



# Southern Review

## of Legislative & Regulatory Actions

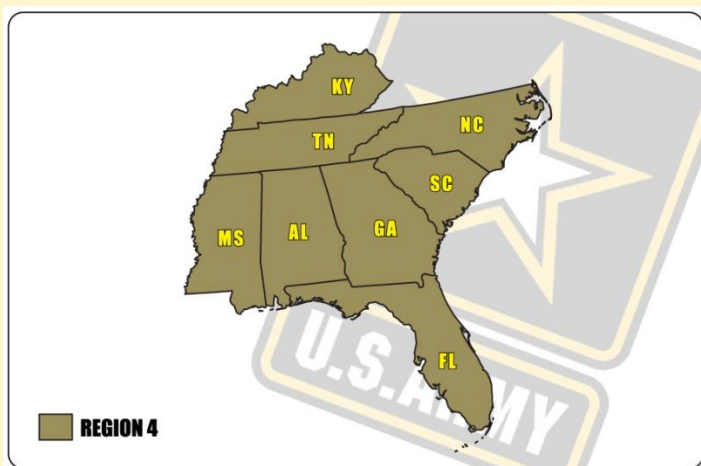


The U.S. Army Regional Environmental & Energy Office

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The *Southern Review* publishes environmental and energy related developments for DOD/Army leaders and installation staff. Covering the eight states in Federal Region 4, the *Southern Review* gives early notice of legislative and regulatory activities relevant to DOD interests. The *Southern Review* also helps installations meet ISO 14001 environmental management system requirements.

To read back issues of the *Southern Review* or other Army Regional Environmental and Energy Office *Reviews*, or to receive a monthly copy of this electronic publication, please [send an email request](#).



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## GOPHER TORTOISE CONSERVATION STRATEGY

The U.S. Fish and Wildlife Service (FWS) recently announced the availability for comment of a [proposed strategy](#) to protect [gopher tortoises](#) in Alabama, Georgia, Florida, and South Carolina, where the tortoises are found but are not listed under the Endangered Species Act (ESA) ([81 FR 28885](#)).

The strategy describes conservation activities designed to protect and enhance habitats for the gopher tortoise on lands that have been permanently protected in the strategy area, or the portion of the historic range of the species where it is not listed.

Under the proposed strategy, the military services could voluntarily agree to undertake specified conservation activities to conserve gopher tortoise populations and habitat within the strategy area. The military services could generate and accumulate Gopher Tortoise Conservation Credits (GTCCs) for undertaking conservation activities set forth in the strategy. Those GTCCs could, in turn, be tendered to the services to offset impacts to the species from training operations if the gopher tortoise were to be listed as “threatened” or “endangered” in the future.

The strategy was developed by the FWS in conjunction with the Alabama Department of Conservation and Natural Resources, Florida Fish and Wildlife Conservation Commission, Georgia Department of Natural Resources, and South Carolina Department of Natural Resources.

Comments on the proposed strategy were due 9 JUN 16. For more information, click [here](#).

# Region 4

For more information or to comment on any state issue in Region 4, please contact [Dave Blalock](#), REEO-S Regional Counsel, (404) 545-5655.



## ***2016 LEGISLATIVE SESSION: 2 FEB 16 THROUGH 16 MAY 16***

Alabama has a one-year session. Adjournment dates are estimated and updated based on legislative activity.

### ***LEGISLATION***

**ALABAMA SB 312, EMPLOYMENT INCENTIVES.** Provides an incentive to create employment within areas impacted by military installation closures. It expands the jobs credit allowed under section [40-18-375](#) of the Code of Alabama to include [approved companies](#) that employ eligible employees by or through a [qualifying project](#) located within a former active duty military installation closed by the Base Realignment and Closure process. In addition to the jobs credit allowed under section 40-18-375, it provides incentivized companies a 0.5 percent jobs credit on the wages paid to employees during the prior year. Last action: Assigned Act Number 2016-312 on 3 MAY 16; effective 10 MAY 16.

### ***PROPOSED RULES***

**GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT ALG870000.** The Alabama Department of Environmental Management (ADEM) proposes to reissue the [General NPDES Permit](#) for discharges to waters of the state from the application of biological or chemical pesticides that leave a residue. All discharges authorized by this general permit involve applications of pesticides to waters of the state (in or over waters) in order to control pests, or applications to control pests near water in which pesticides will make unavoidable contact with the water. ADEM issued a [public notice](#) on 11 MAY 16, with comments due within 30 days of the notice publication.

### ***FINAL RULES***

**DROUGHT PLANNING AND RESPONSE.** The Alabama Department of Economic and Community Affairs adopted new rule [Chapter 305-7-13](#), Drought Planning and Response, pursuant to the implementation of the Alabama Drought Planning and Response Act, Act 2014-400, as codified in Section 9-10C-1 et seq., Code of Ala. 1975. The new rule provides procedures for the organization of the Alabama Drought Assessment and Planning Team, the publication of a state drought plan, requirements for community public water system drought conservation plans, and reporting on voluntary and mandatory restrictions or reductions by community public water systems. Effective on 21 JUN 16.



## ***2016 LEGISLATIVE SESSION: 12 JAN 16 THROUGH 11 MAR 16***

Florida has a one-year session. Adjournment dates are estimated and updated based on legislative activity.

### ***PROPOSED RULES***

**COASTAL CONSTRUCTION PERMITS.** The Florida Department of Environmental Protection (FLDEP) [proposes](#) to amend rule [62B-41, F.A.C.](#), which contains the criteria and procedures for obtaining a coastal construction permit. The amendments will refine criteria for coastal construction, inlet construction and maintenance, and beach restoration and nourishment. These changes will update the rule to implement statutory changes, conform the rule to existing statutes, and address comments raised by the Joint Administrative Procedures Committee. Additionally, outdated and duplicative references will be deleted, and electronic submittal requirements will be incorporated. FLDEP published a [notice](#) on 16 MAY 16; the department will hold a rule development workshop on 7 JUN 16.

