



# Northern Review

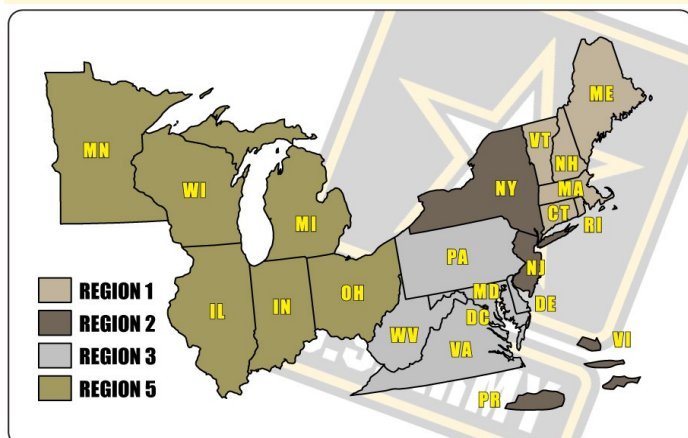
## of Legislative & Regulatory Actions



The U.S. Army Regional Environmental & Energy Office

October 2012

The **NORTHERN REGION REVIEW** provides current information on state and local environmental, energy, land use, and related legislative and regulatory activities 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 CT, updates to solid waste system permitting, disposal and billing procedures; in ME, land use planning amendments; and in MA, legislation on changing Sandwich Township land use to alternative energy use.

### Region 2

Regionally, National Marine Fisheries Service petition to list the Queen Conch as threatened or endangered; in NJ, additional land for Highlands Preservation Area; in NY, draft general permit for freshwater wetlands adjacent areas; and in PR, endangered species status for the Coqui Llanero (small frog) and formation of a Caribbean Regional Ocean Partnership.

### Region 3

In MD, USEPA final rule on the control of VOC emissions from vehicle refinishing; in PA, USEPA final rule on SIP revisions concerning adhesives and sealants; in VA, nutrient trading in the Chesapeake Bay Watershed, and update on pesticide regulations; and in WV, USEPA final rule on West Virginia's ambient air quality standards.

### Region 5

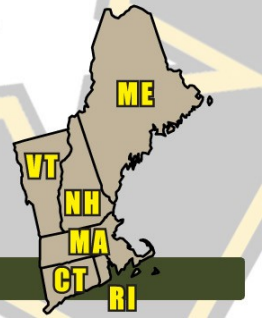
In IL, draft surface discharge general permit for point sources and proposed pesticide rule amendments ; in IN, proposed amendments to ambient air quality standards and pesticide regulations; in MI, a proposed bill titled, "Cost-Effective Governmental Energy Use Act;" in OH, updates to list of endangered and threatened plants; and in WI, proposed endangered and threatened species list revisions.

### Federal Activity

GAO: report on DOD meeting goals for sustainable ranges; USEPA: releases new 2012 guidelines for water use; OMB: memo on energy savings performance contracts; and, USGBC releases Version 4 of Leadership in Energy and Environmental Design.

# 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.



**Legislature convened 8 Feb 12 and adjourned sine die 9 May 12.**

## **PROPOSED RULES**

### **UPDATES TO SOLID WASTE SYSTEM PERMITTING, DISPOSAL AND BILLING PROCEDURES**

On 11 Sep 12, the Connecticut Resources Recovery Authority (CRRA) issued a [notice](#) of its intent to adopt amendments to the "Solid Waste System Permitting, Disposal and Billing Procedures." The purpose of these procedures is to establish delivery standards and disposal procedures for waste haulers using CRRA's municipal solid waste disposal and recycling facilities, and to define "acceptable solid waste" and "acceptable recyclables," as those terms are defined in the procedures, on and after 16 Nov 12. On 18 Sep 12, CRRA issued a separate yet related [notice](#) on amending and superseding the 2011 version "Mid-Connecticut Project Permitting, Disposal and Billing Procedures" in their entirety. In both cases the Procedures will be amended to include permitting and insurance requirements for waste haulers delivering to the facilities; operating and disposal information; billing and payment procedures; a description of possible sanctions for non-compliance with the Procedures; and an appeal process. A public meeting is scheduled for 25 Oct 12.



**Legislature convened 4 Jan 12 and adjourned sine die 18 Apr 12.**

## **PROPOSED RULES**

### **LAND USE PLANNING AMENDMENTS**

On 12 Sep 12, the Maine Department of Agriculture's Land Use Planning Commission (LUPC) issued a [proposed rule](#) that amends several sections of the land use rules in response to a recently enacted law (LD 1798 "An Act to Reform Planning in the Unorganized Territories") that had revised both Title 12, "Conservation," of the Land Use Planning Commission's rules, and Title 38, "Waters And Navigation," of the Maine Department of Environmental Protection's (MDEP) rules. LD 1798 shifted over all permitting authority of grid-scale wind energy projects to MDEP and shifted permitting authority over other significant development to MDEP as well, unless that development is located within a planned sub-district previously approved by LUPC and was accepted for review prior to 1 Sep 12. These changes to the statute due to LD 1798 have resulted in the need to [amend](#) LUPC's "Land Use Districts and Standards," Chapter 10 rules Planned Development (D-PD) Subdistrict, Section 10.21.G of the Commission's Land Use Districts and Standards (Sections 3-Permitted Uses; 6-Procedure; 7-Pre-application Conference; 8-Preliminary Development Plan; 9-Application Fee; and 10-Final Development Plan). The comment period closed on 12 Oct 12.



**Legislature convened 4 Jan 12 and adjourns 1 Jan 13.**

## **PROPOSED LEGISLATION**

### **LEGISLATION ON CHANGING TOWN OF SANDWICH LAND USE TO ALTERNATIVE ENERGY USE**

On 20 Sep 12, Senate Bill [SB 1047](#) was accompanied by study order [S2437](#). SB 1047 is an Act authorizing the town of Sandwich to change the use of certain town-owned land and to lease a portion of such land for recreational and alterna-

tive energy purposes. The study order authorizes the Joint Committee on Municipalities and Regional Government to sit for a recess and make an investigation and study certain current Senate documents (numbered 1001-1064) relative to municipalities and local government issues.

