



# REC Review of Legislative & Regulatory Actions

The Navy Regional Environmental Coordination Office

October 2020

The appearance of external hyperlinks does not constitute endorsement by the United States Department of Defense (DoD) of the linked websites, or the information, products or services contained therein. The DoD does not exercise any editorial, security, or other control over the information you may find at these locations.

CLEARED

For Open Publication

SPOTLIGHT STORY

Oct 15, 2020

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 (REC) 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-dodregion3@navy.mil.



NAVFAC MIDLANT DoD REC Map

## Table of Contents

SPOTLIGHT .....	1
GENERAL INTEREST .....	2
FEDERAL NEWS .....	2
REGION 1 .....	4
REGION 2 .....	5
REGION 3 .....	6
REGION 4 .....	8
REGION 5 .....	9
MEET THE REC STAFF .....	11
SUBSCRIBE .....	11

## America's Conservation Enhancement (ACE) Act on President's Desk for Signature

On 1 October 2020, Congress passed the America's Conservation Enhancement (ACE) Act with strong bipartisan support. It is now on the President's desk for signature.

A package of measures authorizing \$1.1 billion in conservation programs relating to wildlife and habitat, ACE is being hailed as a major win for conservation and sportsmen.

It is also a win for the Chesapeake Bay with three important components:

SECTION 109. REAUTHORIZATION OF CHESAPEAKE BAY PROGRAM. This section reauthorizes appropriations for the EPA Chesapeake Bay Program with increases from \$90 million for fiscal year 2020 to \$90.5 million for fiscal year 2021; \$91 million for fiscal year 2022; \$91.5 million for fiscal year 2023; and \$92 million for fiscal year 2024.

SECTION 110. REAUTHORIZATION OF CHESAPEAKE BAY INITIATIVE ACT OF 1998. This section reauthorizes appropriations of \$3 million for the Chesapeake Bay Gateways and Watertrails Network and the Chesapeake Bay Gateways Grants Assistance Program for each fiscal year through 2025.

SECTION 111. CHESAPEAKE WATERSHED INVESTMENTS FOR LANDSCAPE DEFENSE. This section authorizes a new grant program administered by the US Fish & Wildlife Service at \$15 million per fiscal years 2021 through 2025.

These authorizations are still subject to annual appropriations, but they provide an important benchmark for funding.

- <https://www.govtrack.us/congress/bills/116/s3051>
- <https://www.congress.gov/bill/116th-congress/house-bill/925/text>
- <https://www.congress.gov/bill/116th-congress/senate-bill/3051/text>

## GENERAL INTEREST

### **Senate Bill 4401 Environmental Justice For All Act (Draft)**

A bill to restore, reaffirm, and reconcile environmental justice and civil rights, provide for the establishment of the Interagency Working Group on Environmental Justice Compliance and Enforcement.

<https://www.govinfo.gov/content/pkg/BILLS-116s4401is/pdf/BILLS-116s4401is.pdf>

### **California Will Phase Out Fossil Fuel Based Transportation**

California Governor Gavin Newsom has issued an executive order N-79-20 setting goals for the state to achieve, consistent with technological feasibility and cost-effectiveness, that:

- 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035,
- for all drayage trucks operating in the state to be zero emission by 2035, and
- 100 percent of medium- and heavy-duty vehicles (trucks, busses) operated in the State be zero-emission by 2045 wherever feasible, and
- 100 percent zero-emission(s) from off-road vehicles and equipment operations in the State by 2035.

The state Air Resources Board shall develop and propose regulations ("strategies" for off-road vehicles and equipment) to achieve these goals.

<https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-text.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.***

## NATURAL AND CULTURAL RESOURCES

### **Ocean Dredged Material Disposal Site for the Southern Maine, New Hampshire, and Northern Massachusetts Coastal Region (Final Rule)**

EPA is publishing this Final Rule designating the Isles of Shoals North Disposal Site (IOSN) for the purpose of providing an ocean disposal option for possible use in managing dredged material from harbors and navigation channels in the southern Maine, New Hampshire, and northern Massachusetts coastal region.

This action is necessary to serve the long-term need for an Ocean Dredged Material Disposal Site (ODMDS) for the possible future disposal of suitable dredged material from harbors and navigation channels in southern Maine, New Hampshire, and northern Massachusetts. The FEA identifies designation of the IOSN as the preferred alternative from the range of options considered. The Site Management and Monitoring Plan (SMMP) is provided as Appendix G of the FEA.

