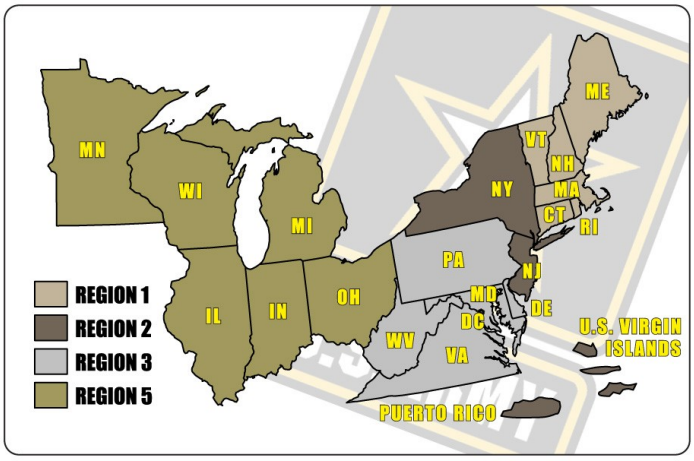
Northern Review
of Legislative & Regulatory Actions

The U.S. Army Regional Environmental & Energy Office February 2012

The Northern Region Review provides current information on government affairs, energy and environment relevant to Department of Defense interests in the 22 states and territories in Federal Regions 1, 2, 3 and 5. The Review is intended to be a tool useful to DoD and Army leaders, planners, and program managers in carrying out their responsibilities including meeting legal criteria of ISO 14001. The Northern Region Review monitors and targets proposed and final regulations and legislation that may affect Army or DoD operations. Click here for information on the Army's Regional Environmental and Energy Offices.



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What's In This Review?

Region 1

In MA, a new report on potential health effects of wind turbines; in RI, a final rule on air pollution permits for emergency generators; and in VT, a new bill on water quality testing for potable water supplies.

Region 2

Regionally, proposed multi-state attainment determinations; in NJ, a final rule on installation of solar energy facilities and antennas, and a new bill on sunsetting natural resource rules for the Highlands.

Region 3

Regionally, the approval of multi-state air quality implementation plans, and a finding of no significant impact for wind energy areas; in VA, a new pest and quarantine law, and a final rule on the control of volatile organic compounds; in DE, a final rule on state implementation plan and PM2.5 standard, and a proposed rule on revisions to sediment and stormwater regulations.

Region 5

In IL, final amendments to storage tank operator requirements and notices of proposed changes to water, waste, asbestos, air, permitting, and natural resources rules; in MN, the draft 2012 list of impaired waters; in OH, the Paint Creek Watershed TMDL Report; and in IN, a proposed bill to restrict fertilizers containing phosphorus, and a new law on UST requirements.

DoD Activity

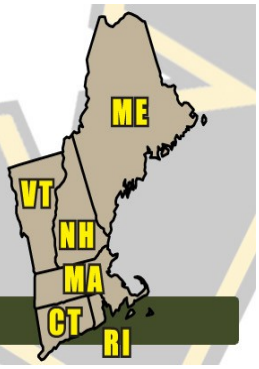
Army recognizes top environmental performers.

Federal Activity

USEPA: A new regulation on fuels and fuel additives, a final rule on mercury-containing industrial thermometers, updates to emission test methods and testing regulations; NMFS: A new policy for distinguishing injury of marine mammals; USFWS: A comment request on the Double-Crested Cormorant; NOAA: A new Climate Adaptation Strategy Report.

Region 1

For more information on any state issues in Region 1, contact Bob Muhly, Army Regional Environmental Coordinator, Regions 1 & 2, (410) 436-6224.



Massachusetts

NEW REPORT ON POTENTIAL HEALTH EFFECTS OF WIND TURBINES On 17 Jan 12, the Massachusetts Department of Environmental Protection (MassDEP) announced that an independent panel of experts studying potential health impacts of wind turbines has issued its **report**, "Wind Turbine Health Impact Study: Report of the Independent Expert Panel." MassDEP convened the panel in collaboration with the Massachusetts Department of Public Health (MDPH). The panel was composed of physicians and scientists with broad expertise in areas including acoustical noise/infrasound, public health, sleep disturbance, mechanical engineering, epidemiology, and neuroscience. Two public meetings on the report will be held in February as part of a 60-day comment period. The meetings are scheduled for 16 and 28 Feb 12, and the comment period closes on 19 Mar 12.

Rhode Island

FINAL RULE ON AIR POLLUTION PERMITS FOR EMERGENCY GENERATORS The Rhode Island Department of Environmental Management (DEM) issued a **final rule** revising the Air Pollution Control Regulation (APC) No. 43, on an alternative permitting process (general permit) for certain emergency generators, combined heat and power projects, and distributed generation projects. The general permit process is an administratively simpler permitting process than the minor source permitting process in DEM's APC Regulation No. 9. The final amendments revise the standard for carbon dioxide emitted from emergency generators in Subsection 43.4.1(d) to enable more projects involving the installation of emergency generators to be eligible for the alternative permitting process. The final rule became effective on 2 Feb 12.

Vermont

NEW BILL ON WATER QUALITY TESTING FOR POTABLE WATER SUPPLIES
On 10 Jan 12, Representative Deen (D) introduced House Bill **HB 518** relating to the water quality testing of potable water supplies. This bill proposes to require a person who owns or controls a potable water supply to test, if testing of the groundwater source is not otherwise required by law, the groundwater source for arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate and nitrite, fluoride, and manganese.

NEW BILL ON WATER PRESERVATION FEES On 13 Jan 12, Representative Webb (D) introduced House Bill **HB 529** proposing to establish a water resources preservation program to provide financial assistance and technical support to projects or activities designed to achieve one or more of the following: improve the water quality of waters of the state; prevent, mitigate against, or repair flood damage; or provide reasonable assurances regarding the implementation of total maximum daily load plans. The bill would establish a fee, known as the water resources preservation fee, on developed property and property used for farming for the support of the water resources preservation program. The fee on developed property would be assessed in proportion to the property's area of impervious surface.

Region 2

For more information on any state issues in Region 2, contact Bob Muhly, Army Regional Environmental Coordinator, Regions 1 & 2, (410) 436-6224.

