



# REC Review

## of Legislative & Regulatory Actions



The Navy Regional Environmental Coordination Office

December 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.

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### Table of Contents

SPOTLIGHT .....	1
GENERAL INTEREST .....	2
FEDERAL NEWS .....	2
REGION 1 .....	4
REGION 2 .....	6
REGION 3 .....	7
REGION 4 (NORTH CAROLINA ONLY) .....	8
REGION 5 .....	9
MEET THE REC STAFF .....	11
SUBSCRIBE .....	11

### SPOTLIGHT STORY

Congratulations to Naval Station Great Lakes for receiving the U.S. Environmental Protection Agency Region 5 Federal Green Challenge Award. The Federal Green Challenge is a national effort to challenge EPA and other federal agencies to lead by example in reducing the federal government's environmental impact.



Between 2015 and 2016, NS Great Lakes reduced potable water usage by more than 9 percent and fleet vehicle miles from 1,202,706 miles to 1,005,352--a reduction of 16.4 percent. Through committed leadership and teamwork among tenant commands in implementation of the installation's Environmental Management System and associated initiatives, they significantly reduced energy use, hazardous waste generation, ozone-forming chemicals and greenhouse gas emissions.

Highlight and demonstrate innovative techniques for reducing your installation's environmental footprint and support green leadership and Executive Order 13693 compliance by joining the [challenge!](#)

## GENERAL INTEREST

**DoD EFFORTS TO PREVENT AND MITIGATE ENCROACHMENT AT ITS INSTALLATIONS** GAO has released a [report](#) on DOD Efforts to Prevent and Mitigate Encroachment at Its Installations.

GAO's analysis of DOD's Joint Land Use Study Program Guidance Manual —DOD guidance that outlines a collaborative process for evaluating incompatible land use issues around installations and developing recommendations to mitigate these issues—found that it was consistent with the eight key considerations GAO had identified for effectively implementing collaborative mechanisms with external entities. Furthermore, GAO's analysis of completed JLUS reports from installations visited found the actions taken to complete the studies were also consistent with these key considerations.

**FINAL NPDES 2016 PESTICIDES GENERAL PERMIT** EPA announced issuance by all ten Regions of the Final 2016 National Pollutant Discharge Elimination System (NPDES) [pesticide general permit](#) (PGP)-- the "2016 PGP," which will be applicable for five (5) years in all areas of the country where EPA is the NPDES permitting authority. The 2016 PGP, effective October 31, 2016, replaces the existing "2011 PGP" and authorizes certain point source discharges from the application of pesticides to waters of the United States.

EPA issues the PGP only for areas and activities where the states are not authorized. Specifically, EPA is the NPDES permitting authority for pesticide discharges in: 1. Idaho, Massachusetts, New Hampshire, New Mexico, and Washington D.C., 2. Federal facilities in Delaware, Vermont, Colorado, and Washington, and 3. All Indian Country except in Maine.

The permit is effective on October 31, 2016, and will expire at midnight, October 31, 2021.

## 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

**UPDATE TO THE REFRIGERANT MANAGEMENT REQUIREMENTS** EPA has issued a [final rule](#) modifying the regulations that address recovery of refrigerants during servicing or disposal of air-conditioning and refrigeration equipment. This final rule is effective on January 1, 2017.

This rule updates those existing requirements as well as extends them, as appropriate, to non-ozone depleting substitute refrigerants, including hydrofluorocarbons. Updates include:

- extension to non-ozone depleting substitute refrigerants, such as hydrofluorocarbons, unless specifically exempted,
- strengthened leak repair requirements,
- recordkeeping requirements for the disposal of appliances containing more than five and less than 50 pounds of refrigerant,
- revisions to the technician certification program, and

- editorial revisions for improved readability and compliance.

