



The Southern Region Review



April 11, Region 4 Edition

As an office within the Assistant Secretary of the Army for Installations, Energy & Environment, the Regional Environmental and Energy Office—Southern (REEO-S) 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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Contents

[Hot Topics](#).....2

[Conferences and Training](#).....2

[Federal Notices and Rulemaking](#).....5

State Laws and Rulemaking

[Alabama](#).....8

[Florida](#).....8

[Georgia](#).....13

[Kentucky](#).....15

[Mississippi](#).....17

[North Carolina](#).....17

[South Carolina](#).....19

[Tennessee](#).....21

[Frequently Used Acronyms](#).....29



Hot Topics

DoD NATURAL RESOURCES POLICY GUIDANCE (02/14/11) The Under Secretary of Defense for Acquisition, Technology and Logistics (AT&L) signed [DoDI \(DoDI\) 4715.03, titled Natural Resources Conservation Program](#). The new DoDI formalizes policies and procedures for the integrated management of natural resources on military lands, air, waters, coastal and near-shore areas managed or controlled by DoD. The DoDI also updates programming and budgeting priorities, and establishes new performance metrics to evaluate how natural resources management can enable the military mission and ensure long-term health of installation ecosystems. The DoDI provides procedures for DoD components and installations for developing, implementing and evaluating natural resources management programs.

EPA COMPLIANCE AND ENFORCEMENT (03/04/11, FEDCENTER) EPA's Federal Facilities Program released its [National Federal Facilities Compliance and Enforcement FY11 Program Agenda](#). The Federal Facilities Program strives to achieve the strategic goal of improving compliance by ensuring Federal agencies long-term compliance with environmental laws. For further information: [FedCenter Manager](#).

Conferences and Training

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

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

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

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

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

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

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

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

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

objects (such as lessons learned, best practices, templates, or samples), or collaborate with peers on work issues.

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

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

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

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

APRIL 19-20, MACON, GA: [11 GEORGIA ASSOCIATION OF WATER PROFESSIONALS 11 INDUSTRIAL CONFERENCE AND EXPO](#). Visit website for further information.

APRIL 20, ONLINE: [RADAR AND WIND SYSTEMS WEBINAR](#). This free webinar will provide a discussion about radar-related issues and concerns.

APRIL 26-29, DENVER, CO: [NATIONAL ASSOCIATE OF ENVIRONMENTAL PROFESSIONALS 36TH ANNUAL CONFERENCE](#). Visit website for further information.

MAY 2-6, ARLINGTON, VA: [WATER QUALITY STANDARDS ACADEMY](#). EPA announces the Water Quality Standards Academy: Basic Course, an introductory course designed for those with fewer than one-year experience with water quality standards and criteria programs. The five-day course is aimed at states, territories, tribes, environmental groups, industrial groups, municipalities, the academic community, federal agencies, watershed groups and other interested parties. This is a comprehensive and highly structured course that introduces participants to all aspects of the water quality standards program, including the interpretation and application of the water quality standards regulation: water body designated uses, the development of water quality criteria (including human health, aquatic life, nutrient and biological), antidegradation policies, implementation, State/Tribal standards adoption and EPA review.

MAY 3, DESTIN, FL: [UTILITY ENERGY SERVICES CONTRACTING \(UESC\) PROJECTS WORKSHOP](#). This workshop is for Federal procurement teams and will provide attendees with an overview of contracting options and services available from serving utility companies to engineer, finance and install cost effective energy and water saving projects. Participants will walk through the typical project process, from the audit phase to commissioning the equipment. Upon completion, participants will have the contracting and technical knowledge to begin a project at their facility. This innovative alternative financing opportunity provides a mechanism to help solve facility problems and meet program objectives and goals.

MAY 5, ONLINE: [RENEWABLE ENERGY](#). The webinar outlines requirements and best practices for utilizing renewable energy for electricity, heating, cooling and other applications at Federal facilities.

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

MAY 15, ONLINE: [OPPORTUNITIES FOR ADDING NEW TRANSMISSION LINES TO SUPPORT RENEWABLES](#). This free webinar is part of the DOE's Wind Powering America 11 webinar series. The speakers will focus on three activities that provide the opportunity to build additional transmission lines to get renewable energy to the market: Western Renewable Energy Zones (WREZs), USDA's Rural Utilities Service and Western Area Power Administration's (Western's) Transmission Infrastructure Program.

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

MAY 24-26, ORLANDO, FL: [CLIMATE INFORMATION FOR MANAGING RISKS](#). The symposium will feature a diverse group of oral and poster presentations focusing on a wide range of topics such as managing risks to agriculture, land use and land cover changes, coastal and urban communities, water resources, scenarios for planning, biodiversity and conservation, and cross-sector impacts.

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

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

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

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

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

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

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

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

Federal Notices and Rulemaking

Air

OZONE (02/28/11, [76 FR 10893](#)) EPA released the first external review draft of a document titled, "[First External Review Draft Integrated Science Assessment for Ozone and Related Photochemical Oxidants](#)" (EPA/600/R-10/076A). The document was prepared by the National Center for Environmental Assessment (NCEA) as part of the review of the NAAQS for ozone. Comments are due 04/29/11. For further information: [Dr. James Brown](#), NCEA, 919-541-0765.

RECIPROCATING INTERNAL COMBUSTION ENGINES NESHAP (03/09/11, [76 FR 12863](#)) EPA has issued a direct final rule to clarify compliance requirements related to continuous parameter monitoring systems on existing stationary spark ignition reciprocating internal combustion engines. The change amends EPA's final rule published 08/20/10. For further information: [Melanie King](#), EPA, Research Triangle Park, North Carolina, (919) 541-2469.

