



U.S. ARMY

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](#).

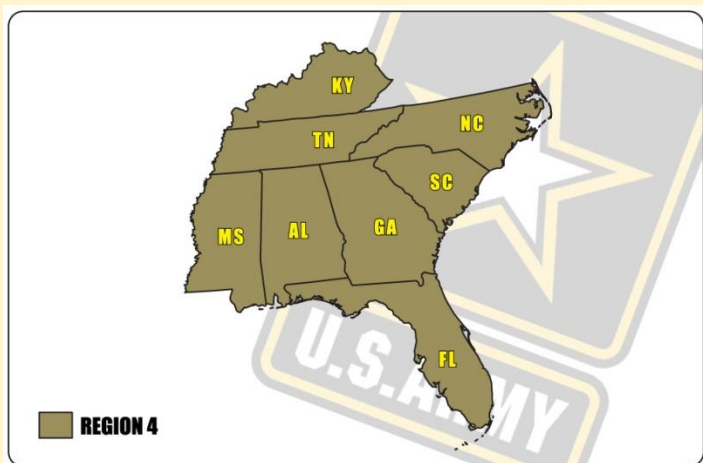


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SENTINEL LANDSCAPES

In 2013, the U.S. Departments of Agriculture (USDA), Interior (DOI), and DOD established the [Sentinel Landscapes Partnership](#) to better serve areas of the U.S. where working and natural lands converge with national defense facilities. Sentinel Landscapes partners coordinate efforts in locations where their priorities overlap, allowing them to leverage their collective resources and expertise to accomplish shared goals on the ground. By participating in Sentinel Landscapes:

- USDA provides technical and financial assistance to help agricultural producers and landowners implement conservation practices and activities;
- DOD reduces land-use conflicts and natural resource issues around military installations to ensure maximum flexibility for testing, training, and operational activities; and
- DOI accelerates the protection of natural resources and restoration of important habitat for wildlife.

The partners coordinate through the Federal Coordinating Committee (FCC), which recently redesigned the Sentinel Landscapes [website](#) to improve the overall user experience. Visitors to the site can learn about the Sentinel Landscapes Partnership and explore the various landscapes through interactive graphics and modules.

In December, the FCC released the [Sentinel Landscapes 2016 Report](#) and the 2017 [application](#) for designation as a Sentinel Landscape. The report reviews the achievements of the six current Sentinel Landscapes designated through 2016. Also in December, DOD’s Readiness and Environmental Protection Integration (REPI) program held a [webinar](#) about the 2017 Sentinel Landscapes application process. The webinar provided information on the requirements, evaluative criteria, and timeline for 2017 designations as well as the benefits that come along with becoming a Sentinel Landscape. Applications for designation as a Sentinel Landscape are due 30 MAR 15.

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.



2017 LEGISLATIVE SESSION: 7 FEB 17 THROUGH 22 MAY 17

Alabama has a one-year session. The Legislature convenes in regular annual sessions on the first Tuesday following the first Monday in February, except in the first year of the four-year term, when the session will begin on the first Tuesday in March, and in the last year of a four-year term, when the session will begin on the second Tuesday in January. The length of the regular session is limited to 30 meeting days within a period of 105 calendar days.

There are no significant legislative actions to report.

FINAL RULES

WATER QUALITY PROGRAM REGULATIONS. The Alabama Department of Environmental Management (ADEM) amended [Division 335-6 of the ADEM Administrative Code](#), updating water quality standards and adding coastal water quality criteria. The amendment establishes new electronic reporting requirements into permitting programs and requires reports and monitoring to be reported electronically going forward. ADEM published the [certified adopted rules](#) on 30 DEC 15.

WATER SUPPLY PROGRAM REGULATIONS. ADEM amended [Division 335-7 of the ADEM Administrative Code](#). This amendment concerns the frequency of monitoring for lead and copper under certain circumstances. ADEM published the [certified adopted rules](#) on 30 DEC 15.



2017 LEGISLATIVE SESSION: 7 MAR 17 THROUGH 5 MAY 17

The Florida Legislature regular session begins on the first Tuesday after the first Monday in March and continues for 60 consecutive days, which may be extended by a three-fifths vote of each house. Special sessions may be called by the governor or convened by joint proclamation of the president of the Senate and the speaker of the House of Representatives. Special sessions may not exceed 20 days, unless extended by a three-fifths vote of each house. Florida has a one-year session, and the Legislature typically holds committee meetings in January and February.

There are no significant legislative actions to report.

