



Northern Review

of Legislative & Regulatory Actions



The U.S. Army Regional Environmental & Energy Office

January 2013

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](#).

What's In This Review?

Region 1

In NH, a final rule updating federal standards and proposed changes to explosive material rules. In ME, proposed State stormwater BMP technical design manual changes. In MA, asbestos regulation reform, changes to solid waste management regulations and revisions to the solid waste master plan.

Region 2

In NJ, proposed changes to shore protection plans, de minimus levels for HAPS and hazardous substances, and wastewater treatment system operator requirements. In NY, new legislation proposed for leasing of land for renewable energy generation, emissions from small electric generating sources, and completion of remediation plans.

Region 3

In DE, changes to stationary generator emissions SIP and hazardous waste regulations. In MD, final changes to requirements for nitrogen removal technology for on-site sewage disposal and NESHAP and NSPS source permits for construction. In PA, changes to the State T&E Species list. In VA, final legislation updating VPDES regulations, controlling Northern Virginia vehicle emissions, and changing the State T&E Species list.

Region 5

In IL, changes to radiation registration and operator requirements, proposed changes to asbestos abatement rules, and the 2013 Regulatory Agenda. In IN, final changes to pesticide use and application rules and proposed changes to Stage II gasoline vapor recovery systems. In MI, a Clean Corporate Citizen program approved and changes to site cleanup standards and air pollution regulations. In MN, approval of GHG rules and proposed changes to the State T&E Species list. In OH, proposed revisions to infectious waste rules and proposed universal waste list expansion. In WI, multiple SIP revisions addressed by USEPA.

Federal Activity

USEPA adjusts its list of alternate fire suppressants; and, has revised guidance that discusses the potential applicability of the BFPP provision to certain tenants who lease contaminated or formerly contaminated properties under CERCLA. USFWS has initiated a status review of the prairie gray fox and the plains spotted skunk. USDOE has proposed a determination that commercial and industrial compressors meet the criteria for covered equipment under the EPCA.

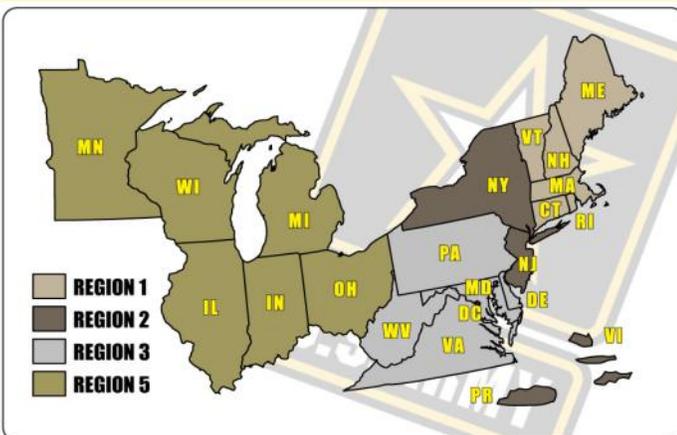


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Region 1

For more information on any state issues in Region 1, contact [Bob Muhly](#), Army Regional Environmental Coordinator, Regions 1 & 2, (410) 278-6140.



New Hampshire

Legislature convened 2 Jan 13 and adjourns 1 Jul 13

FINAL RULES

FEDERAL STANDARDS ANNUAL UPDATE OF HAZARDOUS AIR POLLUTANTS The New Hampshire Department of Environmental Services (NHDES) has issued a [final rule](#) to provide the required annual update of state chapter Env-A 500, Standards Applicable to Certain New or Modified Facilities and Sources of Hazardous Air Pollutants. The final rule incorporates by reference federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and NESHAP for specific source categories (also referred to as maximum achievable control technology (MACT) standards). The update is required for NHDES to maintain program primacy from USEPA. The final rule will be reviewed by the Joint Legislative Committee on Administrative Rules on 18 Jan 13.

PROPOSED RULES

EXPLOSIVE RULES The New Hampshire Department of Safety (NHDS) has proposed to [readopt](#) the Saf-C 1600 rules, which establish procedures for the handling, storage, sale, transportation and use of explosive materials. The rules were scheduled to expire on 20 Dec 12, but they were extended until the rulemaking is complete. The proposed readoption doesn't alter the existing rules. Comments are due by 22 Jan 13.



Maine

Legislature convened 5 Dec 12 and adjourns 19 Jun 13

PROPOSED RULES

DRAFT CHANGES TO STORMWATER BMP TECHNICAL DESIGN MANUAL The Maine Department of Environmental Protection (MEDEP) has proposed [draft changes](#) to the Stormwater Best Management Practices (BMP) Technical Design Manual. The proposal updates Chapter 7.1 regarding the design of grassed underdrained soil filters, and Chapter 7.2 regarding the design of underdrained bioretention cells. The comment period closed on 4 Jan 13.



Massachusetts

Legislature convened 2 Jan 13 and adjourns 31 Dec 13

PROPOSED RULES

ASBESTOS REGULATION REFORM AMENDMENTS The Massachusetts Department of Environmental Protection (MADEP) has proposed [amendments](#), at 310 CMR 7.15, to streamline asbestos abatement work practices, operation and maintenance procedures, and homeowner requirements. The amendments also make the regulations clearer and more consistent with USEPA's asbestos standards contained in its NESHAP by incorporating existing federal requirements. Comments are due by 8 Feb 13.

