

# Water Division

## CWA REGULATIONS

### **PROPOSED CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION IMPROVEMENT RULE (UPDATED: MARCH 2023)**

On June 1, 2022, the EPA Administrator signed a proposed rule to improve the CWA section 401 certification process. The proposed rule would replace and update the existing regulations at 40 CFR 121, to be more consistent with the statutory text of the 1972 CWA and clarify elements of section 401 certification practice that has evolved over the 50 years since the 1971 regulation was promulgated. On June 9, 2022, the proposed rule was published in the Federal Register. The public comment period ended on August 8, 2022. EPA provided several public outreach and engagement opportunities during the comment period. The EPA intends to finalize the rule in Spring 2023. More information on the proposed rule is available at <https://www.epa.gov/cwa-401/proposed-clean-water-act-section-401-water-quality-certification-improvement-rule>. *Daniel Landeros, 214-665-8077.*

### **BASELINE WATER QUALITY STANDARDS RULEMAKING (UPDATED: MARCH 2023)**

This rule will establish federal “baseline” water quality standards (WQS) for Indian reservation waters that do not currently have WQS in effect under the Clean Water Act (CWA). This proposed rulemaking recognizes the importance of tribal waters and the need to better protect the water resources that tribes rely on. In June 2021, EPA sent letters to all federally recognized Indian tribes to initiate a 90-day consultation period for the baseline WQS rulemaking. During the consultation period, EPA hosted two tribal webinars to provide information to tribal leaders and staff on this rulemaking effort. Additional information and the presentations from the listening sessions are available at: <https://www.epa.gov/wqs-tech/promulgation-tribal-baseline-water-quality-standards-under-clean-water-act>.

Establishing federal baseline WQS and implementing them in consultation with tribal governments would ensure human health and environmental protection for these waters and would help support the tribes’ own interests in protecting their water quality and use of reservation waters. EPA plans to build on elements of prior efforts for baseline WQS, in close coordination and consultation with tribes, to ensure protection exists for reservation waters. Consistent with EPA’s long-standing approach, waters of Indian reservations would include waters located within the boundaries of Pueblos as well as lands held in trust by the United States for an Indian tribe even if the land has not been formally designated as a reservation. EPA does not intend to include off-reservation allotments in a baseline WQS promulgation.

EPA is considering for inclusion in the baseline WQS a combination of CWA section 101(a)(2) designated uses, including a cultural and traditional designated use, as well as water quality criteria to fully protect those uses, an antidegradation policy to ensure protection of high quality waters, and general WQS provisions. EPA is also considering an “opt-out” provision whereby a tribe could elect to “opt-out” of coverage by the baseline WQS promulgation at this time. EPA strongly supports and will continue to encourage eligible tribes to obtain TAS under the CWA in order for tribes to establish their own WQS for approval by EPA and to administer their own

WQS program. EPA is currently developing the proposed regulation. EPA plans to provide additional opportunities to solicit comments from tribes and engage in government-to-government consultation once the rule is proposed. EPA's goal is to propose the baseline WQS regulation in Spring 2023 and finalize this rulemaking within one year.

***Diane Evans, 214-665-6677; Jasmin Diaz-Lopez, 214-665-2733; and, Tina Alvarado, 214-665-2709.***

### **TRIBAL RESERVED RIGHTS RULEMAKING (UPDATED: MARCH 2023)**

Many tribes hold reserved rights through federal treaties, laws, executive orders, or other sources of law to resources in waters where states establish water quality standards (WQS). On November 28, 2022, the EPA Administrator signed a proposed rule to revise the federal WQS regulation at 40 CFR part 131 to clarify and prescribe how WQS must protect tribal reserved rights in waters where those rights exist. The 90-day public comment period ended on March 6, 2023. EPA held a 90-day pre-proposal tribal consultation period from June 15-September 13, 2021. EPA invited a second round of consultation and coordination on the proposed rule between November 30, 2022, and February 28, 2023. Additional information, including the presentations from national listening sessions EPA held for tribes and pre-proposal written comments EPA received from tribes and tribal organizations, is available at: <https://www.epa.gov/wqs-tech/tribal-consultation-and-coordination-epas-proposal-revise-federal-water-quality-standards>.

The proposed revisions would create a regulatory framework that would be applied case-specifically to help ensure protection of resources reserved to tribes, such as fish and wild rice. The proposal lays out how tribal reserved rights must be considered when states are establishing and revising WQS and when EPA is reviewing standards submittals for compliance with applicable laws. This rulemaking is complementary to but distinct from the tribal baseline WQS rulemaking that EPA is pursuing concurrently, which is described in the above entry. This tribal reserved rights rulemaking would protect tribal reserved rights in waters where states establish WQS, whereas the baseline effort would establish WQS for Indian reservation waters that do not currently have WQS in effect under the Clean Water Act (CWA). EPA aims to finalize this rule in late 2023. ***Tina Alvarado, 214-665-2709; Diane Evans, 214-665-6677; and Jasmin Diaz-Lopez, 214-665-2733.***

### **UPCOMING LEAD SERVICE LINE INVENTORY (2023-2024)**

As part of the national effort to find and replace lead service lines in Tribal water systems, EPA Region 6 will be distributing a formal letter of communication, guidance, and a Lead Service Line Inventory Template for all Community (CWS) and Non-Transient Non-Community (NTNC) water systems to complete. The forthcoming letter and guidance will explain how to complete the inventory sheet, which will be due by 10/16/2024.

***Contact your EPA R6 Safe Drinking Water point of contact or Owen Craven, [craven.owen@epa.gov](mailto:craven.owen@epa.gov), 214- 665-6629, with questions***

### **UPCOMING VOLUNTARY PER-AND POLYFLUOROALKYL SUBSTANCES (PFAS) TESTING (2023)**

As part of the EPA's national effort to regulate per- and polyfluoroalkyl substances in drinking water, EPA Region 6 will be offering **optional, fully funded** PFAS sampling in 2023. EPA

Region 6 will distribute a formal letter in the coming weeks and invite interested water systems to reply if they are interested in conducting PFAS testing at their water systems.

**Contact your EPA R6 Safe Drinking Water point of contact or Brian Dye, [dye.brian@epa.gov](mailto:dye.brian@epa.gov), 214- 665-6629, with questions.**

## **TRIBAL GRANTS**

### **TRIBAL CWA § 319 ALLOCATION BASE AND COMPETITIVE GRANTS CHANGES (UPDATED: MARCH 2023)**

During EPA's national engagement with the NPS community, Tribal CWA §319 grantees overwhelmingly identified inadequate CWA §319 funding levels as the greatest barrier to building and sustaining effective NPS management programs.<sup>3</sup> For more than 20 years, most Tribal CWA §319 grantees have received \$30,000 in CWA §319 funding per year, limiting their ability to invest in core NPS activities, including staff time to build NPS partnerships, as well as design and implement NPS projects. After assessing the Tribal community challenges the EPA increased the FY23 set-aside to Tribal CWA §319 base grants via a revised allocation formula developed based on Tribal engagement over the last year. FY23 Tribal CWA §319 base grants will range from \$45,000 to \$70,000, depending on Tribal land area, and EPA HQ will continue to reserve a portion of Tribal CWA §319 funds for competitive grants to support on-the-ground NPS projects. **Sam Reynolds, 214-665-6682**

## **TREATMENT AS A STATE (TAS) FOR THE CLEAN WATER ACT (CWA)**

### **PUEBLO OF SAN FELIPE - TAS APPLICATION FOR CWA SECTIONS 303(C) AND 401**

**(UPDATED: MARCH 2023)** The Pueblo of San Felipe submitted its application for treatment in a similar manner as a state (TAS) for the water quality standards and water quality certification programs under Clean Water Act sections 303(c) and 401, respectively, in March 2022. The public comment process on the TAS application was initiated and completed in summer 2022. Region 6 is working to complete the decision document and anticipates approval of the TAS application in Spring 2023. The Pueblo of San Felipe's TAS application and additional documents are posted on EPA's Tribal WQS website (<https://www.epa.gov/wqs-tech/epa-actions-tribal-water-quality-standards-and-contacts>). **Diane Evans, 214-665-6677; Jonathan Jimenez, 214-665-2715; and Brianna Wadley, 214-665-2723.**

## **NPDES**

### **NPDES PERMITS EPA PLANS TO ISSUED BY 9/30/2023 (UPDATED: April 2023)**

**During FY23, EPA Region 6 plans to reissue the following permits of potential interest to Tribes: NM0020672 City of Gallup, NM0022101 Village of Taos Ski Valley, TX0052809 Alabama Coushatta; OK0044733 Kickapoo WWTP, and TX0127582 Alabama Coushatta Tribe of TX. Region 6 will also be working on a Municipal Separate Storm Sewer System (MS4) General Permit for NM. **Brent Larsen, 214-665-7523****

## **OTHER INFORMATION**

### **PFAS ANALYTIC TOOLS (NEW: MARCH 2023)**

On January 5, 2023, the U.S. Environmental Protection Agency (EPA) released the “PFAS Analytic Tools” interactive webpage (<https://echo.epa.gov/trends/pfas-tools>), which provides information about per- and polyfluoroalkyl substances (PFAS) across the country. This information will help the public, researchers, and other stakeholders better understand potential PFAS sources in their communities. These tools bring together multiple sources of information with mapping, charting, and filtering functions, allowing the public to see where testing has been done and what level of detections were measured. The PFAS Analytic Tools includes information on Clean Water Act PFAS discharges from permitted sources, reported spills containing PFAS chemicals, facilities that historically manufacture or import PFAS, federal locations where PFAS is being investigated, transfers of PFAS-containing waste, PFAS detection in natural resources such as surface water, and drinking water testing results. The tools cover a broad list of PFAS and represent EPA’s ongoing efforts to provide the public with access to the growing amount of testing information that is available. *Andrew Pressly, 214-665-2758*

## Air and Radiation Division

### **Treatment as a State (TAS) for the Clean Air Act (CAA)**

Region 6 has no CAA TAS applications currently. Cherokee Nation, Kaw Nation, Peoria Tribe of Indians of Oklahoma, Pueblo of Laguna, Pueblo of Santa Ana, Pueblo of Zia, and Quapaw Nation have received approval for two or more of the following CAA authorities: **CAA §105** allows the Tribal applicant to apply for a reduced match of 5%, when managing a programmatic grant;

**CAA §107(d)(3)** to receive notices from the EPA of the need for redesignation of an area or portion of an area within the Tribe's trust parcels for which it receives TAS authorization.

**CAA §126** (a) and (b) to receive written notices of the construction of new or modified major stationary sources and of existing major stationary sources which may significantly contribute to levels of air pollution in excess of the national ambient air quality standards in any air quality control region outside the State in which such source intends to locate (or make such modification); and petition the EPA for a finding that any major source or group of stationary sources emits or would emit any air pollutant in violation of the applicable state implementation plan; and

**CAA §505(a)(2)** for the purpose of giving the Tribe an opportunity to make comments and recommendations on operating permit applications for sources located within 50 miles of the Tribe's trust lands and parcels for which it receives TAS authorization. *Aunjaneè Gautreaux, 214-665-7127.*

### **Funding and Grants**

**CAA Section 103, Section 105 Grants:** For FY2023, the EPA Region 6 received approximately \$1,440,500 in federal funding (a 10% increase from FY2022) to support assistance agreements under statutory provisions of the CAA §103 and §105. The Region ultimately received ten proposals from tribes and pueblos. Five proposals are seeking funding under the CAA §103 (projects), one under a stand-alone CAA §105 (program grant), and four under Performance Partnership Grants (PPGs).

Internal reviews were conducted by the Region 6 project officer and technical staff in March, and recommendations were submitted to senior management in early-April. Applicants will be notified of final decisions by May 8<sup>th</sup>, and applications for those approved will be requested for submittal to Grants.gov in early-June. All awards will be finalized by September 30, 2023. *Aunjaneè Gautreaux, 214-665-7127.*

**Climate Pollution Reduction Grants (CPRG) under IRA:** On March 1, 2023, EPA announced a new funding opportunity under Section 60114 of the Inflation Reduction Act of 2022 (IRA) Climate Pollution Reduction Grant (CPRG) program for planning grants. The two-staged CPRG program provides funding of \$250 million for planning grants and \$4.6 billion for implementation grants.

A Tribal set aside, in the amount of \$2,542,500, has been allocated to Region 6 for planning grants. This phase will support non-competitive cooperative agreements to update existing

climate, energy, or sustainability plans, or to develop new plans that reflect meaningful climate pollution reductions. Please note, applicants must have participated in the planning grant phase to be eligible for the implementation grant phase. Partnerships among entities are encouraged, but not required.

It is critical that the Region is made aware of the level of interest in the event requests supersede available funding. The Region requested all interested Pueblos, Tribal Nations and/or Tribal consortia submit a *Notice of Intent to Participate*, no later than April 17<sup>th</sup>. Grant applications are due June 15<sup>th</sup>. Additional information, including guidance documents, sample workplans, and webinar recordings, can be found at <https://www.epa.gov/inflation-reduction-act/climate-pollution-reduction-grants>. *Aunjaneè Gautreaux, 214-665-7127.*

**Enhanced Air Quality Monitoring Funding under the ARP:** On July 7, 2021, EPA announced that it made \$50 million in American Rescue Plan (ARP) funding available to improve ambient air quality monitoring for communities across the United States. This funding for enhanced air quality monitoring builds on the Agency's June 25, 2021 announcement of \$50 million for environmental justice projects under the ARP, bringing the total to \$100 million in EPA funding designated by Congress to address health outcome disparities from pollution and the COVID-19 pandemic. Additional information may be found at <https://www.epa.gov/arp/enhanced-air-quality-monitoring-funding-under-arp>.

