



REC Review

of Legislative & Regulatory Actions



The Navy Regional Environmental Coordination Office

March 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 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.



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SPOTLIGHT STORY

Save the Date for the 2019 Federal Environmental Symposium (October 30 – 31, 2019) Now!

The date for the 2019 Federal Environmental Symposium has moved to October 30 – 31, 2019 so that federal employees can attend both the August 20 – 22, 2019 Energy Exchange and the 2019 Federal Environmental Symposium.

Federal employees and sponsored contractors are invited to attend the symposium to be held at the Natcher Conference Center on the National Institutes of Health (NIH) campus in Bethesda, Maryland.

The theme of the event will be *Federal Facilities Leading Environmental Change*, and it will bring together federal staff and their contractors to discuss environmental regulations, success and challenges.

The event is FREE so mark your calendar and stay tuned to FedCenter.gov for more information in the coming weeks!

<https://www.fedcenter.gov/Announcements/index.cfm?id=33095>

<https://www.fedcenter.gov/admin/itemattachment.cfm?attachmentid=1183>



GENERAL INTEREST

Environmental Protection Agency (EPA) Announces 2018 Annual Environmental Enforcement Results In FY 2018, the EPA worked in collaboration with state and tribal programs to assure compliance with federal environmental laws. EPA focused its enforcement and compliance resources in areas that would have a major environmental or human health impact, support the integrity of our environmental regulatory programs, create a deterrent effect, or promote cleanups. A portion of this report covers Federal facilities. To view the results and example cases, click on the link.

<https://www.fedcenter.gov/Announcements/index.cfm?id=33568>

EPA Issues Updated 2019 National Compliance Initiatives (NCIs) The EPA's Enforcement and Compliance Program establishes the NCIs, previously called National Enforcement Initiatives (NEIs). EPA focuses its enforcement and compliance resources on the most serious environmental violations by developing and implementing national program priorities. These program priorities are communicated through the NCIs. Check out the 2019 NCIs for air, energy, hazardous materials, and water as well as changes being contemplated for the FY2020–2023 cycle.

<https://www.fedcenter.gov/Announcements/index.cfm?id=33569>

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

National Pollutant Discharge Elimination System (NPDES) Applications and Program Updates EPA has finalized certain revisions to the NPDES permitting regulations proposed on 18 MAY 2016. The final revisions modernize the NPDES regulations, promote submission of complete permit applications, and clarify regulatory requirements to allow more timely development of NPDES permits that protect human health and the environment. The final regulatory changes are minor and will improve and clarify the regulations in the following major categories including:

1. Regulatory definitions (“new discharger” and two definitions related to the discharge of pesticides from pesticides application);
2. Permit applications and public notice.
3. Updates the EPA contact information and web addresses for electronic databases,
4. Updates outdated references to best management practices guidance documents, and
5. Deletes a provision relating to best practicable waste treatment technology for publicly owned treatment works that is no longer applicable.

Additional information is available at <https://www.epa.gov/npdes/npdes-application-and-program-updates-0>

This final rule is effective on June 12 JUN 2019.

Revised Definition of “Waters of the United States” EPA and the Army have proposed a rule defining the scope of waters subject to federal regulation under the Clean Water Act (CWA), in light of the U.S. Supreme Court cases in *United States v. Riverside Bayview Homes*, *Solid Waste Agency of Northern Cook County v. United States*, and *Rapanos v. United States*, and consistent with Executive Order 13778, “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.”

The agencies proposed as a baseline concept that “waters of the United States” are waters within the ordinary meaning of the term, such as oceans, rivers, streams, lakes, ponds, and wetlands, and that not all waters are “waters of the United States.”

The proposal defines a tributary as a river, stream, or similar naturally occurring surface water channel that contributes perennial or intermittent flow to a traditional navigable water or territorial sea in a typical year either directly or indirectly through other tributaries, jurisdictional ditches, jurisdictional lakes and ponds, jurisdictional impoundments, and adjacent wetlands or through water features...so long as those water features convey perennial or intermittent flow downstream.

