Message

From: Godfrey, Annie [Godfrey.Annie@epa.gov]
Sent: 4/23/2018 12:32:34 PM
To: Purify, Johnnie [Purify.Johnnie@epa.gov]; Gordon, Lisa Perras [Gordon.Lisa-Perras@epa.gov]
Subject: RE: DUE TODAY: Review of Water items in 'Florida Profile'

No, the HHC looks fine, but I'm checking with Eve on the tribal entries.

From: Purify, Johnnie
Sent: Monday, April 23, 2018 7:48 AM
To: Godfrey, Annie <Godfrey.Annie@epa.gov>; Gordon, Lisa Perras <Gordon.Lisa-Perras@epa.gov>
Subject: RE: DUE TODAY: Review of Water items in 'Florida Profile'

Did anyone responded to the update request below from last Friday? I know the deadline to respond was on a Friday:-/

Thanks,

//JDP//

Johnnie Purify, Commander, USPHS
U.S. EPA/Region 4
Water Protection Division
Acting Chief, Water Quality Planning Branch
Purify.Johnnie@epa.gov
404-562-9298

"Leadership is what you do with people, not to them."
~Ken Blanchard

From: Bragan, Mary Jo
Sent: Friday, April 20, 2018 11:20 AM
To: Godfrey, Annie <Godfrey.Annie@epa.gov>; Gordon, Lisa Perras <Gordon.Lisa-Perras@epa.gov>; Purify, Johnnie <Purify.Johnnie@epa.gov>; Zapata, Cesar <Zapata.Cesar@epa.gov>
Cc: Bragan, Mary Jo <Bragan.Maryjo@epa.gov>
Subject: FW: DUE TODAY: Review of Water items in 'Florida Profile'
Importance: High

Here are a few additional items that were in the Florida profile. Can you look over them and send me any needed edits. If no edits are needed just send me a quick email letting me know. Thank you- Mary Jo

Hot Topics:

- *Florida Human Health Water Quality Criteria* - In 2016, the State of Florida proposed to update its human health water quality criteria (HHC) using a new approach. This approach resulted in less stringent criteria for some parameters, and more stringent criteria for others. The proposed HHC drew criticism from numerous groups, including the Miccosukee Tribe of Indians of Florida, who have off-reservation reserved hunting, fishing, and frogging rights that could be impacted by the proposed HHC.

After engaging in legal challenges to the proposed HHC, the State of Florida recently announced that it will withdraw the proposed HHC and work with the Miccosukee Tribe of Indians of Florida, as well as the Seminole Tribe of Florida, to gather data to support revised HHC.

- *Tribal Water Quality, Everglades Restoration, Everglades Agricultural Area (EAA), Comprehensive Everglades Restoration Project, and Western Everglades Restoration Project* - The Tribe has EPA-approved tribal water quality standards that are applicable to waters within and/or downstream of Everglades Restoration projects.

  In a letter to the South Florida Water Management District (SFWMD) dated January 8, 2018, the Miccosukee Tribe of Indians of Florida raised a host of concerns relating to the State's water management practices in the Everglades, and specifically objecting to water storage in the EAA. The letter copied Mr. Glenn, as well as Mr. Bartlett from FDEP, and Florida state legislators.

- *Tribal Water Quality Standards, including proposed Flow Criteria* – The Tribe has been working with the EPA to develop new water quality standards, including flow criteria. The Tribe received significant comments from the State of Florida, the U.S. Army Corps of Engineers, and SFWMD regarding the flow criteria, and is considering its options going forward.

