

FLORIDA BEACON

From the President's Desk...
Amy Guilfoyle



**Florida Association of
Environmental Professionals
Winter 2017**



Court Invalidates FDEP Pollution Notification Rule

On December 30, 2016, Florida Administrative Law Judge Bram D. E. Canter entered a Final Order finding that the Department of Environmental Protection's (FDEP) proposed rule regarding pollution notification (Rule 62-4.161, F.A.C.) was an invalid exercise of delegated legislative authority.

Industry challenged the rule in the state Division of Administrative Hearings in response to the FDEP's proposal for notification after two high-profile incidents. This rule would have required reporting of certain types of releases of pollution to FDEP, the media, and the local government within certain deadlines or face penalties and fines.

Judge Canter agreed with industry's argument that FDEP does not have authority under state law to impose the notification requirements on people or businesses responsible for pollution releases. The earlier issued emergency rule and the proposed rule are no longer in effect and reporting requirements return to those that existed the day before FDEP issued the emergency rule.

If FDEP wants to move forward with a similar rule, they will need to seek legislative authority to do so.

Next FAEP Board Meeting!!

**The next FAEP Board of Directors Meeting
is January 23, 2017 at 11:30 AM in Orlando or
via conference call at 12:00 PM dial:
605-475-4000 (code 607028#)**

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Kathy Hale

We were deeply saddened to hear of the loss last month of Kathy Hale, one of our stalwarts of the industry. She believed strongly in the ethical practice of our profession and had a deep-seeded belief in competency. Although Kathy was a member of numerous professional organizations, FAEP benefited greatly from her support. Kathy attended her first FAEP board meeting as a representative of the Central Florida Chapter in August of 1991. She was a lead person in the formation of CFAEP in March of 1991, served as the Interim President in September 1991, and was the first elected President on September 1992. She continued to represent CFAEP until her election as FAEP Treasurer in 2005. She served as Treasurer until 2007 and an at-large board member until 2012.



Kathy was very active in the late 1990's with our pursuit of licensure for Environmental Professionals and Professional Biologist with the State of Florida. She hosted many of the monthly meetings at her office and served as the Treasurer of the Environmental Professionals Action Coalition.

Kathy obtained her BS in Botany and Mathematics from Eastern Illinois University in 1972 started Environmental Management & Design in 1994. She recently sold her business and was looking forward to remaining as a technical advisor and especially spending time with her daughter and two grandchildren. Kathy will be greatly missed by all those who knew her professionally as well as her family and friends.

Big Coal Goes Bankrupt

On the morning after the U.S. elections, coal mining corporation Peabody Energy's stock price jumped 50 percent as investors assumed that a Trump administration would be a friend of the coal industry. It was more of a blip than a market correction. Earlier this year, in April, Peabody had filed for bankruptcy. The company's move to seek protection from its creditors was just the latest in a string of coal industry bankruptcies: Arch Coal, Alpha Natural Resources and Patriot Coal have also filed for Chapter 11.

While campaigning in coal country, Trump pledged that he was going to put coal miners back to work. It's a false promise. There is little Trump can do to reverse the steady demise of the industry. A combination of factors—an overabundance of cheap gas, the plummeting price of renewables like solar and wind, and a determined grassroots effort (led by the Sierra Club's Beyond Coal campaign) to halt proposed coal plants and shut down existing ones—has turned the industry into what one market analyst has called a "dead man walking."



The economics simply don't add up for the coal industry. State-regulated utilities have a legal mandate to provide their customers with the cheapest rates possible, and in many places coal no longer meets that requirement. The cost of installed solar is 1/150th of what it was in the 1970s, and wind continues to get cheaper, too. Wind accounts for about 40 percent of new installed capacity; in December the U.S.'s first offshore wind farm went online. No wonder that even as staunch a coal ally as Sen. Mitch McConnell of Kentucky has sought to dampen expectations of a coal industry revival.