**MARINE TURTLE PERMITS.** The Florida Fish and Wildlife Conservation Commission (FWC) proposes to amend [chapter 68E-1, F.A.C.](#), Marine Turtle Permits and the Marine Turtle Conservation Guidelines, to clarify timelines and criteria for review and approval of permits to conduct research, education, and conservation activities with federally listed marine turtles in Florida and to update the guidelines for this program. The [amended rule](#) would enable firms and corporations to obtain permits for conservation work with threatened and endangered marine turtles, provided they identify qualified individuals who can meet all requirements for a particular activity. Currently all permits are issued for one year; the amended rule increases permit duration to two years if certain requirements are met. Updated forms and the Marine Turtle Conservation Handbook, which details procedures for authorized activities, are incorporated by reference. [Rule 68E-1.0061, F.A.C.](#), would be repealed because all requirements have been incorporated into other rule sections. FWC published a [notice](#) of proposed rule on 6 MAY 16, and the commission will hold a hearing on 22 JUN 16.

### ***FINAL RULES***

**ENVIRONMENTAL RESOURCE PERMITTING RULES.** The South Florida Water Management District adopted amendments to [40E-4.091, F.A.C.](#), and the Environmental Resource Permit Applicant's Handbook, Volume II, For Use Within the Geographic Limits of the South Florida Water Management District, that will incorporate the amended water quality standards of the FLDEP, Chapters [62-4](#), [62-302](#), and [62-550](#), F.A.C. The district published a [notice](#) of rule filing on 10 MAY 16; the amended rules are effective 22 MAY 16.

**REGULATED PLANT INDEX.** The Florida Department of Agriculture and Consumer Services (FLDACS) adopted amendments to [5B-40.0055, F.A.C.](#), wherein the department maintains a list of endangered, threatened, or commercially exploited plants. The intent is to ensure these plants are protected and conservation of the state's natural areas is observed. FLDACS published the [notice](#) of rule filing on 3 MAY 16.



## ***2016 LEGISLATIVE SESSION: 11 JAN 16 THROUGH 31 MAR 16***

Georgia has a two-year session (2015-2016) with 2015 bills carrying over for consideration in 2016. Adjournment dates are estimated and updated based on legislative activity.

## LEGISLATION

**GEORGIA HB 779, UNMANNED AIRCRAFT SYSTEMS.** Regulates the use of unmanned aircraft systems (UASs) and creates the Georgia Unmanned Vehicle Systems Commission. It prohibits the sale, transport, manufacture, possession, or operation of a UAS that is equipped with a weapon, except for military operations or federal governmental contracts involving research with such UASs. It also prohibits law enforcement agencies from using a UAS to gather evidence or other information in a private place or of an individual in a private place, except under a search warrant signed by a judge authorizing the use of a UAS or other lawful purposes such as to provide aerial coverage in an active search or hostage situation. Last action: Vetoed by the governor on 3 MAY 16. **REEO-S Note:** The governor asserted that the state should wait on federal regulations before attempting to establish its own regulations; however, he plans to establish by executive order a commission to propose state-level guidelines until federal regulations are finalized.



### ***2016 LEGISLATIVE SESSION: 5 JAN 16 THROUGH 12 APR 16***

Kentucky has a one-year session. Adjournment dates are estimated and updated based on legislative activity.

#### ***FINAL RULES***

**LIST OF HAZARDOUS WASTES.** The Kentucky Department of Environmental Protection (DEP) adopted an emergency regulation amending [401 KAR 31:040](#), adding hazardous waste codes for treated wastes of nerve and blistering agents. The amendment references change to [C.F.R. 263.31](#) that modifies the F019 listing to allow wastewater treatment sludge to be disposed of as a nonhazardous waste. Due to removal of 40 C.F.R. 263.38, the comparable syngas fuel exclusion, the reference was also removed from this administrative regulation. The DEP published the adopted emergency rules on 1 JUN 16; the changes are effective as of 26 APR 16 but expire on 23 OCT 16.



### ***2016 LEGISLATIVE SESSION: 5 JAN 16 THROUGH 8 MAY 16***

Mississippi has a one-year session. Adjournment dates are estimated and updated based on legislative activity.

#### ***PROPOSED RULES***

**ON-SITE WASTEWATER REGULATIONS.** The Mississippi Department of Health [proposes](#) to amend Part 18, Subpart 77 On-Site Wastewater Regulations, Chapter 7, to modify fees and propose new fees. The department filed the proposed rule on 25 MAY 16 and held a hearing on 13 JUN 16.



### ***2016 LEGISLATIVE SESSION: 25 APR 16 THROUGH 30 JUN 16***



North Carolina has a two-year session (2015-2016) with 2015 bills carrying over for consideration in 2016. Adjournment dates are estimated and updated based on legislative activity.

**NORTH CAROLINA HB 760, REGULATORY REFORM.** Eliminates unnecessary or outdated statutes and regulations and modernizes or simplifies cumbersome or outdated regulations, and makes other statutory changes. The bill includes amendments related to isolated wetlands, stormwater runoff, riparian buffers, renewable energy portfolio standards, small power producers, and wastewater treatment systems. Last action: Senate referred to committee on 18 MAY 16.

**NORTH CAROLINA HB 1024 (SB 763), STORMWATER MANAGEMENT.** Prohibits the director of the Division of Water Resources from requiring on-site stormwater control measures to protect downstream water quality, except as required by federal or state law. Last action: Passed first reading in the House and referred to committee on 4 MAY 16. **REEO-S Note:** This measure would prevent the Department of Environmental Quality (DEQ) from requiring on-site stormwater control measures, except as already provided by law, until a revised permanent rule is adopted by the Environmental Management Commission. The impact of this measure is unclear as DOD facilities are already required to comply with stormwater management provisions in [Section 438](#) of the [Energy Independence and Security Act](#).

**NORTH CAROLINA HB 1025 (SB 765), STREAM MITIGATION.** Directs the DEQ to submit written comments on behalf of the state to the U.S. Army Corps of Engineers' (USACE) published notice of the proposed 2017 five-year reauthorization of nationwide permits issued pursuant to Section 404(e) of the Clean Water Act (CWA). The comments would support the Wilmington District adopting regional conditions that will increase the stream mitigation threshold for perennial or ephemeral/intermittent stream from 150 linear feet to 300 linear feet. Last action: Passed first reading in the House and referred to committee on 4 MAY 16.

