Highlights from previous weeks

Fort Devens, MA

- On October 31, Superfund and drinking water program staff from EPA and MassDEP, along with Army and citizens group PACE, participated in two separate meetings with town officials from Ayer, as well as Devens, to discuss PFAS impacts to drinking water supply wells.
- The meeting included a discussion of contingency plans in the event that PFAS levels increase above the Lifetime Health Advisory. MassDEP noted a pending proposal for new PFAS standards that will include additional compounds beyond PFOA/PFOS.
- EPA provided information to the water suppliers regarding correct analytical methods for PFAS in drinking water and technical advisories.

Vermont and Quebec Rock River restoration meeting – Grand Isle, VT

- On October 26, EPA Region 1 staff chaired a meeting of a workgroup for a new Rock River project funded through the Lake Champlain Basin Program. This is a pilot project to demonstrate the benefits of a collaborative and consistent approach to geomorphic assessment, river corridor planning, and restoration for streams that cross the international border.
- The meeting focused on assessment protocols and the development of an RFP. Erosion from stream channel systems is a major source of phosphorus to Lake Champlain, and an important part of Lake Champlain TMDL implementation.

Region 2

Hot Issues

Hurricanes Irma & Maria: On 11/2 Regional Administrator Pete Lopez testified on behalf of the Agency at a hearing of the House Transportation & Infrastructure Committee regarding Hurricanes Harvey, Irma and Maria. Members' statements and questions focused heavily on Puerto Rico and its electrical energy grid, and questions were addressed primarily to FEMA, the Army Corps of Engineers and the Coast Guard. Rep. Nadler of New York raised a number of questions to RA Lopez regarding the Dorado Superfund site in Puerto Rico and the contamination of groundwater wells there.

Past Week

District Court declares disaster relief funds "off limits" to PR creditors. On 10/26 federal district court judge Laura Taylor Swain, who is supervising the PROMESA "Title III" proceedings that were initiated on behalf of the Commonwealth of PR and several of its entities, issued an order that provides, among other things, that: (i) any disaster relief funds given to the Commonwealth or other non-federal entities by FEMA or any other federal agency shall not be subject to any liens or other claims by preexisting creditors, and such funds will not be considered available for distribution to creditors in any of the Title III restructuring proceedings; and (ii) all such disaster relief funds shall be used solely for emergency assistance, disaster relief, and/or specified recovery and restorative assistance purposes.

Berry's Creek and American Cyanamid (OU8) Superfund Sites: Proposed cleanup plans and Records of Decision for these two sites are scheduled for FY-2018. Remedial costs at both sites significantly exceed $50 million, and therefore these decisions will be made by the Administrator. During the week of October 23, the two sites were presented to EPA's National Remedy Review Board (NRRB) and, in the case of Berry's Creek, to EPA's Contaminated Sediments Technical Advisory Group (CSTAG). The meetings went well and we expect to be able to proceed with remedy selection this fiscal year. In coming weeks, we will be responding to any comments from the NRRB and CSTAG. We will schedule briefings for RA Pete Lopez, and discuss with Headquarters the preferred approach and timing for briefing the Administrator.

Notice of Intent to Sue from NY State: On October 26, 2017, the New York State Attorney General's Office sent the EPA Administrator a notice of intent to sue (NOI) asserting that EPA failed to meet a duty under the Clean Air Act (CAA) to promulgate Federal Implementation Plans (FIPs) that fully address the interstate transport of pollution from sources in states upwind of NY- - specifically IL, MI, PA, VA & WV --that contribute significantly to nonattainment in, or interfere with maintenance by, NY with the 2008 Ozone NAAQS.

Proposed County Bill Limiting 1,4-Dioxane discharge to surface water from Dewey Loeffel Superfund Site: On 10/10, the Rensselaer County (NY) Legislature introduced a bill to limit the discharge of 1,4-dioxane to 0.35 parts per billion (ppb) from properties owned by the County that are also designated as a Superfund site. The only such location is the Dewey Loeffel federal Superfund site. The proposal is scheduled for a vote on 11/14, and is expected to pass. R2 legal and program staff have determined that it will not be applicable to site operations. RA Pete Lopez will be briefed on 11/7, after which we anticipate reaching out to the County attorney to advise that EPA does not believe the legislation will apply to our site operations, and to reiterate our belief that site operations are being

performed in a manner that is protective of human health and the environment. Additional media coverage and/or inquiries from local officials are anticipated.

Region 3

Hot Issues

EPA presents VADEQ with "Excellence in State Engagement Supporting Reuse Award" On October 27, 2017 in Arlington, Virginia, during the annual ASTSWMO meeting, EPA presented the Virginia Department of Environmental Quality ("VADEQ") with the "Excellence in State Engagement Supporting Reuse Award." This award, given out by EPA the past three years, was created by the Superfund Redevelopment Initiative ("SRI") to recognize state partners whose work supporting the reuse of Superfund NPL sites has led to lasting benefits that enhance community quality of life and ensure the long -term protectiveness of site remedies and stewardship of the environment. This year the award was also given separately to Indiana and North Carolina. This award recognizes three sites where the work of VADEQ produced outstanding results in site reuse. These sites are the Avtex Fibers, Inc. Site in Front Royal, the Chisman Creek Site in York County, and the Dixie Caverns County Landfill Site in Salem. The site reuses are diverse and include recreational facilities and parks, business parks, a new police station, a driver training center, and a wildlife preserve. Virginia is the first state in Region III to receive the award.

Comprehensive Performance Evaluation (CPE) meeting and Press Release with PADEP and Pittsburgh Water and Sewer Authority (PWSA)
On October 31, 2017, the Water Protection Division and the Pennsylvania Department of Environmental Protection met with PWSA to deliver a final CPE report. The report documents performance limiting factors identified by a team of staff from EPA Region 3, EPA's Technical Support Center, PADEP and Process Applications, Inc. during the September 18 – September 22 CPE conducted at PWSA's Aspinwall Water Treatment Plant. The areas of design, operation, maintenance and administration were evaluated to identify factors that impact PWSA's capability to consistently meet turbidity and disinfection goals. PADEP will work with PWSA on developing a comprehensive plan to address the CPE recommendations in addition to other priority tasks.

On another note, Pennsylvania's Auditor General released the Comprehensive Performance Evaluation report on November 1, 2017. The report contains one finding and 17 recommendations. EPA and PADEP will continue to monitor and discuss how the agencies' concerns are being addressed.

EPA Regions Conduct Core TSCA Inspection of Chemours Company, Washington, WV
On October 17-18, 2017, EPA inspectors from Regions 3, 4 and HQ inspected the Chemours facility in Washington, WV with a focus on the Toxics Substances Control Act (TSCA). Chemours manages/produces GenX, a replacement compound for PFOA. The inspection included a thorough review of the facility's processes and records and a plant tour. Additional information from the facility will be submitted this coming week. TSCA authorizes EPA to identify, evaluate, and regulate unreasonable risks that new chemicals or significant new uses of existing chemicals may pose to human health and the environment.

Region 3 Land and Chemicals Division Meets with Philadelphia on Lead
On October 25, 2017, the Region met with representatives of the City of Philadelphia to discuss lead issues. The meeting included the Commissioner of the Department of Licenses and Inspections along with staff from the City Department of Health. Previous meetings focused on lead in soil. This meeting focused on lead-based paint and lead from building demolitions. City requests were also

discussed, which included building code official training/coordination and demolition technical support

Region 3 Meets with Representatives of DoD to Increase Partnership and Communication Efforts
RA Servidio, DRA Rodrigues, and the Division Directors in Region 3 met with Sharon Baumann and Patrick Timm. Sharon is the DoD Regional Environmental Coordination Director for multiple Regions within the Armed Forces. Patrick Timm is the Regional Program Coordinator for the Army. The focus of the meeting was to inform the Regional Coordinators of our structure, points of contact, and how to increase our level of communication and coordination during this time of environmental budget cuts in the armed forces.

Region 3 Meets with the States of Maryland and Pennsylvania to Discuss Nutrient Trading
On November 1, 2017 RA Servidio, DRA Rodrigues, and R3 staff held a teleconference with the four Maryland and Pennsylvania Environmental and Agricultural Secretaries regarding intrastate and interstate trading. Maryland currently has language in legislation to adopt new regulations under the MD Water Quality Nutrient and Sediment Trading and Offset Program. The mention of interstate trading is included in this legislation. The state is eager to identify a pilot project that would provide benefit to the surrounding area and Chesapeake Bay. Next steps include setting up a meeting with the programmatic staff and moving forward with an approach that all agencies are comfortable with.

Warehouse Fire, Parkersburg, WV
The Incident Commander officially declared that the fire was out on October 31, 2017. All Wood County resources, including contractors, have been demobilized and the property turned back over to the Property Owner. The Property Owner has installed fencing around the perimeter of the Site and hired a contractor to prepare a Water Management Plan to be submitted to WVDEP. WVDEP was on-scene November 1, 2017, inspecting the property to identify items necessary for the cleanup. Cleanup of the site will be completed under WVDEP's Order.

EPA collected ash samples from the property also on November 1, 2017. Post-fire air sampling occurred Thursday, November 2, 2017. EPA is assisting local responders with equipment inspections to determine if the fire contaminated the equipment.

Upcoming Public Events

No public events to report at this time.

Past Events

No events to report at this time.

Region 4

Hot Issues

Oak Ridge Reservation CERCLA Site (Oak Ridge, Tennessee)
Key Message: On November 2nd, Regional Administrator Trey Glenn spoke with the Acting Manager for the Oakridge Office of Environmental Management, Jay Mullis, to communicate Region 4's position regarding the need for EPA to include the Department of Energy (DOE) requirements in the list to be considered guidance (TBCs) in the Remedial Investigation/Feasibility Study. The Regional Administrator proposes to reject DOE's assertion that it is not appropriate for EPA to enforce the DOE Order requirements for the handling of low level radiation waste.

Congressional Hearing and Briefing
Key Message: On November 14th, Regional Administrator Trey Glenn will participate in a hearing for the House Energy and Commerce Committee and a briefing for the House Appropriations Committee regarding Hurricane Irma response and recovery. Region 4 also contributed to the written testimony for the Region 2 House Transportation and Infrastructure Committee hearing this week.

B.F. Goodrich (Calvert City, Kentucky)
Key Message: Region 4 has initiated the routing process for the B.F. Goodrich proposed plan. According to the proposed schedule and pending Administrator approval, Region 4 anticipates issuing the plan for public comment on November 15th.

Upcoming Travel for the RA

- None

Region 5

Hot Issues:

Oil Spill Cleanup Continues on South Fork Chicago River (A.K.A. Bubbly Creek) in Chicago, Illinois

Key Message: Region 5 conducting cleanup of oil spill on the South Fork of the Chicago River.

While cleanup is underway, access to Bubbly Creek has been closed off and the creek has been secured with containment boom. The dense oil surrounding the pier at Chicago Park #571 has been removed. EPA will now focus cleanup efforts on the pockets of oil remaining in Bubbly Creek and on the Chicago Sanitary & Ship Canal (CSSC). EPA's response to the oil spill is expected to continue for at least another week. The U.S. Fish and Wildlife Service is working with USDA Wildlife Services and EPA to retrieve dead and injured wildlife. The dead wildlife recovered so far include, four turtles, one Canada goose, one seagull and 43 fish.

On October 26, 2017, EPA responded to an approximate 1.5-mile mystery oil spill on the South Fork of the Chicago River, a.k.a. Bubbly Creek, which generally flows to the South Branch of the Chicago River and the CSSC. Oil has been observed at the southernmost extent of Bubbly Creek next to the Metropolitan Water Reclamation District of Greater Chicago (MWRD) facility. The source of the oil sheen is unknown and the MWRD is assisting EPA in the investigation to find a potential source.

EPA contractor power washing rocks at Park 571

Community Concerns about PFAS Contamination of Residential Wells from Wolverine World Wide Tannery Dump Sites in Rockford, Michigan

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

Region 5 representatives met with the community group on October 17, 2017, to discuss recently discovered PFAS groundwater contamination at various dump sites in the Rockford area. The PFAS contamination has impacted some residential wells at concentrations above the health advisory and is believed to be from WWW waste disposal at the various locations. WWW has been providing alternative drinking water to impacted residents. Subsequent to the October 17, 2017 meeting the

Region 5 Superfund removal program was approached by local area health departments, the Michigan Governor's office, and the Michigan Department of Environmental Quality (MDEQ) about potential federal resources being made available to help respond to the site.

In 2012, EPA agreed that MDEQ could address contamination from the WWW facility as an "other cleanup authority (OCA)" alternative to the Superfund remedial process. An EPA 2102 Preliminary Assessment determined that the site may be eligible for the Superfund National Priorities List. On November 1, 2017, Region 5 and MDEQ discussed the status of the WWW OCA and their plan to evaluate the dump sites. MDEQ discussed the challenges of the situation, however, maintains interest in keeping the facility as an OCA state-lead site.

Upcoming Events:

Region 5 Senior Management to Attend Regional Tribal Operations Committee Meeting

Key message: The meeting is a continuation of a 24-year tradition of Region 5 tribal summits, featuring the free exchange of perspectives, information and strategic options.

Region 5 will take part in the third tribal summit of 2017 on November 8-9. This two-day summit will take place on the reservation of the Menominee Tribe of Wisconsin. The first day will feature an environmental and cultural tour led by the hosts, an elected leader roundtable with Region 5's Acting Regional Administrator, and then a social dinner with all meeting attendees. On the second day, a full agenda will include discussions of the recent NTOC, tribal environmental codes, and recent developments in grants management. HQ's American Indian Environmental Office will attend to provide updates on tribal capacity development. Several Region 5 Division Directors will present programmatic updates, leading to group consideration of issues and opportunities for cooperative action regarding air and water quality, waste management, and cleanup or response actions.

EPA to Participate in Stakeholder Meeting Hosted by Representative Dingell on Gelman Facility Groundwater Contamination

Key Message: EPA will participate in a November 13, 2017 meeting hosted by Representative Debbie Dingell regarding a 1,4 dioxane contaminated groundwater plume that extends from the Gelman facility into Scio and Ann Arbor Townships in Michigan.

The intent of the meeting is to improve communication between the MDEQ and the local community regarding the site. EPA will discuss the exposure risks posed by the contamination and provide an update on EPA's continued role at the site. It is anticipated that Nick Falvo, Special Assistant to Senior Advisor Albert Kelly, will also attend the meeting.

MDEQ is currently overseeing the remediation of the Gelman facility and associated contamination. The Sierra Club-Huron Valley Group, along with Scio and Ann Arbor Townships, petitioned EPA on November 18, 2016 to conduct a Preliminary Assessment (PA) of the Gelman release. EPA's PA demonstrates that the Gelman facility generates a score above 28.5 under EPA's Hazard Ranking System, making it eligible for further investigation as a potential Superfund National Priorities List site. EPA will accept MDEQ's recommendation that the site be designated as "Other Cleanup Authority" (OCA) – State lead. Notwithstanding the lead agency designation, EPA will keep the RPM engaged with the public and MDEQ for at least the next year. MDEQ has agreed to provide EPA with

quarterly status reports covering ongoing issues and remediation activities and include semiannual comprehensive trend analysis of the plume.

Upcoming Major Decisions:

None

Past Week Accomplishments/Highlights:

EPA Amends Superfund Administrative Order on Consent for Chicago River Area Former Manufactured Gas Plant Sites in Chicago, Illinois

Key Message: On October 27, 2017, EPA agreed to amend a multi-site Superfund Administrative Order on Consent with potentially responsible party (PRP) WEC Energy Group to exclude several sites/areas from the AOC.

Following a careful review of several of the eleven former MGP sites along the Chicago River, EPA decided to remove four sites from the federal Superfund cleanup program and two parcels from a fifth site. One of the sites removed is the south fork of the South Branch of the Chicago River, also known as Bubbly Creek. EPA's review determined that although the sites may have some contamination, no further Superfund response is needed. Any remaining contamination that merits cleanup at the sites can be addressed more quickly through other cleanup programs. In particular, Bubbly Creek has been identified by the U.S. Army Corps of Engineers for potential restoration opportunities. Removal of the site should address concerns previously cited by the Corps as a reason for suspension of their planned ecological restoration study and allow them to move forward with their plans. It is important to note that removal of Bubbly Creek from the AOC will not interfere with the ongoing Bubbly Creek oil spill response or future actions having to do with the spill. The other parcels and sites are likely to be submitted to the state's voluntary cleanup program.

From the mid-1800s to the 1940s, MGPs in Chicago and the surrounding areas heated coal to produce fuel which was used for street lighting, cooking and heating homes. Many MGP sites are polluted with coal tar, polyaromatic hydrocarbons, benzene, toluene, arsenic and cyanide.

Region 5 and EPA EJ Director Meet with East Chicago Community Groups

Key message: On October 24-25, Region 5 staff and Matt Tejada met with East Chicago community groups to discuss environmental justice issues facing the community.
The discussion center on environmental issues in East Chicago, including the USS Lead Superfund site, and the greater Northwest Indiana area. The meeting came about after an invitation by one of the community groups, East Chicago Calumet Coalition. In addition, Matt met separately with representatives of the Community Strategy Group and Calumet Lives Matter.

Region 6

Hot Issues:

San Jacinto Waste Pits Superfund Site, Houston, Texas
On October 24, 2017, EPA issued an invitation to the potentially responsible parties for the San Jacinto Waste Pits Superfund Site to start negotiations for the remedy for the site. The remedy selected by Administrator Pruitt on October 11, 2017 entails the excavation and off-site disposal of 212,000 dioxin contaminated sludge at an estimated cost of $115 million. Counsel for the PRPs stated that early December is the soonest available date to meet to discuss next steps.

Arkema Inc., Crosby, Texas
Arkema has fully responded to EPA's information request and EPA is reviewing the materials to determine any areas requiring follow up. Arkema has also requested a meeting with EPA to discuss the investigation. The meeting is anticipated to take place by November 22.

Wilcox Oil Company, Bristow, Oklahoma
EPA Region 6, EPA's Office of Superfund Remediation and Technology Innovation (OSRTI), and the Oklahoma Department of Environmental Quality will continue remedial investigation activities at the Bristow, Oklahoma, site. During this field event, the team will collect surface water, sediment, and subsurface data while OSRTI samples and delineates the lead sweetening area. Work under this field event will be completed in early November 2017.

Arkansas Regional Haze State Implementation
The Arkansas Department of Environmental Quality (ADEQ) shared their DRAFT State Implementation Plan (SIP) regarding Arkansas Regional Haze with EPA on October 10, 2017. EPA and ADEQ staff met on October 16 – 17 to discuss the draft and recommend revisions. ADEQ started their comment period on October 31st and it will close on January 2, 2018. A public hearing is scheduled for that date at ADEQ offices in Little Rock at 2pm.

Court Sets Deadline in Litigation re EPA's Final Action on Texas Regional Haze BART: On September 29, 2017, the Administrator signed a *Federal Register* notice finalizing a plan to address best available retrofit technology (BART) for Texas regional haze and interstate visibility transport (and the notice was published on October 17, 2017). This action was taken to meet a consent decree deadline, and on October 13, 2017 (upon direction from the court overseeing the consent decree), the environmental plaintiffs filed a notice stating their position that the EPA's final rule does not comply with the consent decree. On October 25, 2017, EPA filed its response stating that the Administrator's action on September 29, 2017 was a final action; the requirements of the consent decree have been satisfied; and all arguments from the environmental plaintiffs regarding the content of EPA's final action should be addressed by the appropriate federal circuit court, not the district court that is overseeing the consent decree. On October 30, 2017, the court set a deadline of November 8, 2017 for the environmental plaintiffs to submit a reply to EPA's October 25, 2017 filing

Bird Creek, Osage County, Oklahoma
EPA met with representatives for the landowner on Monday, October 30, 2017, in Fort Worth to discuss the Warren American and Jireh Resources' proposal of the removal of the contamination in Bird Creek. EPA learned that the operators gave a very general description of the work (three sentences) with no specifics. The landowner's geologist responded with a list of questions last week

and to date, has not received a response. EPA stressed to the landowner that the Agency did not endorse the removal, but it would like to be there to observe.

TPDES General Permit No. TXR040000 for MS4s
On August 31, 2017, Texas Commission on Environmental Quality submitted to EPA the proposed Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXR040000 for discharges from small municipal separate storm sewer systems (MS4s) into surface water in the state of Texas. To support internal review, TCEQ submitted additional supplemental documents on October 24, 2017. Based on initial EPA review, it is not clear how this permit conforms to the guidelines and requirements established by the Clean Water Act (CWA) and the NPDES regulations, and more specifically how the proposed General Permit meets the Final MS4 General Permit Remand Rule which mandates permitting authorities to issue General Permits for small MS4s with (i) clear, specific and measurable requirements and (ii) procedures for permitting authority review and public notice and the opportunity to request a hearing on Notices of Intent (NOIs) for authorization to discharge under a general permit. EPA expects to request additional Information pursuant to 40 C.F.R. § 123.44(d)(2)) or issue an Interim Objection letter based on final internal review before December 4, 2017.

San Antonio Water System (SAWS), TX
The SAWS and EPA are scheduled to meet in Dallas on November 8, 2017. The primary purpose of the meeting is to present SAWS' progress and compliance status of the Consent Decree. The Consent Decree was entered on October 15, 2013, in the United States District Court of Western District of Texas which addresses the injunctive relief issues required to comply with the Clean Water Act.

Extreme Metals, Emory, Texas
EPA will begin disposing of the material from the Extreme Metals site, which is a former metal recycler. The Texas Commission on Environmental Quality (TCEQ) conducted an emergency response at the site during which hazardous materials were bulked for disposal but needed help with the final disposal. TCEQ requested EPA assistance to dispose of the bulked wastes and to complete remaining cleanup activities at the site.

Resurrection Mining, LLC (NPDES No. NM0028169) – Denial of Permit Renewal
EPA intends to issue a permit denial with cause regarding the renewal application for the inactive Rio Puerco Mine. The facility is located approximate eight miles southeast Marquez, in Sandoval County, New Mexico. The mine has been inactive with no discharge since 1980. The mine site is unmanned and surface buildings have been demolished. NMED has denied the certification under CWA 401, and EPA has received no responses from the applicant and legal representative after multiple call, e-mails and two certified letters (one to signatory to the permit application with the proposed permit package and one to Resurrection Mining, LLC Agent of Record with the New Mexico Secretary of State) were returned to EPA as undeliverable. EPA has been unable to locate a current operator of this inactive mine, so there is no know permittee to issue a final permit.

Tar Creek Superfund Site, Quapaw, Oklahoma
On November 7, 2017, representatives from two EPA Regions, the states, tribes, trustees and community/watershed groups will meet in Quapaw, Oklahoma, to discuss comments and concerns regarding work in the Tristate Mining District. Region 7 representatives will provide an update on remedial action progress in both Kansas and Missouri while representatives from Region 6, the Oklahoma Department of Environmental Quality, and the Quapaw will provide updates on remedial progress in Oklahoma. In addition, Region 6 will provide updates on the Operable Unit 5 remedial

investigation, specifically related to data collection and review and discussion of human health risk assessment input parameters. The participants are expected to include Oklahoma, Kansas, Quapaw Tribe, Peoria Tribe, Wyandotte Nation, Miami Nation, Ottawa Tribe, Seneca-Cayuga Nation, Eastern Shawnee Tribe, Cherokee Nation, U.S. Fish and Wildlife, Region 7, Grand River Dam Authority, Local Environmental Action Demanded (LEAD) Agency, Grand Lake Watershed Alliance Foundation (GLWAF), and Spring River Watershed Restoration and Protection Strategy (Spring River WRAPs). Then on November 8, 2017, the EPA will meet with representatives from the Quapaw Tribe Environmental Office and the Oklahoma Department of Environmental Quality, in Quapaw, Oklahoma, to discuss the current and planned remedial actions for Operable Unit 4 (Mine Waste).

NEPA:

Middle Rio Grande Flood Protection Bernalillo to Belen, New Mexico

The United States Army Corps of Engineers (USACE) prepared a General Reevaluation Report and Supplemental Environmental Impact Statement (GRR/SEIS) for the Middle Rio Grande Flood Protection Bernalillo to Belen Project, located in New Mexico. The USACE evaluated alternatives to replace existing spoil banks with engineered levees to reduce flood risk within the Middle Rio Grande between Bernalillo and Belen, New Mexico. EPA will support the USACE by meeting our basic statutory requirements for participating in the environmental review process.

Upcoming Public Events:

- November 14 – The House Energy and Commerce Committee Hearing will hold a follow-up hearing on Hurricane Response activities.
- November 29 – 30 - Regional Tribal Operations Committee (RTOC) meeting, Tulsa, Oklahoma

Upcoming Decisions:

Veolia Environmental Services, Port Arthur Texas, PCB reauthorization

EPA intends to approve a proposed PCB reauthorization for commercial storage and disposal of liquid and solid PCBs in Veolia's high temperature rotary kiln incinerator. A public notice announcing this proposal will be published in the Port Arthur News, opening a 45-day comment period and opportunity for a public hearing. The proposed reauthorization letter will be signed by the Associate Director for Hazardous Waste Branch. This action is in Scout for Nov 7, 2017.

Arkansas Infrastructure SIP for NAAQS

EPA intends to approve a proposal for Arkansas' Infrastructure SIP for PM 2.5, lead, ozone and NO2 and SO2 requirements. This action addresses implementation, maintenance and enforcement of the NAAQS for these pollutants. No comments were received during the 30-day comment period for the state SIP revision.

Past Week Accomplishments:

Oklahoma Corporation Commission UST Program Approval

EPA intends to issue a direct final approval for the OCC application to operate the Oklahoma State UST regulations in lieu of the Federal UST regulations in Oklahoma. The Acting Regional Administrator is expected to approve this action by November 1, 2017.

Pending Actions (Pending Federal Register Publication):

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Rule FRL 9969-73-Region 6

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

Approval and Promulgation of Air Quality Implementation Plans; Arkansas; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards, FRL 9970-19-Region 6

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Region 7

Hot Issues:

R7 Puerto Rico Recovery and California Wildfire Support

Key Message: On October 26, 2017, R7 received a request to support wildfire response needs identified by R9 and limit our R2 support to the resources ordered and supplied prior to October 26. The national strategy going forward will be for R1-R5 to support the R2 response in Puerto Rico and R6-R10 to support the R9 response in California.

On October 30, R7 deployed two Assistant Situation Unit Leaders to California. In addition, the National IMAT BUR 3 was activated to support R9 and four personnel from R7 (Deputy IC, Planning Section Chief, Logistics Section Chief, and Finance Section Chief) are being deployed under the NIMAT.

R9 is also currently asking for R6/R7 to supply 2-3 OSCs each for 2 week rotations for the next 2 rotations and as many ASOs as we can spare for the next month. The R7 REOC is checking with KLP trained PIOs and SOs and their first line supervisors to determine availability and plans to send our OSC/PIO/ASO availability list to R9 this week.

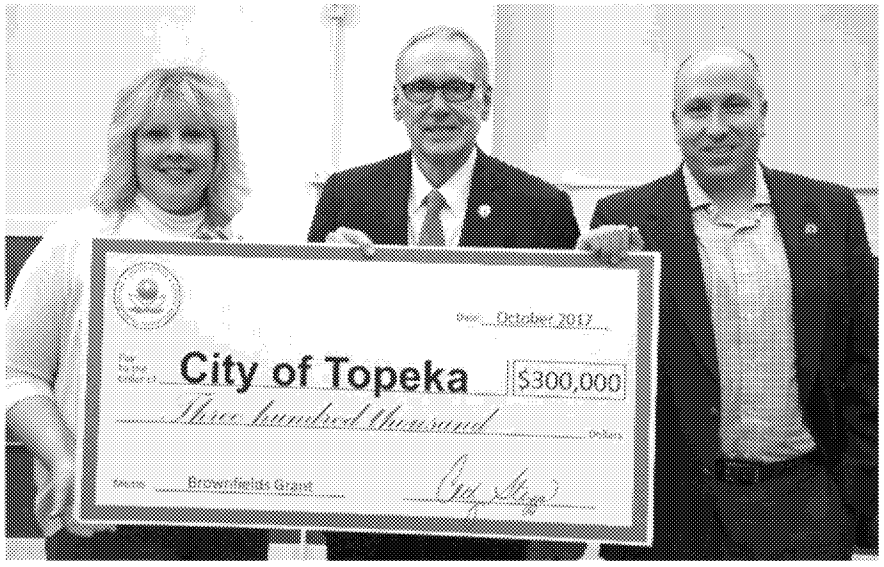
Currently, R7 has 3 OSCs in Ponce, PR who were deployed earlier this week, 1 OSC serving as the Operations Section Chief in San Juan, and an Assistant Safety Officer in San Juan assisting with safety plans as they are developed jointly with multiple Federal Agencies. R7 also has two KLP trained personnel in Edison, NJ serving as Resource Unit Leader and Assistant Situation Unit Leader. Looking ahead, Region 7 has two CICs scheduled to deploy to PR on November 5 and November 12.

Last Week's Highlights:

Brownfields Assessment Grant (Topeka, KS)

Key Message: On October 26, 2017, the city of Topeka and EPA R7 celebrated the funding of a $300,000 EPA Brownfields Assessment Grant during an event at Topeka's NOTO Arts Center.

- Cleanup and assessment grants help provide communities with resources necessary to determine the extent of site contamination, remove environmental uncertainties, and clean up contaminated properties where needed.
- The city will use the funding to expand redevelopment in the North Topeka Riverfront Area.
- Following the ceremony, R7 Principal Deputy Regional Administrator Cathy Stepp and Topeka City Planner Bill Fiander joined host Ralph Hipp for a WIBW-TV segment to discuss the city's selection for the Brownfields grant.


October 2017
City of Topeka
$300,000
Three hundred thousand
Brownfields Grant

Region 8

Hot Issues:

Meridian Energy Group, Proposed Davis Refinery Project in North Dakota

Key Message: The North Dakota Department of Health (NDDH) has drafted a synthetic minor air permit for the proposed Davis Refinery project planned to be constructed west of Belfield, North Dakota, in Billings County near Theodore Roosevelt National Park. There is a high level of public interest in this project partly due to its close proximity to the park (approximately three miles from the eastern boundary). The refinery will have a 55,000 barrel per-day processing capacity.

- NDDH plans to begin the public comment period on the draft permit around November 10, 2017.
- Region 8 Air Program, along with federal land managers, has been participating in monthly calls arranged by NDDH to coordinate on the permit development. We do not typically review states' "synthetic minor" source construction permits, but NDDH invited our involvement due to the public interest in this project.
- We anticipate media interest next week on this permit. This project and permit are also important to the Governor's office.

EPA to meet with American Gilsonite Corporation (AGC) on petition for review of EPA's Aquifer Exemption decision

Key Message: On July 28, 2017, the EPA Region 8 UIC Program issued a decision to deny an Aquifer Exemption (AE) requested for a portion of the Bird's Nest Aquifer (BNA) within a 2,820-foot radius of the No. 1 Class V deep disposal well owned by American Gilsonite Corporation (AGC) near Bonanza, Utah.

- Since AGC's appeal of EPA's decision on September 11, 2017, to the U.S. Tenth Circuit Court, AGC, EPA, and DOJ have agreed to engage in settlement discussions facilitated by the Tenth Circuit's mediator.
- EPA and AGC plan to meet on November 2, 2017, to discuss possible UIC-related options that may enable injection into the BNA or possibly another formation or location consistent with UIC regulations.

Upcoming Public Events:

None

Upcoming Major Decisions:

None

Last Week Highlights:

NEPA Staff Visits Transportation Sites and Attends Public Meeting in Utah

Key Message: From October 26 to October 27, Region 8's NEPA Program attended site visits for the I-15 and Main St. interchange improvement project in Payson, Utah, and the State Route 30 highway improvement project in Logan, Utah, and a public meeting.

- The project site tours helped EPA to understand issues described in the Draft Environmental Impact Statements (EISs) for these projects, including wetland impacts.
- The EPA's attendance and early engagement in these projects has established relationships with the Utah Department of Transportation (UDOT), who now has primacy for NEPA transportation projects in the state of Utah.
- UDOT expressed appreciation for EPA's attendance and participation.

NEPA and 404 Programs Attend Water Supply Cooperating Agency Meetings in Wyoming

Key Message: From October 24 through October 26, 2017, Region 8's NEPA Program staff and CWA Section 404 staff participated in early engagement efforts on two water supply projects led by Wyoming BLM's Worland and Cody Field Offices.

- The EPA attended a public meeting on the Alkali Creek Reservoir Project and met separately with the Worland Field Office to discuss the sharing of data and analyses so that conclusions on impacts are supported in the BLM's EIS.
- The EPA and the Corps shared information with the Cody Field Office on the issues within our respective jurisdictions that the EIS should address, as well as how to efficiently meet both NEPA and CWA Section 404 requirements concurrently.
- The Field Offices expressed appreciation for EPA's early coordination and participation in these NEPA projects.

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Region 9

Hot Issues:

No. CA Fire Response: excellent progress of parcels surveyed and completed, due to the truly remarkable work from EPA managers and staff in the various functions (Napa and Sonoma, IMT, community involvement, liaison, and PIO). With support from Regions 8 and 10, EPA has 240 federal employees and contractors on this response, working productively and harmoniously. We welcome the incoming reinforcements from Regions 5, 6 and 7. As we move to the less densely populated and more rural areas of Napa and Sonoma, the pace of our survey and collection work will change. We continue with external communications and participation in community meetings.

Sonoma County and the Regional Water Quality Control Board have formed a watershed task force to address impacts related to ash and debris run-off, as our first seasonal rains begin; we are supporting this group. Sonoma County seems to be largely with ambient water quality in the Russian River, while Napa County is primarily concerned with drinking water. This work is covered under the first ESF10 Mission Assignment to conduct surveys for Household Hazardous Waste. Several school districts have expressed concern about ambient air quality near schools. California and local air agencies are taking the lead on conducting air monitoring and advising school districts on air quality.

Here's the progress to date, as of November 1:

	SONOMA	NAPA	TOTAL
Parcels Impacted	6153	767	**6920**
Parcels Surveyed	2222	402	**2624**
Parcels in Progress	101	136	**237**
Completed	2121	266	**2387**
Revisit Required	235	161	**396**
Parcels Surveyed 10/31/17	336	56	**392**

External Engagements:

1. Marine Debris: we met with The Ocean Cleanup project, as part of their outreach to federal and state agencies, as they construct the mechanisms to remove floating plastics (above l0 mm) in the North Pacific Gyre next year. They have designed a 600-meter floating barrier, one of dozens they intend to deploy to capture debris, particularly abandoned fishing nets and lines. The collected material would come ashore for recycling in the San Francisco Bay area.
2. Annual Tribal Conference: we cohosted our annual Tribal conference with the Viejas and San Manuel tribes near San Diego, drawing hundreds of participants to three days of working sessions. Joined by our senior managers, I convened a special session for Tribal elected leaders' discussions.
3. Los Angeles County Bar Association: I'll address the L. A. Country Bar Association Friday November 3.

Region 10

Hot Issues:

Bristol Bay/Pebble Mine Pending NPR Story (AK): Alaska NPR is producing a short piece for national broadcast expected to air November 8 focused on EPA's proposed Preliminary Determination withdrawal, public comments, public hearings, including interviews with Pebble Mine, scientists and tribes. NPR is also working on an in-depth weeklong feature story on Bristol Bay/Pebble Mine launching December 1 with broadcast, online story and videos.

Upcoming Public Events:

Stakeholder Meeting "Oregon's Changing Aquatic Resource Mitigation Framework": On November 9th, Region 10 will participate in the Oregon's Changing Aquatic Resource Mitigation Framework (ARMF) Stakeholder meeting. The meeting is co-hosted by the Oregon Department of State Lands, Army Corps of Engineers, and EPA. Representatives of industry and homebuilding associations, agriculture, conservation organizations, local government associations and environmental consultants have been invited; approximately 50 participants are expected. The agencies have worked together collaboratively over the past several years to develop the ARMF, which aims to implement the EPA/Corps 2008 Final Mitigation Rule, and ensure consistency and enhanced coordination between federal and state regulatory agencies and programs to improve the regulatory process. Stakeholder input has been an important part of the development process. Anticipated implementation of the ARMF is February 2019.

Press Release: Kloosterboer Dutch Harbor settlement on ammonia release violations in Unalaska (AK): During the week of November 6th, Region 10 will announce a settlement with Kloosterboer Dutch Harbor LLC, a Seattle-based company that operates a seafood cold storage facility in Unalaska, Alaska, for violations related to an ammonia release last year that seriously injured a worker. Kloosterboer will pay $10,008 penalty and supplemental environmental projects, valued at approx. $26,000, to help prevent or reduce future ammonia releases and improve safety at the facility.

Upcoming Major Decisions:

U.S. Navy Arctic Ice Camp - Draft NPDES Permit Modification (AK): Region 10 is proposing to modify the Arctic Ice Camp NPDES permit issued to the U.S. Navy on December 14, 2015. The proposed modification includes expansion of the area of the potential camp location to account for increased ice movement during the six-week operational period. Region 10 has determined that the proposed permit modification does not require reinitiating consultation under ESA and has notified NMFS of this action. The 30-day comment period for the proposed modification starts on Thursday, November 2, 2017 and will end on Monday, December 4, 2017. The U.S. Navy plans to conduct another Arctic exercise in February 2018.

Dawn Mining Company Midnite Mine NPDES Permit Issuance (WA): EPA has received the final Clean Water Act Section 401 certification from the Spokane Tribe of Indians and is preparing final permit documents for issuance in mid-November. The final permit authorizes the discharge from a new treatment plant being constructed per the superfund ROD. Receiving authorization to discharge through an NPDES permit is also required as a part of the ROD. The facility will discharge to the Spokane Arm of Lake Roosevelt within the Spokane Tribe of Indians Reservation.

Reissuance of UIC Permit to ConocoPhillips Alaska: ConocoPhillips Alaska Inc. (CPAI) submitted a permit application for the reissuance of an Underground Injection Control Permit in May, 2017 for the continued use of one Class I non-hazardous injection well at CPAI's Alpine Facility, located at the Colville River Delta on the North Slope of Alaska. Following review, EPA drafted a permit, fact sheet, and public notice proposing a reissuance of this permit and initiated a public comment period on October 4, 2017, which ends on November 9th. EPA will respond to all substantive comments and make a formal decision on the issuance of the Permit. Reissuance of this permit will allow the continued injection of non-hazardous waste into geologic formations more than 8,000 feet below the ground under the constraints of reporting, inspection, operational, construction, and financial assurance requirements. No substantial comments have been received to date.

Last Week Highlights:

Tacoma-Pierce County Health Receives EPA PISCES Exceptional Project Award (WA): Tacoma-Pierce County Health, one of Washington Department of Ecology's assistance recipients, was one of five recipients of an EPA PISCES Exceptional Project Award. The Clean Water State Revolving Fund's Performance and Innovation in the SRF Creating Environmental Success (PISCES) program allows assistance recipients to gain national recognition for exceptional projects funded by the CWSRF. Participating state programs each nominated one project that demonstrates one or more of the evaluation criteria: water quality, public health, or economic benefits; sustainability; and innovation. Projects may be operational or in the planning phase. Tacoma-Pierce County Health Department's On-Site Sewage System Loan Program demonstrated excellence in matching the PISCES criteria and for being innovative in using the CWSRF to achieve clean water for their communities.

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Office of Administration and Resources Management

Hot Issues:

Emergency Response Volunteers
FEMA recently advised federal agencies that the immediate need for volunteers has ended, and any future deployment will be coordinated as mission needs arise. As a result, OARM is no longer accepting applications for participation in the Surge Capacity Force.

Program Summary: A total of 147 EPA employees applied to serve as FEMA SCF volunteers. To date, FEMA has deployed 64 EPA volunteers who are filling the following roles: Disaster Survivor Assistance Specialist, Environmental Compliance Review Specialist, Floodplain Management Specialist, Applicant Services Program Specialist, Information Technology Specialist, and Logistics Specialist.

Pay Cap Waiver
On November 2, 2017, OARM's Acting Assistant Administrator signed a pay cap waiver memo which authorizes an agency-wide exception to the bi-weekly maximum earning limitation for those employees that have been deployed as part of the Surge Capacity Force in response to Hurricanes Harvey, Irma, and Maria. This waiver will remain in effect until a cancellation of the associated emergencies is issued by the authorizing authority.

Upcoming Public Events:

None

Upcoming Major Decisions:

None

Last Week's Highlights:

Designation of National Security Positions
Title 5, Code of Federal Regulations, Part 1400 mandated that agencies evaluate every employee's position to determine its sensitivity in relationship to the potential impact it could have on national security.

Ex. 5 Deliberative Process (DP)

Office of Air and Radiation

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)
  - Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits (Proposed Rulemaking)
  - Renewable Fuel Volume Standards for 2018 and Biomass-Based Diesel Volume (BBD) for 2019

State Implementation Plan (SIP)-Related Actions:

- The Regions report that the following 2 SIP-related actions was signed this week:
  - **Region 1: Proposed and Direct Final Rule -** New Hampshire Recordkeeping and Reporting Regulation, and VOC RACT Order for Sturm Ruger
  - **Region 9: Notice -** San Diego 2008 8-Hour Ozone RFP Budget Adequacy

Upcoming Meetings, Public Events, or Other Public Releases:

- **Participation on the U.S. Delegation for the Framework Convention on Climate Change - 23rd Conference of the Parties (COP):** EPA staff plan to participate on the U.S. delegation to the upcoming COP in Bonn, Germany. (The COP runs from November 6-17).
- **House Energy and Commerce Committee hearing on energy bills:** The Energy Subcommittee will hold a hearing on two bills, one of which is a discussion draft of the ENERGY STAR Reform Act of 2017.
- **Montreal Protocol Meetings:** On November 20-24, EPA staff will participate as members of U.S. delegations and as co-chairs at the Joint 11th Conference of the Parties (COP) to the Vienna Convention and the 29th Meeting of the Parties (MOP) to the Montreal Protocol on Substances that Deplete the Ozone Layer.
- **Ozone Transport Commission (OTC) Fall Meeting:** On November 15, EPA staff will attend the OTC Fall meeting being held here in Washington, D.C. to discuss transport issues. (The OTC is a multi-state organization created under the Clean Air Act that is responsible for advising EPA on transport issues and for developing and implementing regional solutions to ground-level ozone issues in the Northeast and Mid-Atlantic regions).

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

Upcoming Decisions:

-
-
- Ex. 5 Deliberative Process (DP)
-
-

Recap of Past Week:

- **Actions signed recently:**
  - Response to December 9, 2013, Clean Air Act Section 176A Petition from CT, DE, MD, MA, NH, NY, PA, RI, and VT
  - Title V Order for Big River Steel (Arkansas)
  - Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Three Month and Two Year Stay of Certain Requirements Notices of Data Availability (NODAs)
  - Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (Public hearing and extension of the comment period notice)
- **Annual Meeting of the U.S.- Canada Air Quality Committee:** On November 2, 2017, the U.S.-Canada Air Quality Committee met in Washington, D.C. to review implementation of the U.S.-Canada Air Quality Agreement.

Office of Chemical Safety and Pollution Prevention

Important Deadlines:

TSCA New Chemicals Determinations				
Row	**Determination Type**	**Pending on 10/31/2017**	**Determinations Completed[1] as of 10/31/2017**	**Determinations Posted on the Website as of 10/31/2017**
1	# of "not likely" determinations	**1**	**105[4]**	**103[4]**
2	# of §5(e) Orders signed by both EPA and the submitter	**-**	**288**	**284**
3	# of §5(e) Orders signed by EPA and awaiting submitter signature	**70**	**-**	**-**
4	# of non-Order SNURs/"not likely" determinations	**0**	**0**	**0**
5	# of cases in post-FOCUS final determination development[5]	**230[3, 5]**	**-**	**-**
6	# of cases flagged for in-depth review	**53**	**-**	**-**
7	# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	**83**	**-**	**-**
8	# of LVE/LOREX exemption grants	**-**	**471**	**460**
9	# of LVE/LOREX exemption denials	**-**	**101**	**93**
10	**Total number of cases**	**437**	**965**	**-**
11	Normal active workload for the New Chemicals Program	300	**-**	**-**
12	Number of cases undergoing testing or data development by submitter	79	**-**	**-**
13	**Backlog[2]**	58	**-**	**-**

[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.

Upcoming Decisions:

Wolbachia Mosquito Registration - OPP plans to issue a registration decision on the "*Wolbachia* Mosquito" by November 6. Male mosquitoes carrying the *Wolbachia* bacterium, trade name ZAP Males®, were proposed for registration by EPA on September 12. The public participation period for this action closed on September 27. ZAP Males® were submitted to EPA as a new microbial pesticide by MosquitoMate, Inc. If registered, this would be the first pesticide of its kind to utilize live mosquitoes to control mosquito populations of a specific species (*Aedes albopictus*). This particular species is of critical importance to human health as it can carry diseases, such as the Zika virus, Chikungunya virus, and West Nile virus. ZAP Males® mate with females in the environment, but their offspring do not survive into adulthood. Thus, with continual release throughout the mosquito season, the natural population declines over time. Neither the bacterium, nor the mosquito were genetically engineered to create the ZAP Males®.

Upcoming Meetings and Public Events:

International Chemical Management Conferences November 9- 14th. OCSPP Deputy Assistant Administrator Nancy Beck is traveling to Taipei and Japan for two international chemical management conferences from November 9-14. In Taipei, she'll attend the International Chemical Management Conference as a keynote speaker presenting on TSCA implementation and will participate in a panel discussion at the EPA Taiwan Toxics & Chemical Substances Bureau HQ. On November 13, she'll attend the Seminar & Workshop on the Latest Trends in Chemical Substances Management in the United States of America in Tokyo, Japan.

Technical Working Group on Pesticides, November 7-9. The meeting of the Technical Working Group on Pesticides (TWG) is being hosted by Mexico this year and is scheduled to take place November 7-9, 2017, in Guanajuato, Mexico. Rick Keigwin, Director, Office of Pesticide Programs, is the U.S. representative to the Executive Board of the TWG and is the head of the U.S. delegation to the meeting. The TWG serves as a focal point for addressing pesticide issues arising in the context of liberalized trade among Canada, Mexico and the United States, while recognizing environmental, ecological and human health objectives. Its goal is to align the North American registration and maximum residue limit (MRLs) systems for pesticides and products treated with pesticides and make work-sharing a way of doing business. The TWG 5-year initiative commits the EPA to certain types of work including: joint reviews, risk assessments, and joint and coordinated development of harmonized risk assessment methods.

Inventory Reporting Webinar, November 29. EPA scheduled 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 in the U.S. over the past 10 years. Each identical webinar will include an overview of reporting requirements, a demo of the electronic reporting application (Central Data Exchange (CDX)),

and will provide time for questions and answers. The first webinars occurred on September 27 and October 25, 2017. The remaining webinars is scheduled for 1-3 PM EDT on November 29, 2017.

Last Week Highlights:

Pesticide Program Dialogue Committee Meeting November 1-2. EPA's Office of Pesticide Programs held a public meeting of the Pesticide Program Dialogue Committee (PPDC) in the first floor conference center at One Potomac Yard South. The PPDC is a federal advisory committee, chartered under the Federal Advisory Committee Act (FACA), Public Law 92-463, representing sectors from pesticide industry and trade associations, pesticide users, growers, commodity groups, environmental/public interest and animal rights groups, federal and state/local/tribal governments, academia, public health organizations and the general public. EPA established the PPDC in September 1995 to provide advice and recommendations to the EPA Administrator on issues associated with pesticide regulatory development and reform initiatives, evolving public policy and program implementation issues, and science issues associated with evaluating and reducing risk from use of pesticides. Topics discussed at the meeting included: metrics for state pollinator protection plans, dicamba formulations, pesticide synergy, the Pesticide Registration Improvement Act (PRIA), Worker Protection Standard (WPS), and certification of pesticide applicators.

Non-Governmental Organizations Stakeholder Meeting, November 2. Following the PPDC, OPP held its annual meeting with NGOs. Topics for discussion include EPA Regulatory Reform and the OPP budget, Worker Protection Standard, and Endangered Species Act Consultations. Participating NGOs included the American Bird Conservancy, Beyond Pesticides, Center for Food Safety, Farmworker Justice, Natural Resources Defense Council, and Northwest Center for Alternatives to Pesticides.

Alternative Test Methods and Strategies to Reduce Vertebrate Animal Testing: November 2nd Public Meeting. The Frank R. Lautenberg Chemical Safety for the 21st Century Act amended Section 4(h) of the Toxic Substances Control Act (TSCA) to require EPA to develop a Strategic Plan by June 22, 2018 to promote the development and implementation of alternative test methods and strategies to reduce, refine or replace vertebrate animal testing. OCSPP held a public meeting which occurred on November 2nd, 2017 to obtain input from interested parties and the public on the Agency's development of the Strategic Plan. OCSPP believes this early feedback will be important in developing a strong Strategic Plan.

Office of the Chief Financial Officer

Hot Issues:

- The Senate Appropriations Subcommittee on Interior, Environment and Related Agencies has delayed mark-up of its version of the FY 2018 Appropriations Bill.
- OMB continues to review EPA's estimated resource needs to respond to Hurricanes Harvey, Irma and Maria but excludes California wildfires. OMB's goal is to submit a supplemental funding proposal to Congress next week. Since last week, there are no new mission assignments/agreements from other federal agencies and associated funding to support disaster responses.
- The FY 2017 Agency Financial Report, which will include the agency's financial statement, OIG audit report, and a statement of assurance signed by the Administrator, is due to the President, Congress, and GAO on November 15. As required, the AFR also will be made available to the public at the same time on the agency's internet. OCFO will soon route the Administrator's required assurance statement and supporting Management Representation letters for signature on November 13.
- Public comment on the *FY 2018-2022 EPA Strategic Plan* closed on October 31. EPA received 4,565 comment submissions through Regulations.gov. To date, 542 comments have been posted publicly—the vast majority relate to climate. In addition, approximately 21,000 comments were emailed to Docket.epa and 12,625 comments were submitted to the Administrator through what appears to be a write-in campaign. Regulations.gov has added additional staff and believes it will take at least 2-3 weeks to post all unique comments. OCFO is developing options to expedite comment review.

Upcoming Public Events:

N/A

Upcoming Major Decisions:

- Consistent with October 26 email from the Acting CFO, senior leader rankings of top three enterprise risks based on risk assessments completed for the strategic objectives in the draft *FY 2018-2022 EPA Strategic Plan* are due November 3.
- OCFO will be communicating approach for initial interim FTE ceilings for the FY 2018 enacted budget. In addition, draft implementation guidance for future hiring will be developed and discussed with senior leaders. OCFO also is working on pre-planning for the FY 2018 Interim Operating Plan budget and scheduling meetings with the Acting Deputy Administrator, Chief Operations Officer, and Chief of Staff the week of November 13 to discuss. The current Continuing Resolution, which funds the federal government, expires December 8. Once Congress passes a final appropriation bill, EPA usually has 30 days to create and submit the Operating Plan to Congress, after getting Policy Team and OMB approval.
- As follow-up to the Chief Operations Officer November 1 email to senior leaders, meetings will convene in November to discuss NPM/Lead Region proposals for ambitious targets for Strategic Measures and Agency Priority Goals as the next critical step in finalizing *FY 2018-2022 EPA Strategic Plan*. The goal is to reach final agreements on targets by December 8, for inclusion in final draft *Plan* due to OMB on December 22.

Last Week Highlights:

N/A

Other:

- Now one month after the launch of the agency's upgraded PeoplePlus and Payroll Cost Allocation systems projects on October 5, the Command Center set up to provide additional support to the agency's users during the transition phase will close on November 3. OCFO will continue to monitor and resolve issues through the normal HelpDesk resolution procedure and regular stakeholder feedback mechanism.

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Office of Congressional and Intergovernmental Relations

Upcoming Hot Issues and Important Deadlines:

November 8 – Senate Committee on Environment and Public Works will hold a hearing on the nominations of Andrew Wheeler to be Deputy Administrator of the EPA

November 8 – Quarterly Outreach Meeting with Intergovernmental Associations and EPA's OCIR. The featured presenter will be Lee Forsgren, Deputy Assistant Administrator for Water. These meetings provide an opportunity for the Associations to hear from EPA Program Leadership on EPA's priorities of interest to state and local governments, and to engage in dialogue.

Upcoming Events:

- **November 8** - We are working on a Statement for the Record on the discussion draft of the ENERGY STAR Reform Act.
- **November 9** – House Energy and Commerce Committee, Subcommittee on Environment Legislative Hearing on H.R. 848- Rep. Newhouse (WA); "Farm Regulatory Certainty Act". The bill would amend the Solid Waste Disposal Act to incentivize efficient nutrient management practices and to clarify citizen suit provisions. EPA will provide a written statement for this hearing.
- **November 14** – House Energy and Commerce, Subcommittee on Environment Hearing – Hurricane Response Activities. EPA Witnesses: Regional Administrators Regions 2, 4, 6.
- **November 15** – National League of Cities will convene its Annual City Summit in Charlotte, NC November 15 – 18. NLC touts this as the largest national conference for all city leaders – elected, appointed, and staff. Over 3,500 local leaders are expected.

Past Week Accomplishments:

- **October 30 -** City Manager Anthony Lyons meet with EPA to discuss the Cabot-Koppers Superfund Site that is located in Gainesville. Staff from the Office of Superfund Remediation and Technology Innovation will join OIR and Region IV staff for the meeting.
- **October 30** - EPA announced its denial of a petition to expand the list of states covered by the Ozone Transport Region (OTR).
- **October 31** – Hill notifications re: PISCES Clean Water SRF innovative project award winners w/ OW
- **November 2** – Hill notifications on 2017 Gulf Hypoxia Task Force Report to Congress w/OW
- **November 2** - the House Committee on Transportation and Infrastructure held a hearing entitled, "Emergency Response and Recovery: Central Takeaways from the Unprecedented 2017 Hurricane Season. Pete Lopez, Regional Administrator for Region 2 at EPA, provided written testimony.
- **November 3** – Hill briefing from water-sector organizations on water infrastructure policy w/OW
- **November 3** – HEC staff briefing on Puerto Rico DWSRF w/OW
- **November 3** – Cong. Crawford (AR) staff briefing on Dicamba w/OCSPP

Ongoing activities:

- Participating in responses to hurricanes Harvey, Irma and Maria. Coordinating with state and local elected officials to ensure seamless communications.
    - HURRICANE AID PACKAGE RELEASED - The President signed a $36.5 billion disaster relief package yesterday (Oct 26) that includes nearly $5 billion to help shore up Puerto Rico's cash-strapped government. The package also includes an additional $14 billion for FEMA's disaster fund, $16 billion for the National Flood Insurance Program and $576 million to fight wildfires, Sarah Ferris reports.
- The LGAC and SCAS nomination process for membership has entered the next stage. Regions are currently reviewing the initial rankings from the nomination review process. Within the next week or two OCIR management will be briefed on options to fill vacancies for the LGAC and SCAS. Senior management was briefed on the ranking process, Regional input, as well as the comprehensive balance review for optimal representation of local, state, and tribal government interests as well as diversity.
- The draft [HYPERLINK "file:///C:\\Users\\Dmurph03\\Downloads\\EPA-HQ-OA-2017-0533-0002.pdf%20" \t "_blank"] was released for public comment on October 4. OCIR has two longer-term Strategic Measures which are reflected in the new Strategic Plan and will be working on reporting annual results on these Measures to the Agency's Senior Leadership. EPA will collect comments through October 31 on the draft Plan and the agency anticipates the final Strategic Plan will be submitted to Congress in February 2018.

Office of Enforcement and Compliance Assurance

Hot Issues:

Hurricane Response: On October 27th, after OECA's coordination with OAR and DOE, EPA issued an emergency fuel waiver in Puerto Rico. The fuel waiver allows the use of high sulfur heating oil and marine fuel in mobile nonroad generators or pumps used for emergency purposes in Puerto Rico, through November 15, 2017.

On October 31st, OECA extended a no action assurance for the Merck facility to provide for operation of an additional generator to help with access to power and clean water in Las Piedras, Puerto Rico through January 31, 2018.

Upcoming Events/Public Meetings

On November 15th, OECA Deputy AA Patrick Traylor will speak on "Environmental Enforcement Priorities in the Trump Administration" in a talk hosted by the American Bar Association's Environmental Enforcement and Crimes Committee.

In the coming weeks, OECA will be meeting with the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) and the Association of Clean Water Agencies (ACWA) to listen to feedback and recommendations regarding the next phase of the State Review Framework (SRF). This is a continuation of OECA's ongoing work with states to update the SRF metrics prior to initiating reviews in calendar year 2018.

Upcoming Major Decisions:

None.

Last Week's Highlights

Settlement with ExxonMobil to Reduce Harmful Air Pollution at Eight U.S. Chemical Plants: On October 31st, EPA, DOJ, and the Louisiana Department of Environmental Quality (LDEQ) announced a settlement with Exxon Mobil that will eliminate thousands of tons of harmful air pollution from eight of Exxon's petrochemical manufacturing facilities in Louisiana and Texas. The settlement resolves allegations that ExxonMobil violated the Clean Air Act by failing to properly operate and monitor industrial flares at petrochemical facilities, which resulted in excess emissions of harmful air pollution. ExxonMobil will spend approximately $300 million to install and operate air pollution control and monitoring technology to reduce harmful air pollution from 26 industrial flares at five ExxonMobil facilities in Texas and three of the company's facilities in Baton Rouge, Louisiana. LDEQ will receive $470,000 of a $2.5 million total civil penalty, and ExxonMobil will perform two state "beneficial environmental projects," including purchasing a $1.5 million mobile air quality monitoring vehicle for LDEQ's use.

Settlement with PDC Energy to Reduce Air Pollution: On October 31st, EPA, DOJ, and the State of Colorado announced a settlement with Denver-based PDC Energy, Inc., resolving Clean Air Act violations related to PDC's failure to reduce volatile organic compound (VOC) emissions from its oil and gas exploration and production activities in the Denver area. This case arose from a series of

Colorado inspections that found significant VOC emissions from PDC's condensate storage tanks. Under the settlement, PDC will spend an estimated $18 million on system upgrades, improved operations and maintenance practices, monitoring, and inspections to reduce emissions. PDC will also be required to implement environmental mitigation projects at certain sites to further reduce VOC and nitrogen oxide (NOx) emissions at a cost of $1.7 million. The settlement includes a $2.5 million civil penalty, which will be split evenly between the United States and the State of Colorado.

Honeywell Remedial Action Order: On October 26th, EPA issued an Administrative Order under CERCLA for remedial action to Honeywell International Inc. (Honeywell). The Order requires Honeywell to construct extraction wells and a treatment system for groundwater contamination at the San Fernando Valley (Area 1) Superfund Site. The Order is one component of a larger plan for remedy implementation negotiated over a period of years by stakeholders, including Honeywell and the Los Angeles Department of Water and Power. EPA anticipates entering into a consent decree to implement the second interim remedy with the PRPs, including Honeywell, in the next twenty-four to thirty-six months. Honeywell requested the Order so that it could begin conducting work and improving contaminant capture more quickly while consent decree negotiations proceed. EPA plans to incorporate the work required by the Order into the consent decree.

Lead Plant Operator Sentenced for Violating the Clean Water Act: On October 25th, John Lowery, the lead plant operator at an International Petroleum Corporation of America (IPC) facility in Delaware, was sentenced in the U.S. District Court in Delaware to one year of probation. Mr. Lowery is latest defendant to be sentenced as part of larger criminal case against IPC. IPC owned and operated the facility, which processed used oil and hydrocarbon-containing waste water and then sold the reprocessed petroleum to various companies for reuse. IPC pled guilty to similar charges and was sentenced on February 2nd to a $1.3 M fine and $2.2M in restitution to the City of Wilmington. This case was investigated by OECA's Criminal Investigation Division, with help from the City of Wilmington Department of Public Works and Delaware's Solid & Hazardous Waste Management Section.

Office of Environmental Information

Hot Issues: None

Upcoming Public Events: None

Upcoming Major Decisions: None

Last Week's Highlight:

EPA Is 1st Civilian Agency to Connect to DHS Cybersecurity Dashboard

- **Brief Description:** On October 27, EPA became the first Federal Civilian Agency to transmit information to the Department of Homeland Security's (DHS) Continuous Diagnostics and Mitigation (CDM) Federal Dashboard. CDM is a dynamic approach to fortifying the cybersecurity of government networks and systems by continuously identifying cybersecurity risks, prioritizing these risks, and mitigating the most significant problems first. The Wave 1 Communication "Software Test" effort confirmed agency dashboard communication with the DHS Federal Dashboard, demonstrating that the CDM data exchange model works. Although official reporting to the dashboard is currently scheduled for 4th QTR FY18, the test will provide DHS with initial summary level information about the agencies' "Cyber-hygiene".
    - The successful test was due to the outstanding work of our agency Information Security Officers, Network Administrators, and the OEI Office of Information Technology Operations Change Approval Board.

- **Who Benefits or Cares:** DHS, EPA, other federal agencies, and our commercial partners (DXC Technologies and others), implementing CDM.

- **Why this is important:** Supporting DHS' CDM initiative contributes to the enhanced Cyber Security initiative across the federal government, reducing vulnerabilities and effectively mitigating risks. Supplying information to the DHS CDM Federal Dashboard will allow DHS to more quickly identify security issues affecting multiple agencies.

Office of General Counsel

New Judicial Decisions:

- In a RCRA citizen suit, Ecological Rights Foundation (ERF) alleged pentachlorophenol-laden oil washes off utility poles stored at PG&E's service yards and is dispersed to the environment via stormwater runoff, whereby it may present an imminent and substantial endangerment to health or the environment under RCRA section 7002(a)(1)(B). On appeal to the Ninth Circuit from the District Court for the Northern District of California, the United States (on behalf of EPA) joined as amicus, seeking reversal of the district court's narrow holding regarding application of RCRA's anti-duplication provision, 42 U.S.C. § 6905. EPA did not take a position on the underlying merits of the case, but supported the plaintiff in arguing that the district court failed to conduct the analysis required by the statute. Reversing the lower court, the Ninth Circuit found that the anti-duplication provision did not preclude application of RCRA here, because there were no specific Clean Water Act statutory requirements applicable to the facility that could be inconsistent with RCRA. Additionally, the panel held that ERF had organizational standing to sue and remanded to the district court to consider whether the oil dispersed by stormwater is "solid waste" that may present an imminent and substantial endangerment. (*Ecological Rights Foundation v. PG&E* (ERF II), No. 15-15424)
- The DC Circuit granted Truck Trailers Manufacturers Association, Inc.'s request to stay the trailer provisions of the Phase 2 HD rule, and has granted our request to hold the litigation over the rule in abeyance, with status reports due every 90 days. (*Truck Trailer Manufacturers Association, Inc. v. EPA, et al.*, No. 16-1430)
- In a favorable decision, a Maryland District Court dismissed a complaint against a number of State of Maryland defendants, Queen Anne, Maryland County Commissioners and the United States, including EPA. The complaint alleged a number of violations including, in the case of EPA, a failure to intervene under section 505 of the CWA on plaintiffs' behalf in the State actions. (*James Arnold Williams, Jr., et al. v. Stephen K. Wilson, et al.*, (No. JKB-17-1583)
- The U.S. District Court for the Western District of Washington denied EPA's motion for reconsideration in the litigation challenging EPA and NOAA actions (and inaction) with respect to Washington's nonpoint source management program. EPA sought reconsideration of the court's earlier order finding that plaintiff alleged standing based on "procedural injury" for certain claims because plaintiff expressly disclaimed procedural injury. The court also denied EPA's request to reconsider whether a claim about past grant funding awards was not moot. (*Northwest Environmental Advocates v. Dept of Commerce*, No. 2:16-cv-01866-JCC)
- EPA received an adverse jury verdict in an employment law matter. For more information, please contact Kevin Minoli or Elise Packard.

New Complaints Filed:

- The Environmental Defense Fund (EDF) filed a Freedom of Information Act (FOIA) lawsuit in the U.S. District Court for the District of Columbia alleging that EPA has failed to timely respond to three FOIA requests submitted to EPA in January, March, and June of 2017. The three FOIA requests at issue request records on three distinct topics: (1) conflicts of interest for Administrator Pruitt, (2) direction to EPA staff on communicating with the public about science, and (3) Administrator Pruitt's calendar. EPA had provided a partial response to two of the three requests at the time the complaint was filed, but has not completed the response to any

requests within the statutory time-frame. (*Environmental Defense Fund v. EPA*, No. 1:17-cv-220)

- Sierra Club and A Community Voice filed suit against the Administrator in the Northern District of California regarding the delays of the TSCA formaldehyde rule for composite wood products (hardwood plywood, medium density fiberboard, and particleboard). The formaldehyde final rule under TSCA Title VI was published on December 12, 2016 but, via subsequent action in January and March, the effective date was delayed until May 22, 2017. Although the rule became effective in May, the compliance dates did not begin until December 2017. So after a direct final rule (which was withdrawn) and companion proposal in May, the Agency published a final rule on September 25, 2017 to delay the compliance dates, most notably from December 2017 until December 2018. Plaintiffs argue that the delay of the compliance dates violates and exceeds the Agency's authority under TSCA Title VI, which they assert required regulations to be promulgated by January 1, 2013 and to require compliance with those regulations 180 days after the regulations' promulgation. (*Sierra Club, et al. v. EPA*, No. 3:17-cv-06293)
- Charles A. Folsom, a private citizen in Fremont, Nebraska, filed a complaint against EPA in the U.S. District Court for the District of Nebraska challenging a proposed Administrative Order for Compliance on Consent. EPA Region 7 sent the proposed order to Plaintiff on Feb. 26, 2016, along with a letter explaining that the Army Corps had referred the matter because Plaintiff discharged fill without a permit along 1,500 linear feet of the banks of the Elkhorn River. The complaint seeks declaratory relief and an injunction against EPA from enforcing the order against the Plaintiff. (*Charles A. Folsom v. U.S. Army Corps of Engineers Nebraska District, et al.*, No. 4:17-cv-03143)

Hot Issues:

- OGC is working diligently to implement the Administrator's October 16th Directive, *Promoting Transparency and Public Participation in Consent Decrees and Settlement Agreements*. Among the steps we are taking is the upcoming launch of OGC's new website with significantly more information regarding current litigation and the creation of @EPAcounsel, OGC's first-ever twitter account. Finally, we have reached out to the National Association of Attorneys General and, with OCIR's assistance, will be reaching out to the Governor's Office and environmental agency for each state to obtain a point of contact for the notices to be provided to affected states.

New Petitions that OGC is Aware Of:

None that OGC is aware of.

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

On November 8, OGC will be hosting its annual award ceremony.

Upcoming Major Deadlines in the Next Two Weeks:

11/03 Optional Response to Objections due in *National Family Farm Coalition, et al. v. EPA*, a petition for review of an EPA Order granting registration under FIFRA section 3 of Monsanto's "Xtendimax with VaporGrip Technology," containing the herbicide dicamba

DGA salt, for use on genetically engineered (GE) cotton and soybean in 34 states. Petition for Review generally alleges violations of FIFRA and the ESA.

11/03 EPA's response to Plaintiffs' Motion for Summary Judgment and EPA's Cross Motion for Summary Judgment is due in *Columbia Riverkeeper v. Pruitt*, a claim of mandatory duty to disapprove constructive submission of temperature TMDL for Columbia and Lower Snake Rivers.

11/03 EPA's Summary Judgment Brief is due in *Anacostia Riverkeeper v. Pruitt*, a NGO challenge to EPA's revised approval of DC/MD TMDL for bacteria for the Potomac River.

11/06 Answer/Motion to Dismiss is due in *Small Retailers Coalition v. EPA*, where plaintiff alleges EPA did not comply with sections 603 and 604 of the RFA in issuing the 2017 RFS standards, and for failure to annually review the point of obligation of the RFS.

11/06 Response to Complaint due in *Humane Society of the United States, et al. v. EPA*, a claim of unreasonable delay in responding to a 2009 petition seeking the regulation of CAFOs under Section 111 of the Clean Air Act.

11/06 The Scheduling Conference is set in *Bd. of Comm'rs of Clermont Cty., Ohio v. EPA*, a FOIA litigation that pertains to a FOIA request that sought records regarding the CECOS facility in Williamsburg, Ohio.

11/06 Oral Argument in *U.S. v. CITGO Petroleum Corp.* The District Court awarded the U.S. an $81M civil penalty under CWA 311(b) for an oil discharge from CITGO's Lake Charles, LA refinery. CITGO has appealed the legal standard used to determine economic benefit, and the U.S. has appealed the assessment of a penalty lower than CITGO's economic benefit and failure to explain the basis for the penalty amount.

