



REC Review

of Legislative & Regulatory Actions



The Navy Regional Environmental Coordination Office

February 2019

The *REC Review* publishes environmental and energy related developments for DoD/Navy leaders and Installation staff. Covering 21 states, the *REC Review* gives early notice of legislative and regulatory activities relevant to DoD interests in Federal Regions 1 & 3 and Navy interests in Federal Regions 2, 4, & 5.

To find out more about the Regional Environmental Coordination Office and browse back issues of the *REC Review* visit <http://denix.osd.mil/rec/home/>. To receive a copy of this electronic publication, send a subscription request to NAVFACML_EV-dodrecregion3@navy.mil.



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SPOTLIGHT STORY

On 24 January 2019, Naval Support Activity (NSA) Hampton Roads Portsmouth Annex and Naval Station (NS) Norfolk were recognized as Sustained Distinguished Performers at the Model Level for the 2019 Elizabeth River Project River Star Awards, its highest designation for businesses and government organizations.

NS Norfolk completed construction of a 14.9 megawatt combined heat and power plant, pursuing a goal to reduce shore consumption by 50 percent by 2020. NS Norfolk also reduced greenhouse gas emissions by 17 percent over the prior year.

NSA Hampton Roads Portsmouth Annex, the nation's oldest naval hospital, reduced energy consumption by 10 percent, equating to nearly 5 million pounds of air emissions avoided. To address stormwater, the annex installed 5,000 cubic yards of porous pavers to allow rain to filter pollutants.



The Elizabeth River Project is the non-profit leading the community efforts to restore the environmental health of the Elizabeth River while affirming its value to the port community. Recognition is awarded once a year by peer review of documented results. Since 2014, the Elizabeth River Project has recognized 109 business/government organizations, and since 1997, organizations have voluntarily reduced pollution by 311 million pounds.

GENERAL INTEREST

Promoting Active Management of America's...Federal Lands to...Reduce Wildfire Risk The President has issued Executive Order 13855 "Promoting Active Management of America's Forests, Rangelands, and other Federal Lands to Improve Conditions and Reduce Wildfire Risk."

The order contains seven main sections that prescribe the "Policy", "Goals", "Coordination and Efficient Processes", "Unmanned Aerial Systems", "Wildfire Strategy", "Collaborative Partnerships", and "General Provisions" necessary to improve the management and conditions of public forestlands to protect water quality, reduce hazardous fuel loads and invasive species, and to mitigate severe flooding, erosion, and overall destruction arising from catastrophic wildfires.

Western states heavily effected by forestland wildfires, such as California and Washington, have implemented similar policies recently in their forestry management plans.

For more information on Washington and California's proposed forest management plans please see:

<https://forests.berkeley.edu/research/current-projects/fuels-forest-health-treatments>

https://www.dnr.wa.gov/publications/rp_forest_health_20_year_strategic_plan.pdf

https://www.fs.usda.gov/nfs/11558/www/nepa/106911_FSPLT3_4111729.pdf

<https://www.gov.ca.gov/wp-content/uploads/2019/01/1.8.19-EO-N-05-19.pdf>

<https://www.gov.ca.gov/wp-content/uploads/2019/01/1.8.19-EO-N-04-19.pdf>

FEDERAL NEWS

Notice: *With regard to any regulation or legislation, installation staff is requested to contact their respective component REC with information on mission or installation impacts, questions, or comments.*

AIR

Mercury and Air Toxics Standards - Revised Supplemental Cost Finding In advance of formal publication in the Federal Register, EPA has released the text of a proposed rule that would make a revised determination on the costs and benefits of regulating HAP emissions, including mercury, from coal- and oil-fired power plants. The proposed revised determination would focus solely on the benefits of reduced mercury and toxics and not include benefits from incidental reductions in particulate or other emissions.

Based on the proposed revised accounting, EPA asserts that costs of such regulation grossly outweigh the quantified HAP benefits and is therefore not "appropriate and necessary" to regulate HAP emissions from coal- and oil-fired power plants under section 112 of the CAA.

