



The Southern Region Review



June 2011 , Region 4 Edition

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

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

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Conferences and Training

VARIOUS DATES AND LOCATIONS: [USACE 2011 PROSPECT TRAINING](#). The PROSPECT Program provides job-related training through technical, professional, managerial and leadership courses to meet the needs of USACE and other government agencies. The catalog for the PROSPECT Program, the Purple Book, lists over 200 supporting the missions of USACE. Courses are available to federal, state or local government employees.

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

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

VARIOUS DATES AND TIMES ONLINE: [INTERSTATE TECHNOLOGY AND REGULATORY COUNCIL \(ITRC\) INTERNET BASED TRAINING](#). ITRC is a state-led coalition working together with federal partners, industry, academia, and stakeholders to achieve regulatory acceptance of environmental technologies. In conjunction with EPA's Technology Innovation and Field Services Division (TIFSD), ITRC delivers training courses via the Internet to reach a geographically dispersed audience of regulators, consultants, and other members of the environmental community. The training sessions last approximately two hours, cover technical and regulatory information specific to environmental technologies and innovative approaches, and are supported by consensus-based ITRC guidance documents.

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

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

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

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

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

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

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

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

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

JUNE 21-23, CHARLESTON, SOUTH CAROLINA: [ARMY NATIONAL GUARD 2011 CONSERVATION WORKSHOP](#). The workshop will bring together Army National Guard natural and cultural resource professionals from all 54 states and territories to meet, exchange information and lessons learned, and learn more about the newest guidance from ARNG-ILE program managers.

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

JULY 17-21, CHICAGO, IL: [COASTAL ZONE 2011](#). Many factors are changing coastal communities and estuarine, marine and Great Lakes environments. Recurring problems like the impacts of coastal development and new threats related to invasive species, global climate change and other human-induced hazards require new approaches to ocean and coastal resource management. The conference will explore these challenges, while participants learn from the experiences of leaders from across the nation and around the world.

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

JULY 25-29, NASHVILLE, TN: [SUSTAINING MILITARY READINESS CONFERENCE - MAKE IT YOUR MISSION](#). The Office of the Secretary of Defense (OSD) is sponsoring the 2011 Sustaining Military Readiness Conference. OSD invites military and civilian personnel, partners from other Federal, State and Local governments, representatives from nongovernmental organizations, and policy and legislative specialists to participate in stimulating discussions, training and hands-on applications: explore the interdisciplinary nature of sustaining military readiness; share lessons learned and best practices among colleagues and stakeholders; participate in a broad spectrum of informative training workshops. There is no registration fee. Additional information, including the agenda, registration and lodging details is available online. For further information, please contact Jaime Uss at 703-604-1795.

JULY 26-28, ORLANDO, FL: [FEDFLEET 2011](#). This conference is a one-stop experience for Fleet and Aviation Management professionals. It consolidates a comprehensive collection of fleet management, automotive procurement, aviation and marine educational sessions into a single venue.

AUGUST 1-5, BALTIMORE, MD: [NATIONAL CONFERENCE ON ENVIRONMENTAL RESTORATION](#). NCER is an interdisciplinary conference on large scale ecosystem restoration presenting state-of-the art science and engineering, planning and policy in a partnership environment.

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

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

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

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

ready working with tribes and tribal members.

AUGUST 25-26, BOISE, ID: WESTERN ENERGY POLICY RESEARCH CONFERENCE (WEPRC). WEPRC is a conference for academic and professional energy policy researchers. Presenters are required to submit papers and discuss research to advance the state-of-the-art, analyze policies, and foster research collaborations dealing with an increasingly carbon-constrained economy and regulatory environment. This conference is for you if you are seeking to present or discuss energy policy research with participants and panelists from academia, think-tanks and research institutes, NGOs, national laboratories, industry, and government.

Federal Notices and Rulemaking

Air

NESHAPS AND NSPS FOR COAL- AND OIL-FIRED ELECTRIC UTILITY STEAM GENERATING UNITS (05/03/11, [76 FR 24976](#)) EPA has released a proposed rulemaking that would establish NESHAPs and NSPS for coal- and oil-fired electric utility steam generating units. As part of this rulemaking, EPA is also proposing monitoring changes and other minor amendments to industrial, commercial and institutional steam generating units (i.e., boilers, Subpart Dc) NSPS. EPA does not propose to amend those emission standards. For further information: [Christian Fellner](#), EPA Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, (919) 541-4003.

BOILERS, PROCESS HEATERS, SOLID WASTE INCINERATION UNITS (05/18/11, [76 FR 28662](#)) EPA is delaying the effective dates for the final rules titled "National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters" and "Standards of Performance for New Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units" under the authority of the Administrative Procedure Act until the proceedings for judicial review of these rules are completed or EPA completes its reconsideration of the rules, whichever is earlier. For further information: [Brian Shrager](#), Energy Strategies Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243-01), US. EPA, Research Triangle Park, NC 27711; (919) 541-7689, fax: (919) 541-5450.

IMPLEMENTATION OF NSR FOR PM2.5 (05/18/11, [76 FR 28646](#)) EPA issued a final rule that repeals the "grandfather" provision for PM2.5 under the Federal PSD permit program, administered by EPA in States that lack a PSD permit program in their approved SIP. The grandfather provision allowed certain facilities under certain circumstances to satisfy PSD permit program requirements for PM2.5 by meeting requirements for controlling and analyzing impacts on PM10 air quality based on an EPA policy known as the "1997 PM10 Surrogate Policy." Entities potentially affected by this action include proposed new and modified major stationary sources subject to the Federal PSD program that submitted a complete application for a PSD permit before the 07/15/08 effective date of the final PM2.5 NSR Implementation Rule (73 FR 28321), but have not yet received a final and effective permit authorizing the source to commence construction. Entities affected by this action also include state and local governments responsible for implementing PSD pre-construction permit programs for new and modified major stationary sources under the Federal PSD permit program (40 CFR 52.21). This final rule is effective 07/18/11. A [Fact Sheet](#) is available. For further information: Dan [deRoock](#); EPA Air Quality Policy Division, Research Triangle Park, NC; (919) 541-5593.

