, Rensselaer County passed a law limiting the discharge of 1,4-dioxane to 0.35 parts per billion (ppb) from properties that are owned by the County that are also designated as a Superfund site. The only site that meets these criteria is the Dewey Loeffel site. The most recent treated effluent result available for 1,4-dioxane (collected on Nov. 29, 2017) was 0.36 ppb. The data were posted on the Dewey Loeffel webpage on Thursday, Dec 14 and no inquiries were received. The treated effluent results for Dec. 6 are expected by Dec 20 and will be posted on the webpage later this week.

Pace Environmental Litigation Clinic -- Litigation Update: On December 15, 2017 the court granted EPA an extension to answer/otherwise respond to the compliant, while the court considers EPA's motion to stay this litigation. EPA now has to answer or otherwise respond to the complaint on or before January 17, 2017.

Past Week:

Delaware River Basin Commission Proposed Hydrofracking Rules: On December 18, Region 2 participated on a conference call with Headquarters offices and Region 3 to coordinate EPA's response to the proposed DRBC hydrofracking rules. We agreed that by January 31, 2018 the group would provide comments on the various DRBC documents. The legal review will be completed by the Office of General Counsel (OGC); the technical review will be led by the Office of Water (OW); and the scientific review will be led by the Office of Research and Development (ORD). Regions 2 and 3 will have the opportunity to review the comments submitted by OGC, OW and ORD and can opt to conduct a separate legal review. In addition, Regions 2 and 3 will determine how the proposed regulations would intersect with regional programs, including water quality standards.

EPA assists in navigating air requirements for proposed natural gas pipeline: EPA hosted a meeting on December 12 to coordinate the federal and state general conformity review for the proposed Northeast Supply Expansion natural gas pipeline project. The meeting focused on ensuring that Transco, the private company constructing the pipeline, and the agencies at the federal and state levels, are clear on the next steps for the general conformity analysis. We identified some data gaps and challenges associated with process and schedule. Some details remain to be worked out, including if and how the states can go about approving extended mitigation timelines consistent with EPA regulations. Transco intends to fund clean air projects at the Port of New York and New Jersey in order to offset project emissions.

Court Enters Consent Decree Resolving RCRA, CAA, and CWA Violations by Homeca Recycling Center Co. On 12/18/17, the U.S. District Court for the District of Puerto Rico entered EPA's Consent Decree (CD) with Homeca. The CD resolves our claims against Homeca for alleged violations of RCRA, CWA, and CAA rules at three different facilities located in Caguas, Ponce Playa and Hormigueros, PR. EPA has direct implementation responsibility for these rules in Puerto Rico. The alleged violations resulted from past releases of fluids from crushing cars at the facilities, the release of ozone-depleting substances into the air, and the runoff of contaminated storm water from the facilities to the Rio Grande de Loiza and the Caribbean Sea. The settlement requires Homeca to pay a $50,000 civil penalty in two installments, and to implement various practices as injunctive relief to help the facilities maintain compliance with the applicable regulations.

Upcoming:

Consent Agreement and Final Order (CA/FO) against the Town of North Hempstead: Region 2 will issue a CA/FO to the Town of North Hempstead, Nassau County, for violating the Resource Conservation and Recovery Act (RCRA) Subtitle I, Underground Storage Tanks (USTs) Regulations. The violations include: failure to permanently close a temporarily closed UST after 12 months; failure to monitor tanks for releases every 30 days; and failure to conduct line tightness tests every 3 years. The Town agreed to pay a penalty of $49,500 and to perform two Supplemental Environmental Projects (SEPs) valued at $90,000. The SEPs are: 1) Continuous monitoring release detection for all tanks it owns and/or operates ($50,000); and 2) an infiltration basin system which will divert storm water runoff and thus keep pollution from entering the waterways ($40,000). The continuous monitoring release detection system will also help the Town maintain and monitor its tanks to prevent leaks and loss of product. Although the NYS Department of Environmental Conservation (NYSDEC) does not have State Program Approval for USTs, under its own state authority it has delegated its UST authority to five counties including Nassau County. Region 2 worked with NYSDEC and Nassau County to bring the Town of North Hempstead into compliance with RCRA Subtitle I.

Region 3

Hot Issues

DOJ/EPA Region III File Consent Decree with ArcelorMittal Monessen, PADEP, and PennEnvironment to Resolve Alleged CAA Violations
On December 20, 2017, DOJ, on behalf of Region III, lodged a Consent Decree to implement a settlement with ArcelorMittal Monessen LLC (AMM) to correct alleged CAA violations at its coke plant in Monessen, PA, a facility that produces coke (purified coal) for eventual use in steel mills. The settlement also resolves claims against AMM made by the Pennsylvania Department of Environmental Protection and PennEnvironment, an environmental group representing neighbors of the plant. The settlement is expected to reduce harmful emissions from the company's coke plant by a total of more than 125 tons per year (tpy) of sulfur dioxide and 50 tpy of particulate matter. Among the requirements of the Consent Decree, the company must install additional monitoring equipment, implement various work plans to improve work practices, conduct studies of existing plant equipment and operations, and perform a demonstration project to control emissions during planned maintenance outages at the facility's desulfurization plant. ArcelorMittal will spend approximately $2 million on air pollution controls/improved work practices at the plant and also pay a civil penalty of $1.5 million, which will be split between the federal and state agencies. At the same time, DOJ filed a Complaint in Intervention in the pending citizen suit brought by PennEnvironment for similar alleged CAA violations.

Final Close Out Report (FCOR) Signed for [HYPERLINK "https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0300596"]
On December 15, 2017, Regional Administrator Cosmo Servidio signed the Final Close Out Report (FCOR) for the Recticon/Allied Steel Superfund Site. The FCOR documents that EPA has determined that all appropriate remedial actions at Site have been completed. Operation and maintenance, institutional controls and Five-Year Reviews are no longer required and no further Superfund response is necessary to protect human health and the environment at the Site. The Site is projected for deletion from the National Priorities List by September 30, 2018.

Vapor Intrusion Investigation Conducted at [HYPERLINK "https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0300563"]**, Doylestown, Pennsylvania**
During the week of December 11, 2017, the Site Team and their contractor conducted a vapor intrusion (VI) investigation at ten residences in the Westwyk community of Doylestown, PA. The VI investigation was conducted because of the presence of groundwater contamination underneath the community. The investigation involved collection of both indoor air and subslab samples in the residences. Analytical results of the sampling are expected to be available in approximately two months. At that time a more extensive VI investigation will be conducted across the entire community, which could involve up to 200 homes. The Site Team has conducted VI investigations at the Site previously, although these have primarily involved testing the subslab and indoor air at the former Chem Fab facility. A vapor mitigation system was installed at the facility as a result of the previous investigations.

Drinking Water Sampling associated with the Naval Auxiliary Landing Field Fentress (Oceana Naval Air Station) Planned for February 2018, Chesapeake, Virginia

In February 2016, the Navy sampled off-base private drinking water wells for PFAS compounds at residential properties surrounding the Naval Auxiliary Landing Field (NALF) Fentress. Results indicated that drinking water obtained from wells at two properties exceeded the EPA preliminary health advisory levels for PFAS compounds. Navy installed in-home drinking water well treatment systems at the affected residences. The Navy also installed additional off-base monitoring wells to further delineate the groundwater plume migration. Two of the monitoring wells detected PFAS exceeding the EPA Lifetime Health Advisory, indicating further plume migration. The Navy is planning a second round of drinking water well sampling for residents in the vicinity of NALF Fentress in February 2018 which will include approximately 60 additional properties. A public meeting to announce the second round of drinking water well sampling will be schedule for the week of February 5, 2018.

Brownfields Area-Wide Plan Completed in Huntington, West Virginia

During this fall, Huntington completed its Brownfields Area-Wide Plan (AWP) after two years of gathering input from the community including manufacturing operations, businesses, and Marshall University. The AWP focused on three catalyst sites along the Ohio River where there was a coal shipping operation. When redeveloped, these sites will spur further revitalization throughout the city. Marshall University plans to expand its campus to one of the catalyst sites for a minor league ball field hoping to attract a team. An adjacent manufacturer is planning investing $1 million in a second catalyst site to expand their operations and create an incubator for new manufacturing businesses. The Appalachian Regional Commission, state and county agencies have been approached and are in the process of reviewing Huntington's requests for additional funds. Huntington also received an EPA Brownfields Assessment grant that they are using to ascertain if there are any hazardous substances on these sites and what would be needed to clean them up. Altogether, Huntington is on the path to redevelopment that incorporates green infrastructure and other environmental measures.

Upcoming Public Events

No upcoming events to report for next week.

Past Events

Regional Administrator to Participate in Chesapeake Bay Program Principals' Staff Committee meeting

EPA Mid-Atlantic Regional Administrator Cosmo Servidio will represent EPA and the other federal partners as a member of the Principals' Staff Committee meeting December 19-20, 2017 in Cambridge, Md. CBP Director Nick DiPasquale and Deputy Director Jim Edward and other EPA staff will also participate in the meeting. The purpose of the meeting will be to focus on helping PSC members build an understanding and answering questions on key Midpoint Assessment and Phase III

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WIP issues, as well as seek collective decisions on foundational Midpoint Assessment issues including:

1) Adoption of the Phase 6 suite of modeling tools for finalizing the draft Phase III planning targets and for management application in the Phase III WIPs and two-year milestones through 2025
2) Approval of the proposed Bay's assimilative capacity
3) Approval of the process for the 4-month Partnership review of the draft Phase III WIP planning targets, including how special cases are addressed
4) Approval to base Phase III WIP development on 2025 current zoning conditions
5) Approval of the draft Phase III WIP planning targets as a starting point of the 4-month Partnership review period
6) Develop a Partnership implementation plan to address Conowingo infill by 2025
7) Adopt a dual approach to factor climate change into the Phase III WIPs

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Region 4

Hot Issues

Rockwell International/Grenada Manufacturing, LLC (Grenada, MS)
Key Message: During the week of December 25, 2017, Region 4 anticipates initiating a Time Critical Removal Action for the former Grenada Manufacturing, LLC site to address onsite exposure to trichloroethylene (TCE). Specifically, the Region is looking to address the continuing worker exposure to TCE vapors by working with the Responsible Party and the Mississippi Department of Environmental Quality to start operation of a Vapor Intrusion system at the facility. In addition, the Region continues to work towards proposing this site to the NPL in January 2018.

Highlights from Last Week
None

Upcoming Travel for the RA
None

Region 5

HOT ISSUES:

EPA Coordinating with Michigan on Wolverine Enforcement Approach
Key Message: On December 21, 2017, EPA and the state of Michigan presented to Wolverine World Wide, Inc. (WWW) a proposed approach to investigation, sampling, analysis, and provision of alternate water at the Wolverine sites.

The coordinated approach includes the negotiation of two separate orders with EPA and Michigan by mid-January 2018: a) an administrative order on consent between WWW and Michigan under state Part 201 and Part 31 authorities that addresses PFAS and provision of alternate water, and b) an administrative order on consent between WWW and EPA under CERCLA Section 106 authorities for investigation, sampling, and analysis at the Tannery and House Street landfill. EPA's deadline for WWW to give an indication of interest in negotiations is close of business December 21. Region 5 plans to sample groundwater and drinking water for PFAS at several locations in Rockford, Michigan the week of December 25, 2017, including at the former Tannery, the House Street landfill, and at residences with filters installed.

Since 2012, Michigan Department of Environmental Quality has had the lead in addressing arsenic and chromium contamination at Wolverine's former Tannery under a state "other cleanup authority (OCA)" alternative. PFAS contamination at the site came to light earlier in 2017. Since then, WWW has identified numerous residential wells impacted by PFAS at concentrations above EPA's lifetime health advisory of 70 parts per trillion – presumably from waste generated by WWW's operations using Scotchgard™, which contained PFAS compounds. WWW potentially used as many as 95 disposal locations for its wastes. Since late summer 2017, WWW has been voluntarily providing alternate drinking water or installing whole-house water filters to some of the impacted residents with PFAS-contaminated drinking water, but EPA has concerns about filter efficacy and the sampling method used to analyze PFAS drinking water samples.

On October 20, 2017, citizens living near the WWW facilities submitted a revised citizen suit notice under RCRA Section 7002(a)(1)(B) (imminent hazard). EPA issued a follow-up CERCLA Section 104(e) information request to WWW on December 1, 2017, to better understand its factory operations, waste handling and disposal operations, and the procedures that are being used to test residents' drinking water and remediate higher concentrations of PFAS. The contamination has been reported on in national and local media and has been of great concern to the local community.

Indiana Harbor Coke Company in East Chicago, Indiana Signs Consent Decree
Key Message: Indiana Harbor Coke Company (IHCC) and Cokenergy, LLC, owners and operators of the Indiana Harbor Coke Company Facility signed a federal consent decree with EPA and the Indiana Department of Environmental Management last week to resolve outstanding Clean Air Act violations.

In several notices of violation, EPA has alleged that the companies exceeded bypass venting, sulfur dioxide, particulate matter, and lead limits in their federal operating permits, failed to stop leaking coke oven doors as required by the National Emissions Standards for Coke Oven Batteries, exceeded numerous opacity limits, and many other violations. Under the settlement, the companies will spend around $120 million in injunctive relief to reduce emissions of sulfur dioxide, particulate matter, lead, and volatile organic compounds. The companies will pay a civil penalty of $5.0 million ($2.5M to the state of Indiana). In addition, Cokenergy will spend $250,000 on a lead abatement supplemental environmental project in East Chicago. There has been significant press and community interest into EPA's investigation and we expect further interest following lodging of the decree. IHCC is a subsidiary of SunCoke, Inc.

UPCOMING EVENTS:

NONE

UPCOMING MAJOR DECISIONS:

NONE

PAST WEEK ACCOMPLISHMENTS/HIGHLIGHTS:

EPA Removal at Abandoned Plating Facility in St. Paul, Minnesota Completed
Key Message: On December 21, 2017, EPA completed a time-critical removal action, reducing threats to public health and the environment, at the Plating Inc. site.

Since mobilizing in August, EPA secured over 20,000 gallons of hazardous acids and caustics; removed damaged asbestos-containing materials; and pumped approximately 9,700 gallons of waste liquids into tanker trucks for disposal off-site. EPA recovered pooled, liquid waste from under the waste treatment lines and recovered caustic liquids released into floor trenches in the building. Equipment and structural components used during processing where decontaminated and EPA worked diligently to recycle or reuse materials whenever possible. Consolidated hazardous materials that could not be recycled were transported to RCRA/CERCLA approved disposal facilities.

The Plating Inc. site is located at a former industrial facility that specialized in zinc and chromate plating of aluminum. The abandoned building where operations occurred is located in a mixed-use residential, commercial area as well as a nearby city park. Throughout the cleanup, EPA conducted air monitoring in the building and at the perimeter to ensure that residents and nearby business occupants were not exposed during the removal process. EPA partnered with Ramsey County and the city of St. Paul to utilize an emergency notification system that would alert nearby residents by land-line, text message, and email in case of an emergency at the site. The notifications included evacuation and shelter in place instructions in the event of a hazardous chemical release at the site. Additionally, EPA maintained night and weekend building security for the entirety of the removal action.

Region 6

I am also pleased to report that yesterday's meetings with Governor Hutchinson and Arkansas DEQ officials were productive and positive.

UPCOMING HOT ISSUES AND IMPORTANT DEADLINES
December 21, 2017

Lazarus Refinery II, LLC, Longview, Texas
EPA intends to issue a unilateral administrative order under its authority pursuant to the Resource Conservation and Recovery Act to Lazarus Texas Refinery II, LLC located in Longview Texas. The Order will be issued in response to ongoing corrective action issues at the facility, specifically releases of hazardous waste and hazardous constituents to the soil and groundwater. The Order requires Lazarus to complete corrective action activities and report according to set timeframes. Lazarus has thirty days to respond and request a hearing. Lazarus is on the Agency's high priority list for corrective action. The Texas Commission on Environmental Quality referred the facility to Region 6 for investigation.

Sid Richardson Carbon and Energy Company, Addis, Louisiana; Borger and Big Spring, Texas
EPA expects all parties to sign a consent decree between EPA and the Sid Richardson Carbon and Energy Company under EPA's Clean Air Act National Carbon Black Initiative. Sid Richardson owns and operates three carbon black manufacturing facilities in Addis, Louisiana, and Borger and Big Spring, Texas. This settlement is part of a national initiative that investigated all carbon black manufacturing plants in the United States. The Louisiana Department of Environmental Quality and the Texas Commission on Environmental Quality are joining this settlement.

Columbian Chemicals Company, Franklin, Louisiana
EPA expects all parties to sign a consent decree between EPA and the Columbian Chemicals Company under EPA's Clean Air Act National Carbon Black Initiative. Columbian owns and operates two carbon black manufacturing facilities in Franklin, Louisiana, and Hickok, Kansas. This settlement is part of a national initiative that investigated all carbon black manufacturing plants in the United States. The Louisiana Department of Environmental Quality (LDEQ) and the Kansas Department of Health and Environment (KDHE) are joining this settlement.

Orion Engineered Carbons, Borger, Texas
EPA expects all parties to sign a consent decree between EPA and the Orion Engineered Carbons, LLC, under EPA's Clean Air Act National Carbon Black Initiative. Orion owns and operates four carbon black manufacturing facilities in Franklin/Ivanhoe, Louisiana, Belpre, Ohio, and Orange and Borger, Texas. This settlement is part of a national initiative that investigated all carbon black

manufacturing plants in the United States. The Louisiana Department of Environmental Quality (LDEQ) is joining this settlement. Texas participated in settlement discussions, but is not signing the agreement because Orion would not agree to install a scrubber at its Borger, Texas, facility. Borger is in an area expected to be designated nonattainment for SO2, and EPA anticipates that the Orion Borger facility will be required to install controls following the designation.

Jicarilla Apache Tribal Nation, Dulce, New Mexico
EPA intends to issue a violation letter to the Jicarilla Dulce water system for the failure to sample at the correct location for the Long Term 2 Enhanced Surface Water Treatment Rule from October 2017 to December 2017. This water system failed to sample at the approved sampling location and will be in violation until the next sample is collected at the correct location.

LACC, LLC US, Ethylene and Derivatives Plant, Westlake, Louisiana
Louisiana granted EPA an extension until January 12, 2018 for the purposes of LDEQ working with the permittee to address EPA concerns. Construction for this new ethylene and derivatives manufacturing facility is ongoing. The preliminary draft permit proposes to authorize new discharges into the Calcasieu River Ship Channel and Bayou D'Inde. Both are on the impaired waterbodies list for the state and both have approved Total Maximum Daily Loads requirements intended to restore the impaired waterbody designated uses.

NEPA

DOE Strategic Petroleum Reserve, Bryan Mount, Texas; Big Hill, Texas; West Hackberry, Louisiana; Bayou Choctaw, Louisiana
The Department of Energy intends to prepare an Environmental Assessment in support of the DOE Strategic Petroleum Reserve Life Extension 2 Project. The SPR mission is to store petroleum to reduce the adverse economic impact of a major petroleum supply disruption to the United States and carry out obligations under the International Energy Program. The Project will ensure that the Strategic Petroleum Reserve can maintain readiness, meet mission requirements, and operate in an environmentally responsible manner. The Reserve currently operates and maintains deep underground storage caverns created in salt domes along the Gulf Coast region at Bryan Mound Texas, Big Hill Texas, West Hackberry Louisiana and Bayou Choctaw Louisiana. Region 6 will support the DOE by meeting our basic statutory requirements for participating in the environmental review process.

UPCOMING PUBLIC EVENTS

January 9 – Louisiana Department of Environmental Quality discussion on Oil & Gas Compliance and Enforcement Efforts, Baton Rouge, Louisiana

January 10 – Region 6 State Agricultural Director Meeting, Dallas, Texas

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January 17 – Texas Commission on Environmental Quality discussion on Oil & Gas Compliance and Enforcement Efforts, Austin, Texas

January 23 – National Oil and Gas Roundtable, Denver, Colorado

January 24 – National Air Quality Conference, Austin, Texas

January 30 – Region 6 Five State Drinking Water Meeting, Dallas, Texas

April 11 – Regional Tribal Operations Committee Meeting, Dallas, Texas

UPCOMING DECISIONS

Bird Creek, Osage County, Oklahoma
EPA intends to finalize the Administrative Orders (SDWA) sent to Warren American Oil Company, Jireh Resources LLC, and Novy Oil and Gas, Inc. to shut-in underground injection wells in Osage County. EPA continues to work with the companies regarding impacts to Bird Creek and will meet regarding compliance with the final orders in early January 2018.

Citizen Potawatomi Nation of Oklahoma
EPA expects to complete review of the treatment in a similar manner as a state (TAS) application for Citizen Potawatomi of Oklahoma to administer water quality standards and certification program under the federal Clean Water Act soon. If the state of Oklahoma does not change its position on extending the state/tribal agreement by December 22 (tomorrow), the application will no longer be eligible for approval. Tribes in Oklahoma are required by Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 ("SAFETEA") §10211(b) to enter into a cooperative agreement with the state of Oklahoma.

Oklahoma Corporation Commission End-of-Year Report
EPA intends to issue the annual review of the underground injection program operated by the Oklahoma Corporation Commission. This year's report acknowledges the proactive efforts by the state to address seismic activities in the region and does not find any significant deficiencies in the state's program.

PAST WEEK ACCOMPLISHMENTS

Arkansas Memorandum of Understanding
EPA signed a Memorandum of Understanding ("MOU") to outline a mutually agreed timeline with Arkansas for submittal and review of Arkansas Regional Haze SIP revisions.

Louisiana Regional Haze

EPA took final action on all outstanding requirements for the Louisiana Regional Haze Program which was under Consent Decree deadline of [HYPERLINK "x-apple-data-detectors://27"].

TCEQ Exceptional Events Demonstration, El Paso, Texas
EPA approved the El Paso Exceptional Event demonstration presented by the Texas Commission on Environmental Quality (TCEQ).

PENDING ACTIONS (Pending Federal Register Publication)

Oklahoma: Final Approval of State Underground Storage Tank Program Revision
FRL 9968-28-Region 6 and 99

Underground Injection Control Program; Hazardous Waste Injection Restrictions; Petition for Exemption Reissuance - Class I Hazardous Waste Injection; TM Deer Park Services (TMDPS) Limited Partnership, Deer Park, Texas
9971-17-Region 6

Approval and Promulgation of Implementation Plans; Louisiana; Regional Haze State Implementation Plan
9971-85-Region 6

Approval and Promulgation of Implementation Plans; Arkansas; Revisions to the Definitions for Arkansas Plan of Implementation for Air Pollution Control: Volatile Organic Compounds
9971-86-Region 6

Approval and Promulgation of Implementation Plans; Arkansas; Revisions to the Definitions for Arkansas Plan of Implementation for Air Pollution Control: Volatile Organic Compounds
9971-87-Region 6

Approval and Promulgation of Implementation Plans; Texas; Reasonably Available Control Technology for Volatile Organic Compound Emissions in the Dallas-Fort Worth Ozone Nonattainment Area
9972-00-Region 6

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport for the 2012 Fine Particulate Matter National Ambient Air Quality Standard and Revised Statutes
9971-17-Region 6

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Region 7

Hot Issues

Westlake Landfill (Bridgeton, MO)

Key Message: Work continues on Westlake Landfill documents

- Major components of the Final Feasibility Study (FFS) are anticipated to arrive late this week from the Potentially Responsible Parties (PRPs). The submittals will include schedule and cost information for the risk based industrial use partial excavation alternative and the full excavation with on-site disposal in an engineered cell alternative and other supporting documentation.
- Calls were made to key stakeholders this week to inform them that EPA is additionally considering the full excavation with on-site disposal option to ensure that the FFS includes a broad suite of remedial alternatives to make the most protective remedy selection. Community stakeholders were encouraged to provide feedback to the National Remedy Review Board (NRRB) in advance of the Board discussion scheduled January 9. The Region is also preparing the initial set of briefing documents to be submitted to the NRRB this Friday which includes a response to comments the Board provided subsequent to the panel review in 2012.
- Next week, the Region will be focused on reviewing the FFS submittals from the PRPs including any new documentation that arrives next week.

Des Moines TCE Superfund Site (Dico Inc.)

Key Message: EPA and DOJ request to meet with Dico.

- On 11/22/17, EPA sent a response letter to the Potentially Responsible Party of the Des Moines TCE Superfund Site (Dico Inc.) agreeing to delay the finalization of the Action Memo for building demolition on the site for four months with qualifiers. On 12/12/17, EPA received a response from Dico to EPA's 11/22 letter in which Dico expressed a desire to discuss a sampling proposed in EPA's 11/22 letter and to enter into global settlement negotiations with the United States. In response, EPA and DOJ have expressed a desire to meet with Dico to discuss these issues in the near future. It is anticipated that meeting will be scheduled in January.

Madison County Superfund Site Redevelopment Interest (Anschutz Mine Tailing Site)

Key Message: Meeting scheduled for January 11, 2018 to discuss options.

- EPA is continuing to coordinate with MDNR and Environmental Operations Inc (EOI) who is interested in purchasing a portion of the Madison County Mines NPL Superfund Site for cobalt production. EPA is currently in discussions on how to address Superfund liability issues at this NPL site and allow the re-mining of the area to proceed.
- Options under consideration are delisting the site and transfer of authority to the state VCP, or transfer of the lead for the NPL activities at the site to the state using a site-specific Superfund Cooperative Agreement. A meeting with representatives of EOI, MDNR and EPA is scheduled for January 11.

Region 8

-No report submitted-

Region 9

URGENT/IMPORTANT ITEMS

CA WILDFIRES: today I convened a discussion with FEMA and the Army Corps of Engineers to inform EPA's expanded role in asbestos assessment and removal for the four No. California counties. We expect to complete assessing all parcels in Lake, Mendocino and Napa counties by this weekend, and all resulting removals by mid-January. This leaves a large assessment and removal workload for us in Sonoma County. We're working to take on the Corps' inventory, and are reaching out to County officials re the universe of properties where the Corps did not obtain right-of-entry. We have bilingual information available to the public and plan further communications next week. In So. California, we are supporting the State's response with three OSCs based in Ventura.

NAVAJO NATION: President Begaye has written to the Administrator seeking prompt approval of TAS for two pending matters – the addition of 12-13 drinking water systems to their existing drinking water program primacy, and their pending application for water-quality standards authority (CWA 303/401 TAS). We stand ready to approve the drinking water request, pending concurrence from the Administrator's office. Regarding the water-quality standards request, we're soliciting public comment and reaching out to local and state government officials. After receiving any comments and briefing HQ, we'd be ready to proceed in April. Lastly, re the WIIN Act-funded water quality monitoring program, we expect to receive Navajo Nation's application next month, and could award the funds in February. Of the tasks collectively identified at the October meeting with states and tribes, AZ DEQ has opted not to apply for any of these funds.

DRINKING WATER: our in-depth review of our states' lead-and-copper rule implementation has revealed notable shortcomings in California's applicable regulations and implementation thereof. Specifically, the state is not properly enforcing the monitoring, public education and corrosion control requirements, and may be underreporting violations to SDWIS. Portions of their regulations are less stringent than EPA's. We are sending a report of our findings to the CA State Water Resources Control Board and OW for review, will ask the State to submit a corrective action plan and focus in detail on 19 systems with multiple prior violations, and issue our final report. This will likely generate much public interest in January.

EXTERNAL ENGAGEMENT

BROWNFIELDS: over 70 people attended our two brownfields community events in Fresno to focus on revitalizing an underserved neighborhood. The City, Habitat for Humanity, EPA and other partners also hosted training for community leaders, and a special Saturday session for local youth to present their photos of the area and envision the possibilities for renewal.

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PAST WEEK'S HIGHLIGHTS

CAA SIP ACTIONS: I proposed approval of a CA SIP measure to reduce fine particulate (PM2.5) emissions from woodstoves in a Sierra Nevada (CA) community through an economic incentive program to replace old stoves with new, cleaner ones. This novel approach to attaining the PM2.5 standard is made possible through targeted airshed grant funds and the State's and local air agency's enforceable commitment to implement the replacement program. I also proposed conditional approval of Arizona's new source review program, which will bring the program up to date with all federal requirements for the first time in over a decade. The proposed approval also suspends Clean Air Act sanctions that would otherwise have been triggered early next year.

FINANCIAL MANAGEMENT: we welcome Reg. 8's Comptroller Ben Bielenberg for a one-month detail as Reg. 9's acting Comptroller. Ben has a welcome depth of experience as Comptroller, Regional Budget Officer and Regional Planner in recent years. In February, we'll be assisted by Reg. 8's Budget Officer Joe Poetter for a one-month detail. He'll be followed by OCFO's Sherri Anthony for the month of March. We are deeply grateful to Reg. 8 and OCFO for their support as we seek to build a strong financial management capability.

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Region 10

Hot Issues

Pebble Limited Partnership Will Submit Permit Application December 22 (AK): The Pebble Limited Partnership issued a news release indicating its plans to submit federal Clean Water Act permit application for the Proposed Pebble Mine on December 22. This application will trigger the environmental review process. This week the company also announced a new major Canadian investor. [HYPERLINK "https://www.alaskapublic.org/2017/12/21/pebble-announces-federal-permit-application/"]

Alaska's List of Impaired Water Bodies Out for Public Comment: On December 15, the Alaska Department of Environmental Conservation released its 2014/2016 Integrated Report for public comment. The comment period is open until January 29, 2018. Most notable are the proposed Category 5 impairment listings for the Kenai and the Little Susitna Rivers for turbidity, and a proposed Category 4b listing for the Little Susitna for petroleum hydrocarbons. The Little Susitna has not previously been listed as impaired. These listings have the potential to be controversial, because the suspected causes of the turbidity impairments are fishing guide boats, which provide a significant revenue source for the state. EPA and ADEC have both been contacted by stakeholders, and anticipate we may be again. Region 10 has already contacted by the media regarding the release of the report ([HYPERLINK "http://peninsulaclarion.com/news/local/2017-12-18/state-feds-determine-next-steps-after-turbidity-report"]).

Upcoming Public Events

Public Hearing on Underground Injection Control Class II Well Transfer to EPA (ID): On January 8th, EPA will host a public hearing in Boise, Idaho as requested, to provide information on the UIC Class II program transfer that was announced in the Federal Register in November. This is a voluntary transfer requested by the state of Idaho. Public comments will be accepted at the hearing, and also on Regulations.Gov until the 45-day comment period closes on January 11, 2018. A fact sheet has been developed to provide context and answer FAQs from the public.

Region 10 News Release: EPA provides $650K for diesel reductions from Seattle-area vessels: On January 8, Region 10 will issue a news release announcing that EPA is providing the Puget Sound Clean Air Agency with a $650,000 grant to reduce harmful diesel emissions from engines on up to eight vessels operating in the Puget Sound region. The PSCAA project will provide vessel owners with incentives to scrap and replace up to 19 old "Tier 0" engines with newer, more-efficient, and lower-emission "Tier 3" engines on six to eight harbor vessels operating in Puget Sound, Lake Union, and Lake Washington. Combined with the mandatory match of $891,000, the total project cost is $1,541,000. The PSCAA's Puget Sound Harbor Vessel Engine Replacement Program provides long-lasting emission reductions and public health benefits to a region whose air quality is significantly impacted by the large heavy diesel vessel fleet.

Region 10 to Speak on Federalism Panel at Idaho State Bar Meeting: On January 12th, the Idaho State Bar Association is hosting a conference entitled, "Exploring State and Federal Conflicts and Cooperation." Region 10's Idaho Operations Office Director will represent EPA on a panel at the

conference which will focus on: "Working Together Under Federal Pollution Prevention Laws: State and Federal Perspectives." The other speakers on the panel are IDEQ Director John Tippets and Deputy AG Lisa Carlson.

Upcoming Major Decisions

None to report this week

Last Week Highlights

EPA and Oregon DEQ Move Portland Harbor Superfund Cleanup Forward: On December 19, Region 10 issued a news release announcing significant progress on the Portland Harbor Superfund Cleanup including important agreements with responsible parties for site-wide baseline sampling that will guide future cleanup and for early action hot spot cleanups. We received excellent press coverage of the announcement. News release here: [HYPERLINK "https://www.epa.gov/newsreleases/epa-and-oregon-deq-move-portland-harbor-superfund-cleanup-forward"]

Portland and Oregon Health Authority Sign Compliance Agreement for Treatment and Monitoring of Cryptosporidium in Drinking Water: On December 18 the Oregon Health Authority and the Portland Water Bureau signed a Bilateral Compliance Agreement which establishes a 10-year compliance schedule to construct a filtration treatment plant for cryptosporidium. Treatment is required to comply with EPA's Long Term Treatment drinking water rule. PWB will continue to implement interim measures for watershed protection and meet the Public Notice requirements in the LT2 regulations. PWB will also maintain response protocols with OHA, EPA and local health officials to evaluate any cryptosporidium detections to ensure protection of public health while the filtration plant is being constructed. The most recent detections for cryptosporidium occurred on December 17th and 18th.

Gasoline Tanker Spill in Santiam River, Oregon: On December 15th, a road tanker truck carrying 11,500 gallons of gasoline rolled over, caught fire, and spill gasoline into the Santiam River. Gasoline odors were detected at least six miles downstream at the nearest town of Detroit, Oregon. Many local and state responders immediately deployed to the accident location. Downstream drinking water users were immediately notified to shut down their surface water intakes until the river water could be deemed safe for consumption. EPA Region 10 immediately deployed an On-Scene Coordinator and rapidly notified the natural resource trustees and three impacted tribes of the incident. Once the EPA OSC arrived on-scene and formed Unified Command with the responding agencies, priorities were developed to prevent further contamination of the river, clean-up contaminated soil from the roadway, assess and reopen the surface water intakes for the downstream drinking water sources, and get the highway reopened. Multiple rounds of water quality samples were collected from the five drinking water intakes as well as ambient air conditions was assessed both up and downstream of the accident location. Preliminary results all indicate that the air and water were safe for the public.

Office of Administration and Resources Management

Hot Issues

OSC certification
OARM is providing verification to the Office of Special Counsel of the agency's compliance with 5 U.S.C. 2302(c). The certification program allows federal agencies to confirm they've met the statutory obligation to inform their workforces about the rights and remedies available to them under the prohibited personnel practice and whistleblower retaliation protection provisions found therein.

Upcoming Public Events

None

Upcoming Major Decisions

None

Last Week's Highlights

Cybersecurity Coding
Cybersecurity coding for all EPA positions in the Department of Interior's Interior Business Center Federal Personnel and Payroll System was completed last week more than 4-months ahead of OPM's deadline of April 2018.

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Office of Air and Radiation

Upcoming Hot Issues and Important Deadlines

- **OAR actions under review at OMB:**
  - Municipal Solid Waste (MSW) Landfills New Source Performance Standards (NSPS) and Emission Guidelines (EG) – Stay Notices
  - Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach – Supplemental Proposal
  - Notice of Proposed Withdrawal of the Control Techniques Guidelines for the Oil and Natural Gas Industry
- **State Implementation Plan (SIP)-Related Information**: We will resume reporting of SIP information in the January 4, 2018, report

Upcoming Meetings, Public Events, or Other Public Releases

- **Light Duty Vehicle Fuel Economy Trends Report and Greenhouse Gas Performance Report:** EPA is close to releasing the annual Trends and GHG Performance reports.

Recap of Past Week

- **Actions signed/announced recently:**
  - Greenhouse Gas Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units - Advance Notice of Proposed Rulemaking
  - Refrigerant Management Regulations for Small Cans of Motor Vehicle Refrigerant - Withdrawal of a direct final rule and a new final rulemaking
  - Approval of Louisiana's Request to Relax the Federal Reid Vapor Pressure (RVP) Gasoline Volatility Standard for Several Parishes in Louisiana
  - Approval of Tennessee's Request to Relax the Federal RVP Gasoline Volatility Standard for Shelby County (Memphis)
  - Notice of Final Action Denying Petition for Rulemaking: Denial of Petition to List Concentrated Animal Feeding Operations Under Clean Air Act Section 111
  - Renewable Fuel Standard (RFS) Program: Grain Sorghum Oil Pathway - Proposed rule
  - 2010 Sulfur Dioxide Standard Round 3 Designations: EPA designated all remaining areas of the country that did not elect to install new SO2 air quality monitors.
  - 2015 Ozone Standard Designations: Later today Regional Administrators will issue 120-day letters to Governors outlining EPA's intended designations.

Office of Chemical Safety and Pollution Prevention

IMPORTANT DEADLINES

TSCA New Chemicals Determinations				
	Determination Type	**Pending on 12/19/2017**	**Determinations Completed[1] as 12/19/2017**	**Determinations Posted on the Website as of 12/19/2017**
1	# of "not likely" determinations	**1**	**108[4]**	**107[4]**
2	# of §5(e) Orders signed by both EPA and the submitter	**-**	**301**	**297**
3	# of §5(e) Orders signed by EPA and awaiting submitter signature	**65**	**-**	**-**
4	# of non-Order SNURs/"not likely" determinations	**0**	**0**	**0**
5	# of cases in post-FOCUS final determination development[5]	**314[3, 5]**	**-**	**-**
6	# of cases flagged for in-depth review	**57**	**-**	**-**
7	# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	**14**	**-**	**-**
8	# of LVE/LOREX exemption grants	**-**	**499**	**503**
9	# of LVE/LOREX exemption denials	**-**	**101**	**101**
10	**Total number of cases**	**451**	**1009**	**-**
11	Normal active workload for the New Chemicals Program	300	**-**	**-**
12	Number of cases undergoing testing or data development by submitter	74[3]	**-**	**-**
13	**Backlog[2]**	77	**-**	**-**

[1] "Determinations Completed" means that EPA has completed its reviews on these cases and that final determinations have been made by EPA under TSCA section 5(a)(3).

[2] (Total number of cases) – (Normal active workload for the New Chemicals Program) - (Number of cases undergoing testing or data development) = Backlog

[3] Of these cases, approximately 73 are "active" lung toxicity cases that are suspended while submitters conduct testing to develop data on pchem properties and toxicity.
[4] "Not Likely" determinations are not posted until the final signed determination document is prepared and has been shared with submitter.
[5] These cases are those for which Post-FOCUS work is underway to develop: not likely determinations; non-Order SNURS coupled with not likely determinations; or section 5(e) or 5(f) Orders. When the OPPT Office Director decides which of these regulatory paths to follow, the case is moved to: Row 3 when the section 5(e) or 5(f) Order is sent to the submitter or signature; Row 4 when the SNUR is published; and Row 1 when the determination document is sent to the OPPT OD for signature.

HOT ISSUES

Neonicotinoid Ecological and Human Health Risk and Benefits Assessments for Public Comment – On December 15, OPP issued an OPP Update (listserv) to announce the release of the preliminary ecological and human health risk assessments for the neonicotinoid insecticides clothianidin, thiamethoxam, and dinotefuran, and a preliminary ecological risk assessment for imidacloprid, assessing risks to birds, mammals, non-target insects, and plants. OPP also released its response to public comments on the 2014 Benefits of Neonicotinoid Seed Treatment to Soybean Production as well as new cotton and citrus benefits assessments for foliar applications of neonicotinoids. These assessments complement the preliminary pollinator-only risk assessments the Agency published for comment in 2016 and 2017. Preliminary human health and ecological assessments (for aquatic species only) were also released for imidacloprid in 2017. OPP is especially interested in public comment on the benefits assessments for cotton and for citrus, since previous assessments identified potential risks to pollinators from these uses. We believe early input from the public will be helpful in developing possible mitigation options that may be needed to address risks to bees. Among the benefits identified, the neonicotinoids were found to be critical for management of Asian citrus psyllid, which causes citrus greening—a devastating pest for citrus growers—and for control of plant bugs and stink bugs in cotton. OPP has responded to several press inquiries in a timely manner.