11/07 Oral Argument in *Environmental Integrity Project v. Pruitt*, where the State of North Dakota appealed the district court's decision to deny the State's intervention request and challenge to consent decree entered in December 2016 in a case involving the solid waste regulations applicable to oil and gas.

11/08 Motions to Govern are due in *American Lung Association v. EPA*, a petition for review of EPA's final action extending the deadline for promulgating initial area designations for the 2015 ozone national ambient air quality standards.

11/08 A joint proposed schedule for briefing or disclosure is due in *EIP v. EPA*, a FOIA litigation concerning a request seeking records of expenditures for travel outside of Washington, D.C. for the Administrator and anyone accompanying him.

11/08 U.S. Response due in *Guam v. U.S.*, litigation where Guam seeks to hold the United States liable for response costs under CERCLA 107(a) for cleanup at the Ordot Landfill in Guam performed under an EPA/Guam CWA Consent Decree.

11/08 Reply in Support of Motion to Dismiss due in *Food & Water Watch v. EPA*, a challenge to denial of fluoride petition under section 21 of TSCA.

11/09 Oral Argument in *Sierra Club, et al. v. EPA*, a petition for review of EPA Final Rule entitled "NESHAP for Brick and Structural Clay Products Manufacturing, and NESHAP for Clay Ceramics Manufacturing."

11/09 The Motion for Summary Judgment is due in *PEER v. EPA*, a FOIA litigation alleging failure to respond to a two-part FOIA request that sought documents related to statements from Scott Pruitt about climate change.

11/09 Statement of Issues and Procedural Motions due in *EDF v. EPA*, a challenge to the TSCA inventory reporting rule.

11/13 Motion to Govern due in *Wisconsin Public Service Corporation v. EPA*, a petition for review of TR Revisions Rule (Feb.): final rule entitled "Revisions to Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone."

11/13 Motion to Govern due in *Utility Air Regulatory Group v. EPA*, a petition for review of EPA's final rule entitled "Revisions to Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone."

11/13 A production of documents is due in *Judicial Watch, Inc. v. EPA*, a FOIA litigation that was filed after EPA failed to respond to a request for internal emails or other records related to EPA'S use of the Thunderclap social media platform.

11/13 Summary Judgment Brief is due in *Sanitary Board of the City of Charleston, West Virginia v. McCarthy*, a challenge to EPA's disapproval of site specific criteria for copper.

11/13 EPA's Response to Motion to Reconsider is due in *City of Tauton v. EPA*, a challenge by permittee to NPDES permit.

11/14 Answer due in *Riverkeeper, Inc., et al., v. Pruitt, et al.*, a mandatory duty challenge to disapprove New York's primary recreation criteria.

11/15 Reply in Support of Motion for Summary Judgment due in *Nucor Steel-Arkansas, et al. v. EPA*, where plaintiffs allege the EPA failed to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas.

11/15 Motion to Govern/Continued Abeyance due in *American Fuel & Petrochemical Manufacturers, et al. v. EPA*, a petition for review of EPA's final rule entitled "Standards of Performance for Petroleum Refineries, Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007."

11/15 Cross Motion for Summary Judgment due in *State of Connecticut v. EPA*, litigation 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.

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11/15 Oral Argument scheduled in *United States Steel Corporation v. EPA*, a petition for review of EPA's final action titled "Air Plan Approval, Minnesota and Michigan, Revision to 2013 Taconite Federal Implementation Plan Establishing BART for Taconite Plants."

11/15 The first of three rolling productions is due in *Natural Resources Defense Council v. EPA*, a FOIA litigation that concerns a FOIA request that sought policy or guidance for removing information or web pages from an EPA website.

11/15 A document production is due on in *California v. EPA*, a FOIA litigation that concerns a 32-part FOIA request seeking a variety of records regarding Scott Pruitt's ethics-related forms and recusals.

11/15 Motion to Dismiss due in *CBD v. EPA*, a pesticide mega-suit—ESA challenge to multiple pesticides and pesticide actions.

11/15 Motion for Extension of Consent Decree Deadline is due in *Missouri Center for the Environment v. EPA*, where the Consent Decree requires that the EPA propose nutrient criteria for Missouri lakes by December 15, 2017.

11/15 Motion for Extension of Consent Decree Deadline is due in *NWEA v. EPA*, where the Consent Decree requires that the EPA propose aluminum criteria for Oregon by December 15, 2017.

11/16 Oral Argument scheduled in *UARG v. EPA*, challenges to EPA's determination that CSAPR provides for greater reasonable progress than BART and our limited disapproval of regional haze SIPs relying on CAIR to meet BART and other requirements.

11/16 Hearing on EPA action on Montana's 2017 revised multiple discharger variance for nutrients is scheduled in *Upper Missouri Waterkeeper v. EPA*.

11/17 A Joint Schedule and production of correspondence is due in *Center for Biological Diversity v. EPA*, a FOIA matter that concerns two FOIA requests seeking correspondence to or from Scott Pruitt as well as calendars and other things.

11/17 Mediation meeting with magistrate is scheduled in *Ellis v. Keigwin*, FIFRA and ESA challenges to clothianidin and thiamethoxam registrations.

Office of International and Tribal Affairs

Hot Issues:

Tijuana Spill - Mexico has proposed that the North American Development Bank finance the Rosarito Desalinization plant in Tijuana. While EPA (Region 9 and OITA) supports Mexico addressing its water supply issues, we feel it is necessary for Mexico to greatly upgrade the existing declining wastewater infrastructure in Tijuana before additional consumed potable water is put into the system and cause the flow of more untreated water into the U.S.

- Mexico has not met our conditions to fund the wastewater upgrades that would be necessary to address existing wastewater pollution flowing into the U.S., let alone putting additional strain on wastewater that additional consumed potable water supplies would cause.
- For these reasons, EPA (OITA) will oppose the Mexican proposal at the North American Development Bank meeting on November 9th.
- Region 9 has also been informed that Imperial County has filed a Notice of Intent to sue the International Border Water Commission (IBWC) over the health issues caused by water pollution coming from Tijuana.

Upcoming Engagements:

- November 8-10 – Under the International Environmental Partnership (IEP), an EPA delegation (OITA Acting AA, OSCPP DAA, OCHP Director, OLEM Director) will participate in a series of workshops on children's health, toxics and brownfields. The Vice President of Taiwan will open the plenary session to provide visibility to the Taiwan- EPA partnership and IEP.
- November 9 – EPA (OITA) will participate in the North American Development Bank Board of Directors meeting in San Antonio, along with Treasury and the State Department.

Past Week Highlights:

Tracking Expenditures for Tribal Solid Waste Projects: OITA sent a memo on October 31 to provide direction to the Regional Offices on how to track and report expenditures for waste management and recycling services under the Indian Environmental General Assistance Program (GAP).

- Funding solid waste and recycling program services have previously been prohibited under RCRA. However, Congress has allowed such costs for GAP funds appropriated in FY 2016-FY 2020 to tribes for "solid waste and recovered materials collection, transportation, backhaul, and disposal services."
- OITA has worked with OGC, OCFO and OLEM to establish an approach for tracking GAP expenditures for these costs. This nationally consistent approach will help inform EPA and other federal agency partners on the amount of money expended for solid waste activities and help us better assess the tribal needs and expenditures over time.

Regional Conference to Combat Illegal Mining

EPA (OITA) participated in the Regional Conference to Combat Illegal Mining with officials from Colombia, Peru, Guyana, Ecuador and Brazil, including National Police, Military, Ministries of Environment, Ministries of Mines, and State Department's International Narcotics and Law Division.

- There was a strong focus on environmental and criminal enforcement of illegal gold mining activities, a major source of mercury pollution, occurring in the Latin America.

- Artisanal and Small Scale Gold Mining (ASGM) is the largest source of global mercury emissions (37%). While ASGM is an important informal means of livelihood in many communities, in some cases the practice is closely linked to criminal groups operating in the region.
- EPA participated in sessions exploring the use of mercury in ASGM, alternative technologies to mercury, management and storage of mercury, and promoting regional cooperation under the Minamata Convention on Mercury.

Office of Land and Emergency Management

Hot Issues:

- Emergency response to hurricanes and wildfires.
- Coal Combustion Residuals.
- CERCLA 108(b) Financial Assurance for Hard Rock Mining and Mineral Processing. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

- Clean Air Act 112(r) Risk Management Program.
- Ongoing major Superfund NPL sites (for example, East Chicago, West Lake, Gold King Mine/Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates).
- CERCLA-EPCRA AFO-CAFO Rule.

Upcoming Public Events:

- RCRA Division Director Meeting (not a public meeting.) On November 15-16, RCRA Division Directors will meet in Boston.
- America Recycles Day. On November 15, we will participate in a Recycling Forum hosted by Keep America Beautiful in partnership with the Institute of Scrap Recyclers.
- Food Recovery Challenge (FRC). We plan to announce the 2017 winners of the FRC awards in late November.

Upcoming Major Decisions:

- E-Manifest User Fee Final Rule. Ex. 5 Deliberative Process (DP)
- RMP Rule Reconsideration. Ex. 5 Deliberative Process (DP)

Last Week Highlights:

Association of State and Territorial Solid Waste Management Officials (ASTSWMO). We participated in last week's ASTSWMO annual meeting in Arlington, Virginia.

Office of Policy

Documents Submitted to OFR from October 26 - November 1, 2017

FRL	Title	Date Submitted to OFR
9970-25-OP	Final Report on Review of Agency Actions that Potentially Burden the Safe, Efficient Development of Domestic Energy Resources Under Executive Order 13783	10/31/2017
9970-36-OAR	Response to December 9, 2013, Clean Air Act Section 176A Petition From Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island and Vermont	10/31/2017
9970-22-OAR	Clean Air Act Advisory Committee (CAAAC): Notice of Meeting	10/30/2017
9970-32-Region 9	Approval of California Air Plan Revisions, Northern Sierra Air Quality Management District	10/30/2017
9968-69-OCSPP	FIFRA Scientific Advisory Panel; Notice of Public Meeting for the Clarification of Charge Questions on Alternate High-Throughput Screens to Determine Endocrine Disruption	10/27/2017
9968-25-OA	FAST-41 Best Practices: Delegated state permitting programs	10/26/2017
9970-16-Region 5	Air Plan Approval; Illinois; Volatile Organic Compounds Definition	10/26/2017
9970-15-Region 5	Adequacy Status of the Kenosha County, Wisconsin Area for Submitted 8-Hour Ozone Attainment Demonstration for Transportation Conformity Purposes	10/26/2017
9970-10-Region 6	Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Rule	10/26/2017
9970-18-Region 6	NOTICE OF PROPOSED ADMINISTRATIVE SETTLEMENT PURSUANT TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT	10/26/2017

Office of Research and Development

Hot Issues:

Senate Staff Briefing on PFAS
On November 1, ORD participated in a PFAS 101 briefing for staff from the Senate Appropriations Committee. During the briefing, Bruce Rodan provided an overview of what PFAS are and how they are used, and described EPA's current PFAS activities. Representatives from OW, OLEM, OCFO and OCIR also attended. The briefing was very well received.

NC DEQ releases EPA PFAS analysis
On October 30, North Carolina Department of Environmental Quality (NC DEQ) released a ORD-led [HYPERLINK "https://files.nc.gov/ncdeq/GenX/NC%20DEQ%20Chemours%20Process%20Results%20Rpt6_10.25.2017.Final_.pdf"] of samples collected from wastewater inside the Chemours facility in Fayetteville, N.C. This is the sixth ORD report in a series intended to support NC DEQ's decisions surrounding the industrial discharge of PFAS into the Cape Fear River. The report showed that wastewater collected inside the facility had detectable concentrations of five fluorinated compounds, including GenX. In addition to releasing the report, NC DEQ also released the statement, [HYPERLINK "https://deq.nc.gov/news/press-releases/2017/10/30/deq-takes-action-stop-additional-chemours-discharge-based-epa-report"]. In the statement, NC DEQ announced that Chemours has agreed to capture additional industrial wastewater with fluorinated compounds, rather than releasing it into the Cape Fear River. NC DEQ Secretary, Michael Regan, states that this step is intended to protect drinking water and is part of NC DEQ's "…ongoing work to stop possible contaminants at their source."

Water Sample Analysis from Parkersburg, WV Warehouse Fire.
The Greater Cincinnati Water Works (GCWW) asked ORD to conduct a confirmatory analysis of water samples collected in Parkersburg, WV following the warehouse fire that started on October 21. The GCWW is analyzing water samples in anticipation of contaminants being introduced into the Ohio River. The warehouse stored plastics and other materials and high volumes of water and fire-fighting foams were used to fight the fire. ORD ran metals analysis on water samples taken from the fire-fighting run-off water. ORD's water analysis results were shared with GCWW to help them interpret their results. The results were also shared with Region 3. GCWW is coordinating with multiple organizations including the Ohio River Valley Water Sanitation Commission.

Missoula City-County Health Department Support
ORD, OAR and Region 8 will provide scientific and technical expertise to the Missoula City-County Health Department in Missoula, MT. They will share expertise on the potential health implications of sub-chronic exposures as well as sub-daily exposures (i.e., 1-3 hours) to PM2.5 from wildfire smoke to ensure the proper health messaging is being provided to Missoula County residents in response to wildfire smoke.

Upcoming Public Events:

Remediation Field Studies at Chem-Dyne Superfund Site
Next week, at the request of Region 5, ORD will assist in field studies to determine groundwater flow directions and rates in support of an evaluation of the ongoing monitored natural attenuation pilot

remedy for groundwater at the Chem-Dyne site in Hamilton, OH. ORD research is providing technical assistance to Region 5 and the Ohio EPA to investigate the impact of this remedial measure on groundwater flow and contaminant transport. The Chem-Dyne site is a former waste transfer, storage, and disposal facility with groundwater and soil contamination, including arsenic, asbestos, benzene, and polychlorinated biphenyls.

Vehicle Decontamination and Waste Management Stakeholder Discussion
Wide-area contamination incidents caused by terrorism, industrial accidents or natural disasters can result in thousands of contaminated vehicles that must be managed. On November 13, 2017, ORD researchers are hosting a one-day workshop on vehicle decontamination and waste management. The objective of the workshop is to comingle officials from federal, state, and local governments, experts from the automotive, waste management, and insurance industries, as well as researchers, to discuss decontamination and disposal of vehicles following a wide-area disaster. These discussions will help inform operational and research gaps, identify areas of potential collaboration, and emphasize state and local needs in response to a wide-area incident. Current workshop topics include decontamination research featuring presentations by EPA, USDA, DoD, and Argonne National Lab. The workshop will also feature operational considerations from states, locals and industry perspective presented by NYC Office of Emergency Management, American Insurance Association, and Automotive Recyclers Association.

Water Research Webinar on the National Stormwater Calculator
On November 15 from 2-3 pm ORD will present the [HYPERLINK "https://www.epa.gov/water-research/national-stormwater-calculator"], to introduce new features. The SWC, in addition to being a desktop application is now available as a mobile web application that can be used on mobile devices, such as smartphones and tablets, and is compatible with all operating systems with an internet connection. A cost estimation module that allows planners and managers to evaluate green infrastructure practices based on comparison of regional and national project planning level cost estimates and predicted performance has also been added.

<u>Last Week Highlights:</u>

TSCA Implementations: Alternative Testing Methods
On November 2 ORD staff participated in an "Informational Gathering Session on Alternative Testing Methods", to develop the strategic plan to reduce, refine or replace animal testing under the amended TSCA (Lautenberg Act). ORD is working to support the Office of Chemical Safety and Pollution Prevention (OCSPP) to develop the strategic plan to fulfill one of the requirements of the new TSCA legislation.

<u>EPA Research Scoping Meeting, Fort Campbell, KY, November 1-2</u>

Ex. 5 Deliberative Process (DP)

ORD Supports R10 Efforts to Address Closed Oyster Areas
Large portions of the economically important Tillamook Bay in Northwest Oregon are frequently closed to oyster aquaculture because of high levels of fecal bacteria that can cause gastrointestinal illnesses. On November 1, ORD will present findings of Tillamook Bay studies to EPA Region10

water quality staff based in Portland, OR, and Seattle, WA, to help them understand spatial and temporal trends in fecal pollution levels in this watershed.

Transform Toxicity Testing Challenge
In January 2016, EPA launched the Transform Toxicity Testing Challenge – Innovating for Metabolism along with their partners, the National Toxicology Program headquartered at the National Institutes of Health (NIH), and the NIH National Center for Advancing Translational Sciences. The purpose of the challenge is incorporate metabolic competence into in vitro high-throughput screening (HTS) assays. The challenge asked for innovative ideas for developing techniques to retrofit existing assays to incorporate processes that reflect how chemicals are broken down and metabolized by the body. After selecting semi-finalists in May 2017, the EPA and its partners have selected the Transform Toxicity Challenge Stage Two winners. Stage two winners have produced practical designs that bring us one step closer to turning existing, commonly used in vitro HTS assays into tests which will evaluate both parent chemical and metabolite effects. More information is available [HYPERLINK "https://www.epa.gov/innovation/announcing-transform-toxicity-testing-challenge-stage-two-winners"].

EPA Launches Air Quality Study in Kansas City Neighborhoods
ORD and Region 7 recently launched the Kansas City Transportation and Local-Scale Air Quality Study (KC-TRAQS) to investigate local community air quality in three neighborhoods in Kansas City, KS, that have multiple air pollution sources from highways, railways, and industry. The study, an FY 2016 RESES project that was also funded through RARE, will be conducted for one year and provide comprehensive air quality monitoring using three different air measurement approaches. In addition to RESES and RARE support, ORD is supporting the project by providing scientific expertise and multiple stationary and mobile monitoring technologies. They have also provided an AirMapper, developed by ORD researchers, for a citizen science project and educational outreach for residents and students.

Water Research Webinar Attracts Close to 700 People
On October 25, 678 people attended the ORD webinar on the Integrated Decision Support Tool (i-DST) for life cycle cost assessment of grey and green stormwater management Infrastructure that is in development under a National Priorities grant. The Colorado School of Mines highlighted their EPA grant work on the development of the i-DST, which can be used to optimize stormwater infrastructure based on user-defined institutional barriers, and economic, environmental, and societal objectives.

Innovative Research Leads to Provisional Patent Application
A major advance in current technology enables observers to visualize how airway cells change in real time in response to an environmental agent, such as ozone. ORD has applied for a provisional patent on the "Controlled Atmosphere Chamber for Live-time Imaging of Cells," which is a chamber that permits real-time microscopic imaging of live cells at high magnification.

Office of Water

Hot Issues:

Waters of the U.S.: Today, OW sent to OP for transmittal to OMB for expedited review a proposed rule that would delay the effective date of the 2015 Clean Water Rule by two years. The proposed amendment to the effective date is intended to provide regulatory certainty to the public and will provide EPA and the Army Corps of Engineers time to complete the two-step process to rescind and revise the 2015 rule. Processing of the Step 1 public comments is nearing completion, with over 685,000 comments and 140 mass mailer campaigns already uploaded. For Step 2, the Office of Water held the 6th of the 10-part webinar series on November 7 for the mining and resource extraction sector. On November 14, we will hold a webinar for scientific organizations and academia, with approximately 30 registered speakers. In addition, the agency has received 132 recommendation letters to the administrative docket as part of our pre-proposal outreach on the Step 2 rulemaking. That docket closes on November 28.

Columbia River Temperature TMDL (Constructive Submission) Litigation Update: Tomorrow, EPA will file its opening brief to the District Court (W.D. WA) in the Columbia River Temperature TMDL litigation. In 2016, Columbia River Keeper, et. al. filed a complaint alleging, among other things, that Oregon and Washington's failure to establish a temperature TMDL for the Columbia and Lower Snake Rivers constitutes a "constructive submission" of no TMDL, requiring action by EPA.

Voluntary transfer of Idaho's UIC Class II program to EPA: This week, OW sent forward to OP for Administrator's signature, a *Federal Register Notice* proposal package for the voluntary transfer of Idaho's Class II program to EPA. This transfer will result in the EPA implementing the Class II UIC program in the state of Idaho, including permitting, compliance, and enforcement responsibilities.

Combined Sewer Overflow (CSO) Public Notice in the Great Lakes, Final Rule: This week, OW sent forward to OP for OMB review the Great Lakes CSO Public Notice final rule. This effort is in response to Section 425 of the 2016 Consolidated Appropriations Act which requires EPA to work with affected states to implement these requirements by December 18, 2017. The final rule requirements closely follow the legislation and address signage, notification of local public health departments and other potentially affected public entities, notification to the public, and annual notice provisions and apply to NPDES permittees authorized to discharge from a CSO to the Great Lakes Basin.

WIFIA: This week, the WIFIA program received its first loan application from the Indiana Finance Authority. The application will now be reviewed for completeness before kicking off the credit review and term negotiation process and engineering due diligence review which could take approximately two months. Next week the WIFIA program will host the first in series of outreach sessions in Denver, CO. More information about upcoming outreach sessions and webinars is available at: [HYPERLINK "https://www.epa.gov/wifia/learn-about-wifia-program" \l "information"]

Proposed Withdrawal of Criteria in the California Toxics Rule Update: As early as next week, OW anticipates send to OP for Administrator's signature the proposed rule to amend federal regulations to withdraw certain federal water quality criteria for three parameters (lead, chlorodibromomethane, and dichlorobromomethane), applicable to certain waters in California. Specifically, the proposed rule will withdraw: human health (water & organisms) criteria for chlorodibromomethane and

dichlorobromomethane for a segment of New Alamo Creek and a segment of Ulatis Creek, California; and, freshwater acute and chronic aquatic life criteria for lead for the Los Angeles River and its tributaries. In the 2000 California Toxics Rule or CTR (40 CFR 131. 38), EPA promulgated federal regulations establishing water quality criteria for priority toxic pollutants for California. The state now has adopted site-specific criteria for these parameters for these waters. EPA approved the State's site-specific criteria, which are less stringent than the federally promulgated criteria, because EPA determined that the State's criteria were scientifically sound and protective of the designated use(s) of these waters. Consistent with the emphasis on state primacy for the water quality program articulated in the preamble of the CTR, EPA has determined that the certain federally promulgated criteria are no longer needed for these particular waters. Once finalized, the withdrawal of the federally promulgated criteria will enable California to implement its EPA-approved water quality criteria for CWA purposes for these parameters in certain waters in California.

Last Week Highlights:

GAO Green Infrastructure Report**:** This week the GAO released [HYPERLINK "http://www.gao.gov/products/GAO-17-750"]. GAO has identified one recommendation which states "The Director of EPA's Office of Wastewater Management should, when working with municipalities and other stakeholders to develop long-term stormwater plans, document agreements on how they will collaborate, such as in a memorandum of understanding, aligned with our key considerations for implementing interagency collaborative mechanisms." The GAO is requesting a statement of action within 60 days of receipt. According to 31 U.S.C. 720, as recently amended, the head of a federal agency is to submit a written statement of the actions taken or planned on our recommendations to the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Oversight and Government Reform, the congressional committees with jurisdiction over the agency program or activity that is the subject of the recommendations, and GAO not later than 60 calendar days from the date of the report.

NAPA Affordability Report: This week, the National Academy of Public Administrators (NAPA) released their final affordability report, which can be found at [HYPERLINK "http://www.napawash.org/2017/2032-developing-a-new-framework-for-community-affordability-of-clean-water-services.html"]. The report acknowledges and reflects the complex nature of assuring clean water that is affordable to communities while acknowledging some of the initiatives and efforts made by EPA to address the complexities. NAPA concluded that EPA should improve its community affordability framework for determining the financial capability of permittees to provide clean and affordability water services. The majority of NAPA's recommendations focus on how EPA can provide greater support for integrated planning and building greater utility financial and managerial capacity to address affordability challenges.

National Drinking Water Advisory Council Meeting: This week, the Federal Register notice announcing a public meeting of the National Drinking Water Advisory Council (NDWAC) on December 7 and 8 published.

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Message

From: Dominguez, Alexander [dominguez.alexander@epa.gov]
Sent: 1/8/2018 5:22:08 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: RE: Biogenic CO2- Thank You
Attachments: Biogenic Letter to Administrator Pruitt.pdf; Biogenic CO2 Coalition Comments EPA Significance Rule (filed) (12-16-16)....pdf; Biogenic CO2 Coalition Overview .pdf; Biogenic CO2 Coalition Slides (9-21-16).pdf; Biogenic CO2 Case Studies (4-14-16).pdf

Great. We have a staff meeting Wednesday afternoon in which this will likely come up so if you are available Friday I'm pretty open after 11:00. Additionally, attached are some documents Kyle sent a while back.

Alex

From: Sands, Jeffrey
Sent: Monday, January 8, 2018 11:20 AM
To: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Re: Biogenic CO2- Thank You

Thanks Alex.

I will get back to Kyle in short order. I would like to discuss this issue with you a bit as I am not as familiar as I would like to be on this particular issue.

JmS

Sent from my iPhone

On Jan 8, 2018, at 11:07 AM, Dominguez, Alexander <dominguez.alexander@epa.gov> wrote:

> Hey Jeff,
>
> Hope you had a good weekend. Kyle Harris from the Corn Refiners Association is looking connect with you regarding biogenic CO2. Disregard if you have already received an email from him, but if not I can connect you two or you can just reach out – whatever you prefer. Not sure if Mandy has spoken with you on this but I'm happy to discuss if needed. Anything else just let me know.
>
> Thanks,
> Alex
>
> **Alex Dominguez**
> Policy Analyst to the Principal Deputy
> Office of Air and Radiation
> U.S. Environmental Protection Agency
>
> ---
>
> **From:** Kyle Harris [mailto:kharris@corn.org]
> **Sent:** Monday, January 8, 2018 10:30 AM
> **To:** Dominguez, Alexander <dominguez.alexander@epa.gov>
> **Subject:** RE: Biogenic CO2- Thank You
>
> Alex,

I hope the new year is treating you well! I was wondering if you had time for a quick phone call this week for a brief update on where things might be with Biogenic. I have also never been able to get ahold of Jeff Sands, so any advice on getting ahold of him would be appreciated!

Best Regards,

Kyle

Kyle A. Harris, Esq.
Manager, Environmental Affairs/ Workplace Safety
Corn Refiners Association
www.corn.org
1701 Pennsylvania Ave NW
Suite 950, Washington, DC 20006
Office
Cell: (Ex. 6

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From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]
Sent: Wednesday, November 08, 2017 10:38 PM
To: Kyle Harris <kharris@corn.org>
Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: RE: Biogenic CO2- Thank You

Hey Kyle,

Looping in Emily Atkinson who can assist with the logistics. As I mentioned, I am not entirely sure how the scheduling process works for the AA (let alone in a transition), but Emily might be able to provide a little more clarity.

Best,
Alex

Alex Dominguez
Policy Analyst to the Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Kyle Harris [mailto:kharris@corn.org]
Sent: Wednesday, November 8, 2017 4:10 PM
To: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Biogenic CO2- Thank You

Alex,

Thanks again for speaking with me today.

As follow up, I would appreciate the opportunity to come and speak with Mandy and brief the new AA for OAR on the Ag Biogenic Issue once confirmed.

If you could point me in the right direction for getting this scheduled that would be great!

Thanks in advance,

Kyle

Kyle A. Harris, Esq.
Manager, Environmental Affairs/ Workplace Safety
Corn Refiners Association
www.corn.org
1701 Pennsylvania Ave NW
Suite 950, Washington, DC 20006
Office
Cell: (Ex. 6

<image001.png>

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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% less greenhouse gas emissions and 36-42% less 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

December 16, 2016

VIA ELECTRONIC FILING
Hon. Gina McCarthy, Administrator
U.S. Environmental Protection Agency
c/o E-Docket ID No. EPA–HQ–OAR–2015-0355
William Jefferson Clinton Federal Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Comments of the Biogenic CO_2 Coalition – EPA Proposed Revisions to the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas (GHG) Permitting Regulations and Establishment of a Significant Emissions Rate (SER) for GHG Emissions Under the PSD Program, 81 Fed. Reg. 68110 (Oct. 3, 2016)

Dear Administrator McCarthy:

The Biogenic CO_2 Coalition ("Coalition")[1] appreciates the opportunity to submit these comments on EPA's proposed Revisions to the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas (GHG) Permitting Regulations and Establishment of a Significant Emissions Rate (SER) for GHG Emissions Under the PSD Program, which the agency has proposed under the federal Clean Air Act (referred to herein as the "Significance Rule").

The Coalition has previously commented on various EPA proposals to regulate greenhouse gases including, principally, EPA's proposed Standards of Performance for Greenhouse Gas Emissions From Stationary Sources: Electric Utility Generating Units, 79 Fed. Reg. 1430 (Jan. 8, 2014) (EPA-HQ-OAR-2013-0495) ("NSPS Rule"); Carbon Pollution Emission Guidelines for Existing Sources: Electric Utility Generating Units, 79 Fed. Reg. 34830 (June 18, 2014) (EPA-HQ-OAR-2013-0602) ("CPP Rule"); and Proposed Finding That Greenhouse Gas Emissions From Aircraft Cause or Contribute to Air Pollution That May Reasonably Be Anticipated to Endanger Public Health and Welfare and Advance Notice of Proposed Rulemaking, 80 Fed. Reg. 37758 (July 1, 2015) (EPA-HQ-OAR-2014-0828) ("Aircraft Rule"). Our prior comments on all greenhouse gas regulatory policies are incorporated by reference herein. Our comments have concerned primarily the implications of EPA's policy approach to "biogenic CO_2," meaning carbon dioxide emitted from the processing or energy use of agricultural feedstocks.

[1] The Coalition consists of the following stakeholders: 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, and North American Millers' Association.

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The stakeholders represented by the Biogenic CO_2 Coalition grow or process various agricultural crops and farm products, typically short-cycle annual herbaceous crops and crop residues. Together with others in the agricultural community, and supported by federal and state agriculture departments, our members are investing billions of dollars in the "bioeconomy," which promotes bioenergy technology and pioneering "green chemistry" approaches to produce food, fiber, consumer products, pharmaceuticals, bioplastics, biofuels, commercial chemicals, and a cornucopia of other bioproducts from crop-derived materials. The bioeconomy provides 21st century solutions to economic growth, domestic energy security, jobs, and environmental benefits in the form of bioenergy, biofuels, and bioproducts made from corn, oilseeds, crop residues, farm wastes and other agricultural feedstocks. America's bioeconomy currently contributes $393 billion in economic activity, provides 4.2 million American jobs, and is the leading source of domestic renewable energy in the United States. Importantly, the bioeconomy is poised to expand exponentially with the right policy environment. *See* USDA, *An Economic Impact Analysis of the U.S. Biobased Products Industry* (Oct. 2016) (the "2016 Biomass Report").[2]

While providing food, fuel and fiber to American families, the bioeconomy also reduces CO_2 by 400 million tons every year through uptake of carbon by growing crops, thus playing a critical role in achieving climate policy goals.[3] The benefits of agriculture as a renewable and sustainable resource are widely recognized, and the life-cycle carbon benefits of biogenic emissions from the use or processing of biomass have been universally acknowledged by policymakers and scientists.[4]

Members of the Biogenic CO_2 Coalition are eager to grow and expand the bioeconomy over the coming decades. Naturally, because bioproducts are made from carbon-based organic materials, some amount of carbon in those materials is cycled back into the atmosphere when agricultural feedstocks are used or processed by energy combustion, fermentation, or microbial wastewater treatment (referred to as "crop-derived CO_2" or "biogenic CO_2"). EPA's current policies and regulations – which in some situations treat biogenic CO_2 the same as fossil fuels and essentially put a carbon tax on farm products – are thwarting investment in the bioeconomy. EPA has failed to put science first by failing to distinguish between fossil-based emissions, which EPA has said contribute to global warming, and crop-derived emissions, which are carbon neutral by nature. Instead of recognizing the natural life cycle of agricultural carbon, EPA instead has inadvisedly labeled biogenic CO_2 as a harmful pollutant under the Clean Air Act.

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. The science of life-cycle

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[2] Available at www.biopreferred.gov/BPResources/files/BiobasedProductsEconomicAnalysis2016.pdf.

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

[4] *See* 2016 Biomass Board Report at 7 ("Biobased products . . . recycle carbon (CO_2) from the atmosphere, resulting in air quality improvements when compared to fossil fuel-based products").

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emissions shows that emissions of crop-derived CO_2 resulting from energy use or processing of crop-derived feedstocks are harmless from a global warming standpoint and do not contribute to elevated atmospheric concentrations of greenhouse gases. Until this basic science is embraced fully by Administration policy, the bioeconomy will be hobbled from achieving its full promise.

Accordingly, as part of its pending mandate from the Supreme Court to revisit its interpretation of the scope of greenhouse gas regulation under the Clean Air Act (discussed below), EPA should define key terms in its regulations to exclude carbon-neutral biogenic emissions. Similarly, in the context of the proposed Significance Rule, EPA must not deny the scientific reality of life-cycle emissions and should categorize agricultural biogenic emissions as insignificant or *de minimis* for purposes of the PSD and Title V programs, as well as other Clean Air Act programs and policies, including EPA's Clean Power Plan.

I. UNDER SUPREME COURT MANDATE, EPA MUST REVISIT ITS INTERPRETATION OF THE CLEAN AIR ACT AND SET DE MIMINIS LEVELS FOR "POLLUTANTS"

As EPA acknowledges in the preamble of the proposed Significance Rule,[5] its proposal is a response to a series of federal court rulemaking challenges to EPA's greenhouse gas regulations, culminating in the U.S. Supreme Court's seminal decision in *Util. Air Regulatory Group v. EPA*, 134 S. Ct. 2427 (2014) ("*UARG*"), and the D.C. Circuit's amended judgment on remand from *UARG* in *Coalition for Responsible Regulation v. EPA*, No. 09-1322, 606 F. Appx 6, 8 (D.C. Cir. Apr. 4, 2015). These decisions vacated certain aspects of the Obama Administration's regulation of greenhouse gases under the PSD and Title V permitting programs and announced important principles of law, which EPA must now observe.[6] In *UARG*, the Supreme Court explicitly recognized the agency's authority to establish significance (or *de minimis*) levels for regulated pollutants. *See, e.g.*, *UARG*, 134 S. Ct. at 2449 ("EPA may establish an appropriate de minimis threshold . . . for a source's greenhouse-gas emissions"). Importantly, the Supreme Court also ruled that the agency's interpretation of the statutory term "pollutant" under the Clean Air Act is a context-specific definitional exercise and, as a corollary, directed EPA to interpret the statute in such a way as to give meaning to the context in which pollutants are identified or regulated. *See, e.g.*, *UARG*, 134 S. Ct. at 2439 ("where the term 'air pollutant' appears in the Act's operative provisions, EPA has routinely given it a narrower, context-appropriate meaning").

The D.C. Circuit echoed this material aspect of the Supreme Court's opinion by ordering EPA to respect the Supreme Court's mandate and on remand "consider whether any further revisions to its regulations are appropriate in light of *Util. Air Regulatory Group v. EPA*, 134 S. Ct. 2427, 189 L. Ed. 2d 372, and if so, undertake to make such revisions."[7] EPA has acknowledged

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[5] 81 Fed. Reg. at 68110-11.

[6] The Supreme Court in *UARG* invalidated EPA's greenhouse gas program to the extent it required stationary sources to obtain permits solely because the sources emit or have the potential to emit greenhouse gases above applicable thresholds, thereby limiting the applicability of permitting to "anyway sources" that would be regulated under the permitting programs regardless of greenhouse gas emissions.

[7] *Coal. for Responsible Regulation*, 606 F. Appx 6 at 8.

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as much in the proposed rule.[8] Because EPA is under a legal mandate to re-examine its existing policies and regulations affecting greenhouse gas emissions with a context-specific lens – a principle that applies equally to biogenic emissions – the Significance Rule should reflect this watershed directive from the Supreme Court and should establish once and for all an exemption for agricultural biogenic emissions.

Put another way, EPA must consider whether Congress would have intended that biogenic emissions be classified as a subset of the larger set of pollutants within the definition of "any air pollutant." *See UARG*, 134 S. Ct. at 2448. As discussed below, due to the nature of biogenic emissions and their lack of harmful effect, EPA cannot properly interpret the term "air pollutant" to include biogenic emissions within the context of the Clean Air Act regulatory programs and EPA's previous endangerment finding. As a corollary, if biogenic emissions are not properly interpreted as harmful pollutants under the category of "air pollutant," then biogenic emissions would not be considered as "regulated" pollutants and should not be subjected to Clean Air Act programs such as PSD and Title V permitting programs.

A contrary interpretation would result in exactly the "enormous and transformative expansion in EPA's regulatory authority without clear congressional authorization" that the Supreme Court sought to avoid in *UARG* by requiring EPA to re-visit its interpretation of "air pollutant" under the Clean Air Act statutory scheme. *UARG*, 134 S. Ct. at 2444, 2448. The agricultural community is legitimately concerned that EPA is using its current policy with regard to biogenic emissions as a basis for (1) regulating natural CO_2 from biological processes like bread baking, (2) attempting to define "sustainability" on the farm field, and (3) disqualifying agricultural feedstocks as low-carbon fuels under its Clean Power Plan. There is no indication in the Clean Air Act that Congress intended that EPA exercise this type of sweeping authority over agricultural production. *See UARG*, 134 S. Ct. at 2444 (courts should be skeptical "when an agency claims to discover in a long-extant statute an unheralded power to regulate a significant portion of the American economy"). The Supreme Court's ruling in *Michigan v. EPA*, 135 S. Ct. 2699 (2015), is similarly instructive, in that the Court's admonition that EPA cannot presume from Congressional silence an inability to consider economic ramifications would apply by the same logic to EPA's apparent position that it can ignore the life-cycle science of biogenic emissions. As in the case of EPA's overreach in regulating major sources of fossil emissions that was struck down in *UARG*, the concerns repeatedly raised by the agricultural community expressing alarm at the illogical impact of EPA's regulation on farms and food processors "should have alerted EPA that it had taken a wrong interpretive turn" with respect to biogenic emissions. *UARG*, 134 S. Ct. at 2446.

Because EPA is proposing changes to the definition of "greenhouse gases" in the Significance Rule,[9] EPA should take the opportunity to re-evaluate its interpretation of the Clean Air Act and endangerment finding based on an acknowledgment that biogenic emissions are part of the natural carbon flow cycle, and should clarify that its regulatory definitions exclude biogenic

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[8] 81 Fed. Reg. at 68112:1.

[9] 81 Fed. Reg. at 68112.

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emissions from those regulatory programs aimed at "harmful" pollution. Clarifying the limitations of EPA's regulation will avoid an expansive interpretation of the Clean Air Act that would essentially put EPA in the position of regulating the entire agricultural sector, from growing crops on the farm field to baking bread.

Notwithstanding that EPA is under a mandate (issued nearly two years ago) to re-interpret the scope of its greenhouse gas program, the Sigificance Rule proposal does not currently address crop-derived biogenic CO_2 emissions. Nor has EPA proposed any separate significance level applicable specifically to biogenic emissions. EPA's failure to respond to the Supreme Court's mandate puts the agency in contempt of the D.C. Circuit's explicit remand order and in contempt of the Supreme Court's clear instructions. Unless EPA takes the actions described in these comments, including an exemption for agricultural biogenic emissions, EPA will not be able to "fully implement" the Court's mandate as the agency admits that it must do.[10] To the extent that EPA takes a second look at its prior positions concerning biogenic emissions under the *UARG* mandate and revises its flawed interpretive stance by appropriately exempting biogenic emissions, the agency may do so without re-publishing the Significance Rule for a further round of public comment under the Administrative Procedure Act, and therefore could include such an exemption in the final rule.[11]

II. EPA MUST DISTINGUISH SCIENTIFICALLY BETWEEN BIOGENIC AND FOSSIL EMISSIONS

In its various greenhouse gas regulations applicable to stationary sources, EPA failed to recognize the scientific distinction between CO_2 emissions from biogenic sources, such as annual agricultural crop feedstocks, and fossil-based emissions from combustion of fossil fuels. The basic science of carbon life-cycle analysis establishes that crop-based biogenic emissions are part of the natural carbon "flow," which is part of the natural biological stocks of carbon in the world's climate system.[12] In other words, biogenic CO_2 is part of the baseline of roughly 280 parts per million (ppm) of pre-industrial atmospheric CO_2 that is essential for a stable climate and life on Earth.

Under the Clean Air Act, EPA may regulate greenhouse gases from stationary sources only if such sources cause or contribute to "air pollution which may reasonably be anticipated to endanger public health or welfare."[13] In its 2009 Endangerment Finding, EPA identified "elevated" levels of CO_2 in the atmosphere, in other words, excess levels above the natural pre-industrial baseline, as the harmful pollutant endangering the environment.[14] However, as

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[10] 81 Fed. Reg. at 68112.

[11] *See Perez v. Mortgage Bankers Ass'n*, 135 S. Ct. 1199 (2015) (interpretative rules, even changes to previous definitive positions, are not subject to APA informal rulemaking procedures).

[12] *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.biogenicCO_2.com).

[13] Clean Air Act § 111(b)(1)A), 42 U.S.C. § 7411(b)(1)(A).

[14] Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Ac, 74 Fed. Reg. 66496, 66516 (Dec. 15, 2009) (the "2009 Endangerment Finding") ("The Administrator finds

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discussed below, biogenic CO_2 is part of the baseline of natural flows of carbon dioxide, not excess to the baseline.

Despite this indisputable science, EPA has in a number of settings entirely refused to recognize life-cycle science. For example, in guidance applicable to the PSD and Title V program, Assistant Administrator Janet McCabe stated that "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"[15] This rather backhand phrasing in the McCabe memo means from a legal perspective that biogenic CO_2 emissions are viewed by EPA as harmful pollutants that cause climate change. Similarly, in its controversial Clean Power Plan, EPA again treated biogenic CO_2 from agricultural feedstocks the same as fossil fuels by disqualifying biomass energy feedstocks as low-carbon fuels unless producers meet certain "sustainability" criteria. These phantom criteria, which are nowhere defined in the Clean Power Plan rulemaking and which appear nowhere in the statutory text of the Clean Air Act as authored by Congress, are inscrutible and unworkable, and again assume that biogenic CO_2 is a harmful pollutant.[16] Most recently, EPA stated in its August 2016 final Aircraft Rule in stark categorical terms that "there is no distinction between biogenic and non-biogenic CO_2."[17]

EPA never did propose an exemption for waste-derived or sustainable agricultural feedstocks as it signaled in the 2014 McCabe Memo, nor has it acknowledged the life-cycle carbon neutrality of crop-derived biogenic CO_2 emissions. Rather, the agency has continued to take the position that all biogenic CO_2 from agricultural processes will be regulated as if those emissions were from combustion of fossil fuels. This position has created paralyzing uncertainty in the context of facility permitting in the bioeconomy, as stakeholders have no idea how biogenic CO_2 will be treated in the regulatory context. Many proposed projects, involving millions of investment dollars and hundreds of American jobs, have been unable to proceed in the face of such uncertainty and attendant litigation risk, and the few that have gone forward have bogged down in years of

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that *elevated* concentrations of greenhouse gases in the atmosphere may reasonably be anticipated to endanger the public health and to endanger the public welfare of current and future generations.") (emphasis added).

[15] *See* Janet McCabe, Assistant Administrator, *Addressing Biogenic Carbon Dioxide Emissions from Stationary Sources*, dated Nov. 19, 2014 ("McCabe Memo"), posted at http://www.epa.gov/climatechange/downloads/Biogenic-CO_2-Emissions-Memo-111914.pdf.

[16] *See Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Final Rule*, 80 Fed. Reg. 64662, 64886 (Oct. 23, 2015) ("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 CO_2 levels in the atmosphere and can adequately monitor and verify feedstock sources and related sustainability practices.").

[17] *Finding That Greenhouse Gas Emissions From Aircraft Cause or Contribute to Air Pollution That May Reasonably Be Anticipated To Endanger Public Health and Welfare*, 81 Fed. Reg. 54422 (Aug. 15, 2016).

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litigation.[18] All of this has a stultifying effect on investment in the bioeconomy and rural development.

EPA's policy toward biogenic CO_2, and the unjustified burden placed on the agricultural sector, is not only misguided policy, it is illegal for several reasons. First, as described at greater length below, EPA has never completed an endangerment finding for biogenic CO_2, which is a prerequisite under the Clean Air Act for regulation as a pollutant. Accordingly, EPA should interpret its previous endangerment findings as having excluded biogenic emissions such that biogenic emissions from agricultural sources are not subject to regulation. Second, even if EPA had included biogenic emissions in its endangerment finding (which it did not), science supports a policy determination that biogenic emissions are insignificant and harmless from a global warming perspective. EPA's failure over the last half decade to acknowledge life-cycle science and its attempt to exert regulatory power over the agricultural system is without precedent and *ultra vires*. Notwithstanding the legal deficiencies in EPA's existing policies, the situation can readily be resolved by providing a *de minimis* determination for crop-derived biogenic CO_2 emissions in the Significance Rule.

III. EPA HAS NOT MADE AN ENDANGERMENT FINDING WITH RESPECT TO BIOGENIC CO_2 EMISSIONS

Prior to regulating emissions as pollution under the Clean Air Act, EPA must determine that the air emission at issue "causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare."[19] In its 2009 Endangerment Finding for greenhouse gases from motor vehicles, EPA determined that "*elevated* concentrations of greenhouse gases in the atmosphere may reasonably be anticipated to endanger the public health and to endanger the public welfare of current and future generations."[20] However, nowhere in this 2009 rulemaking did EPA study and determine with any acceptable level of scientific detail the effect of biogenic emissions on climate change or whether biogenic emissions properly should be considered a harmful pollutant under the Clean Air Act. As noted, biogenic emissions are part of the baseline levels of CO_2 that are necessary for life on Earth, not part of any "elevated" levels ascribed to emissions from fossil fuels.

A. EPA Must Distinguish Between Biogenic and Fossil Emissions In Terms of Contribution to "Elevated" Concentrations of Greenhouse Gas

The Clean Air Act and supporting case law provide EPA clear legal authority to distinguish between biogenic CO_2 emissions and greenhouse gas emissions from other sources such as fossil

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[18] *See, e.g.*, *Helping Hand Tools v. United States EPA*, 836 F.3d 999 (9th Cir. 2016) (multi-year litigation over whether facility must burn natural gas instead of biomass for electricity on the basis of opponents' denial of the science of life-cycle emissions).

[19] *See, e.g.*, 42 U.S.C. § 7411(b)(1)(A); *see also National Asphalt Pavement Ass'n v. Train*, 539 F.2d 775, 783 (D.C. Cir. 1976).

[20] Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule, 74 Fed. Reg. 66496, 66516 (Dec. 15, 2009) (emphasis added).

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fuel combustion. Congress granted authority to EPA to regulate only those emissions that endanger the environment (*i.e.*, harmful emissions) as stationary source pollutants. Unlike CO_2 emissions from fossil sources, biogenic CO_2 emissions do not increase net atmospheric levels of CO_2.[21] EPA lacks the authority to regulate biogenic CO_2 emissions under the Clean Air Act because biogenic emissions do not adversely affect the environment. But even if EPA had the authority to regulate biogenic CO_2 emissions, it has signficant discretion to exclude or provide different treatment for such emissions.

EPA itself has recognized in other contexts the lack of any adverse effect from agricultural biogenic CO_2 emissions. For example, EPA's Mandatory Reporting of Greenhouse Gases Rule distinguishes biogenic CO_2 from other emissions, and actually exempts reporting of process emissions from the food processing industry.[22] Likewise, in its Renewable Fuel Standard 2 rulemaking, EPA explained that "[f]or renewable fuels, tailpipe emissions only include non-CO_2 gases, because the carbon emitted as a result of fuel combustion is offset by the uptake of biogenic carbon during feedstock production."[23] The Department of Energy and USDA, along with virtually every government agency in the world to take up the issue, similarly have recognized the lack of any adverse effect from biogenic CO_2 emissions.[24] It would be remarkable if EPA, alone in the world, regulated biogenic emissions the same as fossil emissions.

B. EPA Did Not Consider Biogenic Emissions in the 2009 Endangerment Finding

In fact, EPA has never actually determined, one way or the other, that biogenic emissions contribute to climate change. EPA has based its regulation of CO_2 emissions from stationary sources, such as power plants, on the predicate of its 2009 Endangerment Finding for "tailpipe" emissions from motor vehicles.[25] Whatever the merit of EPA's position with respect to fossil-based emisisons, EPA never specifically addressed biogenic emissions in its 2009 Endangerment Finding.

In its 2009 Endangerment Finding addressing fossil fuel combustion in motor vehicles, EPA concluded that elevated concentrations of six well-mixed greenhouse gases (including CO_2) in the atmosphere are harmful to (*i.e.*, endanger) the environment.[26] EPA then determined that this harmful greenhouse gas pollution results directly from emissions of those six greenhouse gases

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[21] As has been well documented, net fluxes of biomass CO_2 to the atmosphere from agricultural sources are, at a minimum, "carbon neutral" in that any CO_2 emissions associated with the combustion of biomass are offset completely by the significant role domestic forests and agriculture play in sequestering carbon as the nation's leading carbon sink.

[22] *See generally* Mandatory Reporting of Greenhouse Gases, 74 Fed. Reg. 56260 (Oct. 30, 2009).

[23] *Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program; Final Rule*, 75 Fed. Reg. 14670, 14,787 (Mar. 26, 2010).

[24] *See* 2016 Biomass Board Report at 7 ("Biobased products . . . recycle carbon (CO_2) from the atmosphere, resulting in air quality improvements when compared to fossil fuel-based products").

[25] 74 Fed. Reg. 66496, 66540 (Dec. 15, 2009).

[26] *See, e.g.,* 74 Fed. Reg. at 66497: 2-3, 66498: 1, 66516: 2-3, 66536: 3.

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from stationary sources and motor vehicles.[27] But it is evident from a review of the 2009 Endangerment Finding that EPA did not address the science of biogenic emissions.

One can search the 2009 Endangerment Finding in vain for any mention of biogenic emissions. The word "biogenic" appears nowhere in the endangerment finding and the term "biomass" is used twice, but neither in reference to the significance of biogenic emissions. There is no substantive discussion at all in the endangerment finding of biogenic emissions or the life-cycle aspects of biogenic feedstocks within the atomospheric and terrestrial carbon cycle. Nor did the endangerment finding, which EPA has asserted as the basis for regulation of all carbon dioxide emissions at stationary sources (including agricultural processing facilities and bioenergy plants) ever discuss the scientific distinction between biogenic emissions and fossil emissions from the perspective of elevated concentrations of greenhouse gas. Therefore, there is simply no extant endangerment finding applicable to agricultural biogenic CO_2 emissions that would justify regulation of biogenic CO_2 emissions as a harmful pollutant under the PSD or Title V program, or any other aspect of the Clean Air Act.

To the contrary, the 2009 Endangerment Finding was based on the IPCC Fourth Assessment Report of 2007 and EPA's annual *Inventory of U.S. Greenhouse Gas Emissions and Sinks*, both of which exclude biogenic CO_2 emissions on the basis of their carbon neutrality.[28] For example, one of EPA's principal conclusions in support of the 2009 Endangerment Finding was that fossil-based emissions from combusting petroleum fuel in motor vehicles represented twenty-three percent of total U.S. emissions of greenhouse gases.[29] But EPA's assessment of motor vehicle emissions as a share of United States greenhouse gas emissions specifically excluded biogenic CO_2 emissions because it was based on the United States Greenhouse Gas Inventory for year 2009.[30] The 2009 Inventory itself states at page 3-1: "Carbon dioxide emissions from [combustion of biomass and biomass-based fuels] are not included in national emissions totals because biomass fuels are of biogenic origin. It is assumed that the C [carbon] released during consumption of biomass is recycled as U.S. forest and crops regenerate, causing no net addition of CO_2 to the atmosphere." In the absence of a prerequisite endangerment finding applicable to biogenic CO_2 emissions, biogenic emissions from the processing of agricultural feedstocks or use as bioenergy cannot be considered a pollutant under the Clean Air Act or regulated as dangerous industrial pollutants.

A closer review of the history of EPA's positions with respect to biogenic emissions leading up to the 2009 endangerment finding confirms the interpretation that "harmful" greenhouse gas pollution does not include biogenic emissions. As noted, EPA's 2009 Endangerment Finding quantifies greenhouse gas emissions by reference to its 2009 Emissions

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[27] *See* 74 Fed. Reg. at 66497-99.

[28] *See, e.g.*, 74 Fed. Reg. at 66510; 66537.

[29] 74 Fed. Reg. at 66540.

[30] *See* 74 Fed. Reg. at 66539 n.41 and 66540; *Inventory of U.S. Greenhouse Gas Emissions and Sinks* (April 2009) p. 2-5 Table 2-1 n. b and p. 3-1 (excluding biogenic CO_2 emissions based on principles of carbon neutrality) ("2009 Emissions Inventory").

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Inventory.[31] This is also reflected in the technical support documents accompanying the 2009 Endangerment Finding.[32] EPA has acknowledged that its 2009 Emissions Inventory conforms to the system of emissions accounting established by the Intergovernmental Panel on Climate Change (IPCC) and articulated in the 2006 IPCC Guidelines.[33] Consistent with the 2006 IPCC Guidelines recommendation that each inventory place emissions of CO_2 from combustion of biomass in the section devoted to forestry and land-use changes, as opposed to the section devoted to energy production, EPA's emissions inventories report emissions from combustion of biogenic feedstocks separately as a "Memo item" in the U.S. GHG Inventory and do not include biogenic emissions in the energy sector calculations.[34] Similarly, consistent with the IPCC guidance, any carbon stock changes related to the use of biogenic feedstocks in the energy sector, and the CO_2 emissions associated with those carbon stock changes, are accounted for under the forestry and/or agricultural sectors of the U.S. GHG Inventory.[35]

The *2006 IPCC Guidelines* as they apply to the land-use/forestry sector characterize biogenic emissions as carbon neutral because: "Biomass associated with annual and perennial herbaceous (*i.e.*, non-woody) plants is relatively *ephemeral,* i.e., it decays and regenerates annually or every few years. So emissions from decay are balanced by removals due to re-growth making overall net C [carbon] stocks in biomass rather stable in the long term."[36] Consequently, the *2006 IPCC Guidelines* recommend that: "The change in biomass is only estimated for perennial woody crops. For annual crops, increase in biomass stocks in a single year is assumed equal to biomass losses from harvest and mortality in that same year - thus there is no net accumulation of biomass stocks."[37] As further support for the notion that biomass emissions are carbon neutral, a "Frequently Asked Questions" (FAQ) document on the same IPCC website as the *2006 IPCC Guidelines* addresses the question "Do the IPCC Guidelines consider biomass used for energy to

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[31] *See, e.g.,* 74 Fed. Reg. at 66510:2-3; 66537:1 ("To date, the focus of UNFCCC actions and discussions has been on the six greenhouse gases that are the same focus of these [endangerment] findings. As a party to the UNFCCC, EPA annually submits the *Inventory of US. Greenhouse Gas Emissions and Sinks to the Convention*, which reports on national emissions of anthropogenic emissions of the well-mixed greenhouse gases."); 66539-40.

[32] EPA, *Technical Support Document for Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act*; Vol. 4 (Dec. 7, 2009) (EPA-HQ-OAR-2009-0171-11645) ("TSD4") at 2-3 ("Primary GHGs that are directly emitted by human activities in general are reported in EPA's annual *Inventory of US. Greenhouse Gas Emissions and Sinks* and include carbon dioxide . . . The primary effect of these gases is their influence on the climate system by trapping heat in the atmosphere that would otherwise escape to space."); TSD4 at 6 (Table 1.1); TSD4 at 11-12.

[33] 5 IPCC, 2006 IPCC Guidelines for National Greenhouse Gas Inventories (*http://www.ipccnggip.iges.or.jp/public/2006gl/index.html*); 2009 Emissions Inventory, at 1-2:1, 7-1.

[34] *See 2006 IPCC Guidelines* Vol. 1, at 1.5-1.6.

[35] *See* 79 Fed. Reg. at 1441 n.46.

[36] *2006 IPCC Guidelines* Vol. 4, at 2.11 (emphasis added).

[37] *Id.* at 5.7 (§ 5.2.1.1) (emphasis added); *see also id.* at 5.26 ("In subsequent years, change in biomass of annual crops is considered zero because carbon gains in biomass from annual growth are offset by losses from harvesting.").

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be carbon neutral?"[38] The answer given by the FAQ with respect to annual herbaceous crop-derived biomass is: "For annual crops, the IPCC Guidelines assume that biomass carbon stock lost through harvest and mortality equal biomass carbon stock gained through regrowth in that same year and so there are no net CO_2 emissions or removals from biomass carbon stock changes."[39]

The IPCC indisputably views biogenic CO_2 emissions from annaul crops as carbon neutral because biogenic emissions are inconsequential to the global warming process on a life-cycle basis. Consistent with the *2006 IPCC Guidelines*, EPA's *2009 Emissions Inventory,* which as noted is the foundation of its 2009 Endangerment Findings, accounts for emissions from agricultural lands only to the extent of "changes in organic C stocks in mineral and organic soils due to land use and management, and emissions of CO_2 due to the application of crushed limestone and dolomite to managed land (*i.e.*, soil liming and urea fertilization)."[40] EPA's approach to emissions accounting expressly excludes any quantification of the carbon flux attributable to growth, harvest, and fate of agricultural crop material, because that flux is "relatively small and ephemeral."[41] EPA's use of the term "ephemeral" is a clear reference to the *2006 IPCC Guidelines* and the IPCC's recognition that biogenic emissions are insignificant from the standpoint of increases in atmospheric greenhouse gas concentrations that cause global warming.

The U.S. Department of Agricuture has similarly concluded that biogenic CO_2 emissions are insignificant on a life-cycle basis as their effect is ephemeral. In July 2014, USDA, through its Office of Chief Economist, issued Technical Bulletin 1939,[42] which stated at page 3.43 of that bulletin that: "Both IPCC (2006) and U.S. Environmental Protection Agency (2011) consider herbaceous biomass carbon stocks to be ephemeral, and recognize that there are no net emissions to the atmosphere following crop growth and senescence during one annual crop cycle (West et al., 2011)." Similarly, in May 2014, the World Resources Institute (WRI) and World Business Council on Sustainable Development (WBCSD), which are recognized private-sector leaders in formulating greenhouse gas emissions inventory guidance, issued guidance[43] which at page 62 states: "The biomass associated with annual and perennial herbaceous vegetation is relatively ephemeral – reductions in these biomass stocks from harvesting, the burning of crop residues, or the integration of crop residues into soils, are balanced by stock increases from plant re-growth over a period of only one to a few years. Consequently, companies should also not report any sequestration in herbaceous biomass stocks." The use of the term "ephemeral" in both of the above-quoted passages is no accident. The term was originally used by the IPCC in its 2006 emissions inventory guidance to characterize CO_2 emissions from combustion or microbial treatment of herbaceous crop-derived material and was later repeated in the IPCC's FAQ

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[38] *See* Q2-10, at 9 (http://www.ipcc-nggip.iges.or.jp/faq/FAQ.pdf).

[39] *Id.*

[40] *2009 Emissions Inventory* at 7-1.

[41] *2009 Emissions Inventory* at 7-27:2, 7-39:1, 7-43:1, 7-47:2.

[42] USDA, *Quantifying Greenhouse Gas Fluxes in Agriculture and Forestry: Methods for Entity-Scale Inventory* (http://www.usda.gov/oce/climate_change/estimation.htm).

[43] WRI/WBCSD, *GHG Protocol Agricultural Guidance* (http://www.ghgprotocol.org/standards/agriculture-guidance).

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document, which equated "ephemeral" in this context with carbon neutral – a scientific view being echoed now by USDA and WRI/WBCSD.

In sum, because EPA excluded biogenic emissions from its *2009 Emissions Inventory,* and because EPA's 2009 Endangerment Finding defined "harmful" pollution by reference to those greenhouse gases in the 2009 Emissions Inventory (*i.e.,* those emissions that the global scientific community had identified as elevated concentrations of greenhouse gas), biogenic emissions were never part of EPA's 2009 Endangerment Finding and there is no predicate for regulation of biogenic emissions as harmful pollution under the Clean Air Act. This conclusion is consistent with the scientific consensus that emissions of crop-based biogenic CO_2 are inconsequential to the global warming process – they effect no change in carbon stocks and, therefore, cause no harm.

The position that biogenic CO_2 emissions are insignificant and do not warrant an endangerment finding comports with numerous other EPA pronouncements regarding the carbon-neutral or *de minimis* nature of agricultural feedstock emissions. For example, the final rule for EPA's 2007 Renewable Fuel Standard Program (RPS1) required the exclusion of CO_2 from the combustion by motor vehicles of corn ethanol in comparisons of the lifecycle greenhouse gas emissions of such fuel against the lifecycle emissions of gasoline.[44] As EPA explained in that rule: "[I]n the long run the CO_2 emitted from biomass-based fuels combustion does not increase atmospheric CO_2 concentrations, assuming the biogenic carbon emitted is offset by the uptake of CO_2 resulting from the growth of new biomass. *Thus ethanol's carbon can be thought of as cycling from the environment into the plant material used to make ethanol and, upon combustion of the ethanol, back into the environment from which it came.* As a result, CO_2 emissions from biomass-based fuels combustion are not included in their lifecycle emission results and are not used in the CO_2 displacement index calculations shown above."[45] Similarly, EPA's proposal in May 2009 of the current Renewable Fuel Standard Program (RFS2) took the same position not only with respect to combustion by motor vehicles of corn ethanol, but also with respect to combustion of biomass in boilers to produce the corn ethanol.[46] EPA explained in that rulemaking, which was contemporaneous with its work on the 2009 endangerment finding, that "the CO_2 emitted from biomass-based fuels combustion does not increase atmospheric CO_2 concentrations, assuming the biogenic carbon emitted is offset by the uptake of CO_2 resulting from the growth of new biomass."[47]

Three months after promulgation of the 2009 Endangerment Finding, EPA reiterated in the final RFS2 rule its position that biogenic CO_2 emissions are insignificant.[48] The final RFS2 rule, which EPA was finalizing at the same time that it promulgated the 2009 endangerment finding, relied on emission factors in the Argonne National Laboratory's spreadsheet analysis tool known

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[44] *See* 72 Fed. Reg. 23900, 23982-83 (May 1, 2007).

[45] *Id.* (emphasis added).

[46] *See* 74 Fed. Reg. 24904, 25039: 3, 25040:1 (May 26, 2009).

[47] *Id.* at 25040:1.

[48] *See* 75 Fed. Reg. 14670, 14787:2 (Mar. 26, 2010).

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as "Greenhouse gases, Regulated Emissions, and Energy use in Transportation" (GREET).[49] The GREET model assigns a zero value to all CO_2 emissions from (i) combustion of annual herbaceous crop-derived biomass to generate steam at a fuel ethanol plant; (ii) fermentation of biomass to generate fuel ethanol; and (iii) combustion of the fuel ethanol by motor vehicles.[50] In fact, the EPA study explains (at page 76): "Conversion of corn starch to ethanol produces excess CO_2 emissions. Because the CO_2 generated is from the atmosphere during the photosynthesis process, it should not be classified as CO_2 emissions . . . In this study, we assume that lignin is burned in cellulosic ethanol plants to provide steam needed for ethanol production and electricity. While combustion of lignin undoubtedly produces CO_2 emissions, these emissions come from the atmosphere through the photosynthesis process for biomass growth. Thus, the CO_2 emissions from biomass combustion are treated as zero in the GREET model. For the same reason, the CO_2 emissions from ethanol combustion in ethanol vehicles are treated as zero." Consistent with the GREET model, EPA's Regulatory Impact Analysis for the final RFS2 rule echoes conclusions in the final RFS2 rule, noting that: "The emission factors for the different fuel types are from GREET and were based on assumed carbon contents of the different process fuels . . . The emissions from combustion of biomass fuel source are not assumed to increase net atmospheric CO_2 levels. Therefore, CO_2 emissions from biomass combustion as a process fuel source are not included in the lifecycle GHG inventory of the biofuel production plant."[51] Likewise, in administering the RFS2 program, EPA has continued to exclude biogenic emissions from combustion and fermentation of agricultural feedstocks from its comparisons of the lifecycle emissions of newly-proposed biofuels against the lifecycle emissions of corresponding fossil fuels.[52]

EPA has continued to maintain the position that biogenic emissions are harmless in other contexts subsequent to the 2009 Endangerment Finding, such as its Climate Leaders voluntary greenhouse gas reduction program[53] and its 1605(b) voluntary reporting program which it co-administers with the Department of Energy. The government's position in these programs has been simply that "carbon dioxide emissions of biogenic fuels do not 'count' as anthropogenic emissions."[54] Consistent with this position, EPA has continued using the same language regarding

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[49] *See* 75 Fed. Reg. at 14769:3, 14782:2.

[50] *See* M.Q. Wang, *GREET 1.5 - Transportation Fuel-Cycle Model, Vol. 1: Methodology, Development, Use, and Results,* at 76 (ANL/ESD-39, Vol. 1) (Aug. 1999) (https://www.anl.gov/energy-systems/publication/greet-15-transportation-fuel-cycle-model-volume-1-methodology-development).

[51] *See* EPA, *Renewable Fuel Standard Program (RFS2) Regulatory Impact Analysis,* at 424 (Feb. 2010) (EPA-420-R-10-006) (https://www.epa.gov/sites/production/files/2015-08/documents/420r10006.pdf) ("*RFS2 RIA*").

[52] *See, e.g.,* Wang *et al., Energy and greenhouse gas emission effects of corn and cellulosic ethanol with technology improvements and land use changes,* Biomass and Bioenergy, Vol. 35, at 1885, 1891:2, 1892:2 (2011) ("A positive energy balance by corn ethanol is possible because only fossil energy used to produce ethanol is taken into account in energy balance calculations. The energy for corn plant growth via photosynthesis is solar energy and is not considered.").

[53] EPA, *Climate Leaders, Greenhouse Gas Inventory Protocol Core Module Guidance, Direct Emissions from Stationary Sources,* § 1.2 (May 2008) (EPA-430-K-08-003) ("[I]t is assumed that combustion of biofuels do not contribute to net addition of CO_2 to the atmosphere.").

[54] U.S. DOE, *Technical Guidelines, Voluntary Reporting of Greenhouse Gases (1605(b)) Program,* at 51 ("By accounting convention, though, carbon dioxide emissions of biogenic fuels do not 'count' as anthropogenic

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the harmless nature of biogenic emissions and relying on the same IPCC guidance in its greenhouse gas emission inventories.[55]

EPA's position that biogenic CO_2 emissions are insignificant is securely rooted in fundamental science. As explained by leading experts in life-cycle emissions from Michigan State University, Dr. Seungdo Kim and Bruce E. Dale, in the attached technical report (Attachment A, hereto), each carbon atom released in the form of CO_2 directly from combustion, fermentation or wastewater treatment of agricultural crop-based materials is the same carbon atom that the herbaceous plants incorporated into that matter through photosynthesis. Those processes merely return to the atmosphere carbon atoms that were already there only a short time ago. Thus, biogenic emissions cause no change in carbon stocks, do not contribute to elevated concentrations of greenhouse gases, and cause no harm through the global warming process.[56]

It was in the context of this regulatory history that EPA finalized its 2009 Endangerment Finding, which assumed that biogenic CO_2 emissions were insignificant and not part of the "harmful" greenhouse gas pollution identified as endangering the environment. The context and EPA's contemporaneous positions with regard to biogenic CO_2 also explain the complete lack of any discussion of biogenic emissions in the 2009 Endangerment Finding. In other words, EPA felt no need to discuss biogenic emissions since it was not making an endangerment finding that implicated emissions from agricultural feedstocks. Any other interpretation of the 2009 Endangerment Finding ignores the history of EPA's rulemaking and program administration and the contextual setting in which biogenic emissions have been considered carbon neutral by global consensus.

The only indication that EPA ever considered biogenic emissions in its 2009 Endangerment Finding comes from EPA's response-to-comments document ("2009 RTC"), which was issued by EPA in conjunction with the 2009 endangerment finding. In the 2009 RTC, a stakeholder asked EPA to exclude biogenic CO_2 emissions from the endangerment finding on the grounds that biogenic emissions do not contribute to endangerment of health and welfare. In its response, EPA rejected that request, stating that "all CO_2 emissions, regardless of source, influence radiative forcing equally once it reaches the atmosphere and therefore there is no distinction between biogenic and non-biogenic CO_2 regarding the CO_2 and other well-mixed GHGs within the

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emissions under the Framework Convention on Climate Change because the carbon embedded in biogenic fuels is presumed to form part of the natural carbon cycle."); 77 ("Reporters that operate vehicles using pure biofuels within their entity should not add the carbon dioxide emissions from those fuels to their inventory of mobile source emissions because such emissions are considered biogenic and the recycling of the carbon is not credited elsewhere.") (Jan. 2007) (http://www.eia.gov/oiaf/1605/January2007/1605bTechnicalGuidelines.pdf).