CONFIDENTIALITY DETERMINATIONS FOR GHG REPORTING (05/26/11, [76 FR 30782](#)) EPA has issued a final rule that establishes confidentiality determinations for certain data elements to be reported by direct emitters or suppliers under the Mandatory Greenhouse Gas Reporting Rule. Finalizing this determination factored into delaying the date for initial reporting. For further information: Carole Cook, Climate Change Division, EPA Office of Atmospheric Programs, Washington, DC, (202) 343-9263.

Climate Change

7TH ARCTIC COUNCIL MINISTERIAL MEETING This meeting discussed future challenges in the Arctic mostly attributed to climate change. At the meeting, the International Arctic Monitoring and Assessment Programme (AMAP) released the report titled "Snow, Water, Ice and Permafrost in the Arctic (SWIPA) 2011." The report argues that Arctic ice is melting faster than expected and could raise the average global sea level by as much as five feet this century. The Arctic Council has gradually evolved from addressing environmental issues, to serving as the preeminent forum where challenges and opportunities facing the eight Arctic States and their peoples are addressed. Its Member States are: Canada, Denmark (including Greenland and the Faroe Islands), Finland, Iceland, Norway, Russia, Sweden and the USA. Secretary Clinton signed the [Arctic SAR Agreement](#), the first binding international agreement among the eight Arctic States and an important step in saving lives in the region. The [AMAP Report's Executive Summary \(30MB\) and other AMAP information](#) is

available, as is [additional Council documentation](#) released. For further information: David A. Balton; State Department, Deputy Assistant Secretary, Bureau of Oceans and International Environmental Scientific Affairs (OES), 202-647-2396.

CLIMATE ADAPTATION (05/24/11, 76 FR 30193) USFWS is seeking comments prior to preparing an initial draft [National Fish, Wildlife, and Plants Climate Adaptation Strategy](#). The adverse impacts of climate change transcend political and administrative boundaries. The Strategy will provide a unified approach to land management for reducing the negative impacts of climate change on fish, wildlife, plants, habitats, and natural resource heritage. FWS plans to release a draft Strategy for additional comment in November 2011 and a final strategy by May 2012. A diverse group of Federal, State, and tribal agencies have been asked to participate as members of an intergovernmental Steering Committee, to provide advice and support for development of the Strategy. The Steering Committee is being supported by a Management Team composed of staff from the USFWS, NOAA, the Association of Fish and Wildlife Agencies, and tribal partners. Five Technical Teams will take primary responsibility for developing the content of the Strategy, based around five ecosystem sections (marine, coastal, inland waters, forest, and grasslands/shrublands/deserts). Comments are due 07/01/11. For further information: Mark Shaffer, Office of the Science Advisor, at (703) 358-2603 (telephone), wildlifeadaptationstrategy@fws.gov.

Energy

BUTANOL FUEL BLEND USAGE (05/04/11, 76 FR 25362) The Coast Guard is announcing its intent to enter into a Cooperative Research and Development Agreement (CRADA) to identify and investigate the use of butanol fuel blends within marine outboard engines, with the overarching goal of reducing the engines' GHG emissions. For further information: [James W. Gynther](#), Coast Guard Research and Development Center, New London, CT, 860-271-2858.

FEDERAL FLEET PERFORMANCE (05/24/11) Secretary of Energy Steven Chu, General Services Administrator Martha Johnson, and White House Council on Environmental Quality Chair Nancy Sutley announced a major step in moving the Federal fleet further towards advanced vehicles and decreased petroleum consumption, while cutting costs associated with fuel consumption. Furthering the Administration's goals to cut oil imports by one-third by 2025 and to put one million advanced vehicles on the road by 2015, President Obama issued a [Presidential Memorandum](#) directing agencies to implement governmentwide fleet management practices to ensure the Federal Government is leading by example in fuel efficiency and innovative technology. Implementation of new requirements will move the government to purchasing 100% alternative fuel vehicles by 2015, and drive agencies to meet the required 30% decrease in petroleum consumption by 2020 under [EO 13514](#) signed by President Obama in October 2009.

TECHNOLOGY TESTING OFFSHORE FLORIDA (05/24/11, 76 FR 30184) The Bureau of Ocean Energy Management, Regulation and Enforcement intends to prepare an EA for leasing three outer continental shelf blocks nine to 15 nautical miles offshore of Fort Lauderdale, Florida for testing of equipment designed to use the Florida current to generate electricity. Florida Atlantic University's Southeast National Marine Renewable Energy Center submitted the lease application. To facilitate testing, a mooring and telemetry buoy would act as a sensor and measurement platform and mooring point for a platform or vessel that can deploy small-scale ocean current devices. The device(s) to be deployed would be limited to 100-kilowatt (kW) power extraction and seven-meter diameter rotor(s). For further information: [Michelle Morin](#), BOEMRE Office of Offshore Alternative Energy Programs, Herndon, Virginia, (703) 787-1340.

Miscellaneous

2011 JOINT DoD ENVIRONMENTAL RESTORATION SUMMIT – EASTERN REGION. The event will include collaborative discussions on current DoD environmental restoration issues, hot topics, best practices and paths forward. This is the only DoD conference that focuses on military readiness. It is sponsored entirely by the Office of the Secretary of Defense, and there is no registration fee.

NATIONAL DEFENSE CENTER FOR ENERGY AND ENVIRONMENT (NDCEE) ANNUAL REPORT NDCEE has published the [FY10 Annual Report](#) that summarizes program activities and successes during the 2010 fiscal year. The report focuses on the NDCEE's support to DoD stakeholders as they: strive for net-zero energy, water, and waste at military installations; address environmental, safety, occupational health, and energy aspects of weapons systems and maintenance operations; and continue to protect military and civilian personnel. The FY10 Annual Report also summarizes the NDCEE's technology transitions and operational statistics for the fiscal year, and includes highlights of key FY10 projects and activities.