## 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.



### **PETITION TO LIST THE QUEEN CONCH AS THREATENED OR ENDANGERED**

The National Marine Fisheries Service (NMFS), announced a 90-day finding on a petition to list the Queen Conch (*Strombus gigas*) (a large gastropod mollusk) as threatened or endangered and designated critical habitat under the Endangered Species Act (ESA) [[77 FR 51763](#), 27 Aug 12]. The Queen Conch occurs throughout the Caribbean Islands and into the Gulf of Mexico, south Florida, the Bahamas, and Bermuda, and the northern coasts of Central and South America. The NMFS find that the petition and information in their files present substantial scientific or commercial information indicating that the petitioned action may be warranted. They will conduct a status review of the species to determine if the petitioned action is warranted. To ensure that the status review is comprehensive, they are soliciting scientific and commercial information regarding this species. The comment deadline closes on 26 Oct 12.



**Legislature convened 10 Jan 12 and adjourns 31 Dec 12.**

### **PROPOSED LEGISLATION**

#### **GENERAL PERMITS ADMINISTERED THROUGH AN EXPEDITED PROCESS**

On 24 Sep 12, Assembly Bill [AB 3320](#) was introduced, and referred to the Regulatory Oversight and Gaming Committee. The legislation is concerning the issuance of general permits that can be administered through an expedited process, such as developing procedures for the electronic submission of permit applications. This bill directs every State agency to identify those permits that may be expedited by issuance of a general permit. For each permit identified as being able to be expedited through the use of a general permit, the State agency would be required to adopt, pursuant to the "Administrative Procedure Act," rules and regulations providing for the issuance and use of such a general permit. This bill implements one of the findings of the "Red Tape Review Commission Findings and Recommendations" [report](#), issued in February 2012.

### **OTHER REGULATORY ACTIVITY AND GENERAL INFORMATION**

#### **ADDITIONAL LAND FOR HIGHLANDS PRESERVATION AREA**

On 16 Aug 12, NJ DEP [announced](#) a new 835-acre, North Jersey, Highlands Preservation Area. The newly preserved land, long known as the Baker Firestone or Baker Residential property, will greatly expand the DEP's Rockaway River Wildlife Management Area. The land once slated for residential development, will be permanently preserved through a \$4.6 million agreement by project partners, the DEP, the federal government, the Trust for Public Land, Morris County, and Jefferson Township. The newly preserved tract contains environmentally sensitive wetlands, steep slopes and habitat for a number of state and federally listed species.



**Legislature convened 5 Jan 12 and adjourns 8 Jan 13.**

#### **PROPOSED RULES**

##### **PROPOSED FLURIDONE PELLETS USE**

On 26 Sep 12, the New York State Department of Environmental Conservation (NYS DEC) issued a [proposed rule](#) that would amend Section 326.2(b)(4)(ii) to permit the use of fluridone pellets in waters less than two feet deep to control hydrilla, an invasive plant. Fluridone is a slow-acting systemic herbicide used to control hydrilla, Eurasian watermilfoil and other underwater plants. Hydrilla (*Hydrilla verticillata*) is considered among the most invasive aquatic plants in North America. The comment period closed on 10 Oct 12.

#### **OTHER REGULATORY ACTIVITY AND GENERAL INFORMATION**

##### **DRAFT GENERAL PERMIT FOR FRESHWATER WETLANDS ADJACENT AREAS**

The NYS DEC proposes to issue a General Permit (GP-0-12-003) titled, "Freshwater Wetlands Adjacent Areas - [Draft General Permit](#)," for activities within previously disturbed areas of NYS DEC-regulated Freshwater Wetland Adjacent Areas, greater than 50 feet from the wetland boundary, not to exceed .25 acre of disturbance. The permit would cover: demolition and removal of existing appurtenant structures; construction of driveways or parking areas limited to 3000 square feet; additions to existing structures; installation of garages, decks, porches, sheds, pools, utility lines and other appurtenant structures; In-kind, in-place replacement of existing appurtenant structures; roads and associated utilities. The comment period closed on 7 Sep 12.



**Legislature convened 10 Jan 12 and adjourned sine die 30 Jun 12.**

##### **ENDANGERED SPECIES STATUS FOR THE COQUI LLANERO**

The U.S. Fish and Wildlife Service (USFWS) issued a final rule which determines that the coqui llanero (*Eleutherodactylus juanariveroi*) (a small frog indigenous to Puerto Rico) is an endangered species and the designation of 615 acres (249 hectares) in Sabana Seca Ward, Toa Baja, Puerto Rico, as critical habitat [[77 FR 60777](#), 4 Oct 12]. The species currently exists in a freshwater wetland at Sabana Seca, faces numerous threats, and therefore warrants listing under the act as an endangered species. The final rule becomes effective on 5 Nov 12.

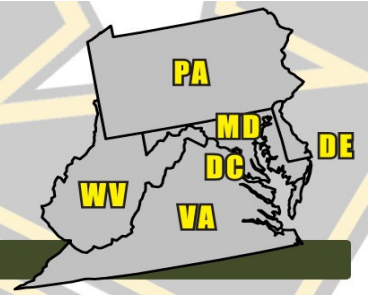
#### **OTHER REGULATORY ACTIVITY AND GENERAL INFORMATION**

##### **CARIBBEAN REGIONAL OCEAN PARTNERSHIP**

In July 2012, the Governors of Puerto Rico, and the U.S. Virgin Islands, [announced](#) the signing of a Memorandum of Understanding which establishes a Caribbean Regional Ocean Partnership. A recent proposal to interconnect Puerto Rico and the U.S. Virgin Islands' electrical power grids by a subsea cable to lower electricity costs, highlights the need for a comprehensive, regional approach to ocean management for the territories. The agreement between the Puerto Rico Department of Natural and Environmental Resources and the U.S. Virgin Islands Department of Planning and Natural Resources formalizes collaboration, recognizes a need for a regional approach to ocean management, and fosters the development of a strategy to improve coordination and communication to effectively manage ocean resources. In addition, the partnership will strengthen governance mechanisms to improve the territories' understanding of regional ocean and coastal ecosystems, and help them to address important issues such as polluted runoff, alternative energy development, climate change, fisheries, tourism, and navigation. The partnership will also coordinate regional spatial data collection, management, and sharing so that the best ocean data is available to guide regional ocean planning decisions.

