



REC Review

of Legislative & Regulatory Actions



The Navy Regional Environmental Coordination Office

February 2020

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

Table of Contents

| | |
|--------------------------|----|
| SPOTLIGHT | 1 |
| GENERAL INTEREST | 2 |
| FEDERAL NEWS | 2 |
| REGION 1 | 4 |
| REGION 2 | 6 |
| REGION 3 | 8 |
| REGION 4 | 11 |
| REGION 5 | 11 |
| MEET THE REC STAFF | 14 |
| SUBSCRIBE | 14 |

SPOTLIGHT STORY

DoD Chesapeake Bay Program Winter 2020 Journal Released

The DoD Chesapeake Bay Program (CBP) has released its CBP 2020 Winter Journal for your reading pleasure. It features the takeaways and outcome of the DoD CBP Commanders' Conference and the following highlights listed below.

The 2019 DoD Chesapeake Bay Commanders' Conference: Supporting the Local Leadership Outcome

- Commander's Conference: By the Numbers
- Building Purpose and Motivation
- Managing Chesapeake Bay Pollutants of Concern with Small-Scale BMPs
- Chesapeake Bay Action Team Updates
- Check it Out!

<https://www.denix.osd.mil/chesapeake/dod-cbp-quarterly-journals/>



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.

AIR

Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine Standards In advance of formal publication in the Federal Register, EPA has released the text of a notice soliciting pre-proposal comment on a forthcoming proposed rule that would update standards for on-highway heavy-duty trucks and engines to reduce emissions of nitrogen oxides and particulate matter. EPA intends to publish a proposed rule in early 2020.

EPA wants to ensure a coordinated 50-state program. California Air Resources Board (CARB) staff are expected to present the Heavy-Duty NOx Omnibus proposal to their governing board for final approval in 2020. It is expected to include updates to their engine standards, certification test procedures, and heavy-duty in-use testing program that would take effect in model year 2024, with additional updates to warranty, durability, and useful life provisions and further reductions in standards beginning in model year 2027. EPA requests comment on the extent to which EPA should adopt similar provisions, whether these should reflect different stringency or timing, and how (any) such differences could be implemented to maintain a national program to the extent possible.

The notice contains extensive technical discussions about details such as variable valve activation and other engine control strategies.

EPA is considering implementation of new standards beginning in model year 2027, which is also the implementation year for the final set of Heavy-Duty Phase 2 (CO2 and fuel consumption) standards.

Comments will be accepted for 30 days following publication in the Federal Register.

<https://www.epa.gov/newsreleases/epa-jumpstarts-administrator-wheelers-cleaner-trucks-initiative>

H.R. Bill 5653 Green Federal Fleet Act A bill to prohibit Federal agencies from purchasing or leasing new vehicles that are not zero-emission vehicles.

<https://www.govinfo.gov/content/pkg/BILLS-116hr5653ih/pdf/BILLS-116hr5653ih.pdf>

WATER

Navigable Waters Protection Rule In advance of formal publication, EPA has released the text of a final rule, the "Navigable Waters Protection Rule," revising the definition of the waters of the United States (those waters subject to protection under the Clean Water Act).

The rule consists almost entirely of definitions, in 33 CFR 328, and equivalently in 40 CFR 120, with other sections of 40 CFR referencing Section 120.

"Waters of the United States" means:

- (1) The territorial seas, and waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including waters which are subject to the ebb and flow of the tide;
- (2) Tributaries;
- (3) Lakes and ponds, and impoundments of jurisdictional waters; and
- (4) Adjacent wetlands.