SOLID WASTE MANAGEMENT FACILITY REGULATION AMENDMENTS MADEP has proposed [amendments](#) to streamline the Solid Waste Management Facility Regulations at 310 CMR 19.000. The amendments: (1) streamline aspects of state permitting for transfer stations, certain post-closure uses at closed landfills, and management of "Special Wastes;" (2) standardize and expand the solid waste program's use of third party inspections and reviews at solid waste management facilities; and (3) standardize certain other program requirements that have traditionally been dealt with in facility permits. Comments are due by 8 Feb 13.

REVISED DRAFT SOLID WASTE MASTER PLAN MADEP is [soliciting comment](#) on a Revised Draft Solid Waste Master Plan. The revised draft modifies the moratorium on municipal solid waste combustion to encourage innovative and alternative technologies for converting municipal solid waste to energy or fuel on a limited basis. The moratorium on new capacity for traditional combustion remains in place. Comments are due by 15 Feb 13.

Region 2

For more information on any state issues in Region 2, contact [Bob Muhly](#), Army Regional Environmental Coordinator, Regions 1 & 2, (410) 278-6140.



WATER CODE AND COMPREHENSIVE PLAN AMENDMENTS The Delaware River Basin Commission has adopted [amendments](#) to the Water Code and Comprehensive Plan that implement a revised water audit approach to identify and control water loss. An estimated 150 million gallons of treated and pressurized water is physically lost from public water distribution systems in the Delaware River Basin per day and current methods to account for, track and reduce the loss are inadequate. The amendments phase in a program requiring water purveyors to perform a water audit and report their findings in accordance with the audit structure established by the American Water Works Association (AWWA) and the International Water Association (IWA). As of 1 Jan 12, the owners of water supply systems serving the public with sources or service areas located in the Delaware River Basin were required to implement an annual calendar year water audit program. The program had to conform to the IWA/AWWA Water Audit Methodology and corresponding AWWA guidance. The current amendments require, effective 1 Jan 13, that reported "non-revenue water" (including unbilled authorized consumption, apparent losses and real losses) must now be computed in accordance with the IWA/AWWA methodology and guidance. Under the previous rule water purveyors were only encouraged to implement the new methodology and guidance on a voluntary basis. Commission members include the states of New Jersey, New York, Pennsylvania, and Delaware. The amendments became effective on 1 Jan 13.



Legislature convened 8 Jan 13 and adjourns 31 Dec 13

PROPOSED LEGISLATION

NEW JERSEY SHORE PROTECTION PLAN UPDATE On 3 Dec 12, [AB 3500](#) was introduced. The bill requires the New Jersey Department of Environmental Protection (NJDEP), within six months of enactment, to prepare an update to the New Jersey Shore Protection Master Plan. The State's current plan was issued in October 1981. The bill was referred to the Environment and Solid Waste Committee upon introduction. *REEO-N Note: An update to the master plan could potentially impact Army activities at the Army National Guard Sea Girt facility.*

DE MINIMUS LEVELS FOR HAPS AND HAZARDOUS SUBSTANCES On 6 Dec 12, [AB 3578](#) was introduced. The bill establishes de minimus levels for the regulation of air contaminants and hazardous air pollutants, and directs NJDEP to establish de minimus levels for the regulation of hazardous substances. The bill was referred to the Environment and Solid Waste Committee upon introduction.

WASTEWATER TREATMENT SYSTEM OPERATOR REQUIREMENTS On 8 Jan 13, [AB 3639](#) was introduced. The bill removes certain requirements for professional engineers to take an exam to operate water supply

and wastewater treatment systems. The bill was referred to the Regulatory Oversight and Gaming Committee upon introduction.



Legislature convened 9 Jan 13 and adjourns 31 Dec 13

PROPOSED LEGISLATION

LEASING OF LAND FOR WIND OR SOLAR ELECTRIC GENERATING SYSTEMS On 9 Jan 13, [SB 401](#) was introduced. The bill authorizes the lease of lands adjacent to state, county and town highways for the operation of wind or solar electric generating systems. The bill also authorizes the metropolitan transportation authority to enter into such leases. The bill was referred to the Transportation Committee upon introduction.

EMISSION STANDARDS FOR SMALL ELECTRIC GENERATING SOURCES On 9 Jan 13, [AB 201](#) was introduced. The bill requires the New York Department of Environmental Conservation (NYDEC) to promulgate standards for emission of regulated air contaminants from small electric generating sources. The bill: (1) defines the sources that are covered; (2) specifies criteria; and (3) provides for a permitting requirement and an alternative permitting mechanism involving a registration process. The bill was referred to the Environmental Conservation Committee upon introduction.

REQUIREMENTS FOR THE TIMELY COMPLETION OF REMEDIATION PLANS On 9 Jan 13, [AB 270](#) was introduced. The bill imposes penalties upon a state agency, public authority or public benefit corporation that fails to complete a remediation plan within the projected time schedule. The bill provides that upon such a failure the agency would be required to hold a public hearing and provide: (1) an explanation for its failure to comply with the time schedule; and (2) an amendment to the remediation plan which provides opportunity for participation by appropriate citizens groups. The bill was referred to the Environmental Conservation Committee upon introduction.

