



REC Review



of Legislative & Regulatory Actions

The Navy Regional Environmental Coordination Office

February 2017

The *REC Review* publishes environmental and energy related developments for DoD/Navy leaders and Installation staff. Covering 20 states in Federal Regions 1, 2, 3, 4, and 5, the *REC Review* gives early notice of legislative and regulatory activities relevant to DoD interests.

To find out more about the Regional Environmental Coordination Office and browse back issues of the *REC Review* visit <http://denix.osd.mil/rec/>. To receive a copy of this electronic publication, send a subscription request to NAVFACML_EV-dodrecregion3@navy.mil.

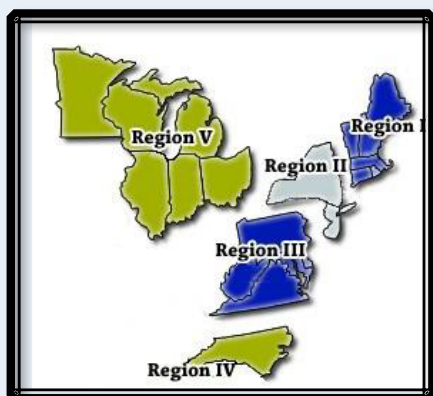


Table of Contents

SPOTLIGHT	1
GENERAL INTEREST	2
FEDERAL NEWS	3
REGION 1	4
REGION 2	6
REGION 3	7
REGION 4 (NORTH CAROLINA ONLY)	9
REGION 5	9
MEET THE REC STAFF	12

SPOTLIGHT STORY

The Elizabeth River is an urban river that’s shores are lined with businesses and government facilities. Annually the Elizabeth River Project recognizes environmental achievements that support improving the health of the Elizabeth River.

This year [Norfolk Naval Shipyard](#) won the 2017 Inside Business River Star Hall of Fame. Elizabeth River Project recognizes one business that has done the most to exemplify the spirit of the River Stars program, an initiative to salute businesses and government facilities for voluntarily preventing pollution, enhancing wildlife habitat, and leading community efforts to protect the environment.



In 2012, the yard replaced lights in two parking lots with LED bulbs, for a savings of \$650,000 over the next 15 years, plus \$43,000 a year in material and labor. An employee devised a modified can for storing brushes in 2015 that reduced volatile organic compounds by 1,175 pounds and reduced solid waste by 7,500 pounds. The yard grows oysters each year for Elizabeth River Project’s nearby oyster reef on Paradise Creek.

The shipyard opened a super-green building this year, a “controlled industrial facility” that uses stormwater for urinals, and also includes solar panels and a charging station for electric vehicles.



Congratulations to Naval Station Norfolk, Naval Support Activity Hampton Roads (NSAHR)-Lafayette River Annex (LRA), and NSAHR-Portsmouth Annex (PA) for earning the Elizabeth River Project River Star Award for Sustained Distinguished Performance.

Naval Station Norfolk kicked off their Energy Reduction Derby to reduce energy consumption and increase awareness through a series of competitions. The base reduced energy consumption by 12 percent over the prior year and saved nearly \$6 million in the process. Through a new partnership with Virginia Industries of the Blind, NSN recycles spent fire extinguishers.

NSAHR-LRA retrofitted boilers, installed a system to recapture condensate, and upgraded controls resulting in a 30 percent decrease in natural gas usage over the prior year. As participants in Clean the Bay Day, employees collected 600 pounds of trash and debris from their Lafayette shoreline.

At NSAHR-PA many single-use medical devices are sent off-site for remanufacturing, resulting in cost savings of \$692,493 last year. Also, they implemented a new waterless mopping system which improves infection control practices with no discharge to the sanitary system.



GENERAL INTEREST

DoD CHESAPEAKE BAY PROGRAM JOURNAL FALL 2016 The DoD Chesapeake Bay Program has released their [Fall Journal](#). This addition has an editorial focus on Midpoint Assessment and Phase III Watershed Implementation Plans.