All of which presents a major challenge to the incoming administration. Will Trump have the courage and the candor to tell his supporters in coal country that they best prepare a Plan B? Will he and a GOP-dominated Congress make the kind of public investments that can soften the blow? Coal's demise is also a test for the American environmental movement. Greens will have to do a much better job of reaching out to coal workers and creating alliances to push for policies that ensures a clean energy economy will work for all.

From EcoWatch

Florida Beacon

Published Quarterly by the Florida Association of Environmental Professionals

Announcing the FAEP 2017 Conference

On behalf of the Tallahassee Area Association of Environmental Professionals (TAAEP) and the Northwest Chapter (NWFAEP), we are pleased to announce that the State Conference will be held in Tallahassee in mid-September 2017. The FAEP does a tremendous job serving the environmental professionals in Florida and hosting the conference is one way that the organization serves its members.

The conference will focus on providing informational opportunities to seasoned professionals and training segments for those newer to the profession. Continuing education credits will be available for Professional Wetland Scientists, Professional Engineers, Certified Ecologist, and attorneys.

The format will be a two day conference hosted at one of the beautiful hotels in downtown Tallahassee. Meals, networking and field trips will be provided. There will be three tracks scheduled throughout both days.

Day One: Thursday will include a morning session, the keynote speaker, and your choice of afternoon speakers or a training session. The day's lessons will be followed by a reception and maybe some more surprises.

Day Two: Friday will include morning speakers or a training session followed by the opportunity to participate in one of several field trips highlighting the area's natural features and projects.

There are many opportunities to participate in the conference, which will be outlined in more detail soon. They will include speaker opportunities, vendor booths within the conference hall, sponsorship opportunities, and volunteer opportunities are also available.

We hope to see all of you in Tallahassee in 2017!

Questions or Ideas?

Contact Co-chairs: Danielle Irwin dirwin@coastalsystemsint.com or Elva Peppers elvapeppers@felsi.org



Florida Beacon

Published Quarterly by the Florida Association of Environmental Professionals

Representative Cramer to Trump: Combine EPA and the Department of Energy Into One Agency

The U.S. Department of Energy and Environment. That is the name of an agency combining the Environmental Protection Agency and the Energy Department that Rep. Kevin Cramer (R-N.D.) is advising President-elect Donald Trump to create.

Cramer, one of Trump's first energy advisers, said he proposed the idea in a policy paper and hasn't heard from Trump about whether he supports it. Cramer said there are administrative efficiencies that can be gained from doing this.

Legal scholars, however, question his proposal, saying the agencies' missions differ significantly.

"I'm looking for efficiencies," Cramer told Bloomberg BNA in a Dec. 28 interview. "Besides good policy, I think it could be pretty efficient as well—putting all of these scientists and researchers together. There are obvious connections because, really, our energy policy has largely become environmental policy."

The EPA and the Energy Department have fundamentally different purposes, Ann Carlson, an environmental law professor at the University of California, Los Angeles Law School, told Bloomberg BNA.

The Energy Department is focused primarily on research and development, as well as overseeing the nuclear waste cleanup and the nuclear arsenal through its semi-autonomous National Nuclear Security Administration. The EPA is primarily a regulatory agency in charge of implementing and enforcing environmental statutes.

"It seems odd to me to merge agencies with such different mandates and responsibilities, and therefore very different cultures," she said over e-mail. "I don't see that there would be great administrative efficiency savings given that you need very different kinds of employees with different expertise to administer DOE programs as opposed to EPA programs."

Past Legislative Proposals

Legislation has been introduced in the past by Rep. Marsha Blackburn (R-Tenn.) in 2012 and Sen. Richard Burr (R-N.C.) in 2011 to combine the agencies into one department. Cramer said Congress would have to vote for legislation to make such a change occur, and he plans to talk to Blackburn about re-introducing it.

Blackburn and Cramer are both members of the House Energy and Commerce Committee and early Trump supporters.

They wouldn't move forward with legislation without Trump's support, Cramer said. But, he added, "It's an issue that should appeal to him."

In 2012, President Barack Obama went to Congress to reinstate the legal authority for presidents to reorganize federal agencies by executive order without congressional action, but the effort was unsuccessful.

