



# NORTHERN REGION REVIEW



Environmental Legislative and Regulatory News

NOVEMBER 2009 VOLUME XIV, No. 6

## FEDERAL LEADERSHIP IN ENVIRONMENTAL, ENERGY, AND ECONOMIC PERFORMANCE

On October 5, 2009, President Obama signed [Executive Order 13514](#), *Federal Leadership in Environmental, Energy, and Economic Performance*. The new Executive Order (EO) builds on and expands the energy reduction and environmental requirements of EO 13423 by requiring agencies to develop sustainability plans focused on cost-effective projects and programs. The EO defines the process in which agency goals will be set and reported to the President by the Chair of the Council on Environmental Quality. Reduction of greenhouse gas (GHG) emissions is one of the EO's top priorities. Federal agencies will be required to measure, manage, and reduce GHG emissions against self-defined targets.

The EO specifies a number of energy, water, and waste reduction targets, including:

- 30% reduction in vehicle fleet petroleum use by 2020;
- 26% improvement in water efficiency by 2020;
- 50% recycling and waste diversion by 2015;
- sustainability requirements in 95% of all applicable contracts;
- Implementation of the 2030 net-zero-energy building requirement;
- Implementation of the storm water provisions of the Energy Independence and Security Act of 2007, Section 438; and
- Development of guidance for sustainable Federal building locations

Other requirements include:

- Appointment of a Senior Sustainability Officer in each agency;
- A strategic sustainability performance plan for each agency, integrated into the strategic planning and budget process;
- Federal agency participation in regional transportation planning;
- Procurement of locally-generated energy;
- Identifying and analyzing impacts from energy usage and alternative energy sources in all Environmental Impact Statements or Environmental Assessments under the National Environmental Policy Act.

Further details may be found at the [White House website](#).

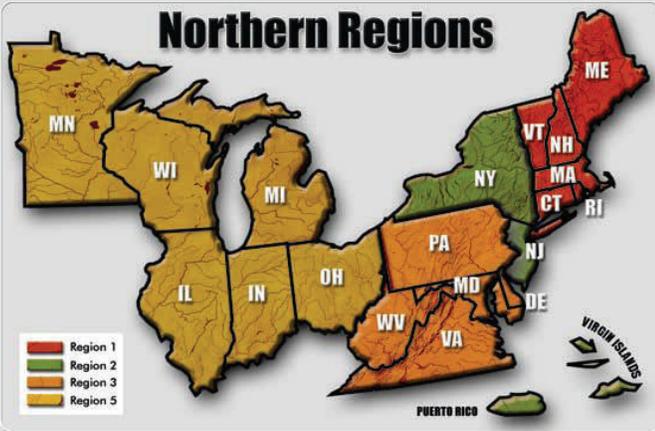
## FORT A.P. HILL AND FORT PICKETT WIN INAUGURAL DOD/VIRGINIA EAGLE AWARDS

In a ceremony held at the Virginia State Capitol on 14 Oct, 2009, Fort AP Hill and Fort Pickett received 2 of the 3 honors recognizing environmental stewardship by DOD installations in the Commonwealth. These awards are part of the DoD/VA Environmental Partnership Program announced by Governor Kaine in December 2008. The program's genesis was a DoD, Army IMCOM-Northeast, and state effort to develop a mechanism for evaluating installation activities that preserve and protect the Chesapeake Bay (in support of Chesapeake 2000 Agreement goals). To participate, DoD facilities submitted an 'Installation Environmental Scorecard' covering seven environmental and related performance measures. Award presenters included Virginia Secretary of Natural Resources, L. Preston Bryant, Jr. and DoD Director of Environmental Management, Maureen Sullivan.