Non-jurisdictional waters. The following are not "waters of the United States":

- (1) Waters or water features that are not identified (above) in (33 CFR §328.3) paragraphs (a)(1) through (4);
- (2) Groundwater, including groundwater drained through subsurface drainage systems;
- (3) Ephemeral features, including ephemeral streams, swales, gullies, rills, and pools;
- (4) Diffuse stormwater run-off and directional sheet flow over upland;
- (5) Ditches that are not paragraph (a)(1) or (2) waters, and those portions of ditches constructed in paragraph (a)(4) waters that do not satisfy the conditions of paragraph (c)(1); (i.e., adjacent wetlands as defined)
- (6) Prior converted cropland;
- (7) Artificially irrigated areas, including fields flooded for agricultural production, that would revert to upland should application of irrigation water to that area cease;
- (8) Artificial lakes and ponds, including water storage reservoirs and farm, irrigation, stock watering, and log cleaning ponds, constructed or excavated in upland or in non-jurisdictional waters, so long as those artificial lakes and ponds are not impoundments of jurisdictional waters that meet the conditions of paragraph (c)(6);
- (9) Water-filled depressions constructed or excavated in upland or in non-jurisdictional waters incidental to mining or construction activity, and pits excavated in upland or in non-jurisdictional waters for the purpose of obtaining fill, sand, or gravel;
- (10) Stormwater control features constructed or excavated in upland or in non-jurisdictional waters to convey, treat, infiltrate, or store stormwater run-off;
- (11) Groundwater recharge, water reuse, and wastewater recycling structures, including detention, retention, and infiltration basins and ponds, constructed or excavated in upland or in non-jurisdictional waters; and
- (12) Waste treatment systems.

Additional definitions are provided for sixteen other terms, including: adjacent wetlands, ditch, ephemeral, high tide line, intermittent, lakes and ponds and impoundments of jurisdictional waters, ... and others.

The rule will be effective 60 days following publication in the Federal Register.

<https://www.epa.gov/nwpr/navigable-waters-protection-rule-factsheets>

NEPA

Update to the Regulations Implementing NEPA Procedural Provisions The Council on Environmental Quality (CEQ) has proposed updating its regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA).

CEQ has not comprehensively updated its regulations since their promulgation in 1978. This proposed rule would update and substantially revise the 1978 regulations to facilitate more efficient, effective, and timely Federal agency NEPA reviews.

CEQ will hold public hearings in Denver, CO (Feb 11) and Washington, DC (Feb 25). Details of hearings may be found at www.nepa.gov and www.whitehouse.gov/ceq.

Comments are due by 10 March 2020.

<https://www.govinfo.gov/content/pkg/FR-2020-01-10/pdf/2019-28106.pdf>

REGION I



Note: The Connecticut Legislature will convene on 5 FEB 2020 and adjourn on 6 MAY 2020.

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.

PROPOSED RULES

Designation of PFOS as a Priority Chemical The Department of Environmental Protection has proposed rules regarding the designation of perfluorooctane sulfonic acid (PFOS) as a priority chemical and require reporting for certain product categories.

<http://www.maine.gov/tools/whatsnew/attach.php?id=1587968&an=1>



MASSACHUSETTS

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

PROPOSED LEGISLATION

House Bill 4256 establishes an interagency PFAS task force.

<https://malegislature.gov/Bills/191/H4256>

PROPOSED RULES

Drinking Water Regulations - Maximum Contaminant Levels for PFAS Contaminants The Department of Environmental Protection (MassDEP) has proposed rules establishing a total per- and polyfluoroalkyl substances (PFAS) maximum contaminant level of 20 parts per trillion (ppt) for six PFAS contaminants.

<https://www.mass.gov/regulations/310-CMR-22-the-massachusetts-drinking-water-regulations>

FINAL RULES

Final PFAS-Related Revisions to the Massachusetts Contingency Plan (MCP) MassDEP has added reportable concentrations and cleanup standards for six per- and polyfluoroalkyl substances (PFAS)—perfluorodecanoic acid (PFDA), perfluoroheptanoic acid (PFHpA), perfluorohexanesulfonic acid (PFHxS), perfluorononanoic acid (PFNA), perfluorooctanesulfonic acid (PFOS), and perfluorooctanoic acid (PFOA) to its waste site cleanup regulations to address sites contaminated with PFAS. Effective 27 December 2019.

