



Northern Review

of Legislative & Regulatory Actions



The U.S. Army Regional Environmental & Energy Office

February 2013

The **NORTHERN 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 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](#).

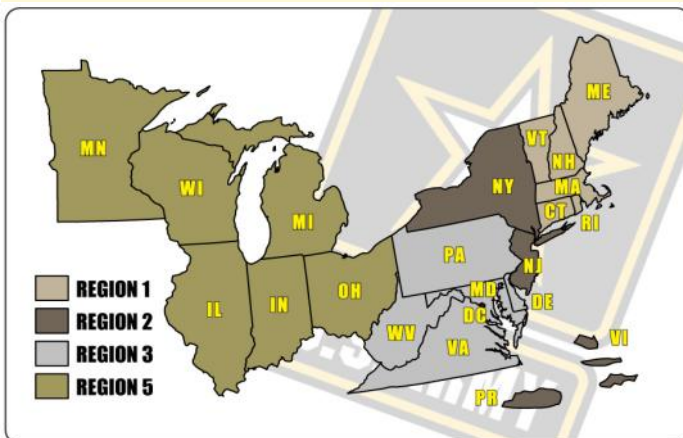


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What's In This Review?

Region 1

In CT, proposed changes to regulations covering VOC emissions from storage tanks, and proposed anti-idling legislation. In MA, release of annual list of prospective regulations, and comprehensive energy audits for Massachusetts military bases. In NH, proposed amendments to storage tank regulations and certifications. In VT, proposed legislation for a moratorium on wind electric generation plants.

Region 2

In NJ, draft general operating permit for emergency generators, and legislative proposals for bio-based heating oil and remediation de minimis exemptions. In NY, new legislation proposed for vehicle idling, petroleum bulk storage facilities, and stricter lead standards. In VI, proposed legislative protection for significant land and marine resources.

Region 3

In DC, final changes to the definition of regulated medical waste. In MD, final changes to the control of noise pollution, regulations for invasive plants, and the Living Shoreline Protection Act. In PA, proposed changes to qualification requirements for T&E surveyors. In VA, final updates to the hazardous waste management regulations.

Region 5

In IN, final changes to ambient air quality standards and UST regulations, and a proposed transfer of issuing authority for NPDES general permits. In MI, a new law promoting energy performance contracts, and a draft statewide PCB TMDL. In OH, proposed amendments to NPDES and pretreatment program rules, draft language for construction activity stormwater discharges, and stage II vapor recovery and automobile coating amendments.

DOD Activity

DoD, along with other federal agencies, sign a Sacred Sites MOU protecting tribal access to sacred Indian sites.

Federal Activity

USEPA final rules for the PM2.5 NAAQS and RICE NESHAP, release of new guidance for assessing protectiveness at sites for vapor intrusion, and availability of the Fall 2012 Semiannual Unified Agenda and Regulatory Plan.

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.



FEDERAL ACTIVITY

MASSACHUSETTS AND NEW HAMPSHIRE ENHANCED MOTOR VEHICLE I/M PROGRAMS USEPA issued a direct final rule approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts and the State of New Hampshire [[78 FR 5292](#), 25 Jan 13]. The revisions include updates to the enhanced motor vehicle inspection and maintenance (I/M) programs in both states. The revised programs include a test and repair network for an on-board diagnostic (OBD2) testing program for model year 1996 and newer vehicles. Barring adverse comment, the direct final rule will become effective on 26 Mar 13.



Legislature convened 9 Jan 13 and adjourns sine die 5 Jun 13.

FEDERAL ACTIVITY

RACT FOR 1997 8-HOUR OZONE STANDARD USEPA has issued a proposed rule to approve SIP revisions submitted by the State of Connecticut [[78 FR 4800](#), 23 Jan 13]. The revisions demonstrate that Connecticut meets the requirements of reasonably available control technology (RACT) for oxides of nitrogen (NO_x) and volatile organic compounds (VOCs) set forth by the Clean Air Act (CAA) with respect to the 1997 8-hour ozone standard. Comments are due by 22 Feb 13.

SIP REVISIONS ADDRESSING REGIONAL HAZE USEPA has issued a supplemental proposed rule to amend a previous proposal ([26 Mar 12](#)) to approve a Connecticut SIP revision [[78 FR 5158](#), 24 Jan 13]. The SIP revision addressed regional haze for the first planning period from 2008 through 2018. USEPA is supplementing the March 2012 proposal by adding the approval of Connecticut's alternative to best available retrofit technology (BART) plan based, in part, on Connecticut's Clean Air Interstate Rule (CAIR) rule, as originally submitted by the state on 18 Nov 09. Comments are due by 25 Feb 13.

PROPOSED LEGISLATION

ENFORCEMENT OF ANTI-IDLING LAWS On 24 Jan 13, [HB 6049](#) was introduced and referred to the joint committee on transportation. The bill amends the Connecticut General Statutes to allow any state police, local police or traffic enforcement official to enforce any violation of the state prohibition against motor vehicle idling and to issue fines for any such violation.

PROPOSED RULES

CONTROLS FOR VOC EMISSIONS FROM STORAGE TANKS The Connecticut Department of Energy and Environmental Protection (CTDEEP) has proposed [amendments](#) to a state regulation concerning the abatement of air pollution. The amendments enhance existing requirements concerned with the control of VOC emissions from large (40,000 gallons capacity or greater) above ground storage tanks. A hearing is scheduled for 7 Mar 13, and comments are due by 8 Mar 13.



Legislature convened 2 Jan 13 and adjourns sine die 31 Dec 13.