Glyphosate – On December 18, OPP issued an OPP Update (listserv) to announce the release of the draft human health and ecological risk assessments for glyphosate on the Web and later on [HYPERLINK "http://www.regulations.gov"] (docket EPA-HQ-OPP-2009-0361). In early 2018, OPP will open a 60-day public comment period. The ecological risk assessment includes an evaluation of the potential for effects on non-target organisms from exposure to glyphosate, incorporating available exposure and effects data, and most current risk assessment methods. EPA's analysis indicates that there is a potential for effects on birds, mammals, and terrestrial and aquatic plants. The human health risk assessment includes an evaluation of dietary, residential/non-occupational, aggregate, and occupational exposures. No risks of concern were identified. Additionally, an in-depth review of the glyphosate cancer database was performed. The data, including epidemiological, animal carcinogenicity, and genotoxicity studies, led EPA to conclude that glyphosate is not likely to be carcinogenic to humans. OPP has responded to several press inquiries in a timely manner.

Initiated Rulemaking to Revise Certain Aspects of the Agricultural Worker Protection Standard and the Certification and Training Rule – On December 14, OPP issued an OPP Update (listserv) to

announce the initiation of the process to revise certain requirements in the Agricultural Worker Protection Standard (WPS) and the Certification and Training (C&T) Rule. By the end of FY 2018, EPA expects to publish a Notice of Proposed Rulemaking to solicit public input on proposed revisions to the WPS requirements for minimum ages, designated representatives, and application exclusion zones. The compliance dates in the revised WPS published on November 2, 2015, remain in effect; the Agency does not intend to extend them.

Also, EPA initiated a process to revise the minimum age requirements in the C&T rule. EPA expects to publish a Notice of Proposed Rulemaking to solicit public input on proposed revisions to the rule by the end of FY2018. The implementation dates in the January 4, 2017, final rule, (1) for certifying authorities to submit revised certification plans and (2) for EPA to act on those plans remain in effect; EPA has no plans to change those implementation dates. OPP has responded to several press inquiries in a timely manner.

Adopting 2017 North American Industry Classification System (NAICS) Codes to the Toxics Release Inventory. On Tuesday, December 26, OCSPP will announce a final rule which updates the North American Industry Classification System (NAICS) codes that are used to classify facilities subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Facilities meeting Toxics Release Inventory (TRI) reporting requirements will be required to use 2017 NAICS codes on TRI reporting forms, beginning with reporting forms that are due on July 1, 2018 (covering releases and other waste management activities at facilities for the 2017 calendar year). This final rule does not add any new reporting requirements or burden.

PUBLIC EVENTS AND MEETINGS

January 9, 2018, Worker Protection Standard Presentation – An OPP staff representative will participate in a session on the Worker Protection Standard (WPS) with the Fruit and Vegetable Growers Association of Delaware in Harrington, DE during Delaware Ag-Week. This presentation, as well as another planned presentation in February, is the result of a controversial set of inspections/enforcement actions on WPS that were taken by EPA Region 3 with growers in Delaware. As part of the negotiated settlement discussions, the need for additional education was raised.

January 10, 2018, American Beekeeping Federation - Rick Keigwin, Director of the Office of Pesticide Programs, will be attending the annual meeting of the American Beekeeping Federation in Reno, Nevada, where he will be providing an update on EPA's pollinator protection efforts. He will also meet with individual beekeepers to listen to their concerns and to learn about new technologies they have been developing to control varroa mites.

January 12, 2018, Southeast Regional Fruit and Vegetable Conference - Rick Keigwin will be attending the Southeast Regional Fruit and Vegetable Conference in Savannah, Georgia, where he will be providing the grower community with updates on the implementation of the agricultural worker protection standard and the certification of pesticide applicators rule, as well as responding to questions regarding the new requirements for the use of dicamba in 2018 and other pesticide issues of importance to growers in the Southeast. He will also be meeting with staff from the University of Georgia Cooperative Extension and the Georgia Department of Agriculture to discuss opportunities for increased collaboration and cooperation.

Office of the Chief Financial Officer

Hot Issues

- The House of Representatives and Senate are expected to pass a short term continuing resolution funding the government through January 19.
- The House of Representatives passed an $81 billion Supplemental for disaster relief for Hurricane Harvey, Irma and Maria. The bill includes $6.2 million for the Superfund account and $7 million for the LUST account.

Upcoming Public Events

- N/A

Upcoming Major Decisions

- Finalizing the final draft *FY 2018-2022 EPA Strategic Plan* for submission to OMB by December 22. The final draft Plan reflects COO decisions on language and targets for strategic measures and FY 2018-2019 Agency Priority Goals and results of OCFO policy review.
- Agency review of draft *FY 2017 Annual Performance Report* and two-page performance highlights concludes December 22. The APR presents results against budget measure targets in the *FY 2017 Annual Performance Plan and Congressional Justification* and will be part of the *FY 2019 CJ.*
- A memo to announce 2017 Enterprise Risks and to gain senior leadership support in developing priority area action plans to address the risks will be sent to senior leaders this week.
- A memo to announce the launch of the new Performance System will be sent to senior leaders this week.

Last Week Highlights

- N/A

Other

- Working with programs on draft FY 2018-2019 budget performance measures/targets due to OCFO on December 22.
- Working with NPMs to develop FY 2019 President's Budget submission materials and to coordinate briefings with OMB staff. Budget Justification Narratives are due to OCFO January 4.

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Office of Congressional and Intergovernmental Relations

- ***Upcoming Hot Issues and Important Deadlines***

- ***Upcoming Events***

  - **TBD Week of January 1** – SEPW request for briefing on EPA PFAS activities
  - **January 23-24** – EPA is partnering with the Environmental Council of States (ECOS) and the Intestate Oil and Gas Compact Commission (IOGCC), to host an oil and natural gas roundtable at the Denver Regional Office on Tuesday, January 23 and Wednesday, January 24. Roundtable participants will include senior agency officials, state environmental commissioners, state oil & gas commissioners, as well as industry and NGO representatives. Invitations to the roundtable are being sent out Friday, December 22, 2017.
  - **January 24- 26** – US conference of Mayors will host its 86th annual Winter Meeting in Washington, DC
  - **January 30** (tentative) - Superfund Oversight hearing before the House Energy and Commerce Committee, Subcommittee on Environment (Witnesses: Kell Kelly, Barry Breen)

- ***Past week accomplishments***

  - **December 18** – Notification of draft risk assessments for glyphosate w/OCSPP
  - **December 19** – Notification of the proposal to find that grain sorghum oil qualifies for advanced biofuel and biomass-based diesel designation under the Renewable Fuel Standard (RFS) program.
  - **December 20** – Sen. Boozman (AR) and water associations meeting on draft WIFIA WIN Act w/OW
  - **December 20** – Notification of final rule re CSO notification requirements in Great Lakes basin
  - **December 21** – Notification of round three final area designations for SO2 under the 2010 National Ambient Air Quality Standards (NAAQS).
  - **December 21** - OCIR staff spoke with Sen Schumer's office about locomotive emission credits.
  - **December 21** – Senate Ag staff TA on draft FIFRA/ESA bill w/OCSPP, OGC)
  - **December 22** – Cong. Latta (OH) staff briefing on antimicrobial copper w/OCSPP
  - **December 22** – Planned notification of 120-day letters to governors in over 30 states and territories and tribal leaders in nearly a dozen tribes, indicating our suggested designation for areas under their jurisdiction for the 2015 ozone NAAQS

- ***Ongoing activities***

  - **FY18 Appropriations:** A short-term continuing resolution extending the government's funding until January 19, 2018 was passed by Congress.

Office of Enforcement and Compliance Assurance

Hot Issues

Volkswagen Civil Case:

- OECA anticipates that this week EPA and the California Air Resources Board will issue an approval to VW for a revised emissions modification for a small subset (approximately 2800) of the 2.0 liter vehicles for which the previous emissions modification had been denied after the company determined that these vehicles required an additional hardware change that was not previously disclosed to consumers. The parties will be disclosing this issue to the court this week prior to releasing the approval. This will impact certain model year 2009 vehicles only. With this, final approval the emissions modification process for the 2.0 Liter vehicles will be complete. Almost all 2.0 liter vehicles have received an approval, and VW has withdrawn its application for approval of an emissions modification for model year 2012, 2013 and 2014 Passat diesel vehicles with manual transmissions (therefore, no approved modification will be available for these vehicles).

- EPA and CARB issued an approval to VW for an emissions modification for the larger 3.0 liter passenger cars covering model years 2014-2016 Audi A6 Quattro, A7 Quattro, A8, A8L and Q5 diesel vehicles. Once the emissions modification is applied, the vehicles will be brought into compliance with their certified emission standards (therefore no buyback option will be available to consumers under the terms of the coordinated 3.0 Liter settlements among EPA, CARB, FTC and the consumer class action). EPA and CARB will continue work to review the remaining emissions modifications for the Generation 1.1 and 1.2 3.0 Liter vehicles.

Upcoming Events/Public Meetings

On December 21st, Susan Bodine and Patrick Traylor will meet with the leadership of ECOS to discuss compliance and enforcement priorities.

Upcoming Major Decisions

None.

Last Week's Highlights

Meeting with USDA on Superfund Task Force: On December 19th, OECA's Federal Facilities Enforcement Office met with the USDA to discuss the Superfund Task Force. These discussions occurred as part of a quarterly meeting with the USDA organized by OLEM's Federal Facilities office. USDA was particularly interested in Recommendation 30, which addresses revising Agency policies and agreements to incentivize redevelopment. We are scheduling a follow up meeting with USDA to further explore their perspectives on Recommendation 30.

Clean Air Act Civil Settlement: On December 18th, the Southern District of Texas entered a Stipulation of Settlement resolving an action against Morgan Stanley Capital Group Inc. (MSCG) for violations of the Clean Air Act (CAA). The company agreed to pay a civil penalty of $1,119,000 to resolve violations stemming from the production of gasoline that did not meet fuel standards. MSCG produced approximately 97.3 million gallons of gasoline by blending previously certified gasoline

(PCG) with blendstocks at the Kinder Morgan terminal in Pasadena, Texas in 2013 and 2014. The fuel MSCG produced did not meet the CAA reformulated gasoline volatile organic compound (VOC) emissions performance reduction standards that apply to gasoline produced by adding blendstocks to PCG. MSCG self-disclosed these violations to the EPA under the EPA's Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations.

RCRA Criminal Sentencing: On December 14th, Boasso America was sentenced in the Southern District of Georgia for the illegal transportation and dumping of hazardous waste in violation of RCRA. Boasso will pay $50,000 in restitution to the Georgia Department of Natural Resources, a criminal fine penalty of $500,000, and has agreed to establish, implement, and enforce an effective environmental compliance plan.

In February 2015, approximately 90 drums and containers were dumped onto CSX railroad property and other locations around Savannah, Georgia including at a residence. Labels on some of the drums and containers indicated the waste was generated from Boasso America Corporation, a depot and transportation services company, providing local and long-haul trucking, tank cleaning and terminal services. Some of the drums contained naphthalene, a known hazardous waste. Management of Boasso had requested that employees quickly remove and dispose of the drums in anticipation of an inspection.

This case was investigated jointly by EPA's Criminal Investigations Division and the Federal Bureau of Investigation, the U.S. Coast Guard Investigative Service, the U.S. Customs and Border Protection, the Georgia Department of Natural Resources, the Savannah Fire Department's Haz-Mat team, the Savannah Chatham Metro Police Department, the Pooler Police Department, and the Effingham County Sheriff's Office.

Biodiesel and Tax Credit Scam Criminal Sentencing: On December 20th, former Gen-X Chief Operating Officer and Vice President Donald Holmes was sentenced in the Eastern District of Washington to 78 months of incarceration, supervised release of 36 months, and restitution in the amount of $15,693,341.67. On December 16, 2015, Holmes pled guilty to Conspiracy to Commit Wire Fraud and Conspiracy to Defraud the Government – False Claims for Tax Credits.

This investigation involves a multi-state scheme to defraud biodiesel buyers and U.S. taxpayers by fraudulently selling biodiesel credits and claiming alternative fuel tax credits. From March 2013 to March 2014, the co-conspirators generated at least 60 million fraudulent RINs that were based on fuel that was either never produced or was merely reprocessed at the Gen-X or SRC facilities. They received at least $42 million from the sale of these fraudulent RINs to third parties. In addition, Gen-X received approximately $4,360,700 in false tax credits for this fuel. CEO and Gen-X founder Scott Johnson and COO Donald Holmes each pleaded guilty to conspiracy to commit wire fraud and conspiracy to defraud the government by making fraudulent claims for tax credits (18 U.S.C. §§ 286, 1349).

This case was investigated by EPA's Criminal Investigation Division, the U.S. Secret Service, and the IRS Criminal Investigations

Office of Environmental Information

-No report submitted-

Office of General Counsel

New Judicial Decisions

- The 9th Circuit denied without prejudice EPA's motion to dismiss LULAC's petition. EPA argued that the court lacked subject-matter jurisdiction because the petitioners had failed to exhaust their administrative remedies in challenging EPA's March 29, 2017, denial of the PANNA/NRDC petition to revoke chlorpyrifos tolerances. EPA argued that under the FFDCA, judicial review of a petition denial is only available following EPA's response to the administrative objections to EPA's petition denial. The court did not evaluate the substance of EPA's argument and made clear that it would permit EPA to repeat its jurisdictional arguments in its merits brief. Briefing on the merits should be completed by April 2018. (*LULAC v. Pruitt*, No. 17-71636 (9th Cir.))

- In a favorable decision in *Master v. Obama*. On 12/15/17, the District Court granted EPA's motion to dismiss due to lack of standing. Plaintiff alleged that EPA, NASA, NOAA, President Obama, and Sen. Franken made false representations that humans have caused rising temperatures, which harmed the country and caused the plaintiff to be blacklisted from scientific journals and denied the 2012 Nobel prize. (*Master v. Obama*, No. 2:17-cv-05532 (C.D. Ca.))

New Complaints Filed

- On December 15, 2017, the American Bakers Association filed a petition for review of EPA's final action entitled, "National Emission Standards for Hazardous Air Pollutants: Nutritional Yeast Manufacturing Risk and Technology Review; Final Rule." This was the only petition for review filed. Procedural motions in the case are due January 18, 2018; dispositive motions are due February 2, 2018. The American Bakers Association also submitted a petition for reconsideration of the final rule on December 15, 2017. (*Am. Bakers Ass'n v. EPA*, No. 17-1264 (D.C. Cir.))

- A challenge to the risk and technology review for the pulp and paper NESHAP was filed with the D.C. Circuit. Environmental petitioners also filed petitions for administrative reconsideration asking the agency to reconsider its decision not to establish standards for certain unregulated hazardous air pollutants (they argue we are obligated to do this as part of a RTR) and raising an issue regarding to the use of the census block centroid in risk modeling for chronic health risks. (*Crossett Concerned Citizens for Environmental Justice v. EPA*, No. 17-1257 (D.C. Cir.))

- On December 19, 2017, the South Carolina Coastal Conservation League filed a lawsuit in the U.S. District Court for the District of South Carolina against the U.S. Army Corps of Engineers Charleston District, U.S. Department of Transportation Federal Highway Administration, U.S. EPA, and South Carolina Department of Transportation relating to the construction of Interstate 73 in South Carolina. The complaint alleges that EPA failed to exercise its mandatory duty over the Army Corps imposed by section 404 of the CWA. The complaint also alleges that EPA acted contrary to law when it failed to follow the 404(q) memo and failed to object to the

Corps' issuance of a 404 permit that violates the 404(b)(1) Guidelines. (*South Carolina Coastal Conservation League v. U.S. Army Corps of Engineers*, No. 2:17-cv-03412 (D.S.C.))

- A petition for review was filed by AFPM challenging the 2018 Renewable Fuel Standards. Each year, EPA is required to set standards for four different types of renewable fuels to be blended into gasoline and diesel transportation fuel. The annual rule for 2018 (and 2019 biomass-based diesel) standards was published on December 12, and it appears AFPM filed a petition that day. (*American Fuel & Petrochemical Manufacturers v. EPA*, No. TBD (D.C. Cir.))

- The National Parks Conservation Association, Sierra Club, and the Environmental Defense Fund have filed a petition for review in the Fifth Circuit challenging EPA's recent regional haze FIP addressing the best available retrofit technology (or BART) requirements for power plants in the state. Rather than requiring the installation of source-specific controls as proposed in January 2017, EPA issued a FIP that establishes an intrastate trading program for emissions of SO2 similar to the CSAPR program in terms of its operation and budgets. Because of limitation on time, EPA did not provide an opportunity for public comment on the intrastate trading program as a means of addressing the BART requirements; the environmental petitioners have filed a petition under 307(d)(7)(B) asking EPA to reconsider certain aspects of our FIP. (*National Parks Conversation Association v. EPA*, No. TBD (5th Cir.))

Hot Topics

- On December 18, 2017, Public Citizen filed GAO bid protests on behalf of Fenton Communication and New Heights Communications. The protests allege that the Agency improperly awarded a $125,000 sole source contract to Definers Corporation (Definers) for news analysis services. After reviewing the facts, the Agency determined that there was merit to the protest grounds and that Definers' contract should be terminated. On December 19, 2017, the Agency terminated Definers' contract. Accordingly, EPA plans to notify GAO of the contract termination and to request that GAO dismiss the protest as moot. (*Fenton Communications v. EPA*, B-415800.1 and *New Heights Communications v. EPA*, B-415800.2)

New Petitions that OGC is Aware Of

- None that OGC is aware of.

Upcoming Public Events & Important Meetings in the Next Two Weeks

- Kevin Minoli will be out of the office from December 20 through December 26.

Upcoming Major Deadlines in the Next Two Weeks

12/22 EPA's Appellee brief is due in *Hall & Assoc. v. EPA*, a FOIA matter concerning an EPA Clean Water Act determination to impose an effluent limitation for total nitrogen on certain New Hampshire publicly owned treatment works.

12/22 Reply in support of Cross-Motion for Summary Judgment is due in *Sierra Club, et al. v. Pruitt*, a challenge to extension of compliance date for TSCA formaldehyde rule.

12/22 Reply Brief is due in *Charleston Sanitary Board v. Pruitt*, a challenge to EPA's disapproval of site specific copper criteria in West Virginia.

12/27 Reply Brief is due in *State of Connecticut v. EPA*, where plaintiff alleges EPA failed to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania.

12/27 Answer is due in *Riverkeeper v. Pruitt*, a mandatory duty challenge to EPA's inaction on NYS recreational water quality criteria submission.

12/27 Answer and Administrative Record are due in *Rosado v. Pruitt*, a challenge to MPRSA dredged material ocean dump site in Eastern Long Island Sound.

12/29 EPA's Reply brief is due in *PEER v. EPA*, a FOIA matter alleging failure to respond to a two-part request that sought, among other things, statements from the Administrator related to climate change.

12/31 Answer and interim production are due in *Waterkeeper Alliance, Inc., et al. v. EPA*, a FOIA litigation pertaining to a FOIA request submitted by Waterkeeper Alliance, Inc., Sierra Club, Clean Water Action, and Environmental Integrity Project on August 4, 2017, that sought records related to reconsideration of, and postponement of compliance deadlines within, the EPA's Steam Electric Effluent Limitations Guidelines ("ELGs") Rule.

01/02 Answer is due in *Sierra Club v. EPA*, litigation alleging EPA failed to timely publish two studies relating to the RFS program.

01/05 Response Brief on Remedy is due in *Ellis v. Keigwin*, a FIFRA and ESA challenge to clothianidin and thiamethoxam registrations.

01/05 **Ex. 5 AC/AWP/DP**

01/05 First production of documents is due in *California v. EPA*, a FOIA litigation concerning a 32-part FOIA request submitted by the State of California seeking a variety of records concerning Administrator Pruitt's ethics-related forms and recusals, communications with the Oklahoma state bar, communications with Oklahoma Attorney General's office, and Agency policies related to ethics and recusals.

01/05 Joint Status Report and Briefing Schedule due in *CBD v. EPA*, a case concerning two FOIA requests submitted to EPA in February 2017 requesting (1) all correspondence to or from Scott Pruitt, and (2) all calendars, schedules and travel itineraries for Scott Pruitt.

Office of International and Tribal Affairs

Hot Issues:

None

Upcoming Engagements:

None

Past Week Highlights:

Mexico Secretary of Environment and Natural Resources - Administrator Pruitt and Secretary Pacchiano, Mexico Ministry of Environment and Natural Resources (SEMARNAT), had a conference call this week. The Administrator reaffirmed EPA's commitment to bilateral cooperation with Mexico under the U.S.-Mexico Border Program and trilateral cooperation under the Commission for Environmental Cooperation (CEC). The Administrator expressed an interest in meeting with Secretary Pacchiano in Mexico and also extended an invitation to the Secretary to join him in Oklahoma City for the CEC Council Session in June 2018.

Indian Environmental General Assistance Program (GAP): OITA held a webinar for regional offices regarding the eligibility requirements for intertribal consortia under GAP. Under the GAP statute, an intertribal consortium is defined as "a partnership between two or more Indian tribal governments authorized by the governing bodies of those tribes to apply for and receive assistance pursuant to this section." The goal in funding intertribal consortia under GAP is to build the capacity of their member tribal governments to administer environmental protection programs and to implement tribal solid and hazardous waste programs. To meet that goal, EPA requires intertribal consortia to provide some documentary proof that all consortia member tribes authorized the consortia to apply for and receive the grant on the tribe's behalf. However some intertribal consortia find it difficult to meet the "all tribes authorize the grant" standard and OITA is promoting national consistency in how we interpret and apply the requirement.

Partnership for Clean Fuels and Vehicles Addresses Used Vehicles
OITA participated in a meeting of the Partnership for Clean Fuels (PCFV) Used Vehicles Working Group to discuss strategies for reducing harmful older vehicles in developing countries. EPA is a founding and active partner of the PCFV, which is a global, public-private partnership led by UN Environment, to reduce air pollution from transportation through promoting clean fuels and vehicles technology. PCFV successfully eliminated lead from gasoline and is also promoting clean, low sulfur fuels. The Used Vehicles Working Group is seeking to develop recommended strategies for developing countries to help reduce the vehicle age of imported vehicles. Many imported vehicles in developing countries are old and polluting. Policies to ensure newer imported vehicles would help reduce the air pollution impacts from older vehicles. The Working Group will develop a report on suggested strategies in early 2018.

Private Sector Roundtable on Food Loss and Waste

EPA (OITA/OLEM) participated in a roundtable discussion hosted by the Food and Agricultural Organization (FAO) North America Liaison Office on "Private Sector Solutions to Food Loss and Waste". Speakers included representatives from FAO, the National Restaurant Association, and Grocery Manufacturers Association. EPA (OITA/OLEM) also attended a workshop on "Farm-to-Retail Food Loss in Produce: An Exploratory Discussion on the Causes and Economic Drivers of Change" organized by the USDA Economic Research Service.

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Office of Land and Emergency Management

Hot Issues

1. **Emergency responses to hurricanes and wildfires.** Large-scale responses continue in both Region 2 (Puerto Rico and the US Virgin Islands) and Region 9 (Northern and Southern California).

2. **Coal Combustion Residuals (CCR).**

a.

b. Ex. 5 Deliberative Process (DP)

c. We are working with the AO and OGC on answers to questions posed by Indiana.

3. **Clean Air Act 112(r) Risk Management Program (RMP).**

4. **Ongoing major Superfund NPL sites (for example, B.F. Goodrich, East Chicago, West Lake, Gold King Mine/Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates).** Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)

5. **CERCLA-EPCRA AFO-CAFO Rule**. The DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018. No reporting is necessary until the mandate is issued.

Upcoming Public Events

1. **WasteWise Awards.** OLEM is recognizing 16 organizations for their leadership in waste prevention and diversion through this year's WasteWise Awards.

Upcoming Major Decisions

1. **E-Manifest User Fee Final Rule.** The Administrator signed the rule on December 20, 2017. Publication in the Federal Register is pending.

Last Week Highlights

1. **Hazardous Waste Compliance Docket.** Since 1988, EPA has maintained a Federal Agency Hazardous Waste Compliance Docket under Section 120(c) of CERCLA, which requires EPA to establish a Docket that contains certain information reported to EPA by Federal facilities that manage hazardous waste or from which a reportable quantity of hazardous substances has been released. On December 8, a notice was published in the Federal Register that identifies the Federal facilities not previously listed on the Docket and Federal facilities reported to EPA since the last update in June 2017. The notice also includes a section with revisions of the previous Docket list and a section of Federal facilities that are to be deleted from the Docket.

At the time of publication of this notice, the new total number of Federal facilities listed on the Docket is 2,349.

2. **CERCLA 108(b) Financial Assurance for Hard Rock Mining and Mineral Processing**. The final rule is pending publication in the Federal Register.

3. **Meeting with Senate Environment and Public Works (SEPW) Staff.** OLEM briefed SEPW staffers to answer questions on the CERCLA and EPCRA reporting requirements in two separate calls on December 19th and 20th. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Office of Policy

-No Report Submitted-

Office of Research and Development
Administrator,

This week ORD held our first monthly business review meeting where we walked through dashboard analytics and discussed their meaning to ORD. We also discussed mission metrics data, challenges, and next steps. The meeting was instructive and will inform future meetings.

Merry Christmas and Happy New Year!

Upcoming public events

People, Prosperity, and the Planet (P3) Program
ORD's People, Prosperity, and the Planet (P3) Program has just released its 15th Annual P3 Awards Solicitation. EPA offers the P3 Competition to respond to the technical needs of the world and to support education in Science, Technology, Engineering, and Mathematics (STEM). This competition encourages interdisciplinary teams of college students to use STEM principles to create innovative projects aimed at researching and developing solutions to real world challenges. P3 includes four broad research categories that are within EPA's statutory authority, and this solicitation is requesting applications in the following areas:

- Improve Air Quality
- Provide Clean and Safe Water
- Prevent Contamination of Land, and
- Ensure Safety of Chemicals in the Marketplace

Release of Village Blue Web Application
The Village Blue project is providing real-time water quality monitoring data to the Baltimore community and is testing, evaluating, and developing water sensors to collect real-time water quality data. On December 26, the new Village Blue web-based application will be released to the public, along with a fact sheet and frequently asked questions. The app displays the data in a mobile-friendly, easy-to-understand format complimentary to work that a number of state and local organizations are already doing to make water quality data available to the public. The app will be linked from the Village Blue landing page, also to be released December 26: [HYPERLINK "https://www.epa.gov/water-research/village-blue"]

Helping Oregon Farmers Improve Farmland Management and Water Quality
On January 10, ORD will meet in Monroe, OR, with the Oregon Department of Agriculture (ODA) Local Area Committee for the Upper Willamette and Upper Siuslaw Watersheds (UWUS LAC) to discuss potential ways to reduce nitrate leaching to groundwater in this area where nitrate contamination has been identified as a problem. ORD is leading a [HYPERLINK "https://www.epa.gov/sciencematters/keeping-fertilizer-ground-and-dollars-farmers-pockets"] to determine best practices for minimizing nitrate leaching while maintaining crop yield. The study's findings, so far, about the most effective ways for farmers to waste less money on fertilizer that washes away, while protecting and maintaining water quality, are of interest to the UWUS LAC. ODA Local Area Committees are charged with developing Area Plans that identify strategies to prevent and control pollution from agricultural activities to achieve and maintain water quality standards.

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Last week Highlights

New Approach to Identify Commonly Occurring Chemical Mixtures
A recently published news feature in *Environmental Health Perspectives* highlights ORD research to identify chemical combinations that most frequently occur in humans as measured in biomonitoring studies of the America population. The article is based on ORD research from the peer-reviewed publication in EHP [HYPERLINK "https://ehp.niehs.nih.gov/ehp1265/"]. The researchers used an approach called frequent itemset mining (FIM) that was originally developed to identify commercial products that were most frequently purchased together. For their analysis, the researchers used the FIM approach to identify chemicals that most frequently appear together in the blood and urine of people throughout the US. These co-occurring chemicals can then be used to focus research efforts to understand the potential toxicological effects of relevant mixtures that occur in humans. Without identifying the most common co-occurring chemicals, a near infinite number of chemical combinations would need to be tested for potential toxicity. The full news feature can be found [HYPERLINK "https://ehp.niehs.nih.gov/ehp2325/"].

Online Particle Pollution Course Shared with Over 60,000 Health Care Professionals
The current edition of the Centers for Disease Control and Prevention's (CDC) Million Hearts e-Update, which goes to 60,000 e-mail subscribers, promotes the online continuing education training course developed by EPA and CDC for health care professionals. [HYPERLINK "https://wcms.epa.gov/pmcourse"]. It provides evidence-based training about respiratory and cardiovascular health effects associated with particle pollution exposure and includes educational tools to help patients learn how to use the Air Quality Index to protect their health. The course is available for Continuing Medical Education, Continuing Nursing Education, and continuing education credit for other health care professionals and demonstrates the value of such partnerships to amplify EPA's public health research, messages, and reach.

***Bacillus anthracis* detection: ORD publishes Second Edition of protocol for EPA lab networks**
ORD recently published a second edition of the step-by-step Protocol for Detection of *Bacillus anthracis* in Environmental Samples During the Remediation Phase of an Anthrax Incident first published in 2012. This protocol includes three analytical methods and sample-type-specific processing procedures for the detection of *B. anthracis* spores in various environmental matrices (e.g., aerosols, particulates and drinking water). To simply detect the presence of the deoxyribonucleic acid (DNA) of *B. anthracis*, real-time polymerase chain reaction (PCR)-based sample analysis method is included. To detect whether viable *B. anthracis* spores are present in the samples, microbiological culture and ORD's Rapid Viability-PCR (RV-PCR) analytical methods are included. This edition includes analysis of additional sample types, and updated RV-PCR method. These updates are based on finding from recent research efforts, feedback from laboratories, and changing policies. This protocol has been specifically developed for use by the EPA's emergency response lab networks – the Environmental Response Laboratory Network and the Water Laboratory Alliance - for the analysis of environmental samples during an anthrax incident. Also, since this is an open-access protocol, it can also be used by the national and international biodefense communities.

[HYPERLINK "http://intranet.ord.epa.gov/news/2016/04/nhsrc-supporting-region-8-assessment-asbestos-exposure-due-forest-fires"]
ORD is providing technical support to Region 3 to help protect water bodies at several locations at the [HYPERLINK "https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0302526"] (Saltville, Virginia), a former chemical manufacturing facility. The effort includes containment of toxic wastes and

installation of a sustainable, environmentally friendly barrier at various locations to protect humans, animals and ecological species and to prevent release of toxic contaminants to soil and water bodies. The selection of the barrier material considers use of locally available cost-effective natural materials that are free from any detrimental contaminants of concern and capable of immobilizing toxics.

Office of Water

Hot Issues

Vessels Permitting**:** On December 19, the Congressional permit moratorium for incidental discharges from all commercial fishing vessels and other small commercial vessels (e.g., utility vessels, freight barges, passenger vessels) less than 79 feet in length ended. As a result, approximately 125,000 additional vessels are now required to obtain NPDES permit coverage for these discharges, most likely under the Small Vessel General Permit (sVGP). Affected vessel owner/operators can obtain permit coverage under the sVGP by completing the one-page Permit Authorization and Record of Inspection (PARI) Form and retaining a copy of the signed form onboard the vessel.

Delegation of Authority: As early as today, OW anticipates sending a request to the Administrator to approve a temporary delegation of authority to the Acting Principal Deputy Assistant Administrator (PDAA) for the Office of Water, Benita Best-Wong. This delegation of authority will permit the Acting PDAA to take all necessary action in performance of functions and duties that previously were delegated to the Assistant Administrator (AA) for the Office of Water, and will be in effect from the date of Acting AA Mike Shapiro's retirement (December 31, 2017) until David Ross assumes his position as Assistant Administrator, expected on January 8, 2018.

Steam Electric FOIA: Next week, in response to a court order, EPA will send the Waterkeeper Alliance 252 documents that are responsive to their FOIA request. Under an amended court order, the remaining 508 documents are due to the requestor on January 17th. Those documents are currently undergoing Senior Management Review.

Waters of the U.S.: EPA has received approximately 4,600 comments on the proposed rule to add an applicability date to the 2015 rule, with seven mass mailer campaigns identified to date. The docket continues to process public comments and work is underway to parse the comments which will in turn allow staff to summarize issues in early January. In support of the step 2 rule, the staff team met with the Red Cliff Band of the Lake Superior Chippewa on December 20 to present an overview of the rulemaking process and pre-proposal feedback received to date. The tribe intends to provide further feedback to the agencies. The agencies are also working with state associations to begin planning for further co-regulator engagement and plan to send letters to the RTOC chairs in early January to identify tribal representatives for engagement.

Geologic Sequestration of Carbon Dioxide: Underground Injection Control (UIC) Program Class VI Implementation Manual for UIC Program Directors: As early as next week, EPA anticipates releasing the final *Geologic Sequestration of Carbon Dioxide: Underground Injection Control (UIC) Program Class VI Implementation Manual for UIC Program Directors*. The document will assist Class VI UIC Program Directors with understanding their responsibilities when implementing a geologic sequestration project from pre-permitting through to site closure. The document also includes lessons learned during pre-permitting and/or permitting of five Class VI projects. A copy of the document will be available on the EPA website.

Lead and Copper Rule Federalism Consultation: On January 8, EPA will convene a meeting with intergovernmental organizations in Washington, DC to initiate a 60-day Federalism Consultation as the agency continues to work closely with states and tribes on revisions to the Lead and Copper rule. Dave Ross and Lee Forsgren will participate. The intergovernmental consultation will be followed by

discussions with these and other stakeholders on the proposed rule. During the meeting, EPA will provide an overview of the Lead and Copper Rule and review key areas that EPA is considering for rule revisions. This engagement, along with the peer review input the agency recently received on assessments of lead exposure to children, will help to ensure that any potential revisions reflect the best available information and latest science to provide Americans with important public health protections.

Upcoming Public Events
NONE

Last Week Highlights
San Juan Watershed Monitoring Program: Today, EPA finalized guidance for issuing CWA section 106 grants to implement portions of the San Juan Watershed Monitoring Program authorized by Section 5004(d) of the Water Infrastructure Improvements for the Nation ("WIIN Act"). Prior to issuing this guidance, OW worked with the affected Regions and consulted with states and tribes on the overall long-term monitoring program, including the specific amounts to be awarded to jurisdictions via 106 grants. Regions 6, 8 and 9 will now work with the jurisdiction to issue grants in accordance with the guidance. The target is to make grant awards by the end of February, in time for monitoring during the spring runoff period and thereafter.

Missouri Nutrient Criteria Rulemaking: On December 15th, EPA met its consent decree to have the proposed rule for Missouri numeric nutrient criteria (NNC) for lakes signed by the Administrator. The EPA proposal includes two options: one identical to a state proposal that is currently still in the state adoption process, and another that aligns with the state proposal in all but a few key respects. The proposal is anticipated to publish on December 27, 2017 for a 60-day comment period, ending on February 26, 2018. There will be two virtual public hearings on February 7 and 8, 2018.

Public Notification Requirements for CSOs to the Great Lakes Basin**:** This week, OW finalized a rule establishing public notification requirements for combined sewer overflows (CSO) to the Great Lakes Basin as required by the Consolidated Appropriations Act of 2016. These notification requirements apply to 158 communities with CSOs that discharge to the Great Lakes Basin and address signage, notification of combined sewer overflows to local health departments and the public, and annual notice provisions. This rule protects public health by ensuring timely notification to the public and to public health departments, public drinking water facilities and other potentially affected public entities, including Indian tribes.

Availability-Based Project Waiver of American Iron and Steel Requirements, City of Jacksonville, IL New Water Treatment Plant Project: This week, EPA granted an availability-based project-specific waiver pursuant to the American Iron and Steel (AIS) requirements to the City of Jacksonville. IL for the purchase of forty-five 14-inch uni-flange adaptors for the New Water Treatment Plant Project. This waiver permits the use of 14-inch uni-flange adaptors that have not been produced domestically because no known domestic manufacturer produces 14-inch uniflange adaptors that meet the project's technical specification. This is a project-specific waiver and only applies to the use of the specified product for the referenced project funded by the Drinking Water State Revolving Fund (DWSRF). Any other project funded by either the Drinking Water or Clean Water State Revolving Fund (SRF) that wishes to use the same product must request a separate waiver based on the specific project circumstances.

