



U.S. ARMY

# Southern Review

## of Legislative & Regulatory Actions

The U.S. Army Regional Environmental & Energy Office

July 2018

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. For installations that implement an environmental management system in accordance with ISO 14001 specifications, the content of the *Review* may help them identify emerging requirements.

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## TABLE OF CONTENTS

Alabama .....	2
Florida .....	3
Georgia .....	4
Kentucky .....	5
Mississippi .....	5
North Carolina .....	5
South Carolina .....	6
Tennessee .....	7
Federal Activity .....	7
DOD Activity .....	11
Professional Development .....	12
Staff Directory .....	16

## POSSIBLE NEPA UPDATE

The White House [Council on Environmental Quality](#) (CEQ) [is considering](#) updating its implementing regulations for the National Environmental Policy Act (NEPA).

Over the past four decades, CEQ has issued numerous guidance documents but has amended its regulations substantively only once, in 1986. Given the length of time since its NEPA implementing regulations were issued, CEQ solicited public comment on potential revisions to update the regulations and provide a more efficient, timely, and effective process consistent with the national environmental policy stated in NEPA. CEQ requested comments in 20 general areas including:

- Coordination between multiple federal agencies;
- Facilitating agency use of environmental studies and decisions by state, tribal, and local entities;
- NEPA document formats and time limits;
- How to better focus on significant issues that are relevant and useful to decision makers and the public;
- Appropriate range of alternatives;
- Public involvement;
- Revisions to definitions of key NEPA terms and new terms that need definitions;
- Agency responsibility and the preparation of NEPA documents by contractors and project applicants;
- Programmatic NEPA documents and tiering;
- Updating of regulatory provisions to reflect new technologies to increase efficiency;
- Promoting coordination of environmental review and authorization decisions, such as by combining NEPA analysis and other decision documents;
- CEQ's NEPA regulations related to mitigation; and
- Applying NEPA regulations in a manner that reduces unnecessary burdens and delays.

Comments were due 20 JUL 18. If CEQ determines it will propose changes to NEPA requirements, a formal rulemaking will be initiated.

# 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.



## ***2018 LEGISLATIVE SESSION: 9 JAN THROUGH 24 APR***

There are no significant legislative activities to report.

### ***PROPOSED RULES***

**GENERAL ADMINISTRATION PROGRAM.** The Alabama Department of Environmental Management (ADEM) [proposes](#) to amend Division 1 of the ADEM Administrative Code. ADEM proposes to delete, modify, and add forms required for the implementation of the department's rules and regulations. Additional modifications would comply with Act #2018-454 as it relates to the membership of the ADEM Environmental Management Commission. ADEM also proposes modifications to designate the location of where the complete and accurate record of the commission's meetings may be found by the public. ADEM filed a [notice of public hearing](#) 24 JUN 18.

**CONSTRUCTION IN CLEAN AIR AREAS.** ADEM proposes to amend Division 3, Rule 335-3-14-.04, of the ADEM Administrative Code, which pertains to air permits authorizing construction in clean air areas. The proposed changes clarify the definition and requirements for regulation of replacement emission units. Chapter 335-3-14 is considered part of the federally enforceable state implementation plan (SIP); therefore, ADEM also proposes to incorporate the changes into the Alabama SIP. ADEM published a [notice of intended action](#) 29 JUN 18. Comments must be submitted to ADEM no later than 3 AUG 18.

**MUNICIPAL SOLID WASTE LANDFILL EMISSIONS.** ADEM proposes to revise Division 3 of the ADEM Administrative Code to repeal Rules 335-3-19-.01, 335-3-19-.02, 335-3-19-.03, and 335-3-19-.04 in Chapter 335-3-19. The proposed changes rescind amendments to the U.S. Environmental Protection Agency's (EPA's) emission standards for existing municipal solid waste landfills—defined as a landfill for which construction, modification, or reconstruction commenced on or before 17 JUL 14. ADEM published a [notice of intended action](#) 29 JUN 18. Comments are due no later than 3 AUG 18.

**NEW SOURCE PERFORMANCE STANDARDS.** ADEM proposes to amend Rules 335-3-10-.01 and 335-3-10-.03 in Chapter 335-3-10 to incorporate by reference EPA changes to New Source Performance Standards (NSPS). This change allows EPA to delegate administrative enforcement of NSPS to ADEM. Chapter 335-3-10 is not part of the federally enforceable SIP, so ADEM does not propose to incorporate these changes into the Alabama SIP. ADEM issued a [notice of intended action](#) 29 JUN 18. Comments are due no later than 3 AUG 18.

**NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS.** ADEM proposes to amend Rules 335-3-11-.01, 335-3-11-.06, and 335-3-11-.07 in Chapter 335-3-11 to incorporate by reference EPA changes to National Emission Standards for Hazardous Air Pollutants (NESHAPs). This change allows EPA to delegate administrative enforcement of NESHAPs to ADEM. Chapter 335-3-11 is not part of the federally enforceable SIP, so ADEM does not propose to incorporate these

changes into the Alabama SIP. ADEM issued a [notice of intended action](#) 29 JUN 18. Comments are due no later than 3 AUG 18.

