



U.S. ARMY

Southern Review

of Legislative & Regulatory Actions



The U.S. Army Regional Environmental & Energy Office

November 2015

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

Find out more about the Army Regional Environmental and Energy Offices [here](#). Click [here](#) to browse back issues of the *Southern Review*. To read back issues of other Regional Office *Reviews*, click on a region of the REEO website's US map and then select "Publications." To receive a copy of this electronic publication, [send a subscription request](#).

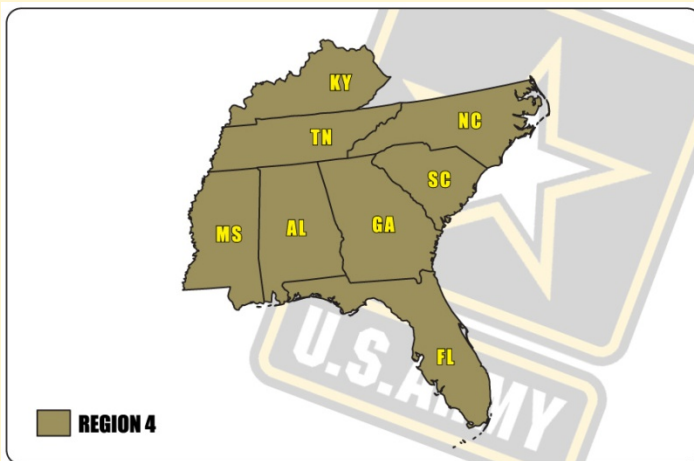


TABLE OF CONTENTS

Alabama	2
Florida	3
Georgia	6
Kentucky	8
Mississippi	10
North Carolina	11
South Carolina	14
Tennessee	17
DOD Activity	20
Federal Activity	20
Professional Development	26
Staff Directory	30

CLEAN WATER RULE LITIGATION STATEMENT

Since the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (USACE) jointly promulgated the Clean Water Rule earlier in 2015, numerous lawsuits have been filed challenging the regulation.

On 9 OCT 15, the U.S. Court of Appeals for the Sixth Circuit stayed the Clean Water Rule nationwide pending further action of the court.

The court acknowledges that clarification of the Clean Water Act is needed and that "agencies conscientiously endeavored, within their technical expertise and experience, and based on reliable peer-reviewed science, to promulgate new standards to protect water quality that conform to the Supreme Court's guidance." The agencies respect the court's decision to allow for more deliberate consideration of the issues in the case and look forward to defending the merits of the Clean Water Rule.

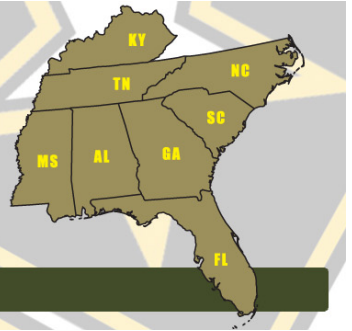
In response to this decision, EPA and the Department of Army resumed nationwide use of the agencies' prior regulations defining the term "waters of the United States." Those regulations will be implemented as they were prior to August 27, 2015, by applying relevant case law, applicable policy, and the best science and technical data on a case-by-case basis in determining which waters are protected by the Clean Water Act.

The Clean Water Rule was developed by the agencies to respond to an urgent need to improve and simplify the process for identifying waters that are and are not protected under the Clean Water Act, and is based on the latest science and the law.

Read more [here](#).

Region 4

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



LEGISLATIVE SESSION: 3 MAR 15 THROUGH 5 JUN 15

Alabama has a one-year session. Adjournment dates are estimated and updated based on legislative activity. The current session adjourned 5 JUN 15. REEO-S will resume incorporating legislative measures into the *Southern Review* once the Alabama Assembly reconvenes in 2016.

FINAL RULES

VOCs (335-3-1-.02) The Alabama Department of Environmental Management (ADEM) has adopted amendments to 335-3-1-.02 so it is consistent with EPA regulations that define volatile organic compounds (VOC). A [Notice of Intended Action](#) was published 31 JUL 15. A hearing was held 9 SEP 15 and comments were due 11 SEP 15. The [certified adopted rules](#) were filed 20 OCT 15 and published 30 OCT 15. The rules become effective 24 NOV 15.

CONSOLIDATED FEDERAL AIR RULE (335-3-11A-.01, -.02) ADEM has adopted amendments to incorporate by reference EPA changes to the Consolidated Federal Air Rule. Incorporation allows the EPA to delegate administrative enforcement of these regulations to ADEM. Notices of Intended Action ([335-3-11A-.01](#), [335-3-11A-.02](#)) were published 31 JUL 15. A hearing was held 9 SEP 15 and comments were due 11 SEP 15. The [certified adopted rules](#) were filed 20 OCT 15 and published 30 OCT 15. The rules become effective 24 NOV 15.

NSPS (335-3-10-.01, -.02, -.03) ADEM has adopted amendments to incorporate by reference EPA changes to the New Source Performance Standards (NSPS). Incorporation allows the EPA to delegate administrative enforcement of these regulations to ADEM. Notices of Intended Action ([335-3-10-.01](#), [-.02](#), [-.03](#)) were published 31 JUL 15. A hearing was held 9 SEP 15 and comments were due 11 SEP 15. The [certified adopted rules](#) were filed 20 OCT 15 and published 30 OCT 15. The rules become effective 24 NOV 15.

NESHAPs (335-3-11-.01, -.02, -.03, -.06, -.07) ADEM has adopted amendments to incorporate by reference EPA changes to the National Emission Standards for Hazardous Air Pollutants (NESHAPs). Incorporation allows the EPA to delegate administrative enforcement of these regulations to ADEM. Notices of Intended Action ([335-3-11-.01](#), [-.02](#), [-.03](#), [-.06](#), [-.07](#)) were published 31 JUL 15. A hearing was held 9 SEP 15 and comments were due 11 SEP 15. The [certified adopted rules](#) were filed 20 OCT 15 and published 30 OCT 15. The rules become effective 24 NOV 15.

NITROGEN OXIDE EMISSIONS (335-3-8.07, .70) ADEM has added rules to 335-3-8 to incorporate provisions for control of nitrogen oxide emissions from specified categories as required by EPA's Cross-State Air Pollution Rule (CSAPR) as promulgated ([76 FR 48208](#)) and revised ([79 FR 71663](#)). Adoption allows ADEM to retain state primacy in the implementation of the regulations. Revisions to the chapter are proposed to be incorporated into Alabama's State Implementation Plan (SIP). A [Notice of Intended Action](#) was published 31 JUL 15. A hearing was held 9 SEP 15 and comments were due 11 SEP 15. The [certified adopted rules](#) were filed 20 OCT 15 and published 30 OCT 15. The rules become effective 24 NOV 15.

SULFUR DIOXIDE EMISSIONS (335-3-5.06, .30) ADEM has proposed to add rules to 335-3-5 to incorporate provisions for the control of sulfur dioxide emissions from specified categories as required by EPA's CSAPR. Adoption allows ADEM to retain state primacy in the implementation of the regulations. Revisions to the chapter are proposed to be incorporated into Alabama's SIP. A [Notice of Intended Action](#) was published 31 JUL 15. A hearing was held 9 SEP 15 and comments were due 11 SEP 15. The [certified adopted rules](#) were filed 20 OCT 15 and published 30 OCT 15. The rules become effective 24 NOV 15.

PROPOSED RULES

WATER QUALITY CRITERIA ADEM has announced a public hearing to solicit public input and comments on current rules of ADEM Administrative Code chapter 335-6-10, Water Quality Criteria; and chapter 335-6-11, Water Use Classifications for Interstate and Intrastate Waters. The hearing was held and comments were due 16 JUL 15.

CATEGORY 1 AND 2 QUANTITIES OF RADIOACTIVE MATERIAL (420-3-26-.15) The Department of Public Health has proposed new 420-3-26-.15, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material. The new rule will take the place of current US Nuclear Regulatory Commission (NRC) security orders implemented under license conditions. The rule is a matter of compatibility for Alabama as an Agreement State. It imposes the same security requirements on licensees as the original orders; however, as a result of lessons learned through inspections conducted on licensees under the terms of the orders, there are few changes and additions to the rule when compared to the original orders. A [Notice of Intended Action](#) was published 31 AUG 15. A hearing was held 11 SEP 15 and comments were due 5 OCT 15.

STORM- AND WASTEWATER DISCHARGES ADEM is proposing to reissue General National Pollutant Discharge Elimination System (NPDES) Permit ALG360000. The permit regulates discharges of storm- and wastewater associated with hydroelectric generating facilities that discharge to Alabama's waters (not designated outstanding national resource waters or outstanding Alabama waters). Individual facilities and/or operations may propose to operate under the general permit, if reissued, by notifying ADEM and providing the required documentation. After receiving such notice of intent, ADEM may regulate discharge under the general permit. ADEM has tentatively determined that the reissuance of Permit ALG360000 is consistent with water quality program regulations. A [notice](#) was issued 9 SEP 15. Comments were due 9 OCT 15.

HAZARDOUS WASTE PROGRAM (335-14-1, -2, -3, -5) ADEM has proposed revisions to ADEM Admin. Code r. 335-14 to adopt newly codified federal rules that revise and clarify the definition of solid waste under the Resource Conservation and Recovery Act, and to correct general errors in previously adopted rules. Revisions are necessary for ADEM to maintain regulations that are at least as stringent as those promulgated federally. Revisions are also proposed to establish an exclusion for six hazardous wastes generated by Alabama Power Company (APCO). A petition filed by APCO in accordance with ADEM Admin. Code r. 335-14-1-.03 demonstrates, to ADEM's satisfaction, that the chromium in the waste streams is nearly exclusively trivalent, the non-toxic form of chromium. Notices of Intended Action were filed [25 OCT 15](#) and [30 OCT 15](#). A hearing will be held 16 DEC 15.



2015 LEGISLATIVE SPECIAL SESSION 1: 1 JUN 15 THROUGH 20 JUN 15

Florida has a one-year session. Adjournment dates are estimated and updated based on legislative activity. The regular session adjourned 11 MAR 15 and the special session on 20 JUN 15.

LEGISLATION

HB 787 This measure exempts people who sell, transfer, or arrange for transfer of recycled and recovered materials from liability for solid waste released or threatened to be released from receiving facilities or sites, under certain circumstances. It provides retroactive applicability. Last action: HB 787 was signed by the governor 11 JUN 15. It became effective 1 JUL 15.

FINAL RULES

ENVIRONMENTAL RESOURCE PERMITS (40C-1.603) The St. Johns River Water Management District (WMD) has adopted amendments to 40C-1.603 F.A.C., to make conforming amendments based on changes to Chapter 40C-2, F.A.C., to:

- Make corrections and clarifications; and
- Create a new fee exemption for applications for Chapter 40C-2, 40C-3, or 62-330, F.A.C., permits by the Florida Department of Environmental Protection or another water management district.

A [Notice of Rule Filing](#) was published 20 OCT 15, and the rules became effective 1 NOV 11.

CONSUMPTIVE USE PERMITS (CUP)CON (40C-2.041, .042, .051, .101, .331, .381, .900) From 2012 through mid-2014, the St. Johns River WMD, FLDEP and other WMDs engaged in statewide rulemaking to increase consistency in CUP programs. That rulemaking was commonly referred to as the “CUPcon” rulemaking. The St. Johns River WMD has adopted amendments to rules in Chapter 40C-2, F.A.C., to:

- Clean up minor errors inadvertently created during the CUPcon rulemaking;
- Clarify existing rules;
- Create additional streamlining; and
- Reduce regulatory burdens while protecting water resources.

A [Notice of Rule Filing](#) was published 20 OCT 15 and the rules became effective 3 NOV 15.

PROPOSED RULES

ABOVEGROUND STORAGE TANK (AST) SYSTEMS (62-762.101, .201, .211, .301, .401, .451, .501, .511, .601, .611, .641, .701, .711, .801, .821, .851, .891, .901) The Florida Department of Environmental Protection (FLDEP) has proposed revisions to the AST Systems rules in Chapter 62-762 for clarity and to remove language that is no longer applicable. A [Notice of Rulemaking Development](#) was published 19 NOV 13. A hearing was held 16 SEP 15.