David Schoenbrod, a professor with New York Law School, told Bloomberg BNA that while Congress has the authority to restructure agencies, it has to be careful about balancing their missions.

For example, the now-defunct Atomic Energy Commission was a federal agency with a mission to promote and regulate nuclear energy. Due to the perception of this being a conflict of interest, Congress acted in 1974 to separate the responsibilities of the agency, giving the regulatory authority to the newly formed Nuclear Regulatory Commission and the promotion authority to what eventually became the Energy Department.

He said combining the EPA and Energy Department would be a reversal of what Congress has done in the past.

Today, the Energy Department's "mission is to promote various energy technologies, many of which are regulated for the purposes of safety by the EPA," Schoenbrod told Bloomberg BNA. "So this would be doing the opposite. There's no question that we want some type of balance between energy development and environmental protection. It's Congress's job to provide the balance, and by smashing together two agencies, Congress would not be doing its job."

Likely Little Political Support

There is also the likelihood that there would be little political or public support for such a merger, scholars said.

"My best guess is that there would not be significant political support for merging the agencies given that they serve quite different constituencies," UCLA's Carlson said.

Also, it would be a lot of work for Congress to revise certain existing statutes that EPA is in charge of enforcing, Erin Ryan, a professor with Florida State University College of Law, told Bloomberg BNA.

"It would take a lot of legwork by Congress to redesign the statutes to accommodate this kind of change, and I think that while there are certain prerogatives that the president-elect will have, I don't foresee that there's enough of a constituency in Congress to make that an easy job," she said.

Carlson said she suspects the merger of the two agencies is an effort to curtail or limit EPA authority rather than making real changes to the agencies, which could lead to pushback from environmentalists and industry.

"As a result, I suspect that the environmental community would adamantly oppose the reorganization, but you might also see opposition from recipients of R&D money and other forms of DOE support who could fear that DOE's mission would be diluted in such a merger," she said.

Question on Nuclear Oversight

Cramer indicated that are many synergies between the two agencies, and even the Energy Department's oversight of the U.S. nuclear waste clean-up could overlap with EPA expertise.

"Most of EPA's jurisdiction is related to energy environmental matters, including transportation, so while it's not everything, there's a lot," Cramer said. Combining the expertise of the Energy Department and the EPA in the arena of nuclear waste "makes complete sense," he said.

"I think it would be synergistic. I think you could get a lot more done with fewer resources if those two were under the same roof," Cramer added.

But Alfred Marcus, a professor at the University of Minnesota's Carlson School of Management, told Bloomberg BNA, that he thought the nuclear responsibilities of the Energy Department are one of the crucial areas where the two agencies don't overlap at all.

From: Energy and Climate Report

Florida Beacon

Published Quarterly by the Florida Association of Environmental Professionals

Trump Could Be Fighting Obama's Climate Policies For Years

President-elect Donald Trump's energy agenda is shaping up to be a years-long effort to undo President Obama's policies.

Supporters of Trump and industries that have opposed Obama's regulatory actions say turning back the clock is the most important thing the president-elect can do to help businesses succeed.

But it won't be easy to undo many of the energy and climate regulations that Obama has put in place.

Under federal law, reversing major regulations requires a time-consuming process that can drag on for months and sometimes years. And even after new rules are issued, they can be challenged in court — something environmental groups are already vowing to do.

The Obama administration, meanwhile, has in recent weeks added to Trump's list of targets by issuing a new coal-mining regulation and offshore drilling bans in the Arctic and Atlantic oceans.

Obama also created controversial national monuments in Utah and Nevada that Republicans are pushing Trump to repeal, something Obama says is not in Trump's power to do.

"Some actions they will be able to do in relatively short order. Other major rules will take time to meet the burden of regulatory process," said Scott Segal, a lobbyist at Bracewell who represents numerous energy companies.

"The next administration needs to be careful, transparent and follow the rule of law, or else they'll have potential trouble in front of a reviewing court," Segal said. "Because there's no doubt that the environmental community would sue to prevent these actions."