OTHER REGULATORY ACTIVITY

NYDEC 2013 REGULATORY AGENDA AND 5-YEAR RULE REVIEW NYDEC has published its annual [Regulatory Agenda and 5-Year Rule Review](#). The agenda is a listing of regulations that may be proposed for adoption or amendment within the calendar year, and a review of department rules adopted five years previously.

Region 3

For more information on any state issues in Region 3, contact [Amy Alton](#), Army Regional Environmental Coordinator, Region 3, (410) 278-6170.



WATER CODE AND COMPREHENSIVE PLAN AMENDMENTS The Delaware River Basin Commission has adopted [amendments](#) to the Water Code and Comprehensive Plan that implement a revised water audit approach to identify and control water loss. Commission members include the states of New Jersey, New York, Pennsylvania, and Delaware. The amendments became effective on 1 Jan 13. For further details, refer to the notice posted under Region 2 (see page 3).



Legislature convened 8 Jan 13 and adjourns 30 Jun 13

CONTROL OF STATIONARY GENERATOR EMISSIONS SIP REVISION USEPA has issued a direct final rule approving a Delaware State Implementation Plan (SIP) revision [[77 FR 71700](#), 4 Dec 12]. The revision amends Regulation 1102--PERMITS, Appendix A, to provide permit exemptions for certain internal combustion engines. The amended Appendix A exempts: (1) any internal combustion engine associated with a stationary electrical generator that: (a) has a standby power rating of 450 kilowatts or less that is used only during the times of emergency, or (b) is located at any residence; and (2) any internal combustion fuel burning equipment, which is not associated with a stationary electrical generator, and has an engine power rating of 450 horsepower or less. Barring adverse comment the direct final rule became effective on 3 Jan 13.

FINAL RULES

UPDATE OF STATE HAZARDOUS WASTE REGULATIONS The Delaware Department of Natural Resources and Environmental Control (DDNREC) has finalized [amendments](#) to the hazardous waste regulations. The amendments update Delaware's requirements to be consistent with the federal requirements, thus bringing the state into compliance with USEPA standards. Additionally, the amendments clarify language, as well as correct clerical errors currently found in Delaware's existing regulations. The amendments become effective on 21 Jan 13.



Legislature convened 9 Jan 13 and adjourns 8 Apr 13

FINAL RULES

NITROGEN-REMOVAL TECHNOLOGY FOR ON-SITE SEWAGE DISPOSAL SYSTEMS The Maryland Department of the Environment (MDE) has [adopted](#) amendments that require nitrogen-removal technology for on-site sewage disposal systems (OSDS) serving new construction in the Chesapeake Bay watershed and the Atlantic Coastal Bays watershed. In addition, the amendments require nitrogen removal for any replacement system on property located in either the Chesapeake Bay critical area or the Atlantic Coastal Bays critical area pursuant to the requirements in Environment Article, §9-1108, Annotated Code of Maryland. Reducing the nitrogen discharged by OSDS has been identified as an action necessary as part of Maryland's Watershed Implementation Plan in order to meet water quality standards. A notice of the proposed rule was published in the July edition of the *Northern Region Review*. The amendments became effective on 1 Jan 13.

AMENDMENTS TO THE NESHAP AND NSPS SOURCE PERMITS TO CONSTRUCT REQUIREMENTS

MDE has [adopted](#) an amendment to correct an unintended consequence of a recent amendment to COMAR 26.11.01.01. The previous amendment, effective 5 Mar 12, altered the definitions for NESHAP and NSPS sources by expanding the universe of sources required to obtain a permit to construct under COMAR 26.11.02.09. The newly adopted amendment better defines exemptions to the NESHAP and NSPS sections and brings the regulations into compliance with statutory requirements. The adopted amendments will be submitted to USEPA for approval as a SIP revision. The amendments became effective on 24 Dec 12.



Legislature convened 1 Jan 13 and adjourns 31 Dec 13

FINAL RULES

THREATENED AND ENDANGERED SPECIES AMENDMENTS The Pennsylvania Fish and Boat Commission has issued a [final rule](#) amending Chapters 75.1 - 75.3, relating to endangered, threatened, and candidate species. The final rule: (1) removes the American brook lamprey from the Commonwealth's list of candidate species; and (2) adds

the following species to the Commonwealth's list of endangered species: eastern mud turtle, round hickorynut, pistolgrip, rayed bean, and Chesapeake logperch. A notice of the proposed rule was published in the July edition of the *Northern Region Review*. The final rule became effective on 22 Dec 12.

OTHER REGULATORY ACTIVITY

NPDES PERMIT FOR PETROLEUM PRODUCT GROUNDWATER REMEDIATION FACILITIES The Pennsylvania Department of Environmental Protection (PADEP) has issued a [notice](#) to extend, by 12 months, the expiration date of the current National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges from Petroleum Product Groundwater Remediation Facilities (PAG-05). The existing PAG-05 was set to expire on 28 Dec 12, but it is now extended until 28 Dec 13. Persons that are operating under the PAG-05 General Permit may continue to operate until 28 Dec 13, or the expiration date of coverage identified on the permit coverage approval page, whichever is later. PADEP has extended the availability of the permit in order to adequately complete preparation of the renewal of the PAG-05 General Permit.