GHG REPORTING (03/18/11, [76 FR 14812](#)) EPA issued final rule to extend until 09/30/11, the reporting deadline for

year 10 data required under the Mandatory Reporting of Greenhouse Gases Rule. This rule changes only the deadline for reporting for 11; it does not change the reporting deadline for future years, and does not change what data must be reported. This deadline extension will, in the first year of the GHG Reporting Program: allow time for refinement of the electronic data reporting system; stakeholder testing of the reporting system and feedback to EPA; and reporter access to the reporting system in advance of the reporting deadline. This final rule became effective on 03/18/11. For [further information](#): Carole Cook; EPA, Climate Change Division; Washington, DC; (202) 343-9263, GHGReportingCBI@epa.gov.

COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION NESHAP (03/21/11, [76 FR 15704](#)) EPA has issued the final rule addressing NSPS and emission guidelines for commercial and industrial solid waste incineration units. Boilers or process heaters that burn waste are subject to the standards as energy recovery units; solid waste is defined under another EPA rule also finalized this week. For further information: [Ms. Toni Jones](#), EPA, Research Triangle Park, North Carolina, (919) 541-0316.

NESHAPS FOR MAJOR SOURCES (03/21/11, [76 FR 15608](#)) EPA formally published NESHAPs for industrial/commercial/institutional boilers and process heaters located at major sources. The maximum achievable control technology (MACT) emission limits apply only to new and existing boilers and process heaters that have a designed heat input capacity of 10 million British thermal units per hour (MMBtu/hr) or greater. EPA is providing optional output-based standards requiring a work practice standard for four particular classes of boilers and process heaters: new and existing units that have a designed heat input capacity of less than 10 MMBtu/hr, new and existing units in the Gas 1 (natural gas/ refinery gas) subcategory and the metal process furnaces subcategory. The work practice standard for these boilers and process heaters requires implementation of a tune-up program. This final rule regulates HCl (as a surrogate for acid gas HAP), PM (as a surrogate for non-Hg HAP metals), CO (as a surrogate for non-dioxin/furan organic HAP), mercury, and dioxin/furan emissions from boilers and process heaters. The ruling includes requirements for startup, shutdown and malfunction; testing and initial compliance; continuous compliance requirements; and notification, recordkeeping and reporting. All units that combust solid waste are excluded from the standards. The definition of coal was revised to include all types of fossil-based fuels in the coal definition; definition of biomass fuel was revised to include potential biomass-based fuels. This final rule is effective on 05/20/11. For further information: [Brian Shrager](#); EPA Office of Air Quality Planning and Standards; Research Triangle Park, NC, 919-541-7689.

NESHAPS FOR AREA SOURCES (03/21/11, [76 FR 15554](#)) EPA formally issued NESHAPs for industrial, commercial and institutional boilers at area sources. This NESHAP applies to all existing and new industrial boilers, and institutional and commercial boilers located at area sources. EPA is promulgating generally available control technologies (GACT) standards for PM (as a surrogate for the individual urban metal HAP) for coal, biomass, and oil-fired boilers and CO (as a surrogate pollutant for the individual urban organic HAP) for biomass-fired and oil-fired boilers. EPA is also establishing MACT standards for mercury and for particulate organic matter (POM) (using CO as a surrogate pollutant) for coal-fired boilers. The MACT standard for POM from coal-fired boilers would also be GACT for urban organic HAP other than POM. This rule applies to owners or operators of a boiler combusting solid fossil fuels, biomass or liquid fuels located at an area source. The standards do not apply to boilers subject to another standard under 40 CFR part 63, or to a standard developed under CAA section 129. This rule also applies to owners or operators of a boiler combusting natural gas, located at an area source that switches to combusting solid fossil fuels, biomass or liquid fuel after 06/04/10. The industrial boiler source category includes boilers used in manufacturing, processing, mining, refining or any other industry. The commercial boiler source category includes boilers used in commercial establishments such as stores, malls, laundries, apartments, restaurants, hotels and motels. The institutional boiler source category includes boilers used in medical centers (e.g., hospitals, clinics, nursing homes), educational and religious facilities (e.g., schools, universities, churches) and municipal buildings (e.g., courthouses, prisons). This final rule is effective on 05/20/11. For further information: [James Eddinger](#); EPA Office of Air Quality Planning and Standards; Research Triangle Park, NC, 919-541-5426.

Climate Change

FEDERAL AGENCY ADAPTATION PLANNING ([WHITE HOUSE PRESS RELEASE, 76 FR 12945](#)) CEQ issued a set of [implementing instructions](#) for Federal Agency Adaptation Planning. The instructions inform agencies on how to integrate climate change adaptation into planning, operations, policies and programs, as recommended by the Interagency Climate Change Adaptation Task Force in its [October 10 Progress Report](#) to the President. A [Companion Support Document](#) has also been issued. On 03/16/11, the Task Force released an [Interim Progress Report](#) that outlines the Task Force's progress to date and recommends key components to include in a national strategy on climate change adaptation. For further information: Michelle Moore, Federal Environmental Executive, Office of the Federal Environmental Executive, 202-395-5750.

NATIONAL SECURITY (03/10/11, [Navy News Service](#)) The National Research Council of the National Academies has re-

leased a [prepublication draft](#) of a report, "National Security Implications of Climate Change for U.S. Naval Forces," commissioned by the Chief of Naval Operations. The study found that even the most moderate current trends in climate, if continued, will present new national security challenges for the Navy, Marine Corps, and Coast Guard. The report addresses both the near- and long-term implications for US Naval forces.

