



REC Review

of Legislative & Regulatory Actions



The Navy Regional Environmental Coordination Office

September 2016

The *REC Review* publishes environmental and energy related developments for DoD/Navy leaders and Installation staff. Covering 20 states in Federal Regions 1, 2, 3, 4, and 5, the *REC Review* gives early notice of legislative and regulatory activities relevant to DoD interests.

To find out more about the Regional Environmental Coordination Office and browse back issues of the *REC Review* visit <http://denix.osd.mil/rec/>. To receive a copy of this electronic publication, send a subscription request to NAVFACML_EV-dodrecreation3@navy.mil.



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SPOTLIGHT STORY

Throughout the Navy, partnerships with key organizations are essential to ensure mission and fleet readiness. Commander Navy Region Mid-Atlantic, Rear Admiral John Scorby, Jr. and NAVFAC Mid-Atlantic Cultural Resources staff met with the Virginia State Historic Preservation Officer, Julie Langan, and her staff on Monday, August 8, 2016. This meeting was an opportunity to enhance the Navy's partnership with the Virginia State Historic Preservation Office, as well as allows the SHPO to express any concerns with the Navy's Cultural Resources Program in Virginia.



From left to right: Katherine Childs NAVFAC, Emmett Carawan NAVFAC, Heather Robbins NAVFAC, Mike Jones NAVFAC, Julie Langan VA SHPO, Ronald Hobgood NAVFAC, Marc Holma VA SHPO, and Greg LaBudde VA SHPO. –photo by

NAVFAC Mid-Atlantic has been facilitating meetings between CNRMA and the VA SHPO since the early 2000s and hosts a meeting at least every two years due to the number of historic properties located on Hampton Roads installations and numerous projects reviewed for potential effects to historic properties in accordance with the National Historic Preservation Act and other cultural resources laws and regulations. In addition, a ship tour was arranged to provide the SHPO and her staff with an understanding of the Navy's operational side and how cultural resources management fits into the overall Navy mission. Through this partnership, Navy continues to demonstrate the balance between the mission and management of historic properties.

Having partnerships, like that with SHPO, allows Navy to collaboratively solve challenges with the need for training space and facilities on our installations. Partnerships provide important opportunities for success of the Navy mission.

GENERAL INTEREST

FINAL GUIDANCE ON CONSIDERING GREENHOUSE GAS EMISSIONS AND EFFECTS OF CLIMATE CHANGE IN NEPA REVIEWS The Council on Environmental Quality (CEQ) has issued its final guidance on considering greenhouse gas (GHG) emissions and climate change in National Environmental Policy Act (NEPA) reviews at the EA or EIS level.

The final guidance

- Recommends that agencies quantify projected direct and indirect GHG emissions as a proxy for assessing potential climate change effects when preparing a NEPA analysis; In order to assess effects, agencies should take account of the proposed action – including “connected” actions, to the extent feasible;
- Recommends that where agencies do not quantify the GHG emissions for a proposed agency action because tools, methodologies, or data inputs are not reasonably available, agencies include a qualitative analysis in the NEPA document and explain the basis for determining that quantification is not reasonably available.
- Outlines special considerations for analysis of biogenic carbon dioxide sources and carbon stocks associated with land and resource management actions.
- Agencies should consider the potential for mitigation measures to reduce or mitigate GHG emissions ...; Mitigation should be additional, verifiable, durable, enforceable, and ... (have assurances that it will be) implemented;
- Counsels agencies to use information developed during the NEPA review to consider alternatives that would make the actions and affected communities more resilient to the effects of a changing climate.

The final guidance is available at https://ceq.doe.gov/ceq_regulations/guidance.html.

ST. JULIENS CREEK ANNEX CELEBRATES SIGNIFICANT ENVIRONMENTAL MILESTONE On 23 August 2016, a near-perfect summer day, Navy celebrated a significant milestone regarding the Environmental Restoration Program during the [Construction Completion Ceremony](#) held at St. Juliens Creek Annex. This milestone, completion of 36 years of investigation and remediation, demonstrates all physical construction of cleanup remedies is complete and all immediate threats have been addressed while long-term threats are being managed.

