



# Northern Review

## of Legislative & Regulatory Actions

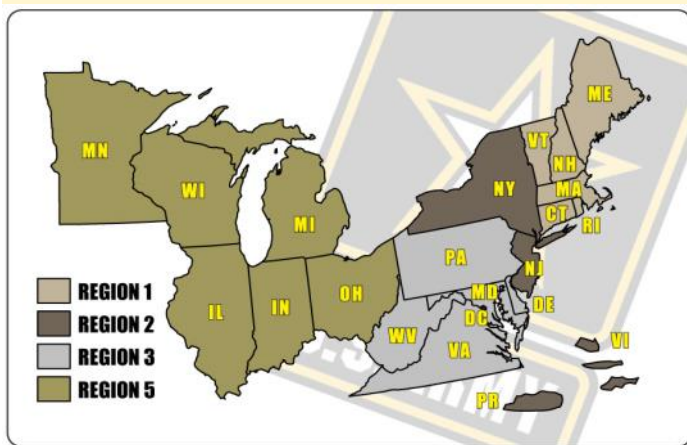


The U.S. Army Regional Environmental & Energy Office

February 2017

The **Northern Review** publishes environmental and energy related developments for DOD/Army leaders and installation staff. Covering the 22 states and territories in Federal Regions 1, 2, 3, and 5, the *Northern Review* gives early notice of legislative and regulatory activities relevant to DOD interests. The *Review* also helps installations meet ISO 14001 environmental management system requirements.

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## WHAT'S IN THIS REVIEW?

### Region 1

In CT, proposed bills concerning stormwater permit requirements and offsets for certain environmental fines. In MA, final amendments to pesticide application requirements. In NH, proposed bill for emerging contaminants standards in drinking water. In RI, final revisions to rule governing emissions from organic solvent cleaning. In VT, bill proposed concerning liability for PFOA contamination of potable water supplies; final amendments to various stormwater management rules; and final net-metering system rules.

### Region 2

In NJ, proposed bill requiring a statewide plan to reduce lead exposure from contaminated soils and drinking water. In NY, proposed bills concerning TCE exposure prevention and a prohibition on heavy duty vehicles idling; and readoption of emergency rule adding PFOA and PFOS to list of hazardous substances.

### Region 3

In DE, adopted amendments to address EPA SSM SIP Call. In DC, adoption of the *Pesticide Education and Control Amendment Act of 2016*. In MD, proposed legislation repealing certain hazardous material security rules. In VA, proposed bills addressing certain CSO outfalls with the Chesapeake Bay and Potomac River Watersheds; final amendment to hazardous waste management rules for mercury-containing lamp crushing.

### Region 5

In IL, release of IPCB's semi-annual regulatory agenda. In MI, new laws amending AST applications and annual fees, and the state SDWA specifically addressing the contamination liability of state and federal governments. In OH, endangered and threatened species list updated.

### Federal Activity

Memorandum for heads of executive departments and agencies establishing a temporary regulatory freeze pending review. EPA final rule delaying the effective dates for 30 regulations.

# Region 1

For more information or to comment on any state issues in Region 1, contact [Kevin Kennedy](#), Region 1 Program Coordinator, (540) 750-5159.



***LEGISLATIVE SESSION: 4 JAN THROUGH 5 JUN (EST), SINE DIE***

## ***PROPOSED LEGISLATION***

**HB 5493 STORMWATER PERMIT REQUIREMENTS.** HB 5493 prohibits the Connecticut Department of Energy and Environmental Protection (CDEEP) from issuing stormwater permits that require standards that are stricter than EPA requirements. The bill was referred to the Joint Committee on Environment.

**HB 5884 PROHIBITION ON USING COAL TAR SEALANTS ON STATE HIGHWAYS.** HB 5884 prohibits the use of coal tar sealants on state highways. The prohibition seeks to protect the environment and public health by limiting human and wildlife exposure to hazardous materials. The bill was referred to the Joint Committee on Environment.

**HB 6328 ELIMINATION OF EXEMPTIONS FOR DEVELOPMENT OF CLASS I AND II WATERSHED LANDS.** HB 6328 eliminates exemptions for the development of Class I and Class II watershed lands, including development for recreational purposes. Elimination of the exemptions seeks to prohibit destruction of watershed lands and protect public drinking water supplies. The bill was referred to the Joint Committee on Environment.

**HB 6343 ACCESS TO WATER PLANNING INFORMATION.** HB 6343 allows access to information that is essential for water planning while providing for security considerations concerning water resources and infrastructure. The bill was referred to the Joint Committee on Environment.

**SB 285 OFFSET OF CERTAIN ENVIRONMENTAL FINES THROUGH INVESTMENT IN ENVIRONMENTAL REMEDIATION.** SB 285 amends section 22-6a of the general statutes to authorize the offsetting of fines imposed by CDEEP. The bill authorizes fines to be offset by allowing the person or business to invest in environmental remediation that remedies the environmental damage caused by the violations and helps to prevent future violations. The bill was referred to the Joint Committee on Environment.

## ***OTHER REGULATORY ACTIVITY***

**CERTIFICATION OF STATE NNSR PROGRAM TO SATISFY IMPLEMENTATION OF 2008 OZONE STANDARD.** CDEEP has issued a [notice of intent](#) to revise the State Implementation Plan (SIP). The revision will certify the state's Nonattainment New Source Review (NNSR) program to comply with the 2008 National Ambient Air Quality Standards (NAAQS) for Ozone. A public hearing is scheduled for 28 FEB 17 and comments are due the same day.



**LEGISLATIVE SESSION: 4 JAN THROUGH 31 DEC (EST)**

**FINAL LEGISLATION**

**SB 2505 PROMOTION OF ZERO EMISSION VEHICLES.** SB 2505 (Public Act: 448) amends multiple chapters of the general laws to promote the sale and use of zero emission vehicles (ZEVs) within the commonwealth. The bill: (1) prohibits the owner of a public charging station from charging users a membership or subscription fee; (2) allows businesses and municipalities to restrict parking spaces specifically for ZEVs; (3) requires the Massachusetts Departments of Energy Resources and Transportation to conduct a study on state fleet electrification opportunities and file the report with the Legislature by 1 OCT 17; and (4) establishes additional required studies with submission timelines. The bill was signed by the governor on 13 JAN 17; effective dates vary by section.

**FINAL RULES**

**STANDARDS, REQUIREMENTS, AND PROCEDURES FOR APPLICATION OF PESTICIDES.** The Massachusetts Department of Agricultural Resources has [adopted](#) (page 443) amendments to the Pesticide Board regulation at 333 CMR 13.00, *Standards for Application*. The regulation establishes standards for the application of pesticides using particular methods (aircraft, subsurface termiticides) and in certain settings (indoor, residential, school, day care and child care program property). The amendments revise the process for a person living on, or legally in control of, property to request an exclusion from wide area applications of pesticides approved by the State Reclamation and Mosquito Control Board. The amendments became effective on 13 JAN 17.



**LEGISLATIVE SESSION: 4 JAN THROUGH 30 JUN (EST), SINE DIE**

**PROPOSED LEGISLATION**

**HB 342 COMMISSION TO STUDY TRANSITION OF CERTAIN ENVIRONMENTAL REGULATORY AUTHORITY.** HB 342 establishes a commission to study the transition of certain EPA regulatory authority to the New Hampshire Department of Environmental Services (NHDES). The commission will study the transfer of authority from EPA to NHDES regarding the issuance of the New Hampshire municipal separate storm sewer system (MS4) general permits (GP). The bill establishes committee membership criteria and requirements for consultation and reporting. The bill was referred to the Environment and Agriculture Committee.

**HB 376 REPORTING REQUIREMENTS FOR DISTURBANCE OF SEDIMENTS IN ESTUARINE WATERS.** HB 376 amends RSA 483-B, *Shoreland Water Quality Protection Act*, by adding new requirements concerning the disturbance of sediments in estuarine waters. The bill requires a person commencing a construction project that requires a permit under Chapter 483-B, that will cause substantial disturbance of sediments of estuarine waters, to analyze the characteristics of the sediments and report them to NHDES along with the permit application. The bill also establishes requirements for the analysis and identifies which toxic contaminants must be tested. The bill states that a permit will not be issued if the analysis shows the presence of toxic contaminants at or beyond levels deemed hazardous by NHDES. The bill was referred to the Resources, Recreation, and Development Committee.