CLIMATE CHANGE VULNERABILITY (MARCH 11) "[Climate Change Vulnerability Assessments: Four Case Studies of Water Utility Practices \(11 Final\)](#)," presents a series of case studies describing approaches being taken by four water utilities in the US to assess vulnerability to climate change. The case studies illustrate different approaches that reflect specific local needs and conditions, existing vulnerabilities, local partnerships and available information about climate change. Information from these case studies will be useful to water utilities and other members of the water resources community to inform the development of strategies for understanding and responding to climate change. This report was prepared by the National Center for Environmental Assessment's Global Climate Research Staff in the Office of Research and Development. For further information: [Thomas Johnson](#), EPA, 703-347-8618.

Energy

NET ZERO ENERGY INSTALLATION ASSESSMENT (NZEI) (08/10) The NZEI presents an assessment and planning process to examine military installations for net zero energy potential. It offers a systematic framework to analyze energy projects at installations, while balancing other site priorities such as mission, cost and security. This report is the result of a joint initiative that was formed between DoD and DOE in 2008 to address military energy use that led to a task force to examine the potential for NZE military installations. Such installations would produce as much energy on-site from renewable energy generation or on-site use of renewable fuels, as they consume in buildings, facilities and fleet vehicles.

FLEET TECHNICAL ASSISTANCE (02/28/11, [DOE NEWS](#)) DOE will provide technical assistance to Federal agencies to provide the analysis needed to meet vehicle fleet mandates to reduce gasoline use and increase alternative fuel use. The Federal government currently operates more than 600,000 vehicles, and the [Federal Energy Management Program's \(FEMP\) technical assistance](#) call will provide a vital service to ensure that Federal agencies invest appropriated funds efficiently by using DOE expertise to support fleet analysis.

DOE AND DoD MOU (03/02/11, [DOE NEWS](#)) Furthering the Memorandum of Understanding (MOU) announced last summer, newly announced steps strengthen coordination and better leverage the expertise and resources of both DoD and DOE to enhance national energy security, and demonstrate the Obama Administration's leadership in transitioning America to a clean energy economy. One of the primary goals of this effort is efficient energy storage.

ELECTRICITY FROM RENEWABLE ENERGY SOURCES (03/17/11, [76 FR 14587](#)) DoD amended the Defense Federal Acquisition Regulation Supplement (DFARS) to authorize electricity purchases from renewable energy sources by contract for a period not to exceed 10 years. For contracts exceeding five years, DoD's contracting activity must determine on the basis of a business case analysis that: proposed purchase of electricity under such contract is cost effective; and it would not be possible to purchase electricity from the source in an economical manner without the use of a contract for a period in excess of five years. This ruling became effective 03/17/11. For further information: Amy G. Williams, 703-602-0328.

TECHNOLOGY DEVELOPMENT (03/14/11, [76 FR 13607](#)) DOE has initiated a Quadrennial Technology Review (DOE-QTR) of its energy technology development policies and programs. DOE will use a [DOE-QTR Framing Document](#) for the review process. The framing document describes the national energy landscape and challenges, important RD&D policy choices to be made, and summarizes the status of energy technologies and DOE technology program goals. The administration's national energy goals include: reduce energy-related GHG emissions by 17% by 2020 and 83% by 2050, from a 2005 baseline; supply 80% of America's electricity from clean energy sources by 2035; and support deployment of 1 million electric vehicles (EVs) on the road by 2015. DOE has identified six strategies to address national energy goals. increase vehicle efficiency, promote progressive electrification of the vehicle fleet, develop alternative fuels, increase building and industrial efficiency, modernize the grid and drive adoption and deployment of a clean electricity supply. Comments are due 04/15/11. For further information: [Asa Hopkins](#), Office of the Under Secretary for Science at (202) 586-0505.

Miscellaneous

PROPOSAL REQUESTS (02/28/11, [DOI PRESS RELEASE](#)) The Department of the Interior [invited proposals](#) on grants.gov to host DOI Climate Science Centers (CSCs) in the Northeast, South Central, and Pacific regions. These CSCs are the last three in a network of eight existing or planned centers around the nation that will serve as regional hubs of the National

EPA MANAGEMENT CHALLENGES (03/02/11) GAO has released a [report](#) reviewing management challenges faced by EPA, including regulation of nanotechnology, non-point source nutrient pollution of waters, the pace of superfund site cleanup, and climate change. For further information: [David Trimble](#), GAO, (202) 512-3841.

REDUCE DUPLICATION IN GOVERNMENT (03/03/11, GAO-11-441T) GAO provided testimony to Congress on "[Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue.](#)" The document addresses Federal programs or functional areas where unnecessary duplication, overlap or fragmentation exists, and other opportunities for potential cost savings or enhanced revenues. Identified areas of duplication, overlap or fragmentation included conflicting requirements for the Federal fleet energy goals, and fragmented interagency efforts to defend against biological threats. Identified cost saving or revenue-enhancement opportunities included: DoD is to assess costs and benefits of overseas military presence options before committing to costly personnel realignments and construction plans; improved corrosion prevention and control practices could help DOD avoid unnecessary costs over time; cost-effectiveness of sustaining weapon systems could be improved by more comprehensive and complete cost data; and cost savings by continued disposal of unneeded Federal real property. Costly historic preservation or environmental cleanup requirements prior to disposal were identified as barriers. GAO suggested OMB could assist with meeting the property disposal targets, established by Presidential Memorandum, by developing an action plan to address key problems, such competing stakeholder interests in real property decisions. For further information: [Ralph Dawn](#); GAO Managing Director, Washington, DC; 202-512-4400.

