Region 1

Hot Issues

Springfield Draft Permit for Public Notice

- EPA will be releasing a draft National Pollution Discharge Elimination System (NPDES) permit for public comment. The proposed permit is for discharges of municipal wastewater into the Connecticut River as well as combined sewer overflows into the Connecticut, Mill, and Chicopee Rivers.
- The draft permit requests public comment on several alternative approaches to nitrogen control. Reducing nitrogen is important to the state of Connecticut as part of a larger effort to restore Long Island Sound.

New Bedford Harbor Superfund Site

- On November 9th Region I Acting Regional Administrator Deborah Szaro conducted a boat tour of the New Bedford Harbor Superfund Site with Mayor Jonathan Mitchell.
- The site is now in the midst of full-scale remediation, with funding provided by a $366.25M settlement with the main responsible party.
- Discussions will focus on ways EPA and the City can work together to foster environmental cleanup and economic redevelopment of the area.

Norton, MA Manganese Issues

- Region 1 is working closely with MA DEP to address drinking water issues, including elevated manganese, in the Town of Norton, MA. These issues have received press attention and have been the subject of congressional interest.

Upcoming Public Events

None

Upcoming Major Decisions

None

Highlights from last week

Clean Rentals, Inc., New Bedford, MA - Consent Decree

- On November 2, 2017, the U.S. District Court for the District of Massachusetts approved a proposed consent decree resolving alleged Clean Air Act violations by Clean Rentals, Inc., which owns and operates an industrial laundry facility in New Bedford, MA.
- The complaint alleged that Clean Rental's excess emissions of VOCs have contributed to the formation of ground-level ozone in Massachusetts.

- Under the consent decree, Clean Rentals will install a capture and control system at its facility that will reduce VOC emissions by at least 85%. In addition, Clean Rentals will apply for an amendment to its permit and pay a penalty of $200,000.
- The Massachusetts Department of Environmental Protection has been supportive of this action.

Region 2

Hot issues:

RA to Testify at House Energy & Commerce Committee Hearing on Hurricane Response: Regional Administrator Pete Lopez will testify at this hearing on 11/14. He spoke at an earlier briefing for this Committee on 10/13 and testified on 11/2 at a hearing before the House Transportation & Infrastructure Committee. Pete has also recently been requested to appear before the House Appropriations Committee with Regions 4, 6, and OLEM. We are coordinating with HQ regarding his statements and an internal Q&A document.

Meeting with Rep. Nydia Velasquez about Gowanus Canal Superfund Site: On 11/16, RA Pete Lopez and staff are scheduled to join the Congresswoman in a public informational meeting she is hosting on the Gowanus Canal cleanup project. Good progress is being made on the design of the Canal cleanup and the associated CSO mitigation tanks; work underway includes a dredge-and-cap pilot project in the 4th Street Turning Basin, which started last month and 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 11/16 meeting.

New York-New Jersey Harbor and Estuary Program (HEP) Policy Committee Policy Committee: On 11/9, RA Pete Lopez jointed former Region 2 RA's Chris Daggett and Chuck Warren at the HEP Policy Committee meeting at the offices of the Hudson River Foundation in Lower Manhattan. Other participants included Colonel Asbery of the NY District of the Army Corps, Deputy Commissioner Jim Tierney of the NY State DEC and Deputy Commissioner Angela Licatta of the NYC DEP and Acting Assistant Commissioner Michelle Putnam NJ DEP. The agenda included a report out on HEP's Climate Vulnerability Assessment; status of the Draft Action Agenda/Comprehensive Conservation and Management Plan; State of the Estuary Report; and Environmental Monitoring Plan. Follow up topics for EPA and the states that were discussed focus on water quality issues, including pursuing consistent and appropriate water quality standards for the harbor and advancing the designation of vessel waste no discharge zones.

Past Week:

Wetlands Issue at Teterboro Airport, NJ: On 11/6, RA Lopez sent final comments to the U.S. Army Corps of Engineers on a development project proposed by Signature Flight Co. that would involve filling wetlands at Teterboro Airport. This letter follows our 10/31 letter regarding First Aviation Co.'s proposal to fill over 7 acres of wetlands at the airport for the construction of two hangars and associated infrastructure. Signature Flight and First Aviation are owned by the same parent company; consequently the letter requests a single application and encourages the consideration of "green infrastructure" to mimic the water storage and filtration attributes of native wetlands.

Newtown Creek Superfund/LTCP Coordination: Region 2 Superfund and Water program senior managers and staff met on 11/6 with New York City representatives. NYC is concerned about the integration of the CSO Long Term Control Plan (LTCP) for Newtown Creek CSOs and the Superfund process, especially with regard to scope of remedial activities. NYC's proposed LTCP, published in June, 2017, calls for approximately $1.4 billion worth of CSO controls and mitigation work, including a 39-million gallon capacity storage tunnel. The City projects a 25-year time frame for this work, assuming that planning and design work would start in late 2018. The Superfund remedial decision is not expected to be made until 2022. NYC is concerned about starting design of the projects in the proposed LTCP without assurance that those projects will also satisfy the eventual Superfund cleanup plan. It will be inappropriate for the Superfund program to give any such assurance while the intensive study phase of the Creek is still underway. NYC proposed a potential pathway through which an early or interim Superfund decision on CSO controls might be achievable; EPA agreed to consider that idea.

Upcoming:

Hurricane Irma/Maria Consent Orders: We are negotiating administrative orders on consent (AOCs) under the Clean Water Act (CWA) with the P.R. Dept. of Transportation, P.R. Highways and Transportation Authority, and P.R. Dept. of Natural and Environmental Resources relating to post-hurricane emergency repairs that they need to perform on roads, bridges and other transportation infrastructure. The AOCs are needed because it has not been practicable for these agencies to secure coverage under the CWA Construction General Permit prior to their commencement of the repairs. Our AOCs will set forth limited requirements for these emergency activities, including implementation of best management practices to the fullest extent practicable, inspections, reporting and, ultimately, the submission of an island-wide Notice of Intent as required by the CGP. The AOCs are likely to be issued during the week of 11/13.

Proposed County Bill Limiting 1,4-Dioxane discharge to surface water from 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 site is the Dewey Loeffel Site. The proposed bill is scheduled to be voted on by the Legislature on 11/14 and, based on comments by elected officials to the media, is expected to pass. We have determined that the legislation will not be applicable to site operations. RA Pete Lopez was briefed on 11/7, and asked staff to bring this matter to the attention of Kell Kelly and senior Superfund staff in HQ. Assuming HQ agreement, we expect that Region 2 legal staff will communicate with the County attorney involved in drafting the legislation to advise that we question its applicability to our site operations; and to reiterate our position that we believe 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 leading up to and following the Legislature's November 14th vote on the proposed bill.

Region 3

Hot Issues

EJ Grantee Workshop Held in Region 3

On November 7-8, 2017, Region 3's Office of Enforcement, Compliance and Environmental Justice (OECEJ) organized and hosted a regional workshop for former and current Environmental Justice grantees. Opening remarks for the workshop were given by Regional Administrator Cosmo Servidio. The goal was for the grantees to discuss lessons learned and leveraging grant funding in a way that will provide additional benefit after the grant ends.

Region 3 Participates in Meeting to Discuss River Wards Lead Education and Outreach, in Kensington, Pennsylvania

On November 6, 2017, Region 3 and Agency for Toxic Substances and Disease Registry (ATSDR) participated in a Somerset Neighbors for a Better Living monthly meeting and discussed past, current and future lead outreach efforts in the surrounding community, which have included soil SHOPs and blood lead screening for children. Region 3 and ATSDR will continue to work closely with this community group and others in the community to help plan and/or assist at a future community event.

LCD Partners with Local Organizations to Present Workshop on Food Waste Reduction in the Lehigh Valley

LCD representatives presented a food waste reduction workshop on November 2, 2017 at Lafayette College in Easton, PA. In order to incorporate and emphasize local objectives, the event was coordinated with partners including the Lehigh Valley Food Policy Council, the Easton Hunger Coalition and Lafayette College. This workshop is a model created by LCD that uses surplus food data and environmental, social and health indicators to develop and prioritize implementation strategies which supports the achievement of the United States' goal of reducing food loss and waste by 50% by 2030.

Region 3 Review of PA General NPDES Permit for Construction Stormwater Discharges

On November 4, 2007, the Pennsylvania Department of Environmental Protection (PADEP) published notice of proposed issuance of a General NPDES Permit for Construction Stormwater Discharges, PAG-02. This Notice provided a thirty (30) day review and comment period for that proposed permit. Previously, PADEP published notice of an administrative extension to the current PAG-02 General Permit until December 7, 2018. The current permit expires December 7, 2018. While administrate extension of PAG-02 will continue NPDES coverage for existing stormwater sources, new applicants cannot be approved for coverage under an expired permit. Under federal regulations and the EPA-PADEP NPDES MOU, once EPA receives a draft or proposed general permit, EPA has up to 90 days to review and comment and/or object to issuance. Despite a number of communications from EPA to PADEP in 2017 that the current permit was expiring and requesting a draft PAG-02 permit for EPA

review, PADEP did not provide one until November 2, 2017. PADEP is requesting expedited review. Stakeholders in the building industry as well as elected representatives have been contacting EPA and PADEP for more information. Additional discussions are needed between the Agencies regarding the renewal of the permit.

Update to Maryland Nutrient Trading Regulations

EPA was informed that Maryland Department of the Environment withdrew their current proposal and is in the process of revising the trading program language. This revision would remove the interstate trading language and focus on nutrient trading in general. The revision is due to be submitted by the end of this week with the hope that the regulations would be finalized next February. EPA will continue to work with and support MDE in identifying a pilot project.

Upcoming Public Events

No public events to report at this time.

Past Events

No events to report at this time.

Region 4

Hot Issues

Greens of Rock Hill Asbestos (Rock Hill, South Carolina)
Key Message: On November 6, 2017, Region 4 received a request from the South Carolina Department of Health and Environmental Control (DHEC) to assist at a possible asbestos release in a residential neighborhood. The neighborhood, still under construction, is partly built on a closed landfill. The Region 4 On-Scene Coordinator met with the developer who agreed to do a response with an expected completion date of Friday, November 10th.