PROPOSED RULES

AIR POLLUTION REGULATIONS. Florida Department of Environmental Protection (FDEP) proposes to amend [62-204.800, F.A.C.](#), which updates the department's adoption by reference of air pollution regulations promulgated by the U.S. Environmental Protection Agency (EPA) 40 C.F.R. Parts 51, 52, 58, 60, 61, 63, 70, and 81, to incorporate requirements of FDEP's federally approved and delegated air pollution programs. These rule amendments include the adoption by reference of the Emission Guidelines for existing Municipal Solid Waste Landfills (codified at 40 C.F.R. 60 Subpart Cf). FDEP published a [notice of proposed rule](#) on 6 DEC 16.

RISK-BASED CORRECTIVE ACTION. FDEP proposes to amend [Chapter 62-780, F.A.C.](#), which has not been substantially updated on a technical basis since it was adopted in 2005. The rule chapter is updated to incorporate lessons learned in applying risk-based corrective action principles to contaminated site management and closure. The rule is also revised to allow the use of new techniques and approaches. FDEP also corrected inconsistencies within the chapter. FDEP published a [notice of change](#) on 7 DEC 16.

THREATENED AND ENDANGERED SPECIES. Florida Fish and Wildlife Conservation Commission (FWCC) proposes revisions to [68A-26.002, F.A.C.](#), to provide certain protections for some amphibian species that are being reclassified to an unlisted status. The effect of this proposed rule revision is to prohibit the take and possession of gopher frogs and Pine Barrens treefrogs. FWCC published a [notice of rule filing](#) on 28 DEC 16.

VOLATILE ORGANIC COMPOUNDS. FDEP proposes to revise [Rules 62-296.402, .404, .405, .408, .410, .570, and .702, F.A.C.](#), to address the need for alternative air emissions limitations during transient operating conditions at regulated facilities, including during periods of startup and shutdown. FDEP published a [notice of development of rulemaking](#) on 6 DEC 16.

FINAL RULES

ABOVEGROUND STORAGE TANK SYSTEMS. FDEP amended [Chapter 62-762, F.A.C.](#), to streamline and clarify regulatory language that has become increasingly complex and difficult to implement through multiple language revisions over the past 24 years. FDEP reorganized rules by topic to help stakeholders quickly find and understand rule requirements. The revisions were developed with input from industry stakeholders, subject matter experts, and inspectors to streamline and clarify the regulations for industry and department staff. FDEP published a [notice of rule filing](#) on 28 DEC 16.

AQUACULTURE BEST MANAGEMENT PRACTICES. Florida Department of Agriculture and Consumer Services (FDACS) adopted amendments updating the best management practice manual to include restrictions on construction adjacent to military installations. FDACS published a [notice of final filing](#) with the secretary of state on 20 DEC 16.

COASTAL CONSTRUCTION PERMITS. FDEP amended rule [62B-41, F.A.C.](#), which contains the criteria and procedures for obtaining a coastal construction permit. The amendments address concerns raised by the Joint Administrative Procedures Committee and will update the rule to implement Laws of Florida 2012-65, that included changes in Section 161.041, F.S. The rule amendments will refine criteria for coastal construction permits for coastal armoring below the mean high water line, ocean fishing piers, inlet construction and maintenance, and beach restoration and nourishment. FDEP published a [notice of rule filing](#) on 28 DEC 16.

CONTROL AND PREVENTIVE TREATMENT FOR WOOD-DESTROYING ORGANISMS. FDACS amended [pest control regulations](#) to update forms incorporated by reference, update statutory authority, clarify qualifications, and require consumer notice regarding the terms of contracts for the control and preventive treatment of wood destroying organisms. The effect of this rulemaking will be to provide notice of revisions to the forms incorporated by reference in the rule, update statutory authority, incorporate forms used to apply for department issued credentials, clarify qualifications for certified operator exam and special identification cards, and require that a consumer notice of terms of wood destroying organisms contract be signed by the consumer prior to contract execution. FDACS published a [notice of rule filing](#) on 20 DEC 16.

NON-LISTED MIGRATORY BIRDS. FWCC revised [68A-16.003, F.A.C.](#), to eliminate the need for a permit to take inactive bird nests (meaning with no birds or eggs) or parts of such nests not listed as endangered or threatened. FWCC published [notice of rule filing](#) on 28 DEC 16.

THREATENED OR ENDANGERED SPECIES. FWCC revised [68A-27.005, F.A.C.](#), to implement species status changes found warranted by FWCC and to remove language referring to a moratorium that is no longer in effect. FWCC's imperiled species rules were significantly revised in 2010; as a result, all then-listed species that had not had their status recently reviewed were evaluated against the listing criteria. Based on these evaluations, staff made listing status recommendations to FWCC, which approved the recommendations in June 2011. However, as specified by rule, listing status changes are not to be implemented until a management plan for the species is approved. The Imperiled Species Management Plan (ISMP) covering these species is approved concurrently with this rule revision. The rule revision includes reclassifying 23 species from Species of Special Concern to State Designated Threatened and adding them to the Florida Endangered and Threatened Species List. It also reclassifies 13 species from Species of Special Concern to Unlisted, thereby removing them from the list. FWCC published a [notice of rule filing](#) on 28 DEC 16.



