



U.S. ARMY

# Southern Review

## of Legislative & Regulatory Actions



The U.S. Army Regional Environmental & Energy Office

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

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## DOD, FWS COLLABORATE ON ENDANGERED SPECIES CONSERVATION

The DOD and Fish and Wildlife Service (FWS) collaborated to produce the [fall 2015 Wildlife Stewardship and National Defense issue of the Endangered Species Bulletin](#) (ESB). The issue focuses on DOD projects that sustain the military mission while protecting and managing endangered, threatened, and candidate species. Projects detailed in the ESB include the following:

Camp Blanding, Florida, conserved the red-cockaded woodpecker by using prescribed burns to enhance its habitat, create nest cavities, and facilitate population growth. Prescribed burns helped maintain training areas and also provided habitat for relocated gopher tortoises.

The Pacific Missile Range Facility in Hawaii modified exterior lighting under a [dark sky philosophy](#) to protect Newell's shearwater. The lighting changes helped maintain the seabird's orientation and drastically reduced fallout numbers.

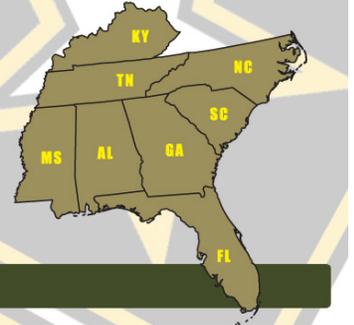
The Navy captured, measured, and released more than 56 Atlantic sturgeon, tracking them to determine their habitat use and seasonal movement patterns within rivers of the Chesapeake Bay watershed.

The Marine Corps Air Ground Combat Center in California [developed a headstart program](#) to protect 24 groups of desert tortoises from disease and predators until they were ready for release into the wild.

Fort A.P. Hill, Virginia, [conserved two plant species](#) by using local spatial data and existing stream system habitats to find swamp pink and small whorled pogonia, and protect these plants from predators such as white-tailed deer and American beavers.

# 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.



## *2016 LEGISLATIVE SESSION: 2 FEB 16 THROUGH 16 MAY 16*

Alabama has a one-year session. Adjournment dates are estimated and updated based on legislative activity.

### *FINAL RULES*

**PERMIT FEE INCREASE** (335-1-6-.04, 335-1-6-.07). The Alabama Department of Environmental Management (ADEM) has [adopted amendments](#) to increase the department's permit application/registration fees. The rules were published 31 DEC 15.



## *2016 LEGISLATIVE SESSION: 12 JAN 16 THROUGH 11 MAR 16*

Florida has a one-year session. Adjournment dates are estimated and updated based on legislative activity.

### *LEGISLATION*

**HB 285, ALTERNATIVE FUELS** (prefile) Authorizes the Florida Department of Agriculture and Consumer Services (DACs) to receive additional applications from certain natural gas fuel fleet vehicle rebate applicants and to use certain funds to award additional rebates. Last action: House referred to committee 9 NOV 15. **REEO-S Note:** The rebate program perhaps benefits National Guard facilities that utilize state-registered vehicles.

**HB 351, SITE REMEDIATION** (prefile) Defines background concentration and long-term natural attenuation. It also requires the Florida Department of Environmental Protection (FLDEP) to include protocols for use of long-term natural attenuation where site conditions warrant, requires that specified interactive effects of contaminants be considered as cleanup criteria, revises how cleanup target levels are applied for surface waters exposed to contaminated groundwater, authorizes use of relevant data and information when assessing cleanup target levels, provides that institutional controls are not required under certain circumstances if alternative cleanup target levels are used, and provides additional contamination cleanup criteria for brownfield sites and brownfield areas. Last action: House referred to committee 11 NOV 15. **REEO-S Note:** Similar measures are introduced each legislative session with limited success. If enacted, the measure could provide additional flexibility when conducting site remediation.

**HB 589, WATER WITHDRAWALS** (prefile) Prohibits water management districts from modifying or reducing consumptive use permit allocations under certain circumstances. Among other provisions, it directs districts to adopt rules providing water conservation incentives, revises eligibility requirements for specified license examination, exempts certain

constructed clay settling areas from reclamation rate and financial responsibility requirements, and directs FLDEP to adopt classification to protect surface waters used for treated potable water supply. Last action: House referred to committee 17 NOV 15. **REEO-S Note:** This measure could bring about needed clarity for DOD facilities engaged in conservation efforts and securing water rights under state law. The impact of water conservation on water rights is an issue of interest to DOD so we will follow the progress of this bill. It may also serve as an example for other states in the region, when presented with this issue.

**HB 687, RENEWAL ENERGY TECHNOLOGIES** (prefile) Restricts the manner in which counties and municipalities regulate renewable energy devices. Among other provisions, it exempts specific entities from Florida Public Service Commission (PSC) regulation, authorizes local renewable energy suppliers to sell local renewable energy to certain end users, specifies conditions under which certain end users may interconnect with local renewable energy suppliers or local electric utilities, and provides conditions under which local renewable energy suppliers may interconnect. Last action: House referred to committee 23 NOV 15. **REEO-S Note:** As currently drafted, this measure would clarify state utility law by specifically exempting "local renewable energy supplier who exclusively produces or sells local renewable energy" from the definition of a "public utility." The result would be that third-party power purchase agreements could then be utilized to develop renewable energy projects at DOD facilities.

