

Western Review of Legislative & Regulatory Actions Region 10

The U.S. Army Regional Environmental & Energy Office

March 2019

The Region 10 *Western Review* publishes environmental and energy related developments for DOD/Army leaders and installation staff. Covering the four states in Federal Region 10, the *Western 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.

The *Review* is published under contract to the U.S. Army Corps of Engineers (USACE). The information in this publication is derived from a variety of sources and is not created by USACE.

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REPI REPORT TO CONGRESS

The Department of Defense's Readiness and Environmental Protection Integration Program (REPI) has released its <u>2019 REPI Report to Congress</u>, summarizing the program's partnership achievements from its enactment in 2002 through Fiscal Year (FY) 2018.

Through FY2018, the REPI Program has combined \$857 million in DOD funds with over \$788 million in non-DOD partner contributions to protect land from encroachment in 106 locations across 33 states. REPI has protected more than 586,000 acres across all military services, including 351,408 acres of Army installations and ranges, to safeguard operating, test, and training assets.

DOD's ability to conduct realistic live-fire training, weapons system testing, and essential operations is vital to preparing a more lethal and resilient force for combat. To prevent and mitigate increasing encroachment pressures, in 2002 Congress enacted section 2684a of title 10 United States Code. This provision authorizes DOD to engage in a long-term and cooperative strategy to ensure military mission sustainability by limiting incompatible development near installations and ranges.

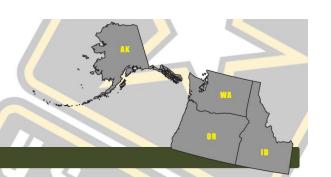
Pursuant to this authority, the DOD funds cost-sharing agreements with state and local governments and conservation organizations to promote compatible land uses and preserve habitats near or ecologically related to military installations and ranges. The 2684a authority is implemented through the REPI program, which enhances our nation's National Defense Strategy by protecting key capabilities, assets, and innovations.

In the REEO-Western area of responsibility, the largest REPI projects by acreage for the Army through FY 2018 are:

- Fort Carson, Colorado: 25,661 acres protected
- Fort Huachuca, Arizona: 13,857 acres protected
- U.S. Army Garrison, Hawaii: 13,157 acres protected
- Camp Roberts, California: 4,442 acres protected

Region 10

For more information or to comment on any state issues in Region 10, contact <u>Park Haney</u>, Army Regional Environmental Coordinator, Region 10, (303) 844-0957.





NATURAL RESOURCES

ANADROMOUS WATERS. The Alaska Department of Fish and Game <u>is proposing</u> to amend regulations governing waters important for the spawning, rearing, or migration of anadromous fish. The rulemaking would make additions, deletions, and changes to the legal definitions of waters found in the list of rivers, lakes, and streams important for the spawning, rearing, or migration of anadromous fishes. Comments were due 4 MAR 19.

LEGISLATIVE SESSION: 15 JAN 19 THROUGH 16 MAY 19 (ESTIMATED)

No significant legislative activities to report.



No significant regulatory activities to report.

LEGISLATIVE SESSION: 7 JAN 19 THROUGH 30 MAR 19 (ESTIMATED)

An * indicates the first time a bill appears in the 2019 Western Review.

Idaho Bill Number, Sponsor, and Description	Bill Introduced	Passed 1st House	Passed 2nd House	Status
AIR/CLIMATE CHANGE				
ENERGY				
LAND USE				
			_	
NATURAL RESOURCES				

Idaho Bill Number, Sponsor, and Description	Bill Introduced	Passed 1st House	Passed 2nd House	Status
OTHER				
*HB 162 State Affairs Committee Creates the Idaho Council on Federal Lands. Tasks the council to monitor and review policies and issues associated with federal lands in the state relating to jurisdiction, governmental sovereignty, taxation, natural resources, economic development, and other issues where state and federal government interface with respect to such lands.	✓			
*HJM 5 Resources And Conservation Committee Urges Congress to enact federal legislation to require that when private lands are exchanged, purchased, or transferred to the federal government, other federal lands within the county must be sold.	✓	✓		
WASTE				
WATER				
HB 26 Environment, Energy, and Technology Committee Addresses compliance with underground storage tank rules. Adds a compliance date for certain rules and provides for retroactive application of specified provisions.	√	✓	√	Enacted



AIR

CLEANER AIR OREGON. The Oregon Department of Environmental Quality (ODEQ) <u>announced</u> that it has identified 20 industrial sites for review in the first year of implementing the newly adopted <u>Cleaner Air Oregon</u> rules. The facilities were selected based on preliminary emissions reports and other factors. Regulators will conduct more in-depth analysis to determine whether these facilities pose health risks and if their air permits should be revised. The selected facilities are required to complete a health risk assessment that will be used by ODEQ to identify health risks. The department expects to complete reviews for the 20 facilities within one year. ODEQ will host a public information session to provide an overview of the program and answer questions regarding Cleaner Air Oregon program. The date, time, and location are to be announced.

OREGON SIP—OUTDOOR BURNING. The U.S. Environmental Protection Agency (EPA) approved revisions to the Lane Regional Air Protection Agency (LRAPA) portion of the Oregon State Implementation Plan (SIP) (<u>84 FR 5000</u>). The revisions incorporate by reference a local outdoor burning rule that was revised in 2018. The revised rule, as it applies in Lane County, clarifies terminology and provides additional controls of outdoor burning activities, reducing particulate emissions and strengthening the Oregon SIP. In addition, EPA approved but did not incorporate by reference LRAPA's revised enforcement procedures and civil penalties rule. The revised rule brings the enforcement procedures and civil penalties rule into alignment with recent changes to state regulations. The final rule is effective 22 MAR 19.