EPA is not, however, proposing (at this time) to remove the emission standards and other requirements of the Mercury and Air Toxics Standards (MATS) rule. EPA is accepting comment on this approach. The MATS rule addresses emissions of HAP in four pollutant categories: Hg, non-Hg metals, acid gases, and organics. EGUs in six subcategories are subject to numeric emission limits for specific HAP, or surrogates for those HAP, in the three pollutant categories of Hg, non-Hg metals, and acid gases.

The proposed rule also contains the results of the residual risk and technology review (RTR) required by Clean Air Act Section 112. The proposed RTR concludes that no additional regulations are required.

Fact sheet and prepublication version of the Federal Register notice are available at <https://www.epa.gov/mats/proposed-revised-supplemental-finding-and-results-residual-risk-and-technology-review>

The text of the proposed rule is available at https://www.epa.gov/sites/production/files/2018-12/documents/frnmatsfindingandrtr_12_2018wdisc.pdf

CLIMATE CHANGE AND ENERGY

Activities of Selected Agencies to Address Potential Impact on Global Migration In response to a request from Congress members to review how U.S. agencies address climate change as a potential driver of global migration, GAO has issued a report, titled Activities of Selected Agencies to Address Potential Impact on Global Migration.

The report chronicles changes under the current administration, including the revocation of Executive Orders 13653, and the 2016 presidential memorandum on Climate Change and National Security, dissolution of the Climate and National Security Working Group of which State, USAID, and DOD were members, removal of climate change mitigation goals from the State-USAID Joint Strategic Plan, and defunding of support to the Global Climate Change Initiative, which aimed to integrate climate change considerations into U.S. foreign assistance.

The report makes a single recommendation, that the Department of State provide missions with guidance that clearly documents its process for climate change risk assessments for country strategies. In commenting on a draft of this report, (the Department of) State indicated that it would update its integrated country strategy guidance and will specifically note that missions have the option to provide additional information on climate resilience and related topics.

<https://www.gao.gov/products/GAO-19-166>

New York Governor Launches "Green New Deal" New York Governor Andrew Cuomo announced the launch of a "Green New Deal" initiative, as part of a larger comprehensive "Social, Economic, and Racial Justice Agenda."

Governor Cuomo is proposing:

- a mandate of 100 percent clean, carbon-free electricity in New York State by 2040;
- an increase of New York's Clean Energy Standard mandate from 50 percent to 70 percent renewable electricity by 2030;
- deploying 3,000 megawatts of energy storage by 2030;

The Governor is creating a Climate Action Council, comprised of the heads of relevant state agencies and other workforce, environmental justice, and clean energy experts to develop a plan to make New York carbon neutral.

"The Climate Action Council will commence its work immediately in order to support the development of the next State Energy Plan over the next two years and will provide meaningful opportunities for public comment as it develops New York's first carbon neutrality roadmap."

The Governor's "Social, Economic, and Racial Justice Agenda" is available at https://votesolar.org/files/7415/4758/4798/SoS_Briefing_Book_2019.pdf

Greenland Ice Melting Rapidly in Southwestern Region Researchers analyzing the Gravity Recovery and Climate Experiment (GRACE) satellite data found that the largest sustained ice loss from early 2003 to mid-2013 came from Greenland's southwest region, which is mostly devoid of large glaciers.

Scientists concerned about sea level rise have long focused on Greenland's southeast and northwest regions, where large glaciers stream iceberg-sized chunks of ice into the Atlantic Ocean. The new study found that the largest sustained ice loss from early 2003 to mid-2013 came from Greenland's southwest region, which is mostly devoid of large glaciers. The authors infer that within two decades, due to its greater sensitivity to warming air temperatures, the southwest part of the Greenland Ice Sheet will become a "major" contributor to sea-level rise. The authors say these new findings show that scientists need to be watching the island's snowpack and ice fields more closely, especially in and near southwest Greenland.

