



The Southern Region Review

May 2011 , Region 4 Edition



The US Army Regional Environmental & Energy Office produces this publication to provide current information in regard to environmental actions and events throughout Federal EPA Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee). Events chosen may be relevant to U.S. Army and other Military Services' activities and operations. The Review is designed to alert environmental decision makers, planners, and program managers of developments potentially relevant to overall responsibilities.

The Southern Region Review is a monthly electronic publication. To receive this publication, please email the request to rebecca.shanks@us.army.mil. Please include a contact name and email address in the body of the message.

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Hot Topics

FORT MCPHERSON RECORD OF DECISION (ROD) (04/13/11, [76 FR 20633](#)) The Army announces a [Record of Decision](#) for BRAC 2005 Actions at Fort McPherson, GA. The Army has decided to implement its preferred alternative of early transfer of surplus Federal property to other entities for reuse. Under the early transfer alternative, the Army can transfer and dispose of surplus property for redevelopment before environmental remedial actions have been completed. A Memorandum of Agreement (MOA) for the Closure and Disposal of Fort McPherson has been legally executed by the signing of authorized representatives of the Army, the Georgia State Historic Preservation Officer, and the Advisory Council on Historic Preservation. Army obligations fully described in the MOA are considered mitigations required under the National Historic Preservation Act. Specific mitigation measures the Army commits to perform are outlined in the MOA. For further information: [Owen Nuttall](#); Fort McPherson BRAC Environmental Office; Fort Gillem, GA; (404) 469-5245.

ENVIRONMENTAL AWARDS (04/19/11) DoD announced the winners of the [11 Secretary of Defense Environmental Awards](#). A panel of judges representing Federal and State agencies, academia, and the public has selected the following Region 4 installations, teams, and individuals as the winners of this year's awards: Eglin Air Force Base, FL, Cultural Resources Management Team - Cultural Resources Management – Individual/Team; Cape Canaveral Air Force Station, FL, Environmental Restoration – Installation; Eglin Air Force Base, FL, Natural Resources Conservation – Large Installation. A ceremony honoring the 11 winners is planned for 06/08/11, at the Pentagon.

SUSTAINABILITY PERFORMANCE (04/14/11) Federal agencies released, for the first time, their scorecards on energy sustainability performance. These scorecards enable agencies to target and track the best opportunities to improve efficiency, reduce pollution, and eliminate waste. Under Executive Order 13514, President Obama directed Federal agencies to lead by example in clean energy; and to meet energy, water, pollution and waste reduction targets. The scorecard for [DoD scorecard](#) is available, as is [further information](#).

ARMY LAUNCHES NETZERO PILOT PROGRAM (04/20/11) The Army has released a list of installations that are participating in an energy-conserving pilot program to only use as much energy as they create by 2020. The initiative, called *Net Zero*, will focus on energy as well as water and waste usage procedures, explained Katherine Hammack, assistant secretary of the Army for Installations, Energy and Environment.

Conferences and Training

VARIOUS DATES AND LOCATIONS: [USACE 11 PROSPECT TRAINING](#). The PROSPECT Program provides job-related training through technical, professional, managerial and leadership courses to meet the needs of USACE and other government agencies. The catalog for the PROSPECT Program, the Purple Book, lists over 200 supporting the missions of USACE. Courses are available to federal, state or local government employees.

VARIOUS DATES AND LOCATIONS THROUGHOUT NC: [CONTINUING EDUCATION ENVIRONMENTAL, SAFETY & HEALTH WORKSHOPS](#). NC State University offers various environmental courses, to include HAZWOPPER, Hazardous Waste Management, Hazardous Materials Transportation and more.

VARIOUS DATES AND TIMES ONLINE: [NPDES TRAINING COURSES AND WORKSHOPS](#). Training courses, workshops, and webcasts explain the regulatory framework and technical considerations of the NPDES Permit program; designed for permit writers, dischargers, USEPA officials and other interested parties.

VARIOUS DATES AND TIMES ONLINE: [INTERSTATE TECHNOLOGY AND REGULATORY COUNCIL \(ITRC\) INTERNET BASED TRAINING](#). ITRC is a state-led coalition working together 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 (TIFSD), ITRC delivers training courses via the Internet 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.

VARIOUS DATES AND TIMES: [EPA RCRA TRAINING](#). RCRA-related online courses, seminars, webinars, podcasts, and videos are posted throughout USEPA's waste website. Introductory and advanced courses are included for federal and state regulators, the regulated community, organizations, associations, and consumers interested in environmental laws, regulations and implementation.

ANYTIME ONLINE: [EPA WATERSHED ACADEMY](#). The website offers a variety of self-paced training modules that represent a basic and broad introduction to the watershed management field. Modules vary in time to complete, from 1/2 hour to 2 hours.

ANYTIME ONLINE: [EPA RESOURCE CONSERVATION CHALLENGE ACADEMY](#). The academy series provides information to materials management stakeholders through webinars related to EPA's Resource Conservation Challenge. Learn about key issues, successful projects, and a variety of best management practices for creating stellar waste management programs.

ANYTIME ONLINE: [EPA REDUCES RUNOFF VIDEO](#). Online video highlights green building techniques (rain gardens, green roofs, etc.) to help manage stormwater runoff.

ANYTIME ONLINE: [DEFENSE ACQUISITION UNIVERSITY \(DAU\)](#). DAU developed on-line resources available for the DoD AT&L workforce, industry partners, and other federal, state, and local government organizations. The on-line resources provide the ability to apply for a course, take a continuous learning module for continuous learning credit, research policy and other documents, link to related learning and knowledge content, ask a professor a question, contribute knowledge objects (such as lessons learned, best practices, templates, or samples), or collaborate with peers on work issues.

ANYTIME ONLINE: [DOILEARN](#). DOI Learn houses natural resource courses and training offered by all organizations within the Department of Interior, to include the National Park System, Fish and Wildlife Service, Bureau of Land Management, etc.

ANYTIME ONLINE: [GOLEARN](#). GoLearn provides government employees and military personnel with web-based learning and development courses, and other products and services. Site registration is required, including a nominal fee for federal users.

ANYTIME ONLINE: [ARMY PODCAST SERVICE](#). The Army offers free podcasts on a wide variety of topics, including an environmental series, an Army Corps of Engineers series, and many more. The podcasts are available through a free subscription service. It is not necessary to own an ipod in order to view or listen to a podcast.

ANYTIME ONLINE: [TRAINING FOR FEDERAL GHG INVENTORIES](#). A component of FedCenter's broader "Greenhouse Gas Inventory Reporting" site is available. The FEMP-developed training offers three types of training that can help in understanding the processes needed to develop an agency's GHG inventory under EO 13514 section 9. These trainings include online interactive courses, archived webinar videos and PowerPoint files from training courses.

MAY 9-12, NEW ORLEANS, LA: [ENVIRONMENT, ENERGY SECURITY AND SUSTAINABILITY \(E2S2\)](#). E2S2 provides an opportunity to share ideas on how to improve energy, environmental and sustainability management throughout DoD, the Services and other federal agencies. Given DoD's implementation of EO 13514, 11 will be an exciting year for industry members in the evolution of the Military's energy, environment and sustainability management. E2S2 will be the place to learn what is happening, hear the latest policy and budget changes, begin planning for FY12 and interact with colleagues and professional counterparts in the environment, energy and sustainability communities.

MAY 16-19, CHICAGO, IL: [REMTEC SUMMIT 11](#). The summit delivers a unique platform focused on advancing the environmental science and remediation industry. It is the place to hear essential sources of information on technology, application and policy affecting contaminated site restoration field from leading experts within the academic, regulatory, industry and environmental-consulting communities.

MAY 24-26, CHICAGO, IL: [FIRST FORMERLY USED DEFENSE SITES \(FUDS\) NATIONAL FORUM](#). DoD, EPA, the States, and Federal Land Management agencies, reactivated the FUDS Forum in February 10 to enhance communication and coordination with the ultimate goal of improving efficiency and effectiveness of cleanup at FUDS. This national meeting represents an all-inclusive effort to encourage participation from all levels of the participating organizations and agencies. The forum is open to State regulators and personnel from EPA and Federal Land Manager headquarters, regional, and local offices. DoD Environmental Management staff, Army, and Corps of Engineers personnel from Headquarters, Divisions, and Districts will also participate. The costs for two participants per State to attend this meeting are eligible for [reimbursement under the Department of Defense and State Memorandum of Agreement \(DSMOA\)/Cooperative Agreement](#).

MAY 24-27, GRAPEVINE, TX: [JOINT ENGINEER TRAINING CONFERENCE & EXPO](#). JETC features six technical tracks addressing timely issues affecting the A/E/C, facility management and environmental fields: Track 1, Contingency Operations; Track 2, Installation Management; Track 3, Design & Construction; Track 4, Water Resources; Track 5: Energy;

and Track 6, Acquisition. The technical program lays the foundation for the conference and is supported by a robust, informational expo area, technical tours and ample networking and social events.

JUNE 2, ONLINE: [FEDERAL FLEET INFRASTRUCTURE AND ELECTRIC VEHICLES](#). The webinar provides insight into ways to accelerate infrastructure upgrades and partner with other entities to advance the use of electric vehicles and other alternative fuel vehicles in Federal fleets.

JUNE 7-9, ORLANDO, FL: [11 JOINT DoD ENVIRONMENTAL RESTORATION SUMMIT – EASTERN REGION](#). The event will include collaborative discussions on current DoD environmental restoration issues, hot topics, best practices and paths forward.

JUNE 14-16, WASHINGTON, DC: 11 NATIONAL DEFENSE CENTER FOR ENERGY & ENVIRONMENT (NDCEE) PROGRAM CONFERENCE. Visit [website](#) for further information.

JUNE 15, ONLINE: [COMMUNITY WIND PROJECTS](#). This free webinar is part of DOE's Wind Powering America 11 webinar series. It will provide a discussion about community wind projects. The webinar is free; no registration is required.

JULY 7, ONLINE: [LABS, DATA CENTERS AND HIGH-TECH FACILITIES](#). The webinar outlines EO 13514 requirements and best practices for improving the energy and environmental performance of Federal laboratories, data centers and high-tech facilities.

JULY 19-21, WASHINGTON, DC: [12TH ANNUAL EPA COMMUNITY INVOLVEMENT TRAINING CONFERENCE](#). The theme for the conference is, "Community Involvement in the 21st Century: Embracing Diversity, Expanding Engagement, Utilizing Technology." Registration will open in May 11.

JULY 25-29, NASHVILLE, TN: [11 SUSTAINING MILITARY READINESS CONFERENCE](#). DoD personnel and stakeholders interested in military training and testing, natural and cultural resources management, and sustainable and compatible land, air, sea, and frequency use topics are invited to: explore the interdisciplinary nature of sustaining military readiness; share lessons learned and best practices among colleagues and stakeholders; and participate in a broad spectrum of informative training workshops.