The site designation is effective for an indefinite period of time. Without designation of this ODMDS, there will not

be an ocean disposal site available to serve this region after December 31, 2021, when the current Congressionally-authorized term of use for the Cape Arundel Disposal Site (CADS) expires. Use of the IOSN is subject to any restrictions and procedures included in the site designation and the approved SMMP. These restrictions are based on a thorough evaluation of the site pursuant to the Ocean Dumping Regulations, potential disposal activity expected at the site, and consideration of public review and comment. Additional restrictions may be placed on any permit or authorization to use the site.

[https://www.epa.gov/sites/production/files/2020-09/documents/final\\_eapar01ow20190521\\_iosn\\_final\\_ea\\_fonsi\\_with\\_appendices\\_9.18.20\\_signed.pdf](https://www.epa.gov/sites/production/files/2020-09/documents/final_eapar01ow20190521_iosn_final_ea_fonsi_with_appendices_9.18.20_signed.pdf)

### **Regulations for Designating Critical Habitat (Proposed)**

The Fish and Wildlife Service (FWS) is proposing regulatory amendments to set forth a process for excluding areas from critical habitat designation based on a discretionary exclusion analysis.

The Endangered Species Act, Section 4(b)(2) mandates FWS consideration of the impacts of designating critical habitat and permits exclusions of particular areas following a discretionary exclusion analysis. This rulemaking, if finalized, would only apply to FWS (not to the National Marine Fisheries Service).

Section 4(b)(2) of the Act provides the Secretary the authority to exclude any particular area from a critical habitat designation if the benefits of exclusion outweigh the benefits of inclusion for that area, so long as excluding it will not result in the extinction of the species. Considerations may include economic impact, the impact on national security, and any other relevant impact.

This proposed rulemaking is potentially relevant to FWS reviews for exclusion of critical habitat in areas covered by an installation's Integrated Natural Resources Management Plan (INRMP) or more generally exclusion based on national security impacts in areas not covered under an INRMP.

Comments are due 8 October 2020.

<https://www.federalregister.gov/documents/2020/09/08/2020-19577/endangered-and-threatened-wildlife-and-plants-regulations-for-designating-critical-habitat>

## **WATER**

### **House Bill 8174 Carbon Pollution Transparency Act (Draft)**

A bill to establish a cost of greenhouse gases for carbon dioxide, methane, and nitrous oxide to be used by Federal agencies.

<https://www.govinfo.gov/content/pkg/BILLS-116hr8174ih/pdf/BILLS-116hr8174ih.pdf>

# Restoration

## House Bill 8231 Removal and Remedial Actions Relating To PFOS or PFOA (Draft)

A bill to direct the Secretary of Defense to ensure that removal and remedial actions relating to PFOS or PFOA contamination result in levels meeting or exceeding certain standards.

<https://www.govinfo.gov/content/pkg/BILLS-116hr8231ih/pdf/BILLS-116hr8231ih.pdf>

## REGION I



**Note: The Connecticut Legislature convened on 23 July 2020 and adjourned on 30 July 2020.**

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



**Note: The Maine Legislature convened on 5 December 2018 and adjourned on 17 March 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 January 2019 and will adjourn on 2 January 2021.**

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



## NEW HAMPSHIRE

**Note: The New Hampshire Legislature convened on 8 January 2020 and adjourned on 30 July 2020.**

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



## RHODE ISLAND

**Note: The Rhode Island Legislature convened on 7 January 2020 and adjourned on 30 July 2020.**

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



## VERMONT

**Note: The Vermont Legislature convened on 9 January 2019 and will adjourn on 30 August 2020.**

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

# REGION II



## NEW JERSEY

**Note: The New Jersey Legislature convened on 14 January 2020 and will adjourn on 11 January 2022.**

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



## NEW YORK

**Note:** The New York State Legislature convened on 9 January 2019 and will adjourn on 12 January 2021.

### **PROPOSED RULES**

**Siting Permits for Major Renewable Energy Facilities** The Department of State has proposed rulemaking to institute a comprehensive set of uniform standards and conditions (USCs) for the siting, design, construction and operation of solar and land based wind major renewable energy facilities, as that term is defined at EL Section 94-c(2)(h).

[https://services.statescape.com/RegsText/StaticDownloads/185825\\_319816.pdf#page=23](https://services.statescape.com/RegsText/StaticDownloads/185825_319816.pdf#page=23)

### **FINAL RULES**

**MCLs for Perfluorooctanoic Acid (PFOA), Perfluorooctanesulfonic Acid (PFOS) and 1,4-dioxane** The Department of Health is incorporating MCLs for perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS) and 1,4-dioxane. Effective 26 August 2020.