**HB 463 REGULATING GROUNDWATER POLLUTION CAUSED BY AIR POLLUTING EMISSIONS.** HB 463 allows NHDES to make rules regarding air pollution and the deposit of such pollutants on soils and water. The bill also regulates devices emitting or having the potential to emit air pollutants that may harm soil and water through the deposit of such pollutants. Specifically, the bill states that devices that emit air pollutants that have adversely impacted human health or

the environment by causing or contributing to an exceedance of an ambient groundwater quality standard or other applicable standard will be subject to the determination and application of best available control technology (BACT). The bill was referred to the Resources, Recreation, and Development Committee.

**HB 485 STANDARDS FOR EMERGING CONTAMINANTS IN DRINKING WATER.** HB 485 requires NHDES to use exposure scenarios in children and other vulnerable populations to determine criteria for emerging contaminants in drinking water. The bill also requires NHDES to re-evaluate emerging contaminant criteria adopted on an annual basis to include new science and exposure scenarios. The bill was referred to the Resources, Recreation, and Development Committee.

**HB 585 ABOLISHING FLUORIDATION IN WATER.** HB 585 states that no fluoride, or any chemical containing fluoride, shall be introduced into the public water. The bill was referred to the Municipal and County Government Committee.

**SB 121 REQUIREMENT FOR NHDES TO SEND 303(D) LIST TO EPA.** SB 121 requires NHDES to immediately send EPA a final 2014 303(d) list that eliminates outdated or speculative impairment designations. Delisting has significant MS4 permit and/or wastewater treatment ramifications to communities that have water bodies that would no longer be on the "impaired list." An impairment listing triggers significant additional regulatory requirements under EPA's draft New Hampshire MS4 permit. The bill further directs NHDES to immediately begin work on the 2016 303(d) list utilizing the most current scientific data and to submit the final 2016 303(d) list to EPA by 1 APR 17. Finally, the bill requires NHDES, by 1 JUN 17, to submit an application to EPA requesting authorization to administer the NPDES program. The bill was referred to the Energy and Natural Resources Committee.

## ***OTHER REGULATORY ACTIVITY***

**GUIDANCE CLARIFYING CONDITIONS OF EPA 2017 NPDES CONSTRUCTION GENERAL PERMIT.** NHDES has issued [guidance](#) regarding EPA's 2017 National Pollutant Discharge Elimination System (NPDES) GP for Discharges from Construction Activities. The guidance provides clarification on the conditions specific to New Hampshire in section 9.1.1, *NHR120000: State of New Hampshire*. The guidance was issued on 20 JAN 17.



## ***LEGISLATIVE SESSION: 3 JAN THROUGH 30 JUN (EST), SINE DIE***

### ***FINAL RULES***

**CONTROL OF EMISSIONS FROM ORGANIC SOLVENT CLEANING.** The Rhode Island Department of Environmental Management (RIDEM) has [adopted](#) revisions to Air Pollution Control Regulation No. 36, *Control of Emissions from Organic Solvent Cleaning*. The regulation limits emissions of volatile organic compounds (VOCs) from cleaning operations. The revisions: (1) provide an exemption from certain requirements for small cold cleaners (internal volume less than one liter); (2) provide an alternative means of compliance for spray gun cleaning operations; (3) clarify the performance standard when an air pollution control system is used as an alternative to low vapor pressure solvents; and (4) revise recordkeeping requirements. The revisions do not impose any new requirements for the entities covered by the regulation. The revisions became effective on 9 JAN 17.

**REVISIONS TO AIR POLLUTION CONTROL GENERAL DEFINITIONS REGULATION.** RIDEM has [adopted](#) revisions to the Air Pollution Control General Definitions Regulation. The regulation provides a consistent set of definitions and abbreviations for terms used in multiple air pollution control regulations. The revisions amend the definition of VOC to be consistent with the current federal definition. The proposed change does not impose any new requirements for the entities covered by the air pollution control regulations. The revision became effective on 9 JAN 17.





**LEGISLATIVE SESSION: 4 JAN THROUGH 19 MAY (EST), SINE DIE**  
**PROPOSED LEGISLATION**

**HB 116 LIABILITY REQUIREMENTS FOR HAZARDOUS MATERIAL RELEASES.** HB 116 establishes that a person who is responsible for the release of a hazardous material is liable for the costs of remediating a public water system or potable water supply contaminated by the release. The bill also authorizes a public water system to require a person who caused a hazardous material release to pay the costs incurred by the public water system in response to the threat to public health or the environment presented by the hazardous material release. The bill was referred to the Natural Resources, Fish, and Wildlife Committee.

**SB 10 LIABILITY FOR PFOA CONTAMINATION OF POTABLE WATER SUPPLIES.** SB 10 establishes that a person who releases perfluorooctanoic acid (PFOA) into the air, groundwater, surface water, or onto the land is liable for certain costs. The bill states that if the Vermont Agency of Natural Resources (VANR) determines that a property, served by a potable water supply, has been or is likely to be contaminated with PFOA than the person who is responsible for the PFOA contamination is liable for the costs of extending access to a public water system to the property. The bill was referred to the Natural Resources and Energy Committee.

**FINAL RULES**

**2017 STORMWATER MANAGEMENT MANUAL RULE.** VANR has [adopted](#) the [2017 Vermont Stormwater Management Manual \(VSMM\) Rule](#). The rule updates the existing 2002 VSMM to incorporate important advances in the field of stormwater management. Changes to the VSMM Rule include: (1) updates to the standards for water quality, groundwater recharge, channel protection volume, overbank flood protection, and extreme flood protection treatment; (2) alternatives to the channel protection volume treatment standard; (3) incorporation of the soil depth and quality standard; (4) incorporation of the runoff reduction framework in design guidance; (5) integration of green stormwater infrastructure concepts; (6) expansion of the treatment requirements for redevelopment sites; and (7) incorporation of requirements for development and implementation of maintenance plans. A notice of the proposed manual was published in the October 2016 *Northern Review*. The VSMM Rule becomes effective on 1 JUL 17.

**STORMWATER MANAGEMENT RULE UPDATES.** VANR has adopted two separate amendments to the stormwater management rules at [Chapter 18, Stormwater Management Rule](#), and [Chapter 22, Stormwater Management Rule for Stormwater-Impaired Waters](#). The amendments for both chapters incorporate changes related to the recent adoption of at the *2017 VSMM Rule*. Amendments to both chapters include: (1) minor updates to the policy, definitions, exemption, "permit required," and duration of permit sections; (2) updated to "effective date" language; (3) updates to the appeals section; and (4) updates to contact information. Chapter 18 was also [amended](#) to delete its Subchapter 4. Chapter 22 was [amended](#) to update Appendices A and B to remove outdated cross references. Both amendments become effective on 1 JUL 17.

**CONSTRUCTION AND OPERATION OF NET-METERING SYSTEMS.** The Vermont Public Service Board has [adopted](#) rules for the installation and operation of net-metering systems. The [rules](#) address: (1) standards and procedures for the review of registrations and applications to construct net-metering systems; (2) procedures for public participation in the review of net-metering applications; (3) terms and conditions of net-metering service that electric utilities must offer to customers; (4) obligations of net-metering customers and requirements for the operation and decommissioning of net-metering systems; and (5) standards and procedures for enforcement proceedings involving net-metering systems. A notice of the proposed rule was published in the November 2016 *Northern Review*. The rule became effective on 4 FEB 17.

## OTHER REGULATORY ACTIVITY

**SUBMISSION OF CLEAN WATER REPORT.** The Vermont Office of the State Treasurer, in partnership with VANR, and other state agencies, has submitted [The Clean Water Report](#) to the Legislature, recommending how to fund water quality improvements in Vermont. The report recommends significant capital investment of \$50 million or more by the state over the next two years .

## Region 2

For more information or to comment on any state issues in Region 2, contact [Patrick Timm](#), Army Regional Environmental Coordinator, Region 2, (410) 278-6165.



**TERMINATION OF DELAWARE RIVER BASIN COMMISSION DROUGHT MANAGEMENT SPECIAL PERMIT.** The Delaware River Basin Commission (DRBC) has [announced](#) the termination of its drought management special permit, which has been effective since 23 NOV 16 when the basin was placed in a drought watch. Due to recent precipitation and snow melt, combined storage in three large upper basin reservoirs has achieved and sustained a sufficient level for five consecutive days to result in automatic termination of the basin-wide drought watch. DRBC continues to urge all water users to maximize water efficiency wherever possible and to fully cooperate with requests by the basin states to curb water use where drought watches and warnings have been issued based on local conditions. DRBC is comprised of the four basin state governors (Delaware, New Jersey, Pennsylvania, and New York) and the Division Engineer, North Atlantic Division, U.S. Army Corps of Engineers, who serves as the federal representative.