NEPA (03/17/11, [WHITE HOUSE PRESS RELEASE](#)) CEQ is calling on the public and Federal agencies to nominate projects that use innovative approaches to increase the efficiency of environmental reviews under NEPA. As part of CEQ's efforts to modernize and reinvigorate Federal agency implementation of NEPA, and encourage innovation, public engagement and transparency, CEQ will track and publicize progress of selected pilot projects to identify and promote efficient ways to do effective environmental reviews that can be replicated across the Federal Government. CEQ will accept [nominations](#) until 06/15/10.

Natural Resources

FRESHWATER MUSSELS (USFWS has proposed to list the [spectaclecase mussel](#) (*Cumberlandia monodonta*) and [sheep-nose](#) (*Plethobasus cyphus*) as endangered under the ESA. If finalized this rule as proposed, would extend ESA protections to these species throughout their ranges, including sheepsnose in Alabama, Kentucky, Mississippi, Tennessee; spectaclecase in Alabama, Kentucky and Tennessee. USFWS has determined that critical habitat for these species is prudent, but not determinable at this time.

[AMERICA'S GREAT OUTDOORS INITIATIVE \(03/08/11\)](#) President Obama launched the AGO Initiative to develop a 21st Century conservation and recreation agenda. AGO takes as its premise that lasting conservation solutions should rise from the American people; the protection of our natural heritage is a non-partisan objective shared by all Americans. AGO recognizes that many of the best ideas come from outside of Washington. Instead of dictating policies, this initiative turns to communities for local, grassroots conservation initiatives. Instead of growing bureaucracy, it calls for reworking inefficient policies and making the Federal Government a better partner with states, tribes and local communities. [The America's Great Outdoors Report](#) is the result of this work.

Toxics

HEXAVALENT CHROMIUM The American Water Works Association ([AWWA](#)) [opposed EPA's recent guidance](#) that called for voluntary monitoring of hexavalent chromium in drinking water. The AWWA stated that EPA did not follow the principles of the Safe Drinking Water Act.

Water

PESTICIDE DISCHARGES INTO US WATERS (03/03/11, [EPA](#)) EPA is requesting an extension to allow more time for pesticide operators to obtain permits for pesticide discharges into US waters. EPA is requesting that the deadline be extended from 04/09/11 to 10/31/11. During the period while the court is considering the extension request, permits for pesticide applications will not be required under the CWA.

State Laws and Rulemaking

Alabama

Legislative Session Convenes 03/12/11; Adjourns 06/04/11



Legislation

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

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

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

Status: In committee

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

Proposed Rules

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

[Notice of Public Hearing](#)

[Proposed Rule](#)

[Final Rule](#)

Contact: Larry Bryant, (334) 271-7771

Florida

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



Legislation

[FL H 13 / FL S 130] IDENTICAL; FL S 82 / FL S 168 / FL S 1698: ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM. Revises legislative intent, eliminates provisions directing DOH to create & administer statewide septic tank evaluation program, eliminates procedures & criteria for evaluation program, terminates grant program for repair of onsite sewage treatment disposal systems identified pursuant to evaluation program, to conform, eliminates provisions authorizing DOH to collect evaluation report fee & provisions relating to disposition of fee proceeds & revenue-neutral fee schedule. **Status:** H13: reported favorably 3/17/11; S130: 11/23/10 – In committee; S082: 11/23/10 - In committee; S168: 12/01/10 – In committee; S1698: 03/04/11 - Filed

REEO-S NOTE: Quite a lot of activity on this subject and HB 13 has some momentum. Most of the above measures would relieve certain reporting and other requirements for DoD facilities operating such systems. While these bills propose eliminating the grant program, any fees would remain intact.

FL H 147 / FL S 132: CONTAMINATION NOTIFICATION. Relates to contamination notification, revises contamination

notification provisions, requires individuals responsible for site rehabilitation to provide notice of site rehabilitation to specified entities, revises provisions relating to content of such notice, requires DEP to provide notice to specified entities and certain property owners, authorizes DEP to pursue enforcement measures for noncompliance, revises notification for schools, child care, colleges and universities, and neighborhood associations. **Status:** H147: 01/25/11 – In committee; S132: 01/26/11 – In committee

REEO-S NOTE: Would add significant to specifics to existing notification requirements. DoD activities subject to such potential notification requirements should review.

FL H 219 / FL S 282 / [FL H 221 / FL S 284 (TRUST FUND)]: RENEWABLE ENERGY CHARGE. Relates to renewable energy, requires electric utilities to collect monthly systems charge from residential, commercial, and industrial customers, provides for deposit of collected funds into Sustainable and Renewable Energy Policy Trust Fund, creates direct-support organization for Florida Energy and Climate Commission, requires contract between office and direct-support organization, provides for use of funds, requires annual audit. **Status:** H219: 02/01/11 – In committee; S282: 01/05/11 – In committee

REEO-S NOTE: May result in DoD activities being charged an impermissible assessment via utility billing. The fee as proposed would be 25 cents per month. The legislation is vague; the definition of "utility customer" does not include federal agencies (only residential, commercial and industrial). If the law passes as currently proposed, and DoD entities begin seeing the charge, DoD will need to determine the appropriate response.