WATER

ONSITE WASTE MANAGEMENT SYSTEMS. ODEQ <u>is considering</u> whether to amend rules governing onsite waste management systems, commonly referred to as septic systems. The department invited interested stakeholders to attend a technical review committee meeting where it discussed whether and how to modernize standards and practices, add new products and tools, and increase fees. The meeting was held 12 FEB 19. ODEQ expects the rulemaking to be completed by fall 2019. The rulemaking website is available here.

LEGISLATIVE SESSION: 5 FEB 19 THROUGH 1 JUL 19 (ESTIMATED)

An * indicates the first time a bill appears in the 2019 Western Review.

Oregon Bill Number, Sponsor, and Description	Bill Introduced	Passed 1st House	Passed 2nd House	Status
AIR/CLIMATE CHANGE				
*HB 2020 Joint Committee on Carbon Reduction Establishes the Carbon Policy Office within the Oregon Department of Administrative Services and tasks the director of the office to adopt the Oregon Climate Action Program by rule. Transfers duties, functions, and powers of the Environmental Quality Commission and Department of Environmental Quality that are related to greenhouse gas reporting to the Carbon Policy Office. Repeals Energy Facility Siting Council carbon dioxide emissions standards.	✓			
ENERGY				
*HB 2329 Representative Kenneth Helm (D) Modifies the definition of "energy facility" for purposes of regulation of energy facilities by the Energy Facility Siting Council. Broadens provisions for the types of electric power generating plants that may elect to obtain a site certificate from the council if otherwise not required to do so.	✓			
HB 2501 Representative Greg Smith (R) Establishes the Task Force on Green Energy Corridors. Requires the task force to study and make recommendations for development of green energy corridors to ensure that infrastructure is available to transfer electricity generated from renewable energy sources to load centers, integrate renewable energy resources into electricity grids, and balance energy facility development with protection of agricultural land.	✓			
SB 235 Senate Interim Committee on Veterans and Emergency Preparedness Eliminates a cap on the total amount authorized for a grant program for installation of generator connectors on fuel sources at cardlock fuel facilities. Appropriates funds to the Oregon Military Department for deposit in the Fuel Storage Facility Compatibility Fund.	✓			

Oregon Bill Number, Sponsor, and Description	Bill Introduced	Passed 1st House	Passed 2nd House	Status
SB 503 Senator Dennis Linthicum (I) Specifies that electricity generated by a hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.	✓			
SB 508 Senator Elizabeth Johnson (D) Specifies that electricity generated by a hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.	√			
LAND USE				
NATURAL RESOURCES	I	1		
SB 447 Senator Arnie Roblan (D) Directs the State Parks and Recreation Commission to study and make recommendations on collaboration between the commission and federal government regarding implementation of Siskiyou National Monument.	✓			
OTHER		· · · · · · · · · · · · · · · · · · ·		
*HB 2373 Representative David Brock Smith (R) Allows the State Forester to order use of wildfire suppression personnel, equipment, and services on any federal lands within state borders.	✓			
HB 2619 Representative Marshall Wilde (D) Prohibits sale, offering for sale, purchase, or use of pesticide products containing neonicotinoid.	✓			
SB 440 Senator Brian J. Boquist (R) Directs the Oregon Military Department to end any suspension of the Oregon Civil Defense Force. Directs the Adjutant General to report to committee of Legislative Assembly on the status of the Oregon Civil Defense Force. Directs the department to institute ongoing basic training program. Appropriates funds.	✓			
WASTE				
SB 96 Senate Interim Committee on Environment and Natural Resources Requires manufacturers whose products contain hazardous materials to establish a product stewardship program that provides for the collection and management of household hazardous waste.	✓			
WATER				
*HB 2851 Committee on Energy and Environment Authorizes the Water Resources Department to require reporting of water use measurements.	✓			

Oregon Bill Number, Sponsor, and Description	Bill Introduced	Passed 1st House	2nd House	Status
*HB 2854 Committee on Energy and Environment Establishes a task force to study measurement and reporting of appropriated water use. Sunsets 31 DEC 20.	✓			
SB 95 Senate Interim Committee on Environment and Natural Resources Requires owners and operators of bulk petroleum terminals to conduct and submit to the Department of Environmental Quality seismic vulnerability assessments by 2020. Prohibits operation of a bulk petroleum terminal without an approved vulnerability assessment and an implemented seismic risk mitigation plan.	✓			
SB 347 Senator Dennis Linthicum (I) Exempts collection, storage, or use of diffuse surface water from falling rain, melting snow, or other precipitation from requirements to obtain water right permit or certificate.	✓			



AIR

TOXIC AIR CONTAMINANTS. The Washington Department of Ecology (WADOE) is proposing to amend Controls for New Sources of Toxic Air Contaminants, Chapter 173-460, Washington Administrative Code (WAC). The rulemaking will update the list of toxic air pollutants; recalculate acceptable source impact levels, small quantity emission rates, and de minimis emission values; and make housekeeping updates. A stakeholder meeting was held in February and a public hearing was held 11 MAR 19.