<https://www.mass.gov/lists/final-pfas-related-revisions-to-the-mcp-2019>



NEW HAMPSHIRE

Note: The New Hampshire Legislature convened on 8 JAN 2020 and will adjourn on 30 JUN 2020.

PROPOSED LEGISLATION

House Bill 1537 directs the department of environmental services to set maximum contaminant limits for PFAS.

http://gencourt.state.nh.us/bill_status/billText.aspx?sy=2020&id=1724&txtFormat=pdf&v=current

FINAL RULES

Permit Application Forms The Department of Environmental Services has adopted rules regarding permit application forms, establishing the information and forms required to be submitted by applicants for a temporary permit, state permit to operate, or Title V operating permit. Effective 6 January 2020.

https://services.statescape.com/ssu/Regs/ss_8586320977582562518.pdf



RHODE ISLAND

Note: The Rhode Island Legislature convened on 7 JAN 2020 and will adjourn on 30 JUN 2020.

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



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 14 JAN 2020 and will adjourn on 11 JAN 2022.

PROPOSED LEGISLATION

Assembly Bill 1342 requires health care facilities to test for and remediate lead in drinking water, and disclose test results.

https://www.njleg.state.nj.us/2020/Bills/A1500/1342_11.PDF

Assembly Bill 1193 establishes statewide hydrofluorocarbon emission limit and requires Department of Environmental Protection (DEP) to establish a hydrofluorocarbon emissions monitoring and reporting program.

https://www.njleg.state.nj.us/2020/Bills/A1500/1193_11.PDF

Assembly Bill 2212 and Senate Bill 232 would require a person seeking a permit for a new facility, or for the expansion of an existing facility, located in a burdened community, to meet certain additional requirements before they can obtain the permit.

https://www.njleg.state.nj.us/2020/Bills/A2500/2212_11.PDF

Senate Bill 332 authorizes DEP rulemaking to prevent backsliding of certain state environmental regulations due to changes in federal laws or regulations.

https://www.njleg.state.nj.us/2020/Bills/S0500/342_11.PDF

Assembly Bill 5826 restricts discharge of firefighting foams containing perfluoroalkyl or polyfluoroalkyl substances for training or testing purposes.

<https://legiscan.com/NJ/bill/A5826/2018>

Assembly Bill 1242 and Senate Bill 2423 requires the owner or operator of the public water system to provide notice via telephone and electronic mail as soon as possible, but in no case later than one hour after the public water system learns of the emergency or other condition requiring a boil water notice to be issued. This notice would be in addition to any other notice required by State or federal law.

https://services.statescape.com/textarchive/billtextarchive/ssbilltext2019/NJ20182019/NJ_20182019_SB_001242_Current_2807.htm

Assembly 135 authorizes Sunday bow hunting on federal military installations and the William J. Hughes Technical Center.

https://www.njleg.state.nj.us/2020/Bills/A0500/135_11.PDF

PROPOSED RULES

Discontinuation of General Permits for Combustion Turbines and Reciprocating Engines The Department of Environmental Protection (DEP) has requested public input regarding the discontinuation of the general permits for combined heat and power (CHP) Combustion Turbines and CHP Spark Ignition Reciprocating Engines at minor air facilities, and the general permits for CHP Combustion Turbines and CHP Spark Ignition Reciprocating Engines at major air facilities.

<https://www.state.nj.us/dep/aqpp/downloads/publicnotpost/discontinuation.pdf>

FINAL RULES

Announcement of Availability of a Revised General Operating Permit (GOP-003) for an Emergency Generator The DEP has announced the availability of a revised General Operating Permit GOP-003 for an emergency generator for major facilities (subject to Title V of the Federal Clean Air Act). The revised general operating permit updates the definition of "Emergency Generator" and the Facility Specific Requirements section (compliance plan) to include emergency operation during construction, repair, and maintenance activities (CRM). This revised General Operating Permit was available beginning 21 January 2020.