**HB 851, WATER SUPPLIES AND PLANNING** (prefile) Requires FLDEP to include protocols for use of long-term natural attenuation where site conditions warrant. Among other provisions, it requires specified interactive effects of contaminants to be considered as cleanup criteria, revises how cleanup target levels are applied where surface waters are exposed to contaminated groundwater, authorizes use of relevant data and information when assessing cleanup target levels, and provides that institutional controls are not required under certain circumstances if using alternative cleanup target levels. Last action: House referred to committee 18 DEC 15. **REEO-S Note:** Similar to other measures introduced this session and during previous legislative sessions. The bill could provide additional flexibility for DOD activities engaged in remediation activities around the state.

**HB 7005 (SB 552), WATER CONSERVATION MANDATES** (prefile) Creates the Florida Springs and Aquifer Protection Act. Among other mandates, it provides for a conservation lands database; assists self-suppliers of water; authorizes pilot projects for certain water management districts (WMDs); and authorizes allocation of water by the South Florida WMD. Last action: House placed on calendar 1 DEC 15. **REEO-S Note:** Perhaps the most consequential proposal of this measure is amendment of 373.227 to promote water conservation. That section would protect allocated amounts provided pursuant to a state-issued consumptive use permit (CUP). The bill may provide some assurance to DOD facilities that have been issued CUPs and are implementing water conservation measures.

**SB 552 (HB 7005), WATER WITHDRAWALS** (prefile) Creates the "Florida Springs and Aquifer Protection Act." It requires FLDEP to publish, update, and maintain a database of conservation lands, authorizes certain water management districts to designate and implement pilot projects, and prohibits WMDs from modifying permitted allocation amounts under certain circumstances. Last action: Senate placed on calendar 23 NOV 15. **REEO-S Note:** The bill is similar to other measures that have been introduced this session, which seek to promote water conservation by protecting allocated amounts of water that are provided pursuant to a CUP.

**SB 1052 WATER SUPPLIES AND PLANNING** (prefile) Prohibits WMDs from modifying or reducing CUP allocations if actual water use is less than permitted water use due to water conservation measures or specified circumstances. It also requires FLDEP to adopt by rule a specific surface water classification to protect surface waters used for treated potable water supply. Last action: Senate referred to committee 17 DEC 15. **REEO-S Note:** The bill is similar to several other measures that have been introduced in Florida this session. It seeks to promote water conservation by locking in amounts allocated pursuant to a CUP.

**SB 1188, LAND USE PLANNING** (prefile) Provides that a representative of a military installation is not required to file a specified statement of financial interests due solely to service on a local land planning or zoning board. Last action: Senate filed 21 DEC 15. **REEO-S Note:** This measure seeks to eliminate further action by local officials who are

demanding Community Planning and Liaison Officers (CPLOs) and other military installation representatives file financial disclosures and assessing penalties against those personnel who have been advised not to file by service counsel. There have been two instances so far in which base personnel have faced penalties for not filing financial disclosure reports with local officials.

**SB 1272, RENEWABLE ENERGY PRODUCTION CREDIT** Amends existing state law, deleting the time limit for the renewable energy production credit against the corporate income tax, revising the total amount of tax credits that may be granted to taxpayers per state fiscal year, and revising the permissible use of certain unallocated credit amounts. Last action: Senate filed 4 JAN 16. **REEO-S Note:** In addition to rescinding the sunset provision, this measure would increase the total available tax credits to \$15 million per fiscal year. It may help to encourage development of additional renewable energy supporting DOD activities in the state.

## *FINAL RULES*

**ST JOHNS RIVER WMD AND FLDEP AMENDED INTERAGENCY AGREEMENT (40C-3.035).** The St. Johns River WMD has [adopted](#) amendments to 40C-3.035, F.A.C., to incorporate an amended interagency agreement between St. Johns River WMD and FLDEP concerning applications for projects involving the construction and operation of underground injection of water facilities into Rule 40C-3.035, F.A.C. The amended agreement updates an existing interagency agreement between the two agencies, which is currently incorporated into Rule 40C-5.011, F.A.C. Chapter 40C-5, F.A.C. is proposed for repeal as a result of the July 2015 rule review performed for the Governor's Office of Fiscal Accountability and Regulatory Reform because those rules were determined to be obsolete, unnecessary, or redundant. The interagency agreement, however, is necessary to avoid duplication of effort and permitting requirements related to applications for projects involving the construction and operation of underground injection of water facilities. A [Notice of Proposed Rule](#) was published on 9 DEC 15. The rules become effective on 19 JAN 16.