NATURAL RESOURCES

AQUATIC INVASIVE SPECIES. The Washington Department of Fish and Wildlife <u>announced</u> it may amend regulations pertaining to aquatic invasive species, Chapter 220-640 WAC. The department is considering whether it needs to clarify regulations concerning the possession of aquatic invasive species and inspection of vessels and boating equipment.

ARCHAEOLOGICAL PERMITS. The Washington Department of Archaeology and Historic Preservation adopted <u>revisions</u> to rules governing archaeological excavation and removal permits. For sites that propose archeological monitoring, the department has developed a permit for archeological monitoring. The monitoring permit simplifies and reduces application requirements and costs. The permits are issued in accordance with Chapters 25-48-020 and 25-48-060 WAC. The <u>final rules</u> were effective 16 FEB 19.

Passed

WASTE

DANGEROUS WASTE. WADOE adopted <u>amendments</u> to Chapter 173-303 WAC, Dangerous Waste Regulations. The rulemaking amends dangerous waste rules by incorporating new federal hazardous waste rules:

- · Conditional Exclusions for Solvent-contaminated Wipes;
- Definition of Solid Waste–Revisions to Solid Waste Variances and to the Definition of Legitimacy;
- Revisions to the Export Provisions of the Cathode Ray Tube Rule;
- Hazardous Waste Generator Improvements Rule;
- Hazardous Waste Export Import Revisions; and
- Hazardous Waste Electronic Manifest Rule.

WADOE had initially intended to include rules for waste pharmaceuticals, but instead will wait for EPA to adopt final hazardous waste pharmaceutical rules. The <u>final rule</u> is effective 28 APR 19.

WATER

WATER TREATMENT PLANT GENERAL PERMIT. WADOE <u>is proposing</u> to reissue its National Pollutant Discharge Elimination System (NPDES) General Permit for Water Treatment Plants. The general permit covers the discharge of treated backwash effluent from water treatment filtration processes that produce potable or industrial supply water at a rate of at least 35,000 gallons per day. The department intends to issue the final permit in the summer of 2019. Comments are due 2 APR 19. The draft NPDES General Permit for Water Treatment Plants is available <u>here</u>. A fact sheet is available <u>here</u>. For more information about the permit reissuance, click <u>here</u>.

LEGISLATIVE SESSION: 14 JAN 19 THROUGH 22 APR 19 (ESTIMATED)

An * indicates the first time a bill appears in the 2019 Western Review.

Washington Bill Number, Sponsor, and Description	Bill Introduced	Passed 1st House	Passed 2nd House	Status
AIR/CLIMATE CHANGE				
HB 1040 Representative Kristine Reeves (D) Creates a work group to study and make recommendations on natural disaster and resiliency activities. Companion bill is SB 5106.	✓			
HB 1110 Representative Joe Fitzgibbon (D) Supports the deployment of clean transportation fuel technologies through a program that reduces the carbon intensity of fuel used in the state. Companion bill is SB 5412.	✓			
HB 1112 Representative Joe Fitzgibbon (D) Phases out the use of hydrofluorocarbons in various applications in the state. Requires the state to establish procurement policies for purchase of low global warming potential products. Companion bill is SB 5426.	√	✓		

Washington Bill Number, Sponsor, and Description	Bill Introduced	Passed 1st House	Passed 2nd House	Status
HB 1332 Representative Sharon Wylie (D) Streamlines and updates the operations of the Energy Facility Site Evaluation Council. Companion bill is SB 5329.	✓			
Representative Brian Blake (D) Directs the Department of Ecology to adopt a rule establishing the process by which lead agencies evaluate the environmental impacts of direct and indirect greenhouse gas emissions as part of their environmental review of proposed projects. Requires the rule to establish thresholds for determining adverse impact. Specifies other rule content. Companion bill is SB 5561.	√			
SB 5106 Senator Mark Mullet (D) Creates a work group to study and make recommendations on natural disaster and resiliency activities. Companion bill is HB 1040.	✓			
SB 5329 Senator Joe Nguyen (D) Streamlines and updates the operations of the Energy Facility Site Evaluation Council. Companion bill is HB 1332.	✓			
SB 5412 Senator Rebecca Saldana (D) Supports the deployment of clean transportation fuel technologies through a program that reduces the carbon intensity of fuel used in the state. Companion bill is HB 1110.	√			
SB 5426 Senator Mark Mullet (D) Phases out the use of hydrofluorocarbons in various applications in the state. Requires the state to establish procurement policies for purchase of low global warming potential products. Companion bill is HB 1112.	√			
SB 5561 Senator Dean Takko (D) Directs the Department of Ecology to adopt a rule establishing the process by which lead agencies evaluate the environmental impacts of direct and indirect greenhouse gas emissions as part of their environmental review of proposed projects. Requires the rule to establish thresholds for determining adverse impact. Specifies other rule content. Companion bill is HB 1549.	✓			
ENERGY				
HB 1129 Representative Jeff Morris (D) Promotes net metering. Authorizes electric utilities to offer net metering programs, incentives, and credits.	✓			
HB 1211 Representative Gael Tarleton (D) Establishes the Washington Clean Energy Transformation Act. Transitions the state's energy supply to carbon-neutral sources by 2030. Convenes an energy and climate policy advisory committee. Establishes penalties for electric utility non-compliance. Companion bill is SB 5116.	✓			

