



# REC Review

## of Legislative & Regulatory Actions



The Navy Regional Environmental Coordination Office

June 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.



NAVFAC MIDLANT DoD REC Map

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### SPOTLIGHT STORY

#### DoD Chesapeake Bay Program Releases the FY2018 DoD Chesapeake Bay Annual Progress Report

The Commander, Navy Region Mid-Atlantic, on behalf of the Department of Defense (DoD) Chesapeake Bay Program (CBP), is pleased to announce the release of its FY18 CBP Annual Progress Report (APR). The report details the military's efforts to advance the goals and outcomes of the 2014 Chesapeake Bay Watershed Agreement (Agreement), while sustaining its ability to test, train, and operate in the watershed.

#### Summary Bullet Points:

- The DoD Chesapeake Bay Program works to protect and restore the Chesapeake Bay, while sustaining the DoD's mission to deter war and protect the security of the United States.
- The DoD is the second largest federal landowner in the watershed and, through its leadership, is committed to the common goal of a cleaner and restored Chesapeake Bay.
- In FY18, the DoD's 130 installations and annexes in the watershed reported \$129.5 million dollars invested in 573 Chesapeake Bay-related projects to support Chesapeake Bay Agreement outcomes.

The APR is located on DENIX:

<https://www.denix.osd.mil/chesapeake/library/>

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With 130 installations in the Bay watershed, that cover approximately 400,000 acres of land, DoD is one of the largest federal landholders in the Chesapeake Bay watershed. These installations vary widely in their uses and function, including national defense; training; deployment centers; research, development, and testing and evaluation facilities. They range in size from 20 acres to more than 75,000 acres and are located in urban, suburban, and rural areas.

## GENERAL INTEREST

### **Kentucky Environmental Excellence Awards – Due 1 JUL 2019**

In support of its mission to protect and enhance Kentucky's environment, the Department for Environmental Protection (DEP) is proud to recognize and encourage environmental excellence in the commonwealth through its Environmental Excellence Awards program.

<https://eec.ky.gov/Environmental-Protection/Compliance-Assistance/Pages/dep-awards.aspx>

### **Wisconsin Recycling Excellence Awards – Due Summer 2019**

The Wisconsin Department of Natural Resources (DNR) recognizes outstanding recycling and waste minimization efforts through its annual Recycling Excellence Award program. <https://dnr.wi.gov/topic/recycling/Awards.html>

### **North Carolina American Water Works Association and the Water Environment Federation (NC AWWA-WEA) – Due 1 JUL 2019**

NC AWWA-WEA members work every day to protect the public health and the environment. The organization's awards program is designed to recognize individuals and organizations that go above and beyond expectations.

<https://www.ncsafewater.org/page/Awards>

### **North Carolina Wildlife Federation (NCWF) Governor's Conservation Achievement Awards – Due 5 JUL 2019**

The Governor's Conservation Achievement Awards honor individuals, associations, businesses and others who have exhibited an unwavering commitment to conservation in North Carolina. <https://ncwf.org/programs/awards/>

## 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.***

**Executive Order (E.O.) 13834, Efficient Federal Operations**, was signed on May 17, 2018, directs Federal agencies to manage their buildings, vehicles, and overall operations to optimize energy and environmental performance, reduce waste, and cut costs. Council on Environmental Quality (CEQ) has issued further guidance to agencies for meeting E.O. 13834 goals, including tracking progress and performance, best practices, and key resources for implementation in the Implementing Instructions for E.O. 13834, Efficient Federal Operations.

<https://www.sustainability.gov/eo-efo.html>  
[https://www.sustainability.gov/pdfs/eo13834\\_instructions.pdf](https://www.sustainability.gov/pdfs/eo13834_instructions.pdf)  
<https://www.sustainability.gov/resources-eo-efo.html>

## WATER

**Updates to NPDES eRule Data Elements to Reflect MS4 General Permit Remand Rule** Environmental Protection Agency (EPA) is proposing to update specific data elements within the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule that apply to regulated municipal separate storm sewer systems (MS4s). The MS4 General Permit Remand Rule, 9 DEC 2016 (81 FR 89320), changed or removed a number of the MS4-related data elements.