OTHER REGULATORY ACTIVITY

ENERGY AUDITS FOR MASSACHUSETTS MILITARY BASES A 17 Jan 13, [press release](#) announced that Lieutenant Governor Timothy Murray joined Energy and Environmental Affairs Secretary Rick Sullivan at the Massachusetts Military Reservation to announce \$1.5 million in funding for an initiative that will include comprehensive energy audits of the commonwealth’s six military bases. The Massachusetts Department of Energy Resources will procure a contractor to conduct a comprehensive review of each base, including: (1) assessing each base for their energy use; (2) establishing opportunities for renewable energy installations on site; and (3) exploring the possibility of microgrid integration.

ANNUAL LIST OF PROSPECTIVE REGULATIONS The Massachusetts Executive Office of Energy and Environmental Affairs has issued its [annual list of prospective regulations](#). The list identifies regulations that are expected to be promulgated during the next 12 month period. Possible proposals include changes to the Massachusetts Department of Environmental Protection’s (MADEP) air regulations, drinking water regulations, and agency wide fees.



Legislature convened 2 Jan 13 and adjourns sine die 30 Jun 13.

FEDERAL ACTIVITY

ASBESTOS MANAGEMENT AND CONTROL USEPA has issued a direct final rule granting the New Hampshire Department of Environmental Services (NHDES) authority to implement and enforce the amended Asbestos Management Rules in place of the Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) [[78 FR 2333](#), 11 Jan 13]. USEPA reviewed the request and determined the amended Asbestos Management Rules satisfy the requirements necessary for approval. Barring adverse comment the direct final rule becomes effective on 12 Mar 13.

SOUTHERN NEW HAMPSHIRE 1997 8-HOUR OZONE NONATTAINMENT AREA USEPA has issued a final rule approving a State of New Hampshire’s request to redesignate the Boston-Manchester-Portsmouth (SE), moderate 8-hour ozone nonattainment area to attainment for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) [[78 FR 6741](#), 31 Jan 13]. The final rule also approves a: (1) SIP revision containing a 10-year ozone maintenance plan for the area; (2) 2008 comprehensive emissions inventory for the area; and (3) new motor vehicle emissions budgets (MVEBs) for the years 2008 and 2022 contained in the 10-year ozone maintenance plan for the area. The final rule becomes effective on 4 Mar 13.

PROPOSED LEGISLATION

FERTILIZER CONTENT LIMITATIONS FOR PHOSPHORUS AND NITROGEN On 3 Jan 13, [HB 393](#) was introduced and referred to the Resources, Recreation and Development Committee. The bill limits the nitrogen and phosphorus content of fertilizers sold at retail and intended for use on turf.

UNDERGROUND AND ABOVE GROUND STORAGE TANK CERTIFICATIONS On 3 Jan 13, [HB 628](#) was introduced and referred to the Resources, Recreation and Development Committee. The bill prohibits NHDES from requiring a repeat examination administered by the International Code Council or the National Association of Corrosion Engineers (NACE) International for the renewal of underground storage tank (UST) and above ground storage tank (AST) certifications.

PROPOSED RULES

AMENDMENTS TO THE UST FACILITIES REGULATIONS NHDES has issued a [proposed rule](#) to readopt, with amendments, regulations governing the design, installation, operation, maintenance, and closure of UST facilities (Env-

Wm 1401). The existing rules expired on 3 Feb 13. The amendments: (1) reorganize the rules to increase clarity and reduce redundancy; (2) redesignate the rules into the Env-Or (Oil and Remediation Programs) subtitle; (3) reflect anticipated federal rule revisions; and (4) propose some additional containment requirements. A hearing is scheduled for 14 Mar 13, and comments are due by 28 Mar 13.



VT Legislature convened 9 Jan 13 and adjourns sine die 10 May 13.

PROPOSED LEGISLATION

THREE YEAR MORATORIUM ON WIND ELECTRIC GENERATION PLANTS On 15 Jan 13, [SB 30](#) was introduced and referred to the Natural Resources and Energy Committee. The bill imposes a three year moratorium on wind electric generation plants. The moratorium will allow for a planning and assessment process for siting plants and the evaluation of whether in-state development of these plants is the most appropriate and cost-effective means to reduce Vermont's emissions of greenhouse gases (GHG). The bill also moves siting jurisdiction over all in-state electric generation plants, except for net metering systems, from the Public Service Board to the district environmental commissions and local land use authorities.

OTHER REGULATORY ACTIVITY

GENERAL PERMIT FOR STORMWATER DISCHARGES FROM DEVELOPMENT The Vermont Department of Environmental Conservation (VTDEC) has invited public comment on the [draft General Permit \(GP\) 3-9015](#). Once final, GP 3-9015 will replace the existing GP that expires on 24 Mar 13. The GP is for new discharges of regulated stormwater runoff to all Class A and B waters in the state, except those waters listed as being impaired due to stormwater runoff. Comments are due by 1 Mar 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.



FEDERAL ACTIVITY

AIR QUALITY IMPLEMENTATION PLANS FOR PM2.5 USEPA has issued a proposed rule to approve elements of the New Jersey SIP revision for attaining the 1997 fine particle (PM2.5) NAAQS [[77 FR 74421](#), 14 Dec 12]. USEPA has proposed approval for the New Jersey portion of two nonattainment areas in the state: the New York-NJ-New Jersey-Long Island, NY-NJ-CT, PM2.5 nonattainment area, and the Philadelphia-Wilmington, PA-NJ-DE, PM2.5 nonattainment area. USEPA has also proposed approval of New Jersey's attainment demonstration and MVEBs used for transportation conformity purposes, as well as the RACT and reasonably available control measures (RACM) analysis, and base-year and projection-year modeling emission inventories. The comment period closed on 14 Jan 13.