# Region 3

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



**Legislature convened 2 Jan 12 and adjourns 31 Dec 12.**

## **PROPOSED LEGISLATION**

### **PENDING LEGISLATION ON PESTICIDE USE**

On 6 Sep 12, District of Columbia Mayor Gray sent [Bill 643](#) the "Pesticide Education and Control Amendment Act of 2012" to Congress. The act would further restrict the application of pesticides near waterways, at schools, day care centers, and on District of Columbia property, and would establish publicly available courses on pesticides at the University of the District of Columbia. The legislation also requires an annual report on pesticide usage, and requires pesticide applicators to submit usage data. In addition, the legislation will increase the pesticide product registration fee; amend the Pesticides Operations Act of 1977, by increasing penalties; and would amend the Human and Environmental Health Protection Act of 2010, to allow the Mayor to issue rules permitting limited exemptions. The legislation is projected to become law on 22 Oct 12.



**Legislature convened 11 Jan 12 and adjourned sine die 9 Apr 12. Special session 14-15 May 12.**

### **USEPA FINAL RULE ON THE CONTROL OF VOC EMISSIONS FROM VEHICLE REFINISHING**

USEPA issued a final rule approving a State Implementation Plan (SIP) revision submitted by the State of Maryland pertaining to "Control of Volatile Organic Compounds Emissions from Vehicle Refinishing," [[77 FR 59093](#), 26 Sep 12]. The SIP revision establishes new volatile organic compounds (VOC) content limits and standards for coating and cleaning solvents used in vehicle refinishing. This action is being taken under the Clean Air Act (CAA). The final rule becomes effective on 26 Oct 12.

## **FINAL RULES**

### **UPDATES TO AMBIENT AIR QUALITY STANDARDS**

On 7 Sep 12, the Maryland Department of the Environment (MDE) issued a [final rule](#) that amends Section.03 of the "Ambient Air Quality Standards" and repeals .04-.09 under the Code of Maryland Regulations (COMAR) 26.11.04.02. The purpose of this action is to adopt the revised National Ambient Air Quality Standards (NAAQS) as required by Section 2-302 (c) of the Environment Article of the Annotated Code of Maryland. This rule brings Maryland's ambient air quality standards into federal conformity. The final rule revises and adds the following: the 2006 NAAQS for particulate matter (PM); the 2010 revised NAAQS for sulfur dioxide (SO<sub>2</sub>); the 2008 NAAQS for ground-level ozone (O<sub>3</sub>); the 2010 revised NAAQS for nitrogen dioxide (NO<sub>2</sub>); and the 2008 NAAQS for lead (Pb) by updating definitions, reference conditions, and methods of measurement as specified in 40 CFR Parts 50 and 58. See technical support document [here](#). The final rule became effective 17 Sep 12.



**Legislature convened 3 Jan 12 and adjourns 30 Nov 12.**

### **USEPA FINAL RULE ON SIP REVISIONS CONCERNING ADHESIVES AND SEALANTS**

USEPA issued a final rule approving a revision to Pennsylvania's State Implementation Plan (SIP) [[77 FR 59090](#), 26 Sep 12]. The SIP revision was submitted by the Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP) in order to include in the SIP amendments relating to control of emissions of volatile organic compounds (VOCs) from the manufacture, sale, use, or application of adhesives, sealants, primers, and solvents. The SIP revision also includes amendments to the definitions in the general provisions in 25 Pa. Code. USEPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA). The final rule becomes effective on 26 Oct 12.



**Legislature convened 11 Jan 12, adjourned sine die 10 Mar 12. Special Sessions 21 Mar 12 & 2 May 12.**

### **FINAL RULES**

#### **UPDATES TO REGULATIONS GOVERNING PESTICIDE APPLICATOR CERTIFICATION**

On 10 Sep 12, the Virginia Department of Agriculture and Consumer Services issued a [final rule](#) which amends the Pesticide Control Board regulations by renumbering the regulations governing Pesticide Applicator Certification and placing them under the Virginia Department of Agriculture and Consumer Services in the Virginia Administrative Code. Recently enacted legislation, Chapters 803 and 835 of the 2012 Acts of Assembly, abolished the Pesticide Control Board, effective 1 Jul 12, and transferred its duties and responsibilities to the Board of Agriculture and Consumer Services. The legislation was a result of a recommendation of Governor McDonnell's Commission on Government Reform and Restructuring. The final rule became effective on 10 Oct 12.

#### **UPDATES TO REGULATIONS GOVERNING PESTICIDE FEES**

On 10 Sep 12, the Virginia Department of Agriculture and Consumer Services issued a [final rule](#) on Chapter 30 675 "Governing Pesticide Fees Charged by the Department of Agriculture and Consumer Service." The rule renumbers several Sections of the Pesticide rules. Former Section 2VAC20-30-10, was renumbered to 2VAC5-675-10, "Definitions"; Section 2VAC20-30-20 was renumbered to 2VAC5-675-20, "Pesticide product registration fee; registration of new pesticide products; renewal of pesticide product registration"; Section 2VAC20-30-30 was renumbered to 2VAC5-675-30, "Commercial applicator certificate fee"; Section 2VAC20-30-40 was renumbered to 2VAC5-675-40, "Registered technician certificate fee"; and Section 2VAC20-30-50 was renumbered to 2VAC5-675-50, "Business license fee." The final rule became effective on 10 Oct 12.

#### **FINAL RULES ON OZONE CLASSIFICATION AND FEDERAL CONFORMITY**

On 18 Sep 12, the Virginia State Air Pollution Control Board issued a [final rule](#) which amends the regulations entitled, "Regulations for the Control and Abatement of Air Pollution." The amendments specifically address 9VAC5-20-204 "Nonattainment Areas" for the Northern Virginia 8-hour ozone nonattainment area. The area is now classified as "marginal" for the 2008 ozone standard. This was required in order to accurately reflect the new federal classification and thus properly implement new source review, transportation conformity, and other nonattainment area requirements. In Section 9VAC5-30-55 "1997 8-hour standard for ozone" Subsection D was added to indicate that the standard will no longer apply to an area for transportation conformity purposes one year after the effective date of the designation of the area. This was necessary for federal transportation conformity. See Agency Statement [here](#). The final rule becomes effective on 21 Nov 12.