**NORTH CAROLINA HB 1051 (SB 777), SANITARY LANDFILLS.** Provides technical, clarifying, and conforming changes to provisions enacted in 2015 to establish life-of-site permits for sanitary landfills and transfer stations. Allows franchise agreements previously executed by local governments for sanitary landfills to be modified by agreement of all parties to last for the service life of the landfill site, except that no franchise agreement, modified or newly executed, may exceed a duration of 60 years, as recommended by the environmental review commission. Last action: Passed first reading in the House and referred to committee on 10 MAY 16.

**NORTH CAROLINA HB 1074, LEAD EXPOSURE.** Requires all schools in North Carolina to test drinking water outlets for the presence of lead and to establish a pilot program in three public school districts to raise the high school dropout age from 16 to 18. Schools must submit drinking water samples to a laboratory certified by the North Carolina State Laboratory of Public Health, Environmental Sciences Branch, to conduct the lead analyses required. **REEO-S Note:** This bill would require all schools to test drinking water for the presence of lead and would raise the dropout age in three school systems. It likely would affect DOD schools at Fort Bragg and Camp Lejeune. Last action: Passed first reading in the House and referred to committee on 11 MAY 16.

**NORTH CAROLINA HB 1144 (SB 884), THREATENED OR ENDANGERED SPECIES.** Disapproves certain rules adopted by the North Carolina Wildlife Resources Commission on 18 MAR 15, and approved by the Rules Review Commission on 16 APR 15. It specifically disapproves rules pertaining to (1) possession of wildlife killed accidentally or found dead; (2) hunting coyote; (3) protection of threatened, endangered, or special concern species; and (4) federally listed and state-listed threatened species. Last action: Passed first reading in the House and referred to committee on 25 MAY 16; companion bill passed first reading in the Senate and referred to committee on 23 MAY 16. **REEO-S Note:** It is not clear that such disapproval would affect DOD activities in the state. Concerns were not identified during targeted rulemaking.

**NORTH CAROLINA SB 843, RENEWABLE ENERGY.** Prevents interference with property rights, environmental damage, and harms to public health resulting from the siting and operation of renewable energy facilities. Last action: Passed first reading in the Senate and referred to committee on 11 MAY 16. **REEO-S Note:** This measure seeks to expand existing wind energy project permit requirements to other renewable energy facilities. It would also create additional preapplication requirements and liability exposure for all renewable facility developers.

## ***PROPOSED RULES***

**NOTICE OF INTENT TO REISSUE NPDES GENERAL WASTEWATER PERMITS.** The North Carolina Environmental Management Commission (EMC) issued a [notice](#) that it will reissue the following NPDES general permits: (1) NPDES General Permit No. NCG510000, for the discharge of treated wastewater resulting from the remediation of petroleum-contaminated groundwater and similar wastewaters; and (2) NPDES General Permit No. NCG560000, for the discharge of pesticide products. The commission issued the notice on 16 MAY 16; the comment deadline is 15 JUN 16.

**NPDES INDUSTRIAL DISCHARGE GENERAL PERMITS.** The EMC issued a [notice](#) requesting public comment on the following NPDES industrial discharge general permits: (1) NCG010000 for construction activities stormwater, which is to be reissued for two years with no changes; (2) NCG140000 for ready-mixed concrete manufacturing stormwater and wastewater, which is to be reissued for one year with no changes; and (3) NCG240000 for compost manufacturing stormwater and wastewater, which is to be reissued for one year with no changes. The public comment period ends on 15 JUN 16.

**STARTUP, SHUTDOWN, AND MALFUNCTION (SSM) STATE IMPLEMENTATION PLAN (SIP) CALL RULE REVISIONS.** The NC Department of Environment and Natural Resources (DENR) [proposes amendments](#) to [15A NCAC 02D .0535](#) and the adoption of 15A NCAC 02D .0545 relating to SSM operations. The DENR filed the proposed rule on 12 MAY 16; it will hold a hearing on 20 JUL 16, and comments are due by 1 AUG 16.



## ***2016 LEGISLATIVE SESSION: 12 JAN 16 THROUGH 2 JUN 16***

South Carolina has a two-year session (2015-2016), with bills carrying over for consideration in 2016. Adjournment dates are estimated and updated based on legislative activity.

## ***LEGISLATION***

**SOUTH CAROLINA HJR 5412, WILDLIFE MANAGEMENT.** Approves regulations of the Department of Natural Resources, relating to wildlife management area regulations and turkey hunting rules and seasons. The regulations amend [Chapter 123-40](#), Wildlife Management Area Regulations, and 123-51, Turkey Hunting Rules and Seasons, in order to set seasons, bag limits, and methods of hunting and taking of wildlife on existing and additional Wildlife Management Areas (WMAs); and provide additional turkey hunting opportunity on new properties in the WMA program. Last action: Passed first reading in the House and placed on calendar without reference on 25 MAY 16.

## ***FINAL RULES***

**UNDERGROUND STORAGE TANK CONTROL REGULATIONS.** The South Carolina Department of Health and Environmental Control (DHEC) adopted revisions to Section 280.25 of R.61-92, [Underground Storage Tank Control Regulations](#). The amendment establishes new conditional requirements for existing facilities and adds statutory authority for the regulation. DHEC published the final regulation on 27 MAY 16.

**WELL STANDARDS.** The DHEC adopted amendments to the [well standards](#) regulation. The regulation contains the minimum standards for the construction, maintenance, and operation of the following wells: individual residential, irrigation, monitoring (including non-standard installations), and boreholes to ensure that underground sources of drinking water are not contaminated and public health is protected. The amendments update R.61-71 to be consistent

with R.61-56, [Onsite Wastewater Systems](#), and clarify that it applies to injection wells as specified in R.61-87, [Underground Injection Control Regulations](#). The regulation is effective 27 MAY 16.



## ***2016 LEGISLATIVE SESSION: 12 JAN 16 THROUGH 20 APR 16***

Tennessee has a two-year session (2015-2016) with bills carrying over for consideration in 2016. Adjournment dates are estimated and updated based on legislative activity.

### ***PROPOSED RULES***

**GENERAL NPDES PERMIT FOR DISCHARGES OF STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITY.** The Tennessee Department of Environment and Conservation (TDEC), Division of Water Resources, proposes to issue a General NPDES Permit for Discharges of Stormwater Associated with Construction Activity, Permit Number TNR 100000. The permit would authorize discharges of stormwater runoff to potentially any public surface water in the state from construction activities including clearing, grading, filling and excavating (including borrow pits), or other similar activities that result in the disturbance of one acre or more of total land area. The proposed permit contains treatment, monitoring and reporting requirements in accordance with federal and state standards. Permit conditions are tentative and subject to public comment. TDEC issued [notice](#) on the proposed permit on 3 MAY 16; it held a hearing on 10 JUN 16. Comments are due by 17 JUN 16.

