

Rulemakings			
Office of Wastewater Management (OWM)			
<p><b>NPDES Updates Rule</b></p>	<p>Proposed: May 18, 2016            Extended Comment Deadline: Aug. 2, 2016            Final: Late Spring 2018</p>	<p>EPA is proposing to update the NPDES regulations in order to eliminate inconsistencies between regulations and application forms, improve permit documentation and transparency, and provide clarifications to the existing regulations. Likely updates include: definition updates, application requirements for vessels and pesticides, effluent limit bases--max daily/average monthly for POTWs, reasonable potential, conflicts of interest, fact sheet requirements, public notice requirements, §401 certification process, antibacksliding, antidegradation, and objection to administratively continued permits. The proposed rule was published in the Federal Register at: <a href="https://federalregister.gov/a/2016-11265">https://federalregister.gov/a/2016-11265</a></p> <p>ACWA expects EPA will likely finalize as two rules with the less controversial provisions being finalized first.</p>	<p>Sean Rolland</p>
<p><b>Steam Electric Rule</b></p>	<p>Compliance Date Postponement            Proposed: September 2017</p>	<p>In March 2017, EPA received several petitions for administrative reconsideration of the final rule (published September 2015). In August 2017 EPA informed the petitioners and the public that it would reconsider the rule and of the plans to postpone impending deadlines as a temporary stopgap measure "to prevent the unnecessary expenditure of resources until the agency completes reconsideration of the 2015 rule." In September 2017 EPA published proposed postponement of certain compliance dates. <a href="https://www.epa.gov/eg/steam-electric-power-generating-effluent-guidelines-2015-final-rule">https://www.epa.gov/eg/steam-electric-power-generating-effluent-guidelines-2015-final-rule</a></p> <p>This rule has been challenged and is being litigated by environmental groups and industry alike. ACWA's new Cooling Water Steam Electric Workgroup continues to assist states and EPA with implementation.</p>	<p>Sean Rolland</p>
Office of Wetlands, Oceans and Watersheds (OWOW)			
<p><b>Waters of the U.S. Rule (a.k.a. Clean Water Rule)</b></p>	<p>Draft Guidance sent to OMB: Feb. 2012            Proposed Rule Sent to OMB: Sept. 17, 2013            Draft version of rule leaked: Nov. 17, 2013            Proposed: April 21, 2014            Comment Deadline: Nov. 14, 2014            ACWA Comments: Nov. 12, 2014            Final: June 29, 2015            Effective Date: Aug. 28, 2015            Stay: October 9, 2015            SCOTUS dissolves Stay: February 2018</p>	<p>In May 2011, EPA and the Army Corp of Engineers (Corps) released for public comment draft guidance for determining whether a waterway, waterbody, or wetland is jurisdictional as a Water of the U.S." ("WoUS") under the CWA. EPA received 230K comments on the draft "WoUS" guidance document. On 9/17/13, EPA and the Corps announced that they had withdrawn the guidance from OMB and sent to OMB a proposed rulemaking instead. Existing 2008 guidance remains in place. On 11/7/2013, a version of the draft proposed rule was leaked to the press. EPA indicated that the leaked version is not the final version sent to OMB. On 4/21/14, EPA published the proposal in the Federal Register, along with an associated "Interpretive Rule" on exemptions from CWA jurisdiction for certain agricultural conservation practices. On Jan. 9, 2015, EPA and the Corps withdrew the Interpretive Rule. The final rule was published in the Federal Register on 6/29/15 and made effective on 8/28/15. On October 9, 2015, the U.S. Court of Appeals for the Sixth Circuit stayed the WoUS Rule. The EPA and Corps resumed using the previous regulations and case law defining "WoUS." ACWA will work with EPA/Corps on coordinating opportunities for states to discuss implementation questions and training needs. On January 22 2018, the Supreme Court ruled in <i>National Assn of Manufacturers vs Department of Defense</i> that appeals courts are not the correct venue for challenges to the 2015 WOTUS rule and that district courts were the correct venue, and shortly after the ruling they accordingly dissolved the previously issued 6th Circuit Court of Appeals stay on the 2015 rule. As a result, district court litigation (and stays) which previously were "paused" are now resuming all over the country.</p>	<p>Julian Gonzalez</p>