Still, much of Obama's environmental agenda was enacted through executive actions, which are within Trump's power to quickly reverse.

The Republican Congress can also help undo some of Obama's recent rules by using the Congressional Review Act, which provides for the expedited repeal of regulations.

"The Obama administration has done a lot unilaterally, and the silver lining of that is that it can be undone unilaterally," said Nick Loris, an economist at the conservative Heritage Foundation.

What seems clear is that Trump is dedicated to the fight.

While Trump has given a few nods to the green movement — Trump met separately with climate activists Al Gore and Leonardo DiCaprio after the election — his Cabinet picks are vocal critics of Obama's agenda.

Trump's selections include Oklahoma Attorney General Scott Pruitt (R) to lead the Environmental Protection Agency, Montana Rep. Ryan Zinke (R) to lead the Interior Department and former Texas Gov. Rick Perry (R) to lead the Energy Department.

William Yeatman, a senior fellow at the conservative Competitive Enterprise Institute, said an aggressive fight against Obama's policies is a welcome change and something to be expected when the White House changes hands.

"It is not uncommon whenever there's a change of party, given how much policy emanates from the executive branch these days, for recension to be of the order for the incoming president," he said. "When policy emanates from the executive, and there's a change in the executive, policy is supposed to reflect that."

During the campaign, Trump ran in part on an aggressive deregulatory plan, saying in September that he would pursue "the elimination of all unnecessary regulations and a temporary moratorium on new regulations not compelled by Congress or public safety."



Trump has specifically pledged to undo the Clean Power Plan, the Waters of the United States rule, Interior's stream protection rule and the moratorium on new coal-mining leases on federal land.

He's also promised to stop all payments to international climate efforts, to pull the United States out of the Paris climate agreement, and to open more federal land and water to oil and natural gas drilling.

The Trump transition website promises that the next administration "will unleash an energy revolution that will transform us into a net energy exporter, leading to the creation of millions of new jobs, while protecting the country's most valuable resources — our clean air, clean water, and natural habitats."

Environmentalists and other Trump opponents say many of Obama's actions are popular with the public and should be preserved. They accuse the Republican of focusing solely on reversing Obama, rather than putting forward energy and environmental plans of his own.

"If President-elect Trump decides to go in the direction that it appears he is, trying to undermine a full range of environmental protections, weakening or eliminating a move to a clean-energy economy, there will be a very strong reaction," said David Goldston, director of government affairs at the Natural Resources Defense Council.

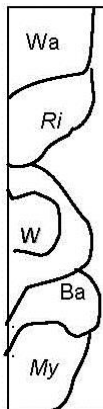
Goldston compared Trump's plans to those of presidents George W. Bush and Ronald Reagan, as well as that of former Speaker Newt Gingrich (R-Ga.). All three came to power with broad deregulatory promises but failed to overcome opposition, he said.

"There was a strong vocal backlash, and they eventually decided this was not worth their effort. And we expect that to be the case again," he said.

James Goodwin, a senior policy analyst at the Center for Progressive Reform, said he is optimistic that the country will continue to move toward clean energy sources like wind and solar, no matter what Trump does.

"There's only so much you can do with policy that's going to change the way we're headed," he said.

From: The Hill



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Published Quarterly by the Florida Association of Environmental Professionals

Fifteen Species Removed from Florida's Endangered and Threatened Species List

Florida's Imperiled Species Management Plan ([Link](#)) has received final public comment and was approved at the November 17th Florida Fish and Wildlife Conservation Commission (FWC) meeting. According to FWC, the plan is an "innovative, integrated plan for conservation, like none tried before in Florida." Of the 57 species currently included in the Plan, 37 are listed as state Threatened, five are listed as Species of Special Concern by the state, and 15 have been removed from Florida's Endangered and Threatened Species.