B.F. Goodrich (Calvert City, Kentucky)
Key Message: On November 9, 2017, Region 4 will submit the proposed plan for the B.F. Goodrich site to the Administrator. According to the proposed schedule and pending Administrator approval, Region 4 anticipates issuing the plan for public comment on November 15th, with the Record of Decision being ready to sign by the end of the year.

Upcoming Travel for the RA

- November 14th – House Energy and Commerce Subcommittee on Environment Hearing on Hurricane Response
- November 14th – House Appropriations Committee Briefing on Hurricane Response
- November 15th – Tentative meetings with members of Region 4's Congressional Delegation. Senator Thad Cochran (R-MS), Senator Roger Wicker (R-MS), Congressman Bennie Thompson (D-MS), and Senator Richard Shelby (R-AL)
- November 16th – Keynote address at the Annual Manufacturer Alabama Environmental Conference

Region 5

HOT ISSUES:

Air Monitoring Data Collection from S.H. Bell Company, Chicago, Illinois
Key Message: Seven months of data show the average manganese emissions concentration to be 0.27 ug/m3; data from September 2017 reflected the lowest monthly concentration since collection began.

On August 7, 2017, EPA issued a Notice of Violation for violating the Illinois SIP when four months (March – June 2017) of monitoring data showed the average manganese concentration to be 0.32 ug/m3. As a result, the company continued implementing fugitive manganese emissions controls, including the August 2017 installation and operation of two baghouses. The most recent data, September 2017, had a monthly manganese concentration of 0.119 ug/m3, which is the lowest concentration seen since the data collection began. The region continues to work cooperatively with the city of Chicago and the company to discuss additional control measures. The monitoring data is publicly available on EPA's website, which can be viewed here.

S.H. Bell was required to install particulate monitors as the result of a December 5, 2016 Stipulated Settlement and Final Consent Order, which can be viewed here. The air monitors became operational on March 1, 2017. To date, seven months of air monitoring data from the facility (March 1, 2017, through September 30, 2017) shows an average concentration of 0.27 micrograms per cubic meter (µg/m3) of manganese. The Agency for Toxic Substances and Disease Registry's minimal risk level for chronic inhalation exposure to manganese is 0.3 µg/m3.

Gaps Found in Coating of Enbridge Line 5 Pipeline Spurs Congressional Interest
Key Message: In a November 1, 2017 letter, Rep. Fred Upton expressed concern with Enbridge's "inconsistent statements" regarding the pipe's enamel coating and requested a meeting with the company.

On November 1, 2017, Rep. Fred Upton sent Enbridge a letter regarding the company's knowledge of damage to portions of the enamel coating on the Line 5 pipeline under the Straits of Mackinac as far back as 2014. Upton is requesting both documents not provided after a previous request and a meeting with the highest-ranking official Enbridge can provide within two weeks. The findings have also received attention from Senators Stabenow and Peters, as well as the press. More details can be viewed here.

In May 2017, a Consent Decree was entered between EPA and Enbridge to resolve violations from the 2010 Kalamazoo River oil spill in Marshall, Michigan. Injunctive relief in the Straits of Mackinac was included in the CD. As part of the injunctive relief, Enbridge was required to conduct a biota study to ensure integrity of the Line 5 pipeline. During the course of conducting the biota study, Enbridge notified EPA that they had identified areas where the pipe's coating had deteriorated. In response, EPA required Enbridge to prepare a plan to repair the pipe coatings. which was reviewed and commented on by the independent third party. The Independent Third Party (required by the Consent Decree) reviewed and commented on the Enbridge plan before EPA approved it. EPA has encouraged Enbridge to share all information relating to this matter with the State.

Earth Justice, Menominee Tribe Issue Notice of Intent to Sue over Back Forty Mine
Key Message: The suit challenges EPA and the Army Corps of Engineers on the inclusion of the Menominee River in the state's Clean Water Act (CWA) 404 program and the state's jurisdiction to issue the anticipated

CWA 404 permit for the mine.

On November 6, 2017, Earth Justice, representing the Menominee Indian Tribe of Wisconsin, sent a 60-day notice of intent to sue to both EPA and the Corps alleging the agencies' failure to perform a mandatory duty relating to the inclusion of the Menominee River in the 1984 approval of the Michigan CWA Section 404 permit program. Earth Justice and the tribe assert that the Menominee River was not appropriate for inclusion in the state's CWA 404 program. Their NOI is specifically related to a permit the state of Michigan is preparing to propose for the Aquila Resources mine project, known as Back Forty Mine.

In an August 21, 2017 letter from the Menominee Tribal Chairman, the tribe requested to consult with the Corps and EPA regarding the tribe's belief that Michigan does not have jurisdiction over the waters which would be affected by the mine, and that the Corps is the proper permitting authority for the mine project. The tribe believes that EPA and the Corps must now make a formal determination regarding whether the waters at issue should be assumed by the state. Prior to receiving the NOI, the Corps declined to consult on this issue. Though EPA had agreed to consult, those discussions have been temporarily suspended while the NOI is under review. Region 5 is working in close coordination with all appropriate HQ offices.

UPCOMING EVENTS:

NONE

UPCOMING MAJOR DECISIONS:

NONE

PAST WEEK ACCOMPLISHMENTS/HIGHLIGHTS:

Fox River Site Tour on November 2, 2017
Key Message: The site tour showcased EPA's largest environmental dredging project to date.

Acting Regional Administrator Robert Kaplan, Senior Advisor to the Administrator Albert "Kell" Kelly, Wisconsin Department Natural Resources participated in a Fox River site tour which included a brief meeting with the responsible parties to discuss the successes of the project as well as challenges facing the team as we look to complete the project in late 2018 or early 2019. Kell, Bob and Margaret were briefed by the WDNR team and toured the on-site state of the art sediment processing plant as wells as boarding one of the sediment dredgers and capping spreaders during operations. It was a successful meeting and tour highlighting the importance of effective PRP, state and EPA partnerships in the completion of the agency's largest environmental dredging project to date.

The Fox River sediment site, with PCB contaminated sediment over 39 river miles from Little Lake Butte des Morts to Green Bay, is nearing completion. This project is EPA's largest environmental sediment cleanup project to date. By the end of the project in late 2018, or early 2019, nearly 6 million cubic yards of sediment will have been dredged. The total volume of sediment dredged at the Fox River would fill Lambeau Field over seven times. In its ninth year of dredging, three hydraulic dredges will be used to remove about 565,000 cubic yards of PCB-contaminated sediment. In addition, about one acre of sediment will be capped and 179 acres will be covered with sand. EPA is the enforcement lead for this project and Wisconsin DNR is the technical lead.

Gary Consent Decree Heating

Key Message: The October 31, 2017 hearing focused on whether the proposed Consent Decree is fair, adequate, reasonable and consistent with the public interest.

EPA was joined by a member of the Indiana Attorney General's office who represented IDEM. Counsel from Barnes & Thornburg was present to represent Gary Sanitary District (GSD) and Mayor Karen Freeman-Wilson and GSD Director Dan Vicari also attended. After introductions, the judge asked a number of questions which focused on the Special Administrator provisions and whether the defendants have the financial wherewithal to comply with the CD. In the end, the Judge was skeptical whether the CD would be "adequate" to once and for all end the defendants' noncompliance with the CWA and TSCA. He also voiced concern about the financial issues facing Gary and whether a non-technical person, such as the Mayor, could effectively oversee the POTW and the Ralston Street Lagoon cleanup.

The Judge will provide the parties his revised list of questions for written comment and response within 45 days.

Region 6

UPCOMING HOT ISSUES AND IMPORTANT DEADLINES

November 9, 2017

Dewey High School, Dewey, Oklahoma

EPA continues to support the Oklahoma Department of Health and the Oklahoma Department of Environmental Quality (ODEQ) in the assessment of Dewey High School. On November 3, EPA received a National Response Center (NRC) report that multiple female students at the high school were experiencing seizure-like symptoms and other neurological effects due to unknown causes. Water sampling conducted by the City of Dewey indicated results consistent with background levels. Additionally, school officials arranged for the testing of mold and gas leaks which resulted in non-detects. On November 7, 2017 the school superintendent accompanied EPA, START, and ODEQ last night during our walk-through and field screening of the Dewey Public School system where the potential for exposures to hazardous chemicals could have been. We found no levels of concern above or near our action levels for mercury vapor, volatile organic compounds, radiation, or the presence of a nerve agent (pesticide or chemical weapon grade gas). After completing its work on Thursday, EPA will demobilize. No media or Congressional interest to date.

Agriculture Street Landfill Superfund Site, New Orleans, Louisiana

Tulane Environmental Law Clinic is championing an effort to have the City of New Orleans buy-out 53 homes located near the Agriculture Street Landfill Superfund site. Tulane Law Clinic is anticipating the upcoming Five Year Review Report for the site and the report's possible impact on their efforts. The most recent Third Five Year Review Report was completed in September 2013.

Denka, LaPlace, Louisiana

On November 14, 2017, Louisiana Department of Environmental Quality and the St. John the Baptist Parish Council are meeting to discuss ongoing emission control activities at the Denka Performance Elastomer LLC Facility in LaPlace, Louisiana. The Region posts the ambient air analytical results collected in the neighborhoods nearby the facility every two weeks to https://www.epa.gov/la/laplace-st-john-baptist-parish-louisiana. EPA's draft summary report has been postponed so that air quality data following the operation of the RTO air emission control device can be included. The RTO is scheduled to be operational in December 2017 and the summary report release is targeted for late spring 2018. Media interest continues to be high.

Texas Title V Petitions

EPA has received four Notices of Intent (NOI) for Clean Air Act Title V petitions for refineries in Texas. The four civil complaints have been combined into one lawsuit. The lawsuit involves petitions for the following Texas refineries: two petitions for ExxonMobil Corporation, Baytown Refinery; Motiva Port Arthur Refinery; and Pasadena Refinery. A court order is anticipated to be issued for the mandatory duty civil complaint by the end of January 2018 ordering EPA to address the petitions.

Arkansas NOx controls for Regional Haze
On October 31, 2017, Arkansas forwarded a final SIP revision that relies on the Cross State Air Pollution Rule to address the Regional Haze requirement to implement Best Available Control Technology for NOx. This revision is intended to replace EPA's Federal Implementation Plan. EPA is processing this action in parallel with the State's action, as we have already proposed approval of the State's revision based on the State's proposal. EPA will now be considering any comments with a goal of finalizing action by February 14, 2018.

