



REC Review

of Legislative & Regulatory Actions



The Navy Regional Environmental Coordination Office

July 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-dodrecregion3@navy.mil.



NAVFAC MIDLANT DoD REC Map

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SPOTLIGHT STORY



DoD Chesapeake Bay Program Commanders' Conference at Marine Corps Base Quantico, Virginia

August 22, 2009

Commander, Navy Region Mid-Atlantic (NRMA) is excited to announce Admiral Rock will be hosting the upcoming DoD Chesapeake Bay Commanders' Conference on 22 August 2019 in Quantico, VA. DoD service Installation Commanders in the Bay watershed will be in attendance as they continually increase the knowledge and capacity of state and federal officials on issues related to water resources and in implementation of economic and policy incentives that will support conservation actions and the military mission.

The Chesapeake Bay region provides realistic training environments to prepare military units for diverse settings faced in combat operations and humanitarian relief efforts. A healthy Bay improves the quality of life of our military, their families, and other civilian personnel who call it home.

CLEARED
For Open Publication

Jul 23, 2019

Department of Defense
OFFICE OF PREPUBLICATION AND SECURITY REVIEW

GENERAL INTEREST

Environmental Protection Agency (EPA) Announces FY 2020-2023 Priorities for Compliance Environmental Protection Agency (EPA) announced seven enforcement and compliance assurance priority areas for fiscal years 2020-2023, identifying six National Compliance Initiatives, and the goal of following the Federal Lead Action Plan. The National Compliance Initiatives are:

- Reducing emissions of VOCs and HAPs from Stationary Sources,
- Reducing hazardous air emissions from hazardous waste facilities: improving compliance by hazardous waste Treatment Storage and Disposal Facilities and Large Quantity Generators with regulations that require effective control and monitoring of organic air emissions,
- Stopping the manufacture, sale, and installation of aftermarket defeat devices on vehicles and engines,
- Reducing significant noncompliance with National Pollutant Discharge Elimination System (NPDES) permits,
- Reducing noncompliance with drinking water standards at community water systems,
- Reducing risks of accidental releases at industrial and chemical facilities (CAA Section 112r),
- Reducing childhood lead exposures and associated health impacts as outlined in the Federal Lead Action Plan: <https://www.epa.gov/lead/federal-action-plan-reduce-childhood-lead-exposure>.

More information: <https://www.epa.gov/enforcement/national-compliance-initiatives>

DoD Use of Climate Projections in Installation Master Plans and Facility Design GAO has released a report titled "DoD Needs to Assess Risk and Provide Guidance on Use of Climate Projections in Installation Master Plans and Facilities Designs."

GAO found that DoD installations have not consistently assessed risks from extreme weather and climate change effects or consistently used projections to anticipate future climate conditions. GAO also found that most of the installations had not used climate projections, as opposed to reported past experiences with extreme weather, because they lack guidance on how to incorporate projections into their master plans. Not assessing risks or using climate projections in installation planning may expose DoD facilities to greater-than-anticipated damage or degradation as a result of extreme weather or climate-related effects.

GAO recommendations include:

- updates to the Unified Facilities Criteria standard on installation master planning to require that master plans include (1) an assessment of the risks from extreme weather and climate change effects that are specific to the installation and (2) plans to address those risks as appropriate;
- (similarly) update the Unified Facilities Criteria standard on installation master planning;
- the Secretary of Defense should issue guidance(s) on incorporating climate projections into installation master planning and into facilities project designs, including —at a minimum— what sources of climate projections to use, how to use projections involving multiple future scenarios, and what future time periods to consider.

DoD agreed with all GAO recommendations. The full report is available at <https://www.gao.gov/assets/700/699679.pdf>

DoE Better Buildings Challenge Goal Achievers - July

The Better Buildings Federal Award recognizes the Federal Government's highest-performing buildings through a competition to reduce annual energy use intensity (British thermal unit (Btu) per square foot of facility space) on a

year-over-year basis. The Federal building that achieves the greatest percentage energy intensity savings for that year wins.

<https://betterbuildingsolutioncenter.energy.gov/challenge>

Navy Community Service Environmental Stewardship Flagship Awards - July

The Navy Community Service Environmental Stewardship Flagship (NCS-ESF) Awards recognize the best year-round volunteer supported program or special project that promotes education and good stewardship of environmental resources. The competition is open to Navy shore, sea, and overseas commands based on size: small (under 200 personnel), medium (200 to 499 personnel) and large (500 or more personnel). Nomination packages must be submitted no later than 31 JUL.

<https://navysustainability.dodlive.mil/environment/awards/ncs-esf-awards/resources/>

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.

WATER

Final Modification to NPDES General Permit for Stormwater Discharges From Construction Activities All ten EPA Regions are issuing a final modification to the 2017 National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from construction activities, also referred to as the “2017 Construction General Permit (CGP)” or “2017 CGP,” which became effective on February 16, 2017.