<p><b>"Waters of the United States" – Recodification of Pre-existing Rules (aka "Step 1" of WOTUS Revision)</b></p>	<p>Executive Order: Feb., 2017            Notice of Intent: March, 2017            Proposed: June 2017</p>	<p>In February 2017, the White House released and Executive Order titled "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule", expressing the intent (and reasoning) for initiating an EPA rulemaking to review, repeal, and replace the existing Waters of the U.S. Rule. This rulemaking, known as "step 1" in that process, aims to repeal the 2015 rule and recodify the pre-2015 rule status quo. On 6/27/17 EPA proposed the rule. On 8/22/17, EPA extended the comment deadline 30 days to 9/27/17, and is now posting comments to the public docket.</p>	<p>Julian Gonzalez</p>

<p><b>Definition of “Waters of the United States” – Addition of Applicability Date to 2015 Clean Water Rule (aka "Step 0" rule)</b></p>	<p>Proposed: November 22, 2017 Final: Feb. 6, 2018</p>	<p>In November 2017, EPA and the US ACE issued a proposed rule which would add an applicability date to the 2015 Clean Water Rule, which would make the rule inactive in event that the Supreme Court ruled that the nationwide stay by the 6th Circuit was to be dissolved, hoping to prevent a situation where the 2015 rule is the law in certain states and stayed by district courts in other states. In February 2018, EPA and US ACE issued a Final rule, on the heels of the SCOTUS decision in <i>NAM vs Dept of Defense</i> where they did indeed dissolve the 6th Circuit nation-wide stay on the 2015 rule, aiming to create regulatory certainty while EPA considers options for a new WOTUS rule.</p>	
<p><b>Office of Science and Technology (OST)</b></p>			
<p><b>Updated Aluminum Criteria</b></p>	<p>Proposed: Jul. 28, 2017 Comment Period: Closed Sept. 26, 2017</p>	<p>EPA requested scientific view for the draft updated aquatic life ambient water quality criteria for aluminum in freshwater. Due to state interest, EPA and ACWA set up a Aluminum Criteria Working Group in January of 2018. This working group is working on implementation guidance for the updated criteria. EPA has not defined a target publishing date.</p>	<p>Frances Bothfeld</p>
<p><b>Recreational Ambient Water Quality Criteria/Swimming Advisories for Cyanotoxins</b></p>	<p>Proposed: Dec. 2016 Comment Period: Closed Mar. 20, 2017 ACWA Comments: Mar. 20, 2017</p>	<p>EPA proposed a recreational ambient water quality criteria for cyanotoxins, which was later changed to a criteria or an advisory. This criteria/advisory focuses on microcystin and cylindrospermopsin concentration in fresh waters. The criteria/advisory, originally intended to be published in time for the 2017 swimming season has been delayed.</p>	<p>Frances Bothfeld</p>
<p><b>Office of Resource Conservation and Recovery (ORCR)</b></p>			
<p><b>Disposal of Coal Combustion Residuals Rule</b></p>	<p>Finalized: December 2014 Published: April 17, 2015 Amended: July 26, 2016 New Proposal: March 15, 2018</p>	<p>This rule finalized national regulations to provide a comprehensive set of requirements for the safe disposal of Coal Combustion Residuals (CCRs), commonly known as coal ash, from coal-fired power plants. These regulations address the risks from coal ash disposal -- leaking of contaminants into ground water, blowing of contaminants into the air as dust, and the catastrophic failure of coal ash surface impoundments.