Message

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Sent: 4/7/2021 10:49:48 PM
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Subject: ACTION: RA Update 4-8-2021
Attachments: RA Update Draft 04-08_jm.docx

Importance: High

R6 Weekly Update
April 8, 2021

Hot Topics

COVID-19
Region 6 is coordinating closely with state and tribal environmental and public health agencies as well as EPA HQ offices to elevate and address challenges quickly. Dallas Renaissance Tower and Addison Warehouse are in Phase 2. The El Paso Border Office, Houston laboratory, and Tulsa field office are in Phase 1. To date, we have had minimal response from our state immunization contacts regarding the availability of vaccine for our first response personnel.

City of Fort Smith, Arkansas
On March 26, the City of Fort Smith, Arkansas, filed a Motion for Clarification and memo in support with the District Court for the Western District of Arkansas in response to the Court's March 19 Opinion on the dispute over injunctive relief requirements set forth in a consent decree (CD) entered in 2015. In the Motion, the City requests the Court to clarify its decision on interpretation issues regarding whether "remediation" of pipe and manhole defects identified in the Remedial Measures Plan can be accomplished by monitoring of the pipe/manhole defects as part of the City's Capacity, Management, Operations and Maintenance program instead of only by repair, rehabilitation, or replacement of the pipe/manhole defects. The U.S. has 14 days (until April 9) to file a response.

City of Houston, Texas
On April 1, the Court entered the consent decree regarding the judicial action against the City of Houston involving violations of the Clean Water Act. The violations primarily involved effluent limit violations of applicable Texas Pollutant Discharge Elimination System permits at 39 POTWs and sanitary sewer overflows throughout the sewer collection system. As part of the terms of the CD, Houston shall pay a civil penalty of $4.4 million dollars and has agreed to complete extensive injunctive relief measures to the sewer collection system and many wastewater treatment plants. Houston estimates that it will spend $2 billion over a period of 15 years to implement the corrective measures and improvements.

San Miguel Electric Cooperative, Christine, Texas
On April 5, Region 6 participated in a call with HQ to get a better understanding of a citizen suit filed in the Western District of Texas against the San Miguel Electric Cooperative facility for allegations related to its handling of Coal Combustion Residual (CCR) wastes. Ex. 5 AC/DP Ex. 5 AC/DP Region 6 and/or Texas Commission on Environmental Quality (TCEQ) will be looking into the facility and the concerns alleged in the complaint since the facility was identified by the Environmental Integrity Project as allegedly one of the top 10 worst in the country for CCR. Region 6 will coordinate with TCEQ to have the ORCR contractor conduct a review of the facility's CCR corrective measures assessment. We will monitor filings made in the citizen suit so that Region 6 and HQ can revisit if there is anything of concern from a policy standpoint that comes up that might need EPA intervention.

New Mexico Nationwide Permit 401 Certification Denial

On April 5, the U.S. Army Corps of Engineers (Corps) wrote a response letter to the New Mexico Environment Department (NMED) regarding NMED's February 22 request that the Corps reverse its denial of NMED's 401 water quality certification. In summary, the Corps' response to NMED stated that its decision remains unchanged due to NMED's requirements in the 401 Certification undermining the finality of the Certification and inconsistency with EPA's regulations for implementing 401 and the Clean Water Act. The Corps also stated it is committed to working with NMED to create efficiencies for the individual water quality certification requests that will result due to the Certification's denial.

Navajo Gallup Water Supply Project, Navajo Nation, New Mexico
On April 5, Region 6 signed a Memorandum of Understanding (MOU), which describes the roles and responsibilities under existing law of the three agencies with regulatory oversight for different Components of the Navajo-Gallup Water Supply Project (NGWSP): the United States Environmental Protection Agency Regions 6 and 9, the New Mexico Environment Department, and the Navajo Nation Environmental Protection Agency. All parties have now signed the MOU, which provides for coordination of the Parties' respective oversight obligations under the law. The Navajo Nation intends to obtain regulatory authority over all or additional components of the NGWSP, at which time this MOU will be terminated or modified accordingly.

Denka Performance Elastomer, LaPlace, Louisiana
On April 6, OECA issued a CAA Section 114 Request for Information regarding elevated chloroprene results. Denka has 15 days to respond to the request. From October 2020 through February 2021, ambient air monitors measured 12 elevated levels of chloroprene during four 24-hour periods. Each of these levels were greater than 10 micrograms per cubic meter and multiple readings were detected at the Fifth Ward Elementary School. Region 6 continues to monitor the ambient air around Denka's neoprene manufacturing facility through OECA's Continuous Air Monitoring Program and plans on operating the monitoring program through April 2021. Upon quality control review, EPA publishes chloroprene data on its public website.

Regional Haze State Implementation Plans, Texas
On April 8, Region 6 will meet with the National Parks Conservation Association (NPCA) regarding regional haze state

Ex. 5 AC/DP

Ex. 5 AC/DP

Los Alamos National Laboratory, Los Alamos County, New Mexico
On April 8, Region 6 will meet with Los Alamos National Laboratory (LANL) representatives to discuss progress on the New Mexico Environment Department's (NMED's) 401 Certification appeal process and the status of the storm water IP issuance. The state of New Mexico 401 included ten conditions of certification required to be included in the Final NPDES Permit and LANL challenged all ten conditions of certification with the state of New Mexico.