**CROSS-STATE AIR POLLUTION RULES.** ADEM [proposes](#) to amend ADEM Administrative Code Rules 335-3-5-.13, 335-3-8-.14, and 335-3-8-.46. These changes to Chapters 335-3-5 and 335-3-8 incorporate changes to trading rules in EPA's Cross State Air Pollution Rules (CSAPR) to address distribution of any excess allocations that remain after an existing unit has reached its historic emission cap. Also, these changes address allocation set-asides for any new nitrogen oxides (NOx) ozone season units in Indian country within Alabama. ADEM issued a [notice of intended action](#) 29 JUN 18. Comments are due no later than 10 AUG 18.

**TRIENNIAL REVIEW OF WATER QUALITY STANDARDS.** ADEM invites public comment on water quality standards as part of its triennial review. Specifically, ADEM is requesting public input and comment on [current rules](#) of ADEM Administrative Code Chapter 335-6-10, Water Quality Criteria, and Chapter 335-6-11, Water Use Classifications for Interstate and Intrastate Waters. ADEM issued a [notice of public hearing](#) 10 JUN 18. Comments are due no later than 26 JUL 18.



## ***2018 LEGISLATIVE SESSION: 8 JAN THROUGH 7 MAR***

There are no significant legislative activities to report.

### ***PROPOSED RULES***

**ENDANGERED AND THREATENED SPECIES.** The Florida Fish and Wildlife Commission (FWC) proposes to revise the [Florida Endangered and Threatened Species List](#) to reflect federal listing changes. [Rule 68A-27.0012\(1\)](#) of the Florida Administrative Code (F.A.C.) requires that when species native to Florida are added or reclassified under the federal Endangered Species Act (ESA), the species shall be so listed or reclassified in the F.A.C. to reflect the federal designation. Because of recent federal designations, staff is proposing to add two species (Nassau grouper and giant manta ray) to 68A-27.003(1). FWC issued a [notice of proposed rule](#) 29 JUN 18. Comments were due to FWC no later than 13 JUL 18.

**COASTAL CONSTRUCTION AND EXCAVATION.** The Florida Department of Environmental Protection (FDEP) proposes to amend [Chapter 62B-33](#), F.A.C., Rules and Procedures for Coastal Construction and Excavation (Permits for Construction Seaward of the Coastal Construction Control Line and Fifty-Foot Setback). The proposed amendments will clarify and update existing rule language to reflect current procedures for exemptions, marine turtle protection and vegetation maintenance criteria, siting criteria, survey requirements, 30-year erosion projections, permit time limits and extensions, general conditions, definitions, forms, and fees. FDEP issued a [notice of proposed rule](#) 22 JUN 18. Comments were due to FDEP no later than 13 JUL 18.

**ACTIVITIES SEAWARD OF THE COASTAL CONSTRUCTION CONTROL LINE.** FDEP proposes amendments to [Chapter 62B-34](#), F.A.C. The proposed rule language will include application requirements for dune restoration general permits, general conditions for dune restoration projects and the criteria required to receive a dune restoration general permit. These revisions will streamline the permitting process and save time and money for performing dune restoration and enhancement activities that offer more protection to upland property and structures. FDEP issued a [notice of proposed rule](#) 22 JUN 18. Comments were due to FDEP no later than 13 JUL 18.

**MINIMUM FLOWS AND LEVELS.** FDEP proposes to establish minimum flows and levels for the upper and middle reaches of the Suwannee River and their associated priority springs, including four Outstanding Florida Springs. This change potentially will impact consumptive use applicants and permittees within the Suwannee River and St. Johns River Water

Management Districts. The rule also will establish prevention or recovery strategies, if applicable, as required by s. 373.0421, F.S. FDEP published a [notice of development of rulemaking](#) 30 JUN 18.

## ***FINAL RULES***

**HAZARDOUS WASTE REGULATIONS.** FDEP amended rules to increase efficiency and internal consistency by adopting federal regulations by reference, making other conforming changes, and updating forms. The subject areas addressed include the state hazardous waste regulations in [Chapter 62-730, F.A.C.](#) FDEP published a [notice of rule filing](#) 18 JUN 18.

**UNIVERSAL WASTE LAMPS AND DEVICES.** FDEP amended rules by adopting federal regulations by reference, making conforming changes with other state and federal regulations, and making technical corrections. FDEP published a [notice of rule filing](#) 18 JUN 18.

**BASIN MANAGEMENT ACTION PLANS.** The Southwest Florida Water Management District (WMD) requests public input regarding the basin management action plan (BMAP) Nutrient Management Strategy and Management Actions and other water quality drivers. The WMD issued a [notice of public meeting](#) 15 JUN 18.

**USED OIL MANAGEMENT RULES.** FDEP amended rules to increase efficiency and internal consistency by adopting federal regulations by reference, and updating forms, effective 18 JUN 18. The subject areas to be addressed include the used oil management regulations in [Chapter 62-710, F.A.C.](#) FDEP published a [notice of rule filing](#) 18 JUN 18.

**WATER QUALITY MONITORING IN LIEU OF IMPLEMENTING BEST MANAGEMENT PRACTICES.** FDEP adopted a new rule regarding water quality monitoring in lieu of implementing best management practices (BMPs). Nonpoint source dischargers within a basin management action plan must demonstrate compliance with required pollutant reductions by either implementing applicable, adopted BMPs or conducting prescribed water quality monitoring. The proposed rule provides procedures for nonpoint source dischargers who choose to undertake water quality monitoring, consistent with an FDEP-approved sampling and analysis plan, instead of implementing adopted BMPs required by a basin management action plan. The proposed rule also sets forth related verification and enforcement procedures. FDEP issued a [notice of rule filing](#) 19 JUN 18.



