



REC Review

of Legislative & Regulatory Actions



Regional Environmental Coordination / Sustaining Readiness in Partnership with States

March 2017

The *REC Review* publishes environmental and energy related developments for DoD 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-dodrecregion3@navy.mil.



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SPOTLIGHT STORY

More than 70% of bird strikes occur below 500 feet and most happen around airfields during takeoff or landing. Understanding the spatial patterns of bird distribution and movement in the vicinity of runways is a high priority to improve aviation safety. Due to their large body size and the tremendous increase in their population within the Chesapeake Bay area, bald eagles represent a growing concern to airport operators. (The Center for Conservation Biology)

The Navy staff from Naval Air Station Oceana (NASO) and Naval Support Activity Hampton Roads Northwest Annex Natural Resources Programs, as well as cooperators, and volunteers orchestrated and supported a project to conduct Bald Eagle Research in Hampton Roads, Virginia. The research utilizes a combination of fixed winged aircraft aerial surveys, hatchling leg banding, and Global Positioning System (GPS) tracking devices to locate migration patterns, nesting sites, and roosting sites. These birds are protected under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act.



NASO NRP's Michael Wright.
Photo by Mr. Reese Lukie.

This work is being done under a Cooperative Ecosystems Studies Unit (CESU) Agreement with the College of William & Mary's Center for Conservation Biology. One of NASO's eagle hatchlings banded last year was recently observed and reported utilizing the Lynnhaven River on 22 January 2017 and Lake Taylor on 1 February 2017. The accumulation of bird movements and positions over time has revealed areas that are consistently used by eagles, as well as the vertical distribution of activity associated with the

sites. The information will hopefully be helpful in planning flight operations around the airfields.

GENERAL INTEREST

PRESIDENTIAL EXECUTIVE ORDER ON ENFORCING THE REGULATORY REFORM AGENDA The President has issued a new Executive Order, posted in advance of publication in the Federal Register, entitled: Presidential Executive Order on Enforcing the Regulatory Reform Agenda. The Order directs:

- Agency heads to, within 60 days, designate an agency official as Regulatory Reform Officer (RRO).
- Each agency shall establish a Regulatory Reform Task Force, chaired by the agency RRO,
- Each entity staffed by officials of multiple agencies, such as the Chief Acquisition Officers Council, shall (also) form a joint Regulatory Reform Task Force

At a minimum, each Regulatory Reform Task Force shall attempt to identify regulations that:

- Eliminate jobs, or inhibit job creation;
- Are outdated, unnecessary, or ineffective;
- Impose costs that exceed benefits;
- Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;
- Are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or
- Derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

Each Regulatory Reform Task Force shall seek input and other assistance, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, and trade associations.

Within 90 days ... and on a schedule determined by the agency head thereafter, each Regulatory Reform Task Force shall provide a report to the agency head detailing the agency's progress toward the following goals:

- Improving implementation of regulatory reform initiatives and policies pursuant to section 2 of this order; and
- Identifying regulations for repeal, replacement, or modification.

Upon the request of an agency head, the Director (of OMB) may waive compliance with this order if the Director determines that the agency generally issues very few or no regulations (as defined in section 4 of Executive Order 13771). The Director may revoke a waiver at any time.

INTERIM GUIDANCE FOR EO 13771 "REDUCING REGULATION AND CONTROLLING REGULATORY COSTS" The Office of Information and Regulatory Affairs (OIRA) has issued interim guidance, in a question and answer format, on implementation of EO 13771, "Reducing Regulation and Controlling Regulatory Costs." OMB is separately preparing additional guidance that will address implementation for Fiscal Years 2018 and beyond. In addition OMB may revise these Q&As. Highlights of the ORIA guidance include:

- EO 13771 requirements for FY 2017 apply only to significant regulatory actions, as defined in EO 12866, i.e., (those regulatory actions) having an annual effect on the economy of \$100 million or more; or (that) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; or materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues ..."
- EO 13771 requirements do not apply to independent agencies. (EPA is an independent agency, with a single agency head. See list of independent agencies at <https://www.hg.org/independent.html>. The

President appoints independent agency heads, commissioners, or board members, subject to vacancies that occur in staggered terms, and subject to Senate confirmation.)

- Regulations that affect only other Federal agencies (and not the public); that are issued with respect to a military, national security, or foreign affairs function of the United States; and that are related to agency organization, management, or personnel are not subject to EO 13771 Section 2's requirements.
- The goal of the regulatory cost cap is to provide a mechanism for the prudent management and control of regulatory costs imposed on society by agencies attempting to achieve regulatory benefits. Costs should be measured as the opportunity cost to society. OMB Circular A-4 defines this concept. (https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/)
- To the extent feasible, regulatory actions (proposed to be eliminated to offset regulatory costs) should be eliminated before or on the same schedule as the new regulatory action they offset. In cases where finalizing an offsetting regulation is not possible, agencies should provide a plan for finalizing the offsetting regulation. The most appropriate place for such a plan is the preamble of the rule being issued. All of the regulatory actions slated for repeal but not yet finalized also must be included in the Unified Regulatory Agenda.