ENVIRONMENTAL RESOURCE PERMITS (40C-1.1008, 40C-1.603, 1.612) The St. Johns River Water Management District (WMD) has proposed amendments to 40C-1.1008, 40C-1.603, and 40C-1.612, F.A.C, to:

- Increase consistency with the statewide Environmental Resource Permit (ERP) rules adopted in Chapter 62-330, F.A.C., pursuant to Section 373.4131, F.S. (2012);
- Amend fees for certain ERPs to more closely approximate the fees before Chapter 62-330, F.A.C., became effective on 1 OCT 13; and
- Create a new fee category for renewal of certain expired formal determinations of the landward extent of wetlands and other surface waters.

A [Notice of Development of Rulemaking](#) was published 12 FEB 15. A workshop was held 12 MAR 15.

ERPs (40C-41.021, .023, .043, .063, .065, .066, .071, .091, .341, .900) The St. Johns River WMD has proposed amendments to 40C-41.023, .043, and .063, F.A.C., last amended 1 OCT 13 for consistency with Section 373.4131,

Florida Statutes, to require FLDEP in coordination with the five WMDs to develop statewide ERP rules. Current proposed amendments will:

- Delete reference to standard and general stormwater permits in subsection 40C-41.063(4), F.A.C., since statewide ERP rules only provide for issuance of conceptual approval and individual permits;
- Reflect transfer of Rule 40C-42.091, F.A.C., into Rule 40C-4.091, F.A.C.;
- Replace, with better graphics, Figures 41-1 through 41-4 in 40C-4.023, F.A.C.; and Figures 13.0-1 through 13.0-4 in the “Environmental Resource Permit Applicant’s Handbook, Volume II: For Use within the Geographic Limits of the St. Johns River Water Management District” (Volume II), incorporated by reference in subsection 40C-41.043(5), F.A.C.; and
- Update effective date for Part VI of Volume II, as St. Johns River WMD will clarify wording in Volume II; and replace, with better graphics, Figures 13.5-1 and 13.5-2 in Volume II.

Corrections delete language in 13.4.4. (d) (Off-site Land Preservation) to reflect adoption of the Uniform Mitigation Assessment Method. Corrections also insert language in 13.4.2 (Floodplain Storage Criteria) that St. Johns WMD had intended to carry over from the rule as it existed before 1 OCT 13. A [Notice of Development of Rulemaking](#) for 40C-41.023, .043, and .063 was published 12 FEB 15. To address comments received from the Joint Administrative Procedures Committee, amendments to 40C-44.021, .065, .066, .071, .091, .101, .341, and 40C-44.900, F.A.C., will:

- Update effective date for Part VII of Volume II, incorporated by reference in Rule 40C-44.091, F.A.C.;
- Replace references to “reuse” with “harvesting” or “stormwater harvesting,” as those terms when used in Volume II refer to methods that prevent discharge of stormwater into surface waters of the state by deliberate application of stormwater for irrigation;
- Repeal subsection 40C-44.065(3), F.A.C., and rules 40C-44.341 and 40C-44.900, F.A.C., as the WMD has determined these provisions are no longer needed; and
- Delete certain provisions related to performance standards, permit revocation and permit modification that have been determined unnecessary since they are subsumed in other provisions of the rule or addressed by statute.

A [Notice of Development of Rulemaking](#) for 40C-44.021, .065, .066, .071, .091, .101, .341, and .900 was published 12 FEB 15. A workshop regarding all amendments was held 12 MAR 15.

CONSUMPTIVE USE PERMIT (CUP) FEES (40C-1.603) The St. Johns River WMD has proposed amendment to Rule 40C-1.603, F.A.C., to make conforming amendments based on proposed changes to Chapter 40C-2, F.A.C., and make corrections and clarifications. Notices of Development of Rulemaking were published [13 APR 15](#) and [19 MAY 15](#). Notices of Hearings were published [21 AUG 15](#) and [26 AUG 15](#).

CUPCON (40C-2.031,.301, .302, .311, .321,.351, .361,.401, .501) The St. Johns River WMD has proposed rulemaking to address amendment, repeal, or development of rules in Chapter 40C-2, F.A.C., as needed to clarify existing rules, create additional streamlining, and reduce regulatory burdens on the following subjects: CUP criteria; limiting conditions (permit conditions by rule); permit thresholds, types, duration, and modification; water conservation requirements; annual allocation requirements and other rules needed to provide continuous reasonable assurance throughout the duration of a permit; 10-year compliance reports; compliance monitoring and forms; application forms; permit fees to address related changes to permit thresholds or permit types; and other rules for which conforming amendments may be needed. A Notice of Development of Rulemaking was published 13 APR 15 and a workshop was held 29 APR 15. A [Notice of Correction](#) was published 20 MAY 15. A Notice of Change for 40C-2.041, .042, .051, .101, .331, .381, and .900 was published 10 SEP 15.

REVIEW OF WMD STRATEGIC PLANS (62-40.530) FLDEP has proposed amendments to Rule 62-40.530, F.A.C., to provide for FLDEP review of WMD annual strategic plans. A [Notice of Development of Rulemaking](#) was published 28 APR 15. A workshop was held 15 MAY 15.

WATER SUPPLY PLANNING (62-40.410, .473, .520, .531) FLDEP has proposed amendments to Rules 62-40.210 and 62-40.531, F.A.C., to clarify the definition of “alternative water supplies” in Section 373.019(1), F.S., including when surface water sources are considered alternative water supplies, and guidance on designating “non-traditional” water supplies as alternative water supplies in regional water supply plans. Amendments to Rules 62-40.410 and 62-40.520, F.A.C., would provide guidance on designating Water Resource Caution Areas. Amendments to Rule 62-40.410, F.A.C., could clarify when applications are subject to competition pursuant to provisions of Section 373.233, F.S. Amendments to Rule 62-40.473, F.A.C., could provide guidance regarding implementation of minimum flows and levels, and associated recovery and prevention strategies. A [Notice of Development of Rulemaking](#) was published 7 JUL 14 and an advisory was issued 17 APR 15. A [workshop](#) was held 15 MAY 15.

WATER WITHDRAWAL (40D-1.1002, 40D-1.659) The Southwest Florida WMD has proposed rulemaking to amend Rules 40D-1.1002 and 40D-1.659, F.A.C., to incorporate revisions to Form LEG-R.42.00-058, Petition for Variance or Waiver, from year-round conservation measures and water shortage orders to promote consistency of terms throughout Chapter 40D, F.A.C. and Florida statutes; delete obsolete provisions; and conform district rules to Florida statutes. A [Notice of Development of Rulemaking](#) was published 26 MAY 15 and a [Notice of Proposed Rules](#) was published 30 JUL 15. Comments were due 20 AUG 15, Notices of [Change](#) and [Correction](#) were published 7 OCT 15.

TRIENNIAL REVIEW OF SURFACE WATER QUALITY STANDARDS (62-302, 303; 62-4.050, .242, .244) As required by the Clean Water Act (CWA), FLDEP is initiating the Triennial Review of state surface water quality standards. FLDEP is considering revisions to specific rule sections; however, all surface water quality standards in Chapter 62-4, Chapter 62-302 and Chapter 62-303, F.A.C., are under review and may be revised as part of the Triennial Review. FLDEP proposes to revise criteria for freshwater ammonia and criteria for alkalinity; establish new water quality criteria for carbaryl, chlorpyrifos, diazinon, and nonylphenol; and update various references used in Chapter 62-302, F.A.C. FLDEP also proposes to revise subparagraph 62-4.242(3)(a)2., F.A.C., to delete text related to mixing zones in Outstanding Natural Resource Waters, delete subsection 62-4.242(4), F.A.C., and reduce the fee in Rule 62-4.050, F.A.C., for Site Specific Alternative Criteria from \$15,000 per water quality parameter to \$5,000 per water quality parameter. A [Notice of Development of Rulemaking](#) was published 19 MAY 15. Workshops were held 10-11 JUN 15.

RISK-BASED CORRECTIVE ACTION (62-777.100, .150, .170) FLDEP has proposed amendments to Chapter 62-777, F.A.C., rules governing the Risk-Based Corrective Action (RBCA) process at contaminated sites and the derivation of Cleanup Target Levels in Florida. Since Chapter 62-777, F.A.C., was adopted in 2005, there have been many changes with regard to how to calculate appropriate risk-based cleanup target levels in terms of methods of calculation and parameters used in calculations. These developments lead to improved derivation of appropriate cleanup target levels and provide the correct degree of protection to human health and the environment. The new methods reduce the amount of conservatism in some previous estimates to suitable levels, thereby providing sufficient protection while minimizing potential cleanup costs. FLDEP is proposing to review and update the method(s) for establishing cleanup target levels and parameter values used, and develop updated cleanup target levels. A [Notice of Development of Rulemaking](#) was published 15 JUN 15 and a workshop was held 30 JUN 15. An advisory was issued 6 JUL 15 and a [meeting](#) was held 22 JUL 15. A [Notice of Rulemaking Development](#) was published 7 OCT 15 and a meeting was held 3 NOV 15.

RCBA (62-780) FLDEP has proposed rulemaking concerning Chapter 62-780, F.A.C., to modernize, and incorporate “lessons learned,” and facilitate contaminated site closure. New techniques and approaches have also been developed to support RBCA, but the rule chapter is silent, ambiguous, or implicitly prohibits these advancements. Various inconsistencies or incongruities within the rule chapter will also be corrected. Specific topics to be addressed include evaluation of Incremental Sampling Methodology, revision of determination of leachability, and use and application of apportionment. A [Notice of Development of Rulemaking](#) was published 7 OCT 15.

COASTAL ZONE MANAGEMENT (62B-49) Chapter 62B-49, F.A.C., establishes the Joint Coastal Permit program. Activities that would have required a coastal construction permit and ERP are authorized by a single joint coastal permit. FLDEP proposes to:

- Amend Chapter 62B-49;
- Add new rules to implement the Laws of Florida 2012-65;
- Clarify language to reduce confusion in the permitting process and reduce requests for additional information;
- Add conditions and amend portions to expedite the permitting process; and
- Amend procedures to allow for electronic submittal of applications.

A [Notice of Proposed Rules](#) was published 7 FEB 14, comments were due 28 FEB 15, and a hearing was held 23 JUL 15. A [Notice of Change](#) was published 21 SEP 15.

MARINE TURTLE PERMITS (68E-1.002, 68E-1.004, 68E-1.0041, 68E-1.005, 68E-1.0061) The Florida Fish and Wildlife Conservation Commission has proposed amendments to Chapter 68E-1, F.A.C., Marine Turtle Permits and the Marine Turtle Conservation Guidelines. Proposed amendments will clarify and update existing rule language to reflect current procedures for review and approval of applications, add definitions for terms in the existing rule, and clarify criteria and timelines for review and approval of applications. Language is also proposed to address stakeholder concerns on review and approval of requests for research involving threatened or endangered marine turtles. A Notice of Rulemaking Development was published on 18 AUG 15. Workshops were held 9, 10, and 15 SEP 15.

DOMESTIC WASTEWATER FACILITIES (62-0-600, -601) FLDEP has proposed rulemaking to amend Chapter 62-600, F.A.C., to update, clarify, and eliminate redundancy in requirements applicable to domestic wastewater facilities. The proposed rules simplify and clarify requirements, and correct rule references. Rules are also proposed for repeal where requirements are obsolete, duplicative, or superseded by other rules or statutory requirements. As part of this rulemaking, some requirements from Chapter 62-601, F.A.C., Domestic Wastewater Treatment Plant Monitoring, are incorporated into Chapter 62-600, F.A.C. Chapter 62-601, F.A.C., is proposed for simultaneous repeal with adoption of proposed amendments to Chapter 62-600, F.A.C. A [Notice of Rulemaking](#) was published 27 MAR 14 and a [Notice of Proposed Rules](#) was published 14 SEP 15.