JULY 26-28, ORLANDO, FL: [FEDFLEET 11](#). This conference is a one-stop experience for Fleet and Aviation Management professionals that consolidates a comprehensive collection of fleet management, automotive procurement, aviation and marine educational sessions into a single venue.

AUGUST 4, ONLINE: [ENERGY-EFFICIENT PRODUCT PROCUREMENT](#). The webinar outlines how to meet executive order and Federal Acquisition Regulation (FAR) requirements on purchasing FEMP designated and ENERGY STAR products.

AUGUST 7-10, CINCINNATI, OH: [GOVENERGY](#). Join federal employees and stakeholders in exchanging best practices for meeting federal energy management goals. The workshop and trade show serves to provide effective energy management training to federal employees and their associated stakeholders. In doing so, it fosters opportunities to further educate and encourage the best application of practices, products, and services as they relate to energy efficiency, renewable energy, water efficiency, and greenhouse gas management within the federal sector.

AUGUST 8-19, SHEPHERDSTOWN, WV: [ENVIRONMENTAL POLICY ISSUES](#). This seminar helps attendees understand the political, scientific, social and economic issues that shape environmental policy. Attendees will examine the administration's environmental agenda, institutional policy roles, and to improve environmental quality. Through a mix of classroom, small group and workshop activities, attendees will learn how environmental policy is made from initiation to implementation.

AUGUST 16-18, COLORADO SPRINGS, CO: [AMERICAN INDIAN CULTURAL COMMUNICATION COURSE](#). Indian Specialists in history, culture, intercultural communication and consultation, and DoD legal staff will teach this acclaimed training. This free course provides valuable information for DoD employees whose work could affect Indian tribes and for those already working with tribes and tribal members.

AUGUST 25-26, BOISE, ID: WESTERN ENERGY [POLICY RESEARCH CONFERENCE \(WEPRC\)](#). WEPRC is a conference for academic and professional energy policy researchers. Presenters are required to submit papers and discuss research to advance the state-of-the-art, analyze policies, and foster research collaborations dealing with an increasingly carbon-constrained economy and regulatory environment. This conference is for you if you are seeking to present or discuss

energy policy research with participants and panelists from academia, think- tanks and research institutes, NGOs, national laboratories, industry, and government.

Federal Notices and Rulemaking

Air

NSPS EMISSIONS GUIDELINES FOR HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS (HMIWI) (04/04/11, [76 FR 18407](#)) EPA amended the NSPS to correct inadvertent drafting errors in the emissions limits for nitrogen oxides and sulfur dioxide for large HMIWI. This action will also correct erroneous cross-references in reporting and recordkeeping requirements for new HMIWI. Potentially affected entities include Federal government hospitals, health care facilities, public health care service and armed services. This rule is effective 05/04/11. For [further information](#): [Amy Hambrick](#); EPA, Fuels and Incineration Group, Research Triangle Park, NC; 919-541-0964.

LEAD NAAQS (04/12/11, [76 FR 20347](#)) EPA has released a [Draft Integrated Review Plan](#) (Draft IRP) for the National Ambient Air Quality Standards (NAAQS) for Lead. For further information: [Dr. Deirdre Murphy](#); EPA, Office of Air Quality Planning and Standards, Research Triangle Park, NC; 919-541-0729.

11 GHG INVENTORY REPORT (04/18/11) EPA has released the 16th annual US GHG inventory. The [final report](#) shows overall emissions during 2009 decreased by 6.1% from the previous year. This downward trend was attributed to a decrease in fuel and electricity consumption across all US economic sectors. Total emissions of the six main GHGs in 2009 were equivalent to 6,633 million metric tons of CO₂. These gases include CO₂, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride. The report indicates that overall emissions have grown by more than 7.3% from 1990 to 2009. Emissions in 2009 represent the lowest total US annual GHG emissions since 1995. These numbers reflect the most up to date data at the time of publication. "The Inventory of US Greenhouse Gas Emissions and Sinks: 1990-2009," tracks annual GHG emissions at the national level and presents historical emissions from 1990 to 2009. The inventory also calculates CO₂ emissions that are removed from the atmosphere by sinks.

PM NAAQS (04/22/11, [76 FR 22665](#)) EPA's Office of Air Quality Planning and Standards released a final document titled, "[Policy Assessment for the Review of the Particulate Matter National Ambient Air Quality Standards \(PA\)](#)." The assessment contains staff analyses of alternative options for Agency rulemaking. The document will serve to "bridge the gap" between available scientific information and judgments required of the Administrator in determining whether it is appropriate to retain or revise the standards. The current and potential alternative PM standards are considered in terms of the basic elements of the NAAQS: indicator, averaging time, form and level. For further information: [Beth Hassett-Sipple](#); EPA, OAQPS, Research Triangle Park, NC; 919-541-4605.

Energy

WIND ENERGY PROJECTS (04/18/11, [76 FR 21712](#)) The Navy announced both Final [Programmatic Environmental Assessment \(PEA\)](#) and draft [Finding of No Significant Impact \(FONSI\)](#) for the development and operation of small-scale wind energy projects at US Marine Corps facilities throughout the Continental US. Marine Forces Reserve (MARFORRES) would site, design, construct and operate small-scale wind energy projects at MARFORRES facilities. For the purpose of this action, MARFORRES facilities are defined as those that are not aboard active-duty USMC installations such as the MARFORRES Center on USMC Base Camp Lejeune. The design of a small-scale wind energy project would include one to four wind turbines ranging in size from small to large (i.e., < 0.1 to 2.5 megawatts) for each project site. The proposed action includes siting and design criteria, best management practices, and general conservation measures that could potentially be implemented to avoid and/or eliminate potentially significant environmental impacts and ensure operational compatibility during implementation of the wind energy program. Comments are due 05/18/11.

Miscellaneous

DoD COMMENTS ON HAZARD RANKING SYSTEM FOR THE NPL (04/07/11) DoD submitted [comments](#) to EPA opposing and commenting on its proposal to add a Vapor Intrusion Component to the Hazard Ranking System for evaluating sites for inclusion on the "Superfund" National Priorities list.

CHEMICAL STOCKPILE PREPAREDNESS SURVEY (04/20/11, [76 FR 22116](#)) FEMA submitted to OMB an information collection request titled, Chemical Stockpile Emergency Preparedness Program ([CSEPP](#)) Evaluation and Customer Satisfaction Survey. CSEPP is a partnership between FEMA and the Army that provides emergency preparedness assistance and resources to communities surrounding the Army's chemical warfare agent stockpiles. The purpose of the survey is to

support development of public outreach and education efforts to improve emergency preparedness surrounding stockpile sites. The survey will collect data from citizens living in the Immediate Response Zones and Protective Action Zones surrounding stockpile sites. Program managers use survey data findings to evaluate public awareness of protective actions at CSEPP sites, and identify outreach weaknesses and strengths to develop effective outreach and education campaigns. Comments are due 05/20/11. For further information: Lesia M. Banks; FEMA Director, Records Management Division; Arlington, VA; FEMA-Information-Collections-Management@dhs.gov.

GREENGOV PRESIDENTIAL AWARDS The White House CEQ has announced that beginning 05/02/11, Federal employees across the nation can nominate their colleagues for the [2011 GreenGov Presidential Awards](#) for demonstrating extraordinary achievement in the pursuit of President Obama's Executive Order 13514.

Natural Resources

OKALOOSA DARTER (04/01/11, [76 FR 18087](#)) USFWS reclassified the Okaloosa darter from endangered to threatened. The endangered designation no longer correctly reflects the current status of this fish due to a substantial improvement in the species' status. USFWS data indicates a substantial reduction in threats to the species, a significant habitat restoration in most of the species' range, and a stable or increasing trend of darters in all darter stream systems. Since the species range is almost exclusive to Eglin Air Force Base, USFWS is also establishing a special rule to continue activities with a reduced regulatory burden to its soil erosion control program, which has provided a net benefit to the Okaloosa darter. Eglin AFB's Integrated Natural Resources Management Plan and Threatened and Endangered Species Component Plan identify management practices for the benefit the Okaloosa darter. [Information](#) on the Okaloosa Darter Recovery Plan is available. The [5-year status review](#) (completed in July 2007) is also available. This final rule became effective 05/02/11. For further information: Don Imm; FWS Panama City Field Office, FL; 850-769-0552.

NATIONAL HANDBOOK OF CONSERVATION PRACTICES (04/11/11, [76 FR 19971](#)) The Natural Resources Conservation Service (NRCS) is proposing to issue a series of revised conservation practice standards in the National Handbook of Conservation Practices. These standards include, but are not limited to: Dam, Diversion (Code 348), Forest Stand Improvement (Code 666), Irrigation Ditch Lining (Code 428), Irrigation Pipeline (Code 430), Irrigation Reservoir (Code 436), Irrigation System, Microirrigation (Code 441), Tailwater Recovery (Code 447), Irrigation Water Management (Code 449), Mulching (Code 484), Pipeline (Code 516), Pond (Code 378), Pumping Plant (Code 533), Renewable Energy System (Code 671), Tree/Shrub Establishment (Code 612), Waste Recycling (Code 633), and Woody Residue Treatment (formerly Forest Slash Treatment) (Code 384). Submit comments by 05/11/11.

WILD PIG MANAGEMENT [A Landowner's Guide for Wild Pig Management – Practical Methods for Wild Pig Control](#) is available. The guide compiles the knowledge and expertise of numerous wildlife researchers and managers from across the Southeast on wild pig management, a growing problem across the Southeast, specifically for longleaf pine seedlings.

Toxics

CHEMICAL ACTION PLANS FOR DIISOCYANATE CHEMICALS (04/13/11, [EPA RECENT ADDITIONS](#)) EPA has released action plans to address health risks of [methylenediphenyl diisocyanate \(MDI\)](#), [toluene diisocyanate \(TDI\)](#) and related compounds. Exposure to these chemicals can occur in application of products such as adhesives, coatings, and spray foam insulation, sealing concrete or finishing wood floors. Diisocyanates are known to cause severe skin and breathing responses in workers who have been repeatedly exposed to them. OSHA regulates workplace exposures through permissible exposure limits. EPA's focus is mostly on public and consumer exposure to these chemicals, and to a smaller extent, incidental or paraoccupational workplace exposures.

Water

CLEAN WATER FRAMEWORK (04/27/11, [NEWS RELEASE](#)) The Obama Administration released a national [Clean Water Framework](#) that affirms its comprehensive commitment to protecting the health of America's waters. The framework recognizes the importance of clean water and healthy watersheds to our economy, environment and communities, and emphasizes the importance of partnerships and coordination with States, local communities, stakeholders, and the public to protect public health and water quality, and promote the nation's energy and economic security.