**LEGISLATIVE SESSION: 10 JAN 17 THROUGH 9 JAN 18**

### PROPOSED LEGISLATION

**AB 4306 STATEWIDE PLAN TO REDUCE LEAD EXPOSURE FROM CONTAMINATED SOILS AND DRINKING WATER.** AB 4306 requires NJDEP, within one year after the bill's effective date, to adopt a statewide plan to reduce lead exposure from contaminated soils and drinking water. The bill also requires NJDEP to designate geographic areas where lead in soils or drinking water poses the greatest danger of exposure to the public. The bill was referred to the Appropriations Committee.

**AB 4309 AMENDMENTS TO ASBESTOS CONTROL AND LICENSING ACT.** AB 4309 amends the *Asbestos Control and Licensing Act*, and applies the provisions of the law to the inspection of asbestos in a structure. The bill establishes employer license and employee permit requirements and provides that the commissioners of the departments of Labor and Workforce Development and Health should adopt standards and regulations for the inspection of asbestos. The bill also extends the enforcement provisions established to include violations as they relate to the inspection of asbestos. The law currently applies to the application, enclosure, repair, removal and encapsulation of asbestos. The bill has passed the Assembly and was referred to the Senate Environment and Energy Committee.

### PROPOSED RULES

**AMENDMENTS TO RACT REQUIREMENTS FOR VOC AND NO<sub>x</sub>.** NJDEP has [proposed](#) amendments to the Air Pollution Control Rules at N.J.A.C. 7:27. The rules pertain to reasonably achievable control technology (RACT) requirements for VOCs and for oxides of nitrogen (NO<sub>x</sub>). The amendments address VOC RACT by incorporating EPA recommendations

from four Control Techniques Guidelines (CTGs) for source categories that are present in New Jersey, including industrial cleaning solvents and miscellaneous metal and plastic parts coatings. The amendments also address NO<sub>x</sub> RACT requirements by establishing new limits on NO<sub>x</sub> emissions from: (1) existing simple cycle combustion turbines combusting natural gas and compressing gaseous fuel at major NO<sub>x</sub> facilities; and (2) stationary reciprocating engines combusting natural gas and compressing gaseous fuel at major NO<sub>x</sub> facilities. The proposal would constitute a SIP revision. Comments are due by 4 MAR 17.

**RACT OBLIGATIONS FOR FEDERAL 2008 EIGHT-HOUR NAAQS.** NJDEP has [proposed](#) new rules and amendments to address New Jersey's RACT obligations for the federal 2008 Eight-Hour NAAQS for ozone pursuant to Clean Air Act Section 184. The rules will help New Jersey meet the ozone standard by reducing emissions of VOCs and NO<sub>x</sub>, and should also reduce the indirect formation of fine particulate matter (PM<sub>2.5</sub>), so that the state can continue to meet the NAAQS for PM<sub>2.5</sub>. The proposal addresses VOC emissions from industrial cleaning solvents; miscellaneous metal and plastic parts coatings; paper, film, and foil coatings; and fiberglass boat manufacturing materials. The proposed rules address NO<sub>x</sub> emissions from natural gas-fired engines and simple cycle turbines used to transfer gaseous fuels. Once adopted, the new rules and amendments will become part of New Jersey's SIP. Comments are due by 4 MAR 17.



## ***LEGISLATIVE SESSION: 4 JAN THROUGH 31 DEC (EST)***

### ***PROPOSED LEGISLATION***

**AB 107 (SB 2846) TAX ON CARBON-BASED FUELS.** AB 107 amends the tax law to establish a tax on carbon-based fuels to mitigate greenhouse gas emissions causing anthropogenic climate change. The bill provides: (1) definitions; (2) administration of emissions charges; (3) establishment of the carbon dioxide emissions tax; (4) development of a carbon dioxide emissions fund; and (5) authorization for the state departments of Taxation and Finance and Environmental Conservation to promulgate rules and regulations addressing requirements of the bill. The bill was referred to the Ways and Means Committee.

**AB 494 (SB 495) TRICHLOROETHYLENE (TCE) EXPOSURE PREVENTION.** AB 494 amends the public health law and the environmental conservation law, in relation to TCE exposure prevention. The bill: (1) requires the state Department of Health (DOH) to prescribe a maximum indoor air contaminant level for TCE, based on the most protective underlying assumptions and cancer potency factor; (2) specifies that indoor air is included in the media that the New York State Department of Environmental Conservation (NYSDEC) must consider in its regulatory duties, and directs the department to consider any regulatory levels set by DOH above; and (3) specifies notification requirements. The bill was reported out of the Health Committee and was referred to the Codes Committee.

**AB 1121 RESTRICTION ON USE OF DIESEL POWERED ELECTRICAL GENERATION SYSTEMS.** AB 1121 amends the environmental conservation law, in relation to restricting the operation of diesel powered electrical generation systems in certain areas. Specifically, the bill restricts the use of diesel powered electric turbines to meet summer electricity demand in areas of the state that already have severely compromised air quality. The bill exempts equipment that is: (1) less than 100 kilowatts (kw); (2) already meeting emission standards; (3) used solely for emergency power; and (4) using co-generation technology. The bill was referred to the Environmental Conservation Committee.

**AB 1246 PERFORMANCE STANDARDS FOR EMISSIONS OF SMALL STATIONARY SOURCES.** AB 1246 amends the environmental conservation law, in relation to standards for emissions from small electric generating sources. The bill directs NYSDEC to promulgate rules and regulations that establish performance standards for the emissions of small stationary sources that generate 10 kw or more of electricity for which there are no adequate emission standards under existing state or federal law. The bill was referred to the Environmental Conservation Committee.

**AB 3475 PROHIBITION OF IDLING FOR HEAVY DUTY VEHICLES.** AB 3475 amends the vehicle and traffic law, in relation to idling of heavy duty vehicles. The bill prohibits idling of heavy duty vehicles for more than five consecutive minutes. The bill also establishes certain exemptions, including fire, police, and public utility trucks or other vehicles that are performing emergency services. There is no specific exemption for military vehicles. The bill was referred to the Transportation Committee.

**SB 1755 LOCATION PROHIBITIONS FOR CERTAIN WIND ELECTRIC GENERATION FACILITIES.** SB 1755 amends the public service law, in relation to location of certain wind electric generation facilities. The bill prohibits the location of certain wind electric generation facilities within 40 miles of an airfield or airbase under jurisdiction of any federal military department, which is in active use. The bill also prohibits the location of wind electric generation facilities within 40 miles of an air traffic control radar site, weather radar site, or aircraft navigation aid that is: (1) owned or operated by DOD; and (2) a permanent land-based structure at a fixed location. The bill was referred to the Energy and Telecommunications Committee.

**SB 2602 (AB 3815) PROHIBITION ON DISPOSAL OF DREDGED SPOILS CONTAINING TOXIC POLLUTANTS.** SB 2602 amends environmental conservation law by prohibiting the disposal of any dredged spoils containing toxic pollutants into the waters of the marine district. The bill was referred to the Environmental Conservation Committee.

## ***FINAL RULES***

**ADDITION OF PFOA AND PFOS TO LIST OF HAZARDOUS SUBSTANCES.** NYSDEC has [readopted](#) (page 4) an emergency rule to amend regulations under Title 6 NYCRR Part 597, *Hazardous Substances Identification, Release Prohibition, and Release Reporting*. The emergency rule: (1) adds perfluorooctanoic acid (PFOA), PFOA-salt, perfluorooctane sulfonic acid (PFOS), and PFOS-salt to the list of hazardous substances in Section 597.3; (2) allows fire-fighting foam containing PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt to be used to fight fires, but not for training or any other purposes, on or before 25 APR 17; and (3) corrects the list of hazardous substances by providing units for reportable quantities. The previous emergency rule in effect expired on 12 JAN 17. A notice of the previous emergency rule was published in the December 2016 *Northern Review*. The readopted emergency rule became effective on 12 JAN 17 and will expire on 13 MAR 17. NYSDEC has proposed an identical permanent rule. The comment period for the permanent rule closed on 8 JUL 16.

## ***PROPOSED RULES***

**STATE ENVIRONMENTAL QUALITY REVIEW ACT AMENDMENTS.** NYSDEC has [proposed](#) amendments to the State Environmental Quality Review Act (SEQRA) implementing regulations. The amendments aim to streamline the SEQRA process without sacrificing meaningful environmental review. Specifically, the amendments seek to: (1) improve the scoping process; (2) clarify and reduce review requirements; and (3) improve timeliness of decision making. The department has chosen to use a [generic environmental impact statement](#) to discuss the objectives and the rationale for the proposed amendments and provide opportunity for public participation. A public hearing is scheduled for 31 MAR 17 and comments are due by 19 MAY 17.

