



# REC Review

## of Legislative & Regulatory Actions



The Navy Regional Environmental Coordination Office

June 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-dodregion3@navy.mil.



NAVFAC MIDLANT DoD REC Map

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### SPOTLIGHT STORY

#### DoD Announces Winners of the 2020 Secretary of Defense Environmental Awards

<https://www.defense.gov/Newsroom/Releases/Release/Article/2159448/department-of-defense-announces-winners-of-the-2020-secretary-of-defense-enviro/>



The Department of Defense (DoD) announces the 2020 Secretary of Defense Environmental Awards winners.

The awards recognize installations, teams, and individuals for their accomplishments in innovative and cost-effective environmental management strategies supporting mission readiness. “Strong environmental programs are vital to the Department’s ability to successfully carry out its mission,” stated Ellen Lord, Under Secretary of Defense for Acquisition and Sustainment.

Each year since 1962, the Secretary of Defense Environmental Awards have honored service members and civilians across the Department of Defense. The nominees’ achievements include significant strides to conserve our nation’s natural and cultural resources; protect human health; prevent or eliminate pollution at the source; clean up hazardous substances, pollutants or contaminants, and munitions on DoD sites; and incorporate environmental requirements into weapon system acquisition. DoD also leverages technology to develop innovative solutions to existing and emerging human health and environmental challenges. A diverse panel of 54 judges from Federal and state agencies, academia, and the private sector evaluated nominations from the DoD Components to help determine the winners.

## GENERAL INTEREST

### **EPA Announces Coronavirus (COVID-19) Resources for State, Local, and Tribal Governments**

EPA is updating its coronavirus website to include new resources for state, local, and tribal agencies and intergovernmental associations. The website contains important information on grants, enforcement and compliance programs, water infrastructure, and a host of other issues important to effective environmental program delivery. These resources will help EPA and its partners continue to provide the environmental protection the nation depends on without interruption during the coronavirus public health emergency.

<https://www.fedcenter.gov/Announcements/index.cfm?id=35365>

### **New COVID-19 Environmental Guidance and Recommendations Page Released**

FedCenter has developed a page that consolidates federal, agency-specific, and non-federal environmentally-related guidance and recommendations with respect to COVID-19. The page provides up-to-date, currently available COVID-19 information as it pertains to the environment to help organizations who may be planning on developing additional guidance.

<https://www.fedcenter.gov/covid19>

### **Administrative Procedures for Issuance of EPA Guidance**

EPA is proposing (internal) regulations for how the agency would manage the (future) issuance of guidance documents subject to the requirements of the Executive Order 13891, "Promoting the Rule of Law Through Improved Agency Guidance Documents."

EPA may issue non-binding guidance, in a variety of formats, to clarify existing obligations and provide information to help regulated entities comply with requirements. Such guidance is not subject to Administrative Procedures Act notice-and-comment requirements. EPA does, however, often work with stakeholders to develop guidance and does provide for public review and comment on the draft guidance.

Given their legally nonbinding nature, guidance documents will avoid including mandatory language such as "shall," "must," "required" or "requirement," unless these words are used to describe a statutory or regulatory requirement, or the language is addressed to EPA staff and will not foreclose consideration by the EPA of positions advanced by affected private parties.

EPA solicits comment on whether modification or withdrawal of a significant guidance document should be announced via the Federal Register and subject to a 30-day public comment period.

EPA will (develop and) use an online portal to clearly identify EPA guidance documents. EPA is proposing procedures to allow the public to petition the EPA for the modification or withdrawal of an active guidance document posted on the EPA Guidance Portal.

Comments are due by June 22 June 2020.

<https://www.govinfo.gov/content/pkg/FR-2020-05-22/pdf/2020-11079.pdf>

# 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.*

## INSPECTIONS

### **Federal Facilities Environmental Compliance Training**

On 5 and 6 August 2020, the U.S. Environmental Protection Agency Region III and the Maryland Department of the Environment are hosting an environmental compliance training for Federal facilities. This 2-day training will review the most significant problems observed during our inspections in the following areas: Clean Air Act, Underground Storage Tanks, Hazardous Waste, Spill Prevention, Control and Countermeasure (SPCC), TSCA-led based paint, CWA-NPDES and Stormwater requirements.

- The training will take place at the EPA Environmental Science Center located at Fort Meade, Maryland. On the first day from 9:00 a.m. to 4:00 p.m. and on the second day from 8:30 a.m. to 12:30 p.m.
- The workshop will be delivered through lectures from experienced compliance inspectors. Discussing the most common issues affecting the Federal sector.
- This workshop is intended for Federal personnel who are involved in environmental compliance activities at Federal facilities.
- There is no cost to attend this training; however, each participant is responsible for her/his travel and per diem expenses.
- Due to the activities designed for this training and to provide the best experience, class size is limited to 50 participants.