CONSTRUCTION GENERAL PERMIT (04/25/11, [76 FR 22882](#)) This draft construction general permit, now open for comment, includes new requirements that implement the technology-based Effluent Limitation Guidelines and NSPS, issued on 12/01/09 by EPA for construction and development industry. The draft permit includes new water quality-based requirements for construction sites discharging storm water to waters requiring additional pollutant control. EPA

proposes to issue this construction general permit for five years, and to provide permit coverage to eligible existing and new construction projects in all areas of the country where EPA is the NPDES permitting authority. Comments on the draft general permit must be received on or before 06/24/11. Comments on the preparation and issuance of the draft/preliminary Environmental Assessment must be received by 05/25/11. For further information: [Greg Schaner](#), EPA Headquarters, Office of Water, Office of Wastewater Management, 202-564-0721.

State Laws and Rulemaking

Alabama

Legislative Session Convened 01/04/11; Adjourns 06/14/11



Legislation

AL H 50: COAL COMBUSTION BY-PRODUCTS. This bill would remove solid waste exemptions for fly ash waste, bottom ash waste, boiler slag waste, and flue gas emission control wastes. **Status:** In committee

REEO-S NOTE: This may be important to facilities operating electric generating plants and is likely in reaction to EPA's attempts to address coal combustion byproducts.

AL H 106: REPEAL MINIMUM CIVIL PENALTIES FOR COMPLIANCE VIOLATIONS. This bill relates to civil penalties assessed pursuant to Section 22-22A-5, Code of Alabama 1975, for violations of State environmental protection laws and orders; amends Section 22-22A-5, Code of Alabama 1975, to remove minimum penalty amounts for certain violations and to limit penalties for violations subject to monthly reporting based on average compliance to monthly intervals. **Status:** In committee

REEO-S NOTE: The apparent intent behind the bill is to provide ADEM flexibility in whether to issue a penalty for certain violations. Currently, certain violations must include at least a minimum fine.

AL H 443: CHATTAHOOCHEE RIVER AND LANDFILLS. This bill relates to the Chattahoochee River and the public waters of this State; regulates establishment of new construction and demolition landfills or solid waste landfills outside corporate limits of any municipality within a certain distance of the river. **Status:** In committee

AL H 508: MOTOR FUEL STORAGE. This measure amends Section 35-19-2 of the Code of Alabama 1975, to exempt USTs and ASTs storing motor fuel from requirements of the Alabama Uniform Environmental Covenants Act (UECA). **Status:** In committee

REEO-S NOTE: No impact to DoD; DOD has an agreement with ADEM exempting military bases from the UECA requirement.

Final Rules

TRANSBOUNDARY SHIPMENTS OF HAZARDOUS AND GENERATOR WASTE (ALA. ADMIN CODE CH. 335-14-1-.02, .03; 2-.01, .03, .04, APPENDIX VII; -3-.01 THRU .06, .09; -4-.01, .02; -5-.02, .04, .05; -6-.02, .04, .05; -7-.07; -8-.01; -17-.05) ADEM is proposing regulations to reflect changes made to EPA regulations between 07/01/09 through 06/30/10 that update and clarify existing definitions, and add regulatory language to clarify certain regulations in existing rules. ADEM amendment would adopt the updated rule relating to transboundary shipments of hazardous waste and the Federal technical corrections and clarifications rule. In addition, a rule requiring a generator to adequately document the amount of waste stored in tanks was added. Additional regulatory language allows a generator to petition ADEM to exclude trivalent chromium waste from regulation as a hazardous waste. ADEM is also proposing to correct a number of typographical and citation errors in existing regulations. The rule was proposed 10/20/10. A public hearing was held, and comments were due 12/10/10. The rule was adopted by the Commission at the 02/18/11 meeting, and became effective 03/25/11.

[Notice of Public Hearing](#)

[Proposed Rule](#)

[Final Rule](#)

Contact: Larry Bryant, (334) 271-7771

Florida

Legislative Session Convened 03/08/11; Adjourned 05/06/11



Legislation

[FL H 13 / FL S 1698 [SIMILAR]: ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM. These measures revise legislative intent; eliminate provisions directing the FL Department of Health (DOH) to create and administer the statewide septic tank evaluation program; eliminate procedures and criteria for the evaluation program; terminate the grant program for repair of onsite sewage treatment disposal systems identified pursuant to evaluation program for conformity; and eliminate provisions authorizing DOH to collect an evaluation report fee and provisions relating to disposition of fee proceeds and revenue-neutral fee schedule. **Status: H13 Passed House, in Senate; RS1698 Ready for vote on Senate floor**

REEO-S NOTE: This measure would relieve certain reporting and other requirements for DoD facilities operating such systems.

FL H 239: NUTRIENT CRITERIA. This bill prohibits the FLDEP water management districts, and all other State, regional, and local governmental entities from implementing EPA's nutrient water quality criteria rules for the State's lakes and flowing waters, finalized on December 6, 10, and published in Volume 75, No. 233 of the Federal Register. The bill provides that the department may adopt numeric nutrient water quality criteria for a particular surface water or class of surface waters if the department determines that such criteria are necessary based on historic and projected nutrient loading trends, existing and forthcoming technology-based nutrient reduction measures, and existing and forthcoming water quality restoration and protection programs applicable to the surface water or class of surface waters. **Status: Passed House; In Senate**

REEO-S NOTE: This bill stems from ongoing litigation surrounding EPA's regulation of nutrient criteria.

BACKGROUND: The potential impact to DoD may be seen in the form of having to comply with two conflicting water quality programs (State and EPA). Litigation may help solve current disagreements on appropriate regulatory approaches, but developments should be followed.

FL H 613: DOMESTIC WASTEWATER FACILITIES. This bill extends the deadline by which the discharge of domestic wastewater through ocean outfalls must meet advanced wastewater treatment and management requirements from December 31, 2018, to December 31, 2023. The bill also extends the deadline by which domestic wastewater facilities that discharge through an ocean outfall on July 1, 2008, must install a functioning reuse system from December 31, 2025, to December 31, 2030. The date on which the discharge of domestic wastewater through ocean outfalls is prohibited is also extended to December 31, 2030. **Status: H613 Passed House; In Senate**

REEO-S NOTE: Other than compliance extensions, no substantive changes of Note.

FL H 7129 / FL S 1122: GROWTH MANAGEMENT. This bill revises and provides provisions relating to growth management, the Local Government Comprehensive Planning and Land Development Regulation Act, comprehensive plans, State land planning agencies, local planning agencies, concurrency, etc. **Status: H7129 Passed House; in Senate; S1122 set for floor vote**

REEO-S NOTE: The bills would rollback some relatively recent mandates past legislative sessions have incorporated into comprehensive planning (GHG and energy efficiency). The bills include some changes regarding how military bases fit into the planning matrix. Compatibility analysis, notification and comment opportunities are preserved; however, the bill sponsors felt compelled to clarify that military concerns are not binding on local governments, and must be weighed against competing private interests. A base commander's participation, in local planning, is now subject the same timelines other reviewing agencies are subject to.

FL H 991: COMPREHENSIVE PLANS. This bill creates, amends and revises numerous provisions relating to development, construction, operating and building permits; permit application requirements and procedures, including waivers, variances and revocation, local government comprehensive plans and plan amendment; and programmatic and regional general permits. **Status: PH991 Passed House; in Senate**

REEO-S NOTE: There are numerous changes to permitting process. Activities should review to determine effect on various programs

FL S 762: CLIMATE PROTECTION ACT REPEAL. This bill would repeal the portion of the Florida Climate Protection Act that provided for utility participation in cap-and-trade programs. **Status: Passed Senate; In House**

REEO-S NOTE: Only applies to utilities, but is illustrative of Florida's approach to climate change under the new Gover-

nor.

FL H 7001: GROWTH MANAGEMENT PROVISIONS. This measure reenacts existing law related to comprehensive planning and land development in an effort to clarify alleged constitutional defects. **Status: Enacted as Chapter No. 2011-14 REEO-S NOTE:** This bill was in reaction to implementation challenges of past legislation and some resulting litigation. DoD facilities are not impacted.

Proposed Rules

STANDARDS FOR ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS (FAC, CHAPTER 64E-6) The FL Department of Health (FLDOH) has proposed amendments to standards for onsite sewage treatment and disposal systems. The rule-making develops rules to implement provisions of Chapter 10-205, Laws of Florida (SB 550), which requires FLDOH to administer an onsite sewage treatment and disposal system evaluation and assessment program. Proposed rules address: application for a System Construction Permit; location and installation of onsite sewage treatment and disposal systems; site evaluation criteria; system size determinations; alternative systems; septage and food establishment sludge; portable restrooms and portable or stationary holding tanks; abandonment of systems standards for construction, operation and maintenance of aerobic treatment units; construction materials and standards for treatment receptacles; construction standards for drainfield systems; permitting and construction of repairs; additive use; Department of Agriculture Soil Textural Classification System; system location, design and maintenance criteria; cesspit and undocumented system replacement and interim system use; coordinated permitting; requirements for registration; master septic tank contractors; issuance of registration certificates and renewal; standards of practice and disciplinary guidelines; certification of partnerships and corporation; applications for innovative system permits and reclassification and system construction permits, location, installation, monitoring and Fees. FLDOH held a public workshop 06/04/10 to discuss permitting and approval standards of onsite sewage treatment systems that provide treatment other than a septic tank, such as performance based treatment systems, aerobic treatment units and innovative systems. The Technical Review and Advisory Panel met 07/15/10 and 09/23/10. Public workshops were held October 12, 14, 18 and 21, 10. A public meeting was held in December 10. DOH has public meetings scheduled through December 11.

[Notice of Public Workshop](#)

[Notice of Rule Development](#)

Contact: Gerald Briggs, (850) 245-4250

COASTAL CONSTRUCTION PERMITS (FAC 62B-41.002, .003, .005) The FLDEP Division of Beaches and Shores has proposed amendments to existing rules to address comments from the Joint Administrative Procedures Committee. Amendments would refine criteria for coastal construction permits for coastal armoring below the mean high water line, inlet construction and maintenance, and beach restoration and nourishment. The Notice of Rulemaking was published 09/03/10. Comments were Received and answered. A public hearing was held 10/05/10, and a notice of change was filed 11/24/10; published 01/07/11. A change was made to FAC 62B-41.005 (17): If the proposed coastal construction is reasonably likely to have adverse impacts to the coastal system, then the applicant shall revise the project design to avoid or minimize those impacts to the greatest extent practicable. After all practicable revisions have been made to avoid and minimize impacts; any remaining adverse impacts shall be offset by a mitigation plan that has been proposed by the applicant.

[Proposed Rule](#)

[09/13/10 JAPC Letter to DEP](#)

[09/24/10 DEP Letter to JAPC](#)

[Notice of Change](#)

[Second Notice of Change](#)

Contact: [Rosaline Beckham](#), 850-488-7708

SOLID WASTE MANAGEMENT (FAC 62-701.100, .200, .210, .220, .300, .310, .315, .320, .330, .340, .400, .410, .430, .500, .510, .520, .530, .600, .610, .620, .630, .710, .730, .803, .900) Chapter 10-205 of the F.A.C. includes a new requirement that all construction and demolition debris landfills be constructed with liners and leachate control systems. Chapter 10-143, Laws of Florida, includes a new requirement that all construction and demolition debris be processed prior to disposal when economically feasible. This FLDEP rulemaking would amend the rule chapter to address the new requirements. A rule development workshop was held 09/29/10. An additional workshop is planned for January 11.