Appointment

From: Bolen, Derrick [bolen.derrick@epa.gov]
Sent: 12/20/2017 3:06:27 PM
To: Bertrand, Charlotte [Bertrand.Charlotte@epa.gov]; Dourson, Michael [dourson.michael@epa.gov]; Wise, Louise [Wise.Louise@epa.gov]; Keller, Kaitlin [keller.kaitlin@epa.gov]; Keigwin, Richard [Keigwin.Richard@epa.gov]; Hughes, Hayley [hughes.hayley@epa.gov]; Dinkins, Darlene [Dinkins.Darlene@epa.gov]; McNally, Robert [Mcnally.Robert@epa.gov]; Leahy, John [Leahy.John@epa.gov]; Mendelsohn, Mike [Mendelsohn.Mike@epa.gov]; Wozniak, Chris [wozniak.chris@epa.gov]; Milewski, Elizabeth [Milewski.Elizabeth@epa.gov]; Kaczmarek, Chris [Kaczmarek.Chris@epa.gov]
CC: Sands, Jeffrey [sands.jeffrey@epa.gov]; Wakefield, Benjamin J. [wakefield.benjamin@epa.gov]; Huskey, Angela [Huskey.Angela@epa.gov]

Subject: Biotechnology Briefing
Attachments: OPP and Biotechnology (016) nboverview insects 12 19 2017.pptm
Location: PYS12621

Start: 12/21/2017 7:00:00 PM
End: 12/21/2017 8:00:00 PM
Show Time As: Tentative

Message

From: Milewski, Elizabeth [Milewski.Elizabeth@epa.gov]
Sent: 12/20/2017 3:01:02 PM
To: Beck, Nancy [Beck.Nancy@epa.gov]; Bertrand, Charlotte [Bertrand.Charlotte@epa.gov]; Keigwin, Richard [Keigwin.Richard@epa.gov]; McNally, Robert [Mcnally.Robert@epa.gov]; Wise, Louise [Wise.Louise@epa.gov]; Keller, Kaitlin [keller.kaitlin@epa.gov]; Hughes, Hayley [hughes.hayley@epa.gov]; Dinkins, Darlene [Dinkins.Darlene@epa.gov]; Leahy, John [Leahy.John@epa.gov]; Mendelsohn, Mike [Mendelsohn.Mike@epa.gov]; Wozniak, Chris [wozniak.chris@epa.gov]; Kaczmarek, Chris [Kaczmarek.Chris@epa.gov]; Wakefield, Benjamin J. [wakefield.benjamin@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Huskey, Angela [Huskey.Angela@epa.gov]; Striegel, Wiebke [Striegel.Wiebke@epa.gov]; Pierce, Amanda [pierce.amanda@epa.gov]; Dourson, Michael [dourson.michael@epa.gov]; Bolen, Derrick [bolen.derrick@epa.gov]
Subject: ppt slide deck for December 21, 2017 briefing on biotech in OPP (2:00 pm)
Attachments: OPP and Biotechnology (016) nboverview insects 12 19 2017.pptm

Message

From: Subramanian, Hema [Subramanian.Hema@epa.gov]
Sent: 11/29/2017 10:18:56 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: FW: WPS and C&T
Attachments: WP & Cert Regs Crib Sheet.pdf; WPS DAA presentation 12 7 17 nf kk.pptx; CHPAC 11-28-2017 draft kk.pptx

FYI

From: Keaney, Kevin
Sent: Wednesday, November 29, 2017 9:51 AM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: RE: WPS and C&T

Hema

See comments and response sections in the worker protection and applicator certification regulations – links below

https://www.gpo.gov/fdsys/pkg/FR-2015-11-02/html/2015-25970.htm

https://www.federalregister.gov/documents/2017/01/04/2016-30332/pesticides-certification-of-pesticide-applicators

Call me if you have questions or want to discuss any issues

Kevin

Kevin Keaney, Chief
Pesticide Worker Safety Programs
703-305-5557
keaney.kevin@epa.gov

Mail Address:	Courier Address:
U.S. EPA Headquarters	Potomac Yards South
1200 Pennsylvania Ave. NW	2777 Crystal Drive
Mail Code (7506P)	Room 7741
Washington DC 20460	Arlington, VA 22202

From: Subramanian, Hema
Sent: Tuesday, November 21, 2017 3:23 PM
To: Keaney, Kevin <Keaney.Kevin@epa.gov>
Subject: WPS and C&T

Hello Kevin,

Attached are the backgrounders I have. If you could point me to any info on the "whys" of some of the modifications in the Rule that are currently of interest, that would be very helpful. I tried digging around for justifications/comment response in the docket, but didn't get very far.

I can get back to you with specific questions as they arise as well, if easier.

Thanks much,
---Hema.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

Pesticide Worker Safety Programs Update

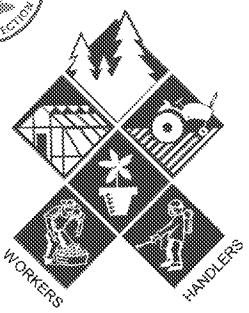
Agricultural Worker Protection Final Rule
Certification of Pesticide Applicators Final Rule

Jackie Mosby, Director, Field and External Affairs Division
Kevin Keaney, Chief, Certification & Worker Protection Branch

Children's Health Protection Advisory Committee
November 30, 2017

Agricultural Worker Protection Final Rule

What is the WPS?



- Federal Regulation
- 1974 EPA published 40 CFR, Part 170

*"A **Worker Protection Standard** for Agricultural Pesticides"*

- Rule is intended to reduce the risks of illness or injury to workers and handlers resulting from occupational exposures to pesticides in the production of agricultural plants
- Rule was Revised in 1992 with Amendments added in 1995, 1996, and 2004.

Revised Final WPS Rule

- Published in Federal Register November 2, 2015
- MOST new rule requirements went into effect **January 2, 2017**
- A few requirements go into effect on **January 1, 2018**

Scope and Applicability

- Keys to WPS applicability:
  - Use of a WPS-labeled pesticide product on an "agricultural establishment" directly related to the production of an "agricultural plant"
  - Employment of workers or handlers
    - Even farm owners that don't employ workers or handlers have WPS responsibilities applicable to owners and their immediate family

Scope and Applicability

Who is responsible for providing the protections?

- Agricultural employers on crop-producing establishments

Who is protected?

- Farmworkers
- Pesticide handlers
- Other persons during pesticide applications

Summary of Key WPS Revisions

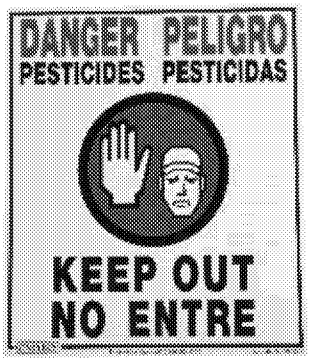
Pesticide Safety Training

Key Requirements:

- Pesticide training every year
- Expand training content
- Require recordkeeping of training for 2 years
  - Provide worker or handler a copy upon request
- No “grace period”
- Keep certified applicators as trainers
- Train-the-trainer programs must be approved by EPA

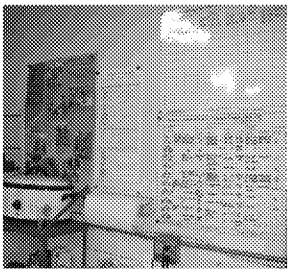
Notification

Key Requirements:



- Post outdoor treated areas when REI is greater than 48 hours
- Early-entry workers must be provided PPE & oral notification of:
  - information about the pesticide application
  - specific task to be performed
  - amount of time that the worker is allowed to remain in the treated area
  - the PPE required by the label
- No recordkeeping of info provided to early-entry workers

Hazard Communication



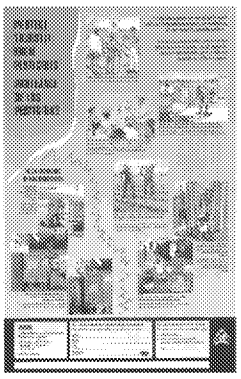
Key Requirements:

- Hazard information includes the application-specific information and the pesticide safety data sheets (SDSs)
- Post hazard information at central display for 30 days after REI expires and retain for 2 years
- Access available from display period through retention to:
  - Employee (upon oral or written request)
  - Treating medical personnel and persons working under their supervision (oral or written request)
  - Designated representative (written request only)

Pesticide Safety Information

Key Requirements:

- Safety information displayed at central location and certain decontamination sites
- Additional information required on display

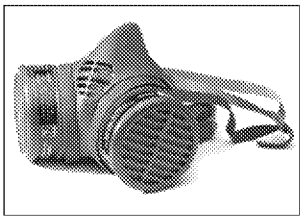


Minimum Age for Handlers and Early-Entry Workers

Requirements:

- Requires a minimum age of 18 for pesticide handlers and early entry workers (who enter field during restricted-entry interval (REI))
  - Members of owner's immediate family are exempt from this requirement
  - No minimum age in WPS for workers entering field after REI expires

Respirator Requirements



Key Requirements:

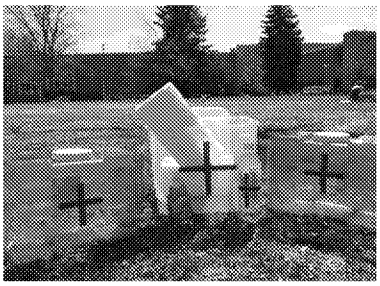
- Adopts by reference a subset of OSHA's standard for respirators
- When a respirator is required by the labeling, handler employer must provide handlers with the following before the handler performs any activity requiring the respirator:
  - Medical evaluation
  - Fit test
  - Respirator training
- Handler employer must maintain records for 2 years documenting completion of these

WPS cherry-picked from OSHA's respirator standard to only require most important elements critical to ensuring the human health of the respirator wearer. EPA/OPP's program already carries out certain elements of the work required under the OSHA rules (risk assessment and hazard evaluation and respirator selection).

WPS does not include these elements of OSHA's respirator program:
Written respiratory protection program
Respirator selection (assess hazards)
Proper use of respirators
Maintenance and care
Program evaluation

Decontamination Supplies

Key Requirements:



- If handler is mixing/loading a product that requires eye protection, eyeflush water must be immediately available at the mix/load site for handler eye flushing
- If applicator is using a product that requires eye protection, one pint of water must be immediately available to each applicator

Emergency Assistance

Key Requirements:

- Employer must provide prompt transportation to emergency medical treatment facility in case of pesticide illness or injury
- Requires employers to provide for each product the SDS and specific information about the product, as well as the circumstances of the application and exposure, to treating medical personnel

EPA's Outreach Preparation for Implementation

Educate Regulators

- Develop broad understanding of WPS revisions among OPP & regional staff and state/tribal inspectors & program leads

Stakeholder Outreach

- Ensure stakeholders understand the WPS revisions, impacts and the timeline for implementation: regulated community, farmworker advocates and other NGOs; coordinate with other federal agencies

Materials Development

- Ensure that regulators, the regulated community and other stakeholders have the information they need to implement the WPS revisions: presentations, webinars, FAQs, fact sheets, How to Comply Manual, Inspector Guidance

Implement Pesticide Safety Training

- Ensure that updated pesticide safety training materials are available by June 2017 and that we have processes in place to approve train-the-trainer programs and pesticide safety training material

Grant Support for Pesticide Worker Safety Programs

Association of Farmworker Opportunity (AFOP) - National Farmworker Training Program - Cooperative Agreement

- AFOP is responsible for developing and administering a pesticide safety training program that will support a national network of pesticide safety trainers providing pesticide worker safety training to migrant and seasonal farmworkers and their families.

Pesticide Educational Resources Collaborative (PERC) UC Davis / OR State Cooperative Agreement

- PERC will develop or coordinate the development of pesticide education materials. An advisory board and EPA will help in setting national priorities. PERC will use subject matter experts and production professionals. Current Projects: - How to Comply Manual - Train the Trainer Manual - Train the Trainer Online Modules - Regulation Interactive Website - Videos for Training Workers - Videos for Training Handlers - Updated Central Posting Materials - Clearinghouse of Training Materials - Respirators 101 Training Module

Implementation Timeline

9/28/2015
Revised WPS final rule signed
[DateTime]

11/2/2015
Revised WPS final rule published in the Federal Register.

1/2/2017 Compliance Required with Most Revised WPS Requirements Except:

- New content in Worker and Handler Training
- New content in Pesticide Safety Information Display
- Responsibility for Handlers related to the Application Exclusion Zone

1/2/2018 Compliance Required with:

- New content in Pesticide Safety Information Display
- Responsibility for Handlers related to the Application Exclusion Zone

Note: Compliance with new content in worker and handler training will be required 6 months after EPA publishes Federal Register notice about training materials being available.

Regulatory Reform Agenda

- Executive Order 1377 on enforcing the regulatory reform agenda
- EPA requested input on regulations appropriate for repeal, replacement or modification
- EPA offices conducted outreach and received regulatory reform comments and recommendations from the public and advisory committee members at the second day (May 4, 2016) of the Pesticide Program Dialogue Committee (PPDC) meeting
- Comments and recommendations were discussed at the November 2, 2017 PPDC meeting
- Any substantive change made to the rule will require a proposal and comment rulemaking before it would be final

Certification of Pesticide Applicators Proposed Rule

Background

- The certification rule, required by statute (FIFRA), has been in place since 1974. It establishes requirements for determining the competency of applicators of restricted use pesticides (RUP)
- An RUP is a pesticide that, without the regulatory restrictions of the certification rule, may cause unreasonable adverse effects to human health or the environment - approximately 2,000 RUPs registered
- FIFRA delegates certification programs to the states. They must have their state plans approved by EPA
- Most states have adopted standards more stringent than the Federal standards
- Wide variance in state certification programs

Background – Who is covered by the rule?

- Private applicators – certified to apply RUPs to their own or employers' property in producing an agricultural commodity
  - ~483,000 private applicators
- Commercial applicators – certified to apply RUPs "for hire" or on property owned by another for a variety of uses
  - ~421,000 commercial applicators
- Noncertified applicators – only authorized to use RUPs under the direct supervision of a certified applicator
  - Estimated: 1,000,000 (actual number unknown)

Private applicators – certified to apply RUPs to own or employers' property in producing an agricultural commodity, e.g., crops grown for food, raising livestock. Certified by attending training or passing an exam covering general pesticide application safety and principles

Commercial applicators – certified to apply RUPs "for hire" or on property owned by another for a variety of uses Federal certification categories include: plant and animal agriculture, structural pest control, rights of ways, public health pest control, ornamental and turf, aquatic, seed treatment. Certified by passing an exam for general (core) competency and for each specific category

Noncertified applicators – only authorized to use RUPs under the direct supervision of a certified applicator. General requirement for supervising applicator to provide guidance on proper application and information on how to contact the supervising applicator; certified applicator does not need to be present during application. No specific training or certification requirements

Key Requirements

- Minimum Age
  - Establish minimum age for certified and noncertified applicators
- Certified Applicators
  - Competency gauge for private applicators
  - Application method-specific categories
  - Standards for applicator recertification
- Noncertified Applicators Under Direct Supervision
  - Competency of noncertified applicators
  - Standards for supervision of noncertified applicators

Key Issues raised

Minimum Age

- Establish minimum age of 18 for commercial and private applicators, and noncertified applicators
- Exception for noncertified applicators under the supervision of private applicators: must be at least 16 if supervised by immediate family member and specific conditions are met

States

- Many states have adopted a minimum age of 18 for commercial applicators and 18 or 16 for private applicators
- Few states have age restrictions for noncertified applicators

FLSA requirements for minimum age – in agriculture, no handling tox I and II pesticides under 16 years old
Rationale: judgment – handling high toxicity pesticides, potential to harm self and others; need to protect developing bodies/systems.
Commercial certified
16 years old – 8 17 years old – 0 18 years old – 35
Private certified
16 years old – 19 17 years old – 2 18 years old – 21
Commercial noncertified
16 years old – 0 18 years old – 6 4 states prohibit any UTS, so not impacted – SD, IA, MN, NH

Private noncertified
16 years old – 3 18 years old – 4 3 states prohibit any UTS, so not impacted – SD, IA, MN

Costs were estimated as primarily a difference in wage rates between youth and those >18 years. Most cost is for noncertified applicators. The noncertifieds account for about 96% of the cost, so let's just use 1,285 (cert+noncert) for private and 13,082 (cert+noncert) for commercial, and say most of the costs are due to the noncertified applicator min age requirement.

Many states have adopted minimum age requirements for commercial and private applicators

USDA during interagency review for proposal recommended deferring decision to states.

Minimum Age Status in States

Type of Applicator	No Minimum Age	Minimum Age of 18	Minimum Age of 16	Other Relevant Information
Commercial applicator	3	31	16	None
Private applicator	16	16	17	1 State has a minimum age of 17
Noncertified applicator under the supervision of a Commercial Applicator	40	6	0	4 States prohibit use of RUPs by noncertified applicators under the supervision of a commercial applicator
Noncertified applicator under the supervision of a Private Applicator	40	4	3	3 States prohibit use of RUPs by noncertified applicators under the supervision of a private applicator

25

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Many states have adopted minimum age requirements for commercial and private applicators

USDA during interagency review for proposal recommended deferring decision to states.

Private Applicator Competency Gauge

- Enhance competency standards to cover necessary information
- Private applicator certification by passing a written exam for or completing training on the enhanced certification standards
- Eliminate mechanism that allows non-readers to be certified

States

- Most states already have requirements for private applicators to pass a written exam to be certified

Area where states are much more stringent
42 states require private applicators to take an exam
States with no exam (5) – Georgia, Tennessee, Kentucky, Missouri, Arkansas
States with exam or training (3) – Montana, Wyoming, South Dakota

Current: 5 general points (only these requirements)
Recognize common pests to be controlled
Read and understand labeling
Apply in accordance with labeling
Recognize local environmental concerns to avoid contamination
Pesticide poising symptoms and procedures in case of accident

Proposed (with more detail under each heading)
Label and labeling comprehension
Safety – routes of exposure, PPE, precautions, first aid, disposal
Environment – environmental consequences of use (added point on pollinator protection)
Pests – identifying, knowing how/when to treat
Pesticides - characteristics, types, compatibility/mixes, hazards,
Equipment – types of equipment, use/maintenance, calibration
Application techniques – methods available, selecting method
Laws and regulations (e.g., WPS)
Supervising noncertified applicators – what rules apply, providing instructions for specific applications
Stewardship – chemical security, communicating risk to workers, handlers, noncertified applicators, etc.
Agricultural pest control – info specifically related to pesticide use in agriculture

Nonreaders – alt process administered by state, must demonstrate competency for each product, inidicate awareness of where to get guidance if he has questions
Heard from states that not used

An applicator must be able to follow the label and therefore, must be able to read the label to retrieve its information.

Additional Certification Categories

- Add stand-alone categories of certification for private and commercial applicators for soil fumigation, non-soil fumigation, and aerial application

States

- Many states have similar categories for commercial applicators; few states have similar private applicator categories

Soil fumigation – reregistration decision – labeling mandated training OR states can require certification in a specific soil fumigation category that covers the same standards; EPA has worked with grantee to develop manual and exam item bank for states to use
Commercial – 16 states Private – 19 states
Nonsoil fumigation
Commercial – 41 states Private – 8 states
Option to combine soil/non-soil into a general fumigation category that covers both.

Aerial – have worked with National Aerial Aviation Association to develop manual and exam item bank for aerial applicator certification – available for state use, will update if necessary after rule finalized
Commercial – 32 Private - 1

Standards for Applicator Recertification

- Establish 5 year certification period
- States adopt recertification programs that ensure adequate ongoing applicator competency
- Recertification by training: must have adequate quality, content, and quantity
- Recertification by exam: must review and update exams as necessary

States

- Certification period ranges from 1-6 years; variety of options for recertification

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Area of wide state variance – period 1-6 years, requirements vary (CEUs/hours, mandatory recertification workshops, retesting as an option or requirement)
EPA assumes a standard level of competency when registering RUPs.... needs to ensure that applicators maintain a level of competency to ensure RUPs are used appropriately
Labeling, products, application equipment change frequently; incidents related to basic failure to follow label/use safety equipment indicate need to remind people periodically

Verifying Identification

- Certification (exam & training), Recertification (exam): must verify identity through a government-issued photo identification or similarly reliable form of identification authorized by the state

- Recertification (training): must verify successful completion of course/event, including verifying identity of participant

States

- States have varying requirements for verifying the identity of people seeking certification or recertification

States have recognized the need to ensure that the candidate pursuing certification by exam or training or attending a recertification session is the person seeking or currently holding a certification.
This requirement would help prevent a candidate from sending a more qualified or prepared person to take the exam under his name, and would verify that the candidate meets the minimum age requirement.
CTAG recommended ID for both exams and training sessions.

Standards for Supervision
Standards for Supervision of Noncertified Applicators

- Supervising applicator must ensure noncertified applicators are qualified (verify and have access to records for 2 years), and for specific applications provide access to labeling and instructions for the application
- Ensure that immediate communication is possible

States

- Few states have additional requirements for certified applicators supervising noncertified applicators beyond the standard certification requirements

commercial applicator: $6.8 million (training UTS + recordkeeping) per year
private applicator: $861,000 per year – cost low because many UTS will receive training as WPS handlers and cost already covered in that rule. NO recordkeeping

Ex. 5 Deliberative Process (DP)

Certification Rule Key Dates

- Original effective date was March 4, 2017
- The effective date was been moved several times for review of questions of fact, law and policy
- Most recent Federal Register notice: June 2, 2017
  - Changed the effective date to May 22, 2018 because the new administration did not have adequate time to review the revised applicator certification rule
- A lawsuit challenging the change to the effective date is pending

Implementation Timeline

12/12/2016

Revised C&T final rule signed by EPA Administrator

1/4/2017

Revised C&T final rule published in the Federal Register

5/22/2018

Revised C&T final rule becomes effective*

* (EPA's promulgation of this effective date is the subject of a judicial challenge)

3/4/2020

Date For Certification Plans to be Submitted to EPA based on 1/4/2017 rule

3/4/2022

EPA Completes its Initial Review of Revised Certification Plans and Some Revised State Plans Will Start to Become Effective*

* (EPA will determine timeframes for implementation and compliance with revised certification plans on a case-by-case basis as part of EPA's review and approval of each revised certification plan)

[Date/Time]

Implementation Timeline

- The rule gives the certifying authority until 3/4/2020 to submit revised certification plans demonstrating their compliance with the new requirements
- If submitted by 3/4/2020, **existing plans remain in effect** until EPA approves revised plan
- The time frame for implementation and compliance with revised certification plan will be decided on a case-by-case basis as part of EPA's review and approval of each revised state certification plan.

Regulatory Reform Agenda

- Executive Order 1377 on enforcing the regulatory reform agenda
- EPA requested input on regulations appropriate for repeal, replacement or modification
- EPA offices conducted outreach and received regulatory reform comments and recommendations from the public and advisory committee members at the second day (May 4, 2016) of the Pesticide Program Dialogue Committee (PPDC) meeting
- Comments and recommendations were discussed at the November 2, 2017 PPDC meeting
- Any substantive change made to the rule will require a proposal and comment rulemaking before it would be final

Message

From: Campbell, Ann [Campbell.Ann@epa.gov]
Sent: 11/8/2017 8:11:00 PM
To: Drinkard, Andrea [Drinkard.Andrea@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]
CC: Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Forsgren, Lee [Forsgren.Lee@epa.gov]; Shapiro, Mike [Shapiro.Mike@epa.gov]
Subject: RE: Talking points
Attachments: FY 19 OMB CLEAN WATER RULE.DOCX; Ohio 303D_110817.docx; MO NNC_110817.docx; Iowa's Antideg Briefing 3-23-17.docx; Ag Activity Backgrounder_Mtng w Jeff Sands.docx

Welcome to EPA Jeff. Attached please find background papers on the subjects you requested (Ohio 303d, WOTUS, and MO NNC). Also attached a longer briefing paper on Iowa Anti-degradation which Lee thought may be helpful. For each of these issues, there is a lot more in depth and detailed information that could be provided but what I've tried to do is give you the papers that provide a quick snapshot. These had been developed for hearing prep. If you find that you'd like a more in depth briefing on any of these, please feel free to let me know and we'll get that set up.

Also attached is a 2 page background paper that synthesizes our key partnerships in the Ag community and activities. This was prepared for your meeting with Lee tomorrow. Again, we're happy to provide a deeper dive briefing when you're ready.

Look forward to working with you. please let me know if you have any additional questions.
Ann

Managing Director
Office of Water

From: Drinkard, Andrea
Sent: Wednesday, November 08, 2017 2:35 PM
To: Sands, Jeffrey <sands.jeffrey@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>
Subject: RE: Talking points

Hi Jeff,

Based on your note and the internal nature of your request, we've been pulling some of our briefing documents together on the topics you referenced. Ann Campbell who is the managing director here in OW will be sending a set of documents to you shortly. Please feel free to reach out to us in the future as needs arise.

Thanks so much and I look forward to working with you!

-Andrea-

From: Sands, Jeffrey
Sent: Wednesday, November 08, 2017 7:58 AM
To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: Re: Talking points

Andrea,

Thanks very much. To be honest, these are meant for personal consumption and studying up on issues I used to be more familiar with. I do have a call tomorrow morning with Missouri Corn Growers tomorrow regarding nutrient issues at 10:30am, however, that is meant as a general catch up.

Much obliged!

Jeff

Sent from my iPhone

On Nov 8, 2017, at 7:40 AM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

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From: Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Sent: 11/8/2017 7:48:26 PM
To: Drinkard, Andrea [Drinkard.Andrea@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]
CC: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: RE: Talking points

Thank you Ann and Andrea.

Sarah A. Greenwalt
Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
Work: 202-564-1722 | Cell: Ex. 6
Greenwalt.Sarah@epa.gov

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Sent: 11/8/2017 7:34:55 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
CC: Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]
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>> Sent from my iPhone

Message

From: Beck, Nancy [Beck.Nancy@epa.gov]
Sent: 1/11/2018 9:36:52 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: FW: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement
Attachments: ESA MOA Draft 2018-01-10.docx

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
Ex. 6 - Personal Privacy
beck.nancy@epa.gov

From: Baptist, Erik
Sent: Thursday, January 11, 2018 9:22 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: FW: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement

Nancy,

Attached please find my edits. Once you complete your review, we can share EPA's comments with CEQ.

Erik Baptist
Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsyvlania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Domesle, Alexander R. EOP/CEQ [Ex. 6 - Personal Privacy
Sent: Wednesday, January 10, 2018 1:51 PM
To: Baptist, Erik <Baptist.Erik@epa.gov>; Catanzaro, Michael J. EOP/WHO <Ex. 6 - Personal Privacy; Starling, Ray A. EOP/WHO <Ex. 6 - Personal Privacy Stephen.Vaden@ogc.usda.gov; Rebeckah.Adcock@osec.usda.gov; Beck, Nancy <Beck.Nancy@epa.gov>; todd_willens@ios.doi.gov; Bernhardt, David <dwbernhardt@ios.doi.gov>; JUthmeier@doc.gov; Brooke, Francis J. EOP/OVP <Ex. 6 - Personal Privacy Moran, John S. EOP/WHO <Ex. 6 - Personal Privacy; Herz, James P. EOP/OMB <Ex. 6 - Personal Privacy
Cc: Neumayr, Mary B. EOP/CEQ <Ex. 6 - Personal Privacy>; Prandoni, Christopher D. EOP/CEQ <Ex. 6 - Personal Privacy
Subject: RE: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement

Dear colleagues,

Attached is the revised draft of the MOA between EPA, DOI, and DOC on establishing a working group on the ESA pesticide consultation process. Since the previous draft was circulated by Erik on December 15, we received very helpful feedback from EPA, DOI, DOC, and USDA, in addition to reviewing it internally here at CEQ. All resulting changes to the

document have been captured in tracked changes. A few of the edits submitted we think could be further improved; in these cases we proposed alternative language in a comment in the margin.

Please review this document, including our proposed language in the margins. We intend for this to be the final review, so please identify any outstanding objections or concerns. **We would very much appreciate receiving any final comments by COB Tuesday, January 16.**

Please don't hesitate to reach out if you have any questions.
Thank you,

Alex

Alexander Domesle
Senior Advisor for Natural Resources
Council on Environmental Quality
Executive Office of the President
Ex. 6 - Personal Privacy
Ex. 6 - Personal Privacy
www.whitehouse.gov/ceq

From: Domesle, Alexander R. Ex. 6 - Personal Privacy
Sent: Monday, December 18, 2017 10:13 AM
To: Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Catanzaro, Michael J. EOP/WHO <Ex. 6 - Personal Privacy Starling, Ray A. EOP/WHO Ex. 6 - Personal Privacy>; Bonfitto, Jordan P. EOP/WHO <Ex. 6 - Personal Privacy>; Stephen.Vaden@ogc.usda.gov; Rebeckah.Adcock@osec.usda.gov; Beck, Nancy <Beck.Nancy@epa.gov>; todd_willens@ios.doi.gov; Bernhardt, David <dwbernhardt@ios.doi.gov>; JUthmeier@doc.gov; Neumayr, Mary B. Ex. 6 - Personal Privacy>; Brooke, Francis J. EOP/OVP <Ex. 6 - Personal Privacy>; Moran, John S. EOP/WHO <Ex. 6 - Personal Privacy>; Prandoni, Christopher D. EOP/CEQ <Ex. 6 - Personal Privacy
Subject: Re: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement

Thanks, Erik. If possible, please send any final feedback by the end of this week. CEQ is happy to collect the comments and identify any areas of disagreement that may need to be resolved. After that, the signatory agencies can discuss how and when to get this signed.

Thank you,
Alex

Alexander Domesle
Senior Advisor for Natural Resources
Council on Environmental Quality
Executive Office of the President
Ex. 6 - Personal Privacy

On Dec 15, 2017, at 17:04, Baptist, Erik <Baptist.Erik@epa.gov> wrote:

All,

Attached for your review and consideration, please find a revised draft Memorandum of Agreement. I will defer to CEQ on process from here.

Best,

Erik Baptist
Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsyvlania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

<ESA MOA draft 2017-12-15.docx>

Message

From: Subramanian, Hema [Subramanian.Hema@epa.gov]
Sent: 2/20/2018 5:37:40 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: FW: Weekly Report 02.16.2016
Attachments: Weekly Report template 0216.2018 final_Ag excerpt.docx

Ag excerpt attached

Hema Subramanian
Acting Special Assistant to the Senior Advisor for Agriculture
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

Region 3

Upcoming Major Decisions and Events:

Regional Administrator to Participate in CBP Citizens Advisory Committee Meeting
RA Servidio, Principals' Staff Committee (PSC) Chair Ben Grumbles, and CBPO Acting Director Jim Edward, will participate in the CBP Citizens Advisory Committee (CAC) meeting on February 22-23, 2018. Topics for discussion include the Phase III WIP local area planning goals, nutrient trading, and budget updates. The CAC advises the partnership on all aspects of restoration and is charged with the responsibility for representing residents and stakeholders of the watershed.

Regional Administrator to Meet with Chesapeake Bay Commission Director
Regional Administrator Cos Servidio and CBPO Acting Director Jim Edward will meet with Chesapeake Bay Commission Executive Director Ann Swanson and her staff on February 22, 2018.

Region 4

Upcoming Major Decisions and Events:

Events
February 21, 2018 – Regional Administrator Trey Glenn will participate in several stakeholder meetings in Florida: 1) Meeting with the five Executive Directors of the Water Management Districts; 2) Meeting with Florida Department of Environmental Protection staff on Everglades and 404 Assumption; and 3) a roundtable with representatives for trade and industry groups in Florida. Tallahassee, FL. Closed Press.

Region 9

Hot Topics:

World Ag Expo: our Agriculture Liaison/Chief of Staff Amy Miller represented EPA at the nation's largest farm exposition in Tulare, CA, attended by over 1,500 exhibitors. The event is a remarkable venue to connect with growers, cutting-edge farm equipment innovators, and a diverse group of farm organizations. She met with NRCS and CDFA leaders to plan for our meeting of Region 9 State agriculture departments in San Francisco a few months hence.

Region 10

Upcoming Major Decisions and Events:

$1 Million Amazon Pesticide Agreement and News Conference: This week, in coordination with OECA and OPA, Region 10 concluded and announced a settlement with Amazon Services LLC (Amazon), for multiple

violations of the Federal Insecticide, Fungicide, and Rodenticide Act. The violations involve thousands of distributions of six foreign pesticides that were never registered with EPA as required by law. Amazon distributed these pesticides from fulfillment centers throughout the United States. Two of the products, "Miraculous Insecticide Chalk" and "R.B.T.Z. Highly effective Cockroach killing Bait Powder" were also misbranded—the labeling for these products falsely claimed the products were "Harmless to Human Being and Animal" or "CHILD & PET SAFE: Safe to use around children and pets." Amazon agreed to pay a penalty of $1.2 million and conduct a training program for entities seeking to sell pesticides on their site. This training program and supplemental environmental project will cost approximately $1,648,094. The region hosted a successful news conference on February 15 with eight major Seattle news outlets and national news services.

Region 10 to Issue News Release for Alaska Seafood Processor Clean Water Act Agreement: Next week

Ex. 5 Deliberative Process (DP)

Issuance of Final NPDES Permit to Sorrento Cheese Facility in Nampa, Idaho: Next week Region 10 plans to

Ex. 5 Deliberative Process (DP)

Office of Chemical Safety and Pollution Prevention

Upcoming Major Decisions and Events:

Minor Crop Farmer Alliance Water Monitoring Workshop – On February 21, Office of Pesticide Programs staff, Mark Corbin and Dana Spatz (Environmental Fate and Effects Division), will present at the annual meeting of the Minor Crop Farmer Alliance (MCFA) in Washington, DC. Topics they plan to present on include: Overview of Drinking Water Assessments, Models and Monitoring Data Use in DWA, and Future Developments in the Use of Monitoring Data for Risk Assessments for Pesticides. MCFA members include national, regional, state and local associations representing specialty crop producers. Other meeting attendees may include non-specialty crop organizations, registrants, and USDA.

World Trade Organization's International Government-Industry on Maximum Residue Levels – On February 26-27, Office of Pesticide Program Director, Rick Keigwin will participate in the World Trade Organization's International Government-Industry discussion on the trade implications of the lack of pesticide maximum residue limits (MRLs) in Geneva, Switzerland

Office of Enforcement and Compliance Assurance

Hot Issues:

FIFRA Settlement with Amazon Services for Distribution of Illegal Pesticides: On February 14, 2018, Region 10 reached a settlement with Amazon that resolves over two thousand illegal distributions of unregistered imported pesticide products. As a result of this action, Amazon has initiated a vendor screening program to prevent these kinds of illegal distributions and sales from occurring in the future. Under the settlement, Amazon will pay a fine of $1,215,700 and implement a supplemental environmental project to educate online pesticide vendors on FIFRA requirements.

FIFRA Settlement with Syngenta Seeds for Farmworker Safety Violations: On February 7, 2018, Region 9 reached a settlement with Syngenta Seeds that resolves misuse of a restricted use pesticide at a farm in Kauai, Hawaii. Under the settlement, Syngenta will pay a civil penalty of $150,000 and spend at least $400,000 implementing a supplemental environmental project to train growers in Hawaii, Guam, and the Northern Mariana Islands on the Worker Protection Standard requirements.

Office of General Counsel

Hot Topics:

- *Sierra Club v. EPA,* No. 18-1040 (D.C. Cir.). New development: On Feb. 9, 2018, plaintiffs filed a petition for review of the 2018 Renewable Fuels Standards alleging that EPA failed to consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to ensure that the 2018 standards did not jeopardize any federally listed endangered or threatened species or destroy or adversely modify their designated critical habitat.

- *Center for Biological Diversity v. U.S. Fish & Wildlife Service,* No. 1:18-cv-342 (D.D.C.). New development: On Feb. 13, 2018 plaintiff filed a FOIA lawsuit alleging that EPA and the U.S. Fish and Wildlife Service separately failed to respond to FOIA requests by the statutory deadline. The EPA FOIA request seeks "all records mentioning, including and/or final biological evaluation of" chlorpyrifos, diazinon, carbaryl, and methomyl.

Upcoming Major Decisions and Events:

02/22 Preliminary injunction hearing in *Texas v. EPA* and *American Farm Bureau Federation v. EPA* (S.D. Tex.), requesting the 2015 Waters of the United States Rule (WOTUS) be preliminarily enjoined.

Office of International and Tribal Affairs

Hot Issues:

ED_004126_00000417-00003

G7 Environment Ministerial Preparatory Meeting: Canada convened the first preparatory session, held by remote videoconference, to prepare for this year's G7 Environment Ministers Meeting. The NSC, State Department, EPA and NOAA participated in the call which was hosted at the White House. Canada has proposed climate, sustainable finance, and circular economy, including marine debris and food waste and loss, as topics for the G7 meeting.

Office of Land and Emergency Management

***Hot Topics*:**

6. **CERCLA-EPCRA AFO-CAFO Rule.** **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Office of Policy

FRL	Title	Date Submitted to OFR
9974-23-OECA	Proposed Information Collection Request; Comment Request; Recordkeeping Requirements for Producers, Registrants and Applicants of Pesticides and Pesticide Devices under Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); EPA ICR Number 0143.13, OMB Control Number 2070-0028	2/8/2018

Office of Research and Development

Upcoming Major Decisions and events:

Washington State Invites ORD to Help Determine Effectiveness of Agricultural Management Practices
ORD is participating at the request of the Washington Department of Ecology in its Clean Water Guidance for Agriculture Advisory Group. ORD's scientific expertise with nutrient cycling in agricultural watersheds will contribute to a guidance document recommending agricultural best management practices that those in the farming community can implement to help achieve state water quality standards. This type of ORD technical support helps EPA better support states in managing the impacts of different practices on nutrients, while enabling EPA to learn about the gaps in scientific information and research needed to understand the effectiveness of nutrient best management practices in the region.

Office of Water

Hot Issues:

Waters of the U.S.: Next week, the agencies will host two webinars, one for states and one for tribes. These webinars will provide an important opportunity to set the stage for the upcoming in-person meetings scheduled for early March.

Hydrologic Connection Request for Comment: This week, the agency sent to the Federal Register a notice requesting comment on the Agency's previous statements interpreting the CWA that discharges of pollutants from point sources to jurisdictional surface waters that occur via groundwater or other subsurface flow that has a direct hydrologic connection to the surface water are subject to CWA regulation. We are requesting comments on whether the Agency should consider clarification or revision of this interpretation and if so, comments on how clarification or revision should be provided. The comment period will remain open for 90 days after it is posted in the Federal Register.

Upcoming Major Decisions and Events:

Conservation Technology Information Center Meeting: Next week, Benita and I will be meeting with the CTIC Board of Directors to provide an update on how OW is working with the agricultural community to encourage sustainability. We will use the meeting to explore additional avenues of collaboration between CTIC and OW.

ED_004126_00000417-00005

Message

From: Ford, Hayley [ford.hayley@epa.gov]
Sent: 2/19/2018 3:57:51 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
CC: Bennett, Tate [Bennett.Tate@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; Hupp, Millan [hupp.millan@epa.gov]
Subject: Re: [EXTERNAL] RE: Keynote Speaker at Commodity Classic

There is an event at the White House this afternoon that he can't miss. We will have to decline due to this.

Hayley Ford
Deputy White House Liaison and Personal Aide to the Administrator

On Feb 19, 2018, at 8:45 AM, Sands, Jeffrey <sands.jeffrey@epa.gov> wrote:

> Thanks Tate.
>
> This is a big event for Ag probably 5-7k growers in attendance. SP would be a hit for the crowd Im sure but I to will defer to the ultimate demands of the Administrators time.
>
> Sent from my iPhone
>
> On Feb 18, 2018, at 7:22 PM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:
>
>> Looks like the corn growers are requesting him through John Gordley and then via Ray. Haven't heard from them directly. I did meet with soybeans last week and they didn't mention this either. This is in San Diego on Weds the 28 and he's supposed to be in NYC that Tuesday before. Lots of folks in attendance- I'm sure Jeff has been before. Defer to y'all, just wanted to give an overview of that week. Hayley might have more to add.
>>
>> Begin forwarded message:
>>
>> **From:** "Starling, Ray A. EOP/WHO"
>> <Ex. 6
>> **Date:** February 18, 2018 at 5:51:45 PM EST
>> **To:** "jackson.ryan@epa.gov" <jackson.ryan@epa.gov>, "dravis.samantha@epa.gov" <dravis.samantha@epa.gov>, "Bennett.Tate@epa.gov" <Bennett.Tate@epa.gov>
>> **Cc:** "Catanzaro, Michael J. EOP/WHO"
>> Ex. 6
>> **Subject: Fwd: [EXTERNAL] RE: Keynote Speaker at Commodity Classic**
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>> Ryan, Samantha, and Tate,
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>> Perdue has had to cancel on speaking at the Commodity Classic in Anaheim in two weeks (the 28th). They are desperately trying to secure another cabinet-level official to attend. Ex. 5 Deliberative Process (DP)
>> Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

-Ray

Ray A. Starling
Special Assistant to the President
National Economic Council

Begin forwarded message:

> **From:** John Gordley <jgordley@gordley.com>
> **Date:** February 18, 2018 at 4:10:10 PM EST
> **To:** "Starling, Ray A. EOP/WHO"
> <Ex. 6
> **Subject: [EXTERNAL] RE: Keynote Speaker at Commodity Classic**
>
> We're still trying to get Administrator Pruitt as an alternative speaker at the General Session. Do you know if he's going to be tied up on Wednesday morning as well? If he's available, could you put in a plug on our behalf? Our new CEO, Ryan Findlay, tried to contact Jeff Sands at EPA – they worked together at Syngenta – but hasn't heard back. Thanks!
>
> ---
>
> **From:** Starling, Ray A. EOP/WHO
> [mailto:Ex. 6
> **Sent:** Saturday, February 17, 2018 8:19 AM
> **To:** John Gordley <jgordley@gordley.com>
> **Subject:** RE: Keynote Speaker at Commodity Classic
>
> John,
>
> There is no doubt we need to be well represented at the Commodity Classic. Unfortunately, the same factors that are impacting Perdue's travel that day are going to impact Gary's. I hope to be given clearance to discuss them more with you soon.
>
> (Moreover, Gary has been EXTREMELY selective with regard to public appearances

and travel. He has perhaps done three speeches since I've been here.)