## *PROPOSED RULES*

**CLEANUP TARGET LEVELS AND RISK-BASED CORRECTIVE ACTION (RBCA) PROCESS (62-777.100, 62-777.150, 62-777.170).** FLDEP has proposed amendments to Chapter 62-777, F.A.C., governing the RBCA process at contaminated sites and the derivation of cleanup target levels in Florida. Since the chapter was adopted in 2005, there have been many changes with regard to how to calculate appropriate risk-based cleanup target levels both in terms of the methods of calculation and the parameters used in the calculations. These new methods reduce the amount of conservatism in some previous estimates, thereby providing sufficient protectiveness while minimizing potential cleanup costs. The department is proposing to review and update the methods for establishing cleanup target levels, the parameter values used, and develop updated cleanup target levels. A [Notice of Development of Rulemaking](#) was published on 7 OCT 15. A hearing date is set for 20 JAN 16.

**STATE DRINKING WATER PUBLIC NOTIFICATION (PN) RULES (62-550.200, 320, 512, 520, 720, 730, 817, 821, 828 and 62-560.400, 410, 430, 440, 510, 520).** FLDEP has proposed amendments to Chapter 62-560, F.A.C. The amendments make state drinking water PN rules consistent with the U.S. Environmental Protection Agency's PN regulations by deleting or repealing all current state PN rules and incorporating by reference the federal PN regulations. FLDEP published a [Notice of Development of Rulemaking](#) for 62-550.200, 320, 512, 520, 720, 730, 817, 821, and 828 on 19 DEC 15. A separate [Notice of Development of Rulemaking](#) for 62-560.400, 410, 430, 440, 510, and 520 also was published on 19 DEC 15.



## *2016 LEGISLATIVE SESSION: 11 JAN 16 THROUGH 31 MAR 16*

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.

### *LEGISLATION*

**HB 693, GEORGIA LEGACY TRUST FUND** (prefile) Creates the Georgia Legacy Trust Fund, relating to conservation and natural resources. Among other provisions, it would create funding mechanisms for the protection and preservation of conservation land and provide for their operation, and establish procedural requirements for approval of project proposals. Last action: House first reading 2 APR 15. **REEO-S Note:** The measure could support Readiness and Environmental Protection Integration (REPI) initiatives. Among other provisions, this measure specifically provides for funding of acquisition costs associated with conservation easements.



## *2016 LEGISLATIVE SESSION: 5 JAN 16 THROUGH 12 APR 16*

Kentucky has a one-year session. Adjournment dates are estimated and updated based on legislative activity.

### *LEGISLATION*

**HB 106, (BR 805) CHEMICAL MUNITIONS DISPOSAL** (prefile) Proposed amendments delete references to gaps in information on the acute and chronic health effects of exposure to compounds used in chemical munitions. The bill requires that, after the compounds in chemical munitions are treated to specific treatment or destruction values set by law or by the Energy and Environment Cabinet, the Energy and Environment Cabinet will reclassify the residual wastes to ensure proper management and disposal. Last action: House prefiled 9 DEC 15. **REEO-S Note:** The Bluegrass facility may be the target of this measure. The proposed changes appear to be of limited practical significance. We will continue to monitor progress and report on any implications.



## *2016 LEGISLATIVE SESSION: 5 JAN 16 THROUGH 8 MAY 16*

Mississippi has a one-year session. Adjournment dates are estimated and updated based on legislative activity.

### *FINAL RULES*

**INTERCONNECTION AND NET METERING JOINT RULES** The Mississippi Public Service Commission (PSC) has adopted two new rules. The first, the Mississippi Distributed Generator Interconnection Rule, 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. The second, the Mississippi Renewable Energy Net Metering Rule, sets forth technical and procedural requirements for net metering on qualified distributed generator facilities. The two 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 [final rules](#) became effective 3 JAN 16.



## *2016 LEGISLATIVE SESSION: 25 APR 16 THROUGH 30 JUN 16*

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.

### *LEGISLATION*

**HB 141, STORMWATER** (prefile) Authorizes cities to undertake activities within their stormwater management programs to implement flood reduction techniques that result in improvements to private property. Last action: Senate referred to committee 29 APR 15. **REEO-S Note:** The latest version changes numbers to 275,000 county population with one city of 225,000. This change would open the authority to more population centers (Fayetteville, NC, is close). The measure could result in legally improper assessments against DOD facilities if the facilities are charged these fees and such fees are used by a municipality to improve private property. The last amendments to the measure also removed language concerning water quality, so intent appears focused solely on flood control and impacts on structures, potentially creating additional legal concerns for affected facilities.

**HB 245, ELECTRIC GENERATION AND TRANSMISSION FACILITIES** (prefile) 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 percent of the average annual energy consumption of the customer at that site. Last action: House referred to committee 12 AUG 15. **REEO-S Note:** This bill would authorize military, and others, to pursue renewable energy development with third-party developers. Currently state law prohibits such arrangements and requires electric service to come from the servicing utility.

**HB 548, STORMWATER ZONING TASK FORCE** (prefile) Establishes the zoning modernization legislative task force. Article 6 would add, "Notice to Military Bases." If the adoption or modification of the ordinance would result in changes to the zoning map or would change or affect the permitted uses of land located five miles or less from the perimeter boundary of a military base, the local government shall provide written notice of the proposed changes by certified mail, return receipt requested, to the commander of the military base not less than 10 days nor more than 25 days before the date scheduled for the hearing. If the military provides comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the base, the governing board of the local government shall take the comments and analysis into consideration before making a final determination on the ordinance. Last action: Senate referred to committee 30 APR 15.