Register by 21 July 2020.

<https://www.epa.gov/md/federal-facilities-environmental-compliance-training-ask-inspector-workshop-fort-meade-md>

## WATER

### **The Navigable Waters Protection Rule: Definition of "Waters of the United States"**

EPA and the Army are publishing a final rule defining the scope of waters federally regulated under the Clean Water Act. The Navigable Waters Protection Rule is the second step in a comprehensive, two-step process intended to review and revise the definition of "waters of the United States" consistent with the Executive Order signed on 28 February 2017, "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule." Once effective, it replaces the rule published on 22 October 2019. This final rule implements the overall objective of the Clean Water Act to restore and maintain the integrity of the nation's waters by maintaining federal authority over those waters that Congress determined should be regulated by the Federal government under its Commerce Clause powers, while adhering to Congress' policy directive to preserve States' primary authority over land and water resources. This final definition increases the predictability and consistency of Clean Water Act programs by clarifying the scope of "waters of the United States" federally regulated under the Act.

This final rule is effective on 22 June 2020.

<https://www.fedcenter.gov/Articles/index.cfm?id=35371>

## EPCRA

### **Certain PFAS to be Added into the Code of Federal Regulations for the Toxics Release Inventory**

The U.S. EPA took the next step to implement an important per- and polyfluoroalkyl substances (PFAS) requirement of the National Defense Authorization Act (NDAA). The NDAA added 172 PFAS to the list of chemicals required to be reported to the Toxics Release Inventory (TRI) and established a 100-pound reporting threshold for these substances. The agency is publishing a final rule that officially incorporates these requirements into the Code of Federal Regulations for TRI. As this action is being taken to conform the regulations to a Congressional legislative mandate, this rule is effective immediately. Per the NDAA requirements, the PFAS additions became effective as of 1 January 2020. Reporting forms for these PFAS will be due to EPA by 1 July 2021, for calendar year 2020 data. EPA expects to release raw data from information collected by 31 July 2021.

<https://www.waterworld.com/drinking-water/potable-water-quality/article/14176198/epa-takes-next-step-to-implement-pfas-legislation>

## AIR

### **NESHAPS for Coal- and Oil-Fired Electric Utility Steam Generating Units**

EPA is revising its response to the U.S. Supreme Court decision in Michigan v. EPA, which held that the EPA erred by not considering cost in its determination that regulating hazardous air pollutant (HAP) emissions from coal- and oil-fired electric utility steam generating units is appropriate.

EPA (now) finds that it is not “appropriate and necessary” to regulate HAP emissions from coal- and oil-fired EGUs.

EPA is also finalizing the residual risk and technology review for the Coal- and Oil-Fired EGU source category ... NESHAP, commonly referred to as the Mercury and Air Toxics Standards (MATS). Based on the review, the Agency is not promulgating any revisions to the MATS rule.

This new response to Michigan v. EPA will not remove the Coal- and Oil-Fired EGU source category from the CAA section 112(c) list of sources that must be regulated under CAA section 112(d) and will not affect the existing CAA section 112(d) emissions standards that regulate HAP emissions from coal- and oil-fired EGUs.

This rule was effective 22 May 2020.

<https://www.govinfo.gov/content/pkg/FR-2020-05-22/pdf/2020-08607.pdf>

### **Improvements for Heavy-Duty Engine and Vehicle Test Procedures**

EPA is proposing changes to the test procedures for heavy-duty engines and vehicles to improve accuracy and reduce testing burden. EPA is also proposing other regulatory amendments concerning exhaust emission certification for light-duty vehicles, heavy-duty vehicles, highway motorcycles, locomotives, marine engines, other nonroad engines and vehicles, stationary engines. EPA is proposing similar amendments for evaporative emission

standards for nonroad equipment and portable fuel containers.

EPA states that manufacturers have identified several areas in which the test procedure regulations could be improved (in terms of overall accuracy, repeatability and clarity) without changing the effective stringency of the standards.

Comments are due by 26 June 2020.

<https://www.govinfo.gov/content/pkg/FR-2020-05-12/pdf/2020-05963.pdf>

### **Fuels Regulatory Streamlining**

EPA proposes to consolidate existing gasoline, diesel, and other fuels programs found in 40 CFR Part 80 into a new proposed set of regulations in 40 CFR part 1090.