FL H 223 / FL S 950: WATER AND WASTEWATER UTILITIES. Relates to water and wastewater utilities, provides for recovery through surcharge of costs for water and wastewater system improvement projects; requires PSC approval of surcharge and limits surcharge amount; provides requirements for surcharge billing, reconciliation and adjustment; provides project eligibility criteria; and provides requirements for notice, maintenance and availability of certain records. **Status:** H223: 02/01/11 – In committee, S950: reported favorably 03/23/11

FL H 239 / FL S 1090: NUTRIENT CRITERIA. This bill prohibits the Department of Environmental Protection, water management districts, and all other state, regional, and local governmental entities from implementing the US EPA's nutrient water quality criteria rules for the state's lakes and flowing waters, finalized on December 6, 10, and published in Volume 75, No. 233 of the Federal Register. The bill provides that FLDEP may adopt numeric nutrient water quality criteria for a particular surface water or class of surface waters if the FLDEP determines such criteria are necessary based on historic and projected nutrient loading trends, existing and forthcoming technology-based nutrient reduction measures, and existing and forthcoming water quality restoration and protection programs applicable to the surface water or class of surface waters. **Status:** H239: 02/01/11 – In committee; S1090: 02/15/11 – In committee

FL H 261 / FL S 232: CENTURY COMMISSION FOR A SUSTAINABLE FLORIDA. Relates to century commission for a sustainable Florida, revises provisions relating to Century Commission for a Sustainable Florida, revises findings and intent, revises planning timeframes, revises membership of commission, deletes obsolete provisions, provides for election of chair, provides meeting requirements for commission, provides and revises powers and duties of executive director and commission, provides voting requirements, provides for reimbursement for per diem and travel expenses. **Status:** H261: 02/01/11 – In committee; S232: 01/25/11 – In committee

FL H 389 / FL S 934: SURFACE WATER IMPROVEMENT AND MANAGEMENT. Relates to surface water improvement and management, requires water management districts to establish permitting programs for urban redevelopment projects located in specified redevelopment areas, provides for development of stormwater adaptive management plans to address water quantity discharge for such redevelopment areas, provides for certain discharge rates in such redevelopment areas, requires stormwater discharges in such redevelopment areas to meet state water quality standards. **Status:** H389: 02/07/11 – In committee; S934: 02/17/11 – In committee

FL H 399 / FL S 768: STORMWATER AT PORTS. This bill adds an exemption to the statute regarding the management and storage of surface waters. It provides that overwater piers, docks, and similar structures located in certain deepwater ports are not part of a stormwater management system and are not impervious if the port has a Stormwater Pollution Prevention Plan pursuant to the National Pollutant Discharge Elimination System Program. **Status:** H399: reported favorably, SB768: 02/09/11 - In committee

FL H 453 / FL S 78: ENVIRONMENTAL SURCHARGE ON BOTTLED WATER. This bill would impose a surcharge of 6% of the sale price on each bottle of water sold at retail in the state. The surcharge would be administered, collected, and enforced in the same manner as the sales tax. **Status:** H453: 02/07/11, In committee; S78: 11/29/10, In committee

FL H 613 / FL S 796: DOMESTIC WASTEWATER FACILITIES. This bill extends the deadline by which the discharge of

domestic wastewater through ocean outfalls must meet advanced wastewater treatment and management requirements from December 31, 2018, to December 31, 2023. The bill also extends the deadline by which domestic wastewater facilities that discharge through an ocean outfall on July 1, 2008, must install a functioning reuse system from December 31, 2025, to December 31, 2030. The date on which the discharge of domestic wastewater through ocean outfalls is prohibited is also extended to December 31, 2030. **Status:** H613: 02/16/11 – In committee; S796: 02/09/11 – In committee

FL H 945 / FL S 1440: RURAL LAND STEWARDSHIP. Authorizes the Fish and Wildlife Conservation Commission, to assist to landowners & local governments in implementing provisions relating to rural land stewardship areas; revises the criteria for establishing rural land stewardship area; revises the provisions relating to transferrable land use credits; revises credit limitations. **Status:** H945: 02/23/11 – In committee, S1440: 02/25/11 – Filed

FL H 987 / FL S 1904: LAND USE PLANNING. Increases minimum size of geographic areas that qualify for use of optional sector plans; revises terminology relating to plans; deletes obsolete provisions; revises content required to be included in conceptual long term overlay plans & detailed specific area plans; requires identification of water development projects & transportation facilities to serve future development needs; exempts certain developments from requirement to develop detailed specific area plan, etc. **Status:** H987: 02/24/11 – In committee, S1904: 03/05/11 – Filed

FL H 991 / FL S 1404: COMPREHENSIVE PLANS. Creates, amends, & revises numerous provisions relating to development, construction, operating, & building permits; permits application requirements & procedures, including waivers, variances & revocation, local government comprehensive plans & plan amendment,; programmatic general permits & regional general permits. **Status:** H991: 02/24/11 – In committee, S1404: 02/24/11 – Filed

FL H 1001 / FL S 1514: CONSUMPTIVE USE PERMITS. Requires consumptive use permits to be issued for period of 20 years; provides exception; eliminates requirements for permit compliance reports; removes authority of DEP & governing boards to modify or revoke consumptive use permits; provides for modification of existing consumptive use permits; provides requirements for water management districts in evaluating applications for consumptive use of water in mandatory reuse zones; requires water management districts to implement sustainable water use permit. **Status:** H1001: 02/24/11 – In committee, S1514: 03/02/11 - Filed

FL H 4117 / FL S 762: CLIMATE PROTECTION ACT REPEAL. This bill repeals the Florida Climate Protection Act, which authorized the department to adopt rules for a cap-and-trade regulatory program to reduce greenhouse gas emissions from major emitters. **Status:** H4117: 02/16/11 – In committee; S762: 02/09/11 – in committee

FL H 7001 / FL S 174: GROWTH MANAGEMENT PROVISIONS. Reenacts existing law related to comprehensive planning and land development in an effort to clarify alleged constitutional defects. Included are definitions for the terms "urban service area" and "dense urban land area," exemptions to the twice a year restriction on comprehensive plan amendments, and transportation and school concurrency requirements. **Status:** H7001: Passed House 03/16/11, S174: Ready for vote on Senate floor.