**Grant Competition for Community Monitoring:** EPA launched a \$20 million grant competition that called for proposals from nonprofit community-based organizations, state, Tribal and local air agencies -- individually or in partnerships -- to conduct monitoring of pollutants of greatest concern in communities with health outcome disparities. EPA announced the grant award selections on November 3, 2022. Grant award selections can be found at: <https://www.epa.gov/arp>.

EPA R6 made awards to two Tribes and is funding each to conduct enhanced air quality monitoring projects in their communities. *Aunjaneè Gautreaux, 214-665-7127.*

**Direct Awards to Air Agencies for Continuous Monitoring of PM<sub>2.5</sub> and Other Common Air Pollutants:** EPA is awarding \$22.5 million to state, Tribal or local air agencies for enhanced monitoring of PM<sub>2.5</sub> and five other air pollutants regulated by the National Ambient Air Quality Standards under the Clean Air Act during 2022.

EPA R6 made awards to two Tribes and is funding each to purchase new equipment and supplies for their ambient air monitoring programs. *Aunjaneè Gautreaux, 214-665-7127.*

**Enhanced Regional Capacity for Short-term Community Monitoring Needs:** Nationally, EPA will be investing \$5 million in mobile monitoring labs and air sensor loan programs. EPA Region 6 Air & Radiation Division has started the procurement process to build a new monitoring platform and is currently in the process of starting an air sensor loan program. These investments will improve EPA's ability to support communities in need of short-term monitoring and air quality information. *Jeffrey Robinson, 214-665-6435.*

**Bipartisan Infrastructure Legislation: Clean School Bus Program:** EPA will make significant investments in the health, equity, and resilience of American communities.

EPA's new Bipartisan Infrastructure Law Clean School Bus Program provides \$5 billion over five years (FY 2022-2026) to replace existing school buses with clean and zero-emission models. Eligible recipients include state and local government entities, eligible contractors, non-profit school bus organizations, and tribes/tribal governments/tribal school agencies who provide school bus services to publicly-owned or Bureau of Indian Affairs-funded school systems. On May 20, 2022, EPA announced a Request for Application funding opportunity for \$500 million for the Clean School Bus program; applications were due by August 19, 2022. In August 2022, the rebate competition received an outstanding response from school districts across the country, with nearly 2,000 applicants seeking to upgrade their school bus fleets with clean school buses. EPA announced the school districts selected in the first round of rebate applications on October 26, 2022. The enthusiastic response prompted EPA to almost double the funding level available for rebates to nearly \$1 billion. More than 400 applications were selected to replace about 2,600 buses, 95% of which will be electric. EPA expects to announce another funding opportunity through a "CSB Grant competition" late this spring, and then a second round of CSB rebate later this fiscal year on the following website: <https://www.epa.gov/cleanschoolbus>. *Nina Evans, 214-665-8586.*

**Diesel Emission Reduction Act (DERA) Tribal and Insular Area Grants:** The 2022 DERA Tribal and Insular Area Grants request for applications competition closed on October 26, 2022. No Region 6 Tribes applied.

The FY23 Tribal and Insular Area Notice of Funding Opportunity (NOFO) is expected to open in early-summer, 2023. Tribes are encouraged to apply.

The total estimated funding for this competitive opportunity is approximately \$8 million. Approximately \$7 million will be made available to tribal governments (or intertribal consortia) and Alaska Native Villages, and approximately \$1 million will be made available to insular area governments.

EPA anticipates awarding 10-15 cooperative agreements to tribal governments (or intertribal consortia) and Alaska Native Villages, and 2-4 cooperative agreements to insular area governments. Although funding for both tribes and insular areas is expected to be announced under a single RFA, the applications will be reviewed separately. Additional information may be found at the following website: <https://www.epa.gov/dera>. *Kathleen Aisling, 214-665-6496.*

**Guidebook for Energy Efficiency (EE) Evaluation, Measurement, and Verification (EM&V):** In June 2019, the EPA released the [Guidebook for Energy Efficiency Evaluation, Measurement, and Verification](#) that draws from and builds on decades of state, local, and private-sector experience quantifying and verifying savings from energy efficiency projects and measures. The EM&V Guidebook is designed to help state, local, and tribal air, and energy officials-as well as key stakeholders such as utility energy efficiency implementers-learn about, establish, or refine their EM&V approaches. The

EM&V Guidebook can also help air officials understand the basics of EM&V and work with their energy counterparts to capture the air quality and public health benefits of these existing investments. The guidebook is also designed to:

Describe key EM&V topics, methods, and approaches

Ensure that customer-funded EE policies and programs are achieving intended results in a cost-effective manner

Ensure that EM&V is carried out in a well-documented, rigorous, and consistent manner

The EM&V Guidebook may also help jurisdictions who want to collaborate on air and energy goals, evaluate the resulting air and energy impacts, and plan new policies and programs.

### **Amendment to the Oil and Gas Federal Implementation Plan (FIP) regulations in**

**Indian Country:** EPA issued the final rule titled “Amendments to Federal Implementation Plan for Managing Air Emissions From True Minor Sources in Indian Country in the Oil and Natural Gas Production and Natural Gas Processing Segments of the Oil and Natural Gas Sector,” 85 **Federal Register** 15,729 on March 19, 2020, effective date was on May 18, 2020. Specifically, the rule allows for concurrent, rather than sequential, submission of two sets of documents:

- (1) the Part 1 Form to register applicability under the FIP, and
- (2) the screening procedures documentation for ESA and NHPA.

This final rule could reduce, by up to 30 days, the time between a source owner/operator’s required submission of Endangered Species Act (ESA)/National Historic Preservation Act (NHPA) screening documents and beginning construction.

In addition, the final rule includes email as an optional form of written notification by the EPA Regional Office to the source owner/operator and corrects several incorrect citations and cross references. Please refer to <https://www.epa.gov/tribal-air/final-amendments-federal-implementation-plan-managing-air-emissions-true-minor-sources> for additional information.

**Project Emissions Accounting Rule for NSR applicability:** On August 9, 2019, the EPA proposed a revision to certain New Source Review (NSR) applicability regulations to clarify the requirements that apply to sources proposing to undertake a physical or operational change (i.e., a project) under the NSR preconstruction permitting program. EPA issued the final rule titled “Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting,” 85 Fed. Reg. 74890 on November 24, 2020. Specifically, this rule revises the NSR applicability regulations that apply to projects that include a combination of new and existing units clarifying that project emissions accounting is allowed as part of Step 1 of the two-step NSR major applicability test. On January 19, 2021, and January 21, 2021, States of New Jersey, Maryland, Minnesota, Oregon, Washington, Commonwealth of Massachusetts and Pennsylvania and District of Columbia, Sierra Club, Environmental Defense Fund,



Natural Resources Defense Council, Adirondack Council and Environmental Integrity Project petitioned EPA for reconsideration of the rule. Petitioners requested a stay of the rule during the reconsideration for 90 days and a withdrawal within the 90 days stay period. Also, the petitioners requested that EPA immediately withdraw the memorandum issued by former Administrator Scott Pruitt on March 13, 2018, titled “Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program” (“Pruitt Memo”).

On October 12, 2021, Administrator Regan signed a notice and letters denying a petition for reconsideration and request for administrative stay of its November 24, 2020, Project Emissions Accounting final rule. Although EPA is taking no action at this time on the request to withdraw the March 2018 Project Emissions Accounting guidance memorandum, EPA will voluntarily convene a rulemaking process to review and potentially revise its NSR applicability provisions. It should be noted that there are no major NSR permitted sources operating on tribal lands in Region 6 at this time. For additional information please refer to: <https://www.epa.gov/nsr/notice-action-denying-petition-reconsideration-and-administrative-stay-project-emissions>.

**New Source Review Preconstruction Permitting Requirements; Enforceability and Use of the Actual-to-Projected-Actual (ATPA) Applicability Test in Determining Major Modification Applicability: Rescission of 2017 Memorandum:** On December 9, 2022, Administrator Regan signed and issued a memorandum that rescinded in its entirety this December 7, 2017, ATPA memorandum from former Administrator E. Scott Pruitt. to regional administrators. Owners or operators of major stationary sources should follow the NSR regulations for determining the applicability of NSR requirements to proposed modifications. For assistance in locating the applicable NSR regulations, we recommend that owners or operators contact their state, local, or tribal air permitting authority.

**State Implementation Plans: Findings of Substantial Inadequacy and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction** - On February 15, 2023, EPA proposed actions relating to state implementation plans (SIPs) in 8 states for provisions applicable in 10 statewide or local jurisdictions addressing industrial emissions during periods of Startup, Shutdown, and Malfunction (SSM). These plans were evaluated consistent with the Agency’s SSM Policy as outlined in the 2015 SSM SIP Action. EPA is proposing to reinstate its findings of substantial inadequacy (“SIP calls”) that were withdrawn in 2020 for the states of *Texas*, North Carolina, and Iowa. In addition, EPA is proposing in this document to make a finding of substantial inadequacy and issue a SIP call to *Louisiana* for the LA. Admin Code Tit. 33 section 917 provision on the basis that it contains an impermissible director’s discretion exemption. If EPA finalizes a finding of substantial inadequacy and issues a SIP call for any state and/or jurisdiction, the final action will establish a deadline to rectify the deficiency by submitting a revised SIP. Consistent with CAA section 110(k)(5), EPA is proposing that the deadline for included states and/or jurisdictions to respond to the final SIP call would be 18 months after the final finding publishes in the Federal Register. EPA wants to give impacted states and/or jurisdictions sufficient time to make appropriate SIP revisions following their own SIP development process. Eighteen months, the

maximum time allowable under CAA section 110(k)(5), would allow for the necessary SIP development process to correct the deficiencies yet still achieve the necessary SIP improvements as quickly as possible. EPA will review the adequacy of that new SIP submission in accordance with CAA requirements. For additional information please refer to <https://www.federalregister.gov/documents/2023/02/24/2023-03575/state-implementation-plans-findings-of-substantial-inadequacy-and-sip-calls-to-amend-provisions>.

**State Plans to Address Emissions During Startup, Shutdown and Malfunction: Final Action on Response to Petition for Rulemaking, Restatement of Policy, Findings of Inadequacy and Call for Revisions** - also known as 2015 SSM SIP Action, was issued to ensure states have plans in place that are fully consistent with the Clean Air Act and recent court decisions concerning startup, shutdown and malfunction (SSM) operations. Air pollution emitted during these periods may adversely affect the health of people in neighboring and downwind communities. Region 6 states submitted corrective SIPs to address deficiencies in their air rules. EPA has finalized approval of corrective SIP submittals for *Albuquerque, Bernalillo County, State of New Mexico*, and one of the two submittals from *Louisiana*. On March 3, 2023, we proposed approval of SSM SIP for State of *Oklahoma*. According to terms of a national consent decree, EPA is required to finalize Oklahoma SIP submittal by June 20, 2023. The same consent decree requires that we take final action for the second *Louisiana* submittal by October 20, 2023. We note that there is a pending national litigation concerning 2015 SSM SIP Action. See *Walter Coke, Inc. et al. v. EPA*, Case. No. 15-1166 (and consolidated cases) (D.C. Cir.). Oral arguments were held late March 2022. We are awaiting court decision at this time.

**EJ in Air Permitting - Principles for Addressing Environmental Justice Concerns in Air Permitting:** On December 22, 2022, EPA's Office of Air and Radiation issued 8 principles to guide consideration of environmental justice in Clean Air Act (CAA) permitting decisions. The principles provide an interim operating framework for identifying, analyzing, and addressing environmental justice concerns in air permitting as EPA continues to build more tools and explore additional opportunities to advance environmental justice and equity with its co-regulatory partners, communities, and other stakeholders. For additional information, please see <https://www.epa.gov/caa-permitting/ej-air-permitting-principles-addressing-environmental-justice-concerns-air>.

**National Emission Standards for Hazardous Air Pollutants (NESHAP) for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters:** On October 6, 2022, EPA promulgated national emission standards for hazardous air pollutants from three major source categories: Industrial boilers, commercial and institutional boilers, and process heaters. The final emission standards for control of mercury, hydrogen chloride, particulate matter (as a surrogate for non-mercury metals), and carbon monoxide (as a surrogate for organic hazardous emissions) from coal-fired, biomass-fired, and liquid-fired major source boilers are based on the maximum achievable control technology. This action finalizes amendments to several numeric emission limits for new and existing boilers and process heaters consistent with the court's opinion and sets compliance dates for these new emission limits. This action also provides further

explanation of one aspect of the Agency's use of carbon monoxide (CO) as a surrogate for organic hazardous air pollutants (HAP) and its use of a CO threshold to represent the application of the maximum achievable control technology (MACT) for organic HAP. We are also finalizing several technical clarifications and corrections. In addition, all major source boilers and process heaters are subject to a work practice standard to periodically conduct tune-ups of the boiler or process heater. This final rule was effective December 5, 2022, and for additional information please refer to <https://www.epa.gov/stationary-sources-air-pollution/industrial-commercial-and-institutional-boilers-and-process-0>.

**Lime Manufacturing Plants National Emission Standards for Hazardous Air Pollutants (NESHAP):** On January 5, 2023, this proposed rule applies to commercial and captive lime manufacturing plants that are located at a major stationary source of hazardous air pollutants (HAP). The rule regulates particulate matter (PM) emissions, as a surrogate for the non-volatile and semi-volatile metal HAP, from lime kilns, coolers, and certain material processing operations. For more information, please see <https://www.epa.gov/stationary-sources-air-pollution/lime-manufacturing-plants-national-emission-standards-hazardous>.