Arkansas SO2 controls for Regional Haze
On October 31, 2017, Arkansas forwarded a proposed SIP revision to address BART for SO2 at Electrical Generating Units. EPA is reviewing and intends to parallel process the revision, that is propose action based on the State's proposal and finalize action after the State finalizes its action.

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. Warren American Oil Company also testified that they would like to pump out the contamination from Bird Creek and that they are communicating with the landowner for permission. EPA met with the landowner on October 30, 2017 to discuss the pump out plan and informed the landowner that EPA does not endorse the pump out, but would like to observe the action, if it occurs. EPA continues to internally review the plugging plan submitted by Novy Oil and Gas, Inc./Grayhorse Operating to plug the well. In response to a recent reported discharge event by Warren American Oil Company, EPA conducted an inspection on October 30-31, 2017 on the Chapman Lease, located on an upstream tributary of the tributary of North Bird Creek. The spill of fluids, which included produced water (brine) originated from a flow line associated with the Warren American Oil Company tank battery. EPA anticipates issuing an Administrative Order under the Clean Water Act for an unauthorized discharge of produced water to a waters of the U.S.

January Environmental Services (JES), Oklahoma City, Oklahoma
EPA and the Oklahoma Department of Environmental Quality will conduct a focused RCRA compliance evaluation inspection, with sample collection, of the JES facility in Oklahoma City, Oklahoma. JES is a used oil transporter, processor and marketer. The inspection is a result of an Oklahoma Department of Environmental Quality referral to EPA in the Spring of 2017. ODEQ inspected the facility in 2013 and determined multiple violations including the handling of hazardous wastes (paint wastes and solvents) and likelihood that JES was an unpermitted treatment storage and disposal facility. ODEQ also identified that JES operated in Texas and Louisiana, prompting the referral to EPA.

Trussco Inc., Port Fourchon, Louisiana
EPA intends to send a RCRA Section 3007 information request to Trussco Inc. to request information regarding Trussco's management practices for hazardous waste it receives from offshore and shore-

based oil/gas production facilities. Specifically, EPA has information that indicates that containers of hazardous waste generated at off shore and/or shore/based facilities are sent to Trussco, Port Fourchon for processing. Trussco, however, has not notified the state or EPA of such hazardous waste activities. This may indicate noncompliance with RCRA hazardous waste management requirements and is the basis for EPA's investigation and this information request.

Extreme Metals, Emory, Texas
EPA plans to continue removal actions at the Extreme Metals disposal site. The site is a former metal recycler referred to EPA by the Texas Commission on Environmental Quality. TCEQ conducted a site emergency response which resulted in bulked hazardous materials for disposal. TCEQ requested EPA assistance to complete remaining cleanup activities at the site.

Star Lake Canal, Port Neches, Texas
EPA plans to oversee soil and sediment sampling at the Star Lake Canal site. The sampling is being conducted as part of a Preliminary Design Investigation. EPA also intends to meet with the Potentially Responsible Party representative to discuss the feasibility of implementing the remedy identified in the Record of Decision in areas of potential flood control device interference. EPA plans to meet with a representative of the Lower Neches Valley Authority (LNVA) to discuss a proposed pipeline project that would cross a portion of the site.

NEPA

Houston Ship Channel Expansion Channel Improvement Project, Southeast Texas
The United States Army Corps of Engineers has prepared a Draft Environmental Impact Statement for the Houston Ship Channel Expansion Channel Improvement Project, located in Harris, Chambers, and Galveston counties, Texas. The USACE evaluated plans for reducing transportation costs while providing for safe, reliable navigation on the Houston Ship Channel system. The study has assessed the effects of the alternatives on the natural system and human environment, including the economic development effects of existing inefficiencies. EPA will support the USACE by meeting our basic statutory requirements for participating in the environmental review process.

Calcasieu Pass LNG Project (Venture Global), Cameron Parish, Louisiana
The Federal Energy Regulatory Commission has prepared an Administrative Draft Environmental Impact Statement for the Calcasieu Pass Project, located in Cameron Parish, Louisiana. The purpose of the project is to produce LNG for export via ocean-going LNG carriers under the authorities granted to Venture Global by the DOE/FE. The project would allow Venture Global to convert domestically produced natural gas to LNG for storage and export, encouraging the development of new domestic natural gas resources and promoting a liberalized global natural gas trade and greater diversification of global natural gas supplies. EPA will support FERC by meeting our basic statutory requirements for participating in the environmental review process.

Stratton Ridge Expansion Project, Stratton Ridge, Texas

The Federal Energy Regulatory Commission has prepared an Environmental Assessment (EA) for the Stratton Ridge Expansion Project (Texas Eastern Transmission – Brazoria Interconnector Gas Pipeline, LLC) , located in Stratton Ridge, Texas. The purpose of the project is designed to provide the capacity necessary for Texas Eastern to transport up to 322 million cubic feet per day of natural gas on a firm basis from certain Texas Eastern's existing interconnections to a delivery point on the BIG pipeline near Stratton Ridge, Texas. EPA will support FERC by meeting our basic statutory requirements for participating in the environmental review process.

San Juan Mine Deep Lease Extension, Northwest New Mexico

The United States Department of Interior (DOI) has prepared a two technical air quality modeling reports in support of the San Juan Mine Deep Lease Extension Environmental Impact Statement (EIS). The Ambient Air Quality Modeling Report describes the inputs, methodology, and results for the "near field" dispersion modeling analysis of impacts. The Greenhouse Gas Calculation Report presents the calculation methodology and GHG emission inventory for the coal-fired boilers and coal storage at the Generating Station. EPA will support DOI 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 and the House Appropriations Committee briefing on hurricane response activities. Acting Regional Administrator Sam Coleman will testify and brief members.

November 15 – Tex Tin Superfund Site 'Reuse' Event, Texas City, Texas.

November 28 – Oil and Gas Environmental Conference, Houston, Texas. Acting Regional Administrator Sam Coleman 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.

UPCOMING DECISIONS

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. For the 2014 – 2016 air monitoring seasons, El Paso would meet the 2015 ozone standard. Intergovernmental interest has been high.

Veolia Environmental Services, Port Arthur, Texas
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 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.

PAST WEEK ACCOMPLISHMENTS

Arkansas Infrastructure SIP for NAAQS
EPA approved 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.

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

Region 7

Hot Issues

R7 Regional Administrator meets with Congressional members

Key Message: On Nov. 6-7, 2017, R7 Regional Administrator Jim Gulliford held courtesy visits with congressional members and staff in Washington, D.C. Members included: Sen. Roy Blunt (MO), Sen. Joni Ernst (IA), Sen Charles Grassley (IA), Sen. Pat Roberts (KS), Sen. Claire McCaskill (MO), and Sen. Deb Fischer (NE).

Regional Administrator provides keynote at State Water Conference (Manhattan, KS)

Key Message: On Nov. 8, 2017, R7 Regional Administrator Jim Gulliford joined Kansas Governor Sam Brownback in Manhattan, KS for the state's annual Water Conference

Regional Administrator visits the Farm Broadcasters Convention (Kansas City, MO)

Key Message: On Nov. 9, 2017, R7 Regional Administrator, Jim Gulliford joined the National Association of Farm Broadcasting Trade Talk in Kansas City, Mo. for a series of farm radio and television interviews. Region 7 has been participating in the annual NAFB Convention for 15 years.

Update on Des Moines TCE Site Engineering Evaluation/Cost Analysis (EE/CA)

Key Message: An EE/CA to conduct a Non-Time Critical Removal Action at the Des Moines TCE Site was placed on public comment on September 8, 2017, and the comment period ended November 7, 2017.

- The EE/CA addresses PCB, dioxin and pesticide contamination in onsite building materials and foundations, as well as soils underneath the building foundations that will be exposed after the foundations are removed.
- EPA's preferred remedy consists of building demolition with offsite disposal and includes demolishing buildings and slab foundations, disposing of any hazardous debris at an off-site landfill, and capping exposed soil with a vegetative cover, depending on potential unacceptable risk from site soils and redevelopment plans.
- Following the closing of the public comment period, EPA will respond to significant comments and determine next steps.

This Week's Highlights

Newton County Superfund Site Meetings

Key Message: EPA R7 held several meetings with stakeholders to provide status updates on the Newton County Mine Tailings Superfund Site in SW Missouri.

- On November 7, 2017, EPA met with the Newton County Commissioner and MDNR to provide an update on the upcoming ESD, road repair, impacts 2017 flooding events have had on site work, and the schedule for the current and upcoming remedial work phases.
- On November 8, EPA met with the Granby City Mayor and provided a similar update on site status and upcoming remedial action work at the site.

Tri-State Mining District Site Team Meeting

Key Message: On November 7, 2017, EPA R6 hosted a Tri-State Mining District site team update meeting that included attendees from EPA Regions 6 and 7, BIA, KDHE, ODEQ, Local Environmental Action Demanded (LEAD) Agency, and several Oklahoma tribal representatives. R 7 provided a site update for the Upper Spring River Basin and other OUs of the Cherokee County Superfund site.

Jim Dalinghaus Feedlot – CAFO NEI (Baileyville, KS)

Key Message: On November 6, 2017, EPA R7 entered a Consent Agreement and Final Order in the matter of

Jim Dalinghaus, doing business as Jim Dalinghaus Feedlot-operating as a large unpermitted CAFO-in settlement of alleged CWA violations.

- Jim Dalinghaus is the owner and operator of a large concentrated animal feeding operation located outside of Baileyville, Kansas.
- The January 27, 2017 inspection and subsequent sampling inspection on March 29, 2017, revealed that the facility, operating as an unpermitted large CAFO, was discharging disease-causing bacteria (E. coli) associated with livestock beyond measurable amounts (>2,419,600 colonies/100mL) into the Black Vermillion River in violation of the CWA.
- Region 7 coordinated inspection of this facility with the State of Kansas, prior to entering into the Administrative Order for Compliance on Consent Region 7 received the State's support for enforcement of the matter, and coordinated with the State concerning the Compliance Order and Facility specific compliance requirements.
- Further, the Consent Agreement and Final Order obligates Jim Dalinghaus to pay a civil penalty in the amount of $77,970.