REEO-S NOTE: [This legislation looks to get some momentum. It may be in reaction to implementation challenges of past legislation and some resulting litigation. Impact to DoD facilities is not readily apparent. Activities should be aware of developments so that they can assess potential challenges.](#)

FL S 526: BEACH WATERS CONTAMINATION. Relates to beach waters, requires a report to the Governor and Legislature by a certain date with certain recommendations, requires the Department of Health to investigate the sources of contamination of beach waters, requires the department to develop and implement a public education program regarding human actions that affect the water quality of beach waters. **Status:** 02/09/11 – In committee

FL S 1336: RENEWABLE ENERGY. Deletes provisions requiring that the Public Service Commission adopt rules for a renewable portfolio standard; requires that the commission provide for full cost recovery; allows each provider of Florida renewable energy resources to build such resources, convert existing fossil fuel generation plants to a renewable energy resource, or purchase renewable energy to recover costs. **Status:** 02/23/11 – Filed.

Proposed Rules

STANDARDS FOR ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS (FAC, CHAPTER 64E-6) The FL Department of Health (FLDOH) has proposed amendments to standards for onsite sewage treatment and disposal systems. The rule-making develops rules to implement provisions of Chapter 10-205, Laws of Florida (SB 550), which requires FLDOH to administer an onsite sewage treatment and disposal system evaluation and assessment program. Proposed rules address: application for a System Construction Permit; location and installation of onsite sewage treatment and disposal

systems; site evaluation criteria; system size determinations; alternative systems; septage and food establishment sludge; portable restrooms and portable or stationary holding tanks; abandonment of systems standards for construction, operation and maintenance of aerobic treatment units; construction materials and standards for treatment receptacles; construction standards for drainfield systems; permitting and construction of repairs; additive use; Department of Agriculture Soil Textural Classification System; system location, design and maintenance criteria; cesspit and undocumented system replacement and interim system use; coordinated permitting; requirements for registration; master septic tank contractors; issuance of registration certificates and renewal; standards of practice and disciplinary guidelines; certification of partnerships and corporation; applications for innovative system permits and reclassification and system construction permits, location, installation, monitoring and Fees. FLDOH held a public workshop 06/04/10 to discuss permitting and approval standards of onsite sewage treatment systems that provide treatment other than a septic tank, such as performance based treatment systems, aerobic treatment units and innovative systems. The Technical Review and Advisory Panel met 07/15/10 and 09/23/10. Public workshops were held October 12, 14, 18 and 21, 10. A public meeting was held in December 10. DOH has public meetings scheduled through December 11.

[Notice of Public Workshop](#)

[Notice of Rule Development](#)

Contact: Gerald Briggs, (850) 245-4250

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

[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 held in January 11.

[Notice of Proposed Rulemaking](#)

Contact: Richard Tedder, (850) 245-8735

GENERAL AND ERP 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. Rule development efforts have been suspended until after the new administration is in place in early 11.

[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. FLDEP plans to wait until the new administration is in place to publish the proposed rule. FLDEP anticipates publication in early 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. Rule development efforts have been suspended until after the new administration is in place in early 11.

[Notice of Development of Rulemaking](#)

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

FEES FOR CUP AND GENERAL PERMITS (FAC 40C-1.603) The SJRWMD is proposing to charge a fee when a request for CUP modification is submitted by letter. Currently, if a letter modification request qualifies under Rule 40C-2.331, F.A.C., SJRWMD does not charge a fee for modification. As part of related proposed amendments to Chapter 40C-2, F.A.C., the scope of allowed letter modifications would be expanded. The proposed rule amendment would: (1) create a \$100 fee for letter modifications of Chapter 40C-2, F.A.C., individual CUPs; and (2) create a \$50 fee for letter modifications of Chapter 40C-20, F.A.C., standard general CUPs. The rule did not go before the Board at the 12/14/10 meeting. Rule Development Workshops are held 09/16/10 and 09/17/10. Rule development efforts have been suspended until after the new administration is in place in early 11.

[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 (LRRC) to review and comment on a preliminary rule proposal. The LRRC met 13 times, and the FWCC received the [LRRC 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. Governor Rick Scott suspended this rulemaking on 01/04/11, through EO 11-01. The EO creates the Office of Fiscal Accountability and Regulatory Reform within the Executive Office of the Governor, through which all rulemaking will be submitted. Within 30 days of the EO, each agency will designate an Accountability and Regulatory Affairs Officer who shall serve as the liaison between the agency and the Office. For a period of 90 days from the date of the EO, no agency under the Governor's direction may execute a contract with a value in excess of \$1,000,000, without obtaining prior approval from the Office.

[Notice of Development of Proposed Rulemaking](#)

[Notice of Proposed Rule](#)

[FWC Response to Broward County LRRC](#)

Contact: Scott Calleson, 850-922-4330

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

[Notice of Development of Rulemaking](#)

[Notice of Proposed Rule](#)

Contact: Barbara Powell, (850) 488-8466

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

[Notice of Proposed Rule](#)

Contact: Jacqueline Warr, 850-487-3800

Georgia

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



Legislation

GA H 274: SOLID WASTE MANAGEMENT. Change certain provisions relating to declaration of policy and legislative intent relative to solid waste management; defines and redefine certain terms; changes certain provisions relating to permits for solid waste or special solid waste handling, disposal, or thermal treatment technology facilities and inspection of solid waste generators. **Status:** Passed House; Senate committee reported favorably 03/23/11.