**RULES GOVERNING WATER AND WASTEWATER OPERATOR CERTIFICATION.** The TDEC proposes [amendments](#) to the Rules Governing Water and Wastewater Certification (Chapter 0400-49-01) to clarify and simplify the rules. The amendments would eliminate the need for an applicant to have their signature notarized, support giving examinations in written and electronic formats, and increase the renewal application fees. TDEC will conduct a hearing on 28 JUN 16. Comments are due by 28 JUN 16.

**VEHICLE EMISSIONS REGULATIONS.** The TDEC proposes to amend paragraph (1) of [Rule 1200-03-05-.02](#), which clarifies that irrespective of any permit conditions or due allowances for visible emissions, no emission will be allowed that can be proved to cause or contribute to violations of National Ambient Air Quality Standards. TDEC will conduct a hearing on 21 JUN 16. Comments are due by 21 JUN 16.

# **Department of Defense Activity**

### ***EMERGING CONTAMINANTS***

**AIR FORCE RESPONSE TO PFOA AND PFOS.** According to a [press release](#), the Air Force will apply new Environmental Protection Agency (EPA) guidance for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) to its ongoing effort to determine if water supplies at its U.S. installations are at risk for contamination. The Air Force has been following EPA's 2009 short-term provisional health advisory level set at 400 ppt for PFOA and 200 ppt for PFOS. In May, EPA released new lifetime exposure health advisories for PFOA at 70 ppt and for PFOS at 70 ppt, singly or combined, which the service will apply. In addition, the Air Force released a [statement](#) about its program for assessing Air Force installations for the presence of perfluorinated chemicals (PFCs), which may have been released as part of a firefighting

effort or training scenario. PFCs are a component of aqueous film forming foam, a firefighting foam that has been used by the Air Force and other DOD components to protect people and property from fuel-based fires. To learn more about the Air Force response to PFCs, click [here](#).

## **ENERGY**

**DFARS: CONTRACT TERM LIMIT FOR ENERGY SAVINGS CONTRACTS.** DOD issued a final rule clarifying that the contract term for energy savings contracts awarded under [10 USC 2913](#) cannot exceed 25 years ([81 FR 28733](#)). The final rule amending Defense Federal Acquisition Regulation Supplement (DFARS) [Case 2015-2018](#) was effective 10 MAY 16.

**FAR: HIGH GLOBAL WARMING POTENTIAL HYDROFLUOROCARBONS.** DOD, the General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) issued a final rule amending the Federal Acquisition Regulation (FAR) to procure, when feasible, alternatives to high global warming potential hydrofluorocarbons ([81 FR 30429](#)). The final rule, effective 15 JUN 16, will allow agencies to better meet the greenhouse gas (GHG) emission reduction goals and reporting requirements of Executive Order (EO) 13693, [Planning for Sustainability in the Next Decade](#).

**FAR: GHG REPORTING AND REDUCTION GOALS.** DOD, GSA, and NASA are proposing to revise the FAR to add an annual representation within the System for Award Management for offerors to indicate if and where they publicly disclose GHG emissions and GHG reduction goals or targets ([81 FR 33192](#)). Vendors who received \$7.5 million or more in federal contract awards in the preceding federal fiscal year would be subject to the reporting requirement. Comments are due 25 JUL 16.

## **POLICY AND INSTRUCTIONS**

**RECOVERY OF CHEMICAL WARFARE MATERIAL (CWM).** The Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics issued Department of Defense Directive ([DODD 5101.17E, Roles and Responsibilities Associated with the Recovery of Chemical Warfare Material](#)). The DODD establishes roles and assigns responsibilities for the oversight, coordination, management, and execution of actions involving CWM recovered within and outside the United States.

## **RANGE SUSTAINMENT**

**SENATE COMMITTEE DIRECTS DOD TO DEVELOP PLAN TO SUSTAIN TRAINING RANGES.** DOD should develop a strategic plan to provide the necessary resources for infrastructure improvements at national test and training ranges and tackle encroachment issues, according to a report accompanying the fiscal 2017 defense authorization bill passed by the Senate Armed Services Committee in May. The committee directs DOD to provide a written plan and briefing to the congressional defense committees within six months after the legislation is enacted. The report, S. Rpt. 114-255 is available [here](#). To read a news report, click [here](#).

# **Federal Activity**

## **AIR**

**NESHAP SITE REMEDIATION RULE.** EPA is proposing to amend the National Emission Standards for Hazardous Air Pollutants (NESHAP) [site remediation rule](#) by removing exemptions for certain remediation activities ([81 FR 29821](#)). NESHAP currently exempts site remediation performed under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Resource Conservation and Recovery Act (RCRA) corrective action or orders. EPA is



proposing to remove these exemptions, and to remove the applicability requirement that site remediation be co-located with at least one other stationary source regulated by another NESHAP. Comments are due 27 JUN 16.

**PROTECTION OF STRATOSPHERIC OZONE: SNAP PROGRAM.** EPA expanded to the list of acceptable substitutes pursuant to its Significant New Alternatives Policy (SNAP) program ([81 FR 32241](#)). The action lists as acceptable additional substitutes for use in the refrigeration and air conditioning sector. The final determination was effective 23 MAY 16. For more information about the SNAP program, click [here](#).

**2008 OZONE NAAQS DETERMINATIONS.** EPA issued a final rule on three separate types of determinations for each of the 36 areas classified as marginal for attainment of the 2008 ozone National Ambient Air Quality Standards (NAAQS) ([81 FR 26697](#)). The agency determined that 17 areas attained the 2008 NAAQS; granted one-year extensions for eight areas; and determined that 11 areas failed to attain the 2008 ozone NAAQS and reclassified these areas as moderate. States containing any portion of these moderate areas must submit SIP revisions by 1 JAN 17. The final rule was effective 3 JUN 16. To view the list of areas subject to each of the determinations, click [here](#).