The updates will clarify how the unique identifier can be used to apply to multiple MS4 entities covered under one permit. To recognize the different types of MS4s that can be regulated, the proposed rule includes the following modified language: "The unique identifier for each entity covered under an MS4 permit (e.g., city, county, incorporated town, unincorporated town, college or university, local school board, **military installation**, highways or other thoroughfares, federal facility, state facility, prison)." If, for example, one MS4 NPDES permit covers two cities, the authorized NPDES program may elect to assign each city with a unique identifier. The authorized NPDES program will make the final determination on how to identify entities covered under an MS4 permit.

For permitting authorities that use a "Two-Step General Permit" under 40 CFR 122.28(d)(2) to provide permit coverage for small MS4s, there is flexibility regarding whether the permittee or the NPDES authority will be responsible for submitting data initially. EPA envisions that most NPDES authorities will choose to require the permittee to supply the initial information that characterizes what actions the MS4 proposes to take to address the permit requirements as a first step. Then, during the second step of the permitting process, the permitting authority will modify this information as necessary to reflect the final permit requirements.

<https://www.federalregister.gov/documents/2019/04/30/2019-08733/updates-to-npdes-erule-data-elements-to-reflect-ms4-general-permit-remand-rule>

Comments are due by 29 JUL 2019.

**Perchlorate Rule** In advance of formal publication in the Federal Register, EPA has released the text of a proposed rule to regulate perchlorate in drinking water.

Perchlorate is commonly used in solid rocket propellants, munitions, fireworks, airbag initiators for vehicles, matches, and signal flares. Perchlorate may occur naturally, particularly in arid regions such as the southwestern United States and is found as an impurity in hypochlorite solutions used for drinking water treatment and nitrate salts used to produce nitrate fertilizers, explosives, and other products.

EPA is proposing to set both the enforceable Maximum Contaminant Level (MCL) for the perchlorate regulation and the perchlorate Maximum Contaminant Level Goal (MCLG) at 0.056 mg/L (56 µg/L). Water systems would be required to conduct monitoring and reporting for perchlorate, and inform consumers through public notification and consumer confidence reports. The proposal also includes a list of treatment technologies.

Water systems would be initially required to monitor quarterly for perchlorate. EPA is also proposing that based upon the monitoring results States would be able to reduce the monitoring frequency to annually, once every three

years, or once every nine years if the State concludes that the system is reliably and consistently below the MCL (based on a minimum of two consecutive ground water or four consecutive surface water samples below the MCL.)

In addition to the proposed regulation, the EPA is requesting comment on three alternatives:

- (1) whether the MCL and MCLG for perchlorate should be set at 0.018 mg/L (18 µg/L),
- (2) whether the MCL and MCLG for perchlorate should be set at 0.090 mg/L (90 µg/L), or
- (3) whether instead of issuing a national primary drinking water regulation, the EPA should withdraw the Agency's 11 FEB 2011, determination to regulate perchlorate in drinking water, based on new information that indicates that perchlorate does not occur in public water systems with a frequency and at levels of public health concern ...

The pre-publication version of the proposed rule is available at

<https://www.epa.gov/dwstandardsregulations/national-primary-drinking-water-regulations-proposed-perchlorate-rule>

EPA will accept public comment on the proposal for 60 days after publication in the Federal Register.

## CERCLA

**Update of the Federal Agency Hazardous Waste Compliance Docket** EPA has updated the Federal Agency Hazardous Waste Compliance Docket. CERCLA specifies that EPA take steps to assure that a Preliminary Assessment (PA) be completed within a reasonable time frame for those Federal facilities that are included on the Docket.

Additions include:

- Shepherd Field Air National Guard, Martinsburg, WV, (Air Force),
- 1 Puuloa Rifle Range Road, Ewa Beach, HI, (Navy).

Deletions include:

- USAF ANG Walla Walla Military Dept., Walla Walla, WA, (Air Force).