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

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

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

GA S 86: COMMUNITY AFFAIRS DEPARTMENT. Relates to the Department of Community Affairs, so as to repeal the definition of a "qualified local government", provides that comprehensive planning by local governments shall be optional, eliminates reviews of developments of regional impact, provides that the department shall provide assistance in planning

to local governments, provides for related matters, repeals conflicting laws. **Status:** passed Senate, in House committee
REEO-S NOTE: Potential impact to facilities could be that it will make discovery and coordination of incompatible land uses more challenging if local governments decide not to participate in comprehensive planning.

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

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: TENNESSEE RIVER BASIN. Relates to general provisions relative to water resources, 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:** passed Senate, in House committee

REEO-S NOTE: Wonder what the neighbor to the north thinks of this idea. See Note above.

Proposed Rules

WATER RESOURCE ASSESSMENTS GADNR released three [Draft Water Resource Assessments](#): Groundwater Availability, Surface Water Availability and Surface Water Quality (assimilative capacity). As described in the State Water Plan, these draft assessments are evaluations of the capacity of water resources to meet demands for water supply and wastewater discharge without unreasonable impacts. GADNR expects to refine and adjust the draft assessments. The 10 regional water planning councils will use the Draft Water Resource Assessments to development management practices to meet future water demands. Contact: Arnetia 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 Shahbaz, (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 NO_x 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 NO_x is not a precursor to PM2.5; however, NO_x is presumed to be a precursor to PM2.5 in the Federal rule unless a State demonstrates to EPA NO_x emissions are not a significant contributor to ambient PM2.5 concentrations. Thus, Subparagraph (ix)(I)III specifies that exclusion of NO_x as a precursor to PM2.5 becomes effective after EPA approves the revision to Georgia's SIP which incorporates the change. Subparagraphs (ix)(II), (III), (IV), (V) and (VI) regarding pollutants subject to section 111 standards, Class I and Class II Substances, any pollutant otherwise subject to regulation under the CAA, hazardous air pollutants listed in section 112, and condensable particulate matter, respectfully, are consistent with the Federal definition of Regulated NSR pollutant. Rule 391-3-1-.03(8), Permit Requirements, is being amended; nonattainment NSR requirements for PM2.5 are added to the rule. The permitting requirement for sources located in 25 counties designated as contributing to ozone levels in the Atlanta ozone nonattainment area is clarified. Other revisions are made to make the rule consistent with Federal requirements. Subparagraph 391-3-1-.03(8)(c)16 is added to specify the nonattainment NSR requirements for Georgia's existing PM2.5 nonattainment areas (Atlanta PM2.5 nonattainment area, Macon PM2.5 nonattainment area, Floyd County PM2.5 nonattainment area and Chapter 391-3-1 Rules for Air Quality Control Georgia's portion of the Chattanooga PM2.5 nonattainment area). Subparagraph 16.(i) specifies the major source threshold at 100 tons per year. Subparagraph 16.(ii) establishes modification thresholds. Subparagraph 16.(iii) sets the offset ratio at 1 to 1. Subparagraphs 16.(iv) specifies that sulfur dioxide is a precursor to PM2.5. Subparagraph 16.(v) states that NO_x 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 is scheduled for 04/11/11, and comments are due 05/09/11.

[Notice of Proposed Amendments](#)

[Synopsis of Proposed Amendments](#)

[Proposed Rule](#)

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

Kentucky

Legislative Session Convened 01/04/11; Adjourned 03/25/11



Legislation

KY H 26: WASTEWATER. This bill creates new sections of KRS Chapter 65 regarding the need for regionalization of utility service due to BRAC Commission's realignment of the mission at Fort Knox and the resulting significant economic expansion in the region encompassing the post. The bill authorizes the creation of a regional wastewater commission as a pilot project area within 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:** Signed by Governor - enacted

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

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

Status: Signed by Governor - enacted

REEO-S NOTE: 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 239: ENERGY. Relates to greater energy efficiency, conservation, and the use of renewable resources by diversifying the portfolio of energy sources for generating electricity for retail electric customers and stabilize long-term energy prices, creates high-quality jobs, training, business, and investment opportunities, provides for multiple energy sources for electric generation, provides for low-income residential energy efficiency programs. **Status:** Committee

REEO-S NOTE: Potential opportunity to collaborate with state or local communities on energy security –related goals and planning. Stakeholders could be interested in conservation and renewable energy efforts being pursued at Fort Knox.

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: Looks to become law. The bill would create a new certification requirement and fee structure. Includes reciprocity provisions for recognize certifications of other states.

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

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

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

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

REEO-S NOTE: For informational purposes only.

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

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

Proposed Rules

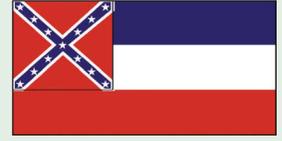
ANTI-DEGRADATION POLICY (401 KAR 10:030) The KDEP Division of Water has proposed amendments to rules regarding the anti-degradation policy implementation methodology. Amendments would establish procedures to control water pollution in waters affected by the anti-degradation policy; establish categorization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

[Proposed Rule](#)

Contact: Abigail Powell, (502) 564-3410

Mississippi

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



Legislation

MS H 105 / MS S 2610: 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:** H105- Passed House and Senate Committee with changes; S2610 Passed Senate& House with changes