[55] *See, e.g., Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2011,* at 7-1, 7-31, 7-44, 7-49, 7-54 (Apr. 12, 2013) (EPA-430-R-13-001), available at (https://www3.epa.gov/climatechange/Downloads/ghgemissions/US-GHG-Inventory-2013-Main-Text.pdf); *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2012,* at 7-1, 7-35, 7-49, 7-54, 7-60 (Feb. 21, 2014), available at (https://www3.epa.gov/climatechange/Downloads/ghgemissions/US-GHG-Inventory-2014-Main-Text.pdf).

[56] *See* S. Kim, PhD and B. Dale, PhD, *The Biogenic Carbon Cycle in Annual Crop-Based Products* (Nov. 20, 2013) (Attachment A, hereto).

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definition of air pollution that is reasonably anticipated to endanger public health and welfare."[57] However, in light of the absence of any such discussion of biogenic emissions in the proposed endangerment finding or the final 2009 Endangerment Finding itself, it is apparent that the EPA staff member who prepared that response was mistaken as to the definitional foundation of the 2009 Endangerment Finding. Moreover, as discussed at length above, EPA had based the endangerment finding on the IPCC and emissions inventory approaches, which acknowledged the scientific principle that biogenic emissions are carbon neutral on a life-cycle basis and are not counted as part of the "elevated" concentration of greenhouse gases which results from society's burning of fossil fuels. Accordingly, EPA's response that molecules of CO_2 are identical was non-responsive to the core question of whether biogenic CO_2 contributes to "elevated" levels of atmospheric CO_2 compared to pre-industrial concentrations. As noted, it is only the elevated concentration that EPA has determined endangers the environment, which is understandable as the non-elevated concentration of CO_2 in the atmosphere keeps the earth at habitable temperatures. In short, a single response to a stakeholder comment, which is inconsistent with and divorced from the record basis for the agency action, cannot form a rational basis to interpret the 2009 Endangerment Finding as concluding that biogenic emissions are harmful and cause global warming. To the contrary, the 2009 Endangerment Finding supports the conclusion that biogenic emissions are harmless.

Despite EPA's recent assertions in the McCabe memo, Clean Power Plan and elsewhere that there is no distinction between biogenic CO_2 and fossil CO_2, EPA has nonetheless recognized in other contexts that there is indeed a scientific distinction. As a striking example, EPA's ill-fated "Deferral Rule" itself evidences that EPA never actually determined in the 2009 Endangerment Finding whether biogenic CO_2 emissions are "dangerous" pollutants, such that the agency is free to decide whether and how biogenic CO_2 emissions should be regulated going forward. Two years following its 2009 Endangerment Finding for fossil fuel emissions from motor vehicles, and in response to a stakeholders petition for administrative reconsideration, EPA attempted to defer application of its greenhouse gas regulations to biogenic CO_2 emissions from stationary sources under the PSD and Title V rules until it could complete a scientific review of the climate effects of biogenic emissions.[58] At the same time, EPA began developing an accounting process for evaluating the life-cycle of biogenic feedstocks know as the Biogenic Accounting Factor framework, and charged its Science Advisory Board with supporting its study of biogenic emissions.[59] That review process has now taken more than six years and appears nowhere close to completion. But the fact that EPA constituted the scientific review process in the first place

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[57] *See* EPA, *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act: EPA's Response to Public Comments, Vol. 9: The Endangerment Finding,* at 5 (2009) (EPA-HQ-AR-2009-0171-11676) ("*2009 RTC Vol. 9*").

[58] *Deferral for CO_2 Emissions From Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs*, 76 Fed. Reg. 43490 (July 20, 2011).

[59] EPA Office of Air and Radiation, Office of Atmospheric Programs, Climate Change Division, *Framework for Assessing Biogenic CO_2 Emissions from Stationary Sources* (2d Draft) (Nov. 2014) ("BAF Framework"); *see also* Office of Atmospheric Programs, Accounting Framework for Biogenic CO_2 Emissions from Stationary Sources (Sept. 2011) (https://www3.epa.gov/climatechange/Downloads/ghgemissions/Biogenic-CO_2-Accounting-Framework-Report-Sept-2011.pdf) ("Biogenic Accounting Framework").

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illustrates that EPA never reached a definitive conclusion in the 2009 Endangerment Finding as to the nature of biogenic CO_2 as a harmful pollutant.

The Deferral Rule was originally intended for a period of three years; however, at about the time the rule expired of its own terms, the D.C. Circuit vacated the rule by rejecting the administrative law doctrines that EPA had invoked to defend the rule.[60] Importantly, however, EPA had (somewhat mystifyingly) expressly declined to rely on any scientific basis for its authority to exempt insignificant or *de minimis* emissions from regulation in defending the Deferral Rule.[61] In light of this procedural history, the D.C. Circuit's invalidation of the Deferral Rule presents no precedential impediment for EPA either to properly interpret the 2009 Endangerment Finding as having not addressed biogenic emissions or to exempt biogenic emissions under its general authority to exempt insignificant emissions on the basis of sound science.[62] Put simply, it seems obvious that EPA would not have needed a deferral rule, nor embarked on a multi-year scientific study of biogenic emissions, if it had already studied the issue sufficiently in its 2009 Endangerment Finding.

In short, EPA's 2009 Endangerment Finding did not actually address the science of biogenic CO_2 in determining whether biogenic CO_2 from agricultural sources was "harmful" such that it should be regulated as a "pollutant." Accordingly, under the Supreme Court's precedent, any regulation of biogenic CO_2 under the Clean Air Act would be *ultra vires*, arbitrary, and capricious until EPA completes a thorough, meaningful and scientifically informed endangerment finding specific to biogenic CO_2 sources, considering the context of Congress's use of the term "pollutant" in the Clean Air Act. EPA should acknowledge this fact in the Significance Rule rulemaking and either determine that biogenic CO_2 emissions are not currently subject to a predicate endangerment finding or include an exemption for biogenic CO_2 emissions from short-cycle agricultural biomass feedstocks.

IV. EPA MUST DEFINE KEY TERMS TO CLARIFY THE EXCLUSION OF BIOGENIC EMISSIONS

In order to fully implement the Supreme Court's mandate, EPA must define key regulatory terms such as "any pollutant", "greenhouse gases", and "subject to regulation" in the proper context, considering the scientific nature of biogenic emissions. This context necessarily includes

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[60] *Ctr. for Biological Diversity v. EPA*, 722 F. 3d 401 (D.C. Cir. 2013).

[61] 722 F.3d at 409.

[62] Indeed each of the panel judges in the Deferral Rule litigation suggested that EPA retained the broad authority described above to permanently exclude biogenic CO_2 emissions, provided the Agency justified its decision in the rulemaking record. 722 F.3d at 412 ("leav[ing] for another day the question whether the agency has authority under the Clean Air Act to permanently exempt biogenic carbon dioxide sources from the PSD permitting program"); 722 F.3d at 420 (Henderson, J. dissenting) (recognizing the "availability of a *de minimis* exception" to permanently exclude biogenic CO_2 emissions). Even Judge Kavanaugh's concurring opinion, which asserted that EPA's regulatory discretion was limited by the agency's prior interpretation of its Clean Air Act authority suggested that EPA retained at some limited options to permanently exclude biogenic CO_2 emissions. 722 F.3d at 413 n.1 (Kavanaugh, J. dissenting) (suggesting that EPA could exempt biogenic CO_2 emissions by amending or reinterpreting its Endangerment Finding).

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acknowledgement that EPA has not thoroughly considered the *de minimis* nature of biogenic emissions and has not made an endangerment finding specific to biogenic emissions, which is a predicate to regulation under the Clean Air Act. Accordingly, EPA must revisit the definitions in its PSD program (and elsewhere in the Clean Air Act) with these limitations in mind, and must craft regulatory definitions in a manner so as to effectively exclude biogenic emissions from regulation under all portions of the Clean Air Act.

A. Definition of "Any Pollutant"

First, EPA must interpret the phrase "any air pollutant" as it appears in the Clean Air Act to exclude biogenic emissions, in light of the fact that EPA has not made an endangerment finding specific to biogenic emissions. There is no indication in the Clean Air Act that Congress would have intended that phrase to encompass emissions that are not actually harmful on a life-cycle basis. Nor would Congress have allowed EPA to simply ignore life-cycle science. As EPA acknowledges in the proposal, greenhouse gases are "unique."[63] Accordingly, any attempt to regulate these unique emissions should be based on careful consideration by the agency of the biological carbon cycle of CO_2 emissions and the necessity to human life and welfare of a baseline concentration of CO_2 in the atmosphere, both of which are core aspects of the unique nature of greenhouse gases.

B. Definition of "Greenhouse Gases"

Similarly, the definition of "greenhouse gases" or "GHGs" should be phrased in EPA's regulations in each instance of use to exclude biogenic CO_2. For example, the proposed definition under 40 C.F.R. § 51.166(b)(31) in the Significance Rule should read as follows, with the addition of the italized phrasing: "Greenhouse gases (GHGs) means the air pollutant definted in § 86.1818-12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorcarbons, perfluorocarbons and sulfur hexafluoride, *excluding biogenic emissions from agricultural feedstocks."* 81 Fed. Reg. at 68142:2.

C. Definition of "Subject to regulation"

The definition of "subject to regulation" should also be phrased in EPA's regulations in each instance of use to exclude biogenic CO_2. For example, the proposed definition under 40 C.F.R. § 51.166(b)(48) should read as follows with the addition of the italized phrasing: "Subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Pollutants subject to regulation include, but are not limited to, greenhouse gases as defined in paragraph (b)(31) of this section, *but excluding biogenic emissions from agricultural feedstocks."* 81 Fed. Reg. at 68142:3.

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[63] 81 Fed. Reg. at 68122:2 ("The EPA's judgment at this time is that the approaches we have previously used to establish SERs are not workable for the establishment of a GHG SER due the unique nature of GHG emissions").

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V. IF BIOGENIC EMISSIONS ARE CURRENTLY SUBJECT TO REGULATION, EPA SHOULD DETERMINE THAT CROP-BASED BIOGENIC EMISSIONS ARE INSIGNIFICANT

A. EPA Has Authority to Exempt Crop-Based Biogenic Emissions as Insignificant

As EPA recognizes in its proposed Significance Rule, it has discretion to determine that certain emissions are *de minimis* and to exempt such emissions from Clean Air Act regulatory programs.[64] In its landmark decision addressing greenhouse gases in *Massachusetts v. EPA*, the Supreme Court, although holding that EPA has the authority to regulate greenhouse gas emissions as "air pollution" generally, also recognized that "an agency has broad discretion to choose how best to marshal its limited resources and personnel to carry out its delegated responsibilities."[65] Similarly, in *Alabama Power Co. v. Costle*, 636 F.2d 323, 360-61, 400 (D.C. Cir. 1979), the D.C. Circuit recognized EPA's discretion "to exempt from PSD review some emission increases on grounds of *de minimis* or administrative necessity" where regulation would "yield a gain of trivial or no value." The Supreme Court's flagship *Chevron* decision also addressed EPA's discretion to define the scope of Clean Air Act permitting programs, overturning a D.C. Circuit decision that failed to defer to EPA's interpretation of what constitutes a "stationary source" subject to special permitting conditions in nonattainment areas.[66] And as discussed above, the Supreme Court has reminded EPA more recently in *UARG* that the agency must interpret statutory provisions in practical context.

In reliance on this broad discretion, EPA has previously intepreted the Clean Air Act with a contextual lens in analogous situations. Notably, EPA has limited PSD permitting to those pollutants that are "subject to regulation" under the Clean Air Act, notwithstanding that the statute itself refers to "any pollutant."[67] Likewise, even though the Clean Air Act may be read to require

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[64] 81 Fed. Reg. at 68120.

[65] *Massachusetts v. EPA*, 549 U.S. 497, 527-29, 533 (2007) (citing *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842-845 (1984)); *see also Am. Coke & Coal Chems. Inst. v. EPA*, 452 F.3d 930, 941-42 (D.C. Cir. 2006) ("The court owes particular deference to EPA when its rulemakings rest upon matters of scientific and statistical judgment within the agency's sphere of special competence and statutory jurisdiction."). Courts have noted EPA's discretion regarding the timing and approach to the regulation of pollutants following the Court's decision in *Massachusetts v. EPA*. For example, in the remand from the Supreme Court's decision, Judge Tatel observed that "nothing in section 202, the Supreme Court's decision in *Massachusetts v. EPA*, or our remand order imposes a specific deadline by which EPA must determine whether a particular air pollutant poses a threat to public health or welfare." *Massachusetts v. EPA*, No. 03-1361, separate statement of Tatel, J. concurring in part and dissenting in part from denial of petition, June 26, 2008, at 1. Similarly, the Northern District of California also rejected an argument that EPA is compelled to regulate all forms of greenhouse gases following *Massachusetts*. *See S.F. Chapter of A. Philip Randolph Inst. v. EPA*, 2008 U.S. Dist. LEXIS 27794 at 10-11 (N.D. Cal. Mar. 28, 2008). Consistent with the D.C. Circuit's conclusion, the California district court recognized that "[t]he Supreme Court was careful not to place a time limit on the EPA, and indeed did not even reach the question whether an endangerment finding had to be made at all."

[66] *Chevron, U.S.A., Inc. v. NRDC*, 467 U.S. 837, 841-42 (1984).

[67] *See Coalition for Responsible Regulation, Inc. v. EPA*, 684 F.3d 102, 134-35 (D.C. Cir. 2012) (*per curiam*) (finding that the Clean Air Act does not require EPA to regulate "a 'physical, chemical, [or] biological' substance

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PSD permitting for any change to a major source that increases emissions of any air pollutant by any amount, *see* Clean Air Act §§ 111(a)(4), 169(2)(C), EPA has limited the permitting requirements to modifications that result in a "significant" net increase in actual emissions.[68] For example, carbon monoxide emissions increases of up to 99 tons per year are considered insignificant (*de minimis*) under EPA's implementing regulations.[69] Thus, EPA has a long-standing policy of applying the *de minimis* doctrine to exclude from regulation under the PSD and Title V permitting programs those sources whose emissions increases are deemed insignificant from an air quality perspective, despite the fact that the literal language of the Clean Air Act requires permits for *any* emissions increase.[70]

EPA has also exercised its discretion to distinuish among various families of chemical compounds to exclude regulation of those emissions that have negligible environmental impacts. For example, EPA excludes emissions of certain volatile organic compounds (VOCs) as smog precursors because they don't react in the atmosphere like other compounds and do not cause environmental impacts regardless of the fact that these compounds are both "volatile" and "organic" and therefore meet EPA's definition of VOCs.[71] Likewise, EPA has distinguished among different categories of particulate matter (PM) based on differences in environmental and public health impacts.[72] Thus, EPA has distinguished between fine and coarse PM and established distinct significance levels for particulate matter smaller than 10 microns in diameter and smaller than 2.5 microns in diameter based on the particle size's impact on public health.

In the greenhouse gas context, EPA exercised its discretion to limit the scope and reach of its greenhouse gas regulations by choosing to limit the pollutants that qualify as "greenhouse gases" to "the aggregate group of six" specified chemicals and excluded other chemicals that also have climate impacts.[73] In fact, EPA limited the "pollutant" greenhouse gas to these six

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EPA had determined was harmless"), *reversed in part by UARG v. EPA*; *see also Alabama Power*, 636 F.2d at 352 n.57.

[68] *See* 40 C.F.R. §§ 52.21(b)(2)(i), 52.21(i); *see also United States v. DTE Energy Co.*, 711 F.3d 643, 645 (6th Cir. 2013).

[69] 40 C.F.R. § 52.21(b)(23)(i); *see also* 45 Fed. Reg. 52676, 52705-09 (Aug. 7, 1980) (setting significance levels for PSD permitting programs based on *de minimis* exception).

[70] *See* 40 C.F.R. § 52.21(b)(23)(i) and (j)(2); 45 Fed. Reg. at 52722; *Alabama Power*, 636 F.2d at 405.

[71] *See* 40 C.F.R. § 51.100(s); 40 C.F.R. §§ 52.21(b)(2)(ii) and 52.21(b)(30); 40 C.F.R. § 51.100(d); 57 Fed. Reg. 3941, 3943-44 (Feb. 3, 1992) (disagreeing with comment that definition exceeded EPA's statutory authority, asserting that "it is an administrative necessity and reasonable to define VOC to include all organic compounds except those EPA has determined to be negligibly reactive.").

[72] 40 C.F.R. § 52.21(b)(23)(i); *Alabama Power*, 636 F.2d at 369 n.134 ("EPA has discretion to define the pollutant termed "particulate matter" to exclude particulates of a size or composition determined not to present substantial public health or welfare concerns.").

[73] *See* 75 Fed. Reg. 25324, 25397 (May 7, 2010) (identifying the six compounds as "[t]he primary greenhouse gases of concern"); *id.* at 25398-99 (describing light-duty vehicle emissions standards as regulating "the single air pollutant" constituting the aggregate of the six identified gases).

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compounds despite its findings that they only account for 75% of total anthropogenic heating.[74] Similarly, in its rulemaking restricting emissions of carbon dioxide from new electric power plants, EPA acknowledged that it has broad discretion to exclude from regulation not only subcategories of a particular source categories, but also particular emissions. Thus, EPA excluded from that rule all emissions of non-CO_2 greenhouse gases, including methane and other powerful greenhouse gases, and to justify its position, EPA explained that such emissions "represent less than 1 percent of total estimated GHG emissions" from electric power plants.[75]

In its proposed Significance Rule, EPA identifies various factors that would support a *de minimis* finding for greenhouse gases: (1) the regulatory context, including the nature of the pollutant and the dangers caused by increases in that pollutant; (2) the nature and purposes of the regulatory program; and (3) the administrative and implementation burdens of, and the gain achieved from, regulating the activities at or below a certain level. 81 Fed. Reg. at 68121:1. Because the science dictates that biogenic CO_2 emissions are part of the natural annual carbon cycle and do not increase atmospheric CO_2 concentrations, each of these factors commands that EPA exclude biogenic emissions as *de minimis* for all Clean Air Act purposes.

B. Science Supports a De Minimis Determination Because Biogenic Emissions Are Not Harmful

As discussed above, biogenic emissions from agricultural feedstocks are not harmful to the environment because they do not contribute to elevated levels of greenhouse gas concentrations. For the same scientific reasons, biogenic CO_2 emissions are clearly insignificant, whether from the perspective of net life-cycle effect on atmospheric greenhouse gas concentrations or as a fraction of nationwide greenhouse gas emissions, which are dominated by fossil fuel combustion. For illustration, looking only at the electricity sector, direct stack emissions of CO_2 from bioenergy sources are at most 0.04 percent of the direct emissions of CO_2 from combustion of fossil fuels, based on conservative calculations using statistics published by the U.S. Energy Information Administration.[76] Specifically, the amount of CO_2 emitted in 2012 by the electric power sector through combustion of coal, natural gas, petroleum liquids and petroleum coke was nearly 1,982,000 million kilograms, whereas the amount of CO_2 emitted in that year by that sector through combustion of "other waste biomass" *(i.e.,* agricultural crop byproducts, straw, sludge waste and other biomass, excluding wood and wood-derived fuels) was 817 million kilograms, or approximately 0.04 percent of the fossil CO_2 emissions. There are no comprehensive statistics on biogenic emissions from all sources, but the volume of emissions from bioenergy is vastly smaller in volume than the 1 percent threshold that EPA used to justify the exclusion of five greenhouse

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[74] 74 Fed. Reg. at 66517, 66520 (excluding other gases because they are not thought to be a primary driver of radiative heating, or because their climate impact is unknown).

[75] 79 Fed. Reg. 1430 at 1446:1-2 (Jan. 8, 2014).

[76] Calculations based on EIA, *Electric Power Annual 2012,* tables 5.1.D, 5.2.D, 5.3.D, 5.4.D, 5.8.E (Dec. 2013) (http://www.eia.gov/electricity/annual/epa.pdf) (statistics on fuel consumption by btu) and EPA's Climate Leaders Program, *Emission Factors for Greenhouse Gas Inventories,* at 1 (Nov. 7, 2011) (https://www.epa.gov/sites/production/files/2015-11/documents/emission-factors_2011.pdf) (emission factor for GHG emissions per btu).

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gases, other than carbon dioxide, from the reach of its new source performance standards (NSPS) rulemaking for new or modified electric power plants.[77]

EPA's own Biogenic Accounting Framework, which the agency issued in revised form on November 19, 2014, strongly corroborates the Coalition's position as it relates to CO_2 emissions.[78] The *2014 BAF* repeatedly treats as a scientifically sound working assumption the proposition that the CO_2 emissions resulting *directly* from the combustion of such biomass are carbon neutral.[79] In fact, in the *2014 BAF,* EPA provided hypothetical examples to illustrate how the *BAF* would operate in the case of corn stover combustion, concluding that any factor combustion of corn stover would be zero or tiny.[80] Similarly, emissions of biogenic CO_2 associated with processing agricultural crops, assuming they should legally be considered (which is not the case), are also harmless from a global warming standpoint.

Although EPA has identified some questions regarding life cycle analysis of long-rotation biomass from forest products, EPA does not need to study emissions from the agricultural sector further. In fact, the Biogenic CO_2 Coalition has on numerous occasions inquired of EPA whether it needs additional information regarding the life-cycle emissions profile of short-rotation agricultural biomass, and the agency has not indicated that more data is needed. Indeed, as reviewed in the report by Professors Kim and Dale, which has been presented to EPA in comments submitted by the Biogenic CO_2 Coalition in various rulemakings,[81] the data currently before the agency is more than adequate to support a finding that biogenic CO_2 emissions from agricultural crops are insignificant on a life-cycle basis. The Kim-Dale Report examined the biogenic carbon cycle for combustion of crop residues using corn stover as an example of agricultural feedstocks under three different scientifically accepted methodologies: (i) life cycle biogenic carbon balance; (ii) mass balance; and (iii) EPA's proposed *Biogenic Accounting Framework*. *See* Kim-Dale Report pp. 30-35). The report studied the release and sequestration of biogenic carbon during agricultural production of corn and corn stover, the transportation and storage of corn and corn stover, and the ultimate combustion of the corn stover for bioenergy. The report found under all

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[77] *See* 79 Fed. Reg. at 1446:1-2 (excluding all emissions of non-CO_2 greenhouse gases on the basis that such emissions "represent less than 1 percent of total estimated GHG emissions" from EGUs).

[78] *See* EPA Office of Atmospheric Programs, *Framework for Assessing Biogenic CO_2 Emissions from Stationary Sources,* (Nov. 2014) ("*2014 BAF*")(http://www.epa.gov/climatechange/ghgemissions/biogenicemissions.html).

[79] *See, e.g., 2014 BAF, Appendix D: Feedstock Categorization and Definitions,* at D-10 ("[T]he net atmospheric biogenic contribution from the growth and harvest of the feedstock itself *[i.e.,* "conventional crops"] is in balance"); *Appendix 1: Illustrative Forestry and Agriculture Case Studies Using a Retrospective Reference Point Baseline,* at 1-14 ("GROW is set to 0 because the ratio of net growth to removals is 0."); *Appendix L: Illustrative Forestry and Agriculture Case Studies Using a Future Anticipated Baseline,* at L-17 ("The GROW term defaults to 0 for agricultural biomass sources in this methodology. The assumption is that, with annual crops, biogenic CO_2 'growth' in this context equals what is harvested (removed) from the system for energy generation."); *2014 BAF,* at 6 n.18, 16 (§2.4.1.), 43 (§4.4).

[80] *See* 2014 BAF *Appx 1,* at l-14 to 1-15; *Appx M,* at M-10 (Table M-5 and §6.1); *Appx M,* at M-11 (Table M-6, last row).

[81] *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.biogenicCO_2.com).

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three methods that the indirect biogenic carbon emissions were net negative – *i.e.,* that the biogenic carbon cycle yields a net sequestration of carbon (and a net benefit to the environment). As discussed above, both IPCC and EPA, as well as private sector organizations, consider herbaceous biomass carbon stocks to be ephemeral in the inventory context, and recognize that there are no net emissions to the atmosphere during the annual crop cycle.

Interestingly, EPA admits in the Significance Rule that it actually has no way to determine the impact of greenhouse gases on the global environment,[82] and thus EPA has no way to determine the danger posed by any level of emissions, whether biogenic or fossil. In light of that admission, it is difficult to understand how EPA made the 2009 endangerment finding with respect to fossil fuels, but certainly EPA now concedes that it could not have made any endangerment findings with respect to harm from biogenic emissions. Regardless, for the reasons discussed herein, biogenic emissions can be found to present no danger due to their net carbon-neutral nature. Therefore EPA can properly determine biogenic emissions to be insignificant or de minimis, regardless of the amount of emissions, provided that the biogenic emissions are from short-rotation agricultural feestocks.

C. The PSD Program Is Not Suited for Regulation of Biogenic Emissions

The PSD program, at its core, was designed by Congress to prevent air quality from eroding in areas that were relatively clean where the more stringent requirements applicable to nonattainment areas were not triggered. Because biogenic emissions are not harmful and do not adversely affect either ambient air or global greenhouse gas concentrations, it serves no regulatory purpose to consider them in the PSD context. As the Supreme Court has chastened EPA, "the Act does not envision an elaborate, burdensome permitting process for . . . harmless airborne substances." *UARG*, 134 S. Ct. at 2440.

D. Regulation of Biogenic Emissions Is Burdensome With No Gain

Because biogenic emissions are scientifically harmless, there would be no gain achieved by regulating biogenic emissions as greenhouse gas pollution under the Clean Air Act. Any emissions reduction that could be achieved at the end of the day through application of BACT under the PSD program, could not actually be required under the balancing factors in the Clean Air Act, as any cost of control technology would be uneconomic compared to the lack of any benefit from reducing biogenic emissions since biogenic emissions do not cause harm. EPA cannot use the PSD program to force stationary sources to provide environmental benefits, as opposed to reducing environmental harms associated with emissions from that facility.

For the same reasons, any administrative or implementation burden would outweigh the non-existent gain from such regulation. However, it is worth noting that EPA seems to severely underestimate the regulatory burden caused by applying the PSD permitting program and Clean Power Plan rules to biogenic feedstocks. As discussed further in Parts VI and VII, below, the

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[82] 81 Fed. Reg. at 68123:1 ("current climate modeling tools are not capable of isolating the precise correlations between singular, incremental facility-specific GHG emissions changes, ambient CO_2 concentrations, and climate impacts").

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uncertainty associated with permitting fermentation units and other sources of biogenic emissions from feedstock processing has deterred investment in the bioeconomy and thrown up unnecessary barriers to construction or expansion projects. Similarly, the Obama Administration's current approach to biogenic emissions in its Clean Power Plan effectively disqualifies renewable bioenergy as a solution to reducing fossil fuel greenhouse gas emissions. As noted above, EPA has taken the position that other aspects of the PSD program such as ambient impacts analysis would not apply to greenhouse gases, but as noted that conclusion is subject to question following the *UARG* decision and may lead to litigation.

Accordingly, new source review for biogenic CO_2 emissions under the PSD program, and BACT review in particular, would be a pointless exercise since the outcome would be predetermined – there is simply no appropriate BACT for biogenic emissions. Making the PSD applicable to biogenic emissions would simply compound the administrative burden for facilities going through new source review for other emissions and would expose the facility to (unfortunately) real litigation risks such as have been documented in recent years.

VI. EPA HAS NOT SATISFIED THE REGULATORY FLEXIBILITY ACT

EPA's proposed rule includes a certification of no effect on small business. 81 Fed. Reg. at 68140. EPA also concluded that the proposed significant emissions rate of 75,000 tpy would relieve regulatory burdens. However, EPA did not undertake a sufficient analysis of economic impacts in the context of biogenic emissions.

EPA's failure to distinguish between fossil emissions and biogenic emissions effectively disqualifies bioenergy as a low carbon energy source and imposes burdens on all biogenic sources, including small businesses that are engaged in entrepreneural development of biomass technologies, such as low carbon and renewable fuels. Similarly, if EPA fails to amend its current policies as required by the Supreme Court mandate, its PSD regulations would continue to impose unnecessary permitting burdens on small businesses that may have emissions of biogenic CO_2 in excess of the proposed (or final) significant emissions rate.

It is obvious from the proposed Significance Rule that EPA has not studied the regulatory impact on biogenic source categories at all. The proposed rule summarizes EPA's review of fossil-fuel combustion sources and certain non-combustion facilities such as landfills, cement production and petroleum refineries. However, EPA neglected to assess emissions from fermentation units such as those that process agricultural feedstocks used to produce bioproducts. 81 Fed. Reg. at 68132. EPA did not request information relating to such plants from stakeholders nor apparently did EPA make any effort to characterize this sector. Emissions from large fermentation units, while carbon neutral, can nominally be well in excess of EPA's proposed significant emissions rate of 75,000 tons pr year.

Similarly, in evaluating regulatory burdens, EPA only looked at PSD permits that were applied for and advanced through the regulatory process. 81 Fed. Reg. at 68128. This approach suffers from a critical flaw in overlooking projects that have been deterred by EPA's hostile policies with regard to biogenic emissions, and therefore never entered the PSD system. Accordingly, EPA's conclusion in the Significance Rule proposal that "PSD has not imposed unreasonable administrative and enforcement burdens," 81 Fed. Reg. at 68137:2, is patently

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arbitrary and capricious because EPA never examined those still-born projects that never advanced to the permitting stage precisely because of the weight of those anticipated burdens.

EPA also apparently failed to recognize that the national GHG inventory and greenhouse gas reporting rules exempt biogenic emissions or distinguish such emissions from fossil-based greenhouse gases, particularly as applied to the food processing sector. 81 Fed. Reg. at 68132. EPA's assessment of biomass energy focused on forest-derived biomass in the pulp and paper sector and appears to have overlooked biomass opportunities from agricultural biomass and residues. 81 Fed. Reg. at 68129:3.

Finally, EPA oddly acknowledges that it did not actually determine a *de minimis* level for greenhouse gas emissions; rather it has merely proposed a finding that smaller projects (with non-GHG emissions near the lower most applicability thresholds) would have *de minimis* associated greenhouse gas emissions.[83] In other words, EPA did not study whether a higher significance level would be appropriate pursuant to the Supreme Court's *UARG* mandate, nor did EPA consider whether a higher signficance level should be established for biogenic emissions (the Coalition posits that such a level should, in effect, be set at infinity).

Because EPA has not studied sources of biogenic emissions at all, it cannot determine whether the assumed regulatory costs in the proposed rule would be applicable to such sources. For example, EPA's assertion that the average cost to undergo BACT review for greenhouse gases is only $24,000 is implausible based on the experience of Coalition members. 81 Fed. Reg. at 68136. This is particularly concerning given the lack of clarity as to how BACT review must be conducted, lack of data on available control technologies or techniques in the context of the carbon neutral life cycle of biogenic emissions, and potential costs of litigation (which unfortunately is quite likely based on past experience).[84]

In sum, unless EPA recognizes the de minimis nature of any level of biogenic emissions, it must conduct a more thorough regulatory impacts review under applicable law.

VII. EPA HAS NOT SATISFIED E.O. 13211 ENERGY SUPPLY REVIEW

Because EPA has not considered the effect of its current regulations on bioenergy sources, EPA has not complied with Executive Order 13211 with respect to agency actions affecting energy supply. 81 Fed. Reg. at 68141. EPA's failure to distinguish between fossil emissions and biogenic

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[83] 81 Fed. Reg. at 68122:2 ("The proposed SER is not a level of GHGs below which the EPA has concluded there is a *de minimis* impact on the gloval climate. Rather, the *de minimis* level proposed in this rule relfects only a level of GHG emissions from an 'anyway source' below which the EPA is prposing to find that there would be trivial or no value in applyint the BACT requirement").

[84] For example, the Supreme Court's decision in UARG strongly suggested that an impacts analysis would be required for all sources triggering PSD review, which EPA incorrectly assumes is not applicable but would add signficant additional costs if stationary sources were forced into new source review for biogenic emissions. *See UARG*, 134 S. Ct. at 2457 (Alito, J., concurring in part and dissenting in part) (noting that EPA may not ignore the statutory text of section § 165 of the Clean Air Act requires "an analysis of the ambient air quality . . . at the site of the proposed major emitting facility and in the area potentially affected by the emissions from such facility for each pollutant regulated under [the Clean Air Act])."

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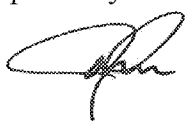
emissions effectively disqualifies bioenergy as a low carbon energy source and imposes burdens on bioenergy stationary sources, which in turn significantly limits the quantity and diversity of American energy supply, distribution and use. Unless EPA exempts biogenic emissions, as requested in these comments, EPA must undertake the evaluation required by E.O. 13211.

* * * * *

For the legal and scientific reasons detailed above, the Coalition views any regulation of emissions of crop-derived CO_2 as unlawful and unjustifiably burdensome. Accordingly, the Coalition respectfully requests that EPA: (1) categorically exclude from the Clean Air Act, including the definition of "pollutant" and Clean Air Act regulations generally, those CO_2 emissions resulting from the combustion or processing of agricultural feedstocks derived from short-rotation herbaceous crops; (2) determine that such biogenic CO_2 emissions are insignificant and *de minimis*, regardless of amount, in recognition of the established science on life-cycle carbon flow; and (3) expressly confirm that such exclusion and significance determination excludes biogenic CO_2 from treatment as "a pollutant subject to regulation" for purposes of the PSD and Title V permitting programs under the Clean Air Act.

The undersigned associations appreciate the opportunity to comment on this proposal. If you have any questions, please contact John Bode, Chair of the Biogenic CO_2 Coalition, at (202) 534-3498 or JBode@corn.org.

Respectfully submitted,



John Bode, Chair

Biogenic CO_2 Coalition

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

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Biogenic CO_2 Coalition Members

American Bakers Association (ABA) is a national association that represents the interests of bakers before the U.S. Congress, federal agencies, and international regulatory authorities. ABA advocates on behalf of more than 700 baking facilities and baking company suppliers.

American Farm Bureau Federation (AFBF) is an independent, non-governmental, voluntary organization governed by and representing farm and ranch families united for the purpose of analyzing their problems and formulating action to achieve educational improvement, economic opportunity and social advancement and, thereby, to promote the national well-being.

Corn Refiners Association (CRA) is the national trade association representing the corn refining (wet milling) industry of the United States. CRA and its predecessors have served this important segment of American agribusiness since 1913. Corn refiners manufacture starches, sweeteners, corn oil, bioproducts (including ethanol), and animal feed ingredients.

Enginuity Worldwide makes an engineered solid biomass fuel, using agricultural residues and woody wastes as the feedstocks, that can be used to co-fire with coal in power plants to produce base load energy. Using carbon neutral farm-based biomass provides an immediate carbon benefit that can help power companies comply with their GHG reduction targets.

National Cotton Council of America (NCC) aims to ensure the ability of all U.S. cotton industry segments to compete effectively and profitably in the raw cotton, oilseed and U.S.- manufactured product markets at home and abroad. NCC serves as the central forum for consensus-building among producers, ginners, warehousers, merchants, cottonseed processors/dealers, cooperatives and textile manufacturers. The organization is the unifying force in working with the government to ensure that cotton's interests are considered.

National Corn Growers Association (NCGA) represents more than 40,000 dues-paying corn farmers nationwide and the interests of more than 300,000 growers who contribute through corn checkoff programs in their states. NCGA and its 48 affiliated state organizations work together to create and increase opportunities for corn growers.

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National Cottonseed Products Association (NCPA) is an organization of firms and individuals engaged in the processing of cottonseed and the marketing of cottonseed products, as well as cottonseed. These include oil mills, refiners, product dealers and product brokers.

National Oilseed Processors Association (NOPA) is a national trade association that represents 13 companies engaged in the production of food, feed, and renewable fuels from oilseeds, including soybeans, sunflower seed, canola, flaxseed and safflower seed. NOPA's member companies process more than 1.6 billion bushels of oilseeds annually at 63 plants located in 19 states throughout the country, including 57 plants that process soybeans.

North American Millers' Association (NAMA) represents millers of wheat, corn, oats and rye in the US and Canada. NAMA members take the raw grain and, through grinding and crushing, create flour and other products that are used to make such favorite foods as bread, pasta, cookies, cakes, and snack foods.

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Attachment A

Michigan State University Technical Report

ED_004126_00000474-00028

David M. (Max) Williamson

From: Kyle Harris <kharris@corn.org>
Sent: Friday, December 16, 2016 6:16 PM
To: David M. (Max) Williamson
Subject: FW: Your Comment Submitted on Regulations.gov (ID: EPA-HQ-OAR-2015-0355-0001)

From: Regulations.gov [mailto:no-reply@regulations.gov]
Sent: Friday, December 16, 2016 6:05 PM
To: Kyle Harris <kharris@corn.org>
Subject: Your Comment Submitted on Regulations.gov (ID: EPA-HQ-OAR-2015-0355-0001)

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Agency: Environmental Protection Agency (EPA)
Document Type: Rulemaking
Title: Prevention of Significant Deterioration and Title V Greenhouse Gas Permitting Regulations: Establishment of a Significant Emissions Rate for Greenhouse Gas Emissions under the Prevention of Significant Deterioration Program; Revisions
Document ID: EPA-HQ-OAR-2015-0355-0001

Comment:
Comment submitted by John Bode, Chair, Biogenic CO2 Coalition

Uploaded File(s):

- Biogenic CO2 Coalition - EPA Significance Rule Comments (12-16-16).pdf
- MSU Biogenic Carbon Study (final) (11-23-13).pdf

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BIOGENIC CO_2 COALITION

Members

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

The Biogenic CO_2 Coalition supports science-based recognition that agricultural biogenic CO_2 emissions are not harmful greenhouse gases and opposes EPA's overreach in attempting to regulate sustainability on farms.

Agriculture is key to the 21st century bioeconomy that includes feeding America and the expansion of bioproducts such as bioplastics, composites, and intermediates made from corn, oilseeds, field residues and other agricultural feedstocks. According to the federal government, the bioeconomy in 2013 was valued at $369 billion, provided 4 million American jobs, and was the leading source of domestic renewable energy. The bioeconomy is poised to expand exponentially, with tremendous potential for job creation and economic and rural development.

When farmers grow crops, they store carbon (CO_2) from the atmosphere, and when agricultural feedstocks are used for food, fuel and fiber, carbon simply returns to the atmosphere in a natural biogenic cycle.

Because of the benefits of agriculture as a renewable and sustainable resource, "biogenic" CO_2 emissions from agricultural feedstocks are universally accepted as carbon neutral by policymakers and scientists . . . yet:

- EPA is ignoring science and regulating biogenic CO_2 emissions from farm products as a "harmful pollutant" the same as fossil emissions.
- Practically speaking, EPA is putting a pollution tax on farm products, which imposes $$$ millions of unnecessary costs on users of farm products (think bakeries, brewers and grain processors) and energy generators (for example, corn stover used for electricity).
- Even worse, EPA says it can dictate what "sustainable" farm practices must be used to produce feedstocks, which is blatant agency overreach and would require tracking every bushel of corn, wheat, soy, or cottonseed from its source.

As a result of EPA's overreach, the Biogenic CO_2 Coalition was forced to sue EPA, including challenges to EPA's Clean Power Plan, New Source Performance Standard for power plants, and its recent endangerment finding for aircraft emissions.

Our Request:

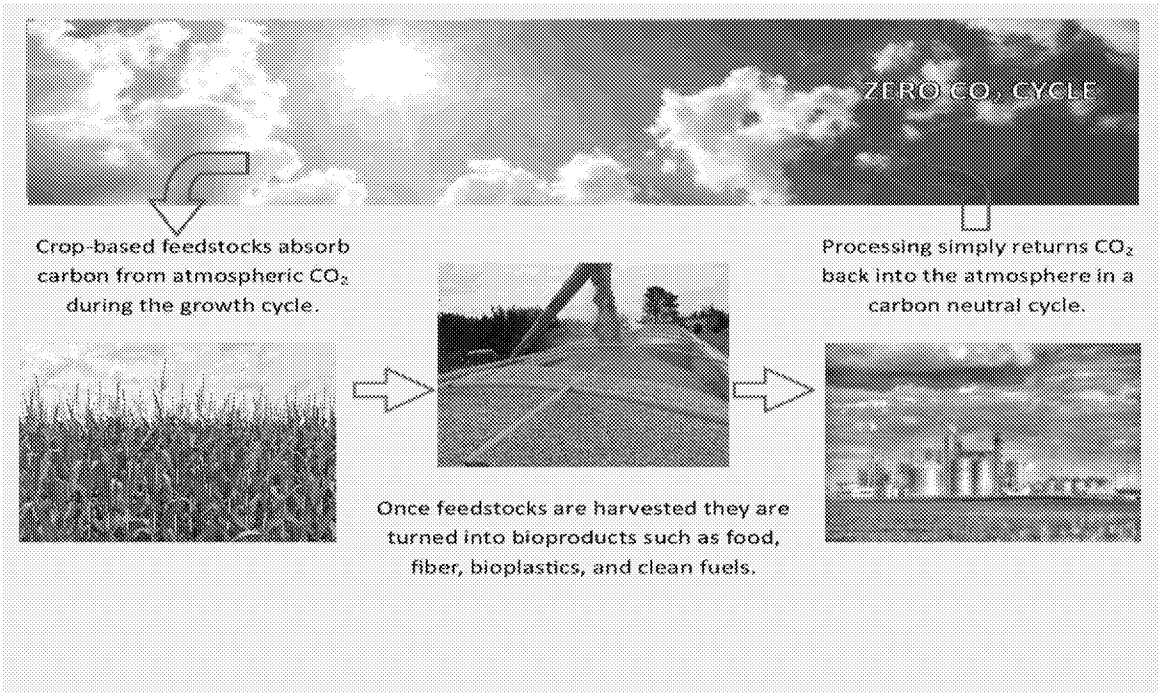
- EPA should put science before regulation, and acknowledge that it never did the science to support targeting agricultural crops as a source of "harmful" greenhouse gases;
- EPA should recognize biogenic CO_2 emissions from the use or processing of agricultural crops as *de minimis* or zero under the Clean Air Act;
- EPA should retract its attempts to regulate "sustainable" farming practices as a condition to Clean Air Act regulation.

ED_004126_00000475-00001

About the Biogenic CO_2 Coalition:

The Biogenic CO_2 Coalition, through its member national trade groups, represents a broad swath of agriculture and related sector constituents in advocating for sensible policies recognizing the carbon benefits of agricultural production and processing.

Carbon Lifecycle of Agricultural Crops



American Bakers Association
www.americanbakers.org

AMERICAN FARM BUREAU FEDERATION®

CORN REFINERS ASSOCIATION

enginuity™ worldwide

NATIONAL CORN GROWERS ASSOCIATION

National Cotton Council® OF AMERICA

NCPA
National Cottonseed Products Association

NOPA
NATIONAL OILSEED PROCESSORS ASSOCIATION

North American Millers' Association
N.A.M.A.

www.BiogenicCO2.org

Biogenic CO2 Coalition

OVERVIEW

ED_004126_00000476-00001

Members

American Bakers Association

American Farm Bureau Federation

Corn Refiners Association

Enginuity Worldwide

National Cotton Council of America

National Cottonseed Products Association

National Corn Growers Association

National Oilseed Processors Association

North American Millers' Association

ED_004126_00000476-00002

EPA Actions on Biogenic Emissions and 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

ED_004126_00000476-00003

EPA Most Recent Actions on Biogenic Emissions

Aircraft Engine Rule pp. 94-95

As recently as this month, EPA stated that "**there is no distinction between biogenic and non-biogenic CO2**."

Source: *Finding that Greenhouse Gas Emissions from Aircraft Cause or Contribute to Air Pollution that May Reasonably Be Anticipated to Endanger Public Health and Welfare* (pre-pub) (July 25, 2016).

EPA WSJ Letter to Editor:

"[A]ll carbon emissions (both biogenic and fossil) once in the atmosphere drive climate change **equally and endanger public health and welfare**."

Source: EPA Letter to the Editor, Wall Street Journal (July 15, 2016).

ED_004126_00000476-00004

Concerns

Agriculture should be incentivized to help meet bioeconomy and climate goals . . .

- Efficient food and fiber production
- Bioproducts (bioplastics, composites, starch, etc.)
- Biofuels (e.g., corn stover substitute for coal)

Crop-derived feedstocks are carbon neutral / de minimis

- Science recognizes that farmers sequester carbon in crops before it is later released during processing or use on a life cycle basis

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/disqualified in EPA Clean Air Act permitting and new CPP power plant rules

Also EPA is imposing "sustainability" standards for farms operations and ag products

- No authority to regulate farm practices
- Disrupting existing voluntary sustainability efforts
- Impossible to trace commodities in farm system

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Action

- Despite 3 years of discussions with EPA on biogenic issues, no resolution.
- Coalition has challenged EPA power plant rules in federal court
  - Case put into "abeyance" while discussions continue.
- Needed action:
  1. As interim solution, change default assumption to *de minimis* for crop-based feedstocks.
  2. Longer term, need permanent *de minimis* exemption for all agricultural crop biogenic emissions – by rulemaking or legislation.
  3. Revocation of "sustainability" criterion in EPA documents.

ED_004126_00000476-00006

Message

From: Rush, Randall [Rush.Randall@epa.gov]
Sent: 12/14/2017 7:19:42 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: Ryan Findlay

Hey, I attended the USA Rice Outlook national meeting Monday/Tuesday. Met a former co-worker of yours, Ryan Findlay. Got some materials from the Syngenta booth.

Randy Rush
Policy Advisor - Agriculture
U.S. EPA - Region 6
1445 Ross Avenue (6WQ)
Dallas, TX 75202

214-665-7107
rush.randall@epa.gov

"*Ua Mau ke Ea o ka 'Āina i ka Pono* "

The life of the land is perpetuated in righteousness

Message

From: Palich, Christian [palich.christian@epa.gov]
Sent: 12/14/2017 1:46:23 AM
To: Beck, Nancy [Beck.Nancy@epa.gov]
CC: Sands, Jeffrey [sands.jeffrey@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]
Subject: Fwd: PRIA Letter
Attachments: Draft Response to Senator Udall 12.13.17.docx; ATT00001.htm

Hi Nancy,

We are doing a call to talk letter and C & T with Senate Ag Majority tomorrow at 10am if you can join that would be great.

If you are booked no problem, we didn't have a lot of time before the 11am deadline.

Have a terrific evening!

Christian R. Palich
Deputy Associate Administrator
Congressional & Intergovernmental Relations
Ex. 6

Sent from my iPhone

Begin forwarded message:

> **From:** "Palich, Christian" <palich.christian@epa.gov>
> **Date:** December 13, 2017 at 7:19:43 PM EST
> **To:** "Andrew_Vlasaty@ag.senate.gov" <Andrew_Vlasaty@ag.senate.gov>, James Glueck <James_Glueck@ag.senate.gov>, DaNita Murray <DaNita_Murray@ag.senate.gov>
> **Cc:** "Sands, Jeffrey" <sands.jeffrey@epa.gov>, "Lyons, Troy" <lyons.troy@epa.gov>, "Frye, Tony (Robert)" <frye.robert@epa.gov>
> **Subject: PRIA Letter**
>
> Hi Andrew, DaNita, and James,
>
> Attached is a draft letter in response to Senator Udall's request. Please let us know your thoughts.
>
> As I mentioned to Andrew on the phone tonight, there is a time sensitive issue that we would like to discuss related to this first thing tomorrow morning (we have a deadline of 11am). Please let us know your availability.
>
> Have a great evening,

Message

From: Palich, Christian [palich.christian@epa.gov]
Sent: 12/14/2017 12:22:53 AM
To: Joe_Shultz@ag.senate.gov; Sean_Babington@ag.senate.gov
CC: Sands, Jeffrey [sands.jeffrey@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]
Subject: PRIA Letter
Attachments: Draft Response to Senator Udall 12.13.17.docx; ATT00001.htm

Hi Joe and Sean,

Attached is a draft letter in response to Senator Udall's request. Please let us know your thoughts on the draft.

Also, there is a time sensitive issue that we would like to discuss related to this first thing tomorrow morning. (we have a deadline of 11am). Please let us know your availability.

Have a great evening,

The Honorable Tom Udall
United States Senate
Washington, DC 20510

Dear Senator Udall:

This letter provides an update regarding issues raised in your October 20, 2017, letter to Senators Roberts and Stabenow. First and foremost, the U.S Environmental Protection Agency appreciates your interest in helping to find a path for the expedited reauthorization of the Pesticide Registration Improvement Act, a law that provides significant benefits to the American people, expanding the availability of safe products to meet pest control needs and providing supplemental funding to support worker safety education programs.

As you know, in November 2015, the EPA issued an update to the Agricultural Worker Protection Standard. Through this revised regulation, developed through extensive stakeholder interactions, the agency is working with our state and tribal co-regulatory partners to implement stronger protections for agricultural workers, handlers and their families. Despite these efforts, in early 2017, the agency learned through discussions with the National Association of State Departments of Agriculture (NASDA), that additional materials to support implementation of these new protections were needed in order for the states to effectively and confidently implement the revised rule. In May 2017, the agency announced its intention to extend the compliance dates for implementation of the new rule.

Since EPA's announcement in May 2017, the regulation issued in November 2015 remains in effect and the compliance dates of January 2, 2017 (for most aspects of the revised regulation) and January 2, 2018 (for all other aspects of the regulation) remain in place. Upon further reconsideration, the agency has determined that it is not necessary to extend the compliance dates for the worker protection standard. We are updating our response to NASDA, informing them that all remaining aspects of the revised agricultural worker protection standard except for the expanded pesticide safety training content will go into effect, as originally envisioned, on January 2, 2018.

To better understand what support states need to implement the new standard, the EPA has been meeting with the state departments of agriculture and other stakeholders to identify which aspects of the rule might need clarification and, if necessary, revision. This conversation continued most recently as part of the November 2, 2017, meeting of the Pesticide Program

Dialogue Committee (PPDC), a federal advisory committee providing advice to the Office of Pesticide Programs' policy and regulatory decisions. During the November 2017 meeting, the PPDC discussed three significant issues, also raised as part of the Regulatory Reform effort initiated by the agency in response to Executive Orders 13771 and 13777: 1) minimum age for agricultural handlers; 2) the designated representative provision; and 3) the application exclusion zone. The following summarizes feedback the EPA received from the Regulatory Reform comments and the PPDC, as well as the agency's path forward on these targeted components of the worker protection standard:

- Regarding the minimum age provision, while PPDC stakeholders advised the agency that, for the most part, they are able to implement this provision as promulgated in the regulations, there was agreement that the "family exemption" provision was not flexible enough to accommodate family-owned and operated businesses of commercial applicators. Furthermore, the EPA has heard from other stakeholders that the "family exemption" is more restrictive than USDA's definition of "family." In order to maintain current practices in rural America that allow young people to contribute to all aspects of farming operations, the EPA intends to issue a proposed rule for public comment that would reconsider the worker protection standard minimum age requirements to address these stakeholder concerns. At the November 2017 PPDC meeting, some stakeholders expressed an interest in letting states determine a minimum age for agricultural handlers that meets the needs of the local rural economy.

- Regarding the designated representative provision, the members of the PPDC noted that many states with high agricultural production have already adopted state designated representative provisions. PPDC members encouraged the EPA to consider identifying a neutral representative. A neutral representative could reduce the potential to inadvertently harm agricultural producers and also ensure meaningful assistance to the farm worker community. At the meeting, there was not agreement on a practical way to alleviate stakeholder concerns regarding who could qualify to be a designated representative and how the information could be used, a concern also voiced via commenters on the Regulatory Reform efforts. The agency is concerned that this provision has the potential to inadvertently harm agricultural producers and will not meaningfully assist the farm worker community. Therefore, the agency intends to include a request in the proposed rule for public comment on reconsideration of the designated representative provision.

- Regarding the application exclusion zone ("AEZ"), the PPDC commended the agency for the additional guidance that has been issued since the promulgation of the revised rule. PPDC members did, however, identify some additional scenarios often encountered during pesticide applications where there is a need for additional guidance. The EPA is currently working on revised guidance that addresses these scenarios and hopes to issue the updated guidance by January 2, 2018. The agency will propose to make technical clarifications and codify the revised guidance related to the AEZ through the rulemaking process. These changes will provide agricultural employers and handlers certainty in practices related to applications, particularly for applications near roads and houses at the edge of a field.

In addition, the agency has been working closely with stakeholders to develop training, outreach and educational materials to ensure that the agricultural community can effectively implement the revised agricultural worker protection standard. For example, through the Pesticide Educational Resources Collaborative (PERC), a cooperative agreement between the Office of Pesticide Programs and the University of California Davis Extension, in collaboration with Oregon State University, a large collection of materials has been developed to support implementation of the revised standard. The PERC includes an advisory board to support development of outreach, educational, and pesticide safety training materials, with membership from several state departments of agriculture, cooperative extension, and the farmworker advocacy community. More information about the PERC's activities can be found at: [HYPERLINK "http://pesticideresources.org"].

Once any necessary changes to the regulation have been made, in response to public comment, EPA will, consistent with the final rule issued on November 2, 2015, publish in the Federal Register a notice of the availability of the pesticide safety training materials for workers and handlers. To allow time for the completion and distribution of revised training materials and to allow time for trainers to become familiar with them and begin training workers and handlers, the current rule extends the implementation period for the content of the training until six months after EPA has made the revised training materials available. Nevertheless, the requirements for notification, respirator fit testing and medical evaluation, improved decontamination supplies, minimum age, and the application exclusion zone, among other provisions, do not depend upon the above-referenced Federal Register notice in order for these provisions to go into effect. These requirements went into effect on January 2, 2017, and the remaining requirements will go into effect on January 2, 2018.

Similarly, the PPDC and Regulatory Reform comments also discussed the Certification of Pesticide Applicators rule issued in January 2017. The PPDC discussed the minimum age provision in this rule and, as with the worker protection standard, identified scenarios where the "family exemption" provision was not flexible enough to accommodate for common practices in rural communities. Stakeholders commenting under the Regulatory Reform effort highlighted the increased labor costs for pesticide application businesses nationwide, and noted that the requirement was unnecessary for individuals who pass the State certification standard to apply restricted use pesticides and follow pesticide labels, including the use of personal protective equipment. Some commenters also stated that age requirements should be the decision of the States. Additionally, the minimum age provision does not provide flexibility for other common practices in rural communities, such as the hands on agricultural education young people receive via 4-H and other organizational activities. As with the worker protection standard, the agency intends to develop a proposed rule to amend the certification of pesticide applicators regulation to reflect the advice received from the PPDC and other stakeholders.

Regarding chlorpyrifos, the statutorily mandated re-evaluation of this insecticide continues as the agency works to meet the statutory deadline for the registration review (reevaluation) of nearly 725 pesticide active ingredients by October 1, 2022. The March 2017 decision to deny the petition submitted by the Natural Resources Defense Council and the

Pesticide Action Network North America initiated the objections phase of the petition process provided under the Federal Food, Drug, and Cosmetic Act (FFDCA).[1]

In addition, EPA's scientists are also considering the comments submitted in response to the October 30, 2015, proposed rule and the November 17, 2016, notice of data availability. During these comment periods, stakeholders raised significant issues with the scientific conclusions supporting the ongoing rulemaking. The FFDCA requires the EPA to respond to the objections "as soon as practicable," and the agency is working to review and respond to the submitted objections. As discussed recently with your staff, we believe it will take several months of dedicated staff time to develop responses to the submitted objections as the same individuals that support the agency's response are also working on many other competing time-sensitive deadlines and priorities. In addition, we are developing responses to the comments raised in the stakeholder feedback submitted during the rulemaking process.

The EPA has several additional milestones to complete before it will be able to finalize a registration review decision for chlorpyrifos. Two of these milestones include the publication of documents with public comment periods where stakeholders can weigh in on the agency's assessments. Meanwhile, agency scientists continue to monitor and consider the ongoing research and literature evaluating the potential human health effects for chlorpyrifos. In addition, the agency also continues to consider how best to use the available observational epidemiology data in light of the comments from the FIFRA Scientific Advisory Panel as well as comments received in response to the November 2016 Notice of Data Availability. The agency estimates this work will take approximately 18 months, or 24 months if the analysis requires peer review. The Human Health Risk Assessment will then be published for a 60-day public comment period, after which the agency will prepare a response to comments document and Proposed Interim Decision, which will also be published for public comment for 60 days. The agency will then address public comments received on the Proposed Interim Decision, and develop the Interim Decision for chlorpyrifos.

Furthermore, because chlorpyrifos is an organophosphate pesticide, consistent with the FFDCA, the agency must also update the organophosphate cumulative assessment completed in 2006. In order to revise this cumulative assessment, the agency must also complete the underlying single chemical risk assessments for all of the organophosphate insecticides. Before these assessments can be completed, new studies to support physiologically based pharmacokinetic (PBPK) modeling need to be received. We anticipate receiving these studies in 2018. Once reviewed, these studies can be incorporated into the single chemical risk assessments. We also anticipate seeking external peer review through the FIFRA Scientific Advisory Panel (FIFRA SAP). The purpose of the FIFRA SAP meeting will be to consider and review PBPK modeling to address pharmacokinetic differences between and within species. Based upon current resources and study submission schedules, a draft revised update to the

[1] Once the EPA makes a decision on a petition, and publishes its decision in the Federal Register, the second stage of the petition process is triggered. At this point, parties who disagree with the EPA' s decision, whether it is a decision to grant or deny the petition, may file objections with the EPA to the decision made. The objection stage gives parties a chance to seek review of the EPA's decision before the agency. The EPA's published response to the objections completes the objections stage, after which an adversely affected person may seek judicial review.

organophosphate cumulative risk assessment will likely be issued for public comment in the late 2019-2020 timeframe.

I hope you find this information helpful as you consider a path forward for the reauthorization of PRIA. Our determination to not extend any of the compliance dates for the Worker Protection Standard is a significant change in direction. Instead, the agency will use the rulemaking process, which includes opportunity for public comment, to reconsider only a few aspects of the rule while all compliance dates continue to remain in effect.

Again, thank you for your interest in PRIA reauthorization and pesticides issues. If you have further questions, please contact me or your staff may contact Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at kaiser.sven-erik@epa.gov or at (202) 566-2753.

Sincerely,

Charlotte Bertrand
Acting Principal Deputy Assistant Administrator

DRAFT

Message

From: Palich, Christian [palich.christian@epa.gov]
Sent: 12/14/2017 12:19:43 AM
To: Andrew_Vlasaty@ag.senate.gov; James Glueck [James_Glueck@ag.senate.gov]; DaNita Murray [DaNita_Murray@ag.senate.gov]
CC: Sands, Jeffrey [sands.jeffrey@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]
Subject: PRIA Letter
Attachments: Draft Response to Senator Udall 12.13.17.docx; ATT00001.htm

Hi Andrew, DaNita, and James,

Attached is a draft letter in response to Senator Udall's request. Please let us know your thoughts.

As I mentioned to Andrew on the phone tonight, there is a time sensitive issue that we would like to discuss related to this first thing tomorrow morning (we have a deadline of 11am). Please let us know your availability.

Have a great evening,

Message

From: Beck, Nancy [Beck.Nancy@epa.gov]
Sent: 12/13/2017 11:35:57 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Baptist, Erik [baptist.erik@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]
Subject: Draft Udall Letter
Attachments: Draft Response to Senator Udall 12.13.17.docx

****

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator
Office of Chemical Safety and Pollution Prevention
P: 202-564-1273
M: Ex. 6
beck.nancy@epa.gov

Message

From: Beck, Nancy [Beck.Nancy@epa.gov]
Sent: 12/13/2017 11:07:10 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]; Baptist, Erik [baptist.erik@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]
Subject: FW: Press: WPS changes in the news Fwd: Environment & Energy Report Highlights

https://bnanews.bna.com/environment-and-energy/ball-in-epas-court-to-renew-pesticide-protections-senator-says?emc=neve_hlt%3A6&usertype=External&context=email&email=00000160-51b7-d882-a565-dbbfa8dc0001&subscription=0000015f-fdcc-d31f-a7df-fdcdeb020000&access-ticket=eyJpZCI6IjAwMDAwMTYwLTRjZDUtZDAyZC1hMWU2LTVlZjU1ZTM0MDAwMiIsImN0eHQiOiJORVZFIiwidXVpZCI6IjNxSUZSWXlmSmh4SHNSajY5NW1CM1E9PXVXTVhlQmtGcU9kWlZSeWpCWUtiTnc9PSIsInRpbWUiOiIxNTEzMjAxNDkwMTAwIiwic2lnIjoiM1FYbHA1S1JRckY2QUwxUTZZaUpsYm9hSlJZPSIsInYiOiIxIn0%3D

https://bnanews.bna.com/environment-and-energy/epa-to-consider-reducing-farmworker-pesticide-protections?emc=neve_hlt%3A1&usertype=External&context=email&email=00000160-51b7-d882-a565-dbbfa8dc0001&subscription=0000015f-fdcc-d31f-a7df-fdcdeb020000&access-ticket=eyJpZCI6IjAwMDAwMTYwLTUwOTQtZDAyZC1hMWU2LTVlYjQ4NzQ3MDAwMCIsImN0eHQiOiJORVZFIiwidXVpZCI6InVpaGVvL3ZTYzFHQnNoeGJCdUxzamc9PW1Dcm9lRVlXeFJ5aDY1YTNXb29ReFE9PSIsInRpbWUiOiIxNTEzMjAxNDkwMDkzIiwic2lnIjoibmNIZzJ2SVJUUy85QXB3aklHVzhYTTdlNGJJPSIsInYiOiIxIn0%3D

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

From: Keller, Kaitlin
Sent: Wednesday, December 13, 2017 5:23 PM
To: Dunton, Cheryl <Dunton.Cheryl@epa.gov>; Strauss, Linda <Strauss.Linda@epa.gov>
Cc: Beck, Nancy <Beck.Nancy@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>
Subject: RE: Press: WPS changes in the news Fwd: Environment & Energy Report Highlights

Just noticed there's also an article on Udall & PRIA.

From: Dunton, Cheryl
Sent: Wednesday, December 13, 2017 5:20 PM
To: Strauss, Linda <Strauss.Linda@epa.gov>
Cc: Beck, Nancy <Beck.Nancy@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>; Keller, Kaitlin <keller.kaitlin@epa.gov>
Subject: Re: Press: WPS changes in the news Fwd: Environment & Energy Report Highlights

Just got off phone with Nancy Grantham. She's wondering if the issue with OCIR is resolved so this can go today. Thanks.

On Dec 13, 2017, at 5:14 PM, Strauss, Linda <Strauss.Linda@epa.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: "Grantham, Nancy" <Grantham.Nancy@epa.gov>
Date: December 13, 2017 at 5:02:31 PM EST
To: "Strauss, Linda" <Strauss.Linda@epa.gov>
Subject: FW: Environment & Energy Report Highlights

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Bloomberg Environment [mailto:bloomberg@bna.com]
Sent: Wednesday, December 13, 2017 4:52 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: Environment & Energy Report Highlights

---

image001.jpg

Environment & Energy
Wednesday, December 13, 2017

Highlights

LEADING THE NEWS

EPA to Consider Reducing Farmworker Pesticide Protections

By Paul Shukovsky

The EPA is considering changes to an Obama-era rule that was meant to minimize pesticide exposure for farmworkers, sources familiar with agency deliberations told Bloomberg Environment.

Jones Win Resurrects Extinct Species—Southern Pro-Climate Senator

By Dean Scott

The upset in Alabama's Dec. 12 special election spells the second coming of a species thought to be extinct in the U.S. Senate—a senator from the Deep South with a strong pro-environment platform who is a staunch supporter of the Paris climate pact.

EPA Legal, Water Nominees May Get Senate Floor Votes Soon

By Rebecca Kern

The nominees for the EPA's chief legal adviser and head of the agency's water office may receive Senate floor votes "very soon" because the agency has become more cooperative in answering Democrats' questions, the Environment and Public Works Committee's top Democrat said after a Dec. 13 hearing.

'Call Before You Dig' State Programs Failing Federal Test

By Sylvia Carignan

More than half of U.S. states and territories need to pass laws or make changes to their “call before you dig” programs to meet the Pipeline and Hazardous Materials Safety Administration’s standards.

TODAY'S NEWS

Kimberly-Clark Wants Court to Block D.C. Wipes Law

By Amena H. Saiyid

Kimberly-Clark Corp., the leading global tissue maker, will try to persuade a federal judge Dec. 13 to block the District of Columbia from implementing the nation's first-ever law regulating flushable wipes.

Ball in EPA's Court to Renew Pesticide Protections, Senator Says

By Tiffany Stecker

New Mexico Democratic Sen. Tom Udall is waiting for the EPA to act on a pair of farmworker protection rules before lifting a hold on an important bill for the agency's pesticides office.

Army Corps Nominee Clears Hurdle Toward Confirmation

By David Schultz and Rebecca Kern

The White House's pick to lead the Army Corps of Engineers is headed to the Senate floor after his nomination was approved by a Senate committee Dec. 13.

Compromise Tax Bill Is Said to Keep Wind, Electric-Car Credits

By Ari Natter

House and Senate negotiators have agreed to spare the electric-vehicle tax credit and wind production tax credit in their compromise package, according to a Republican familiar with process.

EU Continues Emissions Trading Exemption For Long-Haul Flights

By Stephen Gardner

Long-haul operators such as Virgin Atlantic and Turkish Airlines will continue to benefit from an exemption from emissions trading in the European Union until 2023.

EU Provisionally OKs Ways to Tag Pesticides That Affect Hormones

By Stephen Gardner

Proposed European Union criteria for identifying endocrine-disrupting substances in pesticides produced by such companies as BASF SE and Monsanto Co. moved a step closer to adoption Dec. 13.

Scientists Are Linking Extreme Weather to Human-Caused Warming

By Jim Efstathiou Jr.

Some of last year's crazy weather—including extreme heat around the world to unusually warm waters in the Bering Sea—can be blamed on human-caused climate change, according to a report from a group of weather researchers.

NAFTA Withdrawal Would Risk U.S. Oil Production

By Jennifer A. Dlouhy

Withdrawing from NAFTA would devastate oil and gas trade and threaten U.S. production, energy leaders said, arguing that the Trump administration should "modernize" the pact, not jettison it.

Mining Mogul Murray Gets Coal in His Stocking—and Wants More

By Tim Loh

The day after Donald Trump's election, coal mogul Robert E. Murray praised him in Biblical terms, saying the Republican had the courage and zeal to put miners back to work.

Edison Cleared in One Fire While Probes Continue on Larger Blaze

By Mark Chediak and Lynn Doan

The good news for California utility giant Edison International: Its equipment didn't start the Skirball fire that shut stretches of a major freeway into Los Angeles and destroyed six homes.

Google, Facebook Demand More Ambitious Clean Energy Goal from EU

By Jessica Shankleman

Some of the world's biggest companies, including Microsoft Corp. and Facebook Inc., called on European Union politicians to set a renewable energy target of at least 35 percent by 2030.

Austrian Chlorine Gas Accident Hurts Workers at Agrana Plant

By Boris Groendahl

Workers at a corn starch factory in northern Austria were injured by chlorine gas Dec. 13, the second industrial accident in the Alpine country in as many days.

The Whole World Is Paying the Price for Cleaner Air in China

By Dan Murtaugh and Sarah Chen

China's war against smog is lifting prices for energy all over the world, according to analysts at Goldman Sachs Group Inc. and the International Energy Agency.

Toyota Deepens Panasonic Battery Ties in Rush for Electric Cars

By Kevin Buckland and Hideki Sagiike

Toyota Motor Corp. deepened a partnership with battery producer Panasonic Corp. as Asia's biggest carmaker, which initially bet big on hydrogen for clean technology, accelerates efforts to make its presence felt in electric cars.

Japan Nuclear Restarts Derailed by Court's Volcano-Risk Decision

By Stephen Stapczynski

An appeals court decision in favor of citizens opposed to restarting one of Japan's nuclear reactors may be a positive sign for the 36 other cases that seek to thwart the industry's attempt to get back online.

India's Top Court Wants Faster Implementation of Emission Norms

By Upmanyu Trivedi and Anindya Upadhyay

India's top court has asked the federal government to speed up the implementation of emission norms for coal-fired power plants after producers missed a deadline earlier this month.

Superbacteria Could Soon Be Eating China's Textile Waste Water

By Daniela Wei and Corinne Gretler

In a laboratory in Hong Kong, researchers at a textile company are looking for a special ingredient to improve the company's production process: bacteria.