REBUILDING THE U.S. ARMED FORCES The President has issued a [memorandum](#) for the Secretary of Defense and Director of OMB, entitled "Rebuilding the U.S. Armed Forces." The memorandum directs the Secretary of Defense to conduct a 30-day readiness review to:

- Assess readiness conditions, including training, equipment maintenance, munitions, modernization, and infrastructure; and
- Submit to the President a report identifying actions necessary to improve readiness that can be implemented within the current fiscal year.

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

PARTICULATE MATTER CONTINUOUS EMISSION MONITORING SYSTEMS AT STATIONARY SOURCES Due to receipt of adverse comment, EPA is withdrawing the [direct final rule](#) titled, "Revisions to Procedure 2--Quality Assurance Requirements for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources" that was published at 81 FR 83160, on November 21, 2016.

EPA will not provide a second comment opportunity but will address the comment in a subsequent final action, which will be based on the parallel proposed rule also published on November 21, 2016.

The rule proposed on November 21, 2016 addressed extension of PM CEMS correlation curve data. The procedure currently contains a requirement that the annual QA/QC test results for affected facilities must fall within the same

response range that was used to develop the existing PM CEMS correlation curve. As a result, some facilities are unable to meet the criteria for passing their annual QA/QC test because their emissions are now lower than the range previously set during their correlation testing. EPA is modifying the procedure to allow facilities to extend their PM CEMS correlation regression line.

This change would ensure that facilities that have reduced their emissions since completing their correlation testing will no longer be penalized because their lower emissions fall outside their initial response range.

WATER

SAMPLING GUIDANCE FOR UNKNOWN CONTAMINANTS IN DRINKING WATER EPA has released an updated version of its [Sampling Guidance for Unknown Contaminants in Drinking Water](#), which provides utilities, emergency responders, and laboratories with recommended procedures for conducting routine and baseline monitoring in response to a contamination incident and sampling in support of remediation or decontamination efforts.

The guidance covers the collection, storage, preservation and transport of potentially contaminated water samples and provides recommendations for better supporting the detection and identification of many types of contaminants in drinking water.

UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES--PHASE II BATCH ONE DOD and EPA have delayed, until March 21, 2017, the effective date of the [rule](#) entitled Uniform National Discharge Standards for Vessels of the Armed Forces--Phase II Batch One, as a result of Presidential memorandum "Regulatory Freeze Pending Review."

CLIMATE CHANGE AND ENERGY

ENERGY EFFICIENCY STANDARDS FOR THE DESIGN AND CONSTRUCTION OF NEW FEDERAL LOW-RISE RESIDENTIAL BUILDINGS' BASELINE STANDARDS UPDATE This notice delays until March 21, 2017 the effective date of a recently published [final rule](#) updating the baseline Federal residential standard to the International Code Council (ICC) 2015 International Energy Conservation Code (IECC).

REGION I



Note: The Connecticut Legislature convened on 4 JAN 2017 and adjourns on 7 JUN 2017.

PROPOSED LEGISLATION

[HB 5884](#) An act prohibiting the use of coal tar sealants on state and local highways. Its purpose is to protect the environment and public health by limiting human and wildlife exposure to hazardous materials.

[SB 285](#) An act providing for the offset of certain environmental costs and fines through investment in environmental

remediation. Its purpose is to reduce regulatory burdens and promote investments by businesses in environmental remediation.

PROPOSED REGULATION

SOLVENT CONTAMINATED WIPES The Department of Energy and Environmental Protection has [proposed regulations](#) that would conditionally exempt certain disposable and reusable wipes contaminated with solvents from regulation as hazardous waste. Comments due 6 March 2017.

OTHER REGULATORY ACTIVITY

DRAFT STATE OF CONNECTICUT INTEGRATED WATER QUALITY REPORT The Department of Energy and Environmental Protection has invited public comment on the draft [State of Connecticut Integrated Water Quality Report \(IWQR\)](#). Comments due 13 March 2017.

NOTICE OF REISSUANCE OF FOUR GENERAL PERMITS FOR THE DIVERSION OF WATER FOR CONSUMPTIVE USE The Department of Energy and Environmental Protection hereby provides [notice of the reissuance](#), with minor modifications, of the General Permit for the Diversion of Water for Consumptive Use: Authorization Required Categories, General Permit for the Diversion of Water for Consumptive Use: Filing Only Categories, General Permit for the Diversion of Water for Consumptive Use: Non-Filing Categories, and General Permit for the Diversion of Water for Consumptive Use: Reauthorization Categories.



Note: The Maine Legislature convened on 7 DEC 2016 and adjourns on 15 APR 2018.

PROPOSED LEGISLATION

LD 385 This bill will establish a new stewardship program for discarded nickel-cadmium and small sealed lead-acid rechargeable batteries. Under the bill, a producer or an organization comprising one or more producers of such rechargeable batteries, submits a plan for the establishment of a battery stewardship program to the Commissioner of Environmental Protection for approval. Once approved, a program operates to provide convenient, free statewide collection opportunities for discarded rechargeable batteries covered under the program.