PROPOSED MULTI-STATE ATTAINMENT DETERMINATIONS USEPA issued a proposed rule that makes four separate and independent determinations related to the New York-Northern New Jersey-Long Island and Connecticut one-hour and 1997 eight-hour ozone nonattainment areas [**77 FR 3720**, 25 Jan 12]. The boundaries of the one-hour and eight-hour ozone nonattainment areas differ slightly. If USEPA's determination that the area is currently attaining the eight-hour standard is finalized, USEPA's ozone implementation regulation provides that the requirements for the States to submit certain reasonable further progress plans, attainment demonstrations, contingency measures and any other planning requirements of the Clean Air Act related to attainment of that ozone standard shall be suspended for as long as the area continues to attain the standard. A determination of attainment does not constitute a redesignation to attainment. Redesignation requires the states to meet a number of additional criteria, including USEPA approval of a state plan to maintain the air quality standard for ten years after redesignation. The comment period closes on 24 Feb 12.

New Jersey

FINAL RULE ON INSTALLATION OF SOLAR ENERGY FACILITIES AND ANTENNAS
The New Jersey Pinelands Commission issued a **final rule** on the installation of solar energy facilities in the Pinelands as well as the installation of local communications facility antennas on existing communication towers or similar structures. The amendments make changes to Subchapters 2, "Interpretations and Definitions"; 4, "Development Review"; and 5, "Minimum Standards for Land Use Distribution and Intensities of the Pinelands Comprehensive Management Plan (CMP)." The Pinelands CMP has been guiding land use and development activities in the Pinelands since it took effect on 14 Jan 81. The final rule became effective on 3 Jan 12.

PROPOSED NEW BOILER GENERAL PERMIT The New Jersey Department of Environmental Protection (DEP), Air Quality Program issued a **notice** on a draft new general permit (GP) for certain boilers and heaters. The general permit will replace GP-009, "Boilers & Other Indirect Fired External Combustion Equipment [>= 10 MMBTU per hour & < 50 MMBTU per hour]." GP-009A allows for the construction, installation, reconstruction, modification and operation of a single boiler and/or indirect fired process heater with a maximum gross rated heat input to the burning chamber of greater than or equal to 10 million BTU/hr (MMBTU/hr) and less than 50 MMBTU/hr or multiple boilers and/ or indirect fired process heaters, each with a maximum rated gross heat input to the burning chamber of greater than or equal to 10 MMBTU/hr and less than 50 MMBTU/hr. Boilers and heaters with a maximum gross heat input of less than 10 MMBTU/hr do not qualify for GP-009A, but may qualify under existing GP-017 or GP-018, which apply to boilers and heaters with a maximum gross heat input less than 10 MMBTU/hr. GP-009A is applicable to boilers and/or indirect fired process heaters burning only natural gas or propane as the regular fuel. No. 2 fuel oil may be used during periods of gas curtailment. The comment period closed on 16 Feb 12.

NEW BILL PROHIBITS UREA USE IN DEICEING CHEMICALS AND ADDS PENALITIES
On 10 Jan 12, Assemblyman Wolfe (R) introduced Assembly Bill **AB 393** on urea use restrictions. AB 393 prohibits the use of urea for melting, preventing the formation of, or removing ice on any surface. The bill further establishes civil penalties for violations: $500 for the first offense and up to $1,000 for the second and each subsequent offense. The penalty is to be collected in a civil action by summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Because urea acts as a fertilizer, boosting plant growth and productivity by providing nitrogen to plant roots, the nitrogen in urea can cause a chemical imbalance and endanger the ecosystem of water sources if large amounts are introduced into waterways through water runoff and storm drain systems. On the same day, Senator Holzapfel (R) introduced SB 221, which is the Senate version of the same bill.

NEW BILL ON ENERGY EFFICIENT BUILDING AND GREEN ROOF STANDARDS On 10 Jan 12, Assemblyman Ruben (D) introduced Assembly Bill **AB 710** on the introduction of green or blue roofs on any new building, facility or structure having at least 15,000 square feet in total floor area, which is to be constructed for the sole use of a State governmental entity. The requirements of the bill do not to apply to any building, facility, or structure for which a request for proposal for entering into a contract to design the building, facility, or structure has been issued prior to the effective date of the bill. AB 710 has been referred to the Environment and Solid Waste Committee.

NEW BILL ON SUNSETTING NATURAL RESOURCE RULES FOR THE HIGHLANDS On 10 Jan 12, Assemblywoman Littell-McHose (R) introduced Assembly Bill **AB 843** that would sunset the provisions of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.) five years after the date of enactment unless certain conditions are met. The 2004 Act was supposed to secure dedicated funding by the State for the acquisition from willing sellers of lands located within the preservation area for recreation and conservation and farmland preservation purposes. If this bill is passed, sunsetting the provisions set forth in the Act jeopardizes lands adjacent to Picatinny Arsenal that are currently being considered for acquisition by Army Compatible Use Buffers and the local Green Acres Preservation and Farmlands Preservation programs.

NEW BILL EXPANDS HIGH PERFORMANCE GREEN BUILDING REQUIREMENTS On 10 Jan 12, Assemblywoman Stender (D) introduced **AB 1203**, that would require new building projects that have state and local financing implement new energy efficient buildings and standards. This legislation expands the high performance green building requirements of P.L.2007, c.269 to require that new construction and all major alterations to buildings, including rehabilitation and renovation, which are financed by the State or by a political subdivision be designed and managed to meet one of three alternative standards for a "high performance green building." Pursuant to this bill, the new requirements would be managed and enforced by the Director of the Division of Property Management in the Department of the Treasury. In addition, this legislation requires the Department of the Treasury to review the performance of projects completed subject to the requirements of this bill. This legislation would require the Director to submit an annual report detailing activities pursuant to this legislation to the Governor and the Legislature.

NEW BILL ON SURPLUS STATE ELECTRONIC DEVICES On 10 Jan 12, Assemblywoman Stender (D) introduced Assembly Bill **AB 1215** that updates the procedures for disposition of State surplus computers and certain other electronic devices designated for redistribution, sale, or disposal. This bill is supplementing P.L.1944, c.1123 (C.52:27B-1 et seq.), and amending P.L.1999, c.194, provides updated procedures for the disposition of State surplus computers, computer equipment, software, and portable communication devices designated for redistribution, sale, or disposal.