## ***OTHER REGULATORY ACTIVITY***

**GUIDANCE DOCUMENT FOR VARIANCES FROM DISTRIBUTED GENERATION SOURCES REGULATION.** NYSDEC has issued a [guidance document](#), *DAR-21: Economic and Technical Analysis for Variances pursuant to Subdivision 222.5(a) of Part 222*. On 1 NOV 16, NYSDEC adopted 6 NYCRR Part 222, *Distributed Generation (DG) Sources*, which established emission standards, monitoring requirements, and recordkeeping requirements for certain DG sources that are not currently regulated under Subpart 227-2 or a federal New Source Performance Standard (NSPS). DAR-21 pertains to subdivision 222.5(a), which states that if the owner or operator of an economic dispatch source cannot meet the NO<sub>x</sub> emissions established by the rule they can submit a request to NYSDEC for a higher source-specific emission limit. DAR-21 outlines the process for applying for a variance, including the technical documentation required for the NYSDEC to complete its review.

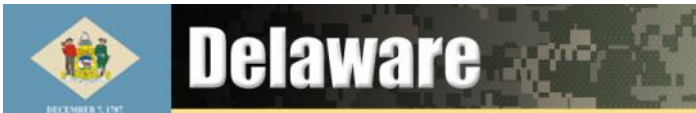


# Region 3

For more information or to comment on any state issues in Region 3, contact [Patrick Timm](#), Army Regional Environmental Coordinator, Region 3, (410) 278-6165.



**TERMINATION OF DELAWARE RIVER BASIN COMMISSION DROUGHT MANAGEMENT SPECIAL PERMIT.** The Delaware River Basin Commission (DRBC) has [announced](#) the termination of its drought management special permit, which has been effective since 23 NOV 16 when the basin was placed in a drought watch. Due to recent precipitation and snow melt, combined storage in three large upper basin reservoirs has achieved and sustained a sufficient level for five consecutive days to result in automatic termination of the basin-wide drought watch. DRBC continues to urge all water users to maximize water efficiency wherever possible and to fully cooperate with requests by the basin states to curb water use where drought watches and warnings have been issued based on local conditions. DRBC is comprised of the four basin state governors (Delaware, New Jersey, Pennsylvania, and New York) and the Division Engineer, North Atlantic Division, U.S. Army Corps of Engineers, who serves as the federal representative.



**LEGISLATIVE SESSION: 10 JAN THROUGH 30 JUN (EST)**

## **FINAL RULES**

**AIR REGULATION AMENDMENTS THAT ADDRESS EPA SSM SIP CALL.** The Delaware Department of Natural Resources and Environmental Control (DNREC) has adopted separate amendments to [7 DE Admin. Code 1104](#), *Particulate Emissions from Fuel Burning Equipment*, and [7 DE Admin. Code 1124](#), *Control of Volatile Organic Compound Emissions*. Both amendments revise the regulations to address the EPA Startup, Shutdown, and Malfunction (SSM) SIP Call and avoid the imposition of federal sanctions. Both amendments became effective on 11 JAN 17.

**UNIVERSAL RECYCLING REGULATIONS.** DDNREC has [adopted](#) new regulations at 7 DE Admin. Code 1305, *Universal Recycling Regulations*. The new regulations ensure: (1) proper programs and collection services for recyclable materials are implemented, maintained, and consistent with the law; (2) collected recycled materials are diverted from landfill disposal or incineration; (3) recyclable materials are otherwise properly processed and enter the marketplace; (4) recycling in Delaware can be effectively measured; and (5) waste diversion is maximized through the reduction of solid waste deposited in landfills. The new regulations become effective on 21 FEB 17.



**LEGISLATIVE SESSION: 1 JAN THROUGH 31 DEC**

## **FINAL LEGISLATION**

**B 580 PESTICIDE EDUCATION AND CONTROL AMENDMENT ACT OF 2016.** B 580 (Public Act: 21-652) amends the *Pesticide Education and Control Amendment Act of 2012*. The amendments: (1) restrict and require reporting of the application of certain pesticides near schools, child-occupied facilities, waterbody-contingent property, or District of Columbia property; (2) remove the requirement that the mayor list non-essential pesticides; and (3) remove the requirement that a person seek an exemption to apply a non-essential pesticide. The bill was signed by the mayor on 24 JAN 17; it will be sent to Congress for a 30-day period of congressional review.



**LEGISLATIVE SESSION: 11 JAN THROUGH 11 MAY (EST), SINE DIE**

**PROPOSED LEGISLATION**

**HB 66 PROHIBITION ON LEAD AND MERCURY WHEEL WEIGHTS.** HB 66 prohibits certain persons from using, allowing to be used, or selling certain lead or mercury wheel weights after certain dates. The bill also: (1) requires the state to ensure that no vehicle in the state fleet is equipped with certain lead or mercury wheel weights after a certain date; (2) requires removed and collected lead and mercury wheel weights to be properly recycled; and (3) establishes enforcement requirements. The bill was referred to the Environment and Transportation Committee.

**HB 121 REPEAL OF CERTAIN HAZARDOUS MATERIAL SECURITY REGULATIONS.** HB 121 repeals multiple requirements within the state hazardous material security regulations. The bill includes the repeal of: (1) requirement to deposit certain fees collected by the Maryland Department of the Environment (MDE) into a certain account within the Community Right-To-Know Fund; (2) requirement that certain persons analyze the security of specific facilities; (3) requirement that a certain analysis be submitted to MDE; and (4) certain fee exemptions for counties and municipalities. The bill was referred to the Environment and Transportation Committee.



**LEGISLATIVE SESSION: 11 JAN THROUGH 25 FEB (EST)**

**PROPOSED LEGISLATION**

**HB 1597 WAIVER OF CERTAIN STORMWATER MANAGEMENT CHARGES.** HB 1597 requires any locality establishing a stormwater management utility to provide a full or partial waiver of charges for a person whose approved stormwater management plan indicates that the stormwater produced by their property is retained and treated on site. The bill passed the House and was referred to the Senate Local Government Committee.

**HB 2383 REQUIREMENTS FOR CERTAIN CSO OUTFALLS WITHIN CHESAPEAKE BAY WATERSHED.** HB 2383 directs the Virginia Department of Environmental Quality (VDEQ) to identify the owner of any combined sewer overflow (CSO) outfall that discharges into the Chesapeake Bay Watershed. Once identified, for any owner that is not under a state order or decree related to the CSO as of 1 JAN 17, VDEQ must determine what actions the owner must take to bring the outfall into compliance with state and federal law, and the Presumption Approach described in the EPA CSO Control Policy. The bill requires any owner of such an outfall to initiate the necessary construction activities to bring the CSO into compliance with the EPA policy by 1 JUL 24. Until compliance is achieved, the owner must annually report its progress to VDEQ. VDEQ must provide all such reports to certain legislative committees, the Virginia delegation to the Chesapeake Bay Commission, the secretary of Natural Resources, and the governor. The bill does not apply to any outfall that requires a higher level of control to comply with a total maximum daily load (TMDL). The bill has passed the House.

**SB 898 REQUIREMENTS FOR CERTAIN CSO OUTFALLS WITHIN POTOMAC RIVER WATERSHED.** SB 898 directs VDEQ to identify the owner of any CSO outfall that discharges into the Potomac River Watershed. Once identified, VDEQ must determine what actions by the owner are necessary to bring the outfall into compliance with the Presumption Approach described in the EPA CSO Control Policy. The bill requires any owner of such an outfall to bring it into compliance with the EPA policy by 1 JUL 25, unless a higher level of control is necessary to comply with a TMDL. The bill passed the Senate and was referred to the House Agriculture, Chesapeake and Natural Resources Committee.

## ***FINAL RULES***

**AMENDMENT TO HAZARDOUS WASTE MANAGEMENT RULES FOR MERCURY-CONTAINING LAMP CRUSHING.** The Virginia Waste Management Board has [adopted](#) (page 42) amendments to 9 VAC 20-60, *Virginia Hazardous Waste Management Regulations*. The amendments address the management of mercury-containing lamps by recycling facilities or universal waste handlers, including: (1) testing, operational, closure, and recordkeeping requirements, and if applicable, financial assurance requirements; and (2) requirements for small and large quantity handlers and destination facilities that manage mercury-containing lamps. The amendments qualify the Virginia Mercury-Containing Lamp Universal Waste Program as a state-equivalent program that permits the crushing of mercury-containing lamps. A notice of the proposed amendments was published in the April 2012 *Northern Review*. The amendments became effective on 1 JAN 17.