HISTORIC FEDERAL BUILDINGS (05/24/11) The Advisory Council on Historic Preservation (ACHP) issued new guidance, [Sustainability and Historic Federal Buildings: Integrating the Requirements of the National Historic Preservation Act with the Requirements of Executive Order 13514](#). The document serves to advise Federal decision makers on requirements of

Section 2(g) of EO 13514 that charges Federal agencies to "Implement high performance sustainable federal building design, construction, operation and management, maintenance, and deconstruction including by...[among other considerations] ensuring that rehabilitation of federally owned historic buildings utilizes best practices and technologies in retrofitting to promote long-term viability of the buildings." This guidance was prepared by a work group comprising staff representatives of the ACHP, DoD, Department of the Interior, Department of Veterans Affairs, and General Services Administration.

ECOSYSTEM SERVICES SURVEY (05/23/11, [76 FR 29783](#)) The US Geological Survey submitted an information collection request to OMB for a "State of Ecosystem Services Implementation Survey." Ecosystem goods and services are defined by ecologists as the biophysical processes that give rise to social benefits. For example, in ecology, processes such as nutrient cycling, atmospheric regulation, pollination and seed dispersal are considered ecosystem services. The objectives of this survey are to illustrate various approaches being used to formulate ecosystem services projects and the state-of-the-art processes through which projects are implemented. The survey will gather information concerning: methods used in ecosystem services projects, motivations for conducting projects, degree of project implementation, management actions resulting from project results (for completed projects), and characteristics of projects that have successfully implemented ecosystem services concepts. For further information: Rudy Schuster, USGS, Fort Collins, CO, (970) 226-9165.

Natural Resources

NAVY TRAINING (05/26/11, [76 FR 30552](#)) NMFS has amended the 2009 regulations applying to the Navy Training at VACAPES and JAX to explicitly allow for greater flexibility in the types and amount of training activities that they conduct and explosives that they use. For further information: Shane Guan, Office of Protected Resources, NMFS, (301) 713-2289, ext. 137.

ENDANGERED SPECIES BULLETIN (05/27/11) The [USFWS Endangered Species Bulletin](#) includes more than 20 articles that highlight the roles DoD natural resources managers play in enabling military training and testing, while conserving rare plant and animal species. Included are varied stories as cooperative conservation on the Puget Sound prairies, connecting landscapes for habitat conservation, automated biodiversity monitoring, combating white-nose syndrome in bats, and seed banking for plant recovery.

NEPA

EA FOR STORM WATER GENERAL PERMIT FOR CONSTRUCTION (05/03/11, [76 FR 24874](#)) EPA will prepare an Environmental Assessment (EA) to analyze the potential environmental impacts related to the reissuance of the NPDES General Permit for Discharges from Construction Activities. On 04/25/11, EPA proposed the draft NPDES general permit for stormwater discharges from large and small construction activities ([76 FR 22882](#)). This EA will evaluate the potential environmental impacts from the discharge of pollutants associated with stormwater runoff from construction activities greater than one acre, in States and locations where EPA is the permitting authority. EPA is currently planning to analyze two alternatives: (1) No Action, not issuing the construction general permit (CGP); and (2) issuing the draft CGP implementing the technology-based Effluent Limitation Guidelines and New Source Performance Standards (C&D Rule). The EA will analyze potential environmental impacts of both alternatives on threatened and endangered species, water quality and historic properties. Comments were due 05/27/11. For further information: Jessica Trice, NEPA Compliance Division, EPA, Washington, DC, (202) 564-6646.

FORT BENNING (05/13/11, [76 FR 28029](#)) NEPA documentation submitted to EPA included the Fort Benning Training Land Expansion Program Draft EIS (20110142) to Reduce the Army's Training Land Shortfall, GA and AL. The comment Period Ends: 06/27/2011. Contact: Jill Reilly-Hauck 210-424-8346. For further information: Office of Federal Activities, General Information (202) 564-1399 or <http://www.epa.gov/compliance/nepa/>.

Toxics

HEXAVALENT CHROMIUM (05/05/11, [76 FR 25569](#)) DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement requirements for minimizing the use of materials containing hexavalent chromium in items acquired by DoD. Hexavalent chromium is a chemical that has been used in numerous DoD weapons systems and platforms due to its corrosion protection properties. However, hexavalent chromium is a known carcinogen. The rule prohibits the delivery of items containing more than 0.1 percent by weight hexavalent chromium in any homogeneous material under DoD contracts, unless there is no acceptable alternative to the use of hexavalent chromium. An 04/08/09 DUSD memo *Minimizing the Use of Hexavalent Chromium* specifies that if hexavalent chromium is to

be used on a new system or for operations and support of existing systems, the Program Executive Office or equivalent level, in coordination with the military department's Corrosion Control and Prevention Executive are the authority level required to certify that there are no acceptable alternatives to hexavalent chromium. For further information: Amy Williams, 703-602-0328.

Water

ARMY WATER PORTFOLIO (APRIL 2011) The [Installation Management Water Portfolio](#) is a companion to the [Energy Portfolio](#) and the [Army Energy Security Implementation Strategy](#). It also represents the vision of the entire Installation Management Community to achieve the objectives set by the Secretary of the Army to improve the Army's water security posture. CAC login required for Portfolio documents.

IDENTIFICATION OF WATERS PROTECTED BY CWA (05/05/11, [76 FR 24479](#)) EPA and the Army Corps of Engineers are seeking comment on proposed guidance for identifying waters protected by the CWA, consistent with Supreme Court decisions. This guidance would replace previous guidance regarding protection for critical waters. It will provide clearer, more predictable guidelines for determining which water bodies are protected by the CWA. The agencies believe that under this proposed guidance, the number of waters identified as protected by the CWA will increase compared to current practice and will aid in protecting aquatic resources. The [draft guidance](#) details several Supreme Court opinions regarding waters protected by the CWA, and provides a list of the types of aquatic areas generally not protected by the CWA. Comments are due by 07/01/11. For further information: Donna Downing, EPA Washington DC, 202-566-1783, CWAwaters@epa.gov; [David Olson](#), Army Corps of Engineers, Washington, DC, 202-761-4922.