PROPOSED LISTING DETERMINATIONS FOR MULTIPLE REEF-BUILDING CORAL SPECIES The National Marine Fisheries Service (NMFS) has completed comprehensive status reviews under the Endangered Species Act (ESA) of 82 reef-building coral species [[77 FR 73219](#), 7 Dec 12]. NMFS has determined that 12 of the petitioned coral species warrant listing as endangered (five are Caribbean), and 54 coral species warrant listing as threatened (two are Caribbean). Additionally, it was determined that two Caribbean coral species currently listed warrant reclassification from threatened to endangered. Comments are due by 7 Mar 13. *Note: The identified coral species can be impacted by land-based activities, including non-point source runoff caused by Army activities.*



New Jersey

Legislature convened 8 Jan 13 and adjourns sine die 31 Dec 13.

PROPOSED LEGISLATION

BIO-BASED HEATING OIL ACT Last fall, [SB 2268](#) was introduced and referred to the Environment and Energy Committee. The bill is known as the "Bio-based Heating Oil Act," and requires that all heating oil sold in the state for residential, commercial, or industrial heating uses meet a compliance schedule established by the Act. The bill's goal is for heating oil that is five percent biodiesel by 1 July 14.

REQUIREMENTS FOR A REMEDIATION DE MINIMIS EXEMPTION On 19 Nov 12, [SB 2332](#) was introduced and referred to the Environment and Energy Committee. The bill requires an owner or operator of an industrial establishment applying for a de minimis exemption from the Industrial Site Recovery Act (ISRA), to certify to the New Jersey Department of Environmental Protection (NJDEP) that they do not have actual knowledge of any contamination at the industrial establishment above remediation standards.

OTHER REGULATORY ACTIVITY

DRAFT GENERAL OPERATING PERMIT FOR EMERGENCY GENERATORS NJDEP has invited comment on a [draft](#) General Operating Permit (GOP-003) for emergency generators. The GOP contains the followings sections: definitions, applicability, monitoring, recordkeeping and reporting, limitations and requirements, equipment specifications, potential to emit, and a compliance plan. The comment period closed on 6 Feb 13.



New York

Legislature convened 9 Jan 13 and adjourns sine die 31 Dec 13.

PROPOSED LEGISLATION

PROHIBITIONS ON PASSENGER VEHICLE IDLING On 9 Jan 13, [AB 1228](#) was introduced and referred to the Environmental Conservation Committee. The bill prohibits the idling of any passenger vehicle, with certain exceptions, for more than three consecutive minutes. The bill applies to passenger vehicles or light trucks weighing less than 8,500 pounds, or if a vehicle's primary use is noncommercial personal transportation. *Note: The bill does not contain an exemption for military vehicles. The DoD REC is submitting comments requesting an exemption for military tactical vehicles used in military training operations and used in support of state/local emergency scenarios.*

IPMP REQUIREMENT FOR EDUCATIONAL CENTERS On 9 Jan 13, [AB 1296](#) was introduced and referred to the Environmental Conservation Committee. The bill requires integrated pest management plans (IPMPs) to be implemented in child day care centers, head start day care centers and schools. The plans must be developed or approved by the Commissioner of the New York Department of Environmental Conservation (NYDEC) in consultation with the Commissioners of New York's Departments of Education (NYSDE) and Health (NYDOH).

REQUIREMENTS FOR PROMPT PETROLEUM DISCHARGE DETECTION On 9 Jan 13, [AB 1352](#) was introduced and referred to the Environmental Conservation Committee. The bill states that NYDEC must require, as a condition to issue or renew a major facility license, the submission of satisfactory evidence that the applicant has implemented, or is implementing, state and federal plans and regulations for the prompt detection of petroleum discharges. The bill also requires: (1) applicants for a major facility license to submit information describing the equipment used at the facility to promptly detect petroleum discharges; and (2) major facilities to install equipment to promptly detect discharges of petroleum from a tank and any connected petroleum pipelines within one year of the bill's effective date.

DISPOSAL OF TOXIC DREDGED SPOILS On 9 Jan 13, [AB 1605](#) was introduced and referred to the Environmental Conservation Committee. The bill prohibits the disposal of any dredged spoils containing toxic pollutants into the waters of the marine district. The marine district is defined as all Atlantic waters within three nautical miles of

the coast and other tidal waters within state.

REQUIREMENTS FOR PETROLEUM BULK STORAGE FACILITIES On 9 Jan 13, [AB 1740](#) was introduced and referred to the Environmental Conservation Committee. The bill requires owners and operators of petroleum bulk storage facilities located in cities of one million or more to undertake comprehensive accident prevention plans for the prevention of spills and leaks of petroleum. The bill also requires such owners or operators to hire an independent company to quarterly audit the implementation of such plan. *Note: This bill could impact Fort Hamilton in New York City and Army National Guard Armories with motor pools.*

BIOHEATING FUEL REQUIREMENTS On 9 Jan 13, [AB 2129](#) was introduced and referred to the Environmental Conservation Committee. The bill requires all heating oil sold within the counties of Nassau, Rockland, Suffolk and Westchester and the counties of the City of New York to be bioheating fuel that contains at least two percent biodiesel.

DOCUMENTATION IN DETERMINING ENVIRONMENTAL IMPACTS On 14 Jan 13, [AB 2334](#) was introduced and referred to the Environmental Conservation Committee. The bill directs NYDEC to update any forms or documentation that are designed to assist applicants / lead agencies in determining a project's possible significant effect on the environment. The bill also provides that the updates will ensure the consideration of changes in science and emerging issues in environmental protection.