## Inside this Issue

<a href="#">Executive Office of the President</a> .....	2
<a href="#">Court Decision</a> .....	3
<a href="#">US Environmental Protection Agency News</a> .....	3
<a href="#">Other Federal Agency News</a> .....	6
<a href="#">Region 1 News</a> .....	6
<a href="#">Region 2 News</a> .....	8
<a href="#">Region 3 News</a> .....	9
<a href="#">Region 5 News</a> .....	12
<a href="#">Professional Development</a> .....	17
<a href="#">Internet Resources</a> .....	20



*This publication provides current information on environmental activities and events relevant to U.S. Army interests in the 22 states and territories in Federal Regions 1, 2, 3 and 5. The Review is intended to be a tool useful to Department of Defense and Army environmental decision makers, planners, and program managers in carrying out their responsibilities.*

*When used within the framework of ISO 14001, the Northern Region Review can be part of an installation's procedures to satisfy Section 4.3.2 (Legal and other requirements) of ISO 14001. Information in the Review is intended for general guidance, and the reader should refer to the cited source documents for more detailed information to determine the applicability and scope of the referenced legislation and regulations.*

**HOW THE REGIONAL OFFICE WORKS FOR YOU**

The Northern Region Review features proposed and final rules and legislation that may affect Army or DoD operations. The Army Office of Regional Environmental and Government Affairs - Northern monitors these actions for you. If a proposed state action has: (1) critical mission impact; (2) conflicts with a federal requirement; and/or (3) a disproportionate effect on the Army or DoD, we coordinate with the potentially affected installations, commands, and/or other military Services to further assess the potential impact.

If action is needed on a proposed item, we work with Army or Service regulatory experts to communicate our position, coordinating with the affected installations and commands. Comments are combined from all parties in a single DoD package and formally submitted to the state.

**Want to comment on a rule or bill in the Review?** Please contact your Regional Environmental Coordinator listed in the Personnel Directory on the last page.

For further information on the Army's Offices of Regional Environmental and Government Affairs, visit <http://www.asaie.army.mil/Public/ESOH/reo>.



**EXECUTIVE OFFICE OF THE PRESIDENT**

**DRAFT STRATEGY FOR THE CHESAPEAKE BAY RELEASED FOR PUBLIC COMMENT**

A draft strategy for the Chesapeake Bay was released by the Environmental Protection Agency for public comment on November 9, 2009. The draft strategy contains a comprehensive package of federal initiatives to restore clean water, conserve treasured places, protect fish and wildlife, and adapt to the impacts of climate change. The formal public comment period is from November 9, 2009 to January 8, 2010. The draft strategy will evolve significantly through public comments, state consultations and agency revisions before the final strategy is published in May 2010 to comply with the requirements of Presidential Executive Order 13508—Chesapeake Bay Protection and Restoration . The Draft Strategy pulls from seven draft reports released by Federal agencies on September 10, 2009 that made recommendations on how to: (1) [define the next generation of tools and actions to restore water quality](#); (2) [target resources to better protect the Chesapeake Bay and its tributary waters](#); (3) [strengthen storm water management practices](#); (4) [assess the impacts of a changing climate](#); (5) [expand public access to waters and open spaces](#); (6) [strengthen scientific support for decision-making](#); and (7) [develop focused and coordinated habitat and research activities](#).

Army POC for questions concerning Executive Order 13508—Chesapeake Bay Protection and Restoration is Vance Hobbs, (410) 436-0482 or e-mail [vance.hobbs@us.army.mil](mailto:vance.hobbs@us.army.mil).

**INTERIM REPORT ON NATIONAL POLICY FOR OCEANS, COASTS, AND THE GREAT LAKES**

The Interagency Ocean Policy Task Force has released an [Interim Report](#) with recommendations for structuring a National Ocean Council to coordinate national policy for oceans, coasts, and the Great Lakes. The report identifies nine priority objectives, including: (1) Ecosystem-Based Management; (2) Coastal and Marine Spatial Planning; (3) Water Quality and Sustainable Practices on Land; and (4) Ocean, Coastal, and Great Lakes Observations and Infrastructure. Within 6 to 12 months, the National Ocean Council would develop a strategic action plan for each of the priority objectives. An integrated steering committee would support the National Ocean Council on scientific issues. The report also recommends joining the Law of the Sea Convention. The Interagency Ocean Policy Task Force was established by President Obama in a June 12, 2009 memo.