BRAC: DOD HAS IMPROVED ENVIRONMENTAL CLEANUP (SOST) REPORTING BUT SHOULD OBTAIN AND SHARE MORE INFORMATION GAO has released a [report](#) reviewing DOD environmental reporting of restoration costs at BRAC installations.

GAO recommends that (1) DOD include in future reports to Congress that the cleanup of emerging contaminants will increase cleanup costs, and estimate such costs, and (2) share best practices on mitigating cleanup and property transfer challenges. DOD concurred.

PROPOSED AND RECENTLY FINALIZED FEDERAL REGULATIONS – FREEZE PENDING REVIEW President Trump has issued a [memorandum](#) to the Heads of Executive Departments and Agencies directing that agencies:

Subject to any exceptions the Director of OMB allows for emergency situations or other urgent circumstances relating to health, safety, financial, or national security matters, or otherwise:

- send no regulation to the Office of the Federal Register until a department or agency head appointed or designated by the (new) President reviews and approves the regulation;
- withdraw any regulations already sent to the Office of the Federal Register, but not yet published, (to allow for (such) review and approval;
- With respect to regulations that have been published in the (Federal Register) but have not taken effect, as permitted by applicable law, temporarily postpone their effective date for 60 days from the date of this

memorandum;

- Where appropriate and as permitted by applicable law, consider proposing for notice and comment a rule to delay the effective date for regulations beyond that 60-day period. In cases where the effective date has been delayed in order to review questions of fact, law, or policy, (Agency or Executive Department Heads) should consider potentially proposing further notice-and-comment rulemaking.

Exclude from (the above) ... any regulations subject to statutory or judicial deadlines and identify such exclusions to OMB.

FEDERAL NEWS

Notice: *With regard to any regulation or legislation, installation staff is requested to contact their respective component REC with information on mission or installation impacts, questions, or comments.*

AIR

ACCIDENTAL RELEASE PREVENTION REQUIREMENTS: RISK MANAGEMENT PROGRAMS UNDER THE

CLEAN AIR ACT In advance of formal publication in the Federal Register, EPA has released the text of a final rule making changes to the chemical process safety management regulations. Changes include:

- The rule requires all facilities with Program 2 or 3 processes to conduct a root cause analysis as part of an incident investigation of a catastrophic release or a near miss incident.
- The rule requires regulated facilities with Program 2 or 3 processes to contract with an independent third-party, or assemble an audit team led by an independent third-party, to perform a compliance audit after the facility has an RMP reportable accident.
- Owners or operators of facilities with Program 3 regulated processes in North American Industrial Classification System (NAICS) codes 322 (paper manufacturing), 324 (petroleum and coal products manufacturing), and 325 (chemical manufacturing) are required to conduct a safer technology and alternatives analysis.

WATER

UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES—PHASE II BATCH ONE

EPA and DoD are promulgating discharge [performance standards](#) for 11 discharges incidental to the normal operation of a vessel of the Armed Forces into the navigable waters of the United States, the territorial seas, and the contiguous zone. The eleven discharges are:

- aqueous film-forming foam (AFFF),
- chain locker effluent,
- distillation and reverse osmosis brine,
- elevator pit effluent,
- gas turbine water wash,
- non-oily machinery wastewater,
- photographic laboratory drains,
- seawater cooling overboard discharge,
- seawater piping,
- biofouling prevention,

- small boat engine wet exhaust, and
- welldeck discharges.

The final rule applies to vessels of the Armed Forces as defined at CWA section 312(a)(14). "Vessel of the Armed Forces" means any vessel owned or operated by the U.S. Department of Defense (i.e., U.S. Navy, Military Sealift Command, U.S. Marine Corps, U.S. Army, and U.S. Air Force), other than a time- or voyage-chartered vessel, as well as any U.S. Coast Guard vessel designated by the Secretary of the Department in which the U.S. Coast Guard is operating. This final rule is effective on 10 February 2017.

REGION I



Note: The Connecticut Legislature convened on 4 JAN 2017 and adjourns on 7 JUN 2017.