EPA is proposing to remove expired provisions and consolidate the remaining provisions from multiple fuel quality programs into a single set of requirements. This action covers almost all fuel programs and related provisions currently in part 80, including but not limited to, the reformulated gasoline (RFG) program, the anti-dumping program, the diesel sulfur program, the gasoline benzene program, the gasoline sulfur programs, the E15 misfueling mitigation program, and the national fuel detergent program. This proposed streamlining effort aims to combine these separate, now fully-implemented programs, all of which affect the same regulated parties, into a single, national fuel quality program.

Comments are due by 29 June 2020.

<https://www.govinfo.gov/content/pkg/FR-2020-05-14/pdf/2020-09337.pdf>

### **Vehicle Test Procedure Adjustments for Tier 3 Certification Test Fuel**

EPA is proposing to make adjustments to certain laboratory tailpipe emission testing procedures for automobiles, light trucks, and heavy-duty pickup trucks and vans as the result of a test fuel change that was finalized as a part of EPA's 2014 Tier 3 vehicle emissions rule. In that rule, EPA changed its laboratory test fuel to be more similar to typical gasoline currently in use. In the Tier 3 Final Rulemaking, EPA required vehicle manufacturers to perform greenhouse gas (GHG) and CAFE fuel economy testing on the new Tier 3 test fuel, beginning for model year 2020 and later vehicles.

EPA is now proposing adjustment factors to apply to both vehicle GHG and fuel economy test results for the GHG and CAFE programs and the Fuel Economy and Environment Label. In addition, EPA proposes that the shift to required use of the new fuel for all vehicle testing be phased in through Model Year 2024, but required in Model Year 2025.

As part of EPA's Tier 3 final rule (April 28, 2014) EPA introduced new test fuel specifications that are much more similar to the properties of typical fuels commercially available today, which on average contain about 10 percent ethanol.

Comments are due by 11 August 2020.

<https://www.govinfo.gov/content/pkg/FR-2020-05-13/pdf/2020-07202.pdf>

## REGION I



**Note: The Connecticut Legislature convened on 5 February 2020 and adjourned 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 December 2018 and adjourned on 17 March 2020.**

### ***PROPOSED RULES***

**Intent to Renew DEP General Permit - Application of Piscicides for the Control of Invasive Fishes and Anti-Fouling Paint Contaminated Vessel Wash Water** The Maine Department of Environmental Protection intends to renew two General Permit's (GP), #MEG180000 Application of Piscicides for the Control of Invasive Fishes (which was issued on August 29, 2014 for a five-year term) and #MEG170000 Anti-fouling Paint Contaminated Vessel Wash Water (which was issued on October 14, 2014 for a five-year term). Coverage under the General Permits is contingent upon Department acceptance of a Notice of Intent (NOI) form from each applicant. The General Permits will be issued for a five-year term, respectively.

<http://www.maine.gov/tools/whatsnew/attach.php?id=2525023&an=1>

<http://www.maine.gov/tools/whatsnew/attach.php?id=2525023&an=2>



**Note: The Massachusetts Legislature convened on 2 January 2019 and will adjourn on 2 January 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 8 January 2020 and will adjourn on 30 June 2020.**

### **FINAL RULES**

**Arsenic Ambient Groundwater Quality Standards (AGQS)** The Department of Environmental Services has proposed rules reducing the AGQS for Arsenic from 10 µg/L to 5 µg/L. Effective 1 July 2021.

[https://services.statescape.com/RegsText/StaticDownloads/165798\\_302399.pdf](https://services.statescape.com/RegsText/StaticDownloads/165798_302399.pdf)

**Arsenic Maximum Contaminant Level (MCL)** The Department of Environmental Services has proposed rules reducing the MCL for Arsenic from 0.010 mg/L to 0.0050 mg/L effective July 1, 2021.

[https://services.statescape.com/RegsText/StaticDownloads/165792\\_302398.pdf](https://services.statescape.com/RegsText/StaticDownloads/165792_302398.pdf)



## RHODE ISLAND

**Note: The Rhode Island Legislature convened on 7 January 2020 and will adjourn on 30 June 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 January 2019 and adjourned on 19 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 January 2020 and will adjourn on 11 January 2022.**

#### ***PROPOSED RULES***

**Wastewater System Improvement Charge** The Board of Public Utilities has proposed to create a new subchapter establishing a Wastewater System Improvement Charge (WSIC) at N.J.A.C. 14:9-11. The Board has determined that a WSIC program in New Jersey is necessary to provide a mechanism for wastewater utilities to accelerate the level of investment needed to promote the timely rehabilitation and replacement of certain non-revenue producing, critical wastewater infrastructure components, which will enhance the safety and reliability of aging wastewater infrastructure. Wastewater infrastructure is primarily the sewer system.