Legislature convened 9 Jan 13 and adjourns 7 Feb 13

FINAL RULES

REGULATORY UPDATE OF THE VPDES REGULATION The Virginia Department of Environmental Quality (VADEQ) has issued a [final rule](#) amending the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation, 9VAC25-31. The regulation includes citations and requirements in the form of incorporated federal regulatory text at Title 40 of the CFR. The final rule incorporates updates to Title 40 of the CFR as published on July 1, 2012. The final rule becomes effective on 30 Jan 13.

INCORPORATION OF FEDERAL AIR REGULATIONS VADEQ has issued a [final rule](#) adopting amendments to various state environmental regulations by incorporating, by reference, specific federal regulations to reflect the CFR as published on July 1, 2012. The new federal regulations being incorporated include: (1) two modified NSPSs: Fossil Fuel-Fired Steam Generators; and Electric Utility Steam Generating Units; (2) one modified MACT: Secondary Lead Smelting; and (3) two new MACTs: Coal- and Oil-fired Electric Utility Steam Generating Units; and Polyvinyl Chloride and Copolymers Production. The final rule becomes effective on 13 Feb 13.

CONTROL OF MOTOR VEHICLE EMISSIONS IN NORTHERN VIRGINIA VADEQ has issued a [final rule](#) adopting amendments to 9VAC5-910, Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area. The final rule conforms the regulations to state law for the testing of emissions, including remote sensing, from motor vehicles located or primarily operated in Northern Virginia. The final rule became effective on 15 Dec 12.

AMENDMENTS TO THE STATE ENDANGERED AND THREATENED SPECIES LIST The Virginia Department of Game and Inland Fisheries has issued a [final rule](#) adopting amendments to the conservation and natural resource regulations. The amendments include the: (1) addition of the black rail to the Virginia List of Endangered and Threatened Species (VLETS); (2) removal of the bald eagle from the VLETS; (3) adoption of the updated and modified federal list of endangered and threatened wildlife species; and (4) addition of the marbled crayfish to the list of Non-indigenous Aquatic Nuisance Species. The final rule became effective on 1 Jan 13.

Region 5

For more information on state issues in Region 5, contact [Dr. Jim Hartman](#), DOD Regional Environmental Coordinator, Region 5, (410) 278-6991.



Illinois

Legislature convened 9 Jan 13 and adjourns 31 May 13

FINAL RULES

REGISTRATION AND OPERATOR REQUIREMENTS FOR RADIATION INSTALLATIONS The Illinois Emergency Management Agency (ILEMA) has adopted [amendments](#) to the regulations governing registration and operator requirements for radiation installations (32 Ill. Adm. Code 320). The amendments include: (1) revisions to x-ray installation classifications; (2) increases in the registration fees of all classes to cover the cost of the x-ray registration and inspection program; and (3) additional quality assurance requirements for Class D facilities that use digital imaging systems. The amendments became effective on 30 Nov 12.

PROPOSED RULES

AMENDMENTS TO THE ASBESTOS ABATEMENT REGULATIONS The Illinois Department of Public Health (ILDPH) has proposed [amendments](#) that would implement Public Act 93-894. The Act amended the Commercial and Public Building Asbestos Abatement Act to require ILDPH to license asbestos consultants and establish licensing requirements. The proposed amendments qualify the responsibilities of licensed asbestos inspectors and abatement contractors, along with defining applications procedures. Comments are due by 21 Jan 13.

WATER WELL CONSTRUCTION CODE AMENDMENTS ILDPH has proposed [amendments](#) to implement Public Act 97-363. The Act amended the Water Well and Pump Installation Contractor's License Act and the Illinois Water Well Construction Code to include new provisions and amend existing provisions governing closed loop wells. The Act also added requirements for closed loop well contractor certification. The proposed amendments clarify existing provisions and add the new requirements to bring the current regulations into compliance with the Act. Comments are due 28 Jan 13.

OTHER REGULATORY ACTIVITY

JANUARY 2013 ENVIRONMENTAL REGULATORY AGENDAS The Illinois Environmental Protection Agency (ILEPA) has published the [January 2013 Regulatory Agenda](#). The agency publishes the regulatory agenda semi-annually to identify rulemakings being considered for proposal. The Illinois Pollution Control Board has also published a [January 2013 Regulatory Agenda](#), which is an independent listing from ILEPA's list. ILPCB's list also forecasts rulemakings in which the Board may soon propose.



Indiana

Legislature convened 7 Jan 13 and adjourns 29 Apr 13

FINAL RULES

AMENDMENTS TO PESTICIDE USE AND APPLICATION REGULATIONS The State Chemist has issued a [final rule](#) amending multiple regulations governing pesticide use and application (355 IAC 4). The amendments include

updates to definitions and references and bring the regulations into compliance with the 2012 Indiana Code. A notice of the proposed rule was published in the October edition of the *Northern Region Review*. The final rule became effective on 28 Dec 12.

READOPTION OF PESTICIDE RULES The Pesticide Review Board has [readopted](#), without changes, the following rules: (1) Indiana Pesticide Law Violators, Public Listing (357 IAC 1-8); and (2) Pesticide Drift (357 IAC 1-12). The readopted rules became effective on 28 Dec 12.