**Surface Coating of Plastic Parts for Business Machines (Industrial Surface Coating): New Source Performance Standards (NSPS):** On March 7, 2023, EPA finalized amendments to the Surface Coating of Plastic Parts for Business Machines New Source Performance Standards. EPA's determination that emissions from facilities that surface coat plastic business machine parts cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require all new, modified, and reconstructed facilities that surface coat plastic parts for business machines to control emissions of volatile organic compounds (VOC) to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, non-air quality health, and environmental and energy impacts. For additional information please refer to <https://www.epa.gov/stationary-sources-air-pollution/surface-coating-plastic-parts-business-machines-industrial-surface>

**National Emission Standards for Hazardous Air Pollutants (NESHAP) for Gasoline Distribution major source and area sources, and New Source Performance Standards (NSPS) for Bulk Gasoline Terminals:** EPA is proposing to revise NESHAP requirements for storage tanks, loading operations, and equipment leaks to reflect cost-effective developments in practices, process and controls. The EPA is also proposing NSPS to reflect best system of emissions reduction for loading operations and equipment leaks. This will further reduce emissions of hazardous air pollutants and volatile organic compounds.

**Mercury and Air Toxics Standards (MATs): MATs Appropriate and Necessary Finding Proposal:** EPA is proposing to reaffirm the scientific, economic, and legal underpinnings of the 2012 Mercury and Air Toxics Standards (MATS) for power plants, which require significant reductions of mercury, acid gases, and other harmful pollutants. The proposal, which responds to President Biden's January 20, 2021, Executive Order 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," would reverse a rule issued in May 2020 that found it is not appropriate and necessary to regulate coal- and oil-fired power

plants under Clean Air Act (CAA) section 112. This proposal would ensure that fossil-fuel fired power plants continue to control emissions of toxic air pollution, including mercury. EPA is accepting comments on or before April 11, 2022. The agency also held a virtual public hearing on February 24. For additional information on how to comment please refer to <https://www.epa.gov/stationary-sources-air-pollution/proposed-revocation-2020-reconsideration-and-affirmation>.

**Formaldehydes Standards in Stationary Combustion Turbine NESHAP:** On February 28, EPA removed a stay of formaldehyde standards in the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Combustion Turbines. This action was published in 87 FR 13183. This stay applied to certain subcategories of gas-fired turbines at major sources of HAP emissions and has been in place since 2004. For additional information please refer to <https://www.epa.gov/stationary-sources-air-pollution/stationary-combustion-turbines-national-emission-standards>.

**Addition of 1-BP (nPB) to the Clean Air Act List of Hazardous Air Pollutants:** On December 22, 2021, U.S. Environmental Protection Agency (EPA) Administrator Michael S. Regan signed the final rule to add 1-bromopropane (1-BP) to the Clean Air Act (CAA) list of hazardous air pollutants (HAP). This action was published in the Federal Register on January 5, 2022 [87 FR 393]. For additional information please refer to <https://www.epa.gov/haps/addition-1-bp-npb-clean-air-act-list-hazardous-air-pollutants>.

**AirToxScreen Release Update:** In December 2022, EPA released the results of its 2019 Air Toxics Screening Assessment (AirToxScreen). AirToxScreen is a screening assessment designed to provide broad estimates of cancer risk related to air toxics. It is part of the Agency's new approach to air toxics that provides updated data and risk analyses on an annual basis to help EPA more readily identify existing and emerging air toxics issues that may pose health risk. The 2019 AirToxScreen assessment includes emissions, ambient concentrations, and exposure estimates for 181 of the 189 Clean Air Act air toxics plus diesel particulate matter (diesel PM)., This will help EPA, states, tribes, and local communities evaluate where more detailed analyses are needed to get a more focused idea of actual risks. It will also provide communities – especially those with environmental justice considerations – with more current and complete information about the impacts of air toxics on their air quality. For additional information please refer to <https://www.epa.gov/AirToxScreen>.

**2021 Toxics Release Inventory (TRI) National Analysis:** On March 16, 2023, EPA released its 2021 Toxics Release Inventory (TRI) National Analysis, is part of EPA's commitment to transparency and enhances public understanding of the TRI data by summarizing reported data on TRI chemical waste management activities, including releases, that occurred during calendar year 2021. More than 21,000 facilities report annually on over 800 chemicals they release into the environment or otherwise manage as waste. EPA, states, and tribes receive TRI data from facilities in industry sectors such as manufacturing, mining, electric utilities, and commercial hazardous waste management. The 2021 Analysis includes interactive tools and enhancements to make data more useful and accessible to communities, including communities with environmental justice concerns. EPA has demographic information to the "Where You Live" mapping tool, making it easy to overlay maps of facility locations with maps of overburdened

and vulnerable communities. Community groups, policymakers, and other stakeholders can use this information to identify potential exposures to air and water pollution, better understand which communities are experiencing a disproportionate pollution burden and take action at the local level. To view the 2021 TRI National Analysis, visit [www.epa.gov/trinationalanalysis](http://www.epa.gov/trinationalanalysis).

**ECHO Notify:** New EPA Tool Provides the Public with Customized Updates on Local Enforcement and Compliance Activities. ECHO Notify provides information on all EPA enforcement and compliance activities as well as activities of state and local governments under the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, and the Safe Drinking Water Act. For additional information, please refer to <https://echo.epa.gov/tools/echo-notify>.

**Revisions to the Once-In-Always-In Regulation for MACT sources:** This rule was signed on October 1, 2020 and was effective 60 days after publication in the **Federal Register**. On June 25, 2019, the EPA proposed regulatory text stating that a major source of hazardous air pollutants (HAP) may reclassify as an area source at any time after taking steps to limit emissions. A major source of HAP emits 10 tons per year or more of a single HAP or 25 tons per year or more of a combination of HAPs. Sources that are above major source thresholds and reduce emissions or currently operate to levels below major source thresholds can put in place enforceable emissions limits in a permit and thereby become an area source. However, in accordance with Executive Order: “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis” issued on January 21, 2021, this rule is now under review. Under this review, EPA, as appropriate and consistent with CAA Section 112, will publish for comment a notice of proposed rulemaking either suspending, revising, or rescinding the MM2A final rule. For additional information please refer to <https://www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean>. **Erica LeDoux, 214-665-7265.**

**March 11, 2020 – Final New Source Performance Standards (NSPS) for New Residential Wood Heaters and New Residential Hydronic Heaters and Forced-Air Furnaces. (Step 1):** This rule amends the 2015 NSPS by removing certain minimum requirements for pellet fuels and clarifying a requirement regarding the use of unseasoned wood in pellet fuel production. However, on May 15, 2020, the EPA proposed amendments to the 2015 NSPS for *New Residential Wood Heaters and New Residential Hydronic Heaters and Forced-Air Furnaces* to allow more time for retailers to continue selling Step 1-certified residential wood heating devices, due to the nationwide spread of the COVID-19 virus.

The EPA accepted comments on the proposed amendments for 45 days after publication in the **Federal Register**. On June 8, 2020, the EPA held a virtual public hearing via teleconference on the proposed amendments to the 2015 New Source Performance Standards (NSPS) for New Residential Wood Heaters and New Residential Hydronic Heaters and Forced-Air Furnaces. Response to comments and the finalization of the amendments have not yet been published. Additional information on this NSPS can be found here: <https://www.epa.gov/residential-wood-heaters>. **Randy Pitre, 214-665-7299.**

### **NSR Guidance/Interpretation Concerning “Begin Actual Construction”**

EPA has dropped plans to finalize its draft guidance allowing new source review (NSR) air permit applicants to start construction on aspects of their projects before obtaining the permit. Prior to this decision, the draft version of the guidance memorandum addresses how the EPA interprets “begin actual construction” as that term is defined under the EPA regulations implementing the major New Source Review (NSR) permitting program and the tribal minor NSR program (40 CFR 49.152). The guidance would have limited EPA’s interpretation of the term “begin actual construction” in NSR regulations to construction of an “emissions unit,” meaning a piece of equipment that emits pollution or has the potential to do so. This narrow definition would allow permit applicants to begin work on activities such as the building of foundations or other ancillary structures, so long as construction of the actual “emissions unit” that will emit pollution is not started without the permit in hand. During a Dec. 8, 2020, virtual meeting of EPA’s Clean Air Act Advisory Committee (CAAAC), former acting EPA air chief Anne Austin said the agency will not finalize the guidance and will instead explore “whether this issue is going to be better addressed during a future notice-and-comment rulemaking. Under EPA’s current interpretation of this regulatory definition, the Agency, as a practical matter, considers almost every physical on-site construction activity that is of a permanent nature to constitute the beginning of ‘actual construction, even where that activity does not involve construction on an emissions unit.

**40 CFR 60 Subpart OOOOa: Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review:** On November 1, 2021, Administrator Regan signed the proposed rule regarding the Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review. The proposal responds to the President’s January 20, 2021, Executive Order (EO) 13990, “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis,” which directed EPA to consider taking the actions proposed here.

The EPA is proposing to revise the new source performance standards (NSPS) for GHGs and volatile organic compounds (VOCs) for the Crude Oil and Natural Gas source category under the CAA to reflect the Agency’s most recent review of the feasibility and cost of reducing emissions from these sources. Second, the EPA proposes emissions guidelines (EG) under the CAA, for states to follow in developing, submitting, and implementing state plans to establish performance standards to limit GHGs from existing sources (designated facilities) in the Crude Oil and Natural Gas source category. Third, the EPA is taking several related actions stemming from the joint resolution of Congress, adopted on June 30, 2021, under the Congressional Review Act (CRA), disapproving EPA’s final rule titled, “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review,” 85 FR 57018 (Sept. 14, 2020) (“2020 Policy Rule”).

The proposed rule language can be found at: [https://www.epa.gov/system/files/documents/2021-11/san-8510-ong-climate-review-proposal-frn-2021-11\\_1.pdf](https://www.epa.gov/system/files/documents/2021-11/san-8510-ong-climate-review-proposal-frn-2021-11_1.pdf). *Taimur Shaikh, 214-665-6541.*

**Regional Haze SIPs for the Second Planning Period:** States are required to submit periodic SIP revisions to address visibility impairment in certain national parks and wilderness areas (Class I areas) with the national visibility goal of restoring natural visibility conditions to these Class I areas. The SIP revisions for the second planning period, which establishes visibility

goals for 2028 for Class I areas based on identification of reasonable controls through weighing of the four statutory factors, were due in July of 2021. Texas submitted their SIP to EPA on July 20, 2021. Arkansas and Oklahoma submitted their SIPs to EPA in August 2022. In letters sent to the states and dated August 18, 2022, the EPA made the findings that the Oklahoma and Arkansas regional haze SIP revisions for the second planning period meet the completeness criteria outlined in 40 CFR Part 51, Appendix V. The EPA continues to review the final regional haze SIP submittals received and we do not at this time have a target date for proposing action on the regional haze SIP submittals for Texas, Arkansas, and Oklahoma.

The EPA continues to work closely with remaining states in Region 6 (Louisiana and New Mexico) as they develop their SIP submittals. In a notice published in the Federal Register on August 30, 2022 (87 FR 52856), the EPA made a finding that certain states, including Louisiana and New Mexico, have failed to submit regional haze implementation plans for the second planning period. These findings of failure to submit establish a 2-year deadline for the EPA to promulgate Federal Implementation Plans (FIPs) to address these requirements for the states included in the findings unless, prior to the EPA promulgating a FIP, the state submits, and the EPA approves, a SIP that meets these requirements. *Michael Feldman, 214-665-9793.*

**Review of the National Ambient Air Quality Standards (NAAQS):** The Clean Air Act requires the EPA to periodically review the NAAQS to ensure that they provide adequate health and environmental protection, and to update those standards as necessary. The EPA is currently reviewing several NAAQS. You can follow the EPA's review process for any or all of the NAAQS at <https://www.epa.gov/naaqs>. The following are recent updates:

**Particulate Matter (PM):** On January 27, 2023, the EPA published its proposal to revise the primary (health based) annual PM<sub>2.5</sub> standard from its current level of 12.0 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to within the range of 9.0 to 10.0  $\mu\text{g}/\text{m}^3$ . EPA also proposed revisions to other aspects of the PM NAAQS, including the Air Quality Index and monitoring requirements. The comment period on the proposal closes March 28, 2023. After taking into account comments received on the proposed rule, the EPA will issue a final rule, possibly by late fall, 2023. Further details are at <https://www.epa.gov/pm-pollution/national-ambient-airquality-standards-naaqs-pm>.

**Ozone:** The EPA is reconsidering the December 2020 decision to retain the Ozone NAAQS. On March 2, 2023, the EPA's draft Policy Assessment (PA) Version 2 was posted at: <https://www.epa.gov/naaqs/ozone-o3-air-quality-standards> (click on "Policy Assessments"). An excerpt from the draft PA, p. 211: "Accordingly, we conclude it is appropriate in this reconsideration of the 2020 [review of the ozone standard] to consider retaining the current primary standard of 0.070 ppm [ozone], as the fourth highest daily maximum 8-hour concentration averaged across three years, without revision." A public meeting will be held for the Clean Air Scientific Advisory Committee (CASAC) ozone panel to peer review the draft PA. The public meeting will be held on Wednesday and Thursday, March 29 and 30, 2023, from 8 a.m. to 5 p.m. (eastern time). The public meeting will be conducted in person at the Hilton Durham near Duke University, 3800 Hillsborough Rd., Durham, NC 27705, and virtually. Procedures for submitting oral and/or written statements are provided in the Federal Register announcement (link: [CASAC\\_Ozone\\_Meeting](#)). Please refer to the CASAC website at <https://casac.epa.gov> for details on how to access the meeting.