# Court Decision

## **COURT REINSTATES EMISSIONS SUIT BETWEEN UTILITIES AND STATES**

On September 21, 2009, the U.S. Court of Appeals for the 2nd Circuit in New York [ruled](#) that a 2004 lawsuit against five of the largest U.S. utilities over their carbon dioxide emissions may continue. The lawsuit was brought by eight states and the city of New York against American Electric Power Co Inc, Southern Co, Xcel Energy Inc, Cinergy Corp and the Tennessee Valley Authority public power system. The suit argues that greenhouse gas (GHG) emissions from their plants are a public nuisance and would cause irreparable harm to property. The eight states involved are: California, Connecticut, Iowa, New Jersey, New York, Rhode Island, Vermont, and Wisconsin—and the City of New York. The lawsuit was previously dismissed in October 2005 by U.S. District Court Judge Loretta Preska. The September 2009 decision vacates the 2005 judgment of the District Court and allows for further proceedings.



## **US ENVIRONMENTAL PROTECTION AGENCY NEWS**

## **SELECTIONS FOR USEPA REGIONS 1, 2, AND 3 ADMINISTRATORS ANNOUNCED**

On November 5, 2009, USEPA announced President Barack Obama's selections for the USEPA Regions 1, 2, and 3 Administrators. H. Curtis "Curt" Spalding has been selected to serve as the Agency's Regional Administrator for Region 1. Mr. Spalding has extensive experience in the environmental protection as an advocate, policy analyst and administrator. In Region 2, Judith Enck has been selected to be the Agency's new Regional Administrator. Ms. Enck has close to 30 years experience in the environmental field, most recently serving as the Deputy Secretary for the Environment in New York State. The current USEPA Region 3 Senior State and Congressional Liaison, Shawn Garvin, has been selected to serve as that Regions' new Administrator. Mr. Garvin has worked for USEPA Region 3 for more than ten years.

### **Air Quality**

## **MANDATORY REPORTING OF GREENHOUSE GASES**

USEPA has issued a final ruling requiring GHG emissions reporting from all sectors of the economy [[74 FR 56259](#), October 30, 2009]. The final rule applies to fossil fuel suppliers and industrial gas suppliers, direct greenhouse gas emitters and manufacturers of heavy-duty and off-road vehicles and engines. The rule does not require control of GHG, rather it requires only that sources above certain threshold levels monitor and report emissions. The rule requires reporting of annual emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), sulfur hexafluoride (SF<sub>6</sub>), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated gases (e.g., nitrogen trifluoride (NF<sub>3</sub>) and hydrofluorinated ethers (HFEs)). It also includes provisions to ensure the accuracy of emissions data through monitoring, recordkeeping and verification requirements. The rule applies to certain downstream facilities that emit GHGs (primarily large facilities emitting 25,000 metric tons or more of CO<sub>2</sub> equivalent GHG emissions per year) and to most upstream suppliers of fossil fuels and industrial GHGs, as well as to manufacturers of vehicles and engines. Reporting is at the facility level, except for certain suppliers and vehicle and engine manufacturers report at the corporate level. Additional information regarding the final rule may be found on the USEPA Climate Change - Regulatory Initiatives [website](#). The final rule becomes effective on December 29, 2009. For further information, contact USAEC at (410) 436-1231.

## **HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS NSPS AND EMISSIONS GUIDELINES**

USEPA has issued a final rule adopting new source performance standards (NSPS) and emissions guidelines (EG) for hospital/medical/infectious waste incinerators [[74 FR 51367](#), October 6, 2009]. The final rule: (1) strengthens existing emission limits for all regulated pollutants; (2) adds stack testing requirements for existing and new sources; (3) adds monitoring requirements for new sources; (4) requires annual inspections of emission control devices; (5) requires one-time visible emissions test of ash handling operations; (6) amends procedures for test data submittal; and (7) revises waste management plan provisions. USEPA has also released a [fact sheet](#) regarding the final rule. Half the new emission limits become effective on December 7, 2009 with the remainder becoming effective on April 6, 2010. Please see the Federal Register [notice](#) for a breakdown of the effective dates. For further information, contact USAEC at (410) 436-1231.