## ***2018 LEGISLATIVE SESSION: 8 JAN THROUGH 29 MAR***

There are no significant legislative activities to report.

## ***FINAL RULES***

**AIR QUALITY CONTROL PERMIT FEES.** The Georgia Environmental Protection Division (EPD) [amended rules](#) for air quality control regarding permit application fees. The Permit Fee provision introduces permit application fees effective 1 MAR 19, specifies the dollar-per-ton rate, and references the [permit fee manual](#) for calendar year 2017 fees. EPD filed the final rule 29 MAY 18. The new rules are effective 18 JUN 18.

**AIR RULE AMENDMENTS.** EPD adopted new [air rule amendments](#) regarding air quality permitting requirements and Title V implementation. EPD proposes to revise the permitting requirements rule to remove "Additional Provisions for Ozone Non-Attainment Areas for Counties that were Formerly Part of the one-hour Ozone Non-Attainment Area" (NAA NSR Rule) from Georgia Rules. The NAA NSR Rule is no longer required since this area has been re-designated to attainment and EPA has revoked the one-hour ozone standard. EPD revised the Title V implementing rule to increase major source



permitting thresholds for the 13 formerly severe counties from 25 tons per year (tpy) to 100 tpy of NOx and volatile organic compounds. EPD filed the final rule 29 MAY 18. The new rules are effective 18 JUN 18.

**SOLID WASTE LANDFILL BUFFER REQUIREMENTS.** EPD adopted [amendments](#) to rules regarding solid waste management and landfill design and operations. These changes clarify that buffers for landfills are established based on design criteria in effect at the time a permit is issued. If there is a future expansion of the facility, the expanded area of the landfill must comply with the buffer requirements in place at the time of the expansion. EPD filed the final rule 29 MAY 18.



### ***2018 LEGISLATIVE SESSION: 2 JAN THROUGH 13 APR***

There are no significant legislative or regulatory activities to report.



### ***2018 LEGISLATIVE SESSION: 2 JAN THROUGH 2 APR***

There are no significant legislative or regulatory activities to report.

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

**UNDERGROUND STORAGE TANKS.** Mississippi Department of Environmental Quality (MDEQ) proposes [new rules](#) regarding certification of persons who install, alter, test and permanently close underground storage tanks (USTs). The department also proposes [amendments](#) to UST regulations, technical standards, and corrective action requirements. MDEQ held a hearing and filed the proposed rules 11 JUL 18.

#### ***FINAL RULE***

**TITLE V PERMIT FEE.** Mississippi Commission on Environmental Quality (MCEQ) approved the proposed Title V permit fee, effective 1 SEP 18 to 31 AUG 19. The fees will be \$47.00 per ton of regulated air pollutants excluding carbon monoxide, greenhouse gases, any pollutant that is regulated solely because it is a Class I or II substance regulated under the Title VI of the federal Clean Air Act (CAA), any pollutant that is regulated solely because it is subject to a standard or regulation under Section 112(r) of the CAA, and emission of any individual pollutant in excess of 4,000 tons per year per facility. The minimum annual fee per facility will be \$250. MCEQ issued a public notice 18 JUN 18.



### ***2018 LEGISLATIVE SESSION: 10 JAN THROUGH 1 JUL***

**NORTH CAROLINA HB 320, WILDLIFE CONSERVATION LAND.** This bill expands the types of lands that can qualify for present-use value taxation as wildlife conservation land. HB 320 was introduced as a bill to study recycling requirements for discarded computer equipment and televisions, but the bill was substituted by the Senate Finance committee. Enrolled 15 JUN 18, and signed by the governor 25 JUN 18.

## ***PROPOSED RULES***

**GENERAL STORMWATER DISCHARGE PERMITS.** The North Carolina Department of Environmental Quality (DEQ), Division of Energy, Mineral, and Land Resources (DEMLR), has invited public comment on the division's decision to re-issue the following NPDES industrial stormwater General Permits:

- NCG010000 for Construction Activities stormwater discharges; and
- NCG210000 for Lumber and Wood Products stormwater discharges.

DEMLR issued public notice 16 JUN 18. Comments had to be received by the division no later than 16 JUL 18.

**WELL CONSTRUCTION STANDARDS.** DEQ proposes rule changes regarding well construction standards. The department proposes to readopt rules that establish the following:

- Requirements for when a permit is required; standards of construction; installation and capacity of pumps and related pumping; well tests for yield; disinfection of water supply wells; and well maintenance, repair, and abandonment;
- Construction and location requirements for injection wells that include aquifer recharge, storage and recovery, and test wells; experimental technology wells; geothermal wells; groundwater remediation wells; and other less common injection wells; and
- Requirements for permitting and inspection of private drinking water wells.

DEQ filed the [proposed rule](#) 29 JUN 18.



## ***2018 LEGISLATIVE SESSION: 9 JAN THROUGH 7 JUN***

There are no significant legislative activities to report.