The Greenland Ice Sheet and its outlying ice caps were losing mass at a rate of about -102 Gigatons/year in early 2003, but ten years later this rate had increased nearly fourfold to about -393 Gt/y. Melting 365 gigatons of ice would add 1 millimeter to global sea level: <https://sealevel.nasa.gov/understanding-sea-level/global-sea-level/ice-melt>

The study was published in the Proceedings of the National Academy of Sciences: <https://www.pnas.org/content/early/2019/01/14/1806562116>

REGION I



Note: The Connecticut Legislature convened on 9 JAN 2019 and adjourns on 8 JUN 2019.

PROPOSED LEGISLATION

House Bill 5247 would require that all state and municipal developers and any company with a construction project utilize stormwater best management practices. <https://www.cga.ct.gov/2019/TOB/H/pdf/2019HB-05247-R00-HB.PDF>



Note: The Maine Legislature convened on 5 DEC 2018 and adjourns on 15 MAY 2020.

No new environmental legislation or regulation of significant importance to DoD was identified during this reporting period.



MASSACHUSETTS

Note: The Massachusetts Legislature convened on 4 JAN 2017 and adjourns on 2 JAN 2019.

No new environmental legislation or regulation of significant importance to DoD was identified during this reporting period.

LEGISLATIVE/REGULATORY RELATED NEWS

On 16 JAN 2019, Massachusetts Department of Environmental Protection (MassDEP) held a public hearing in response to a petition submitted by the Conservation Law Foundation and Toxics Action Center requesting rulemaking to establish a drinking water standard for the Per- and polyfluoroalkyl substances (PFAS) as a class of chemicals. In a written response issued 28 JAN 2019, MassDEP agreed to initiate the process for development of maximum contamination levels (MCLs) for those PFAS where a threat to human health has been identified, analytical methods exist for their detection, and appropriate treatment technologies are available. Currently the PFAS under consideration include perfluorooctane carboxylate (PFOA), perfluorooctane sulfonate (PFOS), perfluorohexane sulfonate (PFHxS), perfluoroheptane carboxylate (PFHpA) and perfluorononane carboxylate (PFNA).

<https://www.mass.gov/files/documents/2019/01/28/pfaspetitionresponse-01282019.pdf>



NEW HAMPSHIRE

Note: The New Hampshire Legislature will convene on 2 JAN 2019 and adjourn on 30 JUN 2019.

PROPOSED LEGISLATION

House Joint Resolution 1 Supporting efforts to develop wind power off the New Hampshire coast. This joint resolution urges the governor to request that the federal Bureau of Ocean Energy Management form a task force to plan for offshore wind development in the Gulf of Maine.

http://gencourt.state.nh.us/bill_status/billText.aspx?sy=2019&id=398&txtFormat=html

LEGISLATIVE/REGULATORY RELATED NEWS

The New Hampshire Department of Environmental Services filed the expected proposals setting PFAS MCLs and ambient groundwater quality standards (AGQS). Three rule changes were filed that would 1) set MCLs along with monitoring and compliance requirements for community water systems and non-transient, non-community water systems (PFNA-23ppt, PFHxS-85ppt, PFOA-38ppt, PFOS-70ppt, and PFOA+PFOS-70ppt); 2) set AGQSs equivalent to the proposed state MCLs in accordance with New Hampshire Groundwater Protection Act; and 3) set a discharge limit for PFAS in wastewater discharged to groundwater at the same concentrations.

<https://www.des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>



RHODE ISLAND

Note: The Rhode Island Legislature will convene on 12 JAN 2019 and adjourn on 30 JUN 2019.