AUTHORIZATION FOR STRICTER LOCAL LEAD STANDARDS On 15 Jan 13, [AB 2431](#) was introduced and referred to the Governmental Operations Committee. The bill authorizes local governments to adopt local laws, codes or ordinances imposing more restrictive standards than the state fire prevention and building code, relating to the presence of lead in buildings. The new local laws, codes and ordinances will not be subject to the review of the state fire prevention and building code council.

ENVIRONMENTAL HEALTH AND SAFETY IN SCHOOL BUILDINGS On 15 Jan 13, [AB 2480](#) was introduced and referred to the Education Committee. The bill adds a list of items, including certain quality air conditioning systems, to the requirements for approval of new, leased or remodeled school buildings with respect to health and safety. The bill also requires NYDEC and NYDOH to report information, to NYSED and school districts, on environmental hazards relevant to school buildings.

RESTRICTIONS ON THE APPLICATION OF CERTAIN LAWN FERTILIZERS On 16 Jan 13, [AB 2607](#) was introduced and referred to the Environmental Conservation Committee. The bill prohibits the application of lawn fertilizers that are labeled as containing more than zero percent phosphorous to any watersheds and drainage basins in counties where the county legislature has passed a local law relating thereto. The bill has an identical companion bill in the Senate, [SB 2357](#).

LICENSING / CERTIFICATION FOR THE REMOVAL OF HAZARDOUS MATERIALS On 9 Jan 13, [SB 1546](#) was introduced and referred to the Labor Committee. The bill amends the labor law by authorizing the New York Commissioner of Labor to implement rules and regulations regarding the licensing and certification of the removal of lead, asbestos, and other hazardous materials.

REMEDICATION AND PREVENTION OF INDOOR MOLD On 9 Jan 13, [SB 1820](#) was introduced and referred to the Housing, Construction and Community Development Committee. The bill amends public housing, public health, and real property laws, in relation to the remediation and prevention of indoor mold. The bill also directs the Commissioner of Housing and Community Renewal and the Commissioner of Health to promulgate rules and standards for the remediation and prevention of indoor mold.



Legislature convened 14 Jan 13 and adjourns sine die 31 Dec 13.

PROPOSED LEGISLATION

PROTECTION FOR SIGNIFICANT LAND AND MARINE RESOURCES On 15 Jan 13, a bill ([BR Number 13-0076](#)) was prefiled. The bill will protect territorially significant land and marine resources, and promote sustainability of territorial ecosystems.

Region 3

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



Legislature convened 2 Jan 13 and adjourns sine die 31 Dec 14.

FINAL RULES

DEFINITION OF REGULATED MEDICAL WASTE The District of Columbia Department of the Environment (DDOE) has adopted [amendments](#) to the DC Municipal Regulations (DCMR), to change the definition of regulated medical waste. The amendments conform the DCMR definition to the definition used by other states and USEPA. The amendments became effective on 18 Jan 13.

OTHER REGULATORY ACTIVITY

DRAFT URBAN TREE CANOPY PLAN DDOE has invited comments on a [draft Urban Tree Canopy Plan](#). The National Pollutant Discharge Elimination System (NPDES) permit for the District's Municipal Separate Storm Sewer System (MS4) directs the District to develop a strategy to reduce the discharge of stormwater pollutants by expanding tree canopy throughout the city. Comments are due by 24 Feb 13.



Legislature convened 9 Jan 13 and adjourns sine die 8 Apr 13.

FEDERAL ACTIVITY

CONTROL TECHNIQUES FOR VOCs USEPA has issued a final rule approving a SIP revision submitted by the State of Maryland. [[78 FR 5290](#), 25 Jan 13]. The revision addresses sources of VOC emissions covered by USEPA's Control Techniques Guidelines (CTGs) for multiple sources, including industrial cleaning solvents, and miscellaneous metal and plastic parts coatings. The revision adopts various test methods, calculation methods, work practice standards and exemptions. The changes will reduce VOC emissions from all the included categories and help Maryland attain and maintain the NAAQS for ozone. The final rule becomes effective on 25 Feb 13.

PROPOSED LEGISLATION

BILL 34-12: WATER QUALITY PROTECTION CHARGE The Montgomery County Council (MCC) has introduced [Bill 34-12](#), Stormwater Management - Water Quality Protection Charge. The bill: (1) subjects all properties,

not otherwise exempt under state law, to the Water Quality Protection Charge; (2) allows certain property owners to obtain a credit equal to a certain percentage of the Charge; (3) exempts certain property owners that are able to demonstrate substantial financial hardship; (4) provides for a phase-in of certain increases to the Charge; and (5) amends county law regarding the Water Quality Protection Charge. The Council's T & E Committee will discuss the bill at their 11 Mar 13 meeting.

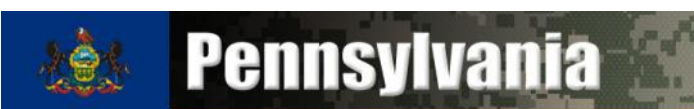
BILL NO. 2-13: WATERSHED PROTECTION AND RESTORATION SPECIAL REVENUE FUND The Anne Arundel County Council has introduced [Bill No. 2-13](#), Stormwater Management - Watershed Protection and Restoration Special Revenue Fund and Program. The bill establishes a Watershed Protection and Restoration Special Revenue Fund as a special, non-lapsing fund. Money from the fund will assist in establishing the watershed protection and restoration program. The bill also establishes a stormwater remediation fee, along with the specifics of how the fee will be administered. The bill will be discussed at a public hearing on 19 Feb 13.