Wish the answer were otherwise, and look forward to talking further at some point.

Thanks,
-Ray

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Sent: Saturday, February 17, 2018 8:12 AM
To: Starling, Ray A. EOP/WHO
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Ray,

You may be aware that Secretary Perdue's office notified us yesterday that he now has a conflict on the morning of Wednesday, February 28, and will not be able to speak at the General Session of Commodity Classic. The Secretary is coming to Anaheim that night and we are arranging events for him the next morning. However, we need a keynote speaker for Wednesday morning's program, which is the only event attended by all participants from ASA, NCGA, NAWG, and NSP (sorghum).

NCGA is checking to see if EPA Administrator Pruitt is available. If he is not, would Director Cohn be able to attend and speak at the General Session? As you know, this is the most important farmer convention of the year, and it is important that the Administration be represented at a high level.

Ray, thanks for any help you can provide.

Best regards,

John

Sent from my Verizon Wireless 4G LTE smartphone

Message

From: Beck, Nancy [Beck.Nancy@epa.gov]
Sent: 1/11/2018 12:37:04 AM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: FW: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement
Attachments: ESA MOA Draft 2018-01-10.docx

Hey Jeff,
Happy 2018!
Please let me know if you have any concerns with the edits to the memo.
Thanks,
Nancy

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
Ex. 6
beck.nancy@epa.gov

From: Domesle, Alexander R. EOP/CEQ [mailto Ex. 6
Sent: Wednesday, January 10, 2018 1:51 PM
To: Baptist, Erik <Baptist.Erik@epa.gov>; Catanzaro, Michael J. EOP/WHO < Ex. 6
Starling, Ray A. EOP/WHO < Ex. 6 >; Stephen.Vaden@ogc.usda.gov; Rebeckah.Adcock@osec.usda.gov; Beck, Nancy <Beck.Nancy@epa.gov>; todd_willens@ios.doi.gov; Bernhardt, David <dwbernhardt@ios.doi.gov>; JUthmeier@doc.gov; Brooke, Francis J. EOP/OVP < Ex. 6
Moran, John S. EOP/WHO < Ex. 6 ; Herz, James P. EOP/OMB < Ex. 6
Cc: Neumayr, Mary B. EOP/CEQ < Ex. 6 ; Prandoni, Christopher D. EOP/CEQ
< Ex. 6
Subject: RE: Working Group on ESA Section 7 Consultations; Draft Memorandum of Agreement

Dear colleagues,

Attached is the revised draft of the MOA between EPA, DOI, and DOC on establishing a working group on the ESA pesticide consultation process. Since the previous draft was circulated by Erik on December 15, we received very helpful feedback from EPA, DOI, DOC, and USDA, in addition to reviewing it internally here at CEQ. All resulting changes to the document have been captured in tracked changes. A few of the edits submitted we think could be further improved; in these cases we proposed alternative language in a comment in the margin.

Please review this document, including our proposed language in the margins. We intend for this to be the final review, so please identify any outstanding objections or concerns. **We would very much appreciate receiving any final comments by COB Tuesday, January 16.**

Please don't hesitate to reach out if you have any questions.
Thank you,

Alex

Alexander Domesle
Senior Advisor for Natural Resources
Council on Environmental Quality

Executive Office of the President
Ex. 6
Ex. 6
www.whitehouse.gov/ceq

From: Domesle, Alexander R. EOP/CEQ
Sent: Monday, December 18, 2017 10:13 AM
To: Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Catanzaro, Michael J. EOP/WHO <Ex. 6>; Starling, Ray A. EOP/WHO <Ex. 6>; Bonfitto, Jordan P. EOP/WHO <Ex. 6> Stephen.Vaden@ogc.usda.gov; Rebeckah.Adcock@osec.usda.gov; Beck, Nancy <Beck.Nancy@epa.gov>; todd_willens@ios.doi.gov; Bernhardt, David <dwbernhardt@ios.doi.gov>; JUthmeier@doc.gov; Neumayr, Mary B. EOP/CEQ <Ex. 6>; Brooke, Francis J. EOP/OVP <Ex. 6>; Moran, John S. EOP/WHO <Ex. 6>; Prandoni, Christopher D. EOP/CEQ <Ex. 6>
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> Senior Deputy General Counsel
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> 1200 Pennsyvlania Ave., NW
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> baptist.erik@epa.gov
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> <ESA MOA draft 2017-12-15.docx>

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CC: Ford, Hayley [ford.hayley@epa.gov]; Hupp, Millan [hupp.millan@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]
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Special Assistant to the President
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Ray, thanks for any help you can provide.

Best regards,

John

Sent from my Verizon Wireless 4G LTE smartphone

Message

From: Burton, Tamika [burton.tamika@epa.gov]
Sent: 2/16/2018 8:04:44 PM
Subject: Weekly Report 02.16.2016
Attachments: Weekly Report template 0216.2018 final.docx; Weekly Report template 0216.2018 final.pdf

Good Afternoon,
Please see the attached report for the week ending 02.16.2016

Tamika Burton
Staff Assistant to the Deputy Administrator
Immediate Office of the Administrator
MC 1104A Room 3412 WJC North
(202) 564-4771 (d)
Ex. 6 *(c)*
burton.tamika@epa.gov

Region 1

Hot Topics:

Administrator Pruitt Visits NH and MA

- On February 13th and 14th Administrator Pruitt visited Region 1. During his visit he met with Governor Sununu in NH and discussed the Coakley Landfill Superfund Site, Great Bay NPDES permit issues, and the governor's intent to seek authorization to implement the NPDES program. The Administrator also visited the Mohawk Tannery Superfund Site, which is on his list of targeted sites for immediate action.
- On February 14th, the Administrator visited the regional office and was briefed by Region 1 staff on hot issues, then made remarks at the region's business review meeting. Later he visited Northfield Mountain Generating Station in Northfield, MA with Neal Chatterjee, FERC Commissioner.

Region 1, OW and OGC Coordination on Schiller Station, Portsmouth, NH

- Following a discussion with Administrator Pruitt about the Schiller Station power plant, Region 1 will continue to coordinate closely with OW and OGC to move the NPDES permit forward.

EPA, RIDEM, and Black & Decker Mediation Effectively Moves Centredale Manor Superfund Site Negotiations

- On February 14th, EPA and RIDEM held a third mediated negotiation session with Black & Decker. The meeting parties continue to move in a positive direction toward settlement and look to reach closure on several issues prior to the next meeting.

Upcoming Major Decisions and Event:s

Hathaway & Patterson Superfund Site in Mansfield, MA to be deleted from National Priorities List

- On February 13th, the Region 1 Hatheway & Patterson Superfund Site Case Team met with the new Mansfield Town Manager to discuss the deletion and possible redevelopment options for the site. The Site final deletion notice will be published in the Federal Register on February 16th, making the deletion final.

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Region 2

Hot Issues:

Long Island Sound Dredged Material Management: Rep. Suozzi's office (3rd District-NY) has requested an informational briefing on "open water disposal of dredged materials and beneficial reuse of dredged material" in the Long Island Sound (LIS). The affected states, CT and NY, are strongly divided on the disposal issue – NY is opposed to LIS disposal while CT is in favor. Region 1 and 2 representatives will teleconference with the Congressman's staff on 2/20/18. Region 1 has the lead on dredged material disposal in LIS, as all disposal sites lie within R1.

Hudson River PCBs Superfund Site: RA Pete Lopez met on 2/14/18 with representatives of Hudson Riverkeeper and Scenic Hudson, two environmental groups actively focused on this site. Later the same day he met with representatives of General Electric, the responsible party. The RA explained his decision to pause in EPA's schedule for issuance of the second Five Year Review while we work collaboratively with NYSDEC to review the data from a large number of additional sediment samples taken by NYSDEC in 2017.

DuPont-Pompton Lakes RCRA Corrective Action Site: This week Northjersey.com/Bergen Record published a 4-part series regarding the history of this site, and the ongoing cleanup efforts. (Chemours is now responsible for this site.) The series title is "Toxic Secrets: Pollution, Evasion and Fear in North Jersey." This large site was under the supervision of the NJDEP for many years; during the past decade EPA assumed the lead role on one major "operable unit" at the site, and took a more active role in the management of other operable units. Under EPA's direction Chemours carried out a major project involving removal of about 156,000 cubic yards of sediment contaminated with mercury and lead from a 36-acre area of the lake. The $43 million dredging work was successfully completed in 2017; final restoration work will take place in 2018.

Upcoming Major Decisions and Events:

Feb. 26 - March 1: RA Pete Lopez will travel to PR and the USVI. The trip will focus on transitioning from hurricane response to recovery. The meetings with key local leaders, agencies and stakeholders will aid Region 2 in developing a Strategic Recovery Plan which will heavily focus on opportunities for tackling pre-existing environmental challenges. On 3/1 the RA will give the keynote address at the Inter-American Association of Sanitary and Environmental Engineering (AIDIS) Conference.

ED_004126_00000437-00002

Region 3

Hot Topics:

EPA to Hold Public Hearing on Brunner Island Petition
The public hearing for the petition will be held on Friday, February 23, 2018 in Washington, D.C. Connecticut's petition was submitted to EPA under section 126 of the Clean Air Act (CAA) and is typically called a 126 petition. Under section 126, any state can petition EPA if that state believes a particular source significantly contributes to their state's nonattainment status or interferes with their ability to maintain the national ambient air quality standards (NAAQS). CT believes that upwind sources, specifically Brunner Island, located in York County, PA, significantly contributes to the state's ozone problems and Brunner Island must be controlled further to alleviate CT's ozone problems. Should EPA grant CT's 126 petition, the source will be required to shutdown unless EPA proposes a lower emission limit that would be protective of CT's air quality. Region 3 staff plan to attend the hearing and anticipate participation from DE, MD, PA, NY, CT as well as NGOs and industry representatives.

Consent Decree Signed for [HYPERLINK "https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0301193"]**, Upper Merion Township, PA** O'Neill Property Group (O'Neill), the developer of the Quarry 1 and 2 parcels at the Crater Resources Superfund Site in Upper Merion Township, PA, has signed a Consent Decree to perform the Remedial Design and Remedial Action (RD/RA) on these parcels. The Decree also provides for the reimbursement of certain interim and future EPA oversight costs. O'Neill has received the final land use approval from Upper Merion Township to construct residential housing on the Quarry 1 parcel. The Site was included on the Superfund Task Force list of Superfund sites with the greatest redevelopment potential.

Upcoming Major Decisions and Events:

Regional Administrator to Participate in CBP Citizens Advisory Committee Meeting
RA Servidio, Principals' Staff Committee (PSC) Chair Ben Grumbles, and CBPO Acting Director Jim Edward, will participate in the CBP Citizens Advisory Committee (CAC) meeting on February 22-23, 2018. Topics for discussion include the Phase III WIP local area planning goals, nutrient trading, and budget updates. The CAC advises the partnership on all aspects of restoration and is charged with the responsibility for representing residents and stakeholders of the watershed.

Regional Administrator to Meet with Chesapeake Bay Commission Director
Regional Administrator Cos Servidio and CBPO Acting Director Jim Edward will meet with Chesapeake Bay Commission Executive Director Ann Swanson and her staff on February 22, 2018.

Region 4

Hot Issues:

Southside Chattanooga Lead Superfund Site (Chattanooga, TN)
Key Message: During the week of February 19, 2018, Region 4 will work with the Tennessee Department of Environment and Conservation on identifying a process for potential properties included in the scope of the superfund site to transfer to the Tennessee Voluntary Cleanup, Oversight and Assistance Program (VOAP). Participation in this program will help continue to spark economic development and We anticipate developing a strategy that will likely include a Memorandum of Understanding between the agencies will provide maximum flexibility to utilize both cleanup authorities, CERCLA and VOAP, to address industrial facilities with third party developers.

Upcoming Major Decisions and Events:

Decisions
None

Events
February 21, 2018 – Regional Administrator Trey Glenn will participate in several stakeholder meetings in Florida: 1) Meeting with the five Executive Directors of the Water Management Districts; 2) Meeting with Florida Department of Environmental Protection staff on Everglades and 404 Assumption; and 3) a roundtable with representatives for trade and industry groups in Florida. Tallahassee, FL. Closed Press.

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Region 5

Hot Issues:

Federal District Judge Denies Citizens' Motion to Intervene as Untimely on the USS Lead Superfund Site
Key Message: On February 9, the motion to intervene brought by several residents of the USS Lead Superfund site seeking to intervene in the 2014 consent decree was denied. The judge determined that the motion was untimely and that EPA had taken all practical and necessary steps to provide notice to the community of both the record of decision and the consent decree. The United States opposed intervention because it was unclear what it would mean for citizens to be a party to the consent decree or enforcement matters, and because such participation would likely have confused technical matters and delayed implementation of the remedy.

Upcoming Events/Major Decisions:

RA Stepp to Meet with Wisconsin Paper Council, Tour Marinette Marine Shipyard
Key Message: On February 20, RA Stepp will travel to Madison, Wisconsin, to meet with the Wisconsin Paper Council, then travel on to Marinette to tour the Marinette Marine Shipyard. The shipyard visit will focus on future expansion at the shipyard and how it could be affected by cleanup work that EPA has done at the nearby Tyco site.

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Region 6

I traveled with staff for most of the week and had productive meetings in Washington, DC with HQ staff, members of the U.S. Senate and House of Representatives and their staffs, and with the Santa Clara Pueblo leaders. We look forward to having HQ executive management and staff in R6 next week for site visits.

Hot Topics:

Ozone Designation, Baton Rouge, Louisiana
The Louisiana Department of Environmental Quality plans to submit an exceptional event demonstration for September 14, 2017. The demonstration, if approved, would exempt the ozone reading for that day from the design value calculation and the area would qualify for ozone attainment status.

Reid Vapor Pressure, Louisiana
Region 6 is proceeding to process a proposed approval for the Louisiana's RVP SIP revision. The proposed approval is scheduled for [HYPERLINK "x-apple-data-detectors://0"].

Eagle Industries Superfund Site, Midwest City, Oklahoma
Oklahoma DEQ has expressed an interest in directing the clean up at the newly listed Eagle Industries NPL Superfund site and we are exploring options. The defunct facility has soil and groundwater that is contaminated with trichloroethylene. A public meeting will be held [HYPERLINK "x-apple-data-detectors://1"].

San Jacinto River Waste Pits Superfund Site, Harris County, Texas
Region 6, the Potentially Responsible Parties, Texas Commission on Environmental Quality, and U.S. Army Corps of Engineers continue negotiations on an administrative order on consent and statement of work for remedial design for the site. The next meeting is February 15, 2018.

Takata, Eagle Pass, Texas
The state of Texas and Takata reached a settlement in principle that would have over 2 million recalled airbag inflators removed from stored in Eagle Pass, Texas within the next four months.

St. Bernard Parish, Louisiana
Region 6 continues to work with Louisiana to develop an attainment demonstration state implementation plan for sulfur dioxide to prevent highway fund sanctions and Federal Implementation Plan from taking place in mid-April 2018. While we expect a short gap between the completion of this action and the FIP deadline, we are hopeful the highway sanction clock will not take effect.

Upcoming Major Decisions and Events:

Texas Motor Vehicle Rule Revisions, El Paso, Texas
EPA intends to issue a direct final approval of Texas' SIP for Texas' motor vehicle air pollution rules and retail gasoline dispensing labeling requirements for El Paso.

[HYPERLINK "x-apple-data-detectors://7"] RA meeting with New Mexico Secretary Butch Tongate, Santa Fe, NM

[HYPERLINK "x-apple-data-detectors://8"] RA Idsal speaks at Baker Botts Environmental Law Seminar, Houston, TX

[HYPERLINK "x-apple-data-detectors://9"] RA Idsal meeting with Houston Mayor

Region 7

Hot Issues:

West Lake Landfill (Bridgeton, MO)

Key Message: Proposed Plan Public Comment Period & Preparation for OU3 RI/FS Continues

- This week marks the second week of the public comment period for the West Lake Landfill Proposed Plan and the region is in the final stages of planning for the March 6 public meeting as required by statute.
- In the interim the region has received requests from both the Technical Community Advisory Group and the Potentially Responsible Parties for meetings to clarify technical aspects of the Proposed Plan as they prepare to formulate comments. Dates have not been set for either meeting requests, but the region anticipates that these meetings will occur prior to the March 6 public meeting.
- The region continues preparation for Operable Unit 3 Remedial Investigation/Feasibility Study negotiations and has drafted an Administrative Settlement Agreement and Order on Consent. Operable Unit 3 will characterize and determine the extent that radiologically impacted materials may have affected groundwater. A briefing on a proposed strategy for Operable Unit 3 for regional senior Superfund leadership is scheduled for next week.

Carter Carburetor Final Planned Site Work Begins (St. Louis, MO)

Key Message: Final plan of approach has been developed and site work planned to begin in mid-March

- The Final Plan of Approach (FPA) for the In Situ Thermal Desorption/Soil-Vapor Extraction (ISTD/SVE) system at the Carter Carburetor Superfund Site in St. Louis, MO was approved this week.
- The system will be ready to operate and site work is expected to begin in mid-March. The ISTD/SVE system will be used to address TCE contaminated soils that resulted from historic releases from on-site storage of TCE.
- Previous actions at Carter Carburetor included removal of asbestos, PCB contaminated soils, and building debris. The ISTD/SVE system is planned to be the final remediation action on-site and is scheduled to be completed in 2019.

Upcoming Major Decisions and Events:

Senior Leadership Meeting with NDEQ

Key Message: Regional Administrator Jim Gulliford and Region 7 senior managers will be meeting February 22, 2018 in Lincoln, NE with NDEQ Director Jim Macy and senior managers to discuss FY 18 work planning.

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Region 8

Hot Issues:

Wyoming Mining Association. The RA attended Wyoming Mining Association's annual meeting in Cheyenne this past week. He held roundtable discussions with its Regulatory Committee, the Uranium Committee, and the Board of Directors. The key issues they addressed were:

1. A rule that was proposed January, 2017 that addressed requirements surrounding in-situ uranium recovery. Among other things the proposed rule would address groundwater protection and monitoring requirements. The rule is opposed by the NRC and Senator Barrasso has sent a letter requesting that the agency withdraw the rule. The Mining Association reasserted their support of the Senator's request and asked that we also reexamine the MOU we have with the NRC that provides that the EPA's role in uranium mining regulation is that of establishing standards and not prescribing specific controls. The RA told them that the review of the proposal was underway and that we would examine discussing with the NRC the existing MOU to make it more clear and binding.
2. Air emission standards for mill tailings. A rule was finalized in January, 2017 that established air emissions standards for uranium byproduct material. The uranium industry opposes these rules because it is very difficult to demonstrate compliance and they have concerns with the process for justifying the rule. They asked that we consider initiating a rulemaking to repeal this rule. They had considered going through the Congressional Review Act but were not successful.
3. They are very concerned about NEPA and its implementation. The RA discussed the Region 8 review of NEPA that is currently underway.

U.S. Bureau of Land Management may decide to shut in the only well providing drinking water during winter months to Park Center Water District (1300 service connections) in Canon City, CO. BLM provides drinking water to Park Center via this well, which is the sole supply during winter months, and BLM is required to provide flow to Fourmile Creek from the well due to water law. If treatment is required to meet NPDES permit limits to discharge to Fourmile Creek, BLM has indicated they will shut in the well. We are continuing to work with BLM on solutions.

Region 8, the State of South Dakota, and Agnico Eagle Mines, Ltd. Finalized a Bona Fide Prospective Purchaser Agreement on Consent for Remedial Investigation/Feasibility Work at the Gilt Edge Mine Site near Lead, South Dakota. On February 12, 2018, EPA, the State of South Dakota, and Agnico Eagle Mines, Ltd. finalized an agreement for certain remedial investigation work at the Gilt Edge Mine Site (Site). Pursuant to the agreement, Agnico will conduct studies to help define the nature and extent of contamination within groundwater at the Site, and pay certain oversight costs. Agnico will use the information gathered during remedial investigation work to study whether potential re-mining of the Site is feasible and/or economical.

R8 Refers an Enforcement Case to DOJ Ex. 5 Attorney Work Product (AWP)

Ex. 5 Attorney Work Product (AWP)

Upcoming Decisions/Events **- None**

Region 9

Hot Topics:

Mexican Border: following our establishment of a much-needed email notification system, the IBWC alerted us of two very large sewage spills to the Tijuana River late last week, caused by electrical failures at the pump station at the Tijuana River diversion structure in Mexico. Mexico is installing some new electrical equipment this week to help the situation. The February 9 spill was estimated at 560,000 gallons, and the Feb 10 – 11 spill at 665,000 gallons, leading to beach closures in Imperial Beach, CA.

Clean Air Act mobile source rules: I proposed approval of four mobile source rules into the California State Implementation Plan. The rules affect commercial harbor craft, diesel-fueled transport refrigeration units, on-road heavy-duty diesel engines, and off-highway recreational vehicles. All have received waivers or authorizations but must be approved as SIP revisions in order for CAA attainment plans to credit their emission reductions. Since 2015, we have approved 28 mobile source rules into CA's SIP.

World Ag Expo: our Agriculture Liaison/Chief of Staff Amy Miller represented EPA at the nation's largest farm exposition in Tulare, CA, attended by over 1,500 exhibitors. The event is a remarkable venue to connect with growers, cutting-edge farm equipment innovators, and a diverse group of farm organizations. She met with NRCS and CDFA leaders to plan for our meeting of Region 9 State agriculture departments in San Francisco a few months hence.

American Samoa cyclone update: recovery continues, with 70% of customers receiving power, 97% of customers receiving water (many with low pressure, all on boil-water orders), and various water and wastewater systems operating with standby generators. A landfill is taking green waste, a scrap metal yard is taking metal wastes, and municipal solid waste collection is underway. FEMA is on-island conducting damage assessments.

Anaconda: per EPA's Tribal Consultation Policy, we'll be providing the Walker River and Yerington Paiute tribal chairmen with our explanation of how tribal input was considered in reaching our EPA decision to defer NPL listing of this mine site, and to document our extensive consultation to date.

Major Decisions And Events: none.

FYI:
Environmental Justice training: next week, we'll host four training sessions for our workforce with various speakers addressing land use, brownfields, citizen science, monitoring and other topics.

National Honor Awards: next Thursday, we'll host an awards ceremony for the Region 9 recipients of the national honor awards.

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Region 10

Hot Topics:

None this week.

Upcoming Major Decisions and Events:

Region 10 Officially Re-Affirms Idaho's Implementation of Two Clean Air Act Authorities: This week Region 10 approved the Idaho Department of Environmental Quality's Request for Updated Delegation of Authority for National Emissions Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS). The approval updates new standards EPA promulgated since IDEQ's last delegation.

$1 Million Amazon Pesticide Agreement and News Conference: This week, in coordination with OECA and OPA, Region 10 concluded and announced a settlement with Amazon Services LLC (Amazon), for multiple violations of the Federal Insecticide, Fungicide, and Rodenticide Act. The violations involve thousands of distributions of six foreign pesticides that were never registered with EPA as required by law. Amazon distributed these pesticides from fulfillment centers throughout the United States. Two of the products, "Miraculous Insecticide Chalk" and "R.B.T.Z. Highly effective Cockroach killing Bait Powder" were also misbranded—the labeling for these products falsely claimed the products were "Harmless to Human Being and Animal" or "CHILD & PET SAFE: Safe to use around children and pets." Amazon agreed to pay a penalty of $1.2 million and conduct a training program for entities seeking to sell pesticides on their site. This training program and supplemental environmental project will cost approximately $1,648,094. The region hosted a successful news conference on February 15 with eight major Seattle news outlets and national news services.

Region 10 to Issue News Release for Alaska Seafood Processor Clean Water Act Agreement: Next week Region 10 will issue a news release to announce a consent decree with Trident Seafoods which resolves Clean Water Act discharge violations at two of the company's Alaska seafood processing facilities. Seafood waste piles that accumulate on the seafloor in the vicinity of the outfalls exceeded the one-acre "zone of deposit" limit in each facility's NPDES permit. The Sand Point facility's waste pile exceeded the one-acre limit by several acres. Other permit violations included failure to comply with permit requirements for waste conveyance, grind size, best management practices, and monitoring. As part of this settlement, Trident has agreed to remove the 3.47-acre waste pile at Sand Point, and has already altered operations at Wrangell to virtually eliminate solids discharges in the nearshore environment. Trident will also implement a state-of-the art screening system at Sand Point to reduce production of surface foam, conduct a third-party audit of its environmental monitoring system, and pay a penalty of $297,000.

Re-Proposal of Phosphorus Limits for the City of Sandpoint, Idaho NPDES Permit: Region 10 intends to issue a new draft discharge permit which addresses the effluent limits for total phosphorus for the City of Sandpoint's Waste Water Treatment Plant. The EPA withdrew those limits from the final permit for this facility, which was issued by EPA and became effective on December 1, 2017. The withdrawal was in response to a Petition for Review filed by the Idaho Conservation League. In this new draft permit, EPA is re-proposing only the limits for total phosphorus, and therefore is only accepting comments on these effluent limits at this time.

Region 10 Recognizes Public Drinking Water Systems Innovations: In the next few weeks, Region 10 will attend events to recognize the Pelican Bay Heights Water District in southern Oregon and the City of Port Townsend, Washington with Drinking Water State Revolving Fund WATERS awards. WATERS stands for Well-planned, Affordable, Transferable, Efficient, Resilient, Sustainable. The projects are being recognized for their efficiency and affordability. The region will publicize these events in local media outlets and on social media.

Issuance of Final NPDES Permit to Sorrento Cheese Facility in Nampa, Idaho: Next week Region 10 plans to issue a final NPDES permit for the Sorrento Cheese facility, located in Nampa, Idaho. The facility discharges to Purdam Drain which flows to Mason Creek and the Boise River. The permit contains technology-based effluent limits consistent with EPA's national cheese processing effluent limitation guidelines and water quality-based limits to protect Purdam Drain for agricultural uses and downstream waters for fishable/swimmable uses, consistent with the State of Idaho's Clean Water Act 401 Certification. The permit also includes limits consistent with the facility's waste load allocation contained in the Boise River Nutrient TMDL developed by the State of Idaho.

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Office of Administration and Resources Management

Hot Topics:

None

Upcoming Major Decisions and Events:

Active Shooter Response Drill

On February 21, OARM Facilities Management and EPA Federal Agents will conduct an Active Shooter Response Drill from Ex. 7(C) Public announcements will be made at the start and conclusion of the drill, which will begin with simulated gunfire from an EPA Federal Agent. Personnel not interested in participating in the drill should vacate Ex. 7(C), or make alternative work arrangements with their supervisor.

Office of Air and Radiation

Hot Topics:

-
-

Ex. 5 Deliberative Process (DP)

- **OAR actions under review (or soon to be under review) at OMB:**
  - Notice of Proposed Withdrawal of the Control Techniques Guidelines for the Oil and Natural Gas Industry
  - Final Guidance on Significant Impact Levels for Ozone and Fine Particles in the Prevention of Significant Deterioration Permitting Program

Upcoming Major Decisions and Events:

- **Repeal of the Clean Power Plan (CPP):** The first of the three listening sessions is February 21 in Kansas City, Missouri. (The other two are February 28 in San Francisco and March 27 in Gillette, Wyoming. The comment period closes April 26).
- **Connecticut 126 Petition Public Hearing:** The EPA is holding a public hearing on the EPA's response to the June 1, 2016, CAA section 126(b) petition from Connecticut on Friday, February 23, 2018. It will be held from 9am-6pm in WJC West 1153. Additional information for this public hearing is available in a separate Federal Register notice published on February 14, 2018 (83 FR 6490).

Office of Chemical Safety and Pollution Prevention

IMPORTANT DEADLINES

Row	Determination Type	Pending on 2/13/2018	Determinations Completed[1] as 2/13/2018	Determinations Posted on the Website as of 2/13/2018[6]
1	# of "not likely" determinations	**1**	**116[4]**	**116[4]**
2	# of §5(e) Orders signed by both EPA and the submitter	**-**	**325**	**325**
3	# of §5(e) Orders signed by EPA and awaiting submitter signature	**43**	**-**	**-**
4	# of non-Order SNURs/"not likely" determinations	**0**	**0**	**0**
5	# of cases in post-FOCUS final determination development[5]	**344[3, 5]**	**-**	**-**
6	# of cases flagged for in-depth review	**41**	**-**	**-**
7	# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	**14**	**-**	**-**
8	# of LVE/LOREX exemption grants	**-**	**532**	**531**
9	# of LVE/LOREX exemption denials	**-**	**120**	**120**
10	**Total number of cases**	**443**	**1093**	**-**
11	Normal active workload for the New Chemicals Program	300	**-**	**-**
12	Number of cases undergoing testing or data development by submitter	74[3]	**-**	**-**
13	**Backlog[2]**	69	**-**	**-**

[1] "Determinations Completed" means that EPA has completed its reviews on these cases and that final determinations have been made by EPA under TSCA section 5(a)(3).

[2] (Total number of cases) – (Normal active workload for the New Chemicals Program) - (Number of cases undergoing testing or data development) = Backlog

[3] Of these cases, approximately 73 are "active" lung toxicity cases that are suspended while submitters either conduct or are deciding whether to conduct testing to develop data on pchem properties, exposures and toxicity.

[4] "Not Likely" determinations are not posted until the final signed determination document is prepared and has been shared with submitter.

[5] These cases are those for which Post-FOCUS work is underway to develop: not likely determinations; non-Order SNURS coupled with not likely determinations; or section 5(e) or 5(f) Orders. When the OPPT Office Director decides which of these regulatory paths to follow, the case is moved to: Row 3 when the section 5(e) or 5(f) Order is sent to the submitter for signature; Row 4 when the SNUR is published and the not likely determination document is signed; and Row 1 when the determination document is sent to the OPPT OD for signature.

[6] These are all only final determinations posted on the web: grants and denials

Hot Issues:

Fees Rule. On February 8th, EPA announced that it is proposing a rule to require certain fees to defray 25% of the costs of administering certain sections of the Toxic Substances Control Act (TSCA). The rule, if finalized, will secure sustainable funding to defray costs of implementation of new responsibilities under the amended law and to review chemicals for safety with the highest scientific standards. Under the proposed rule, affected businesses would begin incurring fees on October 1, 2018. The fees rule is the final of four framework rules under amended TSCA.

Upcoming Major Decisions and Events:

Minor Crop Farmer Alliance Water Monitoring Workshop – On February 21, Office of Pesticide Programs staff, Mark Corbin and Dana Spatz (Environmental Fate and Effects Division), will present at the annual meeting of the Minor Crop Farmer Alliance (MCFA) in Washington, DC. Topics they plan to present on include: Overview of Drinking Water Assessments, Models and Monitoring Data Use in DWA, and Future Developments in the Use of Monitoring Data for Risk Assessments for Pesticides. MCFA members include national, regional, state and local associations representing specialty crop producers. Other meeting attendees may include non-specialty crop organizations, registrants, and USDA.

World Trade Organization's International Government-Industry on Maximum Residue Levels – On February 26-27, Office of Pesticide Program Director, Rick Keigwin will participate in the World Trade Organization's International Government-Industry discussion on the trade implications of the lack of pesticide maximum residue limits (MRLs) in Geneva, Switzerland

Global Chemical Regulations Conference (GlobalChem) - Office of Pollution Prevention and Toxics Director, Jeff Morris, and members of his staff will present at the GlobalChem Conference and Exhibition, occurring February 28 - March 2. Jeff will present on OPPT's 2018 priorities and lessons learned from the first year and a half of amended TSCA implementation. Other OPPT staff will be speaking to other TSCA implementation issues, including new chemicals and the "framework rules." The meeting will be held in Washington DC

Office of the Chief Financial Officer

Hot Topics:

- With this past week's release of the FY 2019 Budget to Congress, OCFO provided hard copies of the agency's Congressional Justification to Congressional staff and OMB. OCFO also provided copies of the Budget Information for the States to Congress (this documents provides a state by state breakdown of funding for grants). These documents are also available on the internet. OCFO is also assisting the press office in answering media inquiries about the FY 2019 President's Budget.
- As part of the roll out activities OCFO briefs Congressional staff on the FY 2019 budget. This year, OCFO is working with OCIR and the NPMs to pilot a Budget Symposium for the Congressional authorizing committee staffers on February 20.

Upcoming Major Decisions and Events:

- NPMs are scheduled to provide by February 21 revised draft FY 2018-2019 Agency Priority Goal (APG) Action Plans that address OMB comments and include Q1 results which reflects NPM policy team review and concurrence.
- I am scheduled to speak with the Environmental Finance Advisory Board on February 20, with my comments focusing primarily on the EPA Strategic Plan and Budget. The event is open to the public and press. OW is the coordinating office for this Federal Advisory Committee.
- As previously mentioned, the inaugural E-Enterprise Bulletin will be released on February 16 to EPA, states and tribes. The EPA Strategic Plan, which includes an objective focused on shared governance/cooperative federalism, will be highlighted. The first Bulletin also includes a statement by EELC co-chair, Henry Darwin, and the state and tribal co-chairs, regarding the value of E-Enterprise.

Other:

- OCFO is working with OGC and NPMs to plan the financial tracking and management of disaster supplemental funding and to respond to OMB's questions.

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Office of Congressional and Intergovernmental Relations

Hot Issues:

None to report.

Upcoming Major Decisions and Events:

None to report.

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Office of Enforcement and Compliance Assurance

Hot Issues:

Clean Air Act Settlement with Shell Chemical for Failure to Properly Operate Industrial Flares: On February 12, 2018, EPA, DOJ, and the Louisiana Department of Environmental Quality reached a settlement with Shell that will reduce air pollution from a chemical plant in Norco, Louisiana. The settlement requires Shell to spend approximately $10 million to reduce the volume and frequency of flaring, to flare at a high combustion efficiency, and to monitor for the presence of benzene on the fenceline of the facility. Compliance with the settlement will reduce volatile organic compounds by 159 tons per year and hazardous air pollutants by 18 tons per year.

Court Enters Settlement Requiring S.H. Bell Company to Reduce Manganese Emissions: On February, 14, 2018, the U.S. District Court for the Northern District of Ohio entered a consent decree between EPA and S.H. Bell that resolves claims of imminent and substantial endangerment to the residents of East Liverpool, OH and Glasgow, PA from prolonged exposure to high levels of manganese.

FIFRA Settlement with Amazon Services for Distribution of Illegal Pesticides: On February 14, 2018, Region 10 reached a settlement with Amazon that resolves over two thousand illegal distributions of unregistered imported pesticide products. As a result of this action, Amazon has initiated a vendor screening program to prevent these kinds of illegal distributions and sales from occurring in the future. Under the settlement, Amazon will pay a fine of $1,215,700 and implement a supplemental environmental project to educate online pesticide vendors on FIFRA requirements.

FIFRA Settlement with Syngenta Seeds for Farmworker Safety Violations: On February 7, 2018, Region 9 reached a settlement with Syngenta Seeds that resolves misuse of a restricted use pesticide at a farm in Kauai, Hawaii. Under the settlement, Syngenta will pay a civil penalty of $150,000 and spend at least $400,000 implementing a supplemental environmental project to train growers in Hawaii, Guam, and the Northern Mariana Islands on the Worker Protection Standard requirements.

Clean Water Act Settlement with the City of Middletown, Ohio to Prevent Sewage Discharge: On February 9, 2018, EPA, DOJ, and the state of Ohio reached a settlement with Middletown, Ohio to resolve Clean Water Act violations. The settlement requires the City to promptly begin implementation of an approved Long Term Control Plan and complete wastewater treatment plant upgrades within 25 years. The City will pay a civil penalty and complete a supplemental environmental project to eliminate exposure of benthic organisms to cadmium and to minimize potential erosion and entrainment of impacted sediment downstream.

OECA Concurrence on the First Amendment to the CERCLA Interagency Agreement for the Puget Sound Naval Shipyard: On February 12, 2018, OECA AA Susan Bodine concurred on Region 10's request to sign the First Amendment to the Puget Sound Interagency Agreement. At the request of the state of Washington, the First Amendment designates EPA as a "joint lead" oversight agency with the state of Washington for Operable Unit-B.

Upcoming Major Decisions and Events:

On February 22, 2018, OECA AA Susan Bodine will join the ECOS Monthly All-Member call to discuss OECA priorities per the agency Strategic Plan, interim guidance on state/regional planning, and SRF.

Office of Environmental Information

Upcoming Major Decisions and Public Events

2018 Tribal Exchange Network Conference

- **Brief description:** The Institute for Tribal Environmental Professionals will host the 2018 Tribal Exchange Network Conference, February 27-28, in Tucson, AZ. [HYPERLINK "http://www.exchangenetwork.net"] is a partnership among co-regulators from states, tribes, territories and the EPA that drives innovation and efficiency in environmental management through information technology and information management (IT/IM).
    - The conference provides tribes and those working with tribes an opportunity to meet, share and learn about initiatives and technical topics related to the Exchange Network.
    - The agenda is heavily focused on peer-to-peer learning opportunities and interactive discussions to improve communication, cooperation and partnership.
    - Steve Fine, Deputy Chief Information Officer, will give opening remarks.
- **Who benefits or cares:** States, Tribes, Territories, Citizens, EPA and the Environment.
- **Why this is important:** The Exchange Network supports exchange of essential information among all states, more than 100 tribes, some territories, and EPA.
- **Additional information:**
    - The meeting is sponsored and organized by the [HYPERLINK "https://www7.nau.edu/itep/main/neien/"] through a cooperative agreement with EPA.
    - ITEP anticipates around 100 attendees.

Office of General Counsel

Hot Topics:

- *Sierra Club v. EPA,* No. 18-1040 (D.C. Cir.). New development: On Feb. 9, 2018, plaintiffs filed a petition for review of the 2018 Renewable Fuels Standards alleging that EPA failed to consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to ensure that the 2018 standards did not jeopardize any federally listed endangered or threatened species or destroy or adversely modify their designated critical habitat.