**HB 907, NATIONAL GUARD** (prefile) Seeks to strengthen and protect the North Carolina National Guard and Active and Reserve components of the armed forces. Last action: House referred to committee 20 APR 15.

### *FINAL RULES*

**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 [adopted amendments](#) to 21 NCAC 39. Among other provisions, the amendments clarify the components of a minimum wastewater system inspection, clarify general inspection exclusions for contractors and inspectors, set out practice requirements related to inspector forms and other requirements for inspectors; provide for suspension or revocation of a combination Contractor Grade Level and Inspector certification, and clarify exam content and passing requirements for certification. The regulation became effective 1 JAN 16.

**REVISED TOTAL COLIFORM RULE** (15A NCAC 18C .1539). NCDEQ has adopted 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 adopted 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. [Proposed rules](#) were published 16 FEB 15. The final rule was effective 1 JUL 15.

**UNDERGROUND STORAGE TANKS** (15A NCAC 02N .0304, .0903-.0904). NCDEQ has adopted amendments to rules cited as 15A NCAC 02N .0304 and .0903-.0904. The rule changes were necessary to comply with a directive from the North Carolina General Assembly to amend certain secondary containment requirements contained in 15A NCAC 02N. The rules are substantively identical to the provisions of Session Law 2011-394 and Session Law 2013-413. The [final rule](#) was effective 1 JUN 15.



## *2016 LEGISLATIVE SESSION: 12 JAN 16 THROUGH 2 JUN 16*

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.

### *LEGISLATION*

**HB 3026 (SB 166), OFFSHORE WIND R&D** (prefile) Specifies that "offshore wind research and development activities" means initiatives undertaken by an electrical utility for the long-term advancement of the economic development and clean energy benefits related to offshore wind. Among other provisions, it requires the South Carolina Public Service Commission to adopt regulations that encourage electrical utilities subject to the jurisdiction of the commission to invest in offshore wind research and development activities that provide incentives and cost recovery for energy suppliers and distributors. Last action: House referred to committee 13 JAN 15. **REEO-S Note:** This bill establishes incentives for offshore wind energy development. May create mission impact concerns if wind development becomes a reality. Measure has not seen much progress since being introduced.

**HB 3874, RENEWABLE ENERGY** (prefile) Provides for an income tax credit to an individual or business that constructs, purchases, or leases renewable energy property and places it in service in South Carolina. The bill also defines "renewable energy property." Last action: Senate recalled from committee 3 JUN 15. **REEO-S Note:** This measure would provide a 35% tax credit for renewable energy project development. The utility of the measure is somewhat limited but could encourage small-scale renewable energy development. The measure seems to have good bipartisan support, so may be enacted during 2016 session.

**SB 166, (HB 3026) OFFSHORE WIND R&D** (prefile) Amends chapter 37, title 58 of the 1976 code, relating to energy supply and efficiency, by adding section 58-37-60, to provide that "offshore wind research and development activities" means initiatives undertaken by an electrical utility for the long-term advancement of the economic development and clean energy benefits related to offshore wind, and to provide that the South Carolina public service commission shall adopt regulations that encourage electrical utilities subject to the jurisdiction of the commission to invest in offshore

wind research and development activities that provide incentives and cost recovery for energy suppliers and distributors who invest in offshore wind research and development activities that are intended to result in economic development opportunities related to the manufacturing and deployment of offshore wind, and that the commission shall adopt regulations encouraging investment in offshore wind research and development activities. Last action: Senate referred to committee 17 APR 15. **REEO-S Note:** Like HB 3026, this bill establishes incentives for off-shore wind energy development. May create mission impact concerns if wind development becomes a reality. Measure has not seen much progress since being introduced.

**SCR 40, S.C. AND GEORGIA JOINT WATER CAUCUS** (prefile) Concurrent resolution calls on members of the South Carolina General Assembly to join the South Carolina and Georgia Joint Water Caucus in encouraging state agencies, in conjunction with the U.S. Army Corps of Engineers, to implement a water management program for the Savannah River Basin. The program seeks to ensure continuous optimization of water quality and quantity management of the water resources shared by South Carolina and Georgia throughout the basin. Last action: House referred to committee 30 APR 15.



## *2016 LEGISLATIVE SESSION: 12 JAN 16 THROUGH 20 APR 16*

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.

### *LEGISLATION*

**HB 1438, MILITARY** (prefile) Enacts the "National Guard Force Protection Act of 2016," which requires certain security enhancements at National Guard facilities. Last action: filed for introduction 15 DEC 15. **REEO-S Note:** This measure may include direct or indirect funding implications for the National Guard Bureau.