[Notice of Proposed Rulemaking](#)

Contact: Richard Tedder, (850) 245-8735

GENERAL AND ENVIRONMENTAL RESOURCE PERMITS (FAC 40C-4.041, .091, .101, .201, .301, .900, FAC 40C-

20.042, .900) The SFWMD has proposed rule amendments that would create new ERP permitting criteria: require, for a system that would contain irrigated landscape, golf course, or recreational areas, a water conservation plan that includes irrigation plans, use of lower quality water sources, and no prohibitions on Florida-Friendly landscaping; require, for a system that would contain irrigated landscape, golf course, or recreational areas that require a Consumptive Use Permit (CUP), the applicant concurrently apply for and obtain a CUP; clarify application processing requirements; clarify pre-application conferencing; and update statutory authority. The proposed rule amendment would require a CUP application to irrigate landscape, golf course, or recreational areas for a project that would require a 40C-4 or 40C-40 ERP to construct a system, a concurrent ERP application, and concurrent review and processing of both applications; clarify application-processing requirements; and clarify pre-application conferencing. Rule development workshops were held 09/16/10 and 10/17/10. The rule did not go before the Board at the 12/14/10 meeting.

[Notice of Proposed Rulemaking](#)

Contact: Wendy Gaylord, (386) 326-3026

TITLE V AIR PERMITS (FAC 62-204, 210, 212, 213) FLDEP is proposing to amend FAC 62-204 to remove or revise obsolete provisions related to AAQS and area designations. Amendment is necessary for implementation of new NAAQS, and in preparation for expected new federally designated nonattainment areas. Proposed changes would remove excess or redundant language, delete or revise several definitions, simplify area designation rule sections to align with federal rule language, and clarify various provisions. Amendments to Chapter 62-210 213, F.A.C. would transfer general permits for six source categories from FLDEP's Title V air general permit program into the non-Title V air general permit program: 62-213.300 (1)(a): Perchloroethylene Dry Cleaning Facilities; 62-213.300(1)(b): Ethylene Oxide Sterilization Facilities; 62-213.300(1)(c): Halogenated Solvent Degreasing Facilities; and 62-213.300(1)(d): Chromium Electroplating and Anodizing Facilities. Proposed amendments would also revise several definitions, expand permitting exemption criteria, clarify when air construction and operation permits are required, clarify general permit rule language, and streamline general permit registration forms. Amendments to Chapter 62-210 212 F.A.C. incorporate the effective elements of EPA's 12/31/02 NSR reform rule into Florida's nonattainment area preconstruction review program. EPA requires FLDEP to incorporate these concepts into state rules. It is to the benefit of regulated industries in pending nonattainment areas of the state for FLDEP to have done so in advance of those areas being designated. Proposed amendments clarify related topics and definitions, and for consistency with federal requirements. They also update references to PM in the preconstruction review program from PM10 to PM2.5. A rule development workshop was held 10/20/10. The proposed rule was published 04/08/201 (Vol. 37, Issue 14, Florida Administrative Weekly 04/08/11 pp.872-887). The deadline for public comments was 04/29/11, and a public hearing was held on 05/04/11.

[Notice of Proposed Rulemaking](#)

[FLDEP Summary of Proposed Amendments](#)

Contact: Terri Long, (850) 921-9556

GENERIC PERMIT FOR DISCHARGES FROM PETROLEUM CONTAMINATED SITES (FAC 62-621.300) FLDEP is revising subsection 62-621.300(1), F.A.C., Generic Permit for Discharges From Petroleum Contaminated Sites and subsection 62-621.300(2), F.A.C., Generic Permit for Discharge of Produced Ground Water From any Non-Contaminated Site Activity. The two generic permits authorize discharge of ground water to surface water from specific types of contaminated and non-contaminated sites. They are used for construction related projects including removal and replacement of USTs, long- and short-term petroleum site cleanup activities, installation of underground utilities (water, sewer electrical, communications lines), and construction of large buildings with significant below-grade foundations and basements. A workshop was held on 11/08/10.

[Notice of Development of Rulemaking](#)

Contact: Shirley Shields, (850) 245-8589

CONSUMPTIVE USE PERMITS (CUP) (FAC 40C-2.101, .331, .381, .501, .900) The SJRWMD is proposing amendments that would: (1) expand modifications of CUPs by letter; (2) clarify procedures and criteria for CUP modifications (including letter modifications); (3) revise and update permit limiting conditions and repeal outdated permit conditions; (4) condense water use type categories; (5) revise and update the CUP application form; (6) adopt Water Use Record (EN-50) and Water Use Reporting (EN-51) forms; (7) define domestic use; (8) change the drought frequency used in determining the supplemental irrigation needed for agriculture from a two in 10 year drought to a one in 10 year drought; (9) define one in 10 year drought and repeal the definition of two in 10 year drought; (10) clarify requirements for supplemental irrigation models and expand the types of such models allowed; (11) clarify permit transfer criteria; (12) clarify monitoring requirements for water withdrawal quantities; (13) reduce water use reporting requirements for certain small users if they annually submit an Annual Statement of Continuing Use; and (14) clarify who must submit a water conservation plan as part of a CUP application. The rule was proposed 08/27/10. A rule development workshop was held 09/15/10, and comments were due 10/01/10. A public hearing was held 11/09/10. SJRWMD is taking public comments. The rule did not go before the Board at the 12/14/10 meeting for authorization to publish the Notice of Pro-

posed Rule.

[Notice of Development of Rulemaking](#)

Contact: Wendy Gaylord, Phone: (386) 326-3026

FEES FOR CUP AND GENERAL PERMITS (FAC 40C-1.603) The SJRWMD is proposing to charge a fee when a request for CUP modification is submitted by letter. Currently, if a letter modification request qualifies under Rule 40C-2.331, F.A.C., SJRWMD does not charge a fee for modification. As part of related proposed amendments to Chapter 40C-2, F.A.C., the scope of allowed letter modifications would be expanded. The proposed rule amendment would: (1) create a \$100 fee for letter modifications of Chapter 40C-2, F.A.C., individual CUPs; and (2) create a \$50 fee for letter modifications of Chapter 40C-20, F.A.C., standard general CUPs. The rule did not go before the Board at the 12/14/10 meeting. Rule Development Workshops are held 09/16/10 and 09/17/10.

[Notice of Development of Rulemaking](#)

Contact: Wendy Gaylord, (386) 326-3026

MANATEE PROTECTION RULE (FAC 68C-22.010) The FL FWCC is considering amendments to the existing manatee protection rule for Broward County. In April 10, at the request of the FWCC, and as provided by Section 379.2431(2)(f), F.S., Broward County established a Local Rule Review Committee (LRRRC) to review and comment on a preliminary rule proposal. The LRRRC met 13 times, and the FWCC received the [LRRRC final report](#) in August 10. FL FWCC was to consider the report and [recommendations](#) for proposed zones at the 02/23/11 and 02/24/11 FWC meetings. Negotiated rulemakings were conducted 11/19/10 and 02/04/11. The proposed rule was published 03/25/11 with a comment deadline of 04/25/11. A public hearing was held 04/20/11.

[Notice of Development of Proposed Rulemaking](#)

[Notice of Proposed Rule](#)

[Proposed Rule](#)

[Presentation of Recommended Changes at Commission Meeting](#)

[FWC Response to Broward County LRRRC](#)

Contact: Scott Calleson, 850-922-4330

MONROE COUNTY COMPREHENSIVE PLAN (FAC 28-20.130, .140) The FL Department of Community Affairs (DAC) is proposing to adopt a new rule for the Monroe County Comprehensive Plan. The rule would incorporate Section 380.0552 (4) requirements for annual reporting to the Administration Commission, and describe Monroe County's progress in accomplishing remaining tasks under the Work Program, as set forth in Rule 28-20.110, F.A.C. The rule would also determine whether substantial progress has been achieved for removal of the Florida Keys Area of Critical State Concern designation. Comments were due 01/07/11. A Partial Rule Withdrawal was posted at FAC 28-20.130, Vol. 37, Issue 11, in the 03/18/11 FAC. A Post-Legislative Ratification Hearing will be held 05/17/11.

[Notice of Development of Rulemaking](#)

[Notice of Proposed Rule](#)

[Partial Rule Withdrawal](#)

Contact: Barbara Powell, (850) 488-8466

SOLAR ENERGY INCENTIVES PROGRAM (FAC 27N-1.500) FLDEP has proposed a new chapter that would implement the Florida Renewable Energy Technologies Act, and provide for rebates for solar energy systems. The previous Solar Energy Systems Incentives Program sunset on 06/30/10. A public hearing is not yet scheduled. Comments were due 01/07/11, and a public hearing was held 02/18/11.

[Notice of Proposed Rule](#)

Contact: Jacqueline Warr, 850-487-3800

Georgia

Legislative Session Convened 01/10/11; Adjourned 04/14/11



Legislation

GA H 274: SOLID WASTE MANAGEMENT. Change certain provisions relating to declaration of policy and legislative intent relative to solid waste management; defines and redefine certain terms; changes certain provisions relating to permits for solid waste or special solid waste handling, disposal, or thermal treatment technology facilities and inspection of solid waste generators. **Status: Awaiting Governor's Action**

REEO-S NOTE: Would increase the surcharge from \$0.50 to \$0.75 per ton, but adds a new credit of \$0.75 per ton of

material recycled. Encourages yard trimmings for composting and energy use and would prohibit yard trimming from being disposed of in a municipal landfill unless the landfill operates a gas capture system.

GA S 9: GEORGIA ENERGY FREEDOM ACT. This authorizes the Governor to delay compliance with any federal program to regulate greenhouse gas emissions until such time as a comprehensive analysis of the fiscal and regulatory impacts of the proposed program, and any legislation required to authorize the proposed program, on Georgia's budget, economy, consumers, families, and small and large businesses has been made and it is determined that participation in such federal program is in the best interests of the citizens of this state. **Status: Passed Senate, in House committee**

REEO-S NOTE: Similar to the expressions of discontent with GHG regulation by other States; ultimately of questionable legal effect.

GA S 86: COMMUNITY AFFAIRS DEPARTMENT. Relates to the Department of Community Affairs, so as to repeal the definition of a "qualified local government", provides that comprehensive planning by local governments shall be optional, eliminates reviews of developments of regional impact, provides that the department shall provide assistance in planning to local governments, provides for related matters, repeals conflicting laws. **Status: Awaiting Governor's Action**

REEO-S NOTE: Potential impact to facilities could be that it will make discovery and coordination of incompatible land uses more challenging if local governments decide to not participate in comprehensive planning.