2015 LEGISLATIVE SESSION: 12 JAN 15 THROUGH 2 APR 15

Georgia has a two-year session (2015-2016) with 2015 bills carrying over for consideration in 2016. Adjournment dates are estimated and updated based on legislative activity. The current session adjourned on 2 APR 15. REEO-S will resume incorporating legislative measures into the *Southern Review* once the Georgia Assembly reconvenes in 2016.

PROPOSED RULES

2016 305(B)/303(D) LIST OF WATERS Georgia Environmental Protection Division (GAEPD) has issued a request for data for use in Georgia's 2016 305(b)/303(d) List of Waters in accordance with the federal CWA, Sections 305(b) and 303(d). Requirements for submission and acceptance of water quality data for use in listing waters are detailed in a GAEPD document titled, "[Guidance on Submitting Water Quality Data for Use by the Georgia Environmental Protection Division in 305\(b\)/303\(d\) Listing Assessments.](#)" A [notice](#) was issued 2 FEB 15 and comments were due 1 JUL 15.

SCRAP AND USED TIRES (391-3-4-.19, .19(1)(A), .19(2);.19(3), .19(4), .19(5), .19(6), .19(7), .19(8), .19(9)) GAEPD has proposed amendments to the Georgia Rules for Solid Waste Management, Chapter 391-3-4, pertaining to scrap and used tire management. The proposed amendments are described below:

- Rule 391-3-4-.19, "Scrap Tire Management Amended," is amended and the title changed to read "Scrap and Used Tire Management."
- Rule 391-3-4-.19, (1)(a), "Applicability," is amended to establish guidelines for handling scrap and used tires.
- Rule 391-3-4-.19(2), "Definitions," is amended to add 11 new definitions associated with tire management, amend 11 definitions, and delete two definitions.
- Rule 391-3-4-.19(3), "Retail Tire Dealers," amends the title from "Retail Tire Dealers" to "Retail Dealers" and clarifies reporting and fee requirements.
- Rule 391-3-4-.19(4), "Scrap Tire Generators," is amended to clarify reporting and manifest requirements for scrap tire generators.
- Rule 391-3-4-.19(5), "Scrap Tire Carriers," is being amended to clarify exemptions for persons collecting and transporting scrap or used tires. It includes decal requirements for tire carriers, reporting requirements, and revised financial assurance requirements.
- Rule 391-3-4-.19(6), "Scrap Tire Storage," is amended to clarify storage requirements for scrap tires.
- Rule 391-3-4-.19(7), "Criteria for Approved Processing, Sorting, and Disposal Facilities," is amended to revise the title to read, "Criteria for Scrap Tire Processors, Sorters, and Disposal Facilities," and to clarify operational and reporting requirements for regulated facilities.
- Rule 391-1-4-.19(8), "Reuse and Recycling of Scrap Tires," is amended to clarify and add amendments for recycling and beneficial reuse of scrap tires.
- Rule 391-3-4-.19(9), "Used Tires," is added to expand the tire management rule to include used tires.

The [proposed rules](#) were filed 20 APR 15, a hearing was held 12 MAY 15, comments were due 13 MAY 15, and a meeting was held 24 JUN 15.

STATE WILDLIFE ACTION PLAN The Georgia Department of Natural Resources (GADNR) has invited public comments on a draft version of the revised [State Wildlife Action Plan \(SWAP\)](#). The plan outlines steps GADNR and partner organizations follow to conserve native wildlife and habitats. The SWAP is required by Congress for GADNR and other state wildlife agencies to receive state wildlife grants, the main federal funding source for states to conserve nongame – animals not legally fished for or hunted, from gopher tortoises to golden-winged warblers. A comprehensive review of wildlife plans is required at least every 10 years to include new information and changing conditions. Comments were due 15 JUL 15.

SAFE DRINKING WATER (391-3-5) GAEPD has proposed rulemaking to amend provisions of eight rules under Chapter 391-3-5, and add rule 391-3-5-.55, Revised Total Coliform Rule, to incorporate requirements of EPA's 2013 Revised Total Coliform Rule and maintain state primacy over public drinking water systems. The federal Safe Drinking Water Act requires states to adopt new or revised federal regulations to maintain primacy over public drinking water systems. GAEPD proposes amendments to Chapter 391-3-5 to incorporate various provisions included in the Revised Total Coliform Rule that correlate to specific language in eight rules in this chapter. New rule 391-3-5-.55 is proposed to incorporate language of the Revised Total Coliform Rule, 40 CFR Part 141, Subpart Y. Corrections to formatting and typographical errors are also proposed, including updates in paragraph numbering in Rules 391-3-5-.06, -.27 and -.52. The [proposed rules](#) were filed 23 SEP 15. Comments are due 23 OCT 15. A meeting will be held 1 DEC 15.



2015 LEGISLATIVE SESSION: 6 JAN 15 THROUGH 24 MAR 15

Kentucky has a one-year session. Adjournment dates are estimated and updated based on legislative activity. The current session adjourned 24 MAR 15. REEO-S will resume incorporating legislative measures into the *Southern Review* once the Kentucky Assembly reconvenes in 2016.

PROPOSED RULES

ANTIDEGREDATION POLICY (401 KAR 10:030) The Division of Water (DOW) has proposed amendments to 401 KAR 10:030, Antidegradation Policy Implementation Methodology. This administrative regulation implements the antidegradation policy of 401 KAR 10:029 by establishing procedures to control water pollution, providing categorization criteria, listing many surface waters assigned to specific categories, and providing for recategorization of water. The amendments:

- Correct statutory references and bring language into compliance with current regulatory grammatical requirements;
- Correct stream segment identifications; and
- Add 12 additional streams or stream segments (approximately 41 miles) to the Exceptional Waters category as a result of routine watershed monitoring and investigations of potential waters affected by permitted activities since the 2012 regulatory revisions.

This amendment aligns the listed waters with federal management plans for waters located in national forests. The [proposed amendment](#) was filed 10 AUG 15. A hearing was held 24 SEP 15 and comments were due 30 SEP 15.

DESIGNATION OF USES OF SURFACE WATERS (401 KAR 10:026) The DOW has proposed amendments to 401 KAR 10:026, Designation of Uses of Surface Waters. This administrative regulation lists the types of designated uses for surface waters of the commonwealth, provides and describes the process for redesignation of surface waters, and lists designated uses for specific surface waters of the commonwealth that have been assigned. The amendments:

- Correct statutory references;
- Bring language into compliance with current regulatory grammatical requirements;
- Adjust names and locations of surface water intakes for domestic water supply to align the listed segments with the National Hydrological Data set and remove segments/systems that have been regionalized; and
- Add 20 streams or stream segments to the list of Outstanding State Resource Waters pursuant to Section 3(2) of this regulation, and the automatic inclusion clause of 401 KAR 10:031 Section 8(1)(a)3, based on Threatened or Endangered Species being present.

The [proposed new amendment](#) was filed 10 AUG 15 and published 1 SEP 15. Comments were due 30 SEP 15.

SURFACE WATER (401 KAR 10:031) The DOW has proposed amendments to 401 KAR 10:031, Surface Water Standards. This administrative regulation establishes water quality standards for surface waters of the commonwealth and the associated water quality criteria necessary to protect designated uses. The amendments:

- Correct statutory references and bring language into compliance with current regulatory grammatical requirements;
- Update water quality criteria for selenium and pentachlorophenol; and
- Sunset a fecal coliform standard for primary contact recreation beginning 1 NOV 19 (when the last permits with this requirement will expire) in favor of E. coli measurements, which are better indicators of water quality.

Specifically, the previous acute selenium criterion was not approved and is being removed, and the associated footnote is corrected to indicate that fish tissue data shall take priority over water column data when fish tissue is available. EPA does not have an acute selenium criterion. Pentachlorophenol criteria correct an earlier, inadvertent error. The [proposed amendment](#) was filed 10 AUG 15. A hearing was held 24 SEP 15 and comments were due 30 SEP 15.

GENERAL PROVISIONS FOR WATER QUALITY REGULATIONS (401 KAR 10:029) The DOW has proposed amendments to 401 KAR 10:029, General Provisions. This administrative regulation establishes general operating provisions for water

quality regulations, and provides for withdrawal of contaminated water, sample collection and methodology, and mixing zones. It is used in conjunction with 401 KAR 10:030 to implement antidegradation requirements, and addresses water quality protection issues not covered in 10:026, 10:030, or 10:031 to form a complete protection program. The amendments correct statutory references, eliminate an outdated executive order reference, and bring language into compliance with current regulatory grammatical requirements. The [proposed amendments](#) were published 1 SEPT 15, a hearing was held 24 SEP 15, and comments were due 30 SEP 15.

GASOLINE DISPENSING FACILITIES (401 KAR 59:174) The Kentucky Department for Environmental Protection (KDEP) has proposed amendments to 401 KAR 59:174, which provides for the control of emissions from gasoline dispensing facilities. It requires use of Stage II vapor recovery technology to capture gasoline vapor emitted during refueling of motor vehicles in nonattainment areas of Boone, Campbell, and Kenton counties. The original effective date of the regulation was 12 JAN 98. This amendment:

- Removes the requirement that Stage II vapor recovery technology be installed in new gasoline dispensing facilities beginning 1 JAN 16;
- Authorizes existing gasoline dispensing facilities to begin decommissioning Stage II controls on 1 JAN 16;
- Requires applicable gasoline dispensing facilities to complete decommissioning of Stage II controls by 31 DEC 18; and
- Sets forth notice and procedural requirements for the decommissioning process.

The [proposed amendments](#) were filed 15 SEP 15 and published 1 OCT 15. A hearing was held 22 OCT 15, [AARS](#) agenda published 1 NOV 15, and comments were due 2 NOV 15. Another hearing will be held 10 NOV 15.

UNDERGROUND STORAGE TANK DELIVERY PROHIBITION (401 KAR 42:045) KDEP's Division of Waste Management has proposed amendment to 401 KAR 42:045 to prohibit delivery, deposit, or acceptance of regulated substances to the underground storage tank (UST) system of an owner or operator who has failed to register, amend registration, or pay annual tank fees required by KRS 224.60-150, 224.60-105, and administrative regulations promulgated in 401 KAR 42:020 and 42:200. The [proposed amendment](#) was filed 15 OCT 15, a hearing will be held 24 NOV 15, and comments are due 30 NOV 15.



2015 LEGISLATIVE SESSION: 6 JAN 15 THROUGH 2 APR 15

Mississippi has a one-year session. Adjournment dates are estimated and updated based on legislative activity. The current session adjourned 2 APR 15. REEO-S will resume incorporating legislative measures into the *Southern Review* once the Mississippi Assembly reconvenes in 2016.

FINAL RULES

HAZARDOUS WASTE MANAGEMENT (11 MISS. ADMIN. CODE PART 3, CHAPTER 1) The Mississippi Department of Environmental Quality (MSDEQ) has adopted amendments to "Mississippi Hazardous Waste Management Regulations," to adopt the Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule promulgated by EPA 26 JUN 14; the "Hazardous Waste Management System: Conditional Exclusion for Carbon Dioxide Streams in Geologic Sequestration Activities" rule promulgated by EPA 3 JAN 14; and the "Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System; Electronic Manifests Rule" promulgated by EPA 7 FEB 14. The [proposed rules](#) were [filed](#) 7 AUG 15 and comments were due 1 SEP 15. The [final rules](#) were [filed](#) 27 OCT 15.

PROPOSED RULES

INTERCONNECTION AND NET METERING JOINT RULES The Mississippi Public Service Commission (PSC) has proposed a new rule, the Mississippi Distributed Generator Interconnection Rule, which sets forth standards to establish technical and procedural requirements for distributed generator facilities to be interconnected and operated in parallel with the electric distribution system owned or operated by electric distribution companies in Mississippi under the jurisdiction of the Mississippi PSC. A second proposed rule, the Mississippi Renewable Energy Net Metering Rule, sets forth technical and procedural requirements for net metering on qualified distributed generator facilities. The two proposed rules are inherently interdependent. Without interconnection, net metering is not possible; without net metering, interconnection is unnecessary. Net metering and interconnection rules ("joint rules") allow a ratepayer with behind-the-meter solar electricity generation, for example, to "sell" excess electricity to its electric utility company. Under the joint rules, the utility company would stand ready to make such "purchases" up to some ceiling amount at a rate approved by the PSC that reflects the avoided cost of the utility. The [proposed rules](#) were [filed](#) 13 APR 15. Comments were due 8 MAY 15.