FINAL RULES

Operating Permit Fees Regulation establishes a fee system for the operating permits program. Stationary sources shall pay an annual emissions fee. Sources whose actual emissions are less than ten tons per year shall pay a fixed fee. Fees for sources with actual emissions greater than or equal to 10 tons per year shall be assessed on a per ton basis. All regulated air pollutants shall be assessed at the same rate. The Division Office of Air Resources will determine the fixed fee charge and dollar per ton fee by 31 January of each subsequent year and provide public notice of this preliminary fee determination. In all cases, the fee must generate at least enough revenue to cover the direct and indirect costs of running the Operating Permit Program. Regulation effective 10 JAN 2019.

http://services.statescape.com/ssu/Regs/ss_8586542752445528684.pdf

Control of Organic Solvent Emissions The Department of Environmental Management has adopted rules limiting emissions of volatile organic compounds (VOCs) from stationary sources of air contaminants. Regulation effective 10 JAN 2019. http://services.statescape.com/ssu/Regs/ss_8586541140291737617.pdf



VERMONT

Note: The Vermont Legislature will convene on 9 JAN 2019 and adjourn on 15 MAY 2020.

PROPOSED LEGISLATION

Senate Bill 49 would add the 20ppt standard as maximum contamination levels (MCL) under the Vermont Water Supply Rule, set water quality criteria or effluent limitations for Per- and polyfluoroalkyl substances (PFAS) under the Vermont Water Quality Standards and set standards for the treatment of landfill leachate prior to treatment at a wastewater treatment plant or facility where leachate would be discharged to state waters.

FINAL RULES

Groundwater Protection Rule and Strategy The Agency of Natural Resources has adopted emergency rulemaking to maintain the cumulative groundwater quality standard of 20 parts per trillion (ppt) for five PFAS currently established in the Groundwater Protection Rule and Strategy via emergency rule while perfluorooctane carboxylate (PFOA), perfluorooctane sulfonate (PFOS), perfluorohexane sulfonate (PFHxS), perfluoroheptanoic acid (PFHpA), and perfluorononane carboxylate (PFNA). Emergency rule was posted on 8 JAN 2019 and expires on 7 JUL 2019.

http://services.statescape.com/ssu/Regs/ss_8586542780553501483.pdf

PROPOSED RULES

Groundwater Protection Rule and Strategy The Vermont Department of Environmental Conservation (DEC) has filed the expected proposed Groundwater Protection Rule and Strategy setting groundwater enforcement standards for PFHxS, PFHpA, PFNA, PFOS, and PFOA at a combined 20ppt. Currently these standards are implemented under emergency rule. The proposed rule also sets a Preventive Action Level of 2ppt (combined) above which reporting is required. http://services.statescape.com/ssu/Regs/ss_8586556564038713614.pdf

REGION II



NEW JERSEY

Note: The New Jersey Legislature convened on 9 JAN 2018 and adjourns on 7 JAN 2020.

PROPOSED LEGISLATION

Assembly Bill 4775 establishes Statewide hydrofluorocarbon emission limit and requires Department of Environmental Protection (DEP) to establish hydrofluorocarbon emissions monitoring and reporting program. The bill would set a statewide goal of achieving a 40 percent reduction in hydrofluorocarbon emissions below the 2018 level by 2035 (the "2035 hydrofluorocarbon limit"), and would require the DEP to adopt rules and regulations establishing a hydrofluorocarbon emission monitoring and reporting program to achieve the 2035 hydrofluorocarbon limit. https://www.njleg.state.nj.us/2018/Bills/A5000/4775_11.PDF



NEW YORK

Note: The New York State Legislature will convene on 9 JAN 2019 and adjourn 6 JAN 2021.

PROPOSED LEGISLATION

Assembly Bill 1698 prohibits the idling of any passenger vehicle, with certain exceptions, for more than 3 consecutive minutes; first violation is a warning, subsequent violations of such section are traffic infractions punishable by a fine of \$150. https://nyassembly.gov/leg/?default_fld=&Text=Y&term=2019&bn=A1698

Assembly Bill 1103 enacts the "private well testing act" which authorizes the department of health to promulgate rules and regulations to establish standards for the testing of drinking water from privately owned wells. https://nyassembly.gov/leg/?default_fld=&Text=Y&term=2019&bn=A1103

REGION III



DISTRICT OF COLUMBIA

Note: The Council of the District of Columbia convened 2 JAN 2019 and adjourns 31 DEC 2020.

