



REC Review

of Legislative & Regulatory Actions



The Navy Regional Environmental Coordination Office

December 2019

The *REC Review* publishes environmental and energy related developments for DoD/Navy leaders and installation staff. Covering 21 states, the *REC Review* gives early notice of legislative and regulatory activities relevant to DoD interests in Federal Regions 1 & 3 and Navy interests in Federal Regions 2, 4, & 5.

To find out more about the Regional Environmental Coordination (REC) Office and browse back issues of the *REC Review* visit <http://denix.osd.mil/rec/home/>. To receive a copy of this electronic publication, send a subscription request to NAVFACML_EV-dodregion3@navy.mil.



NAVFAC MIDLANT DoD REC Map

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SPOTLIGHT STORY

'Partnership with NY/NJ Baykeeper Seeds Reefs that Benefit Water, Habitat, and NWS Earle'

This article was published on the Pew CharitableTrusts website, www.pewtrusts.org, on 9 November 2019. Please see the introduction and link below.

In northern New Jersey's Raritan Bay, NY/NJ Baykeeper and Naval Weapons Station (NWS) Earle are working together on an innovative project to restore oysters in the waters of the base and study how this natural barrier can protect the waterfront facility...

https://www.pewtrusts.org/en/research-and-analysis/articles/2019/11/08/us-navy-recruits-oysters-to-help-meet-its-mission?utm_campaign=environment&utm_source=earned&utm_medium=referral&utm_content=east



Sailors help NY/NJ Baykeeper staff install oyster castles off NWS Earle, as part of a project to re-establish oyster reefs. Photo courtesy of US Navy, Bill Addison.

GENERAL INTEREST

2020 Sustaining Military Readiness (SMR) Conference

The 2020 Sustaining Military Readiness (SMR) Conference will be held in San Antonio, Texas from August 10-13, 2020. The DoD-hosted event will bring together the operational, planning, and cultural and natural resource communities to promote military readiness through conservation awareness, compatible land use planning, partnerships, and encroachment mitigation. Join your colleagues for insightful discussion, stimulating workshops, and powerful connections with top military, government, and industry leaders.

The SMR Conference is FREE to all attendees and will be held at the Grand Hyatt San Antonio.

<https://www.smrconference.org/>

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.

HAZARDOUS WASTE

Adding Aerosol Cans to the Universal Waste Regulations In advance of formal publication, EPA has released the text of a final rule to add aerosol cans to the universal waste program.

EPA states that the streamlined universal waste regulations are expected to ease regulatory burdens on retail stores and others that discard hazardous waste aerosol cans; promote the collection and recycling of these cans; and encourage the development of municipal and commercial programs to reduce the quantity of these wastes going to municipal solid waste landfills or combustors.

Under the final rule, the existing universal waste requirements currently applicable to small quantity handlers of universal waste (SQHUW) and large quantity handlers of universal waste (LQHUW) are also applicable to handlers of discarded aerosol cans. Under the final rule, all handlers must manage their universal waste aerosol cans ... accumulating universal waste aerosol cans in containers. Handlers may sort aerosol cans by type and consolidate intact aerosol cans in larger containers, remove actuators to reduce the risk of accidental release, and, under certain conditions, may puncture and drain aerosol cans when the emptied cans are to be recycled.

EPA is requiring that universal waste aerosol cans that show evidence of leakage must be packaged in a separate closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the aerosol can universal waste requirements. (See 40 CFR 273.13(e)(2) and 40 CFR 273.33(e)(2)). Such an approach is also consistent with DOT requirement that aerosols that are damaged, defective, or leaking to the point where they do not meet applicable design standards be transported in special aerosol salvage drums. See 49 C.F.R. § 173.306(k)(2).

The final rule will be effective sixty days following publication in the federal register.

<https://www.epa.gov/hw/pre-publication-version-final-rule-adding-aerosol-cans-universal-waste-program>.