Upcoming Meetings

Community Involvement Group Meeting (Haysville, KS)

Key Message: There is a CIG Meeting in Haysville, KS on November 11, 2017, for the Occidental facility. CIG meetings occur 5 times per year covering multiple aspects of plant operations. This meeting will focus on the groundwater corrective action progress for the past year.

Region 8

Hot Issues

Butte Priority Soils operable unit, Silver Bow Creek Butte Area NPL Site
Key Message: On November 3, 2017, the U.S. Department of Justice and EPA Region 8 issued a proposal for reaching an agreement in principle on long-disputed elements of a consent decree for full RD/RA implementation to the Atlantic Richfield Company, other responsible parties and the State of Montana.

- The U.S. team also set a deadline for reaching agreement on the proposals by January 26, 2018.
- The proposal is meant to accelerate long stalled consent decree negotiations for the BPSOU site.
- A November 16, 2017 meeting is scheduled to discuss the proposal.
- If agreement is not reached, EPA will issue a unilateral administrative order for full RD/RA implementation of the BPSOU remedy.

Meeting with National Association of Home Builders regarding Storm Water Concerns and Compliance Assistance.
Key Message: The National Association of Home Builders are seeking a response to policy proposals made during October 24th meeting with the Administrator, OECA, and regional representatives.

- On November 7, Region 8 senior leadership hosted a meeting with Colorado representatives and members of the National Association of Home Builders (NAHB) to discuss regulation of construction storm water and municipal storm water.
- The meeting helped clarify for NAHB representatives the state and federal roles and responsibilities related to storm water regulations.
- Region 8 will work with NAHB and Colorado to convene a meeting to discuss opportunities for increased coordination and collaboration among EPA, state and local regulators, compliance assistance opportunities, and a streamlined state compliance assurance program.

Utah Energy Solutions' In-Cell Macroencapsulation Process: Resource Conservation and Recovery Program (RCRP) Developing Options for Resolution of Permit Issues.
Key Message: A state-issued RCRA treatment, storage and disposal facility (TSDF) permit for Utah Energy Solutions allows for in-cell macroencapsulation, which is noncompliant with the RCRA LDR regulations.

- Energy Solutions has a state-issued RCRA permit to macroencapsulate mixed waste (i.e., radioactive/hazardous waste) within its landfill cells. Under the RCRA Land Disposal Restrictions (LDRs) regulations, hazardous waste must be treated *before* placement within a landfill.
- Region 8 and UDEQ agree that the current treatment process is more protective than an alternative process outside of the landfill.
- After extensive discussions with Headquarters' OGC and ORCR, the preferred option for the short-term appears to be a state-issued RCRA research development & demonstration (RD&D) permit.
    - RD&D permit provides for operation of the technology for up to one year, with the

potential for renewal.

- While operating under the RD&D permit, the facility would be required to gather data to support a future No Migration Variance petition, or some other long-term solution.

Upcoming Public Events

Regional Administrator will tour Anaconda Smelter Superfund site and visit with Anaconda community members

Key Message: RA will visit the Anaconda Smelter Superfund site on Novemver 15 to get an overview of the project, meet with members of the community, and show his commitment to moving faster and smarter to implement a comprehensive cleanup in Anaconda, Montana. A community meeting will follow the site tour.

Safe Drinking Water Act Enforcement and Program Staff Meet with Wyoming Governor's Water Task Force

Key Message: SDWA Enforcement and Program staff will participate in this semi-annual meeting with various Wyoming state and local agencies in Cheyenne on November 9.

- The meeting will include representatives from the Wyoming State Engineers Office, Wyoming Departments of Environmental Quality, Wyoming Department of Agriculture, several Wyoming County Health officials and the Wyoming Association of Rural Water Systems.
- Region 8, state and local agencies will discuss local agencies' participation in sanitary surveys conducted by EPA, and collaborating to assist particular facilities in Wyoming with drinking water quality problems and to coordinate on-site visits to the water systems.

Upcoming Major Decisions - None

Last Week Highlights

Region 8 Senior Leaders' Field Trip to Observe Lean Culture at Denver Human Services

Key Message: The Region 8 Senior Leadership Team participated in a Lean Management System overview and tour of Denver Human Services, a Lean Culture organization on November 7.

- Tour highlights included observing visual management work flow boards in the work environment, learning how to help cultivate a Lean culture, and getting an introduction to various Lean tools and problem-solving techniques.

Region 9

URGENT/IMPORTANT ISSUES:

NO. CALIFORNIA WILDFIRE RESPONSE: Our EPA team is making exceptional progress, having covered over 66% of the 7,000+ affected properties in just over two weeks. Yesterday, I met with FEMA, Corps and State response leaders at our command post, and our Acting DRA Deborah Jordan will visit in the next few days. Yesterday's meeting focused on the transition from EPA household hazardous waste removal to the Corps of Engineers solid waste and debris removal. We are hoping the Corps will continue EPA's investment in community outreach and making current data available to the public, key to the extensive goodwill and positive media to date. At a community meeting in Santa Rosa this week attended by several hundred, EPA sent 14 representatives (after a long day's work), who were able to respond to all questions and show individuals the interactive online tool showing exactly where EPA has completed work. Our operations now include more rural and commercial properties, which will take longer. We issued a media advisory regarding "fraudsters" posing as EPA representatives, trying to get PII and bank-account information - we're referring the public to the OIG hotline. Lastly, see photo below of the EPA-supported Brownfields job training program, Richmond Build. This cohort achieved 100% employment upon graduation, 14 of whom are working on the wildfire response.

EXTERNAL ENGAGEMENT:

1. **MEXICAN BORDER**: We're providing information to Ken Wagner regarding the International Boundary and Water Commission, which is part of the Dept. of State, in response to recent television coverage regarding Mexican Border wastewater spills, and local cities renewed interest in suing IBWC.

2. NATIONAL ESTUARY PROGRAM: I'll address the Santa Monica Bay NEP at its launch of the Coastal Research Institute, a newly formed entity based at Loyola Marymount University to further scientific support for San Monica Bay restoration.

PAST WEEK HIGHLIGHTS:

1. **SIP ACTIONS:** I signed four Federal Register notices related to CA Reasonably Available Control Technology SIPs for ozone: two final actions for Sacramento, which completes that agency's RACT SIP actions; and two proposals for Mojave Desert.
2. **DOD FUNDS GUAM WASTEWATER TREATMENT PROJECT:** The Department of Defense awarded nearly $120 million to the Guam Waterworks Authority for upgrades to a wastewater treatment plant. These upgrades are the second phase of three water infrastructure commitments in the Record of Decision for impacts from the proposed relocation of 5,000 marines from Okinawa. As part of the total $174 million project, EPA will receive $700k for technical and contracting assistance to support the upgrades.

Region 10

Hot Issues

Columbia/Snake River Temperature TMDL DOJ Court Filing (Idaho, Oregon, Washington): On Friday, November 3rd, DOJ filed a motion for summary judgement in Washington District Court re: Columbia Riverkeeper's lawsuit against EPA regarding completion of a Columbia River/Snake River TMDL for temperature. In the filing, DOJ asked the judge to agree that EPA should not be ordered to issue a TMDL. News media interest is expected and we have heard from OCIR that staff for House Natural Resources Committee Chairman, Rob Bishop, has inquired about this action and may request a briefing. The federal agencies responsible for the dams (Army Corps, Bureau of Reclamation, and the Bonneville Power Administration) have concerns about potential implications of the TMDL litigation and of a TMDL itself as they work themselves to address federal court expectations for further environmental review and NEPA and the Endangered Species Act. This is a long standing issue related to the impact of Columbia/Snake River hydropower dams on river temperatures and endangered salmon runs.

Complaint Filed Re: Deschutes River Clean (Washington) TMDL: On November 6, 2017, Northwest Environmental Advocates filed a complaint against EPA in Washington District Court for failure to act on the Deschutes River TMDL submission. Clean Water Act Section 303(d)(2) requires EPA to either approve or disapprove a state's TMDL submission within 30 days of submittal. Washington Department of Ecology submitted the Deschutes River TMDL in December 2015. Prior to receiving NWEA's complaint, EPA was in the process of reviewing the 2015 submission as well as a 2017 follow-up letter from Ecology. NWEA's complaint asks the court to enter an order directing EPA to approve or disapprove the TMDL within 30 days and to award NWEA attorneys' fees. EPA's answer will be due 60 days after service of the complaint is perfected (on or about January 8, 2018).

Portland, Oregon Drinking Water Investments to Move Forward: This summer, the City of Portland decided to move toward design and construction of filtration of its primary Bull Run Watershed drinking water source. The City's decision, which carries a price tag in the range of $300 - $500M and is expected to take roughly 10 years to implement, is partly a response to repeated detections of cryptosporidium and partly an acknowledgement that over time the water supply will likely benefit from filtration to address broader drinking water quality concerns. For approximately the past decade, the City has operated under a treatment variance put in place by the Oregon Health Authority. With the cryptosporidium detections, OHA has indicated it will revoke the variance no later than November 22 and memorialize the schedule for the City's installation of treatment. EPA continues to work with the Oregon Health Authority to insure that by the date of the variance revocation OHA has in place a long-term agreement with the Portland Water Bureau that also is sufficiently robust in terms of interim public health protections and enforceability. A strong agreement is especially important so that OHA can call for additional health protective measures as appropriate should the continued periodic detections of cryptosporidium increase in frequency or magnitude.

Region 10 and EPA HQ to Meet with Congresswoman McMorris Rodgers re: Pesticide Registration Concerns: On November 15, Congresswoman Cathy McMorris Rodgers is scheduled to come to EPA Headquarters to discuss issues related to her constituent's concerns that a competitor pesticide producer who has not had to register its product under FIFRA, whereas the constituent does have to register its product. The meeting invitation so far includes several members of Ms. McMorris Rodgers' office as well as Nancy Beck;

Ryan Jackson; Susan Bodine, Patrick Traylor, Ken Wagner, Aaron Ringel, OCIR. The region is working closely with OCIR on this meeting.