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

CLEANING SOLVENT HFE-347 pcf2 EXCLUDED FROM REGULATORY DEFINITION OF VOLATILE ORGANIC COMPOUND

EPA has issued a final rule to add 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane (also known as HFE-347pcf2; CAS number 406-78-0) to the list of compounds excluded from the regulatory definition of VOC on the basis that this compound makes a negligible contribution to tropospheric ozone formation (i.e., ground level smog).

Under the Significant New Alternatives Policy (SNAP) program, EPA previously made a determination that the stratospheric ozone depletion potential (ODP) of HFE-347pcf2 is expected to be negligible. HFE-347pcf2 was listed in 2012 as an acceptable substitute for several (other) ozone-depleting chemicals in electronics and precision cleaning and as an aerosol solvent. Additionally the SNAP program anticipated that users will be able to use the compound in precision cleaning without significantly greater health risks than presented by use of other available substitutes.

FINE PARTICULATE MATTER NAAQS STANDARDS EPA has finalized requirements that state, local and tribal air agencies would have to meet as they implement the current and future national ambient air quality standards (NAAQS) for fine particulate matter (PM2.5).

Specifically, this document provides details on meeting the statutory state implementation plan (SIP) requirements that apply to areas designated nonattainment for any PM2.5 NAAQS, such as: General requirements for attainment plan due dates and attainment dates; emissions inventories; attainment demonstrations; provisions for demonstrating reasonable further progress; quantitative milestones; contingency measures; and nonattainment New Source Review (NNSR) permitting programs, among other things. This rule clarifies the specific attainment planning requirements that apply to PM2.5 NAAQS nonattainment areas based on their classification (either Moderate or Serious), and the process for reclassifying Moderate areas to Serious.

Additionally, EPA is revoking the 1997 primary annual standard for areas designated as attainment for that standard because EPA revised the primary annual standard in 2012. EPA first established the PM2.5 NAAQS in 1997, completed a review and revision of those standards in 2006, and most recently completed a review and revision of the PM2.5 NAAQS on December 14, 2012. This final rule is effective on October 24, 2016.

REGION I



Note: The Connecticut Legislature convened on 13 JUN 2016 and adjourned on 20 JUN 2016.

FINAL RULES

REVISIONS TO AIR QUALITY REGULATIONS AND THE STATE IMPLEMENTATION PLAN CONCERNING NO_x EMISSIONS FROM FUEL-BURNING EMISSION UNITS [The proposal](#) includes the repeal of section 22a-174-22 of the Regulations of Connecticut State Agencies (RCSA), the adoption of RCSA sections 22a-174-22e and -22f, and the amendment of various sections that refer to RCSA section 22a-174-22. This proposal reduces NO_x emissions from fuel-burning equipment and assist Connecticut to fulfill obligations under the 2008 and 2015 ozone national ambient air quality standards (NAAQS). Approved and adopted 12 August 2016.



Note: The Maine Legislature convened on 3 DEC 2014 and adjourned on 29 APR 2016.

PROPOSED RULES

DEFINITIONS REGULATION The Department of Environmental Protection has [proposed amendments to Ch. 100](#), Definitions Regulation, to add a number of compounds that were previously exempted from the definition of "volatile organic compound" by the U.S. Environmental Protection Agency. This regulation provides definitions for those terms

used in the air pollution control regulations and emission standards.



Note: The Massachusetts Legislature convened on 7 JAN 2015 and adjourns on 4 JAN 2017.

PROPOSED RULES

AIR POLLUTION CONTROL The Department of Environmental Protection has proposed amendments to [310 CMR 7.00](#) designed to reduce emissions that contribute to the formation of ground-level ozone and to meet federal Clean Air Act requirements. Comments due 26 September 2016. Comments due 30 September 2016.