WATER

Environmental Protection Agency (EPA) to Evaluate Toxicity of Five PFAS Chemicals EPA is releasing the systematic review protocol for five per- and polyfluoroalkyl substances (PFAS) toxicity assessments for a 45-day public comment period.

The systematic review protocol EPA is issuing is not a toxicity assessment itself, instead it describes how the five Integrated Risk Information System (IRIS) assessments will be conducted. The five PFAS EPA is focusing on under this protocol are:

- perfluorodecanoic acid (PFDA),
- perfluorononanoic acid (PFNA),
- perfluorohexanoic acid (PFHxA),
- perfluorohexanesulfonate (PFHxS), and
- perfluorobutanoic acid (PFBA).

Though the systematic review protocol summarizes the methods in one document, there will be five separate IRIS assessments. Depending on data availability, the assessments will evaluate both cancer and noncancer effects, including potential effects on the endocrine, hepatic, urinary, immune, developmental, and reproductive systems.

The review documents will be available at <https://www.epa.gov/iris/iris-recent-additions> and in the docket at <http://www.regulations.gov>, Docket ID No. EPA-HQ-ORD-2019-0275.

Comments due 23 December 2019.

DoD Chesapeake Bay Program (CBP) Best Management Practice Fact Sheet The Chesapeake Bay total maximum daily load (TMDL) requires the DoD to reduce nutrient and sediment pollutant loads in stormwater runoff through the implementation of permanent, post-construction stormwater BMPs, which earn the DoD “credit” for pollutant reductions. Across the Chesapeake Bay watershed, DoD installations have installed over 3,400 stormwater BMPs since 1984. Most BMPs are designed to reduce nutrient and sediment pollution from the stormwater runoff they receive, collect, or intercept from pervious and impervious surfaces, like the runways, roads, housing areas, and other operational areas on defense facilities. However, these BMPs only provide pollution reduction credit if the required inspection and maintenance is completed, they pass inspection, and this information is reported to the appropriate regulatory entity. Link below requires log-in access to DENIX.

<https://authoring.denix.osd.mil/chesapeake/dod-cbp-chesapeake-bay-action-team-cbat/training-and-guidance-documents1/fact-sheets/bmp-maintenance/>

2019 Chesapeake Bay Restoration Spending Crosscut The 2019 Chesapeake Bay Restoration Spending Crosscut report has been released as required by the Chesapeake Bay Accountability and Restoration Act (CBARA) of 2014. The final report has been posted and sent to Congress. The report details federal and state funding on Chesapeake Bay restoration efforts.

<https://www.whitehouse.gov/wp-content/uploads/2019/11/2019-Chesapeake-Bay-crosscut.pdf>

EPA Proposes Updates to Lead and Copper EPA proposes regulatory revisions to the National Primary Drinking Water Regulation (NPDWR) for lead and copper under the authority of the Safe Drinking Water Act (SDWA). This proposed rule provides more effective protection of public health by reducing exposure to lead and copper in by reducing exposure to lead and copper in drinking water. This proposed rule also strengthens procedures and requirements related to health protection and the implementation of the existing Lead and Copper Rule (LCR) in the following areas: Lead tap sampling; corrosion control treatment; lead service line replacement; consumer awareness; and public education.

<https://www.epa.gov/ground-water-and-drinking-water/proposed-revisions-lead-and-copper-rule>
<https://www.govinfo.gov/content/pkg/FR-2019-11-13/html/2019-22705.htm>

REGION I



Note: The Connecticut Legislature convened on 9 JAN 2019 and adjourned on 5 JUN 2019.