<https://www.state.nj.us/dep/aqpp/archived/gop0032.html>

Announcement of Availability of a Revised General Operating Permit (GOP-003) for an Emergency Generator Burning Gaseous Fuels The DEP has announced the availability of a revised General Operating Permit GOP-004 for an emergency generator burning gaseous fuels for major facilities (subject to Title V of the Federal Clean Air Act). The revised general operating permit updates the definition of "Emergency Generator" and the Facility Specific Requirements section (compliance plan) to include emergency operation during construction, repair, and maintenance activities (CRM). This revised general operating permit was available beginning on 21 January 2020.

<https://www.state.nj.us/dep/aqpp/archived/gop0042.html>



NEW YORK

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

PROPOSED LEGISLATION

Assembly Bill 885 directs the Department of Environmental Conservation to promulgate standards for emission of regulated air contaminants from small electric generating sources; specifies criteria therefore and provides for a permitting requirement and an alternative permitting mechanism involving a registration process.

https://nyassembly.gov/leg/?default_fld=&Summary=Y&Actions=Y&term=2019&bn=A885

Assembly Bill 2286 relates to water saving performance standards. Aligns water saving performance standards with the WaterSense Program guidelines developed by the U.S. Environmental Protection Agency.

<https://www.nysenate.gov/legislation/bills/2019/a2286>

Assembly Bill 6876 requires contractors to recycle a certain percentage of the waste generated on construction and demolition sites.

<https://legiscan.com/NY/text/S06876/2019>

Assembly Bill 8979 prohibits a "person" or state agency from discharging for training purposes, a class B firefighting foam containing intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS chemicals). Also would prevent manufacturers from selling or distributing (two years after effective date of bill) class B firefighting foam to which PFAS chemicals have been intentionally added. Provisions on the sales and distribution would exempt AFFF with PFAS used for fighting liquid fires where no other alternative is available.

https://nyassembly.gov/leg/?default_fld=&Text=Y&term=2019&bn=A8979

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 requires 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://lms.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.

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



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

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



Note: The Virginia General Assembly convened on 8 JAN 2020 and will adjourn on 7 MAR 2020.

PROPOSED LEGISLATION

Senate Bill 2128 directs the State Water Control Board to regulate aboveground storage tanks that measure more than 1,320 gallons in capacity and are used to contain hazardous substances other than oil. The bill directs the Board to adopt regulations that establish requirements for registration, certification, and inspection, and other requirements of tank owners, and that establish a schedule of fees. The bill authorizes the Board to undertake corrective action, or to require the owner to undertake corrective action, in the event of a discharge of a hazardous substance. The bill requires tank owners to register their tanks, pay certain registration fees, develop release response plans, upgrade certain older tanks, install containment infrastructure for certain aboveground storage tanks, notify certain parties in the event of a release of a regulated substance, and demonstrate their financial responsibility. The bill also creates the Hazardous Substance Aboveground Storage Tank Fund for the administration of the bill and provides for civil and criminal penalties for violations of requirements of the bill, with the moneys received to be deposited into the existing Virginia Environmental Emergency Response Fund.

<http://leg1.state.va.us/cgi-bin/legp504.exe?201+ful+SB626+pdf>

Senate Bill 94 states that the Commonwealth Energy Policy shall include (i) establishing greenhouse gas emissions reduction standards across all sectors of Virginia's economy that target net zero carbon emissions by mid-century; (ii) enacting mandatory clean energy standards and overall strategies for reaching zero carbon in the electric power sector by 2040; (iii) incorporating requirements for technical, policy, and economic analyses and assessments that identify pathways to zero carbon that maximize Virginia's economic development and create quality jobs; and (iv) minimizing the negative impacts of climate change and the energy transition on disadvantaged communities and prioritizing investment in these areas. The measure requires the Virginia Energy Plan to be prepared in consultation with a stakeholder group that includes representatives of consumer and environmental organizations. The measure also requires that the Virginia Energy Plan identify actions over a 10-year period consistent with the goal of the Commonwealth Energy Policy to achieve, no later than 2050, a net-zero carbon energy economy for all sectors, including electricity, transportation, building, and industrial sectors.