**AMENDMENTS TO EMISSION GUIDELINES FOR MUNICIPAL SOLID WASTE LANDFILL RULES.** The Virginia State Air Pollution Control Board (SAPCB) has [adopted](#) (page 45) amendments to 9VAC5-20, *General Provisions*, and 9VAC5-40, *Existing Stationary Sources*. Currently, air pollution from landfills is regulated in Virginia under Article 43, *Emission Standards for Municipal Solid Waste Landfills*. Article 43 was originally designed to control two separate pollutants: (1) ozone in the Northern Virginia ozone nonattainment area; and (2) non-methane organic compounds, which is applicable statewide. On 29 AUG 16, EPA adopted new emissions guidelines for municipal solid waste landfills. The EPA guidelines reduce emissions of landfill gas, which contains both non-methane organic compounds and methane. SAPCB has adopted the amendments to incorporate the new EPA requirements, while maintaining the state-only requirements specific to the Northern Virginia ozone nonattainment area. The amendments create a new Article 43.1, which enables the adoption of the new statewide standards without affecting the more restrictive requirements of Article 43 applicable to the nonattainment area. The amendments become effective on 22 FEB 17.

**AMENDMENTS TO WATERWORKS AND WASTEWATER WORKS REGULATIONS** The Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals has [adopted](#) (page 84) a final rule amending its regulations at 18VAC160-20, 18VAC160-30, and 18VAC160-40. The amendments repeal the existing regulations and create two separate chapters: 18VAC160-30 - *Waterworks and Wastewater Works Operators Licensing Regulations*, and 18VAC160-40 - *Onsite Sewage System Professionals Licensing Regulations*. The regulations include: (1) definitions; (2) fees; (3) standards of practice and conduct; (4) qualifications for licensure; (5) requirements for application, examination, continuing education, and renewal and reinstatement of licenses; and (6) approval and maintenance of training courses. The final rule introduces new master and journeyman categories for onsite sewage system professional licensees. A notice of the proposed amendments was published in the January 2016 *Northern Review*. The final rule becomes effective on 1 APR 17.

**AMENDMENTS TO GP FOR CERTAIN DISCHARGES IN CHESAPEAKE BAY WATERSHED.** VDEQ has [reissued](#) (page 84) with amendments 9VAC25-820, *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 GP governs facilities holding individual VPDES permits that discharge or propose to discharge total nitrogen or total phosphorus to the Chesapeake Bay or its tributaries. The facilities are authorized to discharge to surface waters and exchange credits for total nitrogen, total phosphorus, or both. The GP was scheduled to expire on 31 DEC 16. The amendments update and clarify definitions, effective dates, monitoring frequencies and sample types, quantification level requirements, trading ratio provisions, and new waste load allocations for some facilities as required by the Chesapeake Bay TMDL with associated compliance schedule requirements and conditions applicable to all VPDES permits. A notice of the proposed reissue with amendments was published in the March 2015 *Northern Review*. The GP became effective on 8 FEB 17.

## ***OTHER REGULATORY ACTIVITY***

**CONSIDERING AMENDMENTS TO GENERAL VPDES PERMIT FOR POTABLE WATER TREATMENT PLANTS.** The Virginia State Water Control Board (SWCB) is [considering amendments](#) (page 6) to 9VAC25-860, *General Virginia Pollutant Discharge Elimination System Permit for Potable Water Treatment Plants*. The existing GP is scheduled to expire on 30 JUN 18,

and it must be reissued. SWCB is also considering possible amendments to address other issues concerning whether: (1) authorization to discharge should consider facilities with groundwater contamination; (2) registration statement requirements need to be clarified; (3) numerical limits and special conditions are still appropriate; (4) land application requirements for water treatment residuals should be added; and (5) the whole effluent toxicity requirements need to be adjusted. The comment period closed on 8 FEB 17.

**CONSIDERATION OF AMENDMENTS TO PERMITS FOR STATIONARY SOURCES RULES.** SAPCB is [considering amendments](#) (page 6) to 9VAC5-80, *Permits for Stationary Sources*. The amendments are needed to comply with state and federal requirements to fully fund Virginia's Title V Permit Program. Possible amendments could: (1) increase Title V fees enough to fully fund the Title V program; (2) restructure the existing Title V fee schedule to better reflect actual costs of the program; and (3) clarify regulatory text. The comment period closed on 8 FEB 17.



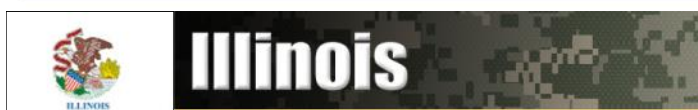
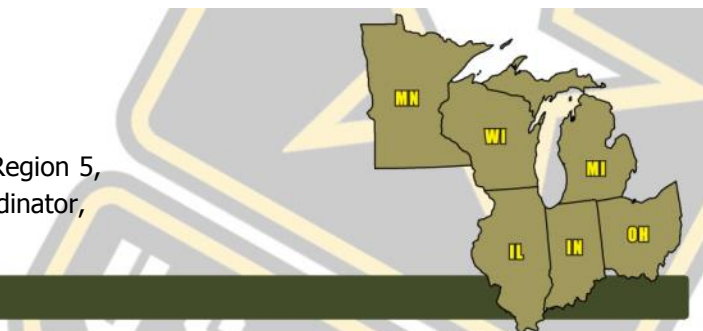
**LEGISLATIVE SESSION: 11 JAN THROUGH 10 MAR (EST), SINE DIE**

### **FEDERAL ACTIVITY**

**PUBLIC WATER SYSTEM SUPERVISION PROGRAM REVISIONS.** EPA has issued a notice of approval for Public Water System Supervision Program revisions submitted by the state of West Virginia ([82 FR 3311](#)). EPA has determined that West Virginia's Revised Total Coliform Rule meets all minimum federal requirements, and that it is no less stringent than the corresponding federal regulation. Barring adverse comment or a request for a hearing the approval becomes effective on 10 FEB 17. This regulatory action may or may not be affected by the federal regulatory freeze ([see page 16](#)).

## **Region 5**

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



**LEGISLATIVE SESSION: 13 JAN 16 THROUGH 11 JAN 17 (EST)**

### **PROPOSED LEGISLATION**

**HB 613 SAVING ILLINOIS' POLLINATORS ACT.** HB 613 creates the *Saving Illinois' Pollinators Act*. The bill states: (1) nine months after the act's effective date it will be illegal to apply any neonicotinoid insecticides on public lands owned or maintained by the state and any other outdoor residential settings in the state; (2) the Illinois Department of Agriculture (IDA), within six months of the act's effective date, must adopt rules that further define and implement specified provisions of act; (3) within one year of the act's effective date, IDA must issue a draft report evaluating whether certain evidence exists that outdoor applications of these insecticides are safe for honey bees, other pollinators, other beneficial insects, the broader environment, and human health. The bill was referred to the Environmental Committee.



## ***OTHER REGULATORY ACTIVITY***

**RELEASE OF IPCB SEMI-ANNUAL REGULATORY AGENDA.** The Illinois Pollution Control Board (IPCB) has [released](#) (pages 477-504) its Semi-Annual Regulatory Agenda, which identifies and summarizes rulemakings that may be considered by the board within the next six months. Some of the possible rulemakings listed include: (1) docket R17-10 (page 484) - adoption of ambient air quality standards that are identical-in-substance to the NAAQS adopted by EPA; (2) docket R17-11 (page 481) - update of the state definition of volatile organic material (VOM) to reflect the additions made by EPA; (3) docket R17-12 (page 490) - update of the state drinking water regulations to reflect EPA amendments to the federal Safe Drinking Water Act (SDWA) primary drinking water regulations; (4) docket R17-15 (page 496) - update of state rules implementing Subtitle C of the federal Resource Conservation and Recovery Act (RCRA) to reflect EPA amendments; (5) docket R17-17 (page 488) - update of state wastewater pretreatment regulations to reflect EPA revisions; and (6) docket R17-16 (page 499) - update of state underground storage tank (UST) regulations to reflect EPA UST amendments.



***LEGISLATIVE SESSION: 3 JAN THROUGH 29 APR (EST), SINE DIE***

### ***PROPOSED LEGISLATION***

**SB 150 BAN ON SALE OR USE OF COAL TAR PAVEMENT PRODUCTS.** SB 150 prohibits the sale and pavement application of a coal tar pavement product. The bill has an exception for research purposes, if the research is studying the effects of the coal tar pavement product on the environment. The bill was referred to the Environmental Affairs Committee.

### ***FINAL RULES***

**AMENDMENTS TO SOLID WASTE FACILITY OPERATOR CERTIFICATION PROGRAM.** The Indiana Department of Environmental Management (IDEM) has [adopted](#) amendments to the solid waste facility operator certification program rules at 329 IAC 12. The amendments: (1) offer more flexibility for the certification and recertification course content and recertification through continuing education; (2) provide additional training options for completing required courses; (3) extend the period of time allowed between operator recertification; (4) clarify sections throughout the rule; and (5) update the rule to adapt to changing conditions in the industry. A notice of the proposed draft rule was published in the October 2015 *Northern Review*. The adopted amendments are substantively different from the draft rule published. The amendments became effective on 1 JAN 17.