EPA tracks the National Priorities List (NPL) status of Federal facilities listed on the Docket. An updated list of the NPL status of all Docket facilities, as well as their No Further Remedial Action Planned (NFRAP) status, is available at

<https://www.epa.gov/fedfac/fedfacts>.

## NATURAL RESOURCES

**Reclassifying the American Burying Beetle from Endangered to Threatened** Fish and Wildlife Service (FWS) has proposed reclassifying the American burying beetle (*Nicrophorus americanus*) from endangered to threatened on the Federal List of Endangered and Threatened Wildlife. FWS determined that the threats to this species have been reduced to the point that it no longer meets the definition of an endangered species, but is likely to become endangered within the foreseeable future.

FWS has also proposed a rule under section 4(d) of the Endangered Species Act to provide for the conservation of the species. Many routine activities in the species' range will not be regulated if this proposal is finalized because these practices will not affect the overall viability of the American burying beetle.

FWS solicited additional data and information that may assist it in making a final decision on this proposed action.

With this document, FWS has announced its 12-month finding on a petition to remove this species from the List.

<https://www.federalregister.gov/documents/2019/05/03/2019-09035/endangered-and-threatened-wildlife-and-plants-reclassifying-the-american-burying-beetle-from>

Comments are due by 2 JUL 2019.

**Seven Year Authorization for Navy Atlantic Fleet Training and Testing Study Area** NMFS has received a request from the Navy to extend the time period from November 2023 to November 2025 for Marine Mammal Protection Act (MMPA) regulations authorizing the take of marine mammals incidental to Navy training and testing activities conducted in the Atlantic Fleet Training and Testing (AFTT) Study Area.

Incidental taking might result from the use of sonar and other transducers, in-water detonations, air guns, impact pile driving/vibratory extraction, and the movement of vessels throughout the AFTT Study Area, which includes areas of the western Atlantic Ocean along the East Coast of North America, portions of the Caribbean Sea, and the Gulf of Mexico.

In August 2018, the MMPA was amended by the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year 2019 to allow for seven-year authorizations for military readiness activities, as compared to the previously allowed five years.

In making the request to extend the time period covered by the MMPA AFTT regulations from five to seven years, the Navy proposes no changes to their specified activities, the geographical region in which those activities would be conducted, mitigation measures, monitoring, or reporting over the longer seven-year period. NMFS is requesting comments on the proposed seven-year rule and associated Letters of Authorization (LOAs) to cover the same activities covered by the existing 2018 AFTT regulations.

<https://www.govinfo.gov/content/pkg/FR-2019-05-13/pdf/2019-09541.pdf>

## REGION I



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

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



**Note: The Maine Legislature convened on 5 DEC 2018 and will adjourn on 15 MAY 2020.**

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



**Note: The Massachusetts Legislature convened on 2 JAN 2019 and will adjourn on 7 JAN 2021.**

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



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

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



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

### ***PROPOSED RULES***

**Control of Volatile Organic Compounds from Surface Coating Operations** The Department of Environmental Management has proposed amendments to rules regarding revised and new volatile organic compound (VOC) content limitations for paper, film and foil coating, metal furniture coating, large appliance coating, miscellaneous metal and plastic parts coating, and flatwood paneling.

[https://services.statescape.com/ssu/Regs/ss\\_8586435781628766526.pdf](https://services.statescape.com/ssu/Regs/ss_8586435781628766526.pdf)



## VERMONT

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

### **PROPOSED LEGISLATION**

**State Bill 37** pertains to medical monitoring. If a person incurs personal injury or property damage from a release of a toxic substance, then the bill would establish that the organization would be susceptible for covering damages sought by a "harmed" person. <https://legislature.vermont.gov/Documents/2020/Docs/BILLS/S-0037/S-0037%20House%20proposal%20of%20amendment%20Official.pdf>