[https://services.statescape.com/ssu/Regs/ss\\_8586141999956474974.htm](https://services.statescape.com/ssu/Regs/ss_8586141999956474974.htm)

#### ***FINAL RULES***

**Regulated Medical Waste** The Department of Environmental Protection has adopted emergency rules modifying certain provisions for generators of regulated medical waste. Effective 9 April 2020.

[https://services.statescape.com/ssu/Regs/ss\\_8586128027474516473.htm](https://services.statescape.com/ssu/Regs/ss_8586128027474516473.htm)

**Solid Waste, Recycling, Hazardous Waste, and Solid Waste Utility Rules** The Department of Environmental has issued an emergency adoption of a temporary modification to allow for waiver of certain provisions of the Department of Environmental Protection's Solid Waste rules, N.J.A.C. 7:26; Recycling rules, N.J.A.C. 7:26A; Hazardous Waste rules, N.J.A.C. 7:26G; and Solid Waste Utility Regulations, N.J.A.C. 7:26H. Effective 13 April 2020.

[https://services.statescape.com/ssu/Regs/ss\\_8586128026051073713.htm](https://services.statescape.com/ssu/Regs/ss_8586128026051073713.htm)



### NEW YORK

**Note: The New York State Legislature convened on 9 January 2019 and will adjourn on 1 January 2021.**

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

## REGION III



### DISTRICT OF COLUMBIA

**Note: The Council of the District of Columbia convened 2 January 2019 and will adjourn on 31 December 2020.**

#### **COVID-19 GUIDANCE**

**Underground Storage Tank Requirements Regarding COVID-19** The Department of Energy and Environment has issued a notice regarding requirements and compliance for underground storage tanks during the COVID-19 pandemic.

<https://doee.dc.gov/release/public-notice-ust-lust-requirements-during-covid-19-restrictions>



### DELAWARE

**Note: The Delaware General Assembly convened on 8 January 2019 and will adjourn on 30 June 2020.**

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



### MARYLAND

**Note: The Maryland General Assembly convened on 8 January 2020 and adjourned on 18 March 2020.**

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 January 2019 and will adjourn on 30 November 2020.**

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



## VIRGINIA

**Note: The Virginia General Assembly convened on 8 January 2020 and adjourned on 12 March 2020.**

### **FINAL LEGISLATION**

**House Bill 534/Senate Bill 11** authorizes any county or city, beginning no earlier than January 1, 2021, to impose a tax of five cents per bag on disposable plastic bags provided to consumers by certain retailers, with certain bags being exempt from the tax. The bill allows every retailer that collects the tax to retain a portion of the five-cent tax and provides that the revenue accruing to the county or city shall be used for certain purposes, including environmental cleanup and the provision of reusable bags. The measure authorizes the Tax Commissioner to administer the tax. Effective 1 July 2020.

<https://leg1.state.va.us/cgi-bin/legp504.exe?201+ful+CHAP1022+pdf&201+ful+CHAP1022+pdf>



## WEST VIRGINIA

**Note: The West Virginia Legislature convened on 8 January 2020 and adjourned on 7 March 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 January 2019 and will adjourn on 1 July 2020.**

### **PORPOSED LEGISLATION**

**House Bill 1108** amends NC General Statutes to require NPDES permit/renewal applicants to (1) disclose each pollutant in the discharge that is reasonably expected to be at or above the PQL for that pollutant; (2) require industrial user pretreatment permit applicants to disclose each pollutant in the industrial user's discharge that is at or above the PQL for that pollutant; and (3) eliminate PFAS received from industrial users prior to discharge to waters of the State or, if impracticable, require the industrial user to eliminate PFAS from the user's discharge.

<https://www3.ncleg.gov/Sessions/2019/Bills/House/HTML/H1108v1.HTML>

**House Bill 1109** bans the manufacture, use, and distribution of PFAS and PFAS-containing products within the state in order to protect public health.

<https://www3.ncleg.gov/Sessions/2019/Bills/House/HTML/H1109v1.HTML>



## KENTUCKY

**Note: The Kentucky Legislature convened on 7 January 2019 and adjourned on 15 April 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 January 2019 and will adjourn on 6 January 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 January 2020 and will adjourn on 14 March 2020.**

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



## MICHIGAN

**Note: The Michigan Legislature convened on 9 January 2019 and will adjourn on 31 December 2020.**

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



## OHIO

**Note: The Ohio General Assembly convened on 7 January 2019 and will adjourn on 31 December 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 January 20 and adjourned on 31 January 2020.**

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

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