The proposal defines “adjacent wetlands” as wetlands that abut or have a direct hydrological surface connection to other “waters of the United States” in a typical year.

The proposed definition specifically clarifies that “waters of the United States” do not include features that flow only in response to precipitation; groundwater, including groundwater drained through subsurface drainage systems; certain ditches; prior converted cropland; artificially irrigated areas that would revert to upland if artificial irrigation ceases; certain artificial lakes and ponds constructed in upland; water-filled depressions created in upland incidental to mining or construction activity; stormwater control features excavated or constructed in upland to convey, treat, infiltrate, or store stormwater run-off; wastewater recycling structures constructed in upland; and waste treatment systems.

<https://www.govinfo.gov/content/pkg/FR-2019-02-14/html/2019-00791.htm>

Comments are due by 15 APR 2019.

EPA's Per- and Polyfluoroalkyl Substances (PFAS) Action Plan is Now Available The EPA is leading the national effort to understand PFAS and reduce PFAS risks to the public through implementation of this Action Plan and through active engagement and partnership with other federal agencies, states, tribes, industry groups, associations, local communities, and the public. This Action Plan describes the EPA's approach to identifying and understanding PFAS, approaches to addressing current PFAS contamination, preventing future contamination, and effectively communicating with the public about PFAS.

<https://www.fedcenter.gov/Announcements/index.cfm?id=33600>

NEPA

Environmental Impact Statement (EIS) for Patuxent River Complex Testing and Training The Navy will prepare an EIS for research, development, test and evaluation and training activities within the Patuxent River Complex (PRC), Naval Air Station Patuxent River, MD.

The proposed action is to continue conducting military testing and training activities within the PRC to meet current and projected military readiness requirements. The proposed action includes testing and training activities analyzed

in the Naval Air Systems Command, Naval Air Warfare Center Aircraft Division (NAWCAD) December 1998 PRC Final EIS and subsequent environmental assessments, plus adjustments to current testing and training activities required to support projected Navy military readiness requirements into the foreseeable future.

Additional information is available at: <http://www.prceis.com>.

Comments are due by 1 APR 2019.

REGION I



Note: The Connecticut Legislature convened on 9 JAN 2019 and will adjourn on 8 JUN 2019.

PROPOSED LEGISLATION

House Bill 5794 limits Municipal Separate Storm Sewer System (MS4) stormwater requirements to those required under federal law. Its purpose is to reduce a municipal mandate by eliminating state stormwater regulations that exceed such requirements established under federal law.

https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2019&bill_num=HB5794

House Bill 5910 limits the use of polyfluoroalkyl chemicals in certain products, including, but not limited to, food packaging and firefighting foam.

https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&which_year=2019&bill_num=HB5910

House Bill 6445 creates a separate, streamlined permit process for maintenance marine dredging in order to provide for the removal of accumulated sediment at marina basins and access channels and boat slips.

<https://www.cga.ct.gov/2019/TOB/H/pdf/2019HB-06445-R00-HB.PDF>

PROPOSED RULES

Long Island Sound Blue Plan The Commissioner of the Department of Energy and Environmental Protection has given notice that a public hearing will be held on the Long Island Sound Blue Plan. The Blue Plan is a marine spatial planning process for Long Island Sound that was authorized by Section 25-157t of the Connecticut General Statutes (Connecticut Public Act 15-66). The intent of the Blue Plan is to plan and account for both the existing human uses of the Sound and the habitats and natural resources needed for marine life to thrive in the Sound. Doing so will help ensure that: (a) the existing human uses and the habitats and natural resources and features of the Sound are protected and (b) any new and existing uses of the Sound will be compatible with each other and with the Sound's habitats and natural resources. http://services.statescape.com/ssu/Regs/ss_8586527381420739155.pdf



MAINE

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

PROPOSED RULES

Gypsy Moth Quarantine The Department of Agriculture, Conservation, and Forestry has proposed a rule establishing a state quarantine against the gypsy moth to prevent its movement from all counties except parts of Aroostook, Piscataquis and Somerset Counties to other parts of the State, to protect Maine's forest and landscape tree resources. The gypsy moth is federally regulated and this rule fulfills the requirement that Maine must have a similar state quarantine in place because the state is partially regulated for gypsy moth.