THE ENERGY WATER NEXUS (05/24/11) Every drop of water saved in the US saves energy, and every unit of energy saved saves water. That overlap has come to be known as the "energy-water nexus." This [report](#), from the American Council for an Energy Efficient Economy (ACEEE) and the Alliance for Water Efficiency, combines the energy efficiency and the water efficiency communities. The report develops a blueprint for future joint efforts and envisions a policy agenda that could drive actions at the Federal, State, local and watershed levels.

NPDES PERMIT REQUIRED (05/17/11, [PRESS REPORT](#)) The US Court of Appeals, Ninth Circuit, has reaffirmed that stormwater runoff from logging roads that is collected by and then discharged from a system of ditches, culverts, and channels is a point source discharge for which an NPDES permit is required. The discharges cannot be exempted from by EPA from NPDES permitting by EPA's Silvicultural Rule, 40 C.F.R. Section 122.27. The Appeals Court said in its [opinion](#), "Until now, EPA has acted on the assumption that NPDES permits are not required for discharges of pollutants from ditches, culverts, and channels that collect stormwater runoff from logging roads. EPA has therefore not had occasion to establish a permitting process for such discharges. But we are confident, given the closely analogous NPDES permitting process for stormwater runoff from other kinds of roads, that EPA will be able to do so effectively and relatively expeditiously."

State Laws and Rulemaking

Alabama

Legislative Session Convened 01/04/11; Adjourned 06/09/11

Effective Dates of Legislation: Upon enactment or as provided in the Act.



Legislation

AL H 50: COAL COMBUSTION BY-PRODUCTS. This bill would remove solid waste exemptions for fly ash waste, bottom ash waste, boiler slag waste, and flue gas emission control wastes. **Status: Passed both houses and enrolled for Governor's action**

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

AL H 104: UNDERWATER CULTURAL RESOURCES ACT. This bill amends Sections 41-9-291 and 41-9-292 of the Code of Alabama 1975, relating to the Alabama Underwater Cultural Resources Act. It amends the definition of cultural resources, adds a definition for artifacts, and provides that it would be lawful to recover abandoned artifacts that are not cultural resources from submerged lands under navigable rivers in this state. **Status: Passed the House and is ready for Senate Vote**

REEO-S NOTE: There is concern that this may inadvertently encourage treasure seekers to enter onto Federal facilities

when searching for cultural resources. The Legislature was scheduled to adjourn sine die, on 9 Jun, but the bill is on the Senate calendar for a vote. Should the bill be enacted, Alabama officials will be asked to consider rule/permit clarification to dissuade enthusiasts from entering Federal facilities.

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

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

Final Rules

AIR POLLUTANTS NSR ADEM is incorporating by reference changes to EPA NSPS and NESHAPs. Additional proposed changes include revisions to PSD, NSR, Title V and transportation conformity rules. Among the rules being incorporated are NESHAPs for existing stationary compression ignition reciprocating internal combustion engines. Rules 335-3-14-.03, 335-3-14-.04 and 335-3-14-.05 were revised to incorporate EPA NSR requirements for PM2.5 emissions. Rule 335-3-14-.05 was also revised to incorporate EPA NSR requirements concerning determination of applicability under EPA "NSR Reform" regulations. ADEM modified Title V regulations to be consistent with the EPA GHG tailoring rule, to include additional thresholds of 100,000 tons per year of GHGs for major source applicability and 75,000 tons per year of GHGs as a significance threshold, based on CO2E emissions. The rule was proposed 12/30/10, and a public hearing was held on 02/9/11. Comments were due 2/11/2011. The final rule was adopted 05/03/11. It became effective 05/23/11.

[Final Rule](#)

Contact: Chris Howard, (334) 271-7878

Florida

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

Effective Dates of Legislation: 60th day after adjournment or as provided in the Act.



Legislation

FL H 7129 (incorporated into H 7207): GROWTH MANAGEMENT. This bill revises and provides provisions relating to growth management, the Local Government Comprehensive Planning and Land Development Regulation Act, comprehensive plans, State land planning agencies, local planning agencies, concurrency, etc. **Status: HB 7207 was enacted; Chapter No. 2011-139**

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

FL H 7001: GROWTH MANAGEMENT PROVISIONS. This measure reenacts existing law related to comprehensive planning and land development in an effort to clarify alleged constitutional defects. **Status: Enacted as Chapter No. 2011-14**

REEO-S NOTE: This bill was in reaction to implementation challenges of past legislation and some resulting litigation. DoD facilities are not impacted.

Final Rules

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

the work program administration, was withdrawn. The remainder of the proposed rule change was adopted and became effective on 5/1/11

[Notice of Development of Rulemaking](#)

[Notice of Proposed Rule](#)

[Partial Rule Withdrawal](#)

[Notice of Partial Withdrawal](#)

Contact: Barbara Powell, (850) 488-8466

Proposed Rules

STANDARDS FOR ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS (FAC, CHAPTER 64E-6) The FL Department of Health (FLDOH) proposed amendments to standards for onsite sewage treatment and disposal systems. The rulemaking develops rules to implement provisions of Chapter 10-205, Laws of Florida (SB 550), which requires FLDOH to administer an onsite sewage treatment and disposal system evaluation and assessment program. Proposed rules address: application for a System Construction Permit; location and installation of onsite sewage treatment and disposal systems; site evaluation criteria; system size determinations; alternative systems; septage and food establishment sludge; portable restrooms and portable or stationary holding tanks; abandonment of systems standards for construction, operation and maintenance of aerobic treatment units; construction materials and standards for treatment receptacles; construction standards for drainfield systems; permitting and construction of repairs; additive use; Department of Agriculture Soil Textural Classification System; system location, design and maintenance criteria; cesspit and undocumented system replacement and interim system use; coordinated permitting; requirements for registration; master septic tank contractors; issuance of registration certificates and renewal; standards of practice and disciplinary guidelines; certification of partnerships and corporation; applications for innovative system permits and reclassification and system construction permits, location, installation, monitoring and Fees. FLDOH held a public workshop 06/04/10 to discuss permitting and approval standards of onsite sewage treatment systems that provide treatment other than a septic tank, such as performance based treatment systems, aerobic treatment units and innovative systems. The Technical Review and Advisory Panel met 07/15/10 and 09/23/10. Public workshops were held October 12, 14, 18 and 21, 10. A public meeting was held in December 2010. DOH has public meetings scheduled through December 2011.