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



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

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



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

PROPOSED RULES

Prohibitions on Hydrofluorocarbons in Certain End-Uses The Department of Environmental Protection has requested public input regarding potential greenhouse gas regulations that would 1) adopt into Massachusetts regulations the prohibitions on high global warming potential (GWP) hydrofluorocarbons (HFCs) in certain end-uses, and 2) create a refrigerant management program (RMP) as set out in the Massachusetts Clean Energy and Climate Plan for 2020. https://services.statescape.com/ssu/Regs/ss_8586278483303174475.pdf

FINAL RULES

Hazardous Waste Regulations; Site Assignment Regulation for Solid Waste Facilities The Department of Environmental Protection has proposed amendments to the hazardous waste regulations that include several key proposals, as well as a number of miscellaneous revisions. The key proposals relate to adoption of the federal rules for academic laboratories, the addition of multiple federal hazardous waste codes and their underlying hazardous waste constituents, clarification on the shipping requirements for wastes generated from on-site treatment of photographic processing wastewaters, restrictions on fluorescent lamp crushing by very small quantity generators (VSQGs) and universal waste handlers, cathode ray tubes (with companion changes to 310 CMR 16.00) and solvent-contaminated wipes (rags). Effective 15 November 2019.

<https://www.mass.gov/service-details/massdep-public-hearings-commentopportunities>



Note: The New Hampshire Legislature convened on 2 JAN 2019 and adjourned on 30 JUN 2019.

FINAL RULES

Cross-Media Electronic Reporting Rule (CROMERR) Compliance The Department of Environmental Services has adopted rules to implement the Cross-Media Electronic Reporting Rule (CROMERR). The proposed rules track the federal requirements but are made specific to authorized programs in New Hampshire. Effective 9 September 2019. https://services.statescape.com/ssu/Regs/ss_8586392669556007635.pdf#page=19

Requirements for Transfer of Low-Level Radioactive Waste for Disposal at Land Disposal Facilities, Manifests, Records, Reports, Quality Assurance, and Audits The Department of Health and Human Services/Radiological Health Section (DHHS/RHS) has requirements that a low-level radioactive waste generator must comply with to show that the material in question is properly classified, described, packaged, marked, labeled, and is proper condition for transport. Effective 30 September 2019.

<http://gencourt.state.nh.us/rules/register/2019/september-12-19.pdf#page=3>

OTHER UPDATES

New Hampshire Judge Suspends new PFAS Restrictions On 1 October 2019, New Hampshire dropped its allowable limit PFAS from 70 parts per trillions (PPT) to 18 PPT in drinking and ground water. A New Hampshire judge has now ordered the state suspend at year's end the enforcement of its new rules tightening allowable limits.

<https://news.bloombergenvironment.com/environment-and-energy/new-hampshire-judge-suspends-states-new-pfas-restrictions>



RHODE ISLAND

Note: The Rhode Island Legislature convened on 12 JAN 2019 and adjourned on 30 JUN 2019.

PROPOSED RULES

Control of Volatile Organic Compounds from Consumer Products The Department of Environmental Management has initiated rulemaking regarding Air Pollution Control Regulation No. 31, 'Control of Volatile Organic Compounds from Consumer Products'. https://services.statescape.com/ssu/Regs/ss_8586298494755867750.pdf

FINAL RULES

Control of Organic Solvent Emissions The Department of Environmental Management has adopted rules limiting emissions of volatile organic compounds (VOCs) from stationary sources of air contaminants. Effective 10 January 2020. https://services.statescape.com/ssu/Regs/ss_8586541140291737617.pdf

Policies of the Ocean Special Area Management Plan The Coastal Resources Management Council has adopted amendments to the policies and standards of Ocean Special Area Management Plan (Ocean SAMP) Chapter 11 to improve the predictability of state permitting and federal consistency review processes for offshore renewable energy projects. The amendments apply to any renewable energy and offshore development activity located within state waters or federal waters within CRMC geographic location description (GLD) boundaries that are subject to federal consistency review. Effective 6 October 2019.