**SIPs: PROTECTION OF VISIBILITY.** EPA is proposing amendments to visibility protection SIPs in [Class I](#) areas ([81 FR 26941](#)). The amendments are intended to clarify the relationship between long-term strategies and reasonable progress goals in state plans, and the long-term strategy obligation of all states. The amendments would also:

- Change the way in which some days during each year are to be selected for purposes of tracking progress toward natural visibility conditions to account for events such as wildfires;
- Change aspects of the requirements for the content of progress reports;
- Update, simplify, and extend to all states the provisions for reasonably attributable visibility impairment and revoke existing federal implementation plans that require EPA assess and address any existing reasonably attributable visibility impairment situations in some states; and
- Add a requirement for states to consult with federal land managers earlier in the development of state plans.

The agency is also proposing to adjust due dates for SIP revisions. Comments are due 5 JUL 16.

## **CLEANUP**

**CERCLA RESPONSE ACTIONS AT DOD SITES WITH RADIOACTIVE MATERIALS.** The Nuclear Regulatory Commission (NRC) issued a [regulatory issues summary](#) addressing response actions at DOD sites with radioactive materials, specifically radium, and an associated memorandum of agreement (MOU) addressing coordination of response actions at DOD sites with unlicensed radioactive materials ([81 FR 31699](#)). The regulatory issues summary and the MOU address actions taken under CERCLA. The summary indicates NRC will have jurisdiction over all radium except that specifically being used for military operations. NRC will generally have jurisdiction over remediation involving radium. The MOU is available [here](#), in the NRC's documents system, [Ascension Number ML 16092A294](#). To view NRC responses to public comments on the draft regulatory issues document, click [here](#).

## **CLIMATE CHANGE**

**STORMWATER MANAGEMENT IN RESPONSE TO CLIMATE CHANGE IMPACTS: LESSONS LEARNED.** EPA has released a document that describes insights gained from a series of workshops with communities in the Chesapeake Bay and Great Lakes regions on local stormwater adaptation efforts taken in response to climate change ([81 FR 31633](#)). Water resources in the United States are affected by climate stressors, including increasing temperatures, changing precipitation patterns, and extreme events. These changing conditions have implications for stormwater management as local decision makers look to improve existing infrastructure and build new stormwater systems. EPA and the National Oceanic and Atmospheric Administration (NOAA) conducted workshops with local planners about how projected land use and climate change could impact local water conditions and how adaptation (resiliency) planning can fit into decision-making processes to help meet existing goals. The report reviews lessons learned from adaptation planning workshops:

identifying barriers to addressing climate change, methods to overcome barriers in the short term, and long-term information needs to further assist communities in their stormwater adaptation efforts. The final document is available [here](#).

**EPA CLIMATE CHANGE ACCOMPLISHMENTS.** EPA released its [2015 Highlights of Progress: Responses to Climate Change](#) report, which summarizes the major climate change-related EPA accomplishments of its national and regional water programs during 2015. The report also highlights major research projects addressing climate change and water that were completed in 2015 by the EPA Office of Research and Development. The highlights were broken down across six vision areas: Water Infrastructure, Watersheds and Wetlands, Coastal and Ocean Waters, Water Quality, Working with Tribes, and Cross-cutting Program Support.

## ***ENERGY***

**ENERGY EFFICIENCY FEDERAL FUNDING OPPORTUNITY.** The Federal Emergency Management Program (FEMP) announced it will provide grants to federal agencies to establish programs to improve the energy efficiency of federal buildings. The [Assisting Federal Facilities with Energy Conservation Technologies \(AFFECT\) Funding Opportunity Announcement \(FOA\) 2016](#) will provide direct funding to federal agencies for the development of an institutionalized process to initiate, supplement, improve, or increase the viability and deployment of energy efficiency at federal government-owned facilities through use of the [ENABLE Energy Savings Performance Contract \(ESPC\)](#). The ENABLE contract is a streamlined ESPC for small sites that is limited to the following five types of energy conservation measures: lighting; water; controls for heating, ventilation, and air conditioning (HVAC) equipment; replacement of HVAC equipment; and solar photovoltaics. The anticipated total funding level for AFFECT is \$3 million, with anticipated funding per award to be between approximately \$200,000 and \$1 million. The letter of intent is due 27 JUN 16. The full application is due 27 JUL 16.

**RENEWABLE FUEL STANDARDS FOR 2017 AND 2018.** EPA is proposing to set the renewable fuel percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel that would apply to all motor vehicle gasoline and diesel produced or imported in the year 2017 ([81 FR 34777](#)). EPA is proposing a cellulosic biofuel volume that is below the applicable volume specified in the Clean Air Act. EPA is also proposing to reduce the applicable volumes of advanced biofuel and total renewable fuel. The proposed standards are expected to continue driving the market to overcome constraints in renewable fuel distribution infrastructure, which in turn is expected to lead to substantial growth over time in the production and use of renewable fuels. In addition, EPA is proposing to set the applicable volume of biomass-based diesel for 2018. Comments are due 11 JUL 18.

## ***HAZARDOUS MATERIALS***

**BATTERY-POWERED ELECTRONIC SMOKING DEVICES.** The Pipeline and Hazardous Materials Safety Administration issued a final rule prohibiting aircraft passengers from carrying battery-powered portable electronic smoking devices (such as e-cigarettes) in checked baggage and from charging these devices and their batteries on board the aircraft ([81 FR 31529](#)). The devices may continue to be in carry-on baggage. The final rule is effective 20 JUN 16.

## ***MISCELLANEOUS***

**ENVIRONMENTAL JUSTICE.** EPA released an update to its environmental justice strategy for public comment. The [draft Environmental Justice 2020 Action Agenda](#) builds on the agency's 2014 environmental justice plan to integrate environmental justice in all EPA programs, including rule-writing, permitting, enforcement, science, and law. Comments are due 7 JUL 16. For more information, click [here](#).

## ***NATURAL RESOURCES***

**WILDLAND-URBAN INTERFACE RISK MITIGATION.** President Obama issued EO 13728, Wildland-Urban Interface Federal Risk Mitigation ([81 FR 32221](#)). The EO directs federal departments and agencies to enhance the wildfire resilience of their buildings when making investment decisions to ensure continued performance of essential functions and to reduce risks to building occupants. Under the EO, agencies must complete a wildfire risk assessment of existing federal buildings that occupy more than 5,000 gross square feet within the [wildland-urban interface](#) and are strongly encouraged to consider creating and maintaining a defensible space. Agencies must also ensure that new buildings that occupy more than 5,000 square feet in the wildland-urban interface are in compliance with applicable fire protection codes and standards.