LD 422 This bill imposes a 2-year moratorium, beginning November 1, 2017, on new contracts or agreements by a consumer-owned water utility, municipality, state agency or other governmental entity involving the extraction of more than 75,000 gallons of groundwater during any week or more than 50,000 gallons of groundwater on any day. Also, will convene a working group to develop the statutory and regulatory framework for the establishment of the Maine Water Trust, which must be designed to ensure a safe and plentiful drinking water supply to all residents of the State by regulating the use of groundwater for commercial purposes under laws that establish the absolute control and dominion of the State over all groundwater supplies in the State. The commissioner must, on or before January 15, 2019, report the recommendations of the working group to the joint standing committee of the Legislature.



MASSACHUSETTS

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

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



NEW HAMPSHIRE

Note: The New Hampshire Legislature convened on 4 JAN 2017 and adjourns on 30 JUN 2017.

PROPOSED LEGISLATION

HB 485 This bill will adopt rules relative to developing criteria for emerging contaminants in drinking water that focus on the most conservative approach to exposure for children and other vulnerable populations to determine emerging contaminant criteria in drinking water. The commissioner shall re-evaluate emerging contaminant criteria adopted on an annual basis to include new science and exposure scenarios.

SB 121 This bill requires the Department of Environmental Services to send a Final 2014 303(d) list that eliminates outdated or speculative impairment designations to the Environmental Protection Agency in accordance with Clean Water Act.

HB 342 This bill establishes a commission to study the transition of certain regulatory authority to the Department of Environmental Services from the Environmental Protection Agency.

HB 376 This bill requires construction projects that disturb sediments of estuarine waters to analyze the characteristics of the sediments and report them to the Department of Environmental Services.

HB 463 This bill regulates groundwater pollution caused by polluting emissions in the air. The bill will allow the Department of Environmental Services to make rules regarding air pollution and the deposit of such pollutants on soils and water, as well as regulates devices emitting or having the potential to emit air pollutants that may harm soil and water through the deposit of such pollutants.

HB 585 This bill prohibits the introduction of fluoride into the drinking water of the state.

PROPOSED REGULATION

HAZARDOUS WASTE - LAND DISPOSAL RESTRICTIONS The Department of Environmental Services has proposed to incorporate by reference federal requirements and restrictions applicable to land disposal of hazardous waste, pursuant to 40 CFR 268. The [proposed rules](#) would not incorporate federal requirements for land disposal by use of underground injection wells. Underground injection of hazardous waste is already prohibited in New Hampshire under Env-Hw 701.03. Comments due 3 March 2017.

HAZARDOUS WASTE - REQUIREMENTS FOR FACILITY OWNERS/OPERATORS The Department of Environmental Services has proposed to [readopt the existing rules](#) with changes to improve clarity and organization, including:

- Clarifying notification requirements;

- Clarifying groundwater monitoring requirements
- Clarifying manifest discrepancy requirements;
- Clarifying requirements for rejecting shipments; and
- Adding provisions for responding to releases prior to cleanup plan approval.

Comments due 3 March 2017.

HAZARDOUS WASTE - REQUIREMENTS FOR GENERATORS The Department of Environmental Services has proposed to [readopt the rules](#) so that the regulated community can continue to work directly with the Department instead of with the US EPA. The existing rules are proposed to be readopted with changes to improve clarity and organization, including:

- Clarifying the documentation required to meet recordkeeping requirements for HW determinations.
- Clarifying generator classification calculations;
- Reorganizing and clarifying notification requirements;
- Reorganizing and clarifying requirements for packaging, labeling and storage of HW;
- Updating and clarifying manifest requirements; and
- Adding provisions for responding to releases prior to cleanup plan approval.

Comments due 3 March 2017.

HAZARDOUS WASTE - REQUIREMENTS FOR RECYCLING The Department of Environmental Services has proposed to [readopt the existing rules](#) with changes to improve clarity and organization, including:

- Relocating exemptions for certain recycled wastes to Env-Hw 400 from Env-Hw 802.02;
- Clarifying requirements for recycling a waste without land disposing it or placing it on the land; and
- Clarifying that the NH01 waste code is not to be used on manifests for used oil recycled out of state.

Comments due 3 March 2017.

HAZARDOUS WASTE - REQUIREMENTS FOR TRANSPORTERS The Department of Environmental Services has proposed to [readopt the rules](#) so that the regulated community can continue to work directly with the Department instead of with the US EPA. The existing rules are proposed to be readopted with changes to improve clarity and organization, including:

- Clarifying notification requirements; and
- Adding provisions for responding to releases prior to cleanup plan approval

In addition, the following proposed changes serve to adopt or incorporate federal HW regulations, which New Hampshire is required to do on an ongoing basis to maintain authorization to administer the federal Resource Conservation and Recovery Act ("RCRA") in New Hampshire:

- Adding a federal exemption for responses to explosives or munitions emergencies; and
- Adding references to current federal import/export provisions.