**Lead:** The EPA anticipates release of the Draft Integrated Science Assessment (ISA) for Lead in 2023. The draft ISA will provide a public comment period and provides the scientific basis for the EPA’s decisions, in conjunction with additional technical and policy assessments. Documents for the current review of the Lead NAAQS are posted at <https://www.epa.gov/naaqs/lead-pb-air-quality-standards>.

**The Secondary (welfare-based) NAAQS for oxides of nitrogen, oxides of sulfur, and PM:** The EPA anticipates release of the Draft Policy Assessment for Review of the Secondary NAAQS in 2023. The review documents for these secondary NAAQS are posted here: <https://www.epa.gov/naaqs/nitrogen-dioxide-no2-and-sulfur-dioxide-so2-secondary-air-quality-standards>. *Carrie Paige, 214-665-6521.*

**Interstate Transport for the 2015 Ozone National Ambient Air Quality Standard (NAAQS):** Under the CAA, each state is required to submit a State Implementation Plan (SIP) that provides for the implementation, maintenance, and enforcement of each primary or secondary NAAQS. A key CAA requirement in the SIPs is that they assure that sources within the state do not contribute significantly to nonattainment or maintenance problems with of any NAAQS in other states (known as the “interstate transport” or “good neighbor” provision). On February 22, 2022, EPA proposed disapproval of 19 state SIP submittals (including Arkansas, Louisiana, Oklahoma, and Texas) and on February 28, 2022, EPA proposed a Federal Implementation Plan (FIP) to help states fully resolve their CAA “good neighbor” obligations for the 2015 ozone NAAQS. A state with a disapproved SIP may choose to submit a revised plan at any time for EPA’s review and approval, even after EPA has issued a FIP for that state. EPA held tribal consultation meeting with the Oklahoma tribes for the proposed disapproval of the 2015 ozone transport on March 3, 2022.

EPA requested an extension, or the court ordered deadline to issue a final decision by December 2022 to January 31, 2023. On January 31, 2023, signed the final Interstate Transport for the 2015 Ozone National Ambient Air Quality Standard action. The action was [published on February 13, 2023](#). Information about the Final Disapproval of the 2015 ozone Interstate Transport may be found on [EPA’s dedicated webpage](#).

**EPA’s Advance Program:** We invite the tribes to visit <https://www.epa.gov/advance> to view resources that promote local actions to reduce ozone and fine particulate matter. *Randy Pitre, 214-665-7299.*

**State Implementation Plan (SIP) Submissions and Status for New Mexico,**

**Oklahoma and El Paso area (as of March 2023):** The following table lists the SIP submissions EPA has received from New Mexico, Oklahoma, and Texas (El Paso area and state-wide) and the status of those submissions.

SIP Name	Description/SIP Type	State Submittal Date	Status
NM Alb 2015 8-Hour Ozone Standard Interstate Transport SIP (Prongs 1 and 2)	Infrastructure SIP	8/3/2021	Submission received
NM NMED 2015 8-Hour Ozone Standard Interstate Transport SIP (Prongs 1 and 2)	Infrastructure SIP	7/30/2021	Submission received



SIP Name	Description/SIP Type	State Submittal Date	Status
OK NOx Revisions. Start up and Shutdown emissions	Control Measures	7/27/2010	On Hold
OK 2020 SIP - Open Burning and VOC Revisions	Control Measures	2/9/2021	Proposed Approval. Comment period closed 3/6/2023.
OK Minor NSR Subchapter 7, Public Notice < 100 TPY	New Source Review Related (NSR) Regulations	3/5/2002	Submission received
OK Regional Haze Planning Period 2 SIP	Regional Haze Requirements	8/9/2022	Submission received
OK Withdrawal of OAC 252:100-9 Affirmative Defense Allowance	Other - SIP	11/14/2016	Proposal Approval Comment period closed 3/6/2023
OK 2020 Annual SIP Update to OAC 252:100:1-2, Statutory Definitions	NSR Related Regulations	2/9/2021	Submission received
OK 2021 SIP Revision - Update to Subchapter 2 and Appendix Q	NSR Related Regulations	12/17/2021	Proposal Approval published 3/6/2023. Comment period closes 4/5/2023.
OK 2022 SIP Revision - Updates to Subchapter 2 and Appendix Q	NSR Related Regulations	1/30/2023	Proposal Approval published 3/6/2023. Comment period closes 4/5/2023.
OK 2022 SIP Revision - Updates to Subchapter 8 for Reasonable Possibility Recordkeeping	NSR Related Regulations	1/30/2023	Submission Received
OK 2022 SIP Revision - Updates to Subchapters 37 and 39	Control Measures	1/30/2023	Submission Received
OK Air Quality Permitting Rule Changes Adopted in 2021	State-Initiated Rule Clean-Up	9/13/2022	Submission Received
OK Minor NSR, Subchapter 8, > 100 TPY < 250 TPY	NSR Related Regulations	7/27/2010	Submission Received
OK NSR Related Regulations Adopted in 2021	NSR Related Regulations	9/13/2022	Submission Received
OK NSR Related Updates 2002-2018 Revisions to Chapter 100, Subchapter 7	NSR Related Regulations	9/9/2022	Submission Received
OK SIP Updates 2002-2018 Revisions to Chapter 100, Subchapter 7	State-Initiated Rule Clean-Up	9/9/2022	Submission Received
OK Statutes Update for General SIP submitted May 2018	NSR Related Regulations	5/24/2018	Submission Received
OK 2010 SO2 NAAQS Interstate Transport	Infrastructure SIP	5/28/2021	On Hold
TX El Paso County 2015 Ozone (Marginal) Emissions Inventory	Attainment Plan	12/7/2022	Submission Received
TX Revisions to Chapter 116 - Project Emissions Accounting	NSR Related Regulations	7/9/2021	Proposal Approval published 3/6/2023. Comment period closes 4/5/2023.
TX Revisions to Chapter 116 to remove obsolete provisions	State-Initiated Rule Clean-Up	7/9/2021	Submission Received
TX Quadrennial Review Update to Public Notice and Procedural Rules	State-Initiated Rule Clean-Up	1/21/2022	Submission Received
TX Revisions to Public Notice Requirements in Chapters 39 and 55	NSR Related Regulations	1/21/2022	Submission Received
TX Regional Haze 5-Year Progress Report SIP Revision	Regional Haze Requirements	3/24/2014	On Hold

SIP Name	Description/SIP Type	State Submittal Date	Status
TX Regional Haze SIP submitted 7/20/2021	Regional Haze Requirements	7/20/2021	Submission Received
TX Transport prongs 1 and 2 portion of the 2010 SO2 Infrastructure & Transport SIP	Infrastructure SIP	5/9/2013	On Hold

### **Permitting on Tribal Lands**

In Region 6, facilities may still qualify to *register minor source facilities* using the **existing source registration program if the facility existed prior to 2013**. This eligibility is a case-by-case site-specific determination that permittee should contact EPA to discuss. Also, Region 6 continues to accept changes in operations or changes in ownership of facilities that registered with the EPA prior to September 2, 2014. However, if the changes exceed the minor source thresholds limits in **Table 1 of 40 CFR § 49.153**, the facility must apply for a minor New Source Review (NSR) permit.

For *all current permitting activities* in Region 6 at facilities located on tribal lands, including the following NSR (Part 49) and federal Title V operating permits (Part 71), please contact **Erica LeDoux, 214-665-7265**.

**The Choctaw Nation of Oklahoma Headquarters Campus (Facility)** submitted a minor source NSR permit application on October 27, 2022, and the application was deemed completed on December 8, 2022. The Facility has existed since 2009 and comprises a group of buildings offering several services to the community and government offices with no manufacturing on site with no new construction proposed. The Facility has 15 regulated emissions units that are maintained on site including 6 emergency generator engines used for backup power during power outages, 5 boilers and 4 water heaters. The Facility also has exempt/insignificant emission units including HVAC systems, furnaces, water heaters and boilers at various buildings. A letter was sent to the Chickasaw Nation as the only tribal nation within a 50 mile radius of the Facility on February 13, 2023, notifying them of the proposed permit action and offering a government-to-government consultation on the proposed action. The invitation to consult extends through the end of the public comment period. The public comment period began on March 15, 2023, and will conclude on April 14, 2023, for the proposed Federal Minor NSR draft permit. All documents related to this permit action are available at [www.regulation.gov](http://www.regulation.gov) under #EPA-R06-OAR-2022-0945.

**Harvest Four Corners, LLC – E&H Receiver**, EPA received a permit application from Harvest Four Corners LLC for the renewal of its existing Title V permit of the E&H Receiver facility on Jicarilla Apache Tribal Lands, Rio Arriba County, New Mexico on December 13, 2021. This permit application was declared incomplete on February 15, 2022. Due to changes made to the PTE in the original renewal application on September 5th, the facility was informed that they needed to submit an NSR permit since the modification proposed was greater than 40 tpy. However, the company submitted several application revisions and on December 14, 2022, they submitted a simple renewal without any modifications to existing operations/equipment that would involve a change to the existing permit PTE. Currently, ARPE is drafting the TV Renewal

permit and plans to route the Tribal Consult letter package for ARD DD signature in mid-April with a subsequent target for the draft permit PN in early May 2023.

**Harvest Four Corners, LLC – Los Mestenos Compressor Station**, The EPA received a permit application from Harvest Four Corners LLC for the renewal of its existing Title V permit of the Los Mestenos Compressor Station facility on Jicarilla Apache Tribal Lands, Rio Arriba County, New Mexico on February 4, 2022. This permit application was declared incomplete on April 5, 2022. Harvest submitted revisions to the original Title V application in September and revised TV renewal application with responses to remaining questions on December 1, 2022. Currently, ARPE is drafting the TV Renewal permit and plans to route the Tribal Consult letter package for ARD DD signature in late April with a subsequent target for the draft permit PN in late May 2023.

**DJR Operating, LLC (DJR)– Largo Canyon West Pad #8 (LCW8)**, submitted the threatened and endangered species and historical properties screening documents and Part 1 Registration Form with general facility information on August 29, 2022. This source is to be located on Jicarilla Apache Nation Tribal lands in Rio Arriba County, New Mexico, Lat: 36.305060, Long: -107.303723. DJR is utilizing the Oil and Natural Gas Production and Natural Gas Processing Federal Implementation Plan (FIP) The FIP applies to new true minor sources and minor modifications at existing true minor sources in oil and gas production in Indian Country. EPA provided a notification letter on September 22, 2022, to DJR for satisfactorily completing the screening procedures and therefore, being able to begin construction of new equipment for natural gas compression at the station within 30 days of receipt of notification letter.

#### **Activities with Federal Facilities**

**Flanged Tritium Waste Container (FTWC) Operations at Los Alamos National Lab** - On October 18, 2021, A letter from the Acting Regional Administrator to DOE regarding Flanged Tritium Waste Container (FTWC) Operations was emailed to the manager of the National Nuclear Security Administration, Los Alamos Field Office, Department of Energy. In response, DOE submitted supplemental information regarding the Application for Remediation of the Flanged Tritium Waste Containers at Los Alamos National Laboratory on January 28, 2022. This supplemental information provided updates to information previously submitted in the May 2019 Application for Pre-Construction Approval and the Notification of Scope Change, submitted in March 2020. The preconstruction application was approved on May 22, 2019. EPA is reviewing the submitted supplemental information, in accordance with the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subparts A and H, as it relates to the potential emissions of radionuclides from the proposed project. On March 10, 2022, we sent a letter to all New Mexico Tribal Nations and Pueblos offering consultation regarding the updated application. We are continuing discussions with LANL and Tribal Nations and Pueblos requesting formal consultation. We will consider the additional information supplied by LANL as well as any concerns expressed by the tribal community before making our decision on the proposed venting process. *George Brozowski, 214-665-8541.*

#### **Pre-Construction Application for the Radiological Liquid Waste Treatment Facility (RLWTF) at LANL**

On November 2, 2021, the U.S. Department of Energy (DOE) - National Nuclear Security Administration, Los Alamos Site Office submitted an application to construct a new Radioactive Liquid Waste Treatment Facility -Transuranic Liquid Waste (RLWTF-TLW) facility for transuranic waste streams, which will be located at the Los Alamos National Laboratory (LANL). The application states that the reason for a new construction is because the existing RLWTF-TLW is more than 50 years old and is nearing the end of its functional and operational life. A letter offering tribal consultation was sent on November 11, 2021, to all New Mexico Tribal Nations and Pueblos. The Pueblos of Santa Clara and Tesuque responded. Santa Clara's consultation was held on November 23, 2021, and Tesuque's consultation was held on December 14, 2021. The application was reviewed in accordance with the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subparts A and H and approved on April 19, 2022. Closeout documents were sent to both pueblos when EPA made its final determination on the application. On April 28, 2022, LANL sent notification of construction stating that the RLWTF-TLW construction is planned to begin on or shortly after May 31, 2022. On August 10, 2022, ground was broken. Scheduled completion by August 2027. **George Brozowski, 214-665-8541.**