**STAY FOR THE GRANDFATHERING PROVISION FOR PM2.5** USEPA has issued a final rule that administratively stays, for nine months, the “grandfathering” provision for PM2.5 contained in the Federal Prevention of Significant Deterioration (PSD) program [74 FR 48153, September 22, 2009]. The stay follows a previous stay, which was in effect from June 1, 2009, until September 1, 2009. Grandfathering applies to major new sources or modifications subject to 40 CFR 52.21, with respect to PM2.5, and in effect before July 15, 2008. The owner or operator also had to have submitted a complete application for a permit under this section before that date consistent with USEPA recommendations to use PM10 as a surrogate for PM2.5. USEPA originally granted the petition for reconsideration to the National Resources Defense Council and the Sierra Club, who raised the objection in 2008. The additional stay period became effective on September 22, 2009 and will expire on June 22, 2010. For further information, contact USAEC at (410) 436-1231.

**PSD AND TITLE V GREENHOUSE GAS TAILORING RULE** USEPA has issued a proposed rule to phase in the major source applicability thresholds for GHG emissions under the Clean Air Act (CAA) PSD and Title V programs and to set a PSD significance level for GHG emissions [74 FR 55291, October 27, 2009]. The first phase, lasting six years, would establish a temporary level for the PSD and Title V applicability thresholds at 25,000 tons per year (tpy), on a “carbon dioxide equivalent” (CO<sub>2</sub>e) basis, and a temporary PSD significance level for GHG emissions of between 10,000 and 25,000 tpy CO<sub>2</sub>e. Within five years of the final version of this rule, USEPA would conduct a study to assess any administrability issues. Then, USEPA would conduct another rulemaking, to be completed by the end of the sixth year, that would promulgate, as the second phase, revised applicability and significance level thresholds and other streamlining techniques, as appropriate. Comments are due December 28, 2009. For further information, contact USAEC at (410) 436-7077.

**RECONSIDERATION OF PSD PROGRAM APPLICABILITY** USEPA, in response to a petition for reconsideration, has proposed a rule providing USEPA's interpretation of when the PSD program would apply to pollutants (such as GHG) [74 FR 51535, October 7, 2009]. USEPA's current and preferred interpretation would make PSD applicable to a pollutant on the basis of a federal regulation requiring actual control of emissions of a pollutant. Other potential interpretations could make PSD applicable to a pollutant on the basis of a federal regulation: (1) requiring monitoring or reporting of emissions of a pollutant; (2) the inclusion of regulatory requirements for specific pollutants in an USEPA-approved state implementation plan (SIP); (3) an USEPA finding of endangerment; or (4) the grant of a section 209 waiver. Comments are due December 7, 2009. For further information, contact USAEC at (410) 436-7077.

**ODS SIGNIFICANT NEW ALTERNATIVES** USEPA has proposed expanding its significant new alternatives policy (SNAP) list by including Hydrofluoroolefin (HFO-1234yf) as an acceptable substitute for CFC-12 in the motor vehicle air conditioning (MVAC) passenger cars and trucks sector [74 FR 53445, October 19, 2009]. CFC-12 is an Ozone Depleting Substance (ODS) and so alternative substitutes are sought that do not contribute to stratospheric ozone depletion. The list of SNAP substitutes by sector is available at <http://www.epa.gov/ozone/snap/lists/index.html>. Comments are due by December 18, 2009. For further information, contact USAEC at (410) 436-1231.

**EMISSIONS FACTORS PROGRAM IMPROVEMENTS** USEPA has issued an Advanced Notice of Proposed Rulemaking (ANPRM) to convey issues raised by stakeholders about USEPA's emissions factors program [74 FR 52723, October 14, 2009]. The ANPRM informs the public of the initial ideas on how to address the issues and solicits comments on the current thinking on resolving these issues. USEPA wants to develop a self-sustaining emissions factors program that: (1) produces high quality, timely emissions factors; (2) better indicates the precision and accuracy of emissions factors; (3) encourages the appropriate use of emissions factors; and (4) ultimately improves emissions quantification. Initially the program was developed for emissions inventory purposes only, but use of emissions factors has been expanded to a variety of air pollution control activities including permitting, enforcement, modeling, control strategy development, and risk analysis. The ANPRM discusses the appropriateness of using emissions factors for these activities. The current approved emissions factors are contained within [AP-42 Compilation of Air Pollutant Emissions Factors](#). For further information, contact USAEC at (410) 436-1231.