</p> <p>New Proposal: The Agency is proposing four changes associated with the judicial remand and the settlement agreement entered April 18, 2016. The proposed revisions would: 1) clarify the type and magnitude of non-groundwater releases that would require a facility to comply with some or all of the corrective action procedures set forth in 40 CFR §§ 257.96-257.98 in meeting their obligation to clean up the release; 2) add boron to the list of constituents in Appendix IV of part 257 that trigger corrective action and potentially the requirement to retrofit or close the CCR unit; 3) determine the requirement for proper height of woody and grassy vegetation for slope protection; and 4) modify the alternative closure provisions.</p> <p>There is a 45 day comment period. <a href="https://www.federalregister.gov/documents/2018/03/15/2018-04941/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric">https://www.federalregister.gov/documents/2018/03/15/2018-04941/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric</a></p>	<p>Sean Rolland</p>
<p><b>Office of Ground Water and Drinking Water (OGWDW)</b></p>			
<p><b>Lead and Copper Rule</b></p>	<p>Request for Comment: January 8, 2018</p>	<p>EPA opened a docket to collect public comments from state and local government officials on proposed regulatory revisions to the Lead and Copper Rule (“LCR”). EPA promulgated the LCR in 1991 to reduce exposure to lead and copper through drinking water. The LCR applies to community water systems and non-transient non-community water systems as defined by the Safe Drinking Water Act. A copy of the Lead and Copper Rule Revisions White Paper can be found here: <a href="https://www.epa.gov/sites/production/files/2016-10/documents/508_lcr_revisions_white_paper_final_10.26.16.pdf">https://www.epa.gov/sites/production/files/2016-10/documents/508_lcr_revisions_white_paper_final_10.26.16.pdf</a></p> <p>Implementation of the LCR over the past twenty-five years has resulted in major improvements in public health, the lead crises in Washington, DC, and in Flint, Michigan, and the subsequent national attention focused on lead in drinking water in other communities, have underscored significant challenges in the implementation of the current rule. Key challenges include the rule’s complexity, the degree of discretion it affords with regard to optimization of corrosion control treatment and compliance sampling practices that in some cases, may not adequately protect from lead exposure, and limited specific focus on key areas of concern such as schools. There is a compelling need to modernize and strengthen implementation of the rule – to strengthen its public health protections and to clarify its implementation requirements to make it more effective and more readily enforceable.</p>	<p>Sean Rolland</p>

The federal consultation link can be found here: <https://www.regulations.gov/docket?D=EPA-HQ-OW-2018-0007>

Guidance & Policy

Select Non-Rulemaking Efforts & Other Developments

<p><b>2016 Preliminary Effluent Guidelines Program Plan</b></p>	<p>2016 Preliminary Proposed: June 27, 2016          Comment Deadline: July 27, 2016          Final Expected: TBD</p>	<p>On June 27, 2016, EPA released the Preliminary 2016 Effluent Guidelines Program Plan. See more on the Plans here: <a href="http://water.epa.gov/scitech/wastetech/guide/304m/index.cfm">http://water.epa.gov/scitech/wastetech/guide/304m/index.cfm</a></p>	<p>Patrick McGuire</p>
<p><b>National Water Program Guidance FY2018-2019</b></p>	<p>Draft Released: July 5, 2017          Comment Deadline: August 4, 2017          Final: October 2017</p>	<p>EPA OW released the Draft National Water Program Guidance FY 2018-2019 on July 5, 2017. ACWA submitted comments on the Guidance on July 28, 2017. EPA issued the final document in October 2017. EPA intends to develop FY2019 Addendums to address any significant changes identified after the release of the final FY 2018-2019 NPM Guidances.  <a href="https://www.epa.gov/sites/production/files/2017-09/documents/fy18-19-ow-npm-guidance.pdf">https://www.epa.gov/sites/production/files/2017-09/documents/fy18-19-ow-npm-guidance.pdf</a>.</p>	<p>Patrick McGuire</p>