# Land, Chemical and Redevelopment Division

## **BROWNFIELDS AND REVITALIZATION SECTION**

### **FY 2022 BROWNFIELDS STATE AND TRIBAL RESPONSE PROGRAM – INFRASTRUCTURE LAW GRANT AWARDS**

Due to the passage of the Bipartisan Infrastructure Investment and Jobs Act, EPA Region 6 Tribes (Cherokee Nation for Inter-Tribal Environmental Council, Eight Northern Indian Pueblos Council, Choctaw Nation, Muscogee Creek Nation and Kickapoo Tribe of Oklahoma) were awarded a supplemental funding amount of \$4,409,802 for their Brownfields 128(a) State and Tribal Response programs. The grant awards were issued by the end of CY 2022. This supplemental funding can be used to carry out additional assessments, cleanups and for other activities that increase the number of response actions conducted or overseen by the Tribal response programs. *Elizabeth Reyes, 214-665-3163.*

### **TRIBAL BROWNFIELDS RESPONSE PROGRAM ACCOMPLISHMENTS**

The Brownfields & Revitalization Section commends our Region 6 Tribes, Cherokee Nation for Inter-Tribal Environmental Council, Eight Northern Indian Pueblos Council, Pueblo of Santa Ana, Choctaw Nation, Muscogee Creek Nation, Kickapoo Tribe of Oklahoma, and Absentee Shawnee Tribe of Oklahoma for last fiscal year's Tribal Brownfields Response 128(a) grant program accomplishments/efforts. Brownfields Section 128(a) grant funds can be used for assessments that will help prioritize sites based on need and expedite the reuse and redevelopment of sites. Last fiscal year, our Tribes assessed 20 sites, which includes over 200 acres of property. *Elizabeth Reyes, 214-665-3163.*

### **FY 2023 EPA-TRIBAL ENVIRONMENTAL SUMMIT - BROWNFIELDS SESSION**

As part of EPA's outreach and strengthening Tribal communication and collaboration goals, the Brownfields team has been invited to the annual EPA/Tribal Environmental Summit to deliver a presentation on Brownfields. The presentation will take place on Thursday, April 27<sup>th</sup>, and will cover EPA's definition/introduction of Brownfields program, liability, and some of the benefits of the Brownfields Program for the communities. *Elizabeth Reyes, 214-665-3163.*

## **TRIBAL SOLID WASTE**

### **NEW SWIFR AND REO GRANTS**

EPA recently announced two new competitive recycling grants funded by the historic Bipartisan Infrastructure Law (BIL). The Recycling, Education and Outreach (REO) grants, which are available to tribes, states, local governments, and other organizations to improve education and outreach for waste prevention, reuse and recycling programs were due February 15, 2023. The Solid Waste Infrastructure for Recycling (SWIFR) grants, which is holding a separate competition just for tribes, is intended to help build solid waste and recycling infrastructure and is due April 4, 2023. EPA has held several webinars with the national experts and Q&A sessions, and any questions can also be sent to [swiftribal@epa.gov](mailto:swiftribal@epa.gov) where they will be answered and posted. For more information and access to an updated Q&A document on the SWIFR grants, please go here: <https://www.epa.gov/infrastructure/solid-waste-infrastructure-recycling-grants->

[tribes-and-intertribal-consortia](#) *Roger Hancock, 214-665-6688 and Deanna DeBose 214-665-6461*

### **CHEROKEE NATION TO BE FEATURED IN EPA TRIBAL WASTE JOURNAL FOR PEER MATCHING WITH REGION 5 TRIBE**

Cherokee Nation was asked, for the second time now, to be a mentor to a tribe from another Region on how to conduct successful household hazardous waste (HHW) collection events. The Nation had received an EPA Tribal Hazardous Waste grant and continued to conduct HHW events in multiple communities after the grant closeout as they were seen as a benefit to both tribal and non-tribal communities throughout their large territory. This Peer Match was kicked off with a Teams meeting on 2/27/23 with the Bay Mills Indian Community in Michigan with ORCR and both Regional Tribal Solid Waste Coordinators. EPA HQ then asked to feature Cherokee Nation in the next issue of EPA's Tribal Waste Journal focusing on building partnerships due to the tribe's ongoing work with multiple municipal, non-profit and state entities to make the collection events a success. They are also planning an interview with the Region 6 Tribal Solid Waste Coordinator. *Roger Hancock, 214-665-6688*

### **FIRST TRIBE IN REGION 6 IS APPROVED TO USE GAP FUNDS FOR OPEN DUMP CLEANUP UNDER NEW GAP GUIDELINES**

The Kickapoo Tribe of Indians in Oklahoma has been approved to use their GAP funds to clean up priority open dumpsites on their lands. This is the first request under the new revised GAP Guidelines, which now requires the approval of the Tribal Solid Waste Coordinator and final approval of the Tribal Program Director at the Regional level. Previously, AIEO approval was also required. The Kickapoo Tribe utilized our GAP program several years ago to clean up open dumpsites and we look forward to working with them again to successfully clean up the additional sites. *Roger Hancock, 214-665-6688*

### **EPA AND ENIPC TRIBAL RECYCLING WORKSHOP: \*PLEASE NOTE THAT THIS WORKSHOP WAS POSTPONED FROM MARCH 2020 TO MARCH 28-29, 2023, DUE TO COVID-19\***

As part of EPA celebrating America Recycles Day back in 2020, the Region had planned to interview several tribes on video in Oklahoma to discuss their recycling programs and host a recycling workshop in New Mexico. The recycling workshop was postponed due to covid, but we were able to conduct the Oklahoma interviews with three tribes and their videos are available here:

<https://www.youtube.com/watch?v=NOUseTfp7Is&feature=youtu.be>

<https://www.youtube.com/watch?v=DpIO0xKhTDM&feature=youtu.be>

<https://www.youtube.com/watch?v=qfQvPe6apig&feature=youtu.be>

After several years delay, we will co-host the recycling workshop event with the Eight Northern Indian Pueblos Council (ENIPC) and hold it at the Santa Ana Pueblo Wellness Center on March 28-29. We are encouraging local tribal solid waste staff, as well as Environmental Directors, to come, as this will be a hands-on workshop with field training. The first day will feature several Pueblo speakers discussing their solid waste and recycling programs, as well as federal, state, and nonprofit officials discussing resources available to tribes. On the second day we will visit

three Pueblo transfer stations. **Roger Hancock, 214-665-6688 and Deanna DeBose 214-665-6461**

### **EPA TRIBAL SOLID WASTE PEER MATCHING PROGRAM**

This is a reminder that EPA has relaunched the national Tribal Peer Matching Program with an offer for interested tribes to fill out an online form to be a mentor, mentee, or both. You can find the form here: <https://www.epa.gov/tribal-lands/forms/request-participants-form-national-tribal-waste-management-peer-matching-program>. The program can help tribes assist one another in addressing waste management issues by providing direct technical assistance through a peer-to-peer mechanism. **Travel expenses may also be provided for free for participants. Roger Hancock, 214-665-6688**

### **RCRA CORRECTIVE ACTION**

#### **FORT WINGATE DEPOT ACTIVITY (FWDA), NEW MEXICO**

Remediation continues under NMED's RCRA closure/post-closure permit. Removal of explosives-contaminated soils (70,000 cu yd) at the TNT Leaching Beds was completed in 2021. Major remediation work at the former Open Detonation/Open Burn (OB/OD) Area continues, with over half of the soil excavated and sifted. However, the Army requested from NMED deliverables extensions of 3 – 5 years, due to funding and contracting issues. NMED, after some discussions with Army, issued Notice of Violations (NOV) with stipulated penalties based upon Army's failure to meet Permit schedules; this issue is still in flux. Most of the facility is scheduled to be returned to the Navajo Nation and the Pueblo of Zuni. Twelve of the facility's 25 land parcels, totaling 8,350 acres, were transferred to those tribes last year. Tribal, BIA, NMED and EPA participation continues under the base closure process. Army announced the recent signatures by all parties including Pueblo of Zuni, Navajo Nation, NM, Army, and the Advisory Council on Historic Preservation on the FWDA Programmatic Agreement regarding BRAC Closure and Disposal/Corrective Action Activities. The normal semi-annual Base Closure Team meetings in Gallup were cancelled in 2020, due to the pandemic. However, fieldwork has been ongoing at Parcel 3, as well as Interim Groundwater Monitoring with appropriate health protections in place. The Army has been conducting excavation and processing operations associated with the HWMU, Parcel 3, since August 2017. The USACE and the US Army BRAC Office are initiating PFAs investigations at FWDA. A Fort Wingate Depot Activity Base Closure Team Virtual meeting took place May 10, 2022, and the next virtual meeting will be May 9, 2023. Fort Wingate is hoping to work with the Tribes on new Land Use Plans this year. **Laurie King, 214-665-6771**

#### **COORDINATION/COMMUNICATION ON OKLAHOMA POLE AND LUMBER WITH CHOCTAW NATION:**

At the request of Oklahoma Department of Environmental Quality (ODEQ), the R6 LCRD RCRA corrective action program has coordinated with R6 Superfund to conduct a limited removal assessment on September 7, 2022, that addresses containerized fire-related residues and debris temporarily stored on-site at the Oklahoma Pole and Lumber (OPLC) site, pending disposal off-site. EPA has provided assistance to ODEQ at the site since 2002, including conducting soil and groundwater investigations confirming the presence of contamination at the site.

In February 2023, ODEQ shared with EPA and Choctaw Nation the sampling results from their recent complaint follow up visit to the sawmill and chip pile site located near the Choctaw community center which is also owned by OPLC. The results identified detections of pentachlorophenol in two of the samples. ODEQ and EPA are discussing options for additional sampling to delineate the contamination. Additional coordination calls will continue as investigations continue. *Laurie King, 214-665-6771*

## **RCRA FACILITY UPDATES**

### **LOS ALAMOS NATIONAL LABORATORY HEXAVALENT CHROMIUM GROUNDWATER PLUME, NEW MEXICO**

Potassium dichromate was used in the cooling tower at the Los Alamos National Laboratory (LANL) Technical Area 3 backup power plant from 1956 to 1972. It is estimated that up to 72,500 kg of hexavalent chromium cooling water from the power-plant was discharged into Sandia Canyon. The discharged water traveled perennially downstream approximately two miles to an infiltration point in Sandia Canyon. The chromium-tainted water migrated downward and contaminated the regional aquifer at a depth of approximately 1,000 feet below ground surface. The plume size is approximately 1.2 miles long and 0.5 miles wide with a maximum concentration of about 1,200 ppb. One Los Alamos County drinking-water production well PM-3 is located just outside the eastern plume boundary and is closely monitored by the New Mexico Environment Department and LANL. Three other production wells are located southwest of the chromium plume and are also closely monitored. Chromium has been detected in a nearby monitoring well on Pueblo de San Ildefonso (4.30 ppb) at concentrations near the regional Chromium background concentration (4.60 to 7.48 ppb). The New Mexico Water Quality Control Commission standard for chromium is 50 ppb. An Interim Measures (IM) plume control project was implemented by LANL in 2018 consisting of five extraction wells and five injection wells.

Annual status reports are submitted to NMED for the IM. NMED's review of the past three IM status reports resulted in technical comments that had concerns regarding the efficacy of the IM. LANL submitted a new IM work plan and characterization plan to NMED on September 29<sup>th</sup> that is currently under NMED review. The preliminary results of the pilot-scale chemical amendment indicated that this approach may not be an effective alternative for remediation. While LANL concluded that there is no risk to the production well from this contamination source, NMED does not concur with this conclusion based on its own assessment. NMED and LANL agreed that another regional aquifer monitoring well is required in this area to further investigate the vertical and lateral extent of chromium toward the County production well.

A new monitoring well R-73 was drilled in the northeastern portion of the plume beginning in April 2022. The well was drilled into a deeper hydrogeologic formation where the majority of water is produced for the county production well. Due to issues that occurred during drilling and well construction operations, the well seals are compromised and LANL is proceeding to plug & abandon R-73. The monitoring well will be re-drilled after the current well is plugged and investigations into the well construction failure are completed. In addition, NMED is requiring two more regional aquifer monitoring wells to delineate the vertical extent of the center of the chromium plume and to replace the one well permanently altered by the 2017 chemical



amendment injection pilot study. The replacement well and one vertical delineation monitoring well are scheduled for completion by mid-2023. A Corrective Measures Evaluation for the chromium plume that was due in September 2021 has been postponed until characterization of the chromium plume is complete. *Laurie King, 214-665-6771*

## **GRANTS**

### **LEAD PAINT PROGRAM GRANTS**

The Cherokee Nation and Choctaw Nation of Oklahoma were awarded grants in September 2022 to conduct Lead Based Paint Programs. The focus of the programs is maintaining the appropriate infrastructure to successfully administer and enforce the lead-based paint program, providing training for lead inspectors, and conducting inspections of licensed contractors engaged in lead-based activities, taking appropriate enforcement when needed. *Mike Adams, 214-665-6711*

### **INTER-TRIBAL ENVIRONMENTAL COUNCIL AND EIGHT NORTHERN INDIAN PUEBLOS COUNCIL PESTICIDE PROGRAM GRANTS**

Fiscal Year 2023 Cooperative agreements were awarded to two tribal consortia, the Inter-Tribal Environmental Council (ITEC) and the Eight Northern Indian Pueblos Council (ENIPC) on September 20, 2022, and September 27, 2022, respectively, to assist member tribes in building capacity to establish and maintain pesticides programs. The goal of the tribal pesticides program is to make tribes aware of the benefits and risks of pesticides and the requirements for their safe use, thereby, safeguarding human health and the environment. *Bryan Irwin, 214-665-6408*