Comments due 3 March 2017.

IDENTIFICATION AND LISTING OF HAZARDOUS WASTES The Department of Environmental Services has proposed to [readopt the rules](#) so that the regulated community can continue to work directly with the Department instead of with the US EPA. The existing rules are proposed to be readopted with changes to improve clarity and organization, including:

- Relocating exemptions for certain recycled wastes from Env-Hw 800 to Env-Hw 401.03(b)(36) through (39);
- Repealing the pharmaceutical waste exemption in Env-Hw 401.03(b)(26) in response to 2016 HB 1490. The statutory amendment changed the definition of hazardous waste to remove household pharmaceutical wastes collected pursuant to RSA 318-E. Therefore, the pharmaceutical waste exemption is no longer necessary; and

- Clarifying the documentation required to meet recordkeeping requirements for claims that a waste is not a HW and for recycling.

Comments due 3 March 2017.



Note: The Rhode Island Legislature convened on 3 JAN 2017 and adjourns on 30 JUN 2017.

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



Note: The Vermont Legislature convened on 4 JAN 2017 and adjourns on 7 MAY 2018.

PROPOSED LEGISLATION

SB 10 The bill proposes to provide that a person who released perfluorooctanoic acid into the air, groundwater, or surface water, or onto the land is strictly, jointly, and severally liable for the costs of extending the water supply of a public water system to a property when the property is served by a potable water supply and the Secretary of Natural Resources has determined that the potable water supply on the property is a failed supply due to perfluorooctanoic acid contamination or is likely to be contaminated by perfluorooctanoic acid.

FINAL REGULATION

5.100 RULE PERTAINING TO CONSTRUCTION AND OPERATION OF NET-METERING SYSTEMS The Public Service Board has [adopted rules](#) for the installation and operation of net-metering systems. The proposed rule addresses the following subjects:

- The standards and procedures for the review of registrations and applications to construct net-metering systems.
- Procedures for public participation in the review of net-metering applications.
- The terms and conditions of net-metering service that electric utilities must offer to customers.
- The obligations of net-metering customers and requirements for the operation and decommissioning of net-metering systems.
- The standards and procedures for enforcement proceedings involving net-metering systems.

Effective 4 February 2017.

REGION II



NEW JERSEY

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

FINAL LEGISLATION

AB 2514 Permits local units of government to enter into shared services agreements with federal military installations located in the State. This bill revises the definition of a "Local unit" under the "Uniform Shared Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et seq.) to include a federal military base that intends to participate with another local unit in a shared service agreement or a joint meeting, so that such a federal military base would be able to participate in a shared service agreement or a joint meeting with other local units of government. Signed by Governor 10 February 2017.

AB 261 Prohibits installation and sale of wheel weights containing lead or mercury; prohibits sale of new motor vehicles equipped with wheel weights containing lead or mercury.

AB 4309 Establishes licensing and permit requirements and provides for adoption of standards and regulations for inspection of asbestos in certain structures. This bill amends P.L.1994, c.21 (C.34:5A-32 et seq.), commonly referred to as the Asbestos Control and Licensing Act, and applies the provisions of the law to the inspection of asbestos in a structure. This bill establishes both employer license and employee permit requirements and provides for the adoption of standards and regulations by the Commissioner of Labor and Workforce Development and the Commissioner of Health for the inspection of asbestos. In doing so, this bill also extends the enforcement provisions established in section 9 and 10 of P.L.1994, c.21 (C.34:5A-40 and C.34:5A-41) to include violations as they relate to the inspection of asbestos.



NEW YORK

Note: The New York State Legislature convened 4 JAN 2017 and adjourns 2 JAN 2019.

PROPOSED LEGISLATION

SB 4386 An Act to amend the public health law, in relation to establishing maximum levels for perfluoroalkyl carboxylic acids (PFCAs) and (PFSAs) perfluoroalkyl sulfonic acids in public drinking water.

FINAL REGULATION

CHEMICAL BULK STORAGE The Department of Environmental Conservation (DEC) has added perfluorooctanoic acid (PFOA-acid, Chemical Abstracts Service (CAS) No. 335-67-1), ammonium perfluorooctanoate (PFOA-salt, CAS No. 3825-26-1), perfluorooctane sulfonic acid (PFOS-acid, CAS No. 1763-23-1), and perfluorooctane sulfonate (PFOS-salt,

CAS No. 2795-39-3) to 6 NYCRR Section 597.3, List of Hazardous Substances. [Emergency Rule](#) effective and expires 12 March 2017.

HAZARDOUS SUBSTANCES IDENTIFICATION, RELEASE PROHIBITION, AND RELEASE REPORTING (CHEMICAL BULK STORAGE) The Department of Environmental Conservation (DEC) has [adopted rulemaking](#) to amend section 597 of Title 6 NYCRR. The purpose of the proposed rule is to:

- Add perfluorooctanoic acid (PFOA-acid, Chemical Abstracts Service (CAS) No. 335-67-1), ammonium perfluorooctanoate (PFOA-salt, CAS No. 3825-26-1), perfluorooctane sulfonic acid (PFOS-acid, CAS No. 1763-23-1), and perfluorooctane sulfonate (PFOS-salt, CAS No. 2795-39-3) to 6 NYCRR Section 597.3;
- 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
- Correct the list of hazardous substances by providing units for reportable quantities (RQs).