#### **NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED**

On 19 Sep 12, the Virginia Department of Environmental Quality (DEQ) issued a [final rule](#) regarding a General Virginia Pollutant Discharge Elimination System (VPDES) Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed. The general permit governs facilities holding individual VPDES permits that discharge or propose to discharge total nitrogen (TN) or total phosphorus (TP) to the Chesapeake Bay or its tributaries. The facilities are authorized to discharge to surface waters and exchange credits for TN and or TP. The amendments conform to the general permit to statutory changes enacted by the 2012 General

Assembly. This general permit complements 9 VAC 25-40 (the Regulation for Nutrient Enriched Waters and Dischargers within the Chesapeake Bay Watershed) and to 9 VAC 25-720 (the Water Quality Management Planning Regulation) and is intended to provide compliance flexibility to the affected facilities in order to ensure the most cost-effective nutrient reduction technologies are installed within the respective tributary watersheds. The final rule becomes effective on 21 Nov 12.

## **PROPOSED RULES**

### **PROPOSED CHANGES TO IMPOUNDING STRUCTURES RULES IN THE DAM SAFETY PROGRAM**

On 24 Sep 12, the Virginia Soil and Water Conservation Board Division of Dam Safety and Floodplain Management issued a **proposed rule** (pg. 175) that would update the impounding structure rules in the Dam Safety Program. The changes are largely in response to requirements placed in the Code of Virginia during the last several General Assembly Sessions that directed the board to add the following: adopt regulations that consider the impact of downstream limited-use or private roadways with low traffic volume and low public safety risk on the determination of the hazard potential classification of an impounding structure under the Dam Safety Act (§ 10.1-604 et seq.); establish a simplified methodology for dam break inundation zone analysis; and develop a general permit for the regulation of low hazard potential impounding structures in accordance with § 10.1-605. The comment period closes on 24 Oct 12. This proposed rule is being fast tracked and will be effective 8 Nov 12.



**Legislature convened 11 Jan 12 and adjourned sine die 16 Mar 12.**

### **USEPA FINAL RULE ON WEST VIRGINIA'S AMBIENT AIR QUALITY STANDARDS**

USEPA issued a final rule approving the State Implementation Plan (SIP) revision submitted by West Virginia on 8 Jul 11 [77 FR 56125, 12 Sep 12]. This revision pertains to amendments of West Virginia's Legislative Rule regarding ambient air quality standards (45 CSR 8--Ambient Air Quality Standards). These amendments incorporate by reference the National Ambient Air Quality Standards (NAAQS) in effect on 1 Jun 10 for sulfur dioxide (SO<sub>2</sub>), particulate matter (PM), carbon monoxide (CO), ozone, nitrogen dioxide (NO<sub>2</sub>), and lead. This action is being taken under the Clean Air Act (CAA). The final rule became effective on 12 Oct 12.

## **Region 5**

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



### **USFWS SEEKS INPUT ON ENDANGERED SPECIES IN CLEAN ENERGY DEVELOPMENT ZONES**

On 29 Aug 12, the U.S. Fish and Wildlife Service (USFWS) issued a **notice** on a Habitat Conservation Plan for the Midwest to conserve endangered species while promoting development of clean energy to reduce atmospheric carbon dioxide. Partners in the development of this plan are eight Midwestern states, including the Region 5 states of: IL, IN, MI, MN, OH, and WI; the American Wind Energy Association, representing a consortium of wind energy companies; and The Conservation Fund. The purpose of the plan is to develop conservation measures such as siting of turbines or facilities, minimizing adverse effects from construction and operations, and mitigation of adverse impacts through the development of a strategic mitigation strategy for the long-term conservation of species. Federally endangered species potentially taken by wind energy facilities include the Indiana bat, gray bat, piping plover, interior least tern and Kirtland's warbler. This plan can also include species that may become endangered or threatened in the future, such as the little brown bat, northern long-eared bat and eastern small-footed bat. The bald eagle, which is no longer endangered but remains protected, may also be covered by the plan. The final list of species to be included has yet to be determined. The **new comment period** closes on 3 Dec 12.

## TASK FORCE REPORT ON REDUCING PHOSPHORUS LOADINGS

On 11 Sep 12, the Great Lakes Commission (GLC) held their Annual Meeting. The focus of the meeting was to reduce phosphorus loadings to the Great Lakes-St. Lawrence River system. The GLC-led Regional Phosphorus Reduction Task Force released a [report](#) with more than 50 recommendations advocating for a bi-national effort to achieve and sustain meaningful reductions in nutrient pollution to the Great Lakes and St. Lawrence River. Using Ohio as a model, one of the recommendations made was for the Great Lakes states to establish regulatory authority to designate stressed watersheds and trigger mandatory actions to reduce pollutant loadings.



# Illinois

**Legislature convened 11 Jan 12 and adjourns 31 Dec 12.**

## DRAFT SURFACE DISCHARGE GENERAL PERMIT FOR POINT SOURCES

USEPA, Region 5 issued a Federal Register notice proposing a National Pollutant Discharge Elimination System (NPDES) Draft General Permit for Point Source Discharges From New and Replacement Surface Discharging Wastewater Treatment Systems to Waters of the United States [[77 FR 57084](#), 17 Sep 12]. The NPDES draft general permit applies to source discharges of less than 1500 gallons per day from new and replacement wastewater treatment systems, discharging to surface waters within Illinois or interstate waters that flow across or form part of the boundary of Illinois. Once finalized, this permit will be available to eligible surface discharging system owners or operators who submit an administratively complete notice of intent to be covered by the general permit, including the technological and economic feasibility analyses. The permit will require compliance with certain effluent limitations and inspection, monitoring and reporting requirements. The Agency is asking the public for comments on the draft general permit. The permit and supporting documentation is available [here](#). A hearing is scheduled for 1 Nov 12, and the comment period on the general permit closes on 15 Nov 12.

## PROPOSED RULES

### AMENDMENTS TO PESTICIDE CONTROL RULES

On 21 Sep 12, the Illinois Department of Public Health (DPH) issued a [proposed rule](#) amending several sections of the pesticide Control rules in 77 Ill. Adm. Code 830. The rulemaking covers numerous technical corrections, including revising the list of reference materials and clarifying background text for consistency. DPH clarifies licensure and registration renewal provisions, including what constitutes filing of an application in a timely and sufficient manner, and circumstances under which an application will be returned. DPH also clarified that renewal applications cannot be used to obtain a license or registration when there has been a change in ownership. Applications received after 1 Dec 12, shall be considered late and be subject to a late filing charges. Structural pest control technicians applying for certificate renewal must include evidence of completing 9 classroom contact hours of DPH approved seminars. The rulemaking also addresses reciprocal certification revisions, new provisions addressing applicants who are unable to attend scheduled certification examinations, record of completion retention provisions, and updated administrative fines. DPH also added a new Subpart addressing integrated pest management course requirements. The comment period closed on 5 Oct 12.