[Notice of Public Workshop](#)

[Notice of Rule Development](#)

Contact: Gerald Briggs, (850) 245-4250

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

[Proposed Rule](#)

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

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

[Notice of Change](#)

[Second Notice of Change](#)

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

SOLID WASTE MANAGEMENT (FAC 62-701.100, .200, .210, .220, .300, .310, .315, .320, .330, .340, .400, .410, .430, .500, .510, .520, .530, .600, .610, .620, .630, .710, .730, .803, .900) Chapter 10-205 of the F.A.C. includes a new requirement that all construction and demolition debris landfills be constructed with liners and leachate control systems. Chapter 10-143, Laws of Florida, includes a new requirement that all construction and demolition debris be processed prior to disposal when economically feasible. This FLDEP rulemaking would amend the rule chapter to address the new requirements. A rule development workshop was held 09/29/10. An additional workshop was planned for January 2011.

[Notice of Proposed Rulemaking](#)

Contact: Richard Tedder, (850) 245-8735

GENERAL AND ENVIRONMENTAL RESOURCE PERMITS (FAC 40C-4.041, .091, .101, .201, .301, .900, FAC 40C-20.042, .900) The SFWMD has proposed rule amendments that would create new ERP permitting criteria: require, for a system that would contain irrigated landscape, golf course, or recreational areas, a water conservation plan that includes irrigation plans, use of lower quality water sources, and no prohibitions on Florida-Friendly landscaping; require, for a system that would contain irrigated landscape, golf course, or recreational areas that require a Consumptive Use Permit (CUP), the applicant concurrently apply for and obtain a CUP; clarify application processing requirements; clarify pre-application conferencing; and update statutory authority. The proposed rule amendment would require a CUP application to irrigate landscape, golf course, or recreational areas for a project that would require a 40C-4 or 40C-40 ERP to construct a system, a concurrent ERP application, and concurrent review and processing of both applications; clarify application-processing requirements; and clarify pre-application conferencing. Rule development workshops were held 09/16/10 and 10/17/10. The rule did not go before the Board at the 12/14/10 meeting.

[Notice of Proposed Rulemaking](#)

Contact: Wendy Gaylord, (386) 326-3026

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

[Notice of Proposed Rulemaking](#)

[FLDEP Summary of Proposed Amendments](#)

Contact: Terri Long, (850) 921-9556

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

[Notice of Development of Rulemaking](#)

Contact: Shirley Shields, (850) 245-8589

CONSUMPTIVE USE PERMITS (CUP) (FAC 40C-2.101, .331, .381, .501, .900) The SJRWMD is proposing amendments that would: (1) expand modifications of CUPs by letter; (2) clarify procedures and criteria for CUP modifications (including letter modifications); (3) revise and update permit limiting conditions and repeal outdated permit conditions; (4) condense water use type categories; (5) revise and update the CUP application form; (6) adopt Water Use Record (EN-50) and Water Use Reporting (EN-51) forms; (7) define domestic use; (8) change the drought frequency used in determining the supplemental irrigation needed for agriculture from a two in 10 year drought to a one in 10 year drought; (9) define one in 10 year drought and repeal the definition of two in 10 year drought; (10) clarify requirements for supplemental irrigation models and expand the types of such models allowed; (11) clarify permit transfer criteria; (12) clarify monitoring requirements for water withdrawal quantities; (13) reduce water use reporting requirements for certain small users if they annually submit an Annual Statement of Continuing Use; and (14) clarify who must submit a water conservation plan as part of a CUP application. The rule was proposed 08/27/10. A rule development workshop was held 09/15/10, and comments were due 10/01/10. A public hearing was held 11/09/10. SJRWMD is taking public

comments. The rule did not go before the Board at the 12/14/10 meeting for authorization to publish the Notice of Proposed Rule.

[Notice of Development of Rulemaking](#)

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

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

[Notice of Development of Rulemaking](#)

Contact: Wendy Gaylord, (386) 326-3026

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

[Notice of Development of Proposed Rulemaking](#)

[Notice of Proposed Rule](#)

[Proposed Rule](#)

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

[FWC Response to Broward County LRRRC](#)

Contact: Scott Calleson, 850-922-4330

SOLAR ENERGY INCENTIVES PROGRAM (FAC 27N-1.500) FLDEP has proposed a new chapter that would implement the Florida Renewable Energy Technologies Act, and provide for rebates for solar energy systems. The previous Solar Energy Systems Incentives Program sunset 06/30/10. Comments were due 01/07/11, and a public hearing was held 02/18/11.

[Notice of Proposed Rule](#)

[Notice of Withdrawal \(Vol. 37, Issue 20, Florida Administrative Weekly 05/20/2011 p.1334\)](#)

Contact: Brittany Cummins, Florida Energy and Climate Commission, 850-487-3800

Georgia

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

Effective Dates of Legislation: Generally, July 1st or as provided in the Act.



Legislation

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

REEO-S NOTE: Would increase the surcharge from \$0.50 to \$0.75 per ton, but adds a new credit of \$0.75 per ton of material recycled. Encourages yard trimmings for composting and energy use and would prohibit yard trimming from being disposed of in a municipal landfill unless the landfill operates a gas capture system.

