



REC Review

of Legislative & Regulatory Actions



The Navy Regional Environmental Coordination Office

January 2019

The *REC Review* publishes environmental and energy related developments for DoD/Navy leaders and Installation staff. Covering 21 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/home/>. To receive a copy of this electronic publication, send a subscription request to NAVFACML_EV-dodrecregion3@navy.mil.



Table of Contents

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

SPOTLIGHT STORY

One of the functions of the Regional Environmental Coordination (REC) Office is to develop, maintain, and coordinate partnerships to promote long-term sustainability of the military mission. Here are a few examples of how the DoD Chesapeake Bay Program (CBP), coordinated through the REC Office, is working to maximize resources, strengthen Bay restoration efforts and engage the military, civilians, and their families in environmental stewardship.

DoD CBP staff partners as a member of the Virginia Interagency Oyster Team and represented DoD restoration efforts performed at NSA Hampton Roads-Lafayette River Annex that contributed to the Lafayette River being designated as the first Virginia river to have met the Chesapeake Bay Watershed Agreement’s oyster restoration goals. Future oyster restoration efforts will be focused on Virginia’s York River with further opportunity for DoD support that also meets goals under the NWS Yorktown Installation Natural Resources Management Plan (INRMP).



CBP staff collaborated with partners from Old Dominion University and the University of Virginia to organize a novel climate resiliency workshop. Key stakeholders were invited to participate in an emerging computer simulation that integrates climate resiliency management decisions and generates outcomes that forecast effects on natural resources, the built environment and the economy. Still in its earliest stages, the CBP hopes that this work could be used to educate and assist Natural Resource Managers integrate concepts of climate resiliency in INRMPS.

<https://www.denix.osd.mil/chesapeake/home/>

GENERAL INTEREST

Virginia Department of Environmental Quality (DEQ) Offers Online and Classroom Training Courses VA DEQ is offering online and face-to-face classes. Areas of focus are stormwater management, inspections, and erosion and sediment control.

Virginia Department of Transportation (VDOT) - Stormwater and Erosion training and certification requirements for VDOT and individuals working on VDOT projects are largely determined by who signs VDOT's C107 form.

<https://www.deq.virginia.gov/ConnectWithDEQ/TrainingCertification/VDOT.aspx>

Local Government - <https://www.deq.virginia.gov/ConnectWithDEQ/TrainingCertification/LocalGovernment.aspx>

State Agency - <https://www.deq.virginia.gov/ConnectWithDEQ/TrainingCertification/StateAgency.aspx>

Consultants & Contractors- <https://www.deq.virginia.gov/ConnectWithDEQ/TrainingCertification/Consultant.aspx>

<https://www.deq.virginia.gov/ConnectWithDEQ/TrainingCertification/ContinuingEducation.aspx>

Taking Marine Mammals - Atlantic Fleet Training and Testing Study Area The National Marine Fisheries Service (NMFS) has received a [request](#) from the Navy to amend NMFS' regulations authorizing the take of marine mammals incidental to Navy training and testing activities conducted in the Atlantic Fleet Training and Testing (AFTT) Study Area from November 2018 to November 2023 to cover seven years of the Navy's activities, instead of five.

Section 316 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (2019 NDAA) amended the Marine Mammal Protection Act (MMPA) to extend the maximum period for MMPA incidental take regulations under section 101(a)(5)(A) from five to seven years for military readiness activities. The Navy proposes no changes to their specified activities, mitigation measures, monitoring, or reporting and requests that NMFS amend the final rule issued on November 14, 2018, to authorize incidental take of marine mammals for the two additional years.

Comments are due by 25 JAN 2019.

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

Implementation of the 2015 NAAQS for Ozone: Nonattainment Area SIP Requirements Environmental Protection Agency (EPA) has issued a final rule addressing implementing regulations (at the state level) for nonattainment area and ozone transport region (OTR) implementation requirements for the 2015 ozone national ambient air quality standards (NAAQS).

EPA is retaining without significant revision the majority of the provisions used to implement the 2008 ozone NAAQS. The final rule addresses a range of nonattainment area and OTR state implementation plan (SIP)

requirements for the 2015 ozone NAAQS, including attainment demonstrations, reasonable further progress (RFP) and associated milestone demonstrations, reasonably available control technology (RACT), reasonably available control measures (RACM), major nonattainment new source review, emissions inventories, the timing of required SIP submissions and compliance with emission control measures in the SIP.