From: Bragan, Mary Jo
Sent: Friday, April 20, 2018 10:27 AM
To: Able, Tony <Able.Tony@epa.gov>; Allenbach, Becky <Allenbach.Becky@epa.gov>; Bouma, Stacey <Bouma.Stacey@epa.gov>; Campbell-Dunbar, Shawneille <Campbell-Dunbar.Shawneille@epa.gov>; Danois, Gracy R. <Danois.Gracy@epa.gov>; Davis, Molly <Davis.Molly@epa.gov>; Derby, Jennifer <Derby.Jennifer@epa.gov>; Ellington, Natalie <Ellington.Natalie@epa.gov>; Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Godfrey, Annie <Godfrey.Annie@epa.gov>; Gordon, Lisa Perras <Gordon.Lisa-Perras@epa.gov>; Horsey, Maurice <Horsey.Maurice@epa.gov>; Howell, Amanda <Howell.Amanda@epa.gov>; Mcgill, Thomas <Mcgill.Thomas@epa.gov>; Nuhfer, Mark <Nuhfer.Mark@epa.gov>; O'Lone, Dan <Olone.Dan@epa.gov>; Purify, Johnnie <Purify.Johnnie@epa.gov>; Robertson, Mark <Robertson.Mark@epa.gov>; Smith, Brian <Smith.Brian@epa.gov>; Thomas, Chris <Thomas.Chris@epa.gov>; Walker, Mary <walker.mary@epa.gov>; Zapata, Cesar <Zapata.Cesar@epa.gov>
Cc: Bragan, Mary Jo <Bragan.Maryjo@epa.gov>
Subject: DUE TODAY: Review of Water items in 'Florida Profile'
Importance: High

DUE COB TODAY, (FRIDAY, April 20th)
OGR has asked us to the review the water related items in the state profile for Florida. Rather than send everyone to the SharePoint site, I pulled out the water issues and pasted them below. Please look read through them and make any needed edits and then send back to me ASAP.

404 Assumption (Water)

- We continue to actively support the state in its progress towards 404 assumption and hold biweekly calls with FDEP to discuss the state's progress in developing a submittal package, Endangered Species Act matters and state verses federal regulatory authorities.
- Met with John Truitt, Deputy Secretary for FDEP, on January 19, 2018, to discuss 404 assumption, particularly EPA's position on ESA Section 7 consultation.

Florida Human Health Criteria (Water)

- In 2016, the Florida Department of Environmental Protection (FDEP) updated its human health water quality criteria using a new approach. The new approach resulted in proposed less stringent criteria for some parameters and more stringent criteria for others. Region 4 and EPA Headquarters (HQ) have been actively involved in reviewing and commenting on each proposal FDEP has put forward. Additionally, HQ was an active participant on a peer review panel. The EPA reviewed FDEP's latest technical support document explaining the rationale behind their human health criteria and had no additional comments.
- The proposed revision resulted in numerous concerns from the public, and was challenged legally by the City of Miami, the Seminole Tribe of Florida, and the Pulp and Paper Association in the Florida Division of Administrative Hearings . FDEP recently withdrew the proposed criteria, and has announced that it intends to work with the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida to gather additional data to develop the criteria. EPA will continue to work with stakeholders and await submittal of the final Florida Human Health Criteria upon completion of all legal challenges within the State.

Harmful Algal Blooms (Water)

- Throughout the summers of 2016 and 2017, South Florida experienced algal blooms that affected Lake Okeechobee and several rivers and estuaries, however, for 2017 and 2018 there have been no significant algal blooms reported for Lake Okeechobee. While flow from the lake may contribute to coastal blooms, most of the nutrient loading to the St. Lucie area and Florida's east coast is local non-point runoff from basins east of Lake Okeechobee, not the lake. The current Lake Okeechobee stage is at 15.25 feet, and as of January 31, 2018, there are currently no flows to St. Lucie or the Caloosahatchee from Lake Okeechobee. The Corps is currently on a pulse release schedule on a week to a two week basis with discharges to the west with an average amount of 650 cfs. Much of what is required to address nutrient loading in the lake and estuaries involves nonpoint source solutions. Since 2014, EPA has provided approximately $1.8 Million in funding through the 319 grant program for four projects to address non-point source pollution that impact Lake Okeechobee. Additionally, EPA provides $600,000 per year to the Indian River National Estuary Program, which includes the St. Lucie area.
- The Comprehensive Everglades Restoration Plan (CERP) is the Congressionally approved framework for projects and operational changes needed in the Central and Southern Florida watersheds to restore and protect the South Florida Ecosystem, while providing sufficient water to meet South Florida's needs. The Lake Okeechobee Watershed Restoration Project is currently in the planning phase and the objectives of this project include: increasing water storage capacity in the watershed, better management of Lake water levels, improving the quantity and timing of discharges to the St. Lucie and Caloosahatchee estuaries, restoring wetlands, and improving water supply.
- Both the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida have EPA-approved tribal water quality standards that are applicable to certain waters within and/or downstream of the project areas.
- Congressman Brian Mast has spoken with RA regarding his interest.