# Indiana

**Legislature convened 4 Jan 12 and adjourned sine die 10 Mar 12.**

## PROPOSED RULES

### AMENDMENTS TO AMBIENT AIR QUALITY STANDARDS

On 12 Sep 12, the Indiana Department of Environmental Management (IDEM) issued a [proposed rule](#) that would amend Indiana's rules at 326 IAC 1-3-4, "Ambient Air Quality Standards", for nitrogen dioxide, sulfur dioxide, particulate matter with an aerodynamic diameter less than or equal to 2.5 microns, and particulate matter with an aerodynamic diameter less than or equal to 10 microns. IDEM is also amending 326 IAC 1-4-1, "Designations" to add a definition for particulate matter with an aerodynamic diameter less than or equal to 2.5 microns for purposes of clarification. IDEM is proposing to amend 326 IAC 1-3-4 to incorporate portions of 40 CFR 50.5 to update its references to the national secondary ambient air quality standard for sulfur oxides (sulfur dioxide). By incorporating these federal regulations, this

rulemaking helps to ensure that state rules are consistent with federal rules. The comment period closes and a hearing is scheduled for 7 Nov 12.

## **AMENDMENTS TO PESTICIDE APPLICATOR REGULATIONS**

On 12 Sep 12, the Indiana State Chemist intends to **adopt a rule** which would amend several sections of the Pesticide Applicator Regulations in the Indiana Administrative Code (IAC). The proposed rule would amend the following: 355 IAC 4-0.5-2 "Licensed Applicator for Hire" to include users of any product regulated under IC 15-16-5 "Pesticide Use and Application", amends 355 IAC 4-0.5-2 "Licensed Applicator for Hire", amends 355 IAC 4-1-1.1 "Commercial Applicators-Licensing" and 355 IAC 4-1-4 "Private Applicators-Certification Requirements" to make legal citation references consistent with amendments found in the rules in IC 15-16-5 "Pesticide Use and Application", and finally, would amend 355 IAC 4-7-2 "Commercial Applicators-Certification Renewal Standards" by adding a reference to category 14 continuing certification hour requirements.

## **OTHER REGULATORY ACTIVITY AND GENERAL INFORMATION**

### **SOURCE SPECIFIC UPDATES TO THE PARTICULATE MATTER EMISSION LIMITS**

On 19 Sep 12, the Indiana Department of Environmental Management (IDEM) issued a **notice of first comment period** on a proposed rule amending the Indiana Administrative Code (IAC) rules at 326 IAC 6.5 "Particulate Matter Limitations Except Lake County" (which includes: facilities located in the counties of Clark, Dearborn, Dubois, Howard, Marion, St. Joseph, Vanderburgh, Vigo, or Wayne), and 326 IAC 6.8, "Particulate Matter Limitations for Lake County." The purpose of this rulemaking is to update the source specific information found within Indiana's rules concerning particulate matter emission limitations found in both 326 IAC 6.5 and 326 IAC 6.8. Source categories subject to these emission limitations include fuel combustion steam generators. The rules containing these limitations have been approved into Indiana's state implementation plan (SIP) as permanent and enforceable provisions in order to address attainment of particulate matter air quality standards and must be maintained for continued attainment unless replaced with a comparable reduction. The comment period closes on 19 Oct 12.



**Legislature convened 11 Jan 12 and adjourns 31 Dec 12.**

## **APPROVAL OF REVISIONS TO MICHIGAN'S STATE IMPLEMENTATION PLAN**

USEPA issued a final rule approving specified revisions to Michigan's State Implementation Plan (SIP). USEPA determined the revisions are consistent with the Federal requirements of the prevention of significant deterioration (PSD) construction permit program in Clean Air Act (CAA) with regard to new source review (NSR) in Class I areas attaining the National Ambient Air Quality Standards [**77 FR 56124**, 12 Sep 12]. The final rule became effective on 12 Oct 12.

## **PROPOSED LEGISLATION**

### **COST-EFFECTIVE GOVERNMENTAL ENERGY USE ACT**

On 27 Sep 12, House Bill **HB 5727**, also referred to as the "Cost-Effective Governmental Energy Use Act," continues through the MI Legislature. The legislation would encourage state and local governments to implement cost-effective energy conservation improvements to minimize energy consumption and reduce operating costs through use of energy performance contracts; require energy audits; specify procedures for obtaining contracts to reduce energy consumption; and prescribe payment methods for energy conservation contracts as well as would prescribe duties for certain state governmental officers and entities.

### **WIND TOWER ZONING**

On 11 Sep 12, House Bill **HB 5859**, also referred to as the "Michigan Zoning Enabling Act," was introduced to authorize construction of structures and associated equipment for measuring wind speed in all agricultural zones of the State. Exceptions include that towers not be located within a distance of 1.1 times the height of the tower from any road, street, highway or railroad; a property line of a parcel not owned or leased by the owner of the tower; or a building other than utility buildings associated with another structure for measuring wind speed. HB 5859 also allows

development of zoning ordinances requiring meteorological towers to be removed within 5 years after it is constructed or installed.

## **BALLAST WATER DISCHARGE PERMITTING**

On 11 Sep 12, House Bill [\*\*HB 5869\*\*](#), also referred to as the "Natural Resources and Environmental Protection Act," was referred to the Committee on Natural Resources, Tourism, and Outdoor Recreation. The legislation would require ballast discharge permits from the Department of Environmental Quality (DEQ) for all oceangoing vessels engaging in port operations in the state. DEQ would issue a permit for an oceangoing vessel only if the applicant can demonstrate: that the oceangoing vessel conducted a complete flushing of all ballast tanks with sea water at a location not less than 200 nautical miles from shore at a depth of more than 2,000 meters or other location approved by the United States Coast Guard for safety reasons; that the oceangoing vessel will not discharge aquatic nuisance species; and if waste effluent is discharged, it will be performed under environmentally sound technology and methods, as determined by DEQ.