EPA intends to address any revocation of the 2008 ozone NAAQS and any potential anti-backsliding requirements in a separate future rulemaking.

NATURAL AND CULTURAL RESOURCES

Endangered Species Endangered Species Status for the Candy Darter The Fish and Wildlife Service has [listed](#), as endangered, the candy darter (*Etheostoma osburni*), a freshwater fish species from Virginia and West Virginia.

Historically, the candy darter consisted of 35 populations in Virginia and West Virginia distributed across 7 metapopulations in the Bluestone, Lower New River, Upper Gauley, Lower Gauley, and Middle New watersheds in the Appalachian Plateaus physiographic province and the Upper New River and Greenbrier watersheds in the Valley and Ridge physiographic province.

FWS identified water temperature, excessive sedimentation, habitat fragmentation, water chemistry, water flow, and nonnative competition as stressors. However, habitat stressors are not considered to be a primary source of risk to candy darter viability in the future. Hybridization with the closely related variegate darter (*Etheostoma variatum*) appears to be having, and will continue to have, the greatest influence on candy darter populations and the candy darter's overall viability within the next 25 years.

Separately, FWS has proposed to list 370 stream miles in Virginia and West Virginia as critical habitat: <https://www.gpo.gov/fdsys/pkg/FR-2018-11-21/html/2018-25315.htm>. FWS states that there are no lands owned by the DOD that are adjacent to the proposed critical habitat.

Revised List of Migratory Birds The Fish and Wildlife Service is [proposing](#) to revise the List of Migratory Birds protected by the Migratory Bird Treaty Act (MBTA) by both adding and removing species.

Reasons include adding species based on new taxonomy and new evidence of natural occurrence in the United States or U.S. territories, removing species no longer known to occur within the U.S. or U.S. territories, and changing names to conform to accepted use. The net increase of 59 species (66 added and 7 removed) would bring the total number of species protected by the MBTA to 1,085. See the Federal Register announcement for the full list.

Comments are due by 28 JAN 2019.

WATER

Revised Definition of “Waters of the United States” EPA and the Army Corps of Engineers will host a hearing in Kansas City, Kansas on January 23, 2019 to provide interested parties the opportunity to present data, views, or information concerning the proposed rule revising the definition of “waters of the United States.”

The comment period on the proposed action will end 60 days after the notice of proposed rulemaking publishes in the Federal Register. The pre-publication version of the proposed rule can be found at <https://www.epa.gov/wotus-rule/step-two-revise>.

EPA Test for PFAS in Drinking Water Modified to Include Four Additional Compounds EPA has updated drinking

water Method 537, first published in 2009, to include four additional Per- and polyfluoroalkyl substances (PFAS) in addition to the original 14 PFAS in drinking water. The new compounds include the GenX chemical, hexafluoropropylene oxide dimer acid (HFPO-DA), as well as three additional PFAS [11-chloroeicosafluoro-3-oxaundecane-1-sulfonic acid (11Cl-PF3OUdS), 9-chlorohexadecafluoro-3-oxanone-1-sulfonic acid (9Cl-PF3ONS), and 4,8-dioxa-3H-perfluorononanoic acid (ADONA)].

More information about the validated EPA Method 537.1 is available at <https://www.epa.gov/newsreleases/epa-releases-new-tools-test-and-treat-additional-pfas-including-genx-drinking-water>

REGION I



Note: The Connecticut Legislature convened on 7 FEB 2018 and adjourned on 9 MAY 2018.

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 adjourns on 15 MAY 2020.

PROPOSED RULES

NAAQS State/Federal Implementation Plan The Department of Environmental Protection has [proposed rules](#) regarding ambient air quality standards to incorporate the current NAAQS for PM and ozone, and update and align the rules governing the Maine ambient air quality standards to provide consistency with the federal NAAQS. The amendments to Ch. 110 are required to satisfy CAA Section 110(a)(1) and (2) infrastructure requirements and Prevention of Significant Deterioration (PSD) requirements under CAA Section 160 et seq. These amendments will be submitted to the U.S. EPA for approval in Maine's State Implementation Plan.