Chevron Last Man Standing on Climate-Risk Policy, Academic Says

By Kevin Crowley

After Exxon Mobil Corp. bowed to investor pressure to disclose the effect of climate change on its business, U.S. rival Chevron Corp. is left as the only major oil company yet to commit to such a review, according to an academic at the Council for Foreign Relations.

Hyundai Bolsters Electric Car Lineup to Narrow Gap with Rivals

By Sohee Kim

Hyundai Motor Group, which is lagging behind rivals in the introduction of newer electric-vehicle models, is stepping up plans for battery-powered cars as governments around the world crack down on polluting fossil fuels.

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Message

From: Ford, Hayley [ford.hayley@epa.gov]
Sent: 11/17/2017 10:37:15 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]; 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]; 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
Attachments: Final Weekly Report 11.17.2017.docx; November 20 - December 15 2017- Draft Line X Line.pdf

See attached for draft LxL and weekly report. Will update you this weekend on whether we have a brief COS meeting Monday morning.

Have a nice weekend!

Hayley Ford
Deputy White House Liaison and Personal Aide to the Administrator
Environmental Protection Agency
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Region 1

Hot Issues:

Olin Chemical Superfund Site Settlement

- On November 7, 2017, EPA and Olin Corporation entered into a dispute resolution settlement agreement over the need to conduct evaluations of early cleanup action alternatives to address contaminant sources in groundwater. Under this agreement, Remedial Investigation/Feasibility Study work is expected to proceed more quickly.

Logan Airport, Boston, Mass - Parking Freeze SIP Revision

- A notice of proposed rulemaking approving revisions to the Logan Airport Parking Freeze was signed on Nov 13.

  The revisions to the Logan Airport Parking Freeze will increase the number of commercial spaces by 5,000 spaces. MassDEP demonstrated that the increasing parking will result in less trips to the airport and decrease the vehicle miles traveled and associated carbon monoxide and nitrogen oxides emissions.

Upcoming Public Events:

Sporting Goods Properties RCRA Corrective Action Site, Bridgeport, CT

- EPA and Dupont issued for public comment a Statement of Basis which identifies the selected remedial action to address munitions at the site. There is a 45-day comment period and there will be a Public Meeting on November 29.

Upcoming Major Decisions

None

Highlights from Last Week

Lead Region Activities

- Region 1 hosted a RCRA Division Directors meeting on November 15th and 16th. The meeting was attended by senior RCRA managers from each region, ORCR, OECA, OBLR and a representative from the National Tribal Caucus.

R1 Futures Fund Award Announcement

- On November 16, Region 1 Acting Regional Administrator Deb Szaro joined CTDEEP Commissioner Robert Klee to announce the 2017 Long Island Sound Futures Fund awardees in Connecticut.

- The Long Island Sound Futures Fund grants will restore 39 acres of habitat; will reach more than 870,000 residents through environmental and conservation education programs; and treat 439,000 gallons of water pollution with water quality improvement projects, including more than 15,600 pounds of nitrogen reduced and 2,800 pounds of floating trash collected.

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Region 2

Hot Issues:

EPA Response to Hurricanes Irma and Maria in Puerto Rico and U.S. Virgin Islands

RA Lopez Nov. 14, 2017 testimony to Congress: On Nov. 14, Regional Administrator (RA) Pete Lopez, along with Region 4 RA Trey Glenn and Region 6 Acting RA Sam Coleman, testified on the agency's response to Hurricanes Harvey, Irma and Maria at a hearing held by the House Energy & Commerce Committee, Subcommittee on the Environment. Region 2 is working with OCIR on follow-up responses to questions from Rep. DeGette at the Subcommittee hearing. On Nov. 14 RA Lopez, along with RA Glenn, Acting RA Coleman, Acting AA Barry Breen of OLEM, and Senior Advisor to the Administrator Holly Greaves, also participated in a members' briefing for the House Appropriations Committee led by Chairman Calvert.

Continuing Emergency Response in Puerto Rico and the U.S. Virgin Islands: Region 2, assisted by Regions 1, 3, 4 and 5, continues to provide emergency response support to FEMA, the Corps of Engineers, and the governments of Puerto Rico and the USVI in the aftermath of Hurricanes Irma and Maria. EPA currently has approximately 229 personnel (employees and contractors) in PR and the USVI working on the response. That number is planned to increase to about 400 during December, as we continue to work with partner federal and territorial agencies on debris removal, vessel recovery and disposal, and assuring safe drinking water and wastewater services. Conditions on the islands remain very challenging, particularly the continuing widespread electrical power outages (approximately 70% of the population is reported without power) and lack of drinking water in many places in Puerto Rico (over 10% of the population lacks access to functioning drinking water systems). Communications and access are improving, but it remains challenging to secure sufficient lodging on the islands for our personnel; the Region also has had some difficulty arranging for our desired number of personnel because of the demands nationally for staff to respond to the California wild fire emergency. *See Region 2 Daily Management Report on Hurricanes Irma and Maria for further details.*

Puerto Rico Marine Water Sampling for Impacts Due to Hurricane Maria – At the request of the Puerto Rican Environmental Quality Board (PREQB), Region 2 is sampling ocean (marine) locations this week to evaluate impacts from Hurricane Maria, particularly the effects of sewage discharges resulting from out-of-service wastewater treatment plants and pump stations and runoff due to heavy rains. If the samples show unacceptable levels of pathogens, the bathing public will be notified by PREQB. PREQB, CDC and EPA continue to warn residents not to drink from or bathe in streams or at beaches due to the high risk of bacterial contamination.

Administrative Order providing relief to Puerto Rico Dept. of Transportation/Highways. On November 15, 2017, EPA Region 2 signed and issued an administrative order on consent with the Puerto Rico Department of Transportation and the P.R. Highways Authority. The order provides the two agencies with temporary coverage under the NPDES Construction General Permit, due to the hurricane-related impairment of the operations of the Government of Puerto Rico. The administrative order will remain in effect for 150 days from the date of issuance.

Region 2 Superfund Sites

Navy Superfund Site in Vieques, Puerto Rico: Teams of unexploded ordinance technicians from Navy contractors have completed the assessment of roads and beaches within the former military training areas on the Puerto Rico island of Vieques. No munitions or other contamination on public beaches or any of the roads and beaches outside the "Live Impact Area" have been found. Within that area, 9 ordinance items were located and moved to safe/secure location awaiting demolition. There is still no electrical power on Vieques and water service is intermittent. The Navy is currently exploring options for water and fuel storage at Camp Garcia. For the next 2 months, Navy will focus on repairing roads, buildings, and other facilities; repairing fences and restoring land use controls; and clearing areas inside the "live impact area" where munitions have become exposed by erosion. The Navy will also evaluate the effects of the storm on beaches and munitions underwater. The Navy expects to complete its response and recovery efforts by the week of January 10.

Consent Decree Lodged for Cleanup Action at Kentucky Avenue Wellfield Site. On November 14, 2017, the Department of Justice lodged with the court in the Western District of New York a consent decree between EPA and nine potentially responsible parties, obligating them to implement the remedy selected by EPA in the 2016 Record of Decision for operable unit 4 of the Kentucky Avenue Wellfield Superfund Site in Horseheads, NY. The nine parties are: Beazer East, CBS Corp., Chemung County, the City of Elmira, Elmira Water Board, Hardinge Inc., Toshiba America, the Town of Horseheads, and the Village of Horseheads. The remedy addresses Koppers Pond, which is contaminated with PCBs and heavy metals. The remedy is expected to cost $1,921,000 and includes the placement of a geotextile membrane and a six-inch soil/sand cap on the pond bottom. The settling defendants are also agreeing to reimburse 100% of future response costs incurred by EPA

RA Lopez to Speak at Public Meeting about Gowanus Canal Superfund Site: On Nov. 16, RA Pete Lopez is speaking at a community meeting hosted by the Gowanus Canal [Brooklyn, NY] Superfund Site Community Advisory Group. Representative Nydia Velasquez is scheduled to make opening remarks and introduce the RA. The purpose of the meeting is to report to the community on the status of work at this site. Good progress is being made on the design of the Canal cleanup; a dredge-and-cap pilot project started last month will be completed by spring. We expect questions about the overall schedule of the project, which is likely to take somewhat longer than the originally projected completion date of 2022 (we are working with the PRPs to develop an updated schedule). We expect press coverage of the meeting.

Compliance and Enforcement

Follow-up with New Jersey Homebuilders Association on Construction Stormwater Inspections: Following the October 24, 2017 headquarters meeting with the National Association of Home Builders (NAHB) hosted by OECA, Region 2 reached out to the New Jersey Builders Association (NJBA) to discuss plans for this year and to keep the lines of communication open. The NJBA expressed concerns that their members don't know how to comply with the stormwater requirements, and they do not want members surprised by the inspector's findings. Region 2 assured the NJBA representative that Region 2 will keep these concerns in mind as we continue to assist the NJ Department of Environmental Protection in meeting the compliance monitoring strategy goal of inspecting 10% of construction sites each year. EPA inspectors are trained to communicate concerns in the field during the inspection and to summarize observations at the closing conference with the builder.

New Jersey Settles with Volkswagen Over Emissions Cheating: On Nov. 14, 2017 New Jersey announced a $69M settlement with Volkswagen (VW) over VW's emissions cheating scandal. There has been no indication yet of where the funds might be directed. New Jersey also has indicated that it will participate in the federally-negotiated Environmental Mitigation Trust, for which state applications are due by December 1. New York has already filed its application, and Puerto Rico also has indicated its intent to apply.

Region 2 Water Program

RA Attends New York-New Jersey Harbor and Estuary Program (HEP) Policy Committee Meeting: RA Lopez attended the HEP Policy Committee in New York City on November 9, 2017. Participants included Colonel Asbery of the U.S. Army Corps of Engineers (USACE), Deputy Commissioner Jim Tierney of the New York State Department of Environmental Conservation (NYSDEC), Deputy Commissioner Angela Licatta of the New York City Department of Environmental Protection, and (by phone) Acting Assistant Commissioner Michelle Putnam of the New Jersey Department of Environmental Protection.

President Trump Declares Lake Ontario Shoreline a Federal Disaster Area: On Nov. 14, 2017 President Trump declared New York's Lake Ontario shoreline a disaster area, opening up federal funding for recovery efforts from flooding that took place there between May 2 and Aug. 6, 2017. State, local and tribal governments, as well as some nonprofit groups, will be eligible to apply for federal money for emergency work and the repair or replacement of facilities damaged by flooding in Niagara, Orleans, Oswego, Wayne, St. Lawrence and Jefferson counties. Also under the president's declaration, the state is eligible for federal funding on a cost-sharing basis for hazard mitigation efforts.

Other RA Public Appearances

On Nov. 15, 2017, RA Lopez delivered remarks at the **New York Business Council's Annual Environmental Conference** in Saratoga Springs, NY. The conference brings together regulatory agencies on the local state and federal level with businesses to discuss shared goals of protecting the environment while keeping businesses healthy. Pete was interviewed by a reporter from Politico, but no article has appeared.

On November 17, 2017 RA Lopez is participating in the "**2017 Conference on the Environment**" in Kingston, New York, which is organized by the **New York State Association of Conservation Commissions.**

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Region 3

Hot Issues:

RA Servidio Meets with West Virginia Chamber of Commerce
On Wednesday, November 15, 2017 RA Servidio met with approximately 20 members of the WV Chamber of Commerce during their annual visit to the Region. The meeting lasted half a day and consisted of an active exchange of questions and information from our Division Directors and the members of the Chamber. The Directors will continue to follow up on any questions not answered that day. The goal is to foster the active and open communication while also discussing the Agency's strategic plan and focus on transparency.

Chesapeake Bay Journal Files FOIA Lawsuit Against EPA: Bay Journal Media, Inc. v EPA, Civil No. 1:17-cv-02441 (D.DC)
On November 13, 2017, Plaintiff Bay Journal Media, Inc., filed a Complaint under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA), against EPA alleging failure to timely respond and release responsive documents to a FOIA filed September 22, 2017 by Plaintiff. Plaintiff publishes the *Chesapeake Bay Journal*, and both the FOIA and lawsuit seek documents related to EPA's decision of September 20, 2017, to terminate a federal CWA grant that had been previously awarded to Plaintiff. In January 2016, following a competitive application process, EPA awarded Plaintiff a $1.95 million, six-year grant to provide incremental annual funding, contingent upon federal funding and the terms of the grant agreement, to publish and distribute the *Bay Journal* to "raise public awareness of issues concerning the Chesapeake Bay and its health." Under this grant, EPA provided Plaintiff with two installments of $350,000 each in January 2016 and February 2017. EPA provided official notice to Plaintiff on September 20, 2017 of its decision to terminate the grant. Plaintiff in in the process of appealing that decision and has until November 20, 2017 to complete its filing.

Upcoming Public Events:

No events to report at this time.

Past Events:

No events to report at this time.

Region 4

Hot Issues:

Chemours Unreported Release of GenX (North Carolina)
Key Message: On November 16, 2017, North Carolina Department of Environmental Quality (NC DEQ) notified Chemours that they are suspending the portions of the facility's NPDES permit which authorize the discharge of process wastewater from the Chemours Fluoromonomers/Nafion Membrane manufacturing area and that they intend to revoke those portions of the permit in 60 days. This follows an unreported spill on October 6, which resulted in elevations of GenX in the Cape Fear River and in Brunswick County finished drinking water. Both incidents are under ongoing investigation by NC DEQ. Earlier this week, NC DEQ cited Chemours with violating the condition of its wastewater discharge permit. Region 4 will continue to process samples as we receive them from the state.

B.F. Goodrich (Calvert City, Kentucky)
Key Message: Based on the November 13th briefing with the Administrator, Region 4 is working with the Region 4 Office of Regional Counsel and the Office of Superfund Remediation and Technology Innovation on enhancing the proposed plan language and incorporating multiple cleanup remedies in order to reduce the footprint of contamination at the site. Region 4 anticipates submitting the final proposed plan to the Administrator early the week of November 20th.

Highlights from Last Week:
None

Upcoming Travel for the RA:

None

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Region 5

Hot Issues:

EPA will Announce East Chicago DuPont Corrective Action Cleanup Plan
Key Message: On November 27, EPA will officially propose a cleanup plan to address lead and arsenic contaminated land and groundwater at the former DuPont facility in East Chicago, Indiana.

The DuPont East Chicago facility is approximately 440 acres and is to the south of Zones 1-3 of the USS Lead site. The proposed cleanup plan will focus on the industrial area of the site, which currently contains a solid-waste landfill, open filled land, industrial property available for redevelopment, and leased industrial property. Most of the previously active manufacturing areas have been decommissioned and the production facilities removed. The rest of the site is made up of a 172-acre natural area and an adjacent 23-acre buffer zone. The natural area and the buffer zone were cleaned up under a separate corrective action decision in 2014.

A 60-day public comment period on the agency's proposed plan begins November 27, 2017, and closes January 26, 2018. EPA staff will present the proposed plan, answer questions and take oral and written comments at a public meeting scheduled for January 10, 2018 in East Chicago.
More information can be found [HYPERLINK "https://www.epa.gov/in/hazardous-waste-cleanup-dupont-facility-east-chicago-indiana"].

EPA Participated in Representative Dingell's Gelman Facility Public Meeting
Key Message: The November 13, 2017 meeting, held in Scio Township, Michigan, was to improve communication between the Michigan Department of Environmental Quality (MDEQ) and the local community regarding the Gelman 1,4-dioxane groundwater release, and to hear local community concerns.

The Gelman site is a state lead groundwater contamination site in Michigan. Some stakeholders have requested that EPA take back lead and list the site. At the meeting, EPA discussed the results of a recently-completed Superfund Preliminary Assessment (PA), the rationale for referring the Gelman release back to MDEQ for its continued management, and EPA's continued role at the site. Stakeholders and local elected representatives expressed disappointment that EPA was not pursuing listing the site on the National Priorities List nor taking over management of the groundwater remediation effort. EPA explained that MDEQ will continue to address the release with on-going involvement of an EPA Remedial Project Manager. EPA asked community members to identify exposure concerns that should be tracked and answered through MDEQ's reports to EPA, which will be shared with the public. EPA is working with MDEQ on the format of the reports and expects the first one to be submitted in early 2018. Approximately 40 people attended the meeting.
In letters dated November 7, 2017, EPA provided the PA results to the MDEQ and the parties that submitted the PA petition to EPA – Scio Township, Ann Arbor Township, and Sierra Club-Huron Valley Group. The letters stated that although the Gelman release qualifies for further evaluation under the Superfund program, EPA decided to designate the Gelman release as "Other Cleanup Authority – State Lead." The letters described quarterly and semi-annual reporting that MDEQ agreed to submit to EPA; and further explained that EPA reserves the option to pursue enforcement actions at the Gelman facility in the future, and does not waive CERCLA authority.

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.

Upcoming Major Decisions:

None

Past Week Accomplishments/Highlights:

Removal Action Completed at the Sandoval Zinc Residential Removal Site in Sandoval, Illinois
Key Message: On November 16, 2017, EPA completed a time-critical removal action to address elevated lead levels at residential and sensitive population properties in Sandoval, Illinois.

The Sandoval Zinc Co. operated as a primary and secondary zinc smelter for 85 years in Sandoval, Illinois. The cinder/slag material not used by the plant was offered to the public and village to construct roads, driveways, sidewalks, parking lots and to fill-in low areas on people's property. This removal action entailed excavation of low level lead contaminated soil, restoration with clean soil and hydro-seeding. The high school, grade school, private preschool, and six residential properties were completed as part of this removal action.

From 2009 through 2010, Illinois EPA and EPA conducted sampling, which was followed by EPA removal actions at eight properties. The site was placed on the National Priorities List in 2012. Based on subsequent soil data collected in June 2017, EPA identified a number of residential and sensitive population properties with lead concentrations in surface soils above 1,200 mg/kg. Based on this information it was determined that continued removal actions were necessary at the site. On September 25, 2017, Region 5 mobilized to the village for the clean-up of these properties. Over the past year, EPA has hosted or participated in three public meetings, met with locally elected officials, disseminated factsheets on the site and management of lead exposure and directly communicated with residents via sampling results letters and phone calls.

Region 5 Hosted Recycling Forum to Improve Quality of Recycled Materials

Key Message**:** On November 14, 2017**,** Region 5 hosted a Recycling Forum for representatives from state and local governments, recycling processors, and other stakeholders from the Chicago and Milwaukee areas.

Region 5, with the help of the city of Chicago, the Recycling Partnership, Illinois Recycling Association, Illinois EPA, and Chicago Metropolitan Mayors Caucus, planned a day of discussion and presentations on how to improve communications to citizens to increase recycling and improve the quality of materials received at recovery facilities. Improving the quality and quantity of recyclable materials collected can reduce the per ton costs of handling the material and increase revenue when marketing the processed materials. The Recycling Partnership gave an overview of their research (funded by Region 5) exploring the lack of consistent and easily discoverable citizen information on local recycling programs. Additionally, representatives from Region 5; a local solid waste agency; and a materials recovery facility discussed how to reduce problem materials being sent to recyclers. Attendees were encouraged to identify actions they can take to improve recycling in their communities.

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Region 6

Hot Issues:

Arkema, Crosby, Texas
Arkema has fully responded to EPA's information request and EPA is reviewing the materials to determine any areas requiring follow up. Arkema requested a meeting with EPA to discuss the investigation, which is scheduled for November 29, 2017.

San Jacinto River Pits Superfund Site, Harris County, Texas
EPA intends to respond to CenterPoint Energy's letter describing plans for natural gas pipeline maintenance that includes excavation in the northeast part of the Southern Impoundment of the site. The area may have dioxin contamination in levels above protective levels documented in the October 12, 2017, Record of Decision. EPA plans to recommend steps that protect human health, and advise that any actions resulting in the potential spread of contaminated material may result in Superfund liability. The public meeting to discuss the Record of Decision and provide a site update is scheduled for December 4.

Baker Hughes, Trinity and Tomball, Texas
EPA intends to send a RCRA 3007 information request to Baker Hughes. The purpose for this request is to acquire information as to its facilities' operations in Trinity and Tomball, Texas. The request will ask for any and all records related to the generation of hazardous waste during 2016 or an affidavit which will need to claim that hazardous waste was not generated at the aforementioned facilities. Both facilities show issues with RCRA regulations concerning notification and application for an EPA ID# along with requirements of a generator of hazardous waste.

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, related to proposed Administrative Orders 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 they have caused or contributed to the contamination. EPA continues to internally review the plugging plan submitted by Novy Oil and Gas, Inc./Grayhorse Operating to plug the Well 15W (OS5258). EPA collected data from 10 in-stream monitor stations the week of October 23rd. Data analysis is ongoing related to this most recent download. EPA will be collecting additional data the week of December 4th. EPA conducted an inspection on October 30-31, 2017 of the Warren American Oil Company, Chapman Lease main tank battery and is preparing to issue an Administrative Order under the Clean Water Act (CWA) for an unauthorized discharge of produced waters of the U.S. during the week of November 13th.

Marathon Oil Company, Kingfisher County, OK
EPA plans to conduct a Spill Prevention Control and Countermeasure inspection at the Marathon Oil Company, Emil Boeckman No. 2-5 Lease Tank Battery, production facility. The inspection is scheduled due to citizen complaints of alleged unreported spills.

Griggs & Walnut Superfund Site, Las Cruces, Texas
EPA plans to hold a conference with the City of Las Cruces and Dona Ana County representatives regarding the Unilateral Administrative Order issued on November 6. The Regional Judicial Officer will preside over the conference. The city and county requested the conference on November 13, 2017.

Georgia-Pacific, Crossett, Arkansas
Arkansas Department of Environmental Quality will host a public meeting on December 14 to solicit comments on the state's Clean Air Act Title V permit renewal and the waste water discharge variance permit for the Georgia-Pacific plant in Crossett. Georgia-Pacific will share information regarding process improvements at the facility. Arkansas Department of Health will talk about the health assessment for nearby residents. EPA will attend the meeting and discuss the results of hydrogen sulfide air sampling near the plant. EPA is also preparing a comprehensive report of the air sampling conducted from January – June 2017 for public release. Media interest is high.

NEPA:

None

Upcoming Public Events:

November 28 – Oil and Gas Environmental Conference, Houston, Texas. Regional Counsel James Payne will keynote.

November 29 – 30 - Regional Tribal Operations Committee (RTOC) meeting, Tulsa, Oklahoma.

December 4 – San Jacinto Waste Pits Superfund Site Community Meeting, Highland Community Center, Highland, Texas.

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:

Revisions to Emissions Banking and Trading Programs, Texas
EPA intends to approve Texas revisions to Emissions Banking and Trading Programs for Area and Mobile Sources. This final action will address 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.

Exceptional Event - Ozone Designation, El Paso, Texas
The Texas Commission on Environmental Quality (TCEQ) requested EPA's concurrence that an exceedance of the air quality 8-hour ozone concentration value on June 21, 2015, at the El Paso UTEP monitor was due to an exceptional event. The TCEQ presented evidence that the exceptional event was caused by wildfire emissions from southeastern Arizona. EPA expects to concur on the state's package *during the last week of November*. For the 2014 – 2016 air monitoring seasons, El Paso would meet the 2015 ozone standard. Intergovernmental interest has been high.

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Past Week Accomplishments:

Veolia Environmental Services, Port Arthur, Texas
EPA approved a proposed PCB reauthorization for commercial storage and disposal of liquid and solid PCBs in Veolia's high temperature rotary kiln incinerator on November 7, 2017. A public notice announcing this proposal will be published in the Port Arthur News, opening a 45-day comment period and opportunity for a public hearing.

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

Approval and Promulgation of Air Quality Implementation Plans; Arkansas; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards,
FRL 9970-19-Region 6 (submitted to OFR on 11/14)

Region 7

Hot Issues:

Des Moines TCE Site Update (Des Moines, IA)
Key Message: On November 15, 2017, EPA R7 received a letter from Dico, Inc. suggesting a hiatus on proceeding with the Non-Time Critical removal action to allow time for negotiation of a work agreement for the site buildings.

- R7 will formulate a reply to the letter, and will move forward with discussions with Dico toward an agreement for building demolition.
- R7 remains in contact with DOJ regarding implications of this work on a potential global settlement that would resolve Dico's liabilities and provide for transfer of the property to a new owner.

Update on R7 Support for Puerto Rico & CA Wildfire Recovery
Key Message: R7 currently has 6 employees deployed to assist R9 with CA wildfire responses under the FEMA ESF #10 Mission Assignment. The Region also currently has two employees deployed as CICs to assist R2 with the Puerto Rico hurricane recovery response. R7 continues to participate in regular resource staffing calls to support both response efforts.

Last Week's Highlights:

Region 7 Settles CAA 112(r)(7) Matter with Fertilizer Distributor (Dighton, KS)
Key Message: On November 15, 2017, EPA R7 entered a Consent Agreement and Final Order in the matter of Lefty's Soil Service, Inc. (Lefty's), a chemical fertilizer distributor facility, in settlement of alleged CAA 112(r)(7) violations.

- A June 1, 2016, inspection revealed a number of Chemical Accident Prevention Provisions deficiencies, including failure to compile and maintain up-to-date safety information, failure to ensure that the process is designed in compliance with recognized and generally accepted good engineering practices and failure to implement Program 2 prevention steps.
- Failure to adhere to the Chemical Accident Prevention Provisions increases the risk of accidental chemical releases and inhibits the surrounding community from preparing for such releases.
- Lefty's has demonstrated compliance by correcting the deficiencies.
- The Consent Agreement and Final Order simultaneously commences and concludes the enforcement action and obligates Lefty's to comply with Section 112(r)(7) of the CAA. Further, the CAFO obligates Lefty's to pay a civil monetary penalty in the amount of $5,000.

PCE Former Dry Cleaner Site Work Underway (Atlantic, IA)
Key Message: Cleanup work is underway at the PCE Former Dry Cleaner site in Atlantic, IA utilizing an Electrical Resistance Heating (ERH) system designed to volatilize contamination at depth and collect the contamination at the ground surface.

- The ERH system started on July 1, 2017 and two rounds of confirmation samples have been collected showing a significant reduction in PCE contamination.
- The ERH system is the first of its kind in R7 and consists of multiple 10 inch diameter holes dug 45 feet deep that are filled with steel shot and super-heated by electricity to drive off the

contamination, therefore eliminating the need to do intrusive building demolition and extensive soil excavation and disposal.

- The removal action including site restoration is scheduled to be completed at the site by February 2018.

Tri-Riverfront Site Vapor Intrusion Sampling Results (New Haven, MO)

Key Message: EPA R7 conducted a second round of vapor intrusion sampling to evaluate whether properties near the Riverfront Superfund Site, Operable Unit 4, in New Haven, Missouri have been impacted by PCE/TCE vapors from groundwater contamination at the site.

- Sampling results indicated that one of the residential properties has concentrations of PCE and TCE in the indoor air above levels of health concern.
- EPA will perform additional assessment as needed to determine appropriate mitigation measures, and will perform the actions needed to abate the threat.

HazMat Fire (St. Louis, MO)

Key Message: On November 15, 2017, approximately 80-100 firefighters responded to a fire in a St. Louis warehouse containing 150,000 citronella candles, car seats, and Styrofoam.

- The St. Louis fire department issued recommendations to nearby hospitals and the public to turn off their HVAC systems and to shelter in place.
- EPA OSCs responded to the scene to assess the situation and offer assistance.
- On November 16, 2017, EPA R7 received a Request for Federal Action from the Missouri Department of Natural Resources (MDNR) to collect debris samples from the warehouse fire and analyze for presence of asbestos.
- R7 is coordinating with the City of St. Louis, MDNR's St. Louis Field Office, and our START contractor to collect the samples and obtain analysis.
- The EPA Office of Public Affairs has received media inquiries on the Agency's involvement and is coordinating the EPA response with the City of St. Louis Health Department.
- R7 Counsel is also assisting with property owner and PRP information.

2017 CWA NPDES National Technical Inspector Workshop

Key Message: On November 13 – 17, 2017, EPA R7 hosted the CWA NPDES National Technical Inspector Workshop.

- The workshop was open to EPA, state, tribal and municipal inspectors and included classroom as well as field training at local facilities.
- Presentations include a variety of topics such as interview techniques and notetaking, digital photography, inspection report writing as well as presentations on specific sectors such as CAFOs, industrial dischargers, pre-treatment and stormwater.

Representatives from the National Association of Homebuilders have also been invited to present at the workshop.

Region 8

Hot Issues:

Meeting with Ex. 5 Attorney Work Product (AWP) **to discuss potential consent decree** Ex. 5 Attorney Work Product (AWP)

Ex. 5 Attorney Work Product (AWP)

Region 8 Settles Whiting Petroleum Corporations' Clean Air Act Violations on the Fort Berthold Indian Reservation in North Dakota
Key Message: Region 8 is filing an administrative consent agreement to settle Clean Air Act violations of the Federal Implementation Plan (FIP) for Whiting Petroleum Oil and Natural Gas Well Production Facilities located on the Fort Berthold Indian Reservation (Mandan, Hidatsa and Arikara Nation). EPA and Whiting reached a penalty only settlement of $450,000 for several FBIR FIP violations.

Neuhauser Landfill Site, Erie, Colorado
Key Message: Region 8 is collaborating with CDPHE on a property in Erie, Colorado where CDPHE determined trash and drums of chemicals were buried in the 1960s.

- As an interim action, the EPA Removal Program anticipates Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

- CDPHE will continue to be the lead agency to determine future requirements for investigation and cleanup of contaminated soils and groundwater.
- There are no known current impacts to nearby residential neighborhoods.
-

Ex. 5 Deliberative Process (DP)

NPDES Enforcement Requests Payments of Stipulated Penalties Totaling $97,900 from Malteurop, North America for Violations of Hydrogen Sulfide Limits in the Municipal Sewer
Key Message**:** NPDES Enforcement is sending a letter to Malteurop, North America (Malteurop) that includes a request for payment of stipulated penalties of $97,900 for violations of hydrogen sulfide limits in the municipal sewer line.

- On April 14, 2014, the EPA and DOJ entered into a consent decree with Malteurop and the City of Great Falls, Montana to resolve pretreatment program violations related to Malteurop's discharge causing the generation of high levels of hydrogen sulfide, a toxic gas, in the municipal sewer.
- EPA directly implements the pretreatment program in Montana, because the state has not sought authorization for this portion of the NPDES program.

- Reports of high hydrogen sulfide levels for this stipulated penalty letter span from January 2016 through early November 2017.

RA/DRA Public / Media Engagements

Trip to Wyoming
20 Nov (Monday), Wyoming Tribune Eagle media engagement, Brian Martin, Editor (on-the-record)
21 Nov (Tuesday), Casper Star Tribune media engagement, Josh Wolfson, Editor (on-the-record)

Upcoming Major Decisions

None

Last Week Highlights:

Redevelopment Event held on November 9 for the Libby Asbestos Operable Unit 5 and Libby Groundwater sites in Libby, Montana:
Key message: EPA Region 8 coordinated a well-received event to help the Lincoln County Port Authority and local stakeholders with a long-term vision and redevelopment plan for a former mill site where two Superfund sites are co-located (Libby Asbestos Operable Unit 5 and Libby Groundwater Site).

- Media coverage so far includes KPAX TV News: [HYPERLINK "http://www.kpax.com/story/36811308/epa-making-progress-as-they-prepare-to-leave-libby"] and the Missoulian: [HYPERLINK "http://missoulian.com/business/james-grunke-cleanup-and-a-can-do-attitude/article_c8be5589-addb-51fa-b67a-49d07a8dd6b8.html"]; the Daily Interlake, Western News, and the Montanian are also writing stories.

Region 9

Hot Issues:

Wildfire response: We're making great progress, having completed our assessment/removal of household hazardous waste from 88% of Sonoma County parcels and 83% of Napa County parcels, while taking on additional asbestos remediation work at FEMA's behest in adjoining Lake and Mendocino Counties. The Napa County Board of Supervisors has been most complimentary of EPA's efficiency and accomplishments, a tribute to the great support from all participating Regions. We have 280 people (employees and contractors, including 31 graduates of EPA Brownfields job training programs) working on this response and have expended $10.5 million to date. On Saturday, I'll join Cong. Calvert and Thompson in Santa Rosa with FEMA and other agencies to provide an update and respond to questions. On Monday, I'll host another meeting of FEMA and Army Corps executives at our command post to address operational issues. Today's heavy rain raises the risk of landslides and downed trees in burned areas.

Anaconda NPL Deferral: I conferred with Nevada's Brad Crowell (Director, Dept. of Conservation/Natural Resources) and Pam Robinson (Gov. Sandoval's office) regarding the status of draft NPL deferral documents regarding the vast Anaconda mine site. I also spoke at length with BP Vice-President Bob Genovese. We are all focused on bringing the draft deferral agreement into final form next week; the EPA and NV teams will meet in Reno to address our remaining issues. EPA, NV and BP/Atlantic Richfield would then meet to align the NV/BP agreement with the EPA/NV deferral document. BP would like to resolve past costs owed to the US at this time. Notable other EPA work to follow includes revising draft MOUs with the two tribes, and closing out earlier EPA/Atlantic Richfield orders.

External Engagements:

Hawaii's Red Hill Fuel Tanks: this vast Navy fuel storage facility in Honolulu is under an EPA consent order to address fuel leaks and protect drinking water. This week, our EPA team met with Navy and State partners, and together briefed the Hawaii Congressional staff on status of current work. We attended the state's Fuel Tank Task Force meeting with local/state elected officials and the Navy to discuss progress under the order, and other similar tanks in Hawaii.

Navajo Nation: As we continue our extensive program to address Navajo Nation abandoned uranium sites, NN President Begaye is seeking "a more robust relationship" with Reg. 9 over the sites and funding, particularly use of the Tronox settlement funds. He is formally seeking annual consultation as our multi-year plan is implemented. While we have very frequent engagement with NN in conducting this work, we are preparing a reply with input from Reg. 6 (as some sites in New Mexico are referenced) and will plan for more formal consultation. Concurrently, the Office of Inspector General is gathering data re EPA's methods for prioritizing cleanup of 50 abandoned uranium mine sites, and how we allocate the special-account funds.

Past Week's Highlights:

Diesel truck settlement: We announced settlements with Wal-Mart Transportation and the US General Services Administration regarding their failure to upgrade hundreds of heavy-duty trucks to meet California's Truck and Bus Regulation. The state had asked for our assistance in these cases, as

about 625,000 trucks are registered outside California but operate in-state. Older trucks emit higher levels of particulate matter and nitrogen oxides in our most polluted air basins. In addition to paying $585K in penalties, one supplemental environmental project will install air filtration systems in some Los Angeles schools, which remove 90% of ultra-fine particulates and black carbon in classrooms near heavily travelled freeways.

Region 10

Hot Issues:

Drinking Water Testing Continues at Whidbey Island Naval Air Station, Oak Harbor, WA: The Navy recently resampled private drinking water wells at homes adjacent to Naval Air Station Whidbey Island and the Outlying Landing Field (OLF) that previously exceeded EPA's lifetime health advisory for PFOA or PFOS. Adjacent properties were also sampled when possible, to evaluate whether the contamination is moving over time. The preliminary results appear consistent with past results, although one of the new sample locations exceeded the LHA for PFOA (around 200 ppt). This home, south of the OLF, was near others with results over the LHA. The Navy has provided them with bottled water. The Navy met with homeowners whose wells tested above the LHA to discuss interim solutions for supplying water.

Pending Decisions:

Public Notice of Draft Wastewater Permits for the Cities of Franklin and Pierce, Idaho: Region 10 is releasing two draft Clean Water Act NPDES permits for the City of Franklin and the City of Pierce, Idaho for 30-day public review and comment periods. The permit for Franklin would continue to authorize the discharge of pollutants from the city's wastewater treatment facility to the Cub River. The permit for Pierce would continue to authorize the discharge of pollutants from the city's wastewater treatment facility to Orofino Creek, which is a tributary of the Clearwater River. The City of Pierce permit was drafted by Idaho DEQ staff as part of a joint capacity development project between EPA and the State of Idaho to assist the state as it moves toward taking on the permitting program.

Federal Register Notice for Voluntary Transfer of Idaho's Class II Underground Injection Control Well Program to EPA: EPA Headquarters has confirmed a Federal Register Notice will publish on Monday, November 27th, initiating a 45-day public comment period for the voluntary transfer of Idaho's Class II UIC well program to EPA. The proposed notice will be posted on EPA's website and in area newspapers on the 27th and stakeholders will be notified prior to publication. Region 10 has been coordinating with Idaho state agencies and we will provide an informational presentation at the Idaho Oil and Gas Commission meeting on December 7th with the Idaho Departments of Water Resources, Lands and Environmental Quality. EPA will also host a required public hearing during the comment period on January 8th.

Upcoming Public Events:

Upper Blackfoot Collaborative Annual Meeting (Idaho): On November 20th, Region 10 will participate in the Annual Meeting of the Upper Blackfoot Collaborative (UBC). The UBC has been a multi-year project that has brought together state and federal agencies, mining companies, and environmental groups, to do voluntary work to improve aquatic habitat, fish passage and water quality in the Blackfoot River and tributaries. Most of the projects are funded by the mining companies, but other funding sources (including Clean Water Act 319 funds) have been used to address grazing impacts, irrigation diversions, riparian restoration and more. The Annual Meeting will provide project status updates, and solicit input from the partners on priority setting for projects in the coming year.

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Pesticide Implementation Grants Awarded to Region 10 States: On December 5th Region 10 will announce via a region-wide news release $1.7 million in grants to State Agriculture Departments in the Pacific Northwest and Alaska to support statewide pesticide regulation. The grants empower states to ensure that pesticides are used properly and according to the label, protect workers and nearby neighborhoods from accidental exposure and reduce environmental risk to agricultural lands.

Last Week Highlights:

Region 10 Expedites PCB Removal at Two Military Installations in Alaska: Using the PCB FAST Toolbox, a LEAN tool, Region 10 approved the cleanup and disposal of PCB contaminated soil and concrete at two military bases in Alaska. At Joint Base Elmendorf Richardson in Anchorage, a power plant coated in PCB contaminated paint released PCBs into the soil surrounding the building. Hot spot removal of a few limited areas of contaminated soil are necessary prior to demolition. This approval paves the way for future remedial actions in order to return the site to beneficial use. The approval was issued 12 days after receipt of the complete application. At Clear Air Force Station in Fairbanks, Region 10 approved the cleanup and disposal of PCB contaminated concrete in eight days which will pave the way for construction of a new radar system.

Wyckoff Superfund Site (WA): The Region 10 Dive Team inspected the Wyckoff Superfund Site's underwater cap on November 15 and 16. The dive was to investigate three unknown objects detected by LiDAR and assess any damage to the cap. An inspection of four "No Anchor" buoys was also conducted. One buoy was reported to have slipped its anchorage and will be reattached if necessary.

Salish Sea Statement of Cooperation Action Plan Signed (WA): Region 10 and Environment Canada finalized the 2017-2021 update of the EPA-ECCC Puget Sound-Georgia Basin (Salish Sea) Ecosystem Action Plan. This Action Plan identifies activities intended to foster stronger cross-border information-sharing on issues such as water quality, environmental review and major federal ecosystem initiatives. Action Plans are developed and periodically updated by a standing Working Group, chaired by EPA and ECCC staff, established under EPA and ECCC's "Joint Statement of Cooperation on the Puget Sound-Georgia Basin Ecosystem," which has been in place since 2000. Working Group advisory members include Washington Department of Ecology, British Columbia Ministry of Environment, Northwest Straits Commission, Puget Sound Partnership, and Coast Salish Gathering representatives.

Region 10 Supports Regions 2 and 9 in Wildfire and Hurricane Response Efforts: Region 10 is proud to continue supporting the critical response efforts underway in Puerto Rico and California. To date nearly 25 Region 10 staff have deployed to assist in technical, community involvement and public information capacities. We expect to lend more support in the coming weeks.

Discharge Permit Issued to Support Midnite Mine Superfund Site Cleanup (WA): On November 15, 2017, EPA signed the final NPDES permit for the new water treatment plant at the Midnite Mine in Wellpinit, Washington which authorizes the discharge from a new treatment plant being constructed under the Superfund Record of Decision for this uranium mine cleanup. The facility will discharge to the Spokane Arm of Lake Roosevelt within the Spokane Tribe of Indians Reservation. The Spokane Tribe's Water Control Board provided EPA with a final Clean Water Act 401 Certification to accompany the permit.

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Office of Administration and Resources Management

Hot Issues:

Title Changes: OARM Senior Management
In accordance with the Federal Vacancies Reform Act of 1998, effective Friday, November 17, 2017, Donna J. Vizian is OARM's Principal Deputy Assistant Administrator and John Showman is the Acting Deputy Assistant Administrator.

Mandatory training
OARM uploaded the content of the FY '18 approved mandatory training courses into employee's training plans. Courses are available immediately and should be completed no later than September 30, 2018.

Contingency Planning

Ex. 5 Deliberative Process (DP)

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:

- 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)
  - Renewable Fuel Volume Standards for 2018 and Biomass-Based Diesel Volume (BBD) for 2019
- Ex. 5 Deliberative Process (DP)

State Implementation Plan (SIP)-Related Actions:

- The Regions report that the following 9 SIP-related actions was signed this week:
  - **Region 3: Withdrawal Notice -** NNSR Program certification for the 2008 Ozone NAAQS for the Baltimore MD, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE and the Washington DC-MD-VA nonattainment areas, Revision 17-01
  - **Region 3: Withdrawal Notice -** 2011 Base Year Emissions Inventory - Baltimore - 2008 Ozone NA Area – MD
  - **Region 6: Proposed Rule -** Arkansas Multipollutant Infrastructure SIP
  - **Region 7: Withdrawal Notice -** IA-160; 2010 SO2 Infrastructure SIP (except prongs 1, 2, and 4)
  - **Region 7: Withdrawal Notice -** NE-088; 110(a) Infrastructure 2010 NO2 (except prong 4)
  - **Region 7: Withdrawal Notice -** NE-097; PM 2.5 2012 Infrastructure SIP (all elements except prongs 1 and 2, and 4)
  - **Region 7: Withdrawal Notice -** NE-089;110(a) Infrastructure 2010 SO2 (except prongs 1, 2, and 4)
  - **Region 7: Withdrawal Notice -** KS-113; Construction Permits and Approvals - Applicability and Fees
  - **Region 7: Withdrawal Notice -** IA-156; 2010 NO2 Infrastructure SIP (except prong 4)

Upcoming Meetings, Public Events, or Other Public Releases:

- **Montreal Protocol Meetings:** On November 20-24, EPA staff will participate as members of U.S. delegations and as co-chairs at the Joint 11th Conference of the Parties (COP) to the Vienna Convention and the 29th Meeting of the Parties (MOP) to the Montreal Protocol on Substances that Deplete the Ozone Layer.
- **Clean Power Plan (CPP) Public Hearing**: EPA will hold a public hearing on the proposed repeal of the CPP in Charleston, WV on November 28-29, 2017.

- **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.

Upcoming Decisions:

-
-
- Ex. 5 Deliberative Process (DP)
-
-

Office of Chemical Safety and Pollution Prevention

Important Deadlines:

TSCA New Chemicals Determinations				
Row	**Determination Type**	**Pending on 11/13/2017**	**Determinations Completed[1] as of 11/13/2017**	**Determinations Posted on the Website as of 11/13/2017**
1	# of "not likely" determinations	**1**	**105[4]**	**105[4]**
2	# of §5(e) Orders signed by both EPA and the submitter	**-**	**289**	**289**
3	# of §5(e) Orders signed by EPA and awaiting submitter signature	**72**	**-**	**-**
4	# of non-Order SNURs/"not likely" determinations	**0**	**0**	**0**
5	# of cases in post-FOCUS final determination development[5]	**290[3, 5]**	**-**	**-**
6	# of cases flagged for in-depth review	**54**	**-**	**-**
7	# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	**31**	**-**	**-**
8	# of LVE/LOREX exemption grants	**-**	**475**	**475**
9	# of LVE/LOREX exemption denials	**-**	**105**	**94**
10	**Total number of cases**	**448**	**974**	**-**
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]**	**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 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.

Upcoming Meetings and Public Events:

National Academies of Sciences (NAS), Engineering, and Medicine Workshop November 20. Two OCSPP senior managers will be presenting at the NAS workshop "Understanding Pathways to a Paradigm Shift in Toxicity Testing and Decision Making." Dr. Stan Barone, Acting Director of OCSPP's Office of Science Coordination & Policy (OSCP) will be presenting on "Decision Making Within Endocrine Disruptor Screening Program: A Conversation on Replacing the Uterotrophic Assay." Dr. Anna Lowit, Senior Science Advisor in Office of Pesticide Programs (OPP) will also be presenting on "Interagency Coordinating Committee on the Validation of Alternative Methods Processes to Incorporate Data from Alternative Toxicity Testing Methods into Decisions About Screening, Prioritization, Risk Assessment." The workshop is open to the public and the press.

FIFRA Scientific Advisory Panel (SAP) Meeting, November 28-30. The topic for the upcoming SAP meeting is "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 and is open to both the public and the press.

Inventory Reporting Webinar, November 29. EPA scheduled 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 in the U.S. over the past 10 years. Each identical webinar will include an overview of reporting requirements, a demo of the electronic reporting application (Central Data Exchange (CDX)), and will provide time for questions and answers. The first webinars occurred on September 27 and October 25, 2017. The remaining webinar is scheduled for 1-3 PM EDT on November 29, 2017.

Last Week Highlights:

International Chemical Management Conferences November 9- 14. OCSPP Deputy Assistant Administrator Nancy Beck traveled to Taiwan and Japan for two international chemical management conferences from November 9-14. In Taiwan, Dr. Beck attended the International Chemical Management Conference as a keynote speaker presenting on TSCA implementation and participated in a panel discussion at the EPA Taiwan Toxics & Chemical Substances Bureau HQ. In Japan, she attended the Seminar & Workshop on the Latest Trends in Chemical Substances Management.

Washington State Potato Commission, November 15. OPP managers met with representatives from the Washington State Potato Commission to discuss numerous topics, including: buffer analysis for risk prevention, risk assessment to pollinators, revisions to EPA's certification of pesticide applicators rule, and registration updates for various chemicals.

Treated Wood Council Annual Meeting, November 16. Representatives from OPP's Antimicrobials Division presented at the Treated Wood Council's annual meeting in Alexandria, VA on the agency's registration review process, status of wood preservative chemical cases, and the need for registrants to amend their EPA registered product labels that have wood preservative uses to appropriately reference American Wood Preservative Association standards.

Office of the Chief Financial Officer

Hot Issues:

- The Senate Appropriations Subcommittee on Interior, Environment and related Agencies has announced that they will not have a markup but instead will issue a Chairman's mark next week that will provide the bill and report. 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 that will allow Congress to complete action on FY18 by the end of this calendar year.
- OMB will transmit a supplemental funding proposal to Congress tomorrow (November 17). This package will not include recovery funds for Puerto Rico and US Virgin Islands. Additional data requests related to Puerto Rico, US Virgin Islands and California wildfires from OMB or Congress could be forthcoming as they work on additional supplemental funding proposals. To date, EPA has received 42 mission assignments/agreements from other federal agencies for a total of $142 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.

Upcoming Public Events:

N/A

Upcoming Major Decisions:

- **Ex. 5 Deliberative Process (DP)**
- OCFO will brief the Chief Operating Office and Acting Deputy Administrator on November 21 on results of senior leader ranking of top enterprise risks submitted November 3 and proposed next steps.
- As follow up to the COO November 1 email to senior leaders, the COO is scheduling meetings in November/early December to discuss NPM/Lead Region proposals for ambitious targets for Strategic Measures and Agency Priority Goals. This next step will be critical in finalizing *FY 2018-2022 EPA Strategic Plan*. The goal is to reach final agreements on targets by December 8, for inclusion in final draft *Plan* due to OMB on December 22. Meetings currently scheduled are:
    - November 20 - Goal 3/Objective 1.3 with OLEM and Regions 1 and 3
    - November 20 - Goal 3/Objective 3.5 with OARM/OCFO and Region 10
    - November 27 – Goal 3/Objective 3.3 with ORD/Region 4
- OP and Region 8's meeting planned for November 17 is being rescheduled. Remaining meetings are in the process of being set up.
- OCFO has commenced pre-planning for the FY 2018 Interim Operating Plan budget and will meet with the Acting DA, COO, and Chief of Staff after Thanksgiving 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:

The agency achieved an unmodified opinion ("Clean Opinion") in the OIG auditor's report on FY 2017 and FY 2016 Consolidated Financial Statements. This marks the 18th consecutive year the EPA has achieved this top measure of financial management success. The audit report is included in the [HYPERLINK "https://www.epa.gov/sites/production/files/2017-11/documents/epa-fy-2017-afr.pdf"], which was submitted to the President, Congress, and GAO and made available to the public as required on November 15. The AFR includes management's discussion and analysis of FY 2017 activities, along with financial statements, key management challenges, and other additional information.

Other:

With many planning leave next week for the Thanksgiving 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 November 24 to ensure no delay in pay.

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Office of Congressional and Intergovernmental Relations

Upcoming Events and Important Deadlines:

- **November 20** – SEPW staff briefing on TSCA new chemicals w/OCSPP
- **November 20** – Senator Udall (NM) staff briefing on PRIA w/OCSPP
- **Week of November 27** - Follow up call with Senators Schatz/Cardin/EPW staff on Clean Water Rule
- **November 29** - HOGR Hearing on Regulatory Reform

Past Week Accomplishments:

- **November 14** - the Senate Subcommittee on Clean Air and Nuclear Safety will held a subcommittee hearing entitled, "Legislative Hearing on S. 1857, S. 203, S.839 and S. 1934
- **November 14** – House Energy and Commerce, Subcommittee on Environment held hearing – Hurricane Response Activities. EPA Witnesses: Region 2 Administrator Pete Lopez, Region 4 Administrator Trey Glenn, and Acting Region 6 Acting Administrator Sam Coleman.
- **November 15** – National League of Cities convened its Annual City Summit in Charlotte, NC November 15 – 18. NLC touts this as the largest national conference for all city leaders – elected, appointed, and staff. Over 3,500 local leaders are expected.
- **November 16** – House Science, Space and Technology briefing to discuss IRIS RFCs
- **November 16** – Congress McMorris Rodgers briefing on pesticides registration
- **November 16** – Coordinated Introductory Hill meetings with Regional 3 Administrator Cosmo Servidio
- **November 17(tentative)** – Expect to rollout the Administrator's final decision on the petition request to move the "point of obligation" from refiners and importers to blenders under the Renewable Fuel Standard program

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.
- **Hurricane Response**: Participating in responses to hurricanes Irma and Maria. Coordinating with state and local elected officials to ensure seamless communications.
- The draft [HYPERLINK "file:///C:\\Users\\Dmurph03\\Downloads\\EPA-HQ-OA-2017-0533-0002.pdf%20" \t "_blank"] was released for public comment on October 4. OCIR has two longer-term Strategic Measures which are reflected in the new Strategic Plan and will be working on reporting annual results on these Measures to the Agency's Senior Leadership. OCIR is reviewing comments received in order to release the final Strategic Plan to Congress in February 2018.

Office of Enforcement and Compliance Assurance

Hot Issues:

Sentencing in Terminix FIFRA Criminal Case: Terminix is scheduled to be sentenced in federal court in the U.S. Virgin Islands on November 20, 2017, for violations as a result of a pesticide application that poisoned a vacationing family. In March 2015, two employees of the company performed a fumigation pesticide treatment at a resort in St. John, U.S. Virgin Islands without taking precautions required for the product. Methyl bromide from the application migrated to an upper unit, causing serious injury and hospitalization of the entire family. On March 23, 2017, Terminix pled guilty to four counts of violations of the Federal Insecticide, Fungicide, and Rodenticide Act (Use of a Registered Pesticide in a Manner Inconsistent with its Labeling). The case was investigated by EPA's Criminal Enforcement Division, working cooperatively with EPA Region 2, the government of the U.S. Virgin Islands, and the Agency for Toxic Substances and Disease Registry.

Criminal sentencing for Illegal Disposal of Waste into Water System: On Monday, Nov. 20, the defendant in a CWA case in Idaho is scheduled to be sentenced for illegally disposing of waste into the local water system. Under the guise of being the owner of Sawtooth Fusion, a purported medical research company, James Findlay obtained, processed, and stored depleted uranium and uranium powder. He contaminated three Boise-area sites with radioactive materials, and three of them became EPA emergency response sites, the clean-up of which cost EPA's Emergency Response Branch in excess of $600,000. Findlay also used muriatic acid to extract uranium from various items, and subsequently discharged the waste to the Boise sewage treatment facility in violation of the pretreatment requirement that discharges not exhibit a pH of less than five.

Upcoming Events/Public Meetings

On November 17th, the Director of OECA's Water Enforcement Division will moderate a panel at the National Association of Clean Water Agencies National Water Enforcement Workshop in Savannah, Georgia. The panel, which will focus on working with EPA and States, includes representatives from EPA Regions 4 and 7, as well as representatives from the New York State Department of Environmental Conservation and the Georgia Department of Natural Resources.

On November 28th, Patrick Traylor, OECA Deputy Assistant Administrator, will provide a keynote speech at the 2017 Oil & Gas Environmental Conference in Houston, Texas. Patrick will speak about enforcement priorities.

Upcoming Major Decisions:

None.

Last Week's Highlights

Federal Facilities Enforcement Program Meeting with Federal Environmental Managers: Representatives from OECA's Federal Facilities Enforcement Office met this week with the inter-agency group of federal facility environmental managers and auditors managed by the Corps of Engineers. OECA staff provided updates on a variety of matters, including the Administrator's strategic plan, and the Superfund Task Force Recommendations, and conducted a demonstration of

ECHO and how federal agencies can use it to help monitor their facility compliance. Additionally, they sought input from attendees on areas where federal agencies would like to see more compliance assistance or capacity building.

Federal Facilities Enforcement Program Meeting with DOD on Task Force Recommendations: Management and staff in OECA's Federal Facilities Enforcement Office attended the Federal Facilities Leadership Council (FFLC) meeting in San Francisco this week. The FFLC is comprised of EPA Superfund counsel and programmatic staff from Regions and Headquarters, the Office of General Counsel, as well as the OECA and OLEM federal facilities programs. One day of the meeting was set aside to meet with DOD and its services to discuss the Superfund Task Force recommendations, and solicit their comments and input on these recommendations. Task Force recommendations on dispute resolution, FFA/third-party cleanups and collaboration in particular impact the federal facility clean-up community, and these were the primary area of discussion. OECA and OLEM will use DOD's input as it moves forward in recommendation development and implementation.

Office of Environmental Information

Hot Issues: None

Upcoming Public Events: None

Upcoming Major Decisions: None

Last Week's Highlight:

OEI's Office of Information Management Distributes TRI Reporting Year 2016 National Analysis Data

- Brief description:
  - On October 18, OEI publicly released the final reporting year (RY) 2016 Toxics Release Inventory (TRI) data that will be used for the TRI National Analysis.
    - Note: RY 2016 ran from January 2017 through July 2017. It usually takes 60-90 days to analyze, compile and release the TRI reporting year national analysis data.
  - The OIM/Information Exchange Partnership Branch (IEPB) has been distributing the data to several external partners including the U.S. Navy, Department of Defense (DOD), National Library of Medicine at the National Institute of Health (NIH), Right to Know Network (supported by the Houston Chronicle) and the International Pollutant Release and Transfer Registry (PRTR) maintained by the Japanese Ministry of the Environment.
- Who benefits or cares: EPA, EPA's external partners and their communities
- Why this is important: Various groups request the data every year to ingest into their data systems, disseminate to their user communities and integrate into their reports or publications.
- Additional information:
  - Additionally, OEI has distributed this data to several EPA offices, including Office of Chemical Safety and Pollution Prevention (OCSPP) and Office of Research and Development (ORD), as well as several states.

EPA's Chief Data Scientist Recognized by FedScoop

- Brief description:
  - On November 1, FedScoop and the Scoop News Group celebrated the FedScoop 50 to highlight significant achievements of leaders in the federal IT community.
  - OEI's Robin Thottungal, EPA's chief data scientist, was selected as one of the FedScoop 50 in the category of Federal Leadership.
- Who benefits or cares: Federal agencies, EPA
- Why this is important: FedScoop 50 celebrates the top 50 leaders in government technology who have made a significant impact in the last year.
- Additional information: [HYPERLINK "https://www.fedscoop.com/meet-2017-fedscoop-50-winners/"]

Office of General Counsel

New Judicial Decisions:

- On November 11, 2017, we received an adverse decision from U.S. District Court for the D.C. allowing environmental groups who had unsuccessfully challenged EPA's approval of Maryland's 2012 303(d) list to amend their Complaint and bring their claims instead against EPA's approval of Maryland's 2016 303(d) list. Specifically, Plaintiffs argue that EPA improperly delisted waterbody segments that received TMDLs through the Chesapeake Bay TMDL process because they also required "local TMDLs." The Court had rejected their claims as moot because EPA subsequently reiterated its approval (with a more robust record) in later listing actions. (*Blue Water Baltimore, et al. v. Pruitt*, No. 16-452)
- On November 7, 2017, the U.S. Court of Appeals for the Tenth Circuit issued an order denying petitions for rehearing en banc filed by the Northern Arapaho and Eastern Shoshone Tribes (the Tribes) in a case involving a challenge to EPA's decision approving the Tribes' application under the Clean Air Act for treatment in a similar manner as a state for the purpose of administering certain grant and other non-regulatory functions under the statute. The principal issue raised in the case was a challenge to EPA's determination regarding the boundary of the Tribes' Reservation. In February 2017, a split panel of the Tenth Circuit found that the Reservation's boundaries had been diminished by Congress in a 1905 statute opening the Reservation to non-Indian settlement, and vacated EPA's determination to the contrary. The Tribes – who are intervenors in the case – filed timely petitions for rehearing en banc arguing that the majority decision conflicted with applicable Supreme Court law governing such reservation boundary issues, as well with the Tenth Circuit's own precedent and precedent from another circuit court. Although the court denied the Tribes' request for rehearing en banc, the judges in the panel majority determined that amendment of the original opinion was warranted. The panel therefore granted sua sponte panel rehearing in part and provided a revised decision. A revised dissenting opinion will also be filed. The revised majority decision includes certain targeted language changes. It does not alter the outcome of the case, and it is unlikely that the revisions will address the principal legal concerns raised in the Tribes' rehearing petitions. (*Wyoming v. EPA*, Nos. 14-9512 & 14-9514)

New Complaints Filed:

- On November 14, 2017, pro se defendant Kristine Yates filed a complaint against the EPA, the State of Oregon, and several renewable energy companies in district court. The complaint alleges that construction to the north of her property is causing environmental harm. There are nine counts, which allege violations of free speech, civil rights, torts, RCRA, and racketeering. (*Yates v. EPA, et al.*, No. 6:17-cv-01819-AA)
- On November 16, 2017, the Idaho Conservation League (ICL) filed a complaint against the EPA in district court alleging that EPA has unlawfully withheld or unreasonably delayed responding to ICL's March 2015 petition requesting that EPA disapprove and revise a State-issued TMDL that EPA had approved in 2004. Oregon and Idaho had issued TDML to address nutrient pollution in the Hells Canyon reach of the Snake River and ICL's petition requests EPA action based on new information. The complaint argues that EPA's two-and-a-half-year delay in responding to the petition violates the APA, seeks an order directing EPA to respond, and seeks attorney fees and costs. (*Idaho Conservation League v. Pruitt, et al.*, No. 1:17-cv-472)

- FOIA litigation concerning a FOIA request (HQ-2017-011741) was submitted by the Chesapeake Bay Journal. The FOIA request contains three parts for records concerning: (1) the Chesapeake Bay Journal, (2) a January 20, 2016 grant awarded to Bay Journal Media, and (3) changes in priorities for the Chesapeake Bay Program. The request provided the following as custodians: Scott Pruitt, Ken Wagner, John Konkus, Cecil Rodrigues, John Armstead, and Diane Esher. The request is assigned to the Office of the Administrator, Office of Public Affairs. The complaint alleges that EPA failed to respond to the FOIA request. (*Bay Journal Media, Inc. v. EPA*, No. 1:17-cv-2441)

Hot Issues:

- The first notices to affected regulated entities and states were sent out this week. If you would like more information on the specific case, please contact Kevin.
- OGC welcomed Marcella Burke as our newest Deputy General Counsel.

New Petitions that OGC is Aware Of:

- The Environmental Defense Fund, on behalf of a number of organizations, requested that EPA make public all annual compliance reports submitted by operators of oil and natural gas facilities to EPA under 40 C.F.R. Part 60 Subpart OOOOa. They also requested an extension of the period for public comment on EPA's November 8, 2017, notices of data availability on Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements, 82 Fed. Reg. 51,788 (Nov. 8, 2017), and Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Three Month Stay of Certain Requirements, 81 Fed. Reg. 35,824, (collectively, "the NODAs") for at least 90 days after those reports are made available.

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

- Kevin Minoli, Acting General Counsel, will be out of the office from November 22 through November 27. On Monday November 27th he will visit two environmental law classes at Vermont Law School.

Upcoming Major Deadlines in the Next Two Weeks:

11/17 Production of documents is due in *Center for Biological Diversity v. EPA*, a FOIA matter that concerns two FOIA requests seeking correspondence to or from Scott Pruitt as well as calendars and other things.

11/17 Mediation meeting with magistrate is scheduled in *Ellis v. Keigwin*, FIFRA and ESA challenges to clothianidin and thiamethoxam registrations.

11/17 Answer or Responsive Motion is due in *Friends of Animals v. Pruitt*, a challenge to EPA's denial of petition seeking initiation of a "Special Review" of the pesticide ZonaStat-H, a horse contraceptive.

11/19 Answer due in *Environmental Integrity Project v. EPA*, a FOIA litigation concerning a request that sought records of Scott Pruitt's meetings with outside parties.

11/20 EPA's Brief is due in *National Environmental Development Association's Clean Air Project v. EPA*, a petition for review of the Regional Consistency Regs.

11/20 Oral Argument in *Utility Solid Waste Activities Group v. EPA*, a challenge to final CCR rule filed by coalitions of industry and environmental groups.

11/20 EPA must file its Response to the Motion for Clarification of Mandate in *Waterkeeper Alliance, et al. v. EPA*.

11/22 Cross Motion for Summary Judgment 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.

11/22 Supplemental Brief on jurisdictional questions is due in *New Mexico v. EPA, et al.* and *Navajo Nation v. EPA, et al.*, litigation stemming from the Gold King Mine incident.

11/22 Response to motion for attorneys' fees due in *NRDC, et al. v. EPA*, litigation involving the NanoSilva registration.

11/22 Response Brief is due in *Cahaba Riverkeeper, et al. v. EPA*, a challenge to EPA R4's denial of petition to withdraw Alabama's NPDES permitting program.

11/22 Answer due in *Spokane Riverkeeper v. EPA*, an NGO challenge to EPA's approval of the State of Washington's bacteria, turbidity and temperature TMDL for Hangman Creek.

11/22 File Response to Motion to Consider New Information due in *City of Taunton v. EPA*.

11/22 Status Report on Mootness due in *Upper Missouri Waterkeeper v. EPA*, litigation on EPA action on Montana's 2017 revised multiple discharger variance for nutrients.

11/27 Motion to Transfer due in *Clean Water Action v. Pruitt*, a protective petition of steam electric postponement rule.

11/27 Motion to Dismiss or Answer due in *Massachusetts Rivers Alliance, et al. v. EPA*, a challenge to EPA's APA section 705 postponement of effective date of MA small MS4 general permit from July 1, 2017, to July 1, 2018.

11/27 Certified Index and dispositive motions due in *EDF v. EPA*, a challenge to the TSCA inventory reporting rule.

11/28 A hearing on Defendant's Motion for Summary Judgment, Plaintiff's Cross Motion for Summary Judgment, Motion to Amend and Motion for Discovery is scheduled in *Hall v. EPA*, a matter concerning a FOIA request that sought records regarding presentations made by two EPA officials in 2013 and 2014 discussing the Eighth Circuit *Iowa League of Cities v. EPA* decision.

11/29 Reply to cross-motion to terminate the Consent Decree is due in *National Parks Conservation Association, et al. v. EPA*, a complaint alleging EPA's failure to perform a non-discretionary duty to issue regional haze FIPs for 39 states for which it made a finding of failure to submit, and to take action on 10 regional haze SIPs.

11/29 Sign a notice of final rulemaking to take action on an outstanding SIP submittal for Delaware OTR for NOx RACT for Major Sources and VOC RACT for Major Sources pursuant to a Consent Decree in *Center for Biological Diversity, et al. v. EPA*, a deadline suit for failure to submit and failure to act on 1997 & 2008 ozone attainment SIPs.

11/29 EPA's Appellee brief is due in *Hall & Associates v. EPA*, a FOIA matter regarding FOIA requests that sought information about an EPA Clean Water Act determination to impose an effluent limitation for total nitrogen on certain New Hampshire publicly-owned treatment works.

11/30 Motions to Govern due in *Center for Biological Diversity, et al. v. EPA*, a deadline suit brought by environmental group to address EPA's obligation to finalize a determination of attainment by the attainment date for Philadelphia and Washington DC for the 2008 ozone NAAQS.

11/30 Reply Brief is due in *State of Delaware Department of Natural Resources & Environmental Control v. EPA*, a petition for review of EPA's final action entitled, "Extension of Deadline for Action on the November 28, 2016 Section 126 Petition from Delaware."

11/30 Hearing on Motion for Summary Judgment and Motion for Summary Judgment due in *Community In-Power and Development Association, et al. v. EPA*, where plaintiffs' allege EPA failed to issue standards or final residual risk determinations under CAA section 112 for various major sources of hazardous air pollutants categories and also for failure to review and revise as necessary emission standards promulgated every 8 years.

11/30 Pursuant to a Consent Decree, EPA must sign a notice of final rulemaking to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part an outstanding SIP submittal for New York for Industrial Cleaning Solvents (2006) CTG RACT in *Center for Biological Diversity, et al. v. EPA*.

11/30 Pursuant to a Consent Decree, EPA must sign a notice of final rulemaking to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part an outstanding SIP submittal for NY-N. New Jersey-Long Island, NY for NNSR – Moderate in *Center for Biological Diversity, et al. v. EPA*.

11/30 Pursuant to a Consent Decree, EPA must sign a notice of final rulemaking to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part an outstanding SIP submittal for Jamestown, NY for NNSR – Marginal in *Center for Biological Diversity, et al. v. EPA*.

11/30 Pursuant to a Consent Decree, EPA must sign a notice of final rulemaking to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part an outstanding SIP submittal for New York OTR RACT NOx for Major Sources and RACT Non-CTG VOC for Major Sources in *Center for Biological Diversity, et al. v. EPA*.

11/30 The Answer is due in *Figley v. EPA*, a FOIA litigation concerning multi-part FOIA request that sought records regarding the BP settlement.

11/30 Hearing on motion to dismiss is due in *Food and Water Watch v. EPA*, a challenge to the denial of TSCA fluoride petition.

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.*

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Office of International and Tribal Affairs

Hot Issues:

None

Upcoming Engagements:

November 27 – Disney World Food Waste Event in Orlando

Past Week Highlights:

CEC Joint Public Advisory Committee Meeting – The Commission on Environmental Cooperation (CEC) Joint Public Advisory Committee (JPAC) held its fall public consultation meeting on "NAFTA's Environmental Side Agreement: Assessing the Past, Looking Towards the Future."

- This public consultation brought together former negotiators of the North American Free Trade Agreement (NAFTA) and the North American Agreement on Environmental Cooperation (NAAEC); former CEC Executive Directors; and academic, legal, trade and environmental experts to discuss the NAFTA/NAAEC history, implementation challenges and successes, and provide advice on the future of these agreements.
- In addition, one thousand stakeholders from across North America participated in the discussion via the web, and CEC Party representatives from Canada, Mexico, U.S. participated as observers.
- The JPAC will collate the findings from this public forum in a letter of advice to the CEC Council.

Peru Mercury Meetings - OITA met this week with representatives from Peru's Ministry of Energy and Mines, Ministry of Customs, Ministry of Environment, large-scale gold mines that produce mercury as byproduct, and hazardous waste operators to advance mercury cooperation and outreach efforts.

- In December, Peru's Ministry of Environment will host a meeting between public and private sector stakeholders, which will provide the foundational discussion for the development of a multi-sectoral national action plan addressing mercury management and storage in Peru.
- These stakeholder outreach efforts are part of an ongoing project between EPA and the Ministry of Environment in support of the Environmental Cooperation Agreement under the U.S.-Peru Free Trade Agreement and the U.S.-Peru MOU on Cooperation Related to Small-Scale Gold Mining.
- EPA's cooperation on mercury is helping Peru met its implementation obligations under the Minamata Convention on Mercury and serving as a regional model.