PROPOSED RULES

Water and Sanitation Fees proposes amendments to rules regarding miscellaneous fees and charges, permit review fees, pretreatment fees, and new fees for: events and equipment; fats oil and grease facility monthly fee and cross-connection/backflow prevention fees. http://services.statescape.com/ssu/Regs/ss_8586583377829106224.htm



DELAWARE

Note: The Delaware General Assembly will convene on 8 JAN 2019 and adjourn on 30 JUN 2020.

No new environmental legislation or regulation of significant importance to DoD was identified during this reporting period.



MARYLAND

Note: The Maryland General Assembly will convene on 9 JAN 2019 and adjourn on 10 APR 2019.

No new environmental legislation or regulation of significant importance to DoD was identified during this reporting period.



Note: The Pennsylvania General Assembly convened on 1 JAN 2019 and adjourns on 30 NOV 2020.

PROPOSED LEGISLATION

State Bill 39 amends the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code, in departmental powers and duties as to supervision, providing for lead testing in children's institutions; and, in departmental powers and duties as to licensing, providing for lead testing in child day care centers and family child care homes.
<https://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=S&billTyp=B&billNbr=0039&pn=0016>

PROPOSED RULES

Water Quality Management (WQM) and National Pollution Discharge Elimination System (NPDES) Permit Application and Annual Fees Department of Environmental Protection has proposed a rulemaking that adjusts the existing fee schedules for water quality permit applications and annual fees contained in 25 Pa. Code §§ 91.22, 92a.26 and 92a.62. The Clean Streams Law requires the department to develop and implement a permitting program to prevent and eliminate water pollution within the commonwealth and authorizes the Department of Environmental Protection to charge and collect reasonable filing fees for applications filed and for permits issued. These fees support the whole range of activities involved with water quality protection by the department. Chapter 91 establishes regulations for the WQM program and Chapter 92a establishes regulations for the NPDES program. The U.S. Environmental Protection Agency has approved Pennsylvania's NPDES program as consistent with the federal NPDES program established by the Clean Water Act (33 U.S.C. § 1342) and has authorized the department to administer the federal program in Pennsylvania.
http://services.statescape.com/RegsText/StaticDownloads/144091_251845.pdf



Note: The Virginia General Assembly will convene on 9 JAN 2019 and adjourn on 9 MAR 2019.

PROPOSED LEGISLATION

State Bill 1388 repeals direction to state agencies to exclude the Lynnhaven River and Little Creek watersheds from the James River Basin for purposes of the Chesapeake Bay Watershed Implementation Plan.
<http://leg1.state.va.us/cgi-bin/legp504.exe?191+ful+SB1388+pdf>



Note: The West Virginia Legislature will convene on 9 JAN 2019 and adjourns on 9 MAR 2019.

No new environmental legislation or regulation of significant importance to DoD was identified during this reporting period.

REGION IV



NORTH CAROLINA

Note: The North Carolina General Assembly will convene on 16 JAN 2019 and adjourn on 30 JUN 2020.

PROPOSED RULES

Riprap Sills for Wetland Enhancement in Estuarine and Public Trust Waters The Department of Environmental Quality has proposed to adopt rules to revise the Coastal Resources Commission's general permit for the construction of riprap sills for wetland enhancement in estuarine and public trust waters in order to make the general permit consistent with the US Army Corps of Engineers regional general permit for living shorelines.

http://services.statescape.com/ssu/Regs/ss_8586537665577865440.pdf#page=15

Risk-Based Assessment and Corrective Action for Petroleum Underground Storage Tanks, Aboveground Storage Tanks and Other Sources The Environmental Management Commission has proposed rulemaking changes to the risk-based assessment and corrective action for petroleum underground storage tanks, aboveground storage tanks and other sources. http://services.statescape.com/ssu/Regs/ss_8586535219187464727.pdf