GA S 122: RESERVOIRS. Relates to local government public works bidding, so as to provide for local government contracts related to planning, financing, constructing, acquiring, operating, or maintaining certain water reservoirs, facilities, and systems. **Status: Awaiting Governor's Action**

REEO-S NOTE: Perhaps a reservoir coming to an area near you. This is another initiative responding to the 2012 deadline set by the special magistrate for either a resolution to the "tri-state water war" or Congressional action.

GA SR 228 (RELATED): TENNESSEE RIVER BASIN. Relates to general provisions relative to water resources, so as to exempt water withdrawals from a certain portion of the Tennessee River basin from restrictions on interbasin transfers of water; repeals conflicting laws. SR 228 urges the performance of a feasibility study of the withdrawal, storage, and distribution of waters from a certain portion of the Tennessee River basin *before it gets to the Tennessee river*. **Status: Senate Passed and Adopted**

REEO-S NOTE: See Note above.

Proposed Rules

WATER RESOURCE ASSESSMENTS GADNR released three [Draft Water Resource Assessments](#): Groundwater Availability, Surface Water Availability and Surface Water Quality (assimilative capacity). As described in the State Water Plan, these draft assessments are evaluations of the capacity of water resources to meet demands for water supply and wastewater discharge without unreasonable impacts. GADNR expects to refine and adjust the draft assessments. The 10 regional water planning councils will use the Draft Water Resource Assessments to development management practices to meet future water demands. Contact: Arnettia Murphy, (404) 656-4157

WASTEWATER DISCHARGE INTO POTWs (391-3-6-.08, -.09) GAEPD has proposed amendments to wastewater pretreatment permits for discharge of any pollutant into a publicly owned treatment works (POTWs) and then into the waters of the state. It would amend procedures and practices followed in development and submission of POTW pretreatment programs for GAEPD review, approval or denial, as well as public notification methods. The primary purpose of the proposed amendments is to comply with federal General Pretreatment Regulations for Existing and New Sources of Pollution, which establish responsibilities of government and industry to implement National Pretreatment Standards. Other proposed amendments would correct typographical errors, numerical and alphabetical inconsistencies, and clarify language and definitions, as required by EPA. The rule was proposed 08/05/09. Changes were proposed 06/23/10, and comments were due 07/23/10. Additional changes were proposed 09/22/10. A public hearing was held on 10/27/10, and comments were due 11/05/10.

[Proposed Rule and Synopsis of Proposed Amendments](#)

[Public Meeting Notice](#)

Contact: [Jamila Norman](#), 404-675-1687

SPILL REPORTING (GAC 391-3-6-.05) GAEPD proposed amendments that would modify the definition of "Major Spills," revise reporting requirements for non-major spills and amend the monitoring program protocol. The rule was proposed 09/08/10, and a public hearing was held 10/15/10. Comments were due 10/29/10. Substantial comments were received; GAEPD is reconciling them. GAEPD will then take the rule before the Board.

[Notice of Proposed Rulemaking](#)

[Proposed Rule](#)

Contact: Marzieh Shahbazaz, (404) 675-6236

SURFACE WATER WITHDRAWAL PERMITS (GAC 391-3-6-.07) GADNR has proposed to amend procedures followed when obtaining a permit to withdraw, divert or impound surface waters of the state. Amendments would set forth information required on a permit application and outline procedures for granting, denying, revoking and modifying such permits. A public hearing was held 01/05/11, and comments were due 01/10/11.

[Notice of Proposed Rulemaking, Synopsis of Proposed Amendments, Proposed Amendments](#)

Contact: [Nap Caldwell](#), 404-463-4348

NON-STORMWATER GENERAL PERMITS (GAC 391-3-6-.15) GADNR has proposed amendments that would provide the GADNR Director discretion to allow coverage under a non-storm water general permit without submittal of a Notice of Intent (NOI), where requiring such notice would be inappropriate and federal regulations do not require such notice. The proposed rule would also address general and individual permit requirements, coverage area of a general permit, authorization to discharge, the degree of waste treatment required, notice and public participation, prohibited discharges, modification, revocation, reissuance and termination of permits. A public hearing was held 01/18/11, and comments were due 01/31/11.

[Notice of Proposed Rulemaking, Synopsis of Proposed Amendments, Proposed Rule Text](#)

Contact: [Nap Caldwell](#), 404-463-4348

PSD (GAC 391-3-1-.02(7), -.03(8)) GAEPD is proposing to amend Rule 391-3-1-.02(7), "Prevention of Significant Deterioration of Air Quality," to specify precursors for ozone and PM2.5. The definition of "regulated NSR pollutant" is added at subparagraph 391-3-1-.02(7)(a)2.(ix). Subparagraph (ix)(I)I specifies that VOCs and NOX are precursors to ozone. Subparagraph (ix)(I)II specifies that sulfur dioxide is a precursor to PM2.5. Both subparagraphs are consistent with the Federal rule at 40 CFR 52.21. Subparagraph (ix)(I)III specifies that NOX is not a precursor to PM2.5; however, NOX is presumed to be a precursor to PM2.5 in the Federal rule unless a State demonstrates to EPA NOX emissions are not a significant contributor to ambient PM2.5 concentrations. Thus, Subparagraph (ix)(I)III specifies that exclusion of NOX as a precursor to PM2.5 becomes effective after EPA approves the revision to Georgia's SIP which incorporates the change. Subparagraphs (ix)(II), (III), (IV), (V) and (VI) regarding pollutants subject to section 111 standards, Class I and Class II Substances, any pollutant otherwise subject to regulation under the CAA, hazardous air pollutants listed in section 112, and condensable particulate matter, respectfully, are consistent with the Federal definition of Regulated NSR pollutant. Rule 391-3-1-.03(8), Permit Requirements, is being amended; nonattainment NSR requirements for PM2.5 are added to the rule. The permitting requirement for sources located in 25 counties designated as contributing to ozone levels in the Atlanta ozone nonattainment area is clarified. Other revisions are made to make the rule consistent with Federal requirements. Subparagraph 391-3-1-.03(8)(c)16 is added to specify the nonattainment NSR requirements for Georgia's existing PM2.5 nonattainment areas (Atlanta PM2.5 nonattainment area, Macon PM2.5 nonattainment area, Floyd County PM2.5 nonattainment area and Chapter 391-3-1 Rules for Air Quality Control Georgia's portion of the Chattanooga PM2.5 nonattainment area). Subparagraph 16.(i) specifies the major source threshold at 100 tons per year. Subparagraph 16.(ii) establishes modification thresholds. Subparagraph 16.(iii) sets the offset ratio at 1 to 1. Subparagraphs 16.(iv) specifies that sulfur dioxide is a precursor to PM2.5. Subparagraph 16.(v) states that NOX is not a precursor to PM2.5. However, the NO_x provision does not apply until EPA approves it into Georgia's SIP. Subparagraph 16.(vi) specifies requirements for condensable PM. Subparagraph 16.(vii) defines the partial-county areas that are part of the designated nonattainment areas. Language is added to Subparagraph 391-3-1-.03(8)(e)1 to clarify that the permitting requirements of 391-3-1-.03(8)(c) only apply to electric generating units in the 25 counties specified. Modifications to Subparagraphs 391-3-1-.03(8)(g)1.(iii), (g)2.(i), (g)5.(i), and (g)6.(i) are made to reflect the addition of Subparagraph (8)(c)16. Subparagraph (8)(g)1 (iii)(III) is removed to make the rule consistent with Federal requirements. The rule was proposed 03/15/11. A public hearing was held 04/11/11, and comments are due 05/09/11.

[Notice of Proposed Amendments Synopsis of Proposed Amendments Proposed Rule](#)

Contact: [Chief](#), Air Protection Branch

SYNTHETIC MINOR AIR QUALITY PERMITS (GAC 391-3-1-.01, 02, 03. RULE 391-3-1-.01(cccc)) The definition of "Synthetic minor permit," is amended to specify that synthetic minor permits may be federally enforceable or enforceable as a practical matter. For a limit to be "enforceable as a practical matter," the permitting agency must be able to determine that the source is complying with the permit limit. This often requires recordkeeping, monitoring and reporting requirements that verify self-imposed limitations on emissions. For a limit to be "federally enforceable," the limit must also go through public notice and comment. Rule 391-3-1-.01(nnnn), the definition of "Procedures for Testing and Monitoring Sources of Air Pollutants," is amended to reference the most recent revision of the manual. Rule 391-3-1-.02(4), "Ambient Air Standards," is revised to update the AAQS for SO₂ and NO₂ to be consistent with Federal standards. Rule 391-3-1-.02, Subparagraph (9)b, "Emission Standards for Hazardous Air Pollutants," is updated to include the latest

amendment dates of rules incorporated into the Georgia Rules by reference, and to make minor changes to ensure consistency between State and Federal programs. Rule 391-3-1-.03(11), "Permit by Rule," is amended to revise applicability provisions of each of 11 permit by rule standards from sources without Federally enforceable permit conditions to sources without conditions "that are federally enforceable or enforceable as a practical matter." The rule was proposed 03/15/11 with a comment deadline of 05/09/11. A public hearing was held 04/11/11.

[Notice of Proposed Amendments](#)

[Synopsis of Proposed Amendments](#)

[Proposed Rule](#)

[Summary of Procedures for Testing and Monitoring Sources of Air Pollutants](#)

Contact: [Chief](#), Air Protection Branch

Kentucky

Legislative Session Convened 01/04/11; Adjourned 03/09/11



Legislation

KY H 26: WASTEWATER. This bill creates new sections of KRS Chapter 65 regarding the need for regionalization of utility service due to BRAC Commission's realignment of the mission at **Fort Knox** and the resulting significant economic expansion in the region encompassing the post. The bill authorizes the creation of a regional wastewater commission as a pilot project area within Bullitt, Hardin, Jefferson, Meade, Nelson, and Oldham Counties. The bill provides that any agency of the federal, state, or local government owning a wastewater system subject to regulation by the Kentucky Division of Water is eligible to be a member entity.

Status: Signed By the Governor-Enacted

REEO-S NOTE: DoD facilities could become part of the regional commission under this law. Activities should monitor development to determine impacts, if any, to operations.

KY H 122: MILITARY AFFAIRS. This bill relates to membership of the Kentucky Commission on Military Affairs. It amends KRS 154.12-203 to include the Chief Justice in membership of the Kentucky Commission on Military Affairs.

Status: Signed By the Governor-Enacted

REEO-S NOTE: Looks to become law shortly. Deletes the Long Term Policy Research Center. DoD membership remains unchanged. Not sure why the Chief Justice would be added to the Commission or the potential impact of such membership.