### **CHOCTAW NATION PESTICIDE PROGRAM GRANT**

On September 29, 2022, the FY23 FIFRA Cooperative Agreement Award was issued to the Choctaw Nation of Oklahoma. In early 2021, Choctaw Nation approached the R6 LCRD Pesticides Program about the possibility to begin a Tribal Pesticide Program. Over the past year the Pesticides Program has worked with the tribe and EPA HQs on the process for developing a new tribal pesticide program as funding became available. This is the first year Choctaw Nation has received a cooperative agreement from the R6 Pesticide Program to start, develop, and expand their program. The tribe will begin to implement the program this quarter to include training and building staff capacity, tracking applications and products being used, providing education and outreach to tribal members, and coordinating with other tribes on pollinator protection activities. *Sierra Moline, 214-665-2177*

### **UNDERGROUND STORAGE TANKS (UST)**

Cooperative agreements were awarded to two tribal consortia, the Inter-Tribal Environmental Council (ITEC) and the Eight Northern Indian Pueblos Council (ENIPC) for FY23. The ITEC and ENIPC on-going grants provide compliance assistance to tribal UST owners and operators. *Tameka McCaskill, 214-665-8578*

### **TRIBAL SUMMIT**

The Sustainable Materials Management (SMM) and Tribal Solid Waste Programs presented an educational outreach webinar at this year's Tribal Summit on May 10, 2022. EPA presented a

1.5-hour webinar on the new SMM Infrastructure funding. During the session, we provided a brief overview of EPA's new National Recycling Strategy and movement toward a circular economy. We also shared information on new grant programs to improve recycling infrastructure, recycling education and outreach. Under the Bipartisan Infrastructure Law, EPA is developing three new waste prevention, reuse, and recycling programs. The Solid Waste Infrastructure for Recycling Grant Program; the Recycling Education and Outreach Grant Program, Model Recycling Program Toolkit & School Curriculum; and the Battery Collection Best Practices and Voluntary Battery Labeling Guidelines. *Deanna DeBose, 214-665-6461*

## **P2 GRANTS**

EPA announced New Environmental Justice-Focused Pollution Prevention Grant Opportunity Funded by a \$100 Million Investment from President Biden's Bipartisan Infrastructure Law. The new grant opportunity will encourage businesses that are working in, or working with, underserved or overburdened communities to adopt P2 practices in a way that advances the Biden-Harris Administration's bold environmental agenda.

Eligible applicants for P2 grant programs include states, state entities such as universities, U.S. territories and possessions, and federally recognized tribes and intertribal consortia. For grant funding opportunities, EPA is strongly encouraging applicants to address environmental justice and/or climate pollution in their project(s). EPA launched a new P2-EJ Facility Mapping Tool which allows users to identify industrial facilities located in or adjacent to communities with EJ concerns. Information on the various P2 grant opportunities can be found at <https://www.epa.gov/p2/grant-programs-pollution-prevention>. *Stephanie Cheaney, 214-665-8057*

## **PROGRAM IMPLEMENTATION**

### **FEDERAL CERTIFICATION OF APPLICATORS OF RESTRICTED USE PESTICIDES (RUP) IN INDIAN COUNTRY**

Under the 2017 Certification of Applicators Final Rule, EPA provides three options for tribes to establish valid EPA-recognized/approvable certification programs in Indian country, along with a fourth "opt-out" option (Restricted Use Pesticides (RUP) cannot be applied in Indian country). The three options for establishing a certification mechanism are as follows: Tribal Reliance on Certifications Issued by Specified Jurisdictions (Tribal-EPA Agreement), Certifications Issued by a Tribe (Tribal Certifications), and EPA-administered Certification Plan (EPA Plan). Within Region 6, all tribes are currently on and would continue operating under the EPA Plan option that allows applicators to obtain certification from adjacent states and then apply for an EPA license to apply RUPs in Indian Country. Currently, there are 25 certified commercial applicators and 51 private applicators of RUPs in Indian Country in EPA Region 6. EPA posts the list of federally certified applicators at the following link: <https://www.epa.gov/pesticide-applicator-certification-indian-country/applicators-certified-under-epa-plan>. *Sierra Moline, 214-665-2177*

### **UST INSPECTIONS**

EPA Region 6 has resumed inspections of UST facilities as of March 29, 2022. FY22 inspections have been completed. FY23 inspections are currently being planned and will take place in a

phased approach, with priority sites taking precedent. Three criteria were assessed to rank UST facility priority - compliance history, EJ and Climate factors, and days since the last inspection. Annual Notification of Inspection for tribal facilities due for inspections in FY23 have already been mailed out. Individual notifications for inspections will be sent to the owner/operator and the Tribal environmental offices 30 days before the inspection.

***Joshua Ridley, 214-665-7117 and Robert Glynn, 214-665-8350***

## **REGULATIONS**

### **AGRICULTURAL WORKER PROTECTION STANDARD (WPS)**

On October 30, 2020, EPA published updates to the AEZ provisions under the WPS. The 2020 Rule, originally set to go into effect on December 29, 2020, intended to modify the 2015 WPS/AEZ requirements. In December 2020, two petitions were filed in the U.S. District Court for the Southern District of New York and in the U.S. Second Circuit Court of Appeals challenging the 2020 AEZ Rule (now consolidated as case number 20 Civ. 10642). As a result, the 2020 AEZ Rule has not been implemented due to a court ordered stay. Additionally, the 2020 AEZ Rule was identified for review by the Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis (EO 13990). In February 2023, EPA issued a notice of proposed rulemaking that reconsiders the 2020 AEZ requirements in response to the Executive Order. This proposed rule would reinstate some 2015 WPS AEZ requirements and retain certain 2020 AEZ Rule provisions if finalized. This proposed rule has been published and is available for public comment. ***Diego Garcia, 214-665-2292***

## **TRIBAL OUTREACH**

### **INTER-TRIBAL ENVIRONMENTAL COUNCIL (ITEC) PESTICIDES PROGRAM**

Inter-Tribal Environmental Council (ITEC) staff have continued to join the Tribal Pesticide Program Council (TPPC) monthly executive council calls. Pesticides staff attended the TPPC fall meeting in person on October 18-20, 2022. ITEC staff also continue to join monthly EPA Tick Integrated Pest Management (IPM) Working Group conference calls and the EPA IPM Webinar Series that covers a different topic each month. ITEC staff attended Region 6 Pre-SFIREG meeting on October 25-26 virtually. ITEC staff submitted a Tribal Pesticide Program report to the Tribal Environmental Coalition of Oklahoma during their bi-monthly meeting; last meeting occurred November 15, 2022. ITEC pesticide staff have joined the Oklahoma Invasive Species Counsel monthly webinars. ITEC staff continue to record the pesticide application notifications they receive into the Pesticide Application. ***Bryan Irwin, 214-665-6408***

### **EIGHT NORTHERN INDIAN PUEBLOS COUNCIL (ENIPC) PESTICIDES PROGRAM**

ENIPC attended in-person Pesticides Regulatory Education Program (PREP) from September 27 – 29, 2022. Purpose of attendance was to learn more about pesticide regulation and use. ENIPC gave a presentation at the PREP on pueblos and tribes, tribal/ historical knowledge of pesticide use, and what are some tribal needs from EPA. Attended various webinars on Integrated Pest Management and topics on pesticides. ENIPC conducted and coordinated pesticides safety training with New Mexico Department of Agriculture (NDMA) that was hosted by Isleta Pueblo with other Pueblo's members in attendance. Pesticide staff volunteered to help a member from the Confederated Salish and Kootenai Tribes on presenting and giving information about

pollinators. ENIPC pesticide staff continue to attend OETA, TPPC, and IRAC meetings to give pesticide program updates. **Bryan Irwin, 214-665-6408**

### **REGION 6 POLLINATOR PROTECTION**

EPA Pesticide Program staff sent the mailers with information on how to properly report a suspected pesticide related bee-kill incident to the Pesticides staff at Eight Northern Indian Pueblo Council and Inter-Tribal Environmental Council in August 2022. These included mailers specific to the respective Councils, as well as for the states of New Mexico and Oklahoma for tribal members living off the reservations. These are currently available through tribal pesticide program staff. If you suspect a pesticide incident has occurred, these should be immediately reported. The EPA reviews these reports to identify patterns of bee kills that help inform pesticide regulatory decisions.

In collaboration with Regions 3, 8, and 9, R6 program staff are developing a nationwide online training for inspectors for responding to suspected pesticide-related bee-kill complaints. This will be held in the fourth quarter of FY23. Stay tuned for further details on this training opportunity.

**Chrissy Mogren, 214-665-6579**

### **REGION 6 TRIBAL SUSTAINABLE MANAGEMENT OF FOOD INITIATIVE**

As part of R6 EPA's continuing work in support of America Recycles Week efforts, R6 has developed videos that highlight important environmental work being conducted by tribes across the region and planned an EPA Tribal Recycling Workshop (delayed due to COVID-19). In summer 2020, Region 6 awarded two Direct Implementation Tribal Cooperative Agreements for \$30,000 each, one to ENPIC and one to ITEC. This project builds on the video efforts with a focus on the sustainable management of food at tribal schools and colleges, as well as other tribal facilities and cultural events that produce high volumes of food waste. Sustainable management of food is a systematic approach that seeks to reduce wasted food and its associated impacts over the entire life cycle, starting with the use of natural resources, manufacturing, sales, consumption and ending with decisions on recovery or final disposal. Region 6 will promote innovation and highlight the value and efficient management of food as a resource through our partners ENPIC and ITEC. Through the sustainable management of food, we can help businesses and consumers save money, provide a bridge in our communities for those who do not have enough to eat and conserve resources for future generations. Building on the familiar concept of "Reduce, Reuse, Recycle," this approach shifts the view on environmental protection and more fully recognizes the impacts of the food we waste. **Stephen Sturdivant, 214-665-6673**

### **TRIBAL SUMMIT**

The Underground Storage Tank (UST) program presented two webinars at this year's Tribal Summit on May 15, 2022. During the 1.5 hr session, EPA presented an overview of the inspection process including relevant programmatic updates and a presentation on the EPA UST tribal compliance pilot program. **Rachel Snaveley, 214-665-6736**

## **Enforcement and Compliance Assurance Division**

### **Clean Water Act Section 404 enforcement case protecting Toltec Mounds (Arkansas)**

EPA has completed a Clean Water Act, Section 404 enforcement case at Mound Lake, Arkansas that had been causing offsite impacts at Toltec Mounds Archeological State Park, located a mile upstream from the site of the unauthorized discharges. The unauthorized activity raised the water level of Mound Lake, causing accelerated erosion of the Toltec Mounds, a designated National Historic Landmark. There is also a Keepsafe Cemetery located on the property that has been adversely impacted. EPA coordinated with the Quapaw Tribe of Oklahoma, the Osage Nation, Caddo Nation, and Tunica-Biloxi Indian Tribe of Louisiana regarding our goal of addressing the violations in a manner that minimizes the threat of flood impacts to the archeological sites. The unauthorized modifications to existing water control structures have been removed so that lake levels can return to pre-violation elevations. *Curry Jones, 214-665-6793 / Tom Nystrom, 214- 665-8331*

### **Authorization Agreement for Federal Credentials with Osage Nation for Safe Drinking Water Act, Underground Injection Control (UIC) and Clean Water Act, Spill Prevent, Control, and Countermeasure (SPCC), Osage County, Oklahoma**

On February 17, 2023, Osage Nation and EPA Region 6 finalized a joint Authorization Agreement to provide the process for Osage Nation inspectors to act on EPA's behalf with federal inspector credentials for the UIC and SPCC programs in Osage County, OK. For over 20 years, EPA Region 6 and Osage Nation have worked effectively and collaboratively in Osage County in an increasingly old and marginalized oil field where EPA has direct implementation authority for the Clean Water Act (CWA), Spill Prevention, Control and Countermeasure (SPCC) program and the Safe Drinking Water Act (SDWA), Underground Injection Control (UIC) program for class II wells. EPA Region 6 has identified that an increased field presence will increase compliance in this direct implementation area, which matches the objectives that Osage Nation has to protect their resources. This Authorization Agreement is the only active national Agreement for a SPCC program and a UIC program. EPA Region 6 estimates that the Osage Nation tribal inspectors, with federal credentials, could conduct over 300 inspections for both programs per fiscal year. In general, providing federal credentials to tribes allows them to:

1) inspect for federal provisions not covered by state/tribal law; 2) conduct inspections at EPA's request, saving EPA resources and time; 3) increase compliance by having an increased and local field presence; and 4) provide better inspection coverage geographically, especially in remote areas. *Jeanne Eckhart, 214-665-8174*

### **RCRA Administrative Orders on Consent with Choctaw Manufacturing Defense Contractors**

In August 2022, EPA Region 6 RCRA program conducted inspections at two Choctaw Manufacturing Defense Contractor facilities located in McAlester and Hugo, Oklahoma. Areas of concern found at the McAlester location were 1) Undated containers of hazardous waste, 2) Open containers of hazardous waste, 3) Storage in-lieu of disposal, 4) Manifest/Land Disposal Restriction (LDR) discrepancy,

5) Contingency Plan issues, 6) Excess accumulation, 7) Lack of representative sampling for Waste Determination, 8) Failure to make a waste determination, 9) Missing Inspection Records, and 10) Training. Areas of concern found at the Hugo location were 1) Manifest / LDR discrepancy, 2) Contingency Plan issues, 3) Facility Training, 4) Unlabeled container, 5) Inadequate aisle, 6) Unlabeled universal waste, 7) Container management, and 8) Missing Inspection Records. EPA Region 6 and HQ have been working with Choctaw Manufacturing Defense to fix the potential violations and expect to sign Administrative Orders on Consent for these two cases April 2023. **Jeff Yurk, 214-665-8309**