## ***PROPOSED RULES***

**AIR POLLUTION CONTROL: 2017 END-OF-YEAR REVISIONS.** The South Carolina Department of Health and Environmental Control (DHEC) proposes to amend Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina SIP. Specifically, DHEC proposes to amend: Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; Regulation 61-62.61, NESHAP; and Regulation 61-62.63, NESHAP for Source Categories, to adopt the federal amendments to these standards promulgated from 1 JAN 17 through 31 DEC 17. The department also proposes changes to Regulation 61-62.68, Chemical Accident Prevention Provisions, which include corrections for internal consistency, clarification, chemical nomenclature, codification, and spelling to improve the overall text as necessary. DHEC proposes to amend Regulation 61-62.70, Title V Operating Permit Program, by striking paragraph (a)(6) of Section 70.3, Applicability, to maintain state compliance with federal regulations. Regulation 61-62.96, NO<sub>x</sub> and Sulfur Dioxide (SO<sub>2</sub>) Budget Trading Program, is based on the federal Clean Air Interstate Rule (CAIR). CAIR has been replaced by the federal CSAPR Trading Program, adopted by DHEC as Regulation 61-62.97 on 25 AUG 17. As a result, federal CAIR requirements implemented by Regulation 61-62.96 are no longer in effect. The department, therefore, proposes repealing Regulation 61-62.96 in its entirety. DHEC published the [proposed regulation](#) 22 JUN 18.

**AIR POLLUTION CONTROL: 2018 GENERAL ASSEMBLY PACKAGE.** DHEC proposes to amend Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina SIP. Specifically, DHEC proposes to amend: Regulation 61-62.1, Definitions and General Requirements; Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards;

Regulation 6162.5, Standard No. 5.2, Control of NOx; 61-62.5, Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR); and Regulation 61-62.70, Title V Operating Permit Program. DHEC also proposes other changes to Regulation 61-62 that may include definitional updates, clarification of certain permitting provisions, and other changes or additions as deemed necessary, as well as corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary. DHEC published the [proposed regulation](#) 22 JUN 18.



## ***2018 LEGISLATIVE SESSION: 9 JAN THROUGH 16 APR***

There are no significant legislative activities to report.

### ***FINAL RULE***

**AIR POLLUTION CONTROL RULES AND SIP AMENDMENTS.** The Tennessee Department of Environment and Conservation (TDEC) adopted amendments to the air pollution control rules and Tennessee SIP. TDEC filed the [rulemaking hearing rule](#) 13 JUN 18, and the amendments are effective 4 SEP 18.

# **Federal Activity**

## ***AIR***

**DESIGNATIONS FOR 2015 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS).** On 6 NOV 17, the U.S. Environmental Protection Agency (EPA) designated about 85 percent of the country as attainment/unclassifiable and three counties as unclassifiable. In a final rule published 4 JUN 18, EPA is designating all remaining areas as either nonattainment, attainment/unclassifiable, or unclassifiable, except for eight counties in the San Antonio, Texas, metropolitan area. Areas designated as nonattainment are also being classified as Marginal, Moderate, Serious, Severe, or Extreme ([83 FR 25776](#)).

Five nonattainment areas in California continue to be voluntarily reclassified to a higher classification for 2015 ozone NAAQS, although the severity is unchanged from 2008. These areas are: Ventura County, Calif.–Serious; Riverside County (Coachella Valley), Calif.–Severe-15; Los Angeles/San Bernardino Counties (West Mojave Desert), Calif.–Severe-15; Los Angeles South Coast Air Basin, Calif.–Extreme; and San Joaquin Valley, Calif.–Extreme. California declined reclassification only for the Sacramento Metro area.

This rule becomes effective 3 AUG 18.

**REVIEW OF PRIMARY NAAQS FOR SULFUR DIOXIDE (SO<sub>2</sub>).** EPA is proposing to retain the current NAAQS SO<sub>2</sub> standard, without revision ([83 FR 26752](#)). The existing standard, established in 2010, is 75 parts per billion based on the three-year average of the 99th percentile of the yearly distribution of one-hour daily maximum concentrations. EPA's proposal is based on its judgment that the current NAAQS protects the public health, with an adequate margin of safety, including the health of at-risk populations with asthma. Comments are due 23 JUL 18.

**AIR STATIONARY SOURCE COMPLIANCE AND ENFORCEMENT INFORMATION.** EPA is planning to submit an information collection request renewal, "Air Stationary Source Compliance and Enforcement Information Reporting" ([83 FR 26664](#)). This renewal requires continued reporting of previously established minimum data requirements via direct, online entry or electronic data transfer. Before submitting the request, EPA is soliciting public comments on several options for improving the reporting of information by state and local agencies in order to improve the display, usability, and accuracy of the data available through EPA's Enforcement Compliance History Online (ECHO) platform. EPA is asking respondents to indicate a preference for one of three Federally Reportable Violation (FRV) date reporting options: FRV Determination Date and Case File Resolved Date; Violation Occurrence Start Date and Occurrence End Date; FRV Determination Date. Comments are due 7 AUG 18.

**MEASURING CONCENTRATIONS OF NITROGEN DIOXIDE (NO<sub>2</sub>) IN AMBIENT AIR.** EPA has designated one new reference method for measuring concentrations of NO<sub>2</sub> in ambient air ([83 FR 25451](#)).