https://services.statescape.com/ssu/Regs/ss_8586310586010845815.pdf

<https://www.coast.noaa.gov/czmprogramchange/#/public/change-view/1214>



VERMONT

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

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

REGION II



NEW JERSEY

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

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



NEW YORK

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

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

REGION III



DISTRICT OF COLUMBIA

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

PROPOSED LEGISLATION

Bill 23-506 Zero Waste Omnibus Amendment Act of 2019 would require a plan for comprehensive organics site management and recycling infrastructure. Among other things it requires a uniform recycling labeling scheme, requires waste collectors to address contamination in recyclables and compostables and requires the Mayor to impose a surcharge on recycling disposed of at District transfer stations when they exceed a contamination threshold. It establishes additional standards regarding the use of compostable disposable food service ware such as requiring the use of reusable food service ware when providing food for consumption. It also establishes a reuse and donation program to reduce waste in landfills and incinerators.

<http://ims.dccouncil.us/Legislation/B23-0506?FromSearchResults=true>



Note: The Delaware General Assembly convened on 8 JAN 2019 and will adjourn on 30 JUN 2020.

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



Note: The Maryland General Assembly convened on 9 JAN 2019 and adjourned on 10 APR 2019.

PROPOSED RULES

General Permit for Discharges from the Application of Pesticides The Department of the Environment has requested public input regarding the proposed National Pollutant Discharge Elimination System (NPDES) general permit for discharges from the application of pesticides. Comments due 26 November 2019.

https://services.statescape.com/ssu/Regs/ss_8586307840093181350.pdf#page=76

<https://mde.maryland.gov/programs/Permits/WaterManagementPermits/Pages/GPPesticides.aspx>

FINAL RULES

Development and Habitat Protection for Threatened and Endangered Species in Critical Areas The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays has adopted rules regarding plant and wildlife habitat and threatened and endangered species in areas of development. Effective 4 November 2019.

https://services.statescape.com/ssu/Regs/ss_8586293052197924985.pdf#page=13

<https://dnr.maryland.gov/criticalarea/Documents/CAC-WildlifeRegulationsProposed.pdf>



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

PROPOSED LEGISLATION

State Bill 919 prohibits the use of certain class B firefighting foams under certain circumstances; and imposing powers and duties on the Pennsylvania Emergency Management Agency and the State Fire Commissioner.

<https://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=S&billTyp=B&billNbr=0919&pn=1291>

PROPOSED RULES

Draft Guidance - Verification of Emergency Containment Structures for Aboveground Storage Tanks The Department of Environmental Protection has requested public input regarding a draft Technical Guidance Manual to assist tank owners and professional engineers when determining the adequacy of emergency containment structures and compliance with the technical regulations for aboveground storage tanks (ASTs).

[http://www.depgreenport.state.pa.us/elibrary/GetDocument?docId=1475912&DocName=VERIFICATION%20OF%20EMERGENCY%20CONTAINMENT%20STRUCTURES%20FOR%20ABOVEGROUND%20STORAGE%20TANKS.PDF%20%20COMMENTS%20DUE%20SEPTEMBER%209%2C%202019%20<span%20style%3D%22color%3Ablue%3B%22>\(NEW\)<2Fs pan>](http://www.depgreenport.state.pa.us/elibrary/GetDocument?docId=1475912&DocName=VERIFICATION%20OF%20EMERGENCY%20CONTAINMENT%20STRUCTURES%20FOR%20ABOVEGROUND%20STORAGE%20TANKS.PDF%20%20COMMENTS%20DUE%20SEPTEMBER%209%2C%202019%20<span%20style%3D%22color%3Ablue%3B%22>(NEW)<2Fs pan>)

Proposed State Implementation Plan Revision; Second Maintenance Plan for the Harrisburg-Lebanon-Carlisle Area (Harrisburg Area) 1997 8-Hour Ozone Nonattainment Area The Department of Environmental Protection has invited public comment on a proposed revision to the State Implementation Plan (SIP) concerning a second maintenance plan demonstrating that the Harrisburg-Lebanon-Carlisle Area (Harrisburg Area) continues to maintain the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Department intends to submit this proposed SIP revision to the United States Environmental Protection Agency EPA.