### *FINAL RULES*

**CONSTRUCTION AND OPERATING PERMITS** (1200-03-09-.01, 1200-03-09-.02, 1200-03-09-.06). The Tennessee Department of Environment and Conservation (TDEC) has [adopted](#) rulemaking to amend Chapter 1200-03-09 to accomplish three objectives: (a) create a new rule to allow a system of general permits that would allow for the enactment of rules applicable to broad categories of similar sources subject to federal or state regulatory provisions (or both). These would be considered minor (or area) sources not covered in the universe of the Title V permitting program. Once a general permit is adopted covering a specific category of industrial operation individual sources in the applicable category, a permittee would only have to notify that they wish to elect to be covered under the provisions of the general permits. No individualized permits would be required in those cases; (b) delete PM 2.5 significant impact levels (SILs) from the state rule. The department had recently adopted language based on a corresponding federal regulation that was vacated by a federal court in reviewing EPA's authority to adopt the SILs. The state level rule now needs to be made consistent with the federal regulations by striking out the language vacated in the court decisions; and (c) amend language for compliance certification relating to continuous or intermittent compliance. The amendment would allow the state regulation to be consistent with the federal regulation. The regulation became effective 10 DEC 15.

**TENNESSEE ELECTRONIC REPORTING** (0400-01-40). (TDEC) has [adopted](#) rulemaking that creates Chapter 0400-01-40, Electronic Reporting. The rulemaking will apply to persons who submit reports or other documents to TDEC electronically to satisfy a statutory obligation or a regulatory requirement administered by the department. It also establishes the minimum requirements for the electronic document receiving system provided by the department. These standards are

designed to apply department-wide and to support the department's initiative to allow electronic submissions of information that are currently being received in written format. The regulation became effective 27 DEC 15.

**TENNESSEE REVISED TOTAL COLIFORM RULE** (0400-45-01). TDEC has [adopted](#) new Rule 0400-45-01-.41, Revised Total Coliform Rule (RTCR), and amendments associated with the new rule. The RTCR was published in the Federal Register on February 13, 2013. Tennessee is promulgating these rules to maintain primary enforcement authority from EPA. Under the RTCR there is no longer a monthly maximum contaminant level (MCL) violation for multiple total coliform detections. Instead, the revisions require water systems that have an indication of coliform contamination in the distribution system to assess the problem and take corrective action that may reduce cases of illness and death due to potential fecal contamination and waterborne pathogen exposure. The rulemaking also updates provisions in other rules of the chapter that reference analytical methods and other requirements in the 1989 TCR (e.g., Public Notification and Ground Water Rules). The regulation becomes effective on 22 FEB 16.

## Department of Defense Activity

**NATIONAL DEFENSE AUTHORIZATION ACT FY 2016** (Public Law No: 114-92) mandates that the DOD:

1. May not make a bulk purchase of a "Drop-In Fuel" for operational purposes unless the fully burdened cost of that drop-in fuel is cost-competitive with the fully burdened cost of a traditional fuel available for the same purpose.

- The Secretary of Defense may waive the limitation, certifying it is in the national security interest.
- "Drop-in fuel" means a neat or blended liquid hydrocarbon fuel designed as a direct replacement for a traditional (petroleum-derived) fuel with comparable performance characteristics and compatible with existing infrastructure and equipment.
- "Operational purposes" means for the purposes of conducting military operations, including training, exercises, large scale demonstrations, and moving and sustaining military forces and military platforms; and does not include research, development, testing, evaluation, fuel certification, or other demonstrations.
- "Fully burdened cost" means the commodity price of the fuel plus the total cost of all personnel and assets required to move and, when necessary, protect the fuel from the point at which the fuel is received from the commercial supplier to the point of use.

2. Establish "Southern Sea Otter Military Readiness Areas" for national defense purposes. Such areas will include Naval Base Ventura County, San Nicolas Island, and Begg Rock and adjacent and surrounding waters, Naval Base Coronado, San Clemente Island and adjacent and surrounding waters.

- Incidental Takings under the Endangered Species Act (ESA) (16 U.S.C. 1533, 1538) or under the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1371, 1372) will not apply of any southern sea otter in the Southern Sea Otter Military Readiness Areas in the course of conducting a military readiness activity.
- For purposes of conducting a military readiness activity, any southern sea otter while within the Southern Sea Otter Military Readiness Areas will be treated for the purposes of section 7 of the ESA as a member of a species that is proposed to be listed as an endangered species or a threatened species under section 4 of the ESA.
- The Navy will conduct monitoring and research within the Southern Sea Otter Military Readiness Areas to determine the effects of military readiness activities on the growth or decline of the southern sea otter population and on the near-shore ecosystem. Monitoring and research parameters and methods will be determined in consultation with the FWS.

A section was been added to the FY 2016 National Defense Authorization Act that appears to extend the Emergency Planning and Community Right-to-Know Act (EPCRA) "article exemption" to components of fired ammunition. Section 3(2)(B)(v) of the Toxic Substances Control Act (15 U.S.C. 2602(2)(B)(v)) is amended by striking ", and" and inserting

“and any component of such an article (limited to shot shells, cartridges, and components of shot shells and cartridges), and ...”.