Pending Decisions

Final Action on Idaho's Clean Air Act PM2.5 Infrastructure State Implementation Plan: EPA is taking final action to approve Idaho's Infrastructure SIP for the PM2.5 annual standard. We expect the plan to be in front of the Regional Administrator signature in the next week. Whenever a new or revised ambient air quality standard is promulgated by EPA, each state must submit a plan for the implementation, maintenance, and enforcement of the standard – commonly referred to as "infrastructure" requirements. On December 23, 2015, Idaho submitted such a plan to address the annual particulate matter (PM2.5) standard. On September 12, 2017, we proposed to approve the plan (82 FR 42772). Our public comment period ended on October 12, 2017, and we received two supportive comments.

Deadline for Comment on Nanushuk (Alaska) Clean Water Act Section 404 Public Notice for Oil and Gas Development: Armstrong Energy LLC, is proposing to discharge fill into 271.6 acres of tundra wetlands on the Alaska's North Slope to create roads, drilling pads and buildings to support oil drilling and development. **November 14, 2017** is Region 10's deadline to submit comments on the Corps of Engineer's CWA 404 public notice and draft EIS for this project. No compensatory mitigation is proposed to offset the impacts, and the Region is therefore proposing to invoke dispute resolution over the Corps' public notice under the provisions of the Clean Water Act 404(q) MOA. **On November 3, Lee Forsgren was provided a draft of the "3a letter" which would initiate the dispute resolution process.**

Upcoming Public Events

Region 10 Brownfields Team Presents at Alaska Tribal Conference on Environmental Management: Representatives of Region 10's Brownfields Team will attend and present at the Alaska Tribal Conference on Environmental Management in Anchorage November 14-17. ATCEM, organized by the Alaska Native Tribal Health Consortium, is an annual weeklong gathering that brings together tribes, NGOs, and state and federal agencies. The discussions focus on finding and implementing solutions to address the unique environmental concerns facing Alaskan communities. In addition to a full Brownfield track at the conference, there will be "drop-in" Brownfield Hours held daily to allow attendees to get project information and advice.

Region 10 to Speak the Idaho Association of Soil Conservation Districts Annual Meeting: Region 10's Agriculture Advisor will speak at the Idaho Association of Soil Conservation Districts (IASCD) Annual meeting which takes place from November 14-17, 2017. Requested topics of discussion include: "Section 319 & WOTUS Moving Forward."

Last Week Highlights

Green Power Leadership Award Presented to Bainbridge Island Leadership (Washington): Following up on the national Green Power Leadership Awards ceremony on October 23rd in New York, this week Region 10

presented to the mayor and council of Bainbridge Island, Washington, the city's award recognizing it as the 2017 Green Power Community of the Year under EPA's Green Power Partnership program. Notable in Bainbridge Island's nomination was its use of green power for 100% of city facilities and its high rate of community participation in green power purchasing.

Office of Administration and Resources Management

Upcoming Public Events

Health & Benefits

OARM, in partnership with the U.S. Customs and Border Protection and the U.S. Agency for International Development, is hosting a free health fair for federal employees. This year's event will be held on Thursday, November 16, 2017, in the Ronald Reagan Building, Polaris and Meridian Rooms A-E, 8:00 am – 3:00 pm.

Upcoming Major Decisions

None

Last Week's Highlights

Suspension and Debarment

On November 2, 2017, the EPA Suspension and Debarment Official (SDO) issued notices of suspension for causes based on state criminal charges filed against 2 individual defendants (Howard Donnell Croft and Darnell Earley) allegedly involved in the matter under criminal investigation referred to as the "Flint, MI water crisis." These suspension actions are in addition to the 11 suspensions previously issued to other criminal defendants in the ongoing investigation. Mr. Croft served as the Director of the City of Flint, Michigan's Department of Public Works and Mr. Earley was the City of Flint's Emergency Manager. The SDO found an immediate necessity to suspend these respondents from participating in future procurement and non-procurement programs with the federal government. A suspension is a preliminary exclusion from receiving federal contracts and covered transactions to protect the public interest pending completion of legal proceedings.

Office of Air and Radiation

OAR is looking forward to welcoming our Assistant Administrator next week!

Upcoming Hot Issues and Important Deadlines

- **Tracking SIP Actions:**
  - Total Number of SIPs submitted to Regions in FY 2018: 12
  - Total Number of SIP Submittals with Final Action taken by the Regions in FY 2018: 8
  - Total Number of Backlogged and Non-backlogged SIPs: 661
    - Backlogged: 507
    - Non-backlogged: 154
- **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
- **Point of Obligation:** On November 17, 2017, we are planning to finalize our response to a petition requesting that we move the point of obligation for compliance under the Renewable Fuel Standards (RFS) program.

State Implementation Plan (SIP)-Related Actions

- The Regions report that the following 1 SIP-related action was signed this week (Thursday, 11/2 – Tuesday, 11/7):
  - **Region 10: NPRM -** Oakridge, OR PM2.5 Attainment Plan Update

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 currently are participating on the U.S. delegation to the upcoming COP in Bonn, Germany. (The COP runs from November 6-17).
- **National Association of Regulatory Utility Commissioners (NARUC) Annual Meetings:** On November 12-15, EPA staff will attend the NARUC meeting being held in Baltimore, MD.
- **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).
- **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.

Upcoming Decisions

- **For Administrator's Signature – Revisions to Testing Regulations for Air Emission Sources:** In this rule we are proposing editorial and technical corrections to regulations that require source testing of emissions. (This is a routine "clean-up" action that we have done several times in the past – most recently in August 2016). The package is with OP for review.
- **For Administrator's Signature –Protection of Stratospheric Ozone: Revision to References for Refrigeration and Air Conditioning Sector to Incorporate Latest Edition of Certain Industry, Consensus-based Standards:** This direct final rule and parallel proposal will modify the use conditions required for use of three flammable refrigerants in new household refrigerators, freezers, and combination refrigerators and freezers under the Significant New Alternatives Policy (SNAP) program. The use conditions are being revised to reflect an updated standard from Underwriters Laboratories (UL) that is incorporated by reference. The package is with OP for review.
- **For Administrator's Signature – Air Quality: Revision to the Regulatory Definition of Volatile Organic Compounds:** This direct final rule and parallel proposal will add cis-1,1,1,4,4,4-hexafluorobut-2-ene to the list of compounds excluded from the regulatory definition of volatile organic compound (VOC) on the basis that this compound makes a negligible contribution to tropospheric ozone formation. The package is with OP for review.
- **For Administrator's Signature – New York State Implementation Plan submittal addressing Regional Haze and Revision of Best Available Retrofit Technology Determination for the Danskammer Generation Station Unit 4:** In conjunction with the final SIP approval, this action also will withdraw portions of the Federal Implementation Plan (FIP). The package is with OP for review.
- **For Administrator's Signature – Notice of Proposed Withdrawal of the Control Techniques Guidelines for the Oil and Natural Gas Industry:** This proposed notice of availability will solicit comment on the withdrawal of the Control Techniques Guidelines (CTG) for the oil and natural gas industry. The package is with OP for review.

Recap of Past Week

- **Actions signed recently or expected to be signed this week:**
    - Air quality designations for ozone NAAQS
    - Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits (Proposed Rulemaking)

Office of Chemical Safety and Pollution Prevention

IMPORTANT DEADLINES

TSCA New Chemicals Determinations				
Row	**Determination Type**	**Pending on 11/7/2017**	**Determinations Completed[1] as of 11/7/2017**	**Determinations Posted on the Website as of 11/7/2017**
1	# of "not likely" determinations	**1**	**105[4]**	**104[4]**
2	# of §5(e) Orders signed by both EPA and the submitter	-	**288**	**287**
3	# of §5(e) Orders signed by EPA and awaiting submitter signature	**73**	-	-
4	# of non-Order SNURs/"not likely" determinations	**0**	**0**	**0**
5	# of cases in post-FOCUS final determination development[5]	**241[3, 5]**	-	-
6	# of cases flagged for in-depth review	**54**	-	-
7	# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	**72**	-	-
8	# of LVE/LOREX exemption grants	-	**474**	**473**
9	# of LVE/LOREX exemption denials	-	**101**	**93**
10	**Total number of cases**	**441**	**968**	-
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]**	**62**	-	-

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

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

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

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

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

HOT ISSUES

OPP Announces Registration of Wolbachia ZAP Strain in Live Male Asian Tiger Mosquitoes - On November 3, 2017, the Office of Pesticide Programs announced the registration of the new mosquito biopesticide, ZAP Males®, that can reduce local populations of the type of mosquito (Aedes albopictus, or Asian Tiger Mosquitoes). Asian Tiger Mosquitoes can spread numerous diseases of significant human health concern, including the Zika virus. ZAP Males® are live male mosquitoes that are infected with the ZAP strain, a particular strain of the Wolbachia bacterium. Infected males mate with females, which then produce offspring that do not survive. The time-limited registration allows MosquitoMate, Inc., to sell the Wolbachia-infected male mosquitoes for five years in the District of Columbia and the following states: California, Connecticut, Delaware, Illinois, Indiana, Kentucky, Massachusetts, Maine, Maryland, Missouri, New Hampshire, New Jersey, Nevada, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, and West Virginia. Before the ZAP Males® can be used in each of those jurisdictions, it must be registered in the state or district. When the five-year time limit ends, the registration will expire, unless the registrant requests further action from EPA. OPP has responded to numerous press inquiries since the announcement.

UPCOMING MEETINGS AND PUBLIC EVENTS

International Chemical Management Conferences November 9- 14. OSCPP Deputy Assistant Administrator Nancy Beck traveled to Taipei and Japan for two international chemical management conferences from November 9-14. In Taipei, she 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. 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.

Treated Wood Council Annual Meeting, November 16. Representatives from OPP's Antimicrobials Division will present 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 with wood preservative uses to appropriately reference American Wood Preservative Association standards.

Washington State Potato Commission, November 15. OPP senior managers will meet 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.

LAST WEEK HIGHLIGHTS

Technical Working Group on Pesticides, November 7-9. The meeting of the Technical Working Group on Pesticides (TWG) was hosted by Mexico this year and took 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.