EAA Reservoir Issue (Water)

- The State of Florida is currently leading the NEPA planning process for construction of a reservoir south of Lake Okeechobee (Lake O) in the Everglades Agricultural Area. The project purpose is to reduce harmful Lake O releases to the northern estuaries and provide additional water storage, treatment, and conveyance south to the Everglades, including Everglades National Park. Although the majority of the land is already publicly held, one of the proposals may impact "Restoration Strategies"; however, the project buildout is not for 15 years. The project planning timeline is moving at a fast pace with the following milestones: deliver study to Army Corps for their review 3/30/18; submit post authorization change report to Congress for approval by 10/1/18. The Army Corps and State are still working on a statement of work through the WRDA section 203 authorities in order for the state to carry out certain tasks such as Tribal Government to Government and Endangered Species Act Consultations.
- The EPA Liaison to the Army Corps for CERP, has attended the majority of the public meetings held in South Florida and also agency only conference calls with EPA NEPA staff. A decision point will not occur for EPA until the Draft Environmental Impact Statement is issued, then EPA's NEPA and Water Protection Division

staff will review and provide any appropriate comments in accordance with Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA).

- Both the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida have EPA-approved tribal water quality standards that are applicable to certain waters within and/or downstream of the project areas.
- In a letter to the South Florida Water Management District (SFWMD) dated January 8, 2018, the Miccosukee Tribe of Indians of Florida raised a host of concerns relating to the State's water management practices in the Everglades, and specifically objecting to water storage in the EAA. The letter copied Mr. Glenn, as well as Mr. Bartlett from FDEP, and Florida state legislators.

Aquaculture (Water)

- In February 2017, the USEPA entered into a Memorandum of Understanding (MOU) with six other federal agencies with the purpose of improving coordination and to streamline the regulatory permitting process for aquaculture facilities in Federal waters in the Gulf of Mexico (GOM). The six other federal agencies are:
    - Bureau of Ocean Energy Management (BOEM),
    - Bureau of Safety and Environmental Enforcement (BSEE),
    - National Marine Fisheries Service (NMFS),
    - United States Army Corps of Engineers (USACE),
    - United State Coast Guard (USCG), and
    - United States Fish and Wildlife Service (USFWS).
- Region 4 is currently working on two NPDES permits for aquaculture facilities in federal waters of the GOM. EPA is the permit issuance agency for facilities discharging pollutants into federal waters. In accordance with the MOU, issuance of the two permits described below will be done in close coordination with other federal agencies.
- In January 2018, EPA R4 received a permit application from Kampachi Farms for a proposed aquaculture facility located approximately 33 miles from the western coast of Florida. The proposed facility is a research-scale project that includes a single net pen producing 150,000 lbs/year of almaco jack. The application is considered incomplete at this time. The permittee is currently working in good faith to obtain the missing information. In February, Region 4 will participate in a federal interagency meeting with the permittee to facilitate coordination between the agencies involved and discuss application requirements of each agency. The NMFS is the lead agency for the NEPA analysis and the EPA is a cooperating agency. Recently, five environmental groups threated NOAA with a lawsuit to stop federal funding for marine aquaculture. This project may be affected by the lawsuit as it has received a grant from NOAA to do the research.
- In September 2017, Region 4 received a permit renewal application from Biomarine for a proposed project in the GOM, approximately 7.5 miles south of the Alabama shore near the border of Florida waters. Biomarine currently has the only effective NPDES permit for an aquaculture facility in the GMO, however, the facility has not been built. Biomarine proposes to construct a 28 acre commercial and research facility that will produce 6.4 million lbs/year in 56 net pen cages. In November 2017, the EPA sent a Notice of Deficiency letter to Biomarine stating that the NDPES application is incomplete and provided a list of information required for a complete application. The applicant has indicated that the information will not be submitted. The currently effective permit expires on March 30, 2018. The EPA is the lead agency for the NEPA analysis.