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:** S2723- enacted

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

Proposed Rules

HAZARDOUS WASTE MANAGEMENT (HW-1, UNCODIFIED) MSDEQ has proposed amendments regarding hazardous waste management HW-1. Amendment would extend the compliance date of the toxicity characteristics rule and effective dates for the drip pad management standards; clarify amendments for authorizing variances to land disposal restrictions; exclude condensates from overhead gases from kraft steam strippers; amend used oil management standards; approve EPA analytical methods; change the official EPA mailing address; and make additional technical amendments and corrections. The rule was proposed 11/18/10. Comments were due 12/13/10, and a public hearing was held 01/14/11. Because the Commission's 01/27/11 meeting was cancelled, the rule was presented at the Commission's 02/24/11 meeting. Contact: Ted Lampton, (601) 961-5369

North Carolina

Legislative Session Convened 01/19/11; Adjourns 08/05/11



Legislation

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

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

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

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

NC H 119: PROHIBITION ON DISPOSAL OF CERTAIN BEVERAGE CONTAINERS AND ELECTRONIC WASTE. The bill removes the prohibition on landfill disposal or incineration of beverage containers that would otherwise be required to be recy-

cluded; 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 NCDENR to incorporate stormwater capture and reuse standards and best management practices into the implementation of the stormwater run-off rules. **Status:** In committee

NC H 349: GREEN ROOFS AND STORMWATER RUNOFF MITIGATION. Promotes green roofs in order to reduce stormwater 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 stormwater requirements for DoD and provide some consideration (or "credit") for LID implementation at installations.

NC S 181: PETROLEUM UNDERGROUND STORAGE TANKS AND PUBLIC WATER. Provides that cleanup will not be required for any discharge or release from a petroleum UST when a public water system is available to those affected by the discharge or release, and no surface waters are located within 1,000 feet of the discharge or release. **Status:** In committee

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

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

NC S 279: WOOD AS A RENEWABLE ENERGY RESOURCE. Amends the definition of Renewable Energy Resource (RER) that pertains to the renewable energy and energy efficiency portfolio standard to clarify that wood is a RER, and that wood need not be a waste product to qualify as a renewable RER. **Status:** In committee

NC S 308: PROHIBIT STATE REGULATION OF GHG. Prohibits State agencies from adopting, implementing or enforcing a rule that regulates GHG emissions or limits human activity for reducing GHG 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: 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.

Final Rules

EMISSION CONTROL STANDARDS (15A NCAC 02D .0530, .0531, .0544) NCDENR has adopted amendments to 15A NCAC 02D .0530 and 15A NCAC 02D .0531, which incorporate PM2.5 as a NAAQS pollutant. Amendments include technically modified language to reflect federal language regarding notification of federal land managers of PSD permit applications. Adoption of 15A NCAC 02D .0544 will incorporate PSD tailoring provisions for GHGs. Although the RRC adopted 15A NCAC 02D .0530 and .0531 at the 12/16/10, the legislature must consider 15A NCAC 02D .0544 due to the number of comments received on the proposed rule. However, the Governor issued EO 81 on 01/28/11, which made the rule effective on that date and remaining effective unless the legislature disapproves the rule.

[Notice of Proposed Rulemaking \(p. 407\)](#)

[Executive Order 81 \(p. 1950\)](#)

[Final Rule](#)

Contact: [Joelle Burlison](#), 919-733-1474

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. With EMC approval, the rules will go to the RRC.

[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 their meeting on 02/17/11. These rules became effective on 03/01/11. The RRC objected to 15A NCAC 02H .0903, .0907, .0908, .0922.

[Proposed Rule](#)

[RRC Objections](#)

[Proposed Rule](#)

Contact: Joelle Bureson, (919) 733-1474

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

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

Contact: [Erin T Gould](#), 919-733-7885

South Carolina

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



Legislation

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

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

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

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

SC S 607: DHEC REGULATIONS. (Joint Resolution) Approves regulations of the Department of Health and Environmental Control; relates to air pollution control regulations and standards; relates to standards for performance for asbestos projects. **Status:** Senate Adopted 3/23/11; Goes to House

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

Final Rules

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

[Proposed Rule Notice](#)

[Final Rule](#)

Contact: Alan Hancock, (803) 898-4196

Proposed Rules

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

[Proposed Rule](#)

Contact: Carolyn McLaughlin (803) 896-4254

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

[Notice of Drafting](#)

[Proposed Rule](#)

Contact: Kent Coleman, (803) 896-4202

Tennessee

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



Legislation

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

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

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

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

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

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

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

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

TN H 976 / TN S 1055: FLUORIDATION. Requires any public water system or waterworks system that discontinues the fluoridation of its water supply to give notice of such discontinuance to applicable state agencies and affected customers. **Status:** H976 - In committee; S1055 - Committee reported favorably 03/23/11

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

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

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

TN H 1339 / TN S 1116. Repeal Tennessee Petroleum Underground Storage Tank Act. **Status:** H1339 - In commit-

tee; S1116 - In committee

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

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

Status: H1524: In committee; S1608 – In committee

Final Rules

HAZARDOUS WASTE MANAGEMENT (TAC 1200-1-11-.1 THRU .8, .10 THRU .12) TDEC has proposed amendments to rules regarding hazardous waste management regulations, to include identification and listing of hazardous waste; notification requirements and standards applicable to generators of hazardous waste; permit requirements and standards applicable to transporters of hazardous waste; interim status standards and permitting for owners and operators of existing hazardous waste treatment, storage and disposal facilities; fee system for transporters, storers, treaters, disposers and certain generators of hazardous waste and certain used oil facilities or transporters; land disposal restrictions and standards for used oil and waste management. The rules were adopted 03/23/11. They become effective 06/01/11. Contact: [Robert S. Nakamoto](#), 615-532-0868

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 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 will be 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	