Message

From: Ruf, Christine [Ruf.Christine@epa.gov]
Sent: 3/16/2017 11:15:59 PM
To: Goodin, John [Goodin.John@epa.gov]
CC: Nandi, Romell [Nandi.Romell@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]; Lousberg, Macara [Lousberg.Macara@epa.gov]; Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]; Downing, Donna [Downing.Donna@epa.gov]; Hurld, Kathy [Hurld.Kathy@epa.gov]; McDavit, Michael W. [Mcdavit.Michael@epa.gov]
Subject: Re: URGENT, Quick response: ECOS Questions for Administrator call - OW

Thanks everyone. Will send final compilation tomorrow.

On Mar 16, 2017, at 6:15 PM, Goodin, John <Goodin.John@epa.gov> wrote:

> Christine—here are our recommended responses (thanks especially to Donna and Kathy!), supplemented by some relevant background for each.
> Thanks
> John
>
> TPs for item 1: "What steps will you take to make delegation of primacy to states for programs like Underground Injection Control and assumption of the Clean Water Act Section 404 program (where there has been a difference of opinion between the Corps and EPA on assumption, with EPA favoring and the Corps putting up roadblocks)."

Ex. 5 Deliberative Process (DP)

Additional Background:

About the Assumable Waters Subcommittee

The Assumable Waters Subcommittee has been convened under the National Advisory Council for Environmental Policy and Technology (NACEPT) to provide advice and recommendations on how the EPA can best clarify which waters a state or tribe assumes permitting responsibility for under an approved Clean Water Act (CWA) section 404 program.

CWA Section 404 establishes a program to regulate the discharge of dredge and fill material into waters of the United States. Currently the U.S. Army Corps of administers the program in 48 states. The CWA allows states and tribes to assume the administration of the 404(g) program. No tribes and only two states have assumed these permitting responsibilities to date. If a state or tribe is considering assuming such responsibilities, among the first questions that needs to be answered is for which waters will the state or tribe assume permitting responsibility and those waters the U.S. Army Corps of Engineers will retain permitting authority. States have raised concerns to the EPA that section 404 of the CWA and its implementing regulations lack sufficient clarity to enable states and tribes to estimate the extent of waters for which they would assume permitting responsibility and thus estimate the associated implementation costs.

The EPA fully supports states and tribes assuming permitting responsibilities for the aquatic resources under their jurisdiction. Per the states' request for clarity, the EPA has established the Assumable Waters Subcommittee.

NACEPT

The U.S. Environmental Protection Agency established the NACEPT in 1988 to provide independent advice to the EPA Administrator on a broad range of environmental policy, technology and management issues. The NACEPT is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA).

EPA recognizes that a vast array of environmental policy expertise exists outside the Agency in the public, private and non-profit sectors. NACEPT helps EPA access the knowledge, expertise, and experience that would otherwise be unavailable to the Agency. NACEPT provides a cost-effective and flexible forum that can quickly respond to continually evolving policy challenges. The Assumable Waters Subcommittee is one of several subcommittees under NACEPT.

TPs for item 2: "How do you plan to consult with states on next steps for the Waters of the U.S. Rule?"

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Additional Background:

[attached]

From: Ruf, Christine
Sent: Thursday, March 16, 2017 10:34 AM
To: Nandi, Romell <Nandi.Romell@epa.gov>; Farris, Erika D. <Farris.Erika@epa.gov>; Christensen, Christina <Christensen.Christina@epa.gov>; Gonzalez, Yvonne V. <Gonzalez.Yvonne@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Grevatt, Peter <Grevatt.Peter@epa.gov>; Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Lousberg, Macara <Lousberg.Macara@epa.gov>
Subject: URGENT, Quick response: ECOS Questions for Administrator call - OW
Importance: High

Good morning everyone, we just got a request to provide some TPS for the Administrator to used for a call next Tuesday, March 21 with ECOS' full membership (30 min call; 20 min Talking; 10 min Q/A) on CW Rule, infrastructure, and state primacy for programs (404; UIC), and which are listed below. They are particularly looking for technical information. Could you send some TPS on these specific questions, plus any other general related information that you think might be useful for this phone call on these issues by 10 am tomorrow, Friday, March 17 so I can get them upstairs by their 12 noon deadline. Thanks so much. Christine 566-1220

State Authority & Consultation:
1. What steps will you take to make delegation of primacy to states for programs like Underground Injection Control and assumption of the Clean Water Act Section 404 program