Siting of Oil Storage Facilities The Department of Environmental Protection has [proposed amendments](#) to provide flexibility to municipalities and businesses siting oil storage facilities, as long as certain criteria and design standards are met. This proposed language adds variance language to allow for more areas to be developed without negatively impacting groundwater or drinking water. Additional municipalities and businesses would be able to site oil storage facilities including those that were previously proposed and denied. These facilities would need to meet certain criteria and design standards to ensure that the risk of oil discharges and the likelihood of future groundwater contamination has been effectively minimized.



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 will convene on 2 JAN 2019 and adjourn on 30 JUN 2019.

No new environmental legislation or regulation of significant importance to DoD was identified during this reporting period; however, there are pre-filed proposed rules for 2019 pertaining to drinking water, CAA, etc. that are being monitored.



RHODE ISLAND

Note: The Rhode Island Legislature will convene on 12 JAN 2019 and adjourn on 30 JUN 2019.

PROPOSED RULES

General Permits for Smaller-Scale Electric Generation Facilities The Department of Environmental Management has [proposed amendments](#) to rules regarding the definition of "emergency" consistent with the current EPA definition of "emergency" as applied to smaller scale electric generating units. Additionally, the regulation has been updated to current RI Code of Regulations format which required the addition of an incorporated materials section.

Heavy-Duty Diesel Vehicle Emission Inspections The Department of Revenue has [proposed rules](#) establishing the Rhode Island Heavy Duty Diesel Vehicle Emission Inspections Program.



VERMONT

Note: The Vermont Legislature will convene on 9 JAN 2019 and 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 adjourns on 7 JAN 2020.

PROPOSED RULES

New Jersey Traffic Management Act This [act](#) requires certain employers to plan and implement traffic reduction programs for employees. This bill would require businesses with >100 people to attain a standard of reducing projected peak-hour automobile trips of its employees commuting to work by means of single occupancy vehicles by 25 percent. This proposed legislation was introduced on 12 MAR 2018 and continues to be monitored.



NEW YORK

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

PROPOSED RULES

Environmental Regulator Penalty Policy This [bill](#) requires the department of environmental conservation to revoke any permit issued by the department if the permittee is in violation of any state or federal law. Bill was referred on 8 MAY 2018 and will continue to be monitored.

REGION III



DISTRICT OF COLUMBIA

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

PROPOSED RULES

Lead Hazard Prevention and Elimination Amendment Act of 2018 This [bill](#) modifies the acceptable levels of lead exposure by reducing the levels of lead that are acceptable. Owners of rental units are required to provide a clearance report prior to receiving a license to rent the unit. It also provides a right of action and remedies for tenants when owners do not comply.



DELAWARE

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

FINAL RULES

Offshore Drilling and the Coastal Zone An [act](#) to amend Title 7 of the Delaware code relating to offshore drilling and the coastal zone. This Act prohibits drilling for oil or natural gas in Delaware's coastal zone and territorial waters and precludes DNREC from issuing any permits in connection with the development of offshore drilling infrastructure, whether proposed for Delaware territorial waters or waters outside of the State. Effective 20 SEP 2018.



MARYLAND

Note: The Maryland General Assembly will convene on 9 JAN 2019 and adjourn on 10 APR 2019.

PROPOSED RULES

General Permit for Discharges from Tanks, Pipes, Other Liquid Containment Structures, Dewatering Activities, and Groundwater Remediation The Department of the Environment has requested public input regarding [proposed changes](#) to the general permit for discharges from tanks, pipes, other liquid containment structures, dewatering activities, and groundwater remediation. The proposed permit will have effluent requirements from each type of discharge and will require monitoring and online electronic submission of Discharge Monitoring Reports.

Piscataway Creek and Mattawoman Creek TMDL for Polychlorinated Biphenyls The Department of the Environment requested public input regarding a draft TMDL [document](#) for Polychlorinated Biphenyls (PCBs) for Piscataway Creek and Mattawoman Creek Tidal Fresh Bay Segments.



PENNSYLVANIA

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

PROPOSED RULES

Administration of the Storage Tank and Spill Prevention Program This final-form [rulemaking](#) updates underground storage tank provisions of Chapter 245 to be consistent with the EPA's revised State Program Approval regulations at 40 CFR Part 280. It also updates requirements for vaulted aboveground storage tanks and underground storage tanks. Independent Regulatory Review Commission approval published was on 3 NOV 2018.