**NATIONAL WETLAND CONDITION ASSESSMENT.** EPA released the first ever [National Wetland Condition Assessment](#), a collaborative survey of the nation's wetlands ([81 FR 30300](#)). The assessment describes the results of the nationwide probabilistic survey that was conducted in the spring and summer of 2011 by EPA and its state and tribal partners. The final report shows that nearly half of the nation's wetlands are in good health, while 20 percent are in fair health, and the remaining 32 percent in poor health. The ecoregion west of the Rocky Mountains scored lowest overall, with 21 percent of the wetlands in good condition, 18 percent in fair, and 61 percent in poor condition. The National Wetland Condition Assessment is part of a series of [aquatic resource surveys](#) designed to advance the science of coastal monitoring and answer critical questions about the condition of waters in the United States. To view a fact sheet, click [here](#).

**NATIONAL ESTUARY PROGRAM.** [Public Law No: 114-162](#), signed in May 2016, reauthorized the [National Estuary Program](#) by amending the Federal Water Pollution Control Act. The legislation provides modest funding amounts (authorizing \$26.5 million each for FY 2017 through 2021) for competitive grants and awards to address issues that threaten the ecological wellbeing of coastal areas. Relevant topics include:

- Extensive seagrass habitat losses resulting in significant impacts on fisheries and water quality;
- Recurring harmful algae blooms;
- Unusual marine mammal mortalities;
- Invasive exotic species that may threaten wastewater systems and cause other damage;
- Jellyfish proliferation limiting community access to water during peak tourism seasons;
- Flooding that may be related to sea level rise or wetland degradation or loss; and
- Low dissolved oxygen conditions in estuarine waters and related nutrient management.

**EAGLE MANAGEMENT.** FWS is proposing to update its eagle conservation and management program, including revisions to its 2009 eagle incidental take permit and eagle nest take regulations ([81 FR 27933](#)). The proposed revisions include changes to permit issuance criteria and duration, definitions, compensatory mitigation standards, eagle nest removal permits, permit application requirements, and fees. The service is proposing to reduce the number of incidental take permits to one and to increase its duration from five to 30 years. The effort is intended to address the needs of long-term projects and encourage project proponents to seek incidental take permits, which are always required, but not always obtained. According to the service, an increase in compliance for obtaining incidental take permits will also increase opportunities for eagle conservation and take mitigation.

Concurrent with the proposed regulation changes, FWS released a [draft programmatic environmental impact statement](#) for public comment. The impact statement analyzes the effects of eagle management at different geographic scales (e.g., eagle management units), different take limits for bald and golden eagles, and proposed permit revisions. FWS also released a [status report](#) on the current population status and trends of bald and golden eagles. The report serves as the scientific basis for the proposed management approach and rule revisions. Comments on the proposed rule, draft impact statement, and status report are due 5 JUL 16. For more information, click [here](#).

**CANDIDATE CONSERVATION AGREEMENTS WITH ASSURANCES (CCAAs).** FWS is proposing amendments to regulations governing enhancement of survival permits associated with CCAAs ([81 FR 26796](#) and [81 FR 26817](#)). The amendments are intended to clarify the level of conservation effort required for the service to approve a CCAA. To participate in a CCAA, non-federal property owners agree to implement specific conservation actions on their land that reduce or eliminate threats to the species covered under the agreement. The program is intended to encourage the public to take specific conservation actions for declining species prior to them being listed under the ESA. Comments are due 5 JUL 16.

**BEE COLONY LOSS 2015-2016.** According to the nonprofit, Bee Informed Partnership, [preliminary survey results](#) estimate 28.1 percent of bee colonies managed in the United States were lost over the 2015-2016 winter. This represents an increase in loss of 5.8 percentage points compared to the previous 2014-2015 winter, but is close to the annual 10-year average total winter loss. Beekeepers not only lose colonies in the winter but also throughout the summer. In 2015, summer losses, at 28.1 percent, were the same as winter losses. When all results were combined, beekeepers lost 44.1 percent of their colonies between April 2015 and March 2016. This high rate of loss is close to the highest annual loss rate over the six years the partnership has collected information on annual colony loss.

**U.S. FRESHWATER TURTLES PROTECTED FROM INTERNATIONAL TRADE.** FWS issued a final rule protecting four species of freshwater turtles from illegal trade ([81 FR 32664](#)). The rule brings the [common snapping turtle](#) (*Chelydra serpentina*), [Florida softshell turtle](#) (*Apalone ferox*), [smooth softshell turtle](#) (*Apalone mutica*), and [spiny softshell turtle](#) (*Apalone spinifer*) under the protection of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which requires exporters to obtain a permit before shipping turtles overseas. The final rule is effective 21 NOV 16. For more information about the final rule, click [here](#). For more information about CITES, click [here](#).

**MARINE PROTECTED AREAS.** NOAA's National Marine Protected Areas (MPA) Federal Advisory Committee held an open meeting in May 2016 ([81 FR 27104](#)). The committee addressed subcommittee and working group reports and recommendations related to ecological connectivity, external financing, and Arctic MPAs; provided an opportunity for public comment on MPA issues; and provided an opportunity for committee input on potential future focus areas. The MPA Federal Advisory Committee's membership includes the Assistant Secretary of the Navy for Energy, Installations and Environment. For more information about MPAs, click [here](#).

## ***THREATENED AND ENDANGERED SPECIES***

**MITIGATION POLICY.** FWS extended the public comment period for its [8 MAR 16 proposal](#) to amend to its mitigation policy ([81 FR 29574](#)). The intent of the policy is to apply mitigation in a strategic manner that ensures an effective linkage with conservation strategies at appropriate landscape scales. The revisions seek to address conservation challenges and practices, including accelerating loss of habitats, effects of climate change, and advances in conservation science. The revised policy provides a framework for applying a landscape-scale approach to achieve, through application of the mitigation hierarchy, a net gain in conservation outcomes, or at a minimum, no net loss of resources and their values, services, and functions resulting from proposed actions. The policy was last revised in 1981. The public comment period was extended to 13 JUN 16.

