

STATUS OF PENDING EPA REGULATIONS OF INTEREST TO COUNTIES

NAME	STATUS • FINAL	RIN #	BACKGROUND	LOCAL GOVERNMENT IMPACT
Definition of “Waters of U.S.” under Clean Water Act (CWA)	Final Rule: Aug. 2015 *Rule temporarily delayed by court	RIN: 2040-AF30	According to the EPA, the purpose of this rule is to clarify which bodies of water (and their ditches) fall under federal jurisdiction in the Clean Water Act (CWA). The rule was implemented Aug. 28, 2015.	Local governments that oversee a number of ditches (roadside, stormwater, floodwater, etc.) that would be impacted.
Forest Roads: Determination under Clean Water Act	Status: Advanced Notice of Proposed Rule-making (NPRM) Notice: June 2016	RIN: 2040-AF43	For the past couple of decades, stormwater runoff from forest roads has been regulated through state-adopted Best Management Practices (BMPs). However, due to a recent court order in <i>Environmental Defense Center (EDC) v. EPA, 344 F.2d 832 (9TH Cir. 2003)</i> , the EPA is required to assess whether the agency should regulate stormwater runoff from forest roads itself.	Whether or not a forest road is considered a point or non-point source is relevant to county governments, which own 45 percent of the roads and highways in the U.S. Additionally, county-owned roads may run through federal, state and private forested lands.
Municipal Separate Storm Sewer System General Permit Remand Rule	Status: NPRM Comment Period Closed March 2016 Final Rule: Nov. 2016	RIN: 2040-AF57	This rule derives from a 2003 court decision which stated that the EPA must update public participation and permit review requirements for Phase II small municipal separate storm sewer systems (MS4s).	MS4s are stormwater and wastewater collection systems, generally operated by local governments. Phase II “small” MS4s include “urbanized areas,” as defined by the U.S. Census. Approximately 6,789 “small” MS4s will be impacted by the MS4 remand rule.
Stormwater Regulations Revision to Address Discharges from Developed Sites	Withdrawn; however, provisions will be incorporated into renewed permits	RIN: 2040-AF13	EPA was working on an updated version of its existing stormwater rule. This rule was halted after the proposal was deemed to be too expensive to implement.	While the proposed rule was halted, the agency has indicated that when a municipal separate storm sewer system (MS4) permit is renewed (every five years), the new permit may include some of the provisions included in the original proposal.
Regulations Implementation Section 1417 of the Safe Drinking Water Act: Prohibition on Use of Lead Pipes, Solder and Flux	Status: NPRM, August 2016 Final Rule: Feb. 2018	RIN: 2040-AF55	This regulation would set lead limitation levels for pipes and fixtures in drinking water systems. Additionally, EPA will codify language exempting fire hydrants from the lead rule.	This rule will impact local governments that own or operate water utilities.
Drinking Water Regulations: Regulation of Lead and Copper	Status: NPRM, Dec. 2016 (projected) Final Rule: June 2018	RIN: 2040- AF15	EPA announced it is assessing rule-making options on lead and copper in to determine if there is a national problem related to elevated lead and copper levels in drinking water.	This rule will impact local governments that own or operate water utilities.

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Rulemaking to Establish Regulatory Procedures for Eligible Tribes to Assume Authority Over Clean Water Act Programs	Status: NPRM, Jan. 2016	RIN: 2040-AF52	The EPA is considering giving eligible Indian tribes the the same authority states have to regulate impaired waters on Indian reservations and to establish total maximum daily loads (TMDLs) standards on water resources.	This may be relevant for counties that have services or infrastructure on tribal lands or crosses tribal lands.
NPDES Permit Requirements for Municipal Sanitary Systems and Peak Flow Treatment Facilities	Status: Pre-proposal	RIN: 2040-AD02	The Agency is considering proposing standard permit conditions for inclusion in permits for publicly owned treatment works (POTWs) and municipal sanitary sewer collection systems for monitoring, reporting, and discharge obligations.	This would impact counties that own and operate sanitary sewer overflow (SSO) systems.
Water Quality Standards Regulatory Revisions	Final Rule: Aug. 2015	RIN: 2040-AF16	Water Quality Standards (WQS) are a key component of the Clean Water Act. WQS designs specific goals – e.g. fishable/swimmable – for water bodies designated as “waters of the U.S.” and sets pollution-limiting criteria to protect those uses. The final rule was finalized on Aug. 21, 2015.	Local governments are tasked with achieving WQS for water pollution control – tighter standards would impact Total Maximum Daily Loads (TMDLs) and National Pollution Discharge Elimination System (NPDES) permits.
Unregulated Contaminant Monitoring Rule (UCMR 4) for Public Water Systems	Status: NPRM Dec. 2015 Final Rule: Jan. 2017	RIN: 2040-AF49	The Safe Drinking Water Act (SDWA) requires that the EPA establish criteria for monitoring no more than 30 unregulated contaminants every five years.	Relevant for counties that own drinking water utilities.
Bioreactor/Wet Land Regulations	Status: ANPR, July 2016	RIN: 2050-AG86	EPA is considering whether to create new national standards for the operations of “wet” landfills and bioreactor landfills. EPA plans to request information and data on the performance of wet landfills and bioreactors and request comments on whether new national standards are appropriate.	This proposal may be relevant for local governments that operate “wet” and bioreactor landfills. Wet and bioreactor landfills use water to speed up the the decomposition of materials, this process creates more methane gas, as well as creates more space at existing landfills.
Emissions Guidelines and Compliance Tables for Municipal Solid Waste Landfills	Final Rule: July 2016	RIN: 2060-AS23	EPA is currently undergoing a review of the air emissions guidelines for municipal solid waste landfills. The rule will also include regulatory issues on landfill gas treatment systems: startup, shutdown and malfunction.	Counties that own landfills will be required to install controls for collecting and combusting landfill gas. This applies to landfills constructed, reconstructed or modified after November 8, 1987 and before July 17, 2014.