**INTEGRATED SCIENCE ASSESSMENT (ISA) FOR NO<sub>x</sub>, SO<sub>x</sub>, AND PARTICULATE MATTER.** EPA has released a draft document titled, "[Second External Review Draft Integrated Science Assessment for Oxides of Nitrogen, Oxides of Sulfur, and Particulate Matter—Ecological Criteria](#)" ([83 FR 29786](#)). NO<sub>x</sub>, SO<sub>x</sub>, and particulate matter are three of six criteria pollutants for which EPA has established NAAQS. Periodically, EPA reviews the scientific basis for these standards by preparing an ISA. Comments on this draft ISA are due 4 SEP 18.

## ***ENERGY***

**REDUCING BARRIERS TO DEPLOYMENT OF HYDROGEN INFRASTRUCTURE.** The U.S. Department of Energy's (DOE's) Office of Energy Efficiency and Renewable Energy is requesting information on priority research and development areas for reducing regulatory barriers to deployment of hydrogen technologies, with a focus on hydrogen infrastructure ([83 FR 27591](#)). Additional information can be found [here](#). Comments are due 10 AUG 18. Questions may be sent [here](#).

**HISTORY OF FEDERAL FUNDING FOR ENERGY DEVELOPMENT.** The Congressional Research Service (CRS) released a report to Congress that compares the funding history for renewable energy research and development (R&D) with R&D funding for nuclear energy, fossil energy, energy efficiency, and electric systems ([RS22858](#)). According to CRS, over the 41-year period from DOE's inception at the beginning of fiscal 1978 through 2018, federal funding for renewable energy R&D amounted to about 18 percent of the energy R&D total, compared with 6 percent for electric systems, 16 percent for energy efficiency, 24 percent for fossil, and 37 percent for nuclear. For the 71-year period from 1948 through 2018, nearly 13 percent of the R&D total went to renewables, compared with nearly 5 percent for electric systems, 11 percent for energy efficiency, 24 percent for fossil, and 48 percent for nuclear.

## ***HAZMAT/WASTE***

**NATIONAL ELECTRONIC HAZARDOUS WASTE MANIFEST (E-MANIFEST) SYSTEM.** On 30 JUN 18, EPA's [e-Manifest system](#) went into effect in all 50 states. Generators are encouraged but not required to register or use e-Manifest. They may continue to use paper manifests, go fully electronic, or use a hybrid manifest scenario. In all three scenarios, the transfer storage and disposal facility pays the fee and loads the manifests into the e-Manifest system. Additional information can be found [here](#). A recorded demonstration of the e-Manifest system can be found [here](#).

## ***MISCELLANEOUS***

**CONSIDERING COSTS AND BENEFITS IN EPA RULEMAKING PROCESS.** EPA has solicited comment on whether and how it should promulgate regulations that provide a consistent and transparent consideration of weighing costs and benefits ([83 FR 27524](#)). EPA promulgates regulations under the CAA, Clean Water Act (CWA), Safe Drinking Water Act (SDWA), and many others. Most statutory provisions require or allow some consideration of cost and benefits when setting pollution standards, but there is variation in terminology and specificity provided in each law regarding the nature and



scope of the cost and benefit considerations. EPA is also soliciting comment on whether and how these regulations, if promulgated, could also prescribe specific analytic approaches to quantifying the costs and benefits of EPA regulations. Comments were due 13 JUL 18.

**EPA SEMIANNUAL REGULATORY AGENDA.** The EPA Semiannual Agenda of Regulatory and Deregulatory Actions for Spring 2018 is available [here](#). It includes actions that are under development, completed, or canceled since the last agenda ([83 FR 27197](#)).

**EXECUTIVE ORDER (EO) 13840–OCEAN POLICY.** The president has issued EO 13840–Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States ([83 FR 29431](#)). The EO establishes an Ocean Policy committee, jointly chaired by CEQ and Office of Science and Technology Policy. The committee's role is advisory in nature. [EO 13547](#) of 19 JUL 10 (Stewardship of the Ocean, Our Coasts, and the Great Lakes), is revoked.

## ***NATURAL RESOURCES***

**UPDATED COLLISION RISK MODEL FOR ESTIMATING EAGLE FATALITIES AT WIND ENERGY FACILITIES.** The U.S. Fish and Wildlife Service (FWS) has undertaken an analysis to update the prediction of the number of golden and bald eagles that may be killed at new wind facilities ([83 FR 28858](#)). The FWS collision risk model uses three estimates to generate an annual eagle fatality probability distribution: (1) a project-specific estimate of eagle exposure; (2) a project-specific estimate of the amount of hazardous area and time that will be created by the project; and (3) an estimate of the probability that an exposed eagle that enters the hazardous area will be struck and injured or killed by a turbine blade. Comments are due 20 AUG 18.

**2018 REVISION TO TECHNICAL GUIDANCE FOR ASSESSING EFFECTS OF ANTHROPOGENIC SOUND ON MARINE MAMMALS.** The National Marine Fisheries Service (NMFS) announced the availability of the 2018 revision ([NOAA Technical Memorandum NMFS-OPR-59](#)) to its 2016 Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing–Underwater Acoustic Thresholds for Onset of Permanent and Temporary Threshold Shifts ([83 FR 28824](#)).