Effective 3 March 2017.

SCIENCE-BASED STATE SEA-LEVEL RISE PROJECTIONS The Department of Environmental Conservation has [adopted rulemaking](#) which adds Part 490 to Title 6 NYCRR to establish a common source of sea-level rise projections for consideration in relevant programs and decision-making. Effective 22 February 2017.

PROPOSED REGULATION

STATE ENVIRONMENTAL QUALITY REVIEW The Department of Environmental Conservation has [proposed to amend](#) the regulations that implement the State Environmental Quality Review Act (SEQR, Title 6 New York Code of Rules and Regulations (6 NYCRR), Part 617). The principal purpose of the amendments is to streamline the SEQR process without sacrificing meaningful environmental review. Although the DEC has not identified any potentially significant adverse environmental impacts that will result from the proposed amendments, the DEC has chosen to use a generic environmental impact statement (GEIS) to discuss the objectives and the rationale for the proposed amendments and provide opportunity for public participation. The DEC has also combined the GEIS with the impact statements required by the State Administrative Procedure Act to reduce duplication. Comments due 19 May 2017.

OTHER REGULATORY ACTIVITY

DAR-17: FEDERAL ENFORCEABILITY OF AIR POLLUTION CONTROL PERMITS The Department of Environmental Conservation has released [guidance](#) that describes the procedure and requirements for developing federally enforceable permit conditions that must be used by permit writers when implementing the Department's operating permit program. This document updates the Department's procedures to reflect more recent practices and requirements, as the Department previously issued guidance regarding federal enforceability in air permits in 1994.

REGION III



DISTRICT OF COLUMBIA

Note: The Council of the District of Columbia convened 2 JAN 2017 and adjourns 31 DEC 2018.

FINAL LEGISLATION

B 580 This bill redefines the term "restricted use pesticides" to include materials that contain a carcinogenic or likely to be carcinogenic material. The bill permits the District Department of the Environment (DDOE) to reclassify materials based on the findings of state, national, international government bodies, or non-governmental organizations. Finally, the bill permits the DDOE to issue additional restrictions not specifically expressed in District law.



DELAWARE

Note: The Delaware General Assembly convened on 11 JAN 2017 and adjourns on 30 JUN 2018.

FINAL RULES

UNIVERSAL RECYCLING REGULATIONS The Department of Natural Resources and Environmental Control has [adopted rulemaking](#) to ensure that the proper programs and collection services for recyclable materials are implemented, maintained, and consistent with the law; the collected recycled materials are diverted from landfill disposal or incineration; the recyclable materials are otherwise properly processed and enter the marketplace; recycling in Delaware can be effectively measured; and that waste diversion is maximized through the reduction of solid waste deposited in our landfills. Effective 21 February 2017.



MARYLAND

Note: The Maryland General Assembly convened on 11 JAN 2017 and adjourns on 11 MAY 2017.

PROPOSED LEGISLATION

HB 66 This bill will prohibit specified persons from using, allowing to be used, or selling lead or mercury wheel weights after specified dates; requiring the State to ensure that no vehicle in the State fleet is equipped with an externally attached lead wheel weight that is composed of greater than 0.1% lead by weight or greater than 0.1% mercury by weight after January 1, 2019; and providing for the enforcement of the Act, including the required issuance of a warning for an initial violation.

HB 121 This bill is repealing a requirement to deposit specified fees collected by the Department of the Environment into a separate account within the Community Right-to-Know Fund; repealing a requirement that specified persons analyze the security of specified facilities in accordance with specified requirements; repealing a specified fee; repealing a requirement that the Department adopt specified hazardous material security standards; repealing a requirement that the Department adopt specified regulations; etc.

HB 867 This bill authorizes the Department of Natural Resources to use land that is owned and managed by the Department for the generation of electricity from a facility utilizing wind energy, subject to a specified exception.



Note: The Pennsylvania General Assembly convened on 3 JAN 2017 and adjourns on 30 NOV 2018.

PROPOSED LEGISLATION

SB 294 An Act amending the act of March 4, 1971 (P.L.6, No.2), "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," providing for a plastic bag fee.

OTHER REGULATORY ACTIVITY

CLOSURE REQUIREMENTS FOR ABOVEGROUND STORAGE TANK SYSTEMS The Department of Environmental Protection has published a technical guidance for aboveground storage tanks. The purpose of the attached guidance is the establishment of minimum standards that must be met in order to comply with the 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 record keeping. Comments due 6 March 2017.

CLOSURE REQUIREMENTS FOR UNDERGROUND STORAGE TANK SYSTEMS The Department of Environmental Protection has published a technical guidance for underground storage tanks. The purpose of the attached guidance is the establishment of minimum standards that must be met in order to comply with the closure requirements for regulated underground storage tanks. These procedures include closure notification, tank handling, waste management and disposal, site assessment, sampling requirements, analytical requirements, release reporting and record keeping. Comments due 6 March 2017.