Arctic Contaminants Action Program and Local Environmental Observer Meetings
EPA (OITA and Region 10) co-chaired a joint meeting of the Hazardous Waste and Indigenous Peoples Contaminants Action Program Expert Groups under the Arctic Contaminants Action Program (ACAP). The meetings focused on solid and hazardous waste projects in the Arctic Council.

- In addition, EPA and the Alaska Native Tribal Health Consortium held a workshop on the Local Environmental Observer (LEO) Network at the Alaska Pacific University.
- This workshop focused on developing the LEO network through academic institutions in and out of Alaska, as well as expanding it with Sami communities in northern Europe.

- It was also suggested that the LEO expansion and development be featured at the upcoming [HYPERLINK "http://www.akforum.org/afe/"].

Office of Land and Emergency Management

Hot Issues:

1. **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). Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)

2. **Coal Combustion Residuals.** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)

3. **CERCLA 108(b) Financial Assurance for Hard Rock Mining and Mineral Processing.**

   Ex. 5 Deliberative Process (DP)

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

5. **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).**

6. **CERCLA-EPCRA AFO-CAFO Rule**. EPA continues to update the guidance to communicate requirements to agricultural stakeholders. Most recently, Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)

Upcoming Public Events:

1. **Food Recovery Challenge (FRC).** We plan to announce the 2017 winners in late November.

2. **Superfund Division Directors (SF DD) Meeting [not a public meeting].** The SF DD in-person meeting will take place November 28 – 30, at EPA/Potomac Yards.

3. **Brownfields Conference.** The national Brownfields Conference will take place on December 4 – 7, 2017, in Pittsburgh. To date, approximately 2,000 attendees are registered.

Upcoming Major Decisions:

1. **E-Manifest User Fee Final Rule.** Ex. 5 Deliberative Process (DP)

2. **RMP Rule Reconsideration** Ex. 5 Deliberative Process (DP)

   Ex. 5 Deliberative Process (DP)

Last Week Highlights:

1. **House Appropriations Briefing.** On November 14, OLEM joined OCFO, OCIR, and Regions 2, 4, and 6 in a Members' Briefing on EPA's work on the recent hurricanes and California wildfires. Answers to follow-up questions are now being drafted.

2. **America Recycles Day.** On November 15, OLEM participated at the America Recycles Day event organized by Keep America Beautiful and the Institute of Scrap Recycling Industries.

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Office of Policy

Documents Submitted to OFR from November 8 - 14, 2017

FRL	Title	Date Submitted to OFR
9970-19-Region 6	Approval and Promulgation of Air Quality Implementation Plans; Arkansas; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards	11/14/2017
9971-05-Region 7	State of Iowa; Withdrawal of Direct Final Rule; Elements of the Infrastructure SIP Requirements for the 2012 Annual Fine Particulate Matter (PM2.5) National Ambient Air Quality Standard (NAAQS)	11/14/2017
9969-76-OEI	SmartWay Transport Partnership (Renewal)/ICR No.2265.03	11/14/2017
9970-86-Region 9	Approval of California Air Plan Revisions, Mojave Desert Air Quality Management District	11/14/2017
9970-87-Region 9	Approval of California Air Plan Revisions, Mojave Desert Air Quality Management District	11/14/2017
9970-80-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Virginia; Removal of Clean Air Interstate Rule (CAIR) Trading Programs; Withdrawal of Direct Final Rule	11/14/2017
9970-42-Region 9	Adequacy Status of Motor Vehicle Emissions Budgets in Submitted Reasonable Further Progress Plan for San Diego 8-hour Ozone for Transportation Conformity Purposes; California	11/14/2017
9970-97-Region 7	Withdrawal of Direct Final Rule; Air Quality Implementation Plans; Nebraska; Infrastructure SIP Requirements for the 2010 Nitrogen Dioxide and Sulfur Dioxide and the 2012 Fine Particulate Matter National Ambient Air Quality Standards	11/13/2017
9970-98-Region 7	State of Iowa; Withdrawal of Direct Final Rule; Elements of the Infrastructure SIP Requirements for the 2010 Sulfur Dioxide	11/13/2017

	National Ambient Air Quality Standard (NAAQS)	
9970-99-Region 7	State of Iowa; Withdrawal of Direct Final Rule; Elements of the Infrastructure SIP Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standard (NAAQS)	11/13/2017
9966-10-OCSPP	Tebufenozide; Pesticide Tolerance Actions	11/13/2017
9970-61-OAR	Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits	11/13/2017
9970-69-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Maryland; Withdrawal of Direct Final Rule for the Approval of an Alternative Volatile Organic Compound Emission Standard	11/13/2017
9970-82-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Maryland; 2011 Base Year Inventory for the 2008 8-Hour Ozone National Ambient Air Quality Standard for the Maryland Portion of the Philadelphia-Wilmington-Atlantic City Nonattainment Area; Withdrawal of Direct Final Rule	11/13/2017
9970-75-OECA	Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity to Comment Regarding Enel Green Power North America, Inc.	11/9/2017
9970-67-OGC	Proposed Settlement Agreement, Clean Air Act Title V Permit Appeal	11/9/2017
9968-26-OCSPP	Community Right-to-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting; Withdrawal	11/8/2017
9970-02-OCSPP	Community Right-to-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting; Final Rule	11/8/2017
9970-77-OAR	Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards (NAAQS)	11/8/2017

9970-73-OW	State of Idaho Voluntary Transfer of Primacy of the Class II Underground Injection Control Program to the Environmental Protection Agency	11/8/2017
9970-62-OW	Information Session; Implementation of the Water Infrastructure Finance and Innovation Act of 2014	11/8/2017
9970-60-Region 1	Notification of Partial Voluntary Withdrawal of Delegation of Authority; Connecticut; National Emission Standards for Hazardous Air Pollutants for Asbestos	11/8/2017
9970-85-Region 7	State of Iowa; Withdrawal of Direct Final Rule; Approval and Promulgation of the State Implementation Plan, the Operating Permits Program, and the 111(d) Plan	11/8/2017

Office of Research and Development

This week Richard Yamada and I had a successful trip to Cincinnati. We toured laboratory facilities, met with researchers and senior leaders, enjoyed ORD tool demonstrations, and attended the 36th Annual ORD Awards Ceremony and Reception to recognize our colleagues across ORD for their valuable contributions to EPA in 2016.

Hot Issues:

TSCA Support
ORD continues to provide support to OPPT for the successful implementation of the revised TSCA, including:

- **Alternative Testing Strategy Effort:** ORD will meet tomorrow with OPPT and OPP to discuss next steps for the TSCA mandated Alternative Toxicity Testing Strategy Document. The next steps follow from the November 2 public meeting during which OPPT received comments from industry and the international community concerning a preliminary draft of the strategy document.
- **Chemical Pre-Prioritization Effort:** ORD has provided technical materials and will be making a presentation at the upcoming December 11 public meeting focused on pre-prioritization options.
- **Chemical Exposure Support:** ORD has held three workshops with OPPT scientists to discuss information, data, tools and models support estimates of exposure for: chemicals from consumer products, occupational exposure, and ambient exposure. A series of next steps for both ORD and OPPT have been identified from those meetings and are now being reviewed by OPPT.

Reported Cancer Cluster in Cincinnati
On November 13, CDC/NIOSH contacted ORD to participate in a discussion on a potential cancer cluster reported at a City of Cincinnati's police station. While little information is available regarding the specifics of the cancers linked to the station, NIOSH is interested in learning more about potential environmental exposures. ORD provided general information on potential environmental exposures, given the characteristics and location of the police station. These exposures could include vapor intrusion, radon, electric and magnetic fields, asbestos, HVAC operation, and particulate matter from proximity to two major highways, as well as temporal and spatial limitations of any past air sampling data. NIOSH personnel are meeting with representatives of the Cincinnati Police Department investigative team on November 15. A NIOSH Health Hazard Evaluation (HHE) has been requested. NIOSH will move forward with the investigation, and may follow-up with EPA on additional environmental questions at a later date. This issue has been getting local news coverage.

Visit to Cape Fear, NC on PFAS treatment
On November 30, ORD scientists will visit the Cape Fear Public Utility Authority (CFPUA) plant as part of EPA's PFAS treatment project. This will be an exploratory meeting to understand in detail the PFAS issues and systems treatment approach. The goal will be to further integrate CFPUA's work with Region 4. Similar preliminary discussions have been held with Greater Cincinnati Water Works.

Upcoming Public Events:

ORD to Train Superfund Remedial Project Managers

To support quick implementation of [HYPERLINK "https://cfpub.epa.gov/si/si_public_record_Report.cfm?dirEntryId=321710"] that will help EPA set risk-based remedial goals for cleanup of contaminated sediment sites, OLEM has asked the ORD authors to provide training at the Superfund National Association of Remedial Project Manager's Training Program on December 4th in Denver, CO. The new guidance, produced by ORD at the request of OLEM, is in demand by states, EPA regions, tribes, the EPA Great Lakes National Program Office, and Superfund potentially responsible parties. In part, the high demand for training on the guidance is because the new methodology could lower the extent (i.e., fewer acres) and costs of remedial actions while enabling quicker completion of those actions.

National Advisory Council for Environmental Policy and Technology Meeting

On November 28, the National Advisory Council for Environmental Policy and Technology (NACEPT) will meet to review the first draft of their report on EPA's use of citizen science. The council will discuss draft findings and recommendations, which focuses on how to better use citizen science information for actions and decisions. The NACEPT council will also provide comments on EPA's draft Handbook for Citizen Science Quality Assurance (developed by OEI, R1 and ORD/OSA).

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 will facilitate a TSC-hosted listening session on tribal science priorities.

Last Week Highlights:

Net Zero Meeting at Fort Campbell, Kentucky

On November 1-2, ORD and OLEM staff met with Garrison leadership and senior staff from the Department of Public works at U.S. Army's Fort Campbell, Kentucky to explore the potential for new place-based Net Zero projects at the installation. The goals for the meeting were to identify areas of overlapping interest for environmental and public health research and create a list of project concepts to be considered in the next round of ORD's research action plans.

Nutrient Sensor Action Challenge

On November 3, the judging panel for the Nutrient Sensor Action Challenge reviewed proposals for Stage 1 awards (i.e., plans for demonstrating low-cost sensors in the field for local decision-making). Five applications were selected and winners will receive $10,000: Western Lake Erie – Cooperative Institute for Great Lakes Research, University of Michigan; Portland, Maine – Casco Bay Estuary Partnership; Galena River – Illinois State Geological Survey; Great Bay Estuary – Department of Natural Resources and Environment, University of New Hampshire; and, Upper Chesapeake Bay – University of Maryland Center for Environmental Science.

ORD Tools and Resources webinar

On November 14, ORD hosted our monthly public webinar for states, tribes and others. The webinar highlighted how federal agencies (EPA, NASA, NOAA and USGS) are collaborating to use real-world

satellite applications that support environmental management of US lakes by quantifying cyanobacterial harmful algal blooms and related water quality parameters. It also highlighted how satellite cyanobacteria data and three different software tools available to state environmental and health agencies for review and testing as part of the Cyanobacteria Assessment Network (CyAN).

Procedure for Lead Bioavailability Published

The in-vitro extraction procedure built and validated by ORD researchers has now become an SW-846 protocol,[HYPERLINK "https://www.epa.gov/hw-sw846/validated-test-method-1340-vitro-bioaccessibility-assay-lead-soil"]. The method is an in-vitro bioaccessibility assay (i.e., the measure of the physiological solubility of the lead that may be available for absorption into the body) for lead-contaminated soils. The amount of lead absorbed into the bloodstream is an important factor in calculating the level of clean up necessary at contaminated sites to safeguard human health. The default value for this has been at 100%; i.e., remove all traces of lead. In real settings, much of the lead can be chemically complexed with other minerals in the soil so that the body will not absorb it. The degree of complexation will vary with the type of soil present, soil pH, and other factors. Anything that lowers the bioavailabiliity factor below 100% will likely make clean up less expensive, since the clean-up will not need to be as stringent.

Grantee Publication

Grantees from the [HYPERLINK "https://cfpub.epa.gov/ncer_abstracts/index.cfm/fuseaction/display.abstractDetail/abstract/10494/report/0"], recently released a report on [HYPERLINK "http://www.ppic.org/publication/managing-californias-freshwater-ecosystems-lessons-from-the-2012-16-drought/?utm_source=ppic&utm_medium=email&utm_campaign=epub"]. Given changes in water and land use such as reduced flows below reservoirs and disconnection of rivers from floodplains, the recent drought conditions have amplified the effects of the drought along with the ability of species to recover after the drought. Using eight case studies on environmental water management during the 2012-16 drought the report provided three interrelated policy recommendations: improve environmental water accounting through monitoring ecological conditions and tracking water availability and use, establish drought planning and preparation including advanced planning and setting priorities for water allocation ahead of time, and establish flexible ecosystem water budgets including minimum flow and water quality standards.

ORD Supports Region 6 Oklahoma Response

EPA Region 6, ORD, and Oklahoma DEQ have been working together in response to multiple cases of girls (ages ~14-18) falling ill in Dewey, Oklahoma. While the cause for their illnesses is unknown, EPA has been asked, in accordance with the Oklahoma State DEQ, to perform a series of environmental tests at their school. EPA Region 6 On Scene Coordinators have requested information from ORD for methods for sampling and analysis for a variety of potential metals, pesticides, and other hazardous chemicals in air, water, and surfaces. Detailed surface sampling assistance (wipe sampling and method recommendations) has been requested to identify the pesticides applied, as well as where they have been applied. ORD is continuing to assist Region 6 with this effort.

Superfund and State Support:

- **Technical support for West Lake Landfill Superfund Site, Bridgeton, MO, week of November 6.** ORD provided a technical evaluation of a cooling loop system installed at the West Lake Landfill Superfund Site. The Region 7 Remedial Project Manager for Operable Unit 2 (OU-2) requested that ORD provide an overview and initial technical evaluation of the performance of

the cooling loop system installed in OU-2 to extract heat from the landfill waste mass. The purpose of the cooling loop system is to function as a deterrent and potential first line of defense from any subsurface smoldering event (SSE) that may move northward in the waste mass. West Lake Landfill is contaminated with radiological waste from uranium ore processing.

- **Field studies to support cleanup at Fort Devens Superfund Site, November 28-December 1.** ORD is conducting field research designed to provide performance verification for groundwater remediation and facilitate testing of the beta version of an ORD-developed analysis tool for evaluating groundwater seepage flux. ORD is assisting Region 1 and the Massachusetts Department of Environmental Protection to investigate the impact of recently implemented remedial measures on groundwater flow and contaminant transport. Fort Devens is a former military training base with petroleum, arsenic, heavy metals, and other hazardous chemical contamination in the groundwater, soil, and sediment.
- **Analysis at Argonne National Lab in support of multiple ORD research projects and technical assistance, Lemont, IL, November 28-December 8** ORD will conduct X-ray absorption spectroscopy studies at the Advanced Photon Source synchrotron facility located at the [HYPERLINK "https://www.anl.gov/" \t "_blank"]. This effort supports research areas including bioavailability, materials management, tech support for soil and sediment contamination, soil amendments for remediation and nanomaterials to determine the speciation of elements to understand fate, risk, and toxicity.
- **ORD support to the Oklahoma Department of Environmental Quality (ODEQ) with soil amendment efforts at Tar Creek Superfund Site:** ORD's efforts will help the state evaluate the effectiveness of a soil amendment technology with regard to bioavailability at this site. ODEQ will collect soil samples that will undergo *in-vivo* animal testing and the speciation analysis by ORD.

Field studies at Fort Lewis Logistics Center Superfund Site, Tacoma, WA, November 29-December 6: ORD will travel to the East Gate Disposal Yard at the Fort Lewis Logistics Center Superfund Site. This field study work is part of a project funded under the U.S. Department of Defense's Environmental Security Technology Certification Program (ESTCP) to conduct long-term post-remedial monitoring using flux-based measurements. This work will help assess long-term benefits of non-aqueous phase liquid source zone remedial treatments and is being conducted in collaboration with the University of Florida. The [HYPERLINK "https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=1001131"] has groundwater, soil, sludge, and surface water contaminated with heavy metals and other hazardous chemicals.

Office of Water

Hot Issues:

Waters of the U.S. – On November 16, EPA and the Army Corps of Engineers released a pre-publication version of the notice proposing to amend the effective date of the 2015 rule. The comment period will be open for 21 days from the date of publication in the Federal Register. In support of general outreach for the Step 2 rulemaking, the agencies held their 9th webinar on November 14, aimed at the drinking water, wastewater and stormwater community. Twenty (20) speakers provided feedback. The last outreach webinar will be held on November 21 and the administrative docket that is open for recommendations is slated to close on November 28.

Massachusetts Small MS4 General Permit**:** On November 10, the Plaintiffs filed a motion for summary judgment in the lawsuit challenging EPA's delay of the effective date of the Massachusetts Small MS4 general permit based on Section 705 of the APA in the U.S. District Court for Massachusetts. Our answer to the complaint is due on November 27.

Perchlorate Federal Register Notice: As early as next week, OW anticipates sending to OP for publication in the Federal Register, a notice announcing the second perchlorate public peer review meeting and the final list of expert peer review panelists. The meeting will be held January 29-30, 2018 to review EPA's "Draft Report: Proposed Approaches to Inform the Derivation of a Maximum Contaminant Level Goal for Perchlorate in Drinking Water".

CRADA for Metal Toxicity and Bioavailability in Water Criteria: As early as next week, OW anticipates entering into a Cooperative Research and Development Agreement (CRADA) with eight (8) metals associations, including the Aluminum Association, the Cobalt Institute and the International Copper Association. The purpose of this agreement is to better protect aquatic life by developing an overarching modeling approach which can be used to predict the bioavailability and toxicity of metals in future Aquatic Life Water Quality Criteria. Via the CRADA, EPA will work collaboratively with metals associations who have technical expertise in how water quality variables, such as pH and hardness, affect the toxicity of metals to aquatic life. As a result of the CRADA, EPA intends to develop models using the most current science to facilitate the efficient development and implementation of Aquatic Life Water Quality Criteria for metals.

CSO Public Notice in the Great Lakes Final Rule: Today, OP sent to OMB for review the final CSO Public Notice in the Great Lakes rule. This effort is in response to Section 425 of the 2016 Consolidated Appropriations Act which requires EPA to work with affected states to create public notice requirements for a combined sewer overflow discharge to the Great Lakes. The Act provides that the notice and publication requirements of the Appropriations Act shall be implemented by December 18, 2017. The final rule requirements closely follow the legislation and address signage, notification of local public health departments and other potentially affected public entities, notification to the public, and annual notice provisions and apply to NPDES permittees authorized to discharge from a CSO to the Great Lakes Basin.

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Upcoming Public Events:

Environmental Law and Policy Event: The week of November 27, lee will speak at an environmental law and policy event hosted by Hunton & Williams entitled *Insights into Environmental Law & Policy: A Conversation with Key Regulators*. Lee will be addressing wetlands and water issues, in particular the WOTUS rulemaking. The event is closed to the press.

Building Better Collaboration Towards Addressing Water, Sanitation, and Hygiene Issues in Marginalized Communities in the USA Meeting: The week of November 27, OW will participate in this meeting convened by the Global Water Challenge, U.S. Water Partnership, UNICEF and Stanford University's Water in the West program. This meeting will bring together leaders from federal and local governments, the private sector, academia, and NGOs to harmonize efforts in improving water and sanitation accessibility, reliability, quality, and affordability for marginalized communities across the U.S.

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Message

From: Carroll, Carly [Carroll.Carly@epa.gov]
Sent: 11/17/2017 4:43:57 PM
Subject: Weekly Report 11-17-2017
Attachments: Final Weekly Report 11.17.2017.docx

Hello,

Please find the report for the week ending in November 17 attached. **Note that there will be no weekly report next week (ending 11/24/17)**.

Have a good weekend and a happy Thanksgiving!

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

Message

From: Ford, Hayley [ford.hayley@epa.gov]
Sent: 10/23/2017 2:55:03 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]; 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 - October 23, 2017
Attachments: final Weekly Report 10.20.2017 (2).docx

See attached for weekly report.

Thanks!

Hayley Ford
Deputy White House Liaison
Office of the Administrator
Environmental Protection Agency
Room: 3309C William Jefferson Clinton North
ford.hayley@epa.gov
Phone: 202-564-2022
Cell Ex. 6

Region 1

Hot Issues

Tribal Summit/Conference:

- The New England 2017 EPA-Tribal Leaders Summit and Environmental Conference will take place on November 1-3 and will be hosted by the Wampanoag Tribe of Gay Head (Aquinnah) on the tribe's reservation on Martha's Vineyard
- The Summit and Conference agenda will include opportunities for robust discussions on federal Indian law, water quality issues, the Northeast Ocean Plan, ticks and other vectors of concern, and other topics of mutual interest.
- The Summit will culminate in a signing of EPA-Tribal Environmental Plans for the Aroostook Band of Micmacs and the Mashpee Wampanoag Tribe.

Upcoming Public Events

On November 2nd Region 1, the Massachusetts Office of Technical Assistance and Technology and the Franklin Regional Council of Governments are conducting a workshop in Greenfield for emergency responders, municipal facility managers and those who use hazardous chemicals. Entitled "Chemical Safety and Community Resilience" the workshop will emphasize pollution prevention and toxics use reduction as a common sense approach to emergency planning.

Upcoming Major Decisions

EPA preparing to issue a notice of its intention to delete the Hatheway & Patterson Superfund Site from the NPL

- The 40-acre Hatheway & Patterson site was a former wood preserving facility located in a mixed residential and industrial area of Mansfield and Foxborough, Massachusetts.
- The proposed deletion is based on EPA's determinations that all required remedial actions have been successfully completed and that all cleanup goals have been achieved.
- MassDEP will continue routine monitoring of the site and EPA will conduct Five-Year Reviews to ensure that the remedial actions remain protective.
- EPA Headquarters and the state (MassDEP) have provided concurrence on this action.
- The notice announcing the intent to delete and a 30-day public comment period will be published in the Federal Register within the next 30 days.
- Deletion of the site is expected to become effective in early 2018.

Highlights from previous weeks

None

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Region 2

Hot Issues

Hurricane Irma/Maria: EPA now has about 180 personnel on the ground in Puerto Rico and the US Virgin Islands; that number is expected to increase to 400 by early December. Securing lodging in the islands remains a significant challenge. Conditions in the islands remain very challenging, with well over 80% of the population still without electric service. Nearly a third of residents in PR remain without drinking water service. Telecommunications remain very difficult. Extensive additional rainfall during much of October has exacerbated conditions with more flooding, mudslides, etc. We are continuing our mission assignments, including assessment of smaller drinking water systems; coordinating with the Coast Guard on the management of wrecked boats; and planning for the debris management missions that will be ready to commence very shortly. We have received a number of *force majeure* claims by utilities that have obligations under enforcement instruments that they assert cannot be met at this time, and also from the U.S. Navy with respect to the Vieques Superfund site. We have also received requests for "No Acting Assurances" from a number of entities, including one from a Florida-based company that claims to have 1,000 generators that could be used if some Clean Air Act requirements were relaxed. (EPA has initiated discussions with the PR government to seek the Commonwealth's views on this proposal.)

Passaic River Lower 8.3 Miles: We have retained the services of an Allocator to assist the PRPs at this site allocate relative responsibilities. The kick-off meeting among the PRPs and the Allocator was held on 10/13; we understand that attendees came to consensus that they are interested in participating in the allocation process, but they identified two challenges the suggest need to be resolved: 1) they are concerned that additional funding needs to be provided to allow the Allocator to review a larger than projected volume of documents and have more interaction with the PRPs than projected; and 2) they urge that the Passaic Valley Sewerage Commission (PVSC) be encouraged to participate in the allocation process. Occidental Chemical, a leading PRP currently performing the $140 million design for the project, identified additional concerns which were the subject of a productive face-to-face meeting on 10/19. In a related matter, the Commissioner of the NJ Department of Environmental Protection wrote to Regional Administrator Lopez regarding the **Diamond Alkali (Lister Avenue)** Superfund site, requesting that EPA begin the steps needed to select a final remedy for Operable Unit 1 (OU1) of that site to replace the interim remedy completed in 2001. A meeting to discuss NJDEP's request has been scheduled for November 1.

Upcoming

Long Island Sound Conference: On October 20 Region 2 will attend a conference on the restoration of Long Island Sound sponsored by the Congressional Long Island Sound Caucus. The conference will be held at the U.S. Merchant Marine Academy in Kings Point, NY. New York chairs Rep. Suozzi and Rep. Zeldin and Connecticut chair Rep. DeLauro will participate on a panel to discuss successes and highlight upcoming challenges. CT Governor Malloy is listed as confirmed, while NY Governor Cuomo is listed as invited.

Past Week

RA traveled to PR and USVI: R2 Regional Administrator Peter Lopez traveled to PR and USVI during the week of October 16, accompanied by DRA Catherine McCabe. He met with senior local government officials in both jurisdictions. His focus has been on identifying barriers to recovery and strategic problem solving through grass-roots engagement at the local government as well as the community level. The RA will be working with regional staff to determine specific tasks necessary to follow-up on identified areas of need in both PR and the USVI.

Draft Delaware Estuary PCB TMDL: On 10/16, NJDEP provided its comments on the Draft Delaware Estuary PCB Total Maximum Daily Load (TMDL). On 10/17, EPA Regions 2 and 3 met with the Delaware Estuary states (NJ, DE and PA) and the Delaware River Basin Commission (DRBC) to follow up on the comments submitted and discuss how to proceed with the process. NJDEP still has doubts about whether to support establishment of the TMDL at this time; we will continue to work with NJDEP to resolve this issue, but it may require elevation.

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Region 3

Hot Issues

Region 3 and EPA Headquarters Create Action Plan for Pittsburgh Water and Sewer Authority
Regional Administrator Cosmo Servidio, DRA Cecil Rodrigues and his staff spoke with Peter Grevatt, Lee Forsgren and Ryan Jackson today regarding the continuing concerns associated with the aged and failing infrastructure of the Pittsburgh Water and Sewer Authority. PADEP is currently negotiating a consent order on agreement with PWSA regarding lead and copper rule violations. We are evaluating our options in coordination with OW and OECA on the drinking water infrastructure concerns. RA Servidio spoke with Secretary McDonnell regarding this and we will continue coordination with both HQ and the State moving forward.

Former Used Oil Supervisor Sentenced to a Year and a Day Jail in Delaware for CWA and RCRA Offenses
A former second-level supervisor of a used oil refinery in Wilmington, Delaware, was sentenced October 12, 2017, to a year and a day in jail for his role in a 20-year conspiracy to violate the CWA by manipulating compliance samples and treatment processes and for causing 500,000 pounds of hazardous waste to be labeled as non-hazardous waste and transported in in 27 separate shipments to South Carolina without RCRA manifests. Lance A. Charen, 52, was the branch manager of the facility owned by International Petroleum Corporation (IPC) located at the edge of downtown Wilmington from September 2010, to January 2013. This case was investigated by EPA's Criminal Investigation Division (CID). The City of Wilmington Department of Public Works and the DNREC Solid & Hazardous Waste Management Section assisted in the investigation. The CWA portion of the case was brought to CID by the City of Wilmington (the state does not have delegated pretreatment authority). DNREC notified CID that the hazardous waste shipments had taken place after the search warrant. The state inspector responsible for the facility attended the sentencing.

Two Region 3 Sites Scheduled for Superfund National Priority Listing
The EPA Office of Land and Emergency Management (OLEM) has given approval to proceed with the next National Priority Listing (NPL) proposed and final rules. The sites scheduled for that rule have been sent to the Office of Management and Budget (OMB) for their review. OLEM is tentatively aiming for a Federal Register publication date of December 7, 2017, but may have to adjust the schedule depending on OMB's availability for review. Region 3 has two sites in Delaware that will be included in these NPL rules. Newark South Groundwater Plume, which was proposed in August 2017 and will be listed in the NPL Final Rule. Hockessin Groundwater will be in the proposed rule and will be subject to a 60-day comment period following proposal. OLEM has also confirmed that EPA will continue to have two NPL rules per year, as has been the standard practice.

National Fish and Wildlife Foundation (NFWF) Agriculture Event
The EPA portion of the NFWF grants for this year directed 10 million of the 12 million dollars throughout the Chesapeake Bay watershed. DRA Cecil Rodrigues is participating in an event on October 20, 2017 to acknowledge and recognize the Pennsylvania grantees, totaling 5.8 million dollars directed towards 16 projects in PA. Those projects include stormwater management and agriculture management practices. It is being held a farm with Secretary McDonnell and Secretary Redding. The media has been invited.

Upcoming Public Events

26th Annual State Pesticide Inspector Regional Workshop
DRA Cecil Rodrigues will be attending the 26th annual Region 3 State Inspectors' workshop. Secretary Redding will be in attendance, in addition to pesticide inspectors from each of our states. The states look forward to this ceremony as the most notable inspection and most notable inspector are recognized during this meeting. The DRA will present the 2017 Inspector of the Year and 2017 Investigation of the Year awards to the Region 3

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State Inspector or Inspectors who were nominated by their peers and selected by an EPA Region 3 panel based on a set of evaluation criteria. Plaques are awarded to the recipients for both awards.

Ports Workshop Brings Together Mid-Atlantic Port Stakeholders
EPA is sponsoring a one-day Ports Workshop, "Vibrant Ports – Healthy Ports", to be held October 24th in partnership with the Delaware Valley Regional Planning Commission at their offices. Regional Administrator Servidio will be welcoming the audience to this event. This event brings together ports stakeholders from across the Mid-Atlantic and beyond, to discuss issues of important related to the economic success and environmental sustainability of port facilities. Topics to be covered will include funding opportunities, emissions inventories and other environmental planning tools, success stories, and the EPA's Ports Initiative. Management and staff from Region 3 and EPA's Office of Transportation and Air Quality will also be in attendance.

Past Events

None

Region 4

Hot Issues

Air Monitoring Network Plans
Key Message: The Region approved the air monitoring network plans for Florida, Kentucky and Mississippi within the 120-day regulatory limit.

Ensystex Stop, Sale, Use or Removal Order (SSURO)
Key Message: On October 16th, Region 4 vacated the Ensystex SSURO issued on September 28, 2017, based on proper relabeling of products.

Mislabeled Hazardous Chemicals
Key Message: Region 4 recommended a denial of entry of five misbranded, potentially leaking shipments of a hazardous chemical imported by Isago through the Port of Tampa. The company was notified and Region 4 will be working with Customs/Border Patrol to have the shipments exported or destroyed.

Florida Electric Cooperatives Meeting
Key Message: On October 17th, the Regional Administrator spoke at the Florida Electric Cooperatives Annual Meeting to discuss regional focus areas and next steps. Several attendees inquired about the possibility and process of Florida assuming the Clean Water Act §404 program. Region 4 continues to work closely with the Florida Department of Environmental Protection on this process.

B.F Goodrich Superfund Site, Calvert City, Kentucky
Key Message: On October 18th, the Regional Administrator met with the Potentially Responsible Parties for the B.F Goodrich Superfund Site and the Kentucky Department of Environmental Protection. The Region anticipates working closely with OLEM and the Administrator's Office on the proposed plan for the Site over the next several weeks.

Upcoming Travel for the RA

- October 25-26 – Participation in State Commissioners Meeting in Charleston, South Carolina
- October 26th – Participation on a roundtable focused on Cooperative Federalism with the American College of Environmental Lawyers

Region 5

Hot Issues:

Judge Orders Flint Council to Select Water Source by October 23
Key Message: On October 17, U.S. District Judge David Lawson instructed the Flint City Council to approve a long-term drinking water source that satisfies EPA's Emergency Administrative Order, as amended, and sign all the requisite agreements to implement that choice on or before October 23, 2017.

The City Council met on October 18 and is scheduled to meet with attorneys on October 20 to address the judge's order.

Background: In June 2017, the Michigan Department of Environmental Quality sued the City, arguing that the City Council had endangered the public health by failing to approve a long-term drinking water source. MDEQ asked the court to compel the Council to act on Mayor Karen Weaver's recommendation for Flint to enter into a 30-year contract to purchase water from the Great Lakes Water Authority. Flint has been getting its drinking water from the Great Lakes Water Authority since the fall of 2015.

EPA Awards $2.7M in Great Lakes Restoration Initiative Grants to Tackle Invasive Species in Wisconsin
Key Message: On October 17, EPA announced that it has awarded five GLRI grants totaling more than $2.7 million for projects to control invasive species in Wisconsin.

For decades, invasive species have significantly changed the Great Lakes ecosystem and other fresh water lakes in Wisconsin. These changes have greatly affected the economy, health, and well-being of the people that rely on the system for food, water, and recreation. Once established, it is extremely difficult to control the spread of invasive species. While the projects receiving the awards differ, in addition to controlling invasive species, listed benefits include protecting high quality habitat, increasing access to the coastline and nearshore areas, enhancing tourism, and improving property values.

Upcoming Events:

Region 5 Hosts IDEM and Indiana Industry Representatives on October 25
Key Message: On October 25, EPA's Chicago office will host its annual meeting with the Indiana Department of Environmental Management leadership and several dozen representatives from Indiana industry.

As in past years, EPA and IDEM leadership will kick off the meeting by discussing EPA priorities and core programs. After these opening remarks, EPA and IDEM will open the floor for questions and discussion with the industry representatives.

October 26 Community Meeting on Status of Plating, Inc. Superfund Removal Action
Key Message: On October 26, EPA staff will attend the second community meeting to discuss the St. Paul, Minnesota Plating, Inc. removal action.

Rep. Betty McCollum's office is helping to organize the event, though EPA does not currently know whether the Congresswoman will attend. The City of St. Paul and the Hamline-Midway Coalition will also participate in the neighborhood meeting.

Background: EPA has made significant progress in reducing threats to public health and the environment at the time-critical removal action at the Plating, Inc. Site. Since late August, EPA and its contractors have recovered spilled caustic wastes inside the building, abated vapors inside the building, secured over 20,000 gallons of hazardous acids and caustic liquids from open vats, containerized approximately 80 drums of caustic and acidic solids and other industrial sludge from vats and containers, cleared the building and the basement laboratory of

numerous small containers of chemicals, containerized damaged asbestos, and pumped 9,700 gallons of waste liquids from open vats into tanker trucks for disposal off-site.

Upcoming Major Decisions:

None

Past Week Accomplishments/Highlights:

City of Peoria Met with EPA and DOJ on October 18 Regarding Combined Sewer Overflow Case

Ex. 5 Deliberative Process (DP)

Allegan, Michigan Groundwater Investigation Public Meeting on October 17
Key Message: EPA, along with Michigan Department of Environmental Quality, Michigan Department of Health and Human Services, and the Allegan County Health Department, held an open house and town hall meeting to provide information on groundwater contamination and its effect on some private drinking water wells in Allegan.

Officials from these agencies gave presentations and were available to meet with the public one-on-one to answer questions. Based on the results of sampling, EPA will determine actions necessary to ensure affected residents have access to clean drinking water.

Background: The contaminant of concern is chromium. EPA's RCRA program will investigate the source of the contamination, which may be a nearby factory. Groundwater contamination affected only a small number of private wells. EPA has notified the affected well owners. MDEQ currently provides bottled water to all locations where chromium was found above safe drinking water criteria. Municipal drinking water is not affected by this issue.

Tour of Velsicol Superfund Site for Rep. Moolenaar on October 19 (Photos below)
Key Message: At Michigan Rep. John Moolenaar's request, EPA provided a tour of Velsicol cleanup activities on October 19. EPA provided the Congressman with an update, as there is good work going on right now. Rep. Moolenaar has been very supportive of the cleanup.

EPA began cleanup at the Velsicol Chemical Corp. Superfund site in St. Louis, Michigan this summer. The site received $9.7 million in funding. EPA plans to begin thermal treatment at the site. During this process, special

equipment will heat the soil, capture contaminants and treat them on-site. This phase of work is expected to take 18 months. Additional environmental actions at the plant site will follow in the future.

Background: Velsicol produced fire retardant polybrominated biphenyl, or PBB, and the pesticide DDT from 1936 until 1978 when the plant shut down. The chemicals polluted the groundwater, soil and Pine River that bordered the plant. In the 1980s, the factory was demolished, but elevated levels of benzene and 1,2 dichloroethane remain in the groundwater beneath the site.

Above: Rep. John Moolenaar, EPA Remedial Project Manager Tom Alcamo, and a CH2M contractor at the Velsicol site tour.

Region 6

Hot Issues:

Arkema Inc., Crosby, Texas
EPA received the additional information requested from Arkema by the October 17th deadline and we are reviewing the information to determine the completeness of the response.

Takata, Eagle Pass, Texas
The Texas Commission on Environmental Quality (TCEQ) confirmed that staff from their Laredo, TX Regional Office visited the Takata Air Bag Storage facility in Eagle Pass, TX the week of October 16 to evaluate storage practices and ensure that local emergency planning authorities are aware of the inflator storage location. The Class 2 permit modification for Clean Harbors, Deer Park, was approved by TCEQ on October 17, 2017. This modification adds a shredder to the facility which will be used as pre-treatment before the inflators are fed to the permitted incinerators, preventing damage to the ceramic lining. Additionally, Takata has proposed some amendments to the Department of Transportation (DOT) Preservation Order which are being reviewed by DOT at this time. Region 6 will continue to work with TCEQ on the storage facility as well as the potential disposal of Takata inflators at the Deer Park facility.

Aransas County, Texas
The request for a No Action Assurance from TCEQ was deemed not necessary after additional discussions with the State. The existing rules have an exception that allows for the burning of woody debris after an emergency.

Direct Final Oklahoma Corporation Commission (OCC) Re-State Program Approval (Re-SPA)
EPA published the 2015 underground storage tank regulation and the 2015 state program approval regulation in July, 2015. The 2015 UST regulation changes certain portions of the 1988 underground storage tank technical regulation in 40 CFR part 280. The 2015 state program approval regulation updates requirements in 40 CFR part 281 and incorporates the changes in the UST technical regulation. Since these regulation updates, Oklahoma has enacted statutes and developed regulations in accordance with EPA requirements and put other necessary components of the program in place and has applied for formal approval of its UST program. EPA is now making a final decision, subject to receipt of written comments that oppose this action, to support this request stating Oklahoma's UST program revision satisfies all of the requirements necessary to qualify for final approval. Direct Final approval via two Federal Register notices will be issued to approve the OCC application to operate the Oklahoma State UST regulations to meet the requirements of the 2015 EPA UST regulation changes. A Concurrent Proposed Rule will make it easier to withdraw the Direct Final Rule, if we receive comments. In the event we receive comments, EPA would need to publish a notice withdrawing the Direct Final and then publish a Final Rule containing responses to comments. Codification will be included in this action.

Evangeline Training Center, Carencro, Lafayette Parish, Louisiana
The Department of Justice filed a complaint on October 19, 2017, in the Western District of Louisiana, alleging violations of the Clean Water Act (CWA) resulting from unauthorized discharges of pollutants into water of the United States. Evangeline Training Center is a large concentrated animal feeding operation (CAFO) located in Carencro, Louisiana that stables or confines about 500 horses for at least 45 days in any 12-month period. This facility has been discharging process waste water, including horse wash water and contaminated storm water runoff, to waters of the U.S. without a permit in violation of Section 301 of the CWA. The discharge flows through ditches and drainage ways that exit the facility at three different outfalls into the Francois Coulee or one of two unnamed tributaries, and then into the Vermillion River, a traditionally navigable water. Pollutants associated with CAFO discharges include nutrients, bacteria, and organic enrichment, which can contribute to water quality impairment in U.S. waters. In January 2016, EPA referred this civil action against Evangeline to DOJ, seeking injunctive relief and a penalty. LDEQ is a co-plaintiff. The facility has a history of recalcitrance. Region 6 had difficulty getting into contact with Evangeline when the case was handled administratively in 2015. Region 6 referred the case in 2016 due to Evangeline's refusal to perform the

injunctive relief. Since that time, DOJ has encountered similar issues with the facility. The parties had a settlement meeting on June 21, 2017, but since then, Evangeline has been unresponsive to DOJ attempts to continue settlement negotiations. Given the ongoing lack of communication from Evangeline, despite frequent and numerous attempts to set up another settlement meeting, filing a complaint is the appropriate next step to cease Evangeline's unauthorized discharges and bring the facility into compliance with the CWA.

Texas Regional Haze BART

On September 29, 2017, the Administrator signed a *Federal Register* notice finalizing a plan to address best available retrofit technology (BART) for Texas regional haze and interstate visibility transport. The notice was published on October 17, 2017. This action was taken to meet a consent decree deadline, and on October 13, 2017, upon direction from the court overseeing the consent decree, the environmental plaintiffs filed a notice stating their position that the EPA's final rule does not comply with the consent decree. EPA's response is due on October 25, 2017.

Animas River, New Mexico

EPA and the Animas/San Juan Rivers State and Tribal Jurisdictions convened a face-to-face meeting, 18 – 19, October 2017, in Albuquerque, New Mexico, to discuss both immediate and long term monitoring needs and goals for the Animas and San Juan Rivers watersheds. The overarching goals of the San Juan and Animas Rivers Watershed Long-Term Water Quality Monitoring Program are to facilitate cooperative water quality monitoring efforts among EPA, State and Tribal jurisdictions in the Animas and San Juan River Watershed, including portions of Lake Powell in order to guide management actions and to inform the public with the results of these monitoring efforts. EPA Region 6 representatives includes Bill Honker, Curry Jones, and Robert Cook.

Section 5004(d) of the Water Infrastructure Improvements for the Nation Act (WIIN Act), enacted in December 2016, authorizes the development and implementation of a long-term water quality monitoring program for the San Juan River Watershed encompassing rivers potentially impacted by the Gold King Mine (GKM) release. Specifically, the Administrator (in conjunction with states, tribes and local governments) shall develop a program that includes: (1) the collection of water quality samples and sediment data (Section 5004(d)(2)(A)); (2) providing data results to the public (Section 5004(d)(2)(B)); and (3) assistance to entities with long term water monitoring (as deemed necessary by the Administrator). (Section 5004(d)(2)(C-D))

Texas Water Quality Standards, Triennial Review

EPA intends to meet with representatives of the Texas Commission on Environmental Quality on October 31, 2017 to discuss an action on specific items in the Texas 2014 triennial submittal of standards for surface waters. EPA's action is pending consultation with EPA HQ and TCEQ. Previously, EPA has approved approximately 70% of the 2014 Texas Surface Water Quality Standards. This proposed action includes revised standards for Resley Creek, South Leon River, Indian Creek and the primary contact recreation 2 use (PCR2).

Arkansas Regional Haze State Implementation

The Arkansas Department of Environmental Quality (ADEQ) shared their DRAFT State Implementation Plan (SIP) regarding Arkansas Regional Haze with EPA on October 10, 2017. EPA and ADEQ staff met on October 16 – 17 to discuss the draft and recommend revisions. Any remaining issues should be resolved within the next 30 days.

Bird Creek, Osage County, Oklahoma

EPA is scheduled to collect data from 10 in-stream monitor stations on October 23-27, 2017. The Osage Nation Environmental Department has been contacted and invited to participate in a data collection demonstration during this data download event to assist in better understanding the in-stream monitoring equipment.

Macy's Retail Holdings, Inc.

A press release has been prepared to announce EPA's settlement with Macy's Retail Holdings, Inc., (Macy's) over violations of hazardous waste regulations. In addition to correcting violations, Macy's will also develop a program with the capacity to train 400 retailers in Oklahoma and Texas, and conduct third-party audits at 11 of its largest facilities within Texas, Oklahoma, Louisiana and New Mexico, among other required actions. The company will also pay a $375,000 civil penalty within 30 days of the effective date of the settlement, and must comply with all other requirements within one year. Oklahoma Department of Environmental Quality (ODEQ) Executive Director Scott Thompson said "The Macy's settlement highlights the importance of states and EPA working together on common-sense approaches that respect the needs of businesses, while still protecting public health." EPA and ODEQ will issue the press release within the next few days.

City of West, University Place, Texas

A draft permit is currently under review. It is expected that a No Objection letter will be approved; however, if that were to occur, this draft permit will be submitted as an Interim Objection, by its regulatory deadline of Friday, October 27, 2017.

Shintech Chemical Company, Plaquemine, Louisiana; Chevron Phillips Chemical, LP – Sweeny located in Sweeny, Texas; Valero Refining Co – East Plant, Corpus Christi, Texas

EPA will conduct Risk Management Plan (RMP) inspections at Shintech Chemical Plant, Plaquemine, Louisiana, the Chevron Phillips Chemical facility in Sweeny, Texas and the Valero Refining Co – East Plant, Corpus Christi, Texas the week of October 23 – 27, 2017, to determine compliance with the Clean Air Act 112(r) and 40 CFR Part 68 Chemical Accident Prevention requirements. The inspections will focus on compliance with the RMP requirements. The Louisiana Department on Environmental Quality (LDEQ) and the Texas Commission on Environmental Quality (TCEQ) have not requested delegation of the Chemical Accident Prevention Provisions under 40 CFR Part 68, therefore EPA conducts the inspections for facilities regulated under this program in Louisiana and Texas. LDEQ and TCEQ have been invited to attend. These inspections fall under the National Enforcement Initiative under 112r for Chemical Plants and Refineries.

Water Technology Associates, Las Cruces, New Mexico

EPA is scheduled to conduct a National Environmental Laboratory Accreditation Program (NELAP) Inspection in Las Cruces, New Mexico, at the Water Technology Associates facility the week of October 23-27, 2017. The inspection will consist of reviews of the facility's quality system, and EPA, state, and NELAP methods, including but not limited to organic, inorganic, and metal testing methods. Invitations have been extended to the regional offices of the New Mexico Environment Department (NMED) to shadow the EPA employee on these audits for training and experience purposes. EPA is invested in continuing the development of the laboratory audits under the NPDES program and to share information with states.

Camp Minden Removal Closure Plan Update, Minden, LA

EPA continues to await input from the Louisiana Military Department to finalize the Camp Minden Removal Closure Plan.

Wilcox Oil Company Superfund Site, Bristow, Oklahoma

During the week of October 22–28, 2017, EPA and Oklahoma Department of Environmental Quality (ODEQ) plan to continue remedial investigation activities at the site. During this field event, the team will collect site surface water, sediment and subsurface data to delineate contamination. Work under this field event is expected to complete in early November 2017. In addition, ODEQ and EPA, along with contractor, will meet with property owners and local officials to discuss future use planning, future use expectations, and potential reuse opportunities.

NEPA:

None

Upcoming Public Events:

- October 26 - Superfund Task Force Recommendations (SFTF) presentation at the Dallas Bar Association
- October 27 – Arkansas Environment Federation 50th Annual Convention, Hot Springs, AR. Acting Regional Administrator will keynote.
- November 7 or 14 – The House Energy and Commerce Committee Hearing will hold a follow-up hearing on Hurricane Response activities.
- November 29 – 30 - Regional Tribal Operations Committee (RTOC) meeting, Tulsa, Oklahoma

Upcoming Decisions:

Citizen Potawatomi Nation of Oklahoma
Region 6 sent the final concurrence package to Headquarters, on October 18, 2017, for the approval of treatment in a similar manner as a state (TAS) for Citizen Potawatomi of Oklahoma to administer water quality standards and certification program under the federal Clean Water Act. Materials were provided to the Office of Water, General Counsel and American Indian Environmental Office.

Oklahoma Coal Combustion Residual Permit Program
EPA is engaging the tribes in consultation and coordination regarding the Coal Combustion Residuals (CCR) Permit Program Application from the State of Oklahoma. On August 3, 2017, EPA Region 6 received the Application. The Oklahoma Department of Environmental Quality has requested review and approval of the program consistent with the 40 CFR 257, Subpart D pertaining to coal combustion residual units. EPA began the government-to-government consultation by holding a conference call on October 19, 2017. The consultation is not anticipated to impact the timeline for approval by the Administrator.

Past Week Accomplishments:

None.

Pending Actions (Pending Federal Register Publication):

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Rule
FRL 9969-73-Region 6

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

Region 7

Hot Issues:

R7 Hurricane Response Support Update
Key Message: To assist R2 with the response to Hurricanes Irma and Maria, R7 is partnering with R6 to staff multiple positions in the South Branch in Ponce, Puerto Rico. To date, R7 has deployed two bilingual CICs to Puerto Rico and has six R7 OSCs scheduled to deploy on Sunday, October 15.

R7 support for the Hurricane Harvey response in Texas has ramped down. As the primary backup Region for R6, R7 deployed a total of 62 employees to various locations in Texas to assist with the response. All R7 employees supporting Harvey response efforts returned last week.

Last Week's Highlights:

Superfund Remedial Action Completions
Key Message: R7 has completed Remedial Actions (RAs) at the Garvey Elevator (OU1) site in Hastings, NE and 10th Street (OU2) site in Columbus, NE.

- *The Garvey Elevator site*
  - The Remedial Action consisted of the implementation of the groundwater component including the upgrade and operation of the existing pump and treatment system.
  - The final inspection was conducted with Nebraska Department of Environmental Quality and the system was determined to be operating and functioning as designed.
  - The system will now enter Long Term Remedial Action for a period of ten years before being transferred to the state for operation and maintenance, if cleanup levels are not met by then.
- *The 10th Street site*
  - The Remedial Action consisted of the acquisition and transfer of four parcels of property and tenant relocations.
  - The EPA acquired all four parcels in 2015, relocated the tenants and businesses, and subsequently performed a remedial action involving demolition of facilities, excavation of contaminated soil, and backfill.
  - The RA was completed in the summer of 2017 and the properties are in the process of being transferred to the City of Columbus.
  - NDEQ, EPA R7, EPA HQ, and City of Columbus are all in agreement for the Deeds and Environmental Covenants which will be routed for signature and recording in October 2017.

West Lake Landfill Update
Key Message: On October 8, 2017, EPA R7 issued the comment letter to the PRP group on the second draft Final Feasibility Study.

- The comment letter reflects input from multiple state and federal partner agencies.
- A revised Final Feasibility Study is due to EPA on December 8, 2017.
- On October 11, 2017, the Missouri Department of Natural Resources held a public hearing on its proposed stormwater permit. EPA staff from the Water and Superfund Divisions attended the meeting.

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Region 8

Hot Issues:

Region 8 Staff Attending Fountain, Colorado City Council Meeting to Discuss Local Groundwater Contamination

Key Message: The City of Fountain, Colorado, requested that Peterson Air Force Base representatives attend a city council meeting on October 24, 2017, to discuss perfluoroalkyl substances (PFAS) groundwater contamination with local officials. In turn, DOD asked staff from Region 8 as well as CDPHE to attend the city council meeting so each agency can answer questions about their respective role.

- In January 2016, the aquifer that supplies drinking water for approximately 70,000 people in Security, Widefield, Fountain (CO) and the surrounding area was found to be contaminated with PFOS, PFOA, and other PFAS at levels above the EPA health advisories.
- All impacted customers and homeowners were provided treated water below the health advisories from water systems in the area, or received bottled water from the Air Force by the spring of 2017.
- Peterson Air Force Base is the only known source of the PFAS contamination.
- We expect the city council to raise concerns that the financial burden for the installation and operation of facilities needed to remove PFAS contamination has largely been placed on the public water utilities and homeowners.
- The public utilities have expended over $10 million to assure PFAS concentrations of treated water meet the EPA health advisory levels. The Air Force has installed point of use treatment units to homes using private wells. Homeowners will be responsible for maintaining these systems after two years.
- Participation and talking points have been reviewed and approved by OPA.

Upcoming Public Events:

Region 8 will participate in the EPA Office of Water's Animal Agriculture Discussion Group Meeting in Denver, CO on October 23, 2017

Key Message: This informal group of representative stakeholders from the major animal agriculture sectors (pork, poultry, beef and dairy), USDA, academia and state environmental and agriculture departments will discuss current and future partnership projects that can enhance agricultural practices while maintaining clean water.

- Over 40 participants are anticipated to be in attendance, including Jeffrey Sands, EPA Senior Advisor to the Administrator for Agriculture Policy, staff from EPA's new Smart Sectors Program, and staff from all 10 Regional Offices.
- Regional Administrator, Doug Benevento and Colorado Commissioner of Agriculture, Don Brown will give opening remarks.

Upcoming Major Decisions:

None

Last Week Highlights:

Region 8 Water Quality Standards Tribal Training in Helena, MT Held Sep 19-21, 2017

Key Message: Region 8 Clean Water Program and Tribal Assistance Program staff provided a 3-day hands-on workshop in the Helena office for tribes interested in developing water quality standards.

- Developing water quality standards and identifying appropriate designated uses for surface waters can be challenging to states and tribes – only four tribes in R8 have EPA approved water quality standards.

- EPA staff gave presentations and one-on-one assistance to tribal environmental program staff and managers, helping them to categorize their surface water resources and identify appropriate designated uses to protect those waters.
- Six R8 tribes participated in the workshop bringing reservation-specific knowledge, data and water quality issue to the discussion. (Standing Rock, Three Affiliated, Ft Belknap, Northern Cheyenne, Uintah & Ouray, Chippewa Cree)
- Participating tribes provided positive feedback indicating their increased understanding of water quality standards and significant progress in designating uses for their reservation waters.

Region 9

Hot Issues:

American Samoa: on EPA's behalf, DOJ recently lodged a Consent Decree resolving numerous violations under multiple statutes, including Clean Water Act, EPCRA and CAA, at the Starkist Tuna Processing facility in American Samoa. The settlement included significant injunctive relief to upgrade wastewater treatment and improve facility safety, and a $6.3 million civil penalty. During the public comment period, American Samoa Gov. Moliga, AS Congresswoman Radewagen, and AS Paramount Chief Mauga Tasi each raised concerns, asking that the $6.3 million penalty be used to directly benefit the American Samoa populace, and asking for an expanded public comment period (plus documents translated into Samoan). We are consulting with DOJ and OECA, after which I'll reach out to these three key individuals; I'm hopeful we can address some of their concerns.

No. Calif. Fires: FEMA has given us an ESF 10 mission assignment for hazardous household waste removal for all of Napa and Sonoma counties (while the Corps of Engineers tackles solid waste). I've spoken with the CalEPA Secretary, and compared this with our role in earlier urban/wildland fires – it will be very difficult to manage and meet expectations at this scale of response in the coming year(s). As we have a dozen staff in Puerto Rico, we're grateful for support from Regions 8 and 10. We continue to support the debris taskforce with CalRecycle, CalOES, Cal EPA, FEMA, and the Army Corps of Engineers. We're working with FEMA and state partners to track and provide aid to water systems. We're meeting with about a dozen tribes, who have expressed interest in cleanup efforts; fortunately, through our outreach, we've confirmed all tribal drinking water systems are functional though some components are damaged (see larger summary below). One NPL site, Sulphur Bank Mercury Mine, emerged with most vegetation, ore piles, waste rock and several equipment containers burned; we continue to assess the site condition. Lastly, we're tracking air quality and the proximity of the fires to our employees' residences (having made good use of our emergency contacts database). **Of the 156 drinking water systems in the fire zones**:

- 10 systems are destroyed,
- 15 systems have damage or need power for full operations,
- 18 systems are evacuated and their status is unknown,
- 81 systems are fully operational, and the remaining systems have not been reached, their status is unknown.

Wetlands permitting: we advised the Corps of Engineers we'll not seek elevation of their draft permit decision for the Lone Star Mine expansion in Arizona. Proposed loss of waters of the U.S. at 77 acres, and the proximity of the Gila River in this arid landscape, leave us concerned about impacts to water resources. We served as a NEPA cooperating agency, and gave the project an EO-2 adverse rating. Our action closes out EPA's foreseeable involvement in this project.

External Engagements:

San Juan and Animas Rivers: joined by Regions 6 and 8, OW and ORD, we met with Colorado, New Mexico, Utah, Navajo Nation, and the So Ute and Ute Mountain Tribes to discuss watershed-scale, long-term water monitoring (funded under the WIIN Act). This is the outgrowth of another local workshop we held post-Animas to better characterize these river systems.
Landfill transformed: an earlier EPA administrative order and technical assistance led to the closure of a major Saipan (No. Marianas) landfill at the coastline. Last week, the Construction Management Association recognized the transformation of the landfill into an urban park with a national award. This park draws recreational visitors daily, in complete contrast to the eyesore and threat it had posed. This was one of the last municipal dumps in the U.S. to close.
Brownfields, people and land renewed: we participated in the 25th Los Angeles Conservation Corps graduation of trained Corps-members (LACC), and in the Bay-Area groundbreaking of 86 new affordable

housing units. The LACC has a 90% placement rate of its graduates (often with gang and prison records) into the construction trades, and has been a very reliable EPA partner for 20 years.
Navajo Uranium: next week we'll meet in Albuquerque with Region 6, New Mexico and the Navajo Nation (President's Office and others) to discuss current and future remediation projects, and Tronox-funded removals and groundwater remediation.

Past Week's Highlights:

Mexican Border wastewater: with CalEPA Secretary Rodriquez, I convened a well-attended meeting of the IBWC, No. American Development Bank, Customs and Border Protection (CBP), and a host of federal, state and local partners, to put in place new binational spill-notification protocols, update one another on infrastructure renewal nearing completion and projects needing funding, and options for managing renegade flows (sewage, sediment, trash, stormwater), especially for the coming winter. We are assisting CBP in developing tools for their workforce to assess unknown chemical dumping in remote canyons.

EPA/State training: we hosted inspector training and certification for our Pacific Island territorial partners, sending expert staff to Guam and Saipan for weeklong training. We partnered with the CA Dept. of Pesticide Regulation to provide agricultural workers training on pesticide use enforcement, reporting and worker safety, and how we interact with and support the State and local County agricultural commissioners.

Region 10

Hot Issues:

None

Upcoming Public Events:

Tribes meet with Idaho DEQ to discuss IPDES Program Authorization: On October 25th, EPA will facilitate a conversation between Idaho DEQ and staff from seven Tribes, including two Washington-based Tribes (Kalispell and Spokane) to discuss Idaho's anticipated implementation of the IPDES Program. Idaho has applied for authorization of NPDES from EPA, and after approval the State will initiate the first phase of NPDES permits starting in July 2018. Tribes have concerns about how they will be engaged and informed on NPDES permits that are issued by Idaho upstream or adjacent to reservation waters.

National School Integrated Pest Management Steering Committee Presentation: On October 20, Region 10 will present on Tribal School IPM efforts to the National School IPM Steering Committee. Topics include work completed under Interagency and Cooperative Agreements with the Yakama Nation, Coeur d'Alene Tribes Circuit Rider Program, Indian Health Service and the Portland Area Tribal Child Care RARE project. [HYPERLINK "https://ipminstitute.org/projects/school-ipm-2020/steering-committee/"]

Brownfields Presentation at Infrastructure Conference (WA): Region 10 Brownfields staff will attend the Infrastructure Assistance Coordinating Council in Wenatchee, WA to deliver a joint Brownfields session with the Washington Departments of Commerce and Ecology. EPA will discuss EPA Brownfields resources available to address contaminated sites in communities throughout Washington, highlighting several successful projects, and will also participate in a Tech Team Workshop to discuss assistance which may be available in the form of funding or technical assistance from the EPA Brownfields program.

Upcoming Major Decisions:

Alaska Administrative SIP Action: This week the Region 10 acting RA signed a Federal Register Notice for an action to update materials that are incorporated by reference into the Alaska State Air Plan. The regulations affected by this format change have all been previously submitted by Alaska and approved by the EPA. This is a routine administrative action that makes no new agency findings.

Last Week Highlights:

Baker City Emergency Response Completed (OR): On October 13th, EPA completed the Baker City Mercury Explosion Emergency Response. This response was initiated at the end of August when a grass fire resulted in a large release of mercury. EPA worked with local responders to isolate the impacts to the property where the explosion occurred. Approximately 80 cubic yards of hazardous waste debris was sent to US Ecology for disposal and approximately 134 tons of non-hazardous soil was sent to Baker Sanitary Landfill for disposal.

Release of Environmental Justice and Air Toxics Workshop Report (OR): The final report from the March 15th Environmental Justice and Air Toxics Workshop in Portland, Oregon is now available online at [HYPERLINK "https://www.epa.gov/or/environmental-justice-and-air-toxics-blueprint-best-practices-andresources-healthier-oregon"]. The report, "Environmental Justice and Air Toxics: A Blueprint of Best Practices and Resources for A Healthier Oregon," contains a summary, resources and video links, and presentations from the workshop that are intended to help guide and inform community engagement throughout the Cleaner Air Oregon rulemaking process. This workshop was a collaboration between EPA, Neighbors for Clean Air, Portland State University, Multnomah County, Oregon Department of Environmental Quality, and the Oregon Health Authority.

Office of Administration and Resources Management

Hot Issues:

Emergency Response Volunteers

To date, the volunteer response is as follows:

FEMA

Applications Submitted	Deployed	Deployed Pending Check-in	Eligible for Deployment *(difference)*
147	49	16	81

* 1 has been removed from the system

SBA

Application deadline for SBA has passed and the numbers remain the same; 12 applications submitted, 0 deployed. However, SBA requested two resumes.

Volunteer Medical Clearance Forms

OARM collaborated with Federal Occupational Health and EPA program and regional offices to streamline medical exam clearance forms. This expedited the process for employees being deployed in support of FEMA and regional sites. In addition, pre/post deployment forms were modified in coordination with the Safety and Sustainability Division's Medical Review Officer. Modifications include updates to immunizations, verification of employee education on Zika virus risks (if being deployed to Puerto Rico), among others. This ensures that EPA employees are properly immunized and are medically cleared to deploy.

GSA Tenant Satisfaction Results

The agency's 2017 tenant satisfaction survey data has been posted on the Max website. The EPA's overall satisfaction was 66.5% based on 4,606 responses, which surpasses the 2017 government-wide satisfaction rate of 58.1%. The three drivers of satisfaction include: condition of common area, condition of workspace, and workspace air quality.

Upcoming Public Events

HQ Drug Take-Back Day

OARM is coordinating the EPA's collection of unwanted or expired prescription drugs in conjunction with the [HYPERLINK "https://www.deadiversion.usdoj.gov/drug_disposal/takeback/index.html"] on Wednesday, October 25, 2017, from 10:00 a.m. to 2:00 p.m. At headquarters, EPA employees can bring unwanted or expired prescription drugs to the Ronald Reagan Building Health Unit, room G1-20, or the Potomac Yard Health Unit, room S-1400, for safe, free, and anonymous disposal.

Upcoming Major Decisions

None

Last Week's Highlights

None

Office of Air and Radiation

Hot Issues and Important Deadlines:

Tracking SIP Actions:

- Ex. 5 Deliberative Process (DP)

Response to December 9, 2013, Clean Air Act Section 176A Petition from CT, DE, MD, MA, NH, NY, PA, RI, and VT: We have an October 26, 2017, consent decree deadline to respond to a petition under Clean Air Act Section 176A regarding expansion of the ozone transport region.

Title V Order for Big River Steel (Arkansas): We have a court-promised deadline of October 31, 2017, for the Administrator to sign this order.

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
- Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Three Month and Two Year Stay of Certain Requirements - Notices of Data Availability (NODAs)
- Greenhouse Gas Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (Advance Notice of Proposed Rulemaking)

Waste Isolation Pilot Plant in Carlsbad, New Mexico Update: The Office of Radiation and Indoor Air has received information from the DOE Carlsbad Field Office that Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

State Implementation Plan (SIP)-Related Actions:

The Regions report that the following 5 SIP-related actions were signed this week:

- **Region 3:** Withdrawal Notice - Virginia Revisions to Implement the Revocation of the 1997 Ozone NAAQS
- **Region 3:** Notice and Direct Final Rule - Philadelphia Negative Declaration for SSI Units
- **Region 3:** Final Rule - Pennsylvania - Determination of Attainment by the Attainment Date for the 2008 Ozone Standard; Philadelphia, Wilmington, Atlantic City, PA-NJ-MD-DE Nonattainment Area
- **Region 5:** Final Rule - Minnesota State Board Requirements
- **Region 5:** Proposed and Direct Final Rule - Illinois VOM Definition Update, R17-2

Upcoming Meetings, Public Events, or Other Public Releases:

- **Green Power Leadership Awards:** On October 23, the recipients of the Green Power Leadership awards will be recognized at the Renewable Energy Markets Conference in New York City, New York.
- **SmartWay Excellence Awards:** On October 23, the recipients of the SmartWay Excellence awards will be recognized at the American Truckers' Association Conference in Orlando, Florida.
- **ENERGY STAR Partner Meetings Products, Homes, & Commercial Buildings:** On October 23-25, ENERGY STAR will host the ENERGY STAR Partner Meetings for Products, Homes, & Commercial Buildings in Chicago, Illinois.
- **Natural Gas STAR Annual Implementation Workshop:** On October 24-26, Natural Gas STAR will host their annual implementation workshop in Houston, Texas.
- **CALSTART 25th Anniversary Symposium, 2030: Connecting Transportation, Jobs and the Environment (Pasadena, CA):** On October 25, the Director of the Office of Transportation and Air Quality, will speak at a session titled, "The National Outlook for More Efficient Light-Duty Vehicles."
- **Issuing Updated Draft ENERGY STAR Specifications for Televisions:** As early as October 24, EPA will be releasing for public comment an updated draft of a version 8.0 specification for televisions. EPA has revised the previous Final Draft specification (which was released on July 18, 2017) in response to continued discussions with major television manufacturers. The ENERGY STAR program has been working with the television industry for over a year to address an issue with the ENERGY STAR requirements that has previously allowed TVs to certify with features that save energy during testing but don't deliver savings in use.

Upcoming Decisions:

Ex. 5 Deliberative Process (DP)

Recap of Past Week:

Actions signed recently:

- Final Approval of Rescission of Nevada Visibility Protection Federal Implementation Plan (FIP) for the Mohave Generating Station (MGS):
- Title V Petition Response for PacifiCorp Hunter (Emery County, Utah)
- National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works Residual Risk and Technology Review ("POTW RTR")
- National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing; Flame Attenuation Lines: Direct Final Rule Withdrawal.

Office of Chemical Safety and Pollution Prevention

IMPORTANT DEADLINES

TSCA New Chemicals Determinations			
Determination Type	**Pending on 10/17/2017**	**Determinations Completed[1] as of 10/17/2017**	**Determinations Posted on the Website as of 10/17/2017**
# of "not likely" determinations	**2**	**103[4]**	**102[4]**
# of §5(e) Orders signed by both EPA and the submitter	-	**279**	**260**
# of §5(e) Orders signed by EPA and awaiting submitter signature	**79**	-	-
# of cases in post-FOCUS final determination development[6]	**229[3]**	-	-
# of cases flagged for in-depth review	**54**	-	-
# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	**78**	-	-
# of LVE/LOREX exemption grants	-	**462**	**455[5]**
# of LVE/LOREX exemption denials	-	**100**	**90[5]**
Total number of cases	**442**	**944**	-
Normal active workload for the New Chemicals Program	300	-	-
Number of cases undergoing testing or data development by submitter	79	-	-
Backlog[2]	63	-	-

[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 determination document is prepared and has been shared with submitter.
[5] Different criteria had been used in editions of this table prior to May 23, 2017, for the counting of exemptions for "determinations completed" and "determinations posted." These have now been standardized.
[6] These cases are those for which interim section 5(a)(3) determinations were made at the FOCUS Meeting. 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.

Hot Issues:

Formaldehyde Voluntary Consensus Standards. OCSPP will soon publish a direct final rule to update several voluntary consensus standards listed at 40 CFR § 770.99 and incorporated by reference in the Formaldehyde Emission Standards for Composite Wood Products rule. These updates apply to emission testing methods and regulated composite wood product construction characteristics. Several of those voluntary consensus standards (technical specifications for products or processes developed by standards-setting bodies) were updated, withdrawn, and/or superseded through the normal course of business by these various bodies to take into account new information, technology, and methodology. The Administrator signed the direct final rule on October 12.

Dicamba. As early as October 13, OCSPP plans to announce an agreement with manufacturers on measures to further minimize the potential for off-target drift to damage neighboring crops from the use of dicamba formulations that are used to control weeds in genetically modified cotton and soybeans. The registrants voluntarily agreed to registration and labeling changes including making these products restricted-use, record keeping requirements, and certain additional spray drift mitigation measures. These new requirements will allow farmers to make informed choices for seed purchases for the 2018 growing season.