**USEPA TO RECONSIDER OZONE NAAQS** On September 16, 2009, USEPA filed a decision with the Federal Appeals Court, outlining the Agency's plans to reconsider NAAQS for Ozone, which was finalized in March 2008. The 2008 final rule reduced the acceptable primary and secondary ozone limits in ambient air to 75 parts per billion (ppb), from the previous limit of 84 ppb. A scientific advisory committee to the USEPA had recommended that the agency adopt limits no higher than 70 ppb, and urged the consideration of even lower limits. USEPA plans to begin formal review of the ozone standards by December 2009, with a final recommendation in August of 2010.

**SECONDARY NAAQS FOR NOX AND SOX** USEPA has released the final report, “[Risk and Exposure Assessment for Review of the Secondary National Ambient Air Quality Standards \(NAAQS\) for Oxides of Nitrogen and Oxides of Sulfur](#)” [74 FR 48543, September 23, 2009]. The document states the approach taken to assess environmental exposures to ambient oxides of nitrogen (NO<sub>x</sub>) and sulfur (SO<sub>x</sub>) and to characterize associated public welfare risks, as well as to present the

results of those assessments. The report concludes that there is a high level of confidence from a scientific perspective that known or anticipated adverse ecological effects are occurring (from acidification and nutrient contributions) under current ambient loadings of nitrogen and sulfur in sensitive ecosystems across the United States.

## Resource Conservation and Recovery Act

**RISK ANALYSIS FOR SOLVENT-CONTAMINATED INDUSTRIAL WIPES EXCLUSION** USEPA has released a revised risk analysis supporting proposed revisions to the Resource Conservation and Recovery Act (RCRA) regulations governing the management of solvent-contaminated wipes [[74 FR 55163](#), October 27, 2009]. The risk analysis is in favor of a conditional exclusion of solvent-contaminated industrial wipes from hazardous waste and solid waste compliance. The excluded wipes include: rags, shop towels, disposable wipes and paper towels. USEPA is seeking comment on the two waste management approaches proposed for the waste stream. The first approach would allow the disposal of rags with solvents, that don't show a risk, in any municipal landfill or non-hazardous waste landfill whether lined or unlined. The rags with solvents that do indicate a potential risk could only be disposed in a lined municipal landfill or lined non-hazardous waste landfill. The second approach would establish conditions that allow all solvent-contaminated wipes, no matter which solvent they contain, except perhaps tetrachloroethylene, to be sent to a Subtitle D municipal or industrial landfill unit. Comments are due December 28, 2009. For further information, contact USAEC at (410) 436-7068.

## Toxic Substances

**PCB IN CAULK OF OLDER BUILDINGS** USEPA has issued [guidance](#) to communities on PCBs in caulk of buildings constructed or renovated between 1950 and 1978. The guidance targets building owners and school administrators to help reduce exposure to PCBs. USEPA recommends various steps that owners can implement to minimize exposure to potentially contaminated caulk. USEPA is conducting new research to better understand the risks posed by caulk containing PCBs. The research will guide USEPA in making further recommendations on long-term measures to minimize exposure as well as steps to prioritize and carry out actions to remove the caulk.

**REVIEW OF LEAD DUST HAZARD STANDARDS AND LEAD PAINT DEFINITION** On an August 10, 2009, USEPA received a Toxic Substances Control Act (TSCA) Section 21 and Administrative Procedures Act (APA) [petition](#) requesting USEPA lower the lead dust hazard standards [[74 FR 51274](#), October 6, 2009]. The petition also requested a modification to the definition of lead-based paint in Federal Regulations promulgated under TSCA Sections 401 and 403. Based on the petition, USEPA has [announced](#) that they intend to initiate rulemaking to review the lead hazard standard for lead in dust, and the regulatory definition of lead-based paint that governs paint previously applied to structures. USEPA will work with Housing and Urban Development (HUD) on the issue of the definition of lead-based paint. Separately, USEPA is proposing to expand coverage of the 2008 Renovation, Repair and Painting Rule by removing an opt-out provision that allowed an owner-occupant to avoid the rule's provisions by certifying that no children under six years of age reside in a facility to be renovated. <http://www.epa.gov/oppt/chemtest/pubs/petitions.html>.