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Lead: Renovation, Repair, and Painting for Public and Commercial Buildings	Status: NPRM Projected Final Rule: April 2017	RIN:2070-AJ56	In 2008, the EPA established a final rule to address lead-based paint (LBP) activities in housing and child care facilities. However, EPA was sued for not addressing LBP hazards in public and commercial buildings. In a settlement agreement, EPA agreed to determine whether activities that impact LBP in public buildings must be federally regulated.	This proposal will impact any county that owns a public building with lead-based paint.
Lead-Based Paint Activities: Bridges and Structures; Training, Accreditation, and Certification Rule and Model State Plan Rule	Status: Pre-proposal	RIN: 2070-AC64	On September 2, 1994, EPA proposed a rule to govern work practices for bridges and structures with lead-based paint (LBP). This rule will look at model state laws and LBP impacts for bridges and other structures.	This proposal may impact counties that own bridges that, at one point, were painted with LBP. The rule may govern bridge maintenance activities for bridges with lead-based paint.
Modernization of the Accidental Release Prevention Regulations (Risk Management Program)	Status: Final Rule, Dec. 2016	RIN: 2050-AG82	As a result of a 2013 West, Texas chemical explosion, EPA is proposing to tighten safety procedures in and around facilities that use chemicals. Additionally, the proposed rule increases emergency response protocol around these facilities, which include water/wastewater plants.	The proposed rule would potential impact counties in two ways. First, as owners of water/wastewater facilities, they would be subject to tighter reporting and emergency protocol requirements. Second, each individual facility within a local jurisdiction would be required to run notification exercises, tabletop and field exercises with local emergency personal on an annual basis.
Polychlorinated Biphenyls (PCB) Light Fixtures	Status: Projected, NPRM, June 2016	RIN: 2070-AJ38	Due to a lawsuit, EPA is considering whether to require all building operators who may still use ballast light fixtures (common in buildings older than 1978 and have not been subject to energy efficiency upgrades) to replace them. These fixtures may be common in schools, hospitals, government centers, etc.	If EPA required an immediate replacement for all PCB fixtures, this would create a substantial unfunded mandate on local governments.

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Management Standards for Hazardous Waste Pharmaceuticals	Status Final Rule: Oct. 2016	RIN: 2050-AG39	A small portion of pharmaceuticals are regulated as hazardous waste under the Resource Conservation and Recovery Act when discarded. Health care (and associated) facilities that have excess hazardous waste pharmaceuticals have reported difficulties complying with the manufacturing-oriented framework of the hazardous waste regulations.	Counties own and operate nursing homes and hospitals that may be impacted. Also uncertain is the impact on local pharmaceutical give-back programs.
Review of the National Ambient Air Quality Standards for Ozone	Status: Rule Finalized Oct. 2015	RIN: 2060-AP38	On Oct. 1, 2015, the EPA released a final rule to tighten air quality standards for ozone from 75 parts per billion (ppb) to 70 ppb. Additionally, as part of the rule, 32 states are required to expand their air monitoring season. Over the next two years, EPA will work with the states to determine final designations – likely using 2014-2015 air quality data – and the final designations will be made by Oct. 2017. The rule will likely be implemented several years after that, barring legal challenges.	<p>Currently, 227 counties — primarily urban and in the East — are considered in non-attainment of existing ozone standards.</p> <p>However, under the rule, this number could increase, as could the costs for compliance. Under a 70 ppb standard, using 2011-2013 air quality monitoring data, approximately 358 counties would be in violation.</p> <p>Counties in non-attainment areas often have difficulty attracting and keeping businesses, which must comply with the tighter standards. Additionally, a tighter standard will impact transportation conformity plans.</p>