<p><b>Assumable Waters Subcommittee</b></p>	<p>Meeting 1: Oct. 6-7, 2015          Meeting 2: December 1-2, 2015          Meeting 3: March 15-17, 2016          Meeting 4: June 7-9, 2016          Meeting 5: October 2016          Meeting 6: December 2016          Meeting 7: January 2017          Meeting 8: April 2017          Final Report: May 2017</p>	<p>The Assumable Waters Subcommittee has been convened under the National Advisory Council for Environmental Policy and Technology (NACEPT) to provide advice and recommendations on how the EPA can best clarify which waters a state or tribe assumes permitting responsibility for under an approved Clean Water Act (CWA) section 404 program. CWA Section 404 establishes a program to regulate the discharge of dredge and fill material into waters of the United States. Currently the U.S. Army Corps of administers the program in 48 states. The CWA allows states and tribes to assume the administration of the 404(g) program. No tribes and only two states have assumed these permitting responsibilities to date. The committee met 8 times and is due for a final in person meeting. In 12/2016 ACWA, ECOS, ASWM issued jointly authored letter to USACOE concerning the likelihood of the subcommittee not reaching a consensus due to differences of opinion held by USACOE. In March, the committee released a draft final report to ACWA. On 5/10 the committee published the final report and presented its recommendations to NACEPT regarding the issue of Assumption. On 6/2, Nascent accepted the report in its entirety and transmitted it to EPA Administrator Pruitt. On 8/2017, ACWA, ECOS, and ASWM issued a joint letter to EPA expressing support for the efforts of the committee and urging EPA to further work with the three state associations as they work with states to clarify the Assumption process.</p>	<p>Julian Gonzalez</p>
<p><b>Implementation and Evaluation of EPA Measure WQ-28</b></p>		<p>EPA first included WQ-28 in the National Water Program Guidance in 2015, and did so again in April 2016. ACWA commented shortly thereafter. ACWA and EPA held a call in December 2016 featuring EPA Staff presenting and explaining the WQ-28 Computational Guidance. EPA included it again, slightly edited, in the 2017 National Program Managers Guidance in August 2017.</p>	<p>Julian Gonzalez</p>
<p><b>EPA Office of Research and Development (ORD) Hydraulic Fracturing Study</b></p>	<p>Progress Report: Dec. 21, 2012          Draft Report: June 4, 2015          Final Report Issued: Dec 2016</p>	<p>EPA ORD has been developing a study on the potential environmental and human health implications of hydraulic fracturing with special emphasis on the relationship between hydraulic fracturing and drinking water resources. On June 4, 2015, a draft assessment was released by the agency. The study will be finalized after review by the Science Advisory Board and public review and comment. The Federal Register Notice with information on the SAB review and how to comment on the draft assessment was published on June 5, 2015: <a href="https://federalregister.gov/a/2015-13674">https://federalregister.gov/a/2015-13674</a>. The Final Report, as well as companion statements and summaries, was published in December 2016 and s available here: <a href="https://www.epa.gov/hfstudy">https://www.epa.gov/hfstudy</a></p>	<p>Julian Gonzalez</p>
<p><b>EPA Office of Water Request for Comment - CWA Coverage of "Discharges of Pollutants" via a Direct Hydrologic Connection to Surface Water</b></p>	<p>Request for Comment Released: Feb. 20, 2018          Comments Due: May 21, 2018</p>	<p>EPA is requesting comment on the Agency's previous statements that pollutant discharges from point sources that reach jurisdictional surface water via groundwater or other subsurface flow may be subject to CWA permitting requirements. Specifically, EPA is seeking comment on whether subjecting such releases to CWA permitting is consistent with the text, structure, and purpose of the CWA, whether these releases would be best be addressed under NPDES or some other federal authority, and whether these releases are adequately addressed through state law.</p>	<p>Patrick McGuire</p>