**AMENDMENTS ADDRESSING SSM EMISSIONS.** IDEM has [adopted](#) amendments to the air pollution control division rules at 326 IAC 1-6, *Malfunctions*, and 326 IAC 2-9-1, *Source Specific Operation Agreement Program*. The amendments address the treatment of excess emissions at certain industrial facilities during periods of startup, shutdown, or malfunction. The amendments became effective on 30 JAN 17.



***LEGISLATIVE SESSION: 11 JAN THROUGH 31 DEC (EST)***

### ***FINAL LEGISLATION***

**SB 950 AMENDMENT TO MICHIGAN SDWA SPECIFIC STATE AND FEDERAL GOVERNMENTS.** SB 950 (Public Act: 545'16) amends the state SDWA by adding a section that applies to state and federal government. The new section provides that 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, then the state or federal government must provide an alternative water supply

to the users of an impacted water source in the vicinity of the real property as long as certain criteria are met. The bill also requires, under certain circumstance, the state and federal government to conduct long-term monitoring to delineate the extent of the migration of the substance of concern. The results of this monitoring must be provided to the Michigan Department of Environmental Quality (MDEQ) and to the Michigan Department of Health and Human Services. A notice of the proposed bill, which originally only applied to the U.S. Armed Forces, was published in the June 2016 *Northern Review*. The U.S. Army, as the DOD REC for Region 5, submitted comments regarding the original bill text with DOD concerns, including that it pertained only to the military. The bill was signed by the governor on 6 JAN 17 and became effective upon signature.

**HB 5113 WATER DISTRIBUTION OR SEWAGE SYSTEM LIEN.** HB 5113 (Public Act 421'16) amends Public Act 178 of 1939, which governs municipal water liens. The bill extends, from three years to five years, the enforceable period of a lien against property to which a municipal water distribution or sewage system provides service. The bill was signed by the governor on 3 JAN 17 and has varying effective dates.

**SB 1179 AMENDMENTS TO ABOVEGROUND STORAGE TANK (AST) APPLICATION AND ANNUAL FEES.** SB 1179 (Public Act: 0468'16) amends the Fire Prevention Code regarding AST fees. Under current law, an individual who wishes to install an AST is subject to a fee of \$203 with the application for installation, as well as a \$61.50 annual fee. The bill would exempt owners of ASTs from the fees if the tanks were used exclusively for the storage of refined petroleum products subject to the 7/8th-cent per gallon environmental protection regulatory fee. A notice of the bill's Senate passage was published in the December 2016 *Northern Review*. The bill was signed by the governor on 4 JAN 17 and becomes effective on 29 MAR 17.

## ***PROPOSED LEGISLATION***

**SB 63 AMENDMENTS TO SAFE DRINKING WATER ACT.** SB 63 amends the state SDWA by lowering the action level for lead in drinking water to: (1) 10 parts per billion (ppb), beginning 31 DEC 17; and (2) 5 ppb, beginning 1 JAN 21. The bill also grants MDEQ the authority to establish a lower action level for lead than is provided by the bill. The bill requires MDEQ to make every effort to achieve an action level goal for lead in drinking water of zero ppb. The bill also establishes that it is the intent of the state legislature to make appropriations to pay units of local government that own community supplies or non-transient non-community water supplies for any necessary increased costs of complying with the lead action level. The bill was referred to the Government Operations Committee.

## ***FINAL RULES***

**REVISIONS TO AIR POLLUTION CONTROL RULES.** MDEQ has adopted two separate revisions to the Air Pollution Control Rules under [Part 1](#) (page 58), *General Provisions*, and [Part 2](#) (page 84), *Air Use Approval*. Both revisions address rule recommendations made by the Michigan Office of Regulatory Reinvention's Environmental Advisory Rules Committee. The revisions also reflect the removal of obsolete dates, corrected citations, updated provisions to be consistent with federal requirements, changes to regulation of toxic air contaminants, clarification of permit exemptions, and moving adoption by reference to another rule section. Both revisions became effective on 20 DEC 16.

**AMENDMENTS TO AIR EMISSION LIMITATIONS AND PROHIBITIONS REGULATIONS.** MDEQ has [adopted](#) (page 183) amendments to the Air Pollution Control regulations under Part 9, *Emission Limitations and Prohibitions – Miscellaneous*. The amendments update material adopted by reference, update sections to comply with the EPA SIP Call, correct a citation to a test method, and add a new rule for large municipal waste combustors. The amendments became effective on 20 DEC 16.



**LEGISLATIVE SESSION: 3 JAN THROUGH 22 MAY (EST), SINE DIE**

**PROPOSED LEGISLATION**

**HB 551 REPEAL OF MPCA AND MDNR RULEMAKING AUTHORITY.** HB 551 repeals the rulemaking authority of Minnesota's Pollution Control Agency (MPCA) and Department of Natural Resources (MDNR). The bill grants an exception for the expedited emergency rulemaking authority granted to the MDNR commissioner under certain circumstances. The bill also states that beginning with the 2018 state legislature, the House of Representatives and Senate committees having jurisdiction over environment and natural resources will review each rule chapter and recommend to the full legislature enactment of all or any part of the rules, along with any recommended amendments. The bill was referred to the Environment and Natural Resources Policy and Finance Committee.



**LEGISLATIVE SESSION: 2 JAN THROUGH 31 DEC (EST)**

**FEDERAL ACTIVITY**

**REDESIGNATION OF CLEVELAND AREA TO ATTAINMENT OF 2008 OZONE STANDARD.** EPA has issued a final rule approving a request from the state of Ohio to redesignate to attainment the Cleveland-Akron-Lorain, Ohio, area of the 2008 ozone NAAQS ([82 FR 1603](#)). The Cleveland area includes Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit counties. EPA has also approved, as a SIP revision, Ohio's plan for maintaining the 2008 ozone standard through 2030 in the Cleveland area. Finally, EPA has approved Ohio's 2020 and 2030 Motor Vehicle Emission Budgets (MVEBs) for the Cleveland area. A notice of the proposed rule was published in the November 2016 *Northern Review*. The final rule became effective on 6 JAN 17. This regulatory action may or may not be affected by the federal regulatory freeze ([see page 16](#)).

**ATTAINMENT REDESIGNATION OF OHIO PORTION OF CINCINNATI-HAMILTON, OH-IN-KY, AREA FOR 1997 PM<sub>2.5</sub> NAAQS.** EPA has issued a proposed rule to redesignate the Ohio portion of the Cincinnati-Hamilton, OH-IN-KY, nonattainment area to attainment for the 1997 PM<sub>2.5</sub> annual NAAQS ([82 FR 792](#)). The Ohio portion of the Cincinnati-Hamilton area includes Butler, Clermont, Hamilton, and Warren counties. EPA has also proposed approval for the: (1) Reasonably Available Control Measures (RACM)-RACT portion of Ohio's Cincinnati-Hamilton area attainment plan; (2) associated maintenance plan for the 1997 annual PM<sub>2.5</sub> NAAQS through 2027; (3) updated emission inventory, which includes VOCs and ammonia; and (4) budget for the mobile source contribution of PM<sub>2.5</sub> and NO<sub>x</sub> for transportation conformity purposes. The comment period closed on 3 FEB 17.

**FINAL RULES**

**ENDANGERED AND THREATENED SPECIES LIST UPDATE.** The Ohio Department of Natural Resources has [adopted](#) amendments to Administrative Rule 1501:18-1-03, *Endangered and Threatened Species*. The amendments fulfill a state requirement to biennially update the state listing of endangered and threatened plants. Endangered and threatened plant species were added or removed as determined by the Ohio Rare Plant Advisory Committee and the Division of Natural Areas and Preserves. Some plant names were changed to reflect the current scientific standards. A notice of the proposed amendments was published in the November 2016 *Northern Review*. The amendments became effective on 31 DEC 16.

## OTHER REGULATORY ACTIVITY

**GUIDELINES FOR DETERMINING WHEN SOURCE OR TREATMENT CHANGES TRIGGER NEW OCCT EVALUATION.** The Ohio Environmental Protection Agency (OEPA) has released a [draft guidance](#) document, *Guidelines for Determining When Source or Treatment Changes Trigger New Optimal Corrosion Control Evaluation*. The document provides guidance to the regulated community and OEPA Division of Drinking and Ground Water staff on when a source or treatment change in a public water system requires the re-evaluation of optimal corrosion control treatment (OCCT). The comment period closed on 31 JAN 17.