### **PROPOSED RULES**

**Investigation and Remediation of Contaminated Properties Rule** The Department of Environmental Conservation has proposed rulemaking to establish standards and requirements for the investigation and remediation of releases of hazardous materials in a manner that is adequately protective of public health and the environment. The Rule provides the process that must be followed for all contaminated properties from initial investigation to final cleanup, remediation, and site closure. [https://services.statescape.com/ssu/Regs/ss\\_8586460083843297839.pdf](https://services.statescape.com/ssu/Regs/ss_8586460083843297839.pdf)

## REGION II



## NEW JERSEY

**Note: The New Jersey Legislature convened on 9 JAN 2018 and will adjourn on 7 JAN 2020.**

### **PROPOSED LEGISLATION**

**Assembly Bill 5293 (State Bill 3682)** would makes various changes to laws governing remediation of contaminated sites and licensed site remediation professionals. [https://www.njleg.state.nj.us/2018/Bills/A9999/5293\\_11.HTM](https://www.njleg.state.nj.us/2018/Bills/A9999/5293_11.HTM)



## NEW YORK

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

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

## REGION III



### DISTRICT OF COLUMBIA

**Note: The Council of the District of Columbia convened 2 JAN 2019 and will adjourn on 31 DEC 2020.**

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



### DELAWARE

**Note: The Delaware General Assembly convened on 8 JAN 2019 and will 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 convened on 9 JAN 2019 and adjourned on 10 APR 2019.**

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



### PENNSYLVANIA

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

#### ***PROPOSED LEGISLATION***

**State Bill 581** would establish drinking water maximum contaminant levels (MCLs) for perfluoroalkyl and polyfluoroalkyl substances (PFAS) not exceed 10 parts per trillion (ppt) until an MCL is established per the requirements of the other section of the bill, which requires MCLs to be established by one of the following: the Environmental Quality Board, an executive order of the Governor, or the Environmental Protection Agency.

<https://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=S&billTyp=B&billNbr=0581&pn=0639>





## VIRGINIA

Note: The Virginia General Assembly convened on 9 JAN 2019 and adjourned on 9 MAR 2019.

### **FINAL RULES**

**General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater Associated with Industrial Activity** The DEQ has adopted rules to amend and reissue the VPDES general permit for stormwater discharges from industrial activity. The permit expires on 30 JUN 2019, and needs to be reissued so that industrial facilities with point source discharges to surface waters of stormwater from regulated industrial activities can continue to have general permit coverage. Rules will be effective 1 JUL 2019.

<http://register.dls.virginia.gov/details.aspx?id=7448>

**General VPDES Permit for Discharges of Stormwater from Construction Activity** The purpose of the proposed action is to amend and reissue the existing general permit that expires on 30 JUN 2019. The general permit governs the discharge of stormwater from construction activities equal to or greater than one acre of land disturbance or less than one acre within a common plan of development. This regulatory action is necessary for existing and new construction activity projects to be covered under this general permit regulation. Rules will be effective 1 JUL 2019.

<http://register.dls.virginia.gov/details.aspx?id=7450>

### **PROPOSED RULES**

**Regulated Medical Waste Management Regulations** The DEQ has proposed rules regarding permit requirements for the storage, treatment and disposal of regulated medical wastes, rules for packaging and labelling the waste, and approved treatment processes. [https://services.statescape.com/ssu/Regs/ss\\_8586441891034900922.pdf](https://services.statescape.com/ssu/Regs/ss_8586441891034900922.pdf)

### **FINAL RULE GUIDANCE**

**Risk-Based Inspection Strategy for Underground Storage Tanks** The Department of Environmental Quality (DEQ) has requested public input regarding the Risk-Based Inspection Strategy for Underground Storage Tanks (UST). This strategy is intended to evaluate alternative targeting methods for establishing annual inspection schedules. The strategy became effective 13 JUN 2019. [https://services.statescape.com/ssu/Regs/ss\\_8586437492588535937.pdf](https://services.statescape.com/ssu/Regs/ss_8586437492588535937.pdf)



## WEST VIRGINIA

Note: The West Virginia Legislature convened on 10 MAR 2019 and will adjourn on 30 JUN 2019.