The “modified 2017 CGP” or “final modified permit,” replaces several conditions in the original 2017 CGP and relevant fact sheet sections. The scope of the modification is limited to only these conditions; all other conditions remain the same. The permit term also remains the same, meaning the modified 2017 CGP will still expire on February 16, 2022. The finalized changes included:

1. Removed examples in the definition of “operator”—The EPA removed two parenthetical examples that appeared in Part 1.1.1 of the original 2017 CGP showing examples of the type of entity that would be considered an “operator” and therefore would be eligible for coverage under the permit.
2. Aligned language of three requirements with the (construction and demolition) C&D rule—The EPA adjusted the wording of two erosion and sediment control requirements and one pollution prevention requirement in the permit to clarify their intent and to align their text in 40 CFR part 450.
3. Clarified individual operator responsibility in multiple operator arrangements—The EPA clarified an individual operator's legal responsibility for permit compliance in situations where there are multiple operators who divide permit responsibilities among themselves. In particular, the EPA removed references to “joint and several liability” from the original permit since they may have provided, in the Agency's view, an inaccurate explanation of what the permit compliance duties are for multiple operators who share implementation responsibilities under the permit.

The modified 2017 CGP and accompanying fact sheet can be found in the Docket (EPA-HQ-OW-2015-0828) as well

as on the EPA's construction stormwater website at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities>.

The modified 2017 CGP became effective on 27 JUN 2019.

Senate Bill 1143 Get the Lead out of Military Housing Act A bill to amend title 10, United States Code, to improve testing and inspections for lead on military installations, in Department of Defense housing and schools, and in military dependent children. <https://www.govinfo.gov/content/pkg/BILLS-116s1143is/pdf/BILLS-116s1143is.pdf>

AIR

EPA Region IV Proposes to Continue to Allow Startup, Shutdown, and Malfunction Exemption in State Implementation Plans

EPA Region 4 is proposing to approve a portion of a State Implementation Plan (SIP) revision submitted by the state of North Carolina which changes North Carolina's SIP-approved rule regarding nitrogen oxides (NOX) emissions from large internal combustion engine sources. In so doing, Region 4 is first considering adopting an alternative policy regarding startup, shutdown, and malfunction (SSM) exemption provisions in SIPs that departs from EPA's 2015 national policy on this subject.

In 2015 EPA restated its national policy prohibiting the inclusion of provisions in SIPs that exempt excess emissions during periods of SSM and issued a SIP call to North Carolina to address two specific provisions in the State's implementation plan that provide discretion to the state agency to exempt emissions from being considered a violation. In the 2015 SSM SIP Call Action, EPA relied on *Sierra Club v. Johnson*, 551 F.3d 1019 (D.C. Cir. 2008), as further support for the Agency's position on excluding SSM exemption provisions in SIPs.

Region 4 is considering the national policy regarding SSM exemptions in SIPs, and is evaluating whether it is reasonable to allow SSM provisions in SIPs if the SIP considered as a whole is protective of the national ambient air quality standard (NAAQS). SIPs are composed of numerous planning requirements that are collectively NAAQS-protective by design. In some cases, these overlapping requirements provide additional protection of the standard that may lead Region 4 to reasonably conclude that the SIP adequately provides for attainment and maintenance of the NAAQS, even if the SIP allows exemptions to specific emissions limits for discrete periods, such as SSM events. <https://www.govinfo.gov/content/pkg/FR-2019-06-05/pdf/2019-11758.pdf>

Comments are due by 5 AUG 2019.

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 LEGISLATION

House Bill 3851/Senate Bill 2429 is an Act establishing an interagency PFAS task force to review and investigate water and ground contamination of per-and polyfluoroalkyl substances across the Commonwealth.

<https://malegislature.gov/Bills/191/SD2429/Senate/Bill/Text>



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

PROPOSED RULES

Volatile Organic Compounds (VOCs) Reasonably Available Control Technology (RACT) The Department of Environmental Services has proposed rules for the implementation of reasonably available control technology (RACT) on certain stationary sources that emit volatile organic compounds (VOCs).

https://services.statescape.com/ssu/Regs/ss_8586436719024305572.pdf



RHODE ISLAND

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

PROPOSED LEGISLATION

Senate Bill 891 An Act relating to motor and other vehicles – idling. The purposes of this Act is to protect health and the environment by reducing air emissions and to conserve fuel by restricting the unnecessary operation of engines. Amendments include removal of the word diesel in regard to idling of engines. A military exemption is not included in the Act. <http://webservice.rilin.state.ri.us/BillText19/SenateText19/S0891.pdf>

PROPOSED RULES

Control of Volatile Organic Compounds (VOCs) from Surface Coating Operations The Department of Environmental Management has proposed amendments to rules regarding revised and new VOC content limitations for paper, film and foil coating, metal furniture coating, large appliance coating, miscellaneous metal and plastic parts coating, and flatwood paneling. https://services.statescape.com/ssu/Regs/ss_8586435781628766526.pdf



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 Navy was identified during this reporting period.