2017 LEGISLATIVE SESSION: 9 JAN 17 THROUGH 24 MAR 17

The Georgia General Assembly meets in regular session on the second Monday in January for no longer than 40 legislative (rather than calendar) days each year. The governor may call the General Assembly into special session, and committees may meet even when the Legislature is not in session. Georgia has a two-year session (2017-2018) with 2017 bills carrying over for consideration in 2018. Adjournment dates are estimated and updated based on legislative activity.

There are no significant legislative or regulatory actions to report.



2017 LEGISLATIVE SESSION: 3 JAN 17 THROUGH 30 MAR 17

Kentucky has a one-year session. Adjournment dates are estimated and updated based on legislative activity. The Legislature convenes in regular session on the first Tuesday in January for 60 days in even-numbered years and for 30 days in odd-numbered years. It convenes in special sessions at the call of the governor.

There are no significant legislative or regulatory actions to report.



2017 LEGISLATIVE SESSION: 3 JAN 17 THROUGH 2 APR 17

The Mississippi State Legislature convenes in regular session on the Tuesday following the first Monday in January of each year, and the length of regular sessions is limited to 90 calendar days, except for once every four years when the regular session can last up to 125 calendar days. The Legislature may extend its sessions for 30 days by a two-thirds vote of both legislative houses, and the governor may call the Legislature into an extraordinary session. Mississippi has a one-year session. Adjournment dates are estimated and updated based on legislative activity.

There are no significant legislative or regulatory actions to report.



2017 LEGISLATIVE SESSION: 11 JAN 17 THROUGH 1 JULY 17

North Carolina has a two-year session (2017-2018) with 2017 bills carrying over for consideration in 2018. The regular session begins on the second Wednesday in January. Extra sessions may be convened by joint proclamation. Adjournment dates are estimated and updated based on legislative activity.

There are no significant legislative or regulatory actions to report.



2017 LEGISLATIVE SESSION: 10 JAN 17 THROUGH 1 JUN 17

South Carolina has a two-year session (2017-2018), with 2017 bills carrying over for consideration in 2018. The legislative session begins on the second Tuesday of January of each year and has no limitation as to the length of the session; however, it must adjourn sine die no later than the first Thursday in June except when extended by two-thirds vote of both houses. Adjournment dates are estimated and updated based on legislative activity.

There are no significant legislative or regulatory actions to report.



2017 LEGISLATIVE SESSION: 10 JAN 17 THROUGH 14 APR 17

Tennessee has a two-year session (2017-2018) with bills carrying over for consideration in 2018. The Legislature is limited to 90 legislative (rather than calendar) days per two-year term, plus up to 15 days for organizational purposes at the start of each term. The governor may call "extraordinary sessions," limited to the topic or topics outlined in the call and limited to another 20 days, and two-thirds of each house may initiate such a call. Adjournment dates are estimated and updated based on legislative activity.

There are no significant legislative or regulatory actions to report.

Department of Defense Activity

DOD, LOCAL REDEVELOPMENT AUTHORITIES (LRAs), BRAC SITES, AND LEGAL REPRESENTATION – PROPOSED RULE. The Department of Defense proposed a rule outlining the process LRAs, owners, and others in control of Base Realignment and Closure (BRAC) sites, to request legal representation from DOD, according to a federal statute intended to protect them from liability for undiscovered contamination ([81 FR 88167](#)). The proposed rule stems from Section 330 of the 1993 Defense Authorization Act, which indemnifies owners of former military base property from lawsuits, judgements, and other actions arising out of claims for personal injury or property damage. To date, the statute primarily has been

relied on by LRAs and their insurers to recover damages from the military after they encounter previously unknown contamination. Additional information can be found [here](#). Comments are due 6 JUN 17.

ARMY PROGRAMMATIC ENVIRONMENTAL ASSESSMENT ON SOLAR PHOTOVOLTAIC RENEWABLE ENERGY PROJECTS - OPEN FOR PUBLIC COMMENT. The Department of the Army completed a Programmatic Environmental Assessment (PEA) for construction, operation, and maintenance of solar photovoltaic renewable energy projects on Army installations. The PEA and a draft Finding of No Significant Impact (FONSI) are available for public review and comment and may be found [here](#). The Solar PEA supports the Army's efforts to streamline processes to develop and execute renewable and alternative energy projects to increase energy security and resiliency and enhance mission effectiveness. The Army continues to pursue solar and other renewable and alternative energy projects, along with battery storage and complete micro-grid solutions. The public comment period will end 30 days after publication in the Federal Register.