KY H 247: RADON CONTRACTORS. This bill creates the Kentucky Radon Program Advisory Committee to advise and assist the Cabinet on Health and Family Services regarding the review, development, and maintenance of standard operating procedures for radon measurement, radon mitigation, laboratory analysis, and quality control. The bill requires certification for anyone conducting radon measurement, mitigation, or laboratory analysis and provides for certification requirements and reporting requirements. **Status: Enacted**

REEO-S NOTE: The bill would create a new certification requirement and fee structure. Includes reciprocity provisions for recognize certifications of other states.

KY H 259: CARBON DIOXIDE GEOLOGIC STORAGE. This bill directs the Energy and Environment Cabinet to seek a number of carbon capture and storage demonstration projects for approval. The bill includes definitions and regulations pertaining to such projects. It allows the Division of Oil and Gas to seek primary jurisdiction and authority over matters relating to the geologic storage of carbon dioxide in the Commonwealth once these programs have been developed at the federal level. **Status: Enacted**

REEO-S NOTE: Similar to sequestration legislation in Mississippi, where it also looks to become law.

KY H 433: WASTE TIRES. Relates to waste tires, creates new section of Subtitle 50 of KRS Chapter 224 to establish a five-member waste tire working group in the Energy and Environment Cabinet, prescribes the duties of the Waste Tire Working Group, requires retailers of new passenger tires to distribute an information sheet on how to dispose of a waste tire to customers and require the cabinet to develop the information sheet in conjunction with the Waste Tire Working Group. **Status: Enacted**

REEO-S NOTE: Implementation of a similar program in Georgia created some potential conflict with DoD operations in that state. Installations should alert facility program managers and maintenance activities of the potential requirements and determine if there are any concerns that may need the early attention of the Waste Tire Working Group.

KY S 50: CAPTURE AND TRANSPORTATION OF CARBON DIOXIDE. This bill amends Subchapter 27 of KRS Chapter 154 to provide that a carbon dioxide pipeline company may exercise the power of eminent domain for constructing, maintaining, utilizing, operating, and gaining access to a carbon dioxide transmission pipeline. The bill also provides that the commission may monitor the compliance of interstate carbon dioxide transmission pipelines with federal pipeline safety laws and requires carbon dioxide transmission pipeline companies to obtain construction certificates from the State Board on Electric Generation and Siting. **Status: Signed By the Governor-Enacted**
REEO-S NOTE: For informational purposes only.

KY S 70: ENVIRONMENTAL PROTECTION AND REGIONAL SCREENING LEVELS. Relates to environmental protection, requires use of the [Regional Screening Level](#) Table for us EPA Region 3 rather than Region 9 and the guidance in the Risk-Based Concentration Table User's Guide, provides for administrative regulations, and relates to standards for hazardous substances, pollutants, contaminants, petroleum or petroleum products. **Status: Signed By the Governor-Enacted**
REEO-S NOTE: Similar to failed legislation to adopt Region 3 RSL during the last session. This would adopt updated levels and should not adversely affect DoD remediation efforts.

Proposed Rules

ANTI-DEGRADATION POLICY (401 KAR 10:030) The KDEP Division of Water has proposed amendments to rules regarding the anti-degradation policy implementation methodology. Amendments would establish procedures to control water pollution in waters affected by the anti-degradation policy; establish categorization criteria; list surface waters assigned to specific categories; and provide for recategorization of water. Amendments were proposed 01/11/11, and a public hearing was held 02/24/11. Comments were due 02/28/11

[Proposed Rule](#)

Contact: Abigail Powell, (502) 564-3410

Mississippi

Legislative Session Convened 01/04/11; Adjourned 04/07/11



Legislation

MS H 105: WASTE WATER DISPOSAL SYSTEM LAW. This bill reenacts the Mississippi Individual On-Site Wastewater Disposal System law, which regulates the design, construction, operation and maintenance of individual on-site wastewater disposal systems. It also extends the date of the repealer on the Mississippi Individual On-Site Wastewater Disposal System Law. **Status: Enacted**

REEO-S NOTE: This law has historically been set to repeal (sunset) every two years. This bill simply reenacts the law for another two-year term. This version primarily adds certification requirements.

MS S 2723: GEOLOGIC SEQUESTRATION OF CARBON DIOXIDE. This bill creates the Mississippi Geologic Sequestration of Carbon Dioxide Act. The act authorizes the State Oil and Gas Board to regulate and promulgate rules and regulations governing geologic sequestration of carbon dioxide and underground injection wells under this chapter, including the assessment of fees up to \$1,000. Rules and regulations governing injection wells for geologic sequestration not regulated under the board's authority for Class II wells will be subject to approval of the Mississippi Commission on Environmental Quality. **Status: Enacted**

REEO-S NOTE: May serve as a model for other states in the region to begin regulating sequestration activities, whether in conjunction with oil; and gas recovery or under the GHG context. Could eventually be relevant for federal activities that seek to engage in sequestration activity or installations that may overlay a potential reservoir. Kentucky is pursuing similar legislation.

Proposed Rules

IMPAIRED WATERS Mississippi's [10 Section 303\(d\) List of Impaired Water Bodies](#) fulfills the state's obligation to develop a listing of the state's impaired waters, with respect to CWA. Section 303(d) of the CWA requires states to identify water bodies that are impaired by one or more pollutants. These water bodies are scheduled for total maximum daily load (TMDL) development. MSDEQ held a public hearing, and comments were due 05/11/10. MSDEQ will revise the list if necessary, and then submit to EPA. EPA commented, and the rule was scheduled to go before the Commission at the October meeting. As of 04/15/11, the list is still pending review by EPA and has not been approved by the Commission.

[Second Draft](#)

North Carolina

Legislative Short Session Convened 01/19/11; Adjourn 08/01/11



Legislation

NC H 45/ NC S 48: INDUSTRIAL SITE CLEANUP AND RISK REMEDIATION. This bill authorizes NCDENR to approve the remediation of contaminated industrial sites based on site-specific remediation standards in certain circumstances in order to expedite the cleanup of former industrial sites. The bill excludes contaminated industrial sites subject the Leaking Petroleum Underground Storage Tank Cleanup program. It also limits application to sites where a discharge, spill, or release of contamination has been reported to the Department prior to March 1, 11. The bill requires a fee to the Remediation Fund in an amount equal to \$4,500 for each acre or portion of an acre of contamination up to a maximum of \$125,000. **Status:** **H45 Passed House; In Senate committee;** S48, In committee

REEO-S NOTE: VOLUNTARY PROGRAM THAT DOES NOT DIRECTLY AFFECT DoD.

NC H 116 / NC S 232: Regards the delineation of protective riparian buffers for coastal wetlands in the Neuse River and Tar-Pamlico River Basins. **Status:** In committee

REEO-S NOTE: May influence delineations for the USMC installations in these two basins.

NC H 119: PROHIBITION ON DISPOSAL OF CERTAIN BEVERAGE CONTAINERS AND ELECTRONIC WASTE. The bill removes the prohibition on landfill disposal or incineration of beverage containers required to be recycled; adds a prohibition on landfill disposal or incineration of computer equipment or televisions; and prohibits the disposal of fluorescent lights and thermostats that contain mercury in an unlined landfill. The bill also directs the Commission and the Department to incorporate storm water capture and reuse standards and best management practices into the implementation of the storm water run-off rules. **Status:** In committee

REEO-S NOTE: Not a lot of momentum so far. The bill language is a bit ambiguous but may result in new requirements for installations operating landfills.

NC H 349: GREEN ROOFS AND STORM WATER RUNOFF MITIGATION. Promotes green roofs in order to reduce storm water runoff, mitigate the significant warming that occurs in metropolitan areas relative to the surrounding rural areas, and reduce energy consumption, by creating certain incentives to install green roofs. **Status:** In committee

REEO-S NOTE: Applicability is not clear but may influence storm water requirements for DoD and provide some consideration (or "credit") for LID implementation at installations.

NC S 181: PETROLEUM USTs AND PUBLIC WATER. Provides that no cleanup will be required for any discharge or release from a petroleum underground storage tank when a public water system is available to those affected by the discharge or release and no surface waters are located within one thousand feet of the discharge or release. **Status:** In committee

REEO-S NOTE: Even if this bill does gain traction, DoD may not be able to take advantage of its provisions because it would likely be considered less stringent than Federal requirements.

NC S 231: INTERCONNECTION OF PUBLIC WATER SYSTEMS. Requires the interconnection of public water systems or wastewater systems to regional systems when necessary to promote public health, protect the environment, and ensure compliance with drinking water rules and to require that an analysis of reasonable alternatives be done before constructing or altering a public water system. **Status:** In committee

NC S 279: CLARIFY THAT WOOD IS A RENEWABLE ENERGY RESOURCE. Amends the definition of Renewable Energy Resource that pertains to the renewable energy and energy efficiency portfolio standard (reps) to clarify that wood is a renewable energy resource and that wood need not be a waste product to qualify as a renewable energy resource.

Status: In committee

NC S 308: PROHIBIT STATE REGULATION OF GHG. This bill prohibits State agencies from adopting, implementing, or enforcing a rule that regulates greenhouse gas emissions or limits human activity for the purpose of reducing greenhouse gas emissions if the rule is not required by a federal law or regulation or is more stringent than a corresponding

federal regulation or law. **Status: Passed Senate; In House committee**

REEO-S NOTE: Has momentum and follows the lead of other states in expressing distain of EPA's efforts in this matter. EPA's reaction should prove interesting if passed.

NC H 135 / NC S 367: ESTABLISH TIERED ELECTRICITY RATES-CONSERVATION. Requires the Utilities Commission to establish tiered electricity rates for residential, commercial, public, and industrial customers to encourage energy conservation and energy efficiency; creates the "Privilege Tax." **Status:** In committee

REEO-S NOTE: Momentum may be hard found for this bill(s) because of the expectantly controversial provisions it contains; especially, the privilege tax for the privilege of apparently being energy frivolous. On the other hand, the rate structure portion is a concept that has garnered some support in various forums and may survive attempted changes to the bill language. As a big customer, DoD should keep an eye on this.

NC H 585: NC ENERGY INDEPENDENCE SEARCH COMMITTEE. Establishes the North Carolina energy independence search committee to contact and invite major energy companies to explore in North Carolina for natural gas, oil, wind, or other energy sources capable of large scale energy production for the purpose of North Carolina becoming more energy independent. **Status:** In committee

REEO-S NOTE: Should this bill become law, activities of the committee should be closely tracked.

NC H 609: PROMOTE WATER SUPPLY DEVELOPMENT. The bill would require the NCDENR to cooperate with units of local government in the identification of water supply needs and appropriate water supply sources and water storage projects to meet those needs. It also requires the State to cooperate with local governments to identify potential water supply sources and plan for construction of water supply storage to satisfy the long term water supply needs identified in local water supply plans. The bill also provides for establishment of a regional water supply planning organization. **Status:** In committee

REEO-S NOTE: Could result in land use changes around installations.