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

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

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

Proposed Rules

WATER RESOURCE ASSESSMENTS GADNR released three [Draft Water Resource Assessments](#): Groundwater Availability, Surface Water Availability and Surface Water Quality (assimilative capacity). As described in the State Water Plan, these draft assessments are evaluations of the capacity of water resources to meet demands for water supply and wastewater discharge without unreasonable impacts. GADNR expects to refine and adjust the draft assessments. The 2010 regional water planning councils will use the Draft Water Resource Assessments to development management practices to meet future water demands. Contact: Arnetta Murphy, (404) 656-4157

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

[Proposed Rule and Synopsis of Proposed Amendments](#)
[Public Meeting Notice](#)

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

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

[Notice of Proposed Rulemaking](#)
[Proposed Rule](#)

Contact: Marzieh Shahbazaz, (404) 675-6236

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

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

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

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

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

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

PSD (GAC 391-3-1-.02(7), -.03(8)) GAEPD is proposing to amend Rule 391-3-1-.02(7), "Prevention of Significant Deterioration of Air Quality," to specify precursors for ozone and PM2.5. The definition of "regulated NSR pollutant" is added at subparagraph 391-3-1-.02(7)(a)2.(ix). Subparagraph (ix)(I)I specifies that VOCs and NOX are precursors to ozone. Subparagraph (ix)(I)II specifies that sulfur dioxide is a precursor to PM2.5. Both subparagraphs are consistent

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

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

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

SYNTHETIC MINOR AIR QUALITY PERMITS (GAC 391-3-1-.01, 02, 03. RULE 391-3-1-.01(cccc)) The definition of "Synthetic minor permit," is amended to specify that synthetic minor permits may be federally enforceable or enforceable as a practical matter. For a limit to be "enforceable as a practical matter," the permitting agency must be able to determine that the source is complying with the permit limit. This often requires recordkeeping, monitoring and reporting requirements that verify self-imposed limitations on emissions. For a limit to be "federally enforceable," the limit must also go through public notice and comment. Rule 391-3-1-.01(nnnn), the definition of "Procedures for Testing and Monitoring Sources of Air Pollutants," is amended to reference the most recent revision of the manual. Rule 391-3-1-.02 (4), "Ambient Air Standards," is revised to update the AAQS for SO₂ and NO₂ to be consistent with Federal standards. Rule 391-3-1-.02, Subparagraph (9)b, "Emission Standards for Hazardous Air Pollutants," is updated to include the latest amendment dates of rules incorporated into the Georgia Rules by reference, and to make minor changes to ensure consistency between State and Federal programs. Rule 391-3-1-.03(11), "Permit by Rule," is amended to revise applicability provisions of each of 11 permit by rule standards from sources without Federally enforceable permit conditions to sources without conditions "that are federally enforceable or enforceable as a practical matter." The rule was proposed 03/15/11 with a comment deadline of 05/09/11. A public hearing was held 04/11/11.

[Notice of Proposed Amendments](#)

[Synopsis of Proposed Amendments](#)

[Proposed Rule](#)

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

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

STANDARDS FOR PETROLEUM PRODUCTS (GAC 40-20-1-.01, -.12) The Department of Agriculture has proposed to update Rule 40-20-1-.01 to conform to ASTM International standard specifications, EPA regulations and practice. The gasoline sulfur specifications in Rule 40-20-1-.01(a)(1) are revised to 95 ppm, which is also the downstream gasoline sulfur specification in EPA regulation found at 40 CFR 80.210. Lead specifications in Rule 40-20-1-.01(a)(4) and minimum octane ratings for leaded gasoline in Rule 40-20-2-.01(a)(7)(i) are deleted as they are no longer necessary because there leaded gasoline is no longer available for general consumption. The minimum temperature specification for 50% distillation of non-oxygenated Class D-4 gasoline in Rule 40-20-1-.01(a)(5)(i) is changed to 77°C/170° F to conform to specifications in the ASTM D4814 standard. Gasoline from origin to retail not blended with ethanol may meet a minimum 50% evaporated distillation temperature of 66°F for volatility class D-4 only. Gasoline meeting these limits is not suitable for blending with ethanol. Rule 40-20-2-.01(b)(2) is amended to require denatured ethanol used for gasoline blending meet the most recent version of specifications specified in ASTM D4806 standard. A reference to reformulated gasoline ("RFG") in Rule 40-20-2-.01(b)(5) is removed. EPA regulations no longer require minimum oxygen content for RFG. Kinematic viscosity specifications for Fuel Oils in Rule 40-20-2-.01(d)(1)(iv), (d)(2)(iv), (d)(3)(ii), and (d)(4)(ii) are

changed to comply with specifications in ASTM D396, the Standard Specifications for Fuel Oils. A public hearing has not been scheduled. The deadline for public comment was 05/27/11.

[Notice of proposed rulemaking](#)

[Proposed rules: 40-20-1-01, 40-20-1-12](#)

Contact: Rich Lewis, 404-656-3605

Kentucky

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

Effective Dates of Legislation: 90 days after adjournment or as otherwise provided in the Act.



Legislation

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

Status: Enacted

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

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

Status: Enacted

REEO-S NOTE: The measure deletes the Long Term Policy Research Center. DoD membership remains unchanged. Not sure why the Chief Justice would be added to the Commission or the potential impact of such membership.

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

REEO-S NOTE: The bill creates a new certification requirement and fee structure, and includes reciprocity provisions for recognizing certifications of other states.

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

REEO-S NOTE: Similar to sequestration legislation in Mississippi.

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

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

KY S 50: CAPTURE AND TRANSPORTATION OF CARBON DIOXIDE. This bill amends Subchapter 27 of KRS Chapter 154 to provide that a carbon dioxide pipeline company may exercise the power of eminent domain for constructing, maintaining, utilizing, operating, and gaining access to a carbon dioxide transmission pipeline. The bill also provides that the commission may monitor the compliance of interstate carbon dioxide transmission pipelines with federal pipeline safety

laws and requires carbon dioxide transmission pipeline companies to obtain construction certificates from the State Board on Electric Generation and Siting. **Status: Enacted**

REEO-S NOTE: For informational purposes only.