NEW BILL EXPANDS NEW BUILDING RENEWABLE ENERGY SYSTEMS On 10 Jan 12, Assemblyman Rible (R) introduced **AB 1356**, which would require all new State buildings to have renewable energy systems, where feasible and supplementing Title 52 of the Revised Statutes. This bill would require the construction of all new State buildings be powered by solar and geothermal energy sources.

NEW BILL ON HISTORIC DESIGNATION FOR CAMP EVANS On 10 Jan 12, Assemblyman Rible (R) introduced a Concurrent Resolution **ACR 67** which recognizes Camp Evans for its designation as State and National Historic District and supporting its preservation as a World War II living memorial. The Senate version ACR-180 (SCR-85) is sponsored by Senator Kean (R), and was approved in September 2011. The Resolution has been referred to the Committee on Military and Veterans' Affairs.

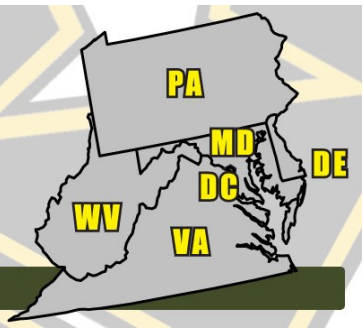
NEW BILL ON WATER CONSUMPTION FEES FOR LAND CONSERVATION On 10 Jan 12, Senator Smith (D) introduced Senate Bill **SB 813** which imposes water consumption and diversion user fees to fund open space and farmland preservation projects. This bill would establish a Water Supply Open Space and Farmland Trust Fund Account in the Department of the Treasury. Moneys in the fund would be derived from: (1) a water consumption user fee imposed on the owner or operator of every public community water system equal to forty cents per thousand gallons of water delivered to a consumer; and (2) a water diversion user fee imposed on every person required by law to obtain a diversion permit or a water use registration equal to forty cents per thousand gallons of water diverted for a consumptive use. The amount due from any person subject to one of these fees would not exceed $50,000 per year.

NEW BILL OPPOSES FEDERAL AVIATION ADMINISTRATION'S NEW REDESIGN PLAN
On 10 Jan 12, Senator O' Toole (R) introduced Senate Resolution **SR 19** which opposes the Federal Aviation Administration's Integrated Airspace Alternative redesign with the Integrated Control Complex **plan** of the airspace structure over New Jersey. The plan would introduce a new airspace structure and air traffic control plan, which the bill purports, will increase aircraft noise and air pollution.

New York

NEW BILL ON STATE BUILDING AIR QUALITY REQUIREMENTS On 24 Jan 12, Assembly Bill **AB 3122** was introduced and the day prior companion Senate Bill SB 3471 was also introduced. Both pieces of legislation set requirements for protecting indoor air quality in state owned, leased or operated buildings.

Region 3



For more information on any state issues in Region 3, contact Amy Alton, Army Regional Environmental Coordinator, Region 3, (410) 436-7098.

APPROVAL OF MULTI-STATE AIR QUALITY IMPLEMENTATION PLANS USEPA issued a final rule that approves and determines that the Metropolitan Washington, District of Columbia-Maryland-Virginia (DC-MD-VA) fine particle (PM2.5) nonattainment area and the Martinsburg-Hagerstown, West Virginia-Maryland (WV-MD) PM2.5 nonattainment area have attained the 1997 annual PM2.5 National Ambient Air Quality Standard by their applicable attainment date of 5 Apr 10 **[77 FR 1411**, 10 Jan 12]. These determinations are based upon complete, quality-assured, and certified ambient air monitoring data for the 2007-2009 monitoring period. USEPA is finding these areas to be in attainment, in accordance with the requirements of the Clean Air Act. This final rule became effective on 9 Feb 12.

FINDING OF NO SIGNIFICANT IMPACT FOR WIND ENERGY AREAS On 3 Feb 12, the Bureau of Ocean Energy Management (BOEM) issued a **final environmental assessment** (EA) that determined the issuance of leases and approval of site assessment plans within the Wind Energy Areas offshore New Jersey, Delaware, Maryland and Virginia would not have a significant effect on the environment and that as a result of its analysis in the final EA, BOEM issued a Finding of No Significant Impact (FONSI). The FONSI concluded that the environmental impacts associated with the preferred alternative would not significantly impact the environment; therefore, the preparation of an environmental impact statement (EIS) is not required.

Delaware

FINAL RULE ON STATE IMPLEMENTATION PLAN AND PM2.5 STANDARD On 17 Jan 12, the Delaware Department of Natural Resources and Environmental Control (DNREC) issued a **final rule** amending the April 2008 Delaware State Implementation Plan (SIP) for Attainment of the PM2.5 Annual National Ambient Air Quality Standard. On 2 Mar 10, the USEPA published a notice in the Federal Register of the approval of using the Motor Vehicle Emissions Simulator (MOVES) model as a tool for calculating on-road mobile emissions. USEPA also stated in the notice that "today's approval also starts a two-year transportation conformity grace period which ends on 2 Mar 12, after which MOVES 2010 is required to be used for new regional emissions analyses for transportation conformity." The Department is amending its currently adopted SIP with a revised on-road mobile emissions budget using the MOVES model. This action will more accurately calculate the on-road sector's portion of particulate matter and oxides of nitrogen emissions in New Castle County. The action will also address the compatibility issue with future regional emissions analyses for transportation conformity for the annual PM 2.5 standard. The final rule became effective on 11 Feb 12.

PROPOSED REVISIONS TO SEDIMENT AND STORMWATER REGULATIONS DNREC issued a **proposed rule** revising the Delaware Sediment and Stormwater Regulations to address April 2005 recommendations of Governor Minner's Task Force on Surface Water Management. The regulations have been revised to address stormwater volume management, conveyance adequacy, operation and maintenance of stormwater management facilities, and to establish performance standards for sediment and stormwater practices. A hearing is scheduled and comments are due by 1 Mar 12.