PROTECTION OF MILITARY AIRFIELDS FROM WIND TURBINE ENCROACHMENT ACT. U.S. Representative Chris Collins (R-NY) introduced the Protection of Military Airfields from Wind Turbine Encroachment Act ([HR 6397](#)). This act allows a 40-mile-radius buffer for an airfield or airbase under jurisdiction of a military department in active use, or an air traffic control radar site, weather radar site, or aircraft navigation aid owned or operated by DOD and a permanent land-based structure at a fixed location. U.S. Senator John Cornyn (R-TX) introduced companion bill [SB 3428](#).

Federal Activity

AIR

INTEGRATED SCIENCE ASSESSMENT (ISA) FOR SULFUR OXIDES - HEALTH CRITERIA. EPA is accepting comments on the "Second External Review Draft Integrated Science Assessment for Sulfur Oxides—Health Criteria" (EPA/600/R-16/351), available [here](#). EPA intends to develop a separate ISA as part of an independent review for the secondary (welfare-based) National Ambient Air Quality Standard (NAAQS) for oxides of nitrogen and sulfur ([81 FR 89097](#)).

APPLICABILITY DETERMINATION INDEX (ADI) DATA SYSTEM RECENT POSTING. This notice announces applicability determinations, alternative monitoring decisions, and regulatory interpretations that EPA has made under the New Source Performance Standards (NSPS); the National Emission Standards for Hazardous Air Pollutants (NESHAP); and/or the Stratospheric Ozone Protection Program ([81 FR 95585](#)). An electronic copy of each complete document posted on the ADI data system is available on the Resources and Guidance Documents for Compliance Assistance page of the CAA Compliance Monitoring website under "Air," located [here](#).

NESHAP: PUBLICLY OWNED TREATMENT WORKS. EPA is proposing amendments to the NESHAP for Publicly Owned Treatment Works (POTW) to address the results of the residual risk and technology review conducted under the CAA ([81 FR 95352](#)). EPA proposes to include pretreatment requirements to limit emissions from collection systems and the POTW treatment plant; requirements for existing, new, or reconstructed industrial (Group 1) POTW to comply with both the requirements in this rule and those in the applicable NESHAP for which they act as control; and hazardous air pollutants emission limits for existing, non-industrial (Group 2) POTW. In addition, EPA proposes to revise the applicability criteria, revise the names and definitions of the industrial (Group 1) and non-industrial (Group 2) subcategories; revise regulatory provisions pertaining to emissions during periods of startup, shutdown, and malfunction; add requirements for electronic reporting, and make other miscellaneous edits and technical corrections.

CLIMATE CHANGE

REVISIONS AND CONFIDENTIALITY DETERMINATIONS FOR DATA ELEMENTS UNDER GREENHOUSE GAS (GHG) REPORTING RULE. EPA is amending specific provisions in the GHG Reporting Rule ([81 FR 89188](#)). Affected entities include general stationary fuel combustion sources. If an entire facility or supplier is merged into another facility or supplier that is already reporting GHG data under this part, then the owner or operator may discontinue complying with this part for the facility or supplier, provided that the owner or operator submits a notification to the EPA that announces the discontinuation of reporting. EPA is implementing changes in stages for the 2016, 2017, and 2018 reports.

ENERGY

ASSISTING FEDERAL FACILITIES WITH ENERGY CONSERVATION TECHNOLOGIES. The U.S. Department of Energy (DOE) released a [grant funding announcement](#). Assisting Federal Facilities with Energy Conservation Technologies (AFFECT) 2017 will provide grants to federal agencies for projects in three topic areas: (1) Combined Heat and Power; (2) Renewable Energy; and (3) Energy Efficiency Deep Retrofits. Applicants will be asked to show how the proposed project results are conducive to broader adoption at other federal facilities.

STANDARDS FOR 2017 AND BIOMASS-BASED DIESEL VOLUME FOR 2018. EPA established the annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel that apply to all motor vehicle gasoline and diesel produced or imported in 2017 ([81 FR 89746](#)). EPA also finalized applicable volumes of advanced biofuel and total renewable fuel. The 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 this action, EPA established the applicable volume of biomass-based diesel for 2018.

HAZARDOUS MATERIALS

HAZARDOUS MATERIALS AIR TRANSPORTATION. In consultation with the Federal Aviation Administration, the U.S. Department of Transportation (DOT) proposes to amend the Hazardous Materials Regulations (HMR) to align with current international standards for the air transportation of hazardous materials ([81 FR 87510](#)). Proposed amendments are specific to air transport and include:

- Removing language at 49 CFR 175.30(c)(1) prohibiting any hazardous material package, outside container, or overpack containing holes from being transported on an aircraft. The petitioner notes that airlines and freight forwarders have declined to transport packages with minor abrasions, tears, dents, cuts, small holes, or other minor damage from normal conditions of transportation and handling, even where these examples of minor damage or holes did not compromise the packaging's integrity;
- Amending 49 CFR Sec. 175.10(a)(18)(i) to authorize passengers and crewmembers to carry onboard an aircraft lithium metal battery-powered portable medical electronic devices (e.g., automated external defibrillators, nebulizers, continuous positive airway pressure devices), and two spare batteries for those devices exceeding two grams of lithium content per battery, but not exceeding eight grams of lithium content per battery, with the approval of the pilot;
- Amending special provision A3 in Sec. 172.102 to authorize rigid and leakproof receptacles for intermediate packaging (around glass inner packages). The current language specifically requires metal receptacles for this intermediate packaging;
- Removing the requirement to include additional informational requirements (for inspection, orientation, and securing packages of hazardous materials aboard aircraft) in Sec. 175.33(a)(1)(i) and (ii). This information will continue to be required on shipping papers. This proposed change would require that packages be protected from damage during loading operations through dragging or mishandling of packages containing hazardous

materials and further harmonize specific portions of the general loading/securement requirements pertaining to appropriate securing and loading practices of the HMR.

MISCELLANEOUS

USEPA SEMIANNUAL REGULATORY AGENDA - FALL 2016. USEPA released its [fall 2016 semiannual regulatory agenda \(81 FR 94809\)](#). The notice contains information about: (1) regulations in the semiannual regulatory agenda that are under development, completed, or canceled since the last agenda; (2) retrospective reviews of existing regulations; and (3) reviews of regulations with small business impacts under Section 610 of the Regulatory Flexibility Act. Other federal agencies' fall 2016 semiannual regulatory agendas can be found [here](#).

NEW FEATURES AVAILABLE ON ECHO GOV. USEPA [added](#) several new features to ECHO Gov, the government-only area of the Enforcement and Compliance History Online (ECHO) website. New features include an air targeting tool and water quality indicators map. To learn about these features, from [ECHO](#), click "ECHO Gov Login" at the top right, and log in. Visit the "What's New in ECHO Gov" page.

NATURAL RESOURCES

INVASIVE SPECIES – EXECUTIVE ORDER. The President issued Executive Order (EO) 13751, "Safeguarding the Nation From the Impacts of Invasive Species" ([81 FR 88609](#)). This order updates EO 13112, "Invasive Species," issued 3 FEB 99. Changes include:

- Naming additional agencies and Executive Office components for participation on the National Invasive Species Council, including the U.S. departments of Health and Human Services and Homeland Security; National Aeronautics and Space Administration, U.S. Agency for International Development; and U.S. Trade Representative. Executive Office components include Office of Science and Technology Policy, Council on Environmental Quality, and Office of Management and Budget, and other departments, agencies, offices, or entities, added by consensus opinion of the Invasive Species Council;
- Within one year the Department of Health and Human Services shall report on public health impacts associated with invasive species;
- Federal agencies shall consider the impacts of climate change relevant to the prevention, eradication, and control of invasive species; and
- Federal agencies shall consider opportunities to apply innovative science and technology including remote sensing technologies, molecular tools, cloud computing, and predictive analytics; and using tools such as challenge prizes, citizen science, and crowdsourcing.

The National Invasive Species Council is tasked to:

- Undertake a National Invasive Species Assessment in coordination with the U.S. Global Change Research Program's periodic national assessment that evaluates the impact of invasive species on major U.S. assets, including food security; water resources; infrastructure; environment; human, animal, and plant health; natural resources; cultural identity and resources; and military readiness;
- Advance national incident response, data collection, and rapid reporting capacities to strengthen early detection of and rapid response to vectors, reservoirs, or causative agents of disease; and
- Publish an assessment by 2020 that identifies the most pressing scientific, technical, and programmatic coordination challenges and incorporate recommendations and actions into the National Invasive Species Council Management Plan.

The council will evaluate the effectiveness of the management plan implementation and update the plan every three years. The council will provide an annual report of its achievements to the public. The duties of section 3(a)(2) and

section 3(a)(3) of this order (prevention, monitoring, restoration, research, education, refraining from actions likely to spread invasive species) will not apply to any action of the DOD if the Secretary of Defense finds that exemption from such requirements is necessary.

FRAMEWORK FOR A FEDERAL STRATEGIC PLAN FOR SOIL SCIENCE. The Soil Science Interagency Working Group (SSIWG) released a draft framework for a Federal Strategic Plan for Soil Science ([81 FR 87981](#)). The framework identifies current gaps, needs, and opportunities in soil science, and proposes federal research priorities for the future. The framework will inform a more comprehensive federal strategic plan that will provide recommendations for improving the coordination of soil science research, as well as the development, implementation, and evaluation of soil conservation and management practices among federal agencies and non-federal organizations, both domestic and international. The framework is available [here](#).