Ex. 5 AC/DP

Ex. 5 AC/DP

National Energy Advisory Team
On April 12, Region 6 will host the next National Energy Advisory Team biweekly meeting providing opportunities for EPA Headquarters and Regional team members to share insights and discuss projects and related energy topics. The main topic of discussion will include the upcoming Interstate Oil and Gas Compact Commission (IOGCC) Business Meeting scheduled for May 17-18 and a possible follow-up EPA/IOGCC Taskforce meeting, as well as proposed legislation on orphan and abandoned well plugging. The March 29 meeting topics included a discussion led by OWM of the January 20 MOU between DOI and EPA regarding the coordination of Outer Continental Shelf NPDES activities. Nancy Johnson with U.S. DOE shared DOE's analogous MOA. Additionally, the White House statement on offshore wind was discussed by Region 1 and the inquiries on hydraulic fracturing wastes in Ohio to the Administrator's Office were addressed.

Transwestern Pipeline Company, LLC, Laguna Pueblo, Cibola County, New Mexico
A Public Notice on this Draft Title V Permit Renewal targeted for no later than April 13. Transwestern Pipeline Company LLC, a division of Energy Transfer, has requested a renewal to the existing Title V operating Part 71 permit, which expired in February 2021. The facility is a natural gas compression and transmission facility which has been in operation since 1967 and has had no physical nor operational changes to the compressor station.

Ethylene Oxide Technical Assessment and Outreach, Louisiana and Texas
Region 6, in cooperation with the Louisiana Department on Environmental Quality (LDEQ), are conducting conference calls with five ethylene oxide-emitting facilities in Louisiana to get additional information to complete technical assessments associated with each facility and to support future public/community outreach efforts with LDEQ. Calls have been conducted with four of the five Louisiana facilities with one call scheduled for April 8 with Sasol. Region 6 is starting the process to schedule calls with three Texas facilities.

SpaceX, Boca Chica, Texas
In response to the Clean Water Act Section 404 permit modification for the Space X Vertical Launch Area Expansion, Region 6 has prepared an elevation letter based on the EPA-Galveston District Corps of Engineers (Corps) elevation procedures Memorandum of Agreement conveying concerns the proposed project would have substantial and unacceptable impacts to Aquatic Resources of Natural Importance (ARNI). The Corps placed the permit modification on public notice with a comment period scheduled to close on April 5, but an extension has been granted until April 12. The SpaceX project is near Boca Chica, Texas, and includes an expansion of its Starship/Super Heavy Rocket Program permit authorization to additionally impact 17.16 acres of aquatic resources (10.94 acres of mud flats, 5.94 acres of estuarine wetlands, and 0.28 acres of non-tidal wetlands). The project impacts are to a unique hypersaline coastal lagoon ecosystem in the Lower Laguna Madre. The project has extensive permitting history dating back to 2013.

Formosa Plastics Sunshine Project, St. James Parish, Louisiana
The U.S. Army Corps of Engineers at the New Orleans District is reviewing a previously authorized project in St. James Parish proposed by Formosa. The CWA 404 permit was suspended by the Corps after an NGO lawsuit challenged the issuance of the permit due to an incomplete review of project impacts, including air and environmental justice issues. The complainants submitted a letter to EPA on April 6 requesting that EPA take 404(c) action to prevent the permit from being issued. The permitted impacts would include approximately 80 acres of wetlands. Permit applications have been completed for a related project for construction and maintenance of pipelines associated with this facility, but it has not been placed on public notice or forwarded to Region 6 for review.

Public Water System Supervision Grant, Texas
Region 6 will send a letter this week to TCEQ informing it that routine compliance sampling/monitoring by a state on behalf of a public water system is not an eligible activity for the use of Public Water System Supervision (PWSS) grant funds. TCEQ has funded this activity with PWSS grant funds for several years. The letter asks TCEQ to amend its grant workplan right away so that all activities funded with the grant are eligible. While this is a final Agency determination, the letter allows TCEQ to file a written dispute of the action. We will have a call with TCEQ on April 8 prior to sending the letter.

Oil and Gas Program Authorization, Texas
On March 30, Region 6 held a conference call with representatives of the Texas Commission on Environmental Quality (TCEQ) to discuss updates and status of the transitional phase of the TCEQ's NPDES partial program authorization for oil and gas discharges. There is follow-up action regarding pending application modification requests submitted to Region 6 prior to the TCEQ's authorization for oil and gas activities. In accordance with the MOA, any modifications (without renewal) and/or variances will remain at Region 6. The Region is soliciting the State's recommendation and preference regarding transfer of three outstanding permit applications: 1) one minor permit modification not requiring Public Notice; 2) one major modification that would require Public Notice; and 3) one permit renewal.

Major Decisions and Events

Louisiana Other Solid Waste Incineration Negative Declaration
By April 22, Region 6 anticipates a final action to accept the CAA section 111(d) negative declaration for incinerators subject to the Other Solid Waste Incineration units emission guidelines in Louisiana and amend the CFR in accordance with CAA requirements. No comments were submitted during the public comment period.

Louisiana Visibility Transport SIP
By April 30, Region 6 anticipates final action to approve the Louisiana Infrastructure SIP addressing visibility transport for the 2006 PM2.5, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide, 2012 PM2.5 and the 2015 ozone NAAQS. The infrastructure SIP was submitted as required by CAA section 110(a)(2)(D)(i)(II). No adverse comments were received on the proposed approval.

April 14	Region 6 Tribal Operations Committee Meeting (virtual)
April 15	Region 6 Annual Tribal Summit (virtual) continues April 20, 22, 27, 29
April 22	EarthX 2021 Earth Day Celebration (virtual)