## HAZARDOUS WASTE

**HAZARDOUS WASTE GENERATOR IMPROVEMENTS RULE** In advance of publication in the Federal Register, EPA has released the text of a the final "hazardous waste generator improvements" [rule](#). Among other changes the rule will:

- The term "very small quantity generators" (VSQGs) has replaced the term "conditionally exempt small quantity generators" (CESQGs);
- a "very small quantity generator" (VSQG) may send its hazardous waste to an offsite large quantity generator under control of the same person; (this shipment does not require a manifest); The LQG must notify EPA prior to the first shipment, must keep records, and include these wastes in their biennial report;
- allow a hazardous waste generator to avoid increased burden of bumping up to a higher generator status when generating episodic waste, provided the episodic waste is properly managed and notice provided to EPA,
- Specific records required to support a generator's hazardous waste determinations have been identified in a new Section 262.11(f). (Although EPA recommends it as a best management practice, generators are not required to retain documentation of their nonhazardous waste determinations.)
- add incompatibility requirements for satellite accumulation containers (265.177), and emergency/contingency plan requirements;
- Labeling of satellite accumulation containers and 90/180/270-day accumulation containers and tanks must include an indication of the associated hazards (e.g., the hazardous waste characteristic(s), a DOT label or placard, an OSHA hazard statement or pictogram, or an NFPA hazard label).

The generator improvements final rule is promulgated under the base (non-Hazardous and Solid Waste Amendments (non-HSWA)) RCRA authority. Thus, the rule becomes effective in Alaska and Iowa six months after the date of publication in the Federal Register. In the 48 authorized states, the new requirements do not take effect until the state adopts equivalent state requirements. Several of the requirements are relaxations, such as allowing VSQG to LQG transport, and states may adopt but are not compelled to adopt changes unless they are more stringent.

## SITE REMEDIATION

**DoD ENVIRONMENTAL LABORATORY ACCREDITATION PROGRAM** DOD has [finalized regulations](#) in 32 CFR Part 188 addressing the operation and management of the DoD Environmental Laboratory Accreditation Program (ELAP). In addition to documenting ELAP requirements, the quality or compliant standard has been updated to ISO/IEC 17025:2005, previous standard was ISO/IEC 17025:1999.

This rule proposes to establish a voluntary program to allow qualified laboratories to receive third-party accreditation and become eligible to provide environmental sampling and testing services for DoD. The scope of accreditation under ELAP includes specific laboratory services such as the test methods used, type of material tested (soil, water, etc.), and type of contaminants measured.

# REGION I



**Note: The Connecticut Legislature convened on 28 SEPT 2016 and adjourned on 28 SEPT 2016.**

## ***PROPOSED RULES***

**AIR QUALITY REGULATIONS: CONSUMER PRODUCTS AND ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATINGS; PREVENTION OF SIGNIFICANT DETERIORATION PERMIT PROGRAM REVISION TO THE STATE IMPLEMENTATION PLAN** The Department of Energy and Environmental Protection has [proposed a rulemaking](#) to amend and adopt section of the air quality regulations. The proposal revises three air quality programs: the volatile organic compound (VOC) content of architectural and industrial maintenance (AIM) coatings; the VOC content of consumer products; and the prevention of significant deterioration (PSD) permit program. The proposal will be submitted to EPA for approval as a State Implementation Plan (SIP) revision. Comments due 16 December 2016.



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

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



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

## ***FINAL RULES***

**CERTIFICATION AND OPERATION OF ENVIRONMENTAL ANALYSIS LABORATORIES** The Department of Environmental Protection (DEP) has [adopted amendments](#) to 310 CMR 42.00: Certification and Operation of Environmental Analysis Laboratories. Effective 4 November 2016.

The amendments to 310 CMR 42.00 will improve DEP's ability to evaluate the performance of laboratories analyzing drinking water samples, and will better promote the timely generation and reporting of high quality data used by the DEP Drinking Water Program to enforce public drinking water regulations required by the US Environmental Protection Agency (EPA). These revisions will also further align DEP's laboratory certification program with EPA's national guidance, improve measures to prevent and detect fraudulent and deceptive laboratory practices, update

the scope of certain certifications, and make technical updates and clarifications.



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

### **FINAL RULES**

**SURFACE WATER QUALITY STANDARDS** The Department of Environmental Services has adopted [rules](#) for establishing water quality standards for the state's surface water uses as set forth in RSA 485-A:8, I, II, III and V. These standards are intended to protect public health and welfare, enhance the quality of water and serve the purposes of the federal Clean Water Act, 33 U.S.C. 1251 et seq., and RSA 485-A. These standards provide for the protection and propagation of fish, shellfish, and wildlife, and provide for such uses as recreational activities in and on the surface waters, public water supplies, agricultural and industrial uses, and navigation in accord with RSA 485-A:8, I and II. Effective 1 December 2016.