# Superfund and Emergency Management Division

## TRIBAL CONSULTATION AND COORDINATION

EPA continues to award contracts and cooperative and interagency agreements with funding from the Bipartisan Infrastructure Law (BIL) for the construction of remedies at fund-lead Superfund sites. In OK, to date, approximately \$8.8 million BIL funds have been committed to Wilcox Oil Company remedial action; \$1 million BIL funds committed to Oklahoma Refining Co.; and \$25 million BIL funds committed to Tar Creek remedial action (\$5.7M of which awarded to Quapaw). Additionally, approximately \$14 million BIL funds have been committed to the Eagle Picher in NM. *Blake Atkins, 214-665-2297*

**Fansteel (FMRI) Site, Muskogee, OK:** EPA received a letter from Governor J. Kevin Stitt of Oklahoma, dated January 9, 2023, designating Fansteel Metals/FMRI, as the State of Oklahoma's highest priority facility under CERCLA §105(a)(8)(B). Consultation on the upcoming decision to place the site on the National Priorities List (NPL) was offered to the Cherokee Nation, the Muscogee Creek Nation, and the United Keetoowah Band of Cherokee. Consultation was held with the Cherokee Nation on February 22, 2023. Neither the Muscogee Creek Nation nor the United Keetoowah Band of Cherokee requested consultation. EPA announced the proposal of the Fansteel Metals/FMRI site to the NPL on March 29, 2023. *Craig Carroll, 214-665-2220 and Susan Webster, 214-665-6784*

## VARIOUS REMEDIAL /REMOVAL ISSUES

**San Mateo Creek Basin Legacy Uranium Mines Site, NM: Central Study Area Groundwater Investigation:** A groundwater Remedial Investigation and Feasibility Study (RI/FS) is being performed by three former uranium mine operators (Homestake Mining Company of California, United Nuclear Corporation, and Rio Algom Mining, Inc.) at the Central Study Area of the San Mateo Creek Basin Groundwater Site. A geophysical seismic survey, which is part of the ongoing RI, was completed in the fall of 2022 to obtain subsurface information on the hydrogeology and support the design of a drilling program for the installation of monitoring wells. Cultural surveys and a public and tribal notification process were performed as part of the New Mexico State Land Office and U.S. Bureau of Land Management requirements for obtaining right-of-entry and right-of-way approvals needed to conduct the seismic survey. A draft technical memorandum on the results of the seismic survey is currently under review by EPA and New Mexico Environment Department. EPA plans to schedule meetings with the local community and tribal stakeholders later this year to provide an update on site activities. *Blake Atkins, 214-665-2297*

**Tronox Navajo Area Uranium Mines East, West and Central Geographic Sub-Areas, Grants Mining District, NM:** EPA is investigating the potential comingling of waste from abandoned uranium mines and material regulated by Nuclear Regulatory Commission (NRC) under the Uranium Mill Tailings Radiation Control Act in the area adjacent to the Rio Algom Mill Site. EPA has worked with NRC and Rio Algom to develop a pragmatic approach to determine the comingled areas using existing data and recognizing CERCLA's ability to adapt to conditions in the field when cleanup work begins. Rio Algom submitted a technical

memorandum to NRC in March 2022 to support development of the approach. NRC expects to finalize the review of the memo and provide responses to clarifying questions in April, and an EPA-NRC call to discuss the determination is scheduled for late April 2023. ***Craig Carroll, 214-665-2220 and Susan Webster, 214-665-6784***

**Tronox Navajo Area Uranium Mines Section 10 Mine, Grants Mining District, NM:**

On January 4, 2023, the Site team provided the draft Engineering Evaluation and Cost Analysis (EE/CA) to the Office of Superfund Remediation and Technology Innovation (OSRTI) for their review. On January 11, 2023, the Site team presented an EE/CA walkthrough presentation for OSRTI and afforded them an opportunity for questions or comments. OSRTI comments were received and incorporated as appropriate. On March 9, 2023, the EPA extended an invitation to the Navajo Nation for consultation on the Engineering Evaluation/Cost Estimate (EE/CA) for the Tronox Section 10 Mine Site. The EE/CA was provided to the Navajo Nation as well as the state of New Mexico for review. EPA plans to release the EE/CA for a 30-day public comment period mid to late April. ***Craig Carroll, 214-665-2220 and Susan Webster, 214-665-6784***

**Homestake Mining Company Former Uranium Mill and Tailing Disposal Superfund Site, NM:**

EPA is currently overseeing the performance of a CERCLA Feasibility Study (FS) and Technical Impracticability (TI) evaluation by Homestake. The FS will evaluate a range of remedial alternatives for the groundwater operable unit and the long-term tailing stabilization, surface reclamation, and site closure operable unit. The EPA National Remedy Review Board (NRRB) reviewed site information, and the NRRB recommendations were included with the Region's comments on a draft alternatives development and screening technical memorandum submitted by Homestake. A revised technical memorandum was submitted to EPA on March 9, 2023, and is under review. A revised draft work plan was submitted by Homestake on March 3, 2023, for collecting site-specific empirical data to support its TI evaluation and is currently under review. EPA is also reviewing Homestake's revised addendum to the site human health risk assessment and is nearing completion of a background reassessment that will support the development of preliminary remediation goals in the FS for groundwater. EPA continues to meet monthly with BVDA and MASE to provide updates on all site related CERCLA activities. EPA is planning meetings with the local community and tribal stakeholders in late May or early June to provide an update on site activities. ***Blake Atkins, 214-665-2297***

**Jackpile-Paguate Uranium Mine Superfund Site, NM:** During the week of February 27-March 3, 2023, EPA co-led a technical field site visit with representatives from Pueblo of Laguna's Environmental and Natural Resources Department and Atlantic Richfield. The field visit included a field discussion of the observed site conditions, specifically regarding current and proposed additional air monitoring locations to support Phase 2 remedial investigation work planning. Site visit objectives also included: (1) visual and geologic inspection of potential site background soil and unconsolidated mine waste sampling locations based on recent supplemental gamma radiation scanning survey efforts in these areas; and (2) assessing previously inaccessible locations of major soil and waste pile erosion. ***Blake Atkins, 214-665-2297***

**Wilcox Oil Company Superfund Site, Bristow, OK:** Construction, using Bipartisan Infrastructure Law (BIL) funding, of the Source Control Interim/Early Action at the Wilcox Oil



Company Superfund site continues. During remediation, additional source material is being found and incorporated into the overall remediation cleanup. This increase in volume impacts the project schedule and funding cost. Currently, remediation activities are expected to continue through May 2023. **Blake Atkins, 214-665-2297**

**Tar Creek Superfund Site, OK:** Investigation and remediation work for Tar Creek continues, including remediation work under Operable Unit (OU) 4 (Chat Piles and Other Mining Wastes) addressing a nearly 8 million tons of chat, with a total of 1,137 acres reclaimed. Quapaw Nation is coming up to the ten-year anniversary of them performing remedial actions via Cooperative Agreements. Under OU2 (Residential Properties), remediating a total of nearly 3000 residential properties, with remedial designs having recently been completed for 7 residential properties. Since August of 2022, DEQ has sampled close to 200 properties. In addition, 175 Tribal/HUD properties had been sampled, with 6 out of the 175 needing remedial work. DEQ is currently waiting for the 2 pending properties for sampling on behalf of Quapaw Nation. **Blake Atkins, 214-665-2297**

**Tri-State Watershed, Lower Spring River (Surface Water and Sediments), including portions of Tar Creek OU5 OK, KS and MO:** In December 2022, EPA completed the biochar pilot study within the Oklahoma portion of the Tri-State watershed and a performance monitoring report is currently underway. EPA has been working with the downstream Tar Creek Trustees Council of Tribes on Management Assistance Grants via Cooperative Agreements to assist them in providing of meaningful input at the site on CERCLA consultation matters. The Tri-State Mining District-wide Tribal Cultural and Historical Resources Study for NHPA Consultation will be completed in April with requests for Consultation planned for May upon completion of the desktop study portion. The regions continue to meet on a regular basis with multiple state and federal agencies, Tribes, and members of the community to plan, report and review the risk assessment and investigation reports. **Blake Atkins, 214-665-2297**

**Energy Transfer Oil Spill Response, Alex, OK:** EPA conducted a final site visit at the Energy Transfer Site on January 9, 2023. During the site visit, the EPA observed that the responsible party's (RP) response and clean-up actions appeared to adequately mitigate any further threat of a discharge into a navigable waterway. There are no additional planned response activities at the site. The Oklahoma Corporation Commission will continue to oversee the RP's clean-up and restoration efforts. The EPA completed and distributed a final pollution report to all government stakeholders on January 17, 2023. **Craig Carroll, 214-665-2220**

**Holly Energy (Skull Creek) Oil Spill Response, Cushing, OK:** Holly Energy, the Responsible Party (RP) completed recovery of free oil that was spilled into Skull Creek on August 26, 2022. Mitigation efforts are in place if major flooding occurs in the area. The RP continues to monitor for and remove remaining residual sheen in Skull Creek coming from the sediment, banks, rocks and vegetation. EPA R6 continues to monitor clean-up operations. The RP provided EPA R6 and Sac and Fox Nation its Remediation Sampling Plan and Quality Assurance Project Plan (QAPP) for review. EPA reviewed the plans and had no comments. The Sac and Fox Nation plans to submit its comments by March 31, 2023. The RP stated if the plans are approved by April 7, 2023, it can start sampling by the week of May 8, 2023. The RP also

continues to work with Department of the Interior (DOI) and Sac and Fox Nation on a Natural Resource Damage Assessment. *Craig Carroll, 214-665-2220*

**Southwest Pickling, Durant, OK:** On December 12, 2022, a sulfuric acid spill of approximately 2,000 to 3,000 gallons occurred from a leaking tank at the Southwest Pickling facility. The facility is a former metal treating operations located in the City of Durant Industrial Park. The area near the spill is commercial, with the nearest residences a mile to the east and 1.5 miles to the west. There is no indication the spill made it anywhere near the residential neighborhoods. On the morning of December 13, 2022, a heavy rain came through the area spreading the spill offsite to the adjacent property, so EPA responded to the spill. Initial readings of a pH of 0 were found near the tank on the facility and pH of 3 in adjacent off-site areas. The Potentially Responsible Parties (PRPs) for this incident are Durant Industrial Authority (owner) and Southwest Pickling (operator). Upon conversations with the PRPs, Oklahoma Department of Environmental Quality (ODEQ), City Manager, Durant Fire Department, and Choctaw Tribal representatives it was determined that PRPs would conduct a voluntary clean-up of the site. As of March 3, 2023, the PRP completed the voluntary clean-up of the contaminated soil at the Site related to the sulfuric acid spill. Approximately 24 cubic yards of soil was excavated and disposed off-Site. The EPA, in coordination with the ODEQ, determined that the PRPs had conducted an adequate cleanup and completed all activities mentioned in the scope of work provided to them by ODEQ related to the emergency response. On March 8, 2023, EPA completed and distributed a final pollution report to all government stakeholders. The Site still has historical contamination and the long-term remediation requirements are being addressed by the PRPs and overseen by ODEQ. *Craig Carroll, 214-665-2220*

**Broken Arrow Landfill Site, Broken Arrow, OK:** Removal activities have been completed at the Broken Arrow Landfill site. All areas with gamma readings above the on-site action level have been capped with at least one foot of compacted clay. An exit survey was conducted over the entire site on December 18, 2022. That survey found one small area requiring additional cap material. Following that addition, all areas passed the gamma screen. Grass seed protected by straw mat has been placed on the site. The site has been fenced and includes signs advising those needing information about the site to contact the Oklahoma Department of Environmental Quality and includes the appropriate phone number. The team demobilized from the site on December 22, 2022, and a final Pollution Report has been distributed. United States Representative Kevin Hern (OK-01) has expressed interest in this site being added to the National Priorities List for a long-term solution to the contamination. *Craig Carroll, 214-665-2220*

**Henryetta Iron and Metal Superfund Site, Henryetta, OK:** On October 17, 2022, the removal action for Henryetta Iron and Metal site began. Site activities include excavation and disposal of contaminated soils and sediments on the facility property, city rights-of-way surrounding the facility, and Dutch Creek. The contaminants of concern associated with the facility are antimony, arsenic, cadmium, copper, lead, mercury, polychlorinated biphenyls (PCBs), benzidine, benzo(a)pyrene, and radium-226 which is known as technologically enhanced naturally occurring radioactive material (TENORM). The current estimated contractor costs for completing this action are \$5,830,000. Removal activities included the transportation and disposal of Toxic Substances Control Act (TSCA) and non-TSCA waste. Results of Dutch Creek

confirmation samples from the last of the radiation areas excavated were received and no samples were above the site-specific clearance standard. This marks the completion of all radiation removal work at the site. All other site work is estimated to be completed by April 28, 2023. *Craig Carroll, 214-665-2220 and Blake Atkins, 214-665-2297*

## **TRAINING**

### **Unified Command Training Webinar for Tribes: Training/Accreditation/Certification**

The Region 6 Regional Response Team (R6 RRT) sponsored and conducted a webinar on October 20, 2022, specifically for tribal environmental leaders entitled "Unified Command Training for Tribes." The webinar discussed the National Response System and the roles of EPA and US Coast Guard Federal On-Scene Coordinators in consultation with tribal partners during a response. Topics such as Area Contingency Plans, EPA and US Coast Guard response assets and planning/preparedness were discussed. Case studies showed the participants the capabilities and resources EPA brings to a response.