http://services.statescape.com/ssu/Regs/ss_8586533294732959233.pdf

Emerald Ash Borer Quarantine The Department of Agriculture, Conservation, and Forestry has proposed a state quarantine against the emerald ash borer (*Agrilus planipennis*) to prevent its movement in firewood, ash logs, ash wood products or ash nursery stock from northern Aroostook and York Counties, to protect Maine's forest and landscape tree resources. The emerald ash borer is federally regulated and this rule fulfills the requirement that Maine must have a similar state quarantine in place because the state is partially regulated for emerald ash borer.

http://services.statescape.com/ssu/Regs/ss_8586533294732959233.pdf



MASSACHUSETTS

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

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 2 JAN 2019 and will adjourn on 30 JUN 2019.

PROPOSED LEGISLATION

House Bill 614 would increase fines associated with air pollution control penalties.

http://gencourt.state.nh.us/bill_status/billText.aspx?sy=2019&id=508&txtFormat=html

House Bill 661 would establish a private right of civil action for equitable or declaratory relief for violation of any solid waste or hazardous waste permit.

http://gencourt.state.nh.us/bill_status/billText.aspx?sy=2019&id=799&txtFormat=html

Senate Bill 287 would require the commissioner of the department of environmental services to revise rules relative to perfluorinated chemical contamination in drinking water. New Hampshire would adopt maximum contaminant limits no less protective than 13 ppt for perfluorononanoic acid (PFNA), 13 ppt for perfluorooctanesulfonic acid (PFOS), 14 ppt for perfluorooctanoic acid (PFOA), and 20 ppt for PFNA, PFOA, PFOS, perfluorohexanesulfonic acid (PFHxS), and perfluorobutanesulfonic acid (PFBS), combined.

http://gencourt.state.nh.us/bill_status/billText.aspx?sy=2019&id=1111&txtFormat=html



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

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



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

PROPOSED LEGISLATION

House Bill 263 would require the Secretary of Natural Resources to amend the Vermont Water Quality Standards to include water quality criteria or effluent limitations for the discharge of perfluoroalkyl and polyfluoroalkyl substances (PFAS) to the surface waters of the State. The amendment shall, at a minimum, include criteria or effluent limitations for PFOA, PFOS, PFHxS, PFNA, and perfluoroheptanoic acid (PFHpA).

<http://legislature.vermont.gov/Documents/2020/Docs/BILLS/H-0263/H-0263%20As%20Introduced.pdf>

House Bill 339 would ensure that energy efficiency programs do not incentivize or allow the purchase, lease, or installation of new or replacement equipment powered by fossil fuels.

<http://legislature.vermont.gov/Documents/2020/Docs/BILLS/H-0339/H-0339%20As%20Introduced.pdf>

REGION II



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

PROPOSED RULES

Proposed Ground Water Quality Criteria for Chemicals of Emerging Concern The DEP has developed draft interim criteria of 10 parts per trillion (ppt) for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS), chemicals that are extremely persistent in the environment. The DEP took public comment through 19 FEB 2019 with the goal of making these interim criteria effective within the next several months. These criteria will remain in effect on an interim basis until the DEP adopts formal rules setting formal standards for ground water and drinking water. http://services.statescape.com/ssu/Regs/ss_8586534252301184926.htm



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

PROPOSED LEGISLATION

Assembly Bill 3090 and Senate Bill 404 prohibit the disposal of any dredged spoils containing toxic pollutants into the waters of the marine district. https://nyassembly.gov/leg/?default_fld=&Text=Y&term=2019&bn=A3090
https://nyassembly.gov/leg/?default_fld=&Text=Y&term=2019&bn=S404

Assembly Bill 3565 requires the establishment of a one hundred percent clean energy system by 2030; requires the adoption of a climate action plan; establishes the renewable energy revolving fund; and provides for legal standing to sue for enforcement of the state clean energy plan.