Washington Bill Number, Sponsor, and Description	Bill Introduced	Passed 1st House	Passed 2nd House	Status
SB 5116 Senator Reuven Carlyle (D) Establishes the Washington Clean Energy Transformation Act. Transitions the state's energy supply to carbon-neutral sources by 2030. Convenes an energy and climate policy advisory committee. Establishes penalties for electric utility non-compliance. Companion bill is HB 1211.	✓	✓		
LAND USE				
HB 1628 Representative Kristine Reeves (D) Creates an account to be used to support community efforts to reduce development conflicts with nearby military installations.	✓			
*HB 1683 Representative Tina Orwall (D) Creates a Commercial Aviation Coordinating Commission tasked with identifying a location for a new primary commercial aviation facility. Companion bill is SB 5370.	✓			
*SB 5370 Senator Karen Keiser (D) Creates a Commercial Aviation Coordinating Commission tasked with identifying a location for a new primary commercial aviation facility. Companion bill is HB 1683.	✓			
NATURAL RESOURCES				
Representative Daniel Griffey (R) Requires the Department of Natural Resources to recommend to the governor a prioritized list of all property acquisitions for the purpose of creating a list of Washington natural resources conservation areas and a Washington natural area preserve. Authorizes the governor to remove projects from the list and submit the amended list in the capital budget request to the Legislature. Companion bill is SB 5103.	√			
Senator Tim Sheldon (D) Requires the Department of Natural Resources to recommend to the governor a prioritized list of all property acquisitions for the purpose of creating a list of Washington natural resources conservation areas and a Washington natural area preserve. Authorizes the governor to remove projects from the list and submit the amended list in the capital budget request to the Legislature. Companion bill is HB 1287.	✓			
OTHER			*	
HB 1143 Representative Kristine Reeves (D) Addresses notification requirements for the discharge of per- and polyfluoroalkyl substances. Requires a person or entity discharging or using class B firefighting foam containing per- and polyfluoroalkyl substances that could lead to a discharge to notify the Department of Ecology and the Division of Emergency Management with the state military department within 24 hours.	✓			

Washington Bill Number, Sponsor, and Description	Bill Introduced	Passed 1st House	Passed 2nd House	Status
HB 1200 Representative Laurie Dolan (D) Addresses emergency preparedness. Requires the Adjutant General of the state military department to develop guidance, in consultation with the office of the superintendent of public instruction, which may be used by local school districts in developing, maintaining, training, and exercising catastrophic incident plans. Companion bill is SB 5247.	√			
HB 1386 Representative Christine Kilduff (D) Creates a military benefit zone program. Allows local governments located within the vicinity of military facilities to finance public improvements through proceeds from the military benefit zone. Companion bill is SB 5571.	✓			
SB 5247 Senator David Frockt (D) Addresses emergency preparedness. Requires the Adjutant General of the state military department to develop guidance, in consultation with the office of the superintendent of public instruction, which may be used by local school districts in developing, maintaining, training, and exercising catastrophic incident plans. Companion bill is HB 1200.	√			
SB 5571 Senator Emily Randall (D) Creates a military benefit zone program. Allows local governments located within the vicinity of military facilities to finance public improvements through proceeds from the military benefit zone. Companion bill is HB 1386.	✓			
*SB 5971 Senator Steve Hobbs (D) Raises funds for transportation planning. Implements a carbon pollution fee, increases the state gas tax by \$0.06, raises various vehicle and driver fees, implements a sales tax on auto parts and bicycles, increases other fees, and modifies distribution of funds related to the low carbon fuel standard. Specifies exemptions.	√			
WASTE				
WATER				
WATER				
*HB 1747 Representative Beth Doglio (D) Addresses risk-based water quality standards for on-site nonpotable water systems. Requires the Department of Health to adopt rules for risk-based water quality standards applicable to on-site treatment and reuse of nonpotable alternative water sources for nonpotable end uses.	✓			

Washington Bill Number, Sponsor, and Description	Bill Introduced	Passed 1st House	Passed 2nd House	Status
*HB 1831 Representative Zack Hudgins (D) Addresses the testing of drinking water for emerging contaminants. Authorizes the Department of Health to establish action levels for emerging contaminants and to require public water systems to monitor for emerging contaminants and take specified responses if action levels are exceeded. Specifies per- and polyfluoroalkyl substances and cyanotoxins as emerging contaminants.	✓			

Federal Activity

ATR.

REGULATION OF HAZARDOUS EMISSIONS FROM COAL- AND OIL-FIRED EGUS. EPA is proposing a suite of findings and actions related to the regulation of hazardous air pollutant (HAP) emissions from coal- and oil-fired electric utility steam generating units (EGUs) under section 112 of the Clean Air Act (CAA) (84 FR 2670). First, EPA is proposing to find that it is not appropriate or necessary to regulate HAP emissions from coal- and oil-fired EGUs. If finalized as proposed, this finding would reverse EPA's prior decision that regulation of these sources is appropriate and necessary. Second, EPA is soliciting comment on whether EPA has the authority or obligation to delist EGUs from CAA section 112(c) and rescind (or rescind without delisting) the National Emission Standards for Hazardous Air Pollutants for Coal- and Oil-Fired EGUs, commonly known as the Mercury and Air Toxics Standards. Third, EPA is proposing, based on a risk analysis, that residual risks due to emissions of air toxics from this source category are acceptable and that the current standards provide an ample margin of safety to protect public health. Fourth, EPA is taking comment on establishing a subcategory for emissions of acid gas HAP from existing EGUs firing eastern bituminous coal refuse. In addition, EPA will hold a public hearing 18 MAR 19 (84 FR 6739). Comments are due 8 APR 19.