RADIOLOGICAL

PROTECTIVE ACTION GUIDES AND PLANNING GUIDANCE FOR RADIOLOGICAL INCIDENTS. EPA, in coordination with a multi-agency working group within the Federal Radiological Preparedness Coordinating Committee, made final updates to the 1992 Manual of Protective Action Guides and Protective Actions for Nuclear Incidents, referred to as "The 1992 PAG Manual" (EPA 400-R-92-001, May 1992). The revised PAG Manual applies guidelines to incidents other than nuclear power plant accidents, updates the radiation dosimetry and dose calculations based on current science, and incorporates late phase guidance. The PAG Manual is not a legally binding regulation or standard and does not supersede any environmental laws. This guidance does not address or impact site cleanups occurring under other statutory authorities such as the EPA's Superfund program, the Nuclear Regulatory Commission's decommissioning program, or other federal or state cleanup programs. The manual is available [here](#).

THREATENED AND ENDANGERED SPECIES

PETITION TO LIST GULF OF MEXICO BRYDE'S WHALE. The National Marine Fisheries Service (NMFS) concluded that the Gulf of Mexico Bryde's whale is in danger of extinction throughout all of its range and meets the definition of an endangered species ([81 FR 88639](#)). The NMFS is soliciting information that may be relevant to inform both its final listing determination and designation of critical habitat. Additional information is available [here](#).

IDENTIFICATION OF 14 DISTINCT POPULATION SEGMENTS OF HUMPBACK WHALE AND REVISION OF SPECIES-WIDE LISTING. The Fish and Wildlife Service (FWS) issued a final rule concurring with NMFS actions and removing the current species-level listing of the humpback whale. In its place it is listing only certain distinct population segments (DPSs). The Mexico DPS is listed as threatened and the following DPS are listed as endangered: Cape Verde Islands/Northwest Africa; Western North Pacific; Central America; and the Arabian Sea ([81 FR 93639](#)). FWS concurs with NMFS's recommendation that humpback whales in nine other DPSs are no longer endangered or threatened species. NMFS found that critical habitat is not determinable for the three listed DPSs that occur in U.S. waters (Western North Pacific, Mexico, and Central America).

REGULATIONS FOR EAGLE INCIDENTAL TAKE AND TAKE OF EAGLE NESTS. FWS revised the regulations for eagle nonpurposeful take permits and eagle nest take permits ([81 FR 91494](#)). Revisions include changes to permit issuance criteria and duration, definitions, compensatory mitigation standards, criteria for eagle nest removal permits, permit application requirements, and fees. FWS intended the revisions to add clarity to the eagle permit regulations, improve their implementation, and increase compliance, while maintaining strong protection for eagles. FWS has reduced the types of incidental take permits it can issue under Section 22.26 from two to one. There will no longer be separate categories for standard and programmatic permits. Having two separate categories has sometimes led to confusion because it is not always possible to distinguish between what should be authorized under a programmatic versus a standard permit. While FWS anticipates sometimes issuing permits to cover the effects of multiple activities within a given program (such as a military installation), the more complex requests for permits it has had to date have been for

single, long-term activities that have the potential to periodically take one or more eagles over the life of the project. Additional information is available [here](#).

CANDIDATE NOTICE OF REVIEW. In this [Candidate Notice of Review](#), the FWS presents an updated list of plant and animal species native to the U.S. that are regarded as candidates for addition to the lists of endangered and threatened wildlife and plants under the ESA, as amended ([81 FR 87246](#)). Identification of candidate species can assist environmental planning efforts by providing advance notice of potential listings, and by allowing landowners and resource managers to alleviate threats and thereby possibly remove the need to list species as endangered or threatened. Even if FWS subsequently lists a candidate species, the early notice provided could result in more options for species management and recovery by prompting earlier candidate conservation measures to alleviate threats to the species.

HABITAT CONSERVATION PLANNING HANDBOOK – UPDATED. FWS and the NMFS released a final [Habitat Conservation Planning \(HCP\) Handbook](#), which describes requirements, procedures, and guidance for permit issuance and conservation plan development for incidental take permits under the ESA. The ESA addresses incidental take of listed species that would result from non-federal activities (Section 10(a)(1)(B)). To obtain a permit for such take under this provision, an applicant must develop a conservation plan that meets specific requirements identified in section 10(a)(2)(A) of the ESA and its implementing regulations at 50 CFR 17.22 (endangered species) and 17.32 (threatened species); and 50 CFR 222.25, 222.27, and 222.31. Among other requirements, the plan must specify the impacts that are likely to result from the taking, the measures the permit applicant will undertake to minimize and mitigate such impacts, and the funding that will be available to implement such measures. Conservation plans under section 10(a)(1)(B) have come to be known as HCPs.

ENDANGERED SPECIES RECOVERY PERMIT APPLICATIONS. FWS invites public comment on applications for recovery permits to conduct activities with the purpose of enhancing the survival of endangered species ([81 FR 96030](#)). With some exceptions, the ESA prohibits certain activities with endangered species unless a federal permit allows such activity. The ESA also requires a public comment period before issuing the permits.