Maryland

DRAFT PHASE II WATERSHED IMPLEMENTATION PLAN The Maryland Department of the Environment (DOE) **issued updated draft documents** for Maryland's Phase II Watershed Implementation Plan for the Chesapeake Bay Watershed. On 15 Dec 11, Maryland provided USEPA with a preliminary draft of the State's Phase II Watershed Implementation Plan (WIP). The purpose of the preliminary draft was to provide USEPA with an opportunity to confirm that the proposed strategies would meet the Bay Total Maximum Daily Load goals. Meetings are scheduled for 29 Feb, 1 and 5 Mar 12. The updated draft documents are available for review and comment until 9 Mar 12.

Virginia

NEW VIRGINIA PEST AND QUARANTINE LAW The Virginia Department of Agriculture and Consumer Services issued a **final rule** establishing a quarantine which restricts the movement within Virginia of certain articles capable of transporting Thousand Cankers Disease. This disease complex attacks walnut trees and has become established in the Commonwealth. The fungus Geosmithia morbida is vectored by the walnut twig beetle, Pityophthorus juglandis, causing small cankers under the bark of the tree. The regulation establishes those articles that are subject to the provisions of the quarantine and establishes the specific counties and cities of the Commonwealth that are quarantined for Thousand Cankers Disease as the entire counties of Chesterfield, Goochland, Hanover, Henrico, and Powhatan and the entire cities of Colonial Heights and Richmond. The regulation prescribes the conditions requiring a regulated article moving within Virginia to have a certificate issued by an inspector or person operating in accordance with a compliance agreement with the Virginia Department of Agriculture and Consumer Services. Regulated articles from states where Thousand Cankers Disease is known to occur are prohibited entry into the Commonwealth unless prior written approval is issued by the Commissioner of the Department of Agriculture and Consumer Services. The final rule became effective on 2 Jan 12.

FINAL RULE ON THE CONTROL OF VOLATILE ORGANIC COMPOUNDS USEPA issued a final rule approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia [**77 FR 3928**, 26 Jan 12]. The SIP revision adds a new chapter (9VAC5-45-Consumer and Commercial Products) in order to control volatile organic compounds (VOC) from portable fuel containers, consumer products, architectural and industrial (AIM) coatings, adhesives and sealants, and asphalt paving operations within the Northern Virginia and Fredericksburg VOC

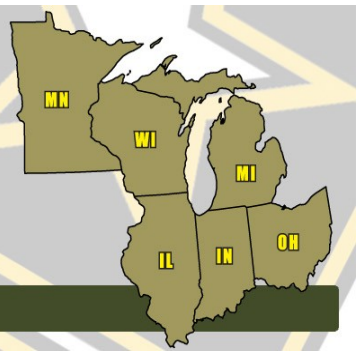
Emissions Control Areas. The SIP revision also includes new and revised documents incorporated by reference into the Virginia regulations (9VAC5-20-21-Documents Incorporated by Reference) in order to support the new and revised regulations. This action is being taken under the Clean Air Act. The final rule became effective on 27 Feb 12.

PROPOSED RULE FOR SMALL SOLAR ENERGY PROJECTS The Virginia Department of Environmental Quality (DEQ) issued a **proposed rule** (Pg. 952) to fulfill the requirements of Section 10.1-1197.7 of the Code of Virginia which requires the DEQ to develop one or more permits by rule for small renewable energy projects. This action is mandated by Chapters 808 and 854 of the 2009 Acts of Assembly. This regulation addresses the need for a reasonable degree of certainty and timeliness in the natural resource protections required of small solar energy projects by setting forth, as required, protections up front for small solar energy projects. The regulatory action describes how the department will address analysis of potential environmental impacts, mitigation plans, facility site planning, public participation, permit fees, interagency consultations, compliance, enforcement, and other topics that may be brought up during the public comment period. The comment period closes on 30 Mar 12.

West Virginia

DRAFT PHASE II WATERSHED IMPLEMENTATION PLAN On 18 Jan 12, the West Virginia Department of Environmental Protection (DEP) released its **draft Phase II Watershed Implementation Plan (WIP)** as part of its requirement under the USEPA's Chesapeake Bay initiative. The Phase II WIP continues the process of defining how West Virginia, in partnership with federal and local governments, will achieve the pollution load reductions required to support the USEPA's Chesapeake Bay Total Maximum Daily Load. The comment period on the Draft Phase II closes 20 Feb 12. The final Phase II WIP is currently scheduled for submission to the USEPA on 30 Mar 12.

Region 5



For more information on any state issues in Region 5, contact Dr. Jim Hartman, DoD Regional Environmental Coordinator, Region 5, (410) 436-7096.

GREAT LAKES RESTORATION INITIATIVE The Great Lakes Interagency Task Force (IATF) and USEPA released the Great Lakes Areas of Concern (AOC) map which identifies forty–three areas that are being tracked for restoration. USEPA is soliciting applications for grants and cooperative agreements to be awarded as a part of the **Great Lakes Restoration Initiative**. The Great Lakes Interagency Task Force is made up of 11 federal agencies which developed an action plan that covers fiscal years 2010 through 2014 and addresses five urgent focus areas: cleaning up toxics and areas of concern; combating invasive species; promoting near shore health by protecting watersheds from polluted run-off; restoring wetlands and other habitats; and working with partners on outreach.

USEPA PROPOSES APPROVAL TO SEVERAL REGIONAL HAZE PROGRAMS USEPA issued proposed rules granting approval for the first implementation period of the Regional Haze Program in several Region 5 states. USEPA is proposing approval to the revisions of both the Illinois and Minnesota State Implementation Plan (SIP) [**77 FR 3966**, 26 Jan 12] and [**77 FR 3681**, 25 Jan 12] respectively. In Illinois, USEPA is also approving state rules and incorporating two permits into the SIP. Both Illinois' and Minnesota's regional haze plans addresses Clean Air Act and Regional Haze Rule requirements to remedy any existing and prevent future anthropogenic visibility impairment at mandatory Class I areas. The comment period closes on 27 Feb 12 in Illinois and on 24 Feb 12 in Minnesota. In Ohio, USEPA is granting a limited approval of revisions to the Ohio SIP [**77 FR 3712**, 25 Jan 12]. The comment period closes on 24 Feb 12.