FINAL RULES

CONTROL OF NOISE POLLUTION The Maryland Department of the Environment (MDE) has adopted a [final rule](#) amending the regulations for the control of noise pollution at COMAR 26.02.03. The final rule: (1) repeals the requirements for MDE to enforce noise control standards, making it an option for local governments; (2) clarifies and simplifies the noise standards; (3) extends the exemption of noise and vibration prohibitions to marina equipment used to move boats during certain times; and (4) repeals the regulation pertaining to penalties. The final rule became effective on 4 Feb 13.

IMPLEMENTATION OF THE LIVING SHORELINE PROTECTION ACT MDE has adopted a [final rule](#) amending the tidal wetlands regulations at COMAR 26.24. The final rule implements provisions of the Living Shoreline Protection Act of 2008. The Act requires the use of nonstructural shoreline stabilization measures except in areas mapped as appropriate for structural shoreline stabilization measures, or in areas where a property owner can demonstrate that such measures are not feasible. The final rule includes a waiver process exempting certain individuals from the Act's requirement to use nonstructural shoreline stabilization measures. The final rule became effective on 4 Feb 13. A notice of the proposed rule was published in the November 2012 edition of the *Northern Review*. *Note: The DoD REC for Region 3 submitted a comment letter to MDE regarding the amended tidal wetlands regulations.*

REGULATION OF INVASIVE PLANTS The Maryland Department of Agriculture (MDA) has adopted a [final rule](#) amending the plant pest control regulations at COMAR 15.06. The final rule establishes a new section titled, "Regulation of Invasive Plants" (COMAR 15.06.04). The new section creates a risk assessment protocol to rank invasive plants and establishes administrative procedures and orders. The final rule became effective on 21 Jan 13.



Legislature convened 1 Jan 13 and adjourns sine die 31 Dec 13.

FEDERAL ACTIVITY

PHILADELPHIA-WILMINGTON, PA-NJ-DE PM2.5 NONATTAINMENT AREA USEPA has issued a final rule making a determination of attainment regarding the Philadelphia-Wilmington, PA-NJ-DE PM2.5 nonattainment area (Philadelphia Area) [[78 FR 882](#), 7 Jan 13]. USEPA has determined that the Philadelphia Area has attained the 2006 24-hour PM2.5 NAAQS. The determination of attainment suspends requirements for the respective state portions of the Philadelphia Area to submit an attainment demonstration and associated RACM, a reasonable further progress (RFP) plan, contingency measures, and other planning SIP revisions. The determination does not constitute a redesignation to attainment, and the Philadelphia Area will remain designated nonattainment for the 2006 24-hour PM2.5 NAAQS. The final rule became effective on 7 Jan 13.

PROPOSED RULES

QUALIFICATION PROCESS FOR T&E SURVEYORS The Pennsylvania Fish and Boat Commission (PAFBC) has [proposed](#) the addition of a regulation (58 Pa. Code § 75.5) relating to requirements for qualified surveyors for

threatened and endangered (T&E) species and their habitat. The new regulation requires that a surveyor must first be deemed qualified by the PAFBC to conduct surveys for T&E species or their habitat in connection with an application for a proposed or planned development activity. Individuals who wish to be qualified by PAFBC to conduct surveys for T&E species must demonstrate they meet the specified qualified surveyor requirements. PAFBC has also separately published and [requested comment](#) on the proposed qualified surveyor requirements laid out in the proposed regulation. Comments for both actions are due by 6 Mar 13.



Legislature convened 9 Jan 13, adjourns sine die 23 Feb 13.

FINAL RULES

UPDATE TO HAZARDOUS WASTE MANAGEMENT REGULATIONS The Virginia Department of Environmental Quality (VADEQ) has [adopted](#) an exempt action amendment regarding Virginia Hazardous Waste Management Regulations (HWMR), 9VAC20-60. The regulatory amendment brings citations up to date and incorporates the July 1, 2012, update of Title 40 of the Code of Federal Regulations (CFR).

PROPOSED RULES

HISTORIC REHABILITATION TAX CREDITS The Virginia Department of Historic Resources (VDHR) has [proposed](#) amendments to the Historic Rehabilitation Tax Credits regulations at 17VAC10-30. The amendments address deficiencies and clarify program requirements and the application process. The amendments also revise review fees to reflect the increased cost of staff time and resources necessary for review of projects and administration of the program. The comment period closed on 13 Feb 13.



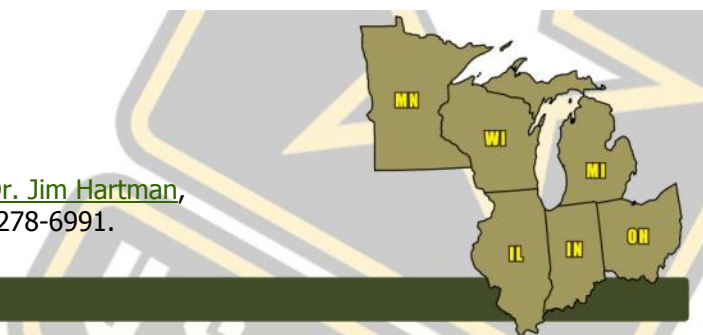
Legislature convened 9 Jan 13 and adjourns sine die 14 Apr 13.

FEDERAL ACTIVITY

INCORPORATION OF FEDERAL GENERAL CONFORMITY REQUIREMENTS USEPA has issued a direct final rule approving a West Virginia SIP revision [[78 FR 4333](#), 22 Jan 13]. The revision amends the state general conformity SIP to incorporate revisions to Federal general conformity requirements established under rules promulgated by USEPA in July of 2006 and in April of 2010. Barring adverse comment, the direct final rule becomes effective on 25 Mar 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.