WATER QUALITY CRITERIA (TITLE 11, PART 6, CHAPTER 2) MSDEQ has proposed amendments to Title 11, Part 6, Chapter 2, which update water quality criteria based on review of the state's surface water quality standards to ensure consistency with federal requirements. This amended regulation replaces the previous version in its entirety. The [proposed rules](#) were [filed](#) 15 OCT 15 and a hearing was held 5 NOV 15. Comments are due 9 NOV 15.

SIP REVISION MSDEQ is considering adopting a SIP revision for the purposes of a redesignation request and maintenance plan for the portion of DeSoto County, Miss., designated as nonattainment for the 2008 NAAQS for ground-level ozone. MSDEQ plans to request that EPA re-designate the portion of DeSoto County as attainment for the 2008 ozone NAAQS pursuant to Section 107(d)(3) of the 1990 CAA Amendments. A [notice](#) was issued 6 OCT 15 and comments were due 5 NOV 15.



2015 LEGISLATIVE SESSION: 14 JAN 15 THROUGH 14 AUG 15

North Carolina has a two-year session (2015-2016) with 2015 bills carrying over for consideration in 2016. Adjournment dates are estimated and updated based on legislative activity. The current session adjourned 4 AUG 15.

LEGISLATION

HB 97 The 2015 Appropriations Act makes base budget appropriations for current operations of state departments, institutions, and agencies, and for other purposes. Last action: HB 97 was signed by the governor 18 SEP 15.

REEO-S Note: The enacted measure includes some provisions respecting wetlands regulation, to include requiring the North Carolina Department of Natural Resources (NCDENR) to petition USACE to allow for greater flexibility in performing wetlands mitigation. This measure would also waive cost share requirements for dredging projects. Makes various other updates to environmental requirements to include renaming NCDENR to the Department of Environmental Quality and consolidates the Departments of Cultural Resources and Natural Resources into one agency. The measure also establishes a new cabinet level agency named "Department of Military and Veterans Affairs." The overall purpose of this agency would be to work with the Armed Forces on issues of mutual concern. The measure lists 23 distinct powers and duties of the department. REC outreach in North Carolina may entail significant involvement with the entity in the future.

HB 186 This measure requires the environmental resources commission to conduct a study of water resources availability in the Cape Fear River Basin. Last action: HB 186 was signed by the governor 5 AUG 15.

REEO-S Note: Study results could be of interest to the Army, as Fort Bragg is located within the area of concern.

HB 245 This measure provides that a person who constructs or operates an electric generating facility on a customer's property for the primary purpose of producing electricity, heat, or steam for sale to or for the use by the customer is not a public utility, and is not subject to regulation by the utilities commission so long as the facility is sized to supply no more than 125% of the average annual energy consumption of the customer at that site. Last action: HB 245 was re-referred to House committee 12 AUG 15.

REEO-S Note: Would authorize military, and others, to pursue renewable energy development with third-party developers. Currently, state law appears to prohibit such arrangements through established territorial electric service areas that limit retail sales to an incumbent utility.

HB 765 This act provides further regulatory relief to the citizens of North Carolina by providing for various administrative reforms, eliminating certain unnecessary or outdated statutes and regulations, modernizing or simplifying cumbersome or outdated regulations, and making various other statutory changes. Last action: signed by governor 22 OCT 15. HB 765 is approved and effective.

PROPOSED RULES

REVISED TOTAL COLIFORM RULE (15A NCAC 18C .1539) NCDENR has proposed rulemaking to adopt 15A NCAC 18C .1539. The federal government recently revised the 1989 Total Coliform Rule to strengthen public protection from bacteriological contamination in drinking water. The changes conform to the Safe Drinking Water Act provision that requires any revision to "maintain, or provide for greater protection of the health of persons." North Carolina must adopt the new federal rule, 40 CFR 141, Subpart Y – Revised Total Coliform Rule, to maintain primary enforcement responsibility over the Total Coliform Rule in the state. If North Carolina does not adopt the federal rule, public water systems would be subject to the rule under federal enforcement by EPA. [Proposed rules](#) were published 16 FEB 15 and a hearing was held 3 MAR 15. Comments were due 17 APR 15. The Rules Review Commission (RRC) published an [agenda](#) 1 JUN 15, a meeting was held 16 JUN 15, and RRC [minutes](#) were published 15 JUL 15.

UNDERGROUND STORAGE TANKS (15A NCAC 02N .0304, .0903-.0904) NCDENR has proposed amendments to rules cited as 15A NCAC 02N .0304 and .0903-.0904. Proposed rule changes are necessary to comply with a directive from the North Carolina General Assembly to amend certain secondary containment requirements contained in 15A NCAC 02N. The proposed rules must be substantively identical to the provisions of Session Law 2011-394 and Session Law 2013-413. The [proposed rules](#) were published 3 NOV 14, a hearing was held 4 DEC 14, comments were due 2 JAN 15, and the [RRC agenda](#) was published 1 MAY 15. A meeting was held 21 MAY 15.

OPEN BURNING (15A NCAC 02D .1902, .1903) NCDENR has proposed amendments to 15A NCAC 02D .1903, Open Burning without an Air Quality Permit, and 02D .1902, Definitions, to incorporate requirements of Session Law 2014-120, Section 24. This section allows residential open burning of logs and stumps in addition to residential open burning of leaves, tree branches, or yard trimmings under conditions specified as long as the burning does not create a nuisance. Amendments to Rule 02D .1902, Definitions, remove the definition of "Nuisance" from the list of definitions that apply to the rules in Section .1900, Open Burning, for consistency with amendments to implement S.L. 2014-120. The [proposed rules](#) were published 15 JUN 15. A hearing was held 21 JUL 15 and comments were due 14 AUG 15.

DRAFT NPDES GENERAL PERMIT The Division of Water Resources intends to renew National Pollutant Discharge Elimination System (NPDES) General Permit NCG500000 - Non contact cooling water, cooling tower and boiler blowdown, condensate, exempt stormwater, cooling waters associated with hydroelectric operations, and similar wastewaters. A [notice](#) was issued 15 JUL 15. Comments were due 14 AUG 15.

PROTECTION AND MAINTENANCE OF RIPARIAN BUFFERS (15A NCAC 02B .0295) NCDENR has proposed rulemaking to adopt 15A NCAC 02B .0295. Rule adoption is authorized by Section 2 of S.L. 2014-95, which states that the

Environmental Management Commission shall adopt a "Mitigation Program Requirements for the Protection and Maintenance of Riparian Buffers" rule, pursuant to G.S. 150B-21.1, no later than 1 OCT 14. The [proposed rules](#) were published 16 FEB 15, a hearing was held 12 MAR 15, and comments were due 17 APR 15. The RRC [agenda](#) was published 3 AUG 15 and a meeting was held 20 AUG 15. The RRC [minutes](#) were published 15 SEP 15.

RISK-BASED REMEDIATION (15A NCAC 02L .0501 - .0515) NCDENR has proposed rulemaking to adopt rules cited as 15A NCAC 02L .0501 through .0515. The Environmental Management Commission received a petition for rulemaking and the Division of Waste Management, which accepted comments from stakeholders who maintain it is inconsistent to require risk-based remediation for only petroleum contamination from petroleum USTs. This change can be protective of human health and the environment and will reduce costs to some stakeholders. The [proposed rules](#) were published 3 AUG 15 and a hearing was held 26 AUG 15.

COASTAL ZONE MANAGEMENT (15A NCAC 07B .0801, .0804, .0601, .0701, .0702, .0802, .0803; 15A NCAC 07L .0102, .0502-.0504, .0505-.0514, .0601-.0603, .0701-.0705) NCDENR has proposed rulemaking to adopt rules cited as 15A NCAC 07B .0801, .0804, amend the rules cited as 15A NCAC 07L .0102, .0502-.0504; repeal rules cited as 15A NCAC 07L .0505-.0514, .0601-.0603, .0701-.0705; and readopt with substantive changes the rules cited as 15A NCAC 07B .0601, .0701, .0702, .0802, .0803. The Coastal Resources Commission (CRC) is proposing amendments to the Coast Area Management Act (CAMA) Land Use Planning Program, and the Planning and Management Grant Program. Amendments:

- Increase flexibility for plan content and format;
- Clarify that updates and amendments are voluntary;
- Add a new process option for CAMA Major Permit Review;
- Streamline plan approval, amendment, and update processes; and
- Integrate planning efforts.

The CRC is proposing new language for 7B .0801. Existing language and amendments to 15A NCAC 07B .0801 and 15A NCAC 07B .0802 have been renumbered to 7B .0802 and 7B .0803 respectively. Pursuant to G.S. 150B-21.3A, 15A NCAC 07B .0602 and 15A NCAC 07B .0901 expired effective 1 SEP 15. The proposed rules were published 15 SEP 15. A hearing will be held 14 OCT 15 and comments are due 16 NOV 15.

STREAMLINING OF PERMIT EXEMPTION RULES (15A NCAC 02Q .0318, .0102, .0903, .0302) NCDENR has proposed rulemaking to:

- Amend Rule 15A NCAC 02Q .0102, Activities Exempted from Permit Requirements, to simplify, clarify, and add exemptions. Facilities with actual emissions less than five tons per year (TPY) of each specified pollutant and total aggregate actual emissions of 10 TPY would be exempt from permitting. Facilities that are not exempt and have total aggregate actual emissions less than 25 TPY would be eligible for registration instead of obtaining a permit.
- Repeal Rule 15A NCAC 02Q .0302, Facilities Not Likely to Contravene Demonstration, because is it duplicative of the requirements contained in revised Rule 15A NCAC 02Q .0102.
- Adopt Rule 15A NCAC 02Q .0318, Changes Not Requiring Permit Revisions, to allow facilities to make minor changes without first modifying the permits.
- Amend Rule 15A NCAC 02Q .0903, Emergency Generators And Stationary Reciprocating Internal Combustion Engines, to add an exemption from permitting for stationary reciprocating internal combustion engines if the engine is the only source of emissions at the facility.

The [proposed rules](#) were published 1 OCT 15 and a hearing was held 4 NOV 15. Comments are due 30 NOV 15.

ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION BOARD RULES (21 NCAC 39 .0101, .0301, .0401, .0601, .0602, .0701, .0801, .1002, .1004, .1006) The On-Site Wastewater Contractors and Inspectors Certification Board has proposed amendments to the following rules:

- 21 NCAC 39 .0101, to define the meaning of "building being constructed" as referenced in NCGS 90-72(b)(3);
- 21 NCAC 39 .0301, to clarify certification fees for a Combination Contractor Grade Level and Inspector certification;
- 21 NCAC 39 .0401, to clarify exam content and passing requirements for certification levels;
- 21 NCAC 39 .0601, to clarify the name of the Combination Inspector and Contractor Grade Level regarding professional development hours required for this level;
- 21 NCAC 39 .0602, to require inclusion information related to Combination Contractor Grade Level and Inspector requests for continuing education approval;
- 21 NCAC 39 .0701, to provide for suspension or revocation of a combination Contractor Grade Level and Inspector certification;
- 21 NCAC 39 .0801, to set additional ethical requirements for contractors and inspectors;
- 21 NCAC 39 .1002, to set practice requirements related to inspector forms and other requirements for inspectors;
- 21 NCAC 39 .1004, to clarify general inspection exclusions for contractors and inspectors; and
- 21 NCAC 39 .1006, to clarify components of a minimum wastewater system inspection.

The [proposed rules](#) were published 15 JUL 15, a hearing was held 30 JUL 15, comments were due 14 SEP 15, and the Rules Review Commission published an [agenda](#) 2 NOV 15. A meeting will be held 19 NOV 15.

GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS AND STATIC VEGETATION LINE EXCEPTION PROCEDURES (15A NCAC 07H .0305, .0306; 15A NCAC 07J .1201, .1301, .1302, .1303) The Coastal Management Division (CRC) has proposed rulemaking regarding 15A NCAC 07H .0305, .0306; and 15A NCAC 07J .1201, and .1301 through .1303. The CRC requires that oceanfront development be set back from a defined reference line, generally the ocean-ward edge of natural vegetation, or a surveyed line for communities that have completed large beach nourishment projects. The CRC is proposing amendments to create another reference line called a Development Line that would allow a local government to delineate the most ocean-ward location for new development. Development Line procedures will be contained in Title 15A NCAC 07J .1300. This action also requires an amendment to 15A NCAC 07H .0305, General Description of Landforms, which defines various coastal features and reference lines, and 15A NCAC 07H .0306 to establish use standards for the Development Line. In addition to establishing the Development Line procedures and use standards, the CRC is also amending their existing rules governing Static Line Exception procedures contained in 15A NCAC 07J .1201 and 15A NCAC 07H .0306. The intent of these amendments is to provide local governments with additional flexibility in managing oceanfront development. Should a local government choose to adopt a Development Line for CRC approval, the costs to do so are anticipated to be minor. The economic benefits of adopting a Development Line for private property owners can range from moderate to significant depending on where a local government chooses to site the Development Line, but are not accurately quantifiable. The [proposed rules](#) were published 2 NOV 15. A hearing will be held 18 NOV 15 and comments are due 2 JAN 16.



2015 LEGISLATIVE SESSION: 13 JAN 15 THROUGH 4 JUN 15

South Carolina has a two-year session (2015-2016) with bills carrying over for consideration in 2016. Adjournment dates are estimated and updated based on legislative activity. The current session adjourned on 4 JUN 15. REEO-S will resume incorporating legislative measures into the *Southern Review* once the South Carolina Legislature reconvenes in 2016.

PROPOSED RULES

POLLUTION CONTROL REGULATIONS AND STANDARDS, SOUTH CAROLINA AIR QUALITY IMPLEMENTATION PLAN (61-62)

The South Carolina Department of Health and Environmental Control (SCDHEC) has proposed the following amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (SIP):

- R.61-62.1, Permit Requirements: Definitions and General Requirements, Section II, Permit Requirements, (c) to include clarification for allowable on-site activities prior to obtaining a construction permit. SCDHEC proposes amendments to R.61-62.1, Section II, to add language to clarify source exemptions for a permit. SCDHEC may propose other changes to R.61-62.1, Air Pollution Control Regulations and Standards, which may include removal of the requirement of a revised air dispersion modeling analysis for permit renewals. Amendments will include additional definitions for clarification and/or corrections for internal consistency, clarification, reference, punctuation, codification, and spelling to improve the overall text of Regulation 61-62.1 as necessary.
- R.61-62.5, Air Pollution Control Standards, Standard No. 4, Emissions from Process Industries, to clarify this regulation is not triggered for sources for which SCDHEC has removed particulate matter (PM) limits (from other sections of this regulation).
- R.61-62.5, Air Pollution Control Standards, Standard No. 5.2, Control of Oxides of Nitrogen (NOX), to clarify applicability and exemptions, and provide corrections for internal consistency, punctuation, codification, and spelling.
- R.61-62.70, Air Pollution Control Regulations and Standards, Title V Operating Permit Program, to remove appeals language, which is generally defined by statutory law (Code Ann. Section 44-1-60 (Supp. 2012) and is redundant, and to clarify qualification language for administrative amendments.

SCDHEC may propose other changes to R.61-62, Air Pollution Control Regulations and Standards, that may include corrections for internal consistency, clarification, reference, punctuation, codification, and spelling to improve the overall text of Regulation 61-62 as necessary. A [Drafting Notice](#) was published 27 MAR 15, comments were due 27 APR 15, the [proposed rules](#) were published 25 SEP 15, comments were due 26 OCT 15. A hearing will be held 10 DEC 15.

INCORPORATION OF FEDERAL AIR AMENDMENTS (61-62) SCDHEC has proposed amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality SIP. EPA promulgates amendments to the Code of Federal Regulations throughout each calendar year. Recent federal amendments to 40 CFR Parts 51, 52, 60, 61, 63, and 70 include clarification, guidance, and technical amendments regarding SIP requirements, New Source Performance Standards (NSPS), NESHAP for Source Categories, Prevention of Significant Deterioration (PSD), and revisions to testing methods. To incorporate by reference recent federal amendments promulgated from 1 JAN 14 through 31 DEC 14, SCDHEC proposes to amend:

- Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration;
- Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants; and
- Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories.

SCDHEC may propose other changes to Regulation 61-62, which may include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary. Comments were due 27 APR 15 and a [Drafting Notice](#) was published 22 MAY 15. The [proposed regulations](#) were published 28 AUG 15.

UNDERGROUND STORAGE TANKS (R.61-92) SCDHEC has proposed amendments to R.61-92, Underground Storage Tank (UST) Control Regulations. Amendments will focus on provisions of Section 280.25 relating to secondary containment for UST systems located within 100 feet of an existing water supply well, a coastal zone critical area, or state navigable

waters. SCDHEC may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification, and overall improvement of regulation text. Revisions to other provisions of R.61-92 may also be included in accordance with governing legal authority and SCDHEC's overall mission. A [Drafting Notice](#) was published 26 DEC 14. Comments were due 29 JAN 15 and the [proposed regulations](#) were published 27 MAR 15. A [Notice of Submission to the General Assembly](#) was published 26 JUN 15.

BEACHFRONT MANAGEMENT PLAN (R.30-21) SCDHEC has proposed amendments to R.30-21 Beachfront Management Plan, SCDHEC's Coastal Division regulations related to permitting in coastal zone critical areas. In 1988, the South Carolina Beachfront Management Act established a statewide beachfront management program and set forth policies that called for the state to "create a comprehensive, long-range beach management plan... for the protection, preservation, restoration, and enhancement of the beach/dune system" (SC Code of Laws Section 48-39-260(2)). The State Beachfront Management Plan was created and adopted pursuant the Administrative Procedures Act in 1992, and resides within SCDHEC's Coastal Division regulations (R.30-21). The plan contains goals, objectives, and policies that guide the state's beachfront management. Goal statements derived from Section 48-39-260 represent broad courses of action relating to improved management of the beach/dune system, protection of endangered species; implementation of retreat policies, response to disasters, and improved public access and awareness. It also contains objectives and specific policy statements that identify strategies to implement goals. SCDHEC can use the plan to exercise regulatory authority. SCDHEC is proposing to modify the plan to ensure policies reflect the most current and accurate data available, and are congruent with regulations under other sections of SCDHEC's Coastal Division regulations. A [Drafting Notice](#) was published 27 FEB 15. Comments were due 30 MAR 15.

WELL STANDARDS (61-71) SCDHEC has proposed amendments to 61-71, Well Standards. The separation distance between individual residential and irrigation wells and septic tank/tile fields will be changed from 50 to 75 feet for consistency with On-site Wastewater Systems Regulation 61-56. Underground injection wells will be added to the list of wells regulated under R.61-71, because Underground Injection Control Regulation R.61-87 cites R.61-71 as construction standards for underground injection wells. Definitions for injection well and injection, as defined in R. 61-87, will be added to R.61-71. SCDHEC may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification, and overall improvement of regulation text. A [Drafting Notice](#) was published 27 FEB 15. Comments were due 30 MAR 15 and the [proposed regulations](#) were published 26 JUN 15.

SOLID WASTE MANAGEMENT (R.61-107.12) SCDHEC has proposed an amendment of R.61-107.12, Solid Waste Management: Solid Waste Incineration and Solid Waste Pyrolysis Facilities, to update for consistency with current statutes regarding violations, penalties, and appeals of SCDEHC decisions. Amendment will include improved references to federal and state air quality regulations applicable to incineration. Amendment will also address consistency determinations with state and local solid waste plans and clarify when such determinations will be made for permitting facilities regulated under R.61-107.12. Air-curtain incinerators will be addressed separately from municipal and industrial solid waste incineration facilities; SCDHEC may propose new sub-sections and language to clarify requirements for use of air-curtain incinerators. New or revised definitions may be included to reference technological advances occurring since the regulation was originally promulgated. Other changes for consideration include updating, clarifying, or amending the standards for sorting, storing, and processing waste and required maintenance at incineration facilities; ash management from incineration facilities for consistency with current federal and state requirements; public notice requirements for proposed incineration facilities, and general facility requirements. A [Drafting Notice](#) was published 24 APR 15. Comments were due 26 MAY 15.

AIR QUALITY COLLOCATION GUIDANCE SCDHEC has issued a notice relating to collocation. South Carolina Regulations 61-62.5, Standard No. 7, Prevention of Significant Deterioration; 61-62.5, Standard No. 7.1, Nonattainment New Source Review; 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; and 61-60.70, Title V Operating Permit Program, define a source. From these definitions, two or more facilities may be collocated, or considered a single source for the purposes of the regulations. SCDHEC has developed a guidance document, in the form of a memo, to be used by the Bureau of Air Quality in making determinations of when two or

more facilities should be collocated, or considered a single source for these regulations. This guidance will be maintained by SCDHEC and periodically published in the South Carolina State Register. A Notice of General Public Interest was published 22 MAY 15 and comments were due 22 JUN 15. The [proposed regulations](#) were published 28 AUG 15, an advisory was issued 25 SEP 15, and comments were due 28 SEP 15. A hearing was held 4 NOV 15.

ONSITE WASTEWATER SYSTEMS (R.61-56) SCDHEC has proposed rulemaking to amend R.61-56, Onsite Wastewater Systems. The rule governs methods of disposition of sewage and prescribes uniform use of design, construction, and installation standards of onsite wastewater systems (septic tank systems). Proposed amendments update and align R.61-56 with current statutes and changes in technologies of design, construction, and installation of onsite wastewater systems since the last 1998 revision. Amendments include updates in nomenclature and technology, and add and clarify definitions, site requirements, and system requirements. To improve the overall quality and usefulness of the regulation, stylistic changes are made. A [Drafting Notice](#) was published 26 JUN 15, comments were due 27 JUL, and the [proposed regulations](#) were published 25 SEP 15. Comments are due 26 OCT 15 and a hearing will be held 10 DEC 15.

ONSITE WASTEWATER SYSTEMS (R.61-57) SCDHEC has proposed the repeal of regulation R.61-57. 1976 S.C. Code Section 44-55-822, which governs the approval process for onsite wastewater systems in subdivisions. SCDHEC also proposed to repeal Regulation 61-56, Onsite Wastewater Systems, which addresses major requirements for subdivision onsite wastewater sewage treatment/disposal systems. A [Drafting Notice](#) was published 26 JUN 15, comments were due 27 JUL, and the [proposed regulations](#) were published 25 SEP 15, comments were due 26 OCT 15. A hearing will be held 10 DEC 15.

AIR PERMIT MODELING EXEMPTION AND DEFERRAL GUIDELINES SCDHEC has revised criteria used to determine when a facility may exempt or defer emissions from the air compliance demonstration, as required under Regulation 61-62.1, Definitions and General Requirements, Section II(A)(2), when a permit is requested for a source of air emissions. These criteria will be used to identify which emissions covered under Regulation 61-62.5, Standards No. 2 and No. 7 may be exempt or deferred from the compliance demonstration that is submitted with the permit request. This guidance will be maintained by SCDHEC, and will be [posted on the SCDHEC website](#). A [notice](#) was issued 23 OCT 15.

AIR QUALITY, SIP SCDHEC has issued a [Notice of General Public Interest](#) to provide the opportunity to comment on SCDHEC's response to meet EPA obligations for the (NAAQS for particulate matter. SCDHEC proposes to address requirements under sections 110(a)(1) and (2) of the Clean Air Act (CAA) for a SIP in an update known as infrastructure SIP certification. These requirements were developed to assure attainment and maintenance of the NAAQS. Comments are due 23 NOV 15.

UPDATED EXEMPTION LIST SCDHEC has determined that no construction permits shall be required for the sources listed in [the notice](#) unless otherwise specified by state or federal requirements. The exemption status may change upon the promulgation of new regulatory requirements applicable to these sources.