CRYPTOSPORIDIA, E. COLI, AND TURBIDITY LT2ESWTR LABORATORY REPORTING INSTRUCTIONS FOR PUBLIC WATER SYSTEMS The Department of Environmental Protection has issued draft guidance for the purpose of establishing uniform instructions and protocol for implementing the drinking water reporting requirements for Cryptosporidia, E. coli (enumeration), and turbidity under the LT2ESWTR. 6 March 2017.



VIRGINIA

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

FINAL LEGISLATION

HB 1619 This bill directs the State Water Control Board to incorporate into the general permit procedures by which it will, every 10 years, (i) review load allocations to determine whether changes in the use of a facility have halted or reduced nutrient discharges and (ii) determine, prior to reissuing the general permit, the need for reallocations based on a variety of factors, including changes in treatment technologies and land use. Effective 1 July 2017.

HJR 975 Commends Fort Lee for its 100th anniversary.

SB 1127 This bill directs the State Water Control Board to adopt regulations requiring that all plan elements, specifications, or calculations whose preparation requires a license in engineering, architecture, soil science, or a related profession be signed and sealed by a licensed professional. The bill requires the regulations to be effective no later than July 1, 2018, and exempts them from certain provisions of the Administrative Process Act ( 2.2-4000 et seq.). Effective 1 July 2017.

SJR 364 Commends Marine Corps Base Quantico for its 100th anniversary.

PROPOSED LEGISLATION

HB 1423 Bill died 7 February 2017.

HB 1597 This bill requires any locality establishing a stormwater management utility to waive charges for a person whose approved stormwater management plan indicates that the stormwater produced by his property is retained and treated on site.

HB 2383 This bill directs DEQ to identify the owner of any combined sewer overflow outfall that discharges into the **Chesapeake Bay 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, 2024, and, until compliance is achieved, to annually report its progress to DEQ. The bill requires DEQ to provide all such reports to certain legislative committees, the Virginia delegation to the Chesapeake Bay Commission, the Secretary of Natural Resources, and the Governor. The bill does not apply to any outfall for which a higher level of control is necessary to comply with a TMDL.

SB 898 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 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, 2020. When the owner is a locality and it fails to meet the 2020 compliance deadline, the bill directs the Governor to withhold all state appropriations from the locality until it brings the outfall into compliance. The bill does not apply to any outfall for which a higher level of control is necessary to comply with a TMDL.

FINAL RULES

GENERAL REVIEW The Department of Professional and Occupational Regulation (Department), Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (Board), has adopted a general review of 18VAC160-20, 18VAC160-30, and 18VAC160-40. A thorough review was necessary to ensure that the regulation complements the current standards and practices of the profession and ancillary agencies involved in the regulation of waterworks, wastewater works, and onsite sewage systems; provides minimal burdens on regulants while still protecting the public's health and safety; and reflect current procedures and policies of the department. The [regulations](#) were developed to achieve their intended objective in the most efficient, cost-effective manner, and are clearly written and understandable. Effective 1 April 2017.



WEST VIRGINIA

Note: The West Virginia Legislature convened on 8 FEB 2017 and adjourns on 8 APR 2017.

PROPOSED LEGISLATION

HB 2511 A bill to amend the Code of West Virginia, 1931 relating to establishing an industrial water extraction fee; placing a one cent fee on every gallon of water extracted for industrial use; placing an additional one cent fee on every gallon of water extracted for industrial use that is transported over state roads; requiring measuring of water withdrawals by a specified method; defining terms; and providing rule-making authority.

HCR 11 Requests the Federal Government to permit West Virginia to withdraw from the Environmental Protection Agency's Chesapeake Bay Initiative.

REGION IV



NORTH CAROLINA

Note: The North Carolina General Assembly convened on 11 JAN 2017 and adjourns on 1 AUG 2018.

PROPOSED LEGISLATION

SB 63 An act to require the Military Affairs Commission to adopt a Comprehensive Strategic Plan to enhance North Carolina military installations and their mission. The plan shall be updated every four years. The Commission shall annually review the State's performance based on this plan and annually report the results.

REGION V



ILLINOIS

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

FINAL LEGISLATION

SB 1673 Amends the Environmental Protection Act. Provides that the Pollution Control Board may conduct non-adjudicatory proceedings to adopt a time-limited water quality standard for specified watersheds and bodies of water. Provides that not later than 6 months after the effective date, the Environmental Protection Agency shall propose, and not later than 9 months thereafter the Board shall adopt, rules that prescribe specific procedures and standards to be used by the Board when adopting time-limited water quality standards. Adds other provisions concerning time-limited water quality standard. Amends the Illinois Administrative Procedure Act. Provides that specified procedures for rulemaking do not apply to the Pollution Control Board's adoption of time-limited water quality standards. Governor approved and became law 24 February 2017.