Illinois

PROPOSED GREEN HOUSE GAS FEE COLLECTION REGULATIONS The Illinois Environmental Protection Agency (IEPA) issued a notice in the 2011 Illinois State Register of an upcoming **proposed rule** (pg. 20779) in the January 2012 Regulatory Agenda which would amend the rules for collection of fees under the Clean Air Act Permit Program from sources emitting greenhouse gases. The proposed rule will also create new definitions.

PROPOSED AMENDMENTS TO VAPOR CONTROL RULES IEPA issued a notice in the 2011 Illinois State Register of an upcoming **proposed rule** (pg. 20781) in the January 2012 Regulatory Agenda repealing the requirement to install a vapor collection and control system on motor fuel dispensers at gasoline dispensing operations subject to 35 IAC 218.586. This proposal is based on an expected general waiver of the Clean Air Act (CAA) Section 182(b)(3) Stage II requirement and an onboard refueling vapor recovery widespread use determination under CAA Section 202(a)(6). USEPA has proposed an effective date of 30 Jun 13 for the waiver and determination. USEPA is expected to finalize its rulemaking in March 2012.

PROPOSED AMENDMENTS TO PM 2.5 RELEVANT APPLICABILITY PROVISIONS IEPA issued a notice in the 2011 Illinois State Register of an upcoming **proposed rule** (pg. 20782) in the January 2012 Regulatory Agenda which would amend and update regulations concerning the addition of relevant applicability provisions to explicitly address PM2.5 (aerodynamic diameter less than or equal to 2.5 micrometers) standard and related precursor compounds.

PROPOSED AMENDMENTS TO PARTICULATE EMISSIONS STANDARDS IEPA issued a notice in the 2011 Illinois State Register of an upcoming **proposed rule** (pg. 20790) in the January 2012 Regulatory Agenda which would amend and revise the methods for measuring filterable and condensable PM1. In addition, the rule would add methods for measuring filterable and condensable PM2.5. The rulemaking may also include necessary clean-up language and updates throughout Part 212.

PROPOSED AMENDMENTS TO SULFUR DIOXIDE NATIONAL AMBIENT AIR QUALITY STANDARDS IEPA issued a notice in the 2011 Illinois State Register of an upcoming **proposed rule** (pg. 20791) in the January 2012 Regulatory Agenda, that would amend the current sulfur dioxide (SO2) emission limitations as needed to address the 2010 SO2 National Ambient Air Quality Standards.

PROPOSED EFFLUENT STANDARDS IEPA issued a notice in the 2011 Illinois State Register of an upcoming **proposed rule** (pg. 20801) in the January 2012 Regulatory Agenda concerning the establishment of a new narrative standard for "cultural eutrophication" to protect aquatic life from the adverse impacts of excess algae and aquatic plant growth. The rule would incorporate new measurable parameters such as dissolved oxygen to identify cultural eutrophication. The proposed standard would also prohibit cultural eutrophication and the presence of such would trigger a technology-based phosphorus limit on dischargers that would significantly contribute to cultural eutrophication. The technology based phosphorus limits applicable to such dischargers would be proposed by updating 35 Ill. Adm. Code 304.123. In addition, other technology-based phosphorus effluent standards covering certain dischargers of phosphorus, independent of a finding of cultural eutrophication for 35 Ill. Adm. Code 304.123, will be proposed.

PROPOSED AMENDMENTS TO PERMITS FOR CONTROL OF NUISANCE WILDLIFE
The Illinois Department of Natural Resources (DNR) issued a notice in the 2011 Illinois State Register of an upcoming **proposed rule** (pg. 359) in the January 2012 Regulatory Agenda which would amend and update regulations concerning Nuisance Wildlife Control Permits [17 Ill. Adm. Code, 525]. This Part will be amended to update approved methods and regulations for the issuance of permits.

PROPOSED THREATENED AND ENDANGERED SPECIES RULE The Illinois DNR issued a notice in the 2012 Illinois State Register of an upcoming **proposed rule** (pg. 373) in the January 2012 Regulatory Agenda that will be initiated in May 2012, which will update the regulations concerning consultation procedures for assessing impacts of Agency actions on endangered and threatened species and natural areas. These amendments are being proposed to update statutory citations and regulations.

PROPOSED FOREST MANAGEMENT PLAN AMENDMENTS The Illinois DNR issued a notice in the 2012 Illinois State Register of an upcoming **proposed rule** (pg. 374) in the January 2012 Regulatory Agenda which would amend the Forest Management Plan. The amendments would modify the regulations and documentation requirements, provide for additional emphasis to be placed on soils, wetlands, threatened and endangered species, and special sites during the Forest Management Plan Development, and provide for outlined criteria for plan review and decertification.

PROPOSED AMENDMENTS TO PRESCRIBED BURNING ACT The Illinois DNR issued a notice in the 2012 Illinois State Register of an upcoming **proposed rule** (pg. 377) in the January 2012 Regulatory Agenda which would amend and update regulations concerning the Illinois Prescribed Burning Act [Act – 17 Ill. Adm. Code 1565]. This Part will be amended to update certification requirements for burn managers.

PENDING WATER ALLOCATION RULES The Illinois DNR issued a notice in the 2012 Illinois State Register of an upcoming **proposed rule** (pg. 379) in their January 2012 Regulatory Agenda that would update the regulations concerning allocation of water from Lake Michigan. This rulemaking requires changes to regulations regarding water allocation conditions.

PROPOSED CONSTRUCTION PERMIT APPLICATION FEES IEPA issued a notice in the 2012 Illinois State Register of an upcoming **proposed rule** (pg. 903) in their January 2012 Regulatory Agenda that will set forth the new procedures the Agency will use to collect construction permit application fees for air pollution sources under Section 9.12 [**415 ILCS 5/9.12**] of the Environmental Protection Act, including fees for sources which emit or will emit greenhouse gases.

PROPOSED AMENDMENTS TO REGULATIONS FOR PUBLIC WATER SUPPLIES IEPA issued a notice in the 2012 Illinois State Register of an upcoming **proposed rule** (pg. 906) in the January 2012 Regulatory Agenda which would amend and update the rules for Public Water Supplies. The rule will add definitions and explanations of administrative procedures and provide current information to owners, operators, and official custodians of public water supplies. More recent design and operational criteria will be incorporated to provide information necessary for the design, operation, and maintenance of public water supplies. In addition, the new rule would clarify the requirements for operations and permits and add additional reporting requirements.