The following species have been delisted:

Eastern chipmunk	<i>Tamias striatus</i>
Florida mouse	<i>Podomys floridanus</i>
Brown Pelican	<i>Pelecanus occidentalis</i>
Limpkin	<i>Aramus guarauna</i>
Snowy Egret	<i>Egretta thula</i>
White Ibis	<i>Eudocimus albus</i>
Peninsula ribbon snake (Lower Keys)	<i>Thamnophis sauritus sackenii</i>
Red rat snake (Lower Keys)	<i>Pantherophis guatemalensis</i>
Striped mud turtle (Lower Keys)	<i>Kinosternon baurii</i>
Suwannee cooter	<i>Pseudemys concinna suwanniensis</i>
Gopher frog	<i>Lithobates capito</i>
Pine Barrens treefrog	<i>Hyla andersonii</i>
Lake Eustis pupfish	<i>Cyprinodon variegatus hubbsi</i>
Mangrove rivulus	<i>Kryptolebias marmoratus</i>
Florida tree snail	<i>Liguus fasciatus</i>

The Plan focuses primarily on improving the conservation status of Florida's imperiled wildlife through reducing the risk of extinction, maintaining sufficient habitat, and improving public and partner support of conservation efforts. To achieve this, The Plan objectives focus on two key areas:

- filling data gaps necessary to improve conservation and management
- maximizing conservation through directed communication, outreach, and management.

While these objectives may emphasize public conservation areas for implementation, the importance of private lands in supporting conservation for imperiled species cannot be undervalued. Therefore, great attention will be placed on working cooperatively with private landowners to sustain and further conserve imperiled species.

In addition to providing adequate species protections, the regulatory component of the Plan also aims to improve clarity, efficiencies, and permitting options. Species Conservation Measures and Permitting Guidelines will be prepared for all 57 species and will provide essential information, including habitat requirements and related protections as they apply. These Guidelines will outline when a permit is required, what activities are allowed without a permit, and other important information such as buffer zones or seasonal restrictions. They will also include (when applicable) minimization options to avoid impact to a species and preempt the need for a permit.

More details can be found at <http://myfwc.com/wildlifehabitats/imperiled/>

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Beijing Launches Environmental Police Force to Tackle Air Pollution

BEIJING (Reuters) - The smog-hit Chinese capital of Beijing will establish a police force to deal specifically with environmental offences as part of its efforts to clean up its air and crack down on persistent polluters.

The smog police will crack down on open-air barbecues, garbage incineration, biomass burning and dust from roads, Beijing's acting mayor Cai Qi said on January 7th, according to the official Xinhua news agency.

"These acts of non-compliance with regulations are actually the result of lax supervision and weak law enforcement," Cai told a government meeting.

Nearly three years into a "war on pollution", large swathes of northern China were engulfed in smog over the New Year, with dangerous air quality readings in major cities like Beijing, Tianjin and Xian forcing many people to stay in doors.

The smog which blanketed cities, disrupting flights, port operations and schools, was caused by increased coal use for winter heating and unfavorable weather conditions.

The central government has promised to make greater use of police and law courts to prosecute companies and local officials responsible for exceeding emissions limits.

But while China's environmental legislation has been beefed up in recent years, authorities have long struggled to build up the staff required to enforce laws.

China's continuing reliance on fossil fuels, especially in the north, made the fight against pollution difficult, China's environment minister Chen Jining said on Friday.

He said the six provinces and regions hit hardest by smog over the last month, including Beijing, consume a third of the country's total coal and emit around 30-40 percent of China's major atmospheric pollutants, despite accounting for just 7.2 percent of China's total area.

But he said China would still be able to solve its pollution problems faster than western countries, including Germany.

"They needed 20-40 years to solve it. I believe we will do it faster than they did," Chen said, according to a transcript posted on the State Council's website. "We shouldn't lose confidence because of a few days of heavy pollution," he added.

China last week announced it would plow 2.5 trillion yuan (\$361 billion) into renewable power generation by 2020.