## ***SOLID WASTE***

**STANDARDS OF PERFORMANCE FOR SOLID WASTE INCINERATION.** EPA is proposing clarifying changes and corrections to the 2016 commercial and industrial solid waste incineration rule to address certain issues raised by industry stakeholders and implementing agencies ([83 FR 28068](#)). EPA has requested comment on the proposed amendments. The provisions that would be affected by the proposed amendments are: alternative equivalent emission limit for mercury (Hg) for the waste-burning kiln subcategory; timing of initial test and initial performance evaluation; extension of electronic data reporting requirements; clarification of non-delegated authorities; demonstration of initial compliance when using a continuous emissions monitoring system (CEMS); continuous opacity monitoring requirements; other CEMS requirements; clarification of skip-testing requirements; deviation-reporting requirements for continuous monitoring data; and clarification of air curtain incinerator requirements. Comments are due 30 JUL 18.

## ***TOXICS***

**ADDITION OF NONYLPHENOL ETHOXYLATES (NPEs) TO EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA) REPORTING.** EPA is adding an NPEs category to the list of toxic chemicals subject to reporting under section 313 of EPCRA and section 6607 of the Pollution Prevention Act ([83 FR 27291](#)). EPA has determined that NPEs meet the EPCRA toxicity criteria. NPEs are nonionic surfactants that are used in detergents, paints, pesticides, personal care products, and plastics. Short-chain NPEs are highly toxic to aquatic organisms. Longer-chain NPEs, while not as toxic as short-chain NPEs, can break down in the environment to short-chain NPEs and nonylphenol, both of which are highly toxic to aquatic organisms. This rule becomes effective 30 NOV 18 and will apply for the reporting year beginning 1 JAN 19.

**RISK EVALUATIONS TO BE CONDUCTED UNDER TOXIC SUBSTANCES CONTROL ACT (TSCA).** EPA is publishing and taking comments on the problem formulation documents for the first 10 chemical substances undergoing risk evaluation under TSCA ([83 FR 26998](#)). The ten substances are:

- Asbestos;
- 1-Bromopropane;
- 1,4-Dioxane;
- Carbon tetrachloride;
- Cyclic aliphatic bromide cluster (HBCD);
- Methylene chloride;
- N-methylpyrrolidone (NMP);
- Pigment violet 29;
- Tetrachloroethylene (perchloroethylene); and
- Trichloroethylene (TCE)

On 19 DEC 16, EPA released its designation of the chemical substances, and on 22 JUN 17, it released the scope documents. Each scope document includes the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations that EPA expects to consider in the risk evaluation. Comments are due 26 JUL 18.

**REVIEW OF DUST-LEAD HAZARD STANDARDS.** In advance of formal publication, EPA has released the text of a proposed rule that would lower the dust-lead hazard standards. EPA is proposing to change the dust-lead hazard standards from 40 µg/ft<sup>2</sup> and 250 µg/ft<sup>2</sup> to 10 µg/ft<sup>2</sup> and 100 µg/ft<sup>2</sup> on floors and window sills, respectively. These standards apply to most pre-1978 housing and child-occupied facilities, such as day care centers and kindergarten facilities. EPA is proposing no changes to the current definition of lead-based paint because the agency currently lacks sufficient information to support such a change. The text of the rule is available [here](#).

**DRAFT TOXICOLOGICAL PROFILE FOR PERFLUOROALKYLS.** The Agency for Toxic Substances and Disease Registry (ATSDR) has issued a Draft Toxicological Profile for Perfluoroalkyls for review and comment ([83 FR 28849](#)). All toxicological profiles issued as "drafts for public comment" represent ATSDR's best efforts to provide important toxicological information on priority hazardous substances. ATSDR has sought public comments and any additional information, reports, and studies about the health effects of the substances. Comments were due 23 JUL 18. The Draft Toxicological Profiles (852 pages in total) are available [here](#).

**REPORTING REQUIREMENTS FOR TSCA MERCURY INVENTORY.** EPA has issued a final rule addressing reporting requirements to develop an inventory of mercury supply, use, and trade in the U.S., where "mercury" is defined as "elemental mercury" and "a mercury compound" ([83 FR 30054](#)). Potentially affected entities include an extensive list of manufacturing North American Industry Classification System (NAICS) codes, materials recovery facilities with NAICS code 562920, and national security with NAICS code 928110. The rule adds new 40 CFR Part 713 (Reporting Requirements) for the TSCA Inventory of Mercury Supply, Use, and Trade. Manufacturing reporting thresholds are greater than or equal to 2,500 pounds for elemental mercury or greater than or equal to 25,000 pounds for mercury compounds. A Mercury Electronic Reporting application must be used to complete and submit required information; it is accessed via EPA's [Central Data Exchange \(CDX\)](#).

**ASBESTOS SIGNIFICANT NEW USE RULE.** Under TSCA, EPA is proposing a significant new use rule (SNUR) for asbestos as defined under the Asbestos Hazard Emergency Response Act ([83 FR 26922](#)). The proposed significant new use of asbestos, including as part of an article, is manufacturing, importing, or processing for certain uses identified by EPA as no longer ongoing. EPA has found no information indicating that the following uses are ongoing; therefore, the following uses are subject to this proposed SNUR: Adhesives, sealants, and roof and non-roof coatings; arc chutes; beater-add gaskets; extruded sealant tape and other tape; filler for acetylene cylinders; high-grade electrical paper; millboard; missile liner; pipeline wrap; reinforced plastics; roofing felt; separators in fuel cells and batteries; vinyl-asbestos floor

tile; and any other building material other than cement. Persons subject to the SNUR would be required to notify EPA at least 90 days before commencing any manufacturing, importing, or processing of asbestos for a significant new use. The required notification initiates EPA's evaluation of the conditions of use associated with the intended use within the applicable review period. Manufacturing, importing, and processing for the significant new use may not commence until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination. Comments are due 10 AUG 18.