## Water Quality

**MODIFICATION GENERAL PERMIT STORM WATER 2008 NPDES** The USEPA Regions (except Region 4) have proposed modifying the 2008 National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges from construction activities in order to extend the expiration date by one-year (June 30, 2011) [[74 FR 53494](#), October 19, 2009]. If USEPA finalizes the rule, the 2008 construction general permit (CGP) will be in effect for a period of three years. Affected entities are construction site operators disturbing one or more acres of land, or less than one acre but part of a larger common plan of development if the larger common plan will ultimately disturb one acre or more, and performing the following activities: Building, Developing and General Contracting, and Heavy Construction. For further information, contact USAEC at (410) 436-1231.

**INFORMATION COLLECTION ON STORM WATER MANAGEMENT DISCHARGES** USEPA is soliciting comments on a possible request to the Office of Management and Budget (OMB) [[74 FR 56191](#), October 30, 2009]. The OMB request would ask for authorization of a new information collection request addressing storm water management discharges from newly developed and redeveloped sites. USEPA is considering distributing three separate questionnaires. The first questionnaire targets establishments that develop and redevelop sites in the U.S.. The second questionnaire targets owners or operators of municipal separate storm sewer systems (MS4s). This includes MS4 communities regulated under NPDES storm water Phase I and Phase II regulations and other local government entities. The third questionnaire will obtain information from the states and territories. The MS4 and state questionnaires would collect information on the scope of the current regulatory program and the storm water management practices that are currently required for controlling discharges. This includes information on site plan review, performance standards or design criteria, retention

practices and costs. USEPA estimates the total number of potential respondents to be 2,060. USEPA intends to propose regulatory options that would revise the NPDES regulations and establish a comprehensive program to address storm water discharges from newly developed and redeveloped sites and to take final action no later than November 2012. Comments are due December 29, 2009.

**FINAL DRINKING WATER CONTAMINANT CANDIDATE LIST 3** USEPA has released the third drinking water Contaminant Candidate List (CCL 3) [[74 FR 51850](#), October 8, 2009]. The list includes 104 chemicals or chemical groups and 12 microbiological contaminants that have the potential to present health risks through drinking water exposure. The contaminants are not currently subject to any proposed or promulgated National Primary Drinking Water standards that are known or anticipated to occur in public water systems, and which may require regulation under SDWA. Included in the CCL 3 listing are: (1) Perchlorate - USEPA will continue to evaluate scientific information for a regulatory determination; (2) Perfluorooctane Sulfonic Acid (PFOS); (3) Perfluorooctanoic Acid (PFOA); (4) Polybrominated diphenyl ether (PBDE); (5) Cyclotrimethylenetrinitramine (RDX); (6) 1,4 Dioxane; and (7) Methyl Tert-Butyl Ether (MTBE).

**GUIDANCE FOR SITE-SPECIFIC BIOACCUMULATION** USEPA has released a Technical Support Document that describes the development of bioaccumulation factors to derive ambient water quality criteria for human health [[74 FR 50182](#), September 30, 2009]. The document entitled, "[Volume 3: Development of Site-Specific Bioaccumulation Factors](#)."

## OTHER FEDERAL AGENCY NEWS

**LIMITED EAGLE TAKE PERMITS** USFWS has finalized permit regulations, in conjunction with the release of a Final Environmental Assessment, that authorize limited take of bald eagles and golden eagles under the Bald and Golden Eagle Protection Act [[74 FR 46835](#), September 11, 2009]. An authorized take must be associated with otherwise lawful activities. The regulations also establish permit provisions for intentional take of eagle nests under particular, limited circumstances. There are potential impacts on numerous Army installations. The bald eagle is known to be present on over 30 installations and contiguous to 12 others. The golden eagle also is present on many installations. The final rule became effective on November 10, 2009.