- *Pulliam v. EPA, et al.,* No. 15-01405 (D.D.C.). Plaintiff alleged that EPA OIG failed to respond to a FOIA request seeking documents related to a possible investigation of Christine Todd Whitman in 2004 (Plaintiff also sued DOD and DOJ). The Court denied Defendants' May 12, 2016, Motion for Summary Judgment and on May 26, 2017, all three Defendants filed a renewed Motion. New development: On Feb. 13, 2018, the Court granted in part and denied in part EPA's Renewed Motion for Summary Judgment (In the same order, the Court denied summary judgment for DOD and DOJ). The Court denied summary judgment on one aspect of EPA's search, holding that EPA's description of the search of OIG's Office of Congressional and Public Liaison (OCPL) did not fully explain how the search was conducted. The Court, however, also held that EPA explained in reasonable detail the scope and methods of its searches of the other OIG offices.

- *Center for Biological Diversity v. U.S. Fish & Wildlife Service,* No. 1:18-cv-342 (D.D.C.). New development: On Feb. 13, 2018 plaintiff filed a FOIA lawsuit alleging that EPA and the U.S. Fish and Wildlife Service separately failed to respond to FOIA requests by the statutory deadline. The EPA FOIA request seeks "all records mentioning, including and/or final biological evaluation of" chlorpyrifos, diazinon, carbaryl, and methomyl.

Upcoming Major Decisions and Events:

02/22 Preliminary injunction hearing in *Texas v. EPA* and *American Farm Bureau Federation v. EPA* (S.D. Tex.), requesting the 2015 Waters of the United States Rule (WOTUS) be preliminarily enjoined.

02/23 Status report due in *National Parks Conservation Association, et al. v. EPA* (D.D.C.), alleging EPA's failure to perform a non-discretionary duty to issue regional haze FIPs for 39 states for which EPA made a finding of failure to submit, and to take action on 10 regional haze SIPs.

Office of International and Tribal Affairs

Hot Issues:

G7 Environment Ministerial Preparatory Meeting: Canada convened the first preparatory session, held by remote videoconference, to prepare for this year's G7 Environment Ministers Meeting. The NSC, State Department, EPA and NOAA participated in the call which was hosted at the White House. Canada has proposed climate, sustainable finance, and circular economy, including marine debris and food waste and loss, as topics for the G7 meeting.

Meeting with Sac and Fox Nation of Oklahoma: EPA (OITA, OAR, OW, OGD, and Region 6) met with senior leadership from the Sac and Fox Nation of Oklahoma to discuss environmental concerns and issues. The issues discussed included the tribe's improved relationship with oil and gas industry, the importance of meaningful tribal consultation in matters affecting the tribe, and concerns with diminishing EPA funding.

Upcoming Major Decisions and Events:

Israel Mission – The Administrator will be traveling to Israel on February 19 to 22 to discuss bilateral cooperation on rule of law, water quality management and wastewater recycling, site remediation, and environmental technology and innovation.

Mexican Ambassador – The Administrator and the Mexican Ambassador to the U.S. will have a call on February 26 to discuss bilateral and regional cooperation with Mexico and environmental issues along the border.

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Office of Land and Emergency Management

Hot Topics:

1. **Emergency Responses to Hurricanes and Wildfires.**
2. **Coal Combustion Residuals (CCR).**
   a. **State permit programs.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)

   b. **Remand rule.** Ex. 5 Deliberative Process (DP)
3. **Clean Air Act 112(r) Risk Management Program (RMP).**
4. **Ongoing major Superfund NPL sites (including East Chicago, West Lake, Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates).**
5. **CERCLA 108(b) Financial Assurance.**
   a. **Hard Rock Mining.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)

   b. **Other Three Sectors.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)
6. **CERCLA-EPCRA AFO-CAFO Rule.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)
7. **FY 2018 Discretionary Addbacks.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)
8. **Infrastructure.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)

Upcoming Major Decisions and Events:

1. **LEAN Kaizen Events.** OLEM is preparing for our first two LEAN Kaizen events (Superfund sites Ready for Anticipated Use, Brownfields Ready for Anticipated Use).
2. **Tribal Waste Response and Assistance Program (TWRAP).** OLEM will meet with the TWRAP Steering Committee on February 20 – 22 in Potomac Yard.
3. **Underground Storage Tank (UST) Meeting.** On February 27, the EPA regional UST program managers will meet in Washington, D.C.
4. **Emergency Response On-Boarding Sessions for New HQ Senior Leaders**. We are inviting new headquarters senior leaders to two sessions to orient everyone to their responsibilities in the event of a National Emergency Response Incident. The two briefings will be held in March, and new senior leaders can attend either one.

Office of Policy

Hot Topics:

Next week, Joel Scheraga, EPA Senior Advisor for Climate Adaptation, will travel to San Ramon, CA to meet with Chevron Corporation. Joel will discuss ways in which EPA can help states, communities and businesses cope with the costly impacts of extreme weather events. He was invited by Chevron's Climate Working Team following the release of a Chevron report in March 2017 entitled "Managing Climate Change Risks". Chevron is interested in benefitting from EPA's expertise in helping partners build and strengthen resilience and in learning more about the agency's Climate Adaptation Resource Center (ARC-X) [HYPERLINK "https://www.epa.gov/arc-x"].

OP

Number of Actions to OFR this Year:

- Signed by Regions:
  - Notices: 7
  - Proposed Rules: 26
  - Direct Final Rules: 2
  - Withdrawal of Proposed Rule: 1
  - Withdrawal of Direct Final: 3
  - Final Rules: 23
- Signed by HQ:
  - Notices: 41
  - Proposed Rules: 5
  - Final Rules: 20

Number of Actions to OFR this Week (Feb 9 – Feb 15):

- Signed by Regions:
  - Notices: 0
  - Proposed Rules: 5
  - Direct Final Rules: 0
  - Withdrawal of Proposed Rule: 0
  - Withdrawal of Direct Final: 0
  - Final Rules: 6
- Signed by HQ:
  - Notices: 5
  - Proposed Rules: 0
  - Final Rules: 2

Documents Submitted to OFR from February 8 -13, 2018

FRL	Title	Date Submitted to OFR
9973-41-OW	Clean Water Act Coverage of "Discharges of Pollutants" via a Direct Hydrologic Connection to Surface Water	2/13/2018

9974-43-Region 1	National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Hatheway & Patterson Superfund Site	2/13/2018
9973-19-Region 1	Air Plan Approval; New Hampshire; Rules for Open Burning and Incinerators	2/13/2018
9974-49-OLEM	Oklahoma: Approval of Coal Combustion Residuals State Permit Program; Extension of Comment Period	2/13/2018
9973-03-OCSPP	Poendimethalin; Pesticide Tolerances	2/13/2018
9973-18-Region 1	Air Plan Approval; Connecticut; Nonattainment New Source Review Permit Requirements for the 2008 8-Hour Ozone Standard	2/13/2018
9974-58-Region 9	Air Plan Approval; Douglas, Arizona; Second 10-Year Sulfur Dioxide Maintenance Plan	2/13/2018
9974-59-Region 10	Approval and Promulgation of State Implementation Plans; Alaska; Regional Haze Progress Report	2/13/2018
9974-48-OAR	Allocations of Cross-State Air Pollution Rule Allowances from New Unit Set-Asides for 2017 Control Periods	2/12/2018
9974-47-Region 2	Approval and Revision of Air Quality Implementation Plans; State of New York; Regional Haze State and Federal Implementation Plans	2/12/2018
9974-55-OAR	Response to June 1, 2016, Clean Air Act Section 126(b) Petition from Connecticut	2/12/2018
9974-53-ORD	Availability of the Integrated Risk Information System (IRIS) Assessment Plan for Uranium; Correction	2/12/2018
9974-45-Region 4	Air Plan Approval; KY: Removal of Reliance on Reformulated Gasoline in the Kentucky Portion of the Cincinnati-Hamilton Area	2/9/2018
9974-46-Region 4	Air Plan Approval; SC; VOC Definition	2/9/2018
9974-31-OCSPP	User Fees for the Administration of the Toxic Substances Control Act	2/8/2018
9974-29-OARM	Proposed Information Collection Request; Comment Request; Background Checks for Contractor Employees (Renewal)	2/8/2018
9974-23-OECA	Proposed Information Collection Request; Comment Request; Recordkeeping Requirements for Producers, Registrants and Applicants of Pesticides and Pesticide Devices under Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); EPA ICR Number 0143.13, OMB Control Number 2070-0028	2/8/2018
9973-23-Region 6	Approval and Promulgation of Air Quality Implementation Plans; Arkansas; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards	2/8/2018

9973-42-Region 6	Approval and Promulgation of Implementation Plans; Texas; Interstate Transport Requirements for the 1997 and 2006 PM2.5 NAAQS	2/8/2018
9973-43-Region 6	Approval and Promulgation of Implementation Plans; Texas; Withdrawal of Proposed Disapproval of Interstate Transport State Implementation Plan Revision for the 2006 24-hour PM2.5 NAAQS	2/8/2018
9973-35-Region 6	Approval and Promulgation of Implementation Plans; Texas; Revisions to Permitting and Public Participation for Air Quality Permit Applications	2/8/2018

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Office of Research and Development

ORD convened a meeting of its senior leaders this week. We discussed a wide variety of topics including how to create a more sustainable organization that is solution-oriented and client-centric. Among the specifics deliberated were next steps to creating a lean management system in ORD and refreshing our Strategic Research Action Plans. Next week we're convening a ORD-wide Town Hall where we will recognize Agency Honor Award recipients in ORD, discuss the President's budget and EPA's new Strategic Plan.

Hot issues:

ORD, EPA Regions 2 and 8, and DOD Collaborate on Remediating PFAS-Contaminated Soils
ORD recently met with staff from Region 8 and the research arm of the U.S. Air Force to discuss a newly initiated Regional Applied Research Effort (RARE) project that aims to identify a remediation approach capable of immobilizing PFAS in soil. PFAS-contaminated soils are thought to act as long-term sources of contamination to groundwater and surface water, and technologies for PFAS remediation in soil are in their infancy. The RARE project, began as a project for Region 2 but has expanded to include Region 8, which has interest because of PFAS-contaminated soils at Ellsworth Air Force Base in South Dakota. ORD researches biochar, a specialized form of charcoal that is used as a soil amendment (material added to soil to change its physical and chemical properties) in remediation of metal-contaminated soils, which is one of several sorbents to be evaluated in this RARE study of materials that are highly effective at absorbing and immobilizing PFASs.

Upcoming Major Decisions and events:

SBIR Phase II Awards
ORD is coordinating an announcement on the recent 2017 SBIR Phase II contracts awarded to six small businesses. These contracts help companies to focus on technology commercialization in the areas of wastewater treatment, homeland security, and cookstoves. Recipients are receiving up to $300,000 to fund 2-year projects as they work to bring their environmental technologies to the marketplace.

Washington State Invites ORD to Help Determine Effectiveness of Agricultural Management Practices
ORD is participating at the request of the Washington Department of Ecology in its Clean Water Guidance for Agriculture Advisory Group. ORD's scientific expertise with nutrient cycling in agricultural watersheds will contribute to a guidance document recommending agricultural best management practices that those in the farming community can implement to help achieve state water quality standards. This type of ORD technical support helps EPA better support states in managing the impacts of different practices on nutrients, while enabling EPA to learn about the gaps in scientific information and research needed to understand the effectiveness of nutrient best management practices in the region.

Phoenix Air Sensor Monitoring Project
On February 27, Richard Yamada and staff from ORD, Region 9, and OAR-OAQPS will travel to Phoenix to meet with representatives from AZ DEQ, Maricopa County, Arizona State University, local stakeholders and potential funders to scope out an air sensors project in Phoenix. The project aims to advance understanding on the quality of data from sensor technologies and how they can be used to address air quality priorities.

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Office of Water

Hot Issues:

Waters of the U.S.: Next week, the agencies will host two webinars, one for states and one for tribes. These webinars will provide an important opportunity to set the stage for the upcoming in-person meetings scheduled for early March.

Steam Electric FOIA II Litigation: Next week, OW and OGC will initiate senior leadership review of an interim release for the Waterkeeper Alliance II FOIA litigation regarding EPA's reconsideration of the Steam Electric Effluent Limit Guideline (ELG) Rule. In December 2017, the district court granted EPA's proposed schedule and entered an order requiring the Agency to make three interim document productions on February 28, March 31, and April 30, and a final production on May 31.

Hydrologic Connection Request for Comment: This week, the agency sent to the Federal Register a notice requesting comment on the Agency's previous statements interpreting the CWA that discharges of pollutants from point sources to jurisdictional surface waters that occur via groundwater or other subsurface flow that has a direct hydrologic connection to the surface water are subject to CWA regulation. We are requesting comments on whether the Agency should consider clarification or revision of this interpretation and if so, comments on how clarification or revision should be provided. The comment period will remain open for 90 days after it is posted in the Federal Register.

Upcoming Major Decisions and Events:

Conservation Technology Information Center Meeting: Next week, Benita and I will be meeting with the CTIC Board of Directors to provide an update on how OW is working with the agricultural community to encourage sustainability. We will use the meeting to explore additional avenues of collaboration between CTIC and OW.

National Stormwater Roundtable: Next week, OW staff are participating in the Association of Clean Water Administrator's 2018 National Stormwater Roundtable in Atlanta, Georgia. The Stormwater Roundtable is organized by state and federal regulators for EPA and state program staff representatives. The Roundtable supports implementation of federal and state municipal, industrial, and construction stormwater programs nationwide by sharing best management practices, showcasing innovative state programs and initiatives, highlighting new technologies, facilitating discussion on national program enhancements and improvements, identifying state resource needs including tools, training and guidance, and proposing solutions to challenges and barriers faced by the regulators and other stakeholders.

EFAB Spring Meeting: Next week, the Spring Environmental Financial Advisory Board (EFAB) meeting will be held in DC. EFAB is an EPA advisory committee chartered under the FACA to provide advice and recommendations to EPA on creative approaches to funding environmental programs, projects, and activities. The purpose of this meeting is to hear from informed speakers on environmental finance issues, proposed legislation, and EPA priorities; to discuss activities, progress, and preliminary recommendations with regard to current EFAB work projects; and to consider request for assistance from EPA program offices. Andrew Sawyers, Director of the Office of Wastewater Management, will serve as the temporary Designated Federal Officer during the meeting. Speakers include David Bloom and Alex Herrgott (CEQ). The meeting is open to the press.

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Region 1

Hot Topics:

Administrator Pruitt Visits NH and MA

- On February 13th and 14th Administrator Pruitt visited Region 1. During his visit he met with Governor Sununu in NH and discussed the Coakley Landfill Superfund Site, Great Bay NPDES permit issues, and the governor's intent to seek authorization to implement the NPDES program. The Administrator also visited the Mohawk Tannery Superfund Site, which is on his list of targeted sites for immediate action.
- On February 14th, the Administrator visited the regional office and was briefed by Region 1 staff on hot issues, then made remarks at the region's business review meeting. Later he visited Northfield Mountain Generating Station in Northfield, MA with Neal Chatterjee, FERC Commissioner.

Region 1, OW and OGC Coordination on Schiller Station, Portsmouth, NH

- Following a discussion with Administrator Pruitt about the Schiller Station power plant, Region 1 will continue to coordinate closely with OW and OGC to move the NPDES permit forward.

EPA, RIDEM, and Black & Decker Mediation Effectively Moves Centredale Manor Superfund Site Negotiations

- On February 14th, EPA and RIDEM held a third mediated negotiation session with Black & Decker. The meeting parties continue to move in a positive direction toward settlement and look to reach closure on several issues prior to the next meeting.

Upcoming Major Decisions and Event:s

Hathaway & Patterson Superfund Site in Mansfield, MA to be deleted from National Priorities List

- On February 13th, the Region 1 Hatheway & Patterson Superfund Site Case Team met with the new Mansfield Town Manager to discuss the deletion and possible redevelopment options for the site. The Site final deletion notice will be published in the Federal Register on February 16th, making the deletion final.

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Region 2

Hot Issues:

Long Island Sound Dredged Material Management: Rep. Suozzi's office (3rd District-NY) has requested an informational briefing on "open water disposal of dredged materials and beneficial reuse of dredged material" in the Long Island Sound (LIS). The affected states, CT and NY, are strongly divided on the disposal issue – NY is opposed to LIS disposal while CT is in favor. Region 1 and 2 representatives will teleconference with the Congressman's staff on 2/20/18. Region 1 has the lead on dredged material disposal in LIS, as all disposal sites lie within R1.

Hudson River PCBs Superfund Site: RA Pete Lopez met on 2/14/18 with representatives of Hudson Riverkeeper and Scenic Hudson, two environmental groups actively focused on this site. Later the same day he met with representatives of General Electric, the responsible party. The RA explained his decision to pause in EPA's schedule for issuance of the second Five Year Review while we work collaboratively with NYSDEC to review the data from a large number of additional sediment samples taken by NYSDEC in 2017.

DuPont-Pompton Lakes RCRA Corrective Action Site: This week Northjersey.com/Bergen Record published a 4-part series regarding the history of this site, and the ongoing cleanup efforts. (Chemours is now responsible for this site.) The series title is "Toxic Secrets: Pollution, Evasion and Fear in North Jersey." This large site was under the supervision of the NJDEP for many years; during the past decade EPA assumed the lead role on one major "operable unit" at the site, and took a more active role in the management of other operable units. Under EPA's direction Chemours carried out a major project involving removal of about 156,000 cubic yards of sediment contaminated with mercury and lead from a 36-acre area of the lake. The $43 million dredging work was successfully completed in 2017; final restoration work will take place in 2018.

Upcoming Major Decisions and Events:

Feb. 26 - March 1: RA Pete Lopez will travel to PR and the USVI. The trip will focus on transitioning from hurricane response to recovery. The meetings with key local leaders, agencies and stakeholders will aid Region 2 in developing a Strategic Recovery Plan which will heavily focus on opportunities for tackling pre-existing environmental challenges. On 3/1 the RA will give the keynote address at the Inter-American Association of Sanitary and Environmental Engineering (AIDIS) Conference.

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Region 3

Hot Topics:

EPA to Hold Public Hearing on Brunner Island Petition
The public hearing for the petition will be held on Friday, February 23, 2018 in Washington, D.C. Connecticut's petition was submitted to EPA under section 126 of the Clean Air Act (CAA) and is typically called a 126 petition. Under section 126, any state can petition EPA if that state believes a particular source significantly contributes to their state's nonattainment status or interferes with their ability to maintain the national ambient air quality standards (NAAQS). CT believes that upwind sources, specifically Brunner Island, located in York County, PA, significantly contributes to the state's ozone problems and Brunner Island must be controlled further to alleviate CT's ozone problems. Should EPA grant CT's 126 petition, the source will be required to shutdown unless EPA proposes a lower emission limit that would be protective of CT's air quality. Region 3 staff plan to attend the hearing and anticipate participation from DE, MD, PA, NY, CT as well as NGOs and industry representatives.

Consent Decree Signed for Crater Resources Superfund Site**, Upper Merion Township, PA** O'Neill Property Group (O'Neill), the developer of the Quarry 1 and 2 parcels at the Crater Resources Superfund Site in Upper Merion Township, PA, has signed a Consent Decree to perform the Remedial Design and Remedial Action (RD/RA) on these parcels. The Decree also provides for the reimbursement of certain interim and future EPA oversight costs. O'Neill has received the final land use approval from Upper Merion Township to construct residential housing on the Quarry 1 parcel. The Site was included on the Superfund Task Force list of Superfund sites with the greatest redevelopment potential.

Upcoming Major Decisions and Events:

Regional Administrator to Participate in CBP Citizens Advisory Committee Meeting
RA Servidio, Principals' Staff Committee (PSC) Chair Ben Grumbles, and CBPO Acting Director Jim Edward, will participate in the CBP Citizens Advisory Committee (CAC) meeting on February 22-23, 2018. Topics for discussion include the Phase III WIP local area planning goals, nutrient trading, and budget updates. The CAC advises the partnership on all aspects of restoration and is charged with the responsibility for representing residents and stakeholders of the watershed.

Regional Administrator to Meet with Chesapeake Bay Commission Director
Regional Administrator Cos Servidio and CBPO Acting Director Jim Edward will meet with Chesapeake Bay Commission Executive Director Ann Swanson and her staff on February 22, 2018.

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Region 4

Hot Issues:

Southside Chattanooga Lead Superfund Site (Chattanooga, TN)
Key Message: During the week of February 19, 2018, Region 4 will work with the Tennessee Department of Environment and Conservation on identifying a process for potential properties included in the scope of the superfund site to transfer to the Tennessee Voluntary Cleanup, Oversight and Assistance Program (VOAP). Participation in this program will help continue to spark economic development and We anticipate developing a strategy that will likely include a Memorandum of Understanding between the agencies will provide maximum flexibility to utilize both cleanup authorities, CERCLA and VOAP, to address industrial facilities with third party developers.

Upcoming Major Decisions and Events:

Decisions
None

Events
February 21, 2018 – Regional Administrator Trey Glenn will participate in several stakeholder meetings in Florida: 1) Meeting with the five Executive Directors of the Water Management Districts; 2) Meeting with Florida Department of Environmental Protection staff on Everglades and 404 Assumption; and 3) a roundtable with representatives for trade and industry groups in Florida. Tallahassee, FL. Closed Press.

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Region 5

Hot Issues:

Federal District Judge Denies Citizens' Motion to Intervene as Untimely on the USS Lead Superfund Site
Key Message: On February 9, the motion to intervene brought by several residents of the USS Lead Superfund site seeking to intervene in the 2014 consent decree was denied. The judge determined that the motion was untimely and that EPA had taken all practical and necessary steps to provide notice to the community of both the record of decision and the consent decree. The United States opposed intervention because it was unclear what it would mean for citizens to be a party to the consent decree or enforcement matters, and because such participation would likely have confused technical matters and delayed implementation of the remedy.

Upcoming Events/Major Decisions:

RA Stepp to Meet with Wisconsin Paper Council, Tour Marinette Marine Shipyard
Key Message: On February 20, RA Stepp will travel to Madison, Wisconsin, to meet with the Wisconsin Paper Council, then travel on to Marinette to tour the Marinette Marine Shipyard. The shipyard visit will focus on future expansion at the shipyard and how it could be affected by cleanup work that EPA has done at the nearby Tyco site.

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Region 6

I traveled with staff for most of the week and had productive meetings in Washington, DC with HQ staff, members of the U.S. Senate and House of Representatives and their staffs, and with the Santa Clara Pueblo leaders. We look forward to having HQ executive management and staff in R6 next week for site visits.

Hot Topics:

Ozone Designation, Baton Rouge, Louisiana
The Louisiana Department of Environmental Quality plans to submit an exceptional event demonstration for September 14, 2017. The demonstration, if approved, would exempt the ozone reading for that day from the design value calculation and the area would qualify for ozone attainment status.

Reid Vapor Pressure, Louisiana
Region 6 is proceeding to process a proposed approval for the Louisiana's RVP SIP revision. The proposed approval is scheduled for March 28.

Eagle Industries Superfund Site, Midwest City, Oklahoma
Oklahoma DEQ has expressed an interest in directing the clean up at the newly listed Eagle Industries NPL Superfund site and we are exploring options. The defunct facility has soil and groundwater that is contaminated with trichloroethylene. A public meeting will be held February 22, 2018.

San Jacinto River Waste Pits Superfund Site, Harris County, Texas
Region 6, the Potentially Responsible Parties, Texas Commission on Environmental Quality, and U.S. Army Corps of Engineers continue negotiations on an administrative order on consent and statement of work for remedial design for the site. The next meeting is February 15, 2018.

Takata, Eagle Pass, Texas
The state of Texas and Takata reached a settlement in principle that would have over 2 million recalled airbag inflators removed from stored in Eagle Pass, Texas within the next four months.

St. Bernard Parish, Louisiana
Region 6 continues to work with Louisiana to develop an attainment demonstration state implementation plan for sulfur dioxide to prevent highway fund sanctions and Federal Implementation Plan from taking place in mid-April 2018. While we expect a short gap between the completion of this action and the FIP deadline, we are hopeful the highway sanction clock will not take effect.

Upcoming Major Decisions and Events:

Texas Motor Vehicle Rule Revisions, El Paso, Texas
EPA intends to issue a direct final approval of Texas' SIP for Texas' motor vehicle air pollution rules and retail gasoline dispensing labeling requirements for El Paso.

February 20	RA meeting with New Mexico Secretary Butch Tongate, Santa Fe, NM
February 21	RA Idsal speaks at Baker Botts Environmental Law Seminar, Houston, TX
February 21	RA Idsal meeting with Houston Mayor

Region 7

Hot Issues:

West Lake Landfill (Bridgeton, MO)

Key Message: Proposed Plan Public Comment Period & Preparation for OU3 RI/FS Continues

- This week marks the second week of the public comment period for the West Lake Landfill Proposed Plan and the region is in the final stages of planning for the March 6 public meeting as required by statute.
- In the interim the region has received requests from both the Technical Community Advisory Group and the Potentially Responsible Parties for meetings to clarify technical aspects of the Proposed Plan as they prepare to formulate comments. Dates have not been set for either meeting requests, but the region anticipates that these meetings will occur prior to the March 6 public meeting.
- The region continues preparation for Operable Unit 3 Remedial Investigation/Feasibility Study negotiations and has drafted an Administrative Settlement Agreement and Order on Consent. Operable Unit 3 will characterize and determine the extent that radiologically impacted materials may have affected groundwater. A briefing on a proposed strategy for Operable Unit 3 for regional senior Superfund leadership is scheduled for next week.

Carter Carburetor Final Planned Site Work Begins (St. Louis, MO)

Key Message: Final plan of approach has been developed and site work planned to begin in mid-March

- The Final Plan of Approach (FPA) for the In Situ Thermal Desorption/Soil-Vapor Extraction (ISTD/SVE) system at the Carter Carburetor Superfund Site in St. Louis, MO was approved this week.
- The system will be ready to operate and site work is expected to begin in mid-March. The ISTD/SVE system will be used to address TCE contaminated soils that resulted from historic releases from on-site storage of TCE.
- Previous actions at Carter Carburetor included removal of asbestos, PCB contaminated soils, and building debris. The ISTD/SVE system is planned to be the final remediation action on-site and is scheduled to be completed in 2019.

Upcoming Major Decisions and Events:

Senior Leadership Meeting with NDEQ

Key Message: Regional Administrator Jim Gulliford and Region 7 senior managers will be meeting February 22, 2018 in Lincoln, NE with NDEQ Director Jim Macy and senior managers to discuss FY 18 work planning.

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Region 8

Hot Issues:

Wyoming Mining Association. The RA attended Wyoming Mining Association's annual meeting in Cheyenne this past week. He held roundtable discussions with its Regulatory Committee, the Uranium Committee, and the Board of Directors. The key issues they addressed were:

1. A rule that was proposed January, 2017 that addressed requirements surrounding in-situ uranium recovery. Among other things the proposed rule would address groundwater protection and monitoring requirements. The rule is opposed by the NRC and Senator Barrasso has sent a letter requesting that the agency withdraw the rule. The Mining Association reasserted their support of the Senator's request and asked that we also reexamine the MOU we have with the NRC that provides that the EPA's role in uranium mining regulation is that of establishing standards and not prescribing specific controls. The RA told them that the review of the proposal was underway and that we would examine discussing with the NRC the existing MOU to make it more clear and binding.
2. Air emission standards for mill tailings. A rule was finalized in January, 2017 that established air emissions standards for uranium byproduct material. The uranium industry opposes these rules because it is very difficult to demonstrate compliance and they have concerns with the process for justifying the rule. They asked that we consider initiating a rulemaking to repeal this rule. They had considered going through the Congressional Review Act but were not successful.
3. They are very concerned about NEPA and its implementation. The RA discussed the Region 8 review of NEPA that is currently underway.

U.S. Bureau of Land Management may decide to shut in the only well providing drinking water during winter months to Park Center Water District (1300 service connections) in Canon City, CO. BLM provides drinking water to Park Center via this well, which is the sole supply during winter months, and BLM is required to provide flow to Fourmile Creek from the well due to water law. If treatment is required to meet NPDES permit limits to discharge to Fourmile Creek, BLM has indicated they will shut in the well. We are continuing to work with BLM on solutions.

Region 8, the State of South Dakota, and Agnico Eagle Mines, Ltd. Finalized a Bona Fide Prospective Purchaser Agreement on Consent for Remedial Investigation/Feasibility Work at the Gilt Edge Mine Site near Lead, South Dakota. On February 12, 2018, EPA, the State of South Dakota, and Agnico Eagle Mines, Ltd. finalized an agreement for certain remedial investigation work at the Gilt Edge Mine Site (Site). Pursuant to the agreement, Agnico will conduct studies to help define the nature and extent of contamination within groundwater at the Site, and pay certain oversight costs. Agnico will use the information gathered during remedial investigation work to study whether potential re-mining of the Site is feasible and/or economical.

R8 Refers an Enforcement Case to DOJ for a Significant Oil Spill by the Belle Fourche Pipeline Company in Billings County, North Dakota. R8 is referring the Belle Fourche Pipeline Company crude oil pipeline discharge to the DOJ for violations of section 311(b)(3) of the Clean Water Act. The discharge impacted miles of Ash Coulee Creek, and caused more than ½-mile-long sheen on the Little Missouri River. Belle Fourche estimates 12,600 barrels (529,200 gals.) of crude oil were discharged.

Upcoming Decisions/Events **- None**

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Region 9

Hot Topics:

Mexican Border: following our establishment of a much-needed email notification system, the IBWC alerted us of two very large sewage spills to the Tijuana River late last week, caused by electrical failures at the pump station at the Tijuana River diversion structure in Mexico. Mexico is installing some new electrical equipment this week to help the situation. The February 9 spill was estimated at 560,000 gallons, and the Feb 10 – 11 spill at 665,000 gallons, leading to beach closures in Imperial Beach, CA.

Clean Air Act mobile source rules: I proposed approval of four mobile source rules into the California State Implementation Plan. The rules affect commercial harbor craft, diesel-fueled transport refrigeration units, on-road heavy-duty diesel engines, and off-highway recreational vehicles. All have received waivers or authorizations but must be approved as SIP revisions in order for CAA attainment plans to credit their emission reductions. Since 2015, we have approved 28 mobile source rules into CA's SIP.

World Ag Expo: our Agriculture Liaison/Chief of Staff Amy Miller represented EPA at the nation's largest farm exposition in Tulare, CA, attended by over 1,500 exhibitors. The event is a remarkable venue to connect with growers, cutting-edge farm equipment innovators, and a diverse group of farm organizations. She met with NRCS and CDFA leaders to plan for our meeting of Region 9 State agriculture departments in San Francisco a few months hence.

American Samoa cyclone update: recovery continues, with 70% of customers receiving power, 97% of customers receiving water (many with low pressure, all on boil-water orders), and various water and wastewater systems operating with standby generators. A landfill is taking green waste, a scrap metal yard is taking metal wastes, and municipal solid waste collection is underway. FEMA is on-island conducting damage assessments.

Anaconda: per EPA's Tribal Consultation Policy, we'll be providing the Walker River and Yerington Paiute tribal chairmen with our explanation of how tribal input was considered in reaching our EPA decision to defer NPL listing of this mine site, and to document our extensive consultation to date.

***Major Decisions And Events*:** none.

FYI:
Environmental Justice training: next week, we'll host four training sessions for our workforce with various speakers addressing land use, brownfields, citizen science, monitoring and other topics.

National Honor Awards: next Thursday, we'll host an awards ceremony for the Region 9 recipients of the national honor awards.

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Region 10

Hot Topics:

None this week.

Upcoming Major Decisions and Events:

Region 10 Officially Re-Affirms Idaho's Implementation of Two Clean Air Act Authorities: This week Region 10 approved the Idaho Department of Environmental Quality's Request for Updated Delegation of Authority for National Emissions Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS). The approval updates new standards EPA promulgated since IDEQ's last delegation.

$1 Million Amazon Pesticide Agreement and News Conference: This week, in coordination with OECA and OPA, Region 10 concluded and announced a settlement with Amazon Services LLC (Amazon), for multiple violations of the Federal Insecticide, Fungicide, and Rodenticide Act. The violations involve thousands of distributions of six foreign pesticides that were never registered with EPA as required by law. Amazon distributed these pesticides from fulfillment centers throughout the United States. Two of the products, "Miraculous Insecticide Chalk" and "R.B.T.Z. Highly effective Cockroach killing Bait Powder" were also misbranded—the labeling for these products falsely claimed the products were "Harmless to Human Being and Animal" or "CHILD & PET SAFE: Safe to use around children and pets." Amazon agreed to pay a penalty of $1.2 million and conduct a training program for entities seeking to sell pesticides on their site. This training program and supplemental environmental project will cost approximately $1,648,094. The region hosted a successful news conference on February 15 with eight major Seattle news outlets and national news services.

Region 10 to Issue News Release for Alaska Seafood Processor Clean Water Act Agreement: Next week Region 10 will issue a news release to announce a consent decree with Trident Seafoods which resolves Clean Water Act discharge violations at two of the company's Alaska seafood processing facilities. Seafood waste piles that accumulate on the seafloor in the vicinity of the outfalls exceeded the one-acre "zone of deposit" limit in each facility's NPDES permit. The Sand Point facility's waste pile exceeded the one-acre limit by several acres. Other permit violations included failure to comply with permit requirements for waste conveyance, grind size, best management practices, and monitoring. As part of this settlement, Trident has agreed to remove the 3.47-acre waste pile at Sand Point, and has already altered operations at Wrangell to virtually eliminate solids discharges in the nearshore environment. Trident will also implement a state-of-the art screening system at Sand Point to reduce production of surface foam, conduct a third-party audit of its environmental monitoring system, and pay a penalty of $297,000.

Re-Proposal of Phosphorus Limits for the City of Sandpoint, Idaho NPDES Permit: Region 10 intends to issue a new draft discharge permit which addresses the effluent limits for total phosphorus for the City of Sandpoint's Waste Water Treatment Plant. The EPA withdrew those limits from the final permit for this facility, which was issued by EPA and became effective on December 1, 2017. The withdrawal was in response to a Petition for Review filed by the Idaho Conservation League. In this new draft permit, EPA is re-proposing only the limits for total phosphorus, and therefore is only accepting comments on these effluent limits at this time.

Region 10 Recognizes Public Drinking Water Systems Innovations: In the next few weeks, Region 10 will attend events to recognize the Pelican Bay Heights Water District in southern Oregon and the City of Port Townsend, Washington with Drinking Water State Revolving Fund WATERS awards. WATERS stands for Well-planned, Affordable, Transferable, Efficient, Resilient, Sustainable. The projects are being recognized for their efficiency and affordability. The region will publicize these events in local media outlets and on social media.

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Issuance of Final NPDES Permit to Sorrento Cheese Facility in Nampa, Idaho: Next week Region 10 plans to issue a final NPDES permit for the Sorrento Cheese facility, located in Nampa, Idaho. The facility discharges to Purdam Drain which flows to Mason Creek and the Boise River. The permit contains technology-based effluent limits consistent with EPA's national cheese processing effluent limitation guidelines and water quality-based limits to protect Purdam Drain for agricultural uses and downstream waters for fishable/swimmable uses, consistent with the State of Idaho's Clean Water Act 401 Certification. The permit also includes limits consistent with the facility's waste load allocation contained in the Boise River Nutrient TMDL developed by the State of Idaho.

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Office of Administration and Resources Management

Hot Topics:

None

Upcoming Major Decisions and Events:

Active Shooter Response Drill

On February 21, OARM Facilities Management and EPA Federal Agents will conduct an Active Shooter Response Drill from Ex. 7(C). Public announcements will be made at the start and conclusion of the drill, which will begin with simulated gunfire from an EPA Federal Agent. Personnel not interested in participating in the drill should vacate Ex. 7(C), or make alternative work arrangements with their supervisor.

Office of Air and Radiation

Hot Topics:

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-

Ex. 5 Deliberative Process (DP)

- **OAR actions under review (or soon to be under review) at OMB:**
  - Notice of Proposed Withdrawal of the Control Techniques Guidelines for the Oil and Natural Gas Industry
  - Final Guidance on Significant Impact Levels for Ozone and Fine Particles in the Prevention of Significant Deterioration Permitting Program

Upcoming Major Decisions and Events:

- **Repeal of the Clean Power Plan (CPP):** The first of the three listening sessions is February 21 in Kansas City, Missouri. (The other two are February 28 in San Francisco and March 27 in Gillette, Wyoming. The comment period closes April 26).
- **Connecticut 126 Petition Public Hearing:** The EPA is holding a public hearing on the EPA's response to the June 1, 2016, CAA section 126(b) petition from Connecticut on Friday, February 23, 2018. It will be held from 9am-6pm in WJC West 1153. Additional information for this public hearing is available in a separate Federal Register notice published on February 14, 2018 (83 FR 6490).

Office of Chemical Safety and Pollution Prevention

IMPORTANT DEADLINES

Row	Determination Type	Pending on 2/13/2018	Determinations Completed[1] as 2/13/2018	Determinations Posted on the Website as of 2/13/2018[6]
1	# of "not likely" determinations	**1**	**116[4]**	**116[4]**
2	# of §5(e) Orders signed by both EPA and the submitter	**-**	**325**	**325**
3	# of §5(e) Orders signed by EPA and awaiting submitter signature	**43**	**-**	**-**
4	# of non-Order SNURs/"not likely" determinations	**0**	**0**	**0**
5	# of cases in post-FOCUS final determination development[5]	**344[3, 5]**	**-**	**-**
6	# of cases flagged for in-depth review	**41**	**-**	**-**
7	# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	**14**	**-**	**-**
8	# of LVE/LOREX exemption grants	**-**	**532**	**531**
9	# of LVE/LOREX exemption denials	**-**	**120**	**120**
10	**Total number of cases**	**443**	**1093**	**-**
11	Normal active workload for the New Chemicals Program	300	**-**	**-**
12	Number of cases undergoing testing or data development by submitter	74[3]	**-**	**-**
13	**Backlog[2]**	69	**-**	**-**

[1] "Determinations Completed" means that EPA has completed its reviews on these cases and that final determinations have been made by EPA under TSCA section 5(a)(3).

[2] (Total number of cases) – (Normal active workload for the New Chemicals Program) - (Number of cases undergoing testing or data development) = Backlog

[3] Of these cases, approximately 73 are "active" lung toxicity cases that are suspended while submitters either conduct or are deciding whether to conduct testing to develop data on pchem properties, exposures and toxicity.

[4] "Not Likely" determinations are not posted until the final signed determination document is prepared and has been shared with submitter.

[5] These cases are those for which Post-FOCUS work is underway to develop: not likely determinations; non-Order SNURS coupled with not likely determinations; or section 5(e) or 5(f) Orders. When the OPPT Office Director decides which of these regulatory paths to follow, the case is moved to: Row 3 when the section 5(e) or 5(f) Order is sent to the submitter for signature; Row 4 when the SNUR is published and the not likely determination document is signed; and Row 1 when the determination document is sent to the OPPT OD for signature.

[6] These are all only final determinations posted on the web: grants and denials

Hot Issues:

Fees Rule. On February 8th, EPA announced that it is proposing a rule to require certain fees to defray 25% of the costs of administering certain sections of the Toxic Substances Control Act (TSCA). The rule, if finalized, will secure sustainable funding to defray costs of implementation of new responsibilities under the amended law and to review chemicals for safety with the highest scientific standards. Under the proposed rule, affected businesses would begin incurring fees on October 1, 2018. The fees rule is the final of four framework rules under amended TSCA.