<http://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol49/49-46/1710.html>

Administration of the Land Recycling Program The Department of Environmental Protection has initiated rulemaking regarding soil and groundwater medium specific concentrations for three compounds in the Per- and Polyfluoroalkyl substances (PFAS) family – Perfluorobutane Sulfonate (PFBS), Perfluorooctane Sulfonate (PFOS), and Perfluorooctanoic Acid (PFOA). https://services.statescape.com/ssu/Regs/ss_8586284645984741220.pdf

FINAL RULES

Availability of Technical Guidance: Management of Fill Policy The Department of Environmental Protection has issued a final technical guidance on Management of Fill Policy. The policy has been revised for clarity and reorganized for ease of use, providing expanded or revised definitions of existing terms and adding definitions for terms frequently used in the implementation of the policy but were not previously defined. The amendments include a stepwise procedure for making a fill determination that clearly identifies the steps necessary to perform environmental due diligence; clarifies the procedures for performing analytical testing, if required, in a manner that is acceptable to the Department; and clarifies the requirements for filing forms or obtaining required approvals prior to transporting fill from one site to another. Effective 1 January 2020.

<http://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol33/33-45/2152.html>



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

PROPOSED RULES

Water Quality Management Plan Regulation - Nutrient Allocations The Department of Environmental Quality has proposed rules regarding waste load allocations for dischargers of pollutants to various river basins throughout the Commonwealth of Virginia including total nitrogen (TN) and total phosphorus (TP) waste load allocations necessary for the restoration of water quality in the Chesapeake Bay and its tidal tributaries. Comments due 9 January 2019.

https://services.statescape.com/RegsText/StaticDownloads/162862_284311.pdf

<http://register.dls.virginia.gov/details.aspx?id=7809>

OTHER OPPORTUNITIES

Draft Storage Tank Program Guidance Manual The State Water Control Board has requested public input regarding draft guidance on above-ground storage tanks. Comment deadline is 11 December 2019. Manual is effective 12 December 2019. <http://leg5.state.va.us/pdfs/6200/7a7b3006200~8e.pdf>
https://services.statescape.com/ssu/Regs/ss_8586281114534585203.pdf



WEST VIRGINIA

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

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

REGION IV



NORTH CAROLINA

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

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



KENTUCKY

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

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

REGION V



ILLINOIS

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

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



INDIANA

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

FINAL RULES

2015 8 Hour Ozone Nonattainment Designation The Department of Environmental Management has adopted amendments to 326 IAC 1-4 for Indiana counties to be consistent with the United States Environmental Protection Agency (U.S. EPA) designations for the 2015 8-Hour Ozone National Ambient Air Quality Standards (NAAQS). Effective 31 October 2019. https://services.statescape.com/RegsText/StaticDownloads/146467_282077.pdf
<http://iac.iga.in.gov/iac/20191030-IR-326190083FRA.xml.pdf>



MICHIGAN

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

PROPOSED LEGISLATION

Senate Bill 530 would amend Part 55 of the Natural Resources and Environmental Protection Act (NREPA) by extending the current air quality fee sunsets from 1 October 2019, to 1 October 2023. The bill would also restructure facility categories and fee rates.
<http://www.legislature.mi.gov/documents/2019-2020/billanalysis/House/pdf/2019-HLA-0530-5DECF3FA.pdf>
<http://www.legislature.mi.gov/documents/2019-2020/billenrolled/Senate/htm/2019-SNB-0530.htm>



Note: The Ohio General Assembly convened on 7 JAN 2019 and will adjourn on 31 DEC 2020.

PROPOSED LEGISLATION

House Bill 328 prohibits the use of class B firefighting foam containing intentionally added PFAS chemicals for testing and training purposes beginning January 1, 2020. <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-328>



Note: The Wisconsin Legislature convened on 7 JAN 2019 and will adjourn on 4 JAN 2021.

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

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