[https://govt.westlaw.com/nyreg/Document/11e3cf840ad4d11e99f94e59a0dea26e6?viewType=FullText&listSource=Search&originationContext=Search+Result&transitionType=SearchItem&contextData=\(sc.Search\)&navigationPath=Search%2fv1%2fresults%2fnavigation%2fi0ad62d330000174979eced3c36c505e%3fNav%3dSTATeregister\\_PUBLICVIEW%26fragmentIdentifier%3d11e3cf840ad4d11e99f94e59a0dea26e6%26startIndex%3d1%26transitionType%3dSearchItem%26contextData%3d%2528sc.Default%2529%26originationContext%3dSearch%2520Result&list=STATE\\_REGISTER\\_PUBLICVIEW&rank=2&t\\_querytext=Maximum+Contaminant+Levels&t\\_Method=WIN](https://govt.westlaw.com/nyreg/Document/11e3cf840ad4d11e99f94e59a0dea26e6?viewType=FullText&listSource=Search&originationContext=Search+Result&transitionType=SearchItem&contextData=(sc.Search)&navigationPath=Search%2fv1%2fresults%2fnavigation%2fi0ad62d330000174979eced3c36c505e%3fNav%3dSTATeregister_PUBLICVIEW%26fragmentIdentifier%3d11e3cf840ad4d11e99f94e59a0dea26e6%26startIndex%3d1%26transitionType%3dSearchItem%26contextData%3d%2528sc.Default%2529%26originationContext%3dSearch%2520Result&list=STATE_REGISTER_PUBLICVIEW&rank=2&t_querytext=Maximum+Contaminant+Levels&t_Method=WIN)

## REGION III



## DISTRICT OF COLUMBIA

**Note:** The Council of the District of Columbia convened 2 January 2019 and will adjourn on 31 December 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 January 2019 and adjourned on 30 July 2020.

### **FINAL LEGISLATION**

**Senate Bill 249** An act to amend Title 7 of the Delaware code relating to the clean air act Title v operating permit program. This Act extends the Clean Air Act Title V Operating Permit Program annual fees for facilities in Delaware,

which have historically expired and been reauthorized by the General Assembly every three years. Existing statutory authorization to collect fees sunsets December 31, 2020. This legislation updates the fee assessments based on the work of the Title V Operating Permit Program Advisory Committee and makes additional clarifying updates to the fee provisions. For 2021-2023, the total fee will be comprised of a base fee, user fee, and a program fee. Base fees are based on the number of staff hours spent on the sources permitting, compliance, and enforcement activities, while the user fee is based on the sources air emissions. The program fee will be assessed based on the total base and user fees. A fee credit implemented to reduce a prior fund balance is allowed to sunset as scheduled. This Act authorizes the Department of Natural Resources and Environmental Control to collect Title V annual fees for calendar years 2021 through 2023 at which point the authority sunsets and would need to be reauthorized. Effective 1 January 2021.

<https://legis.delaware.gov/json/BillDetail/GenerateHtmlDocument?legislationId=48169&legislationTypeId=1&docTypeId=2&legislationName=SB249>

### **PROPOSED RULES**

**Control of Volatile Organic Compound Emissions** The Department of Natural Resources and Environmental Control has initiated rulemaking regarding Control of Volatile Organic Compound Emissions.

[https://services.statescape.com/RegsText/StaticDownloads/184232\\_317376.pdf](https://services.statescape.com/RegsText/StaticDownloads/184232_317376.pdf)



**Note: The Maryland General Assembly convened on 8 January 2020 and adjourned on 18 March 2020.**

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 January 2019 and will adjourn on 30 November 2020.**

### **PROPOSED LEGISLATION**

**Senate Bill 1285** provides for legionnaire's disease prevention and reporting and imposing duties on the Department of Environmental Protection and the Department of Health.

<https://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=HTM&sessYr=2019&sessInd=0&billBody=S&billTyp=B&billNbr=1285&pn=1924>

### **PROPOSED RULES**

**Guidance on Notification Requirements for Spills, Discharges, and other Incidents of a Substance Causing or Threatening Pollution to Waters of the Commonwealth Under Pennsylvania's Clean Streams Law** The Department of Environmental Protection has invited public comment on a technical draft to provide guidance on the immediate notification requirements for spills, discharges and other incidents of a substance causing or threatening pollution to waters of this Commonwealth.

[https://services.statescape.com/ssu/Regs/ss\\_8586041852034249079.pdf](https://services.statescape.com/ssu/Regs/ss_8586041852034249079.pdf)



## VIRGINIA

**Note: The Virginia General Assembly convened on 8 January 2020 and adjourned on 12 March 2020.**

### **FINAL RULES**

**Hazardous Air Pollutant Sources** The Department of Environmental Quality has adopted rulemaking regarding state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 2020. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version. Two new source performance standards are being added. Effective 11 November 2020.