Office of the Chief Financial Officer

Hot Issues

- At the request of the House Appropriations Subcommittee on Interior, Environment and related Agencies, EPA will provide a briefing to members on disaster response efforts on November 14th. OCFO has coordinated with OCIR, Regions 2,4,6, and OLEM.
- OMB continues to review EPA's estimated resource needs to respond to Hurricanes Harvey, Irma and Maria but excludes California wildfires. OMB has delayed submission of a supplemental funding proposal to Congress to 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 receive final input from OIG soon and the supporting Management Representation letters will be routed for the Administrator's signature on November 13.

Upcoming Public Events

- N/A

Upcoming Major Decisions

- OCFO has commenced pre-planning for the FY 2018 Interim Operating Plan budget and will meet with the Acting Deputy Administrator, Chief Operations Officer, and Chief of Staff to discuss. The current Continuing Resolution, which funds the federal government, expires December 8. 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 OMB approval.
- Results of senior leader ranking of top enterprise risks were submitted on November 3 and under review. OCFO will brief and get feedback from the COO and the Acting DA next week on results and next steps.
- Senior Leaders have been asked to review draft *FY 2018-2022 EPA Strategic Plan* public comments received through Regulations.gov which require consideration—roughly 50 out of 4,565 comment submissions. The comments have been organized by strategic goal/objective and screened for duplicates to facilitate review. Senior leader revisions of the draft *Plan*, consistent with OCFO instructions, are due November 17. The agency also received 20,000 comments through the EPA docket associated with Regulations.gov, which have been screened for duplicates and condensed down to 370 unique comments that may require senior leader review. Once access is granted to these additional comments, those which require senior leader review will be distributed. In addition, OITA's American Indian Environmental Office is reviewing all tribal comments.
- As follow up to the COO November 1 email to senior leaders, the Administrator's office is scheduling meetings over the next few weeks 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.

Office of Congressional and Intergovernmental Relations

- ***Upcoming Hot Issues and Important Deadlines***

  - **November 14 –** House Energy and Commerce, Subcommittee on Environment Hearing – Hurricane Response Activities. EPA Witnesses: Region 2 Administrator Pete Lopez, Region 4 Administrator Trey Glenn, and Acting Region 6 Administrator Sam Coleman.

- ***Upcoming Events***

  - **November 14**- the Senate Subcommittee on Clean Air and Nuclear Safety will hold a subcommittee hearing entitled, "Legislative Hearing on S. 1857, S. 203, S.839 and S. 1934
  - **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.
  - **November 16** – House Science, Space and Technology briefing request to discuss IRIS RFCs

- ***Past week accomplishments***

  - **November 6 -** Notified authorizing committee and other interested offices about the final area designations of attainment/unclassifiable for 85% of the country for the 2015 ozone standards. Other areas of the country will be designated at a later date.
  - **November 6 and 7 -** The State and Regional Partnerships team coordinated introductory meetings for Region 7 Administrator Jim Gulliford.
  - **November 7** - A Statement for the Record on the discussion draft of the ENERGY STAR Reform Act was submitted. A mark-up of the bill has not yet been scheduled.
  - **November 8** - Senate Committee on Environment and Public Works held a hearing on the nomination of Andrew Wheeler to be Deputy Administrator of the EPA.
  - **November 8** - staff from the Office of Air and Radiation, Office of Water, Office of Sustainable Communities, and Region VIII, joined OIR for a meeting with Vicki Bennett, Director of Sustainability, and Laura Briefer, Public Utilities Director, to discuss a number of areas of interest to the City of Salt Lake.
  - **November 8** – Quarterly Outreach Meeting with Intergovernmental Associations and EPA's OCIR. The featured presenter was 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. Associate Administrator Troy Lyons gave opening remarks.
  - **November 8 -** Jeff Sands, Agriculture Advisor to the Administrator, met with NASDA for the first time since his appointment. The Advisor and NASDA discussed EPA and NASDA priorities, continuing the quarterly EPA-NASDA leadership calls, Dicamba, CERCLA/EPCRA reporting requirements, and WOTUS.
  - **November 8 –** Principal Deputy Associate Administrator Robin Richardson convened the 6th meeting of the State Oversight Kaizen Group. The group is currently working to

finalize the survey instrument that will go out to the 10 Regions to gather data on Regional Oversight Practices.

- **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 provided a written statement for this hearing.

- ***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 FY 2018-2022 Strategic Plan 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

Fiat Chrysler Automobiles (FCA): On November 8th, as part of the FCA judicial conference, it is likely that EPA, DOJ, California Air Resources Board (CARB), and FCA will report to Judge Chen that the parties have agreed to a testing protocol to evaluate whether the Model Year (MY) 2017 certified configuration (with a few calibration updates) can be applied to the MY 2014-16 vehicles that are the subject of the United States' complaint. The parties anticipate that the FCA testing will last approximately 100 days (3-4 months). Upon completion of the testing, EPA and California will conduct confirmatory testing, which is estimated to last about a month. After all testing is completed, EPA and CARB will evaluate the data and assess whether the proposed "fix" meets the appropriate criteria.

Volkswagen: EPA and California Air Resources Board (CARB) will disapprove an "Emissions Modification" for about 200 of the oldest vehicles subject to the recall required under the 2016 settlement with Volkswagen. This Emissions Modification was previously approved, but in the course of installing this "fix," Volkswagen learned that some vehicles needed a new Transmission Control Unit (TCU). Volkswagen did not describe this to the EPA or CARB in its proposal, nor did it describe this in the mandatory consumer disclosures. The consumer disclosures are important because they provide information to the vehicle owners so they can make an informed choice on whether to get an Emissions Modification or have Volkswagen buy their car back. Although the TCU replacement was not described to EPA and CARB, we expect that in a matter of days following our disapproval, Volkswagen will resubmit a proposed Emissions Modification describing the TCU issue, along with proposed amended consumer notifications. We anticipate those resubmitted materials will be approved by EPA and CARB soon thereafter. In short, this is a "redo" of the Emissions Modification for a small number of cars.

CERCLA/CWA Sample MOU for Contaminated Sediment Sites: OECA's Office of Site Remediation Enforcement is working with OW and OLEM to finalize a Sample Memorandum of Understanding (Sample MOU) for use at contaminated sediment sites to facilitate collaboration and communication among the various government stakeholders involved at such sites. The Sample MOU makes cross-programmatic efforts among the Superfund, Clean Water Act, and enforcement programs more effective by delineating roles and responsibilities across these programs and across involved government agencies. States, tribes, and specific State and Tribal partnership groups reviewed a draft of the Sample MOU and provided input. EPA hosted two separate conference calls each for States and Tribes to answer questions and took comments on the Sample MOU. This effort is related to Superfund Task Force Recommendation #19, which aims to increase the use of MOUs with federal agencies, States, and Tribes to better delineate roles and responsibilities for each government stakeholder involved.

Upcoming Events/Public Meetings

On November 14th, OECA's Federal Facilities Enforcement Office and Office of Compliance will present at a meeting of the interagency Environmental Assessment Management Group (TEAM). TEAM is a collaborative effort to develop audit protocols/checklists to address Federal and State/territory environmental regulations and share best practices. OECA will be discussing enforcement and compliance trends and new directions.

On November 14th, OECA's Criminal Investigation Division will speak at the New England States FIFRA Issues meeting, which is a forum for identifying the most significant FIFRA issues to discuss at the next National Association of American Pesticide Control Officials (AAPCO) Committee meeting scheduled for December 4-5, 2017.

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.

Upcoming Major Decisions

None.

Last Week's Highlights

FIFRA Criminal Plea: On November 3rd, an employee at a pest and animal control services company in Florida pled guilty in the Southern District of Florida to violating the Federal Insecticide, Fungicide, and Rodenticide Act when he knowingly used Zythor, a registered and restricted pesticide, in a manner inconsistent with its labeling. Approximately 580 residences were fumigated and then cleared for re-occupancy without being tested for the presence of Zythor, a potentially deadly gas. In one case, two residents and a Police Officer had to exit a home complaining of eye and respiratory irritation after exposure to a chemical used as a warning agent to indicate the presence of Zythor. The company and its President are expected to plead guilty on November 9, 2017.

Outreach Concerning Vehicle Tampering: OECA's Office of Civil Enforcement has continued its outreach and compliance assistance efforts on aftermarket defeat devices and illegal tampering, addressing issues ranging from replacement of catalytic converters on gasoline cars, to tampering of large diesel trucks, to converting street vehicles to competition-only vehicles. Below are some recent examples of OECA's outreach:

Used Truck Association: Managers from OECA's Air Enforcement Division attended the Used Truck Association's annual convention in Nevada last week. The Air Enforcement Division presented to about 250 attendees and spoke with convention attendees for several hours during an open table session. Attendees had a wide range of experiences and interests, including that tampering is becoming more prevalent and that industry needs clearer guidance from the EPA about what is and is not appropriate. Many participants were thankful for EPA's attendance, and encouraged us to continue our work against tampering.

Specialty Equipment Marketing Association (SEMA): Managers from OECA's Air Enforcement Division met with top SEMA personnel at SEMA's annual convention in Nevada. This was a continuation of a long-standing discussion about the prevalence of aftermarket parts sold "for competition use only" but which are actually used to remove emissions controls from motor vehicles that are used exclusively on public roads. SEMA expressed frustration that EPA was not resolving more enforcement cases against those they characterize as bad actors. The group discussed various prospects for a regulatory or similar program to regularize how one may lawfully convert an EPA-certified motor vehicle, including removing emissions controls, for the purpose of using it only for competition thereafter.

Office of Environmental Information

Upcoming Public Events

Geographic Information Systems Day Activities Across the Agency

- **Brief description:** On November 15, Geographic Information Systems (GIS) Day, EPA will host events to showcase GIS technology.
  - Some of the regions (and partners) that are hosting events are Region 5, Region 1, Region 2 and the Chesapeake Bay region.
- **Who benefits or cares:** General public, international community, education groups and EPA.
- **Why this is important:** GIS Day provides an international forum for users of GIS technology to demonstrate real-world applications that are making a difference in our society.
- **Additional information:**
  - http://www.gisday.com

Recent Highlights

State and Tribe Participation in OEI's Developers' Guild Community of Practice

- **Brief Description:** On November 7, OEI hosted its first monthly Developers' Guild webinar meeting that included State and Tribal Partners. Previously, the Developers' Guild had been a community of practice (COP) only open to EPA and Contractors to EPA. State and Tribal Partners have come to know of the Developers' Guild COP through the Exchange Network, and a number of partners became interested in accessing the webinars as a shared resource for professional development and education. OEI is planning to continue inviting State and Tribe Partners to the Developers' Guild COP webinars, and would like to coordinate with them to present best practices in information technology and information management.
- **Who Benefits or Cares:** EPA, State and Tribal Partners to EPA.
- **Why this is important:** This supports the agency's State and Tribal Partners, sharing best practices to design, develop and deliver better environmental services to the public.
- **Additional information:**
  - The Developers' Guild supports EPA developers and IT professionals to share the best available information and tools to innovate, collaborate, and develop the highest quality environmental information application and systems.
  - The Exchange Network is an Internet-based system used by state, tribal and territorial partners to securely share environmental and health information with one another and EPA.