NC H 655 / NC S 514: NUTRIENT SENSITIVE WATERS. This measure provides that a nutrient management plan shall not be developed, adopted, or implemented for surface waters of the state unless those waters have first been classified as nutrient sensitive waters. **Status:** H655 In committee; **S514 Passed Senate, in House committee**

REEO-S NOTE: These bills may be in related to disputes between state agencies and EPA over nutrient regulation. Worst case hypothetical: DoD having to comply with two conflicting water quality programs (State and EPA). The bill should be tracked to see if there are any second or third order effects.

NC H 661: CDL/HAZMAT ENDORSEMENT EXPIRATION. This bill requires the Division of Motor Vehicles to make a commercial drivers license and a hazardous materials endorsement expire at the same time. **Status:** In committee

NC H 671: NORTH CAROLINA BOTTLE BILL. This bill institutes a beverage container deposit and refund program. The program requires retailers to pay the deposit to distributors, to collect deposits from consumers, to accept empty beverage containers from consumers and to pay the refund to the consumer. **Status:** In committee

REEO-S NOTE: Similar to legislation that crops up time to time in other states and at least once before in North Carolina. These bills usually elicit objections from beverage companies and are otherwise not legislative priorities leading to poor passing rate. That said, this bill entails retailers being involved in deposits and refund programs; it could create fee/tax implications that conflict with exchange operations on military installations.

NC S 428: STUDY CONSOLIDATED ENVIRONMENTAL COMMISSION. This bill directs the Environmental Review Commission to study the desirability and the feasibility of consolidating the state's environmental policy-making, rule-making, and quasi-judicial functions into one comprehensive full-time Environmental Commission. **Status:** In committee

REEO-S NOTE: FYI for those who have dealings with the commission.

NC S 491: SEDIMENTATION POLLUTION CONTROL ACT EXEMPTION. This bill specifies that the agricultural use exemption from Sedimentation Pollution Control Act permitting requirements continues to apply when the land is transferred into a wetlands restoration program or other water quality, water resources, or wildlife habitat enhancement program. **Status:** In committee

REEO-S NOTE: Could facilitate opportunities to utilize installation or surrounding agricultural land for mitigation.

NC S 628: WATER QUALITY PERMITTING. Provides that the Environmental Management Commission shall deny a water quality permit or certification when the applicant knowingly falsifies information or fails to disclose relevant information in the application or supporting information; provides that the Department of Environment and Natural Resources shall conduct an environmental compliance review of an applicant for a water quality permit or certification prior to issuance

of a permit or certification. **Status:** In committee

REEO-S NOTE: An apparent attempt to crack down on egregious violators. Should not impact DoD.

NC S 709: ENERGY PRODUCTION. Legislative intent to spur energy production in North Carolina so as to develop a secure, stable, and predictable energy supply to facilitate economic growth, job creation, and expansion of business and industry opportunities and to assign future revenue from energy exploration, development, and production of energy resources in order to protect and preserve the state's natural resources, cultural heritage, and quality of life. **Status:** In committee

REEO-S NOTE: If passed, the legislation could encourage significant growth in the state's energy sector. Downside-DoD could face increasing encroachment pressures from oil and gas exploration and renewable energy generation development. Upside: could also facilitate enhanced collaboration on mutually beneficial energy endeavors.

NC S 747: OFFSHORE WIND. Encourages the development of the State's offshore wind energy resources and to attract jobs and economic development. **Status:** In committee

REEO-S NOTE: Similar to NC S 709 above, with similar pros and cons, except that this bill is limited to offshore wind energy.

Proposed Rules

PRETREATMENT REGULATIONS (15A NCAC 02H .0901-.0910, .0912-.0917, .0919-.0921, 15A NCAC 02H .0922) NCDENR has proposed a new rule and amendments to pretreatment rules. Amendments would address several aspects of EPA's streamlining of the Federal Pretreatment Regulations in 40 CFR 403, to include granting North Carolina municipalities access to provisions allowing pretreatment control authorities the option to reduce sampling of extremely small industrial users. Other amendments would ensure consistency with federal regulations. Remaining amendments would ensure consistency with current Division of Water Quality (DWQ) practices, and allow flexibility of DWQ oversight of Pretreatment Programs. This includes amendments to ensure adequate communication and coordination regarding Industrial user discharges in situations where one publicly owned treatment work (POTW) sends wastewater to another POTW for treatment. New rule 15A NCAC 02H .0922 would consolidate and update adjudicatory hearing conditions to cover pretreatment civil penalties and administrative orders in addition to the adjudication of pretreatment permits already covered in an existing rule. NCDENR held a public hearing 06/17/10, and written comments were accepted until 08/02/10. The rule went before the EMC at the 11/18/10 meeting.

[Notice of proposed amendments \(pages 9-27\)](#)

Contact: Deborah Gore, (919) 807-6383

PSD REQUIREMENTS FOR GHGs (15A NCAC 02D .0530, .0531, .0544) NCDENR has proposed rule 15A NCAC 02D .0544 "Prevention of Significant Deterioration Requirements for Greenhouse Gases." Under federal regulations published 06/02/10, EPA defines the terms "subject to regulation," "greenhouse gases," "CO2 equivalent emissions," "emissions increase" and "significant;" establishes related thresholds; and amends the definition of "major source" relative to GHGs. The final federal Tailoring Rule regulates permitting of sources of GHG emissions in two steps. Under the final federal regulation, EPA considers GHGs subject to regulation beginning 01/02/11. North Carolina has its own approved PSD program and does not automatically assume federal tailoring provisions. Rulemaking is necessary to incorporate GHGs as a regulated pollutant, and to implement tailoring provisions to allow the Division of Air Quality to implement PSD and Title V permitting programs. On 07/15/10, EMC approved a request from NCDENR for permission to proceed to public hearing on these amendments. NCDENR is requesting waiver of the EMC's 30-day rule in order to implement these rules by the EPA deadline. The rule did not go before the EMC at the 11/18/10 meeting due to objections. The RRC approved 15A NCAC 02H .0901, .0902, .0904 through .0906, .0909, .0910, .0912 thru .0917, .0919, .0920, .0921 at the 02/17/11 meeting. These rules were adopted 03/17/11, and became effective on 04/01/11. The RRC objected to 15A NCAC 02H .0903, .0907, .0908, .0922.

Proposed Rules: [15A NCAC 02D .0530](#), [15A NCAC 02D .0531](#), [15A NCAC 02D .0544](#), [15A NCAC 02D .0530 as amended](#), [15A NCAC 02D .0531 as amended](#)

[Objections Proposed](#)

Contact: Joelle Burleson, (919) 733-1474

BOILERS AND PRESSURE VESSELS (13 NCAC 13 .0101, .0103, .0202, .0203, .0204, .0208, .0209, .0211, .0212, .0214, .0301, .0401, .0404, .0406, .0408, .0409, .0410, .0411, .0412) NCDENR is proposing to amend rules regarding boilers and pressure vessels, including revised incorporated standards, inspector qualifications, inspection standards and safety standards. A public hearing was held 03/31/11. Comments are due 05/16/11.

[Proposed Rule \(page 2159\)](#)

Contact: Erin T Gould, 919-733-7885

South Carolina

Legislative Session Convened 01/11/11; Adjourned 06/02/11



Legislation

SC H 3348: HAZARDOUS/ LOW-LEVEL RADIOACTIVE WASTE. This joint resolution prohibits the State or any of its political subdivisions from receiving, storing, consolidating, treating, processing, or disposing of low-level radioactive waste, hazardous waste, infectious waste, or solid waste from outside of the State unless the State or a political subdivision of the State has a reciprocal agreement with another state or out-of-state entity or region or is a member of a compact that authorizes any such out-of-state waste. **Status:** In committee

REEO-S NOTE: Only a potential issue if DoD facilities are receiving waste from activities outside South Carolina and such waste is ultimately destined for a state TSDF.

SC H 3412 / SC S 152: STATE DEPARTMENT OF ENERGY RESTRUCTURING ACT. This bill creates the State Department of Energy. The bill provides that the department shall serve as the principal energy planning entity for the State. Its primary purpose is to develop and implement a well-balanced energy strategy and to increase the efficiency of use of all energy sources throughout South Carolina through the implementation of the Plan for State Energy Policy. The department does not function as a regulatory body. **Status:** H3412, In committee; S152, In committee

REEO-S NOTE: Would create a useful state-level stakeholder that DoD could engage regarding energy matters in the State.

SC S 607: DHEC REGULATIONS. (Joint Resolution) Approves regulations of the Department of Health and Environmental Control; relates to air pollution control regulations and standards; relates to standards for performance for asbestos projects. **Status:** Senate Adopted; in House committee

REEO-S NOTE: Activities that are following specific rulemaking may wish to review this resolution to determine whether approval has been provided.

Final Rule

PHASE 2 OZONE RULE (REGULATION 61-62.5, STANDARD NO. 7; REGULATION 61-62.5, STANDARD NO. 7.1; SOUTH CAROLINA AIR QUALITY IMPLEMENTATION PLAN) Based on requirements of the federal Phase 2 Ozone Rule (70 FR 71612) and the NSR PM 2.5 Implementation Rule (73 FR 28321), SCDHEC has proposed to amend Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; R. 61-62.5, Standard No. 7.1, Nonattainment New Source Review; and the SIP. SCDHEC action on this proposal may be delayed until EPA provides final guidance. SCDHEC may also propose typographical corrections and clarifications to Regulation 61-62.5, Standard No. 7 and Standard No. 7.1, as necessary. Proposed changes are federally mandated; therefore, General Assembly review is not required. SCDHEC published the Notice of Drafting 07/23/10; written comments were accepted until 08/23/10. The proposed rule was published in the SC State Register 11/26/10, and comments were due 12/29/10. On 02/10/11, a public hearing was held, and the proposed rule was discussed at the Board meeting. The rule was adopted and became effective on 02/25/11.

[Proposed Rule Notice](#)

Contact: Alan Hancock, (803) 898-4196

Proposed Rules

HAZARDOUS WASTE MANAGEMENT (R.61-99) SCDHEC has proposed the repeal of R.61-99, "Hazardous Waste Management Planning." The regulation requires a "demonstration of need" before an applicant can receive a permit to establish or expand a hazardous waste management facility. This need can be demonstrated only by reference to the volume of in-state wastes. On 04/13/95, the US District Court ruled that the regulation was invalid and permanently enjoined the regulation. The Court held that R.61-99 (III) (C) discriminated against interstate commerce in violation of the Commerce Clause. The District Court ruling was upheld on appeal. SCDHEC published the Notice of Drafting 06/25/10, and accepted written comments until 07/26/10. BHEC discussed the proposed repeal at its 12/09/10 meeting, and it was to be published in the State Register on 12/24/10. SCDHEC anticipates the repeal will be adopted at the 03/10/11 BNR meeting.