KY S 70: ENVIRONMENTAL PROTECTION AND REGIONAL SCREENING LEVELS. Relates to environmental protection, requires use of the [Regional Screening Level](#) Table for us EPA Region 3 rather than Region 9 and the guidance in the Risk-Based Concentration Table User's Guide, provides for administrative regulations, and relates to standards for hazardous substances, pollutants, contaminants, petroleum or petroleum products. **Status: Enacted**

REEO-S NOTE: Similar to failed legislation to adopt Region 3 RSL during the last session. This would adopt updated levels and should not adversely affect DoD remediation efforts.

Proposed Rules

UST SYSTEMS (401 KAR CHAPTER 42) This rulemaking clarifies requirements for UST systems, to include: release response, site characterization and corrective action; temporary closure and reporting and recordkeeping requirements; classification and screening levels; financial responsibility for corrective action and compensation of third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases. It establishes criteria for ranking facilities and revises procedures to administer accounts of the Petroleum Storage Tank Environmental Assurance Fund; amends rules concerning laboratory certification; promulgates a new rule that establishes procedures by which the cabinet may invoke a delivery prohibition; and repeals rules concerning contractor certification for individuals who perform corrective action. Rules were proposed 05/01/11. A public hearing was held 05/24/11, and comments were due 05/31/11.

[Proposed Rules](#)

Contact: [Cassandra Jobe](#) (502) 564-6716

PETROLEUM CONTAMINATED SOIL TREATMENT FACILITIES (401 KAR 47:205; 47:207; 48:205-208) This rulemaking implements new rules for petroleum contaminated soil treatment facilities. The rulemaking includes provisions to establish application requirements; permit issuance and public information procedures; procedures for excluding receipt of wastes other than petroleum contaminated soil, petroleum contaminated soil characterization, treatment standards and disposition of treated soil, and recordkeeping and reporting requirements; biopile liner geosynthetic quality assurance and quality control testing requirements. The rules were proposed 05/01/11. A public hearing was held 05/23/11, and comments were due 05/31/11.

[Proposed Rules](#)

Contact: [Kelli Reynolds](#) (502) 564-6716

Mississippi

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

Effective Dates of Legislation: 60 days after passage, unless otherwise provided in the Act.



Legislation

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

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

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

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

acted similar legislation.

Final Rules

DETERIORATION OF AIR QUALITY (APC-S-5) Amendments will incorporate Federal provisions relating to implementing the NSR program for PM 2.5 promulgated by EPA on 05/16/08, and PM 2.5 Increments, Significant Impact Levels and Significant Monitoring Concentration promulgated 10/20/10. Amendments were proposed 03/22/11. Comments were due, and a Public Hearing was held 04/21/11. The rules were adopted 05/03/11. They became effective 06/02/11.

[Notice of Proposed Rulemaking](#)

[Final Rule](#)

Contact: [Ted Lampton](#), (601) 961-3573

Proposed Rules

USTs This proposed rule amendment adds training requirements for UST compliance managers and operations clerks. It requires owners and operators to maintain records regarding such training and report those trained as Compliance Managers. The rule was proposed on 05/03/11, and comments were due 05/28/11. A Public Hearing was held 06/02/11.

[Proposed Rule](#)

Contact: [Kevin Henderson](#) (601) 961-5283

WATER QUALITY CRITERIA (WPC-2) This proposed amendment adds an antidegradation implementation policy to the regulations. The rule was proposed 05/10/11, and comments were due 06/04/11. A Public Hearing will be held 06/14/11.

[Proposed Rule](#)

Contact: [Ted Lampton](#), (601) 961-3573

North Carolina

2011 Legislative Long Session began 01/19/11 and ends ~07/01/11

Effective Dates of Legislation: 60 days after adjournment unless directed otherwise in the bill.



Legislation

NC H 45: INDUSTRIAL SITE CLEANUP AND RISK REMEDIATION. This bill authorizes NCDENR to approve the remediation of contaminated industrial sites based on site-specific remediation standards in certain circumstances in order to expedite the cleanup of former industrial sites. The bill excludes contaminated industrial sites subject the Leaking Petroleum Underground Storage Tank Cleanup program. It also limits application to sites where a discharge, spill, or release of contamination has been reported to NCDENR prior to 03/01/11. The bill requires a fee to the Remediation Fund in an amount equal to \$4,500 for each acre or portion of an acre of contamination up to a maximum of \$125,000. **Status:**

Passed both houses and Ratified

REEO-S NOTE: Voluntary program that does not directly affect DoD.

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

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

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

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

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

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

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

REEO-S NOTE: DoD may not be able to take advantage of its provisions because it would likely be considered less stringent than Federal requirements.

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

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

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

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

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

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

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

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

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

REEO-S NOTE: This measure could result in land use changes around installations.

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

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

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

Senate committee

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

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

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

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

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

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

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

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

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

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

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

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

Final Rules

PRETREATMENT REGULATIONS (15A NCAC 02H .0901-.0910, .0912-.0917, .0919-.0921, 15A NCAC 02H .0922)
NCDENR adopted a new rule and amendments to pretreatment rules. Amendments address several aspects of EPA's streamlining of Federal Pretreatment Regulations in 40 CFR 403, to include granting North Carolina municipalities access to provisions that allow pretreatment control authorities the option to reduce sampling of extremely small industrial users. Amendments ensure consistency with Federal regulations and current Division of Water Quality (DWQ) practices. They also allow DWQ flexibility in oversight of Pretreatment Programs, to include ensuring adequate communication and coordination regarding industrial user discharges in where one publicly owned treatment work (POTW) sends wastewater to another POTW for treatment. New rule 15A NCAC 02H .0922 consolidates and updates adjudicatory hearing conditions to cover pretreatment civil penalties and administrative orders in addition to the adjudication of pretreatment permits already covered in an existing rule. NCDENR held a public hearing 06/17/10, and written comments were accepted until 08/02/10. The rule went before the EMC at the 11/18/10 meeting. Part of the rule was adopted 02/17/11. It became effective 04/01/11. The remaining rules were adopted 05/01/11.