**DESIGNATION OF EXPERIMENTAL POPULATIONS.** The National Marine Fisheries Service issued a final rule regarding experimental populations under the ESA ([81 FR 33416](#)). The rule establishes definitions and procedures for establishing and/or designating certain populations of species otherwise listed as endangered or threatened as experimental populations, determining whether experimental populations are essential or nonessential, and promulgating appropriate protective measures for experimental populations. The final rule is effective 27 JUN 16.

## ***WASTE***

**RESEARCH DEVELOPMENT AND DEMONSTRATION PERMITS RULE FOR LANDFILLS.** EPA issued a final rule revising the maximum permit term for municipal solid waste landfill units operating under research, development and demonstration

permits ([81 FR 28720](#)). The research, development and demonstration permit program, which began in 2004, allows landfill facilities to use innovative methods that vary from the run-on control systems, liquids restrictions, and final cover criteria prescribed in 40 CFR Part 258 if these systems are determined by an approved state to be at least as protective as those criteria. The final rule extends the total permit term to up to 21 years. The final rule is effective 10 NOV 16.

## ***WATER***

**NPDES APPLICATIONS AND PROGRAM UPDATES.** EPA is proposing to update and streamline its existing NPDES regulations ([81 FR 31343](#)). The proposed amendments are intended to eliminate regulatory and application form inconsistencies; improve permit documentation, transparency, and oversight; clarify existing regulations; and remove outdated provisions. The amendments cover 15 topics in the major categories of permit applications, water quality-based permitting, permit objection, documentation and process efficiencies, vessels exclusion, and CWA Section 401 certification process. They also further align NPDES regulations with statutory requirements from the 1987 CWA Amendments and more recent case law requirements. Comments are due 18 JUL 16. For more information, click [here](#).

**BALLAST WATER DISCHARGE PRACTICALITY REVIEW.** The Coast Guard conducted a practicality review to determine whether more stringent ballast water discharge requirements can be practicably implemented ([81 FR 29287](#)). The Coast Guard found that, at this time, technology to achieve a significant improvement in ballast water treatment efficacy on board vessels cannot be practicably implemented. In light of this finding, the Coast Guard did not evaluate testing protocols to evaluate compliance with a more stringent discharge requirement. The practicality review is available [here](#), on the USCG Ballast Water Management Program [website](#).

**LOCAL SURFACE WATERS FOUND TO BE IMPACTED BY OIL AND GAS WASTEWATER.** The U.S. Geological Survey (USGS), in collaboration with two universities, conducted a [study](#) on the potential impact of wastewater discharges from unconventional oil and gas (UOG) production to surface waters. USGS found evidence of UOG wastewaters in surface waters and sediments collected downstream from a wastewater disposal injection well. Specifically, the study found elevated concentrations of barium, bromide, calcium, chloride, sodium, lithium, and strontium, which are known markers of UOG wastewater. [UOG development](#) methods may include shale gas extraction via directional drilling and hydraulic fracturing, coal-bed methane exploitation, tight-gas drilling, in situ oil-retort, tar-sand processing, and carbon dioxide flooding for enhanced oil recovery and storage. The study was conducted as part of a [larger effort](#) to gauge the environmental effects of UOG production.

# **Professional Development**

## ***DOD TRAINING SOURCES***

**US ARMY CORPS OF ENGINEERS PROSPECT TRAINING.** USACE announces course availability for the FY17 PROSPECT (i.e., Proponent-Sponsored Engineer Corps Training) program. Courses are open to federal, state, county, and city employees and contractors. There are different registration processes for each entity. Please refer to the [course catalog](#) and list of classes and schedule for details. Environmental courses include, but are not limited to:

- Environmental Regulations Practical Application Course (Course Control Number (CCN) 398)
- CERCLA/RCRA Process (CCN 356)
- Hazardous Waste Manifesting & DOT Certification (CCN 223)
- Hazardous Waste Manifesting 16-Hour DOT Recertification Course (CCN 429)
- Radioactive Waste Transport (CCN 441)



- Hazardous/Toxic and Radioactive Waste Construction Inspection (CCN 141)
- Environmental Remediation Technologies (CCN 395)
- Environmental Laws and Regulations (CCN 170)

**NAVY AND ISEERB ENVIRONMENTAL TRAINING.** The Navy and the Interservice Environmental Education Review Board (ISEERB) Environmental Training schedule is available. Course topics include environmental overview and management, law planning and sustainability, pollution prevention, restoration, conservation, supplemental and Internet/computer-based training, and more.

**AIR FORCE CIVIL ENGINEERING SCHOOL TRAINING.** The Air Force Civil Engineering School offers a variety of environmental management courses and seminars, including ISEERB offerings. Courses offered by the Civil Engineer School are available to all military and civilian employees of the U.S. government, free of charge. Travel costs are borne by the student.

**DEFENSE AND FEDERAL ENVIRONMENTAL TRAINING/AWARENESS.** The Army offers numerous environmental training courses (classroom and online). Explore training opportunities on the U.S. Army Environmental Command [website](#), which has links to training provided by DOD organizations.

## ***FEDERAL TRAINING SOURCES***

**SUSTAINABLE ACQUISITION TRAINING RESOURCES.** The interagency federal Sustainable Acquisition & Materials Management Practices Workgroup compiled a [spreadsheet](#) of sustainable acquisition training resources developed or hosted by federal agencies that are available to government employees, businesses, and non-governmental organizations.

**FEDERAL FACILITIES ENVIRONMENTAL STEWARDSHIP AND COMPLIANCE ASSISTANCE CENTER.** [FedCenter.gov](#) is the federal government's home for comprehensive environmental stewardship, compliance assistance, and professional development information. FedCenter.gov provides a wide variety of information in the following areas:

- Program development (e.g., environmental management systems, green procurement program);
- Federal and state regulatory requirements for various facility activities;
- Regulatory Watch for information on new or changed laws or regulations;
- Pollution prevention opportunities and best management practices;
- EPA enforcement notices;
- Links to state environmental programs;
- Access to [environmental assistance](#);
- Access to free, FedCenter-sponsored courses:
  - [Environmental Compliance for Federal Laboratories](#) (FedCenter membership required);
  - [Environmental Management Systems](#) (FedCenter membership required);
  - [Underground Storage Tanks](#) (FedCenter membership required);
- Environmental conferences, meetings, training, and workshop information;
- Applicable laws and Executive Orders; and
- Industry sector-specific newsletters.