https://nyassembly.gov/leg/?default_fld=&Text=Y&term=2019&bn=A3565

State Bill 773 authorizes the Department of Health to establish maximum contaminant levels for perfluoroalkyl carboxylic acids (PFCAs) and perfluoroalkyl sulfonic acids (PFSA) in public drinking water.

https://nyassembly.gov/leg/?default_fld=&Text=Y&term=2019&bn=S773

State Bill 2242 would require notice be provided to the commander of a military station regarding certain proposed municipal actions that occur on property within 3,000 feet of the military installation.

https://nyassembly.gov/leg/?default_fld=&Text=Y&term=2019&bn=S2242

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 RULES

Underground Storage Tank Regulations The Department of Energy and Environment (DOEE) has proposed rules to incorporate new requirements of the 2015 amendments to the federal underground storage tank regulations at 40 CFR Part 280 so that the District can maintain state program approval under 40 CFR Part 281. The new requirements include regulation of previously deferred field-constructed underground storage tanks and airport hydrant systems, testing of spill prevention and leak detection equipment, containment sump testing, and periodic walkthrough inspections. The rulemaking also updates the requirements for corrective action after releases from underground storage tanks, consolidates and updates fee requirements, and makes clarifying amendments and corrections to the regulations. http://services.statescape.com/ssu/Regs/ss_8586555796229390140.htm

Proposed Amendments to Stormwater Management Regulations and Guidebook The DOEE has proposed amendments to the 2013 Stormwater Management Regulations to 1) provide compliance flexibility and exemptions for projects that have been disproportionately burdened by compliance, 2) improve environmental outcomes through updates to the Stormwater Retention Credit program, and 3) update review fees and processes. http://services.statescape.com/ssu/Regs/ss_8586513419141139073.htm

DOEE has also proposed a revision of the Stormwater Management Guidebook that includes updates to be consistent with proposed regulatory amendments, updates to incorporate technical changes to stormwater best management practice design standards and updates to clarify existing guidelines and processes. <https://doee.dc.gov/node/1386211>



DELAWARE

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 will adjourn on 10 APR 2019.

LEGISLATIVE/REGULATORY RELATED NEWS

Emergency Generator General Permit Informational Meeting Maryland Department of the Environment (MDE) sent out notice that they will be holding an informational meeting on a draft air quality general permit to construct for emergency generators. The purpose of this meeting is to provide information for stakeholders and potential applicants, as well as to receive comments. The meeting will be held at MDE offices in Baltimore on 18 MAR 2019 at 10AM.



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

LEGISLATIVE/REGULATORY RELATED NEWS

Pennsylvania to Begin Process of Setting PFAS Health Limits Pennsylvania will begin the process of setting its own health limits for two per- and polyfluoroalkyl substances (PFAS) because it is unclear when the federal government will set national standards. They will begin the process of setting maximum contaminant limits (MCLs) for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) this year.

<https://stateimpact.npr.org/pennsylvania/2019/02/15/pa-to-begin-its-own-process-of-setting-health-limit-for-two-pfas-chemicals/>



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

FINAL RULES

New and Modified Stationary Sources; Hazardous Air Pollutant Sources This updates state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on 1 JUL 2018. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version. Effective 20 FEB 2019. http://services.statescape.com/ssu/Regs/ss_8586534370978176636.pdf



WEST VIRGINIA

Note: The West Virginia Legislature convened on 9 JAN 2019 and adjourned 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 convened on 16 JAN 2019 and will adjourn on 30 JUN 2020.

PROPOSED RULES

Re-Adoption of Group 4 Air Quality Rules The Department of Environmental Quality has proposed amendments to rules regarding particulates from fugitive dust emission sources, control of odors, and open burning, to meet the requirements of G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules.

http://services.statescape.com/ssu/Regs/ss_8586535229005812807.pdf

Riprap Sills for Wetland Enhancement in Estuarine and Public Trust Waters The Department of Environmental Quality has proposed to adopt rules to revise the Coastal Resources Commission's general permit for the construction of riprap sills for wetland enhancement in estuarine and public trust waters in order to make the general permit consistent with the US Army Corps of Engineers regional general permit for living shorelines.