PROPOSED RULES

STAGE II GASOLINE VAPOR RECOVERY SYSTEM REQUIREMENTS The Indiana Department of Environmental Management (IDEM) has proposed [amendments](#) to the rules at 326 IAC 2-11-2 and 326 IAC 8-4-6, concerning Stage II gasoline vapor recovery system requirements. The amendments phase out the use of Stage II systems. The comment period closed on 11 Jan 13.



Legislature convened 9 Jan 13 and adjourns 31 Dec 13

APPROVAL OF REGIONAL HAZE SIP SUBMISSION USEPA has issued a final rule approving a SIP submittal from the State of Michigan, addressing regional haze for the first implementation period [[77 FR 71533](#), 3 Dec 12]. USEPA found that Michigan met several regional haze planning requirements, including identification of affected Class I areas, provision of a monitoring plan, consultation with other parties, and adoption of a long-term strategy providing for reasonable progress. USEPA also found that the State's submittal addressed best available retrofit technology (BART) for some sources but failed to satisfy BART for two industry sources. The final rule became effective on 2 Jan 13.

FINAL LEGISLATION

SEVERAL NEW LAWS CREATE A CLEAN CORPORATE CITIZEN PROGRAM On 2 Jan 13, Governor Rick Snyder signed into law Senate Bills [939](#), [940](#), [941](#), and [942](#). These bills were tie-barred, meaning that the entire series of bills had to be signed by the Governor for any of the bills to become law. The new laws support the creation and implementation of a Clean Corporate Citizen (C3) Program. Senate Bill 939 added Part 14 to the Natural Resources and Environmental Protection Act (NREPA) creating the C3 program. Senate Bill 940 amended the Management and Budget Act to give C3 facilities preference in State purchasing decisions. Senate Bills 941 and 942 amended the Public Health Code and the Safe Drinking Water Act, respectively, to provide that Parts 135 (Radiation Control) and 138 (Medical Waste) of the Health Code and the Safe Drinking Water Act would be subject to the proposed Part 14 of NREPA. A notice of the proposed bills was published in the June edition of the *Northern Region Review*. The new laws became effective upon signature.

SITE REMEDIATION CLEANUP STANDARDS & PROCEDURES On 22 Dec 12, Governor Rick Snyder signed into law [SB 1328](#). The new law amends several sections of the Natural Resources and Environmental Protection Act relating to cleanups and funding. The law revises the allocation of money from the Clean Michigan Initiative Bond Fund to be used for grants and loans. It also requires the Michigan Department of Environmental Quality's (MIDEQ) evaluation and revision of environmental cleanup criteria to take into account best practices from other states, reasonable and realistic conditions, and sound science. The new law repeals provisions of the act for the polychlorinated biphenyls (PCBs) regulation. A notice of the proposed bill was published in the October edition of the *Northern Region Review*. The new law became effective upon signature.

CONSTRUCTION CODE REVISIONS On 27 Dec 12, Governor Rick Snyder signed into law [HB 4561](#). The new law amends the Single State Construction Code Act, including the removal of the Michigan Uniform Energy Code from the State Construction Code. Also, beginning with the 2015 national code change cycle, the new law requires the Director of the Department of Licensing and Regulatory Affairs to add, amend, and rescind rules to update the Michigan Residential Code every three to six years, as the Director determines appropriate. The new law becomes effective on 28 Mar 13.

FINAL RULES

AMENDMENTS TO THE AIR POLLUTION CONTROL RULES MIDEQ has adopted [amendments](#) to Part 1, General Provisions, of the air pollution control rules. The amendments: (1) modify the existing definitions to add a significance threshold for the new PM2.5 pollutant, and (2) modify the definition of "Volatile Organic Compound," by adding to the list of compounds with negligible reactivity. A notice of the proposed amendments was published in the August edition of the *Northern Region Review*. The amendment became effective on 30 Nov 12.

AMENDMENTS TO FEDERAL CONFORMITY AND NEW SOURCE REVIEW MIDEQ has adopted [amendments](#) to air pollution control rules, Part 19, to modify existing language. The amendments make the regulations consistent with the federal requirements for the New Source Review permitting program, Title 40 of the CFR, Section 51.165. A notice of the proposed amendments was published in the August edition of the *Northern Region Review*. The amendments became effective on 30 Nov 12.

AMENDMENTS TO PREVENTION OF SIGNIFICANT DETERIORATION REGULATIONS MIDEQ has adopted [amendments](#) to air pollution control rules, Part 18, to modify existing language. The amendments make the regulations consistent with the federal requirements for the Prevention of Significant Deterioration of Air Quality, Title 40 of the CFR, Section 51.166. The amendments became effective on 30 Nov 12.



Legislature convened 8 Jan 13 and adjourns 20 May 13

FINAL RULES

GREENHOUSE GAS PERMIT REQUIREMENTS The Minnesota Pollution Control Agency (MPCA) has adopted [permanent rules](#) relating to greenhouse gas (GHG) permit requirements, to replace temporary rules adopted in January 2011. The permanent rules amend *Minnesota Rules*, chapters 7005, 7007, and 7011. The permanent rules allow the state to maintain alignment of its air permitting programs with the corresponding federal programs. The rules also limit applicability of the GHG permit requirements to larger sources. A notice of the proposed rules was published in the August edition of the *Northern Region Review*. The permanent rules became effective on 31 Dec 12.