## **SITE REMEDIATION CLEANUP STANDARDS & PROCEDURES**

On 25 Sep 12, House Bill [\*\*HB 1328\*\*](#) was referred to the Committee on Natural Resources, Environment and the Great Lakes. The legislation amends several sections of the Natural Resources and Environmental Protection Act relating to cleanups and funding. The bill would revise the allocation of money from the Clean Michigan Initiative (CMI) Bond Fund to be used for grants and loans, and eliminate a requirement for permanent markers under a post-closure plan if a hazardous substance is present at a concentration of more than 10 times a particular cleanup criterion, and if the land or resource use restrictions met other requirements. It would also require DEQ's evaluation and revision of environmental cleanup criteria to take into account best practices from other states, reasonable and realistic conditions, and sound science; allow the owner or operator of an underground storage tank (UST) system to address venting groundwater pursuant to Part 201 (Environmental Remediation) in lieu of corrective actions pursuant to Part 213 (Leaking Underground Storage Tanks). The bill also would repeal provisions of the act for the regulation of polychlorinated biphenyls (PCBs) and rescind related administrative rules, and rescind a number of environmental contamination response activity rules.



**Legislature convened 24 Jan 12 and adjourned sine die 21 May 12.**

## **PROPOSED OMNIBUS AIR RULE**

On 17 Sep 12, the Minnesota Pollution Control Agency (MPCA) issued a [\*\*notice\*\*](#) soliciting comments on planned amendments to the "Omnibus Air Rule." The rule proposes amendments to Minnesota's air quality rules include the following Chapters: 7002, "Permit Fees"; 7005, "Definitions and Abbreviations"; 7007, "Permits and Offsets"; 7008, "Exempt Air Emissions"; 7009, "Ambient Air Quality Standards"; 7011, "Standards for Stationary Sources"; 7017, "Monitoring and Testing Requirements"; 7019, "Emission Inventory Requirements"; 7021, "Acid Deposition Control"; 7023, "Mobile and Indirect Sources"; 7027, "Stratospheric Ozone Protection"; and 7030, "Noise Pollution Control." This rule is part of an ongoing effort to maintain and improve the MPCA's existing rules, keeping the air quality rules current by ensuring consistency with applicable federal and state regulations, removing redundant language and clarifying ambiguous rule language, and correcting gaps or errors identified while administering the rules. There are two parts to this rulemaking: Part 1 relates to revisions to standards of performance for Sulfur Dioxide (SO<sub>2</sub>), and Nitrogen Dioxide (NO<sub>2</sub>), and Part 2, relates to "housekeeping" or updates to the listed rule chapters to provide consistency and clarity, and ease overall understanding of the rules. The comment period closed on 1 Oct 12.



**Legislature convened 3 Jan 12 and adjourns 31 Dec 12.**

#### **FINAL RULES**

##### **UPDATES TO LIST OF ENDANGERED AND THREATENED PLANTS**

On 22 Aug 12, the Ohio Department of Natural Resources (DNR) issued a [final rule](#) which updates the list of endangered (242) and threatened plants (162) in the state of Ohio. The final rule became effective on 15 Sep 12.

#### **PROPOSED RULES**

##### **DRAFT NPDES & PRETREATMENT PROGRAM RULES**

On 27 Sep 12, Ohio Environmental Protection Agency (Ohio EPA) issued a letter to stakeholders and also issued [proposed draft revisions](#) to the National Pollutant Discharge Elimination System (NPDES) and Pretreatment Permits Program rules, found in Ohio Administrative Code (OAC) 3745-33-04 "Permit Actions", and 3745-36-03 "Permit Applications." Amendments are being considered to the administrative requirements for issuing, renewing, modifying and transferring permits. This is due to a new law (Senate Bill 294, the Agency's Omnibus Bill) which revised the Ohio Revised Code (ORC) 6111.03(J)(7), and gave the Director new discretion to renew, or deny the renewal of permits. Since the statute has been revised, the Agency is proposing this rulemaking to update rule language. Ohio EPA is seeking comments on the draft rule revisions and feedback on the draft Common Sense Initiative (CSI) Business Regulation Impact Analysis form, which is being released with the draft rules during the interested party review. The comment period closes on 29 Oct 12.

#### **OTHER REGULATORY ACTIVITY AND GENERAL INFORMATION**

##### **GRAND RIVER (UPPER) WATERSHED TOTAL MAXIMUM DAILY LOAD REPORT**

On 18 Sep 12, the Ohio EPA Division of Surface Water, issued a [notice](#) which solicits comment on the Grand River (upper) Watershed Total Maximum Daily Load (TMDL) Report document. 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 TMDLs for such waters. The Document addresses impairments in the Grand River (upper) watershed that appear on the Ohio 2012 303(d) list (assessment units 04110004 01 01 through 06, 04110004 02 01 through 03, 04110004 03 01 through 05 and 04110004 05 01 through 02). The impaired waters are located in Ashtabula, Geauga, Trumbull and Portage counties. The comment period closes on 18 Oct 12.



**WI Legislature convened 10 Jan 12 and adjourns 31 Dec 12.**

#### **OTHER REGULATORY ACTIVITY AND GENERAL INFORMATION**

##### **DRAFT STATE IMPLEMENTATION PLAN (SIP) FOR STAGE 2 VAPOR RECOVERY CONTROL PROGRAM**

On 30 Aug 12, the Wisconsin Department of Natural Resources (WDNR) issued a [notice](#) for a public hearing on a proposal to remove stage 2 vapor recovery controls at gasoline stations from the state's ozone control State Implementation Plan (SIP) requirements. This proposal was in response to a USEPA finding, effective 16 May 12, that onboard refueling vapor recovery equipment on newer motor vehicles make the use of stage 2 vapor recovery equipment at gasoline stations obsolete. The comment period closed on 12 Oct 12.

##### **REVISIONS TO THE STATE'S ENDANGERED AND THREATENED SPECIES LIST**

On 24 Sep 12, WDNR issued a [notice](#) soliciting comments regarding an economic impact analysis (EIA) for proposed rules relating to revisions to the state's endangered and threatened species list. The proposed rule would add 8 species and remove 16 species to the list and also update 20 scientific names (ER-27-11). The proposed rule package revises Chapter NR 27, of the Wisconsin Administrative Code. The comment period closes on 24 Oct 12.