DRAFT AIR EMISSION LICENSE AMENDMENT FOR NAVAL COMPUTER AND TELECOMMUNICATIONS AREA MASTER STATION ATLANTIC DETACHMENT CUTLER The Department of Environmental Protection has issued a [draft air emissions license](#) for Naval Computer and Telecommunications Area Master Station. Comments due 19 September 2016.



Note: The New Hampshire Legislature convened on 16 JUN 2016 and adjourned on 16 JUN 2016.

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



Note: The Rhode Island Legislature convened on 5 JAN 2016 and adjourned on 18 JUN 2016.

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



Note: The Vermont Legislature convened on 7 JAN 2015 and adjourned on 7 MAY 2016.

FINAL RULES

VERMONT GROUNDWATER PROTECTION RULE AND STRATEGY The Natural Resources Agency has adopted

[emergency rules](#) to establish a primary groundwater quality enforcement standard for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS). Effective 25 August 2016 and expires 23 December 2016.

VERMONT HAZARDOUS WASTE MANGEMENT RULE The Natural Resources Agency has adopted [emergency rules](#) related to listing Perfluorooctanoic acid (PFOA) and Perfluorooctanesulfonic acid (PFOS) as Vermont listed hazardous wastes; creates several exemptions from managing wastes containing PFOA and PFOS as hazardous waste; and restructures the process of listing Vermont specific hazardous wastes. Effective 25 August 2016 and expires 23 December 2016.

REGION II



Note: The New Jersey Legislature convened on 12 JAN 2016 and adjourns on 9 JAN 2018.

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



Note: The New York State Legislature convened 7 JAN 15 and adjourns 4 JAN 17.

FINAL RULES

CHEMICAL BULK STORAGE The Department of Environmental Conservation (DEC) has adopted [emergency rule](#) making to amend section 597 of Title 6 NYCRR. The purpose of the emergency rule is to:

1. Add perfluorooctanoic acid (PFOA-acid, Chemical Abstracts Service (CAS) No. 335-67-1), ammonium perfluorooctanoate (PFOA-salt, CAS No. 3825-26-1), perfluorooctanesulfonic acid (PFOS-acid, CAS No. 1763-23-1), and perfluorooctanesulfonate (PFOS-salt, CAS No. 2795-39-3) to 6 NYCRR Section 597.3;
2. Allow fire-fighting foam containing PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt (all four substances) to be used to fight fires (but not for training or any other purposes) on or before April 25, 2017, a use which would not otherwise be allowed under the regulation since the release of a hazardous substance is prohibited; and
3. Correct the list of hazardous substances by providing units for reportable quantities (RQs). Effective 21 July 2016 and intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rulemaking, I.D. No. ENV-19-16-00006-EP, Issue of May 11, 2016.

REGION III



Note: The Delaware General Assembly convened on 13 JAN 15 and adjourned on 30 JUN 16.

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



Note: The Council of the District of Columbia convened 3 JAN 15 and adjourns 31 DEC 16.

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



Note: The Maryland General Assembly convened on 13 JAN 16 and adjourned on 11 APR 16.

FINAL RULES

THREATENED AND ENDANGERED SPECIES [08.03.08](#) Secretary of Natural Resources adopted amendments to Regulations .01, .04, .07, and .09, the repeal of existing Regulations .05, .06, and .08, and new Regulations .05, .06, .08, and .15 under COMAR 08.03.08 Threatened and Endangered Species.

The purpose of this action is to list 23 new species of animals and plants in need of conservation, or which are endangered, threatened or endangered extirpated, and reclassify 31 species which are currently listed as in need of conservation, threatened, endangered or endangered extirpated, by changing the status of 13 species and removing 18 listed species. Regulations .05, .06, and .08 are proposed to be repealed and replaced due to the large number of plant species common name changes proposed. Regulation .15 is proposed to provide protection for 10 nongame mammal species that are not currently listed as in need of conservation, threatened, or endangered and for one mammal species that is proposed to be delisted. Effective 29 August 2016.