OTHER REGULATORY ACTIVITY

Implementation Plan for Air Quality: Certification of the State's Nonattainment New Source Review Program to Satisfy Implementation of the 2008 Ozone Standard The Department of Energy and Environmental Protection has given [notice](#) of intent to revise the State Implementation Plan (SIP) to comply with the 2008 National Ambient Air Quality Standards (NAAQS) for Ozone by certifying the State's Nonattainment New Source Review (NNSR) Program. Comments are due 28 February 2017.



Note: The Maine Legislature convened on 7 DEC 2016 and adjourns on 15 APR 2018.

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



Note: The Massachusetts Legislature convened on 4 JAN 2017 and adjourns on 2 JAN 2019.

OTHER REGULATORY ACTIVITY

FINAL NPDES GENERAL PERMIT FOR DEWATERING ACTIVITY DISCHARGES The Department of Environment Protection has released a [final NPDES General Permit](#) for Dewatering Activity Discharges.



Note: The New Hampshire Legislature convened on 4 JAN 2017 and adjourns on 30 JUN 2017.

OTHER REGULATORY ACTIVITY

CLARIFICATION OF SECTION 9.1.1 AND OTHER NEW HAMPSHIRE SPECIFIC INFORMATION FOR THE U.S. EPA 2017 NPDES CONSTRUCTION GENERAL PERMIT The Department of Environmental Services has [issued guidance](#) to provide clarification of the conditions specific to the State of New Hampshire in section 9.1.1 of the 2017 National Pollutant Discharge Elimination System (NPDES), General Permit for Discharges from Construction Activities (the Construction General Permit or CGP) issued by the U.S. Environmental Protection Agency (EPA) and which becomes effective February 15, 2017. In addition, instructions for finding NH specific information (i.e., impaired waters, TMDL information, Tier 3 waters, etc.) which may be required for SWPPPs and/or NOIs are included at the end of the guidance document. Guidance issued 20 January 2017.



Note: The Rhode Island Legislature convened on 3 JAN 2017 and adjourns on 30 JUN 2017.

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



Note: The Vermont Legislature convened on 4 JAN 2017 and adjourns on 7 MAY 2018.

FINAL RULES

2017 STORMWATER MANAGEMENT MANUAL The Department of Environmental Conservation [adopted](#) the 2017 Vermont Stormwater Management Manual. The purpose of the Manual is:

- To protect, maintain, and improve the waters of the State of Vermont in conformance with the Vermont Water Quality Standards, by minimizing the risk of potential adverse impacts of stormwater runoff.
- To require the most effective STPs for new development and redevelopment, and to improve the quality of STPs that are constructed in the State, specifically in regard to their performance, longevity, safety, ease of maintenance, community acceptance, and environmental benefit.
- To foster a comprehensive stormwater management approach that integrates site design and nonstructural practices with the implementation of structural STPs.

Effective 1 July 2017.

STORMWATER MANAGEMENT RULE FOR STORMWATER – IMPAIRED WATERS The Agency of Natural Resources has [adopted this Rule](#) to enhance the management of stormwater runoff in stormwater-impaired waters. This Rule:

- Establishes a state permit program for post-construction management of discharges of regulated stormwater

- runoff to stormwater-impaired waters;
- Establishes permitting thresholds for discharges of regulated stormwater runoff that require a stormwater discharge permit;
 - Sets forth treatment standards designed to minimize the adverse impacts of regulated stormwater runoff;
 - Provides for the issuance of individual permits for discharges of regulated stormwater runoff to stormwater-impaired waters during the interim period while the Agency develops TMDLs and/or WQRPs;
 - Provides for the issuance of individual and general permits to implement TMDLs and WQRPs once they are developed;
 - Provides for the implementation of offset projects and payment of stormwater impact fees in connection with discharges of regulated stormwater runoff to stormwater-impaired waters;
 - Provides for the issuance of permits for stand-alone offset projects;
 - Specifies application requirements, including the contents of permit applications and public notification requirements; and
 - Sets forth monitoring, reporting and maintenance requirements.

Effective 1 July 2017.

REGION II



Note: The New Jersey Legislature convened on 12 JAN 2016 and adjourns on 9 JAN 2018.