Upcoming Meetings and Public Events:

National Lead Poisoning Prevention Week, October 22-28. Each year National Lead Poisoning Prevention Week brings together individuals, organizations, industry, and state and local governments to help increase lead awareness by using their efforts and collaborations to reduce childhood exposure to lead. The theme for National Lead Poisoning Prevention Week is "Lead-Free Kids for a Healthy Future," and this year features a focus on testing children for elevated blood lead levels. OCSPP, in support of activities led by the U.S. Department of Housing and Urban Development and the Centers for Disease Control and Prevention, will provide information to the public to protect against lead poisoning.

Inventory Reporting Webinars, October 25 and November 29. EPA has scheduled 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 in the U.S. over the past 10 years. Each identical webinar will include an overview of reporting requirements, a demo of the electronic reporting application (Central Data Exchange (CDX)), and will provide time for questions and answers. The first webinar occurred on September 27, 2017. The remaining webinars are scheduled for 1-3 PM EDT on October 25, 2017 and November 29, 2017.

Chemical Review Committee of the Rotterdam Convention, October 22-27. OPP scientist, Monique Perron, will attend the Chemical Review Committee (CRC) meeting, a subsidiary body of the Rotterdam Convention. The CRC meetings are held every year to consider notifications from countries who have banned or severely restricted chemicals and determine if the chemicals should be included on a Prior Informed Consent (PIC) list, which is intended to promote shared responsibility and cooperative efforts in the international trade of chemicals. During the meeting, the committee will consider notifications for 13 chemicals and two pesticide formulations. Monique also serves as the OPP point of contact for the Persistent Organic Pollutants Review Committee (POPRC) of the Stockholm Convention, which met October 17-20. The POPRC evaluates proposed chemicals for listing, which would require parties to take measures to eliminate or reduce the release of persistent organic pollutants.

Office of the Chief Financial Officer

Hot Issues:

- The Senate Appropriations Subcommittee has again delayed mark-up of its version of the FY 2018 appropriations bill. The latest news is that Subcommittee and Full Committee action would happen next week.
- OCFO is working with affected offices to review estimates for hurricane-related resource needs due to OMB for consideration by 2 pm on October 25. The estimates include updated Hurricane Harvey and Irma needs and initial Puerto Rico and Virgin Island needs but not California fire needs. OCFO plans to provide the package to the Policy Team for review on October 20 and 23. To date, EPA has received 39 mission assignments from other federal agencies for a total of $75.1 million to support disaster responses, including the first to support the California wildfires, all of which is in addition to EPA's base appropriated funding.

Upcoming Public Events:

- ECOS briefing for Chief of Operations and OCFO and OCIR leadership on October 23, prior to launch of new state website ECOSResults.org on October 24.
- Second outreach call with tribes on draft *FY 2018-2022 Strategic Plan* scheduled on October 24.
- Public comment underway through October 31 on draft *Strategic Plan* through the Federal Register Notice and Regulations.gov website. Received 211 unique comments to date, with 77 percent on climate change/clean power plan/sound science.
- Request for proposals for E-Enterprise Tribal Cooperative Agreement funding availability was published on Grants.gov on October 18. Applications are due November 24.

Upcoming Major Decisions:

- Meeting with Chief of Operations on October 20 on proposed approach/timeline for: 1) setting ambitious targets for strategic measures, including FY 2018-2019 Agency Priority Goals, in EPA's draft *Strategic Plan*, 2) updating FY 2019 budget measures and targets in initial FY 2019 Annual Performance Plan provided to OMB on September 11, and 3) briefing the Administrator on content/approach to quarterly performance reports and quarterly reviews.
- Input on office allocation methodology for the FY 2018 Interim FTE target due from agency on October 23. Following feedback from agency, OCFO will take options to senior leadership for final decision on allocation.

Last Week Highlights:

- Held first of two national conference calls for tribes to discuss the draft *Strategic Plan*. Tribes raised several detailed operational/programmatic issues and requested an extension to the end of November.
- ECOS sponsored a conference call for its membership with Henry Darwin, David Bloom, and Holly Greaves to discuss the draft *Strategic Plan*. ECOS is generally very supportive of direction of the draft *Plan*, especially cooperative federalism and joint governance/shared accountability, and provided other input.
- OCFO submitted the agency's FY 2017 consolidated financial statement for audit to the OIG on time on October 16. The FY 2017 Agency Financial Report, which will include the financial statement and a statement of assurance signed by the Administrator and other documents, is due to the President, Congress, and GAO on November 15. As required, the AFR also will be made available to the public at the same time on the agency's internet.
- OCFO continues to operate a PeoplePlus Command Center to provide additional assistance to the agency to support the upgrade of the agency's time and attendance system, PeoplePlus, launched on October 5. OCFO

also has activated a Payroll Cost Allocation Command Center to support the launch of this new functionality in Compass, the agency's core financial system.

Other:

- OCFO's annual awards ceremony is scheduled for October 25. The ceremony will recognize agency employees both inside and outside OCFO who made significant contributions to our work.

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Office of Congressional and Intergovernmental Relations

Upcoming Hot Issues and Important Deadlines:

Week of Oct 23 – Release of Michigan drinking water program review report with R5, OW, OECA

Upcoming Events:

- **October 23** - representatives of the Monterey Peninsula Water Management District (MPWMD), and the Monterey Regional Water Pollution Control Agency (MRWPCA), will meet with EPA headquarters and Region IX staff to discuss partnerships with EPA
- **Week of Oct 23/TBD** – Call/meeting with OMB and USCG on DHS S168 views letter w/ OW
- **October 24** – Technical Assistance for Senate EPW minority on new VIDA bill w/OW
- **October 26** - the Senate Subcommittee on Regulatory Affairs and Federal Management will hold a hearing entitled, "Improving Oversight of the Regulatory Process: Lessons Learned from State Legislatures
- **October 26** - the Office of Groundwater and Drinking Water, and the Office of Sustainable Communities will join OIR and Region IX in a meeting with Rick Herrick, Board Chairman and Mayor Pro Tem, City of Big Bear Lake, CA, to discuss the Big Bear Groundwater Sustainability Project.
- **October 30** - City Manager Anthony Lyons will meet with EPA to discuss the Cabot-Koppers Superfund Site that is located in Gainesville. Staff from the Office of Superfund Remediation and Technology Innovation will join OIR and Region IV staff for the meeting.

Past week accomplishments:

- **October 16** – Announcement of the CERCLA/EPCRA Reporting Requirements Guidance. The guidance is for farmers on complying with reporting requirements for air emissions from animal waste.
- **October 17** - EPA leadership briefed ECOS members on the draft FY18-22 Strategic Plan. ECOS President Todd Parfitt of Wyoming and EPA Assistant Deputy Administrator & Chief of Operations Henry Darwin opened the call. Holly Greaves, Senior Advisor to the Administrator for Budgets and Audits, gave an overview of the document.
- **October 18** – Sen. Coons (DE) staff briefing on green chemistry w/OCSPP
- **October 18**- SEPW Business meeting to consider EPA nominees for OW, OCSPP, OAR, OGC (Postponed)
- **Week of October 16**– Ken Wagner, Senior Advisor to the Administrator, met with Regions 8 and 3 and participated in the welcoming ceremony for the new Regional Administrators. He met with New Hampshire DEQ Commissioner and spoke at the Kentucky Governor's Conference.
- **October 19** - EPA met with representatives of the North Bay Waster Reuse Authority (NBWRA) to receive updates on work the NBWRA has done in Northern California's Marin, Sonoma and Napa Counties to generate a sustainable, drought proof water supply for agriculture, environmental restoration and municipal purposes.

Ongoing activities:

- Participating in responses to hurricanes Harvey, Irma and Maria. Coordinating with state and local elected officials to ensure seamless communications.
    - HURRICANE AID PACKAGE RELEASED - The House Appropriations Committee released a $36.5 billion disaster relief package late last night (Oct 10) that includes nearly $5 billion to help shore up Puerto Rico's cash-strapped government. The package also includes an additional $14 billion for FEMA's disaster fund, $16 billion for the National Flood Insurance Program and $576 million to fight wildfires, Sarah Ferris reports. The legislation will be considered later this week under a fast-track method reserved for noncontroversial bills.

- The LGAC and SCAS nomination process for membership has entered the next stage. Regions are currently reviewing the initial rankings from the nomination review process. Within the next week or two OCIR management will be briefed on options to fill vacancies for the LGAC and SCAS. Senior management was briefed on the ranking process, Regional input, as well as the comprehensive balance review for optimal representation of local, state, and tribal government interests as well as diversity.
- The draft [HYPERLINK "file:///C:\\Users\\Dmurph03\\Downloads\\EPA-HQ-OA-2017-0533-0002.pdf%20" \t "_blank"] was released for public comment on October 4. OCIR has two longer-term Strategic Measures which are reflected in the new Strategic Plan and will be working on reporting annual results on these Measures to the Agency's Senior Leadership. EPA will collect comments through October 31 on the draft Plan and the agency anticipates the final Strategic Plan will be submitted to Congress in February 2018.

Office of Enforcement and Compliance Assurance

Hot Issues:

Volkswagen recall:

- As early as Friday (10/20), the EPA (along with co-plaintiff California Air Resources Board (CARB)) will formally approve VW's proposed emissions modification (or "fix") for a subset of the vehicles in the recall, namely the recent model year 3.0-liter sport utility vehicles. Unlike the rest of the vehicles covered by the settlement agreement, these vehicles can be fixed such that they satisfy the emission standards to which the automakers certified them to the EPA. As such, unlike the rest of the vehicles, VW will not be required to offer to buy back their vehicles. OECA staff are working hand-in-hand with OAR and OPA on the rollout. We intend to update https://www.epa.gov/vw/learn-about-volkswagen-violations#affected, and be prepared to answer anticipated questions.
- As early as the week of October 23rd, the EPA and co-plaintiff CARB will withdraw approval of the Emissions Modification for a subset of the 2.0-liter vehicles, namely a few thousand model year 2009 vehicles. Based on information recently disclosed by VW, the EPA and CARB have determined that certain required information was incomplete and inaccurate. Specifically, VW disclosed to EPA and CARB that the Transmission Control Unit (TCU) and associated software on certain 2009 vehicles must be replaced before the AEM may be installed. The replacement of the TCU and associated software was not included in VW's proposal. As a result, the proposal was deficient, as was the related notice to consumers about the nature and extent of the work to be performed if they choose to have the Emissions Modification applied to their vehicles. We anticipate that Volkswagen will respond by resubmitting a modified proposal for an Emissions Modification that describes the changes to the TCU, and we anticipate that EPA and CARB will, after review, approve that. If that is the case, then the owners of the affected vehicles will receive a corrected disclosure so they can make an informed choice about whether and how to participate in the recall.

Administrative Hearing in the Matter of Taotao, et al.: Beginning on October 17th, OECA's Air Enforcement Division is representing EPA in a hearing before EPA's Chief Administrative Law Judge, Susan L. Biro. This is a major step in an administrative enforcement case against a foreign manufacturer and domestic affiliate who, together, imported and sold over 100,000 scooters and ATVs with illegal catalytic converters. The case was initiated in November 2015, and the docket now includes over 150 filings, representing substantial work concerning discovery and other varied motion practice. Most importantly, the EPA succeeded in getting an accelerated decision in our favor on all matters of liability. Accordingly, this hearing concerns only penalty. The EPA seeks $1.6 million, and the respondent contests that amount on the basis of ability to pay and other issues. The hearing is expected take approximately 4 days, and includes numerous fact and expert witnesses.

Upcoming Events/Public Meetings

On October 20th, Susan Bodine will meet with University of Michigan Law Professor David Uhlmann to discuss his research regarding federal environmental criminal prosecutions.

On October 24th, Administrator Pruitt, Susan Bodine, Ken Wagner, Larry Starfield, Patrick Traylor, Cathy Stepp, and Headquarters and Regional enforcement managers will meet in DC with members of the National Association of Home Builders to discuss water enforcement issues.

On October 25th, in furtherance of the Superfund Task Force reforms, OECA's Office of Site Remediation Enforcement will host an "Enforcement 201 Series" webinar titled "Leveraging Land Revitalization and Reuse." Region 3's Land Revitalization Action Team and Region 4's Superfund Redevelopment Workgroup will discuss the use of enforcement tools to leverage third parties for revitalization and reuse at Superfund sites. They will detail success stories and lessons learned for specific sites in their respective regions. OSRE will close out the presentation by discussing how this work correlates with recommendations from the Superfund Task Force Report. The webinar is available to EPA employees only, and will be recorded and posted along with materials

following the event. To register for the live webinar, go to the following link: https://clu-in.org/conf/tio/Enforcement201-4/.

On October 26th-27th, representatives from OECA's cleanup enforcement and federal facilities enforcement programs will attend the Annual Meeting of the Association of State and Tribal Solid Waste Managers (ASTSWMO). OECA will participate in a number of sessions (open only to State and Federal attendees) on the Superfund Task Force Report recommendations involving Federal Facilities, Hazardous Waste, CERCLA, and Brownfields. During the sessions, OECA will seek state feedback on the recommendations, as well as suggestions on how to better engage with stakeholders.

On October 28th, Larry Starfield will speak on a panel at the American College of Environmental Lawyers Annual Meeting in Charleston, South Carolina. Other panelists include Mary D. Nichols, Chair of the California Air Resources Board; Martha Rudolph, Director of Environmental Programs, Colorado Department of Public Health and Environment; David Flannery, Steptoe & Johnson PLLC; and James T. B. Tripp, Senior Counsel, Environmental Defense Fund. The panel will be moderated by James Morriss, Thompson & Knight LLP. Closed press.

Upcoming Major Decisions:

None.

Last Week's Highlights

Meeting with Department of Defense on the Superfund Task Force: On October 19th, OECA's federal facilities office met with representatives from the Department of Energy (DOE) to discuss the Superfund Task Force recommendations impacting federal facilities, particularly the recommendations regarding adhering to dispute timelines. The meeting was part of a quarterly OLEM-DOE meeting held to discuss cleanup issues at existing DOE sites.

Clean Air Act Enforcement Proceeding: On October 19th, OECA's Air Enforcement Division initiated an administrative penalty assessment proceeding. The respondent, Spartan Diesel Technologies, located in North Carolina, manufactured and sold over 5,000 aftermarket defeat devices, specifically a "tuning" product designed to remove filters and catalysts from, and re-calibrate the engines of, Ford diesel pickup trucks (F150 - F550). OECA issued Spartan a Notice of Violation in August 2015. Numerous attempts to settle the matter have been unsuccessful. In particular, Spartan claims it cannot afford to pay a civil penalty, but will not provide any documentation to substantiate its claim. To resolve this matter, OECA will initiate litigation with the hope of finding a resolution during the mandatory alternative dispute resolution or in the course of litigation.

Settlement of RCRA Violations at Louisiana Chemical Manufacturing Facility is Finalized: The U.S. District Court for the Middle District of Louisiana entered a consent decree on October 4, 2017, resolving RCRA violations at the Innophos chemical facility in Geismer, Louisiana. The settlement requires significant injunctive relief and includes a civil penalty in the amount of $1,398,000, which is to be split evenly between the federal government and the State of Louisiana, who was co-plaintiff in this action. The violations related primarily to two corrosive waste streams, contaminated with arsenic, cadmium and chromium (RCRA toxic chemicals) that Innophos was illegally sending to an unpermitted facility for disposal and which may have contributed to releases of hazardous waste to the Mississippi River. Along with other injunctive relief, the settlement will ensure that approximately 160,000 tons of waste per year will be properly and safely managed, protecting the surrounding community for which there are environmental justice concerns.

Office of Environmental Information

Hot Issues: NA

Upcoming Public Events: NA

Upcoming Major Decisions: NA

Last Week's Highlight:

EPA Mobile Device Refresh Phase I Complete

- **Brief description:** Phase I of the Mobile Device Refresh is complete; it included replacing all remaining Windows phones and iPhone models 4, 5 and 6 (approximately 2,900 devices) with the iPhone 6s and some iPhone 7 models.
    - Phase I included all locations, e.g. HQ, Regions 1-10, and Labs.
    - Planning is already under way for Phase II (approximately 1400 devices), which is scheduled to start at the end of October or early November, and will include iPads not supported by Apple Care for Enterprise (ACE).
- **Who benefits or cares:** All users of EPA-issued mobile devices.
- **Why this is important:** This refresh replaces all Windows mobile devices and older Apple mobile devices with the newer models, which can be supported under Apple's enterprise hardware and software program called ACE.
    - The devices will also be enrolled into Apple's Device Enrollment Program (DEP) which allows for:
        - Simplified provisioning and improved device management capabilities such as:
            - Enforcement of iOS updates.
            - Prevention of accidental deletion of the MaaS360 app.
            - Compatibility with Apple's Volume Purchase Program (VPP), which eliminates the need for an Apple ID.
- **Additional information:**
    - All device data (e.g. IMEI #, property decal, device type, etc.) has been uploaded into eBusiness and the Mobile Device Administrators were informed last week to upload the Mobile Device Acknowledgement forms for their Program Office and/or Region into eBusiness by November 15, 2017.

Office of General Counsel

New Judicial Decisions:

None to report.

New Complaints Filed:

- FOIA litigation in the U.S. District Court for D.C. concerning two FOIA requests submitted by Environmental Integrity Project (EIP). The first FOIA request (HQ-2017-010504) sought Administrator Pruitt's schedule of meetings with outside parties from May 19, 2017, to August 14, 2017, and Administrator Pruitt's travel vouchers from June 13, 2017, to August 14, 2017. This request is assigned to the Office of the Administrator, Office of Executive Secretariat. The second FOIA request (HQ-2017-010603) sought travel vouchers for employees accompanying Administrator Pruitt on travel between February 21, 2017, through June 4, 2017, and June 13, 2017, through August 17, 2017. This request is assigned to the Office of Comptroller, Office of Chief Financial Officer. The complaint alleges that EPA failed to respond to both FOIA requests. (*Environmental Integrity Project v. EPA*, 1:17-cv-2140)
- A landfill biogas facility filed a petition for review of the EPA's decision to deny the petitioner's registration application as a renewable fuel producer under the Renewable Fuel Standard Program was filed in the Sixth Circuit. Under our regulations, biogas must be used for transportation fuel to be eligible to generate RINS, and EPA concluded that biogas from this facility was being used to generate electricity. (*Energy Dev, Inc., et al. v. EPA, et al.*, 17-4074)
- The law firm Will Ferguson and Associates filed a complaint in the U.S. District Court for the District of New Mexico under the Federal Tort Claims Act on behalf of 14 individuals for alleged property damage and personal injury related to the Gold King Mine incident. Plaintiff alleges negligence, negligence *per se*, gross negligence, trespass, and private nuisance. (*McDaniel v. United States*, 1:17-cv-00710)
- Deadline suit in the U.S. District Court for D.C. alleging EPA has failed to: (1) perform mandatory duties to complete the triennial "Section 204 report" to Congress on the impacts the RFS has on environmental issues, resources conservation issues, and invasive species; and (2) complete the "anti-backsliding study" required under CAA 211(v) to consider whether the RFS will adversely affect air quality. (*Sierra Club v. Pruitt*, 1:17-cv-2174)

Hot Issues:

- Notices of Citizen Suits (NOI):
  - Filed on behalf of the Southeast Environmental Task Force for failure to grant or deny the Title V permit for the Indiana Harbor Coke Company.
  - Filed on behalf of the State of Nevada, Division of Environmental Protection, for failure to designate areas under the 2015 Ozone NAAQS.
  - Filed on behalf of the American Lung Association, American Public Health Association, American Thoracic Society, Appalachian Mountain Club, National Parks Conservation Association, Natural Resources Defense Council, Sierra Club, and West Harlem Environmental Action and the Environmental Defense Fund for failure to designate areas under the 2015 Ozone NAAQS.
  - Filed on behalf of the State of Maryland for failure to designate areas under the 2015 Ozone NAAQS.

New Petitions that OGC is Aware Of:

None that OGC is aware of.

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

None to report.

Upcoming Major Deadlines in the Next Two Weeks:

10/20 Answer due in *EIP, et al. v. Pruitt*, five consolidated CAA § 304(a)(2) actions alleging failure to respond to petitions to object to Title V permits issued by the Texas Commission on Environmental Quality for the following facilities: "Baytown Olefins," Baytown Refinery," "Pasadena Refinery," "Port Arthur Refinery," and "Welsh Power Plant."

10/20 Final production of documents due in *U.S. Right to Know v. EPA*, a lawsuit brought after a failure to respond to a FOIA request seeking records referring or relating to glyphosate.

10/20 Petition for Rehearing is due in *API v. EPA*. On July 17, 2017, the D.C. Circuit issued its decision on challenges to the 2015 definition of solid waste rule. The court upheld most of the rule, but vacated two aspects of the rule: (1) Factor 4 of the legitimacy test and (2) most of the verified recycler exclusion. EPA is considering a request for rehearing regarding the former.

10/20 Answer due in *Environmental Law & Policy Center, et al. v. EPA, et al.*, a challenge to EPA's approval of Ohio's CWA section 303(d) list for failure to include the open waters of Lake Erie.

10/20 EPA's Answer is due in *Rosado v. Pruitt*, a challenge to MPRSA dredged material ocean dump site in Eastern Long Island Sound.

10/20 Position on whether court should wait for decision in Supreme Court about CWA jurisdiction over Clean Water Rule under section 509(b) before deciding EPA's Motion To Dismiss based on 509(b) in *LA Waterkeeper v. EPA* is due.

10/21 Motion to Govern Further Proceedings due in *Coffeyville Resources v. EPA*, a challenge to the 2017 RFS annual standards rule.

10/22 The final production of documents is due in *PANNA v. EPA*, a FOIA matter related to the chemical chlorpyrifos.

10/22 Answer is due in *Sierra Club v. EPA*, a FOIA litigation related to a request seeking external communications, calendars, communication logs, and deleted, yet recoverable, records for Administrator Pruitt and five other individuals.

10/22 The United States' Response is due in *Guam v. United States*, where Guam seeks to hold the United States liable for response costs under CERCLA 107(a) for cleanup of the Ordot Superfund Site in Guam. EPA is not a party to the case, but has a strong interest in the arguments made on behalf of the United States.

10/23 Joint Motion To Govern Further Proceedings due in several cases against EPA by CBD, each involving a different pesticide/substance: Flupyradifurone, Bicylcopyrone, Benzovindiflupyr, Cuprous Iodide, and Halauxifen-methyl.

10/25 EPA's Response as to whether a Consent Decree has been satisfied is due in *NPCA v. EPA*, a complaint alleging EPA's failure to perform a non-discretionary duty to issue regional haze FIPs for 39 states for which it made a finding of failure to submit, and to take action on 10 regional haze SIPs.

10/26 Objections due to court's Draft Protective Order in *National Family Farm Coalition, et al. v. EPA*, Petitions for Review of an EPA Order granting registration under FIFRA section 3 of Dow AgroScience's "Enlist Duo" herbicide, containing the active ingredients 2,4-D and glyphosate, for use on genetically engineered (GE) corn, cotton and soybean in 34 states. Petition for Review generally alleges violations of FIFRA and the ESA.

10/27 Motion To Govern Further Proceedings due in *Sierra Club, et al. v. EPA*, a challenge to the 2013 Round 1 designations under the 2010 SO2 NAAQS.

10/27 Pursuant to a Consent Decree, EPA must take final action approving or disapproving a 176A petition in *State of New York, et al. v. EPA*.

10/27 Pursuant to a Consent Decree, EPA must take final action approving or disapproving a 176A petition in *North Carolina, et al. v. EPA*.

10/27 The Answer to the Complaint is due in *Figley v. EPA*, a FOIA matter regarding a multi-part request that sought records relating to payments from the BP settlement.

10/27 Objections due on Draft Protection Order in *National Family Farm Coalition, et al. v. EPA*, a Petition for Review of EPA Order granting registration under FIFRA section 3 of Monsanto's "Xtendimax with VaporGrip Technology," containing the herbicide Dicamba DGA salt, for use on genetically engineered (GE) cotton and soybean in 34 states. Petition for Review generally alleges violations of FIFRA and the ESA.

10/27 The United States' Reply Brief is due in *Center for Biological Diversity v. U.S. Forest Service*. This is a RCRA § 7002 citizen suit alleging imminent and substantial endangerment to California condors in Kaibab National Forest from the use of lead shot for game hunting. On this second trip to the Ninth Circuit, CBD argues the district court erred in finding *sua sponte* that plaintiff seeks an advisory opinion from the court. CBD also argues the merits of its allegation that USFS is "contributing to" disposal of solid waste by its failure to control use of lead shot or the abandonment of carcasses and gut piles containing lead shot. EPA is not a party to the case, but EPA has equities because EPA's imminent and substantial endangerment authority under RCRA is identical to the citizen suit provision.

10/27 EPA's Reply Brief is due in *OVEC v. Pruitt*, an EPA appeal of a district court order that EPA act on "constructive submission" of no TMDLs for biologically impaired waters in West Virginia.

10/27 Reply to plaintiffs' response to EPA's/NOAA's Motion for Reconsideration is due in *NWEA v. Commerce, et al.*, litigation challenging EPA and NOAA actions and inactions regarding Washington CZARA and CWA 319 nonpoint source programs; EPA intends to file motion for reconsideration of the district court's recent order denying EPA's motion to dismiss of two claims related to CWA section 319 on mootness and standing grounds.

10/30 EPA's Brief is due in *National Environmental Development Association's Clean Air Project v. EPA*, a petition for review of the Regional Consistency Regulations.

10/30 Motion to Govern Further Proceedings due in *API v. EPA*, a challenge to the Federal Implication Plan that allows existing minor oil and natural gas sources in Indian country to satisfy construction permitting requirements by complying with applicable emissions standards.

10/30 EPA's Brief is due in *Ergon-West Virginia, Inc. v. EPA*, a petition 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.

10/30 EPA's Brief is due in *Hall & Associates v. EPA*, a FOIA matter appealed from the U.S. District Court regarding the denial of appellant's motion for attorney's fees and reconsideration of the Court's reasonable search and improper request decision.

10/30 Production of documents is due in *NRDC v. EPA*, a FOIA litigation arising from Plaintiff's request for communications between EPA staff and the Trump Presidential Transition Team(s).

10/30 EPA's Answer is due in *Waterkeeper All. v. EPA*, a FOIA litigation regarding a FOIA request that sought records related to a possible change in course regarding EPA's Steam Electric Effluent Limitations Guidelines Rule.

10/30 Deadline for seeking an extension of stay of the mandate in *Waterkeeper Alliance, et al. v. EPA*. The D.C. Circuit vacated the "CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms" rule. On August 16, 2017, the court granted EPA's motion to stay the mandate until November 14, 2017. The court order noted that, if necessary, EPA may request an extension of the stay no later than 75 days from the date of the order, and any request should include a status update on EPA's efforts to develop guidance.

10/31 Consent Decree deadline to take action to respond to petition on title V permit in *Nucor Steel-Arkansas v. EPA*, a failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas.

10/31 Production of documents is due in *NRDC v. EPA*, a FOIA matter related to the "ascension" of the EPA Administrator.

10/31 Reply to Motion to Opposition to Motion to Dismiss due in *LULAC v. Pruitt*, a challenge to the chlorpyrifos denial.

10/31 Response to Plaintiffs' Motion for Summary Judgment due in *Pineros v. Pruitt*, an action challenging 4 rules deferring the effective date of the pesticide certification and training rule.

11/01 EPA's Response to Petition for Certiorari due in *DTE, et al. v. United States*, a petition for a writ of certiorari to the Sixth Circuit in PSD enforcement case.

11/01 Response due in *Murray Energy Corporation, et al. v. EPA*, a petition for writ of certiorari of a Fourth Circuit decision.

11/01 Consent Decree deadline to take action on the San Francisco Bar Area SIP regarding NSR permits in *CBD, et al. v. EPA*, litigation alleging the EPA failed to take final action and failure to make findings of failure to submit for 2006 PM2.5 NAAQS nonattainment areas state implementation plans.

11/02 Optional Response to Objection due in *National Family Farm Coalition, et al. v. EPA*, consolidated with *NRDC v. EPA*, Petitions for Review of EPA Order granting registration under FIFRA section 3 of Dow AgroScience's "Enlist Duo" herbicide, containing the active ingredients 2,4-D and glyphosate, for use on genetically engineered (GE) corn, cotton and soybean in 34 states. Petition for Review generally alleges violations of FIFRA and the ESA.

11/02 Optional Response to Objections due in *National Family Farm Coalition, et al. v. EPA*, a Petition for Review of EPA Order granting registration under FIFRA section 3 of Monsanto's "Xtendimax with VaporGrip Technology," containing the herbicide dicamba DGA salt, for use on genetically engineered (GE) cotton and soybean in 34 states. Petition for Review generally alleges violations of FIFRA and the ESA.

Office of International and Tribal Affairs

Hot Issues:

NAFTA Negotiations - The fourth round of the NAFTA negotiations was held in D.C. on October 11-17 and the Parties have now put forward all initial text proposals. However the Parties have identified significant conceptual gaps on some issues, so additional negotiating rounds will be scheduled through the first quarter of 2018. The next round of negotiations will be in Mexico City from November 17-21.

Upcoming Engagements:

- October 23 – Call with U.S., Canada, and Mexico to discuss the NAFTA environmental institutional and public participation provisions.
- October 25-26 - Acting OITA AA will attend the semi-annual bilateral environmental meeting with U.S. and Canada in Ottawa.

Past Week Highlights:

National Congress of American Indians Conference - EPA (OITA) attended the annual meeting of the National Congress of American Indians (NCAI) in Milwaukee.

- Congresswoman Gwen Moore (WI) and Congresswoman Betty McCollum (MN) spoke about tribal sovereignty and their commitment to addressing tribal concerns.
- The White House was scheduled to speak and provide a tribal update, but was not able to attend the meeting. DOI's Acting Assistant Secretary for Indian Affairs provided the update and identified the following priority issues – tribal governance, economic development, infrastructure, energy development (and NEPA categorical exclusion), and human capital development.
- The National Chief of the Canadian Assembly of First Nations also spoke to the NCAI about NAFTA and the need to include a chapter protecting the rights of indigenous peoples. After his remarks, representatives from several of the Alaska Native Villages raised concerns with actions taken in Canada that have negatively impacted tribal communities and resources in the U.S.

UN Environment Assembly Meeting - EPA (OITA) convened partners from UN Environment and State Department to discuss the UN Environment Sustainability Expo, taking place on the margins of the third UN Environment Assembly (UNEA3) in December.

- The Expo will focus on showcasing innovation and solutions to environmental challenges, including technology to help us move "towards a pollution free planet" – the theme of UNEA3.
- In addition to booths, there will be an open networking space organized to encourage informal conversations among government officials, private sector representatives and academics attending the conference. The Expo provides a venue where U.S. private sector and experts can share information on U.S. environmental technologies and best practices to reduce pollution.
- The U.S. (EPA and State) is also proposing two resolutions to be introduced at UNEA3 – a resolution on reducing lead in paint and another on water quality monitoring.

Meeting with Vietnam on Dioxin Remediation - EPA (ORD and OITA) and USAID met with the Vietnam Ministry of National Defense (MND) to discuss war legacy issues, with a focus on the dioxin cleanup project in Bien Hoa Airbase.

- This meeting followed on two recent U.S.-Vietnam engagements: (1) May 31st meeting between the Vietnamese Prime Minister and POTUS, in which they issued a joint statement committing to working together to address war legacy issues, including completing dioxin remediation at Da Nang Airport and to discuss continued collaboration at Bien Hoa Airport; and (2) June 4th meeting between EPA and MND regarding dioxin remediation at Da Nang and Bien Hoa.
- Vietnam made several requests of the USG: 1) work together to showcase and celebrate the successes of dioxin remediation Da Nang airport; 2) move forward with U.S.-Vietnam collaboration for dioxin

remediation at Bien Hoa airbase; 3) provide support to build the capacity of MND's National Center for Remediation; 4) develop a 3-year plan on addressing unexploded ordinances (UXOs); and 5) increase international outreach on showcasing the U.S.-Vietnam partnership.

Office of Land and Emergency Management

Hot Issues:

- Emergency Response to hurricanes and wildfires. We are in support of the Region 2 and 4 responses to Hurricane Irma, the Region 2 response to Hurricane Maria and the region 9 response to the California wildfires. The Region 6 response to Hurricane Harvey has largely moved in to the recovery phase.
- CCR State Permit Program Guidance.
- CERCLA 108(b) Financial Assurance for Hard Rock Mining and Mineral Processing. Ex. 5 Deliberative Process (DP)
  Ex. 5 Deliberative Process (DP)
- Clean Air Act 112(r) Risk Management Program Rule.
- Ongoing major Superfund NPL sites (for example, East Chicago, West Lake, Gold King Mine/Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates).
- CERCLA-EPCRA AFO-CAFO Rule.

Upcoming Public Events:

- **Association of State and Territorial Solid Waste Management Officials (ASTSWMO)**. OLEM will participate in next week's ASTSWMO annual meeting in Arlington, Virginia.

Upcoming Major Decisions:

- **CERCLA-EPCRA AFO-CAFO Rule.** Ex. 5 Deliberative Process (DP)
  Ex. 5 Deliberative Process (DP)
- **E-Manifest User Fee Final Rule.** Ex. 5 Deliberative Process (DP)
- **RMP Modernization Rule Reconsideration.** Ex. 5 Deliberative Process (DP)
  Ex. 5 Deliberative Process (DP)

Last Week Highlights:

- **Casmalia Site.** Ex. 5 Deliberative Process (DP)
- **Kaleidoscope Day**. We joined OCSPP and ORD in the Kaleidoscope event the support diversity and inclusion.
- **Portland Harbor.** We joined Region 10, OECA, and the AO in meeting with PRPs, and are scheduled to do so again tomorrow.

Office of Policy

Documents Submitted to OFR from October 11- October 17, 2017

FRL	Title	Date Submitted to OFR
9969-77-Region 4	Air Plan Approval; North Carolina; Open Burning and Miscellaneous Revisions	10/17/2017
9969-78-Region 4	Air Plan Approval; North Carolina; Open Burning and Miscellaneous Revisions	10/17/2017
9969-79-OAR	Acid Rain Program: Notice of Annual Adjustment Factors for Excess Emissions Penalty	10/17/2017
9969-81-Region 9	Contingency Measures for the 1997 PM2.5 Standards; California; San Joaquin Valley; Correction of Deficiency	10/17/2017
9969-17-OCSPP	Certain New Chemicals; Receipt and Status Information for August 2017	10/17/2017
9967-37-OCSPP	Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities	10/17/2017
9968-58-OCSPP	Receipt of Information under the Toxic Substances Control Act	10/16/2017
9969-74-OAR	Extension of Comment Period on Draft Documents Related to the Review of the Primary National Ambient Air Quality Standard for Sulfur Oxides	10/16/2017
9969-85-Region 9	Approval and Promulgation of Air Quality Implementation Plans; Nevada; Rescission of Visibility Protection Federal Implementation Plan for the Mohave Generating Station	10/16/2017
9969-86-Region 5	Air Plan Approval; Wisconsin; Regional Haze Progress Report	10/16/2017
9969-87-Region 5	Air Plan Approval; Wisconsin; Regional Haze Progress Report	10/16/2017
9969-68-Region 5	Air Plan Approval; Illinois; Redesignation of the Chicago and Granite City Areas to Attainment of the 2008 Lead Standard	10/12/2017
9969-69-Region 5	Air Plan Approval; Illinois Granite City and Chicago 2008 Lead (Pb) Redesignation and Maintenance Plan	10/12/2017
9969-52-OA	Notice of Meeting of the EPA Children's Health Protection Advisory Committee (CHPAC)	10/12/2017
9969-63-Region 5	Air Plan Approval; Illinois Regional Haze 5-year Progress Report	10/12/2017
9969-64-Region 5	Air Plan Approval; Illinois Regional Haze 5-year Progress Report	10/12/2017
9969-58-Region 5	Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Regional Haze Progress Report	10/12/2017
9969-59-Region 5	Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Regional Haze Progress Report	10/12/2017

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9969-60-Region 5	Air Plan Approval; Michigan Regional Haze 5-year Progress Report	10/12/2017
9969-61-Region 5	Air Plan Approval; Michigan Regional Haze 5-year Progress Report	10/12/2017
9969-66-Region 5	Air Plan Approval; Ohio 2008 Lead (Pb) Redesignation and Maintenance Plan for the Partial Fulton County Area	10/12/2017
9969-67-Region 5	Air Plan Approval; Ohio 2008 Lead (Pb) Redesignation and Maintenance Plan for the Partial Fulton County Area	10/12/2017
9969-71-OA	Notification of a Public Teleconference of the Science Advisory Board Risk and Technology Review (RTR) Methods Review Panel	10/12/2017
9966-13-OCSPP	Triflumezopyrim; Pesticide Tolerances	10/11/2017
9966-73-OCSPP	Fenpicoxamid; Pesticide Tolerances	10/11/2017
9967-58-OCSPP	Access to Confidential Business Information by [Patriot L.L.C. and its identified subcontractor, Vision Technologies, Inc.]	10/11/2017
9969-53-OW	Proposed Information Collection Request; Comment Request; Laboratory Quality Assurance Evaluation Program for Analysis of Cryptosporidium Under the Safe Drinking Water Act (Renewal)	10/11/2017
9969-55-OAR	Proposed Information Collection Request; Comment Request; Aircraft Engines - Supplemental Information Related to Exhaust Emissions (Renewal)	10/11/2017
9969-57-Region 1	Notice of Partial Delegation of Authority; Vermont; New Source Performance Standards for New Residential Wood Heaters, New Residential Hydronic Heaters, and Forced-Air Furnaces	10/11/2017
9968-57-OCSPP	Receipt of Information Under the Toxic Substances Control Act	10/11/2017
9969-75-OAR	Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units	10/11/2017
9968-83-OAR	Proposed Information Collection Request; Comment Request; National Volatile Organic Compound Emission Standards for Architectural Coatings (Renewal)	10/11/2017
9969-72-Region 2	Approval and Revision of Air Quality Implementation Plans; State of New York; Regional Haze State and Federal Implementation Plans	10/11/2017

Office of Research and Development

Hot issues:

Flint Corrosion Control Study Plan
At the request of Region 5, ORD is reviewing and commenting on the proposed corrosion control study plan for Flint, MI. Comments are due today to Region 5, who will then compile the comments and send to Arcadis. As a consultant to the City of Flint, Arcadis is identifying short and long-term operational strategies, operating procedures, and capital improvements for the city's drinking water system.

Flint Enforcement Team Meeting
On October 18, ORD participated in the Flint National Enforcement Team meeting led by Region 5. The purpose of this meeting is to evaluate progress towards compliance with the January 21, 2016, Safe Drinking Water Act Section 1431 Emergency Order and November 17, 2016, First Amendment. The meeting covered enforcement order requirements, current public water system status, and future source water plans.

"Developing Sediment Remediation Goals at Superfund Sites Based on Pore Water for the Protection of Benthic Organisms from Direct Toxicity to Non-ionic Organic Contaminants"
At the request of OLEM, ORD researchers recently published guidance that will help EPA set risk-based remedial goals that could potentially lower the extent (i.e., few acres) and costs of remedial actions while speeding successful outcomes at contaminated sediment sites. The guidance, "Developing Sediment Remediation Goals at Superfund Sites Based on Pore Water for the Protection of Benthic Organisms from Direct Toxicity to Non-ionic Organic Contaminants", supports the Great Lakes National Program Offices, Regions, States, Tribes, and potentially responsible parties who sought the guidance for speedy use at Superfund sites and other contaminated sediment areas.

Upcoming public events:

EPA-Athens renovation kick-off meeting
ORD will be in Athens, Georgia October 23 – 24 for a kick-off meeting with the architectural contractor that is developing the design for the renovated building that will house ORD and Region 4 laboratories. Region 4 and OARM will also be participating in the meeting.

Ohio River Basin Water Quality Trading Project
Next week ORD will attend the Ohio River Basin Water Quality Trading Project amendment signing event and farm tour in Columbus, OH on October 26. The amendment signing will increase the amount of private money into local watersheds and symbolize a continuing commitment by the states to work together to support farmers and protect critical water resources. Notable attendees are expected to include: Rob Johansson, Acting Undersecretary of USDA; David Daniels, Director of the Ohio Department of Agriculture; Craig Butler, Director of Ohio EPA; Bruno Pigott, Commissioner of the Indiana Department of Environmental Management; and John Piotti, President of the American Farmland Trust. The Ohio River Basin WQT Project, which began in 2012, is an innovative market-based approach to reducing water pollution through a credit trading program. The project is led by the Electric Power Research Institute (EPRI) with active participation from farmers, electric utilities, EPA, U.S. Department of Agriculture (USDA), and environmental groups. This invitation-only event will be held at a farm near Columbus, OH, that was funded by the WQT Project to plant 30 acres of forest.

Technical support to Region 2, Newark, NJ
On October 13 ORD met with Regional Project Managers (RPMs) in Region 2, Newark City Managers, and community stakeholders on brownfield re-development planning and discussed the application of the Decision Analysis for a Sustainable Environment, Economy, and Society (DASEES) tool for structured decision-making. DASEES is an open-source, web-based decision analysis framework that can be used to assist in site re-

development decision-making. This was an exploratory meeting to demonstrate the capabilities of DASEES. Region 2 will then identify specific locations to apply the DASEES tool to assist in planning efforts.

Green Infrastructure projects, Buffalo, NY
October 15-20. ORD is meeting with representatives from the Buffalo Sewer Authority (BSA), University at Buffalo-The State University of New York, U.S. Geological Survey, and National Resource Conservation Service to follow-up on implementation of local and Great Lakes Restoration Initiative-sponsored green infrastructure projects and their monitoring. ORD is also conducting vacant lot soil hydrologic assessments. BSA is working to increase pervious surface area towards fulfillment of negotiated consent orders. ORD will also obtain insight into how vacant lots in Buffalo can function as passive green infrastructures.

Compass Plaza Well TCE Superfund Site
On October 17, ORD provided technical support to Region 7 for the [HYPERLINK "https://remoteworkplacedr.epa.gov/supercpad/cursites/,DanaInfo=.acvoxpnyGmykKs19,SSL+csitinfo.cfm?id=0706143"] in Rogersville, MO. The site consists of groundwater contaminated with the chlorinated solvent, trichloroethene, located in complicated karst topography. The team is planning to use isotopes as another line-of-evidence to determine the source of trichloroethene near the site.

Bunker Hill Superfund Site Coeur d'Alene, ID
October 16-20, ORD is visiting the Bunker Hill Superfund Site where elevated levels of metal contaminants are responsible for acute lead toxicity of migratory birds. The team is working to determine the speciation and ecologically accessible concentration of lead, cadmium, zinc, and mercury in the sediments on site. These data will be used for selecting sediment amendments to effectively sequester the contaminants of concern and reduce the ecologically accessible concertation of metals. Sediment is also being shipped back to EPA in Cincinnati for sediment avoidance testing to determine the effectiveness of the sediment amendments. This work is being conducted as part of a larger effort to develop and implement soil and amendment technologies as effective remedies for reducing bioaccessible concentrations of metals in soils and sediments.

Scientific Integrity Employee Conversation
On October 24, an encore presentation of the 2017 Employee Conversation on Scientific Integrity webinar will be held. Dr. Vincent Cogliano will summarize the 2016 Scientific Integrity Annual Report and findings from the 2016 employee survey and will be joined by Steve Alderton, EPA's Whistleblower Ombudsman.

<u>Last week Highlights:</u>

Helping States and Cities Recover from Radiological Disasters
States and municipalities may not have the funds to acquire specialized cleanup capabilities for low probability, high impact incidents such as a dirty bomb detonation or a nuclear accident. However, common municipal equipment may be capable of efficiently implementing decontamination technologies, including those developed by ORD. For instance, de-icing trucks could be used to promptly spread radiological containment materials over the optimized paths the trucks already take. Likewise, street sweepers could be adapted to apply (and sweep up) decontamination solutions, again traversing cities' streets over their already known routes. On October 3rd, ORD met with the City of Chicago regarding a collaborative project conducted by ORD, Department of Homeland Security, and Argonne National Laboratory, designed to enhance local and state abilities to use their municipal equipment to recover from radiological incidents. The collaborative project has identified dozens of potential equipment types. The goal of the meeting with Chicago was to gain their perspectives on the application of such equipment to their local needs which are expected to be representative of similar cities. The meeting was arranged by the City of Chicago Mayor's office.

Meeting with ERIS and ECOS on State Innovation
Last week ORD met with ERIS President David Paylor and ECOS Deputy Executive Director Carolyn Hanson to discuss a joint EPA/State project on using innovative tools to address state environmental priorities. This

cooperative effort with ERIS will focus on challenges and prizes, citizen science and crowdsourcing, low cost sensors and social science – and will likely result in some joint State/ORD projects that use these innovation approaches.

Cooperation Continues between EPA and NC Central University
A new Memorandum of Understanding between North Carolina Central University (NCCU) and the USEPA was signed on Oct 12, 2017, by Acting Assistant Administrator Donna J. Vizian and Chancellor Dr. Johnson O. Akinleye. The agreement seeks to increase cooperation during the next five years in areas of mutual interest, such as Internships and Career Services, Research Opportunities, Faculty/Staff exchanges, and Community Outreach and Engagement. NCCU was founded in 1910 and is the first state-supported liberal arts college for African-Americans. The original Memorandum was signed in 1994.

Wildland Fires in Alaska
On October 17, ORD led an EPA-NOAA National Weather Service meeting focused on wildland fires in Alaska. The purpose of the meeting was to explore potential partnership opportunities involving NOAA assets (e.g., satellites, enhanced weather forecast models) and EPA efforts (e.g., support for Alaska Native Tribal Health Consortium's Local Environmental Observer [LEO] Network in Alaska and NW Canada, multi-agency Wildland Fire Sensors Challenge, Smoke Sense app). Participants from EPA included ORD, OAR, OITA and Region 10. A follow-up call is planned for October 31.

EnviroAtlas Webinar
An EnviroAtlas Webinar was held on October 17, 2017 as part of EPA's Tools & Resources Webinar series. Close to a hundred individuals participated from a number of states and local communities as they learned about recent enhancements to the Atlas. EnviroAtlas contains two primary tools: An Interactive Map, which provides access to 300+ ecosystem-related maps developed by EPA researchers and an Eco-Health Relationship Browser, which displays evidence from hundreds of scientific publications on the linkages between ecosystems, the services they provide, and human health.

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Office of Water

Hot Issues:

Waters of the U.S. Update: With the comment period having closed on the Step 1 proposal on September 27, EPA has received nearly 700,000 comments and the docket is nearly finished with processing. In support of the Step 2 rulemaking, EPA and the Army held the 5th in the 10-part webinar listening sessions with stakeholders. On October 17, the webinar for the agriculture sector drew in approximately 270 participants with 31 speakers providing 3-minutes remarks. On October 23, the agencies will hold an in-person listening session with small entities and on the 24th, will hold a webinar with industry groups including the energy, chemicals and manufacturing sectors. At this time, the Agency has received 108 written recommendations on the Step 2 rulemaking.

Bristol Bay: This week, the public comment period closed for EPA's Proposal to Withdraw the 2014 CWA Section 404(c) Proposed Determination (PD) regarding Pebble/Bristol Bay. At this time, over 650,000 comments have been received while the docket continues to process the remaining comments. The close of the comment period follows a series of tribal consultation meetings and public hearings held in Alaska last week, attended by Lee, along with EPA personnel from OW and Region 10. Consultation meetings were held with tribes and Alaska Native Claims Settlement Act (ANCSA) Corporations in Anchorage. Additional consultation meetings with tribes and ANCSA Corporations as well as public hearings were conducted in the Bristol Bay watershed, in the villages of Dillingham and Iliamna. Approximately 150 participants attended the hearing held in Dillingham and approximately 50 participants attended the hearing in Iliamna.

Upcoming:

Overcoming Institutional Barriers to Potable Water Reuse: Next week OW will participate in a workshop sponsored by the Johnson Foundation at Wingspread, U.S. EPA Region 9, and ReNUWIt (Renewing the Nation's Urban Water Infrastructure). The workshop will engage a focused group of national, regional and local leaders interested in advancing potable water reuse.

Last Week Highlights:

WIFIA OIG Audit: This week, the WIFIA program participated in a Kick-off meeting for an Office of the Inspector General internal controls audit. During the call the OIG to discussed objectives, the purpose of the preliminary research phase of the project, and answered questions. The OIG's preliminary research objective is to determine whether the EPA has established effective internal controls for the WIFIA program. They intend to review the WIFIA program for compliance with the stated objectives of the WIFIA Act, review the program's internal controls using establish GAO standards, and review projects to determine whether the agency followed its selection process. They are planning to complete their preliminary research in January 2018.

GAO Water Report: This week, the GAO has released its report titled *Water Pollution: Some States Have Trading Programs to Help Address Nutrient Pollution, but Use Has Been Limited*. The report was in response to Senator Whitehouse's request to examine nutrient credit trading programs. The report 1) examines the extent to which nutrient credit trading programs have been used and what the outcomes of the programs have been; 2) describes how states and EPA oversee nutrient credit programs; and 3) describes what key factors stakeholders view as affecting participation in nutrient credit trading. The report found that in 2014, 11 states had 19 nutrient credit trading programs which provided flexibility for some point sources to meet nutrient discharge limits. The majority of nutrient credit trading occurred in Connecticut, Pennsylvania and Virginia. State officials and other stakeholders cited the importance of discharge limits for nutrients as a driver to create demand for trading. EPA staff reviewed this report and provided comments for GAO to consider. The report is available at: [HYPERLINK "http://www.gao.gov/products/GAO-18-84"]

Campus RainWorks: Registration for the 2017 Campus RainWorks Challenge is complete. 173 teams from nearly 40 states are registered to compete in a design competition that will seek to foster a dialogue about responsible stormwater management, and showcase the environmental, social, and economic benefits of green infrastructure. The Campus RainWorks Challenge invites the current generation of scholars to apply their creativity, knowledge, and energy to solving the challenges of stormwater management today and in future. Entries are due December 15, 2017, and winners will be selected in the Spring of 2018.

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Message

From: Jackson, Ryan [jackson.ryan@epa.gov]
Sent: 10/23/2017 5:43:41 PM
To: Brown, Byron [brown.byron@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: FW: Report: Tax Force on Agriculture and Rural Prosperity
Attachments: Task Force on Agriculture and Rural Prosperity 10.23.docx

I know that Byron and Tate have been attending while we waited to get our Ag advisor. Now that Jeff is in the EO rural role, I wanted to pass this on to him. But before we formally do that can you all help me with the review of the attached?

From: Staff Secretary [mailto:Ex. 6
Sent: Monday, October 23, 2017 1:38 PM
To: Cobaugh, CC M. EOP/USTR <Ex. 6; Comstock, Earl (Federal) <EComstock@doc.gov>; Shena.Blake-Kennerly@hq.doe.gov; Geale, Nicholas C. - SOL <Geale.Nicholas.C@DOL.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kim.bradley@sba.gov
Cc: Staff Secretary <Ex. 6>; Nielsen, Kirstjen M. EOP/WHO <Ex. 6>
Subject: Report: Tax Force on Agriculture and Rural Prosperity

USTR, DOC, DOE, Labor, EPA, and SBA --

Attached please find the final draft of the Report from the Tax Force on Agriculture and Rural Prosperity. This has been through an interagency process and has been submitted to the White House for final review. Please send any final concerns to Staff Sec by **8:00 PM tomorrow, Tuesday**. Please let us know if you need additional time.

Thank you,

STAFF SEC

Message

From: Sands, Jeffrey [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B2AA28629ADE4AFB8D5EC12A8AAABA54-SANDS, JEFF]
Sent: 1/23/2018 5:59:13 PM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]
Subject: FW: ppt for the beck/bertrand briefing on tuesday
Attachments: OPP and Biotechnology gene editing (020) nboverview 01 19 2018.pptm

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From: Milewski, Elizabeth
Sent: Monday, January 22, 2018 9:39 AM
To: McNally, Robert <Mcnally.Robert@epa.gov>; Overstreet, Anne <overstreet.anne@epa.gov>; Leahy, John <Leahy.John@epa.gov>; Mendelsohn, Mike <Mendelsohn.Mike@epa.gov>; Keigwin, Richard <Keigwin.Richard@epa.gov>; Kaczmarek, Chris <Kaczmarek.Chris@epa.gov>; Huskey, Angela <Huskey.Angela@epa.gov>; Wakefield, Benjamin J. <wakefield.benjamin@epa.gov>; Striegel, Wiebke <Striegel.Wiebke@epa.gov>; Wozniak, Chris <wozniak.chris@epa.gov>; Pierce, Amanda <pierce.amanda@epa.gov>; Reynolds, Alan <Reynolds.Alan@epa.gov>; Bohnenblust, Eric <Bohnenblust.Eric@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Keller, Kaitlin <keller.kaitlin@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>; Hughes, Hayley <hughes.hayley@epa.gov>; Dinkins, Darlene <Dinkins.Darlene@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: ppt for the beck/bertrand briefing on tuesday

Hi, All. Please find attached the ppt for the Beck/Bertrand briefing on gene-editing scheduled for Tuesday this week.

Message

From: Sands, Jeffrey [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B2AA28629ADE4AFB8D5EC12A8AAABA54-SANDS, JEFF]
Sent: 11/13/2017 2:34:50 PM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]
Subject: FW: 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

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From: Campbell, Ann
Sent: Wednesday, November 8, 2017 3:11 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

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:

> Thanks, Sarah. Hi Jeff, nice to meet you (electronically). Can you let me know who you are speaking to and whether it's a closed meeting or an open press event? That will help me gauge what level of detail to provide. Thanks so much!!
>
> Sent from my iPhone
>
> On Nov 8, 2017, at 7:35 AM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:
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>> Jeff, Andrea is going to give you some TPs on the items you requested. I have inquired as to more comprehensive briefing materials and will let you know when I hear back on that.
>>
>> Sent from my iPhone

Message

From: Sands, Jeffrey [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B2AA28629ADE4AFB8D5EC12A8AAABA54-SANDS, JEFF]
Sent: 11/8/2017 12:58:00 PM
To: Drinkard, Andrea [Drinkard.Andrea@epa.gov]
CC: Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Subject: Re: Talking points

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> Sent from my iPhone
>
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>> Sent from my iPhone

Message

From: Sands, Jeffrey [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B2AA28629ADE4AFB8D5EC12A8AAABA54-SANDS, JEFF]
Sent: 2/19/2018 1:45:26 PM
To: Bennett, Tate [Bennett.Tate@epa.gov]
CC: Jackson, Ryan [jackson.ryan@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]; Hupp, Millan [hupp.millan@epa.gov]
Subject: Re: [EXTERNAL] RE: Keynote Speaker at Commodity Classic

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" <M Ex. 6
> **Subject: Fwd: [EXTERNAL] RE: Keynote Speaker at Commodity Classic**
>
> Ryan, Samantha, and Tate,
>
> 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)

-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

From: John Gordley [mailto:jgordley@gordley.com]
Sent: Saturday, February 17, 2018 8:12 AM
To: Starling, Ray A. EOP/WHO < Ex. 6
Subject: [EXTERNAL] Keynote Speaker at Commodity Classic

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: Budget and Planning [Budget_and_Planning@epa.gov]
Sent: 3/23/2018 9:16:28 PM
To: Pruitt, Scott [Pruitt.Scott@epa.gov]
CC: Flynn, Mike [Flynn.Mike@epa.gov]; Darwin, Henry [darwin.henry@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Dourson, Michael [dourson.michael@epa.gov]; Assistant Administrators [Assistant_Administrators@epa.gov]; Elkins, Arthur [Elkins.Arthur@epa.gov]; Regional Administrators [Regional_Administrators@epa.gov]; Associate Administrators [Associate_Administrators@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Wooden-Aguilar, Helena [Wooden-Aguilar.Helena@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Kelly, Albert [kelly.albert@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Wagner, Kenneth [wagner.kenneth@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Packard, Elise [Packard.Elise@epa.gov]; DAA-Career [DAACareer@epa.gov]; DAA-Non-Career [DAANonCareer@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Deputy Associate Administrators [Deputy_Associate_Administrators@epa.gov]; Associate Assistant Administrator [Associate_Assistant_Administrator@epa.gov]; DRA [DRA@epa.gov]; Assistant Regional Administrator [CNAssistant_Regional_AdministratorOSRO@epa.gov]; Deputy ARAs [Deputy_ARAs@epa.gov]; OCFO-SROs [OCFO_SROs@epa.gov]; OCFO-SR-MGRS [OCFOSRMGRS@epa.gov]; Hanson, Paige (Catherine) [hanson.catherine@epa.gov]; Westenberger, Andrea [Westenberger.Andrea@epa.gov]
Subject: Passage of FY 2018 Omnibus Appropriations Bill
Attachments: FY 2018 Omnibus memo .pdf

Attached please see the Memorandum from David Bloom, Deputy Chief Financial Officer entitled, "Passage of FY 2018 Omnibus Appropriations Bill."

On Thursday, March 22, 2018, the House of Representatives passed H.R. 1625 the Consolidated Appropriations Act, 2018 by a vote of 256-167. On Friday, March 23, 2018 the Senate passed the bill by a vote of 65-32 and the President signed this legislation into law. Title II of the bill funds the EPA at $8.058 billion which equals the FY 2017 Enacted budget, and $2.4 billion above the FY 2018 President's request. Additionally, the Congress provided $766 million to the Agency separately designated for Infrastructure investments to the States. Combined together, the total Agency funding is $8.824 billion.

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

MAR 23 2018

OFFICE OF THE
CHIEF FINANCIAL OFFICER

MEMORANDUM

SUBJECT: Passage of FY 2018 Omnibus Appropriations Bill

FROM: David A. Bloom
Deputy Chief Financial Officer

TO: Scott Pruitt
Administrator

Mike Flynn
Acting Deputy Administrator

On Thursday, March 22, 2018, the House of Representatives passed H.R. 1625 the Consolidated Appropriations Act, 2018 by a vote of 256-167. On Friday, March 23, 2018 the Senate passed the bill by a vote of 65-32 and the President signed this legislation into law. Title II of the bill funds the EPA at $8.058 billion which equals the FY 2017 Enacted budget, and $2.4 billion above the FY 2018 President's request. Additionally, the Congress provided $766 million to the Agency separately designated for Infrastructure investments to the States. Combined together, the total Agency funding is $8.824 billion.

Within this amount, the EPA operating programs are funded at $3.398 billion which is $3 million below the FY 2017 Enacted budget. This funding level will necessitate operating plan decisions, including addressing the $52.7 million rescissions.

The Environmental Programs Management account is funded at $2.578 billion which equals the FY 2017 Enacted budget. Geographic Programs are funded at $447.8 million, a $12 million increase over the FY 2017 Enacted. Highlights include the Great Lakes Restoration Initiative funded at $300 million; Chesapeake Bay funded at $73 million; Puget Sound funded at $28 million; Gulf of Mexico funded at $12.5 million; and Lake Champlain funded at $8.4 million.

The State and Tribal Assistance Grant account is funded at $3.562 billion which is $35 million above the FY 2017 Enacted budget. Within the account, the Clean Water and Drinking Water State Revolving loan funds are funded at the FY 2017 Enacted budget of $2.3 billion. However, the separately designated Infrastructure investment provides an additional $300 million to each of the State Revolving Loan funds bringing the SRF total to approximately $2.9 billion.

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Categorical grants are funded at $1.076 billion which is a $10 million increase above the FY 2017 Enacted budget. The $10 million increase is for the multipurpose grant program that was eliminated in the FY 2017 Enacted budget. The Diesel Emission Grant program was increased by $15 million over FY 2017 Enacted budget for a total of $75 million.

The Water Infrastructure Finance and Innovation Program (WIFIA) is funded at $10 million. The separately designated Infrastructure investment increased funding for WIFIA by $53 million for a total level of $63 million, of which $55 million is for the direct loan subsidy program and $8 million is for administrative expenses. This funding level will support an estimated $6 billion in new lending.

Superfund is funded at $1.091 billion, which is a $3 million increase above the FY 2017 Enacted level. An additional $63 million was provided in the Infrastructure investment for the Superfund Remedial and the Emergency Response and Removal programs for a total Superfund account level of $1.154 billion.

The Infrastructure investment also provides funding for the three grant programs authorized in the Water Infrastructure Improvements for the Nation Act: $20 million for grants to small and disadvantaged communities; $10 million for grants for lead reduction projects; and $20 million for grants for voluntary testing of lead in water in schools and childcare facilities.

E-Manifest is provided $3 million and TSCA is provided $10 million in advance fee authority.

The legislation contains rescissions totaling $149 million spread across three accounts: the S&T account is reduced by $7.4 million; the EPM account is reduced by $45.3 million; and the STAG account is reduced by $96.2 million.

There are riders attached to this legislation including a directive to EPA, USDA and DOE on carbon neutrality of biomass. Also, there is a prohibition on the Agency from making changes to agricultural exemptions under the Clean Water Act.

Attached are tables showing Agency funding by Appropriation account. In addition to these funding tables, I have attached the Bill and Report language pertinent to EPA along with a summary of legislative riders included in the Bill. Please note, language contained in House Report 115-238 providing specific guidance to agencies and reporting requirements has standing, unless specifically revised in the Omnibus statement of managers.

I will continue to monitor Congressional action and would be pleased to answer any questions you may have.

Attachments

cc: Henry Darwin
Acting General Counsel
Assistant Administrators

Acting Assistant Administrators
Inspector General
Chief of Staff
Byron Brown
Paige Hanson
Associate Administrators
Deputy Associate Administrators
Deputy Chief of Staff
Acting Deputy Assistant Administrators
Associate Assistant Administrators
Regional Administrators
Deputy Regional Administrators
Assistant Regional Administrators

FY 2018 Omnibus Appropriations Summary

(Dollars in Thousands)

Appropriation	FY 2017 Enacted 1/	FY 2018 PresBud	FY 2018 Omnibus	FY 18 Omnibus vs FY 17 E	% Change	FY 18 Omnibus vs FY 18 PB	% Change
Science & Technology (S&T)	$706,473	$450,812	$706,473	$0	0%	$255,661	57%
Environmental Program & Management (EPM)	$2,597,999	$1,717,484	$2,597,999	$0	0%	$880,515	51%
Inspector General (IG)	$41,489	$37,475	$41,489	$0	0%	$4,014	11%
Building and Facilities (B&F)	$34,467	$39,553	$34,467	$0	0.0%	-$5,086	-12.9%
Inland Oil Spill Programs (Oil)	$18,209	$15,717	$18,209	$0	0.0%	$2,492	15.9%
Hazardous Substance Superfund (SF)							
- Superfund Program	*$1,064,495*	*$745,728*	*$1,067,673*	*$3,178*	*0.3%*	$321,945	*43.2%*
- Inspector General Transfer	*$8,778*	*$3,900*	*$8,778*	*$0*	*0.0%*	$4,878	*125.1%*
- Science & Technology Transfer	*$15,496*	*$12,435*	*$15,496*	*$0*	*0.0%*	$3,061	*24.6%*
SF Total	$1,088,769	$762,063	$1,091,947	$3,178	0.3%	$329,884	43.3%
Leaking Underground Storage Tanks (LUST)	$91,941	$47,429	$91,941	$0	0.0%	$44,512	93.8%
State and Tribal Assistance Grants (STAG)							
- Categorical Grants	*$1,066,041*	*$597,347*	*$1,076,041*	*$10,000*	*0.9%*	$478,694	*80.1%*
- State Revolving Loan Funds	*$2,257,120*	*$2,257,120*	*$2,257,120*	*$0*	*0.0%*	*$0*	*0.0%*
- All Other STAG	*$204,000*	*$79,000*	*$229,000*	*$25,000*	*12.3%*	*$150,000*	*189.9%*
STAG Total	$3,527,161	$2,933,467	$3,562,161	$35,000	1.0%	$628,694	21.4%
Water Infrastructure Finance and Innovation Fund	$10,000	$20,000	$10,000	$0	0%	-$10,000	-50.0%
E-Manifest	$3,178	$0	$0	($3,178)	-100%	-	0.0%
Cancellation/ Rescission of Funds	($61,198)	($369,000)	($96,198)	($35,000)	57.2%	$272,802	-73.9%
Agency Sub Total	**$8,058,488**	**$5,655,000**	**$8,058,488**	**$0**	**0.0%**	**$2,403,488**	**42.5%**
Additional Infrastructure							
- Superfund	$0	$0	$63,000	$63,000	0%	63,000	0.0%
- State Revolving Loan Funds	$0	$0	$600,000	$600,000	0%	600,000	0.0%
- WIINS Act	$0	$0	$50,000	$50,000	0%	50,000	0.0%
- WIFIA	$0	$0	$53,000	$53,000	0%	53,000	0.0%
Additional Infrastructure Total	$0	$0	$766,000	$766,000	0%	766,000	0.0%
Agency Total	**$8,058,488**	**$5,655,000**	**$8,824,488**	**$766,000**	**$0**	**3,169,488**	**42.5%**

Note:
1/ FY 17 Enacted Totals do not include P.L 114-254 ($100M DWSRF, $20M WIFIA).

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GREENHOUSE GAS METHANE RESTRICTIONS	SEC. 416. Notwithstanding any other provision of law, none of the funds made available in this Act or any other Act may be used to promulgate or implement any regulation requiring the issuance of permits under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) for carbon dioxide, nitrous oxide, water vapor, or methane emissions resulting from biological processes associated with livestock production.
GREENHOUSE GAS REPORTING RESTRICTIONS	SEC. 417. Notwithstanding any other provision of law, none of the funds made available in this or any other Act may be used to implement any provision in a rule, if that provision requires mandatory reporting of greenhouse gas emissions from manure management systems.
LEAD AMMUNITION AND TACKLE	SEC 418. None of the funds made available by this or any other Act may be used to regulate the lead content of ammunition, ammunition components, or fishing tackle under the Toxic Substance Control Act (15 U.S.C. 2601 et. seq.) or any other law.
USE OF AMERICAN IRON AND STEEL	SEC. 424. (a)(1) None of the funds made available by a State water pollution control revolving fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States. (2) In this section, the term "iron and steel" products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. (b) Subsection (a) shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the "Administrator") finds that— (1) applying subsection (a) would be inconsistent with the public interest;

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Legislative Policy Provisions

	(2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent. (c) If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency. (d) This section shall be applied in a manner consistent with United States obligations under international agreements. (e) The Administrator may retain up to 0.25 percent of the funds appropriated in this Act for the Clean and Drinking Water State Revolving Funds for carrying out the provisions described in subsection (a)(1) for management and oversight of the requirements of this section.
INFRASTRUCTURE	SEC. 430. (a) For an additional amount for "Environmental Protection Agency—Hazardous Substance Superfund", $63,000,000, of which $54,389,000 shall be for the Superfund Remedial program and $8,611,000 shall be for the Superfund Emergency Response and Removal program, to remain available until expended, consisting of such sums as are available in the Trust Fund on September 30, 2017, as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA)

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	and up to $63,000,000 as a payment from general revenues to the Hazardous Substance Superfund for purposes as authorized by section 517(b) of SARA. (b) For an additional amount for "Environmental Protection Agency—State and Tribal Assistance Grants," for environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $650,000,000 to remain available until expended, of which— (1) $300,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act; and of which $300,000,000 shall be for making capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act; (2) $20,000,000 shall be for grants for small and disadvantaged communities authorized in section 2104 of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322); (3) $20,000,000 shall be for grants for lead testing in school and child care program drinking water authorized in section 2107 of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322); (4) $10,000,000 shall be for grants for reducing lead in drinking water authorized in section 2105 of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322). (c) For an additional amount for "Environmental Protection Agency—Water Infrastructure Finance and Innovation Program Account", $53,000,000, to remain available until expended, for the cost of direct loans, for the cost of guaranteed loans, and for administrative expenses to carry out the direct and guaranteed loan pro- grams, of which $3,000,000, to remain

FY 2018 Omnibus
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	available until September 30, 2019, may be used for such administrative ex-penses: Provided, That these additional funds are available to subsidize gross obligations for the principal amount of direct loans, including capitalized interest, and total loan principal, including capitalized interest, any part of which is to be guaranteed, not to exceed $6,100,000,000.
POLICIES RELATING TO BIOMASS ENERGY	HOUSE SEC. 431. SEC. 431. To support the key role that forests in the United States can play in addressing the energy needs of he United States, the Secretary of Energy, the Secretary of Agriculture, and the Administrator of the Environ- mental Protection Agency shall, consistent with their missions, jointly— (1) ensure that Federal policy relating to forest bioenergy— (A) is consistent across all Federal departments and agencies; and (B) recognizes the full benefits of the use of forest biomass for energy, conservation, and responsible forest management; and (2) establish clear and simple policies for the use of forest biomass as an energy solution, including policies that— (A) reflect the carbon-neutrality of forest bioenergy and recognize biomass as a renewable energy source, provided the use of forest bio- mass for energy production does not cause con- version of forests to non-forest use. (B) encourage private investment through- out the forest biomass supply chain, including in— (i) working forests; (ii) harvesting operations; (iii) forest improvement operations;

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	(iv) forest bioenergy production; (v) wood products manufacturing; or (vi) paper manufacturing; (C) encourage forest management to improve forest health; and (D) recognize State initiatives to produce and use forest biomass.
NAVIGABLE WATERS/ AGRICULTURE EXEMPTIONS	SEC. 432. None of the funds made available in this Act may be used to require a permit for the discharge of dredged or fill material under the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.) for the activities identified in subparagraphs (A) and (C) of section 404(f)(1) of the Act (33 U.S.C. 1344(f)(1)(A), (C)).
SMALL REMOTE INCINERATORS	SEC. 433. None of the funds made available in this Act may be used to implement or enforce the regulation issued on March 21, 2011 at 40 CFR part 60 subparts CCCC and DDDD with respect to units in the State of Alaska that are defined as "small, remote incinerator" units in those regulations and, until a subsequent regulation is issued, the Administrator shall implement the law and regulations in effect prior to such date.
FARM BILL CERCLA/ EPCRA	TITLE XI—FARM ACT Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603) is amended by striking subsection (e) and inserting the following: "(e) APPLICABILITY TO REGISTERED PESTICIDE PRODUCTS AND AIR EMISSIONS FROM ANIMAL WASTE AT FARMS.— "(1) IN GENERAL.—This section shall not apply to— "(A) the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) or the handling and storage of such a pesticide product by an agricultural producer; or "(B) air emissions from animal waste (including

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	decomposing animal waste) at a farm. "(2) DEFINITIONS.—In this subsection: "(A) ANIMAL WASTE.— "(i) IN GENERAL.—The term 'animal waste' means feces, urine, or other excrement, digestive emission, urea, or similar substances emitted by animals (including any form of livestock, poultry, or fish). "(ii) INCLUSIONS.—The term 'animal waste' includes animal waste that is mixed or commingled with bedding, compost, feed, soil, or any other material typically found with such waste. "(B) FARM.—The term 'farm' means a site or area (including associated structures) that— "(i) is used for— "(I) the production of a crop; or "(II) the raising or selling of animals (including any form of livestock, poultry, or fish); and "(ii) under normal conditions, produces during a farm year any agricultural products with a total value equal to not less than $1,000.". SEC. 1103. APPLICATION. Nothing in this title or an amendment made by this title affects, or supersedes or modifies the responsibility or authority of any Federal official or employee to comply with or enforce, any requirement under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), other than the hazardous substance notification requirements under section 103 of that Act (42 U.S.C. 9603) with respect to air emissions from animal waste at farms.