## **WATER**

**CLEAN WATER ACT HAZARDOUS SUBSTANCES SPILL PREVENTION.** EPA is proposing to establish no new requirements under CWA section 311 ([83 FR 29499](#)). This section directs the president to issue regulations to prevent discharges of oil and hazardous substances from onshore and offshore facilities, and to contain such discharges. On 21 JUL 15, EPA was sued for failing to comply with the alleged duty to issue regulations to prevent and contain CWA hazardous substance discharges. On 16 FEB 16, the U.S. District Court for the Southern District of New York entered a consent decree between EPA and the litigants that required EPA to sign a notice of proposed rulemaking pertaining to the issuance of hazardous substance regulations, and take final action after notice and comment on said notice. Based on an analysis of the frequency and impacts of reported CWA hazardous substance discharges and the existing framework of EPA regulatory requirements, EPA is not proposing additional regulatory requirements at this time. This proposed action is intended to comply with the consent decree and to provide an opportunity for public notice and comment on EPA's proposed approach to satisfy the CWA requirements. Comments are due 24 AUG 18.

**PROPOSED UPDATES TO EPA 404(c) PERMIT AUTHORITY.** EPA has issued a [memorandum](#) updating regulations implementing Clean Water Act section 404(c). EPA's current regulations implementing section 404(c) allow EPA to veto at any time a permit issued by USACE or an approved state that allows for the discharge of dredged or fill material at specified placement sites. The memo directs EPA's Office of Water to develop a proposed rulemaking that would consider the following changes:

- Eliminate the authority to initiate the section 404(c) process before a section 404 permit application has been filed with USACE or a state, otherwise known as the "preemptive veto."
- Eliminate the authority to initiate the section 404(c) process after a permit has been issued by USACE or a state, otherwise known as the "retroactive veto."
- Require a regional administrator to obtain approval from EPA Headquarters before initiating the section 404(c) process.
- Require a regional administrator to review and consider the findings of an Environmental Assessment or Environmental Impact Statement prepared by USACE or a state before preparing and publishing notice of a proposed determination.
- Require EPA to publish and seek public comment on a final determination before such a determination takes effect.

In 2016, in the case [Mingo Logan Coal Company v. EPA](#), the U.S. Court of Appeals for the District of Columbia Circuit did not place restrictions on when EPA could veto a 404(c) permit.

# **Department of Defense Activity**

**GAO REPORT: DOD NEEDS TO FULLY ASSESS HEALTH RISKS OF BURN PITS.** The Government Accountability Office (GAO) released a report recommending that DOD improve monitoring of burn pit emissions and examine any associated health effects related to burn pit exposure ([GAO-18-596T](#)). The report is an update from a [2016 report](#) on DOD use of burn

pits, as required by the National Defense Authorization Act of 2015. DOD concurred with one recommendation and partially concurred with the other.

**PFOS/PFOA BRIEF TO HOUSE ARMED SERVICES COMMITTEE.** DOD posted a presentation titled "[Addressing Perfluorooctane Sulfonate \(PFOS\) and Perfluorooctanoic Acid \(PFOA\)](#)" on DENIX. The presentation summarizes DOD's briefing to the House Committee on Armed Services, as required by page 118 of [House Report 115-200](#), National Defense Authorization for Fiscal 2018.

# Professional Development

## *DOD TRAINING SOURCES*

**US ARMY CORPS OF ENGINEERS PROSPECT TRAINING (CLASSROOM).** USACE announces course availability for the FY 2018 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:

- CERCLA/RCRA Process (Course Control Number (CCN) [356](#))
- Environmental Laws and Regulations (CCN [170](#))
- Environmental Regulations Practical Application Course (CCN [398](#))
- Environmental Remediation Technologies (CCN [395](#))
- Hazardous Waste Manifesting/DOT Certification (CCN [223](#))
- Hazardous Waste Manifesting 16-Hour DOT Recertification Course (CCN [429](#))
- Hazardous/Toxic and Radioactive Waste Construction Inspection (CCN 141)
- Radioactive Waste Transport (CCN [441](#))
- The Complete RCRA Course (Hazardous Waste Generation, Management, and Corrective Action) (CCN [226](#))

**NAVY CIVIL ENGINEER CORPS OFFICERS SCHOOL TRAINING.** The [Navy Civil Engineer Corps Officers School](#) (CECOS) offers training on environmental management, pollution prevention, environmental compliance, environmental conservation and planning, and environmental restoration. Energy course offerings include Leadership in Energy and Environmental Design, Energy Information Administration, and Energy Technology Information. Click [here](#) for information on course offerings and times. Courses offered by CECOS are available to all military and civilian employees of the U.S. government, free of charge. Travel costs are borne by the student.

**AIR FORCE CIVIL ENGINEERING SCHOOL TRAINING.** The [Air Force Civil Engineer School](#) offers a variety of environmental management courses and seminars, including Interservice Environmental Education Review Board (ISEERB) offerings. Courses 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.

**STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM (SERDP) AND ENVIRONMENTAL SECURITY TECHNOLOGY CERTIFICATION PROGRAM (ESTCP) WEBINAR SERIES (ONLINE).** DOD's environmental research and development funding programs ([SERDP and ESTCP](#)) launched a [webinar series](#) 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. Recently archived webinars, available on demand [here](#), include:

- [Management of Novel Hawaiian Ecosystems](#)
- [Research and Development Needs for Management of DOD's PFAS Contaminated Sites](#)
- [New Resource Conservation Insights to Desert Environments](#)

**REPI WEBINAR SERIES (ONLINE).** DOD's REPI program offers [webinars](#) on best practices, tutorials, and knowledge sharing on partnerships that support the military mission and accelerate the pace and rate of land conservation.

**SUSTAINING MILITARY READINESS CONFERENCE.** The conference, [Restoring Readiness through Planning and Partnerships](#), will be held 13-16 AUG 18 in St. Louis, MO. Lessons learned and best practices to support military readiness and enhance DOD capabilities will be shared.

## ***FEDERAL TRAINING SOURCES***

**FEDERAL FACILITIES ENVIRONMENTAL STEWARDSHIP AND COMPLIANCE ASSISTANCE CENTER (ONLINE).** [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, such as:

- Program development (e.g., environmental management systems, green procurement program);
- Federal and state regulatory requirements for various facility activities;
- Access to [environmental assistance](#);
- Access to free, [FedCenter-sponsored courses](#); and
- [Partnerships](#).

FedCenter also provides member assistance services such as collaboration tools for workgroups, environmental reporting tools, and daily newsletter and subscription services.

**BIOBASED PRODUCT TRAINING SERIES (ONLINE).** The U.S. Department of Agriculture (USDA) offers a series of [on-demand training modules](#) about biobased products and the BioPreferred® Program:

- [Fundamentals: Biobased Products and the BioPreferred® Program](#)
- [Sustainable Acquisition: Biobased Requirements in the New Executive Order 13693](#)
- [Contracting Officer Role in Contractor Reporting of Biobased Product Purchases](#)
- [BioPreferred® Training for USDA Acquisition Community](#)
- [From Awareness to Action: The BioPreferred® Federal Procurement Preference Program](#)
- [Products in Operations, Maintenance, and Cleaning](#)

**GUIDING PRINCIPLES FOR SUSTAINABLE FEDERAL BUILDINGS (ONLINE).** This training series from FEMP provides updated guidance for complying with the 2016 Guiding Principles for Sustainable Federal Buildings. The series consists of five on-demand courses:

- [2016 Guiding Principle I: Employ Integrated Design Principles and Introduction](#)
- [2016 Guiding Principle II: Optimize Energy Performance](#)
- [2016 Guiding Principle III: Protect and Conserve Water](#)
- [2016 Guiding Principle IV: Enhance Indoor Environmental Quality](#)
- [2016 Guiding Principle V: Reduce Environmental Impact of Materials and Guiding Principle VI - Assess and Consider Climate Change Risks](#)



**EPA SUSTAINABLE MATERIALS MANAGEMENT ACADEMY (ONLINE).** 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.

**SUSTAINABLE ACQUISITION FOR FEDERAL AGENCIES (ONLINE).** The 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.

**SUSTAINABLE ACQUISITION TRAINING RESOURCES (ONLINE).** 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.

**FEMP eTRAINING COURSES (ONLINE).** FEMP offers interactive, [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 (ONLINE).** EPA's [Energy Star program](#) helps identify and promote energy efficiency in products, homes, and buildings. EPA hosts a [webinar series](#) that covers a range of topics, from how to benchmark in Portfolio Manager to financing energy efficiency improvements to how to engage building occupants.

**INTERSTATE TECHNOLOGY AND REGULATORY COUNCIL (ITRC) TRAINING (ONLINE).** 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. A list of ITRC's 2018 training classes is available [here](#) (dates subject to change).

**GENERAL CONFORMITY TRAINING MODULES (ONLINE).** 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. EPA's [online training conformity training program](#) covers all aspects of the rule and is divided into four modules.

**WATER MANAGEMENT BASICS (ONLINE).** This FEMP [online 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

**CLIMATE CHANGE SCIENCE AND MANAGEMENT WEBINAR SERIES (ONLINE).** This U.S. Geological Survey [webinar series](#) was developed 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 United States. Video recordings with closed captioning are made available one to two weeks after each presentation. The next webinar is scheduled for 22 FEB 18. Information on upcoming webinars is available from the BioClimate newsletter ([click](#) to subscribe).

**WATER/WASTEWATER UTILITY ALL-HAZARDS BOOTCAMP TRAINING (ONLINE).** Hosted by EPA, this [training course](#) is designed for water and wastewater employees responsible for emergency response and recovery activities. It also explains why and how to implement an all-hazards program, and will cover prevention and mitigation, preparedness, response, and recovery.

### ***OTHER TRAINING RESOURCES***

**COOPERATIVE FEDERALISM WEBINAR (ONLINE).** The Environmental Council of the States (ECOS) released a [webinar](#), available on demand, highlighting ECOS' [paper](#) on Cooperative Federalism 2.0 and offering a deeper look into the EPA-state relationship.

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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 represented.

To comment on items 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](#).