OEI participates in Follow-up to GAO Inquiry on Tribal Consultation

- **Brief description:** The Government Accountability Office (GAO) has been meeting with federal departments and agencies to discuss how and when they engage tribes in consultation on various efforts.
  - OEI discussed the Agency's use of Census, BIA and BLM data sets for present-day tribal boundary and point information and USFS cession data to identify lands ceded by tribes to the federal government under various treaties, but for which they still retain treaty rights (e.g., hunting, fishing, gathering, ceremonial use, etc.).
- **Who benefits or cares:** Tribes, EPA, state and local governments.
- **Why this is important:** OEI prepared responses to the initial GAO inquiries on EPA's use of tools and mapping resources to identify tribes that may be impacted by federal actions.
- **Additional information:**
  - GAO will be providing some additional follow-up questions in writing related to tribal boundary data.

Office of General Counsel

New Judicial Decisions

- The District Court for the Central District of California issued an order in which it partially granted and partially denied EPA's motion to dismiss for lack of jurisdiction. The plaintiffs had alleged that EPA had failed to perform a mandatory duty to require NPDES permits for certain stormwater discharges that EPA had found contributed to violations of water quality standards in response to the plaintiffs' petition asking EPA to require permits for such discharges. The court agreed with EPA that no mandatory duty applies, neither in the CWA nor in EPA's regulations; however, the court disagreed with EPA's argument that exclusive jurisdiction lies in the court of appeals pursuant to CWA section 509(b)(1)(F), and thus the district court retained jurisdiction over the case as it moves forward with the plaintiffs' APA claim. (*Los Angeles Waterkeeper v. Pruitt*, 2:17-CV-3454)

- The District Court for the Southern District of New York issued an order in *Waterkeeper Alliance, et al. v. EPA*, a complaint alleging that EPA has failed to respond to the Plaintiffs' FOIA request seeking records related to EPA's reconsideration of the steam-electric ELGs rule. EPA has been working on this FOIA request since we received it in April. We have three responsive hard-copy records that are currently undergoing management review, and over 8,000 electronic records that are currently being reviewed by OW staff. The court ordered EPA to (1) inform the Plaintiffs and the Court, by November 9, 2017, of the date on which the responsive paper documents will be produced to Plaintiffs and (2) produce electronic documents in response to Plaintiffs' request by December 31, 2017. (*Waterkeeper Alliance, et al. v. EPA*, No. 17-CV-7400)

- The District Court for the Northern District of Texas denied EPA's motion to stay discovery in the deadline suit litigation filed by Valero alleging a failure to timely review the point of obligation and to undertake a periodic review of the RFS program. We had filed a motion to dismiss for lack of venue and lack of jurisdiction but Valero submitted numerous expansive discovery requests. The court has not yet resolved our motion but intends to "quickly resolve" it. In the meantime, it has decided to allow discovery. (*Valero Energy Corporation v. EPA*, 7:17-cv-00004-O)

- 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. The order denying rehearing *en banc* and attaching the revised decision is attached. (*Wyoming v. EPA*, Nos. 14-9512 & 14-9514)

New Complaints Filed

- Northwest Environmental Advocates (NWEA) filed a complaint against EPA in district court alleging EPA's failure to approve or disapprove a total maximum daily load (TMDL) for the Deschutes River watershed submitted to EPA Region 10 by the State of Washington in December 2015. Pursuant to Clean Water Act section 303(d), EPA has a nondiscretionary duty to approve or disapprove a TMDL within 30 days of submittal by a state. To date, EPA Region 10 has not acted on this TMDL. NWEA's single-count complaint requests that the court order EPA to take action on the TMDL within 30 days of the court's decision. NWEA also requests payment of attorneys' fees, which would be paid from the Judgment Fund. OGC and OW have been working with Region 10 and DOJ regarding this matter since NWEA filed its notice of intent to sue in August. (*NWEA v. EPA*, No. 2:17-cv-01664)

Hot Topics

- OGC dramatically improved its presence on the web and social media this week, implementing and building upon the Administrator's recent Directive regarding transparency in our litigation. OPA's Web Communications Team was invaluable as we ramped up for the launch this Monday, and we appreciate their help very much.
- The first notices to affected regulated entities and states will be sent next week. If you would like more information on the specific case please contact Kevin.
- A NOI dated November 1, 2017, was filed on behalf of the Center for Biological Diversity, the Center for Environmental Health and the Sierra Club regarding FIP for Illinois conflict of interest.

New Petitions that OGC is Aware Of

- None to report.

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

11/13 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 Response to Respondent's Motion for Voluntary Remand is due in *Utility Solid Waste Activities Group v. EPA*, a challenge to final CCR rule filed by coalitions of industry and environmental groups.

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 Mediation statement in advance of meeting with the magistrate is due in *Ellis v. Keigwin*, a FIFRA and ESA challenge to clothianidin and thiamethoxam registrations.

11/14 Reply Brief is due in *Waterkeeper Alliance, et al. v. EPA*, where the lower court vacated the "CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms.

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 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.

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 Response to Motion for Summary Judgment is due in *Sierra Club, et al. v. Pruitt*, a challenge to extension of compliance date for TSCA formaldehyde rule.

11/15 Notice of Appeal is due in *Emhart Industries v. EPA, et al.*, where Region 1 and OSRE may recommend that OGC ask DOJ to appeal from this decision.

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.

11/17 Answer and 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.

11/22 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 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.

Office of International and Tribal Affairs

Hot Issues:

None

Upcoming Engagements:

November 16 - The Federal Triangle Partnership, consisting of EPA, Commerce, USAID, and CBP, will be hosting a NatIve American Heritage Event. The theme is "Standing Together" and the keynote speaker will be Spike Bighorn, Bureau of Indian Affairs.

Past Week Highlights:

Native Village of Nuiqsut meeting: OITA met with a delegation from the Native Village of Nuiqsut on the North Slope in Alaska. The delegation included the President and Administrator of the Native Village of Nuiqsut, the president of the Tribal Youth Council, and a community member. The delegation stressed the importance of a subsistence way of living to Alaska Natives and commented on the development of oil and gas resources in the nearby National Petroleum Reserve Area, as well as off-shore oil development activities.

NSC Meeting on OECD: The NSC hosted a meeting this week to strategize about U..S involvement in the Organization for Economic Co-operation and Development (OECD). NSC is interested in how the USG takes advantage of OECD as a cost-effective mechanism for advancing US economic interests, achieving USG agency missions, and building multilateral consensus for key US policy areas. A major portion of OECD's portfolio focuses on the environment, with an eye toward economic benefits to member countries. Among other meeting highlights, State and NSC noted data sharing and digital innovation, advancing G7 and G20 issues, as potential areas to further explore with OECD.

USTDA Meeting on Advancing U.S. Economic Interests: OITA met with representatives from the US Trade and Development Agency (USTDA) and Department of Commerce to discuss advancing economic interests through the environment. Potential areas of collaboration include facilitating the conversion of chlor-alkali facilities from mercury cell to membrane cell technology. Mercury cell technology use in the chlor-alkali industry is one of the largest uses of mercury globally. USTDA also mentioned an upcoming reverse trade mission aimed at promoting the export of U.S. emissions control technology and expressed interest in EPA participation.

Taiwan Mission: The EPA delegation (OITA, OCSPP, OLEM, OCHP) participated in three regional workshops on children's health, toxics, and brownfields. Taiwan is very interested in learning from the US experience with TSCA reform as it implements a new toxics law. Taiwan also expressed interest in creating an Office of Children's Health modeled after EPA's office. Regional representatives from Asia were also interested in EPA's brownfields clean up program. EPA advanced the International Environmental Partnership with the Ministry of Foreign Affairs and American Chamber of Commerce. Finally, Minister Lee extended an invitation for Administrator Pruitt to visit Taiwan next year.

Office of Land and Emergency Management

Hot Issues

1. **Emergency response to hurricanes and wildfires.** OLEM is providing support to OCIR, OCFO, and Regions 2, 4, and 6 in preparation for a November 14 House Energy and Commerce (HEC) hearing and House Appropriations briefing.

2. **Coal Combustion Residuals.**

3. **CERCLA 108(b) Financial Assurance for Hard Rock Mining and Mineral Processing**. The draft of the final rule was provided to OMB for review on November 1. We have a judicial deadline of December 1.

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

5. **Ongoing major Superfund NPL sites (for example, East Chicago, West Lake, Gold King Mine/Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates).**

6. **CERCLA-EPCRA AFO-CAFO Rule**.

Upcoming Public Events

1. **RCRA Division Director Meeting (not a public meeting.)** On November 15-16, RCRA Division Directors will meet in Boston.

2. **Federal Facilities Leadership Council (FFLC) (not a public meeting.)** The FFLC, consisting of EPA Regional Federal Facility managers from all EPA Regions, FFRRO, and FFEO will be meeting in Region 9's office on November 13-15.

3. **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.

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

Upcoming Major Decisions

1. **E-Manifest User Fee Final Rule.** The rule package is with OMB.

2. **RMP Rule Reconsideration.** OLEM, OGC, and the AO are conferring on next steps and schedule.

Last Week Highlights

1. **CERCLA/EPCRA Farms Guidance**. On October 30, EPA filed a motion with the court to request an additional two-month stay of the mandate, until January 17, 2018, to allow time to update CERCLA guidance and to develop a streamlined continuous release reporting form. EPA further indicated that we would use the additional time to coordinate with the National Response Center to identify a process to manage the expected volume of calls.