FINAL RULES

Certified Operator Required The Department of Environmental Quality has adopted rules regarding requirements for public water systems with five or more backflow prevention assemblies to retain a licensed cross-connection control operator. Effective 1 DEC 2018.

http://services.statescape.com/ssu/Regs/ss_8586547215671458544.pdf#page=71



KENTUCKY

Note: The Kentucky Legislature will convene on 7 JAN 2019 and adjourn on 31 MAR 2019.

PROPOSED LEGISLATION

House Bill 165 allows the Energy and Environment Cabinet or an air pollution control district to establish an air quality fee structure that may include a permit or registration fee in addition to the collection of a per-ton emissions-based assessment; remove the requirements relating to the determination of fee assessments for particulate matter. <https://apps.legislature.ky.gov/lrcsearch#tabs-6>

PROPOSED RULES

Underground Storage Tank (UST) System Requirements, Notification, Registration, and Annual Fees The Energy and Environment Cabinet has proposed amendments to the scope of the UST program, including provisions for exclusions, requirements concerning, registration, annual fees, performance standards, operation and maintenance of UST systems, delivery prohibition, operator training, and requirements for demonstrating financial responsibility for corrective action, compensation of third parties for bodily injury and property damage, and lender liability.

<https://legislature.ky.gov/Pages/index.aspx#page=206>

REGION V



Note: The Illinois General Assembly convened on 11 JAN 2017 and will adjourn on 9 JAN 2019.

PROPOSED LEGISLATION

House Bill 461 amends the Environmental Protection Act. Owners of public water supplies, their authorized representative, or legal custodians, shall submit plans and specifications to the Agency and obtain written approval before construction of any proposed public water supply installations, changes, or additions is started.

<http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=041500050K15>

FINAL RULES

Hazardous Waste Management System The Pollution Control Board has adopted rules updating the Illinois hazardous waste rules to incorporate amendments adopted by the U.S. Environmental Protection Agency (EPA) during the first half of 2018. The regulation will incorporate by reference the hazardous waste manifest revisions and e-manifest system user fees and the EPA revision to the Definition of Solid Waste Rule adopted by EPA between January and June 2018. Comments will not be submitted. Installations will see an increase in disposal costs as disposal facilities pass on some of the burden to implement the e-manifest program. Effective 6 DEC 2018.

http://services.statescape.com/ssu/Regs/ss_8586549880502154849.pdf#page=453



Note: The Indiana General Assembly convened on 3 JAN 2019 and will adjourn on 21 APR 2019.

PROPOSED RULES

Cold Cleaning Degreasing Alternative amends rules at 326 IAC 8-3-8 concerning cold cleaning degreasing and the addition of a control device option to comply with the requirement to use a low vapor pressure solvent.

http://services.statescape.com/ssu/Regs/ss_8586563557967091160.pdf



Note: The Michigan Legislature will convene on 9 JAN 2019 and adjourn on 31 DEC 2020.

PROPOSED LEGISLATION

State Bill 14 establishes a MCL of 5 ppt for perfluorooctane sulfonate (PFOS) and perfluorooctane carboxylate (PFOA) in drinking water systems. If this bill passed, the standards will remain effective until a rule under this act is promulgated. <http://www.legislature.mi.gov/documents/2019-2020/billintroduced/Senate/htm/2019-SIB-0014.htm>



Note: The Ohio General Assembly will convene on 7 JAN 2019 and adjourn on 31 DEC 2020.

No new environmental legislation or regulation of significant importance to the Navy was identified during this reporting period.



Note: The Wisconsin Legislature will convene on 7 JAN 2019 and adjourn on 4 JAN 2021.

No new environmental legislation or regulation of significant importance to the Navy was identified during this reporting period.

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