PROPOSED AMENDMENTS TO WATER ANALYSIS PROGRAMS IEPA issued a notice in the 2012 Illinois State Register of an upcoming **proposed rule** (pg. 909) in the January 2012 Regulatory Agenda, that would amend the drinking water analysis program at 35 Ill. Adm. Code 691 in response to changes made to **Section 17.7** (which specifies the rules for Community water supply testing fees) of the Environmental 415 ILCS 5/17.7 by P.A. 97-220. In a separate but related rulemaking, the Illinois EPA issued another notice of an upcoming **proposed rule** (pg. 903) from the same Regulatory Agenda, which would amend 35 Ill. Adm. Code 186 to update the drinking water accreditation standards replacing the 2003 the National Environmental Laboratory Accreditation Conference (NELAC) standards with the new 2009 the NELAC Institute (TNI) standards.

PROPOSED AMENDMENTS TO NONHAZARDOUS SPECIAL WASTE HAULING IEPA issued a notice of an upcoming proposed rule in their January 2012 Regulatory Agenda that would amend the regulations related to nonhazardous special waste hauling and the Uniform Program. In response to legislation passed this summer (Public Act 97-220) withdrawing Illinois from the Uniform Hazardous Materials Transportation Registration and Permit Program ("Program"), on 28 Oct 11, the Illinois EPA filed a **proposal** with the Pollution Control Board to abolishes all references to the Uniform Program from Illinois' waste hauling regulations contained in Part 809. The amendments are intended to restore the regulations to their form prior to Illinois joining the Program including those wastes under Illinois' Special Waste Hauling Permit Program. The amendments also update the federal requirements that are applicable and make other minor changes. A hearing occurred on 15 Feb 12.

APPROVAL AND REDESIGNATION OF AREAS FOR AIR QUALITY PLANNING USEPA issued a proposed rule that extends the comment period for a prior proposed rule published 22 Dec 11 (76 FR 79579) in which USEPA proposed to approve the State of Illinois' request to redesignate the Illinois portion of the St. Louis, MO-IL nonattainment area (Jersey, Madison, Monroe, and St. Clair Counties) to attainment for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) [**77 FR 2943**, 20 Jan 12]. In conjunction with the proposed approval of the redesignation request, USEPA proposed to approve, as a revision to the Illinois State Implementation Plan, the State's plan for maintaining the 1997 8-hour ozone NAAQS through 2025 for the area. USEPA also proposed to approve the

2002 emissions inventory as meeting the comprehensive emissions inventory requirement of the Clean Air Act for the Illinois portion of the St. Louis area. Finally, USEPA proposed to approve the State's 2008 and 2025 Motor Vehicle Emission Budgets for the Illinois portion of the St. Louis area. In response to a request, USEPA is extending the comment period for 30-days until 22 Feb 12.

UNDERGROUND STORAGE TANK OPERATOR REQUIREMENTS The Office of the State Fire Marshal adopted **final amendments** which implement federal requirements. Pursuant to the federal Energy Policy Act of 2005, State underground storage tank (UST) system regulatory programs receiving federal funding are required to implement operator training programs for personnel at underground storage tank facilities. Under the federal requirements, three classes of operators must be trained in specified areas, and retraining is required once every two years. In addition, the federal retraining regulations require facilities to keep UST records on site to avoid having to retrain personnel in response to a Notice of Violation. Unmanned facilities must also designate class A, B, and C operators (one person properly trained can fulfill multiple roles). Finally, records of training completion and emergency response plans and phone numbers must be kept at the facility. The comment period closed 5 Jan 12.

NEW WEB PORTAL FOR ENVIRONMENTAL PERMITTING PROCESS Illinois Governor Quinn (D) announced a new IEPA **online portal** that will make the environmental permitting process more accessible by eliminating red tape for businesses in Illinois. The portal also increases transparency in the process by allowing applicants and other interested parties to track the progress of the Agency's decision-making. The portal is a result of Public Act 97-0094, which Governor Quinn signed in July 11.

NEW ELECTRONIC PRODUCTS RECYCLING AND REUSE ACT The Illinois Electronic Products Recycling and Reuse Act prohibits disposing of unwanted electronics in regular trash for burial in landfills starting 1 Jan 12. This includes televisions, computers, monitors, printers, keyboards, and DVRs. These products typically contain many valuable metals that can be recycled. A **list of registered electronic waste (e-waste) collection sites** and information for manufacturers, collectors, recyclers, and refurbishes is available on the **Electronic Waste Recycling** page.

NOAA APPROVES ILLINOIS' COASTAL MANAGEMENT PROGRAM On 31 Jan 12, NOAA's Office of Ocean and Coastal Resource Management approved the **Illinois Coastal Management Program** (ICMP). The Illinois DNR is the lead agency for the ICMP, which will focus on several key priorities for the state that align with the Great Lakes Regional Collaboration Strategy, including: invasive species; habitat, ecosystem and natural resource restoration; sustainable and economic development; public access and recreation; and climate change.

Indiana

NEW BILL ON FERTILIZER RESTRICTIONS On 9 Jan 12, Representative Dodge (R) introduced House Bill **HB 1032**. The bill would place restrictions on fertilizer containing phosphorus and would place restrictions on the application of fertilizer material that contains phosphorus. In addition, HB 1032 would provide exceptions for fertilizer material that contains less than 0.67% of phosphorus by weight or is used for agriculture purposes. The bill would require distributors and licensed commercial lawn care applicators to prepare and provide consumer educational information concerning restrictions on the use of fertilizer material containing phosphorus and best practices for lawn care. The bill has been referred to the Committee on Natural Resources.

NEW BILL ON ENVIRONMENTAL BOARD CONSOLIDATION AND WATER PROGRAMS
On 31 Jan 12, Senate Bill **SB 130** regarding amendments to the Indiana Code on environmental law was referred to the Committee on Environmental Affairs. The Bill consolidates several Environmental Boards, and repeals the statutes that created the following Boards: Air Pollution Control, Water Pollution Control and Solid Waste Management Board. The law establishes the Environmental Rules Board (Consolidated Board). SB 130 transfers to the Consolidated Board duties of the Department of Environmental Management to adopt certain rules related to treatment plant or water distribution systems certification programs, and the waste tire management fund. The law becomes effective on 1 Jul 12.