COMMENT PERIOD EXTENDED FOR PROPOSED AMENDMENTS TO GHG PERFORMANCE STANDARDS FOR EGUS. EPA is proposing to extend the public comment period for <u>proposed revisions</u> to standards for greenhouse gas (GHG) emissions from new, modified, and reconstructed stationary EGUs. The proposed revisions amend a prior determination that partial carbon capture and storage is the best system of emission reduction for these sources. The comment period is extended to 18 MAR 19.

SULFUR DIOXIDE STANDARD RETAINED. In February, EPA <u>announced</u> its final decision to retain without change the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO₂). The decision is based on EPA's judgment that the current NAAQS protect the public health, with an adequate margin of safety, including the health of at-risk populations with asthma. According to the EPA announcement, SO₂ concentrations in the U.S. fell by more than 85 percent between 1990 and 2017 and more than 60 percent since 2010 as a result of CAA programs and efforts by state, local, and tribal governments as well as technological improvements. For more information about the SO₂ rule, click here.

ANTI-BACKSLIDING STUDY. A proposed partial consent decree in *Sierra Club v. Pruitt* would require EPA to undertake an "anti-backsliding" study to determine whether vehicle and engine air pollutant emissions changes resulting from the Renewable Fuel Standard program's renewable fuel volumes adversely impact air quality (84 FR 5672). Under the terms of the decree, EPA also would either promulgate fuel regulations to implement appropriate measures to mitigate any such adverse impacts or make a determination that such regulations are unnecessary. The decree specifies actions EPA must take if the parties cannot reach an agreement on the follow-up action. Comments are due 22 MAR 19.

CALIFORNIA CLEAN AIR ACT WAIVER. In a joint statement, the White House, EPA, and U.S. Department of Transportation announced they will discontinue discussions with the California Air Resources Board regarding the proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule. The administration has indicated it intends to revoke California's waiver to enforce stricter vehicle emissions standards in order to set one national standard for fuel economy.

INVENTORY OF U.S. GREENHOUSE GAS EMISSIONS AND SINKS. The Draft Inventory of U.S. GHG Emissions and Sinks: 1990-2017 is available for public review (84 FR 3444). EPA requests recommendations for improving the overall quality of the inventory report to be finalized April 2019, as well as subsequent inventory reports. Comments are due 14 MAR 19.

COMPLIANCE

NATIONAL COMPLIANCE INITIATIVES. EPA is soliciting public comment and recommendations on the National Compliance Initiatives (NCIs) to be undertaken in fiscal years 2020-2023 (<u>84 FR 2848</u>). EPA is soliciting input on whether to continue, modify, or conclude the seven active initiatives from the FY 2017-2019 cycle, and whether to add new initiatives for the next set of NCIs. Specifically, EPA is considering whether to:

- Extend three initiatives: (1) Cutting Hazardous Air Pollutants, (2) Reducing Toxic Air Emissions from Hazardous Waste Facilities, and (3) Reducing Risks of Accidental Releases at Industrial and Chemical Facilities;
- Modify two initiatives: (1) transition Keeping Industrial Pollutants Out of the Nation's Waters to National Pollutant
 Discharge Elimination System (NPDES) Significant Non-Compliance Reduction, and (2) eliminate the singlesector focus of Ensuring Energy Extraction Activities Comply with Environmental Laws;
- Return two initiatives to the core enforcement program because they have been achieved: (1) Reducing Air Pollution from the Largest Sectors, and (2) Keeping Raw Sewage and Contaminated Stormwater Out of Our Nation's Waters; and
- Add two new initiatives: (1) Increase Compliance with Drinking Water Standards, and (2) Reduce Children's Exposure to Lead.

Comments were due 11 MAR 19.

ANNUAL CIVIL PENALTY ADJUSTMENT. EPA adopted a final rule adjusting the level of the minimum statutory civil monetary penalty amounts under the statutes EPA administers (84 FR 2056). The minimum penalty amount has been adjusted for inflation, effective 6 FEB 19.

ENERGY

PROPOSED REPEAL OF LIGHT BULB EFFICIENCY STANDARDS. On 19 JAN 17, the U.S. Department of Energy (DOE) published two final rules adopting revised definitions for general service lamps and general service incandescent lamps, effective 1 JAN 20. DOE has since determined that the legal basis underlying those revisions misconstrued existing law. As a result, DOE issued a Notice of Proposed Rulemaking to withdraw the definitions established in the 2017 final rules (84 FR 3120). A public meeting was held 28 FEB 19. Comments are due 12 APR 19. To view the final rules that DOE is proposing to rescind, click here and here.

HR 1014. The Offshore Wind for Territories Act would authorize offshore wind development in the exclusive economic zones adjacent to U.S. territories American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands. The bill guarantees territories receive a state-equivalent share of all royalty payments made to the federal government by offshore wind developers for projects in their respective exclusive economic zone and provides funds for coral reef conservation. Introduced 6 FEB 19.

THREATENED AND ENDANGERED SPECIES

BORAX LAKE CHUB. The U.S. Fish and Wildlife Service is proposing to delist the <u>Borax Lake chub</u> (*Gila boraxobius*), a fish native to Oregon, on the basis of recovery (<u>84 FR 6110</u>). The proposal is based on a review of the best available scientific and commercial information, which indicates that the threats to the Borax Lake chub have been eliminated or reduced to the point where the species no longer meets the definition of an endangered or threatened species under the Endangered Species Act. Comments are due 29 APR 19.