**NON-TANK VESSEL AND OTHER VESSEL RESPONSE PLAN REQUIREMENTS** The Coast Guard has proposed regulations requiring owners or operators of non-tank vessels to prepare and submit oil spill response plans [[74 FR 44969](#), August 31, 2009]. Non-tank vessels are defined as self-propelled vessels of 400 gross tons or greater that operate on the navigable waters of the U.S., carry oil of any kind as fuel for main propulsion, and are not tank vessels. The proposed rule specifies the content of a response plan and addresses the requirement to plan for responding to a worst case discharge and a substantial threat of such a discharge. Additionally, the proposed rule updates the international Shipboard Oil Pollution Emergency Plan (SOPEP) requirements that apply to certain non-tank vessels and tank vessels. Finally, the proposed rule requires vessel owners and operators to submit their vessel response plan control number as part of already required notice of arrival information. Comments are due November 30, 2009.

# Region 1

For more information on any state issues in Region 1, contact Bob Muhly, Army Regional Environmental Coordinator, Regions 1 & 2, (410) 436-6224, e-mail: [Robert.Muhly@us.army.mil](mailto:Robert.Muhly@us.army.mil).

**POTABLE WATER TREATMENT FACILITIES IN MASSACHUSETTS AND NEW HAMPSHIRE** USEPA-New England has issued a notice of availability of the final NPDES general permits for potable water treatment facility (PWTF) discharges to certain waters of the Commonwealth of Massachusetts and the State of New Hampshire [[74 FR 50964](#), October 2, 2009]. The General Permits replace the previous PWTF GPs, which expired on November 15, 2005. The final PWTF GPs establish Notice of Intent (NOI) requirements, effluent limitations, standards, prohibitions, and management practices for facilities with discharges from potable water treatment facilities. Owners and/or operators of these facilities, including those currently authorized to discharge under the expired General Permits, will be required to submit an NOI to be covered by the PWTF GP to both USEPA-New England and the appropriate state agency. After USEPA and the state have reviewed the NOI, the facility will receive a written notification from USEPA of permit coverage and authorization to discharge under the General Permits. The final permits are effective for five years.



# Maine

## **MAINE REMEDIAL ACTION GUIDELINES**

The Maine Department of Environmental Protection (MEDEP) has issued a draft [“Implementation of Maine Remedial Action Guidelines for Soil \(MERAGs\)”](#) and a draft companion document, [“Technical Basis and Background for MERAGs.”](#) The documents present contaminant specific guidelines to assist remedial decisions at hazardous substance sites. The guidelines are consistent with, and support the Center for Disease Control and MEDEP’s “Guidance for Human Health Risk Assessments for Hazardous Substance Sites in Maine” revised June 2009. The procedures simplify derivation of clean-up guidelines for soil at simpler contaminated sites, speeding the decision making process. Further, the draft guidance increases the consistency of remediation decisions within the MEDEP, and increases certainty for the regulated community. MEDEP is reviewing comments and making appropriate changes. The final set of guidelines are expected by the end of 2009.



# Massachusetts

## **ADOPTION OF SDWA AMENDMENTS**

The Massachusetts Department of Environmental Protection (MassDEP) has issued a [proposed rule](#) to revise the drinking water regulations (310 CMR 22.00) by incorporating the federal Safe Drinking Water Act (SDWA) amendments. The amendments include one new rule, the Groundwater Rule (GWR), and minor revisions and corrections to the Lead and Copper Rule (LCR). The GWR will increase protection against potential viral contamination in public water systems (PWS). The majority of PWSs will be required to test their source water and if necessary install or increase treatment. LCR revisions include changes to content and delivery of public education materials, compliance calculations, and monitoring and reporting requirements. The GWR will apply to all public water systems using groundwater sources (1400 PWSs) and the LCR will apply to all community and non-transient non-community systems (800 PWSs). MassDEP has reviewed all the comments received and is in the process of responding to those comments.