Upcoming Major Decisions and Events:

Minor Crop Farmer Alliance Water Monitoring Workshop – On February 21, Office of Pesticide Programs staff, Mark Corbin and Dana Spatz (Environmental Fate and Effects Division), will present at the annual meeting of the Minor Crop Farmer Alliance (MCFA) in Washington, DC. Topics they plan to present on include: Overview of Drinking Water Assessments, Models and Monitoring Data Use in DWA, and Future Developments in the Use of Monitoring Data for Risk Assessments for Pesticides. MCFA members include national, regional, state and local associations representing specialty crop producers. Other meeting attendees may include non-specialty crop organizations, registrants, and USDA.

World Trade Organization's International Government-Industry on Maximum Residue Levels – On February 26-27, Office of Pesticide Program Director, Rick Keigwin will participate in the World Trade Organization's International Government-Industry discussion on the trade implications of the lack of pesticide maximum residue limits (MRLs) in Geneva, Switzerland

Global Chemical Regulations Conference (GlobalChem) - Office of Pollution Prevention and Toxics Director, Jeff Morris, and members of his staff will present at the GlobalChem Conference and Exhibition, occurring February 28 - March 2. Jeff will present on OPPT's 2018 priorities and lessons learned from the first year and a half of amended TSCA implementation. Other OPPT staff will be speaking to other TSCA implementation issues, including new chemicals and the "framework rules." The meeting will be held in Washington DC

Office of the Chief Financial Officer

Hot Topics:

- With this past week's release of the FY 2019 Budget to Congress, OCFO provided hard copies of the agency's Congressional Justification to Congressional staff and OMB. OCFO also provided copies of the Budget Information for the States to Congress (this documents provides a state by state breakdown of funding for grants). These documents are also available on the internet. OCFO is also assisting the press office in answering media inquiries about the FY 2019 President's Budget.
- As part of the roll out activities OCFO briefs Congressional staff on the FY 2019 budget. This year, OCFO is working with OCIR and the NPMs to pilot a Budget Symposium for the Congressional authorizing committee staffers on February 20.

Upcoming Major Decisions and Events:

- NPMs are scheduled to provide by February 21 revised draft FY 2018-2019 Agency Priority Goal (APG) Action Plans that address OMB comments and include Q1 results which reflects NPM policy team review and concurrence.
- I am scheduled to speak with the Environmental Finance Advisory Board on February 20, with my comments focusing primarily on the EPA Strategic Plan and Budget. The event is open to the public and press. OW is the coordinating office for this Federal Advisory Committee.
- As previously mentioned, the inaugural E-Enterprise Bulletin will be released on February 16 to EPA, states and tribes. The EPA Strategic Plan, which includes an objective focused on shared governance/cooperative federalism, will be highlighted. The first Bulletin also includes a statement by EELC co-chair, Henry Darwin, and the state and tribal co-chairs, regarding the value of E-Enterprise.

Other:

- OCFO is working with OGC and NPMs to plan the financial tracking and management of disaster supplemental funding and to respond to OMB's questions.

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Office of Congressional and Intergovernmental Relations

Hot Issues:

None to report.

Upcoming Major Decisions and Events:

None to report.

Office of Enforcement and Compliance Assurance

Hot Issues:

Clean Air Act Settlement with Shell Chemical for Failure to Properly Operate Industrial Flares: On February 12, 2018, EPA, DOJ, and the Louisiana Department of Environmental Quality reached a settlement with Shell that will reduce air pollution from a chemical plant in Norco, Louisiana. The settlement requires Shell to spend approximately $10 million to reduce the volume and frequency of flaring, to flare at a high combustion efficiency, and to monitor for the presence of benzene on the fenceline of the facility. Compliance with the settlement will reduce volatile organic compounds by 159 tons per year and hazardous air pollutants by 18 tons per year.

Court Enters Settlement Requiring S.H. Bell Company to Reduce Manganese Emissions: On February, 14, 2018, the U.S. District Court for the Northern District of Ohio entered a consent decree between EPA and S.H. Bell that resolves claims of imminent and substantial endangerment to the residents of East Liverpool, OH and Glasgow, PA from prolonged exposure to high levels of manganese.

FIFRA Settlement with Amazon Services for Distribution of Illegal Pesticides: On February 14, 2018, Region 10 reached a settlement with Amazon that resolves over two thousand illegal distributions of unregistered imported pesticide products. As a result of this action, Amazon has initiated a vendor screening program to prevent these kinds of illegal distributions and sales from occurring in the future. Under the settlement, Amazon will pay a fine of $1,215,700 and implement a supplemental environmental project to educate online pesticide vendors on FIFRA requirements.

FIFRA Settlement with Syngenta Seeds for Farmworker Safety Violations: On February 7, 2018, Region 9 reached a settlement with Syngenta Seeds that resolves misuse of a restricted use pesticide at a farm in Kauai, Hawaii. Under the settlement, Syngenta will pay a civil penalty of $150,000 and spend at least $400,000 implementing a supplemental environmental project to train growers in Hawaii, Guam, and the Northern Mariana Islands on the Worker Protection Standard requirements.

Clean Water Act Settlement with the City of Middletown, Ohio to Prevent Sewage Discharge: On February 9, 2018, EPA, DOJ, and the state of Ohio reached a settlement with Middletown, Ohio to resolve Clean Water Act violations. The settlement requires the City to promptly begin implementation of an approved Long Term Control Plan and complete wastewater treatment plant upgrades within 25 years. The City will pay a civil penalty and complete a supplemental environmental project to eliminate exposure of benthic organisms to cadmium and to minimize potential erosion and entrainment of impacted sediment downstream.

OECA Concurrence on the First Amendment to the CERCLA Interagency Agreement for the Puget Sound Naval Shipyard: On February 12, 2018, OECA AA Susan Bodine concurred on Region 10's request to sign the First Amendment to the Puget Sound Interagency Agreement. At the request of the state of Washington, the First Amendment designates EPA as a "joint lead" oversight agency with the state of Washington for Operable Unit-B.

Upcoming Major Decisions and Events:

On February 22, 2018, OECA AA Susan Bodine will join the ECOS Monthly All-Member call to discuss OECA priorities per the agency Strategic Plan, interim guidance on state/regional planning, and SRF.

Office of Environmental Information

Upcoming Major Decisions and Public Events

2018 Tribal Exchange Network Conference

- **Brief description:** The Institute for Tribal Environmental Professionals will host the 2018 Tribal Exchange Network Conference, February 27-28, in Tucson, AZ. The Exchange Network is a partnership among co-regulators from states, tribes, territories and the EPA that drives innovation and efficiency in environmental management through information technology and information management (IT/IM).
    - The conference provides tribes and those working with tribes an opportunity to meet, share and learn about initiatives and technical topics related to the Exchange Network.
    - The agenda is heavily focused on peer-to-peer learning opportunities and interactive discussions to improve communication, cooperation and partnership.
    - Steve Fine, Deputy Chief Information Officer, will give opening remarks.
- **Who benefits or cares:** States, Tribes, Territories, Citizens, EPA and the Environment.
- **Why this is important:** The Exchange Network supports exchange of essential information among all states, more than 100 tribes, some territories, and EPA.
- **Additional information:**
    - The meeting is sponsored and organized by the Institute for Tribal Environmental Professionals (ITEP) through a cooperative agreement with EPA.
    - ITEP anticipates around 100 attendees.

Office of General Counsel

Hot Topics:

- *Sierra Club v. EPA,* No. 18-1040 (D.C. Cir.). New development: On Feb. 9, 2018, plaintiffs filed a petition for review of the 2018 Renewable Fuels Standards alleging that EPA failed to consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to ensure that the 2018 standards did not jeopardize any federally listed endangered or threatened species or destroy or adversely modify their designated critical habitat.

- *Pulliam v. EPA, et al.,* No. 15-01405 (D.D.C.). Plaintiff alleged that EPA OIG failed to respond to a FOIA request seeking documents related to a possible investigation of Christine Todd Whitman in 2004 (Plaintiff also sued DOD and DOJ). The Court denied Defendants' May 12, 2016, Motion for Summary Judgment and on May 26, 2017, all three Defendants filed a renewed Motion. New development: On Feb. 13, 2018, the Court granted in part and denied in part EPA's Renewed Motion for Summary Judgment (In the same order, the Court denied summary judgment for DOD and DOJ). The Court denied summary judgment on one aspect of EPA's search, holding that EPA's description of the search of OIG's Office of Congressional and Public Liaison (OCPL) did not fully explain how the search was conducted. The Court, however, also held that EPA explained in reasonable detail the scope and methods of its searches of the other OIG offices.

- *Center for Biological Diversity v. U.S. Fish & Wildlife Service,* No. 1:18-cv-342 (D.D.C.). New development: On Feb. 13, 2018 plaintiff filed a FOIA lawsuit alleging that EPA and the U.S. Fish and Wildlife Service separately failed to respond to FOIA requests by the statutory deadline. The EPA FOIA request seeks "all records mentioning, including and/or final biological evaluation of" chlorpyrifos, diazinon, carbaryl, and methomyl.

Upcoming Major Decisions and Events:

02/22 Preliminary injunction hearing in *Texas v. EPA* and *American Farm Bureau Federation v. EPA* (S.D. Tex.), requesting the 2015 Waters of the United States Rule (WOTUS) be preliminarily enjoined.

02/23 Status report due in *National Parks Conservation Association, et al. v. EPA* (D.D.C.), alleging EPA's failure to perform a non-discretionary duty to issue regional haze FIPs for 39 states for which EPA made a finding of failure to submit, and to take action on 10 regional haze SIPs.

Office of International and Tribal Affairs

Hot Issues:

G7 Environment Ministerial Preparatory Meeting: Canada convened the first preparatory session, held by remote videoconference, to prepare for this year's G7 Environment Ministers Meeting. The NSC, State Department, EPA and NOAA participated in the call which was hosted at the White House. Canada has proposed climate, sustainable finance, and circular economy, including marine debris and food waste and loss, as topics for the G7 meeting.

Meeting with Sac and Fox Nation of Oklahoma: EPA (OITA, OAR, OW, OGD, and Region 6) met with senior leadership from the Sac and Fox Nation of Oklahoma to discuss environmental concerns and issues. The issues discussed included the tribe's improved relationship with oil and gas industry, the importance of meaningful tribal consultation in matters affecting the tribe, and concerns with diminishing EPA funding.

Upcoming Major Decisions and Events:

Israel Mission – The Administrator will be traveling to Israel on February 19 to 22 to discuss bilateral cooperation on rule of law, water quality management and wastewater recycling, site remediation, and environmental technology and innovation.

Mexican Ambassador – The Administrator and the Mexican Ambassador to the U.S. will have a call on February 26 to discuss bilateral and regional cooperation with Mexico and environmental issues along the border.

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Office of Land and Emergency Management

Hot Topics:

1. **Emergency Responses to Hurricanes and Wildfires.**
2. **Coal Combustion Residuals (CCR).**
   a. **State permit programs.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)

   b. **Remand rule** Ex. 5 Deliberative Process (DP)
3. **Clean Air Act 112(r) Risk Management Program (RMP).**
4. **Ongoing major Superfund NPL sites (including East Chicago, West Lake, Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates).**
5. **CERCLA 108(b) Financial Assurance.**
   a. **Hard Rock Mining.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)

   b. **Other Three Sectors.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)
6. **CERCLA-EPCRA AFO-CAFO Rule.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)
7. **FY 2018 Discretionary Addbacks.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)
8. **Infrastructure.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)

Upcoming Major Decisions and Events:

1. **LEAN Kaizen Events.** OLEM is preparing for our first two LEAN Kaizen events (Superfund sites Ready for Anticipated Use, Brownfields Ready for Anticipated Use).
2. **Tribal Waste Response and Assistance Program (TWRAP).** OLEM will meet with the TWRAP Steering Committee on February 20 – 22 in Potomac Yard.
3. **Underground Storage Tank (UST) Meeting.** On February 27, the EPA regional UST program managers will meet in Washington, D.C.
4. **Emergency Response On-Boarding Sessions for New HQ Senior Leaders**. We are inviting new headquarters senior leaders to two sessions to orient everyone to their responsibilities in the event of a National Emergency Response Incident. The two briefings will be held in March, and new senior leaders can attend either one.

Office of Policy

Hot Topics:

Next week, Joel Scheraga, EPA Senior Advisor for Climate Adaptation, will travel to San Ramon, CA to meet with Chevron Corporation. Joel will discuss ways in which EPA can help states, communities and businesses cope with the costly impacts of extreme weather events. He was invited by Chevron's Climate Working Team following the release of a Chevron report in March 2017 entitled "Managing Climate Change Risks". Chevron is interested in benefitting from EPA's expertise in helping partners build and strengthen resilience and in learning more about the agency's Climate Adaptation Resource Center (ARC-X) https://www.epa.gov/arc-x.

OP

Number of Actions to OFR this Year:

- Signed by Regions:
  - Notices: 7
  - Proposed Rules: 26
  - Direct Final Rules: 2
  - Withdrawal of Proposed Rule: 1
  - Withdrawal of Direct Final: 3
  - Final Rules: 23
- Signed by HQ:
  - Notices: 41
  - Proposed Rules: 5
  - Final Rules: 20

Number of Actions to OFR this Week (Feb 9 – Feb 15):

- Signed by Regions:
  - Notices: 0
  - Proposed Rules: 5
  - Direct Final Rules: 0
  - Withdrawal of Proposed Rule: 0
  - Withdrawal of Direct Final: 0
  - Final Rules: 6
- Signed by HQ:
  - Notices: 5
  - Proposed Rules: 0
  - Final Rules: 2

Documents Submitted to OFR from February 8 -13, 2018

FRL	Title	Date Submitted to OFR
9973-41-OW	Clean Water Act Coverage of "Discharges of Pollutants" via a Direct Hydrologic Connection to Surface Water	2/13/2018

9974-43-Region 1	National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Hatheway & Patterson Superfund Site	2/13/2018
9973-19-Region 1	Air Plan Approval; New Hampshire; Rules for Open Burning and Incinerators	2/13/2018
9974-49-OLEM	Oklahoma: Approval of Coal Combustion Residuals State Permit Program; Extension of Comment Period	2/13/2018
9973-03-OCSPP	Poendimethalin; Pesticide Tolerances	2/13/2018
9973-18-Region 1	Air Plan Approval; Connecticut; Nonattainment New Source Review Permit Requirements for the 2008 8-Hour Ozone Standard	2/13/2018
9974-58-Region 9	Air Plan Approval; Douglas, Arizona; Second 10-Year Sulfur Dioxide Maintenance Plan	2/13/2018
9974-59-Region 10	Approval and Promulgation of State Implementation Plans; Alaska; Regional Haze Progress Report	2/13/2018
9974-48-OAR	Allocations of Cross-State Air Pollution Rule Allowances from New Unit Set-Asides for 2017 Control Periods	2/12/2018
9974-47-Region 2	Approval and Revision of Air Quality Implementation Plans; State of New York; Regional Haze State and Federal Implementation Plans	2/12/2018
9974-55-OAR	Response to June 1, 2016, Clean Air Act Section 126(b) Petition from Connecticut	2/12/2018
9974-53-ORD	Availability of the Integrated Risk Information System (IRIS) Assessment Plan for Uranium; Correction	2/12/2018
9974-45-Region 4	Air Plan Approval; KY: Removal of Reliance on Reformulated Gasoline in the Kentucky Portion of the Cincinnati-Hamilton Area	2/9/2018
9974-46-Region 4	Air Plan Approval; SC; VOC Definition	2/9/2018
9974-31-OCSPP	User Fees for the Administration of the Toxic Substances Control Act	2/8/2018
9974-29-OARM	Proposed Information Collection Request; Comment Request; Background Checks for Contractor Employees (Renewal)	2/8/2018
9974-23-OECA	Proposed Information Collection Request; Comment Request; Recordkeeping Requirements for Producers, Registrants and Applicants of Pesticides and Pesticide Devices under Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); EPA ICR Number 0143.13, OMB Control Number 2070-0028	2/8/2018
9973-23-Region 6	Approval and Promulgation of Air Quality Implementation Plans; Arkansas; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards	2/8/2018

9973-42-Region 6	Approval and Promulgation of Implementation Plans; Texas; Interstate Transport Requirements for the 1997 and 2006 PM2.5 NAAQS	2/8/2018
9973-43-Region 6	Approval and Promulgation of Implementation Plans; Texas; Withdrawal of Proposed Disapproval of Interstate Transport State Implementation Plan Revision for the 2006 24-hour PM2.5 NAAQS	2/8/2018
9973-35-Region 6	Approval and Promulgation of Implementation Plans; Texas; Revisions to Permitting and Public Participation for Air Quality Permit Applications	2/8/2018

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Office of Research and Development

ORD convened a meeting of its senior leaders this week. We discussed a wide variety of topics including how to create a more sustainable organization that is solution-oriented and client-centric. Among the specifics deliberated were next steps to creating a lean management system in ORD and refreshing our Strategic Research Action Plans. Next week we're convening a ORD-wide Town Hall where we will recognize Agency Honor Award recipients in ORD, discuss the President's budget and EPA's new Strategic Plan.

Hot issues:

ORD, EPA Regions 2 and 8, and DOD Collaborate on Remediating PFAS-Contaminated Soils
ORD recently met with staff from Region 8 and the research arm of the U.S. Air Force to discuss a newly initiated Regional Applied Research Effort (RARE) project that aims to identify a remediation approach capable of immobilizing PFAS in soil. PFAS-contaminated soils are thought to act as long-term sources of contamination to groundwater and surface water, and technologies for PFAS remediation in soil are in their infancy. The RARE project, began as a project for Region 2 but has expanded to include Region 8, which has interest because of PFAS-contaminated soils at Ellsworth Air Force Base in South Dakota. ORD researches biochar, a specialized form of charcoal that is used as a soil amendment (material added to soil to change its physical and chemical properties) in remediation of metal-contaminated soils, which is one of several sorbents to be evaluated in this RARE study of materials that are highly effective at absorbing and immobilizing PFASs.

Upcoming Major Decisions and events:

SBIR Phase II Awards
ORD is coordinating an announcement on the recent 2017 SBIR Phase II contracts awarded to six small businesses. These contracts help companies to focus on technology commercialization in the areas of wastewater treatment, homeland security, and cookstoves. Recipients are receiving up to $300,000 to fund 2-year projects as they work to bring their environmental technologies to the marketplace.

Washington State Invites ORD to Help Determine Effectiveness of Agricultural Management Practices
ORD is participating at the request of the Washington Department of Ecology in its Clean Water Guidance for Agriculture Advisory Group. ORD's scientific expertise with nutrient cycling in agricultural watersheds will contribute to a guidance document recommending agricultural best management practices that those in the farming community can implement to help achieve state water quality standards. This type of ORD technical support helps EPA better support states in managing the impacts of different practices on nutrients, while enabling EPA to learn about the gaps in scientific information and research needed to understand the effectiveness of nutrient best management practices in the region.

Phoenix Air Sensor Monitoring Project
On February 27, Richard Yamada and staff from ORD, Region 9, and OAR-OAQPS will travel to Phoenix to meet with representatives from AZ DEQ, Maricopa County, Arizona State University, local stakeholders and potential funders to scope out an air sensors project in Phoenix. The project aims to advance understanding on the quality of data from sensor technologies and how they can be used to address air quality priorities.

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Office of Water

Hot Issues:

Waters of the U.S.: Next week, the agencies will host two webinars, one for states and one for tribes. These webinars will provide an important opportunity to set the stage for the upcoming in-person meetings scheduled for early March.

Steam Electric FOIA II Litigation: Next week, OW and OGC will initiate senior leadership review of an interim release for the Waterkeeper Alliance II FOIA litigation regarding EPA's reconsideration of the Steam Electric Effluent Limit Guideline (ELG) Rule. In December 2017, the district court granted EPA's proposed schedule and entered an order requiring the Agency to make three interim document productions on February 28, March 31, and April 30, and a final production on May 31.

Hydrologic Connection Request for Comment: This week, the agency sent to the Federal Register a notice requesting comment on the Agency's previous statements interpreting the CWA that discharges of pollutants from point sources to jurisdictional surface waters that occur via groundwater or other subsurface flow that has a direct hydrologic connection to the surface water are subject to CWA regulation. We are requesting comments on whether the Agency should consider clarification or revision of this interpretation and if so, comments on how clarification or revision should be provided. The comment period will remain open for 90 days after it is posted in the Federal Register.

Upcoming Major Decisions and Events:

Conservation Technology Information Center Meeting: Next week, Benita and I will be meeting with the CTIC Board of Directors to provide an update on how OW is working with the agricultural community to encourage sustainability. We will use the meeting to explore additional avenues of collaboration between CTIC and OW.

National Stormwater Roundtable: Next week, OW staff are participating in the Association of Clean Water Administrator's 2018 National Stormwater Roundtable in Atlanta, Georgia. The Stormwater Roundtable is organized by state and federal regulators for EPA and state program staff representatives. The Roundtable supports implementation of federal and state municipal, industrial, and construction stormwater programs nationwide by sharing best management practices, showcasing innovative state programs and initiatives, highlighting new technologies, facilitating discussion on national program enhancements and improvements, identifying state resource needs including tools, training and guidance, and proposing solutions to challenges and barriers faced by the regulators and other stakeholders.

EFAB Spring Meeting: Next week, the Spring Environmental Financial Advisory Board (EFAB) meeting will be held in DC. EFAB is an EPA advisory committee chartered under the FACA to provide advice and recommendations to EPA on creative approaches to funding environmental programs, projects, and activities. The purpose of this meeting is to hear from informed speakers on environmental finance issues, proposed legislation, and EPA priorities; to discuss activities, progress, and preliminary recommendations with regard to current EFAB work projects; and to consider request for assistance from EPA program offices. Andrew Sawyers, Director of the Office of Wastewater Management, will serve as the temporary Designated Federal Officer during the meeting. Speakers include David Bloom and Alex Herrgott (CEQ). The meeting is open to the press.

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Message

From: Ford, Hayley [ford.hayley@epa.gov]
Sent: 12/15/2017 10:29:18 PM
To: Abboud, Michael [abboud.michael@epa.gov]; Baptist, Erik [Baptist.Erik@epa.gov]; Beck, Nancy [Beck.Nancy@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Block, Molly [block.molly@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Bolen, Derrick [bolen.derrick@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Burke, Marcella [burke.marcella@epa.gov]; Chmielewski, Kevin [chmielewski.kevin@epa.gov]; Cory, Preston (Katherine) [Cory.Preston@epa.gov]; Daniell, Kelsi [daniell.kelsi@epa.gov]; Darwin, Henry [darwin.henry@epa.gov]; Darwin, Veronica [darwin.veronica@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]; Dourson, Michael [dourson.michael@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; Falvo, Nicholas [falvo.nicholas@epa.gov]; Feeley, Drew (Robert) [Feeley.Drew@epa.gov]; Ferguson, Lincoln [ferguson.lincoln@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Forsgren, Lee [Forsgren.Lee@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Gordon, Stephen [gordon.stephen@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Hanson, Paige (Catherine) [hanson.catherine@epa.gov]; Harlow, David [harlow.david@epa.gov]; Hewitt, James [hewitt.james@epa.gov]; Hupp, Millan [hupp.millan@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Kelly, Albert [kelly.albert@epa.gov]; Konkus, John [konkus.john@epa.gov]; Kundinger, Kelly [kundinger.kelly@epa.gov]; Letendre, Daisy [letendre.daisy@epa.gov]; Lovell, Will (William) [lovell.william@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; McMurray, Forrest [mcmurray.forrest@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Ringel, Aaron [ringel.aaron@epa.gov]; Rodrick, Christian [rodrick.christian@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]; Shimmin, Kaitlyn [shimmin.kaitlyn@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Wagner, Kenneth [wagner.kenneth@epa.gov]; Wehrum, Bill [Wehrum.Bill@epa.gov]; White, Elizabeth [white.elizabeth@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Woods, Clinton [woods.clinton@epa.gov]; Yamada, Richard (Yujiro) [yamada.richard@epa.gov]
CC: Woodward, Cheryl [Woodward.Cheryl@epa.gov]; Willis, Sharnett [Willis.Sharnett@epa.gov]; Dickerson, Aaron [dickerson.aaron@epa.gov]
Subject: Draft LxL / Weekly Report
Attachments: Weekly Report 12-15-2017.docx; December 16, 2017 - January 10, 2018- Draft Line X Line.pdf

See attached for draft LxL and weekly report. I don't believe we will have 8AM meetings next week, but will update you Sunday.

Thanks and have a nice weekend!

Hayley Ford
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Region 1

Hot Issues

City of Portsmouth, NH requests ORD/Region 1 conduct additional testing for PFAS compounds

- Perfluorinated compounds (PFAS, including PFOA and PFOS) were identified in drinking water in 2014 at the Pease International Tradeport, where over 9,000 people currently work and two daycare centers operate. State blood serum tests of over 1,700 adults/children show levels of certain PFAS higher than those of the general U.S. population. EPA issued an Administrative Order under the Safe Drinking Water Act, and Air Force is currently constructing groundwater treatment systems.
- The City of Portsmouth took one public supply well offline and is currently treating two other supply wells with PFOA/PFOS below EPA's lifetime health advisory of 70 ppt.
- A citizens group wants more information on additional unregulated PFAS compounds, including in tap water.
- Region 1 will be working with ORD on this topic next week.

Upcoming Public Events

None.

Upcoming Major Decisions

Port and Community Engagement at the Port of Providence

- On Dec 15th Region 1 will meet with representatives from the Port of Providence and the University of Rhode Island's Department of Marine Affairs to discuss opportunities for collaboration and engagement between port businesses and near-port community stakeholders.
- The meetings are part of a technical assistance project between EPA and the Environmental Justice League of Rhode Island in an effort to address air quality and other environmental concerns around the Port of Providence.

Highlights from last week

Quarterly Meeting of New England States/EPA Environmental Enforcement and Compliance Committee

- On December 6th, Region 1 hosted a meeting of EPA and state enforcement and compliance assistance personnel at the Region's laboratory facility in Chelmsford, MA.
- Topics discussed included best practices related to early notification of violations to facilities, applicability of EPCRA and CAA 112r to storage of hazardous chemicals in rail cars, and a state presentation on criminal enforcement.
- The committee will meet quarterly to discuss, plan and coordinate enforcement and compliance assistance activities.

UST Six State Meeting

- On December 8th, Region 1 met with our UST/LUST/State Fund state partners at NEIWPCC.

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- The agenda included state updates, VT and ME case studies, status of state regulation updates, planning for the Regional review by OUST, and status of State Fund Soundness reviews.

Southeast New England Program (SNEP) Steering Committee Meeting

- On Dec 13th, Region 1 hosted a SNEP Steering Committee meeting at our regional office.
- The meeting focused on EPA and partner updates and on finalizing the program framework, and introduced Restore America's Estuaries (RAE) as EPA's grantee responsible for issuing and managing the SNEP sub award program.

Regional Tribal Operations Committee

- On Dec 13th, a Regional Tribal Operations Committee call was held with the New England tribes.
- Key topics included a discussion of a University of Maine coastal acidification monitoring project and rulemaking efforts on the definition of Waters of the United States.

Cyanobacteria-Monitoring and Treating Drinking Water

- On Dec 14th, Region 1 hosted "Cyanobacteria-Monitoring and Treating Drinking Water: A Workshop for Water Suppliers" at the UMass Medical Center, Worcester.
- Featured speakers include from Region 1, ORD-Narragansett, and EPA-Office of Water.
- Topics included recognition, monitoring and treatment needed to address cyanobacteria and cyanotoxin threats to water supplies in New England.

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Region 2

Hot Issues:

Emergency Response in Puerto Rico and the U.S. Virgin Islands: Despite continued challenges presented by the pervasive lack of electrical power, Region 2 continues to advance its mission assignments. Regional staff are working closely with FEMA and the U.S. Army Corps of Engineers to extend their engagement in Puerto Rico to assist community drinking water systems that are not operated by the main utility (referred to as "non-PRASA" systems), as well as directing attention to stormwater systems. In addition, EPA has provided leadership in working through sensitivities with vegetative debris management, particularly in the USVI, where the question of whether or not the Corps should do air curtain incineration to reduce the volume of debris has become a matter of considerable public controversy. EPA remains on standby to provide air monitoring in the event that PR and USVI authorize the Corps to carry out the air curtain incineration.

Response to Congressional Inquiries re Hurricane Response: Region 2 is providing answers to OCIR to address Questions for the Record submitted to EPA as a follow-up to Regional Administrator Lopez's testimony before the House Energy and Commerce Committee on November 14.

Rensselaer County, NY Legislature Enacts Legislation Limiting Surface Water Discharge of 1,4 Dioxane at Dewey Loeffel Superfund Site: On December 12, 2017, the Rensselaer County, NY Legislature passed a county law limiting the discharge of 1,4-dioxane from Superfund site properties that are owned by the County to a maximum level 0.35 parts per billion (ppb). This law is intended to apply to the ongoing discharge of 1,4-dioxane from the treatment plant at the Dewey Loeffel Landfill Superfund site, a former hazardous waste disposal site in Rensselaer County. The most recent 1,4-dioxane level in the treated effluent discharged from the site to an adjacent stream was 0.36 ppb. EPA had recently expressed and discussed concerns with this new law, based on technical practicability and legal grounds, with the county legislators, but the legislature disagreed with EPA's views. Further updates will be provided on this issue.

Plans for Final 2010 SO_2 Area Designations in New York and Puerto Rico: In keeping with the Agency's plan for meeting the December 31, 2017 consent decree deadline for designating attainment and non-attainment areas for the 2010 SO_2 ambient air quality standard, Region 2 is planning to move forward (in the absence of an extension agreement from the Sierra Club) with the following area designations in New York State and Puerto Rico:

- Monroe County, NY will be designated "Unclassifiable", with the expectation that this designation will be subsequently withdrawn when the RED facility's conversion from coal to natural gas is complete, and the area will then be designated "attainment/ unclassifiable."
- San Juan and Guayama- Salinas Areas in Puerto Rico will be designated "Nonattainment."

Potential Restart of Refinery on St. Croix, U.S. Virgin Islands: On December 13, 2017, Region 2 participated in a meeting between Bill Wehrum (Assistant Administrator for the Office of Air and Radiation) and other HQ staff and Limetree Bay Terminals (LBT). LBT is seeking to restart a portion of the former Hovensa refinery on St. Croix, construct an offshore single-point mooring buoy to accommodate increased ship traffic, produce renewable biodiesel fuel, and expand the existing oil terminal facility at the facility. Depending on which units LBT would use, and other details, one or more of the projects might trigger Clean Air Act permitting requirements. LBT is seeking certain expedited decisions by EPA that would enable the company to begin these projects quickly. Region 2 is working to promote a dialogue that offers a clear view of EPA and local permitting requirements and public process. Our collective goal is to seek a balance of environmental considerations with the opportunity for growing jobs on the island.

Investors Challenge Constitutionality of Puerto Rico Oversight Legislation: On December 6, 2017, the Department of Justice (DOJ) filed a brief in federal district court in Puerto Rico, defending the constitutionality of the Puerto Rico Oversight, Management, and Economic Stability Act of 2016 (PROMESA), 48 U.S.C. §§ 2101–2241. A group of hedge funds holding outstanding bonds issued by the Commonwealth, along with a labor union of PREPA employees, contend that PROMESA's statutory scheme governing the appointment of members of the Financial Oversight and Management Board (the creation of which was authorized by PROMESA) violates the Appointments Clause of the U.S. Constitution and encroaches on the President's executive authority in violation of the separation of powers. Accordingly, they are asking that the court dismiss the debt restructuring proceeding initiated by the Oversight Board on behalf of the Commonwealth of Puerto Rico. In its response brief, DOJ argues that the scheme for appointment of Oversight Board members under PROMESA is not subject to the Appointments Clause because the Oversight Board is a component of the territorial government (not the U.S. government), and DOJ asserts that the appointments scheme does not violate separation of powers principles.

DRBC Hydraulic Fracturing Draft Regulations: CWD participated in a call with HQ to determine a process for developing EPA comments on the draft Hydraulic Fracturing Regulations published by the Delaware River Basin Commission (DRBC). We agreed that EPA's review of the regulations would focus on the following:

- Identifying clear contradictions with federal statutes or regulations
- Identifying aspects of the proposed rules and other materials that create ambiguities/uncertainties with federal statutes or regulations
- Identifying factually incorrect or unsupported statements

We agreed to conduct a preliminary review of DRBC's proposed rules and other materials, focusing on how we can create efficiencies in our review process and avoid redundant technical and legal reviews among regions and program offices. After our next call, scheduled for December 18, the group will identify program office leads for particular topics and begin an in-depth review of the materials.

Past Week Events:

Camden, NJ: On December 12, the Camden County Municipal Utilities Authority held a grand opening ceremony for Phase 2 of Phoenix Park, which provides access to the water to the community of the Waterfront South neighborhood of Camden for the first time in decades. The six-acre park, built on the lot of an abandoned factory was funded using county open space grants and utilizing the New Jersey Environmental Infrastructure Trust and SRF funding. Phoenix Park was featured in EPA's [HYPERLINK "https://www.youtube.com/watch?v=vzlJmHhSC3M"], and EPA Region 2 participated in the groundbreaking ceremony for the park in 2015.

Upcoming:

Lodging of Cost Recovery Consent Decree Relating to Onondaga Lake: On or about December 14, 2017, we expect the Department of Justice to lodge a consent decree in district court in the Northern District of New York, resolving EPA's cost recovery case against Honeywell International, Inc. for past costs the Agency incurred in connection with the Onondaga Lake Superfund Site in Onondaga County, NY. Under the settlement, Honeywell is obligated to reimburse EPA $7.3 million, and the United States, on behalf of the Air Force and General Services Administration, will pay Honeywell $6.25 million in settlement of its claims in contribution against the United States for Honeywell's response costs and natural resource damages.

Administrative Orders to Drinking Water Systems in New York: Region 2 is issuing nine administrative Orders to drinking water systems in Orange County and Clinton County, New York for violating monitoring

requirements of the Revised Total Coliform Rule, a Safe Drinking Water Act rule for which New York State Department of Health (NYSDOH) has not yet obtained primary enforcement authority. Region 2 worked with NYSDOH to developed a strategy to prioritize oversight and enforcement follow-up based on violations reported to the national Safe Drinking Water Information System (SDWIS).

New York and New Jersey Request Assistance with Air Quality Modeling for Perfluorinated Compounds: In the past few years, some of the northeastern states, including New Jersey, have been conducting deposition modeling using AERMOD to determine the spatial distribution of two chemicals, Perfluorooctanoic Acid (PFOA) and Polyfluoroalkyl Substances (PFAS), in ground water sources due to air dispersion. PFOA/PFAS have been found in groundwater sources where there is no direct water flow in the watershed from emission sources. Therefore, there is reason to believe that there is an air contribution as well. PFOA/PFAS air emissions are complex; for example, they can partition into existing particles in the atmosphere and get deposited based on meteorology, particles size, particle density, etc. Modeling of these chemicals is subject to significant uncertainties since the particle size distribution and density, two of the important inputs in AERMOD to model deposition, are not known. New York and New Jersey have requested assistance from EPA in trying to better determine these parameters. Region 2's Air Program is coordinating internally as well as with Region 1 and the Office of Research and Development to better understand what is known with respect to the particle properties and how we can assist this modeling effort by the states.

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Region 3

Hot Issues

Region 3 Round 3 SO_2 Designations
Pursuant to a March 2, 2015 court-ordered schedule, EPA must complete what is known as Round 3 of the SO_2 designations by December 31, 2017. At this time, the Administrator is planning to sign the notice of final designations on December 20, 2017. During Round 3 of SO_2 designations, EPA is making a determination as to whether a geographic area (usually a county) is meeting the 1-hour 2010 SO_2 National Ambient Air Quality Standard (NAAQS). Areas designated in Round 3 are generally areas where states have not installed and begun operating a new SO_2 monitoring network per EPA's SO_2 Data Requirements Rule (DRR). These areas with new monitors will be evaluated by December 31, 2020 (referred to as Round 4). All remaining areas in Region III, except for monitored areas in Pennsylvania, West Virginia (Mineral County only), Maryland, and Virginia, will be designated by December 31, 2017. EPA will not be designating any Round 3 areas in Region 3 as Nonattainment.

Office of Preparedness and Response Participates in State of the Union Planning Meeting The planning and coordination for the State of this Union National Special Security Event (NSSE) has begun. On December 11, 2017, an On-Scene Coordinator (OSC) participated in kickoff planning meeting conducted by FEMA's Office of National Capital Region Coordination (ONCRC), FEMA Region III, and the U.S. Secret Service. The State of the Union presentation by President Trump to the U.S. Congress will occur on January 30, 2018. The OSC will coordinate and meet with both the Consequence Management Subcommittee chaired by FEMA, and the Fire Life Safety and HazMat (FLASH) subcommittee chaired by the D.C. Homeland Security and Emergency Management Agency.

Region 3 Hosts Drinking Water Regulation Training in West Virginia
The Lead and Copper Rule (LCR) requires public water systems to optimize their corrosion control treatment to prevent lead and copper from leaching into the drinking water. As a follow-up to LCR Corrosion Control Training, which was conducted last May, a December 5 training, in West Virginia, focused on assisting states with designating optimal water quality parameters to ensure that the water systems they regulate provide optimized corrosion control treatment. Day two of the training focused on compliance with the Stage 2 Disinfection By-Product Rule and issues arising from simultaneous compliance with drinking water regulations. Representatives West Virginia, DC, Maryland, Pennsylvania, and Delaware participated in the training. The course instructors were comprised of Region 3 staff, HQ staff, and a contractor.

Upcoming Public Events

Regional Administrator to Participate in Chesapeake Bay Program Principals' Staff Committee meeting
EPA Mid-Atlantic Regional Administrator Cosmo Servidio will represent EPA and the other federal partners as a member of the Principals' Staff Committee meeting December 19-20, 2017 in Cambridge, Md. CBP Director Nick DiPasquale and Deputy Director Jim Edward and other EPA staff will also participate in the meeting. The purpose of the meeting will be to focus on helping PSC members build an understanding and answering questions on key Midpoint Assessment and Phase III WIP issues, as well as seek collective decisions on foundational Midpoint Assessment issues including:

1) Adoption of the Phase 6 suite of modeling tools for finalizing the draft Phase III planning targets and for management application in the Phase III WIPs and two-year milestones through 2025
2) Approval of the proposed Bay's assimilative capacity

3) Approval of the process for the 4-month Partnership review of the draft Phase III WIP planning targets, including how special cases are addressed
4) Approval to base Phase III WIP development on 2025 current zoning conditions
5) Approval of the draft Phase III WIP planning targets as a starting point of the 4-month Partnership review period
6) Develop a Partnership implementation plan to address Conowingo infill by 2025
7) Adopt a dual approach to factor climate change into the Phase III WIPs

RA Servidio to Meet with Congressman Fitzpatrick
RA Servidio is meeting with his local Congressman, Mike Fitzpatrick, in his district office as an introductory meeting.