PUGET SOUND STEELHEAD. The National Marine Fisheries Service extended the public comment period for the proposed recovery plan for the <u>Puget Sound Steelhead</u> (*Oncorhynchus mykiss*) distinct population segment, which is listed as threatened under the Endangered Species Act (<u>84 FR 1707</u>). The geographic area covered by the proposed plan is the Puget Sound basin, from the Elwha River (inclusive) eastward, including rivers in Hood Canal, South Sound, and North Sound. The comment period was extended to 28 MAR 19.

TOXICS

PFAS ACTION PLAN. In February, EPA released an <u>action plan</u> for per- and polyfluoroalkyl substances (PFAS). The action plan describes EPA's approach to identifying and understanding PFAS, addressing current PFAS contamination, preventing future contamination, and effectively communicating with the public about PFAS. EPA's Action Plan identifies both short-term solutions for addressing these chemicals and long-term strategies that will help provide the tools and technologies states, tribes, and local communities need to provide clean and safe drinking water to their residents and to address PFAS at the source—even before it gets into the water. A summary can be found here.

PFAS HEALTH EXPOSURE STUDY. In February, the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) <u>announced</u> that they have identified communities to be a part of assessments to examine human exposure to PFAS. The communities are near current or former military installations. The assessments are expected to begin in 2019 and continue through 2020 and are laying the groundwork for CDC/ATSDR's future multi-site health study that will look at the relationship between PFAS exposure and health outcomes. View additional details here.

UPDATE TO CHEMICALS LIST. In February, EPA <u>announced</u> it has updated the list of Toxic Substances Control Act (TSCA) Inventory chemicals that are actively being manufactured, processed, and imported in the U.S. As recently as 2018, the TSCA Inventory showed over 86,000 chemicals available for commercial production and use in the U.S. Until EPA's update, it was not known which of these chemicals on the TSCA Inventory were actually in commerce. Under the amended TSCA—The Frank R. Lautenberg Chemical Safety for the 21 Century Act—EPA was required to update the list and designate which chemicals are active or inactive in U.S. commerce. To download the public version of the initial TSCA Inventory or to get more information about the TSCA Inventory Notification Requirements rule, click <u>here</u>.

WASTE

LITHIUM-ION BATTERY RECYCLING CENTER. In February, DOE's Argonne National Laboratory <u>announced</u> the launch of the <u>ReCell Center</u>, to help the U.S. grow a globally competitive recycling industry and reduce U.S. reliance on foreign sources of battery material. The ReCell Center, DOE's first advanced battery recycling research and development initiative, is a collaboration between Argonne, National Renewable Energy Laboratory, Oak Ridge National Laboratory,

and several universities. The center's goal is to create profitable methods to dramatically improve recycling rates and improve national security by reducing a foreign reliance on supplies of critical battery materials such as lithium and cobalt. This will further the president's Executive Order 13817, which identifies the need for "developing critical minerals recycling and reprocessing technologies" as part of a broader strategy to "ensure secure and reliable supplies of critical minerals."

PHARMACEUTICAL WASTE. EPA published a final rule that adds regulations for the management of hazardous waste pharmaceuticals by healthcare facilities and reverse distributors (84 FR 5816). Healthcare facilities (for both humans and animals) and reverse distributors will manage their hazardous waste pharmaceuticals under this new set of sector-specific standards in lieu of the existing hazardous waste generator regulations. Among other things, these new regulations prohibit the disposal of hazardous waste pharmaceuticals in drains and eliminate the dual regulation of EPA hazardous waste pharmaceuticals that are also Drug Enforcement Administration controlled substances. The new rules also maintain the household hazardous waste exemption for pharmaceuticals collected during pharmaceutical take-back programs and events, while ensuring their proper disposal. The new rules codify EPA's prior policy on the regulatory status of nonprescription pharmaceuticals going through reverse logistics. The final rule is effective 21 AUG 19.

WATER

WATER TRADING POLICY MEMORANDUM. EPA <u>announced</u> a <u>new water trading policy memorandum</u> that will help states, tribes, and stakeholders use market-, incentive-, and community-based programs to reduce excess nutrients and improve water quality in their communities. The new trading memo identifies six market-based principles designed to encourage creativity and innovation in the development and implementation of programs that reduce pollutants in U.S. waters:

- States, tribes, and stakeholders should consider implementing water quality trading and other market-based programs on a watershed scale;
- EPA encourages the use of adaptive strategies for implementing market-based programs;
- Water quality credits and offsets may be banked for future use;
- EPA encourages simplicity and flexibility in implementing baseline concepts;
- A single project may generate credits for multiple markets; and
- Financing opportunities exist to assist with deployment of nonpoint land use practices.

In conjunction with the memo, EPA also released the document titled, <u>Next Steps in EPA's Nutrient Engagement</u>. A webinar was held 7 MAR 19 to discuss the trading memo and ongoing work to reduce excess nutrients in waterways. For more information about nutrient trading, click here.

NPDES PROGRAM UPDATES. EPA finalized certain revisions to NPDES permitting regulations that were <u>initially proposed</u> in 2016 (<u>84 FR 3324</u>). The final regulatory changes are minor and will improve and clarify the regulations in the major categories of regulatory definitions, permit applications, and public notice. This final rule also updates EPA contact information and web addresses for electronic databases, updates outdated references to best management practice guidance documents, and deletes a provision that is no longer applicable relating to best practicable waste treatment technology for publicly owned treatment works. The final rules are effective 12 JUN 19.