[Proposed Rule](#)

Contact: Carolyn McLaughlin (803) 896-4254

SALE, RECOVERY AND DISPOSAL OF ELECTRONIC EQUIPMENT SCDHEC has proposed a new regulation to address and implement provisions of the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technol-

ogy Equipment Collection and Recovery Act. The regulation would address responsibilities of manufacturers and retailers of covered electronic devices as defined by the Act; standards for collection and use of fees as provided for in the Act; standards for safe, environmentally responsible recovery, recycling or disposal of discarded devices; reporting requirements; and liability issues with regard to information stored on discarded devices. The regulation would also establish violation fines. The proposed regulation will become effective no earlier than 07/01/11, and legislative review will be required. A Notice of Drafting was issued 10/22/10, and comments were due 11/22/10. SCDHEC conducted an informational forum on 02/28/11, which was also the deadline for public comments. A public hearing was held 04/14/11.

[Notice of Drafting](#)

[Proposed Rule](#)

Contact: Kent Coleman, (803) 896-4202

Tennessee

Legislative Session Convened 01/11/11; Adjourn 05/31/11



Legislation

[TN H 349/ TN S 269](#): WATER RESOURCES. This bill requires each covered water system to prepare and submit to the Department of Environment and Conservation a system water plan that includes a water supply plan, an emergency preparedness plan, and a water conservation plan. The bill also requires the Department to develop regional plans for the provision of drinking water to the citizens of the state. A public water system would not be required to join a region or conduct its business in accordance with a regional plan under this bill, unless specifically identified by the Department as being in significant non-compliance because of an inadequate water supply. **Status:** H349, In committee; S269, In committee

REEO-S NOTE: If this legislation were to become law, DoD activities, which rely on a covered water system, may wish to monitor TDEC implementation efforts and participate in relevant system and regional planning to ensure mission is not adversely effected.

[TN H 532/ TN S 276](#): HAZARDOUS MATERIALS. This bill makes it unlawful under the Hazardous Waste Management Act (the Act) for a person to process any by-product material or any other radioactive material, unless the product of the processing has the same classification under federal environmental regulations as the highest classification that any of the radioactive substances would have had before being processed. This bill would not apply to processes that merely segregate wastes. **Status:** H235, In committee; S276, In committee

REEO-S NOTE: This would seem to be consistent with the federal regulatory intent and generally, industry practice. Not sure what the back story is that would require this clarification.

[TN H 700 /TN S 506 \(RELATED TN S 255\)](#): SOLID WASTE DISPOSAL. Requires any permit issued by the department of environment and conservation to specify the types of waste a facility is prohibited from receiving for disposal or processing, prohibits any person from knowingly accepting for disposal or processing certain nuclear or radioactive materials in any landfill. **Status:** H700, In committee; S506, In committee

REEO-S NOTE: This is very similar to failed legislation of the last session. Primary concern is that byproducts of processing will find their way into landfills by virtue of a relaxation in regulation. The word "army" once again found its way into this year's version despite prior effort to educate the sponsor that the Army is not part of the Atomic Energy Commission ---but perhaps this is only a scrivener's error. Sponsors are members of the minority party so passage does not seem likely.

[TN S 245](#): NUCLEAR MATERIALS. This bill provides that radioactive materials that are by-product materials, source materials, or special nuclear materials shall continue to be subject to regulatory control in this state and shall be stored, managed and disposed of only in specifically licensed radioactive waste storage or radioactive disposal facilities. The bill prohibits the acceptance, processing, storage or disposal of any such radioactive materials in any landfill located in the state. The bill clarifies that it does not prohibit a federal entity from accepting, processing, or disposing of radioactive waste on-site as permitted under federal law and in compliance with Tennessee law. **Status:** In committee

REEO-S NOTE: As of yet, no companion bill in the House. Not determinative of success but surly indicative. Similar to HB 700/SB 506 above. Same sponsor as SB 506 but at least this bill does not implicate the Army.

[TN H 976 / TN S 1055](#): FLUORIDATION. Requires any public water system or waterworks system that discontinues the fluoridation of its water supply to give notice of such discontinuance to applicable state agencies and affected custom-

ers. **Status:** Passed by House and Senate

REEO-S NOTE: Presumably follows on the recent release of EPA's study that concludes that fluoridation levels in treated water may be too high. Some regulatory agencies are asking water systems to reduce fluoridation.

TN H 1233 / TN S 1118: STREAM MITIGATION. Codifies stream mitigation plan requirements in accordance with state and federal guidelines. **Status:** H1233, In committee; S1118, In committee

REEO-S NOTE: The real meat of the would-be Tennessee Stream Mitigation Program may arise during the rulemaking that would accompany this act. Monies for the fund would have certain restrictions like only expending the revenue in counties where the stream effects occur. USACE would be involved in the program development.

TN H 1339 / TN S 1116. Repeals Tennessee Petroleum Underground Storage Tank Act.

Status: H1339, In committee; S1116, In committee

REEO-S NOTE: That would be quite a development, but is likely more political expression than reality.

TN H 1524 / TN S 1608. Native grasses used to cover closed landfill sites.

Status: H1524, In committee; S1608, In committee

Final Rules

NSR CONSTRUCTION PERMITS (TAC 1200-3-9-.1) The majority of changes are required by the final rule pertaining to Implementation of the NSR Program for PM2.5. Amendments add definition of significant pollutant and emission rates; amend definition of "Regulated NSR pollutant;" and include hybrid tests for projects that involve multiple types of emissions units and emission offsets and reductions. The rule was proposed 09/22/10 and adopted 03/29/11. It becomes effective 06/27/11. Contact: Lacey Hardin, 615-532-0545.

Proposed Rules

LEAD-BASED PAINT ABATEMENT (1200-1-18-.1-.6, 0400-13-1.1-.6) TDEC has proposed amendments that would provide procedures and requirements for accreditation of lead-based paint activities and renovation training programs; outline procedures and requirements for certification of individuals and firms engaged in lead-based paint activities; and provide work practice standards for performing such activities. Amendments would repeal unnecessary provisions, and stipulate that all lead-based paint activities be performed by certified individuals and firms. OGC completed its review the week of 03/29/10. The rule was sent to the Attorney General for review and to ensure that legislative authorities are in existence and cited properly. The rule remains at the Attorney General's Office. It is anticipated that the rule will be filed with the Secretary of State in early 11. After that, it will be given an effective date that is 90 days from that log in.

[Notice of Proposed Rulemaking](#)

Contact: [Adrianne White](#), 615-532-0885

STATE SOLID WASTE REDUCTION GOALS (TAC 1200-1-7-.1, -.9, -.10) TDEC has proposed amendments to address state waste reduction goals: reduce annually, the amount of solid waste going to Class I, Class III, and Class IV landfills. The rule addresses a private sector survey that would establish a baseline index for waste reduction and recycling activities, as well as monitor change. The current waste disposal reduction goal would be deleted in its entirety. Amendments would add definitions for calculated generation, municipal solid waste, E-scrap, local government, material derived fuels and waste to energy facility/combustor. The rule did not go before the Solid Waste Disposal Control Board at the 12/07/10 meeting. There will be meetings with stakeholders in 11 to help to shape draft language. It will likely be several months before the new rule language is drafted.

[Proposed Rule](#)

Contact: [Greg Luke](#), 615-532-0874

UST PROGRAM (TAC 1200-1-15.1-.3, .7) TDEC has proposed a rule to update UST pre-installation notification requirements. It would add a provision requiring owners installing UST systems that contain a petroleum substance blended with more than 10% alcohol products by volume, to submit documentation at least 15 days prior to commencement of installation that demonstrates the UST system is compatible with the product being stored. The rulemaking would replace the current rule regarding UST closure requirements. It would also provide forms required for submission of information. A public hearing was held 01/20/11, and comments were due 01/26/11.

[Notice of Proposed Rulemaking](#)

Contact: Rhonda Key, 615-532-0972

Frequently Used Acronyms

ADEM – Alabama Department of Environmental Management	JCARR – Joint Committee on Administrative Regulation Review
AEPI – Army Environmental Policy Institute	LRC – Legislative Research Commission
AKO – Army Knowledge Online	MSDEQ – Mississippi Department of Environmental Quality
AQC – Air Quality Committee	NAAQS – National Ambient Air Quality Standards
ARRS – Administrative Regulation Review Subcommittee	NCDENR – North Carolina Department of Natural Resources
ASHRAE - American Society of Heating, Refrigerating, and Air-Conditioning Engineers	NEPA – National Environmental Policy Act
AST – Aboveground Storage Tank	NESHAPs – National Emission Standards for Hazardous Air Pollutants
ATDSR - Agency for Toxic Substances and Disease Registry	NMFS – National Marine Fisheries Service
BHEC – Board of Health and Environmental Control	NOAA – National Oceanic and Atmospheric Administration
BMP - Best Management Practices	NO ₂ – Nitrous Dioxide
BNR – Board of Natural Resources	NO _x – Nitrogen Oxide
CAA – Clean Air Act	NASA – National Aeronautic and Space Administration
CAIR – Clean Air Interstate Rule	NPDES – National Pollutant Discharge Elimination System
CEQ – Council on Environmental Quality	OSD – Office of the Secretary of Defense
CO - Carbon Monoxide	OREGA-S– Office of Regional Environmental and Governmental Affairs—Southern
CO ₂ – Carbon Dioxide	PM2.5 – Fine Particulate Matter
CWA – Clean Water Act	PM10 — Coarse Particulate Matter
CZMA – Coastal Zone Management Act	PROSPECT - Proponent-Sponsored Engineer Corps Training
DLA – Defense Logistics Agency	PSD – Prevention of Significant Deterioration
DOE – Department of Energy	RRC – Rules Review Commission
DoD – Department of Defense	SCDHEC – South Carolina Department of Health and Control
DOI – Department of Interior	SDWA – Safe Drinking Water Act
EIS – Environmental Impact Statement	SIP – State Implementation Plan
EO – Executive Order	SOC – Statement of Consideration
EMC – Environmental Management Commission	SO ₂ - Sulfur Dioxide
EPA – Environmental Protection Agency	SFWMD—Southwest FL Water Management District
EPCRA – Emergency Planning and Community Right-to-Know Act	TAC – Technical Advisory Committee
ERC – Environmental Regulation Commission	TDEC – Tennessee Department of Environment and Conservation
ESA – Endangered Species Act	UECA – Uniform Environmental Covenants Act
FAW – Florida Administrative Weekly	USACE – United States Army Corps of Engineers
FDA – Food and Drug Administration	USDA – United States Department of Agriculture
FLDEP – Florida Department of Environmental Protection	USFWS – United States Fish and Wildlife Service
GADNR – Georgia Department of Natural Resources	UST – Underground Storage Tank
GAEPD – Georgia Environmental Protection Division	VOC – Volatile Organic Compound
GAO – Government Accountability Office	µg/m ³ —Micrograms per Meter Cubed
GC – Groundwater Committee	
GHG – Greenhouse Gas	
HAP - Hazardous Air Pollutant	
INRMP - Integrated Natural Resources Management Plan	
KDEP – Kentucky Department of Environmental Protection	
KEEC - Kentucky Energy and Environment Cabinet	