REVISIONS TO THE REGULATIONS FOR CANDIDATE CONSERVATION AGREEMENTS WITH ASSURANCES. FWS revised regulations concerning enhancement-of-survival permits issued under the ESA, associated with Candidate Conservation Agreements with Assurances ([81 FR 95053](#)). FWS added the term “net conservation benefit” to the Candidate Conservation Agreements with Assurances regulations, and eliminated references to “other necessary properties” to clarify the level of conservation effort required for each agreement to approve a Candidate Conservation Agreement with Assurances.

TOXICS

PROPOSED TRICHLOROETHYLENE PROHIBITIONS. EPA proposed prohibiting the manufacture, processing, distribution in commerce, and commercial use of trichloroethylene (TCE) in aerosol degreasing and spot cleaning in dry cleaning facilities; requiring manufacturers, processors, and distributors, except for retailers of TCE for any use, to provide downstream notification of these prohibitions throughout the supply chain; and requiring limited recordkeeping ([81 FR 91592](#)). Comments are due 14 FEB 17.

WASTE

HAZARDOUS WASTE GENERATOR IMPROVEMENTS RULE. EPA formally issued the Resource Conservation and Recovery Act (RCRA) Hazardous Waste Generator Improvements final rule ([81 FR 85732](#)). Changes made by the rule include:

- The term “very small quantity generators” (VSQGs) has replaced the term “conditionally exempt small quantity generators” (CESQGs);
- A “very small quantity generator” (VSQG) may send its hazardous waste to an offsite large quantity generator under control of the same person; (this shipment does not require a manifest);

- Large quantity generators (LQG) must notify EPA prior to the first shipment, must keep records, and include these wastes in their biennial report;
- The rule will allow a hazardous waste generator to avoid increased burden of bumping up to a higher generator status when generating episodic waste, provided the episodic waste is properly managed and notice provided to EPA;
- Specific records required to support a generator's hazardous waste determinations have been identified in a new Section 262.11(f).;
- Incompatibility requirements for satellite accumulation containers (265.177), and emergency/contingency plan requirements have been added; and
- Labeling of satellite accumulation containers and 90/180/270-day accumulation containers and tanks must include an indication of the associated hazards (e.g., hazardous waste characteristics, a DOT label or placard, an Occupational Safety and Health Administration hazard statement or pictogram, or a National Fire Protection Association hazard label).

In the 48 authorized states, the new requirements do not take effect until the state adopts equivalent state requirements. Several of the requirements are relaxations, such as allowing VSQG to LQG transport. States may adopt but are not compelled to adopt changes unless they are more stringent.

WATER

NPDES MUNICIPAL SEPARATE STORM SEWER SYSTEM GENERAL PERMIT REMAND RULE. EPA revised the regulations addressing small municipal separate storm sewer system (MS4) permits, to respond to a remand from the United States Court of Appeals for the Ninth Circuit in "Environmental Defense Center, et al. v. EPA," 344 F.3d 832 (9th Cir. 2003) ([81 FR 89320](#)). The [final rule](#) establishes two alternative approaches a permitting authority can use to issue NPDES general permits for small MS4s and meet the requirements of the court remand. The first option is to establish all necessary permit terms and conditions to require the MS4 operator to reduce the discharge of pollutants from its MS4 to the Maximum Extent Practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act ("MS4 permit standard") upfront in one comprehensive permit. The second option allows the permitting authority to establish the necessary permit terms and conditions in two steps: a first step to issue a base general permit that contains terms and conditions applicable to all small MS4s covered by the permit; and a second step to establish necessary permit terms and conditions for individual MS4s that are not in the base general permit. This final rule is effective on 9 JAN 17.

REVISIONS TO UNREGULATED CONTAMINANT MONITORING RULE. EPA is finalizing the Unregulated Contaminant Monitoring Rule (UCMR 4) requiring larger public water systems to collect occurrence data for contaminants that may be present in drinking water but are not yet subject to drinking water standards ([81 FR 92666](#)). This rule identifies 11 analytical methods to support water system monitoring for a total of 30 chemical contaminants, consisting of nine cyanotoxins and one cyanotoxin group; two metals; eight pesticides plus one pesticide manufacturing byproduct; three brominated haloacetic acid disinfection byproduct groups; three alcohols; and three semivolatile organic chemicals. This rule applies to all large community and non-transient non-community water systems serving more than 10,000 people. The final rule is effective on 19 JAN 17. EPA will host a meeting in Washington, DC, on 12 APR 17 to discuss the implementation of the UCMR 4 rule. Attendees can participate in person or via [webinar](#).