**LEGISLATIVE SESSION: 3 JAN THROUGH 31 DEC (EST)**

### PROPOSED RULES

**REVISIONS TO WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT PROGRAM.** The Wisconsin Department of Natural Resources has [proposed](#) rule revisions related to the Wisconsin Pollutant Discharge Elimination System (WPDES) permit program. The [revisions](#) address some of the issues and potential inconsistencies with federal regulations identified by EPA in 2011. Comments are due by 1 MAR 17.

## Federal Activity

**MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES: REGULATORY FREEZE PENDING REVIEW.** The Assistant to the President and Chief of Staff issued a memorandum on 20 JAN 17 with the presidential directive to send no regulation to the Office of the Federal Register until a department or agency head appointed or designated by the president reviews and approves the regulation. Executive departments and agencies are to postpone the effective date for 60 days from the date of the memorandum for regulations that have been published in the Federal Register but have not taken effect. The delayed effective date may lead to additional notice and comment on the rulemaking. The Director or Acting Director of the Office of Management and Budget (OMB) may allow exceptions to the directive for emergency situations or other urgent circumstances relating to health, safety, financial, or national security matters. OMB published a notice on the memorandum in the Federal Register ([82 FR 8346](#)) on 24 JAN 17.

**EPA FINAL RULE DELAYING EFFECTIVE DATES FOR 30 REGULATIONS.** EPA has issued a final rule delaying implementation of 30 regulations that were published in the Federal Register between 28 OCT 16 and 17 JAN 17 ([82 FR 8499](#)). The final rule identifies the specific regulations affected and gives all of them the new effective date of 21 MAR 17. The final rule became effective on 26 JAN 17.

### ENERGY

**QUADRENNIAL ENERGY REVIEW.** The U.S. Department of Energy (DOE) has [released](#) the second installment of the Quadrennial Energy Review ([QER 1.2](#)). The QER, released in cycles, provides an integrated view of and recommendations for federal energy policy in the context of economic, environmental, occupational, security, and health and safety priorities. The first installment, QER 1.1, focused on the nation's energy infrastructure. The second installment, QER 1.2, focuses on transforming the nation's electricity system, analyzing trends and issues confronting the nation's electricity sector out to 2040, and examining the entire electricity supply chain from generation to end use. Within the context of three overarching national goals, recommendations in QER 1.2 are intended to enhance economic competitiveness, promote environmental responsibility, and provide for the nation's security. The report builds on analysis and recommendations in QER 1.1 on improving energy transmission, distribution, and storage infrastructures.



## **LAND USE**

**HR 403 ENSURING SAFETY OF OUR MILITARY AVIATORS ACT OF 2017.** HR 403 would require the Secretary of Defense to not approve any application for the construction or alteration of a wind turbine if the turbine is proposed to be constructed or altered within 25 miles of a military airbase or military airfield. The bill was referred to the Armed Services Committee.

## **NATURAL RESOURCES**

**GAO REPORT: CASE STUDY OF EFFECTIVENESS OF COMPENSATORY MITIGATION STRATEGIES.** GAO released a report that evaluates the U.S. Fish and Wildlife Service's (FWS) implementation of compensatory mitigation strategies, using FWS's American Burying Beetle Conservation Efforts as the study subject ([GAO 17-154](#)). FWS signed an interagency agreement with the U.S. Army Corps of Engineers (USACE) in February 2016 to modify its Regulatory In-lieu fee and Bank Information Tracking System, referred to as RIBITS, to enable FWS to track its in-lieu fee programs. However, GAO found that FWS has not obligated funds for the necessary modifications or developed a timetable.

## **SUSTAINABILITY**

**GAO REPORT ON BUILDING DESIGN STANDARDS.** According to GAO, extreme weather cost the federal government more than \$320 billion over the last decade for repairs to federal infrastructure, among other fixes. Costs may rise as the climate continues to change. GAO's prior work has found that using the best available climate information, including forward-looking projections, can help manage climate-related risks. In its evaluation on building design standards, GAO found that standards-developing organizations generally have not used forward-looking climate information in design standards, building codes, and voluntary certifications and instead have relied on historical observations ([GAO 17-3](#)). Further, GAO found that some organizations periodically update climate information in standards, codes, and certifications, but others do not. GAO recommends that the National Institute of Standards and Technology, in consultation with the U.S. Global Change Research Program and the Federal Emergency Management Agency's [Mitigation Framework Leadership Group](#), convene an ongoing government-wide effort to provide forward-looking climate information to standards organizations. The Department of Commerce neither agreed nor disagreed with GAO's recommendation.

## **WATER**

**PROTECTION ACTION GUIDE FOR DRINKING WATER AFTER A RADIOLOGICAL INCIDENT.** EPA has amended chapter 4 of the 2016 Protection Action Guidelines (PAG) Manual to incorporate guidance for radiation protection decisions concerning drinking water ([82 FR 6498](#)). The drinking water PAG manual is a guidance document, intended for use by federal, state, and local emergency management officials in the unlikely event of significant radiological contamination incidents, such as a disaster at a nuclear power plant, a radiological dispersal device, or an improvised nuclear device, and for a duration of weeks to months but not longer than one year.

**GENERAL PERMIT FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITY.** All 10 EPA regions have issued the 2017 NPDES general permit for stormwater discharges from construction activities to waters of the U.S. (2017 Construction General Permit) ([82 FR 6534](#)). The permit provides coverage to eligible operators in all areas of the country where EPA is the NPDES permitting authority. The final 2017 permit is substantially similar to the 2012 permit. It includes effluent limitations and requirements for self-inspections, corrective actions, staff training, development of a stormwater pollution prevention plan (SWPPP), and permit conditions applicable to construction sites in specific states, Indian country lands, and territories. Additionally, the appendices provide forms for the submittal of a Notice of Intent, Notice of Termination, Low Erosivity Waiver, and step-by-step procedures for determining eligibility with respect to the protection of threatened and endangered species and historic properties, and for complying with the permit's natural buffer requirements. The permit becomes effective on 16 FEB 17. For more information about the 2017 CGP, including a copy of the permit, click [here](#). This regulatory action may or may not be affected by the federal regulatory freeze.

# Department of Defense Activity

**UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF ARMED FORCES.** DOD and EPA have issued a final rule establishing 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 ([82 FR 3173](#)). The rule applies in both fresh and marine waters and can include bodies of water such as rivers, lakes, and oceans. The 11 discharges addressed by the final rule 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 well deck discharges. The final rule became effective on 10 FEB 17. This regulatory action may or may not be affected by the federal regulatory freeze.

**GAO REPORT ON BRAC REPORTING.** The Government Accountability Office (GAO) was tasked with updating its 2007 report on the environmental cleanup and transfer of installations closed under the Base Realignment and Closure (BRAC) program. GAO found that DOD captured and reported more comprehensive cost information in its environmental cost reporting for installations closed under BRAC since 2007 ([GAO 17-151](#)). DOD used a variety of methods since 2007 to continue to make progress in transfers of unneeded BRAC property. However, installation officials stated that they continue to face challenges, such as navigating multiple regulatory agencies or disposing of radiological contamination, and that these challenges increase the time it takes to clean up and transfer property. Installation officials GAO spoke with stated that they periodically reach out to officials at other installations and across services for help in learning how to expedite or resolve challenges, but that there is no formal mechanism within DOD to capture and share this type of information. Installation officials further said that a system to capture lessons learned would be helpful. GAO recommends that DOD include in future reports to Congress that the cleanup of emerging contaminants will increase cleanup costs, estimate such costs, and share best practices on mitigating cleanup and property transfer challenges. DOD concurred with GAO's recommendations.

## Professional Development

Please note: Listing of commercial sponsored training and conferences is not a government endorsement of the training or conferences.

### ***DOD TRAINING SOURCES***

**2017 REPI WEBINAR SERIES (ONLINE).** DOD's Readiness and Environmental Protection Integration (REPI) program announced its schedule of webinars for 2017. The webinars showcase best practices, tutorials, and knowledge sharing on REPI partnerships that support military missions and accelerate the pace and rate of conservation. Unless otherwise noted, all webinars begin at 1:00 pm Eastern. Past webinars are archived for later viewing.

**SERDP AND ESTCP WEBINAR SERIES (ONLINE).** The DOD environmental research and development funding programs SERDP and ESTCP are launching a webinar series to promote the transfer of innovative, cost-effective, and sustainable solutions developed using SERDP and ESTCP funding. Webinars are offered every two weeks. Most webinars feature two 30-minute presentations and interactive question and answer sessions, on topics targeted for DOD and DOE audiences.