PROPOSED LEGISLATION

HB 613 Creates the Saving Illinois' Pollinators Act. Provides that beginning 9 months after the effective date of the Act, it shall be unlawful to apply any neonicotinoid insecticides on any public lands owned or maintained by the State. Provides that beginning 9 months after the effective date of the Act, it shall be unlawful to apply neonicotinoid insecticides in any other outdoor residential settings, including landscaping, ornamental, or other outdoor applications in this State. Establishes exemptions to the prohibitions. Provides that the Department of Agriculture shall, within 6 months after the effective date of the Act, adopt rules further defining and implementing specified provisions of the Act. Provides that the Department shall, within one year after the effective date of this Act, issue a draft report evaluating whether clear, peer-reviewed, published scientific evidence exists that outdoor applications of these insecticides are safe for honey bees, other pollinators, other beneficial insects, the broader environment, and human health.

HB 2958 Amends the Environmental Protection Act. Provides that, on and after January 1, 2018, no person may knowingly cause or allow sale at wholesale or retail of a coal tar sealant product. Provides that, on and after July 1, 2019, no person may knowingly cause or allow application of a coal tar sealant product on any surface, except for highway structures, in the State of Illinois including but not limited to a driveway, parking area, playground, sidewalk, bike trail or roadway. Provides that a city or county may adopt ordinances providing for enforcement of the requirements of this provision. Provides that any violation of this provision shall be enforceable by administrative citation. Provides that penalties for violation may not exceed \$1,000 for the first offense and \$5,000 for the second offense.

HB 3181 Amends the Environmental Protection Act. Provides that, on and after January 1, 2018, no person may knowingly cause or allow sale at wholesale or retail of a coal tar sealant product. Provides that, on and after July 1, 2019, no person may knowingly cause or allow application of a coal tar sealant product on any surface, except for highway structures, in the State of Illinois including but not limited to a driveway, parking area, playground, sidewalk, bike trail or roadway. Provides that a city or county may adopt ordinances providing for enforcement of the requirements of this provision. Provides that any violation of this provision shall be enforceable by administrative

citation. Provides that penalties for violation may not exceed \$1,000 for the first offense and \$5,000 for the second offense.

FINAL REGULATION

AIR QUALITY STANDARDS The Pollution Control Board has [adopted rulemaking](#) to amend the Illinois ambient air quality requirements to correspond with amendments to the federal National Ambient Air Quality Standards (NAAQSs) that the United States Environmental Protection Agency (USEPA) adopted during the period January 1, 2016 through June 30, 2016. Effective 23 January 2017.

DEFINITIONS AND GENERAL PROVISIONS The Pollution Control Board has [adopted a rulemaking](#) (see page 1096) to amend the state definition of a "volatile organic compound" or VOC to correspond with an amendment to the corresponding definition of VOC at 40 C.F.R. 51.100(s) that the United States Environmental Protection Agency (USEPA) adopted during the period January 1, 2016 through June 30, 2016. Effective 23 January 2017.

PRETREATMENT PROGRAMS The Pollution Control Board has [amended Part 310](#) implement segments of the federal amendments of October 22, 2015. The amendments add the NPDES Electronic Reporting Rule to the Illinois wastewater pretreatment regulations. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments. Effective 23 January 2017.

SEWER DISCHARGE CRITERIA The Pollution Control Board has [adopted amendments](#) to update the Illinois wastewater pretreatment rules to correspond with amendments adopted by the United States Environmental Protection Agency (U.S. EPA) that appeared in the Federal Register during the second half of 2015. Effective 23 January 2017.



Note: The Indiana General Assembly convened on 3 JAN 2017 and adjourned on 29 APR 2017.

PROPOSED LEGISLATION

SB 421 Repeals the law requiring owners of certain above ground storage tanks to register their tanks with the department of environmental management. Authorizes the person responsible for the operation of a public water system to gather information from potential sources of contamination for the purpose of developing or updating the public water system's threat minimization and response plan. Provides that, depending on the circumstances, the information gathered from potential sources of contamination may be exempted from inspection and copying under the public records law. Urges the legislative council to assign to the interim study committee on environmental affairs for study during the 2017 interim the topic of public water supply protection.

FINAL RULE

INTERFERENCE OF A PUBLICLY OWNED TREATMENT WORKS The Department of Environmental Management (IDEM) has [adopted amendments](#) to 327 IAC 5-17-11 concerning the definition of "interference" as it relates to pretreatment discharge to a publicly owned treatment works (POTW). IDEM seeks comment on the affected citation listed and any other provisions of Title 327 that may be affected by this rulemaking. Effective 17 March 2017.

PUBLIC WATER SUPPLY RULES REVISIONS ACCORDING TO THE FEDERAL REVISED TOTAL COLIFORM RULE The Department of Environmental Management has [adopted rulemaking](#) to amend and add rules concerning revisions adopted by the United States Environmental Protection Agency (U.S. EPA) to the Total Coliform Rule (TCR) under the Safe Drinking Water Act (SDWA) and corrections requested by U.S. EPA to the Ground Water Rule (GWR) and Stage 2 Disinfectants and Disinfection Byproducts (Stage 2) rules that were previously adopted. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking. Effective 17 March 2017.