### **2022 Fall Semi-annual Region 6 Regional Response Team Meeting, Addison, TX**

EPA Region 6 hosted the 2022 Fall Semi-annual Regional Response Team (RRT-6) Executive Committee and General Meetings on November 1-3, 2022, at the EPA Conference Center in Addison, TX. RRT-6 is co-chaired by EPA and the U.S. Coast Guard (USCG), with membership and participation from federal, state, and tribal agencies. RRT-6 meets semi-annually to discuss planning and preparedness needs; review recent response actions or other issues related to the preparation, implementation, or exercise of regional and/or local plans; and to conduct advance planning for use of dispersants and other chemical countermeasures in response to oil spills. This year's meeting, a hybrid in-person/virtual meeting, was attended by over 50 RRT-6 members and guests in-person and over 60 RRT-6 members and guests virtually. During the two-day General Meeting, attendees heard over 30 presentations and report outs from federal, tribal, and state agencies. The general meeting included a status update by EPA OSC Warren Zehner on the RRT-6 Poison Centers priority, an update on the RRT-6 Tribal priority by EPA OSC Matt Loesel, a case study on the Toxic Aromatherapy Site by EPA OSCs Pratistha Adams and Dan Zahner, as well as an agency and hurricane preparedness report out by Craig Carroll.

# Office of Communities, Tribes and Environmental Assessment

## STAFF UPDATE

Diana Greiner, Katelin Reyna-Galindo, and Tanisha Hinton have joined the staff in the Office of Communities, Tribes and Environmental Assessment (OCTEA). Diana is serving as the acting Environmental Justice Team Leader; Katelin is serving as a GAP Project Officer and Tribal Liaison and Tanisha is serving as a Life Scientist conducting NEPA reviews. Also, Katie Vogle is serving as an Environmental Justice Liaison. Katie was previously a summer intern for OCTEA.

OCTEA welcomes Diana, Katelin, Tanisha and Katie to their positions on the OCTEA Team!

## TRIBAL AFFAIRS

**Region 6 General Assistance Program (GAP):** OCTEA is currently processing FY 2023 GAP grant and Performance Partnership Grant applications. The Region received a GAP allocation of \$8,771,000 from the EPA American Indian Environmental Office. Twenty-two Tribal partners are expected to be in Performance Partnership Grants (PPG) this year. ***Randy Gee, 214-665-8355 and Jay Harris, 214-665-2260.***

OCTEA and the EPA American Indian Environmental Office held training on the new GAP guidance on Tuesday, December 6 and Thursday, December 8. Thanks to everyone who participated in the training. ***Randy Gee, 214-665-8355 and Jay Harris, 214-665-2260.***

## TRIBAL CONSULTATION AND COORDINATION

**EPA Policy on Consultation and Coordination with Indian Tribes: Opportunities for Consultation:** The following tribal consultation opportunities are ongoing:

- *Consultation Invitation for Navajo Nation Regarding the Tronox Section 10 Mine*
- *Consultation on Louisiana Department of Natural Resources UIC Class VI Primacy Application*

***Randy Gee, 214-665-8355***

## ENVIRONMENTAL JUSTICE UPDATE

### **EPA EJ Program Financial and Technical Assistance Programs**

In recent years, the EPA has received unprecedented funding from Congress to advance environmental justice (EJ). In addition to the substantial increases for EJ in the Agency's annual appropriations, EPA received \$3 billion, through the Inflation Reduction Act (IRA), to advance environmental and climate justice. Several financial and technical assistance programs have been, or are being, developed to advance environmental and climate justice and support vulnerable and underserved communities, including tribal and indigenous communities. These

financial and technical programs further the implementation of several principles in the EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples.

Due to the requirements in the section 138(b)(3) of the Clean Air Act (CAA) and the definition of Indian tribe in CAA 302(r) for the Environmental and Climate Justice program, the financial assistance may only be awarded to: 1) community-based non-profit organizations (CBOs); 2) federally recognized tribes, local governments, or institutions of higher education in partnership with a CBO; and (3) CBO partnerships.

Programs funded by IRA include:

**Environmental Justice Collaborative Problem-Solving Cooperative Agreements – \$30 million total funding**

- Funding: Up to \$500,000 per grant, with smaller grants of up to \$150,000 –
- **Applications: closed on April 14, 2023**
- Eligibility: Community-Based Non-Profits
- To develop solutions that will significantly address environmental and/or public health issue(s) in communities disproportionately burdened by environmental harms and risks.

**Environmental Justice Government-to-Government Cooperative Agreements - \$70 million total funding**

- Funding: Up to \$1 million per grant - **Applications: closed on April 14, 2023**
- Eligibility: Federally Recognized Tribal, State, and Local governments in partnership with Community-Based Non-Profits, and U.S. Territorial, Free Associated State, and State Recognized Tribal Governments.
- To support and/or create model government activities that lead to measurable environmental or public health results in communities disproportionately burdened by environmental harms and risks.

**Environmental Justice Thriving Communities Grantmaking (EJ TCGM) - \$550 million total funding**

- Funding: Approximately \$50 million per award (\$16.5 per year, for 3 years) -
- **Applications: due May 31, 2023**
- Eligibility: Federally Recognized Tribal government, or institution of higher education (e.g. Tribal Colleges and Universities) in partnership with a Community-Based Non-Profit (CBO), or a partnership of CBOs.
- New, innovative program to fund up to 11 entities to serve as Grantmakers, using efficient, simplified processes for organizations historically challenged to receive funding for community-based projects to reduce pollution through subawards.

**EJ Thriving Communities Technical Assistance Centers (TCTACs)**

- TCTACs will help advance EJ through technical assistance, training, and capacity-building to a wide range of entities including underserved communities, federally recognized tribes, state recognized tribes, tribal/indigenous grassroots organizations, etc.

- The TCTACs will be operated by colleges/universities; large nonprofits; or intertribal consortia. Expected operation by summer 2023

Definitions:

Community-Based Non-Profits – [For the EJ CPS and G2G programs] “community-based nonprofit organization” (CBO) is a public or private nonprofit organization that supports and/or represents a community and/or certain populations within a community through engagement, education, and other related services provided to individual community residents and community stakeholders. A “community” can be characterized by a particular geographic area and/or by the relationships among members with similar interests and can be characterized as part of a broader national or regional community where organizations can be focused on the needs of urban, rural, and/or tribal areas, farmworkers, displaced workers, children with high levels of lead, people with asthma, subsistence fishers, and other similar groups.

## Mission Support Division

### BUDGET UPDATE

The Consolidated Appropriations Act, 2023 (Public Law 117-328) was enacted on December 29, 2022, and funds the U.S. Environmental Protection Agency at \$10.135 billion, \$576 million above Fiscal Year 2022 levels.

- The law separately provided \$1.6 billion in emergency funding for hurricane and drinking water emergency response.
- Compared to the FY 2022 Enacted Budget, the act provided targeted investments to the following:
  - the geographic water programs, where there is a \$102 million increase;
  - enforcement, where there is a \$47 million increase;
  - the Ensure Clean and Safe Water accounts, where there is a \$32 million increase;
  - environmental justice, where there is an \$8 million increase;
  - Clean Air, where there is a \$31 million increase;
  - State and Tribal Assistance Grants, where there is a \$128 million increase.
- Congress also included over \$1.4 billion in earmarked community projects, primarily in the Water State Revolving Funds, and the operating plan supports critical additional full-time equivalents to carry out this workload as summarized in the attachments. We know these projects are, and will continue to be, a substantial additional workload for the EPA, and additional FTEs and resources are provided within the appropriation to implement and provide needed oversight.
- To sustain and advance progress in priority areas, \$40.7 million in prior year funds also will be provided within the controls established in our appropriations by Congress.

Region 6 has received the Operating Plan from the agency, providing an initial total of \$388.9m of EPA's \$10.14b budget (excludes reimbursable, special accounts, and carryover funds). Spending is divided into four specific categories.

- The most significant category is assistance agreements (grants and cooperative agreements), which accounted for \$246.8m or 63.5% of Region 6's funds. Grants are used to: (1) financially support continuing environmental programs administered by state, tribal, and local governments, and (2) fund other environmental projects with various partners.
- The second largest category at nearly \$120.3m or 30.9%, is Payroll, Compensation and Benefits (PC&B). This account covers salaries, benefits, overtime, and awards for employees.
- The third largest category is contracts and interagency agreements, which accounted for approximately \$14.0m or 3.6% of all Region 6 FY 2021 funds. Examples of contracts include IT Support, Records Center, and remedial/removal contracts in Superfund projects.

- The fourth category is Other (e.g. administrative support), with 2.0% of all funds. This covers all travel, training, as well as remaining expenses in support of the workforce and ongoing operations and maintenance of the regional office including the Houston Laboratory.
- The Infrastructure, Investment, and Jobs Act resources Region 6 manages totals \$2.17b across Fiscal Years 2022 and 2023.
- The Inflation Reduction Act resources Region 6 manages totals \$20.8m across Fiscal Years 2022-2031 (majority of the funding is 2022-2026).

At any point in the fiscal year, our grants office and staff are working grants packages for states and tribes across several fiscal years as depicted below.

Although the FY23 operating plan includes \$246.8m for grants, the region manages over \$1b in grant packages over several fiscal years for all states and tribes.

### **Small Business Engagement**

The Small Business Administration (SBA) is responsible for ensuring that the government-wide goal for participation of small businesses is established annually and EPA's achievements are relative to the goals.

Each year Region 6 contracting is responsible for and measured on the percentage of small business contracts. This effort presents opportunities for small businesses to provide needed environmental services to the agency and specifically, Region 6.



## Laboratory Services and Applied Science Division

**UPDATED Organization Chart:** During the March 7<sup>th</sup> RTOC call, R6 QA staff were requested to provide our Tribal Partners with an updated organization chart after it was reported that the new Regional Quality Assurance Manager will be Ray Flores. Note, the attachment in the RTOC packet addresses this action item. *Raymond Flores, 281-983-2139*

Please see the bio for Mr. Flores:

I completed my Bachelor of Science in 1979 at Texas State University and Master of Science at the University of Houston in 1985. I worked for seven years in Houston at private Oil & Gas and Environmental firms whereupon I was employed at the Air Force's Drug Testing Lab, Brooks AFB, San Antonio TX, in 1986. In 1987 I transferred to the US Environmental Protection Agency, Region 6, Houston Laboratory where I have spent most of my career. My initial work at the Houston Region 6 Laboratory included sample preparation and analysis of various organic compounds. For 30 years I worked in Superfund's Contract Laboratory Program managing the contracted analyses for organic, inorganic and high-resolution target compounds in various matrices. For the last two years I have served as the Supervisor of the Laboratory Support and External Oversight Section. For nine years I served as Adjunct Faculty at Houston Community College teaching introductory chemistry.

**EPA REGION 6 QUALITY ASSURANCE (QA) ONLINE TRAINING AND GRANTEE QA DOCUMENTS:** Region 6 (R6) Laboratory Services and Applied Science Division continues to provide Computer Generated Quality Assurance (QA) Training for Grantees and non-EPA R6 QA employees! The Regional QA program has transferred to online QA training for a variety of reasons including limited in-office availability and effective use of resources. It details the requirements for conducting quality management activities for environmental data collection and environmental technology programs performed by or for the Agency. The training will take several days to complete, and attendees will have a year (until January 31, 2024) to complete the training. Please review all the provided material before moving forward to take the quiz and obtaining your automated e-certificate. Note, R6 QA staff are also electronically notified once someone completes the training! Nonetheless, please obtain a screenshot of your certificate for your records. The revamped training is in lieu of the previously offered four-day classroom training, and thus will be considered as equivalent. You can access the training by clicking on the following link: <https://www.epa.gov/quality/r6-qa-training-grantees-and-other-qa-personnel>. The QA staff would like to thank all who've taken the training and our R6 Tribal Partners/Grantees for providing all the necessary electronically signed/approved QA documents to the R6 QA staff. *Raymond Flores, 281-983-2139*

**UPDATED STANDARDS:** The R6 QA staff would like to remind our Tribal Partners of our ongoing Agencywide QA Standard updates. We would also like to thank Katherine Chalfant, the Director of Enterprise Quality Management Division located within the Office of Enterprise Information Programs at Headquarters (HQ) for presenting on the status of the QA Standards updates during the March RTOC monthly call. HQ has provided all Regions with the [Quality Management Plan \(QMP\) Standard](#) link, which has been posted to the [OMS-EI Information Technology/Information Management Directives](#) website. This directive was signed

by Vaughn Noga, EPA's Deputy Assistant Administrator for Environmental Information and Chief Information Officer, on January 17, 2023; and it supports the implementation of EPA's Environmental Information Quality Policy and Environmental Information Quality Procedure. The Standard defines the minimum requirements for QMPs for all EPA and non-EPA organizations performing environmental information operations. *Please be advised that the updated QMP requirements will apply to all new and supplemental grant awards issued on or after February 17, 2023, pending training availability. Previously awarded grants will continue to use the existing requirements, unless they are amended to add new activities requiring a QMP, in which case the requirements of the new QMP Standard must be followed.* Additionally, the QAPP Standard and the QAPP Guidance Standard documents are currently going through the same process as was done for the QMP Standard update, and keep in mind that the Graded Approach still applies with respect to all of these updates. Please contact Linda Himmelbauer ([Himmelbauer.Linda@epa.gov](mailto:Himmelbauer.Linda@epa.gov)) via HQs, to learn more about these efforts and all the work being done to update these documents. **Raymond Flores, 281-983-2139**