FEDERAL ACTIVITY

REVISIONS TO APPROVED MOTOR VEHICLE EMISSIONS BUDGETS USEPA has issued a direct final rule approving a request by Ohio and Indiana to revise the Cincinnati-Hamilton 1997 8-hour ozone maintenance air quality SIPs [[78 FR 6035](#), 29 Jan 13]. The revision replaces the previously approved emissions budgets with budgets developed using USEPA's Motor Vehicle Emissions Simulator (MOVES) emissions model. Barring adverse comment, the direct final rule becomes effective on 1 Apr 13.



Legislature convened 7 Jan 13 and adjourns sine die 29 Apr 13.

FINAL RULES

DEARBORN COUNTY - NONATTAINMENT OF THE 2008 8-HOUR OZONE STANDARD The Indiana Department of Environmental Management (IDEM) has adopted an [emergency rule](#) that temporarily amends the attainment status designations at 326 IAC 1-4. The emergency rule adds the federal designation for part of Dearborn County including Lawrenceburg Township, Lake County, and Porter County to nonattainment of the 2008 8-hour ozone standard. The emergency rule expires on 15 Apr 13.

AMENDMENTS TO THE AMBIENT AIR QUALITY STANDARDS IDEM has adopted a [final rule](#) amending the ambient air quality standards at 326 IAC 1-3-4. The final rule amends the regulations concerning NAAQS for: (1) nitrogen dioxide (NO₂); (2) sulfur dioxide (SO₂); (3) PM_{2.5}; and (4) particulate matter with an aerodynamic diameter less than or equal to 10 microns (PM₁₀). The final rule also adds a definition for PM_{2.5} to the attainment status designations at 326 IAC 1-4-1. The final rule became effective on 18 Jan 13. A notice of the proposed rule was published in the October 2012 edition of the *Northern Review*.

UST OPERATOR TRAINING AND CERTIFICATION IDEM has issued a [final rule](#) adding section 329 IAC 9-9 to the UST regulations. The new section covers the training of operators who operate and maintain regulated UST systems. The new section was necessary to comply with USEPA operator training grant guideline requirements. The final rule became effective on 17 Jan 13. A notice of the proposed rule was published in the July 2012 edition of the *Northern Review*.

PROPOSED RULES

TRANSFERRING ISSUING AUTHORITY FOR NPDES GENERAL PERMITS IDEM has issued a [proposed rule](#) to transfer issuing authority of NPDES general permits from the Water Pollution Control Division to the IDEM Commissioner. The proposed rule also updates requirements to meet current federal standards. The proposed rule is substantively different than the previously published draft proposed rule, issued on 2 May 12. A notice the draft proposed rule was published in the June 2012 *Northern Review*. The comment period closed on 6 Feb 13.

OTHER REGULATORY ACTIVITY

ADDENDUM TO THE 2012 LIST OF IMPAIRED WATERS On 28 Dec 12, IDEM submitted to USEPA an [addendum](#) to the state 2012 Integrated Report. The addendum incorporates changes and corrections to the 2012 303 (d) List of Impaired Waters based on comments received from USEPA and the public. Additionally, it incorporates the findings of IDEM's statewide reassessment of mercury in fish tissue data resulting from the application of [USEPA guidance](#). IDEM's reassessment concludes that a number of waters previously listed as impaired for mercury in fish tissue are not impaired, and those impairments are removed from the list.



Legislature convened 9 Jan 13 and adjourns sine die 31 Dec 13.

FINAL LEGISLATION

COST-EFFECTIVE GOVERNMENTAL ENERGY USE ACT On 8 Jan 13, Governor Rick Snyder signed into law [HB 5727](#). The new law is known as the "Cost-Effective Governmental Energy Use Act." The Act allows a governmental unit (a state department, agency, or authority) to enter into an energy performance contract (EPC) with a qualified energy service provider to produce savings in utility or operation and maintenance costs. The Act also provides guidelines and requirements under which the EPCs can be administered. A notice of the proposed bill was published in the October 2012 edition of the *Northern Review*. The new law becomes effective on 28 Mar 13.

OTHER REGULATORY ACTIVITY

DRAFT STATEWIDE PCB TMDL The Michigan Department of Environmental Quality has made the [draft](#) statewide polychlorinated biphenyl (PCB) Total Maximum Daily Load (TMDL) available for comment. The water bodies covered by the statewide TMDL were included on Michigan's Year 2010 Section 303(d) list due to high concentrations of PCBs in fish tissue and the water column. The TMDL is being developed to identify the PCB reductions necessary to meet water quality standards. Comments are due by 19 Feb 13.



Legislature convened 7 Jan 13 and adjourns 31 Dec 13.

PROPOSED RULES

PROPOSED AMENDMENTS TO THE NPDES AND PRETREATMENT PROGRAM RULES The Ohio Department of Environmental Protection (OHEPA) has [proposed amendments](#) to the NPDES and Pretreatment Program rules, Ohio Administrative Code (OAC) 3745-33-04 and 3745-36-03. The revisions address conditions under which OHEPA may renew permits. On June 5, 2012, the Governor signed into law Senate Bill 294, the OHEPA's Omnibus Bill. Included in this bill was a revision to Ohio Revised Code, providing the OHEPA Director with the discretion to renew a permit or deny the renewal. The proposed amendments make the rule language consistent with the statute. A hearing is scheduled for 26 Feb 13, and comments are due the same day.

OTHER REGULATORY ACTIVITY

STORMWATER DISCHARGE FROM CONSTRUCTION ACTIVITIES OHEPA has invited public comment on a [draft](#) renewal NPDES general permit that authorizes stormwater discharges associated with construction activity. The renewal will be the fourth generation of the general permit and covers the entire State of Ohio. A public hearing is scheduled for 25 Feb 13, and comments are due by 4 Mar 13.