**AIR FORCE INSTITUTE OF TECHNOLOGY (AFIT) TRAINING COURSE, QUALIFIED RECYCLING PROGRAM MANAGEMENT (CLASSROOM).** This Interservice Environmental Education Review Board (ISEERB) designated course emphasizes

principles and techniques to assist students in implementing a sound Qualified Recycling Program (QRP). The course focuses on learning what products can be recycled, products prohibited from recycling, QRP regulations, necessary processing equipment, collection and sorting methods to maximize returns, working with your Defense Reutilization and Marketing Office, establishing contracts, recording transactions, DOD recordkeeping, and estimating future budgets.

**DEFENSE AND FEDERAL ENVIRONMENTAL TRAINING/AWARENESS (CLASSROOM/ONLINE).** The Army offers numerous environmental training courses. Training providers and fiscal year class schedules are available on the U.S. Army Environmental Command (USAEC) website.

**NAVY AND ISEERB ENVIRONMENTAL TRAINING FY17 (CLASSROOM).** Course topics in the Navy and the ISEERB Environmental Training schedule include environmental management, basic and advanced environmental law, sustainability, pollution prevention, restoration, conservation, supplemental and Internet/computer-based training, and more.

**AIR FORCE CIVIL ENGINEERING SCHOOL TRAINING FY17 (CLASSROOM/ONLINE).** The Air Force Civil Engineering School offers a variety of environmental management courses and seminars, including ISEERB offerings. Courses offered by the Civil Engineer School are available to all military and civilian employees of the U.S. government. Fees vary according to personnel status (i.e., active duty Air Force/civilian, other U.S. government employee, contractor).

## ***FEDERAL TRAINING SOURCES***

**INTERAGENCY CONSULTATION FOR ENDANGERED SPECIES (CLASSROOM).** Hosted by USFWS, participants acquire basic information on conducting interagency consultation under Section 7 of the Endangered Species Act. Key information needs and procedures are addressed, with a focus on the information needs related to biological assessments and biological opinions. Lectures and discussion emphasize interagency exchange of information and solutions to support species conservation. Action agency biologists and consultants are welcome to attend. The classroom training is offered in February, April, June, and July, 2017.

**FEMP OFFERS CERTIFICATE SERIES FOR 2016 GUIDING PRINCIPLES FOR SUSTAINABLE BUILDINGS (ONLINE).** The U.S. Department of Energy's Federal Energy Management Program (FEMP) is offering a five-course training series that provides updated guidance for complying with the 2016 Guiding Principles for Sustainable Federal Buildings. The series is web-based and offered on demand.

**SMALL DRINKING WATER AND WASTEWATER SYSTEMS WEBINAR SERIES (ONLINE).** EPA's Office of Research Development and Office of Water are hosting a monthly webinar series to communicate EPA's current small systems research along with agency priorities. The site also includes an archive of past webinars.

**ENERGY MANAGEMENT BASIC TRAINING- TOOLS AND RESOURCES FOR RESULTS (ONLINE).** FEMP offers this course to provide civilian and military personnel with a concise overview of federal energy management, and the most current tools and resources for success. The instructors for this seminar are Randall Smidt, Army Program Manager for Alternative Financing, and Thomas B. Delaney, Jr., PE, Army Energy Conservation Investment Program Manager. Both instructors serve within the Army's Facilities Policy Division of the Office of the Assistant Chief of Staff for Installation Management.

**USACE PROSPECT TRAINING (CLASSROOM).** USACE released the FY17 PROSPECT (i.e., Proponent-Sponsored Engineer Corps Training) program. Courses are open to federal, state, county, and city employees and contractors. There are different registration processes for each entity. Please refer to the [course catalog](#) and list of classes and schedule for details.

**FEDERAL FACILITIES ENVIRONMENTAL STEWARDSHIP AND COMPLIANCE ASSISTANCE CENTER (ONLINE).** FedCenter.gov is the federal government's home for comprehensive environmental stewardship, compliance assistance, and professional development information. FedCenter.gov provides a wide variety of information in the following areas: program development; federal and state regulatory requirements for various facility activities; regulatory watch for information

on new or changed laws or regulations; pollution prevention opportunities and best management practices; EPA enforcement notices; access to environmental assistance; environmental conferences, meetings, training, and workshop information; applicable laws and Executive Orders; and industry sector-specific newsletters.

**INTERSTATE TECHNOLOGY AND REGULATORY COUNCIL (ITRC) TRAINING (CLASSROOM/ONLINE).** ITRC is a state-led coalition of regulators, industry experts, academia, citizen stakeholders, and federal partners from all 50 states and the District of Columbia that supports new approaches to cleanup projects. ITRC offers internet-based training and hosts nationwide classroom training. Topics span the full spectrum of remediation and compliance subjects. The internet-based training is supported by ITRC technical and regulatory guidance documents and is hosted with EPA's Technology Innovation and Field Services Division. For a listing of current classes and to register, visit [EPA's Clu-In Web page](#). The nationwide classroom training courses are often provided with an ITRC member state and provide participants with face-to-face training, hands-on problem solving, and engaging real world site applications. Visit the [ITRC training website](#) for specific training topics and scheduled events.

**EPA TMDLS AND NPDES PERMITTING WEB-BASED TRAINING MODULES (ONLINE).** EPA has developed three web-based training modules on topics related to total maximum daily loads (TMDLs) and National Pollutant Discharge Elimination System (NPDES) permitting. The presentations are intended for TMDL developers and NPDES permitting staff to gain a better understanding of TMDL implementation through NPDES permits. Each module is offered as a recorded presentation that enables participants to review the material on demand in a self-paced environment. The modules are also available as unrecorded PowerPoint presentations with slides and scripts. Each recorded session is approximately two hours long. The modules are: (1) Understanding TMDLs: A Primer for NPDES Permit Writers; (2) Understanding WLA (waste load allocation) Implementation in Permits: A Primer for TMDL Developers; and (3) Understanding TMDLs with Stormwater Sources and the NPDES Stormwater Permitting Process.

**AVERT TUTORIAL (ONLINE).** EPA launched its on-demand training on how to use its avoided emissions and generation tool (AVERT). AVERT estimates the potential of energy efficiency/renewable energy programs to displace electricity system-related SO<sub>2</sub>, NO<sub>x</sub>, and CO<sub>2</sub> emissions in the continental United States. The tool can be used to evaluate county, state, and regional level emissions displaced by energy efficiency and renewable energy programs without the need of specialized resources or electricity system expertise.

**FEMP TRAINING SEARCH TOOL (ONLINE).** FEMP has launched FEMP Training Search, a web tool that lists free training opportunities to help agencies meet federal energy, water, and sustainability laws and requirements. The new search tool provides options to easily find and select training offerings by topic area, topic series, course format and type, and by level of difficulty—introductory (101), intermediate (201), and advanced (301).

**CLIMATE CHANGE SCIENCE AND MANAGEMENT WEBINAR SERIES (ONLINE).** The U.S. Geological Survey's National Climate Change and Wildlife Science Center is partnering with the National Conservation Training Center to offer the webinar series to inform scientists, land managers, and the public about potential and predicted climate change impacts on fish and wildlife, and to help guide resource management decisions across the United States. Video recordings with closed captioning are made available one to two weeks after each presentation.

**BEST PRACTICES FOR COMPREHENSIVE WATER MANAGEMENT FOR FEDERAL FACILITIES TRAINING (ONLINE).** The training is provided by FEMP and provides federal facility and energy managers with knowledge and skills to assist in meeting water-related legislative and executive order requirements. Participants develop skills in increasing water efficiency, and reducing water use through sound operations practices and water-efficient technologies. Water metering is covered, as well as life cycle costing and establishing the overall economics for strategic water management.

**UTILITY ENERGY PROJECT INCENTIVE FUNDS (ONLINE).** This FEMP course teaches federal agency personnel about financing the capital costs of energy improvement projects from savings generated through energy efficiency measures funded by utilities, public benefit funds, and other resources. This training opportunity targets federal energy, environmental, and fleet professionals and is offered at no cost by leading experts. The training session is delivered live via satellite or through streaming media.



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## How the Regional Offices Work for You

**The Army Regional Environmental and Energy Offices' close cooperation between the military and regional policymakers helps to resolve issues *before* they become laws and regulations.**

The REEOs monitor proposed state environmental and energy laws and regulations for impacts to installation missions. When legislation or a regulation important to the Army or DOD is being developed, REEOs work with the other military Services to assure that DOD and Services' interests are represented.

To comment on items in the *Northern Review*, please contact the Regional Environmental Coordinator listed at the top of each region's section.

To be added to the *Northern Review* distribution list, email the [Regulatory Affairs Specialist](#).