# Department of Defense Activity

## SECRETARY OF THE ARMY ENVIRONMENTAL AWARDS – CALL FOR NOMINATIONS

Each year, the Army recognizes and rewards excellence for the development, management and transferability of environmental programs that increase environmental quality, enhance the mission and help make the Army sustainable. The 2012 Secretary of the Army Environmental Award program guidance and “call for nominations” has been [published](#). The Awards Program recognizes outstanding performance and excellence in environmental stewardship and sustainability by Army installations, teams, and individuals. The awards emphasize innovation and accomplishments in sustainable practices, environmental management, and community enhancement.

## ARMY SPONSORED REPORT ON REMEDIATION OF BURIED CHEMICAL WARFARE

On 6 Aug 12, the National Academy of Sciences, National Research Council released the Army's Chemical Materials Agency sponsored [report](#) addressing the challenges of remediating buried chemical warfare materiel. The report indicates that an alternative or modified approach is needed to remediate projects on active and former DOD sites and ranges. For additional information see [press release](#).

## DOD ADDS 1-BROMOPROPANE TO EMERGING CONTAMINANTS WATCH LIST

In September 2012, 1-Bromopropane (CAS # 106-94-5) was placed on the DOD Emerging Contaminants Watch List. 1-Bromopropane is a common organic solvent used in the degreasing of metals, cleaning of electronic circuit boards, the formulation of adhesives and aerosols, and as a dry cleaning solvent. Use of 1-Bromopropane increased significantly when similar halogenated solvents, such as TCE and PCE, underwent strict regulation as Hazardous Air Pollutants under the Clean Air Act. Additional technical information is available [here](#). The Chemical and Material Risk Management Program is currently conducting an electronic DOD Phase I Impact Assessment for 1-Bromopropane on 1 Nov 12. See [Link](#) for further information on the assessment [here](#).

## GAO REPORT ON DOD MEETING GOALS FOR SUSTAINABLE RANGES

On 12 Sep 12, the Government Accountability Office (GAO) released an analysis [report](#) on DOD's 2012 Sustainable Ranges Report. According to the analysis, DOD has taken action in response to all 13 prior GAO recommendations that focused on meeting the requirements of the act and improving the report submissions and has completed implementation of all but two of those recommendations. DOD is in the process of implementing the remaining two recommendations. GAO did not include any new recommendations in the report.

# Federal Activity

## **AIR**

### FINAL RULE LISTING FIRE SUPPRESSION SUBSTITUTES FOR OZONE

USEPA issued a final rule which lists substitutes for ozone-depleting substances (ODSs) in the fire suppression and explosion protection sector as acceptable subject to use restrictions under the USEPA's Significant New Alternatives Policy program [[77 FR 58035](#), 19 Sep 12]. This program implements Section 612 of the Clean Air Act, as amended in 1990, which requires USEPA to evaluate substitutes for ozone-depleting substances and find them acceptable where they pose comparable or lower overall risk to human health and the environment than other available substitutes. The final rule becomes effective on 18 Dec 12, contingent on no adverse comments being received.

### NEW EQUIVALENT METHOD FOR MEASURING CONCENTRATIONS OF PM<sub>2.5</sub>

USEPA issued a Federal Register notice on a new equivalent method for measuring concentrations of PM<sub>2.5</sub> in the ambient air in accordance with 40 CFR part 53, [[77 FR 55832](#), 11 Sep 12]. The new equivalent method is an automated monitoring method utilizing a measurement principle based on sample collection by filtration and analysis by beta-ray attenuation.

## **ENERGY**

### **OMB MEMO ON ENERGY SAVINGS PERFORMANCE CONTRACTS**

On 3 Oct 12, the Office of Management and Budget (OMB) issued a [memorandum](#) which offers guidance to the heads of federal agencies entering into Energy Savings Performance Contracts (ESPCs) and Utility Energy Service Contracts (UESCs) for energy efficiency and new renewable power generation. This memorandum supplements the OMB guidance in Memorandum M-98-13, "Federal Use of Energy Savings Performance Contracting" which remains in effect.

### **FEMP GUIDE ON INTEGRATING RENEWABLE ENERGY IN FEDERAL CONSTRUCTION**

The U.S. Department of Energy (DOE) Federal Energy Management Program (FEMP) issued a, "[Guide to Integrating Renewable Energy in Federal Construction](#)." The FEMP guide walks users through renewable energy options to help select appropriate types of renewable energy technologies and integrate these technologies into all phases of new construction or major renovation projects. This Guide provides specific guidance on major renovations, and guidance and resources for training and outreach for projects that use renewable energy.

## **HAZARDOUS CHEMICALS**

### **REVISIONS TO MANIFESTING REGULATIONS FOR POLYCHLORINATED BIPHENYLS**

USEPA issued a final rule that seeks to align several sections of the manifesting requirements for polychlorinated biphenyls (PCBs) under the Toxic Substances Control Act (TSCA) with rules for hazardous waste under the Resource Conservation and Recovery Act (RCRA) [[77 FR 54818](#), 6 Sep 12]. These changes will align manifesting requirements for PCBs under TSCA to the manifesting requirements for hazardous waste under RCRA, of which the regulatory changes to implement the Uniform Hazardous Waste Manifest form were promulgated on 4 Mar 05. The final rule applies to generators, transporters, and designated facilities (off-site disposal and commercial storage facilities) managing PCB wastes. The final rule becomes effective 5 Dec 12, contingent on no adverse comment. If adverse comment is received, the final rule will be withdrawn.

### **HAZARDOUS WASTE ELECTRONIC MANIFEST BILL SENT TO PRESIDENT**

On 25 Sep 12, Legislation [S. 710](#), the "Hazardous Waste Electronic Manifest Establishment Act," providing USEPA with the statutory authority needed to collect user fees and establish an electronic system for tracking hazardous waste shipments was sent to President Obama for signature. The bill, once signed, will modernize USEPA's 25-year-old paper system used to track hazardous waste disposal shipments under the Resource Conservation & Recovery Act (RCRA). Benefits of the e-Manifest system include cost savings for manifest users, and the agencies that collect manifests and process their data; and making information on hazardous chemicals available to states and emergency responders in real time. S. 710 was amended to require USEPA to harmonize its electronic tracking system with the Department of Transportation. The bill specifies that the e-manifest system and the authorizing regulations developed by the USEPA must be effective in all states and effective on the same date.