Port Everglades Expansion Project – EPA's NEPA/309 Review (NEPA/Water)

- COE Jacksonville District the lead agency, with EPA as a cooperating agency (MPRSA Section 103). The COE is considering a supplemental final EIS (SFEIS) to address dredged material disposal.
- 2016 ROD rescinded by COE. COE had proposed similar dredging method used for Port of Miami that resulted in extensive coral impacts and there was a resulting criminal case. SFEIS expected to be released 2nd quarter of FY18

Impact to Endangered Corals – (NEPA)

- EPA has been actively participating on a multi-agency work group to address the significant environmental issues associated with the dredged materials disposal and potential impacts to endangered corals.

Turkey Point Nuclear Power Plan (Water)

- The Turkey Point Nuclear facility, on the shore of Biscayne Bay, is planning an expansion to add two more reactors to the two reactors and other natural gas power plants that are already operating there.
- The existing reactors and natural gas plants utilize a 6,000 acre cooling canal system as a "radiator" to cool water used by the reactors and natural gas plants.
- Although it was expected that the unlined cooling canals would leach cooling water in the groundwater below the facility, the cooling water, which contains low levels of selenium and other pollutants, is migrating west towards public drinking water well systems, and east under Biscayne Bay. This leaching was exacerbated during recent actions to address elevated salinity in the canals as a result of evaporation, by adding fresh water from nearby surface water canals, which increased the head in the canal system, pushing more water into the groundwater beneath the canals.
- Florida Power has entered into consent agreements with FDEP and Dade County to address the groundwater issues.
- The EPA reviewed the EIS for the plant expansion and provided comments raising concerns about the groundwater impacts, facility siting and the failure to not comprehensively look at the cumulative effects of the entire facility, not just the new nuclear reactors.
- NRC held a hearing in December 2017 so that NRC and Florida Power and Light could provide a Safety and Environmental presentation to the NRC Commissioners before NRC approves the Combined Operating License (COL) for the facility.

Stream Effluent Guidelines (Water)

- In 2015, EPA promulgated effluent guideline limits for several wastewater streams at coal-fired power plants are effective. Compliance must be achieved by November 18, 2018, except for flue gas desulfurization and bottom ash wastewaters. For FGD and bottom ash wastewater, the compliance date is November 18, 2020. The rules allow the Permit Writing Authority to extend the compliance date to no later than December 31, 2023, if the permittee provides a justification.
- One thing the guidelines require is for coal-fired plants to convert to dry ash handling. Some power plants may have issues addressing timing of closure for ash ponds in order to address both the RCRA Coal Combustion Rule and to meet requirements under the 2015 effluent guidelines (no later than Dec. 31, 2023).
- Region 4 has a high concentration of large coal-fired plants in Alabama, Kentucky, and Georgia, and we generate approximately 37 % of the electricity in the US.
- Region 4 has three of the seven largest plants in the US.

Tampa Bay Downs Enforcement Case (Water)

- EPA has been working with FDEP on compliance concerns at Tampa Bay Downs Race horse racing track since inspected in February 2017. Tampa Bay Downs has not finished responding to a 308 request for information letter they received from EPA (EPA & FDEP collaborated on the questions in the 308)
- EPA attended FDEP's meeting with Tampa Bay Downs on 1/29/18 in response to FDEP's Warning Letter sent to Tampa Bay Downs 12/12/17 re: sample data showing contamination at time of inspection.
  FDEP & EPA plan to continue to work together to ensure the facility comes into compliance with all environmental concerns which will depend on Tampa Bay Downs's complete response to the 308

WOTUS (Water) - On Monday, 1/22, the Supreme Court of the United States issued its decision, holding that the United States Court of Appeals for the 6th Circuit lacked jurisdiction under section 509(b)(1) of the Clean Water Act, 33 U.S.C. § 1369(b)(1), to review the Clean Water Rule promulgated in 2015 revising the definition of "Waters of the United States."