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



Note: The New York State Legislature convened 4 JAN 2017 and adjourns 2 JAN 2019.

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

REGION III



DISTRICT OF COLUMBIA

Note: The Council of the District of Columbia convened 2 JAN 2017 and adjourns 31 DEC 2018.

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



DELAWARE

Note: The Delaware General Assembly convened on 11 JAN 2017 and adjourns on 30 JUN 2018.

FINAL RULES

CONTROL OF VOLATILE ORGANIC COMPOUND EMISSIONS The Department of Natural Resources and Environmental Control has [adopted amendments](#) related to the control of volatile organic compound emissions. Based on the record developed by the Department's experts and established by the Hearing Officer's Report, the proposed Amendments to the following existing Delaware regulations: (1) 7 DE Admin Code 1104, "Particulate Emissions from Fuel Burning Equipment"; (2) 7 DE Admin. Code 1105, "Particulate Emissions from Industrial Process Operations"; (3) 7 DE Admin. Code 1124, "Control of Volatile Organic Compound Emissions"; (4) 7 DE Admin. Code 1142, "Specific Emission Control Requirements", as well as the proposed revisions to the Delaware SIP, are adopted, and promulgated as final. Effective 11 January 2017.

PARTICULATE EMISSIONS FROM FUEL BURNING EQUIPMENT The Department of Natural Resources and Environmental Control has [adopted amendments](#) to revise one of the cited Delaware's regulations to comply with the EPA SIP Call and avoid the imposition of federal sanctions. Effective 11 January 2017.



MARYLAND

Note: The Maryland General Assembly convened on 11 JAN 2017 and adjourns on 11 MAY 2017.

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



Note: The Pennsylvania General Assembly convened on 3 JAN 2017 and adjourns on 30 NOV 2018.

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



Note: The Virginia General Assembly will convene on 11 JAN 2017 and adjourns on 25 FEB 2017.

FINAL RULES

9VAC5-20 GENERAL PROVISIONS. 9VAC5-40 EXISTING STATIONS SOURCES On August 29, 2016 (81 FR 59276), the U.S. Environmental Protection Agency promulgated new emissions guidelines for municipal solid waste landfills as Subpart Cf of 40 CFR Part 60. The amendments were made to reduce emissions of landfill gas, which contains both nonmethane organic compounds and methane. To adopt the requirements of Subpart Cf while maintaining the state only requirements specific to the Northern Virginia ozone nonattainment area, [a new Article 43.1](#) is being promulgated. This action will enable the adoption of the new statewide standards without affecting the more restrictive requirements of Article 43 applicable to the nonattainment area. Effective 22 February 2017.

GENERAL VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) WATERSHED PERMIT REGULATION FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE BAY WATERSHED IN VIRGINIA The Department of Environmental Quality has [adopted rulemaking](#) which consists of the reissuance of 9 VAC25-820 General VPDES Watershed Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia. The regulation provides for the permitting of Total Nitrogen and Total Phosphorus discharges in the Chesapeake Bay watershed and allows for trading of nutrient credits to minimize costs to the regulated facilities and allow for future growth.

Amendments are proposed to update and clarify definitions, effective dates, monitoring frequencies and sample types, quantification level requirements, trading ratio provisions, new waste load allocations for some facilities as required by the December 29, 2010 Chesapeake Bay TMDL with associated compliance schedule requirements and conditions applicable to all VPDES permits. Effective 8 February 2017.

VPDES PERMIT FOR VEHICLE WASH FACILITIES AND LAUNDRY FACILITIES The Department of Environmental Quality has [proposed rulemaking](#) regarding 9VAC25-194 to amend and reissue the existing general permit which expires on October 15, 2017. The general permit will establish limitations and monitoring requirements for point source discharge of treated wastewaters from car wash facilities to surface waters in order to maintain water quality. This regulatory action is needed in order for existing and new vehicle wash and laundry permittees to be covered under this general permit regulation. Comments due 10 March 2017.



WEST VIRGINIA

Note: The West Virginia Legislature convened on 8 FEB 2017 and adjourns on 8 APR 2017.