1 TITLE II

2 ENVIRONMENTAL PROTECTION AGENCY

3 SCIENCE AND TECHNOLOGY

4 (INCLUDING RESCISSION OF FUNDS)

5 For science and technology, including research and
6 development activities, which shall include research and
7 development activities under the Comprehensive Environ-
8 mental Response, Compensation, and Liability Act of
9 1980; necessary expenses for personnel and related costs
10 and travel expenses; procurement of laboratory equipment
11 and supplies; and other operating expenses in support of
12 research and development, $713,823,000, to remain avail-
13 able until September 30, 2019: *Provided*, That of the
14 funds included under this heading, $4,100,000 shall be for
15 Research: National Priorities as specified in the explana-
16 tory statement described in section 4 (in the matter pre-
17 ceding division A of this consolidated Act): *Provided fur-*
18 *ther*, That of unobligated balances from appropriations
19 made available under this heading, $7,350,000 are perma-
20 nently rescinded: *Provided further*, That no amounts may
21 be rescinded pursuant to the preceding proviso from
22 amounts made available in the first proviso for Research:
23 National Priorities.

1 ENVIRONMENTAL PROGRAMS AND MANAGEMENT
2 (INCLUDING RESCISSION OF FUNDS)
3 For environmental programs and management, in-
4 cluding necessary expenses, not otherwise provided for, for
5 personnel and related costs and travel expenses; hire of
6 passenger motor vehicles; hire, maintenance, and oper-
7 ation of aircraft; purchase of reprints; library member-
8 ships in societies or associations which issue publications
9 to members only or at a price to members lower than to
10 subscribers who are not members; administrative costs of
11 the brownfields program under the Small Business Liabil-
12 ity Relief and Brownfields Revitalization Act of 2002; im-
13 plementation of a coal combustion residual permit pro-
14 gram under section 2301 of the Water and Waste Act of
15 2016; and not to exceed $19,000 for official reception and
16 representation expenses, $2,643,299,000, to remain avail-
17 able until September 30, 2019: *Provided*, That of the
18 funds included under this heading, $12,700,000 shall be
19 for Environmental Protection: National Priorities as speci-
20 fied in the explanatory statement described in section 4
21 (in the matter preceding division A of this consolidated
22 Act): *Provided further*, That of the funds included under
23 this heading, $447,857,000 shall be for Geographic Pro-
24 grams specified in the explanatory statement described in
25 section 4 (in the matter preceding division A of this con-

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1 solidated Act): *Provided further*, That of the unobligated
2 balances from appropriations made available under this
3 heading, $45,300,000 are permanently rescinded: *Pro-*
4 *vided further*, That no amounts may be rescinded pursuant
5 to the preceding proviso from amounts made available in
6 the first proviso for Environmental Protection: National
7 Priorities, from amounts made available in the second pro-
8 viso for Geographic Programs, or from the National Estu-
9 ary Program (33 U.S.C. 1330).

10 In addition, $10,000,000 to remain available until ex-
11 pended, for necessary expenses of activities described in
12 section 26(b)(1) of the Toxic Substances Control Act (15
13 U.S.C. 2625(b)(1)): *Provided*, That fees collected pursu-
14 ant to that section of that Act and deposited in the "TSCA
15 Service Fee Fund" as discretionary offsetting receipts in
16 fiscal year 2018 shall be retained and used for necessary
17 salaries and expenses in this appropriation and shall re-
18 main available until expended: *Provided further*, That the
19 sum herein appropriated in this paragraph from the gen-
20 eral fund for fiscal year 2018 shall be reduced by the
21 amount of discretionary offsetting receipts received during
22 fiscal year 2018, so as to result in a final fiscal year 2018
23 appropriation from the general fund estimated at not more
24 than $0: *Provided further*, That to the extent that amounts
25 realized from such receipts exceed $10,000,000, those

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1 amount in excess of $10,000,000 shall be deposited in the
2 "TSCA Service Fee Fund" as discretionary offsetting re-
3 ceipts in fiscal year 2018, shall be retained and used for
4 necessary salaries and expenses in this account, and shall
5 remain available until expended: *Provided further*, That of
6 the funds included in the first paragraph under this head-
7 ing, the Chemical Risk Review and Reduction program
8 project shall be allocated for this fiscal year, excluding the
9 amount of any fees appropriated, not less than the amount
10 of appropriations for that program project for fiscal year
11 2014.

12 HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM
13 FUND

14 For necessary expenses to carry out section 3024 of
15 the Solid Waste Disposal Act (42 U.S.C. 6939g), includ-
16 ing the development, operation, maintenance, and upgrad-
17 ing of the hazardous waste electronic manifest system es-
18 tablished by such section, $3,674,000, to remain available
19 until expended: *Provided*, That the sum herein appro-
20 priated from the general fund shall be reduced as offset-
21 ting collections under such section 3024 are received dur-
22 ing fiscal year 2018, which shall remain available until ex-
23 pended and be used for necessary expenses in this appro-
24 priation, so as to result in a final fiscal year 2018 appro-
25 priation from the general fund estimated at not more than

1 $0: *Provided further*, That to the extent such offsetting
2 collections received in fiscal year 2018 exceed $3,674,000,
3 those excess amounts shall remain available until ex-
4 pended and be used for necessary expenses in this appro-
5 priation.

6 OFFICE OF INSPECTOR GENERAL

7 For necessary expenses of the Office of Inspector
8 General in carrying out the provisions of the Inspector
9 General Act of 1978, $41,489,000, to remain available
10 until September 30, 2019.

11 BUILDINGS AND FACILITIES

12 For construction, repair, improvement, extension, al-
13 teration, and purchase of fixed equipment or facilities of,
14 or for use by, the Environmental Protection Agency,
15 $34,467,000, to remain available until expended.

16 HAZARDOUS SUBSTANCE SUPERFUND

17 (INCLUDING TRANSFERS OF FUNDS)

18 For necessary expenses to carry out the Comprehen-
19 sive Environmental Response, Compensation, and Liabil-
20 ity Act of 1980 (CERCLA), including sections 111(c)(3),
21 (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611)
22 $1,091,947,000, to remain available until expended, con-
23 sisting of such sums as are available in the Trust Fund
24 on September 30, 2017, as authorized by section 517(a)
25 of the Superfund Amendments and Reauthorization Act

1 of 1986 (SARA) and up to $1,091,947,000 as a payment
2 from general revenues to the Hazardous Substance Super-
3 fund for purposes as authorized by section 517(b) of
4 SARA: *Provided*, That funds appropriated under this
5 heading may be allocated to other Federal agencies in ac-
6 cordance with section 111(a) of CERCLA: *Provided fur-*
7 *ther*, That of the funds appropriated under this heading,
8 $8,778,000 shall be paid to the "Office of Inspector Gen-
9 eral" appropriation to remain available until September
10 30, 2019, and $15,496,000 shall be paid to the "Science
11 and Technology" appropriation to remain available until
12 September 30, 2019.

13 LEAKING UNDERGROUND STORAGE TANK TRUST FUND
14 PROGRAM

15 For necessary expenses to carry out leaking under-
16 ground storage tank cleanup activities authorized by sub-
17 title I of the Solid Waste Disposal Act, $91,941,000, to
18 remain available until expended, of which $66,572,000
19 shall be for carrying out leaking underground storage tank
20 cleanup activities authorized by section 9003(h) of the
21 Solid Waste Disposal Act; $25,369,000 shall be for car-
22 rying out the other provisions of the Solid Waste Disposal
23 Act specified in section 9508(c) of the Internal Revenue
24 Code: *Provided*, That the Administrator is authorized to
25 use appropriations made available under this heading to

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1 implement section 9013 of the Solid Waste Disposal Act
2 to provide financial assistance to federally recognized In-
3 dian tribes for the development and implementation of
4 programs to manage underground storage tanks.

5 INLAND OIL SPILL PROGRAMS

6 For expenses necessary to carry out the Environ-
7 mental Protection Agency's responsibilities under the Oil
8 Pollution Act of 1990, $18,209,000, to be derived from
9 the Oil Spill Liability trust fund, to remain available until
10 expended.

11 STATE AND TRIBAL ASSISTANCE GRANTS

12 For environmental programs and infrastructure as-
13 sistance, including capitalization grants for State revolv-
14 ing funds and performance partnership grants,
15 $3,562,161,000, to remain available until expended, of
16 which—

17 (1) $1,393,887,000 shall be for making capital-
18 ization grants for the Clean Water State Revolving
19 Funds under title VI of the Federal Water Pollution
20 Control Act; and of which $863,233,000 shall be for
21 making capitalization grants for the Drinking Water
22 State Revolving Funds under section 1452 of the
23 Safe Drinking Water Act: *Provided*, That for fiscal
24 year 2018, to the extent there are sufficient eligible
25 project applications and projects are consistent with

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1 State Intended Use Plans, not less than 10 percent
2 of the funds made available under this title to each
3 State for Clean Water State Revolving Fund capital-
4 ization grants shall be used by the State for projects
5 to address green infrastructure, water or energy effi-
6 ciency improvements, or other environmentally inno-
7 vative activities: *Provided further*, That for fiscal
8 year 2018, funds made available under this title to
9 each State for Drinking Water State Revolving
10 Fund capitalization grants may, at the discretion of
11 each State, be used for projects to address green in-
12 frastructure, water or energy efficiency improve-
13 ments, or other environmentally innovative activities:
14 *Provided further*, That notwithstanding section
15 603(d)(7) of the Federal Water Pollution Control
16 Act, the limitation on the amounts in a State water
17 pollution control revolving fund that may be used by
18 a State to administer the fund shall not apply to
19 amounts included as principal in loans made by such
20 fund in fiscal year 2018 and prior years where such
21 amounts represent costs of administering the fund
22 to the extent that such amounts are or were deemed
23 reasonable by the Administrator, accounted for sepa-
24 rately from other assets in the fund, and used for
25 eligible purposes of the fund, including administra-

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1 tion: *Provided further*, That for fiscal year 2018,
2 notwithstanding the provisions of subsections (g)(1),
3 (h), and (l) of section 201 of the Federal Water Pol-
4 lution Control Act, grants made under title II of
5 such Act for American Samoa, Guam, the common-
6 wealth of the Northern Marianas, the United States
7 Virgin Islands, and the District of Columbia may
8 also be made for the purpose of providing assistance:
9 (1) solely for facility plans, design activities, or
10 plans, specifications, and estimates for any proposed
11 project for the construction of treatment works; and
12 (2) for the construction, repair, or replacement of
13 privately owned treatment works serving one or
14 more principal residences or small commercial estab-
15 lishments: *Provided further*, That for fiscal year
16 2018, notwithstanding the provisions of such sub-
17 sections (g)(1), (h), and (l) of section 201 and sec-
18 tion 518(c) of the Federal Water Pollution Control
19 Act, funds reserved by the Administrator for grants
20 under section 518(c) of the Federal Water Pollution
21 Control Act may also be used to provide assistance:
22 (1) solely for facility plans, design activities, or
23 plans, specifications, and estimates for any proposed
24 project for the construction of treatment works; and
25 (2) for the construction, repair, or replacement of

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1 privately owned treatment works serving one or
2 more principal residences or small commercial estab-
3 lishments: *Provided further*, That for fiscal year
4 2018, notwithstanding any provision of the Federal
5 Water Pollution Control Act and regulations issued
6 pursuant thereof, up to a total of $2,000,000 of the
7 funds reserved by the Administrator for grants
8 under section 518(c) of such Act may also be used
9 for grants for training, technical assistance, and
10 educational programs relating to the operation and
11 management of the treatment works specified in sec-
12 tion 518(c) of such Act: *Provided further*, That for
13 fiscal year 2018, funds reserved under section
14 518(c) of such Act shall be available for grants only
15 to Indian tribes, as defined in section 518(h) of such
16 Act and former Indian reservations in Oklahoma (as
17 determined by the Secretary of the Interior) and Na-
18 tive Villages as defined in Public Law 92–203: *Pro-*
19 *vided further*, That for fiscal year 2018, notwith-
20 standing the limitation on amounts in section 518(c)
21 of the Federal Water Pollution Control Act, up to a
22 total of 2 percent of the funds appropriated, or
23 $30,000,000, whichever is greater, and notwith-
24 standing the limitation on amounts in section
25 1452(i) of the Safe Drinking Water Act, up to a

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1 total of 2 percent of the funds appropriated, or
2 $20,000,000, whichever is greater, for State Revolv-
3 ing Funds under such Acts may be reserved by the
4 Administrator for grants under section 518(c) and
5 section 1452(i) of such Acts: *Provided further*, That
6 for fiscal year 2018, notwithstanding the amounts
7 specified in section 205(c) of the Federal Water Pol-
8 lution Control Act, up to 1.5 percent of the aggre-
9 gate funds appropriated for the Clean Water State
10 Revolving Fund program under the Act less any
11 sums reserved under section 518(c) of the Act, may
12 be reserved by the Administrator for grants made
13 under title II of the Federal Water Pollution Control
14 Act for American Samoa, Guam, the Commonwealth
15 of the Northern Marianas, and United States Virgin
16 Islands: *Provided further*, That for fiscal year 2018,
17 notwithstanding the limitations on amounts specified
18 in section 1452(j) of the Safe Drinking Water Act,
19 up to 1.5 percent of the funds appropriated for the
20 Drinking Water State Revolving Fund programs
21 under the Safe Drinking Water Act may be reserved
22 by the Administrator for grants made under section
23 1452(j) of the Safe Drinking Water Act: *Provided*
24 *further*, That 10 percent of the funds made available
25 under this title to each State for Clean Water State

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1 Revolving Fund capitalization grants and 20 percent
2 of the funds made available under this title to each
3 State for Drinking Water State Revolving Fund cap-
4 italization grants shall be used by the State to pro-
5 vide additional subsidy to eligible recipients in the
6 form of forgiveness of principal, negative interest
7 loans, or grants (or any combination of these), and
8 shall be so used by the State only where such funds
9 are provided as initial financing for an eligible re-
10 cipient or to buy, refinance, or restructure the debt
11 obligations of eligible recipients only where such debt
12 was incurred on or after the date of enactment of
13 this Act, or where such debt was incurred prior to
14 the date of enactment of this Act if the State, with
15 concurrence from the Administrator, determines that
16 such funds could be used to help address a threat
17 to public health from heightened exposure to lead in
18 drinking water or if a Federal or State emergency
19 declaration has been issued due to a threat to public
20 health from heightened exposure to lead in a munic-
21 ipal drinking water supply before the date of enact-
22 ment of this Act: *Provided further*, That in a State
23 in which such an emergency declaration has been
24 issued, the State may use more than 20 percent of
25 the funds made available under this title to the

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1 State for Drinking Water State Revolving Fund cap-
2 italization grants to provide additional subsidy to eli-
3 gible recipients;
4 (2) $10,000,000 shall be for architectural, engi-
5 neering, planning, design, construction and related
6 activities in connection with the construction of high
7 priority water and wastewater facilities in the area
8 of the United States-Mexico Border, after consulta-
9 tion with the appropriate border commission: *Pro-*
10 *vided*, That no funds provided by this appropriations
11 Act to address the water, wastewater and other crit-
12 ical infrastructure needs of the colonias in the
13 United States along the United States-Mexico bor-
14 der shall be made available to a county or municipal
15 government unless that government has established
16 an enforceable local ordinance, or other zoning rule,
17 which prevents in that jurisdiction the development
18 or construction of any additional colonia areas, or
19 the development within an existing colonia the con-
20 struction of any new home, business, or other struc-
21 ture which lacks water, wastewater, or other nec-
22 essary infrastructure;
23 (3) $20,000,000 shall be for grants to the State
24 of Alaska to address drinking water and wastewater
25 infrastructure needs of rural and Alaska Native Vil-

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1 lages: *Provided*, That of these funds: (A) the State
2 of Alaska shall provide a match of 25 percent; (B)
3 no more than 5 percent of the funds may be used
4 for administrative and overhead expenses; and (C)
5 the State of Alaska shall make awards consistent
6 with the Statewide priority list established in con-
7 junction with the Agency and the U.S. Department
8 of Agriculture for all water, sewer, waste disposal,
9 and similar projects carried out by the State of Alas-
10 ka that are funded under section 221 of the Federal
11 Water Pollution Control Act (33 U.S.C. 1301) or
12 the Consolidated Farm and Rural Development Act
13 (7 U.S.C. 1921 et seq.) which shall allocate not less
14 than 25 percent of the funds provided for projects
15 in regional hub communities;
16 (4) $80,000,000 shall be to carry out section
17 104(k) of the Comprehensive Environmental Re-
18 sponse, Compensation, and Liability Act of 1980
19 (CERCLA), including grants, interagency agree-
20 ments, and associated program support costs: *Pro-*
21 *vided*, That not more than 25 percent of the amount
22 appropriated to carry out section 104(k) of
23 CERCLA shall be used for site characterization, as-
24 sessment, and remediation of facilities described in
25 section 101(39)(D)(ii)(II) of CERCLA: *Provided*

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1 *further*, That at least 10 percent shall be allocated
2 for assistance in persistent poverty counties: *Pro-*
3 *vided further*, That for purposes of this section, the
4 term "persistent poverty counties" means any coun-
5 ty that has had 20 percent or more of its population
6 living in poverty over the past 30 years, as measured
7 by the 1990 and 2000 decennial censuses and the
8 most recent Small Area Income and Poverty Esti-
9 mates;
10 (5) $75,000,000 shall be for grants under title
11 VII, subtitle G of the Energy Policy Act of 2005;
12 (6) $40,000,000 shall be for targeted airshed
13 grants in accordance with the terms and conditions
14 in the explanatory statement described in section 4
15 (in the matter preceding division A of this consoli-
16 dated Act);
17 (7) $4,000,000 shall be to carry out the water
18 quality program authorized in section 5004(d) of the
19 Water Infrastructure Improvements for the Nation
20 Act (Public Law 114–322); and
21 (8) $1,076,041,000 shall be for grants, includ-
22 ing associated program support costs, to States, fed-
23 erally recognized tribes, interstate agencies, tribal
24 consortia, and air pollution control agencies for
25 multi-media or single media pollution prevention,

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1 control and abatement and related activities, includ-
2 ing activities pursuant to the provisions set forth
3 under this heading in Public Law 104–134, and for
4 making grants under section 103 of the Clean Air
5 Act for particulate matter monitoring and data col-
6 lection activities subject to terms and conditions
7 specified by the Administrator, of which:
8 $47,745,000 shall be for carrying out section 128 of
9 CERCLA; $9,646,000 shall be for Environmental
10 Information Exchange Network grants, including as-
11 sociated program support costs; $1,498,000 shall be
12 for grants to States under section 2007(f)(2) of the
13 Solid Waste Disposal Act, which shall be in addition
14 to funds appropriated under the heading "Leaking
15 Underground Storage Tank Trust Fund Program"
16 to carry out the provisions of the Solid Waste Dis-
17 posal Act specified in section 9508(c) of the Internal
18 Revenue Code other than section 9003(h) of the
19 Solid Waste Disposal Act; $17,848,000 of the funds
20 available for grants under section 106 of the Federal
21 Water Pollution Control Act shall be for State par-
22 ticipation in national- and State-level statistical sur-
23 veys of water resources and enhancements to State
24 monitoring programs; $10,000,000 shall be for mul-
25 tipurpose grants, including interagency agreements:

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1 *Provided*, That hereafter, notwithstanding other ap-
2 plicable provisions of law, the funds appropriated for
3 the Indian Environmental General Assistance Pro-
4 gram shall be available to federally recognized tribes
5 for solid waste and recovered materials collection,
6 transportation, backhaul, and disposal services.

7 WATER INFRASTRUCTURE FINANCE AND INNOVATION
8 PROGRAM ACCOUNT

9 For the cost of direct loans and for the cost of guar-
10 anteed loans, as authorized by the Water Infrastructure
11 Finance and Innovation Act of 2014, $5,000,000, to re-
12 main available until expended: *Provided*, That such costs,
13 including the cost of modifying such loans, shall be as de-
14 fined in section 502 of the Congressional Budget Act of
15 1974: *Provided further*, That these funds are available to
16 subsidize gross obligations for the principal amount of di-
17 rect loans, including capitalized interest, and total loan
18 principal, including capitalized interest, any part of which
19 is to be guaranteed, not to exceed $610,000,000.

20 In addition, fees authorized to be collected pursuant
21 to sections 5029 and 5030 of the Water Infrastructure
22 Finance and Innovation Act of 2014 shall be deposited
23 in this account, to remain available until expended.

24 In addition, for administrative expenses to carry out
25 the direct and guaranteed loan programs, notwithstanding

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1 section 5033 of the Water Infrastructure Finance and In-
2 novation Act of 2014, $5,000,000, to remain available
3 until September 30, 2019.

4 ADMINISTRATIVE PROVISIONS—ENVIRONMENTAL
5 PROTECTION AGENCY

6 (INCLUDING TRANSFERS AND RESCISSION OF FUNDS)

7 For fiscal year 2018, notwithstanding 31 U.S.C.
8 6303(1) and 6305(1), the Administrator of the Environ-
9 mental Protection Agency, in carrying out the Agency's
10 function to implement directly Federal environmental pro-
11 grams required or authorized by law in the absence of an
12 acceptable tribal program, may award cooperative agree-
13 ments to federally recognized Indian tribes or Intertribal
14 consortia, if authorized by their member tribes, to assist
15 the Administrator in implementing Federal environmental
16 programs for Indian tribes required or authorized by law,
17 except that no such cooperative agreements may be award-
18 ed from funds designated for State financial assistance
19 agreements.

20 The Administrator of the Environmental Protection
21 Agency is authorized to collect and obligate pesticide reg-
22 istration service fees in accordance with section 33 of the
23 Federal Insecticide, Fungicide, and Rodenticide Act, as
24 amended by Public Law 112–177, the Pesticide Registra-
25 tion Improvement Extension Act of 2012.

1 Notwithstanding section 33(d)(2) of the Federal In-
2 secticide, Fungicide, and Rodenticide Act (FIFRA) (7
3 U.S.C. 136w–8(d)(2)), the Administrator of the Environ-
4 mental Protection Agency may assess fees under section
5 33 of FIFRA (7 U.S.C. 136w–8) for fiscal year 2018.

6 The Administrator is authorized to transfer up to
7 $300,000,000 of the funds appropriated for the Great
8 Lakes Restoration Initiative under the heading "Environ-
9 mental Programs and Management" to the head of any
10 Federal department or agency, with the concurrence of
11 such head, to carry out activities that would support the
12 Great Lakes Restoration Initiative and Great Lakes
13 Water Quality Agreement programs, projects, or activities;
14 to enter into an interagency agreement with the head of
15 such Federal department or agency to carry out these ac-
16 tivities; and to make grants to governmental entities, non-
17 profit organizations, institutions, and individuals for plan-
18 ning, research, monitoring, outreach, and implementation
19 in furtherance of the Great Lakes Restoration Initiative
20 and the Great Lakes Water Quality Agreement.

21 The Science and Technology, Environmental Pro-
22 grams and Management, Office of Inspector General, Haz-
23 ardous Substance Superfund, and Leaking Underground
24 Storage Tank Trust Fund Program Accounts, are avail-
25 able for the construction, alteration, repair, rehabilitation,

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1 and renovation of facilities, provided that the cost does
2 not exceed $150,000 per project.

3 For fiscal year 2018, and notwithstanding section
4 518(f) of the Federal Water Pollution Control Act (33
5 U.S.C. 1377(f)), the Administrator is authorized to use
6 the amounts appropriated for any fiscal year under section
7 319 of the Act to make grants to Indian tribes pursuant
8 to sections 319(h) and 518(e) of that Act.

9 The Administrator is authorized to use the amounts
10 appropriated under the heading "Environmental Pro-
11 grams and Management" for fiscal year 2018 to provide
12 grants to implement the Southeastern New England Wa-
13 tershed Restoration Program.

14 Of the unobligated balances available for the "State
15 and Tribal Assistance Grants" account, $96,198,000 are
16 hereby permanently rescinded: *Provided*, That no amounts
17 may be rescinded from amounts that were designated by
18 the Congress as an emergency requirement pursuant to
19 the Concurrent Resolution on the Budget or the Balanced
20 Budget and Emergency Deficit Control Act of 1985 or
21 from amounts that were made available by subsection (a)
22 of section 196 of the Continuing Appropriations Act, 2017
23 (division C of Public Law 114–223), as amended by the
24 Further Continuing and Security Assistance Appropria-
25 tions Act, 2017 (Public Law 114–254).

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1 Notwithstanding the limitations on amounts in sec-
2 tion 320(i)(2)(B) of the Federal Water Pollution Control
3 Act, not less than $1,000,000 of the funds made available
4 under this title for the National Estuary Program shall
5 be for making competitive awards described in section
6 320(g)(4).

1 TITLE IV

2 GENERAL PROVISIONS

3 (INCLUDING TRANSFERS OF FUNDS)

4 RESTRICTION ON USE OF FUNDS

5 SEC. 401. No part of any appropriation contained in
6 this Act shall be available for any activity or the publica-
7 tion or distribution of literature that in any way tends to
8 promote public support or opposition to any legislative
9 proposal on which Congressional action is not complete
10 other than to communicate to Members of Congress as
11 described in 18 U.S.C. 1913.

12 OBLIGATION OF APPROPRIATIONS

13 SEC. 402. No part of any appropriation contained in
14 this Act shall remain available for obligation beyond the
15 current fiscal year unless expressly so provided herein.

16 DISCLOSURE OF ADMINISTRATIVE EXPENSES

17 SEC. 403. The amount and basis of estimated over-
18 head charges, deductions, reserves or holdbacks, including
19 working capital fund and cost pool charges, from pro-
20 grams, projects, activities and subactivities to support gov-
21 ernment-wide, departmental, agency, or bureau adminis-
22 trative functions or headquarters, regional, or central op-
23 erations shall be presented in annual budget justifications
24 and subject to approval by the Committees on Appropria-
25 tions of the House of Representatives and the Senate.

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1 Changes to such estimates shall be presented to the Com-
2 mittees on Appropriations for approval.

3 MINING APPLICATIONS

4 SEC. 404. (a) LIMITATION OF FUNDS.—None of the
5 funds appropriated or otherwise made available pursuant
6 to this Act shall be obligated or expended to accept or
7 process applications for a patent for any mining or mill
8 site claim located under the general mining laws.

9 (b) EXCEPTIONS.—Subsection (a) shall not apply if
10 the Secretary of the Interior determines that, for the claim
11 concerned (1) a patent application was filed with the Sec-
12 retary on or before September 30, 1994; and (2) all re-
13 quirements established under sections 2325 and 2326 of
14 the Revised Statutes (30 U.S.C. 29 and 30) for vein or
15 lode claims, sections 2329, 2330, 2331, and 2333 of the
16 Revised Statutes (30 U.S.C. 35, 36, and 37) for placer
17 claims, and section 2337 of the Revised Statutes (30
18 U.S.C. 42) for mill site claims, as the case may be, were
19 fully complied with by the applicant by that date.

20 (c) REPORT.—On September 30, 2019, the Secretary
21 of the Interior shall file with the House and Senate Com-
22 mittees on Appropriations and the Committee on Natural
23 Resources of the House and the Committee on Energy and
24 Natural Resources of the Senate a report on actions taken
25 by the Department under the plan submitted pursuant to

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1 section 314(c) of the Department of the Interior and Re-
2 lated Agencies Appropriations Act, 1997 (Public Law
3 104–208).

4 (d) MINERAL EXAMINATIONS.—In order to process
5 patent applications in a timely and responsible manner,
6 upon the request of a patent applicant, the Secretary of
7 the Interior shall allow the applicant to fund a qualified
8 third-party contractor to be selected by the Director of the
9 Bureau of Land Management to conduct a mineral exam-
10 ination of the mining claims or mill sites contained in a
11 patent application as set forth in subsection (b). The Bu-
12 reau of Land Management shall have the sole responsi-
13 bility to choose and pay the third-party contractor in ac-
14 cordance with the standard procedures employed by the
15 Bureau of Land Management in the retention of third-
16 party contractors.

17 CONTRACT SUPPORT COSTS, PRIOR YEAR LIMITATION

18 SEC. 405. Sections 405 and 406 of division F of the
19 Consolidated and Further Continuing Appropriations Act,
20 2015 (Public Law 113–235) shall continue in effect in fis-
21 cal year 2018.

22 CONTRACT SUPPORT COSTS, FISCAL YEAR 2018
23 LIMITATION

24 SEC. 406. Amounts provided by this Act for fiscal
25 year 2018 under the headings "Department of Health and

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1 Human Services, Indian Health Service, Contract Support
2 Costs" and "Department of the Interior, Bureau of Indian
3 Affairs and Bureau of Indian Education, Contract Sup-
4 port Costs" are the only amounts available for contract
5 support costs arising out of self-determination or self-gov-
6 ernance contracts, grants, compacts, or annual funding
7 agreements for fiscal year 2018 with the Bureau of Indian
8 Affairs or the Indian Health Service: *Provided*, That such
9 amounts provided by this Act are not available for pay-
10 ment of claims for contract support costs for prior years,
11 or for repayments of payments for settlements or judg-
12 ments awarding contract support costs for prior years.

13 FOREST MANAGEMENT PLANS

14 SEC. 407. The Secretary of Agriculture shall not be
15 considered to be in violation of section 6(f)(5)(A) of the
16 Forest and Rangeland Renewable Resources Planning Act
17 of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more
18 than 15 years have passed without revision of the plan
19 for a unit of the National Forest System. Nothing in this
20 section exempts the Secretary from any other requirement
21 of the Forest and Rangeland Renewable Resources Plan-
22 ning Act (16 U.S.C. 1600 et seq.) or any other law: *Pro-*
23 *vided*, That if the Secretary is not acting expeditiously and
24 in good faith, within the funding available, to revise a plan
25 for a unit of the National Forest System, this section shall

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1 be void with respect to such plan and a court of proper
2 jurisdiction may order completion of the plan on an accel-
3 erated basis.

4 PROHIBITION WITHIN NATIONAL MONUMENTS

5 SEC. 408. No funds provided in this Act may be ex-
6 pended to conduct preleasing, leasing and related activities
7 under either the Mineral Leasing Act (30 U.S.C. 181 et
8 seq.) or the Outer Continental Shelf Lands Act (43 U.S.C.
9 1331 et seq.) within the boundaries of a National Monu-
10 ment established pursuant to the Act of June 8, 1906 (16
11 U.S.C. 431 et seq.) as such boundary existed on January
12 20, 2001, except where such activities are allowed under
13 the Presidential proclamation establishing such monu-
14 ment.

15 LIMITATION ON TAKINGS

16 SEC. 409. Unless otherwise provided herein, no funds
17 appropriated in this Act for the acquisition of lands or
18 interests in lands may be expended for the filing of dec-
19 larations of taking or complaints in condemnation without
20 the approval of the House and Senate Committees on Ap-
21 propriations: *Provided*, That this provision shall not apply
22 to funds appropriated to implement the Everglades Na-
23 tional Park Protection and Expansion Act of 1989, or to
24 funds appropriated for Federal assistance to the State of

1 Florida to acquire lands for Everglades restoration pur-
2 poses.

3 TIMBER SALE REQUIREMENTS

4 SEC. 410. No timber sale in Alaska's Region 10 shall
5 be advertised if the indicated rate is deficit (defined as
6 the value of the timber is not sufficient to cover all logging
7 and stumpage costs and provide a normal profit and risk
8 allowance under the Forest Service's appraisal process)
9 when appraised using a residual value appraisal. The west-
10 ern red cedar timber from those sales which is surplus
11 to the needs of the domestic processors in Alaska, shall
12 be made available to domestic processors in the contiguous
13 48 United States at prevailing domestic prices. All addi-
14 tional western red cedar volume not sold to Alaska or con-
15 tiguous 48 United States domestic processors may be ex-
16 ported to foreign markets at the election of the timber sale
17 holder. All Alaska yellow cedar may be sold at prevailing
18 export prices at the election of the timber sale holder.

19 PROHIBITION ON NO-BID CONTRACTS

20 SEC. 411. None of the funds appropriated or other-
21 wise made available by this Act to executive branch agen-
22 cies may be used to enter into any Federal contract unless
23 such contract is entered into in accordance with the re-
24 quirements of Chapter 33 of title 41, United States Code,

1 or Chapter 137 of title 10, United States Code, and the
2 Federal Acquisition Regulation, unless—
3 (1) Federal law specifically authorizes a con-
4 tract to be entered into without regard for these re-
5 quirements, including formula grants for States, or
6 federally recognized Indian tribes; or
7 (2) such contract is authorized by the Indian
8 Self-Determination and Education Assistance Act
9 (Public Law 93–638, 25 U.S.C. 450 et seq.) or by
10 any other Federal laws that specifically authorize a
11 contract within an Indian tribe as defined in section
12 4(e) of that Act (25 U.S.C. 450b(e)); or
13 (3) such contract was awarded prior to the date
14 of enactment of this Act.
15 POSTING OF REPORTS
16 SEC. 412. (a) Any agency receiving funds made avail-
17 able in this Act, shall, subject to subsections (b) and (c),
18 post on the public website of that agency any report re-
19 quired to be submitted by the Congress in this or any
20 other Act, upon the determination by the head of the agen-
21 cy that it shall serve the national interest.
22 (b) Subsection (a) shall not apply to a report if—
23 (1) the public posting of the report com-
24 promises national security; or
25 (2) the report contains proprietary information.

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1 (e) The head of the agency posting such report shall
2 do so only after such report has been made available to
3 the requesting Committee or Committees of Congress for
4 no less than 45 days.

5 NATIONAL ENDOWMENT FOR THE ARTS GRANT
6 GUIDELINES

7 SEC. 413. Of the funds provided to the National En-
8 dowment for the Arts—

9 (1) The Chairperson shall only award a grant
10 to an individual if such grant is awarded to such in-
11 dividual for a literature fellowship, National Herit-
12 age Fellowship, or American Jazz Masters Fellow-
13 ship.

14 (2) The Chairperson shall establish procedures
15 to ensure that no funding provided through a grant,
16 except a grant made to a State or local arts agency,
17 or regional group, may be used to make a grant to
18 any other organization or individual to conduct ac-
19 tivity independent of the direct grant recipient.
20 Nothing in this subsection shall prohibit payments
21 made in exchange for goods and services.

22 (3) No grant shall be used for seasonal support
23 to a group, unless the application is specific to the
24 contents of the season, including identified programs
25 or projects.

1 NATIONAL ENDOWMENT FOR THE ARTS PROGRAM
2 PRIORITIES

3 SEC. 414. (a) In providing services or awarding fi-
4 nancial assistance under the National Foundation on the
5 Arts and the Humanities Act of 1965 from funds appro-
6 priated under this Act, the Chairperson of the National
7 Endowment for the Arts shall ensure that priority is given
8 to providing services or awarding financial assistance for
9 projects, productions, workshops, or programs that serve
10 underserved populations.

11 (b) In this section:

12 (1) The term "underserved population" means
13 a population of individuals, including urban minori-
14 ties, who have historically been outside the purview
15 of arts and humanities programs due to factors such
16 as a high incidence of income below the poverty line
17 or to geographic isolation.

18 (2) The term "poverty line" means the poverty
19 line (as defined by the Office of Management and
20 Budget, and revised annually in accordance with sec-
21 tion 673(2) of the Community Services Block Grant
22 Act (42 U.S.C. 9902(2))) applicable to a family of
23 the size involved.

24 (c) In providing services and awarding financial as-
25 sistance under the National Foundation on the Arts and

1 Humanities Act of 1965 with funds appropriated by this
2 Act, the Chairperson of the National Endowment for the
3 Arts shall ensure that priority is given to providing serv-
4 ices or awarding financial assistance for projects, produc-
5 tions, workshops, or programs that will encourage public
6 knowledge, education, understanding, and appreciation of
7 the arts.

8 (d) With funds appropriated by this Act to carry out
9 section 5 of the National Foundation on the Arts and Hu-
10 manities Act of 1965—

11 (1) the Chairperson shall establish a grant cat-
12 egory for projects, productions, workshops, or pro-
13 grams that are of national impact or availability or
14 are able to tour several States;

15 (2) the Chairperson shall not make grants ex-
16 ceeding 15 percent, in the aggregate, of such funds
17 to any single State, excluding grants made under the
18 authority of paragraph (1);

19 (3) the Chairperson shall report to the Con-
20 gress annually and by State, on grants awarded by
21 the Chairperson in each grant category under sec-
22 tion 5 of such Act; and

23 (4) the Chairperson shall encourage the use of
24 grants to improve and support community-based
25 music performance and education.

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1 STATUS OF BALANCES OF APPROPRIATIONS

2 SEC. 415. The Department of the Interior, the Envi-
3 ronmental Protection Agency, the Forest Service, and the
4 Indian Health Service shall provide the Committees on
5 Appropriations of the House of Representatives and Sen-
6 ate quarterly reports on the status of balances of appro-
7 priations including all uncommitted, committed, and unob-
8 ligated funds in each program and activity.

9 PROHIBITION ON USE OF FUNDS

10 SEC. 416. Notwithstanding any other provision of
11 law, none of the funds made available in this Act or any
12 other Act may be used to promulgate or implement any
13 regulation requiring the issuance of permits under title V
14 of the Clean Air Act (42 U.S.C. 7661 et seq.) for carbon
15 dioxide, nitrous oxide, water vapor, or methane emissions
16 resulting from biological processes associated with live-
17 stock production.

18 GREENHOUSE GAS REPORTING RESTRICTIONS

19 SEC. 417. Notwithstanding any other provision of
20 law, none of the funds made available in this or any other
21 Act may be used to implement any provision in a rule,
22 if that provision requires mandatory reporting of green-
23 house gas emissions from manure management systems.

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1 FUNDING PROHIBITION

2 SEC. 418. None of the funds made available by this
3 or any other Act may be used to regulate the lead content
4 of ammunition, ammunition components, or fishing tackle
5 under the Toxic Substances Control Act (15 U.S.C. 2601
6 et seq.) or any other law.

7 CONTRACTING AUTHORITIES

8 SEC. 419. Section 412 of Division E of Public Law
9 112–74 is amended by striking "fiscal year 2017" and in-
10 serting "fiscal year 2019".

11 CHESAPEAKE BAY INITIATIVE

12 SEC. 420. Section 502(c) of the Chesapeake Bay Ini-
13 tiative Act of 1998 (Public Law 105–312; 16 U.S.C. 461
14 note) is amended by striking "2017" and inserting
15 "2019".

16 EXTENSION OF GRAZING PERMITS

17 SEC. 421. The terms and conditions of section 325
18 of Public Law 108–108 (117 Stat. 1307), regarding graz-
19 ing permits issued by the Forest Service on any lands not
20 subject to administration under section 402 of the Federal
21 Lands Policy and Management Act (43 U.S.C. 1752),
22 shall remain in effect for fiscal year 2018.

23 FUNDING PROHIBITION

24 SEC. 422. (a) None of the funds made available in
25 this Act may be used to maintain or establish a computer

1 network unless such network is designed to block access
2 to pornography websites.
3 (b) Nothing in subsection (a) shall limit the use of
4 funds necessary for any Federal, State, tribal, or local law
5 enforcement agency or any other entity carrying out crimi-
6 nal investigations, prosecution, or adjudication activities.

7 FOREST SERVICE FACILITY REALIGNMENT AND
8 ENHANCEMENT ACT

9 SEC. 423. Section 503(f) of the Forest Service Facil-
10 ity Realignment and Enhancement Act of 2005 (16 U.S.C.
11 580d note; Public Law 109–54) is amended by striking
12 "2016" and inserting "2018".

13 USE OF AMERICAN IRON AND STEEL

14 SEC. 424. (a)(1) None of the funds made available
15 by a State water pollution control revolving fund as au-
16 thorized by section 1452 of the Safe Drinking Water Act
17 (42 U.S.C. 300j–12) shall be used for a project for the
18 construction, alteration, maintenance, or repair of a public
19 water system or treatment works unless all of the iron and
20 steel products used in the project are produced in the
21 United States.
22 (2) In this section, the term "iron and steel" products
23 means the following products made primarily of iron or
24 steel: lined or unlined pipes and fittings, manhole covers
25 and other municipal castings, hydrants, tanks, flanges,

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1 pipe clamps and restraints, valves, structural steel, rein-
2 forced precast concrete, and construction materials.
3 (b) Subsection (a) shall not apply in any case or cat-
4 egory of cases in which the Administrator of the Environ-
5 mental Protection Agency (in this section referred to as
6 the "Administrator") finds that—
7 (1) applying subsection (a) would be incon-
8 sistent with the public interest;
9 (2) iron and steel products are not produced in
10 the United States in sufficient and reasonably avail-
11 able quantities and of a satisfactory quality; or
12 (3) inclusion of iron and steel products pro-
13 duced in the United States will increase the cost of
14 the overall project by more than 25 percent.
15 (c) If the Administrator receives a request for a waiv-
16 er under this section, the Administrator shall make avail-
17 able to the public on an informal basis a copy of the re-
18 quest and information available to the Administrator con-
19 cerning the request, and shall allow for informal public
20 input on the request for at least 15 days prior to making
21 a finding based on the request. The Administrator shall
22 make the request and accompanying information available
23 by electronic means, including on the official public Inter-
24 net Web site of the Environmental Protection Agency.

1 (d) This section shall be applied in a manner con-
2 sistent with United States obligations under international
3 agreements.

4 (e) The Administrator may retain up to 0.25 percent
5 of the funds appropriated in this Act for the Clean and
6 Drinking Water State Revolving Funds for carrying out
7 the provisions described in subsection (a)(1) for manage-
8 ment and oversight of the requirements of this section.

9 MIDWAY ISLAND

10 SEC. 425. None of the funds made available by this
11 Act may be used to destroy any buildings or structures
12 on Midway Island that have been recommended by the
13 United States Navy for inclusion in the National Register
14 of Historic Places (54 U.S.C. 302101).

15 JOHN F. KENNEDY CENTER REAUTHORIZATION

16 SEC. 426. Section 13 of the John F. Kennedy Center
17 Act (20 U.S.C. 76r) is amended by striking subsections
18 (a) and (b) and inserting the following:

19 "(a) MAINTENANCE, REPAIR, AND SECURITY.—
20 There is authorized to be appropriated to the Board to
21 carry out section 4(a)(1)(H), $23,740,000 for fiscal year
22 2018.

23 "(b) CAPITAL PROJECTS.—There is authorized to be
24 appropriated to the Board to carry out subparagraphs (F)

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1 and (G) of section 4(a)(1), $16,775,000 for fiscal year
2 2018.".

3 LOCAL COOPERATOR TRAINING AGREEMENTS AND TRANS-
4 FERS OF EXCESS EQUIPMENT AND SUPPLIES FOR
5 WILDFIRES

6 SEC. 427. The Secretary of the Interior is authorized
7 to enter into grants and cooperative agreements with vol-
8 unteer fire departments, rural fire departments, rangeland
9 fire protection associations, and similar organizations to
10 provide for wildland fire training and equipment, including
11 supplies and communication devices. Notwithstanding
12 121(c) of title 40, United States Code, or section 521 of
13 title 40, United States Code, the Secretary is further au-
14 thorized to transfer title to excess Department of the Inte-
15 rior firefighting equipment no longer needed to carry out
16 the functions of the Department's wildland fire manage-
17 ment program to such organizations.

18 ALASKA NATIVE REGIONAL HEALTH ENTITIES

19 SEC. 428. Section 424 of the Consolidated Appropria-
20 tions Act, 2014 (Public Law 113–76) is amended by strik-
21 ing "2018" and inserting "2019".

22 TREATMENT OF CERTAIN HOSPITALS

23 SEC. 429. Section 1886(d)(12)(C) of the Social Secu-
24 rity Act (42 U.S.C. 1395ww(d)(12)(C)) is amended by
25 adding at the end the following new clause:

1 "(iii) TREATMENT OF INDIAN HEALTH
2 SERVICE AND NON-INDIAN HEALTH SERVICE
3 FACILITIES.—For purposes of determining
4 whether—
5 "(I) a subsection (d) hospital of the
6 Indian Health Service (whether operated
7 by such Service or by an Indian tribe or
8 tribal organization (as those terms are de-
9 fined in section 4 of the Indian Health
10 Care Improvement Act)), or
11 "(II) a subsection (d) hospital other
12 than a hospital of the Indian Health Serv-
13 ice meets the mileage criterion under
14 clause (i) with respect to fiscal year 2011
15 or a succeeding fiscal year, the Secretary
16 shall apply the policy described in the reg-
17 ulation at part 412.101(e) of title 42, Code
18 of Federal Regulations (as in effect on the
19 date of enactment of this clause).".
20 INFRASTRUCTURE
21 SEC. 430. (a) For an additional amount for "Envi-
22 ronmental Protection Agency—Hazardous Substance
23 Superfund", $63,000,000, of which $54,389,000 shall be
24 for the Superfund Remedial program and $8,611,000
25 shall be for the Superfund Emergency Response and Re-

1 moval program, to remain available until expended, con-
2 sisting of such sums as are available in the Trust Fund
3 on September 30, 2017, as authorized by section 517(a)
4 of the Superfund Amendments and Reauthorization Act
5 of 1986 (SARA) and up to $63,000,000 as a payment
6 from general revenues to the Hazardous Substance Super-
7 fund for purposes as authorized by section 517(b) of
8 SARA.

9 (b) For an additional amount for "Environmental
10 Protection Agency—State and Tribal Assistance Grants,"
11 for environmental programs and infrastructure assistance,
12 including capitalization grants for State revolving funds
13 and performance partnership grants, $650,000,000 to re-
14 main available until expended, of which—

15 (1) $300,000,000 shall be for making capital-
16 ization grants for the Clean Water State Revolving
17 Funds under title VI of the Federal Water Pollution
18 Control Act; and of which $300,000,000 shall be for
19 making capitalization grants for the Drinking Water
20 State Revolving Funds under section 1452 of the
21 Safe Drinking Water Act;

22 (2) $20,000,000 shall be for grants for small
23 and disadvantaged communities authorized in sec-
24 tion 2104 of the Water Infrastructure Improvements
25 for the Nation Act (Public Law 114–322);

1 (3) $20,000,000 shall be for grants for lead
2 testing in school and child care program drinking
3 water authorized in section 2107 of the Water Infra-
4 structure Improvements for the Nation Act (Public
5 Law 114–322);
6 (4) $10,000,000 shall be for grants for reduc-
7 ing lead in drinking water authorized in section
8 2105 of the Water Infrastructure Improvements for
9 the Nation Act (Public Law 114–322).
10 (c) For an additional amount for "Environmental
11 Protection Agency—Water Infrastructure Finance and In-
12 novation Program Account", $53,000,000, to remain
13 available until expended, for the cost of direct loans, for
14 the cost of guaranteed loans, and for administrative ex-
15 penses to carry out the direct and guaranteed loan pro-
16 grams, of which $3,000,000, to remain available until Sep-
17 tember 30, 2019, may be used for such administrative ex-
18 penses: *Provided*, That these additional funds are available
19 to subsidize gross obligations for the principal amount of
20 direct loans, including capitalized interest, and total loan
21 principal, including capitalized interest, any part of which
22 is to be guaranteed, not to exceed $6,100,000,000.
23 POLICIES RELATING TO BIOMASS ENERGY
24 SEC. 431. To support the key role that forests in the
25 United States can play in addressing the energy needs of

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1 the United States, the Secretary of Energy, the Secretary
2 of Agriculture, and the Administrator of the Environ-
3 mental Protection Agency shall, consistent with their mis-
4 sions, jointly—
5 (1) ensure that Federal policy relating to forest
6 bioenergy—
7 (A) is consistent across all Federal depart-
8 ments and agencies; and
9 (B) recognizes the full benefits of the use
10 of forest biomass for energy, conservation, and
11 responsible forest management; and
12 (2) establish clear and simple policies for the
13 use of forest biomass as an energy solution, includ-
14 ing policies that—
15 (A) reflect the carbon-neutrality of forest
16 bioenergy and recognize biomass as a renewable
17 energy source, provided the use of forest bio-
18 mass for energy production does not cause con-
19 version of forests to non-forest use.
20 (B) encourage private investment through-
21 out the forest biomass supply chain, including
22 in—
23 (i) working forests;
24 (ii) harvesting operations;
25 (iii) forest improvement operations;

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1 (iv) forest bioenergy production;
2 (v) wood products manufacturing; or
3 (vi) paper manufacturing;
4 (C) encourage forest management to im-
5 prove forest health; and
6 (D) recognize State initiatives to produce
7 and use forest biomass.

8 CLARIFICATION OF EXEMPTIONS

9 SEC. 432. None of the funds made available in this
10 Act may be used to require a permit for the discharge
11 of dredged or fill material under the Federal Water Pollu-
12 tion Control Act (33 U.S.C. 1251 et seq.) for the activities
13 identified in subparagraphs (A) and (C) of section
14 404(f)(1) of the Act (33 U.S.C. 1344(f)(1)(A), (C)).

15 SMALL REMOTE INCINERATORS

16 SEC. 433. None of the funds made available in this
17 Act may be used to implement or enforce the regulation
18 issued on March 21, 2011 at 40 CFR part 60 subparts
19 CCCC and DDDD with respect to units in the State of
20 Alaska that are defined as "small, remote incinerator"
21 units in those regulations and, until a subsequent regula-
22 tion is issued, the Administrator shall implement the law
23 and regulations in effect prior to such date.

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1 This division may be cited as the "Department of the
2 Interior, Environment, and Related Agencies Appropria-
3 tions Act, 2018".

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DIVISION G – DEPARTMENT OF THE INTERIOR, ENVIRONMENT,

AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

The following statement is an explanation of the effects of Division G, which makes appropriations for the Department of the Interior, the Environmental Protection Agency (EPA), the Forest Service, the Indian Health Service, and related agencies for fiscal year 2018.

The joint explanatory statement accompanying this division is approved and indicates congressional intent. Unless otherwise noted, the language set forth in House Report 115-238 carries the same weight as language included in this joint explanatory statement and should be complied with unless specifically addressed to the contrary in this joint explanatory statement. While some language is repeated for emphasis, it is not intended to negate the language referred to above unless expressly provided herein.

In instances where the House report speaks more broadly to policy issues or offers views that are subject to interpretation, such views remain those of the House and are not affirmed by this explanatory statement unless repeated herein. In cases where the House report or this explanatory statement directs the submission of a report, such report is to be submitted to both the House and Senate Committees on Appropriations. Where this explanatory statement refers to the Committees or the Committees on Appropriations, unless otherwise noted, this reference is to the House Subcommittee on Interior, Environment, and Related Agencies and the Senate Subcommittee on Interior, Environment, and Related Agencies.

The Committees direct each department and agency funded in this Act to follow the directions set forth in this Act and the accompanying statement, and not reallocate resources or reorganize activities except as provided herein or otherwise approved by the Committees through the reprogramming process as referenced in this explanatory statement. This explanatory statement addresses only those agencies and accounts for which there is a need for greater explanation than provided in the Act itself. Funding levels for appropriations by account, program, and activity, with comparisons to the fiscal year 2017 enacted level and the fiscal year 2018 budget request, can be found in the table at the end of this division.

Unless expressly stated otherwise, any reference to "this Act" or "at the end of this statement" shall be treated as referring only to the provisions of this division.

Committee Directives.—The Department of the Interior and Forest Service are directed to continue the directions included in the Explanatory Statement accompanying the Consolidated Appropriations Act, 2017 (P.L. 115-31) relating to Vacant Grazing Allotments; State Wildlife Data; Bighorn Sheep; Land Grants, Acequias, and Community Ditches; and Public Access.

Recreation Fee Authority.—The one-year extension of recreation fee authority for the Department of the Interior and U.S. Forest Service contained in the budget request and included in both fiscal year 2018 House and Senate Interior, Environment, and Related Agencies Appropriations bills was included in the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56).

Making Litigation Costs Transparent.—The Department of the Interior, EPA, and the Forest Service are directed to provide to the House and Senate Committees on Appropriations, and to make publicly available no later than 60 days after enactment of this Act, detailed Equal Access to Justice Act (EAJA) fee information as specified in the explanatory statement accompanying Division G of the Consolidated Appropriations Act, 2017 (Public Law 115-31).

White-Nose Syndrome.—The four Federal land management agencies and the U.S. Geological Survey are expected to continue to prioritize research on, and efforts to address, white-nose syndrome in bats and to work with other Federal, State, and non-governmental partners to implement the North American Bat Monitoring Program.

Multi-Agency Transparency.—The Committees support increasing transparency within all agencies of the Department of the Interior, the Forest Service and the Environmental Protection Agency. These agencies are encouraged to disclose costs associated with analyses required by the National Environmental Policy Act.

Paper Reduction Efforts.—The Committees urge the Department of the Interior, EPA, Forest Service, and Indian Health Service to work with the Office of Management and Budget to reduce printing and reproduction costs and direct each agency to report to the Committees within 90 days of enactment of this Act on steps being undertaken to achieve this goal and how much each agency expects to save by implementing these measures.

Alaska National Interest Lands Conservation Act (ANILCA) Training.—The Department of the Interior and the Forest Service shall follow the directive in Senate Report 114-281 regarding ANILCA training for agency employees.

Transparency of Information.—The Committees expect that Federal agencies funded under this Act shall, to the extent practicable, clearly state within materials used for advertising or educational purposes that the communication is funded by taxpayer dollars.

Fleet Management Practices.—Agencies shall provide supporting documentation on their methods for determining their optimal fleet inventories and justification for any deviation from the General Services Administration's Federal Property Management Regulations upon request of the Committees. Agency inspectors general shall provide results from audits of fleet management practices and make them publicly available.

Invasive Species.—The Department of the Interior is directed to provide a written report to the Committees within 180 days of enactment of this Act, detailing the funds appropriated and expended, actions taken, and outputs achieved for the early detection of and rapid response to invasive species, as prescribed in the National Invasive Species Council Management Plan, 2016-2018.

Delivery of Reports and Correspondence.—All reports, correspondence, and reprogramming requests from the agencies to the Committees shall be provided in both physical and electronic formats.

Youth Partnership Programs.—The Secretary of the Interior and the Secretary of Agriculture are encouraged to utilize, where practicable, youth partnership programs like the Public Lands Corps, Youth Conservation Corps, Student Conservation Association, Job Corps and other related partnerships with Federal, State, local, tribal or non-profit groups that serve young adults.

Land and Water Conservation Fund.—The agreement includes $425,000,000 derived from the Land and Water Conservation Fund (LWCF) for programs consistent with chapter 2003 of title 54 of the United States Code, as identified in the table below.

	FY 2017 Enacted	Budget Request	This Bill
Land and Water Conservation Fund	**$400,000,000**	**$64,040,000**	**$425,000,000**
State, Local and Forest Legacy Programs	**211,151,000**	**11,524,000**	**224,731,000**
National Park Service State Assistance	110,006,000	3,043,000	124,006,000
Coop. Endangered Species Conservation Fund	30,800,000	0	19,638,000
American Battlefield Protection Act	10,000,000	8,481,000	10,000,000
Highlands Conservation Act	10,000,000	0	10,000,000
Forest Legacy Program	**62,347,000**	**0**	**67,025,000**
Rescission	-12,002,000	0	-5,938,000
Federal Land Acquisition	**188,849,000**	**52,516,000**	**200,269,000**
Bureau of Land Management	31,416,000	3,609,000	24,916,000
Fish and Wildlife Service	49,995,000	17,051,000	53,839,000
National Park Service	42,023,000	14,856,000	46,935,000
Forest Service	54,415,000	7,000,000	64,337,000
Department of the Interior Valuation Services	11,000,000	10,000,000	10,242,000

There is bipartisan support for the Land and Water Conservation Fund and this agreement includes funding for State assistance and new land acquisition projects. The Committees expect the

agencies to move forward with all projects specifically identified and funded through this agreement and those funded in previous fiscal years; to utilize funding in a timely manner; and to seek Congressional approval for reprogramming unobligated balances if applicable. Agencies are directed to continue their longstanding process of identifying and prioritizing potential Federal land acquisition projects in anticipation of program appropriations as consistent with previous years. Within 30 days of enactment of this Act, each agency is directed to submit to the Committees a prioritized list of projects for fiscal year 2019 consideration. In future years, the agencies are directed to submit their lists within 30 days of the President's budget submission to Congress.

The Committees believe increasing access to our public lands for hunting, fishing, and other recreational activities is important and again include funding for these projects. The Committees expect recreational access projects to be selected based on their role in meeting key recreation needs and the agencies should work with their respective regions, State offices, and/or management units to identify potential projects. The Committees are to be informed about the selection process and how the agencies are meeting the outlined objectives prior to proceeding with projects. Further, the agencies are again directed to include in future budget justifications an explanation of the process used for allocating funds for recreational access in the previous year.

National Ocean Policy.—The Committees direct the Department of the Interior to identify by agency and account, and submit no later than 60 days after enactment of this Act, all funding and associated actions in the President's budget submission for fiscal year 2019, proposed for the implementation of the coastal and marine spatial planning and ecosystem-based management components of the National Ocean Policy developed under Executive Order 13547.

REPROGRAMMING GUIDELINES

The following are the procedures governing reprogramming actions for programs and activities funded in the Department of the Interior, Environment, and Related Agencies Appropriations Act. The Committees remind the agencies funded in this Act that these reprogramming guidelines are in effect, and must be complied with, until such time as the Committees modify them through bill or report language.

Definitions.—"Reprogramming," as defined in these procedures, includes the reallocation of funds from one budget activity, budget line-item, or program area, to another within any appropriation funded in this Act. In cases where either the House or Senate Committee report displays an allocation of an appropriation below that level, that more detailed level shall be the basis for reprogramming.

For construction, land acquisition, and forest legacy accounts, a reprogramming constitutes the reallocation of funds, including unobligated balances, from one construction, land acquisition, or forest legacy project to another such project.

A reprogramming shall also consist of any significant departure from the program described in the agency's budget justifications. This includes proposed reorganizations, especially those of significant national or regional importance, even without a change in funding. Any change to the organization table presented in the budget justification shall be subject to this requirement.

The Committees are aware that agencies funded by this Act are currently working to implement Executive Order 13781, a Comprehensive Plan for Reorganizing the Executive Branch, and have included in the fiscal year 2019 budget request a number of significant reorganization proposals for the Committees' consideration. The Committees are also aware of reports that agencies funded by this Act may be weighing additional organizational changes during the remainder of this fiscal year. Agencies are reminded that this agreement continues longstanding General Guidelines for Reprogramming that require agencies funded by this Act to submit reorganization proposals for Committee review prior to their implementation. It is noted that such reprogramming guidelines apply to proposed reorganizations, workforce restructure, reshaping or transfer of functions presented in the budget justifications, or bureau-wide downsizing, especially those of significant national or regional importance, and include closures, consolidations, and relocations of offices, facilities, and laboratories presented in the budget justifications. In addition, no agency shall implement any part of a reorganization that modifies regional or State boundaries for agencies or bureaus that were in effect as of the date of enactment of this Act unless approved consistent with the General Guidelines for Reprogramming procedures specified herein. Any such reprogramming request submitted to the Committees on Appropriations shall include a description of anticipated benefits, including anticipated efficiencies and cost-savings, as well as a description of anticipated personnel impacts and funding changes anticipated to implement the proposal.

General Guidelines for Reprogramming.—

(a) A reprogramming should be made only when an unforeseen situation arises, and then only if postponement of the project or the activity until the next appropriation year would result in actual loss or damage.

(b) Any project or activity, which may be deferred through reprogramming, shall not later be accomplished by means of further reprogramming, but instead, funds should again be sought for the deferred project or activity through the regular appropriations process.

(c) Except under the most urgent situations, reprogramming should not be employed to initiate new programs or increase allocations specifically denied or limited by Congress, or to decrease allocations specifically increased by the Congress.

(d) Reprogramming proposals submitted to the House and Senate Committees on Appropriations for approval shall be considered approved 30 calendar days after receipt if the Committees have posed no objection. However, agencies will be expected to extend the approval deadline if specifically requested by either Committee.

Criteria and Exceptions.—A reprogramming must be submitted to the Committees in writing prior to implementation if it exceeds $1,000,000 annually or results in an increase or decrease of more than 10 percent annually in affected programs or projects, whichever amount is less, with the following exceptions:

(a) With regard to the tribal priority allocations of the Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE), there is no restriction on reprogrammings among these programs. However, the Bureaus shall report on all reprogrammings made during a given fiscal year no later than 60 days after the end of the fiscal year.

(b) With regard to the EPA, the Committees do not require reprogramming requests associated with the States and Tribes Partnership Grants, or up to a cumulative total of $30,000,000 from carryover balances among the individual program areas delineated in the Environmental Programs and Management account. No funds, however, shall be reallocated from individual Geographic Programs.

Assessments.—"Assessment" as defined in these procedures shall refer to any charges, reserves, or holdbacks applied to a budget activity or budget line item for costs associated with general agency administrative costs, overhead costs, working capital expenses, or contingencies.

(a) No assessment shall be levied against any program, budget activity, subactivity, budget line item, or project funded by the Interior, Environment, and Related Agencies Appropriations Act unless such assessment and the basis therefor are presented to the Committees on Appropriations in the budget justifications and are subsequently approved by the Committees. The explanation for any assessment in the budget justification shall show the amount of the assessment, the activities assessed, and the purpose of the funds.

(b) Proposed changes to estimated assessments, as such estimates were presented in annual budget justifications, shall be submitted through the reprogramming process and shall be subject to the same dollar and reporting criteria as any other reprogramming.

(c) The Committees direct that each agency or bureau which utilizes assessments shall submit an annual report to the Committees which provides details on the use of all funds assessed from any other budget activity, line item, subactivity, or project.

(d) In no case shall contingency funds or assessments be used to finance projects and activities disapproved or limited by Congress, or to finance programs or activities that could be foreseen and included in the normal budget review process.

(e) New programs requested in the budget should not be initiated before enactment of the bill without notification to, and the approval of, the Committees on Appropriations. This restriction applies to all such actions regardless of whether a formal reprogramming of funds is required to begin the program.

Quarterly Reports.—All reprogrammings between budget activities, budget line-items, program areas, or the more detailed activity levels shown in this agreement, including those below the monetary thresholds established above, shall be reported to the Committees within 60 days of the end of each quarter and shall include cumulative totals for each budget activity, budget line item, or construction, land acquisition, or forest legacy project.

Land Acquisitions, Easements, and Forest Legacy.—Lands shall not be acquired for more than the approved appraised value (as addressed in section 301(3) of Public Law 91-646), unless such acquisitions are submitted to the Committees on Appropriations for approval in compliance with these procedures.

Land Exchanges.—Land exchanges, wherein the estimated value of the Federal lands to be exchanged is greater than $1,000,000, shall not be consummated until the Committees have had a 30-day period in which to examine the proposed exchange. In addition, the Committees shall be provided advance notification of exchanges valued between $500,000 and $1,000,000.

Budget Structure.—The budget activity or line item structure for any agency appropriation account shall not be altered without advance approval of the House and Senate Committees on Appropriations.

Fiscal Year 2019 Process.—Historically, the Interior, Environment, and Related Agencies Appropriations Act has not included reprogramming direction in bill language. However, this historical practice is not consistent with the majority of other Appropriations subcommittees' bills. Therefore, the Committees plan to consider including bill language in fiscal year 2019. The agencies are therefore strongly encouraged to work collaboratively with the Committees to develop language in order to avoid any barriers to implementation.

TITLE I – DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
MANAGEMENT OF LANDS AND RESOURCES

Bureau of Land Management Directives.—The Bureau is reminded of the importance of the directives included in House Report 115-238 not addressed herein, as well as the new directives in this explanatory statement, including the front matter.

TITLE II – ENVIRONMENTAL PROTECTION AGENCY

The bill provides $8,058,488,000 for the Environmental Protection Agency (EPA). The bill does not support reductions proposed in the budget request unless explicitly noted in the explanatory statement.

Congressional Budget Justification.—The Agency is directed to continue to include the information requested in House Report 112-331 and any proposals to change State allocation formulas that affect the distribution of appropriated funds in future budget justifications.

Reprogramming and Workforce Reshaping.—The agreement does not include any of the requested funds for workforce reshaping. Further, the Committees do not expect the Agency to consolidate or close any regional offices in fiscal year 2018. The Agency is held to the reprogramming limitation of $1,000,000 and should continue to follow the reprogramming directives as provided in the front of this explanatory statement. It is noted that such reprogramming directives apply to proposed reorganizations, workforce restructure, reshaping, transfer of functions, or downsizing, especially those of significant national or regional importance, and include closures, consolidations, and relocations of offices, facilities, and laboratories.

Further, the Agency may not use any amount of deobligated funds to initiate a new program, office, or initiative, without the prior approval of the Committees. Within 30 days of enactment of this Act, the Agency is directed to submit to the House and Senate Committees on Appropriations its annual operating plan for fiscal year 2018, which shall detail how the Agency plans to allocate funds at the program project level.

Other.—It is noted that the current workforce is below the fiscal year 2017 level, therefore, the agreement includes rescissions in the Science and Technology and Environmental Programs and Management accounts that capture expected savings associated with such changes. The Agency is directed to first apply the rescissions across program project areas to reflect routine attrition that will occur in those program project areas in fiscal year 2018 and then to reflect efficiency savings in a manner that seeks, to the extent practicable, to be proportional among program project areas. Amounts provided in this Act are sufficient to fully fund Agency payroll estimates. The Committees understand that the Agency routinely makes funding payroll requirements a top priority, and the Committees expect the Agency will continue to do so as it executes its fiscal year 2018 appropriation and applies the rescissions.

The Committees do not expect the Agency will undertake adverse personnel actions or incentive programs to comply with the rescissions nor do the Committees expect the Agency will undertake large-scale adverse personnel actions or incentive programs in fiscal year 2018. As specified in the bill language, the rescissions shall not apply to the Geographic Programs, the National Estuary Program, and the National Priorities funding in the Science and Technology and Environmental Programs and

Management accounts. The Agency is directed to submit, as part of the operating plan, detail on the application of such rescissions at the program project level.