<http://leg1.state.va.us/cgi-bin/legp504.exe?201+ful+SB94S1+pdf>

House Bill 1205 decreases from 24 hours to eight hours the time frame for any person who unlawfully discharges any deleterious substance into state waters to give notice to the Director of the Department of Environmental Quality (DEQ) or the local coordinator of emergency services. The bill also requires DEQ to give the reported discharge information to the Virginia Department of Health, local newspapers, television stations, and radio stations, and disseminate via commonly used social media platforms and email notification lists within eight hours of receipt of such information. Current law only requires certain of these disclosures and only when the Virginia Department of Health determines that the discharge may be detrimental to the public health or the State Water Control Board determines that the discharge may impair beneficial uses of state waters. The bill also requires the Department of Environmental Quality, if the Virginia Department of Health determines that the discharge may be detrimental to the public health, to provide information regarding such determination to the same recipients within eight hours of receipt of such determination.

<http://leg1.state.va.us/cgi-bin/legp504.exe?201+ful+HB1205+pdf>

House Bill 235 directs the Secretary of Commerce and Trade to develop a Virginia Offshore Wind Master Plan that identifies specific measures that will facilitate the establishment of the Hampton Roads region as a wind industry hub for wind energy projects off the nation's Atlantic coast and incentivize the creation of employment opportunities in offshore wind projects and related infrastructure. The plan is to be developed in consultation with the Virginia Offshore Wind Development Authority and a work group composed of representatives of interested persons. The measure requires the Secretary to submit the plan to the Governor and General Assembly by 1 December 2020.

<http://leg1.state.va.us/cgi-bin/legp504.exe?201+ful+HB234+pdf>

PROPOSED RULES

Water Quality Management Plan Regulation - Nutrient Allocations The DEQ 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 19 February 2020.

https://services.statescape.com/RegsText/StaticDownloads/162862_289391.pdf



WEST VIRGINIA

Note: The West Virginia Legislature convened on 8 JAN 2020 and will adjourn on 7 JUN 2020.

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 9 JAN 2019 and will adjourn on 1 JUL 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 will adjourn on 15 APR 2020.

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 6 JAN 2021.

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 6 JAN 2020 and will adjourn on 14 MAR 2020.

PROPOSED LEGISLATION

House Bill 1189 prohibits the use of Class B firefighting foam containing an intentionally added PFAS chemical: (1) for training purposes; and (2) for testing purposes, unless the testing facility has implemented appropriate measures to prevent releases of the firefighting foam to the environment.

<http://iga.in.gov/legislative/2020/bills/house/1189>

House Bill 1337 provides that the environmental rules board shall amend provisions within the administrative rules governing spills to provide for notification to a water utility and water treatment plant in the event of a spill or release of any substance to a water that may cause a threat to the operation of a water utility or water treatment plant.

<http://iga.in.gov/static-documents/8/1/c/c/81cc51b1/HB1337.02.COMH.pdf>

House Bill 1338 requires the state Department of Health to establish state maximum contaminant levels for PFAS in water provided by public water systems. Provides that maximum contaminant levels established by the state department: (1) must be protective of public health, including the health of vulnerable subpopulations; and (2) may not be less stringent than any maximum contaminant level or health advisory promulgated by the United States Environmental Protection Agency.

<http://iga.in.gov/static-documents/d/2/a/2/d2a28882/HB1338.01.INTR.pdf>



MICHIGAN

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

PROPOSED RULES

Supplying Water to the Public The Department of Environment, Great Lakes, and Energy has proposed rules regarding supplying water to the public. The proposed rule set will amend the current rules to provide provisions that reduce exposure to several per- and polyfluoroalkyl substances (PFAS) in drinking water.

https://services.statescape.com/ssu/Regs/ss_8586238066097755423.pdf#page=125



OHIO

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

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



Note: The Wisconsin Legislature convened on 28 JAN 20 and adjourned on 31 JAN 2020.

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

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