Past Events

RA Servidio Met with Philadelphia Chamber of Commerce
RA Servidio met with members of the Philadelphia Chamber of Commerce on Tuesday, December 12, 2017. Approximately 50 members attended and heard about the current priorities of the Agency, including cooperative federalism. The Clean Power Plan and Renewable Fuel Standard were also topics of discussion. This meeting was closed to the press.

RA Servidio Met with Members of Congress and Senate
On Wednesday, December 13, 2017 RA Servidio travelled to Washington D.C. and met with Congressman Don Beyer (VA), Congressman Andy Harris (MD), Senator Ben Cardin (MD), and Senator Tom Carper (DE). The RA also had an introductory meeting with Director Tommy Wells of the DC Department of the Energy and Environment.

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Region 4

Hot Issues

B.F. Goodrich (Calvert City, Kentucky)
Key Message: On Tuesday, December 12, 2017, Region 4 and staff from Headquarters met with representatives from the three Potentially Responsible Parties (PRPs), Westlake Vinyl, PolyOne, and Goodrich Corporation, to listen to comments on the proposed plan. Following the meeting, the Region anticipates the PRPs will formally submit comments during the public comment period.

Highlights from Last Week

Florida's 303(d) List
Key Message: Region 4 plans to partially approve/partially disapprove the state of Florida's 303(d) list with 51 deferred listings and 20 over listings. The state does not object to this proposed action.

Upcoming Travel for the RA

None

Region 5

HOT ISSUES:

Continued Focus on Wolverine World Wide Tannery Site in Rockford, Michigan

Key Message: On December 13, 2017, Acting Regional Administrator Robert Kaplan and Water Division Director Chris Korleski held a productive meeting with concerned citizens in Rockford, Michigan.

EPA representatives met with four residents and discussed historical aspects of the facility, health concerns, progress to date, and a path forward. Residents were appreciative of the visit and opportunity to meet with Region 5 senior management. A tour of the site followed the meeting.

On December 5, 2017, Administrator Pruitt received a letter signed by 14 of Michigan's congressional delegation urging EPA's continued engagement in assisting the state with addressing the public health concerns stemming from PFOA/PFOS exposures. PFOA/PFOS have been detected in a growing number of sites across the state. Region 5 as given the lead to respond and, given the national focus on these compounds, is coordinating with headquarters on language.

On December 13, 2017, Michigan Department of Environmental Quality Commissioner Grether sent a letter to Acting RA Kaplan regarding EPA's involvement in responding to the ongoing PFAS contamination across the state. Specifically, MDEQ is appreciative of region's support so far and highlighted 11 areas that the state believes EPA's involvement would be appropriate moving forward.

High Lead Levels Found at the Federated Metals Site in Hammond and Whiting, Indiana

Key Message: Preliminary results received on December 7, 2017, indicate that 25 of the 27 properties sampled exceed the Removal Management Level (RML) for lead of 400 ppm for residential surface soils.

On December 8, 2017 residents and owners with lead concentrations above the RML were contacted by phone with their preliminary results. Residents with children under the age of six were prioritized during outreach and methods to reduce exposure was discussed. Letters notifying the residents of concentrations on their property will be sent out as soon as validated data is received.

In November 2017 EPA sampled 27 occupied residential properties near the former Federated Metals Landfill Site in Hammond and Whiting, Indiana. The homes sampled were within an initial area of concern that had previously been defined by sampling publically owned properties and right-of-ways in the vicinity of the former site. Forensic analysis additionally correlated off-site lead contamination to a Resource Conservation and Recovery Act regulated-landfill that exists at the former Federated Metals site, previously owned by ASARCO, the bankrupt Potentially Responsible Party. The highest concentration of lead found during the November sampling was 2,760 ppm.

Hammond and Whiting officials have been notified of EPA's findings. EPA will work with the Agency for Toxic Substances and Disease Registry (ATSDR) and the state of Indiana in evaluating the lead data, determining the need for a health consultation with residents, and communicating results to the residents and answering health questions. ATSDR is currently evaluating blood lead data for the area. EPA will continue to work with officials from Hammond and Whiting as the site progresses.

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Wisconsin 2015 Ozone Designation

Ex. 5 Deliberative Process (DP)

UPCOMING EVENTS:

NONE

UPCOMING MAJOR DECISIONS:

NONE

PAST WEEK ACCOMPLISHMENTS/HIGHLIGHTS:

Two Unilateral Administrative Orders Issued for the USS Lead Site in East Chicago, Indiana
Key Message: On December 14, 2017, EPA issued two unilateral administrative orders (UAOs) to several potentially responsible parties (PRPs) to conduct cleanup work in residential areas of the USS Lead site in East Chicago, Indiana.

Through the UAOs, the PRPs were ordered to conduct soil cleanups in Zone 2 of the site and to conduct indoor dust sampling and, if needed, indoor cleanings in remediated properties in Zones 2 and 3.

The 2014 Consent Decree did not address soil cleanups in Zone 2, indoor dust sampling in Zones 2 and 3 nor the potentially necessary indoor cleanups. EPA and the PRPs agreed in the 2017 Administrative Settlement Agreement on Consent (ASAOC) for the PRPs to provide funding to EPA to conduct soil cleanup work at priority properties in Zone 2, and the indoor dust sampling and cleanups in Zones 2 and 3. EPA has addressed 126 properties in Zone 2, and an estimated 320-350 properties remain. The ASAOC expires in early 2018, therefore, EPA issued the UAOs for the PRPs to complete the remaining Zone 2 soil cleanups, and conduct associated indoor dust sampling and needed indoor cleanups at Zones 2 and 3 remediated properties.

Region 6

UPCOMING HOT ISSUES AND IMPORTANT DEADLINES

December 14, 2017

Vertac Superfund Site, Jacksonville Arkansas

EPA met with managers and staff of the Arkansas Department of Environmental Quality regarding reaching agreement on an environmental sampling protocol for this former herbicide manufacturing plant. Hercules, one of the responsible parties for the site, alarmed the Mayor of Jacksonville by portraying a draft EPA and ADEQ dioxin sampling plan as unscientific, unneeded, and a frightening threat to the community. EPA and ADEQ agreed to align State and EPA technical plans in a face to face meeting on December 18 and then to reach joint agreement the Mayor. Following that, EPA, the State, and the Mayor will respond to the responsible party.

Bird Creek, Osage County, Oklahoma

EPA continues to work on the response to comments from the public comment period and the hearing held on October 11, 2017 related to Proposed Administrative Orders (SDWA) sent to Warren American Oil Company, Jireh Resources LLC, and Novy Oil and Gas, Inc., so that final Orders may completed by early January 2018. EPA successfully collected additional monthly in-stream monitoring data the week of December 4th. Warren American and Jireh Resources attempted to pump out a hotspot at monitoring station 6. Both EPA and the two operators collected samples during the pump out. This appeared to be unsuccessful in demonstrating that the stream contamination was a "one time event", but no specific analytical information is available at this time.

Espanola's Wastewater Treatment Plant Espanola, New Mexico

The week of December 18, 2017, representatives from EPA Region 6's Municipal & Industrial Section of the Water Enforcement Branch are conducting an inspection at the City of Espanola's Wastewater Treatment Plant. The inspection's focus is to evaluate the wastewater utility's capacity, management, operations, and maintenance to compliance with the City's NPDES permit. The City of Espanola has had issues with deficient reporting. It should be noted the facility is non-tribal, but their outfalls discharge on tribal lands. Personnel from the Pueblo of Santa Clara Environmental Affairs Department, and New Mexico Environment Department were contacted regarding this upcoming inspection.

Bandera Road Groundwater Plume, Leon Valley, Texas

On December 19, 2017, EPA plans to conduct a site inspection and interagency update meeting as part of regular site activity. The interagency update meeting is scheduled for 2 pm at the Edwards Aquifer Authority office in San Antonio and will include representatives from the Texas Commission on Environmental Quality and other local agencies. EPA plans to have a follow-up community meeting with the Bandera Road Groundwater Plume Community Advisory Group in February, 2018.

Barta Enterprises Company, State No. 3-16 Lease Tank Battery Site, Pawnee County, Oklahoma

December 20, 2017, an EPA Inspector is scheduled to conduct a Spill Prevention Control and Countermeasure inspection at the Barta Enterprises Company, State No. 3-16 Lease Tank Battery

production facility, located in Pawnee County, Oklahoma. The Inspection was scheduled due to citizen complaints and/or alleged unreported spills.

San Mateo Creek Basin Site, McKinley and Cibola Counties, New Mexico
At the request of Acoma Pueblo, Superfund intends to meet with Acoma Pueblo council to provide government-to-government consultation regarding the proposal for the San Mateo Creek Basin Legacy Site to the National Priority List on December 21, 2017. The purpose of the consultation is to provide information to the Pueblo's leadership about the listing, to solicit input, and also to request a letter of support for the site's NPL proposal.

Atchley Resources, Inc., Bolon No 1 -34 Facility, Cleveland County, Oklahoma
EPA intends to issue an Expedited Settlement Agreement to Atchley Resources, Inc., for violations of 40 CFR part 112, for failing to provide management approval for their Spill Prevention Control and Countermeasure plan, failure to maintain training records and inadequate secondary containment. The violations were documented during an inspection of their Bolon No. 1-34 Facility in Cleveland County, Oklahoma, on November 14, 2017. The proposed penalty is $1,200.

Extreme Metals, Emory, Texas
EPA will complete removal activities at this former metal plating facility. The site waste, previously bulked in November 2017, will be transported off-site and securely disposed.

NEPA

Midcontinent Supply Header Interstate Pipeline Project, Bennington, Oklahoma
The Federal Energy Regulatory Commission (FERC) prepared an Administrative Draft Environmental Impact Statement (ADEIS) for the Midcontinent Supply Header Interstate Pipeline (MIDSHIP) Project. The proposed project will construct and operate new and existing pipeline infrastructures in Oklahoma, Texas, and Louisiana. The FERC will use the ADEIS in its decision-making process to determine whether to issue a certificate of public convenience and necessity for the MIDSHIP Project. Region 6 will support the FERC by meeting our basic statutory requirements for participating in the environmental review process.

UPCOMING PUBLIC EVENTS

[HYPERLINK "x-apple-data-detectors://18"]20 – Arkansas Department of Environmental Quality discussion on Oil & Gas Compliance and Enforcement Efforts, Little Rock, Arkansas

January 9 – Louisiana Department of Environmental Quality discussion on Oil & Gas Compliance and Enforcement Efforts, Baton Rouge, Louisiana

January 10 – Meeting with State Agricultural Directors for Region 6 States, Dallas, Texas

January 17 – Texas Commission on Environmental Quality discussion on Oil & Gas Compliance and Enforcement Efforts, Austin, Texas

January 18 – Senate Environment and Public Works Hearing regarding EPA Hurricane Response, Washington, D.C.

January 23 – National Oil and Gas Roundtable, Denver, Colorado

January 24 – National Air Quality Conference, Austin, Texas (tentative)

April 11 – Regional Tribal Operations Committee Meeting, Dallas, Texas

UPCOMING DECISIONS

Arkansas Memorandum of Understanding (12/15 court filing deadline)
EPA plans to enter into a Memorandum of Understanding ("MOU") to outline a mutually agreed timeline with Arkansas for submittal and review of Arkansas Regional Haze SIP revisions. A status report is due to the court on December 15, 2017 whereby EPA intends to ask for a continuance of the abeyance while EPA receives and processes Arkansas' SIP revisions. The plan is for the Status Report to include EPA's signed MOU with Arkansas. In addition, ADEQ will request from the court a judicial stay for the SO_2 requirements for portion of the FIP that remains in place. Consistent with the MOU, EPA will not oppose Arkansas' judicial stay request.

Louisiana Regional Haze (12/15 consent decree deadline)
EPA intends to take final action on all outstanding requirements for the Louisiana Regional Haze Program which was under Consent Decree deadline of [HYPERLINK "x-apple-data-detectors://27"]. EPA intends to finalize our Nelson proposal as part of the final consolidated RH action approving revisions to the Louisiana SIP submitted by LDEQ. We are also finalizing our proposed determination that Louisiana's participation in the Cross-State Air Pollution Rule's trading program for ozone season NOx qualified as an alternative to BART.

TCEQ Exceptional Events Demonstration, El Paso, Texas
EPA will concur on the document for the El Paso Exceptional Event demonstration presented by the Texas Commission on Environmental Quality (TCEQ). TCEQ has asked to except the air quality 8-hour ozone concentration value of 77 parts per billion and flag the hours of 1100-1800 local standard time (LST) on June 21, 2015, at the University of Texas at El Paso (UTEP) monitor. TCEQ submitted the demonstration package on September 27, 2016, after completing a 30-day public review period. Additional information was submitted for review on January 19, 2017, January 20, 2017, and May 20, 2017. After careful consideration of the information provided, the EPA concurs, based on the weight of evidence, that the TCEQ has made such demonstration.

PAST WEEK ACCOMPLISHMENTS

Dallas Fort Worth VOC Rules and VOC Reasonably Achievable Control Technology
EPA approved changes to the Texas State Implementation Plan making state rules affecting sources in the ten county DFW area federally enforceable and which satisfies the state's obligation under the Clean Air Act to meet VOC RACT for the DFW area.

VOC Definitions for Arkansas Air Quality Rules
EPA approved revisions that will incorporate EPA's latest definition of VOC in the Arkansas State Implementation Plan on the basis that these compounds make a negligible contribution to tropospheric ozone formation.

Title V Permit for Monarch Waste Technologies, Nambe, New Mexico
EPA requested a complete Part 71 permit application by [HYPERLINK "x-apple-data-detectors://25"] in order to permit operation of the Pyromed 550 system incinerator on Pueblo of Nambe tribal lands. An operating permit is required pursuant to the New Source Performance Standards for Hospital/Medical/Infectious Waste Incineration (HMIWI) regulations. EPA's federal operating permit rules require operating permits to be submitted within 12 months after the source becomes subject to the permit program, or on or before such earlier dates as the permitting authority may require. EPA may request permit applications earlier than 12 months provided the source is notified of an earlier submittal date at least 6 months in advance of that date. Because of expected interest in this operation, we are requesting the Title V permit application by [HYPERLINK "x-apple-data-detectors://26"].
-

New Mexico SIP Submittals for Infrastructure and Interstate Transport for the 2012 Fine PM NAAQs
EPA approved the NM SIP demonstrating that CAA infrastructure and interstate transport requirements have been met for the 2012 $PM_{2.5}$ NAAQS.

PENDING ACTIONS (Pending Federal Register Publication)

Oklahoma: Final Approval of State Underground Storage Tank Program Revision
FRL 9968-28-Region 6 and 99

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Region 7

Hot Issues

West Lake Landfill Update (Bridgeton, MO)

Key Message: Region 7 continues working with the State, USACE and PRPs.

- Review of the final draft of the Remedial Investigation Addendum submitted last week by the PRPs continued on into this week. This week, a conference call was held with the State and USACE to discuss their comments on the final draft of the Remedial Investigation Addendum.
- On Monday, a call was held with the PRPs to establish the schedule for submission of the final draft of the Final Feasibility Study. Major components of the Final Feasibility Study will start to arrive next week, including schedule and cost information for the risk based industrial use partial excavation alternative and the full excavation of RIM with on-site disposal in an engineered cell alternative, culminating in a final submission January 10.
- The date for the NRRB consultation is tentatively scheduled for January 9.

Exploring Redevelopment Opportunity-Anschutz Mine Site (Fredericktown, MO)

Key Message: Potential redevelopment opportunity at NPL site.

- Region 7 is coordinating with the Missouri Department of Natural Resources and Environmental Operations Inc (EOI) who is interested in purchasing a portion of the site for cobalt production. Cobalt is an important mineral used in the production of electric car batteries.
- The site is currently on the NPL. There is interest in deleting a portion of the site or transferring lead to the state. EPA is arranging a meeting with the state and EOI to discuss EOI's plans for the site, and to identify options for a path forward.

Project Meetings

Doe Run Company Meeting with Region 7

Key Message: On December 12, EPA Region 7 held a regularly scheduled project meeting with Doe Run to discuss multimedia projects being conducted by the Doe Run Company under Superfund, RCRA and Air authorities.

- The Superfund discussions covered Herculaneum Smelter Site repurposing; Doe Run's request for the release of funds currently held as financial assurance for two cleanup actions as a result of progress toward completion of the cleanups; actions to address flooding impacts and release of lead contaminated mine tailing from the St Joe State Park/Federal Tailings Pile Site; status of the residential cleanup actions for Big River OU1; update on the FS for the IROD for Big River OU2 which is currently with EPA Region 7 for review; and the status of the City of Viburnum residential action.

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Jasper County, MO Site Public Meeting

Key Message: On December 11, the Natural Resources Damage and Restoration Trustees (NRD) of Jasper County, MO hosted a public meeting and availability session for Superfund sites and restoration projects in the County.

- The NRD is led by the MDNR and the US Fish and Wildlife Service and approximately 19 people attended including members of the public, city managers for Joplin and Webb City (MO), Missouri Department of Health and Senior Services, Missouri Department of Conservation, and EPA.
- The focus of the meeting was on the Springfield Plateau Regional Restoration Plan and there was additional discussion on the use of the Webb City biosolid compost project for material in some of the NRD restoration projects.
- Only a few general questions were directed at EPA projects with responses explaining the general nature and extent of work being performed on the mine waste locations in Jasper and Newton Counties.

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Region 8

Hot Issues

EPA Region 8 Assisting Colorado Department of Public Health and Environment (CDPHE) on Beneficial Use Determination for Mixed Oil Field Wastes Used for Dust Suppression.
The EPA is providing technical assistance to the CDPHE Solid Waste and Materials Management Program on their beneficial use determination for the use of mixed oil field wastes as a dust suppressant in southwestern Colorado. EPA's assistance was requested by the Ute Mountain Ute Tribe, CDPHE, and the facility marketing the dust suppressant (Reams).

The Department of Justice to Move to Enter the Consent Decree on Behalf of the U.S. EPA and the Colorado Department of Public Health and Environment vs. PDC Energy, Inc.
The DOJ plans to move to enter the negotiated consent decree between DOJ, U.S. EPA and CDPHE vs. PDC Energy, Inc. the week of December 11, 2017, most likely on December 15, 2017. No comments were received in the 30-day comment period after filing the CD.

Region 8 Referred an Enforcement Action Ex. 5 Attorney Work Product (AWP)

Ex. 5 Attorney Work Product (AWP)

Region 8 will be issuing Administrative Orders to Ex. 5 Attorney Work Product (AWP)

Ex. 5 Attorney Work Product (AWP)

RA/DRA Public / Media Engagements

On December 20, Region 8 Administrator, Doug Benevento, will conduct an on-the-record interview with the Bismarck Tribune (Bismarck, ND)

Upcoming Major Decisions - None
Last Week Highlights

Crossroad Commerce Park Receives Prestigious 2017 Region 8 Phoenix Award at the National Brownfields Conference The award recognizes the innovative State of Colorado-EPA-private partnership that successfully cleaned up the proposed ASARCO Globe Superfund Site in Denver, and redeveloped it as the Crossroads Commerce Park, which provides over 350 jobs in manufacturing, warehousing, and professional services in this Environmental Justice community. The 77-acre site is located in Denver's Globeville neighborhood, a historically economically depressed part of the Denver metropolitan area.
On December 7, 2017, the China Global TV Network aired a story about food loss reduction that included an interview of Virginia Till, Region 8's Sustainable Management of Food Coordinator. The story focused on EPA

Food Recovery Challenge member FoodMaven (which collects surplus food and sells to food service industries at below-market cost) and the general topic of food waste. The final story included food waste statistics and a screen shot of the EPA SMF Website. View here: [HYPERLINK "https://www.youtube.com/watch?v=kHSJQhrL-sU&feature=youtu.be" \t "_blank"]

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Region 9

URGENT/IMPORTANT ITEMS:

California wildfires: FEMA will issue us an amended mission assignment to focus on Ventura County's estimated 1,000+ structures. The wind-driven Thomas fire rages at 30% containment in Ventura and Santa Barbara Counties, with mandatory and voluntary areas of evacuation. At present, water and wastewater systems (including tribal systems) are operating, though some in San Diego remain under boil-water orders. We are working with our State partners to ensure the Governor's emergency declaration is structured similarly to his earlier No. California declaration, to allow us to proceed without right-of-entry and liability concerns. We provided FEMA with recommendations of tasks needing an early start, such as setting up data management systems and collection/staging areas. FEMA is seeking the state's concurrence on the new scope. We thank Regions 6, 7, 8 and 10 for their continuing support in No. California.

Anaconda: this is among the 21 sites for the Administrator's focus. Next Tuesday, Regional Counsel Sylvia Quast and I will meet with BP/Atlantic Richfield VP Bob Genovese to negotiate resolution of EPA's past costs. We'll then work with Nevada DEP on the timing of closing out our three administrative orders to the company, and will seek to finalize the two tribal MOUs (Walker River Paiute, Yerington Paiute) in January.

USAF CERCLA Dispute: I convened State of California and Air Force executives regarding the long-running remedy dispute at Edwards Air Force Base. At issue is the State's proposed toxicity criteria, which will become a regulation in 2018. We have briefed OLEM (Kelly, Woolford) and OECA (Bodine). I'm planning to draft and issue a decision in the next two weeks.

EXTERNAL ENGAGEMENT:

Mexican Border: with DOJ, this week we convened a meeting of key local officials and the International Boundary and Water Commission (IBWC), to forestall the cities intent to sue IBWC for the ongoing Mexican Border sewage spills. We're focusing on local/state/federal cooperation and on U.S.-side options to mitigate the impacts of spills from Mexico.

Deconstruction workshop: this week we hosted a workshop on best practices of deconstruction and building materials reuse with 35 local experts. This supports our effort to reduce the estimated 534 million tons of construction materials which would be landfilled when excessed.

PAST WEEK'S HIGHLIGHTS:

EPA Workspace: we are making yet more efficient use of our San Francisco Regional Office footprint, and have relinquished an additional 7600 square feet to GSA, saving EPA $337,668 per year. This will also benefit the two other federal-agency tenants in our building, who need more space. With regard to our Regional laboratory, OARM has secured a 3-year extension, which runs through January 2022, with the option to vacate earlier.

Region 10

Hot Issues

None this week.

Upcoming Public Events

Region 10 Announces Portland Harbor Superfund Cleanup Accomplishments: As early as December 18, Region 10 and the Oregon Department of Environmental Quality will issue a news release announcing efforts to move cleanup forward at this large river sediment site including recent agreements with responsible parties for sampling and early action hot spot cleanups. Portland Harbor was listed as one of 21 priority Superfund sites across the country targeted for immediate and intense attention by the Administrator's Superfund Task Force.

Region 10 Announces Diesel Emission Reduction Grants: During the week of December 18, Region 10 will issue a news release announcing $1.6 million in grants to two Portland-area organizations for the replacement of old diesel engines on trucks and construction equipment and to the Puget Sound Clean Air Agency to replace old marine engines on vessels in the Puget Sound area. OPA has reviewed and approved this news release.

Upcoming Major Decisions

U.S. Navy Arctic Ice Camp NPDES Permit Modification: Region 10 plans to issue a permit modification for the U.S. Navy Arctic Ice Camp during the week of December 18th. The Region posted the draft modification for public review from November 2 to December 4, 2017. The modification would expand the area where the potential wastewater discharges may occur and address other minor changes associated with how the waste streams are managed at the camp. The change will allow the Navy flexibility to locate the camp on more stable multiyear ice and account for increased ice movement during the six-week operational period. The region received one set of comments from an environmental consulting firm, most of which are outside the scope of the permit modification. We are developing responses to the comments and completing the final permit package now.

Settlement at Bunker Hill Mine Returns Mine to Production in North Idaho: EPA is completing settlement negotiations with Placer Mining Corporation, owner and operator of the Bunker Hill Mine in Kellogg, Idaho. For over 20 years EPA has been treating the acid mine drainage from the Bunker Hill Mine without recovering costs for treatment. The settlement agreement, once effective, is structured to recover up to 82 percent of the past costs for water treatment and result in payment for future water treatment costs. This settlement of claims between EPA and Placer Mining Corporation enables the new lessor of the mine, one of the most productive mines in the Coeur d'Alene Mining District, to return it to production after a hiatus of more than two decades.

Last Week Highlights

RA and Senior Advisor Visit Superfund Sites and Meet With Stakeholders: On December 13th and 14th, Kell Kelly visited Region 10 and while here, visited the Portland Harbor Superfund Site where he met with a range of stakeholders and toured the 10-mile river corridor that comprises the site. Kell also attended the Region 10 Regional Tribal Operations Committee meeting where he discussed the Administrator's Superfund priorities. Regional Administrator, Chris Hladick, also visited the Portland Harbor site with Kell and later toured the Quendall Terminals site near Seattle. Both Portland Harbor and Quendall Terminals are on the Administrator's list of 21 Superfund sites which will receive intense and immediate attention.

Idaho Small Suction Dredge NPDES General Permit Goes to Federal Register: The Federal Register Notice for the Idaho Small Suction Dredge General Permit was published on December 13th, starting a comment period that will end on January 29th. This is a revised draft General Permit covering the small suction dredging operations across the state of Idaho. The current permit expires on April 30, 2018. Current permit holders, those who have applied for permits and our state and tribal partners have all been notified. EPA currently still implements the NPDES program in Idaho.

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Office of Administration and Resources Management

Hot Issues

National Advisory Council for Environmental Policy and Technology

Ex. 5 Deliberative Process (DP)

Chesapeake Bay Program Office

Ex. 5 Deliberative Process (DP)

Upcoming Public Events

None

Upcoming Major Decisions

None

Last Week's Highlights

Partnership for Public Service

Ex. 5 Deliberative Process (DP)

National Fleet Management and Reservation System

OARM has acquired a new National Fleet Management and Reservation System that will be rolled out in phases over the coming months. Among other benefits, the system will standardize the way we manage and report on our fleet across all EPA offices, lower service costs, and reduce contractor support. OARM will be coordinating with all locations with fleet management responsibilities Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Office of Air and Radiation

Upcoming Hot Issues and Important Deadlines

- Ex. 5 Deliberative Process (DP)
- **OAR actions under review at OMB:**
  - Municipal Solid Waste (MSW) Landfills New Source Performance Standards (NSPS) and Emission Guidelines (EG) – Stay Notices
  - Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach – Supplemental Proposal
  - Greenhouse Gas Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units – Advance Notice of Proposed Rulemaking
  - Notice of Proposed Withdrawal of the Control Techniques Guidelines for the Oil and Natural Gas Industry
- **2015 Ozone Standard Designations:** As early as next week, Regional Administrators will issue 120-day letters to Governors outlining EPA's intended designations.
- **2010 Sulfur Dioxide Standard Round 3 Designations:** By December 31, 2017, EPA must designate all remaining areas of the country that did not elect to install new SO2 air quality monitors.

State Implementation Plan (SIP)-Related Actions

- The Regions report that the following 7 SIP-related actions was signed this week:
  - **Region 1: Final Rule -** Massachusetts Finding of Failure to Submit Interstate Transport SIP for 2012 PM2.5 NAAQS
  - **Region 3: Proposed Rule -** Virginia - Definition of VOC Revision C-16
  - **Region 3: Proposed Rule -** Virginia - Definition of VOC Revision I16
  - **Region 5: Withdrawal Notice -** Wisconsin Streamlining of Air Permit Process, Revisions to NR 400 and 406
  - **Region 5: Proposed and Final Rule -** Ohio Regional Haze 5-year Progress Report
  - **Region 5: Withdrawal Notice -** Illinois VOM Definition Update, R17-2
  - **Region 9: Final Rule** – California diesel truck anti-idling provisions

Upcoming Meetings, Public Events, or Other Public Releases

- **Light Duty Vehicle Fuel Economy Trends Report and Greenhouse Gas Performance Report:** EPA is close to releasing the annual Trends and GHG Performance reports.
- **ENERGY STAR Specifications:** During the weeks of December 18 and 25, EPA will finalize two ENERGY STAR specifications after multiple drafts and close work with stakeholders:
  - The uninterruptible power supply specification adopts a new federal test method and raises levels beyond the forthcoming federal standard.
  - The commercial water heater specification also adopts a new federal test method and expands the scope to include commercial heat pump water heaters.

Upcoming Decisions

- Ex. 5 Deliberative Process (DP)

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-
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Ex. 5 Deliberative Process (DP)

Recap of Past Week

- **Actions signed (or expected to be signed) this week:**
  - Revisions to Testing Regulations for Air Emission Sources
  - National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing; Rotary Spin Lines Technology Review and Revision of Flame Attenuation Lines Standards (signature expected on or before the consent decree deadline of December 15th).
- **Clean Air Act Advisory Committee (CAAAC) Annual Fall Meeting:** On Tuesday, December 12th EPA staff participated in the CAAAC Fall meeting here in Washington, D.C.

Office of Chemical Safety and Pollution Prevention

IMPORTANT DEADLINES

TSCA New Chemicals Determinations				
	Determination Type	**Pending on 12/12/2017**	**Determinations Completed[1] as 12/12/2017**	**Determinations Posted on the Website as of 12/12/2017**
1	# of "not likely" determinations	**1**	**108[4]**	**105[4]**
2	# of §5(e) Orders signed by both EPA and the submitter	-	**296**	**296**
3	# of §5(e) Orders signed by EPA and awaiting submitter signature	**71**	-	-
4	# of non-Order SNURs/"not likely" determinations	**0**	**0**	**0**
5	# of cases in post-FOCUS final determination development[5]	**309[3, 5]**	-	-
6	# of cases flagged for in-depth review	**57**	-	-
7	# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	**18**	-	-
8	# of LVE/LOREX exemption grants	-	**493**	**495**
9	# of LVE/LOREX exemption denials	-	**101**	**95**
10	**Total number of cases**	**456**	**998**	-
11	Normal active workload for the New Chemicals Program	300	-	-
12	Number of cases undergoing testing or data development by submitter	77[3]	-	-
13	**Backlog[2]**	79	-	-

[1] "Determinations Completed" means that EPA has completed its reviews on these cases and that final determinations have been made by EPA under TSCA section 5(a)(3).

[2] (Total number of cases) – (Normal active workload for the New Chemicals Program) - (Number of cases undergoing testing or data development) = Backlog

[3] Of these cases, approximately 73 are "active" lung toxicity cases that are suspended while submitters conduct testing to develop data on pchem properties and toxicity.

[4] "Not Likely" determinations are not posted until the final signed determination document is prepared and has been shared with submitter.

[5] These cases are those for which Post-FOCUS work is underway to develop: not likely determinations; non-Order SNURS coupled with not likely determinations; or section 5(e) or 5(f) Orders. When the OPPT Office Director decides which of these regulatory paths to

follow, the case is moved to: Row 3 when the section 5(e) or 5(f) Order is sent to the submitter or signature; Row 4 when the SNUR is published; and Row 1 when the determination document is sent to the OPPT OD for signature.

HOT ISSUES

Worker Protection Standard (WPS) and Certification & Training (C&T) Rule –On Thursday, December 14th, EPA released pre-publication copies of Federal Register Notices announcing that EPA has initiated a process to reconsider certain requirements in the WPS for minimum age, designated representatives, and application exclusion zones, and the minimum age requirements in the C&T rule. EPA expects to publish Notices of Proposed Rulemaking to solicit public input on proposed revisions to both rules by the end of FY2018. The compliance dates in the revised WPS published on November 2, 2015, remain in effect; the Agency does not intend to extend them. Similarly, the implementation dates in the January 4, 2017, final C&T rule remain in effect.

Glyphosate Draft Risk Assessments – On Monday, December 18th, OCSPP will post the draft human health and ecological risk assessments for glyphosate on the Web and later on [HYPERLINK "http://www.regulations.gov"] (docket EPA-HQ-OPP-2009-0361) for a 60-day public comment period. The ecological risk assessment includes an evaluation of the potential for effects on non-target organisms from exposure to glyphosate, incorporating available exposure and effects data, and using the most current risk assessment methods. The human health risk assessment includes an evaluation of dietary, residential/non-occupational, aggregate, and occupational exposures. Additionally, an in-depth review of the glyphosate cancer database was performed. An OPP Listserve will announce a new web page to host the draft risk assessments and several supporting documents.

Neonicotinoid Ecological and Human Health Risk Assessments and Benefits Assessments for Public Comment – On Friday December 15th, OCSPP will release the preliminary ecological and human health risk assessments for the neonicotinoid insecticides clothianidin, thiamethoxam, and dinotefuran, and a preliminary ecological risk assessment for imidacloprid assessing risks to birds, mammals, non-target insects, and plants. OCSPP will also release its response to public comments on the 2014 Benefits of Neonicotinoid Seed Treatment to Soybean Production as well as new cotton and citrus benefits assessments for foliar applications of neonicotinoids. These assessments complement the preliminary pollinator-only risk assessments the Agency published for comment in 2016 and 2017. Preliminary human health and ecological assessments (for aquatic species only) were also released for imidacloprid in 2017. OCSPP is especially interested in public comment on the benefits assessments for cotton and for citrus, since previous assessments identified potential risks to pollinators from these uses. Early input from the public may be helpful in developing possible mitigation options that may be needed to address risks to bees. Among the benefits identified, the neonicotinoids were found to be critical for management of Asian citrus psyllid, which causes citrus greening—a devastating pest for citrus growers—and for control of plant bugs and stink bugs in cotton.

Adopting 2017 North American Industry Classification System (NAICS) Codes to the Toxics Release Inventory. Within the next two weeks, OCSPP will announce a final rule which updates the North American Industry Classification System (NAICS) codes that are used to classify facilities subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Facilities meeting Toxics Release Inventory (TRI) reporting requirements will be required to use 2017 NAICS codes on TRI reporting forms, beginning with reporting forms that are due on July 1, 2018 (covering releases and other waste management activities at facilities for the 2017 calendar year). This final rule does not add any new reporting requirements or burden.

LAST WEEK HIGHLIGHTS

Public Meeting on Approaches for Identifying Potential Candidates for Prioritization for Risk Evaluation, December 11. OCSPP hosted a public meeting to focus on possible approaches for identifying potential candidate chemicals for EPA's prioritization process under TSCA. As amended, TSCA requires that EPA establish processes for prioritizing and evaluating risks from existing chemicals. EPA described and took comment on a number of possible approaches that could guide the Agency in the identification of potential candidate chemicals for prioritization.

EPA Region 7 and 8 State Departments of Agriculture Meeting, December 11-12, 2017 –Richard Keigwin, Director of the Office of Pesticide Programs (OPP), participated in the Region 7 and 8 State Departments of Agriculture Meeting in Denver, Colorado to provide updates on the Worker Protection Standards, Certification & Training of Pesticide Applicators Rule, Endangered Species Act and weed resistance. He also participated in a roundtable discussion on label changes in response to reported incidents from the use of Dicamba and a roundtable discussion on marijuana/industrial hemp and pesticides.

Society of Risk Analysis Meeting - December 12, 2017 – OCSPP Deputy Assistant Administrator Nancy Beck participated in a roundtable discussion at the Society of Risk Analysis Meeting entitled *What is the Optimal Approach to Organizing Governmental Risk-Related Science Advisory Processes*. Additionally, Steve Nako from OPP's Health Effects Division will gave a presentation on *Trends in Toxicity Adjusted Dietary Exposure to Organophosphorus and N-Methyl Carbamate Pesticides*, and Jeff Morris, Director of the Office of Pollution Prevention and Toxics (OPPT), participated in a panel on the amended Toxics Substances Control Act and susceptible subpopulations.

Office of the Chief Financial Officer

Hot Issues

- The House of Representatives introduced a second short-term Continuing Resolution funding the government through January 19. There is a possibility that this may be voted on by the House early next week. The Senate would not act until after the House passes the CR extension. The current CR expires December 22.
- After coordinating with the Policy Team and OMB, OCFO issued to key senior officials, via a restricted access Sharepoint site, a memorandum outlining the major policy and final resource decisions for the EPA's FY 2019 President's Budget request. OCFO also issued process guidance informing the NPMs when and how the FY 2019 Congressional Justification will be developed, reviewed, and submitted to Congress after approval by the Policy Team and OMB. The FY 2019 President's Budget and CJ are due to Congress and made available to the public on February 5.
- To date, EPA has received 52 mission assignments or agreements from other federal agencies for a total of $167.7 million to support disaster responses, including $51 million to support the California wildfires, all of which is in addition to EPA's base appropriated funding. This includes two mission assignments totaling $20 thousand for Region 9's support responding to the new round of Southern California wildfires. EPA continues to submit Hurricane Harvey and now Irma billings for a total of $7.8 million to date to FEMA which requires detailed information to support expenses for reimbursement.

Upcoming Public Events

- N/A

Upcoming Major Decisions

- Working with the COO, OCFO is finalizing strategic measure and Agency Priority Goal targets, along with supporting Data Quality Records. Provided current draft documentation to COO in order to share advance draft to OMB. Incorporating the measures/targets in the final draft *FY 2018-2022 EPA Strategic Plan* due to OMB no later than December 22.
- Ex. 5 Deliberative Process (DP)

  Ex. 5 Deliberative Process (DP). The FY 2017 APR reflects results in meeting budget measure targets, which are included in the FY 2019 CJ.

Last Week Highlights

- OCFO presented 2017 enterprise risks results with First Assistants last week and will present to DAA/DRAs on December 21 and plan to send a communication to senior leaders soon.

Other

- With many planning leave next week for the Christmas holiday, OCFO encourages all offices to make arrangements to ensure that all timecards are submitted and approved in PeoplePlus, the agency's time and attendance system, by December 21 to minimize impacts on pay and allotments.
- And, as a reminder, employees will see their direct deposit for the pay period ending December 23 on January 2 rather than December 29 to ensure that, for tax purposes, earnings are reported in the appropriate calendar year. Employees may need to make adjustments to automatic payments or transfers in their bank accounts to accommodate this one-time pay schedule change.

Office of Congressional and Intergovernmental Relations

- ***Upcoming Hot Issues and Important Deadlines***

- ***Upcoming Events***

  - **January 24- 26 –** US conference of Mayors will host its 86th annual Winter Meeting in Washington, DC

- ***Past week accomplishments***

  - **Week of Dec 11** – Transmittal of 2017 National Water Quality Indicators Report to Congress
  - **Dec 11 –** Public meeting on TSCA prioritization for risk evaluation w/OCSPP
  - **Dec 12** – Meeting with Cong. Walden (OR) staff and OR ag contacts re: pesticides and water issues w/ OCSPP and OW
  - **Dec 12** – Ken Wagner, Senior Advisor to the Administrator attended the Ag State Directors meeting for Region 7 and Region 8 and spoke on Cooperative Federalism
  - **Dec 12** - EPA spoke to Rep. Barr's (KY) staff about a constituent's auto import issue and explained that, at our request, the automaker contacted the constituent directly to explain the holdup was not because of any EPA issue.
  - **Dec 12 -** WOTUS Update Webinar –OW hosted a webinar for intergovernmental stakeholders on the WOTUS Step 2 Rulemaking
  - **Dec 12** - The House Committee on Energy and Commerce Subcommittee on Environment and Subcommittee on Digital Commerce and Consumer Protection held a hearing entitled, "Update on the Corporate Average Fuel Economy Program (CAFE) and Greenhouse Gas Emissions Standards for Motor Vehicles.
  - **Dec 14 –** Senate Commerce and Senate EPW briefing/TA on vessel discharges w/OW, OGC
  - **Dec 14** - Meeting with Congressman Cramer's staff, Sabin Metals and Mayer Brown LLP to discuss the impacts of the import ban of petrochemical byproducts to the U.S. for recycling.
  - **Dec 14 –** Notification of intent to initiate regulation revisions on WPS and C&T rules w/OCSPP
  - **Dec 14 –** Senate confirmed David Ross, AA OW, and Matt Leopold, AA OGC
  - **Dec 15 –** Notification of Proposed Rule on Nutrient Criteria for Missouri Lakes and Reservoirs
  - **Dec 15 –** Sen. McCain (AZ) staff follow-up briefing on Rio Salado w/OW and Regional staffs, plus Urban Waters Federal Partnership Ambassadors
  - **Dec 15 –** Notification of glyphosate proposed human health risk assessment w/OCSPP

- ***Ongoing activities***

  - **FY18 Appropriations:** A short-term continuing resolution was passed. Government running until Dec. 22.