DRAFT OF STATEWIDE NITROGEN DIOXIDE INFRASTRUCTURE SIP OHEPA has made available for public comment the [draft](#) Statewide Nitrogen Dioxide Infrastructure SIP. The State of Ohio is submitting this documentation to comply with the SIP elements required by the CAA for the 2010 nitrogen dioxide standard. States are required to submit a plan to USEPA that provides for implementation, maintenance, and enforcement of the NAAQS. A hearing is scheduled by 19 Feb 13, and comments are due the same day.

STAGE II VAPOR RECOVERY AND AUTOMOBILE COATING AMENDMENTS OHEPA has prepared [draft rule language](#) for two changes to the "Control of emissions of volatile organic compounds from stationary sources and perchloroethylene from dry cleaning facilities"(OAC 3745-21-09) rule. The changes: (1) increase the allowable VOC content for automobile and light-duty truck coating in lines coating less than 35 trucks per day; and (2) exempt new service stations from the requirements to install Stage II vapor recovery systems. The comment period closed on 25 Jan 13.

STAKEHOLDER INPUT ON POSSIBLE GHG TAILORING RULES OHEPA has [requested](#) stakeholder input on potential rule amendments to OAC rules 3745-31-34 and 3745-77-11. OHEPA is considering amendments to the rules in response to USEPA comments to make them approvable as a part of Ohio's SIP under CAA Section 110 and Ohio's fully approved Title V operating permit program. Comments are due by 28 Feb 13.

STAKEHOLDER INPUT ON POSSIBLE WETLAND ANTIDegradation AMENDMENTS OHEPA has made the Water Quality Standards Program rule, [Wetland Antidegradation](#) (OAC 3745-1-54), available for early stakeholder outreach review and comment. OHEPA is considering amendments to one existing rule in the water quality standards, Chapter 3745-1, that addresses antidegradation requirements for discharges/impacts to wetlands. The amendments would maintain and protect wetland designated uses such that degradation through impacts does not result in the net loss of wetland acreage or functions. The comment period closed on 8 Feb 13.



Legislature convened 7 Jan 13 and adjourns 31 Dec 13.

OTHER REGULATORY ACTIVITY

AMENDMENTS TO CONSTRUCTION AND OPERATION PERMIT PROGRAMS Governor Scott Walker has approved the [statement of scope](#) for a Wisconsin Department of Natural Resources (WIDNR) proposed rule. The proposed rule changes the regulations governing the construction and operation permit programs (NR 406 and 407). It also improves operational efficiency and simplifies the permitting processes, while remaining consistent with the CAA and retaining approvability by the USEPA. WIDNR will now draft the proposed rule.

Department of Defense Activity

SACRED SITES MOU On 6 Dec 12, the Departments of Defense, Agriculture, Energy, and the Interior and the Advisory Council on Historic Preservation signed a [Memorandum of Understanding](#) (MOU) to enhance Federal protection of and tribal access to Indian sacred sites through enhanced and improved interdepartmental coordination and collaboration. The MOU will be in effect for five years.

Federal Activity

AIR

NAAQS TIGHTENED FOR FINE PARTICULATE MATTER USEPA has published a final rule revising the NAAQS PM_{2.5} [[78 FR 3085](#), 15 Jan 13]. The rule lowers, from 15.0 to 12.0 micrograms per cubic meter, the annual PM_{2.5} primary standards. USEPA is retaining the 24-hour PM_{2.5} standard at a level of 35 micrograms per cubic meter, and retaining the 24 hour PM₁₀ standard at 150 µg/m³. USEPA indicates that most areas are already in compliance and expects fewer than 10 counties in the United States will be required to consider local actions to reduce fine particle pollution to meet the new standard by 2020. Separately, USEPA has announced a voluntary program called [PM Advance](#) to encourage states, localities, and tribes to work to reduce particulate emissions. Additional information can be found on the [USEPA NAAQS website](#). The final rule will become effective on 18 Mar 13.

NESHAP FOR RECIPROCATING INTERNAL COMBUSTION ENGINES USEPA has issued a final rule adopting amendments to the NESHAP for stationary reciprocating internal combustion engines (RICE) [[78 FR 6673](#), 30 Jan 13]. The amendments include: (1) alternative testing options for certain large spark ignition (generally natural gas-fueled) stationary RICE; (2) management practices for a subset of existing spark ignition stationary reciprocating internal combustion engines in sparsely populated areas; and (3) alternative monitoring and compliance options for the same engines in populated areas. USEPA has established management practices for existing compression ignition engines on offshore vessels. USEPA has also finalized limits on the hours stationary emergency engines may be used for emergency demand response, and established fuel and reporting requirements for certain emergency engines used for emergency demand response. The final rule will become effective on 1 Apr 13.

HAZARDOUS MATERIALS

METHYLENE CHLORIDE AND TCE DRAFT CHEMICAL RISK ASSESSMENTS USEPA has released draft chemical risk assessments for five chemicals, including [methylene chloride](#) (dichloromethane—DCM), [N-Methylpyrrolidone](#) (NMP), and [trichloroethylene](#) (TCE) [[78 FR 1856](#), 9 Jan 13]. The draft assessments focus on the use of methylene chloride and N-Methylpyrrolidone in paint stripping and uses of TCE as a degreaser. Comments are due by 11 Mar 13.

EXTENSION OF ORM-D CLASSIFICATION FOR SURFACE TRANSPORTATION The U.S. Department of Transportation (USDOT) has issued a final rule extending authorization for the use of other regulated material (ORM-D) classification and the use of packaging marked "Consumer commodity, ORM-D" for domestic highway, rail, and vessel transportation until 31 Dec 20 [\[78 FR 1101\]](#), 7 Jan 13]. The final rule became effective on 1 Jan 13.