PROPOSED RULES

UPDATE TO THE STATE T & E SPECIES LIST The Minnesota Department of Natural Resources (MNDNR) has [proposed rules](#) that would update the state List of Endangered, Threatened, and Special Concern Species in *Minnesota Rules*, chapter 6134. The rules were last updated in 1996. Comments are due by 14 Feb 13.

UPDATES TO ELECTRIC GENERATION AND TRANSMISSION FACILITIES REGULATIONS The Minnesota Public Utilities Commission has requested comments on possible [amendments](#) to two rule chapters governing large electric power plants and high-voltage transmission lines: Chapter 7849 and Chapter 7850. The Commission is considering rule amendments to streamline and enhance the effectiveness and efficiency of both processes. Comments are due by 24 Jan 13.



Legislature convened 7 Jan 13 and adjourns 31 Dec 13

REVISIONS TO MAINTENANCE PLANS FOR OZONE NON-ATTAINMENT AREAS The Ohio Environmental Protection Agency (OHEPA) has submitted two separate requests to USEPA for approval of maintenance plan revisions for the [Dayton-Springfield Area 1997 Ozone Non-attainment Area](#), and the [Lima Metropolitan Area 1997 Ozone Non-attainment Area](#). The revisions update mobile emission projections and conformity budgets based on emission rates generated from USEPA's latest mobile emissions model, the Motor Vehicle Emission Simulation (MOVES) 2010. In December 2009, MOVES replaced MOBILE6.2 as USEPA's official emission factor model. A public hearing is scheduled for

the Dayton-Springfield Area revision on 31 Jan 13, and comments are also due that day. The Lima Area revision comment period closed on 3 Jan 13.

PROPOSED RULES

REVISIONS TO THE INFECTIOUS WASTE RULES OHEPA's Division of Materials and Waste Management (DMWM) has proposed [revisions](#) to the infectious waste rules (3745-27, 3745-28). DMWM has evaluated the statute and regulations regarding infectious waste and has identified several areas where regulations can be streamlined. One area, specifically, is the management of infectious waste prior to and during transportation. The comment period closed on 7 Jan 13.

OTHER REGULATORY ACTIVITY

UNIVERSAL WASTE LIST OHEPA is seeking early [stakeholder input](#) to help decide whether additional hazardous wastes should be added to Ohio's list of universal wastes (OAC 3745-273). OHEPA is considering adding items to its list of universal wastes including: electronic items, aerosol cans, pharmaceuticals, antifreeze, oil based finishes, paint, and paint related wastes. Comments are due by 8 Feb 13.

ONE-YEAR EXTENSION GUIDANCE FOR MERCURY AND AIR TOXICS STANDARDS RULE OHEPA has completed the [draft](#) "Guidance on the Criteria for Granting One-Year Extensions under the Utility MATS Rule." The guidance details what factors will be considered in granting compliance extensions, of up to one year, under the new Mercury and Air Toxics Standards (MATS) Rule. The comment period ended on 28 Dec 12.



Legislature convened 7 Jan 13 and adjourns 31 Dec 13

DISAPPROVAL OF PM2.5 PERMITTING REQUIREMENTS USEPA has issued a proposed rule to disapprove a Wisconsin SIP revision concerning permitting requirements relating to particulate matter of less than 2.5 micrometers (PM2.5) [[77 FR 74817](#), 18 Dec 12]. USEPA has proposed to disapprove the revisions because they do not meet the 2008 PM2.5 SIP requirements. The comment period closed on 17 Jan 13.

MILWAUKEE-RACINE 2006 PM2.5 NAAQS NONATTAINMENT AREA USEPA has issued a proposed rule addressing comments received on the [24 Apr 12](#) proposed rule approving the Milwaukee-Racine, Wisconsin area for attainment of the 2006 PM2.5 National Ambient Air Quality Standards (NAAQS) [[77 FR 76427](#), 28 Dec 12]. USEPA received several comments on the original proposal, including one suggesting that the suspension of certain Clean Air Act (CAA) requirements cannot be applied in this instance because it only pertains to the 1997 PM2.5 NAAQS and not to the 2006 PM2.5 NAAQS. As a result, the newly issued proposed rule covers a narrow portion of the original determination to address the submitted comments. USEPA will address all comments received on the original proposal and the newly proposed rule in a future final notice. Comments are due by 28 Jan 13.

PSD PERMITTING REQUIREMENTS FOR GHG EMISSIONS USEPA has issued a proposed rule to approve Wisconsin SIP revisions [[77 FR 76430](#), 28 Dec 12]. The revisions modify Wisconsin's Prevention of Significant Deterioration (PSD) program to establish appropriate emission thresholds for determining which new stationary sources and modification projects become subject to Wisconsin's PSD permitting requirements for their GHG emissions. Additionally, the revisions defer, until 21 Jul 14, the application of the PSD permitting requirements to biogenic carbon dioxide (CO₂) emissions from bioenergy and other biogenic stationary sources in the state. Comments are due by 28 Jan 13.