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

Adopted Rule Citation: Vol. 25, Issue 21, North Carolina Register 05/02/2011 pp.2379-2385

Contact: Deborah Gore, (919) 807-6383

SOLID WASTE MANAGEMENT (15A NCAC 13B .0101, .0563, .1604, .1626, .1632 THRU .1635, .1637) This rulemaking removes the term "untreated wood" from 15A NCAC 13B .0101 and .0563 to clarify and decrease confusion about the apparent contradiction between the rules and N.C. Gen. Stat. § 130A-290(a)(15). With respect to 15A NCAC 13B .1604 and .1626, the rulemaking addresses an ambiguity. The present wording of the cited rule is ambiguous, in that, followed by the phrase "from the permitted landfill facility," some in the regulated community have interpreted this to mean that leachate could flow anywhere and any distance beyond the liner or leachate collection system, as long as it stays within the permitted landfill facility. The rule was adopted in several stages, and became effective 04/01/11. Citation: Vol. 25, Issue 21, North Carolina Register 05/02/11 pp.2385-2390. Contact: [Ellen Lorscheider](#), 919-508-8400

CERTIFICATION OF WELL CONTRACTORS (15A NCAC 27 .0101, .0110, .0301, .0401, .0410, .0420, .0430, .0440, .0510, .0601, .0702-.0704, .0801, .0810, .0820, .0830, .0840, .0901, .0910) This amends rules addressing duties and definitions, certification of well contractors, certification with and without examination, certification renewal, types of certification, continuing education requirements, and procedures for disciplinary actions. It became effective on 05/01/11.

Citation: Vol. 25, Issue 21, North Carolina Register 05/02/2011 pp.2390-2395

Contact: [Joanne Rutkofske](#), 919-715-9135

Proposed Rules

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

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

Contact: Deborah Gore, (919) 807-6383

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

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

[Objections Proposed](#)

Contact: Joelle Burleson, (919) 733-1474

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

AIR QUALITY: SO₂, NO₂ (15A NCAC 02D .0402, .0407) NCDENR is proposing amendments to 15A NCAC 02D .0402, Sulfur Oxides and 15A NCAC 02D .0407, Nitrogen Dioxide, to incorporate the revised primary NAAQS for sulfur dioxide (SO₂) and nitrogen dioxide (NO₂), promulgated by EPA into the state air quality rules. On 06/02/10, EPA strengthened the primary NAAQS for SO₂ by replacing the 24-hour and annual standard with a new 1-hour SO₂ standard at a level of 75 ppb, based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. EPA is revoking the two existing primary standards of 140 ppb evaluated over 24-hours, and 30 ppb annual standard evaluated over an entire year because there is little health evidence to suggest an association between long-term exposure to SO₂ and health effects. The new 1-hour standard applies only to the primary standard set to protect public health, especially for children, the elderly, and people with asthma. EPA also strengthened the health-based NAAQS for NO₂. EPA is supplementing the existing annual standard for NO₂ of 53 ppb by establishing a new short-term standard based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. EPA is setting the level of this new standard at 100 ppb. EPA is making changes in data handling conventions for NO₂ by adding provisions for this new 1-hour primary standard that will protect public health, including the health of sensitive populations (people with asthma, children, and elderly). EPA is retaining, with no change, the current annual average NO₂ standard of 53 ppb. A public hearing was held 05/04/11. Comments were due 05/31/11.

[Notice of Public Hearing](#)

GROUNDWATER CONCENTRATION LIMITS (PUBLIC NOTICE) The Division of Water Quality received a petition to establish interim maximum allowable concentrations in groundwater for Acetophenone, Benzaldehyde, Carbazole, Diphenyl Ether, 2,4-Dinitrotoluene, Endosulfan Sulfate, Ethanol, Ethyl tert-Butyl Ether, alpha-Hexachlorocyclohexane, beta-Hexachlorocyclohexane, 2-Hexanone, 4-Isopropyl- toluene, 1-Methylnaphthalene, 2-Methyl Phenol and tert-Amyl Methyl Ether. The interim concentrations will aid NCDENR programs in assessing conditions and setting health protective groundwater levels at regulated sites. In accordance with 15A NCAC 02L .0202(c), data supporting the request and recommendations from the Division of Water Quality and the Division of Public Health were reviewed. Interim maximum allowable concentrations for contaminants listed in the notice are established for Class GA and GSA ground waters and are effective 04/01/11. In addition, an interim maximum allowable concentration for tert-Butyl Alcohol has been established IAW 15A NCAC 02L .0202(c), effective 01/06/11. Action to adopt permanent standards for these substances will be initiated during the 2010-2012 Groundwater Standards Triennial Review.

Citation: Vol. 25, Issue 19, North Carolina Register 04/01/2011 p. 2200

Contact: [Sandra Moore](#), 919-807-6417

South Carolina

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

Effective Dates of Legislation: 20th day after Governor signs or as provided in the Act.



Proposed Rules

WATER CLASSIFICATIONS AND STANDARDS (R. 61-68, -69) This proposed rule clarifies implementation details regarding the freshwater bacteriological indicator for NPDES permits, ambient water quality assessment and Total Maximum Daily Load (TMDL) development. The proposed rule clarifies the E. Coli bacteriological indicator for protection of recreational uses in Class SA, Class SB, and Shellfish Harvesting waters and, where appropriate, clarifies implementation details for NPDES permits, ambient water quality assessment and TMDL development. The rule was proposed 04/22/11, and comments were due 05/23/11. A Public Hearing has not been scheduled.

[Proposed Rule](#)

Contact: [Gina Kirkland](#) (803) 898-4355

Tennessee

Legislative Session Convened 01/11/11; Adjourn 05/21/11

Effective Dates of Legislation: 40 days after signing or as provided in the Act.



Legislation

TN H 976 / TN S 1055: FLUORIDATION. These measures require any public water system or waterworks system that discontinues the fluoridation of its water supply to give notice of such discontinuance to applicable State agencies and affected customers. **Status: Passed by House and Senate**

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

Proposed Rules

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

[Notice of Proposed Rulemaking](#)

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

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

[Proposed Rule](#)

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

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

[Notice of Proposed Rulemaking](#)

Contact: Rhonda Key, 615-532-0972

Frequently Used Acronyms

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