POPOSED RULE

RADIATION PROTECTION The Department of the Environment has proposed amendments, [Subtitle 12](#), to incorporate Supplement 28, to include (a) five mandatory U.S. Nuclear Regulatory Commission regulations which include clarifications to radioactive material physical protection reporting requirements, requirements for shipments

of category 1 quantities of radioactive material, harmonization of transportation safety requirements with International Atomic Energy Agency requirements, and miscellaneous corrections; (b) clarification of meaning of "annual," (c) change in frequency of required radiation survey instrument calibration and radiographer audit; (d) clarification of definition of "individual monitoring device;" (e) requirement for shutter checks for radioactive material specific license sealed sources; and (f) miscellaneous corrections. Comments due 3 October 2016.



Note: The Pennsylvania General Assembly convened on 6 JAN 2015 and adjourns on 30 NOV 2016.

PROPOSED LEGISLATION

HB 2287 LEAD TESTING AT CHILD DEVELOPMENT CENTER An Act amending 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; and, in departmental powers and duties as to licensing, providing for lead testing.

Lead Testing.--(a) A person seeking to operate, or to continue to operate, a children's institution shall submit: (1) a lead certification from an individual or laboratory accredited by the Department of Environmental Protection that includes lead levels in water; and (2) for a building built prior to 1978, a lead inspection completed by a certified contractor, an inspector-risk assessor or an inspector technician in accordance with the act of July 6, 1995 (P.L.291, No.44), known as the Lead Certification Act, that includes testing for lead levels in paint, dust and soil and hazardous conditions. A children's institution built prior to 1978 shall not be required to test for lead levels in paint if a full remediation or abatement of all lead paint has been completed and a certification or inspection report of such is produced.

OTHER

CLOSURE REQUIREMENTS FOR UNDERGROUND AND ABOVEGROUND STORAGE TANK SYSTEMS The Department of Environmental Protection has issued a notice that two [new guidance](#) are available for viewing: DEP ID: 263-4500-601. Title: Closure Requirements for Underground Storage Tank Systems and DEP ID: 263-4200-001. Title: Closure Requirements for Aboveground Storage Tank Systems. New guidance establishing minimum standards for compliance with closure requirements for regulated large aboveground storage tanks. These procedures include closure notification, tank handling, waste management and disposal, site assessment, sampling requirements, analytical requirements, release reporting and recordkeeping. Also updates Appendix E, Standards/Action Levels for Confirmatory Samples Collected at Closure Site Assessments, found on pages 47 and 48.

EXTENSION OF NPDES GENERAL PERMIT FOR POINT SOURCE DISCHARGES TO WATERS OF THE COMMONWEALTH OF PENNSYLVANIA FROM THE APPLICATION OF PESTICIDES The Department of Environmental Protection has issued a [notice](#) that it is extending for 12 months, the availability of the current General Permit for Point Source Discharges to Waters of the Commonwealth of Pennsylvania from the Application of Pesticides (PAG-15).



Note: The Virginia General Assembly will convene on 11 JAN 2017 and will adjourn on 25 FEB 2017.

PROPOSED LEGISLATION

SJR 84 Bill continued to 2017 session. Requesting the Department of Rail and Public Transportation to evaluate the

level of study necessary to identify and advance potential public transportation services from the Franconia-Springfield Metro Station to Marine Corps Base Quantico in Prince William and Stafford Counties, including the feasibility of extending the Blue Line and other multimodal options such as bus rapid transit along Interstate 95 and U.S. Route 1, and to study accordingly.



Note: The West Virginia Legislature convened on 16 MAY 2016 and adjourned on 14 JUN 2016.

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

REGION IV



Note: The North Carolina General Assembly convened on 14 JAN 2015 and adjourned on 1 JUL 2016.

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

REGION V



Note: The Illinois General Assembly convened on 14 JAN 2015 and adjourned on 8 JUN 2016.

FINAL RULES

IDENTIFICATION AND LISTING OF HAZARDOUS WASTE The Pollution Control Board has [adopted amendments](#) to 35 Ill. Adm. Code 721 which implement segments of the federal amendments of January 13, 2015; April 8, 2015; April 17, 2015; and July 2, 2015. The amendments make all of the federal amendments relating to exclusion from the definition of solid waste. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments. USEPA suggested many of the included corrections after review of the Illinois hazardous waste regulations for the purpose of authorization of the Illinois RCRA Subtitle C program. Effective 9 August 2016.