SCIENCE AND TECHNOLOGY
(INCLUDING RESCISSION OF FUNDS)

For Science and Technology programs, the bill provides $713,823,000 to be partially offset by a $7,350,000 rescission for a net discretionary appropriation of $706,473,000. The bill transfers $15,496,000 from the Hazardous Substance Superfund account to this account. The bill provides the following specific funding levels and direction:

Indoor Air and Radiation—The bill provides $5,997,000 and funding for the radon program is maintained at not less than the fiscal year 2017 enacted level.

Research: National Priorities.—The bill provides $4,100,000 which shall be used for extramural research grants, independent of the Science to Achieve Results (STAR) grant program, to fund high-priority water quality and availability research by not-for-profit organizations who often partner with the Agency. Because these grants are independent of the STAR grant program, the Agency should strive to award grants in as large an amount as is possible to achieve the most scientifically significant research. Funds shall be awarded competitively with priority given to partners proposing research of national scope and who provide a 25 percent match. The Agency is directed to allocate funds to grantees within 180 days of enactment of this Act.

Additional Guidance.—The agreement includes the following additional guidance:

Alternatives Testing.—The Agency is directed to follow the guidance contained under this heading in House Report 115-238 and to also include in its report to the Committees information and analysis related to potential barriers or limitations on the use of alternative test methods and to ensure that any future plans address such barriers or limitations, particularly as they relate to susceptible populations.

Computational Toxicology.—The Committees support the Agency's computational toxicology research activities to advance the next generation of risk assessment methods, including for prioritization, screening and testing under the Lautenberg Chemical Safety Act (LCSA). Such research activities must be carried out following the requirements of the LCSA to ensure that alternative test methods "provide information of equivalent or better scientific quality and relevance" and to protect susceptible subpopulations from unreasonable risk. The Agency's National Center for Computational Toxicology (NCCT) is encouraged to expand its collaborations with scientific experts outside of the Agency to advance development and use of human biology-based experimental and computational approaches for chemical assessments.

The Committees direct the Agency to develop the strategic plan on alternative methods and testing strategies required by the LCSA utilizing the leadership of the Director of Office of Pollution Prevention and Toxics (OPPT), the Director of NCCT, the Director of the National Toxicology Program (NTP), and the Director of the National Center for Environmental Assessment (NCEA). The process for developing this strategic plan shall include requests for information from the scientific community and the public and two or more public meetings or workshops. The Agency shall circulate the draft strategic plan for public review and comment, revise the plan to address comments and then issue the strategic plan, which shall include an appendix documenting response to, and disposition of, public comments. In addition, NCCT, OPPT, NTP, and NCEA shall each assign 1 FTE to collaborate on evaluating computational toxicology, in vitro methods and alternative test methods for specific scientifically-valid applications by OPPT for implementation in the LCSA. The Committees request the Agency to provide a status report on these activities no later than September 30, 2018.

Enhanced Aquifer Use.—The Agency is directed to continue following the guidance contained in Senate Report 114-281 in addition to the guidance contained in House Report 115-238 directing the Agency to coordinate with other Federal research efforts in this area.

Integrated Risk Information System.—The agreement continues to provide funding for the Integrated Risk Information System (IRIS) program at the fiscal year 2017 enacted level and direction that the program continues within the Office of Research and Development. The Committees remain concerned that the program has appeared on the ~~General~~ Government Accountability Office's (GAO) High Risk List since 2008. The Committees are aware of progress made by the Agency to implement the 2011 National Academy of Science's (NAS) Chapter 7 and 2014 NAS report recommendations for the IRIS program, but remain concerned that the recommendations have not been fully implemented. The Committees note that the Agency and the NAS held a workshop in February 2018 to review advances made to the IRIS process, and that an NAS report on IRIS' progress is forthcoming. The Committees are encouraged that the program indicated its willingness to more closely align the development of risk assessments with stated regulatory priorities of the Agency, and believes that these efforts will make the assessments more relevant. The Committees understand that the program intends to continue the development of new methodologies and technologies to enhance the development of future IRIS assessments and encourages the program to do so, while also encouraging the program to ensure that all IRIS methodologies attain the highest scientific rigor. Finally, the Committees urge the expedited completion of the IRIS handbook and direct that the public be afforded an opportunity to provide comment on the handbook before it is placed in use.

National Air Toxics Trends Station Network.—The agreement maintains funding for the National Air Toxic Trends Station Network, which tracks air pollution trends at 27 stations across the country, at

the fiscal year 2017 enacted level to accommodate the network's ongoing activities to gather consistent, high-quality monitoring data on hazardous air pollutants across the country.

Nanomaterials Research.—The Agency should continue to follow the direction included in Senate Report 114-281 and seek to maximize collaborative research efforts with the Food and Drug Administration.

Partnership Research.—The Committees encourage the Agency to continue leveraged partnerships with not-for-profit institutions that often partner with the Agency, industry, and affected stakeholders to produce independent science and evaluate the effectiveness of environmental regulations relating to unconventional oil and gas development. The study should be used to provide credible science, of national scope, relating to unconventional oil and gas development. Within available funds, the Agency is directed to use ~~at least~~ $1,000,000 to partner on such a study during fiscal year 2018.

STAR Grants.—The agreement provides funds to continue the Science to Achieve Results (STAR) program and the Committees direct the Agency to distribute grants consistent with fiscal year 2017. Within 90 days of enactment of this Act, the Committees direct the Agency to provide a briefing on its plans for the program in fiscal year 2018.

(not less than

ENVIRONMENTAL PROGRAMS AND MANAGEMENT
(INCLUDING RESCISSION OF FUNDS)

For Environmental Programs and Management, the bill provides $2,643,299,000 to be partially offset by a $45,300,000 rescission for a net discretionary appropriation of $2,597,999,000. The bill provides the following specific funding levels and direction:

Clean Air. —The agreement maintains funding for the EnergySTAR program at the fiscal year 2017 enacted level. In 2009, the Agency and the Department of Energy (DOE) signed a Memorandum of Understanding (MOU) related to the EnergySTAR Program, which shifted some functions related to home appliance products from the DOE to EPA. The Agency shall work with the DOE to review the 2009 MOU and report to the Committees within 90 days of enactment of this Act on whether the expected efficiencies for home appliance products have been achieved.

Further, the Committees do not support the proposed termination of voluntary programs, including Natural GasSTAR, AgSTAR, the Combined Heat and Power Partnership, and other partnership programs where EPA works collaboratively with nongovernmental entities to identify beneficial methods to reduce emissions, reduce pollution, or increase efficiency. The Committees also maintain both program areas related to stratospheric ozone at not less than the fiscal year 2017 enacted level.

Environmental Protection: National Priorities.—The bill provides $12,700,000 for a competitive grant program to provide technical assistance for improved water quality or safe drinking water, adequate waste water to small systems or individual private well owners. The Agency shall provide $10,000,000 for the Grassroots Rural and Small Community Water Systems Assistance Act, for activities specified under section 1442(e) of the Safe Drinking Water Act (42 U.S.C. 300j–1(e)(8)). The Agency is also directed to provide $1,700,000 for grants to qualified not-for-profit organizations for technical assistance for individual private well owners, with priority given to organizations that currently provide technical and educational assistance to individual private well owners. The Agency is directed to provide on a national and multi-State regional basis, $1,000,000 for grants to qualified organizations, for the sole purpose of providing onsite training and technical assistance for wastewater systems. The Agency shall require each grantee to provide a minimum 10 percent match, including in kind contributions. The Agency is directed to allocate funds to grantees within 180 days of enactment of this Act.

The Committees understand the Agency has made a decision to put out a multi-year Request for Applications for fiscal year 2017 and fiscal year 2018 without expressed approval from the Committees. The Committees expect the Agency to formally consult on similar decisions in the future.

Geographic Programs.—The bill provides $447,857,000, as distributed in the table at the end of this division, and includes the following direction:

Great Lakes Restoration Initiative.—The bill provides $300,000,000 and the Agency shall continue to follow the direction as provided in House Report 112-589 and in Senate Report 114-281 related to the Great Lakes Restoration Initiative. Additionally, the Committees encourage Agency funds for Great Lakes projects to be made available for projects in the historic Great Lakes Basin, which includes the Chicago River Watershed.

Chesapeake Bay.—The bill provides $73,000,000 and the Agency shall allocate funds consistent with the direction under this heading in Senate Report 114-281.

Gulf of Mexico.—The bill provides $12,542,000 for the Gulf of Mexico Geographic Program where hypoxia is a growing cause for concern. The Committees direct the Agency to coordinate with the U.S. Department of Agriculture, the Gulf States, and other State, local and private partners to leverage greater resources toward conservation projects on working-lands within the Gulf Region and Mississippi River Basin. The Agency is directed to distribute funds in the same manner as fiscal year 2017.

Lake Champlain.—The bill provides $8,399,000 for the Lake Champlain program. From within the amount provided, $4,399,000 shall be allocated in the same manner as fiscal year 2017 and $4,000,000 shall be for otherwise unmet needs necessary to implement the Agency's 2016 Phosphorus Total Maximum Daily Load Plan for Lake Champlain for projects and work identified in the State implementation plan.

Puget Sound.—The bill provides $28,000,000 and the Agency shall follow the direction under this heading in House Report 115-238.

Northwest Forest Program.—The Northwest Forest Program is funded at not less than the fiscal year 2017 enacted level.

South Florida Program.—The agreement maintains funding for the South Florida Program and directs the Agency to allocate funds in the same manner as fiscal year 2017.

Indoor Air and Radiation.—The agreement maintains funding for the radon program at the fiscal year 2017 enacted level and funds have been included for Radiation Protection and Reduce Risks from Indoor Air programs.

Information Exchange/Outreach.—The agreement includes funding for tribal capacity building equal to the fiscal year 2017 enacted level, and the Agency is directed to use environmental education funds for the smart skin care program, similar to prior years. The agreement also provides for the Small Minority Business Assistance program to be continued.

International Programs.—The bill provides $15,400,000 and includes funds to maintain the U.S.-Mexico Border program at the fiscal year 2017 enacted level.

Legal/Science/Regulatory/Economic Review.—The bill provides $111,414,000, equal to the fiscal year 2017 enacted level. Within that amount, Integrated Environmental Strategies is funded at the fiscal year 2017 level, so that the Agency can continue to provide locally-led, community-driven technical assistance to communities in partnership with localities, States, and other Federal agencies.

Official Reception and Representation Expenses.—The bill provides necessary funding for the Agency's Commission on Environmental Cooperation meeting in fiscal year 2018.

Resource Conservation and Recovery Act.—The bill provides $109,377,000. Of the funds provided under this section, $6,000,0000 should be allocated for the purpose of developing and implementing a Federal permit program for the regulation of coal combustion residuals in nonparticipating States, as authorized under section 4005(d)(2)(B) of the Solid Waste Disposal Act (42 U.S.C. 6945(d)(2)(B)). The Committees also reiterate the importance of additional language included in House Report 115-238 related to coal combustion residuals and recognize that additional State grants may be necessary as States work to implement permit programs as authorized under section 2301 of the WIIN Act (Public Law 114-322).

Additionally, the Committees continue to support the Waste Minimization and Recycling program, and the Agency is encouraged to use funds from within the program to help public entities demonstrate community anaerobic digester applications to municipal solid waste streams and farm needs such as capturing excess phosphorus.

Toxics Risk Review and Prevention.—The bill provides $92,521,000 and maintains funding for the Pollution Prevention program and the Lead Risk Reduction program.

Water: Ecosystems.—The bill provides $47,788,000. From within the amount provided, $26,723,000 has been provided for the National Estuary Program (NEP) grants as authorized by section 320 of the Clean Water Act. This amount is sufficient to provide each of the 28 national estuaries in the program with a grant of at least $600,000.

Further, in the Administrative Provisions section, the Committees direct that $1,000,000 in competitive grants be made available for additional projects, and encourages the Agency to work in consultation with the NEP directors to identify worthy projects and activities.

Water Quality Protection. —The bill provides $210,417,000 and maintains funding for the WaterSENSE program at the fiscal year 2017 enacted level.

Additional Guidance.—The agreement includes the following additional guidance:

Chesapeake Bay.—The Committees note the agreements signed by the Agency, States and other stakeholders to locate a Chesapeake Bay Liaison Office in Annapolis, Maryland to facilitate coordination among jurisdictions and from participating Federal agencies in support of the Chesapeake Bay Program. Currently, the Chesapeake Bay Program Office is located in Annapolis, per the agreement, and houses staff from the Chesapeake Bay Program, five Federal agencies and 35 non-Federal partners in order to facilitate program coordination. The Committees note and appreciate the commitment made by the Agency to locate the office in, or immediately adjacent to, Annapolis, in compliance with the signed agreements and to also ensure that the future office space will continue to accommodate all of the current Chesapeake Bay Program Office participants. The Committees direct the Agency to completely fulfill those commitments and to keep the Committees fully apprised of progress in each step of the lease process.

Coal Refuse-Fired Electrical Generating Units.—In its rulemaking on New Source Performance Standards (NSPS), the Agency provided a separate subcategory for SO2 emissions standards for owners and operators of affected coal refuse-fired facilities combusting 75 percent or more coal refuse on an annual basis. In the subsequent rulemaking, "National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units," (the MATS rule) the Agency did not provide a separate subcategory for coal refuse-fired Electric Generating Units (EGUs). It is noted that some stakeholders believe that the NSPS standard appropriately recognizes the multimedia environmental benefits provided by coal refuse-fired EGUs and that the high sulfur content present in coal refuse presents economic and technical difficulties in achieving the same acid gas standards as for coal. The Agency should consider revising the MATS Rule as soon as practicable to provide a separate category for

coal refuse-fired EGUs for purposes of the acid gas requirement and its SO2 surrogate consistent with the NSPS.

Diesel Generators in Remote Alaska Villages.—Under 40 CFR 60.4216, diesel generators purchased after Model Year 2014 are required to have a diesel particulate filter if they are used as the primary power generator. The Committees understand that these filters have a high failure rate in harsh weather conditions and that repair of the filters can be difficult and expensive. The Committees direct the Agency to reexamine 40 CFR 60.4216 and consider exempting these Villages from the diesel particulate filter requirement.

Ecolabels for Federal Procurement.—Multiple forest certification systems have been recognized throughout the Federal government as supporting the use of sustainable products in building construction and other uses. The Committees are concerned that the Agency's efforts have not acknowledged many of these certification systems and are therefore limiting the procurement of some products that may be sustainable. The Committees understand that the Agency's Wood/Lumber product category recommendation is currently under review. The Committees direct the Agency to align its Wood/Lumber recommendation with the provisions of the USDA BioPreferred program.

Elk River.—The Committees encourage the Agency, in coordination with the Department of State and other Federal agencies, to work with State, local, and Tribal partners on efforts to reduce selenium, sulfates, nitrates and other harmful contaminants in the Kootenai Watershed, to which the Elk River is a tributary. The Agency is directed to brief the Committees on its efforts within 180 days of enactment of this Act.

Exempt Aquifers.—The Agency shall follow the guidance contained under this heading in House Report 115-238.

Fish Grinding.—Under a Clean Water Act general permit, onshore seafood processors in Alaska are allowed to grind and discharge ~~of~~ seafood waste. The permit requires that all seafood waste be ground to a size of no more than one-half inch in any dimension. Unfortunately, in some instances, the best available technology is unable to achieve a half inch grind dimension on a consistent basis due to the malleable nature of fish waste. The Agency should develop a policy to ensure that fish processors using the best available technology and/or best conventional practice will be considered in compliance. Additionally, processing vessels operating in waters off-shore of Alaska are subject to the same one-half inch grinding requirement even though there are no documented water quality issues that require such grinding. The Agency should exempt offshore processing vessels from the requirement.

Glider Kits.—The Committees understand the Agency has announced plans to revisit portions of its Phase 2 Greenhouse Gas (GHG) Emissions and Fuel Efficiency Standards for Medium- and Heavy-

Duty Engines. Upon completion of the review, the Agency is directed to update the Committees on the matter.

Integrated Planning.—The Agency is encouraged to continue using an integrated planning approach to enhance flexibility for communities struggling to meet compliance costs mandated under the Clean Water Act (CWA) as well as the Agency's efforts to consider a community's ability to pay for compliance costs when determining permitting actions under the CWA. The Agency is directed to maintain technical assistance and outreach to communities seeking to develop and implement an integrated planning approach to meeting Clean Water Act requirements. Further, the Committees urge the Agency to implement integrated planning measures through a flexible permit process rather than enforcement actions and consent decrees.

Interagency Consultations.—The Agency is directed to continue following the requirements in Senate Report 114-281 regarding consultation with the Secretary of Agriculture related to the Federal Insecticide, Fungicide and Rodenticide Act.

Pesticides Registration Improvement Act.—The agreement provides additional funding for compliance with the Pesticides Registration Improvement Act. The Committees direct the Agency to comply with the fiscal year 2017 quarterly reporting requirement related to previously collected maintenance fees that are currently unavailable for obligation. To ensure the Committees have the most accurate information regarding this issue, the Agency is directed to provide a briefing within 30 days of enactment of this Act.

Public Access to Research.—The Agency released its Plan to Increase Access to Results of EPA-Funded Scientific Research on November 29, 2016. The Committees urge the Agency to continue its efforts towards full implementation of the plan, and directs the Agency to provide an update on its efforts within 60 days of enactment of this Act.

Regulation of Groundwater.—Since enactment in 1972, the Clean Water Act (CWA) has regulated impacts to navigable waters, while regulation of groundwater has remained outside of the Act's jurisdiction. Instead, legislative history surrounding the CWA indicates that Congress intended for groundwater pollution to be regulated through CWA's nonpoint source programs and other Federal and State laws. For example, releases into groundwater from solid waste units are regulated at a Federal level by the Resource Conservation and Recovery Act (RCRA). Recently, some courts have imposed a broad view of CWA liability based on a theory of hydrological connection between groundwater and surface water. Other courts have taken a more narrow view and have focused on statutory distinctions between surface water and groundwater. The Committees are aware that the Agency has requested comment on its previous statements "regarding the Clean Water Act (CWA) and whether pollutant discharges from point sources that reach jurisdictional surface waters via groundwater or other subsurface flow that has a

direct hydrologic connection to the jurisdictional surface water may be subject to CWA regulation." After completing the public comment process, the Committees encourage the Agency to consider whether it is appropriate to promulgate a rule to clarify that groundwater releases from solid waste units are regulated under RCRA and are not considered point sources, and, that releases of pollutants through groundwater are not subject to regulation as point sources under the CWA. The Agency is directed to brief the Committees about its findings and any plans for future rulemaking.

Small Refinery Relief.—The Committees continue the directive contained in Senate Report 114–281 related to small refinery relief. The Agency is reminded that, regardless of the Department of Energy's recommendation, additional relief may be granted if the Agency believes it is warranted.

Toxic Substances Control Act (TSCA) Risk Evaluations.—Under the agreement, the Agency is directed to implement the Frank R. Lautenberg Chemical Safety for the 21st Century Act in a manner that reflects the best available science as now required under TSCA section 26.

Agricultural Operations.—The Committees note that Congress never intended the Solid Waste Disposal Act to govern animal or crop waste, manure, or fertilizer, or constituents derived from such sources. The Agency's longstanding regulations accurately reflect Congress' intent not to regulate manure and crop residues under the Solid Waste Disposal Act, and the Committees support legislative efforts to clarify and codify the treatment of agricultural byproducts under the Solid Waste Disposal Act.

HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM FUND

The bill provides $3,674,000 which is expected to be fully offset by fees for a net appropriation of $0. The Committees continue to support the expeditious development of a system that would allow for the electronic tracking of hazardous waste shipments pursuant to Public Law 112–195.

The Committees realize the Agency is transitioning from the developmental phase to the implementation phase for the E-Manifest System. Therefore, the Committees urge the Agency to use an adequate portion of funding to begin the implementation of the Application Program Interface System which will allow hazardous waste treatment, storage, transport and disposal facilities to interface their computer systems with those of EPA to upload and download manifest and other important information related to full scale implementation of the system.

OFFICE OF INSPECTOR GENERAL

The bill provides $41,489,000 for the Office of Inspector General.

BUILDINGS AND FACILITIES

The bill provides $34,467,000 for Buildings and Facilities.

HAZARDOUS SUBSTANCE SUPERFUND
(INCLUDING TRANSFERS OF FUNDS)

The bill provides $1,091,947,000 for the Hazardous Substance Superfund account and includes bill language to transfer $8,778,000 to the Office of Inspector General account and $15,496,000 to the Science and Technology account. When combined with an additional $54,389,000 for the Superfund Remedial program and an additional $8,611,000 for the Superfund Emergency Response and Removal program in a general provision in Title IV, the bill provides a total of $1,154,947,000 for the Hazardous Substance Superfund. The bill provides the following additional direction:

Enforcement.—The agreement provides $166,375,000 for Superfund enforcement, equal to the fiscal year 2017 enacted level. The Committees do not concur with the proposed elimination of financial support to the Department of Justice (DOJ). The Agency is directed to continue financial support of the DOJ in fiscal year 2018 at a level that will ensure the DOJ can continue to initiate and prosecute civil, judicial, and administrative site remediation cases and ensure that responsible parties perform cleanup actions at sites where they are liable.

Additional Guidance.—The Committees have provided the following additional guidance with respect to funding provided under this account:

Baseline Testing Study.—The Committees direct the Agency to work with the Municipality of Vieques to partner with a University-led coalition, which shall include a School of Public Health, to conduct research to facilitate the effective testing, evaluation, quantification and mitigation of the toxic substances in the soil, seas, plant, animal and human population of Vieques. This effort will fill an information void at this site, which functioned as a military training installation for decades, and serve as the baseline study for all potential future mitigation efforts.

Contaminants of Emerging Concern.—The bill provides $181,306,000 in base funds for Emergency Response and Removal activities. When combined with an additional $8,611,000 in a general provision in Title IV, the bill provides a total of $189,917,000 for Emergency Response and Removal activities. These activities should include collaborative work with State, Tribal, and local governments to help communities address contaminants of emerging concern. Furthermore, the Committees recommend that the Agency expeditiously remediate Superfund sites contaminated by these emerging contaminants, and provide technical assistance and support to States and Tribes during the remedial cleanup process.

Financial Assurance.—Since enactment of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) in 1980, Federal agencies like the Bureau of Land Management and Forest Service have created and updated financial assurance requirements for reclamation and closure of hardrock mining facilities on Federal lands. Similarly, several States have developed financial assurance programs for mining activities occurring on private and State lands. The Committees understand that, pursuant to a Federal Register notice signed on December 11, 2017, the EPA will not impose new Federal financial assurance requirements on hardrock mining facilities.

Sediment Guidance.—When implementing the recommendations of the Superfund Task Force, the Agency should consider additional improvements to the consistency of the application of sediment guidance among regions. At sites expected to exceed $50,000,000, the Committees encourage the Agency to include the Contaminated Sediment Technical Advisory Committee (CSTAG) and the National Remedy Review Board (NRRB) throughout the process and to ensure that their technical review and remedy recommendations are evaluated and considered for inclusion in the final remedy. Additionally, the Committees encourage the Agency to, consistent with National Oil and Hazardous Substances Contingency Plan, set achievable cleanup goals, broaden the use of adaptive management and early actions, explore the utility of public-private partnerships similar, expand stakeholder participation, and promote cost-effectiveness, redevelopment, and sustainability in the Superfund process.

Tribal Guidance.—The Committees recognize the importance of government-to-government Tribal consultation as well as the necessity to honor Tribal treaty rights and resources protected by

treaties. The Agency is directed to fully implement the Agency's Guidance for Discussing Tribal Treaty Rights to ensure Agency actions adequately consider treaty rights proactively throughout the consultation process.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND PROGRAM

The bill provides $91,941,000 for the Leaking Underground Storage Tank Trust Fund Program.

INLAND OIL SPILL PROGRAMS

The bill provides $18,209,000 for Inland Oil Spill Programs.

STATE AND TRIBAL ASSISTANCE GRANTS

The bill provides $3,562,161,000 for the State and Tribal Assistance Grants program and includes the following specific funding levels and direction:

Infrastructure Assistance.—The bill provides $2,486,120,000 in base funds for infrastructure assistance. When combined with an additional $650,000,000 in a Title IV general provision, the bill provides a total of $3,136,120,000 for infrastructure assistance. The amount provided increases funding for the State Revolving Loan Funds $600,000,000 above the fiscal year 2017 enacted level. The

agreement includes a total of $1,693,887,000 for the Clean Water State Revolving Loan Fund and $1,163,233,000 for the Drinking Water State Revolving Loan Fund.

Assistance to Small and Disadvantaged Communities.—Within a Title IV general provision, the bill provides $20,000,000 to begin a grant program to help small and disadvantaged communities develop and maintain adequate water infrastructure. The program was created in section 2104 of Public Law 114–322. The Agency is directed to brief the Committees prior to publishing its request for applications related to this new grant program.

Reducing Lead in Drinking Water.—Within a Title IV general provision, the bill provides $10,000,000 to begin a grant program, created in section 2105 of Public Law 114-322, to provide assistance to eligible entities for lead reduction projects. The Agency is directed to brief the Committees prior to publishing its request for applications related to this new grant program.

Lead Testing.—Within a Title IV general provision, the bill provides $20,000,000 to begin a grant program for voluntary testing of drinking water for lead contaminants at schools and child care facilities, as authorized in section 2107 of Public Law 114-322. The Agency is directed to brief the Committees prior to publishing its request for applications related to this new grant program.

Brownfields Program.—The bill provides $80,000,000 for brownfields grants and directs that at least 10 percent of such grants be provided to areas in which at least 20 percent of the population has lived under the poverty level over the past 30 years as determined by censuses and the most recent Small Area Income and Poverty Estimates.

Use of Iron and Steel.—The bill includes language in Title IV General Provisions that stipulates requirements for the use of iron and steel in State Revolving Fund projects, and the agreement includes only the following guidance. The Committees acknowledge that EPA may issue a waiver of said requirements for *de minimis* amounts of iron and steel building materials. The Committees emphasize that any coating processes that are applied to the external surface of iron and steel components that otherwise qualify under the procurement preference shall not render such products ineligible for the procurement preference regardless of where the coating processes occur, provided that final assembly of the products occurs in the United States.

Diesel Emission Reductions Grants (DERA).—The bill provides $75,000,000 for DERA grants. For fiscal year 2018, the Committees direct the Agency to continue to make at least 70 percent of DERA grants available to improve air quality in non-attainment areas.

Targeted Airshed Grants.—The bill provides $40,000,000 for targeted airshed grants to reduce air pollution in non-attainment areas. The Agency is directed to distribute the grants on a competitive basis using the same criteria as specified under this heading in the explanatory statement accompanying Division G of the Consolidated Appropriations Act, 2017 (Public Law 115-31). Not later than the end of

fiscal year 2018, the Agency should provide a report to the Committees on Appropriations that includes a table showing how fiscal year 2016 and 2017 funds were allocated. The table should also include grant recipients and metrics for anticipated or actual results.

Animas River Spill.—The Committees concur with the Agency's decision to reconsider its previous determination to deny claims for damages from the Animas River Spill by invoking the discretionary act exemption in the Federal Tort Claims Act, but are concerned that little progress has been made on processing or paying out claims. The Committees are also concerned that the Agency is applying or may apply an inconsistent standard that discriminates against certain claimants. The Committees expect the Agency and the Federal government to take a clear and consistent position on the question of whether they are responsible for damages caused to others by the Gold King Mine release. The Committees support paying out all legitimate claims from the Judgment Fund, consistent with the Federal Tort Claims Act, and communicating all relevant aspects of the claims process clearly to all affected communities, State, local and Tribal governments, along with the Committees. Within 30 days of enactment of this Act, the Agency shall provide to the Committees a written report detailing the status of the review of the legal basis for allowing or rejecting claims and the date by which such review will be complete, the current process underway for processing claims, the status of all claims, including reconsidered claims, the Agency's complete plan for processing all claims, and any other future planned actions related to current or future claims. Finally, the bill provides $4,000,000 for a long-term water quality monitoring program, as authorized by Public Law 114–322. The Agency is directed to continue to work in consultation with affected States and Tribes on that effort.

Categorical Grants.—The bill provides $1,076,041,000 for Categorical Grants and funding levels are specified in the table at the end of this division. Within this amount, the Beaches Protection program and Radon program are both maintained at the fiscal year 2017 enacted levels. The Agency shall continue to allocate radon grants in fiscal year 2018 following the direction in House Report 114-632.

The amount also includes $228,219,000 for the State and Local Air Quality Management grant program, and the Agency is directed to allocate funds for this program using the same formula as fiscal year 2015. The Committees understand the Office of Air and Radiation was able to provide some additional funds to the States in fiscal year 2016 using balances. The Committees encourage the Agency to do the same in fiscal year 2018 and to provide those additional funds to the regions with the highest need.

Categorical Grant: Multipurpose Grants.—Because the States are expected to take a leading role in compliance with environmental cleanup, the agreement provides $10,000,000 for Multipurpose grants to States and Tribes. The Committees were disappointed with the Agency's funding formula in fiscal year 2016 because it did not provide the flexibility that Congress expected and instead gave preference to

air programs. In fiscal year 2018, the Agency is directed to give maximum flexibility to States, so that States, not the Agency, may determine where funds from this grant program are of most value.

Categorical Grant: Nonpoint Source (Sec. 319).—The bill provides $170,915,000 and the Committees expect the Agency to examine the allocation formula to ensure that the resources are being spent in areas with the most pressing needs.

WATER INFRASTRUCTURE FINANCE AND INNOVATION PROGRAM ACCOUNT

The bill provides a total of $63,000,000 for the Water Infrastructure Finance and Innovation Act (WIFIA) program. Within base funding in Title II, the bill provides $10,000,000 for the WIFIA program, and a Title IV general provision provides an additional $53,000,000 for the program. By utilizing $5,000,000 in base funds and $3,000,000 in Title IV funds, the Agency may use up to a total of $8,000,000 to assist with the administrative expenses for the program. The remaining $55,000,000 in WIFIA funds is provided for direct loan subsidization which may translate into a potential loan capacity in excess of $6,000,000,000 to eligible entities for water infrastructure projects.

Greater investment in the replacement of aging infrastructure will help mitigate nationwide issues the Committees are tracking related to contaminants such as lead and arsenic, help address Combined Sewer Overflows and Sanitary Sewer Overflows, and allow systems to improve water delivery for residents. The Committees expect that the Agency will issue loans for the first time in fiscal year 2018 and the Committees intend to closely monitor implementation.

ADMINISTRATIVE PROVISIONS—ENVIRONMENTAL PROTECTION AGENCY (INCLUDING TRANSFERS AND RESCISSION OF FUNDS)

The bill continues several administrative provisions from previous years.

Rescission.—The bill rescinds $96,198,000 of unobligated balances from the State and Tribal Assistance Grants account. The Agency shall calculate the requisite percent reduction necessary to rescind such amounts from new obligational authority provided to this account, both from the direct appropriation and from amounts provided in a general provision in Title IV, and apply it across program project areas by formula. The Agency is directed to submit, as part of the operating plan, detail on the application of such rescissions by program project area.

TITLE IV—GENERAL PROVISIONS
(INCLUDING TRANSFERS OF FUNDS)

The agreement includes various legislative provisions in Title IV of the bill. The provisions are:

Section 401 continues a provision providing that appropriations available in the bill shall not be used to produce literature or otherwise promote public support of a legislative proposal on which legislative action is not complete.

Section 402 continues a provision providing for annual appropriations unless expressly provided otherwise in this Act.

Section 403 continues a provision providing restrictions on departmental assessments unless approved by the Committees on Appropriations.

Section 404 continues a limitation on accepting and processing applications for patents and on the patenting of Federal lands.

Section 405 continues a provision regarding the payment of contract support costs.

Section 406 addresses the payment of contract support costs for fiscal year 2018.

Section 407 continues a provision providing that the Secretary of Agriculture shall not be considered in violation of certain provisions of the Forest and Rangeland Renewable Resources Planning Act solely because more than 15 years have passed without revision of a forest plan, provided that the Secretary is working in good faith to complete the plan revision.

Section 408 continues a provision limiting preleasing, leasing, and related activities within the boundaries of National Monuments.

Section 409 restricts funding appropriated for acquisition of land or interests in land from being used for declarations of taking or complaints in condemnation.

Section 410 continues a provision addressing timber sales involving Alaska western red and yellow cedar.

Section 411 continues a provision which prohibits no-bid contracts.

Section 412 continues a provision which requires public disclosure of certain reports.

Section 413 continues a provision which delineates the grant guidelines for the National Endowment for the Arts.

Section 414 continues a provision which delineates the program priorities for the programs managed by the National Endowment for the Arts.

Section 415 requires the Department of the Interior, Environmental Protection Agency, Forest Service and Indian Health Service to provide the Committees on Appropriations quarterly reports on the status of balances of appropriations.

Section 416 continues a provision prohibiting the use of funds to promulgate or implement any regulation requiring the issuance of permits under Title V of the Clean Air Act for carbon dioxide, nitrous oxide, water vapor, or methane emissions.

Section 417 continues a provision prohibiting the use of funds to implement any provision in a rule if that provision requires mandatory reporting of greenhouse gas emissions from manure management systems.

Section 418 continues a provision prohibiting the use of funds to regulate the lead content of ammunition or fishing tackle.

Section 419 continues a provision through fiscal year 2019 authorizing the Secretary of the Interior and the Secretary of Agriculture to consider local contractors when awarding contracts for certain activities on public lands.

Section 420 extends the authorization for the Chesapeake Bay Initiative.

Section 421 extends certain authorities through fiscal year 2018 allowing the Forest Service to renew grazing permits.

Section 422 prohibits the use of funds to maintain or establish a computer network unless such network is designed to block access to pornography websites.

Section 423 extends the authority of the Forest Service Facility Realignment and Enhancement Act.

Section 424 sets requirements for the use of American iron and steel for certain loans and grants.

Section 425 prohibits the use of funds to destroy any building or structures on Midway Island that have been recommended by the U.S. Navy for inclusion in the National Register of Historic Places.

Section 426 reauthorizes funding for one year for the John F. Kennedy Center for the Performing Arts.

Section 427 provides authority for the Secretary of the Interior to enter into training agreements and to transfer excess equipment and supplies for wildfires.

Section 428 extends current authorities for operations of Indian Health Service programs in Alaska.

Section 429 addresses payment to certain hospitals.

Section 430 makes additional investments in water infrastructure priorities and Superfund emergency response, removal, and long-term cleanup remedies.

Section 431 addresses carbon emissions from forest biomass.

Section 432 addresses section 404 of the Federal Water Pollution Control Act.

Section 433 addresses the use of small remote incinerators in the State of Alaska.

DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
TITLE II - ENVIRONMENTAL PROTECTION AGENCY					
Science and Technology					
Clean Air	116,541	85,708	116,541	---	+30,833
(GHG reporting program)	(8,018)	---	(8,018)	---	(+8,018)
Enforcement	13,669	10,444	13,669	---	+3,225
Homeland security	33,122	23,097	33,122	---	+10,025
Indoor air and Radiation	5,997	3,338	5,997	---	+2,658
IT / Data management / Security	3,089	2,725	3,089	---	+364
Operations and administration	88,339	79,334	88,339	---	-10,995
Pesticide licensing	6,027	4,996	6,027	---	+1,031
Research: Air and energy	91,908	30,592	91,908	---	+61,316
Research: Chemical safety and sustainability	126,930	84,189	126,930	---	+42,741
(Research: Computational toxicology)	(21,409)	(17,165)	(21,409)	---	(+4,244)
(Research: Endocrine disrupter)	(16,253)	(10,122)	(16,253)	---	(+6,131)
Research: National priorities	4,100	---	4,100	---	+4,100
Research: Safe and sustainable water resources	106,257	68,520	106,257	---	+37,737
Research: Sustainable and healthy communities	134,327	54,211	134,327	---	+80,116
Water: Human health protection	3,519	3,657	3,519	---	-138
Subtotal, Science and Technology	713,823	450,812	713,823	---	+263,011

DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Rescission	-7,350	---	-7,350	---	-7,350
Total, Science and Technology	708,473	450,812	708,473	---	+255,661
(by transfer from Hazardous Substance Superfund)	(15,496)	(12,435)	(15,496)	---	(+3,061)
Environmental Programs and Management					
Brownfields	25,593	16,082	25,593	---	+9,511
Clean air	273,108	143,167	273,108	---	+129,941
(GHG reporting program)	(95,436)	(13,580)	(95,436)	---	(+81,856)
Compliance	101,865	86,431	101,665	---	+15,234
Enforcement	240,637	194,307	240,637	---	+46,330
(Environmental justice)	(6,737)	---	(6,737)	---	(+6,737)
Environmental protection: National priorities	12,700	---	12,700	---	+12,700

DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Geographic programs:					
Great Lakes Restoration Initiative	300,000	---	300,000	---	+300,000
Chesapeake Bay	73,000	---	73,000	---	+73,000
San Francisco Bay	4,819	---	4,819	---	+4,819
Puget Sound	28,000	---	28,000	---	+28,000
Long Island Sound	8,000	---	12,000	+4,000	+12,000
Gulf of Mexico	8,542	---	12,542	+4,000	+12,542
South Florida	1,704	---	1,704	---	+1,704
Lake Champlain	4,399	---	8,399	+4,000	+8,399
Lake Pontchartrain	948	---	948	---	+948
Southern New England Estuaries	5,000	---	5,000	---	+5,000
Other geographic activities	1,445	---	1,445	---	+1,445
Subtotal	435,857	---	447,857	+12,000	+447,857
Homeland security	10,195	8,498	10,195	---	+1,697
Indoor air and radiation	27,637	2,257	27,637	---	+25,380
Information exchange / Outreach	126,538	83,295	126,538	---	+43,243
(Children and other sensitive populations: Agency coordination)	(6,548)	(2,018)	(6,548)	---	(+4,530)
(Environmental education)	(8,702)	---	(8,702)	---	(+8,702)
International programs	15,400	4,051	15,400	---	+11,349
IT / Data management / Security	90,536	82,066	90,536	---	+8,470
Legal/science/regulatory/economic review	111,414	98,446	111,414	---	+12,968
Operations and administration	480,751	498,483	480,751	---	-15,732
Pesticide licensing	102,363	85,526	109,363	+7,000	+23,837

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DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Resource Conservation and Recovery Act (RCRA)	104,877	73,093	109,377	+4,500	+36,284
Toxics risk review and prevention	92,521	85,036	92,521	---	+27,485
(Endocrine disruptors)	(7,553)	---	(7,553)	---	(+7,553)
Underground storage tanks (LUST / UST)	11,295	5,612	11,295	---	+5,683
Water: Ecosystems:					
National estuary program / Coastal waterways	26,723	---	26,723	---	+26,723
Wetlands	21,065	18,115	21,065	---	+2,950
Subtotal	47,788	18,115	47,788	---	+29,673
Water: Human health protection	98,507	80,044	98,507	---	+18,463
Water quality protection	210,417	174,975	210,417	---	+35,442
Subtotal, Environmental Programs and Management	2,619,799	1,717,484	2,643,299	+23,500	+925,815
Rescission	-21,800	---	-45,300	-23,500	-45,300
Total, Environmental Programs and Management	2,597,999	1,717,484	2,597,999	---	+880,515

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DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Hazardous Waste Electronic Manifest System Fund					
E-Manifest System Fund	3,178	3,674	3,674	+496	---
Offsetting Collections	---	-3,674	-3,674	-3,674	---
Total, Hazardous Waste Electronic Manifest System Fund	3,178	---	---	-3,178	---
Office of Inspector General					
Audits, evaluations, and investigations	41,489	37,475	41,489	---	+4,014
(by transfer from Hazardous Substance Superfund)	(8,778)	(3,900)	(8,778)	---	(+4,878)
Buildings and Facilities					
Homeland security: Protection of EPA personnel and infrastructure	6,676	6,176	6,676	---	+500
Operations and administration	27,791	33,377	27,791	---	-5,586
Total, Buildings and Facilities	34,467	39,553	34,467	---	-5,086
Hazardous Substance Superfund					
Audits, evaluations, and investigations	8,778	3,900	8,778	---	+4,878
Compliance	995	605	995	---	+390
Enforcement	168,375	99,287	166,375	---	+67,088
Homeland security	32,816	16,999	32,816	---	+15,817
Indoor air and radiation	1,985	---	1,985	---	+1,985

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DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Information exchange / Outreach	1,328	838	1,328	---	+490
IT /data management/security	14,485	11,399	14,485	---	+3,086
Legal/science/regulatory/economic review	1,253	349	1,253	---	+904
Operations and administration	128,105	101,942	128,105	---	+26,163
Research: Chemical safety and sustainability	2,824	5,305	2,824	---	-2,481
Research: Sustainable communities	11,463	5,655	11,463	---	+5,808
Superfund cleanup:					
Superfund: Emergency response and removal	181,306	147,212	181,306	---	+34,094
Superfund: Emergency preparedness	7,836	7,216	7,836	---	+420
Superfund: Federal facilities	21,125	19,553	21,125	---	+1,572
Superfund: Remedial	508,495	341,803	511,673	+3,178	+169,870
Subtotal	718,562	515,784	721,740	+3,178	+205,956
Total, Hazardous Substance Superfund	1,088,769	782,063	1,091,947	+3,178	+329,884
(transfer out to Inspector General)	(-8,778)	(-3,900)	(-8,778)	---	(-4,878)
(transfer out to Science and Technology)	(-15,496)	(-12,435)	(-15,496)	---	(-3,061)
Leaking Underground Storage Tank Trust Fund (LUST)					
Enforcement	820	559	820	---	+61
Operations and administration	1,352	1,346	1,352	---	+6
Research: Sustainable communities	320	320	320	---	---

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DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Underground storage tanks (LUST / UST)	89,849	45,204	89,849	---	+44,445
(LUST/UST)	(9,240)	(6,364)	(9,240)	---	(+2,876)
(LUST cooperative agreements)	(55,040)	(38,840)	(55,040)	---	(+16,200)
(Energy Policy Act grants)	(25,369)	---	(25,369)	---	(+25,369)
Total, Leaking Underground Storage Tank Trust Fund	91,941	47,429	91,941	---	+44,512
Inland Oil Spill Program					
Compliance	139	124	139	---	+15
Enforcement	2,413	2,266	2,413	---	+147
Oil	14,409	12,144	14,409	---	+2,265
Operations and administration	584	680	584	---	-96
Research: Sustainable communities	664	503	664	---	+161
Total, Inland Oil Spill Program	18,209	15,717	18,209	---	+2,492
State and Tribal Assistance Grants (STAG)					
Alaska Native villages	20,000	---	20,000	---	+20,000
Brownfields projects	80,000	69,000	80,000	---	+11,000
Clean water state revolving fund (SRF)	1,393,887	1,393,887	1,393,887	---	---
Diesel emissions grants	60,000	10,000	75,000	+15,000	+65,000
Drinking water state revolving fund (SRF)	863,233	863,233	863,233	---	---

DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Mexico border	10,000	---	10,000	---	+10,000
Targeted airshed grants	30,000	---	40,000	+10,000	+40,000
Water quality monitoring (P.L. 114-322)	4,000	---	4,000	---	+4,000
Subtotal, Infrastructure assistance grants	2,461,120	2,336,120	2,486,120	+25,000	+150,000
Categorical grants:					
Beaches protection	9,549	---	9,549	---	+9,549
Brownfields	47,745	33,358	47,745	---	+14,387
Environmental information	9,646	6,739	9,646	---	+2,907
Hazardous waste financial assistance	99,693	69,652	99,693	---	+30,041
Lead	14,049	---	14,049	---	+14,049
Nonpoint source (Sec. 319)	170,915	---	170,915	---	+170,915
Pesticides enforcement	18,050	11,050	18,050	---	+7,000
Pesticides program implementation	12,701	8,874	12,701	---	+3,827
Pollution control (Sec. 106)	230,806	161,257	230,806	---	+69,549
(Water quality monitoring)	(17,848)	(12,470)	(17,848)	---	(+5,378)
Pollution prevention	4,765	---	4,765	---	+4,765
Public water system supervision	101,963	71,238	101,963	---	+30,725
Radon	8,051	---	8,051	---	+8,051
State and local air quality management	228,219	159,450	228,219	---	+68,769
Toxics substances compliance	4,919	3,437	4,919	---	+1,482
Tribal air quality management	12,829	8,963	12,829	---	+3,866
Tribal general assistance program	65,478	45,746	65,478	---	+19,730
Underground injection control (UIC)	10,506	7,340	10,506	---	+3,166

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DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Underground storage tanks	1,498	---	1,498	---	+1,498
Wetlands program development	14,661	10,243	14,661	---	+4,418
Multipurpose grants	---	---	10,000	+10,000	+10,000
Subtotal, Categorical grants	1,066,041	597,347	1,076,041	+10,000	+478,694
Total, State and Tribal Assistance Grants	3,527,161	2,933,467	3,562,161	+35,000	+628,694
Water Infrastructure Finance and Innovation Program					
Administrative Expenses	2,000	3,000	5,000	+3,000	+2,000
Direct Loan Subsidy	8,000	17,000	5,000	-3,000	-12,000
Total, Water Infrastructure Finance and Innovation Program	10,000	20,000	10,000	---	-10,000
Administrative Provisions					
Rescission	-61,198	-369,000	-96,198	-35,000	+272,802
TOTAL, TITLE II, ENVIRONMENTAL PROTECTION AGENCY	8,058,488	5,855,000	8,058,488	---	+2,403,488
Appropriations	(8,148,838)	(6,024,000)	(8,207,338)	(+58,500)	(+2,183,338)
Rescissions	(-90,348)	(-369,000)	(-148,848)	(-58,500)	(+220,152)
(By transfer)	(24,274)	(16,335)	(24,274)	---	(+7,939)
(Transfer out)	(-24,274)	(-16,335)	(-24,274)	---	(-7,939)

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DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
TITLE IV - GENERAL PROVISIONS					
Treatment of certain hospitals (Sec. 429)	---	---	8,000	+8,000	+8,000
Infrastructure (Sec. 430)	---	---	766,000	+766,000	+766,000
TOTAL, TITLE IV, GENERAL PROVISIONS	---	---	774,000	+774,000	+774,000
OTHER APPROPRIATIONS					
ADDITIONAL DISASTER RELIEF SUPPLEMENTAL APPROPRIATIONS ACT, 2017 (P.L. 115-56)					
DEPARTMENT OF AGRICULTURE					
Forest Service					
Wildland Fire Management (emergency)	---	---	184,500	+184,500	+184,500
Flame Wildfire Suppression Reserve Fund (emergency)	---	---	342,000	+342,000	+342,000
Total, Department of Agriculture	---	---	526,500	+526,500	+526,500

DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
DEPARTMENT OF THE INTERIOR					
Department-Wide Programs					
Wildland Fire Management (emergency)	---	---	50,000	+50,000	+50,000
Total, Additional Disaster Relief Supplemental Appropriations, 2017	---	---	576,500	+576,500	+576,500
FURTHER ADDITIONAL SUPPLEMENTAL APPROPRIATIONS FOR DISASTER RELIEF ACT, 2018 (P.L. 115-123)					
DEPARTMENT OF THE INTERIOR					
United States Fish and Wildlife Service					
Construction (emergency)	---	---	210,629	+210,629	+210,629
National Park Service					
Historic Preservation Fund (emergency)	---	---	50,000	+50,000	+50,000
Construction (emergency)	---	---	207,600	+207,600	+207,600
Total, National Park Service	---	---	257,600	+257,600	+257,600

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DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
United States Geological Survey					
Surveys, Investigations, and Research (emergency)	---	---	42,248	+42,248	+42,248
Departmental Offices					
Insular Affairs:					
Assistance to Territories (emergency)	---	---	3,000	+3,000	+3,000
Office of Inspector General (emergency)	---	---	2,500	+2,500	+2,500
Total, Departmental Offices	---	---	5,500	+5,500	+5,500
Total, Department of the Interior	---	---	515,975	+515,975	+515,975
Environmental Protection Agency					
Hazardous Substance Superfund (emergency)	---	---	8,200	+8,200	+8,200
Leaking Underground Storage Tank Trust Fund (emergency)	---	---	7,000	+7,000	+7,000
State and Tribal Assistance Grants (emergency)	---	---	50,000	+50,000	+50,000
Total, Environmental Protection Agency	---	---	83,200	+83,200	+83,200

ED_004126_00000670-00090

DIVISION G -- DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018

(Amounts in thousands)

	FY 2017 Enacted	FY 2018 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
DEPARTMENT OF AGRICULTURE					
Forest Service					
State and Private Forestry (emergency)	---	---	7,500	+7,500	+7,500
National Forest System (emergency)	---	---	20,852	+20,852	+20,852
Capital Improvement and Maintenance (emergency)	---	---	91,600	+91,600	+91,600
Total, Department of Agriculture	---	---	119,752	+119,752	+119,752
TOTAL, OTHER APPROPRIATIONS	---	---	1,275,427	+1,275,427	+1,275,427
GRAND TOTAL	32,633,720	27,280,809	36,589,147	+3,955,427	+9,328,338
Appropriations	(32,391,785)	(27,658,673)	(35,476,508)	(+3,084,721)	(+7,817,833)
Rescissions	(-137,065)	(-369,844)	(-162,786)	(-25,721)	(+207,058)
Rescissions of contract authority	(-28,000)	(-28,020)	---	(+28,000)	(+28,020)
Emergency appropriations	(407,000)	---	(1,275,427)	(+868,427)	(+1,275,427)
(By transfer)	(24,274)	(16,335)	(24,274)	---	(+7,939)
(Transfer out)	(-24,274)	(-16,335)	(-24,274)	---	(-7,939)
(Discretionary total)	(32,280,000)	(27,199,088)	(35,252,000)	(+2,972,000)	(+8,052,911)

89 KKK

ED_004126_00000670-00091

Message

From: Kaiser, Sven-Erik [Kaiser.Sven-Erik@epa.gov]
Sent: 12/22/2017 12:22:33 AM
To: Palich, Christian [palich.christian@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Beck, Nancy [Beck.Nancy@epa.gov]; Bertrand, Charlotte [Bertrand.Charlotte@epa.gov]; Keigwin, Richard [Keigwin.Richard@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]
Subject: Sen. Udall Letter on PRIA
Attachments: OCSPP Letter to Senator Udall 12 18 17.pdf

Heads up that OCSPP reviewed the transcript for the PPDC meeting and compared it to the Dec 18 to Sen. Udall on PRIA. While Udall has publicly criticized the letter for misstating PPDC meeting discussions, generally the transcript supports the letter, except possibly some of the statements in the bullet paragraph on WPS on p.2 regarding what issues were raised in the PPDC and the extent of agreement. 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 (o)
Ex. 6 (c)

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

DEC 18 2017

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Tom Udall
United States Senate
Washington, DC 20510

Dear Senator Udall:

This letter provides an update regarding issues raised in your October 20, 2017, letter to Senators Roberts and Stabenow. The Pesticide Registration Improvement Act provides significant benefits to the American people, expanding the availability of safe products to meet pest control needs and providing supplemental funding to support worker safety education programs.

As you know, in November 2015, the U.S Environmental Protection Agency issued an update to the Agricultural Worker Protection Standard. Through this revised regulation, developed through extensive stakeholder interactions, the agency is working with our state and tribal co-regulatory partners to implement stronger protections for agricultural workers, handlers and their families. Despite these efforts, in early 2017, the agency learned through discussions with the National Association of State Departments of Agriculture (NASDA), that additional materials to support implementation of these new protections were needed in order for the states to effectively and confidently implement the revised rule. In May 2017, the agency announced its intention to extend the compliance dates for implementation of the new rule. Upon further reconsideration, the agency has determined that it is not necessary to extend the compliance dates for the worker protection standard. On December 14, 2017, we released Federal Register Notices informing the public that the compliance dates in the revised WPS published on November 2, 2015 remain in effect and that the EPA does not intend to extend them.

The regulation issued in November 2015 remains in effect and the compliance dates of January 2, 2017 (for most aspects of the revised regulation) and January 2, 2018 (for all other aspects of the regulation) remain in place.

To better understand what support states need to implement the new standard, the EPA has been meeting with the state departments of agriculture and other stakeholders to identify which aspects of the rule might need clarification and, if necessary, revision. This conversation continued most recently as part of the November 2, 2017, meeting of the Pesticide Program Dialogue Committee (PPDC), a federal advisory committee providing advice to the Office of Pesticide Programs' policy and regulatory decisions. During the November 2017 meeting, the PPDC discussed three significant issues, also raised as part of the Regulatory Reform effort

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initiated by the agency in response to Executive Orders 13771 and 13777: 1) minimum age for agricultural handlers; 2) the designated representative provision; and 3) the application exclusion zone. The following summarizes feedback the EPA received from the Regulatory Reform comments and the PPDC, as well as the agency's path forward on these targeted components of the worker protection standard:

- Regarding the minimum age provision, while PPDC stakeholders advised the agency that, for the most part, they are able to implement this provision as promulgated in the regulations, there was agreement that the "family exemption" provision was not flexible enough to accommodate family-owned and operated businesses of commercial applicators. Some stakeholders at the meeting expressed an interest in letting states determine a minimum age for agricultural handlers that meets the needs of the local rural economy. Furthermore, the EPA has heard from other stakeholders that the "family exemption" is more restrictive than USDA's definition of "family." In order to maintain current practices in rural America that allow young people to contribute to all aspects of farming operations, the EPA intends to issue a proposed rule for public comment that would reconsider the worker protection standard minimum age requirements to address these stakeholder concerns.

- Regarding the designated representative provision, the members of the PPDC noted that many states with high agricultural production have already adopted state designated representative provisions. PPDC members encouraged the EPA to consider identifying a neutral representative. A neutral representative could ensure meaningful assistance to the farm worker community and address agricultural producers concerns. At the meeting, there was not agreement on a practical way to alleviate stakeholder concerns regarding who could qualify to be a designated representative and how the information could be used, a concern also voiced via commenters on the Regulatory Reform efforts. Therefore, the agency intends to include a request in the proposed rule for public comment on reconsideration of the designated representative provision.

- Regarding the application exclusion zone ("AEZ"), the PPDC commended the agency for the additional guidance that has been issued since the promulgation of the revised rule. PPDC members did, however, identify some additional scenarios often encountered during pesticide applications where there is a need for additional guidance. The EPA is currently working on revised guidance that addresses these scenarios and hopes to issue the updated guidance by January 2, 2018. The agency will propose to make technical clarifications and codify aspects of the revised guidance related to the AEZ through the rulemaking process. These changes will provide agricultural employers and handlers certainty in practices related to applications, particularly for applications near roads and houses at the edge of a field.

In addition, the agency has been working closely with stakeholders to develop training, outreach and educational materials to ensure that the agricultural community can effectively implement the revised agricultural worker protection standard. For example, through the Pesticide Educational Resources Collaborative (PERC), a cooperative agreement between the Office of Pesticide Programs and the University of California Davis Extension, in collaboration

with Oregon State University, a large collection of materials has been developed to support implementation of the revised standard. The PERC includes an advisory board to support development of outreach, educational, and pesticide safety training materials, with membership from several state departments of agriculture, cooperative extension, and the farmworker advocacy community. More information about the PERC's activities can be found at: http://pesticideresources.org.

Once any necessary changes to the regulation have been made, in response to public comment, EPA will, consistent with the final rule issued on November 2, 2015, publish in the Federal Register a notice of the availability of the pesticide safety training materials for workers and handlers. To allow time for the completion and distribution of revised training materials and to allow time for trainers to become familiar with them and begin training workers and handlers, the current rule extends the implementation period for the content of the training until six months after EPA has made the revised training materials available. Nevertheless, the requirements for notification, respirator fit testing and medical evaluation, improved decontamination supplies, minimum age, and the application exclusion zone, among other provisions, do not depend upon the above-referenced Federal Register notice in order for these provisions to go into effect. These requirements went into effect on January 2, 2017, and the remaining requirements will go into effect on January 2, 2018.

Similarly, the PPDC and Regulatory Reform comments also discussed the Certification of Pesticide Applicators rule issued in January 2017. The PPDC discussed the minimum age provision in this rule and, as with the worker protection standard, identified scenarios where the "family exemption" provision was not flexible enough to accommodate for common practices in rural communities. Stakeholders commenting under the Regulatory Reform effort highlighted the increased labor costs for pesticide application businesses nationwide, and noted that the requirement was unnecessary for individuals who pass the State certification standard to apply restricted use pesticides and follow pesticide labels, including the use of personal protective equipment. Some commenters also stated that age requirements should be the decision of the States. Additionally, the minimum age provision does not provide flexibility for other common practices in rural communities, such as the hands on agricultural education young people receive via 4-H and other organizational activities. As with the worker protection standard, the agency intends to develop a proposed rule for public comment that would reconsider the certification of pesticide applicators regulation to address stakeholder's concerns.

Regarding chlorpyrifos, the March 2017 decision to deny the petition, submitted by the Natural Resources Defense Council and the Pesticide Action Network North America, initiated the objections phase of the petition process provided under the Federal Food, Drug, and Cosmetic Act (FFDCA).[1] The FFDCA requires the EPA to respond to the objections "as soon as practicable". As discussed recently with your staff, the same individuals that support the

[1] Once the EPA makes a decision on a petition, and publishes its decision in the Federal Register, the second stage of the petition process is triggered. At this point, parties who disagree with the EPA' s decision, whether it is a decision to grant or deny the petition, may file objections with the EPA to the decision made. The objection stage gives parties a chance to seek review of the EPA's decision before the agency. The EPA's published response to the objections completes the objections stage, after which an adversely affected person may seek judicial review.

agency's response are also working on many other competing time-sensitive deadlines and priorities.

The statutorily mandated re-evaluation of this insecticide continues as the agency works to meet the statutory deadline for the registration review (reevaluation) of nearly 725 pesticide active ingredients by October 1, 2022. As part of the reevaluation of chlorpyrifos, EPA's scientists are also considering the comments submitted in response to the October 30, 2015, proposed rule and the November 17, 2016, notice of data availability. During these comment periods, stakeholders raised significant issues with the scientific conclusions supporting the ongoing rulemaking. We are developing responses to the comments raised in the stakeholder feedback submitted during the rulemaking process.

The EPA has several additional milestones to complete before it will be able to finalize a registration review decision for chlorpyrifos. Two of these milestones include the publication of documents with public comment periods where stakeholders can weigh in on the agency's assessments. Meanwhile, agency scientists continue to monitor and consider the ongoing research and literature evaluating the potential human health effects for chlorpyrifos. In addition, the agency also continues to consider how best to use the available observational epidemiology data in light of the comments from the FIFRA Scientific Advisory Panel as well as comments received in response to the November 2016 Notice of Data Availability. The agency estimates this work will take approximately 18 months, or 24 months if the analysis requires peer review. The Human Health Risk Assessment will then be published for a 60-day public comment period, after which the agency will prepare a response to comments document and Proposed Interim Decision, which will also be published for public comment for 60 days. The agency will then address public comments received on the Proposed Interim Decision, and develop the Interim Decision for chlorpyrifos.

Chlorpyrifos is an organophosphate pesticide, therefore, consistent with the FFDCA, the agency must update the organophosphate cumulative assessment completed in 2006. In order to revise this cumulative assessment, the agency must complete the underlying single chemical risk assessments for all of the organophosphate insecticides. Before these assessments can be completed, new studies to support physiologically based pharmacokinetic (PBPK) modeling need to be received. We anticipate receiving these studies in 2018. Once reviewed, these studies can be incorporated into the single chemical risk assessments. We anticipate seeking external peer review through the FIFRA Scientific Advisory Panel (FIFRA SAP). The purpose of the FIFRA SAP meeting will be to consider and review PBPK modeling to address pharmacokinetic differences between and within species. Based upon current resources and study submission schedules, a draft revised update to the organophosphate cumulative risk assessment will likely be issued for public comment in the late 2019-2020 timeframe.

I hope you find this information helpful as you consider a path forward for the reauthorization of PRIA. Our determination to not extend any of the compliance dates for the Worker Protection Standard is a significant change in direction. Instead, the agency will use the rulemaking process, which includes opportunity for public comment, to reconsider only a few aspects of the rule while all compliance dates continue to remain in effect.

If you have questions, please contact me or your staff may contact Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at kaiser.sven-erik@epa.gov or at (202) 566-2753.

Sincerely,

Charlotte Bertrand

Charlotte Bertrand
Acting Principal Deputy Assistant Administrator

Message

From: Palich, Christian [palich.christian@epa.gov]
Sent: 12/18/2017 9:25:24 PM
To: Grantham, Nancy [Grantham.Nancy@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Konkus, John [konkus.john@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Hewitt, James [hewitt.james@epa.gov]; Abboud, Michael [abboud.michael@epa.gov]
CC: Sands, Jeffrey [sands.jeffrey@epa.gov]; Beck, Nancy [Beck.Nancy@epa.gov]
Subject: Letter to Senator Udall re PRIA
Attachments: OCSPP Letter to Senator Udall 12 18 17.pdf

Hi Team OPA,

Attached letter will be sent tonight in response to Senator Udall's letter regarding PRIA re authorization. Just wanted everyone to be aware in case there are any press inquiries.

Best Regards,

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6
E: Palich.Christian@epa.gov

Message

From: Palich, Christian [palich.christian@epa.gov]
Sent: 12/18/2017 9:23:51 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Sands, Jeffrey [sands.jeffrey@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]
Subject: PRIA Letter
Attachments: OCSPP Letter to Senator Udall 12 18 17.pdf

Hi Ryan,

Hope you are feeling better. Per your conversation with Jeff earlier we updated the date to reflect today and sent this up to Senator Udall and Ag Committee.

Just wanted you to know for awareness. We will keep you updated on the PRIA progress.

Best Regards,

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6
E: Palich.Christian@epa.gov

Message

From: Keller, Kaitlin [keller.kaitlin@epa.gov]
Sent: 12/18/2017 9:12:05 PM
To: Palich, Christian [palich.christian@epa.gov]; Beck, Nancy [Beck.Nancy@epa.gov]
CC: Sands, Jeffrey [sands.jeffrey@epa.gov]; Baptist, Erik [Baptist.Erik@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Kaiser, Sven-Erik [Kaiser.Sven-Erik@epa.gov]; Bertrand, Charlotte [Bertrand.Charlotte@epa.gov]
Subject: RE: Final Udall PRIA Letter
Attachments: OCSPP Letter to Senator Udall 12 18 17.pdf

Signed letter attached.

Thank you,

Kaitlin Keller, Special Assistant
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
(202) 564-7098

From: Palich, Christian
Sent: Monday, December 18, 2017 3:55 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Sands, Jeffrey <sands.jeffrey@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Keller, Kaitlin <keller.kaitlin@epa.gov>
Subject: RE: Final Udall PRIA Letter

Just circling back on this, really would like to get this out the door today. Thanks!

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6
E: Palich.Christian@epa.gov

From: Beck, Nancy
Sent: Monday, December 18, 2017 12:37 PM
To: Palich, Christian <palich.christian@epa.gov>
Cc: Sands, Jeffrey <sands.jeffrey@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Keller, Kaitlin <keller.kaitlin@epa.gov>
Subject: Re: Final Udall PRIA Letter

Yes. Looping in kaitlyn to assist with this

_____
Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: Ex. 6
Beck.Nancy@epa.gov

On Dec 18, 2017, at 12:34 PM, Palich, Christian <palich.christian@epa.gov> wrote:

Hi Nancy,

We got Rj approval to send, can we get the time stamp updated to today and the language to reflect changed to it going out today and not last Friday. Like when it mentions "yesterday".

Once the timing verbiage is updated we are ready to hit play. Thanks!

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6
E: Palich.Christian@epa.gov

From: Beck, Nancy
Sent: Friday, December 15, 2017 2:27 PM
To: Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Final Udall PRIA Letter

Please use the attached letter as the final (or at least until it changes again ☺)
Thanks.

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

From: Baptist, Erik
Sent: Friday, December 15, 2017 2:05 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re: Final Udall PRIA Letter

Ok by me

Sent from my iPhone

On Dec 15, 2017, at 11:00 AM, Beck, Nancy <Beck.Nancy@epa.gov> wrote:

Can we change that sentence to simply say: Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

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

From: Baptist, Erik
Sent: Friday, December 15, 2017 1:01 PM
To: Palich, Christian <palich.christian@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re: Final Udall PRIA Letter

I would recommend Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)

Sent from my iPhone

On Dec 15, 2017, at 9:05 AM, Palich, Christian <palich.christian@epa.gov> wrote:

> Hi Ryan,
>
> Hope you are feeling better. Attached is the final version signed and ready to deliver to Senator Udall and Ag Committee, Erik Baptist has reviewed this final version as well.
>
> Just wanted to ensure you are 100% alright in me sending this up to the Hill. We did tell both Majority and Minority we would have this letter ready to deliver hopefully today.
>
> Best Regards,
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> Christian R. Palich
> *Deputy Associate Administrator*
> *Office of Congressional & Intergovernmental Affairs*
> *U.S Environmental Protection Agency*
> *O: 202.564.4944*
> *C:* Ex. 6
> *E: Palich.Christian@epa.gov*
>
> <OCSPP Letter to Senator Udall 12 15 17.pdf>

<OCSPP Letter to Senator Udall 12 15 2017.pdf>

Message

From: Palich, Christian [palich.christian@epa.gov]
Sent: 12/18/2017 5:34:42 PM
To: Beck, Nancy [Beck.Nancy@epa.gov]
CC: Sands, Jeffrey [sands.jeffrey@epa.gov]; Baptist, Erik [Baptist.Erik@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Kaiser, Sven-Erik [Kaiser.Sven-Erik@epa.gov]
Subject: FW: Final Udall PRIA Letter
Attachments: OCSPP Letter to Senator Udall 12 15 2017.pdf

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Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6
E: Palich.Christian@epa.gov

From: Beck, Nancy
Sent: Friday, December 15, 2017 2:27 PM
To: Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
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<OCSPP Letter to Senator Udall 12 15 17.pdf>

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Sent: 12/15/2017 7:26:33 PM
To: Baptist, Erik [Baptist.Erik@epa.gov]
CC: Palich, Christian [palich.christian@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]
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Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
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> *Office of Congressional & Intergovernmental Affairs*
> *U.S Environmental Protection Agency*
> *O: 202.564.4944*
> *C:* Ex. 6
> *E: Palich.Christian@epa.gov*
>
> <OCSPP Letter to Senator Udall 12 15 17.pdf>

Message

From: Palich, Christian [palich.christian@epa.gov]
Sent: 12/15/2017 5:05:30 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Beck, Nancy [Beck.Nancy@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; Baptist, Erik [baptist.erik@epa.gov]
Subject: Final Udall PRIA Letter
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Importance: High

Hi Ryan,

Hope you are feeling better. Attached is the final version signed and ready to deliver to Senator Udall and Ag Committee, Erik Baptist has reviewed this final version as well.

Just wanted to ensure you are 100% alright in me sending this up to the Hill. We did tell both Majority and Minority we would have this letter ready to deliver hopefully today.

Best Regards,

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6
E: Palich.Christian@epa.gov

Message

From: Kaiser, Sven-Erik [Kaiser.Sven-Erik@epa.gov]
Sent: 12/15/2017 4:18:16 PM
To: Palich, Christian [palich.christian@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]
Subject: FW: OCSPP Letter to Senator Udall
Attachments: OCSPP Letter to Senator Udall 12 15 17.pdf

Please let me know if ok to send and if you prefer to send. I would suggest separate emails to:

Ex. 5 Deliberative Process (DP)

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: Keller, Kaitlin
Sent: Friday, December 15, 2017 11:00 AM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: OCSPP Letter to Senator Udall

Sven- Signed letter attached.

Thanks,
Kaitlin

Kaitlin Keller, Special Assistant
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
(202) 564-7098

Message

From: Beck, Nancy [Beck.Nancy@epa.gov]
Sent: 12/15/2017 4:04:57 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Baptist, Erik [baptist.erik@epa.gov]
Subject: Fwd: OCSPP Letter to Senator Udall
Attachments: OCSPP Letter to Senator Udall 12 15 17.pdf; ATT00001.htm

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

Begin forwarded message:

From: "Keller, Kaitlin" <keller.kaitlin@epa.gov>
To: "Beck, Nancy" <Beck.Nancy@epa.gov>, "Bertrand, Charlotte" <Bertrand.Charlotte@epa.gov>, "Keigwin, Richard" <Keigwin.Richard@epa.gov>
Subject: FW: OCSPP Letter to Senator Udall

Signed letter was sent to OCIR.

Thanks,
Kaitlin

From: Keller, Kaitlin
Sent: Friday, December 15, 2017 10:59 AM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Subject: OCSPP Letter to Senator Udall

Sven- Signed letter attached.

Thanks,
Kaitlin

Kaitlin Keller, Special Assistant
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
(202) 564-7098