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

REGION IV



NORTH CAROLINA

Note: The North Carolina General Assembly convened on 11 JAN 2017 and adjourns on 1 AUG 2018.

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

REGION V



ILLINOIS

Note: The Illinois General Assembly convened on 11 JAN 2017 and adjourns on 9 JAN 2019.

PROPOSED RULE

SEWER DISCHARGE CRITERIA & PRETREATMENT PROGRAMS Illinois EPA has reserved [docket R17-17](#) (page 16868) update the Illinois wastewater pretreatment regulations to reflect revisions made to the federal wastewater pretreatment rules made by the United States Environmental Protection Agency (USEPA).

UNDERGROUND STORAGE TANKS Illinois EPA has reserved [docket R17-16](#) (page 16879) to update the Illinois underground storage tank (UST) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UST regulations. The mandate specifically excludes federal amendments relating to the design, construction, installation, general operation, release detection, release reporting, release investigation, release confirmation, out-of-service systems, and closure or financial responsibilities for USTs.



INDIANA

Note: The Indiana General Assembly convened on 3 JAN 2017 and adjourned on 29 APR 2017.

FINAL RULE

STARTUP, SHUTDOWN, AND MALFUNCTION (SSM) EMISSIONS The Department of Environmental Management (IDEM) has [adopted amendments](#) to rules at 326 IAC 1-6 and 326 IAC 2-9-1(h) concerning the treatment of excess emissions at certain industrial facilities during periods of startup, shutdown, or malfunction (SSM). IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking. Effective 20 January 2017.



MICHIGAN

Note: The Michigan Legislature convened on 11 JAN 2017 and adjourns on 31 DEC 2018.

FINAL LEGISLATION

HB 5113 A municipality that has operated or operates a water distribution system or a sewage system for the purpose of supplying water or sewage system services to the inhabitants of the municipality has as security for the collection of water or sewage system rates, or any assessments, charges, or rentals due or to become due, respectively, for the use of sewage system services or for the use or consumption of water supplied to any house or other building or any premises, lot or lots, or parcel or parcels of land, a lien upon the house or other building and upon the premises, lot or lots, or parcel or parcels of land upon which the house or other building is situated or to which the sewage system service or water was supplied. This lien becomes effective immediately upon the distribution of the water or provision of the sewage system service to the premises or property supplied, but shall not be enforceable for more than 5 years after it becomes effective. Effective 3 January 2017.

SB 950 Amends 1976 PA 399 to include section 19a; if the state or federal government is or was the owner or operator of real property at the time a substance of concern was used on the real property. It requires the owner conduct long-term studies and provide an alternate water supply when (1) the state issues a drinking water advisory in the vicinity of the base, (2) the subject of the advisory was used on the base, and (3) the military acknowledge the substance migrated from the base. Effective date 6 January 2017.

SB 1179 This bill amendment waives fees for storage tanks that exclusively receive crude petroleum directly from a wellhead or exclusively receives refined petroleum products that are subject to fees imposed under the state's Natural Resources and Environmental Protection Act. Effective 27 March 2017.



Note: The Ohio General Assembly convened on 2 JAN 2017 and adjourns on 31 DEC 2018.

FINAL RULES

WATER QUALITY STANDARDS BENEFICIAL USE DESIGNATION RULES The Environmental Protection Agency has [adopted amendments](#) to the Water Quality Standards Program rules in Ohio Administrative Code (OAC) Chapter 3745-1. State law and the federal Clean Water Act require Ohio EPA to periodically update rules to reflect the latest scientific information. The Agency has evaluated information regarding beneficial use designations for the eight drainage basins listed above. Three broad types of changes are proposed:

- Changing beneficial use designations for specific water bodies;
- Adding water bodies that are currently undesignated to the rules; and
- Verifying existing beneficial use designations already listed in the rules.

Changes, additions and verifications of existing beneficial use designations are based upon the findings of biological, habitat, and water quality surveys. Other available pertinent information is also consulted, including information and comments from interested persons. Effective 2 January 2017.



Note: The Wisconsin Legislature convened on 4 JAN 2017 and adjourns on 2 JAN 2019.

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

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