**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 WATER QUALITY STANDARDS** The Agency of Natural Resources has [adopted amendments](#) to the Vermont Water Quality Standards (VWQS) to reflect amendments to 10 V.S.A. §§ 1252 and 1253, enacted under Act 79 of 2016; updates to federal requirements; and updates to state policy concerning the management of rivers under Act 110 of 2010 and Act 138 of 2012. The changes the rule include:

- Pursuant to Act 79, addition of Class B(1) criteria and reorganization of water quality criteria to allow for designating individual uses in a single water as different classes;
- Incorporation of the concept of dynamic stream equilibrium;
- Improved water temperature criteria;
- Incorporation of previously-authorized biological assessment procedures;
- Updates to toxic chemical criteria consistent with EPA criteria and regulations;
- Reclassification of specific uses of certain surface waters to Class A(1);
- Updates to the Antidegradation Policy consistent with federal regulations; and

- Updates to formatting, style, and grammar consistent with Department drafting conventions.  
Effective 15 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***

**DISTRIBUTED GENERATION SOURCES THAT FEED THE DISTRIBUTION GRID OR PRODUCE ELECTRICITY FOR USE AT HOST FACILITIES OR BOTH** The Department [adopted](#) 6 NYCRR Part 222, 'Distributed Generation (DG) Sources' on and made conforming revisions to Part 200, 'General Provisions' and Subpart 227-2, 'Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NOx)' to establish emission standards, monitoring requirements and record keeping requirements for certain DG sources in New York State. The rule applies to DG sources not currently regulated under Subpart 227-2 or subject to a federal New Source Performance Standard (NSPS), as long as the federal standards are less than or equal to the Part 222 emission limits. Effective date 1 December 2016.

**CHEMICAL BULK STORAGE ([EMERGENCY RULE](#))** The Department of Environmental Conservation has added perfluorooctanoic acid (PFOA-acid), ammonium perfluorooctanoate (PFOA-salt), perfluorooctane sulfonic acid (PFOS-acid), and perfluorooctane sulfonate (PFOS-salt) to 6 NYCRR Section 597.3, List of Hazardous Substances. Rule expires on 12 January 2017.

## REGION III



### DISTRICT OF COLUMBIA

**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.



### DELAWARE

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

#### **FINAL RULES**

**LIMITING EMISSIONS OF VOLATILE ORGANIC COMPOUNDS FROM CONSUMER AND COMMERCIAL PRODUCTS** The Department of Natural Resources and Environmental has [adopted](#) the proposed Amendments to 7 DE Admin. Code §1141, Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products, Section 1.0: Architectural and Industrial Maintenance Coatings, in order for Delaware to:

- reduce volatile organic compounds, a contributor to the formation of ground-level ozone; and
- to bring Delaware's rule up-to-date with the most current Ozone Transport Commission model rule for regulation of the VOC content of architectural and industrial maintenance coatings, to aid in meeting ground-level ozone national ambient air quality standards.

Effective 11 December 2016.



### MARYLAND

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

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 6 JAN 2015 and adjourns on 30 NOV 2016.**

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



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

***PROPOSED LEGISLATION***

[HB 1423](#) Directs DEQ to identify the owner of any combined sewer overflow outfall that discharges into the Potomac River Watershed and to determine what actions by the owner are necessary to bring the outfall into compliance with Virginia law, the federal Clean Water Act, and the Presumption Approach described in the CSO Control Policy of the U.S. Environmental Protection Agency (EPA). The bill requires any owner of such an outfall to bring it into compliance with the EPA policy by July 1, 2027. The bill does not apply to any outfall for which a higher level of control is necessary to comply with a TMDL.