NEW LAW ON UST REQUIREMENTS On 17 Jan 12, Senate Bill **SB 133** on Underground Storage tanks (UST) was ordered engrossed. The law allows the Solid Waste Management Board to adopt rules and establish requirements for UST in conformance with the delivery prohibition program under 42 U.S.C. 6991k. The law provides that the

Commissioner of the Department of Environmental Management may determine whether an UST is eligible for delivery, deposit, or acceptance of a regulated substance, and issue a temporary order to enforce compliance. The law becomes effective on 1 Jul 12.

Michigan

NEW BILLS ON SITE REMEDIATION UST CLEANUP STANDARDS & PROCEDURES On 24 Jan 12, Senate Bill **SB 530** regarding Underground Storage Tanks (UST) was referred to the Committee on Natural Resources, Tourism and Outdoor Recreation. The bill would amend Part 213 to require a consultant to submit an initial assessment report to the Department of Environmental Quality (DEQ) within 180 days after a UST release was discovered, rather than within 90-days as required currently. SB 530 revises the information that must be included in an initial assessment, final assessment, or closure report. In a separate yet related bill that is tied to SB 530, **SB 533** would also amend Part 213. SB 533 prohibits DEQ from promulgating rules to implement Part 213, beginning on the bill's effective date and also provides a DEQ guideline, bulletin, interpretive statement, operational memorandum, or form with instructions published under Part 213 would be advisory, and could not be given the force of law. This bill was also referred to the Committee on Natural Resources, Tourism and Outdoor Recreation.

Minnesota

DRAFT TOTAL MAXIMUM DAILY LIST On 23 Jan 12, the Minnesota Pollution Control Agency (MPCA) issued a **notice** (Pg. 847) for the draft 2012 Total Maximum Daily Load (TMDL) list of impaired waters for stream segments and lakes. In accordance with the requirements of Section 303(d) of the Federal Clean Water Act, the MPCA is issuing a public comment on its 2012 draft list of stream segments, lakes, and wetlands that have impaired designated uses that require the completion of TMDL reports. The comment period closes on 27 Feb 12.

NEW BILL ON WIND SITING AUTHORITY On 24 Jan 12, House Bill **HB 1891** on wind siting and energy conversion systems was introduced by Representative Kelly (R). The bill adds provisions for new county authority to enact siting standards and amends Minnesota Statutes 2010, Sections 216B.1691 which are the rules on Renewable Energy, and also amends the section on Application Of County Standards subdivision 2b;216F.081.

Ohio

PAINT CREEK WATERSHED TOTAL MAXIMUM DAILY LOAD REPORT In January 2012, Ohio EPA issued the Paint Creek Watershed Total Maximum Daily Load (TMDL) **Report**. Ohio EPA developed the document in fulfillment of Section 303 (d) of the Clean Water Act, which requires the identification of impaired water bodies for which technology based effluent limitations are not stringent enough to achieve applicable water quality standards and to develop TMDL's for such waters. The impaired waters are located in the Counties of Fayette, Ross, Highland, Clinton, Madison, Clark, Pickaway, Pike and Greene. The comment period closed on 10 Feb 12.

PROPOSED RULES FOR RADIATION SAETY STANDARDS The Ohio Department of Health issued a **proposed rule** (hearing #6) that sets radiation safety standards and licensing requirements for Technologically Enhanced Naturally Occurring Radioactive Material. Suggestions for the state regulations came from the Council of Radiation Control Program Directors, and some were incorporated in drafting these rules. The comment period closed on 1 Feb 12 and a hearing occurred on 2 Feb 12.

Wisconsin

NEW BILL ON WETLAND PERMITS AND NEW FEES On 6 Jan 12, Senator Kedzie (R) introduced Senate Bill **SB 368** the bill would require Department of Natural Resources (DNR) to follow specific procedures and timelines for issuing individual wetlands permits. This will enable DNR to focus on larger and more complex projects by issuing general permits, rather than individual permits, for smaller, less complex projects. The bill substitutes the term "wetland permit" for "water quality certification," and specifies that the issuance of a wetland permit by DNR takes the place of a water quality certification required by federal law. However, federal requirements from the U.S. Army Corps of Engineers remain the same, and are not modified by the bill. The state permits are modified, and will now conform to federal requirements. For non-federal wetlands, the DNR can issue an individual or general certification, and must take extra precautions if the wetland is or is near to an area of special natural resource interest (ASNRI). The bill also authorizes DNR to prohibit discharges into certain types of wetlands identified by DNR, such as coastal plain marshes and calcareous fens. The bill also mandates the DNR take certain steps to notify the public of the department's intent to issue a general wetland permit. The bill grants DNR the authority to charge a $500 fee for reviewing wetland general permits and $800 fee for a wetland individual permit. The bill also modifies other DNR fees.

Department of Defense Activity

U.S. ARMY RECOGNIZES TOP ENVIRONMENTAL PERFORMERS The winners and runners-up of the FY2011 Secretary of the Army Environmental Awards Program located within the USEPA Region 1,2, 3 and 5 area include the following: Fort A.P. Hill - Environmental Restoration Team Award; Pennsylvania ARNG - Cultural Resources Management Category; Illinois ARNG - Natural Resources Conservation Small Installation Category; Scranton Army Ammunition Plant - Sustainability, Industrial Installation Category; and the Stryker Brigade Combat Team, Warren MI – Environmental Excellence in Weapons System Acquisition Team Award. Runners-up include: Virginia ARNG - Natural Resources Conservation, Team Individual Category; and the Product Manager, Joint Light Tactical Vehicle, Warren, MI - Environmental Excellence in Weapons System Acquisition Team Award.

Federal Activity

Air

UPDATES TO USEPA EMISSION TEST METHODS AND TESTING REGULATIONS USEPA issued a proposed rule revising the methods for determining emission stratification. The revisions include the addition of alternative equipment and methods as well as corrections to technical and typographical errors [**77 FR 1130**, 9 Jan 12]. In addition, the rule would catalog revisions and update test methods, performance specifications, and associated regulations in 40 CFR parts 51, 60, 61, and 63, and proposes the revisions on a 5-year to 10-year basis. The last methods update was published as a final rule on 17 OCT 00 (65 FR 61744). The revisions consist of allowable alternatives not previously available, changes facilitating use of mercury-free equipment, and updates needed to correct obsolete provisions or add flexibility. USEPA is only proposing revisions to sections pertaining to source testing or monitoring of emissions and operations. The comment period closes on 9 Mar 12.