OTHER REGULATORY ACTIVITY

SECTION 401 WATER QUALITY CERTIFICATION The Department of Environmental Management's (IDEM) has invited public comment on the [proposed Section 401 Water Quality Certification](#) for the U.S. Army Corps of Engineer's 2017 Nationwide Permits (NWP's) in the State of Indiana. Comments were due 27 February 2017.

REVISED TOTAL COLIFORM RULE [Emergency Rules](#) expired 14 February 2017.



Note: The Michigan Legislature convened on 11 JAN 2017 and adjourns on 31 DEC 2018.

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



Note: The Ohio General Assembly convened on 2 JAN 2017 and adjourns on 31 DEC 2018.

FINAL RULES

HAZARDOUS WASTE MANAGEMENT Ohio EPA has [adopted rulemaking](#) to update hazardous waste management rules to make them equivalent to their federal counterpart regulations in 40 CFR Parts 261 and 266 and to make non-substantive and stylistic amendments consistent with their five-year review. These rules address hazardous waste management, and are typically referred to collectively as the "Set N" rules package. Effective 24 March 2017.

MODIFICATION OF RULE 3750-25-25: RELEASE REPORTING REQUIREMENTS The Ohio EPA Division of Air Pollution Control has [adopted changes](#) to align new rule language for reporting spills/releases at oil and gas facilities regulated under ORC 1509 with the Governor's Executive Order 2016- 04K signed August 9, 2016. Rule 3750-25-25 is being amended to incorporate the one-call emergency notification system for oil and gas related emergencies. The notification system designates the Ohio Department of Natural Resources (ODNR) to be the single point of contact for state agency notification for spills or releases at oil and gas regulated facility sites. Effective 11 February 2017.

SULFUR DIOXIDE REGULATIONS The Environmental Protection Agency, Division of Air Pollution Control (DAPC) has [adopted amendments](#) to the rules contained in Ohio Administrative Code (OAC) Chapter 3745-18. The rules in this chapter set limits, testing and recordkeeping requirements for emissions of sulfur dioxide from sources in the state of

Ohio.

Upon review, Ohio EPA has determined that some changes are needed and that all rules in the chapter remain necessary. Primarily, Ohio EPA will be correcting a deficiency identified by USEPA in a recent amendment, removing facility specific emission requirements for shut down facilities, updating facility names and emissions unit identifications, and making minor changes for grammar and typographical errors throughout the chapter. Effective 16 February 2017.

TOXIC CHEMICAL RELEASE REPORTING RULES Ohio EPA, Division of Air Pollution Control (DAPC) has [adopted amendments](#) to rules in Ohio Administrative Code (OAC) Chapter 3745-100, "Toxic Chemical Release Reporting" to the Joint Committee on Agency Rule Review. Effective 11 February 2017.

WATER QUALITY STANDARDS The Department of Environmental Protection has [adopted amendments](#) to several rules contained in the Water Quality Standards Program, Administrative Code (OAC) Chapter 3745-1. This rulemaking consists of a reorganization of the content in OAC Chapter 3745-1, which includes the movement of existing rule content without any substantive changes, except in rule OAC 3745-1-05. Also included as part of this reorganization of water quality standards is a transfer of water quality standards rule requirements currently contained in other rule chapters(OAC Chapters 3745-2 and 3745-33) into OAC Chapter 3745-1. After this rulemaking, all of Ohio's water quality standards will be contained within a single rule chapter. Effective 6 February 2017.

OTHER REGULATORY ACTIVITY

LEAD AND COPPER RULE Ohio EPA has [proposed revisions](#) to Chapters 3745-81, 3745-89 and 3745-96 of the Ohio Administrative Code (OAC). The revisions to rules in these OAC Chapters incorporate provisions from Ohio Revised Code (ORC) Section 6109.121, addressing lead notification and monitoring for community water systems and nontransient noncommunity water systems. Comments due 17 March 2017.

FRAMEWORK TO REDUCE NUTRIENTS IN LAKE ERIE BASIN The State of Ohio has [released the framework](#) that is being used to reduce phosphorus entering Lake Erie under the Western Basin of Lake Erie Collaborative Agreement, which was signed in June 2015 by Ohio Lt. Governor Mary Taylor, Michigan and Ontario with a goal of reducing phosphorus loading to Lake Erie by 20 percent by 2020 and 40 percent by 2025.



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

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

MEET THE REC STAFF

RADM John C. Scorby, Jr.

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
or Deputy (757) 322-2812

Cultural Resources
(757) 341-0925

Potable Water, Stormwater, Groundwater,
Wastewater
(757) 341-0422

Air Quality, Asbestos, Radon
(757) 341-0387

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) 341-0493

Land Use, Encroachment
(757) 341-0264

Environmental Restoration
(757) 341-0394

REC Support
(757) 341-0430

REC Outreach
(757) 341-0395

DoD Chesapeake Bay Coordinators
(757) 341-0383
(757) 341-0424

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