From Reuters.com



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Upcoming Conferences and Workshops

Event	Date	Place
National Council for Science and the Environment	Jan. 24 – 26, 2017	Washington, DC
AWWA, Indiana Section 109 th Annual Conference	Jan. 30 – Feb. 2, 2017	Indianapolis, IN
National Conference on Beach Preservation Technology	Feb. 8 – 10, 2017	Stuart, FL
EUEC Energy, Utility & Environment Conference	Feb. 8 – 10, 2017	Santiago, CA
Water & Wastewater Equipment Treatment & Transport	Feb. 22 – 25, 2017	Indianapolis, IN
Greenprints 2017 (green building, sustainable development and policy in the Southeast)	Mar. 7 – 8, 2017	Atlanta, GA
RemTEC Summit, Environmental Science and Remediation	Mar. 7 – 9, 2017	Denver, CO
Northeast Sustainable Energy Assn. Conference, Building Energy	Mar. 7 - 9, 2017	Boston, MA
Geotechnical Frontiers 2017, Innovation & Collaboration in Technology & Practice	Mar. 12 – 15, 2017	Orlando, FL
Southeast Recycling Conference & Tradeshow	Mar. 12 – 15, 2017	Destin, FL
AWWA Sustainable Water Management Conference	Mar. 19 – 22, 2017	New Orleans, LA
NGWA, Conference on Hydrogeophysics & Deep Groundwater	Mar. 20 – 21, 2017	Denver, CO
AEHS Foundation, 27 th Annual Conference on Soil, Water, Energy, & Air	Mar. 20 – 23, 2017	San Diego, CA
Georgia Assn. of Water Professionals, 2017 Industrial Conference & Expo	Mar. 21 – 23, 2017	Athens, GA
Environmental Information Assn. National Conference & Exposition	Mar. 25 – 29, 2017	Orlando, FL
National Association of Environmental Professionals	Mar. 27 – 30, 2017	Durham, NC
American Society for Environmental History 2017 Conference: Winds of Change: Global Connections across Space, Time, and Nature	Mar. 29 – Apr. 22, 2017	Chicago, IL
SAME 10 th Symposium on Design & Construction Issues at Hazardous Waste Sites	Apr. 3 – 5, 2017	Philadelphia, PA
Clemson Hydrogeology Symposium and Field Trips	Apr. 5 – 7, 2017	Clemson, SC
SAME Southeast Federal Agency Symposium	Apr. 10 – 11, 2017	Atlanta, GA
Georgia Association of Water Professionals 2017 Spring Conference	Apr. 11 – 12, 2017	Jekyll Island, GA
Professional Geologists, Innovative Remediation Technologies Conf.	Apr. 18 – 19, 2017	Kennesaw, GA
NGWA- Groundwater Quality and Unconventional Oil & Gas Development	Apr. 25 – 26, 2017	Columbus, OH
2017 AIA Expo (focus on resiliency, business management, ADA compliance, LEED, green building, and design and health)	Apr. 27 – 29, 2016	Orlando, FL
Battelle Symposium - Bioremediation and Sustainable Env. Technologies	May 22 – 25, 2017	Miami, FL
A&WMA 2017 Annual Conference and Expo	Jun. 5 – 8, 2017	Pittsburgh, PA
AWWA Annual Conference & Exposition “Uniting the World of Water”	Jun. 11 – 14, 2017	Philadelphia, PA
ASME Power & Energy Expo	Jun. 26 – 30, 2017	Charlotte, NC
Clean Waterways, North America’s Inland Rivers Response Conference (focus on hazardous materials spill prevention and response)	Jun. 27 – 28, 2017	Louisville, KY
Georgia Assn. of Water Professionals 2017 Annual Conference 7 Expo	Jul. 16 – 19, 2017	Savannah, GA
MGP 2017, 7 th International Symposium & Exhibition on the Redevelopment of MGP Sites	Oct. 16 – 18, 2017	New Orleans, LA
American Water Resources Association Annual Conference	Nov. 5 – 9, 2017	Portland, OR
National Brownfield Training Conference	Dec. 5 -7, 2017	Pittsburgh, PA

FAEP shares information about conferences pertaining to the environmental professions. FAEP does not endorse any of the referenced conferences.

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Published Quarterly by the
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