2. **Portland Harbor Superfund Site.** On November 6, OLEM, along with Region 10 and other EPA offices, participated in a meeting w/PRP representatives regarding negotiations around remedial design and baseline sampling.

Office of Policy

Documents Submitted to OFR from November 1 - November 7, 2017

FRL	Title	Date Submitted to OFR
9970-63-Region 1	Air Plan Approval; NH; Approval of Recordkeeping and Reporting Requirements and Single Source Order	11/7/2017
9970-64-Region 1	Air Plan Approval; NH; Approval of Recordkeeping and Reporting Requirements and Single Source Order	11/7/2017
9970-65-Region 1	Air Plan Approval; Rhode Island; Enhanced Motor Vehicle Inspection and Maintenance Program	11/7/2017
9970-66-Region 1	Air Plan Approval; Rhode Island; Enhanced Motor Vehicle Inspection and Maintenance Program	11/7/2017
9970-70-Region 3	Determination of Attainment by the Attainment Date for the 2008 Ozone National Ambient Air Quality Standard; District of Columbia, Maryland, and Virginia; Washington, DC-MD-VA Area	11/7/2017
9970-71-Region 10	Air Plan Approval; OR, Oakridge; PM2.5 Moderate Plan, Finding of Attainment and Clean Data Determination	11/7/2017
9968-49-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology for Cement Kilns, Revisions to Portland Cement Manufacturing Plant and Natural Gas Compression Station Regulations, and Removal of Nitrogen Oxides Reduction and Trading Program Replaced by Other Programs and Regulations	11/7/2017
9969-84-OW		11/6/2017
9959-51-OEI	Clean Water Act; Contractor Access to Confidential Business Information	11/6/2017
9970-59-OAR	Willingness to Pay Survey to Evaluate Recreational Benefits of Nutrient Reductions in Coastal New England Waters (New)/ICR No.2258.01	11/3/2017
9970-55-OAR	Agency Information Collection Activities; Proposed Collection; Comment Request; Implementation of the 2008 Ozone National Ambient Air Quality Standards for Ozone; State Implementation Plan Requirements, EPA ICR No. 2347.03, OMB Control No. 2060-0695	11/3/2017
9970-56-OAR	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements	11/3/2017
9970-30-Region 3	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Three Month Stay of Certain Requirements	11/2/2017

9970-58-OAR	Clean Air Act Operating Permit Program; Petition to Object to Title V Permit for Wheelabrator Frackville Energy; Pennsylvania	11/2/2017
9970-46-OAR	Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units	11/1/2017
9970-34-OCSPP	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry Residual Risk and Technology Review	11/1/2017
9970-28-Region 3	New Chemicals Review Program Implementation and Approaches for Identifying Potential Candidates for Prioritization for Existing Chemical Risk Evaluations Under the Amended Toxic Substances Control Act (TSCA); Notice of Public Meetings and Opportunity for Public Comment	11/1/2017
9970-29-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Maryland; Continuous Opacity Monitoring Requirements for Municipal Waste Combustors	11/1/2017
9967-33-OCSPP	Approval and Promulgation of Air Quality Implementation Plans; Maryland; Continuous Opacity Monitoring Requirements for Municipal Waste Combustors	11/1/2017
9969-99-OCSPP	Benzovindiflupyr; Pesticide Tolerances	11/1/2017
9970-00-OCSPP	Formaldehyde, polymer with 1,3-benzenediol, 2-methyloxirane and oxirane, ethers with polyethylene glycol mono-Me ether; Exemption from the Requirement of a Tolerance	11/1/2017
9970-41-Region 1	Formaldehyde, polymer with 1,3-benzenediol, ethers with polyethylene glycol mono-Me ether; Exemption from the Requirement of a Tolerance	11/1/2017

Office of Research and Development

Administrator,

Next week, Richard Yamada and I will travel to Cincinnati from November 13-15th. During this visit, Richard and I will tour laboratory facilities, meet with researchers and senior leaders, view tool demonstrations, and attend the 36th Annual ORD Awards Ceremony and Reception to recognize our colleagues across ORD for their valuable contributions to EPA in 2016.

Hot issues

ORD Sends Additional PFAS Results to NCDEQ

Today ORD will share the results of our latest PFAS analysis with North Carolina Department of Environmental Quality (NCDEQ). This is the seventh in a series of reports on analyses conducted to support the State of North Carolina's decisions regarding PFAS. Among the requests from NCDEQ to EPA was for EPA to conduct laboratory analysis of water samples from eight sites along the Cape Fear River and finished drinking water samples from six facilities. EPA tested the samples for six PFAS compounds, including GenX. NCDEQ will review and release the results from the EPA report.

Upcoming public events

Presentations on lead sampling to Hamilton County Lead and Healthy Homes Collaborative, Cincinnati, OH, November 9

ORD scientists are presenting to public health officials during a meeting of the Hamilton County Lead and Healthy Homes Collaborative at Greater Cincinnati Water Works. They are presenting "Lead-in-Water Sampling" and "Lead in Drinking Water and Lead in Blood." The collaborative brings together public health experts in the Cincinnati area to share knowledge about minimizing the risks of lead exposure.

Society of Environmental Toxicology and Chemistry (SETAC) meeting

Several ORD scientists will participate in the SETAC meeting next week in Minneapolis, MN. SETAC is dedicated to the use of multidisciplinary approaches to examine the impacts of chemicals on the environment. SETAC provides an open forum for scientists and institutions to discuss research related to the environmental problems, management and regulation of natural resources, education, research and development, and manufacturing.

Million Hearts Federal Partner Presentation

ORD supports educational outreach efforts by the federal Million Hearts initiative to reduce heart attacks and strokes by providing information to partners and stakeholders about risks from air pollution for those with cardiovascular disease. As part of this effort, ORD arranged a presentation on air pollution and cardiovascular health to be provided by Dr. Wayne Cascio on Nov. 14 at the Million Hearts' monthly meeting for federal, state and health care partners. Cascio will be joined by Susan Stone (OAR-OAQPS). Million Hearts has included content on its web page on Particle Pollution and Heart Disease and links to EPA's resources on the Healthy Heart site.

EPA Scientist Participates in Superfund Research Project

Michigan State University's Superfund Research Project aims to help the cleanup of Superfund sites through

better information. On November 30 and December 1 ORD will meet in East Lansing, MI, with other members of the Computational Core group developing computational models of the biochemical mechanisms of dioxin toxicity. The goal is to develop scientific answers to the question of how much remediation needs to be done to clean up a site to provide effectiveness and efficiency. Research is funded by the National Institutes of Health and includes scientists from Michigan State, Rutgers, Purdue, Emory, Texas A&M and EPA.

Last week Highlights

CDC Shares EPA Environmental Health Literacy Material with States

Million Hearts®, the joint Centers for Medicare and Medicaid Services and the Centers for Disease Control and Prevention initiative to reduce heart attacks and strokes in the U.S., recently shared a podcast by ORD's Wayne Cascio to the health systems listserv of the Cardiovascular Health Network of the National Association of Chronic Disease Directors. The Association is a non-profit public health organization committed to serving the chronic disease program directors of each state and U.S. jurisdiction involving 6,000 chronic disease practitioners. EPA can now use/share the link below to highlight the role clinicians can play in mitigating the adverse effects particle pollution has on cardiovascular health:
http://www.chronicdisease.org/resource/resmgr/cvh/Million_Hearts/AUG_2017_MILLION_HEARTS.mp3

Aclima-Google Announces Rollout of Insights from City Mobile Monitoring Study

Aclima, a California technology company that collaborated with ORD through a Cooperative Research and Development Agreement (CRADA) to conduct mobile ambient air measurements in California, announced the release of California Data Stories on Nov. 7. The launch provides an overview and map of each area they drove. Aclima will post data stories from the regions beginning Thursday, Nov. 9, with the first three focusing on wildfires, pollution through the lens of schools in Los Angeles, and methane plumes related to agriculture.

Office of Water

Hot Issues

Steam Electric FOIA: In April 2017, the Agency received a FOIA from the Waterkeeper Alliance requesting certain records relating to the reconsideration of the 2015 Steam Electric ELG. In late September, the requestor filed a lawsuit on this matter for failure to respond. Last week, after a pretrial conference, EPA was ordered to: (1) inform the Plaintiffs and the Court, by November 9, 2017, of the date on which the responsive paper documents will be produced to Plaintiffs and (2) produce electronic documents in response to Plaintiffs' request by December 31, 2017. This order followed a joint letter submitted by EPA and Plaintiffs to the court last week, notifying the court that we were working to develop a mutually agreeable production schedule. DOJ has confirmed that the court expects EPA to produce ***all*** of the responsive electronic records by December 31. DOJ also believes that the court is very unlikely to entertain an extension unless we are close to the deadline and have a compelling case for more time.

Waters of the U.S.: OW and OP are coordinating with OMB in anticipation of clearing, as early as next week, the proposed rule that would delay the effective date of the 2015 Clean Water Rule. 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.

Proposed Withdrawal of Criteria in the California Toxics Rule Update: This week, OW sent 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.

WIFIA: The WIFIA program has received its second application, from King County. 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. The program is also continuing with its outreach series. This week the team was in Denver and next week will be in Nashville, followed by Lenexa, KS at the end of the month.

Upcoming Public Events

Decentralized MOU Renewal: Next week, OW will host a "Decentralized Wastewater MOU Partnership Renewal Signing Ceremony" meeting at EPA Headquarters. EPA has managed this partnership since 2005, which has grown to include nearly 20 organizations. The purpose of the partnership is to encourage continued collaboration at the national level to improve proper decentralized wastewater system management, to protect the nation's public health and water resources and to support small, rural communities. The Decentralized Wastewater MOU Partnership has grown into a successful means to educate and inform families in rural areas and small communities about septic systems. Participation is voluntary and the SepticSmart program is one example of the effective efforts this partnership has produced. Senior leaders of the partnership organizations

will be present at the meeting next week to sign the MOU agreement, which is renewed every 3 years.

NACWA's 2017 National Clean Water Law Seminar: Next week, Lee will provide the keynote address at the National Association of Clean Water Agencies (NACWA) National Clean Water Law Seminar in Savannah. This annual seminar focuses on the legal developments affecting the clean water sector. Lee will be speaking to the Administration's priorities. The event is open press.