DRAFT HUMAN HEALTH RECREATIONAL AMBIENT WATER QUALITY CRITERIA AND/OR SWIMMING ADVISORIES FOR CYANOBACTERIAL TOXINS. EPA released a draft of Human Health Recreational Ambient Water Quality Criteria and/or Swimming Advisories for Microcystins and Cylindrospermopsin – 2016 ([81 FR 91929](#)). These are the draft recommended concentrations of the toxins microcystins and cylindrospermopsin in recreational water protective of human health while swimming or participating in other activities on the water. Recreational exposure to the microcystins and cylindrospermopsin produced by cyanobacteria has the potential to result in liver and kidney toxicity, respectively. The

recommended values found in this draft document do not replace or supersede the 2012 Recreational Water Quality Criteria (RWQC) recommendations for E. coli and Enterococcus. Rather, once final, they will supplement the 2012 RWQC to provide further public health protection for additional, potentially hazardous conditions found in ambient recreational waters. EPA's draft recommended ambient water quality criteria (AWQC) identify the following concentrations of microcystins and cylindrospermopsin that would be protective of human health given a primary contact recreational exposure scenario: 4 [micro]g/L for microcystins and 8 [micro]g/L for cylindrospermopsin. The draft recommended AWQC are based on the same peer-reviewed science used to develop EPA's 10-Day Drinking Water Health Advisories for these same cyanotoxins published in 2015. EPA is also publishing these values for consideration by states and authorized tribes for use as swimming advisories for notification purposes in recreational waters to protect the public. Comments are due by 17 FEB 17.

Professional Development

DOD TRAINING SOURCES

2017 REPI WEBINAR SERIES ANNOUNCED. DOD's Readiness and Environmental Protection Integration ([REPI](#)) program announced its schedule of [webinars for 2017](#). The webinars showcase best practices, tutorials, and knowledge sharing on REPI partnerships that support military missions and accelerate the pace and rate of conservation. Unless otherwise noted, all webinars begin at 1:00 pm eastern. Past webinars are archived for later viewing. The 2017 series includes the following webinars:

- Incorporate Some Fun and Recreation Into Your REPI Partnership
- Environmental Law Institute Brief: Sentinel Landscape Partnership Authorities and Opportunities
- Conservation Finance Tools and Strategies
- Annual REPI Help Session for Fiscal Year (FY) 18
- The Gopher Tortoise Conservation Strategy as a Model to Protect At-Risk Species
- Leveraging GIS to Define and Make Progress Toward Your Desired End State
- Stakeholder Engagement 101: Building and Expanding Your REPI Partnership
- REPI and Water
- Can You Hear Me Now? Addressing Noise Impacts in Your REPI Partnership

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

CLASSROOM TRAINING, MULTIPLE OFFERINGS, 2016 AND 2017: [New Approaches in Remediation of Contaminated Sediments](#). In this two-day class, conventional and emerging technologies for remediating contaminated sediments will be addressed, including removal followed by treatment and disposal; in situ isolation of the sediments from the environment by covering the sediment with neutral materials (i.e., passive capping); active capping technologies, and monitored natural recovery, which involves monitoring processes that isolate, degrade, transform, and immobilize sediment contaminants under natural conditions. The course will address solutions to contaminants in both marine and freshwater sediments including the effects of remediation on the benthic environment. Emerging technologies that address contaminant toxicity, biogeochemistry, and transport mechanisms will also be highlighted. Classes are offered in December 2016 and February, April, June, August, and November 2017.

CLASSROOM TRAINING, MULTIPLE OFFERINGS, 2017. [Interagency Consultation for Endangered Species](#). Participants acquire basic information on conducting interagency consultation under Section 7 of the Endangered Species Act. Key information needs and procedures are addressed, with a focus on the information needs related to biological assessments and biological opinions. Lecture and discussion emphasize interagency exchange of information and solutions to support species conservation. Action agency biologists and consultants are welcome to attend. The classroom training is offered in February, April, June, and July, 2017.

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.

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.

SCHEDULED WEBINARS

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. U.S. Department of Energy's Federal Energy Management Program (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 EO 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.

ONLINE TRAINING: SCHEDULED AND ON-DEMAND EVENTS

SUSTAINABLE ACQUISITION FOR FEDERAL AGENCIES. This two-hour [course](#) provides staff involved in specifying and purchasing with a thorough introduction to compliance requirements, processes, and tools for procuring sustainable products and services. Participants will receive specific guidance in how to meet executive order and Federal Acquisition Regulation requirements and understand how sustainable acquisition benefits their agency, community, and the environment.

FEMP OFFERS CERTIFICATE SERIES FOR 2016 GUIDING PRINCIPLES FOR SUSTAINABLE BUILDINGS. FEMP is offering a five-course training series that provides updated guidance for complying with the 2016 Guiding Principles for Sustainable Federal Buildings. The series is web-based and offered on demand.

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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.

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