WATERS OF THE U.S. EPA and USACE published a proposed rule defining the scope of waters federally regulated under the Clean Water Act (CWA) (84 FR 4154). The proposal is the second step in a comprehensive, two-step process intended to review and revise the definition of "waters of the United States" consistent with the <u>Executive Order 13778</u>. This proposed rule is intended to increase CWA program predictability and consistency by increasing clarity as to the scope of "waters of the United States" federally regulated under the Act. This proposed definition revision is also intended to clearly implement the overall objective of the CWA to restore and maintain the quality of the nation's waters while respecting State and tribal authority over their own land and water resources. Comments are due 15 APR 19.

WATER REUSE ACTION PLAN. EPA <u>announced</u> it is developing a Water Reuse Action Plan that will leverage the expertise of industry and government to ensure the effective use of U.S. water resources. The Water Reuse Action Plan will seek to foster water reuse as an important component of integrated water resource management. EPA will facilitate discussions among federal, state, and water sector stakeholders and form new partnerships to develop and deploy the plan. A draft of the plan is scheduled for release and public review in September at the Annual Water Reuse Symposium in San Diego. Ongoing efforts by other federal agencies, such as DOE's Grand Water Security Challenge, and by various non-governmental organizations dedicated to water resources management, will be coordinated and leveraged as part of the overarching strategy to advance water reuse. For more information, including opportunities to engage with EPA on this effort, click here.

NOTIFICATION OF DATA AVAILABILITY—RESPONSES TO 2018 CLEAN WATER ACT HAZARDOUS SUBSTANCES SURVEY. EPA is making available for review and comment the data received from respondents of a voluntary survey, 2018 Clean Water Act Hazardous Substances Survey, OMB Control No. 2050-0220 (84 FR 4741). This data is being made available consistent with the preamble to the proposed action, Clean Water Act Hazardous Substances Spill Prevention, published 25 JUN 18. The data collected through the voluntary survey is available in Regulations.gov at Docket ID: EPA-HQ-OLEM-2017-0444. Comments were due 8 MAR 19.

Department of Defense Activity

Public Private Partnership Pilot Program—Request for Information. The Assistant Secretary of the Army (Civil Works) has directed USACE to establish a Public Private Partnership (P3) pilot program with the goal of demonstrating the viability of new delivery methods that can significantly reduce the cost and time of project delivery (<u>84 FR 1084</u>). USACE is seeking to identify up to 10 additional P3 pilot projects. For the initial screening criteria, the P3 proposal should: (1) have a construction cost in excess of \$50 million; (2) have non-federal sponsor support; (3) include design, build, finance, operation and maintenance, or some combination, for federally authorized projects; (4) accelerate project delivery; and (5) have the ability to generate revenue or leverage non-federal funding sources.

HAZARD COMMUNICATION. DOD updated <u>Department of Defense Instruction (DODI) 6050.05</u>, DOD Hazard Communication (HAZCOM) Program. The DODI establishes policy, assigns responsibilities, and provides procedures for the DOD HAZCOM Program, which protects service members and DOD civilian employees who use or produce hazardous chemicals. The DODI, effective 26 FEB 19, cancels and replaces the 2006 version.

ARMY FUNDED RESEARCHER WINS NOBEL PRIZE. An Army-funded researcher won the 2018 Nobel Prize in Chemistry for research in new enzyme production leading to the commercial, cost-effective synthesis of biofuels. Professor Frances Arnold is the Linus Pauling professor of chemical engineering, bioengineering, and biochemistry at the California Institute of Technology. Arnold said she considered how to make liquid fuels in remote locations from resources collected from the environment and eventually developed genetically modified organisms that now make jet fuel. The Army provided an investigator grant in the 1990s. The U.S. Army Combat Capabilities Development Command's Army Research Laboratory, through the Army Research Office, started funding the research in 2003 through the Institute for Collaborative Biotechnologies in Santa Barbara, California. An Army announcement is available here.

MILITARY HOUSING. Following a 13 FEB 19 <u>Senate hearing</u> on the current condition of the military housing privatization initiative, the military services announced actions being taken by the <u>Army</u>, <u>Air Force</u>, <u>Navy and Marine Corps</u> to remedy military housing issues.

SPACE FORCE. Space Policy Directive-4, Establishment of the United States Space Force, directs DOD to take actions under existing authority to marshal its space resources to deter and counter threats in space, and to develop a legislative proposal to establish a United States Space Force as a sixth branch of the U.S. Armed Forces within the Department of the Air Force (84 FR 6049). Under this proposal, the United States Space Force would be authorized to organize, train, and equip military space forces of the U.S. to ensure unfettered access to and freedom to operate in space, and to provide vital capabilities to joint and coalition forces in peacetime and across the spectrum of conflict.

Professional Development

US ARMY CORPS OF ENGINEERS PROSPECT TRAINING. USACE released the <u>FY 2019 PROSPECT</u> (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 <u>course catalog</u> and list of classes and schedule for details. Environmental courses include, but are not limited to:

- The RCRA Complete (Course Control Number (CCN) 226)
- Environmental Regulations Practical Application Course (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 CIVIL ENGINEER CORPS OFFICERS SCHOOL TRAINING. The <u>Navy Civil Engineer Corps Officers School</u> (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 <u>here</u> 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 <u>Air Force Civil Engineer School</u> offers a variety of environmental management courses and seminars, including Interservice Environmental Education Review Board (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.