General 404 Background (Water)

- The Clean Water Act Section 404(q): Memorandum of Agreement between the Environmental Protection Agency and the Department of the Army established policies and procedures for coordination on 404 regulatory issues and permit reviews. The roles and responsibilities of the Federal resource agencies are:
- The Army Corps of Engineers is solely responsible for making final permit decisions. As such, the Corps acts as the project manager for the evaluation of all permit applications. As the project manager, the Corps is responsible for requesting and evaluating information concerning all permit applications. The Corps fully considers EPA's comments when determining with the National Environmental Policy Act, and other relevant statutes, regulations, and policies. The Corps will also fully consider the EPA's views when determining whether to issue the permit, to issue the permit with conditions and/or mitigation, or to deny the permit.
    - Administers day-to-day program, including individual and general permit decisions;
    - Conducts or verifies jurisdictional determinations;
    - Develops policy and guidance; and
    - Enforces Section 404 permit provisions.
- U.S. Environmental Protection Agency: Through the Clean Water Act, National Environmental Policy Act, and other relevant statutes, EPA has a role in the Department of the Army Regulatory Program. Pursuant to its authority, the EPA may provide comments to the Corps identifying its views regarding compliance with the Section 404(b)(1) Guidelines.
    - Develops and interprets policy, guidance, and environmental criteria used in evaluating permit applications;
    - Determines scope of geographic jurisdiction and applicability of exemptions;
    - Approves and oversees State and Tribal assumption;
    - Reviews and comments on individual permit applications;
    - Has authority to prohibit, deny, or restrict the use of any defined area as a disposal site (Section 404(c));
    - Can elevate specific cases (Section 404(q));
    - Enforces Section 404 provisions.
- U.S. Fish and Wildlife Service and National Marine Fisheries Service:
    - Evaluate impacts on fish and wildlife of all new Federal projects and Federally permitted projects, including projects subject to the requirements of Section 404 (pursuant to the Fish and Wildlife Coordination Act); and
    - Elevate specific cases or policy issues pursuant to Section 404(q).

Region 4-Specific 404 Background (Water)

- In the Southeast, the ACOE generally looks to EPA Region 4's environmental expertise on 404 permits, particularly for projects that are anticipated to have a significant environmental impact. Region 4 places a high priority on building and maintaining very good relationships with the ACOE and providing timely and constructive comments on the permit applications that we review.
- Although the Region has not recently issued an "a" or "b" letter, which are part of the process under the Section 404(q) MOA, we strive to screen at least 95% of the permit applications that we receive and provide comments to the ACOE on a subset of permit applications where we know we can add value. Of the nearly 600-700 public notices that we typically receive annually in Region 4, we provide comments on approximately 5%.

Animal Waste Rule (Water)

- FDEP issues individual NPDES permits consistent with the EPA 2008 CAFO rule, as adopted by the state.
- Florida rules include additional requirements for CAFOs and AFOs that discharge to groundwater.
- There are 100 CAFOs in Florida, 58 of them have an NPDES permit, including all dairy CAFOs.

From: Myers, Bryan [mailto:no-reply@sharepointonline.com]
Sent: Friday, April 20, 2018 9:42 AM
To: Bragan, Mary Jo <Bragan.Maryjo@epa.gov>; Hendrix, Corey <Hendrix.Corey@epa.gov>; Guillard, Jennifer <Guillard.Jennifer@epa.gov>; Mitchell, Ken <Mitchell.Ken@epa.gov>
Cc: Myers, Bryan <Myers.Bryan@epa.gov>
Subject: Myers, Bryan has shared 'Florida State Profile'

Please update the Hot Issues by COB today. I don't think there are a lot of issues that need updating, but definitely the 404 issue for water.

Open Florida State Profile.docx

See more related to Myers, Bryan in Delve.

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