**PROGRAMMATIC NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) ASSESSMENTS FOR SOLAR RENEWABLE ENERGY PROJECT DEVELOPMENT** The Army announced it will perform programmatic NEPA assessments on Army installations in the continental U.S., including Active, Guard, and Reserve components. The assessments are intended to provide greater efficiency in the Army's efforts to comply with NEPA requirements and enable the Army to make better informed decisions regarding the development of renewable energy projects. The U.S. Army Environmental Command (USAEC) will conduct NEPA assessments for solar photovoltaic technologies and related storage, ancillary service capabilities, interconnection, and transmission and distribution requirements on all Army installations. The effort will outline high-level environmental conditions and issues, enable a streamlined NEPA process for individual projects, and support the Council on Environmental Quality's guidance encouraging programmatic analysis.

## Federal Activity

### AIR

**CROSS-STATE AIR POLLUTION RULE UPDATE FOR 2008 OZONE STANDARDS** EPA has released a proposed rule to update, for electricity generating units, the Cross-State Air Pollution Rule (CSAPR) to address interstate emission transport with respect to the 2008 ozone standards ([80 FR 75705](#)). The proposal finds that ozone season emissions of NOX in 23 eastern states affect the ability of downwind states to attain and maintain the 2008 ozone National Ambient Air Quality Standards (NAAQS). The emissions can be transported downwind as NOX or, after transformation in the atmosphere, as ozone. For the 23 eastern states, the EPA proposes to issue Federal Implementation Plans (FIPs) that generally update the existing CSAPR NOX ozone-season emissions budgets for electricity generating units (EGUs) and implement these budgets via the CSAPR NOX ozone-season allowance trading program. The EPA would finalize a FIP for any state that does not have an approved State Implementation Plan (SIP) addressing its contribution by the date the rule is finalized. Comments are due by 19 JAN 16.

**NATIONAL EMISSION STANDARDS FOR AEROSPACE MANUFACTURING AND REWORK FACILITIES** The Environmental Protection Agency (EPA) finalized amendments to the national emissions standards for hazardous air pollutants (NESHAP) for Aerospace Manufacturing and Rework Facilities to address the results of the residual risk and technology review (RTR) ([80 FR 76151](#)). The amendments have:

- Added limitations to reduce emissions of hazardous air pollutants (HAP) from specialty coating operations. Additions limit specialty coatings HAP content (which formerly could be limited by states based on the 1997 Aerospace Control Techniques Guidelines (CTG) document), and establish control requirements for specialty coating operations (applying the same inorganic HPA control requirements as for primers and topcoats);
- Removed exemptions for periods of startup, shutdown and malfunction (SSM) so that affected units will be subject to the emission standards at all times;
- Revised provisions to address recordkeeping and reporting requirements applicable to periods of SSM;
- Included a requirement to report performance testing through EPA's Compliance and Emissions Data Reporting Interface (CEDRI); and
- Clarified applicability, definitions, and compliance demonstration provisions, and made other technical corrections.

Additional information is available [here](#). A Fact Sheet is available [here](#).

## COMPLIANCE

**EPA PORTAL FOR SELF-DISCLOSURE OF ENVIRONMENTAL VIOLATIONS** EPA is modernizing implementation of its self-disclosure policies by creating a centralized web-based "eDisclosure" portal to receive and automatically process self-disclosed civil violations of environmental law. Under the automated eDisclosure system, large and small businesses will quickly be able to resolve routine types of disclosures. The modifications to the implementation of EPA's Audit Policy and Small Business Compliance Policy, and the launch of the eDisclosure portal, are effective immediately.

**OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE NAME CHANGE** EPA's Office of Solid Waste and Emergency Response (OSWER) changed its name to the Office of Land and Emergency Management (OLEM) ([80 FR 77575](#)).

**2015 SEMI-ANNUAL REGULATORY AGENDA** Federal agencies including EPA have published the 2015 semiannual regulatory agenda online (the e-Agenda) and the semiannual regulatory flexibility agenda ([80 FR 78023](#)). The regulatory agenda provides updates on:

- Regulations and major policies currently under development,
- Reviews of existing regulations and major policies, and
- Rules and major policymakings completed or canceled since the last agenda.

## ENERGY

**WORKPLACE PRIVATE ELECTRIC VEHICLE CHARGING AUTHORIZED AT FEDERAL AGENCIES** Recently enacted legislation (H.R. 22, Fixing America's Surface Transportation Act (FAST Act)) authorizes workplace charging by employees and others of private vehicles, on a reimbursable basis and to the extent such use does not interfere with or impede access to charging equipment by federal fleet vehicles. Section 1413(c) authorizes the administrator of the General Services Administration (GSA), or the head of a federal agency, to install, construct, operate, and maintain on a reimbursable basis a battery recharging station (or allow, on a reimbursable basis, the use of a 120-volt electrical receptacle for battery recharging) in a parking area that is in the custody, control, or administrative jurisdiction of the GSA or the federal agency for the use of only privately owned vehicles of federal employees and others who are authorized to park in the area to the extent such use by only privately owned vehicles does not interfere with or impede access to the equipment by federal fleet vehicles.

**ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS** Department of Energy (DOE) has determined that energy conservation standards for high-intensity discharge (HID) lamps do not meet the criteria of being technologically feasible, economically justified, and would result in significant energy savings ([80 FR 76355](#)). Specifically, DOE concludes that standards for high-pressure sodium (HPS) lamps are not technologically feasible, and that standards for mercury vapor (MV) and metal halide (MH) lamps are not economically justified. (HPS, MV, and MH lamps are subcategories of HID lamps). DOE's determination is based on analysis of several efficacy levels (EIs) as a means of conserving energy.

**ECONOMICALLY VIABLE RENEWABLE ENERGY GENERATION** National Renewable Energy Laboratory (NREL) issued a report, [Estimating Renewable Energy Economic Potential in the United States: Methodology and Initial Results](#), which provides a method for measuring the economic potential of renewable energy across the U.S. The report describes a geospatial analysis method used to estimate the economic potential of several renewable resources. Economic potential is a metric that quantifies the amount of economically viable renewable generation that is available at a specific location. Analysis to date includes photovoltaic, wind, geothermal, biomass, and hydropower resources. According to NREL Energy Analyst Philipp Beiter, "the initial results are intended to explore this method as a screening metric for understanding the economic viability of renewable generation at a detailed geospatial resolution." The report is a follow-on analysis to [NREL's 2012 report](#) that estimated the technical potential of U.S. renewable generation. For more information, click [here](#).

**BIOGAS OPPORTUNITIES ROADMAP PROGRESS REPORT** DOE and EPA jointly [released](#) the Biogas Opportunities Roadmap Progress Report on 16 DEC 15, updating the federal government's progress to reduce methane emissions through biogas systems since the Biogas Opportunities Roadmap was completed in July 2014. The report highlights actions taken, outlines challenges and opportunities, and identifies next steps to the growth of the biogas industry. The 2014 roadmap identified more than 2,000 sites across the United States that produce biogas, as well as the potential for an additional 11,000 biogas systems. Click [here](#) to view a progress report brief, or [here](#) to view the entire report.

**RENEWABLE FUEL STANDARDS FOR CALENDAR YEARS 2014 THROUGH 2016** EPA has set the renewable fuel annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel that apply to all motor vehicle gasoline and diesel produced or imported in the years 2014, 2015, and 2016 ([80 FR 77419](#)). EPA is establishing a cellulosic biofuel volume for all three years that is below the applicable volume specified in the Clean Air Act. The 2016 standards are expected to spur further progress in overcoming current constraints in renewable fuel distribution infrastructure, which in turn is expected to lead to substantial growth over time in the production and use of renewable fuels.

**CONGRESS EXTENDS TAX CREDITS FOR SOLAR AND WIND** The recently enacted 2016 Consolidated Appropriations Act extends investment tax credits for solar, wind, and other renewables.

- The 30 percent Investment Tax Credit (ITC) for solar will be extended for another three years. It will then ramp down incrementally through 2021, and remain at 10 percent permanently beginning in 2022.
- The 2.3-cent Production Tax Credit (PTC) for wind will also be extended through next year. Projects that begin construction in 2017 will see a 20 percent reduction in the incentive. The PTC will then drop 20 percent each year through 2020.
- Geothermal, landfill gas, marine energy, and incremental hydroelectric will get a one-year PTC extension. The technologies also will qualify for a 30 percent ITC, if developers choose.
- The bill expanded grants for energy and water efficiency.
- The legislation also lifts a 40-year ban on exports of crude oil produced in the U.S.

## *NATURAL RESOURCES*

**AQUATIC INVASIVE SPECIES: ADDITIONAL STEPS COULD HELP MEASURE FEDERAL PROGRESS** The Government Accountability Office (GAO) has released a report reviewing the activities, expenditures, and progress reported by the 13 federal member agencies of the [Aquatic Nuisance Species Task Force \(GAO-16-49\)](#). GAO recommended that the task force develop a mechanism to measure progress toward its strategic goals and help meet certain statutory requirements. Key statutorily imposed roles and responsibilities include:

- Regulation of ballast water and vessel biofouling (Coast Guard);
- Researching ballast water and hull fouling issues, and participating in ship hull cleaning efforts for ship disposal (Department of Transportation, Maritime Administration);
- Regulating discharges incidental to the normal operation of certain vessels, such as ballast water (EPA); and
- Controlling and managing the spread of aquatic invasive species on or around the facilities, ports, harbors, and other navigable waterways it manages (Army Corps of Engineers).

The full report is available [here](#).

**MIGRATORY BIRD HUNTING REGULATIONS** Fish and Wildlife Service is proposing to establish 2016-17 hunting regulations for certain migratory game birds ([80 FR 77087](#)). The service annually prescribes outer frameworks for dates and times when hunting may occur and the number of birds that may be taken and possessed in hunting seasons. These frameworks allow state selections of seasons and limits and recreational harvest at levels compatible with population and habitat conditions.