http://services.statescape.com/ssu/Regs/ss_8586537665577865440.pdf#page=15

Risk-Based Assessment and Corrective Action for Petroleum Underground Storage Tanks, Aboveground Storage Tanks and Other Sources The Environmental Management Commission has proposed rulemaking changes to the Risk-Based Assessment and Corrective Action for Petroleum Underground Storage Tanks, Aboveground Storage Tanks and Other Sources. The rule changes are necessary to conform to changes made to G.S. 143-215.94, by Session Law 2015-241 that sunset the Noncommercial Leaking Underground Storage Tank Trust Fund and eliminated the initial abatement requirements for Noncommercial Petroleum Underground Storage Tanks in 15A NCAC 02L Section .0400. http://services.statescape.com/ssu/Regs/ss_8586535219187464727.pdf

FINAL RULES

Septage Management Permits, Facilities, and Standards The Environmental Management Commission has adopted amendments to rules regarding septage management, permit fees, location of land application sites, record keeping, sampling and analysis, standards for septage detention and treatment facilities, land use, site closure, and transportation of septage. http://services.statescape.com/ssu/Regs/ss_8586671572205348216.pdf#page=94



KENTUCKY

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

PROPOSED LEGISLATION

House Bill 165 allows the Energy and Environment Cabinet or an air pollution control district to establish an air quality fee structure that may include a permit or registration fee in addition to the collection of a per-ton emissions-based assessment; and remove the requirements relating to the determination of fee assessments for particulate matter. <https://apps.legislature.ky.gov/lrcsearch#tabs-6>

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. http://services.statescape.com/ssu/Regs/ss_8586522988289617830.pdf#page=6

REGION V



ILLINOIS

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

PROPOSED LEGISLATION

House Bill 3445 and Senate Bill 1532 creates the Reduction of Lead Service Lines Act that would require every community water supply in Illinois that has known lead service lines shall create a plan to replace all lead service lines and galvanized service lines if the service line is or was connected to lead piping. <http://www.ilga.gov/legislation/fulltext.asp?DocName=10100HB3445lv&SessionID=108&GA=101&DocTypeID=HB&DocNum=3445&print=true>
<http://www.ilga.gov/legislation/fulltext.asp?DocName=10100SB1532lv&SessionID=108&GA=101&DocTypeID=SB&DocNum=1532&print=true>

PROPOSED RULES

Clean Air Act Permit Program Procedure Illinois EPA has proposed rulemaking to amend Part 270 to allow electronic payment of Clean Air Act Permitting Program (CAAPP) air permitting fees and to update fee amounts for CAAPP permits based upon amendments to the Environmental Protection Act. The Illinois EPA does not expect its proposed revisions to have any substantive impact upon regulated sources. http://services.statescape.com/ssu/Regs/ss_8586525728398293635.pdf#page=52

Procedures for Collection of Air Pollution Site Fees Illinois EPA has proposed rulemaking to amend Part 251 to allow electronic payment of certain air permitting fees. Illinois EPA does not expect its proposed revisions to have any substantive impact upon regulated sources.

http://services.statescape.com/ssu/Regs/ss_8586525728398293635.pdf#page=47



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

PROPOSED LEGISLATION

Indiana State Bill 459 repeals the military base planning council and reenacts it as the Indiana defense task force and makes changes to the membership. <http://iga.in.gov/static-documents/1/2/6/9/1269cbd5/SB0459.02.COMS.pdf>



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

House Bill 4096 amends the Natural Resources and Environmental Protection Act regarding discharge of petroleum into the waters of the state. Amendment also provides authority for the court to impose a civil fine of up to \$500,000.00 per day.

<http://www.legislature.mi.gov/documents/2019-2020/billintroduced/House/pdf/2019-HIB-4096.pdf>



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

FINAL RULES

Stormwater and NPDES General Permits The Ohio Environmental Protection Agency has adopted rule amendments regarding stormwater and national pollutant discharge elimination system (NPDES) general permits for interested party review. Effective 1 FEB 2019. http://services.statescape.com/ssu/Regs/ss_8586546424228767875.pdf

http://services.statescape.com/ssu/Regs/ss_8586582662185273975.pdf



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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