2015 LEGISLATIVE SESSION: 13 JAN 15 THROUGH 4 JUN 15

Tennessee has a two-year session (2015-2016) with bills carrying over for consideration in 2016. Adjournment dates are estimated and updated based on legislative activity. The current session adjourned on 4 JUN 15. REEO-S will resume incorporating legislative measures into the *Southern Review* once the Tennessee Legislature reconvenes in 2016.

FINAL RULES

HAZARDOUS WASTE REGULATIONS (0400-12-01) The Tennessee Department of Environment and Conservation (TDEC) has proposed rulemaking to update hazardous waste regulations, 0400-12-01, by incorporating the following federal changes published as final in the Federal Register from 1 JUL 13 to 30 JUN 14:

- The definition of solid waste was amended to conditionally exempt cleaned and reused solvent-contaminated wipes, and revised the definition of hazardous waste to conditionally exempt disposed solvent-contaminated wipes. This rulemaking provides an appropriate and consistent regulatory framework that protects human health and the environment and reduces cost.
- To conditionally exclude hazardous carbon dioxide (CO₂) streams from the definition of hazardous waste provided the CO₂ streams are captured from emission sources and injected into Class VI injection wells for geologic sequestration.
- To allow use of an electronic hazardous waste manifesting system.
- To amend export provisions of cathode ray tube recycling.

This rulemaking also provides language corrections necessary for obtaining additional program authorization. Corrections amend rules to include state citations where several federal citations are used, if appropriate, and add language regarding transboundary movement of hazardous waste for recovery with the Organization for Economic Cooperation and Development; EPA is responsible for its implementation. This rulemaking restores language regarding mixtures of used oil and hazardous waste from conditionally exempt small quantity generators inadvertently deleted from the regulations. A [Notice of Rulemaking](#) was filed 11 DEC 14. A hearing was held and comments were due 2 FEB 15, and the [rulemaking hearing rules](#) were filed 10 JUL 15. The rules were effective 8 OCT 15.

PROPOSED RULES

HAZARDOUS WASTE MANAGEMENT (0400-12-01-.02, .05, .10) TDEC has proposed revisions to 0400-12-01 to:

- Correct a typographical error to the process description to K107;
- Add a common chemical name 1,1,1-trichloroethane to the U226 list of commercial chemical products (this is not a new listing);
- Update regulatory language regarding exclusion of comparable fuel and syngas fuel to be equivalent with EPA's language;
- Correct the introductory statements rule, 0400-12-01-.10(1)(g)2(iv), for consistency with federal language and to add a sentence to certification statements to reference T.C.A. § 39-16-702(a)(4); and
- Make other revisions for consistency with federal language.

A [Notice of Rulemaking Hearing](#) was filed 16 MAR 2015. A hearing was held and comments were due 19 MAY 2015.

USE CLASSIFICATIONS FOR SURFACE WATERS (0400-40-04) TDEC has proposed 0400-40-04, Use Classifications for Surface Waters. The Clean Water Act gives states the responsibility of developing clean water goals. According to both state and federal law, these clean water goals, or water quality standards, must be formally reviewed on a regular basis. Federal law mandates that this review take place no less often than every three years, hence its commonly used name, the Triennial Review. Water quality standards consist of stream-use classifications for surface waters (Chapter 0400-40-04), and the general water quality criteria and antidegradation policy (Chapter 0400-40-03). These regulations were last reviewed beginning in 2009. The review for Chapter 0400-40-03 took extra time and TDEC held these rules for additional public consideration in 2012. Because Chapter 0400-40-04 (stream-use classifications) did not have the additional round of public hearings, it is time to consider revisions to that chapter. Stream-use classifications identify the public's most likely uses of a specific waterbody. Those formal classifications in turn identify specific criteria contained in Chapter

0400-40-03 that will then apply. Failure to meet criteria for the assigned designated uses is the condition of pollution, according to the Tennessee Water Quality Control Act. The review of stream-use classifications typically consists of the addition of newly discovered or created trout waters, review of waters being used for domestic water supply, and consideration of any other requested changes in classifications. A Notice of Rulemaking Hearing was filed 12 MAR 15. A hearing was held 28 MAY 15 and comments were due 4 JUN 15.

AQUATIC RESOURCE ALTERATION GENERAL PERMITS TDEC has proposed to issue four new General Permits including the General Aquatic Resource Alteration Permit for Bank Stabilization, Minor Stream Grade Stabilization, Recreational Prospecting, and Stream and Wetland Habitat Enhancement. General permits issued by the Division of Water Resources establish limits of work and notification procedures required for authorization. A public notice was issued 15 MAY 15, a hearing was held 16 JUN 15 and comments were due 26 JUN 15.

HAZARDOUS WASTE REGULATIONS (0400-12-01) TDEC has proposed rulemaking to amend 0400-12-01 to revise the definition of solid waste and related variances by incorporating EPA's 30 OCT 08 revisions as amended by 13 JAN 15 revisions. TDEC proposes to modify the procedure for verifying reclaimers and intermediate facilities managing hazardous secondary materials to simplify the process. TDEC included other modifications and added several notes to clarify the hazardous waste regulations. On 8 APR 15, in compliance with an order issued by the US Court of Appeals, EPA deleted the regulations associated with the comparable fuels exclusion and the gasification exclusion. This rulemaking makes complying revisions to prevent the rules from being less stringent than federal rules. On 17 APR 15, EPA amended 40 CFR 261.4(b)(b) to include wastes generated primarily from processes that support combustion of coal or other fossil fuels that are co-disposed with excluded fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from combustion of coal or other fossil fuels. A [Notice of Rulemaking Hearing](#) was filed 14 JUL 15. A hearing was held 8 SEP 15 and comments were due 22 SEP 15.

VOLATILE ORGANIC COMPOUNDS (1200-03-18-24) TDEC has proposed to amend Rule 1200-03-18-24, related to Gasoline Dispensing Facilities - Stage I and Stage II Vapor Recovery. Amendment would adopt federal requirements for gasoline dispensing facilities (40 CFR 63 Subpart CCCCCC) by reference, and remove most state-specific language for Stage I vapor recovery. A Notice of Rulemaking was filed 2 JUL 15. A hearing was held and comments were due 31 AUG 15.

CONSTRUCTION AND ANNUAL EMISSION FEES (1200-03-26-.02) TDEC has proposed amendments to 1200-03-26-.02, Construction and Annual Emission Fees. Section 502(b)(3)(A) of the Clean Air Act requires Tennessee, as a state approved by EPA, to administer a Title V major source operating permit program to collect "an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of this title." The proposed rulemaking amends Tenn. Comp. R. & Regs. 1200-03-26-.02, to impose on major sources a minimum annual fee, instead of a base fee, of \$7,500. The rule is amended to increase the per ton fee for non-EGU major sources by \$4.00 and decrease the per ton fee for electricity generating unit (EGU) major sources by \$6.50, based upon either actual emissions, permitted allowable emissions, or a combination of actual and allowable emissions. The rule is also amended to authorize major sources to choose either a calendar or state fiscal year annual accounting period, and to choose the annual accounting period and emissions basis of the fee annually. Constituents of pollutant GHGs that would be regulated pollutants solely based on that status are exempted from annual emission fees. The language addressing the process to request an allowable emissions limit is updated to require a letter to be submitted by minor and conditional major sources to request an allowable emissions limit. A [Notice of Rulemaking Hearing](#) was filed 10 SEP 15. A hearing will be held and comments were due 2 NOV 15.

Department of Defense Activity

MARINE CORPS 240TH BIRTHDAY This video [message](#) from the 37th Commandant of the Marine Corps Gen. Robert B. Neller provides an opportunity to "Reflect on our history, remember those who have sacrificed and reaffirm your commitment to the strengthening of our Corps."

DOD ENVIRONMENTAL LABORATORY ACCREDITATION PROGRAM DOD is proposing a new rule that would establish policy, assign responsibilities, and provide procedures to be used by DOD personnel for the operation and management of the DOD Environmental Laboratory Accreditation Program (ELAP) ([80 FR 61997](#)). Previously, DOD laboratory assessment programs were specific to each component and limited to available resources, creating an overlap in assessments and resulting in fewer opportunities for laboratories to participate on DOD contracts. The DOD ELAP is intended to provide a unified program through which commercial environmental laboratories can demonstrate competency and document conformance to quality systems standards implemented throughout DOD. Comments are due 14 DEC 15.

REPI STATE FACT SHEETS The DOD Readiness and Environmental Protection Integration ([REPI](#)) program released a suite of state fact sheets. Each fact sheet contains an overview of REPI activities in the state, installation case studies, and DOD economic impact. To download or view the state fact sheets, click [here](#).

USACE FLOOD CONTROL GUIDANCE The U.S. Army Corps of Engineers (USACE) extended the public comment period on its proposed [updated guidance](#) for providing in-kind credit for certain water resource development projects ([80 FR 60135](#)). The updated regulation provides guidance on the implementation of the in-kind contribution credit provisions of [section 221\(a\)\(4\) of the Flood Control Act of 1970](#), as further amended by section 1018 of the [Water Resources Reform and Development Act of 2014](#). It applies to all headquarters USACE elements, major subordinate commands, and district commands having civil works responsibility. Section 221 is a comprehensive authority that addresses the affording of credit for the value of in-kind contributions provided by a non-federal sponsor toward its required cost share (with exclusions) if those in-kind contributions are determined to be integral to a study or project. The public comment period was extended to 28 OCT 15.

DLA GUIDANCE: FUEL, SPILL, AND RELEASE REPORTING The Defense Logistics Agency (DLA) released updated guidance, [DLA Energy P-40](#), that provides reporting and documentation requirements for discharged, leaked, or spilled Defense Working Capital Funds (DWCF) product. Procedures described in the document are applicable to all DLA Energy capitalized fuel located at Government Owned/Government Operated (GOGO), Government Owned Contractor Operated (GOCO), and Contractor Owned/Contractor Operated (COCO) Defense Fuel Support Points (DFSPs). The term spill describes a leak or spill in the quantity DLA Energy defines as reportable: a fuel spill or leak of 25 gallons or more on land, inside or outside of containment, including interstitial space, or any waterway discharge that creates a sheen on the water. As always, notification to DLA does not negate other notifications required by local spill contingency response plans or Service-level instructions. The DLA Energy Portal is available [here](#) (CAC-enabled).

Federal Activity

AIR

TEST METHODS, PERFORMANCE SPECIFICATIONS, TESTING REGULATIONS FOR AIR EMISSION SOURCES EPA is extending the comment period for the proposed rule titled, "Revisions to Test Methods, Performance Specifications, and Testing Regulations for Air Emission Sources," published 8 SEP 15 ([80 FR 61139](#)). EPA recently added a technical justification to the docket for revision in the proposed rule regarding Standards of Performance for Stationary Spark Ignition Internal

Combustion Engines. EPA also added background information to support reasoning for soliciting comment about Method 7E stratification. EPA is extending the comment period to allow the public additional time to submit comments and supporting information on these and other aspects of the proposed rule. Comments on the proposed rule are due 9 DEC 15.

2016 CRITICAL USE EXEMPTION FROM PHASEOUT OF METHYL BROMIDE EPA is authorizing uses that qualify for the critical use exemption, and the amount of methyl bromide that may be produced or imported for those uses for the 2016 control period ([80 FR 61985](#)). EPA is issuing this action under the authority of the Clean Air Act to reflect consensus decisions of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer at the Twenty-Sixth Meeting of the Parties in November 2014. This rule is effective on 1 JAN 16.

REFRIGERANT MANAGEMENT STANDARDS In advance of formal publication in the Federal Register, EPA released the [text of a proposed rule](#) that would strengthen prohibitions against knowingly venting, releasing, or disposing of ozone-depleting and substitute refrigerants. The proposal would update existing requirements under the Clean Air Act (CAA) Section 608 that currently apply to ozone-depleting refrigerants and extend some requirements to non-ozone-depleting substitute refrigerants, such as hydrofluorocarbons (HFCs). Comments are due 60 days after publication in the Federal Register. To view a fact sheet about the proposed rule, click [here](#).