***PROPOSED RULES***

**STATE IMPLEMENTATION PLAN** The Department of Environmental Quality (DEQ) has [proposed revision](#) to the Commonwealth of Virginia State Implementation Plan (SIP). The regulation of the board affected by this action is the Regulation for Emissions Trading, specifically, the NOX Annual Trading Program, the NOX Ozone Season Trading Program, and the SO2 Annual Trading Program (Parts II, III, and IV of 9VAC5-140), Revision D16. These regulations comprise the Clean Air Interstate Rule (CAIR) Program. DEQ is seeking comment on the issue of whether the regulation amendments should be submitted as a revision to the SIP. Comments due 28 December 2016.



**Note: The West Virginia Legislature convened on 18 SEPT 2016 and adjourned on 20 SEPT 2016.**

***FINAL RULES***

**REQUIREMENTS COVERING WATER QUALITY STANDARDS** Emergency rule to revise the dissolved aluminum criteria and the selenium criteria in 47CSR2 has expired. Emergency rule expired 10 November 2016.

**REGION IV**



**Note: The North Carolina General Assembly convened on 23 MAR 2016 and adjourned on 23 MAR 2016.**

## **FINAL RULES**

**STARTUP, SHUTDOWN, AND MALFUNCTION STATE IMPLEMENTATION PLAN CALL RULE REVISIONS** The Department of Environmental Quality (DEQ) has [adopted amendments](#) to 15A NCAC 02D .0535 and the adoption of 15A NCAC 02D .0545 relating to Startup, shutdown and malfunction (SSM) operations. On May 22, 2015, the U.S. Environmental Protection Agency (EPA) issued a final action to ensure states have plans in place that are fully consistent with the Clean Air Act and recent court decisions concerning startup, shutdown and malfunction (SSM) emission limit exemptions. EPA's final action responds to the Sierra Club Petition, clarifies the EPA's SSM Policy to assure consistency with the Clean Air Act and recent court decisions, and finalizes findings that the SSM provisions in the State Implementation Plans (SIPs) of 36 states that do not meet the requirements of the Clean Air Act (CAA) and accordingly issues a "SIP call" for each of those states. There is a requirement to submit a SIP revision by November 22, 2016. Several states, including North Carolina have entered into litigation over the validity of the EPA SIP call. Due to the uncertainty of the outcome of the litigation, North Carolina has chosen to move forward with rulemaking. Effective date 22 May 2018.

**WORK PRACTICES FOR SOURCES OF VOLATILE ORGANIC COMPOUNDS** The Department of Environmental Quality has [adopted rulemaking](#) to require that the VOC requirements previously implemented in an ozone nonattainment area prior to redesignation of the area to attainment remain in place; however, facilities outside the maintenance area counties for the 1997 8-hour ozone standard would no longer be required to comply with the work practice standards in 15A NCAC 02D .0958. Effective 1 November 2016.

# REGION V



## ILLINOIS

**Note: The Illinois General Assembly convened on 14 JAN 2015 and adjourned on 11 JAN 2017.**

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



## INDIANA

**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.



## MICHIGAN

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

### **PROPOSED LEGISLATION**

[HB 6024](#) Amendment requires remedial action attain a degree of cleanup that meets the cleanup criteria for unrestricted residential use and restores any affected aquifer to state drinking water standards.

[SB 1179](#) Amendment waives fees for storage tanks that exclusively receives crude petroleum directly from a wellhead or exclusively receives refined petroleum products that are subject to fees imposed under the state's Natural Resources and Environmental Protection Act.

### **FINAL RULES**

**PROCESS SAFETY MANAGEMENT OF HIGHLY HAZARDOUS CHEMICALS** The Department of Licensing and Regulatory Affairs has [adopted amended rules](#) R 325.18301, R 325.18302, and R 325.18303 that establish minimum requirements for preventing or minimizing the consequences of catastrophic releases of toxic, reactive, flammable, or explosive chemicals. The rules also adopt by reference federal OSHA regulations on process safety management of highly hazardous chemicals. Effective 10 November 2016.



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

### **PROPOSED RULES**

**UNIVERSAL WASTE** Ohio EPA has issued [draft rules](#) for universal waste as part of an Interested Party Review. The proposed wastes are: hazardous non-empty aerosol containers, hazardous paint and paint-related wastes, and hazardous antifreeze.



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

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

## MEET THE REC STAFF

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