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

PROPOSED LEGISLATION

Assembly Bill 7625 An Act relating to reporting on the presence of water contaminants in groundwater and surface waters; requires the department of environmental conservation to promulgate a list of water contaminants for which sampling and reporting shall be required.

https://nyassembly.gov/leg/?default_fld=&Text=Y&term=2019&bn=A7625

REGION III



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

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



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.

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



PENNSYLVANIA

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

PROPOSED LEGISLATION

House Bill 1364 Amends the Hazardous Sites Cleanup Act further providing for definitions and providing for Governor to declare disaster emergency. Proposed amendments include adding perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) to the hazardous substance definition.

<http://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=HTM&sessYr=2019&sessInd=0&billBody=H&billTyp=B&billNbr=1364&pn=1903>

PROPOSED RULES

Air Quality Fee Schedule Amendments The Department of Environmental Protection has proposed fee increases for plan approval applications and for both Title V and Non Title V operating permits, as well as for the annual operating permit administration fee for both Title V and Non-Title V sources. The annual operating permit administration fee is proposed to be replaced with an annual operating permit maintenance fee that would be due on or before December 31 of each year. https://services.statescape.com/ssu/Regs/ss_8586477983211596659.pdf



VIRGINIA

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

PROPOSED RULES

SIP Revision for Northern Virginia Ozone Nonattainment Area The Department of Environmental Quality has requested public input regarding a proposed plan to attain and maintain the national ambient air quality standard (NAAQS) for ozone in the Northern Virginia Ozone Nonattainment Area. The Commonwealth intends to submit the plan as a revision to the Commonwealth of Virginia State Implementation Plan (SIP) in accordance with the requirements of Section 110(a) of the Federal Clean Air Act.

https://services.statescape.com/ssu/Regs/ss_8586441019774396047.pdf

Regulated Medical Waste Management Regulaions The Department of Environmental Quality has proposed rules regarding permit requirements for the storage, treatment and disposal of regulated medical wastes, rules for packaging and labelling the waste, and approved treatment processes.

<http://register.dls.virginia.gov/details.aspx?id=7459>



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.

PROPOSED RULES

Medical Waste Management Proposed amendments to the rules will provide clarification based on stakeholder input to the requirements for packaging, temporary storage locations, the use of ozonation as a treatment method, and disposal options for noninfectious medical waste, trace chemotherapy waste, and non-hazardous pharmaceutical waste. https://services.statescape.com/ssu/Regs/ss_8586412371470960146.pdf



KENTUCKY

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

PROPOSED RULES

Drinking Water and Wastewater Operators The Energy and Environment Cabinet has proposed rules regarding education, experience, and training requirements for certified drinking water and wastewater operators. https://services.statescape.com/ssu/Regs/ss_8586430536750375867.pdf

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 LEGISLATION

State Bill 459 repeals the Military Base Planning Council and reenacts it as the Indiana Defense Task Force. Makes changes to the membership of the task force. Repeals the requirement that the Indiana office of defense development report annually to the lieutenant governor on the economic, workforce, and national security impact of the defense assets and defense industry in Indiana. Provides for the governor to appoint the director of the office. Effective 1 Jul 2019. <http://iga.in.gov/static-documents/4/b/5/2/4b52443c/SB0459.04.ENRH.pdf>

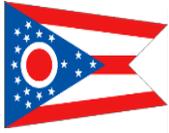


MICHIGAN

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

FINAL RULES

Authorization of State Hazardous Waste Program Revisions EPA is granting Michigan final authorization for changes to its RCRA hazardous waste program. Revisions include conditional exclusions for solvent contaminated wipes, modification to the definition of solid waste and the hazardous electronic waste manifest rule. Effective 6 JUN 2019. <https://www.govinfo.gov/content/pkg/FR-2019-06-06/pdf/2019-11895.pdf>



OHIO

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

PROPOSED RULES

Emergency Episode Rules and Ambient Air Quality Standards The Ohio Environmental Protection Agency has requested interested party input regarding draft amendments to the emergency episode rules and ambient air quality standards. Comments were due 12 JUL 2019.

http://services.statescape.com/ssu/Regs/ss_8586412396880055800.pdf



WISCONSIN

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

PROPOSED RULES

Incorporation of the 2015 National Ambient Air Quality Standards for Ozone The Department of Natural Resources has proposed rulemaking to ensure consistency between Wisconsin's ambient air quality standards for ozone and those NAAQS for ozone currently promulgated by EPA.

https://services.statescape.com/RegsText/StaticDownloads/150364_263133.htm

PROPOSED LEGISLATION

State Bill 109 requires the Department of Health Services to establish state health-based groundwater quality standards for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS).

<http://docs.legis.wisconsin.gov/2019/related/proposals/sb109.pdf>

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