## *THREATENED AND ENDANGERED SPECIES*

**17 CANDIDATE SPECIES NO LONGER WARRANT LISTING** FWS [announced](#) that it completed status reviews for 17 species that were candidates for listing under ESA and found that all no longer warrant listing. The species will be removed from the ESA Candidate List. The findings represent years of collaborative efforts across the United States to conserve and restore once-imperiled species and their habitats and eliminate the need for ESA protection. The 17 species that will be removed from the Candidate List are the Cumberland arrow darter, Great Basin population of the Columbia spotted frog, Goose Creek milkvetch, Nevares Spring naucorid bug, Page springsnail, Ramshaw meadows sand verbena, Sequatchie caddisfly, Siskiyou mariposa lily, Sleeping Ute milkvetch, Southern Idaho ground squirrel, Tahoe yellow cress, and six Tennessee cave beetles (Baker Station, Coleman, Fowler's, Indian Grave Point, Inquirer, and Noble's beetles).

## *WATER*

**UNREGULATED CONTAMINANT MONITORING RULE (UCMR 4)** EPA has proposed the fourth revision to the Unregulated Contaminant Monitoring Rule, a Safe Drinking Water Act (SDWA) rule that requires public water systems to monitor for contaminants that may be present in tap water but are not yet subject to EPA's drinking water standards set under SDWA ([80 FR 76897](#)). The proposal identifies 11 analytical methods to support water system monitoring for a total of 30 chemical contaminants/groups, consisting of 10 cyanotoxins/groups; two metals; eight pesticides plus one pesticide manufacturing byproduct (collectively referred to as "pesticides"); three brominated haloacetic acid groups of disinfection byproducts; three alcohols; and three semivolatile organic chemicals. This rule, revised every five years as required by SDWA, benefits public health by providing EPA and other interested parties with scientifically valid data on the national occurrence of selected contaminants in drinking water, such as cyanotoxins associated with harmful algal blooms. The data set is one of the primary sources of information on occurrence, levels of exposure and population exposure EPA uses to develop regulatory decisions for emerging contaminants in the public drinking water supply. Comments are due by 9 FEB 16.

**WATER INNOVATION STRATEGY** The President has announced a new Water Innovation Strategy that states the general goals of:

- Promoting and investing in breakthrough research and development that will reduce the price and energy costs of new water supply technology, and
- Boosting water sustainability through the greater utilization of water-efficient and water reuse technologies.

# Professional Development

## *DOD TRAINING SOURCES*

**US ARMY CORPS OF ENGINEERS (USACE) PROSPECT TRAINING** USACE announces course availability for the [FY16 PROSPECT](#) (i.e., Proponent-Sponsored Engineer Corps Training) program. Courses are open to federal, state, county, and city employees and contractors. There are different registration processes for each entity. Please refer to the [course catalog](#) and list of classes and schedule for details. Environmental courses include, but are not limited to:

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

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

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

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

## *FEDERAL TRAINING SOURCES*

**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:
  1. [Environmental Compliance for Federal Laboratories](#) (FedCenter membership required);
  2. [Environmental Management Systems](#) (FedCenter membership required);
  3. [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](#)) launched a [webinar series](#) to promote the transfer of innovative, cost-effective and sustainable solutions developed using SERDP and ESTCP funding. Live webinars are offered every two weeks on Thursdays from 12:00 p.m. Eastern for 90 minutes. Most webinars feature two 30-minute presentations and interactive question and answer sessions on topics targeted for DOD and DOE audiences. Prior presentations are archived for viewing any time.

**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.

**ENERGY STAR WEBCASTS** Energy Star is a EPA voluntary program that helps businesses and individuals save money and protect our climate through superior energy efficiency.

**CLEAN AIR ACT GENERAL CONFORMITY TRAINING MODULES** The General Conformity Rule ensures that the actions taken by federal agencies in nonattainment and maintenance areas do not interfere with a state's plans to meet national standards for air quality. The training from EPA covers all aspects of the rule and is divided into four modules:

- The Basics, for top agency managers and the general public: [Module I](#) provides an overview of the program purpose, regulation content, program design, legal requirements, and relationship to other environmental programs.
- The Key Concepts, for program managers and others who need a working knowledge of the program: [Module II](#) provides information on determining applicability of regulations to federal actions, requirements for determining conformity, and the review process for a determination.
- All The Details, for individuals responsible for preparing the determination: [Module III](#) contains detailed information on evaluating conformity including emission calculations, requirements for associated programs and special situations.
- State and tribal requirements and responsibilities, for state, tribal, and local air quality managers: [Module IV](#) provides information on state and tribal requirements and responsibilities in evaluation of conformity for federal actions.

**WATER MANAGEMENT BASICS** This FEMP course provides a concise introduction to comprehensive water management, to include key topic areas of basic water management terminology, history of federal water mandates, current Executive Order 13693 provisions, best practices associated with comprehensive water management, and proven water conservation financing mechanisms and strategies. The three-module course offers a thorough overview of water management in the federal context:

- Module One: Introduction to Federal Water Management
- Module Two: Introduction to Comprehensive Water Management
- Module Three: Financing and Launching Water Management Projects

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

**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.

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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 the [Regulatory Affairs Specialist](#).