OZONE NAAQS EPA issued [a final rule](#) that strengthens the primary and secondary national ambient air quality standards (NAAQS) for ground-level ozone to 70 parts per billion (ppb) from 75 ppb ([80 FR 65291](#)). The rule retains the indicator forms (fourth-highest daily maximum, averaged across three consecutive years) and averaging times (eight hours). The final rule is effective 28 DEC 15.

CLEANUP

GAO REPORT: FEDERAL FUNDING AND CLEANUP OF NONFEDERAL NPL SITES The Government Accountability Office (GAO) published a report about trends in federal funding and cleanup of EPA nonfederal National Priorities List (NPL) sites ([GAO-15-812](#)). GAO found that annual federal appropriations to EPA's Superfund program generally declined from about \$2 billion to about \$1.1 billion in constant 2013 dollars from fiscal years 1999 through 2013. Remedial cleanup activities include remedial investigations, feasibility studies, and remedial action projects. EPA spent the largest amount of cleanup funds in Region 2, which accounted for about 32 percent of cleanup funds spent at nonfederal NPL sites during this 15-year period. From fiscal years 1999 through 2013, the total number of nonfederal sites on the NPL annually remained relatively constant, while the number of remedial action project completions and construction completions generally declined.

CLIMATE CHANGE

GHG EMISSIONS FROM ELECTRIC GENERATING UNITS EPA issued a final rule establishing new source performance standards for emissions of carbon dioxide (CO₂) for certain newly constructed, modified, and reconstructed fossil fuel-fired electric generating units (EGUs), including steam generating units and combustion turbines ([80 FR 64509](#)). The emission standards apply to any steam generating unit or stationary combustion turbine that commenced construction after 8 JAN 14 or reconstruction after 18 JUN 14 and which meet applicability conditions. Specific emission standards vary depending on whether the unit is considered to be a newly constructed or modified/reconstructed fossil fuel-fired steam generating unit or a new/reconstructed stationary combustion turbine. In general, compliance with applicable CO₂ emissions standard is determined on a 12-operating-month rolling average basis. The final rule is effective 22 DEC 15.

GUIDELINES FOR STATES: GHG EMISSIONS FROM EXISTING STATIONARY EGUS EPA issued a final rule establishing emission guidelines for states to follow when developing plans to reduce greenhouse gas (GHG) emissions from existing fossil fuel-fired EGUs ([80 FR 64661](#)). A state can choose to establish emission standards for its affected EGUs sufficient to meet the requisite performance rates or state goal. Alternatively, a state can adopt a "state measures approach,"

which would result in affected EGUs meeting the statewide mass-based goal by relying on state-enforceable measures on entities other than EGUs. With a state measures approach, the plan must also include a contingent backstop of federally enforceable emission standards for affected EGUs that meet the emission guidelines that would be triggered if the plan failed to achieve the required emission reductions on schedule. The final rule is effective 22 DEC 15.

STORMWATER MANAGEMENT IN RESPONSE TO CLIMATE CHANGE EPA released the draft document titled [*Stormwater Management in Response to Climate Change Impacts: Lessons from the Chesapeake Bay and Great Lakes Regions*](#) for public review and comment ([80 FR 60667](#)). A series of workshops, held in the Chesapeake Bay and Great Lakes area with local communities, addressed how projected land use and climate change could impact local water conditions and how adaptation actions such as green infrastructure and low impact development can fit into decision-making processes. The report provides insights gleaned from these workshops on ways local communities can further climate change adaptation practices in stormwater management. The intended audiences for this report are local and state planners and managers engaged in the development and implementation of stormwater management policies and practices, local climate change or sustainability coordinators, anyone charged with implementing climate change adaptation plans, and scientists working on climate change adaptation specific to stormwater control. For more information about the report, click [here](#).

CULTURAL RESOURCES

ESTABLISHING A FORMAL GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH THE NATIVE HAWAIIAN COMMUNITY The Secretary of the Interior is proposing an administrative rule to facilitate the reestablishment of a formal government-to-government relationship with the Native Hawaiian community ([80 FR 59113](#)). The proposed rule does not attempt to reorganize a Native Hawaiian government or draft its constitution, nor does it dictate the form or structure of that government. Rather, the proposed rule would establish an administrative procedure and criteria that the secretary would use if the Native Hawaiian community forms a unified government that then seeks a formal government-to-government relationship with the United States.

NATURAL RESOURCES

[Information for Planning and Conservation](#) Regarding projects that may affect US Fish and Wildlife Service (USFWS) trust resources, such as migratory birds, species proposed or listed under the Endangered Species Act, inter-jurisdiction fishes, specific marine mammals, wetlands, and USFWS National Wildlife Refuge lands: IPaC can help determine likely impacts and provide suggestions for addressing those impacts.

INCORPORATING NATURAL INFRASTRUCTURE AND ECOSYSTEM SERVICES IN FEDERAL DECISION-MAKING The White House issued a [memorandum](#) directing federal agencies to incorporate the value of natural, or “green,” infrastructure and ecosystem services into federal planning and decision making. The memorandum directs agencies to develop and institutionalize policies that promote consideration of ecosystem services in planning, investment, and regulatory contexts. It also establishes a process for the federal government to develop a more detailed guidance on integrating ecosystem-service assessments into relevant programs and projects to help maintain ecosystem and community resilience, sustainable use of natural resources, and the recreational value of the Nation’s unique landscapes. For more information, click [here](#).

SAGE-GROUSE: BLM REJECTS RECOMMENDATIONS OF GOVERNORS The Bureau of Land Management (BLM) rejected the recommendations of the Governors of Idaho, Nevada, North Dakota, South Dakota, and Utah regarding resource management plans, plan amendments, and final environmental impact statements (FEISs) for the greater sage-grouse ([80 FR 61448](#)). The governors, in the course of conducting their Governor Consistency Reviews, identified inconsistencies and submitted letters to BLM outlining their objections, along with proposed solutions. BLM rejected the governors’ objections and signed the final Record of Decisions (RODs), which amend and revise resource management plans across the range of the greater sage-grouse. The governors then filed appeals with BLM regarding the rejection of their objections. In this action, the BLM Director published reasons for rejecting the recommendations of the governors.

SUSTAINABILITY

EO 13693: COMPARISON WITH PRIOR AUTHORITIES The General Services Administration (GSA) developed a [chart](#) that compares Executive Order (EO) [13693](#) goals and requirements with the goals and requirements of earlier EOs and other authorities. An annotated version of the EO is available [here](#). The Council on Environmental Quality's (CEQ's) implementing instructions for EO 13693 are available [here](#).

THREATENED AND ENDANGERED SPECIES

CRITICAL HABITAT: DAKOTA SKIPPER AND POWESHIEK SKIPPERLING The Fish and Wildlife Service (FWS) designated critical habitat for the [Dakota skipper](#) (*Hesperia dacotae*) and [Poweshiek skipperling](#) (*Oarisma poweshiek*) ([80 FR 59247](#)). Approximately 19,903 acres were designated in Minnesota, North Dakota, and South Dakota for the Dakota skipper and approximately 25,888 acres were designated in Minnesota, North Dakota, South Dakota, and Wisconsin for the Poweshiek skipperling. The final rule was effective 2 NOV 15.

LISTING DECISION: SONORAN DESERT TORTOISE The Fish and Wildlife Service (FWS) announced that listing of the [Sonoran desert tortoise](#) (*Gopherus morafka*) is not warranted at this time ([80 FR 60321](#)). The species is found in Arizona and Mexico. The listing decision was announced 6 OCT 15.

LISTING DECISION: HEADWATER CHUB FWS is proposing to list the [headwater chub](#) (*Gila nigra*) and a distinct population segment (DPS) of the [roundtail chub](#) (*Gila robusta*) from the lower Colorado River basin as threatened ([80 FR 60753](#)). Both species are found in Arizona and New Mexico. Comments on the proposed listing are due 7 DEC 15.

DRAFT RECOVERY PLAN: GILA CHUB FWS is requesting public comment on a draft recovery plan for the [Gila chub](#) (*Gila intermedia*), which was [listed as endangered](#) in 2005 ([80 FR 65793](#)). The draft recovery plan includes specific recovery objectives and criteria to be met in order to remove the species from the list of endangered and threatened wildlife and plants. The species is found in Arizona and New Mexico in the United States, and in northern Mexico. Comments are due 28 DEC 15.

LISTING DECISION: 23 SPECIES IN GUAM, MARIANA ISLANDS FWS determined endangered status for 16 plant and animal species from the Mariana Islands (Guam and the U.S. Commonwealth of the Northern Mariana Islands) ([80 FR 59423](#)). The service also determined threatened status for seven plant species from the Mariana Islands and greater Micronesia in the U.S. Territory of Guam, the U.S. Commonwealth of the Northern Mariana Islands, the Republic of Palau, and the Federated States of Micronesia. The final rule was effective 2 NOV 15.

PROPOSED LISTING: FIVE SPECIES FROM AMERICAN SAMOA FWS is proposing to list five species on American Samoa as endangered ([80 FR 61567](#)). Included in this proposed action are two endemic American Samoan land snails, the American Samoa DPS of the friendly ground-dove, the Pacific sheath-tailed bat, (South Pacific subspecies), and the mao. Comments are due 27 NOV 15.

POLAR BEAR The Fish and Wildlife Service (FWS) is conducting a 5-year status review of the [polar bear](#) (*Ursus maritimus*), currently listed as threatened ([80 FR 61433](#)). The service is requesting information that has become available since its last review of the species in 2008. Comments are due 14 DEC 15.

RECLASSIFICATION: COLUMBIAN WHITE-TAILED DEER FWS is proposing to reclassify the Columbia River distinct population segment (DPS) of [Columbian white-tailed deer](#) (*Odocoileus virginianus leucurus*) from endangered to threatened ([80 FR 60850](#)). In addition, the service is proposing a rule under section 4(d) of the Endangered Species Act (ESA) to enhance conservation of the species through range expansion and management flexibility. The Columbian white-tailed deer is one of 38 recognized subspecies of *O. virginianus*. The Columbian River DPS is found in Oregon and Washington. Comments are due 7 DEC 15.

LISTING DECISION: COLUMBIA BASIN GREATER SAGE-GROUSE In response to a petition to list the [greater sage-grouse](#) (*Centrocercus urophasianus*), both rangewide and specifically the [Columbia Basin population](#), as an endangered or threatened species, FWS announced that the Columbia Basin population does not qualify as a DPS ([80 FR 59857](#)). In addition, FWS found that listing the greater sage-grouse is not warranted at this time.

LISTING DECISION: SIERRA NEVADA RED FOX FWS determined that listing the entire [Sierra Nevada red fox](#) (*Vulpes vulpes nescator*) subspecies is not warranted ([80 FR 60989](#)). While the service determined that the Southern Cascades and Sierra Nevada population segments of the Sierra Nevada red fox are valid DPSs, it found that listing of the Southern Cascades DPS is not warranted. FWS found that listing the Sierra Nevada red fox DPS is warranted, but precluded by higher priority actions. The service has added the Sierra Nevada DPS to its list of candidate species and will develop a proposed rule as priorities allow. The finding was made 8 OCT 15.

Toxics

TOXICOLOGICAL PROFILES The Agency for Toxic Substances and Disease Registry (ATSDR) announced the availability of Set 27 Toxicological Profiles for review and comment ([80 FR 62533](#)). ATSDR is required to prepare toxicological profiles for substances on the priority list of hazardous substances. Each profile includes an examination, a summary, and an interpretation of available toxicological information and epidemiological evaluation. Comments are due 14 JAN 16. For more information, click [here](#).

