Message

From: Jenkins, Brandi [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9B3EA7AACD1A44C0AB3EE9A8F0A2EA3F-JENKINS, BRANDI]
Sent: 9/15/2020 7:12:24 PM
To: asnider@politico.com
CC: region4press [region4press@epa.gov]
Subject: FW: Inquiry re: Fla 404 assumption

Good afternoon Annie,

On August 20, 2020, EPA Region 4 received a package from the State of Florida requesting to assume administration of a Clean Water Act (CWA) Section 404 program per the provisions of CWA Section 404(g)(1). On September 16, 2020, the EPA will provide notice in the Federal Register that it has received a complete package. The notice: (1) solicits public review and comment on the State program during a 45-day period that ends on October 31, 2020; (2) announces two public hearings that will be held respectively on October 21, and 27, 2020; and (3) solicits public review and comment regarding consultation under Section 106 of the National Historic Preservation Act. The EPA is in the process of working with the applicable government agencies to implement the review process set forth by the Clean Water Act and its implementing regulations. As part of this process, the EPA is consulting under the Endangered Species Act with the U.S. Fish and Wildlife Service. An assumed program must be consistent with and no less stringent than the requirements of the Clean Water Act and regulations. The EPA Regional Administrator has up to 120 days (i.e., until December 17, 2020) to review and determine whether the request for authorization meets all federal requirements.

Yes, the August 27 memo referenced in the notice is the following memo: https://www.epa.gov/sites/production/files/2020-08/documents/esa_consultation_policy_for_404g.pdf. Also, the EPA Regional Administrator has up to 120 days (i.e., until December 17, 2020) to review and determine whether Florida's request for authorization meets all federal requirements. As stated in the Federal Register notice, "EPA is conducting ESA Section 7 consultation during the Agency's review of the State of Florida's request to assume administration of a CWA Section 404 program because EPA has determined that the Agency's potential approval of the program may affect ESA-listed species or designated critical habitat."

If you have any additional questions, please let me know.

Brandi Jenkins, Director

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From: Annie Snider <asnider@politico.com>
Sent: Tuesday, September 15, 2020 10:42 AM
To: Press <Press@epa.gov>; Block, Molly <Molly.Block@mail.house.gov>; Hewitt, James <hewitt.james@epa.gov>
Subject: Inquiry re: Fla 404 assumption

Hi all, I see that Florida's request for assumption is in tomorrow's Federal Register. I also see that EPA has flipped its interpretation of whether ESA consultation is required for this step. The notice references an Aug 27 memo from David Ross. Can you tell me if this undated memo is that one?
https://www.epa.gov/sites/production/files/2020-08/documents/esa_consultation_policy_for_404g.pdf

Also, can you tell me the timeline for both the ESA consultation and the 404 request decision?

Annie Snider

Reporter

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