Technical Guidance: Stationary/Non-Stationary Tanks The Storage Tank and Spill Prevention [Act](#) (act) (35 P.S. §§ 6021.101—6021.2104) regulates aboveground storage tanks containing regulated substances over certain sizes. Tanks that qualify as stationary tanks are regulated by the act and nonstationary aboveground storage tanks are excluded. This TGD defines stationary and nonstationary above-ground storage tanks. Notice was published 18 SEP 2018.



VIRGINIA

Note: The Virginia General Assembly will convene on 9 JAN 2019 and adjourn on 9 MAR 2019.

FINAL RULES

Amending the Chesapeake Bay Nutrient Criteria The Department of Environmental Quality (DEQ) has adopted [amendments](#) to the Chesapeake Bay nutrient criteria section of the State's Water Quality Standards regulation to incorporate the Chesapeake Bay Criteria Assessment Protocols Addendum, published by the EPA on behalf of the Chesapeake Bay Program partnership in November 2017. Effective 10 JAN 2019.

PROPOSED RULES

General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity The DEQ has proposed rules to amend and reissue the VPDES general permit for stormwater discharges from industrial activity. The permit expires on June 30, 2019, and needs to be reissued so that industrial facilities with point source discharges to surface waters of stormwater from regulated industrial activities can continue to have general permit coverage.

State Implementation Plan (SIP) The DEQ has announced an opportunity for public comment on a [proposed plan](#) to assure necessary authorities are contained in the state SIP for the 2015 ozone NAAQS supporting the infrastructure requirements of the federal Clean Air Act. The Commonwealth intends to submit the plan as a revision to the Commonwealth of Virginia SIP in accordance with the requirements of § 110(a) of the Act. The SIP is the plan developed by the Commonwealth in order to fulfill its responsibilities under the Act to attain and maintain the ambient air quality standards promulgated by the EPA. Comments due 23 JAN 2019.



WEST VIRGINIA

Note: The West Virginia Legislature will convene on 9 JAN 2019 and adjourns on 9 MAR 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 will convene on 16 JAN 2019 and adjourn on 30 JUN 2020.

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



KENTUCKY

Note: The Kentucky Legislature will convene on 7 JAN 2019 and adjourn on 31 MAR 2019.

PROPOSED RULES

Criteria for Identifying and Designating Endangered or Threatened Species of Plants The Energy and Environment Cabinet has proposed [amendments](#) to regulations for the identification and designation of state threatened or endangered plant species. This administrative regulation establishes the requirements for identifying and designating threatened or endangered plants.

REGION V



ILLINOIS

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

PROPOSED LEGISLATION

HB 5983 Amends the Environmental Protection Act. Provides that ethylene oxide shall only be used to sterilize medical products, and only if the EPA determines that there is no substitute sterilization technology available for sterilizing a particular medical product. Requires the Agency to prohibit all uses of ethylene oxide by January 1, 2022. Provides that the Agency shall not renew an air pollution operating permit if the Agency finds that the facility is emitting ethylene oxide at a level that violates any federal or State standards pertaining to ethylene oxide. Provides circumstances under which the Agency shall reopen and modify permits issued to facilities emitting ethylene oxide under the Clean Air Act Permit Program. Bill was introduced on 24 OCT 2018.



INDIANA

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

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



MICHIGAN

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

PROPOSED LEGISLATION

HB 6320 Amendment would provide for testing and issuance of public advisories upon detection of PFAS in public water supplies.



OHIO

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

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



WISCONSIN

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

PROPOSED RULES

Water Quality Standards provides public comment on a draft list of five water quality standards topics proposed as priorities for protecting Wisconsin's lakes and rivers. This prioritization process, which occurs every three years, is called the [triennial standards review](#). The topics under consideration address things such as levels of toxic pollutants and algal toxins as well as guidance for implementing water quality standards.

MEET THE REC STAFF

RADM Charles W. Rock

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

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

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

Cultural Resources
(757) 341-0925

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

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

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

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

POL/Tanks
(757) 341-0453

Regional NEPA, Natural Resources
(757) 341-0494

Land Use, Encroachment
(757) 341-0264

Environmental Restoration
(757) 341-0394

REC Support
(757) 341-0430

REC Outreach
(757) 341-0395

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

SUBSCRIBE

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

If your email address or phone number changes, please send an email with the updated information.

If you or your organization would like to submit an article, story, or picture for future newsletters, send it to: NAVFACML_EV-dodrecregion3@navy.mil.