EPA POLLUTION PREVENTION AND TOXICS INFORMATION EPA is transitioning to new web pages for pollution prevention and toxics information. Among the new pages:

- Assessing and Managing Chemicals under the Toxic Substances Control Act (TSCA) (includes the TSCA workplan, chemical risk assessments, and reporting requirements): <http://www2.epa.gov/assessing-and-managing-chemicals-under-tsca>
- Reviewing New Chemicals: <http://www2.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca>
- Chemical Data Reporting: <http://www2.epa.gov/chemical-data-reporting>
- TSCA Chemical Substance Inventory: <http://www2.epa.gov/tsca-inventory>
- Asbestos: <http://www2.epa.gov/asbestos>
- Formaldehyde: <http://www2.epa.gov/formaldehyde>
- Lead: <http://www2.epa.gov/lead>
- Safer Choice: <http://www2.epa.gov/saferchoice>
- Pollution Prevention: <http://www2.epa.gov/p2>
- Green Chemistry: <http://www2.epa.gov/greenchemistry>

EPCRA REPORTING FOR ETHYLENE GLYCOL MONOBUTYL ETHER EPA denied a petition to remove ethylene glycol monobutyl ether (EGBE) from the category certain glycol ethers under the list of chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) ([80 FR 60818](#)). Common products containing EGBE include firefighting foam, oil spill dispersants, degreasers, acrylic resins, asphalt release agents, leather protectors, dry cleaning solutions, photographic strip solutions, whiteboard cleaners, liquid soaps, lacquers, varnishes, herbicides, latex paints, enamels, printing paste, varnish removers, and silicone caulk. The petition was denied 24 SEP 15.

WASTE

HAZARDOUS WASTE EXPORT-IMPORT EPA is proposing to amend existing regulations regarding U.S. export and import of hazardous wastes ([80 FR 63283](#)) to:

- Provide greater protection to human health and the environment by making existing export and import related

requirements more consistent with current import-export requirements for shipments between members of the Organization for Economic Cooperation and Development;

- Enable electronic submittal of all export and import-related documents (e.g., export notices, export annual reports); and
- Enable electronic validation of consent in the Automated Export System for export shipments subject to Resource Conservation Recovery Act (RCRA) export consent requirements prior to exit.

The proposed revisions generally affect four groups:

- Persons that export or import hazardous waste for recycling or disposal, including those hazardous wastes subject to the alternate management standards for universal waste, spent lead-acid batteries for reclamation, industrial ethyl alcohol reclamation, hazardous waste samples of more than 25 kilograms for waste characterization or treatability, and hazardous recyclable materials being shipped for precious metal recovery;
- Recycling and Disposal Facilities that receive imports of such hazardous wastes for recycling or disposal;
- Persons that export or arrange for the export of conditionally excluded cathode ray tubes being shipped for recycling; and
- Persons that transport any export and import shipments described above.

EPA is requesting comment from persons who import and export hazardous waste, including those persons importing or exporting hazardous wastes managed under the special management standards in Title 40 Code of Federal Regulation (CFR) Part 266 (e.g., spent lead acid batteries) and 40 CFR part 273 (e.g., universal waste batteries and universal waste mercury lamps). Comments are due 18 DEC 15.

WATER

NPDES ELECTRONIC REPORTING EPA issued a final rule that requires the electronic reporting and sharing of National Pollutant Discharge Elimination System (NPDES) program information ([80 FR 64063](#)). The final rule requires permittees and regulators to electronically report information and data related to the NPDES permit program in lieu of filing paper-based reports. Authorized NPDES programs may adopt EPA data systems or elect to use their own data systems. In addition, the final rule requires authorized NPDES programs to share the minimum set of NPDES program data (appendix A to 40 CFR Part 127) with EPA for all facilities, including non-major facilities. Historically, EPA and authorized NPDES programs have focused on major facilities as a way of prioritizing resources for permitting, enforcement, and data sharing. The final rule is effective 21 DEC 15. Implementation will be in phases, with certain reports required electronically beginning 21 DEC 16.

MARINE SANITATION DEVICES The U.S. Coast Guard scheduled a public workshop for 8-9 DEC 15 in Washington, D.C. to discuss sewage treatment technologies, issues concerning testing of marine sanitation devices for type approval, and issues concerning gray water ([80 FR 62551](#)). The workshop is intended to be an interactive exchange of information between policymakers, industry experts, and interested members of the public.

RAINWATER HARVESTING MAP The Department of Energy's (DOE's) Federal Energy Management Program (FEMP) created [an interactive map](#) that provides information about state rainwater harvesting regulations throughout the U.S. The map also includes regulatory and technical information about each state where applicable, offering a feature that allows the user to click on a state of interest to view:

- A summary of that state's regulation;
- Website links to the state organization's regulatory programs that govern rainwater harvesting; and
- Website links to technical resources on state-specific rainwater harvesting.

Counties and cities across the U.S. may have specific regulations on rainwater harvesting. Therefore it is important to contact local authorities when considering implementation of rainwater harvesting systems.

Professional Development

CONFERENCES, WORKSHOPS AND MEETINGS

16-20 Nov, ARLINGTON, VA: [NPDES PERMIT WRITERS TRAINING](#) This course provides the basic regulatory framework and technical considerations that support development of wastewater discharge permits as required under the National Pollutant Discharge Elimination System (NPDES) Permit Program. The course is designed for new permit writers, highlighting the process of developing, issuing and complying with NPDES permits. Experienced permit writers wanting a refresher course and other water program staff wanting to learn more about the NPDES program also are welcome. The format of the course is a combination of lecture, case examples, and practical exercises that are geared to acquaint participants with the tools and resources available to assist them in writing NPDES permits.

7-11 DEC, WASHINGTON, DC: [WATER QUALITY STANDARDS ACADEMY](#) This introductory course was designed for those with six months to one-year experience with water quality standards and criteria programs. The course is aimed at states, territories, tribes, environmental groups, industrial groups, municipalities, the academic community, federal agencies, watershed groups, and other interested parties.

7-11 DEC, WASHINGTON, DC: [WATER QUALITY STANDARDS ACADEMY](#) This introductory course was designed for those with six months to one-year experience with water quality standards and criteria programs. The course is aimed at states, territories, tribes, environmental groups, industrial groups, municipalities, the academic community, federal agencies, watershed groups, and other interested parties.

DOD TRAINING SOURCES

US ARMY CORPS OF ENGINEERS (USACE) PROSPECT TRAINING USACE announces course availability for the FY15 PROSPECT (i.e., Proponent-Sponsored Engineer Corps Training) program. Courses are open to federal, state, county, and city employees and contractors. There are different registration processes for each entity. Please refer to the [course catalog](#) and list of classes and schedule for details. Environmental courses include, but are not limited to:

- Environmental Regulations Practical Application Course (Course Control Number (CCN) 398)
- CERCLA/RCRA Process (CCN 356)
- Hazardous Waste Manifesting & DOT Certification (CCN 223)
- Hazardous Waste Manifesting 16-Hour DOT Recertification Course (CCN 429)
- Radioactive Waste Transport (CCN 441)
- Hazardous/Toxic and Radioactive Waste Construction Inspection (CCN 141)
- Environmental Remediation Technologies (CCN 395)
- Environmental Laws and Regulations (CCN 170)

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

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

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

FEDERAL TRAINING SOURCES

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

- Program development (e.g., environmental management systems, green procurement program);
- Federal and state regulatory requirements for various facility activities;
- Regulatory Watch for information on new or changed laws or regulations;
- P2 opportunities and best management practices;
- EPA enforcement notices;
- Links to state environmental programs;
- Access to [environmental assistance](#);
- Access to free, FedCenter-sponsored courses:
- [Environmental Compliance for Federal Laboratories](#) (FedCenter membership required);
- [Environmental Management Systems](#) (FedCenter membership required);
- [Underground Storage Tanks](#) (FedCenter membership required);
- Environmental [conferences](#), meetings, [training](#), and workshop information;
- Applicable laws and Executive Orders; and
- Industry sector-specific newsletters.
- FedCenter also provides member assistance services such as:
- Collaboration tools for workgroups,
- Environmental reporting tools, and
- Daily newsletter and subscription services.

ONLINE TRAINING: SCHEDULED EVENTS

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

- Management of Contaminated Sediments Sites
- Waste to Energy Technologies
- Energy Audits
- Dense Non-Aqueous Phase Liquid Source Zone Management
- Sustainable Materials
- Acoustic Methods for Underwater Munitions
- Managing Munition Constituents on Training Ranges (28 MAY 15)

[FEMP eTRAINING COURSES](#) The Federal Energy Management Program (FEMP) offers interactive, online eTraining courses to help federal agencies develop core competencies and comply with energy-efficiency and renewable-energy water-management and sustainability requirements. FEMP is partnering with the National Institute of Building Sciences' Whole Building Design Guide (WBDG) to host these comprehensive, FEMP-developed eTraining courses. [Promotional materials](#) are available to help federal agencies encourage the completion of FEMP's eTraining courses. For more information about FEMP eTraining courses, contact [Beverly Dyer](#), (202) 586-7753. The following courses are available:

- [Advanced Electric Metering in Federal Facilities](#) (3.5 hours, .40 CEUs)
- [Building Automation Systems for Existing Federal Facilities](#) (3.5 hours, .40 CEUs)
- [Commissioning for Existing Federal Buildings](#) (4.5 hours, .50 CEUs)
- [Energy-Efficient Federal Purchasing](#) (4.5 hours, .50 CEUs)
- [Energy Savings Performance Contracting](#) (8.5 hours, .90 CEUs)
- [Federal On-Site Renewable Power Purchase Agreements](#) (2.5 hours, .30 CEUs)
- [Launching a Utility Energy Services Contract \(UESC\): Getting to Yes!](#) (3 hours, .40 CEUs)
- [Managing Water Assessment in Federal Facilities](#) (3.5 hours, .40 CEUs)
- [Measurement and Verification in ESPCs](#) (3 hours, .40 CEUs)
- [Planning an Energy Assessment for Federal Facilities](#) (4 hours, .50 CEUs)
- [Selecting, Implementing, and Funding Photovoltaic Systems in Federal Facilities](#) (3.5 hours, .40 CEUs)
- [Sustainable Institutional Change for Federal Facility Managers](#) (3 hours, .40 CEUs)
- [Utility Service Contracts and Energy Project Incentive Funds](#) (90 minutes)

ENERGY STAR WEBCASTS

- **Federal Guiding Principles Checklist** This webcast shows federal energy and sustainability professionals how to use the ENERGY STAR® measurement and tracking tool, Portfolio Manager, to help ensure compliance with the Guiding Principles for High Performance Sustainable Buildings required by Executive Orders 13423 and 13514. The focus is on the Guiding Principles for Sustainable Existing Buildings.
- [Portfolio Manager 101](#) This webcast demonstrates the core functionality of EPA's Energy Star Portfolio Manager Tool. Attendees will learn to navigate the new Portfolio Manager, add a property and enter details, enter energy and water consumption data, share properties, generate performance reports to assess progress, and respond to data requests.
- [Portfolio Manager 201](#) This webcast will explore advanced functionalities of EPA's Energy Star Portfolio Manager tool, including managing and tracking changes to property uses over time; using spreadsheet templates to update property data; setting goals and targets to plan energy improvements for properties; generating and using custom reports; and using the Sustainable Buildings Checklist.

CLIMATE CHANGE SCIENCE AND MANAGEMENT WEBINAR SERIES This [webinar series](#) was developed to inform scientists, land managers, and the public about potential and predicted climate change impacts on fish and wildlife and to help guide resource management decisions across the United States. Video recordings with closed captioning are made available one to two weeks after each presentation.

READINESS AND ENVIRONMENTAL PROTECTION INTEGRATION PROGRAM The REPI [webinar series](#) is presented by DoD in partnership with the [Land Trust Alliance](#). This online series covers best practices, tutorials and knowledge sharing on REPI partnerships that support military mission and accelerate the pace and rate of conservation. All webinars begin at 1:00 p.m. Eastern unless otherwise noted. Previously scheduled webinars are available anytime.

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

ITRC INTERNET BASED TRAINING The Interstate Technology and Regulatory Council (ITRC) is a state-led coalition working with federal partners, industry, academia, and stakeholders to achieve regulatory acceptance of environmental technologies. In conjunction with EPA's Technology Innovation and Field Services Division, ITRC delivers training courses to reach a geographically dispersed audience of regulators, consultants, and other members of the environmental

community. The training sessions last approximately two hours, cover technical and regulatory information specific to environmental technologies and innovative approaches, and are supported by consensus-based ITRC guidance documents. Visit the site often to view upcoming Internet-based training events.

Staff Directory

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How the Regional Offices Work for You

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

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

To be added to the *Southern Review* distribution list, email [Becky Shanks](#).