ALIGNMENT OF HAZARDOUS MATERIALS REGULATIONS WITH INTERNATIONAL STANDARDS USDOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) has issued a final rule amending the hazardous materials regulations (HMR) to maintain alignment with international standards by incorporating various amendments [\[78 FR 987\]](#), 7 Jan 13]. The final rule incorporates changes adopted in the International Maritime Dangerous Goods (IMDG) Code, the International Civil Aviation Organization's (ICAO) Technical Instructions, and the UN Model Regulations. The final rule became effective on 1 Jan 13.

AIR TRANSPORTATION OF LITHIUM BATTERIES PHMSA is seeking additional comment on the impact of changes to the regulations governing the air transport of lithium cells and batteries [\[78 FR 1119\]](#), 7 Jan 13]. Changes for lithium batteries adopted in the 2013-2014 International Civil Aviation Organization [Technical Instructions](#) on the Transport of Dangerous Goods by Air (ICAO Technical Instructions) were incorporated by reference in a final rule amending the USDOT HMR. Specifically, PHMSA is seeking comment on whether to require mandatory compliance with the 2013-2014 ICAO Technical Instructions for all shipments of lithium batteries by air, both foreign and domestic, or to allow domestic shippers and carriers to choose between compliance with the existing HMR and the ICAO instruction. Comments are due by 8 Mar 13.

REMEDICATION

ASSESSING VAPOR INTRUSION RISK USEPA has finalized the first of several pending guidance documents and regulations governing the evaluation and mitigation of vapor intrusion at contaminated sites. The [new guidance](#) requires regional USEPA offices to address vapor intrusion risks during the five-year reviews for most completed Superfund cleanups.

OTHER

FALL 2012 SEMIANNUAL UNIFIED AGENDA AND REGULATORY PLAN On 24 Dec 12, USEPA released the Fall 2012 [Semiannual Unified Agenda](#) and the [Annual Regulatory Plan](#). The unified agenda is published twice yearly, in the spring and fall, and lists all the regulations and major policies currently under development, under review, completed, or cancelled since the last agenda was released. The regulatory plan is published only once a year as part of the fall edition of the Agenda, and identifies the most significant regulatory actions that agencies expect to take in the coming year. USEPA also maintains a website providing monthly updates about [planned regulations](#).

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.

NATIONAL CONFERENCES

March 5-7, Washington, DC: 8TH ANNUAL MILITARY ENERGY ALTERNATIVES CONFERENCE This will be an in-depth discussion on strategies to integrate the latest technologies, establish returns on alternative energy investments and create a successful business environment with stakeholders in an effort to meet energy efficiency and security targets.

March 6-7, Philadelphia, PA: 24TH ANNUAL GLOBALCON 2013 Presented by the Association of Energy Engineers (AEE), examples of topics addressed at this conference include: energy efficiency, high performance buildings, energy conservation, and other energy related issues.

April 11-13, Washington, DC: RECLAIM + REMAKE SYMPOSIUM This conference brings together the most innovative practices in education and research for current and future reuse and recycling of material resources in the built environment.

May 8-10, Chicago, IL: INTERNATIONAL SOCIETY OF SUSTAINABILITY PROFESSIONALS CONFERENCE The conference is structured around stories from the field featuring presentations of on-the-ground implementation from organizations worldwide; emerging strategies for building the business case, engaging employees and developing cultures of sustainability; and sustainability tools that will demonstrate the latest sustainability assessments, reporting standards and more.

TRAINING—ONLINE

DEFENSE AND FEDERAL ENVIRONMENTAL TRAINING/AWARENESS The U.S. Army offers numerous environmental training courses. Information on environmental training conferences, school and other training providers and fiscal year class schedules is provided by the US Army Environmental Command (AEC).

NPDES TRAINING COURSES AND WORKSHOPS Training courses, workshops, and webcasts explain the regulatory framework and technical considerations of the NPDES Permit program. They are designed for permit writers, dischargers, USEPA officials and other interested parties.

USACE PROSPECT TRAINING USACE announces its FY 2013 PROSPECT training program. Please see the [Course Catalog \(a.k.a. Purple Book\)](#) and [List of Classes and schedule](#) for details. Courses are open to all federal employees, state, county and city employees and contractors. There are different registration processes for each entity.

USEPA WATERSHED ACADEMY The website offers a variety of self-paced training modules that represent a basic and broad introduction to the watershed management field. Modules vary in time to complete, from 30 minutes to 2 hours.

ARMY PODCAST SERVICE The Army offers free podcasts on a wide variety of topics, including an environmental series, an Army Corps of Engineers series, and many more. The podcasts are available through a free subscription service. (It is not necessary to own an iPod in order to view or listen to a podcast.)

FEDCENTER-SPONSORED COURSES In conjunction with the USEPA, FedCenter is now offering free, web-based, on-demand training courses for federal employees. Initially, the FedCenter will be offering training for federal laboratories, environmental management systems, and underground storage tanks, but their library will expand over

time to include other topic areas deemed important to the federal community. (FedCenter membership is required to view these courses).

FEMP ENERGY MANAGEMENT PROGRAM ONLINE TRAINING The Federal Energy Management Program (FEMP) trains federal energy managers on the latest energy requirements, best practices, and technologies. Training categories include design, operations, and maintenance; energy efficient products; energy management; financing; fleet; renewable energy; and water efficiency. Search the FEMP website for all topics, specific topics, or type of training (live or on-demand) to find training opportunities. All courses are free unless otherwise noted.

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 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
email: Phone : 410-278-6137**