Federal Activity

AIR

REMOVAL OF FIRE SUPPRESSANTS UNDER SNAP USEPA has issued a withdrawal, in part, of a direct final rule published on 19 Sept 12 ([77 FR 58035](#)), which listed three fire suppressants under the Significant New Alternatives Policy (SNAP) Program [[77 FR 74381](#), 14 Dec 12]. USEPA has withdrawn C7 Fluoroketone from the listing due to the receipt of adverse comment. A notice of the direct final rule was published in the October edition of the *Northern Region Review*. The withdrawal became effective on 14 Dec 12. The other listings in the September direct final rule became effective on December 18, 2012.

DRAFT INTEGRATED SCIENCE ASSESSMENT FOR LEAD USEPA has released the "Third External Review Draft Integrated Science Assessment for Lead" [[77 FR 70776](#), 27 Nov 12]. The integrated science assessment forms a foundation for the periodic review of the NAAQS for lead. The document indicates new epidemiologic and toxicological studies support the findings of the previous (2006) assessment and provide additional evidence for human health effects at increasingly lower levels. In addition to neurological effects in children and cardiovascular effects in adults, newly demonstrated immune and renal system effects among general population groups have emerged as low-level Pb-exposure effects of potential public health concern. Comments are due by 28 Jan 13.

CLIMATE CHANGE

NATIONAL WATER PROGRAM 2012 STRATEGY: RESPONSE TO CLIMATE CHANGE USEPA has published the final "[National Water Program 2012 Strategy: Response to Climate Change](#)" [[77 FR 76034](#), 26 Dec 12]. The strategy describes a set of long-term visions and goals for the management of water resources in light of climate change and charts key strategic actions to be taken to achieve the goals in 2012 and subsequent years. The strategy will be a roadmap to inform the National Water Program planning process. The strategy also includes goals and strategic actions for USEPA in ten geographic climate regions.

ENERGY

COMMERCIAL AND INDUSTRIAL COMPRESSORS The U.S. Department of Energy (USDOE) has proposed a determination that commercial and industrial compressors meet the criteria for covered equipment under the Energy Policy and Conservation Act (EPCA) [[77 FR 76972](#), 31 Dec 12]. Compressors are not currently included as covered products requiring energy conservation standards under 10 CFR part 430. DOE believes coverage of compressors is necessary to carry out the purposes of part A-1 of EPCA to improve the energy efficiency of electric motors, pumps and certain other industrial equipment. Comments are due by 30 Jan 13.

RENEWABLE ENERGY DEVELOPMENT ON CONTAMINATED PROPERTY GUIDANCE USEPA has recently issued "[Revised Enforcement Guidance Regarding the Treatment of Tenants Under the CERCLA Bona Fide Prospective Purchaser Provision](#)," and three new model comfort/status letters for lessees involved in renewable energy development on contaminated property. The revised guidance discusses the potential applicability of the bona fide prospective purchaser (BFPP) provision to tenants who lease contaminated or formerly contaminated properties. The guidance also discusses how USEPA intends to exercise its enforcement discretion to treat certain tenants as BFPPs under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The revised guidance addresses lessees who were not previously covered by USEPA guidance because the owner of the property was not a BFPP. While the impetus for this effort is linked to renewable energy development, the updated enforcement discretion guidance applies broadly, across all industries.

FISH AND WILDLIFE SERVICE

LISTING PETITION FOR PRAIRIE GRAY FOX AND PLAINS SPOTTED SKUNK The U.S. Fish and Wildlife Service (USFWS) has issued a 90-day finding on a petition to list the prairie gray fox, the plains spotted skunk, and a distinct population segment of the Mearns's eastern cottontail in Illinois and western Indiana as endangered or threatened species under the Endangered Species Act (ESA) [[77 FR 71759](#), 4 Dec 12]. Based on the review, USFWS

found that the petition presents substantial scientific or commercial information that listing the prairie gray fox and the plains spotted skunk may be warranted. Therefore, USFWS has initiate a status review of the prairie gray fox and the plains spotted skunk to determine if listing either of these subspecies is warranted. USFWS has also determined not to initiate a status review for Mearn's eastern cottontail in Illinois and western Indiana. Comments are due by 4 Feb 13.

HAZARDOUS MATERIALS TRANSPORTATION

NEW MARKING STANDARDS FOR PARCELS CONTAINING HAZARDOUS MATERIALS The U.S. Postal Service has issued a final rule revising the Domestic Mail Manual to adopt new mandatory marking standards for parcels containing mailable hazardous material [[77 FR 70895](#), 28 Nov 12]. The new standards allow the manual to align with revised U.S. Department of Transportation (USDOT) requirements. The revisions also provide terminology and categorization changes needed to respond to the pending elimination of the "Other Regulated Material" (ORM-D) category and the partial elimination of the "consumer commodity" category by USDOT. The final rule became effective on 1 Jan 13.

TOXICS SUBSTANCES

REVISIONS TO THE MINIMUM RISK PESTICIDES EXEMPTION USEPA has issued a proposed rule that more clearly describes the active and inert ingredients permitted in minimum risk pesticide products eligible for the exemption from federal registration requirements [[77 FR 76979](#), 31 Dec 12]. Comments are due by 1 Apr 13.