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Office of Enforcement and Compliance Assurance

Hot Issues

US v. Fiat Chrysler Automobiles: On December 19th, Judge Chen of the Northern District of California will hold a status conference in the ongoing multi-district litigation concerning Fiat Chrysler Automobiles' (FCA) use of alleged defeat devices in recent model diesel vehicles. Consistent with previous status conferences, EPA expects Judge Chen will press the United States (and others) to find a technical solution for dealing with the excess emissions from these cars which are currently in use throughout the United States. The United States, California Air Resources Board, and FCA will report that they have finalized a test protocol that will provide an adequate basis for EPA and CARB to determine whether FCA's proposed technical solution is appropriate. Judge Chen and his court-appointed Settlement Master (Ken Feinberg) will likely continue to encourage all parties to find a negotiated resolution for all issues, not just the vehicle recall.

Clean Air Act Consent Decree with Harley-Davidson: On December 11th, the Department of Justice moved to enter a consent decree with Harley-Davidson. If approved by the court, this would resolve the United States' allegations that Harley sold 340,000 defeat devices, in the form of aftermarket software products to recalibrate the engines of, and increase the pollution from, their highway motorcycles. The United States first lodged a consent decree in August 2016. In July 2017, the United States lodged a revised consent decree that is the same as the first except it does not include a $3 million air pollution mitigation project under which funds would have been transferred to a nonprofit association to replace wood stoves in the Northeast. Several states and environmental non-profits filed critical public comments on the revised consent decree. In Monday's filing, the United States responded to these comments, explained its rational for removing the mitigation project (including lack of nexus), and formally asked the court to approve the revised consent decree. On December 12th, ten states filed notice of their intent to file an amicus brief in opposition to the United States' Motion for Entry of Consent Decree.

Upcoming Events/Public Meetings

On December 18th, OECA's National Enforcement Investigations Center (NEIC) will host a delegation of enforcement officials from China's Ministry of Environmental Protection to share information on advanced monitoring technology, as well as operating procedures for field and lab components. The delegation's visit will include a tour of NEIC's forensics laboratory.

Upcoming Major Decisions

None.

Last Week's Highlights

Rivers and Harbors Act Criminal Plea: On December 7th, United Industries, LLC, a subsidiary of Progress Rail Services, Inc., was sentenced in the Central District of California to pay a $5 million criminal fine for violating the Rivers and Harbors Act by depositing train railcar parts into the Port of Long Beach. The company had regularly billed its clients for the unnecessary replacement of functioning railway parts, and engaged in "midnight dumping" of the replaced parts into both the Los Angeles and Long Beach Harbors. In addition to the fine, the Judge required United to pay $20 million in restitution to three victim companies – TTX Company, Pacer International, and Greenbrier Company, all of whom owned and operated railcars that were improperly serviced and repaired.

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The Los Angeles and Long Beach Port Police conducted dives using sonar and located large debris fields of railcar parts. The LA and Long Beach harbors are major ports of entry for commercial goods and services, and the presence of debris on the sea floor could constitute a serious hazard to the large vessels, including petroleum tankers. Progress Rail Services Corporation, a subsidiary of Caterpillar Inc., is one of the largest integrated and diversified suppliers of railroad and transit system products and services in North America. This case was investigated by EPA-CID, the FBI, the Department of Transportation Inspector General, and the Los Angeles and Long Beach Police Departments.

DOI Meeting to Discuss Drinking Water Compliance and the Superfund Task Force: Representatives from OECA's Federal Facilities Enforcement Office met with representatives from the Department of Interior (DOI) on December 11th to discuss a number of issues, including drinking water compliance and the Superfund Task Force. EPA presented statistics on DOI's public water system universe and compliance issues EPA has identified at these systems. The agencies committed to work together to determine root causes of noncompliance and compliance assistance tools that would help to address those causes. The agencies also discussed the Superfund Task Force, and asked for DOI feedback on those recommendations of interest. The meeting was a successful first step in creating a venue for engagement and collaboration between OECA and DOI.

Meeting with Department of Defense on Opportunities for Collaboration and Building Compliance: On Friday December 8th, Larry Starfield, Susan Bodine and OECA's Federal Facilities Acting Office Director, Karin Leff, met with Maureen Sullivan, Deputy Assistant Secretary for Environment, Safety and Occupational Health at the Department of Defense (DOD) and Harry Kelso, Deputy General Counsel of DOD, at the Pentagon to build relationships and establish informal communication channels between EPA's enforcement program and DOD. EPA also provided DOD with an analysis of violations and common problems identified at DOD facilities during inspections in an effort to help the Services address environmental compliance issues.

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Office of Environmental Information

Last Week's Highlights

Successful Lean Event for Integrated Error Correction Process

- **Brief description:**
  - EPA's error tracking system provides the ability for states, regions and programs to address error correction requests from public users who identify suspected data errors on EPA's websites: EnviroFacts, Enforcement and Compliance History Online (ECHO) or Facility Registry Service (FRS).
  - On December 6-8, OEI's Office of Information Management, in collaboration with the Office of Enforcement and Compliance Assistance, sponsored a Lean event to improve the Agency's data error correction process.
  - The goal of the event was to design a more effective process for a public user to complete a data error correction request and submit it to EPA, where the request is reviewed and addressed, and the requester is then notified of the results in a timely manner.
  - Status tracking and metrics are part of the process improvements.
  - The Lean process incorporated input from data stewards in states and regions; staff in state environmental agencies or EPA regional offices most often have the authority to make appropriate corrections to program systems.
- **Who benefits or cares:** EPA programs and regions, State & Tribal Partners, public users
- **Why this is important:** State and EPA programs must accurately present data reported from regulated facilities and have the ability to correct errors in a timely manner.
- **Additional information:**
  - The team identified short- and long-term approaches for process and system improvements.
  - Progress will be monitored through EPA's Office of Continuous Improvement.

Region 10 Speeds Federal Air Rules for Indian Reservations (FARR) Data Distribution to Tribes with CDX

- **Brief description:** The Tribal Program Team within Region 10 integrated a Central Data Exchange (CDX) closed registration in the FARR Online Reporting System (FORS) to give Tribes the ability to download FARR reports for facilities located within their reservation.
- **Who benefits or cares:** EPA and the 39 Indian reservations in Idaho, Oregon and Washington that FORS supports
- **Why this is important:** The FARR requires owners and operators of certain sources of air pollution to register with EPA and to report their facility's air pollution emissions annually. This new feature within FORS speeds the data distribution process, giving tribes immediate access to data and eliminates the time and effort associated with the previously supported manual distribution process.
- **Additional information:** NA

Service Disabled Veteran Owned - Small Business Outreach Event

- **Brief description:** On November 29, the Office of Small and Disadvantaged Business Utilization (OSDBU) hosted its Annual Service Disabled Veteran Owned Small Business outreach event at EPA Headquarters. OEI participated in the outreach event through engaging in a series of one-on-one meetings with individual small business vendors.
- **Who benefits or cares:** EPA, Disabled Veteran Owned small businesses and veterans
- **Why this is important:** This event allowed OEI representatives to learn about various service disabled veteran owned small businesses and the services they provide.

Additional information: [HYPERLINK "https://www.sba.gov/contracting/government-contracting-programs/service-disabled-veteran-owned-businesses"]

Office of General Counsel

New Judicial Decisions

- In a Freedom of information Act (FOIA) lawsuit challenging EPA's failure to respond to a request for records concerning EPA's handling of PCB contamination at schools in the Santa Monica-Malibu Unified School District, the District Court for the District of Columbia issued a Memorandum Opinion and Order on December 11, 2017, denying in part and granting in part both parties' renewed cross-motions for summary judgment. This was the Court's second opinion in this case; after several rounds of briefing, at dispute was the Agency's assertion of Exemption 5 of the FOIA to withhold nineteen documents. The Court had ordered an *in camera* inspection of these documents in October 2017. After completing its review, the Court issued its opinion and order, granting the Agency's motion for summary judgment with respect to fifteen of the nineteen withheld documents. The Court ordered that the Agency disclose in full four documents, which the Court found were not protected under the deliberative process privilege. In its analysis, the Court explained that one withheld document contained only a clarification and internal explanation but was not predecisional. For the other three documents, the Court explained that the Agency's *Vaughn* Index entries did not establish a link to any particular decisionmaking process. The Court further ordered the Agency to release segregable, non-exempt portions of two documents, the remainder of which the Agency properly withheld under Exemption 5. The Court criticized the Agency for its use of "boilerplate, conclusory language" to address the issue of segregability throughout the *Vaughn* Index, but ultimately agreed that most documents did not contain reasonably segregable factual information that was distinct from the Agency's deliberative process. (*Public Employees for Environmental Responsibility v. EPA*, No. 14-2056)

New Complaints Filed

- The Clean Air Council and two minors represented by their guardians filed a complaint in the District Court for the Eastern District of Pennsylvania against the United States, President Trump, the EPA (and its Administrator), and the Department of Energy (and its Secretary), alleging that those entities have engaged in or initiated "rollbacks" of several initiatives related to climate change and the electric power sector. According to the plaintiffs, these actions violate two aspects of the U.S. Constitution: (1) A fundamental right to "a life-sustaining climate system and an atmosphere and oceans that are free from dangerous levels of anthropogenic CO_2," embodied in the Fifth and Ninth Amendments; and (2) a federal "public trust doctrine" that is rooted in both common law and the Fifth and Ninth Amendments. The plaintiffs seek (1) declaratory relief that the federal defendants "cannot effectuate or promulgate any rollbacks" that exacerbate "the life-threatening effects of climate change based on junk science," in such a way that would violate those alleged constitutional rights, as well as (2) any "other and further relief" the court deems just and proper. *Clean Air Council, et al. v. United States, et al.*, no. 1:16-cv-00694)

- Environmental Integrity Project (EIP) filed litigation in the U.S. District Court in the District of Columbia. EPA failed to fully respond to EIP's September 7, 2017 seeking records related to EPA's decision to designate as "inactive" a rulemaking that would require certain oil and gas facilities to disclose their releases of toxic chemicals to the national Toxics Release Inventory. The request was initially assigned to the Office of Chemical Safety and Pollution Prevention (OCSPP). OCSPP issued an interim response on November 28, 2017, and transferred the request to the Office of the Executive Secretariat

(OEX). OEX is currently the lead office for the request. (*Environmental Integrity Project v. EPA*, No. 1:17-cv-2610)

Hot Topics

- OGC launched its new and revised intranet site.

New Petitions that OGC is Aware Of

- The Pennsylvania Independent Oil and Gas Association (PIOGA), an oil and gas trade association in Pennsylvania, filed a petition on December 1, 2017, requesting that the Administrator conduct a rulemaking to reconsider the Unconventional Oil and Gas pretreatment standard rule, and administratively stay or suspend enforcement of the rule with respect to certain operators pending the completion of such rulemaking. There is no statutory duty to respond.

Upcoming Public Events & Important Meetings in the Next Two Weeks

- Kevin Minoli will be out of the office from December 20 through December 26.

Upcoming Major Deadlines in the Next Two Weeks

12/15 Parties to file stipulation of dismissal or proposed briefing schedule in *Sierra Club v. EPA*, litigation where plaintiff alleges the EPA failed to promulgate a good neighbor FIP for Texas.

12/15 Consent Decree deadline for final RTR for the Wool Fiberglass NESHAP in *Sierra Club v. EPA*.

12/15 Consent Decree deadline to take final action on Louisiana's regional haze SIP in *Sierra Club v. Pruitt*, a complaint alleging EPA's failure to perform a non-discretionary duty to promulgate a FIP within two years of EPA's partial disapproval of Louisiana's Regional Haze SIP.

12/15 Motion for Summary Judgment due in *EIP v. EPA*, a FOIA matter seeking records pertaining Administrator Pruitt's meetings with outside parties and travel vouchers.

12/15 EPA's reply on pattern and practice claim due in *NRDC v. EPA*, a FOIA litigation concerning policy or guidance for removing information or web pages from an EPA website.

12/15 Response to Application for Attorneys' Fee in *CBD, et al. v. EPA*, a challenge to registration of cyantraniliprole.

12/15 Motion for Summary Judgment due in *Exxon Mobil Corp. v. U.S.*, where plaintiff alleges RCRA work constitutes "necessary costs of response...consistent with the national contingency plan" for which the U.S. is liable under CERCLA.

12/15 Consent Decree deadline to either propose nutrient water quality criteria for Missouri lakes or approve criteria adopted by Missouri in *Missouri Coalition for the Environment Foundation v. Pruitt*.

12/15 Response to environmental group petitioners' opening brief is due in *SWEPCO v. EPA*, petitions for review of EPA's 2015 parts of steam electric rule not being reconsidered.

12/15 Reply Brief due in *Riverkeeper v. Pruitt*, a mandatory duty challenge to EPA's inaction on NYS recreational water quality criteria submission.

12/17 The Answer is due in *EDF v. EPA*, a FOIA matter in which the District of Columbia alleges that EPA failed to timely respond to three FOIA requests.

12/18 Consent Decree deadline to object to the Special Master's report on fees in *Association of Irritated Residents, et al. v. EPA*.

12/18 Answer due in *State of Maryland v. EPA*, litigation alleging the EPA failed to hold a public hearing and take final action on the State's section 126 petition. The State's petition asks EPA to find that 36 power plant units located in Indiana, Kentucky, Ohio, Pennsylvania, and West Virginia are significantly contributing to nonattainment or interfering with maintenance of the 2008 ozone NAAQS in Maryland.

12/18 Consent Decree deadline to issue a finding of failure to submit for Pennsylvania and Washington and for Illinois, Massachusetts, and Rhode Island in *CBD v. Pruitt*, a PM2.5 deadline suit.

12/18 The Vaughn Index is due in *CBD v. EPA*, a FOIA matter related to the revised water quality criteria for cadmium.

12/19 Response due in *American Lung Association, et al. v. EPA*, where plaintiffs allege the EPA failed to designate areas under the 2015 Ozone NAAQS.

12/19 Reply Brief in support of Motion to Dismiss due in *City of Highland Park v. EPA, et al.*, where plaintiff alleges that EPA failed to enforce grant conditions and did not adequately oversee Michigan's state permit program.

12/20 Response to Motion to Amend Complaint due in *Upper Missouri Waterkeeper v. EPA*, a challenge to EPA 2015 approval of Montana's nutrient variances.

12/21 Motions to Govern due in *State of Texas, et al. v. EPA*, a petition for review of EPA's final rule titled "Protection of Visibility: Amendments to Requirements for State Plans."

12/21 A document production is due in *S.E. Legal Foundation v. EPA*, a FOIA matter regarding communications between Lisa Garcia and the current Vice-President of Litigation for Healthy Communities at Earth Justice and any employee at Earth Justice from December 2009 through March 2014.

12/21 The Answer is due in *Bay Journal Media v. EPA*, a FOIA litigation concerning the Chesapeake Bay program.

12/21 Summary Judgment Brief due in *Potomac Riverkeeper, et al. v. Pruitt, et al.*, a challenge to EPA approval of Virginia 2014 303(d) list – Shenandoah River issue.

12/22 EPA's Appellee brief is due in *Hall & Assoc. v. EPA*, a FOIA matter concerning an EPA Clean Water Act determination to impose an effluent limitation for total nitrogen on certain New Hampshire publicly owned treatment works.

12/22 Reply in support of Cross-Motion for Summary Judgment due in *Sierra Club, et al. v. Pruitt*, a challenge to extension of compliance date for TSCA formaldehyde rule.

12/22 Reply Brief due in *Charleston Sanitary Board v. Pruitt*, a challenge to EPA's disapproval of site specific copper criteria in West Virginia.

12/27 Reply Brief due in *State of Connecticut v. EPA*, where plaintiff alleges EPA failed to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania.

12/27 Answer due in *Riverkeeper v. Pruitt*, a mandatory duty challenge to EPA's inaction on NYS recreational water quality criteria submission.

12/27 Answer and Administrative Record due in *Rosado v. Pruitt*, a challenge to MPRSA dredged material ocean dump site in Eastern Long Island Sound.

12/29 EPA's Reply brief is due in *PEER v. EPA*, a FOIA matter alleging failure to respond to a two-part request that sought, among other things. Statements from the Administrator related to climate change.

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Office of International and Tribal Affairs

Hot Issues:

Border Infrastructure Concerns: The U.S. Customs and Border Protection (CBP) convened an interagency meeting with agencies working on the Mexican border (CBP, State, EPA and International Boundary and Water Commission) as a result of CBP agents health concerns related to the exposure to the cross border sewage spills, particularly in Tijuana. CBP believes there is more than sewage being discharged from the sewage plants and that hazardous materials or chemicals are also in the discharge (based on the agents shoes). The HHS Secretary intends to raise the issue with the WH, followed by calls to Secretary of State and EPA Administrator. The State Department is working on developing an action plan for infrastructure needs for bilateral negotiations with Mexico. CBP also asked EPA for an estimate on how much money the Border Environment Infrastructure Fund (BEIF) would need to help with this problem which OW is working on.

Upcoming Engagements:

December 15 – Call with the Administrator and Mexican Secretary Pacchiano to discuss bilateral cooperation.
December 15 – Meeting with OITA/OAR and Japan's Ministry of Environment to discuss bilateral cooperation and climate change.

Past Week Highlights:

U.S.-Morocco Environmental Cooperation Mission: Administrator Pruitt traveled to Morocco to participate in high level meetings with the Minister of Energy, Mines, and Sustainable Development and the Ministry of Foreign Affairs to advance environmental cooperation under the U.S.-Morocco Free Trade Agreement. Meeting topics included solid waste management, public participation and crisis communication, environmental enforcement and rule of law, U.S. environmental technology solutions, and Moroccan investments in renewable energy. EPA and the State Department have collaborated with Morocco on environmental issues for the past ten years and the Administrator's mission helped to identify and advance future activities for cooperation, which will be negotiated in February 2018.

Inter-Agency Environmental Exports Team: EPA, Department of Commerce and State Department met this week to discuss ways that we could collectively build upon current interagency efforts to promote US exports of environmental technologies. The team is in the process of further identifying key export markets and modes of communication to engage these markets, including outreach to U.S. Embassies and the private sector. In part, this effort will be informed by activities under our existing free trade agreements and data regarding needs and market opportunities provided by State and Commerce. The team intends to reach out to U.S. Embassies in the targeted markets and follow-up with key partners during the first quarter of 2018.

Tribal Science Council Meeting: The Tribal Science Council held a meeting in Phoenix, AZ, hosted by the Salt River Pima-Maricopa Tribe. The meeting provided communication and networking opportunities between EPA and tribal scientists. Training on the health effects of lead was held as part of a jointly developed lead education curriculum by EPA and tribal partnership groups. Discussions included tribal youth outreach and EPA research efforts featuring tribally-led projects. As a follow up to the National Tribal Operations Committee (NTOC) meeting in October, ORD facilitated a listening session to identify science and research needs and opportunities for tribes to work with ORD.

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Office of Land and Emergency Management

Hot Issues

1. **Emergency responses to hurricanes and wildfires.** Large-scale responses continue in both Region 2 (Puerto Rico and the US Virgin Islands) and Region 9 (Northern California). Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

2. **Coal Combustion Residuals (CCR).**

a.

b. Ex. 5 Deliberative Process (DP)

c. We are working with the AO and OGC on answers to questions posed by Indiana.

3. **Clean Air Act 112(r) Risk Management Program (RMP).**

4. **Ongoing major Superfund NPL sites (for example, B.F. Goodrich, East Chicago, West Lake, Gold King Mine/Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates).** Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

5. **CERCLA-EPCRA AFO-CAFO Rule**. The DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018. No reporting is necessary until the mandate is issued.

Upcoming Public Events

1. **WasteWise Awards.** OLEM is recognizing 16 organizations for their leadership in waste prevention and diversion through this year's WasteWise Awards.

Upcoming Major Decisions

1. **E-Manifest User Fee Final Rule.** Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Last Week Highlights

1. **Region 4's Hurricane Irma Response.** Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

2. **CERCLA 108(b) Financial Assurance for Hard Rock Mining and Mineral Processing**. The final rule is pending publication in the Federal Register.

Office of Policy

Documents Submitted to OFR from December 7 - 12, 2017

FRL	Title	Date Submitted to OFR
9969-98-OCSPP	Product Cancellation Order for Certain Pesticide Registrations	12/12/2017
9970-49-OCSPP	Pesticide Product Registration; Receipt of Applications for New Uses	12/12/2017
9970-50-OCSPP	Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities	12/12/2017
9970-52-OCSPP	Registration Review Proposed Interim Decisions for Several Pesticides; Notice of Availability	12/12/2017
9970-53-OCSPP	Registration Review; Draft Human Health and/or Ecological Risk Assessments for Several Pesticides; Notice of Availability	12/12/2017
9970-54-OCSPP	Interim Registration Review Decisions and Case Closures for Several Pesticides; Notice of Availability	12/12/2017
9970-90-OCSPP	Information Collection Activities; Proposed Collection; Comment Agency Request	12/12/2017
9971-11-OCSPP	Receipt of a Pesticide Petition Filed for Residues of Aluminum tris (O-ethylphosphonate) in or on Fruit, citrus, group 10-10	12/12/2017
9967-81-Region 4	Alabama: Approval of Financial Assurance Regulations for the State's Municipal Solid Waste Landfill Permit Program	12/12/2017
9972-15-OAR	Allocations of Cross-State Air Pollution Rule Allowances from New Unit Set-Asides for 2017 Control Periods	12/12/2017
9972-09-Region 9	Arizona: Authorization of State Hazardous Waste Management Program Revisions	12/12/2017
9972-03-Region 9	Approval of Arizona Air Plan Revision; San Manuel, Arizona; Second 10-Year Sulfur Dioxide Maintenance Plan	12/11/2017
9966-28-Region 1	Air Plan Approval; CT; Decommissioning of Stage II Vapor Recovery Systems	12/8/2017
9971-71-Region 4	Air Plan Approval; Florida; Stationary Sources Emissions Monitoring	12/8/2017

9971-99-Region 10	Proposed Re-issuance of a General NPDES Permit (GP) for Small Suction Dredges in Idaho	12/8/2017
9971-96-OARM	Senior Executive Service Performance Review Board; Membership	12/8/2017
9971-90-ORD	Integrated Science Assessment for Sulfur Oxides – Health Criteria	12/8/2017
9971-88-Region 10	Finding of Failure to Submit a Section 110 State Implementation Plan for Interstate Transport for the 2012 Annual National Ambient Air Quality Standards for Fine Particles	12/8/2017
9972-02-Region 9	Contingency Measures for the 1997 PM2.5 Standards; California; San Joaquin Valley; Correction of Deficiency	12/8/2017
9967-07-OEI	Agency Information Collection Activities; Compliance Requirement for Child-Resistant Packaging; Submitted to OMB for Review and Approval; Comment Request	12/7/2017
9967-78-OEI	Agency Information Collection Activities; Safer Choice Product Recognition Program; Submitted to OMB for Review and Approval; Comment Request	12/7/2017
9967-79-OEI	Agency Information Collection Activities; TSCA Section 4 Test Rules, Consent Orders, Enforceable Consent Agreements, Voluntary Testing Agreements, Voluntary Data Submissions, and Exemptions from Testing Requirements; Submitted to OMB for Review and Approval; Comment Request	12/7/2017
9971-93-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Pennsylvania's Adoption of Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings; Withdrawal of Direct Final Rule	12/7/2017
9971-98-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Adoption of Control Techniques Guidelines for Control of Volatile Organic Compound Emissions from Miscellaneous Metal Parts Surface Coating, Miscellaneous Plastic Parts Surface Coating, and Pleasure Craft Surface Coatings; Withdrawal of Direct Final Rule	12/7/2017

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Office of Research and Development

Hot issues

PFAS

On December 12, ORD hosted a teleconference with the Environmental Council of the States (ECOS), interested states and EPA scientists to share information on PFAS research and related state efforts. The agenda included presentations on Michigan's PFAS Executive Directive, Washington State's PFAS Action Plan, air deposition issues, and EPA's cross-agency effort to address PFAS.

Technical assistance to Region 8/Yellowstone National Park

On December 6, ORD held a call with Yellowstone's Old Faithful Water System (OFWS) Operators and EPA Region 8. OFWS experiences source water quality changes as a result of seasonal runoff that, for about two months of the year, require treatment changes in order to maintain surface water treatment goals. The source water also contains elevated arsenic levels. These operational changes negatively impact arsenic treatment effectiveness and, at times, the ability to meet the maximum contaminant level for arsenic of 10 µg/L. ORD provided suggestions on possible engineering process solutions for arsenic removal during the seasonal changes and strategies to evaluate them. The water system operators may follow-up with additional questions when they approach expected seasonal changes.

Cape Fear PFAS

On November 30, ORD visited Cape Fear Public Utility Authority (CFPUA) as part of EPA's PFAS treatment project. During this meeting, EPA and CFPUA agreed to continue to work together in the future. CFPUA will send EPA water samples to perform bench-scale treatment technology evaluations. The goal is to further integrate CFPUA's work with Region 4. EPA tentatively plans to return to Cape Fear in February for a follow-up visit.

Last week Highlights

Linking Remediation to Community Benefits in Michigan

At the request of the Michigan Office of Great Lakes, ORD researchers were recently invited to a meeting of the Great Lakes Area of Concern (AOC) partners to provide guidance on tools and approaches that can help AOCs move from Remediation to Restoration to Revitalization (R2R2R). AOCs are geographic areas that have been designated under the Great Lakes Water Quality Agreement as significantly impaired for beneficial uses. These are restoration priorities in Michigan, which has 14 of the remaining 27 AOCs in the Great Lakes basin. The state has asked ORD for help to better understand R2R2R, with particular interest in looking at economic and public benefits of AOC clean-ups. During the next six months, Michigan and ORD scientists will plan and define specific activities.

EPA Research Cited in Testimony Regarding Proposed Legislation in Massachusetts

The Merrimack, Massachusetts (MA), River Watershed Council used findings from a 2015 [HYPERLINK "https://ehp.niehs.nih.gov/1408971/"] in their discussion of a [HYPERLINK "https://malegislature.gov/Bills/190/S448"] to require sewage treatment plants along waterbodies in MA to inform the public when raw sewage is released during Combined Sewer Overflow (CSO) events. The bill would also require the state to track and maintain data on CSO events on a public website. The 2015 study, published in *Environmental Health Perspectives*, found that extreme precipitation events were associated with a 13% increase in emergency room visits for gastrointestinal illness in the Massachusetts population receiving

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drinking water from CSO-impacted waterbodies. The Merrimack River, a source of drinking water and recreational opportunities for about 600,000 people, is regularly impacted by CSOs. The paper was co-authored by ORD and the University of Illinois, Chicago.

Tribal Science Council

During the week of Dec. 4, 2017, the Tribal Science Council (TSC) held its face-to-face meeting in Phoenix, AZ hosted by the Salt River Pima-Maricopa Tribe. The meeting provided opportunity for communication and networking among EPA and tribal scientists. We held training on EPA's lead curriculum that promoted collaboration between EPA tribal partnership groups. The TSC led discussions on EPA research efforts featuring tribally-led projects, tribal youth outreach, and a listening session to identify science and research needs focused on creating ORD opportunities for tribes. Discussions included tribal youth outreach and EPA research efforts (RARE and RESES) featuring tribally-led projects. A listening session was facilitated by ORD to identify science and research needs and opportunities for tribes to work with ORD.

Superfund

On December 11-12, ORD helped staff at the Delaware Department of Natural Resources use EPA's ProUCL tool to develop remediation screening levels for a waste site. ProUCL provides statistical methods and graphing tools to address environmental sampling and statistical issues at Superfund sites.

Small Business Innovation Research (SBIR)

The EPA SBIR-funded company, [HYPERLINK "http://www.nanosafeinc.com/"], issued a press release late last month detailing how they had leveraged their "current Phase I EPA SBIR project entitled 'Mobile Analytical Platform for Lead Detection in Drinking Water' to obtain a matching commercialization grant of $50,000 from the Commonwealth Research Commercialization Fund (CRCF) offered by the Virginia-based Center for Innovative Technology (CIT). This CRCF matching grant provides additional resources to accelerate development and commercialization of NanoSafe's Mobile Analytical Platform, which will increase sensor resolution for the product currently under development. According to Nancy Vorona, CIT's Vice President of Research Investment, "NanoSafe is the only Virginia company to win an EPA SBIR Phase I award in 2017. Coupled with the additional support of CRCF, NanoSafe is a great example of a company with the potential to push the boundaries of innovation in the Commonwealth."

Grantee Publication

Researchers at the STAR [HYPERLINK "https://cfpub.epa.gov/ncer_abstracts/index.cfm/fuseaction/display.abstractDetail/abstract/10443/report/0"] based at the University of Washington combined their expertise in synthetic and analytical chemistry, molecular and cell biology, and [HYPERLINK "https://insight.jci.org/articles/view/95978"] showing that microfluidically linked organs-on-chips, aka "microphysiological systems" (MPS), can be used to identify organ-to-organ interactions in response to chemical toxicants. The authors successfully linked a kidney-on-a-chip with a liver-on-a-chip microfluidically to determine the mechanisms of bioactivation and transport of an established, plant-derived, nephro- or kidney toxin and human carcinogen. Environmental exposures pose a significant threat to human health. However, it is difficult to study toxicological mechanisms in human subjects due to ethical concerns. Microphysiological systems (organs-on-chips) provide an approach to examine the complex, species-specific toxicological effects of environmental chemicals using human cells.

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Office of Water

Hot Issues

Missouri Nutrient Criteria Rulemaking: Tomorrow, we anticipate OMB will clear the proposed Missouri numeric nutrient criteria (NNC) for lakes. Once cleared, the package will then quickly be prepared for the Administrator's signature. EPA is under a consent decree to sign the proposal by December 15.

Public Notification for CSOs in the Great Lakes: We are close to concluding OMB review of the final rulemaking to enhance public notification requirements for CSO discharges into the Great Lakes Basin as required by Section 425 of the 2016 Appropriations Bill. Once cleared, the package will then quickly be prepared for the Administrator's signature. The Act provides that the notice and publication requirements shall be implemented by December 18.

Steam Electric FOIA Litigation: Next week, we anticipate releasing the first set of documents per the court order. The Agency is currently under a court order to produce all responsive documents to Waterkeeper Alliance by December 31st. Yesterday we came to agreement with the plaintiffs to extend our deadline to January 17 in exchange for releasing 250 documents by the end of December.

Lead and Copper Rule Federalism Consultation: Today, EPA sent letters to intergovernmental stakeholders regarding the LCR Federalism consultation. The letter seeks stakeholders' input on EPA's forthcoming proposed regulatory revisions to the LCR and invites stakeholders to a meeting to be held at the EPA Headquarters on January 8, 2018.

Waters of the U.S.: This week, the public comment period closed for the proposed rule to add an applicability date to the 2015 rule. As of Wednesday afternoon, the agencies had received 400 comments to the docket although we anticipate more coming in, and there are approximately 400 mass mailers sent to the Administrator's email. In support of the Step 2 rule, the agencies held a webinar this week for states, tribes, local governments and federal agencies to provide an update on the three rulemakings, feedback we have received through consultations and the outreach listening sessions, and highlight near-term next steps. Over 450 participants logged into the webinar with additional participants joining by phone.

Upcoming Public Events

None

Last Week Highlights

Urban Waters Welcomes CDFI to the Partnership: This week, we received notification that the Community Development Financial Institutions Fund (CDFI Fund) of the Department of Treasury is joining the Urban Waters Federal Partnership as the 15th Agency. EPA and the CDFI have previously collaborated, along with the Atlanta, GA, Proctor Creek Urban Waters Partnership, on an October, 2016, Resilience Academy in Atlanta. That collaboration has continued since and it is clear that the mission of the CDFI Fund and the Federal Partnership are closely aligned towards community revitalization.

Message

From: Adcock, Rebeckah - OSEC, Washington, DC [Rebeckah.Adcock@osec.usda.gov]
Sent: 11/6/2017 5:31:46 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: ARPTF for EPA 11 6 17
Attachments: ARPTF for EPA 11 6 17.docx

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Message

From: Treimel, Ellen [Treimel.Ellen@epa.gov]
Sent: 12/15/2017 6:47:08 PM
To: 2017Regionfirstassistants [2017Regionfirstassistants@epa.gov]; 2017HQfirstassistants [2017HQfirstassistants@epa.gov]; Allen, Reginald [Allen.Reginald@epa.gov]; Baptist, Erik [Baptist.Erik@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Carroll, Carly [Carroll.Carly@epa.gov]; Darwin, Veronica [darwin.veronica@epa.gov]; Darwin, Henry [darwin.henry@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Dickerson, Aaron [dickerson.aaron@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; Falvo, Nicholas [falvo.nicholas@epa.gov]; Flynn, Mike [Flynn.Mike@epa.gov]; Fonseca, Silvina [Fonseca.Silvina@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Gulliford, Jim [gulliford.jim@epa.gov]; Hanson, Paige (Catherine) [hanson.catherine@epa.gov]; Hupp, Millan [hupp.millan@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Jordan, Deborah [Jordan.Deborah@epa.gov]; Kelly, Albert [kelly.albert@epa.gov]; Kime, Robin [Kime.Robin@epa.gov]; Lopez, Peter [lopez.peter@epa.gov]; LUEHE, DOUGLAS [luehe.douglas@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]; Stepp, Cathy [stepp.cathy@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Treimel, Ellen [Treimel.Ellen@epa.gov]; Wagner, Kenneth [wagner.kenneth@epa.gov]; Wooden-Aguilar, Helena [Wooden-Aguilar.Helena@epa.gov]
Subject: Weekly Report 12/15/2017
Attachments: Weekly Report 12-15-2017.docx

Good afternoon,

The weekly report is attached. Have a great weekend!

Ellen Treimel, Special Assistant
Office of the Administrator
U.S. Environmental Protection Agency
WJC-N 3310
202-564-0557 (w)
Ex. 6 (c)

Message

From: Ford, Hayley [ford.hayley@epa.gov]
Sent: 11/3/2017 9:17:27 PM
To: Abboud, Michael [abboud.michael@epa.gov]; Baptist, Erik [baptist.erik@epa.gov]; Beck, Nancy [Beck.Nancy@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Bolen, Derrick [bolen.derrick@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Chmielewski, Kevin [chmielewski.kevin@epa.gov]; Cory, Preston (Katherine) [Cory.Preston@epa.gov]; Darwin, Henry [darwin.henry@epa.gov]; Darwin, Veronica [darwin.veronica@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]; Dourson, Michael [dourson.michael@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; Falvo, Nicholas [falvo.nicholas@epa.gov]; Feeley, Drew (Robert) [Feeley.Drew@epa.gov]; Ferguson, Lincoln [ferguson.lincoln@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Forsgren, Lee [Forsgren.Lee@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Gordon, Stephen [gordon.stephen@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Harlow, David [harlow.david@epa.gov]; Hewitt, James [hewitt.james@epa.gov]; Hupp, Millan [hupp.millan@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Kelly, Albert [kelly.albert@epa.gov]; Konkus, John [konkus.john@epa.gov]; Letendre, Daisy [letendre.daisy@epa.gov]; Lovell, Will (William) [lovell.william@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; McMurray, Forrest [mcmurray.forrest@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Ringel, Aaron [ringel.aaron@epa.gov]; Rodrick, Christian [rodrick.christian@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]; Shimmin, Kaitlyn [shimmin.kaitlyn@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Wagner, Kenneth [wagner.kenneth@epa.gov]; White, Elizabeth [white.elizabeth@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Yamada, Richard (Yujiro) [yamada.richard@epa.gov]; Benevento, Douglas [benevento.douglas@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Glenn, Trey [Glenn.Trey@epa.gov]; Gulliford, Jim [gulliford.jim@epa.gov]; Lopez, Peter [lopez.peter@epa.gov]; Servidio, Cosmo [Servidio.Cosmo@epa.gov]; Stepp, Cathy [stepp.cathy@epa.gov]
Subject: Weekly Report 11.3.17
Attachments: Weekly Report 11.03.2017.docx

See attached for weekly report. Thanks!

Hayley Ford
Deputy White House Liaison and Personal Aide to the Administrator
Environmental Protection Agency
ford.hayley@epa.gov
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Region 1

Hot Issues

Connecticut Voluntary Withdrawal from Delegation of Asbestos NESHAP

- A *Federal Register* notice informing the public that the Connecticut Department of Energy and Environmental Protection (CT DEEP) has voluntarily withdrawn from its authorization to implement and enforce the National Emission Standards for Hazardous Air Pollutants for Asbestos (Asbestos NESHAP) was signed by Region 1 on October 25, 2017 and is awaiting publication.
- The withdrawal will become effective thirty days from publication. The notice requires affected sources to notify the EPA of any asbestos demolition or renovation activity.
- CT DEEP notified EPA of its intent to voluntarily withdraw from its delegation of authority on February 7, 2017. On August 18, CT DEEP notified EPA of the conclusion of its public comment period and requested that EPA proceed with a *Federal Register* notice.

EPA/New England States PFAS Working Group

- Region 1 created a Per- and Polyfluoroalkyl Substances (PFAS) working group with participation from each of the New England states.
- Membership for the group was solicited by the Acting Regional Administrator to state environmental Commissioners.
- Primary goals of the group are to: 1) share information across states and the region; 2) discuss lessons learned; 3) address risk communication issues; and 4) track/consider state requests for EPA resources to support PFAS work.
- A kick-off conference call was held on October 23, 2017. Monthly calls will be held.

Upcoming Public Events

Mass leadership meeting

- Next Tuesday, November 14th, Region 1 will have a senior leadership meeting with Massachusetts Department of Environmental Protection (MassDEP) to share information, discuss positive areas of collaboration, and help resolve any programmatic issues.

Coakley Landfill Public Meeting

- Region 1 is holding a public meeting on 11/15/17 at the North Hampton town hall to provide an overview and update on activities at the Coakley Landfill Superfund Site.
- Representatives from both the New Hampshire Department of Environmental Services (NHDES) and the Coakley Landfill Group (CLG) will be present along with EPA.
- Specific topics to be discussed include EPA's recent five-year review addendum, September sampling activities and preliminary results, bedrock investigation and the scope/timing of additional monitoring wells, and plans for fish tissue sampling.

Upcoming Major Decisions

None

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