### **NEW GUIDE ON MINIMIZING THE USE OF HEXAVALENT CHROMIUM IN MILITARY SYSTEMS**

On 27 Sep 12, the Advanced Materials, Manufacturing and Testing Information Analysis Center's (AMMTIAC) Journal released a [report](#) titled, "Analysis of Alternatives to Hexavalent Chromium: A Program Management Guide to Minimize the Use of CrVI in Military Systems." CrVI has been widely used across the military for decades to alloy metals, treat metal surfaces, and as a constituent in primers for coating systems. New military policy memoranda have called for minimizing CrVI use, as a consequence of stricter US and European regulations on human exposure and environmental contamination. Recent federal requirements prohibits the delivery of items containing more than 0.1 % by weight CrVI in any homogenous material under DOD contracts unless there is no acceptable alternative [75 FR 18041, 8 Apr 10] and [76 FR 25569, 5 May 11]. The DOD policy memoranda ([2009 Young Memorandum](#)) are not a ban against using CrVI, however, a waiver is now required for any new use of CrVI in the DOD. Alternative materials have been developed for some applications, with many more potential compounds still in development.

## **SUSTAINABILITY**

### **LEED VERSION 4 RELEASED**

On 2 Oct 12, the U.S. Green Building Council (USGBC) released the latest draft of the Leadership in Energy and Environmental Design **LEED Version 4**, which offers incentives for the use of products from manufacturers that are green and transparent about how their product is made. This is the fifth update to USGBC's LEED green building program, the public comment period closes on 10 Dec 12.

## **WATER**

### **USEPA RELEASES NEW 2012 GUIDELINES FOR WATER REUSE**

USEPA has released the Agency's "**2012 Guidelines for Water Reuse**." The 2012 reuse guidelines update and build on USEPA's previous guidelines issued in 2004, incorporating information on water reuse that has been developed following the release of the 2004 document. In addition to summarizing existing U.S. regulations, the document includes water reuse practices outside of the U.S., case studies, information on planning for future water reuse systems, and information on indirect potable reuse and industrial reuse. Disinfection and treatment technologies, emerging contaminants, public involvement and acceptance are also discussed.

### **USEPA MEETING ON LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE**

USEPA issued a Federal Register Notice on a Public Meeting for 15 Nov 12, concerning monitoring, binning and microbial toolbox information as part of the regulatory review of the Long Term 2 Enhanced Surface Water Treatment Rule (**LT2 rule**) [**77 FR 57545**, 18 Sep 12]. The purpose of the LT2 rule is to reduce illness linked with the contaminant Cryptosporidium and other disease-causing microorganisms in drinking water. The rule will supplement existing regulations by targeting additional Cryptosporidium treatment requirements to higher risk systems. This rule also contains provisions to reduce risks from uncovered finished water reservoirs and to ensure that systems maintain microbial protection when they take steps to decrease the formation of disinfection byproducts that result from chemical water treatment. At this meeting, USEPA plans to discuss and solicit public input on data and information related to several topics.

# Professional Development

For a full listing of Professional Development opportunities please visit the REEO-N [website](#).

## **ANNUAL 2012 RENEWABLE ENERGY TECHNOLOGY CONFERENCE AND EXHIBITION**

On 17-19 Oct 12, the fourth Annual [Retech2012](#) Conference will be held in Washington, DC, at the Omni Shoreham Hotel. Connect with the world's renewable energy leaders from government, utility, finance and technology. This 4th Annual Renewable Energy Technology Conference and Exhibition is dedicated to delivering coverage on every discipline of renewable energy technology. Conference sessions include four tracks: national defense; power generation infrastructure; transportation; and emerging technologies and markets.

## **U.S. MILITARY AND RENEWABLE ENERGY INDUSTRY FORUM**

On 17-19 Oct 12, the third Forum in the [US Military and Renewable Energy Industry Forum Series](#) will be held in Washington, DC at the Omni Shoreham Hotel. In partnership with DOD, ACORE has launched a distinctive multi-part series "the U.S. Military and Renewable Energy Industry Collaboration," which examine the strategies and the technological and financial opportunities and challenges related to the expanded use of renewable energy in support of national defense. The series highlights innovative ways the purchasing power of DOD and the ingenuity of private sector industries and financiers can be used to lower costs and support the military's mission.

## **BUSINESS FOR SOCIAL RESPONSIBILITY CONFERENCE 2012**

On 23-26 Oct 12, the 20<sup>th</sup> Anniversary [BSR Conference 2012](#) will be held in New York, at the Grand Hyatt New York. BSR Conference 2012 is one of the world's largest and most influential events devoted to sustainable business. The DOD is part of a working group run by sustainability consultants BSR that aims to help global companies understand the sustainability impacts of their transportation fuel systems.

## **WORLD ENERGY ENGINEERING CONFERENCE**

On 31 Oct-2 Nov 12, the 35<sup>th</sup> [World Energy Engineering Conference](#) (WEEC) will be held in Atlanta, GA at the World Congress Center, Bldg. A. The WEEC features a large, multi-track conference agenda on energy efficiency and energy management with a full line-up of seminars on a variety of current topics, and a comprehensive exposition of the market's most promising new technologies.

## **FINANCING RENEWABLE ENERGY CONFERENCE**

On 8-9 Nov 12, the [2012 Financing Renewable Energy Conference](#) will be held in Washington, DC, at the Park Hyatt Hotel. Get help navigating the complex financing that makes renewable energy projects possible. Explore financing and investment trends, share strategies with fellow decision makers, policy makers and a host of active renewable energy technology practitioners and learn how to meet the common challenges.

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### **How the Regional Offices Work for You**

The U.S. Army Regional Environmental and Energy Office-Northern (REEO-N) monitors the following actions on your behalf. If a proposed state legislative or regulatory action has: (1) critical mission impact; (2) conflicts with a federal requirement; and/or (3) a disproportionate effect on the Army or DOD, we coordinate with the potentially affected installations, commands, and/or other military Services to further assess the potential impact. If action is needed on a proposed measure, we work with Army or Service regulatory experts to communicate DA/DOD position, coordinating with the affected installations and commands. Comments are combined from all parties in a single DOD/Army package and formally submitted to the state.

For further information visit the [Army's Regional Environmental and Energy Offices' website](#).

Do you want to comment on a rule or bill in the Review? Please contact your Regional Environmental Coordinator listed in each respective regional section of the Northern Region Review.

**Archived issues of the Review can be found on the REEO-N [website](#)**  
**To be added to the distribution list call or email the REEO-N Regulatory Affairs Specialist**  
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