Energy

NEW REGULATION ON FUELS AND FUEL ADDITIVES USEPA issued a final rule identifying additional fuel pathways that USEPA has determined meet the biomass-based diesel, advanced biofuel or cellulosic biofuel lifecycle greenhouse gas (GHG) reduction requirements specified in Clean Air Act (CAA) Section 211(o), the Renewable Fuel Standard (RFS) Program, as amended by the Energy Independence and Security Act of 2007 [**77 FR 700**, 5 Jan 12]. This final rule describes USEPA's evaluation of biofuels produced from camelina oil, energy cane, giant reed, and napiergrass. It also includes an evaluation of renewable gasoline and renewable gasoline blendstocks, as well as biodiesel from esterification, and clarifies our definition of renewable diesel. In addition, USEPA is finalizing two changes to the regulation, in the first change, ID letters are added to pathways to facilitate references to specific

pathways. The second change adds "rapeseed" to the existing pathway for renewable fuel made from canola oil. This final rule adds these pathways to the table in the regulation as pathways which have been determined to meet one or more of the GHG reduction thresholds specified in CAA 211(o), and assigns each pathway a corresponding D-Code. These changes will facilitate producers ability to generate Renewable Identification Numbers, providing that the fuel meets the other requirements specified in the RFS regulations to qualify it as a renewable fuel. The final rule is effective 5 Mar 12, contingent on no adverse comments.

Hazardous Chemicals

FINAL RULE ON MERCURY-CONTAINING INDUSTRIAL THERMOMETERS USEPA issued a final rule which incorporates the most revised versions of the American Society for Testing and Materials (ASTM), standards into USEPA regulations that provide flexibility to use alternatives to mercury-containing industrial thermometers [**77 FR 2456**, 18 Jan 12]. This final rule allows for the use of such alternatives in certain field and laboratory applications previously impermissible as part of compliance with USEPA regulations. USEPA believes the older embedded ASTM standards unnecessarily impede the use of effective, comparable, and available alternatives to mercury-containing industrial thermometers. Due to mercury's high toxicity, USEPA seeks to reduce potential mercury exposures to humans and the environment by reducing the overall use of mercury-containing products, including mercury-containing industrial thermometers. This final rule is effective 19 Mar 12.

Natural Resources

NEW POLICY FOR DISTINGUISHING INJURY OF MARINE MAMMALS The National Marine Fisheries Service (NMFS) issued a notice on a **final national policy** for distinguishing serious from non-serious injuries of marine mammals. The policy includes a Policy Directive and associated Procedural Directive. The process and criteria in these documents will apply to injury determinations made after the date of effectiveness, and will not be applied retroactively to past injury determinations. The policy went into effect on 27 Jan 12.

COMMENT REQUEST ON THE DOUBLE-CRESTED CORMORANT The U.S. Fish and Wildlife Service (USFWS) has issued a notice and comment extension on a Supplemental Environmental Assessment on the development of revised regulations governing the management of Double-Crested Cormorants [**77 FR 4274**, 27 Jan 12]. The Double-Crested Cormorant (*Phalacrocorax auritus*) occurs along inland waterways as well as in coastal areas, and is widely distributed across North America. The depredation orders are scheduled to expire on 30 June 14. USFWS's analysis will update the 2003 Final Environmental Impact Statement for the Double-Crested Cormorant management in the United States (USFWS 2003). The comment period has been extended by 60-days and closes on 6 Apr 12.

NATIONAL FISH WILDLIFE CLIMATE ADAPTATION STRATEGY REPORT The National Oceanic and Atmospheric Administration (NOAA) and USFWS issued a **report** for public review through 5 Mar 12. It outlines a national, government-wide strategy and unified approach to maintaining the key terrestrial, freshwater and marine ecosystems needed to sustain fish, wildlife and plant resources and the services they provide in the face of accelerating climate change. In addition, a series of public workshops will be held during the public comment period.

Waste

HAZARDOUS WASTE BIENNIAL REPORT The Resource Conservation and Recovery Act **requires** hazardous waste large quantity generators and treatment, storage, and disposal facilities to submit a Hazardous Waste Report every two years on the quantities, type, and management method of hazardous wastes generated on-site and hazardous wastes received from off-site sources. The deadline for reporting to USEPA in the Hazardous Waste Report (EPA Form 8700-13 A/B), also referred to as the Biennial Report, is 1 Mar 12 (every even-numbered year) with information of the facility's hazardous waste activities during the previous odd-numbered calendar year. The Hazardous Waste Report consists of four reporting forms or sections: the Site ID Form, Form GM (Waste Generation and Management), Form WR (Waste Received from Off-Site), and Form OI (Off-Site Identification).

Professional Development

For a full listing of Professional Development opportunities please visit the REEO-N website at: www.asaie.army.mil/Public/ESOH/.REEO/Northern/proDevelopment.html.

Internet Resources

STATE REGULATORY / LEGISLATIVE SOURCES			
Connecticut:	DEP / General Assembly	New Jersey:	DEP / State Legislature
Delaware:	DNREC / General Assembly	New York:	DEC / Assembly / Senate
District of Columbia:	DDOE / City Council	Ohio:	EPA / General Assembly
Illinois:	EPA / General Assembly	Pennsylvania:	DEP / General Assembly
Indiana:	DEM / General Assembly	Puerto Rico:	DNER / Government
Maine:	DEP / State Legislature	Rhode Island:	DEM / General Assembly
Maryland:	MDE / General Assembly	Vermont:	ANR / State Legislature
Massachusetts:	DEP / General Court	Virgin Islands:	DPNR / Legislature
Michigan:	DEQ / State Legislature	Virginia:	DEQ / General Assembly
Minnesota:	PCA / State Legislature	West Virginia:	DEP / State Legislature
New Hampshire:	DES / General Court	Wisconsin:	DNR / State Legislature

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