(where there has been a difference of opinion between the Corps and EPA on assumption, with EPA favoring and the Corps putting up roadblocks). (OWOW, OGWDW)

2.How do you plan to consult with states on next steps for the Waters of the U.S. Rule? (OWOW)

Infrastructure:
1. Environmental infrastructure spending is an abundantly obvious solution to much of our environmental challenges. What steps will the Administrator take to improve our infrastructure? (OWM,OGWDW)
2. The federal permitting process for environmental and infrastructure improvement projects has a poor reputation. What role can EPA play to reduce the frustration of trying to obtain these permits? (all offices)

Michael Shapiro
Deputy Assistant Administrator
US EPA, Office of Water

Begin forwarded message:

From: "Barbery, Andrea" <Barbery.Andrea@epa.gov>
Date: March 15, 2017 at 5:54:29 PM EDT
To: "Shapiro, Mike" <Shapiro.Mike@epa.gov>, "Grevatt, Peter" <Grevatt.Peter@epa.gov>
Cc: "Richardson, RobinH" <Richardson.RobinH@epa.gov>, "Campbell, Ann" <Campbell.Ann@epa.gov>, "Thomas, Latosha" <Thomas.Latosha@epa.gov>, "Cheatham-Strickland, Latonia" <Cheatham-Strickland.Latonia@epa.gov>
Subject: ECOS Questions for Administrator call - OW

Hi Mike and Peter,

Per John's request, below, I'm reaching out to see if you can help provide some talking points the Administrator can use for a call next Tuesday with ECOS' full membership. He's asked to address questions on the CWR, wetlands, and infrastructure (copied, below). I know the agency's direction is still being formulated, but any technical points / data you have to offer on -- or around -- these topics will be helpful for Lincoln and his team.

Apologies for the short turnaround on this; your input by noon on Friday is appreciated.

Thanks,
Andrea Barbery
Office of Intergovernmental Relations
U.S. Environmental Protection Agency
202-564-1397

State Authority & Consultation:

1. <!--[if !supportLists]--><!--[endif]-->What steps will you take to make delegation of primacy to states for programs like Underground Injection Control and assumption of the Clean Water Act Section 404 program (where there has been a difference of opinion between the Corps and EPA on assumption, with EPA favoring and the Corps putting up roadblocks).

2. <!--[if !supportLists]--><!--[endif]-->How do you plan to consult with states on next steps for the Waters of the U.S. Rule?

Infrastructure:

3. <!--[if !supportLists]--><!--[endif]-->Environmental infrastructure spending is an abundantly obvious solution to much of our environmental challenges. What steps will the Administrator take to improve our infrastructure?

4. <!--[if !supportLists]--><!--[endif]-->The federal permitting process for environmental and infrastructure improvement projects has a poor reputation. What role can EPA play to reduce the frustration of trying to obtain these permits?

From: Konkus, John
Sent: Wednesday, March 15, 2017 2:54 PM
To: Barbery, Andrea <Barbery.Andrea@epa.gov>
Cc: Richardson, RobinH <Richardson.RobinH@epa.gov>; Bangerter, Layne <bangerter.layne@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: RE: ECOS Questions for Tues. Mar. 21

Thank you Andrea. Copied on this email is Lincoln. What I suggest is if you and the appropriate program offices provide a first draft for each question and then send that to Lincoln for refinement. That way Lincoln can work from a starting point that has technical answers built in so he doesn't have to go around and find that info.

Does that makes sense to everyone?

From: Barbery, Andrea
Sent: Wednesday, March 15, 2017 2:42 PM
To: Konkus, John <konkus.john@epa.gov>
Cc: Richardson, RobinH <Richardson.RobinH@epa.gov>; Bangerter, Layne <bangerter.layne@epa.gov>
Subject: ECOS Questions for Tues. Mar. 21

Hi John,

A pleasure to meet you today!

As we discussed, here are the questions ECOS gathered from its members (state environmental commissioners) in preparation for the Administrator's engagement next

Tuesday, March 21. He has 30 minutes with this group (via phone) – typically, 20 of those are spent delivering remarks and 10 are open for Q&A (states only on the line).

Thank you for taking care of the talking points on this! If you need anything more (background, logistics, etc), please let me know.

Thanks,
Andrea Barbery (ECOS liaison)
Office of Intergovernmental Relations
U.S. Environmental Protection Agency
202-564-1397

<2017 WOTUS FR.pdf>