LAND DISPOSAL RESTRICTIONS The Pollution Control Board has adopted amendments to [35 Ill. Adm. Code 728](#) which are corrections and clarifying amendments that are not directly derived from the instant federal amendments. This includes corrections submitted by USEPA as a result of review of the rules for the purpose of authorization of the Illinois RCRA Subtitle C program. Effective 9 August 2016.

STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE The Pollution Control Board has adopted amendments to [35 Ill. Adm. Code 722](#) which make corrections suggested by USEPA based on review of the Illinois rules for the purpose of authorization of the Illinois RCRA Subtitle C program. Effective 6 August 2016.

STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A RCRA STANDARDIZED PERMIT The Pollution Control Board has adopted amendments to [35 Ill. Adm. Code 727](#) which are limited to minor corrections and clarifications. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based. Effective 9 August 2016.

STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES The Pollution Control Board has adopted amendments to [35 Ill. Adm. Code 724](#) which are corrections and clarifying amendments that are not directly derived from the instant federal amendments. This includes correction of an error, at the request of Joint Committee on Administrative Rules (JCAR) staff, which the Board was to have completed in a prior rulemaking. This also includes corrections submitted by USEPA as a result of review of the rules for the purpose of authorization of the Illinois RCRA Subtitle C program. Effective 9 August 2016.



Note: The Indiana General Assembly convened on 11 JAN 2016 and adjourned on 10 MAR 2016.

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



Note: The Michigan Legislature convened on 14 JAN 2015 and adjourns on 31 DEC 2016.

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



Note: The Ohio General Assembly convened on 5 JAN 2015 and adjourns on 31 DEC 2016.

FINAL RULES

IDENTIFICATION OF HAZARDOUS CHEMICALS The Director of Environmental Protection, has adopted changes to [3750-30-25](#), [3750-50-01](#). The rules are being adopted after making amendments identified during a review to fulfill the requirements of ORC 106.03 and 106.031 (5-yr review). These rules address identification of hazardous chemicals and annual inventory filing fees and forms. Effective 1 August 2016.

INCIDENT NOTIFICATIONS AND DEFINITIONS [Emergency Rule - 1501:9-8-01](#) The Department of Natural Resources has adopted emergency rules related to release of hazardous materials into the environment. Effective 10 August 2016 and expires 8 December 2016.



Note: The Wisconsin Legislature convened on 5 JAN 2015 and adjourns on 4 JAN 2017.

FINAL RULES

WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT PROGRAM The Department of Natural Resources has adopted revisions to [ch. NR 106](#) Wisconsin Admin Code, relating to the Wisconsin Pollutant Discharge Elimination System (WPDES) wastewater permit program regarding bioaccumulative chemicals of concern mixing zones, pollutants in intake waters, non-contact cooling water exemption, and mercury reasonable potential determination and other aspects of the WPDES permitting program. Effective 1 September 2016.

WISCONSIN'S POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT (RULE PACKAGE #4) The Natural Resources Board has adopted revisions to [chs. NR 106, 205, and 212](#), relating to the Wisconsin Pollutant Discharge Elimination System (WPDES) wastewater permit program regarding expression of limits, whole effluent toxicity, TMDL development and implementation, and other aspects of the WPDES permitting program. Effective 1 September 2016.

PROPOSED RULES

MANAGEMENT OF CONTAMINATED SOILS AND OTHER SOLID WASTES [RR-060](#) provides guidance to persons undertaking construction projects where contaminated environmental media (e.g., soil) or a combination of contaminated soil and other solid waste materials (e.g., historic fill) at environmental response action sites are encountered. These situations can include utility and pipeline installation and repair projects, as well as building construction, demolition, or road construction projects. This guidance was developed to assist responsible parties in understanding how to safely manage such materials in compliance with state law. Comments are due 22 September 2016.

MEET THE REC STAFF

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