<https://townhall.virginia.gov/L/ViewXML.cfm?textid=14619>

**Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation** The State Water Control Board has adopted rulemaking to incorporate the National Pollutant Discharge and Elimination System (NPDES) Applications and Program Updates rule that applies to 40 CFR 122.21 and 40 CFR 124, which modernizes and clarifies permit applications by including items such as email information and North American Industry Classification System (NAICS) codes; and update definitions and language. Effective 1 October 2020.

[https://services.statescape.com/RegsText/StaticDownloads/184196\\_317311.pdf](https://services.statescape.com/RegsText/StaticDownloads/184196_317311.pdf)



## WEST VIRGINIA

**Note: The West Virginia Legislature convened on 8 January 2020 and adjourned on 7 March 2020.**

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 convened on 9 January 2019 and will adjourn on 3 September 2020.**

### **PROPOSED RULES**

**NPDES General Permit: Groundwater Remediation** The Department of Environmental Quality has issued a new NPDES permit to discharge remediated groundwater and similar wastewaters contaminated with petroleum products.

[https://services.statescape.com/RegsText/StaticDownloads/184417\\_317746.pdf#page=22](https://services.statescape.com/RegsText/StaticDownloads/184417_317746.pdf#page=22)





## KENTUCKY

**Note: The Kentucky Legislature convened on 7 January 2019 and adjourned on 15 April 2020.**

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

## REGION V



## ILLINOIS

**Note: The Illinois General Assembly convened on 9 January 2019 and will adjourn on 6 January 2021.**

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



## INDIANA

**Note: The Indiana General Assembly convened on 6 January 2020 and adjourned on 11 March 2020.**

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



## MICHIGAN

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

### ***PROPOSED RULES***

**Expansion of Michigan's PFAS Clean-up Efforts** The Michigan PFAS Action Response Team (MPART) today announced an expansion of PFAS investigations and clean-up efforts across the state in response to the state's adoption of new standards aimed at protecting Michiganders from PFAS contamination in municipal drinking water. [https://services.statescape.com/RegsText/StaticDownloads/181936\\_313867.pdf](https://services.statescape.com/RegsText/StaticDownloads/181936_313867.pdf)

## **FINAL RULES**

**Hazardous Waste Management** The Department of Environment, Great Lakes, and Energy has adopted rules regarding hazardous waste management. The revisions relate to the definition of solid waste, import/export, generator improvement, and e-manifest requirements. Effective 3 August 2020.

[https://services.statescape.com/RegsText/StaticDownloads/159954\\_315355.pdf#page=13](https://services.statescape.com/RegsText/StaticDownloads/159954_315355.pdf#page=13)



**Note: The Ohio General Assembly convened on 7 January 2019 and will adjourn on 31 December 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 28 January 20 and adjourned on 31 July 2020.**

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

## MEET THE REC STAFF

**RADM Charles W. Rock**

DoD Regional Environmental Coordinator  
(757) 322-2800, DSN 262-2800

Director, Regional Environmental Coordination  
(REC) Office  
(757) 341-0363

REC Counsel  
(757) 322-2938, DSN 262-2938

Cultural Resources  
(757) 341-0925

Potable Water, Stormwater, Groundwater,  
Wastewater  
(757) 341-0429

Air Quality, Asbestos, Radon  
(757) 341-0395

P2, EPCRA, RCRA - HW/SW  
(757) 341-0408

Navy On-Scene Coordinator Representative  
(757) 341-0449

POL/Tanks  
(757) 341-0453

Regional NEPA, Natural Resources  
(757) 341-0494

Land Use, Encroachment  
(757) 341-0264

Environmental Restoration  
(757) 341-0394

REC Support  
(757) 341-0430

REC Outreach  
(757) 341-0395

DoD Chesapeake Bay Coordinator  
(757) 341-0424  
(757) 341-0496

## SUBSCRIBE

If you would like to receive notice when the REC Update is posted, please send an email to: [NAVFACML\\_EV-dodrecregion3@navy.mil](mailto:NAVFACML_EV-dodrecregion3@navy.mil) with your name, position, command, mailing address, phone number, and fax number.

If your email address or phone number changes, please send an email with the updated information. If you or your organization would like to submit an article, story, or picture for future newsletters, send it to: [NAVFACML\\_EV-dodrecregion3@navy.mil](mailto:NAVFACML_EV-dodrecregion3@navy.mil)