### **FINAL RULES**

**Standards of Performance for New Stationary Sources** The Department of Environmental Protection (DEP) has adopted rulemaking that establishes and adopts standards of performance for new stationary sources promulgated by the EPA pursuant to section 111(b) of the federal Clean Air Act, as amended. Rules became effective 1 JUN 2019.

[https://services.statescape.com/ssu/Regs/ss\\_8586453054934030247.pdf#page=13](https://services.statescape.com/ssu/Regs/ss_8586453054934030247.pdf#page=13)

**Emissions Standards for Hazardous Air Pollutants** The DEP has adopted rulemaking that establishes and adopts a program of national emission standards for hazardous air pollutants and other regulatory requirements promulgated by the EPA pursuant to 40 CFR Parts 61, 63 and section 112 of the federal Clean Air Act, as amended. Rules will become effective 1 JUN 2019.

[https://services.statescape.com/ssu/Regs/ss\\_8586453042682750234.pdf#page=14](https://services.statescape.com/ssu/Regs/ss_8586453042682750234.pdf#page=14)

## REGION IV



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

### ***PROPOSED LEGISLATION***

**House Bill 566** would make persons causing or contributing to contamination responsible for costs of cleanup and provision of alternative water supplies to persons with water supplies affected by such contamination.

<https://www.ncleg.gov/BillLookup/2019/H566>

**House Bill 568** would establish enhanced requirements for dischargers of pollutants to the state's air and water, to provide increased funding for the department of environmental quality, and to make other statutory changes necessary to address contamination of drinking water supplies in the state in order to protect human health.

<https://www.ncleg.gov/BillLookup/2019/H568>

**House Bill 812** would establish nutrient offset bank and would allow nutrient credits to be purchased.

<https://www.ncleg.gov/BillLookup/2019/H812>



**Note:** The Kentucky Legislature convened on 7 JAN 2019 and adjourned on 28 MAR 2019.

### ***FINAL RULES***

**Underground Storage Tank (UST) System Requirements, Notification, Registration, and Annual Fees** The Energy and Environment Cabinet has adopted 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.

Rules became effective 5 APR 2019. [https://services.statescape.com/ssu/Regs/ss\\_8586446979817426220.pdf](https://services.statescape.com/ssu/Regs/ss_8586446979817426220.pdf)

**UST System Release and Corrective Action** The Energy and Environment Cabinet has adopted amendments to the requirements for UST system release reporting, release response, permanent closure of UST systems, change in service of UST systems, site characterization, corrective action, and UST facility classification, including screening levels of a UST system containing petroleum. Rules became effective 5 APR 2019.

[https://services.statescape.com/ssu/Regs/ss\\_8586446979197045783.pdf](https://services.statescape.com/ssu/Regs/ss_8586446979197045783.pdf)

## REGION V



**Note: The Illinois General Assembly convened on 9 JAN 2019 and will adjourn on 31 MAY 2020.**

### ***FINAL LEGISLATION***

**House Bill 2988** in provisions concerning wind farms and electric-generating wind devices, makes the provisions applicable even if a county has or has not formed a zoning commission and adopted formal zoning. Clarifies that only a county may establish standards for wind farms, electric-generating wind devices, and commercial wind energy facilities in unincorporated areas of the county outside of the zoning jurisdiction of a municipality and the 1.5 mile radius surrounding the zoning jurisdiction of a municipality. Bill was effective 19 APR 2019.

<http://www.ilga.gov/legislation/fulltext.asp?DocName=10100HB2988lv&SessionID=108&GA=101&DocTypeID=HB&DocNum=2988&print=true>



**Note: The Indiana General Assembly convened on 3 JAN 2019 and adjourned on 21 APR 2019.**

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



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

### ***PROPOSED LEGISLATION***

**State Bill 326** would require preparation of report on cumulative pollution levels and effects and a public meeting for new permit applications. <http://www.legislature.mi.gov/documents/2019-2020/billintroduced/Senate/pdf/2019-SIB-0326.pdf>



**Note: The Ohio General Assembly convened on 7 JAN 2019 and will 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 convened on 7 JAN 2019 and will adjourn on 4 JAN 2021.**

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

## MEET THE REC STAFF

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