RENOVATION, REPAIR, AND PAINTING ACTIVITIES INVOLVING LEAD-BASED PAINT USEPA has issued an advance notice of proposed rulemaking concerning renovation, repair, and painting activities on and in public and commercial buildings [[77 FR 76996](#), 31 Dec 13]. USEPA is in the process of determining whether these activities create lead-based paint hazards, and, for those that do, developing certification, training, and work practice requirements as directed by the Toxic Substances Control Act. A public hearing is scheduled for 26 Jun 13, and comments are due by 1 Apr 13.

AVAILABILITY OF FINAL TOXICOLOGICAL PROFILES The Agency for Toxic Substances and Disease Registry (ATSDR) released ten final [toxicological profiles](#) of priority hazardous substances [[77 FR 74192](#), 13 Dec 12]. The ten toxicological profiles are: Acrylamide; 1,3-Butadiene; Cadmium; Carbon Monoxide; Chromium; 1,4-Dioxane; Manganese; Phosphate Ester Flame Retardants; Radon; and Vanadium.

WATER

2012 RECREATIONAL WATER QUALITY CRITERIA USEPA has released the 2012 Recreational Water Quality Criteria (RWQC) document [[77 FR 71191](#), 29 Nov 12]. The document contains recreational water quality criteria recommendations for protecting human health in ambient waters that are designated for primary contact recreation. The criteria measure culture enterococci in marine and fresh waters, or E. coli in fresh waters. The 2012 RWQC differs from the current 1986 Ambient Water Quality Criteria in multiple areas.

Professional Development

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

Please note: listing of commercial sponsored training and conferences should not be interpreted as a government endorsement of those training or conferences.

TRAINING

FEMP HAS SEVERAL E-TRAINING COURSES RELATED TO ENERGY MANAGEMENT The U.S. Department of Energy Federal Energy Management Program (FEMP) is partnering with the National Institute of Building Sciences to offer several FEMP e-learning courses on the Whole Building Design Guide (WBDG). These interactive, on-demand, and self-tracking courses are supportive of the Federal Building Personnel Training Act competencies and provide up-to-date information targeted to mid-level Federal Energy, Water, and Sustainability Managers. **[FEMP01 Commissioning for Existing Federal Buildings](#)** (4.5 hrs.): This course is designed for Energy and Facility Managers who manage commissioning processes for existing Federal buildings. **[FEMP02 Planning an Energy Assessment for Federal Facilities](#)** (4 hrs.): Learn to comply with Executive Orders and legislative mandates and meet the requirements of Section 432 of the Energy Independence and Security Act of 2007. **[FEMP03 Launching a Utility Energy Services Contract \(UESC\): Getting to Yes!](#)** (3.0 hrs.): Learn to develop and implement energy efficiency, water efficiency, and renewable energy projects on Federal sites under a Utility Energy Services Contract. **[FEMP04 Federal On-Site Renewable Power Purchase Agreements](#)** (2.5 hrs.): Learn the components and benefits of a Power Purchasing Agreement (PPA), initiating a PPA contract, PPA project development considerations, and requesting and evaluating PPA proposals. **[FEMP05 Advanced Electric Metering in Federal Facilities](#)** (3.5 hrs.): Learn about the components of an advanced electric metering system Federal requirements and help sites to take full advantage of metered data.

WEB-BASED STORMWATER BEST MANAGEMENT PRACTICES TRAINING The focus of this 2-hour **[USEPA stormwater course](#)** is Best Management Practices (BMP) performance, including pollutant concentrations, volume reduction, and total load reduction. This course is available online or in an MP4 version.

NEW CLIMATE MODELING PRIMER The National Academy of Sciences created a **[website](#)** that offers a six-part primer on the basics of climate modeling. The primer describes the differences between weather and climate, provides an overview of computer models, the process of constructing a climate model, the steps involved in validating climate models, examples of individuals and companies that use climate models, and links to key developers of climate models.

USACE PROSPECT TRAINING USACE announced the **[FY 2013 PROSPECT Training Program](#)**. The course catalog (**[Purple Book 2013](#)**) has a complete list of classes and dates. Courses are open to all federal employees, state, county and city employees and contractors. There are different registration processes for each entity.

NATIONAL CONFERENCES

MILITARY ENERGY ALTERNATIVES CONFERENCE On 5-7 Mar 13, the **[Military Energy Alternatives conference](#)** will be held in Alexandria, VA at the Westin Alexandria. The conference will host an in-depth discussion on strategies to integrate the latest technologies, and establish returns on alternative energy investments requirements.

GLOBALCON 2013 On 6-7 Mar 13, the 24th **[Globalcon conference](#)** will be held in Philadelphia, PA at the Pennsylvania Convention Center. Presented by the Association of Energy Engineers, decision makers from business, industry, and government will discuss and share lessons learned on integrated energy solutions, affordable energy supply, and effective management of energy and overall operational costs. Topics addressed at this conference include: energy efficiency, high performance buildings, energy conservation, renewables, alternative energy and onsite generation.

COASTAL GEOTOOLS CONFERENCE On 25-28 Mar 13, the [Coastal GeoTools conference](#) will be held in Myrtle Beach, SC at the Embassy Suites at Kingston. The conference series focuses on the technical information needs of the nation's coastal programs. The 2013 conference will focus on building the Digital Coast, a Web platform that provides access to geospatial data, tools, and technical training.

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](#)
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