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, <u>FedCenter-sponsored courses</u>
- Applicable laws and Executive Orders; and
- Partnerships.

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

SERDP AND ESTCP WEBINAR SERIES (ONLINE). DOD's environmental research and development funding programs, the Strategic Environmental and Research and Development Program and the Environmental Security Technology Certification Program (<u>SERDP and ESTCP</u>), launched a <u>webinar series</u> 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 are available on demand <u>here</u>.

BIOBASED PRODUCT TRAINING SERIES (ONLINE). The U.S. Department of Agriculture (USDA) offers a series of ondemand training modules about biobased products and the BioPreferred® Program:

- Fundamentals: Biobased Products and the BioPreferred® Program
- 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

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 <u>live and archived webinars</u>. Building on the familiar concept of <u>Reduce, Reuse, Recycle</u>, 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 <u>course</u> 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 <u>spreadsheet</u> 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). The Federal Energy Management Program (FEMP) offers interactive, <u>eTraining courses</u> to help federal agencies develop core competencies and comply with energy efficiency, 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.

ENERGY STAR (ONLINE). EPA's Energy Star program helps identify and promote energy efficiency in products, homes, and buildings. EPA hosts a <u>webinar series</u> that covers a range of topics, from how to benchmark in Portfolio Manager to financing energy efficiency improvements to how to engage building occupants.

*ITRC TRAINING (ONLINE). 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. The schedule of 2019 online training events can be viewed here. Training is provided at no-cost to participants. ITRC released a 30-minute on-demand training video that provides a 30-minute introductory overview of ITRC's Quality Considerations for Multiple Aspects of Munitions Response Sites guidance document. The training explains the decision logic used throughout a munitions response (MR) project and assists in developing the quality assurance and quality control activities that ensure quality data and confidence in decisions. The training provides an overview of the MR process and identifies specific quality considerations at critical decision points for MR projects.

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 <u>online conformity training program</u> covers all aspects of the rule and is divided into four modules.

CLIMATE CHANGE SCIENCE AND MANAGEMENT WEBINAR SERIES (ONLINE). This U.S. Geological Survey <u>webinar series</u> was developed to help those engaged in climate science research better understand the range of approaches for developing actionable science. Video recordings with closed captioning are made available one to two weeks after each presentation. Information on upcoming webinars is available from the BioClimate newsletter (<u>click</u> to subscribe).

NATIONAL CONSERVATION TRAINING CENTER WEBINAR SERIES (ONLINE). This <u>webinar series</u> is produced by a partnership between the National Oceanic and Atmospheric Administration and the U.S. Fish and Wildlife Service. Archived webinars are available here.

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

MANAGING CLEANUP AT SITES IMPACTED BY 1,4-DIOXANE (ONLINE). This <u>webinar</u>, hosted by SERDP and ESTCP, explains managing cleanup or restoration at sites impacted by 1,4-dioxane. The webinar includes presentations addressing natural attenuation and conceptual site modeling.

REPI Webinar Series For 2019. DOD's REPI Program announced the <u>2019 REPI Webinar Series schedule</u>. The webinars showcase best practices and lessons learned from REPI partnerships nationwide that support military missions and accelerate the pace of conservation. Unless otherwise noted, all webinars begin at 1:00 p.m. Eastern Time.

- 27 MAR 19: Calling for Sentinel Landscapes Applications: Lessons Learned & Best Practices from the 2017 Cycle
- 5 JUN 19: Leveraging the New REPI Installation Resiliency Authority
- 10 JUL 19: How to Obtain Regulatory Relief for Endangered Species without Purchasing a Real Estate Interest
- 28 AUG 19: REPI and the National Defense Strategy: Rebuilding Readiness by Protecting Key Capabilities
- 9 OCT 19: Measuring Impacts: Developing Mission Benefit Metrics
- 27 NOV 19: REPI and the Farm Bill
- 8 JAN 20: How to Introduce Local Businesses into your REPI Partnership

25-28 MAR 19, Boston MA: ITRC Annual Meeting. ITRC's 2019 <u>annual meeting</u> will be held in Boston, Massachusetts. The meeting is open to all and will host team meetings on a variety of issues, including PFAS, 1,4-dioxane, incremental sampling methodology, in situ optimization, advanced site characterization tools, and harmful cyanobacterial blooms. This year's breakfast plenary speakers are Ms. Maureen Sullivan, Deputy Assistant Secretary of Defense for Environment, and Martin Suuberg, Commissioner of the Massachusetts Department of Environmental Protection.

* indicates the first time a professional development opportunity appears in the *Review* or an update to an existing opportunity.

Staff Directory

Director/Region 8 DOD REC/Region 9 Army REC	(303) 844-0956
Regional Counsel	(303) 844-0955
Region 8 Army Program Coordinator	(303) 844-0952
Region 10 Army REC	(303) 844-0957
Regulatory Affairs Specialist	(303) 844-0954
Region 10 DOD/Air Force REC	(503) 335-4416
Region 10 Navy REC	(360) 396-0008
Pacific Area Coast Guard	(510) 437-2747

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 *Western Review*, please contact the Regional Environmental Coordinator listed at the top of each region's section.

To be added to the Western Review distribution list, email the Regulatory Affairs Specialist.