FedCenter also provides member assistance services such as:

- Collaboration tools for workgroups,
- Environmental reporting tools, and
- Daily newsletter and subscription services.

## ***SCHEDULED WEBINARS***

**REPI WEBINAR SERIES.** DOD's Readiness and Environmental Protection Integration program offers webinars throughout the year. All webinars start at 1:00 p.m. Eastern, unless otherwise noted. For detailed webinar descriptions and connection instructions, including links to past webinars, visit [www.REPI.mil](http://www.REPI.mil).

- **20 JUL** [Thinking Outside the Base: Off-Installation Solutions to Environmental Regulatory Issues](#). Learn about opportunities for regional crediting schemes and other options for DOD installations to address ESA and other species and habitat-related issues through innovative off-installation practices, while highlighting DOD's efforts at updating its Natural Resources Program strategy.
- **21 SEP** [State Policies and Encroachment Protection Efforts](#). Learn about the various tools, policies, and authorities states provide in support of encroachment management and mission sustainability.
- **7 DEC** [Environmental Law Institute Brief: Sentinel Landscapes Partnership Authorities and Opportunities](#). The Environmental Law Institute has analyzed ways to enhance Sentinel Landscape Partnership implementation and will brief on the opportunities and roadblocks presented by the various partner agencies' authorities and programs.

**SERDP AND ESTCP WEBINAR SERIES.** The DOD environmental research and development funding programs [SERDP and ESTCP](#) offer webinars to promote the transfer of innovative, cost-effective and sustainable solutions developed using SERDP and ESTCP funding. Live webinars are offered every two weeks on Thursdays from 12:00 p.m. Eastern for 90 minutes. Most webinars feature two 30-minute presentations and interactive question and answer sessions on topics targeted for DOD and DOE audiences. Prior presentations are archived for viewing any time.

**FEMP eTRAINING COURSES.** FEMP offers interactive, online eTraining courses to help federal agencies develop core competencies and comply with energy-efficiency and renewable-energy water-management and sustainability requirements. FEMP is partnering with the National Institute of Building Sciences' Whole Building Design Guide to host these comprehensive, FEMP-developed eTraining courses. [Promotional materials](#) are available to help federal agencies encourage the completion of FEMP's eTraining courses.

**ENERGY STAR WEBCASTS.** Energy Star is a EPA voluntary program that helps businesses and individuals save money and protect our climate through superior energy efficiency.

**CLEAN AIR ACT GENERAL CONFORMITY TRAINING MODULES.** The General Conformity Rule ensures that the actions taken by federal agencies in nonattainment and maintenance areas do not interfere with a state's plans to meet national standards for air quality. The training from EPA covers all aspects of the rule and is divided into four modules:

- The Basics, for top agency managers and the general public: [Module I](#) provides an overview of the program purpose, regulation content, program design, legal requirements, and relationship to other environmental programs.
- The Key Concepts, for program managers and others who need a working knowledge of the program: [Module II](#) provides information on determining applicability of regulations to federal actions, requirements for determining conformity, and the review process for a determination.
- All The Details, for individuals responsible for preparing the determination: [Module III](#) contains detailed information on evaluating conformity including emission calculations, requirements for associated programs and special situations.
- State and tribal requirements and responsibilities, for state, tribal, and local air quality managers: [Module IV](#) provides information on state and tribal requirements and responsibilities in evaluation of conformity for federal actions.

**WATER MANAGEMENT BASICS.** This FEMP course provides a concise introduction to comprehensive water management, to include key topic areas of basic water management terminology, history of federal water mandates, current Executive Order 13693 provisions, best practices associated with comprehensive water management, and proven water conservation financing mechanisms and strategies. The three-module course offers a thorough overview of water management in the federal context:

- Module One: Introduction to Federal Water Management
- Module Two: Introduction to Comprehensive Water Management
- Module Three: Financing and Launching Water Management Projects

**USGS CLIMATE CHANGE SCIENCE AND MANAGEMENT WEBINAR SERIES.** U.S. Geological Survey webinars are designed to inform scientists, land managers, and the public about potential and predicted climate change impacts on fish and wildlife and to help guide resource management decisions across the U.S. Video recordings with closed captioning are made available one to two weeks after each presentation.

**EPA SUSTAINABLE MATERIALS MANAGEMENT ACADEMY.** Learn about key issues, successful projects, and a variety of best management practices for creating waste management programs, from the series of live and archived webinars. Building on the familiar concept of [reduce, reuse, recycle](#), sustainable materials management is a systemic approach that seeks to reduce materials use and their associated environmental impacts over their entire life cycle, starting with extraction of natural resources and product design and ending with decisions on recycling or final disposal. The format is a formal presentation followed by a question and answer session.

**ITRC INTERNET BASED TRAINING.** The Interstate Technology and Regulatory Council (ITRC) is a state-led coalition working with federal partners, industry, academia, and stakeholders to achieve regulatory acceptance of environmental technologies. In conjunction with EPA's Technology Innovation and Field Services Division, ITRC delivers training courses to reach a geographically dispersed audience of regulators, consultants, and other members of the environmental community. The training sessions last approximately two hours, cover technical and regulatory information specific to environmental technologies and innovative approaches, and are supported by consensus-based ITRC guidance documents. Visit the site often to view upcoming Internet-based training events.

# Staff Directory

<a href="#">Director/DOD Region 4 REC</a>	(404) 562-5146
<a href="#">Regional Counsel</a>	(404) 562-5016
<a href="#">Region 4 Army REC</a>	(404) 562-5231
<a href="#">Regulatory Affairs Specialist</a>	(404) 562-5023

## How the Regional Offices Work for You

**The Army Regional Environmental and Energy Offices' close cooperation between the military and regional policymakers helps to resolve issues *before* they become laws and regulations.** The REEOs monitor proposed state environmental and energy laws and regulations for impacts to installation missions. When legislation or a regulation important to the Army or DOD is being developed, REEOs work with the other military Services to assure that DOD and Services' interests are protected.

To comment on an item in the *Southern Review*, please contact the Regional Environmental Coordinator listed at the top of page two.

To be added to the *Southern Review* distribution list, email the [Regulatory Affairs Specialist](#).