## **AMENDMENTS TO PERMIT AND COMPLIANCE FEES AND CATEGORIES**

MassDEP has issued an [emergency rule](#) that amends permit and/or annual compliance fee amounts and categories for the Division of Water Pollution Control, Groundwater Discharge Permit Program and Reclaimed Water Permit Program and Standards. Specifically, the emergency rule creates a general permit for categories of discharges that warrant similar control measures. It also allows for the administrative renewal of certain individual permits. In addition, the rule: (1) creates a permit category for an initial hydrogeological review process; (2) creates a new permit category for reclaimed water systems; (3) provides for the change in administration of permit categories for industrial discharges; and (4) adds three new annual compliance fee categories (one each for holders of general permits, permits for reclaimed water systems, and a category to reduce the annual fee for other discharges). Finally, the emergency rule changes the thresholds for large and medium groundwater discharge annual compliance fee (ACF) categories. The change will result in a lower number of facilities in the highest ACF category and a higher number in the middle ACF category. The emergency rule became effective on September 4, 2009 and it will expire on December 3, 2009. MassDEP is working to create a permanent rulemaking.



# Vermont

## **GROUNDWATER WITHDRAWAL REPORTING AND PERMITTING**

The Vermont Agency of Natural Resources (VTANR) has proposed a [rule](#) requiring yearly reporting of groundwater withdrawals of more than 20,000 gallons per day. Uses such as fire suppression, public emergency, domestic residential use, farming use, dairy processors, and public water systems are exempt from reporting.

# Region 2

For more information on any state issues in Region 2, contact Bob Muhly, Army Regional Environmental Coordinator, Regions 1 & 2 (410) 436-6224, e-mail: [Robert.Muhly@us.army.mil](mailto:Robert.Muhly@us.army.mil).

**VARIOUS NEW JERSEY AND NEW YORK ATTAINMENT DETERMINATION** USEPA has issued a proposed rule determining that various ozone non-attainment areas in New York and New Jersey have attained the one-hour and eight-hour NAAQS for ozone [[74 FR 48498](#), September 23, 2009]. For the one-hour standard, the areas are: (1) New Jersey - the Atlantic City and Warren County areas; and (2) New York - the Albany-Schenectady-Troy, Buffalo-Niagara Falls, Essex County, Jefferson County, and Poughkeepsie areas. For the eight-hour standard, the areas are: New York - Buffalo-Niagara Falls, Jamestown, Poughkeepsie and Essex County (Whiteface Mountain). The states requested these determinations, based upon three years of complete, quality-assured ambient air monitoring data and these areas have continued to attain the ozone standards based on examination of the most recent air quality data from 2006-2008. The data demonstrates that the one-hour and eight-hour ozone standards have been attained in these areas. The proposed determinations of attainment are not redesignations of these areas to attainment. Redesignations must meet additional requirements, including an approved plan to maintain compliance with the air quality standard for ten years after redesignation.



## New Jersey

**PINELANDS MANAGEMENT AREA BOUNDARIES** On March 5, 2009 [A.B. 3781](#), was referred to the Assembly Committee on Environment and Solid Waste. The bill would prohibit the Pinelands Commission from changing the boundaries of any pinelands management area prescribed in the comprehensive management plan in effect on January 1, 2009. Thus, upon enactment of the bill, changes to the boundaries of any pinelands management area contained in the current comprehensive management plan would need to be made by law. Scheduled committee hearings begin in November. As of publication, no hearing date was set for the bill.

**PUBLIC NOTIFICATION AMENDMENTS REGARDING CONTAMINATED SITE REMEDIATION** On March 9, 2009 [A.B. 3852](#), was referred to the Assembly Committee on Environment and Solid Waste. The bill would modify the scope of the public notification required of any person responsible for conducting the remediation of a site that has been contaminated with any hazardous substance, hazardous waste or pollutant. The current public notification requirement is a written notification, which includes a summary of the site conditions and information about actions being taken to remediate the site, to any local property owners and tenants who reside within 200 feet of the contaminated site. The bill would change the provision to require that written notification be made only to local property owners and tenants who reside within 200 feet of any "area of concern" within the contaminated site. Under the law, "area of concern" is defined as any location where contaminants are or were known or suspected to have been discharged, generated, manufactured, refined, transported, stored, handled, treated, or disposed, or where contaminants have or may have migrated. Scheduled committee hearings begin in November. As of publication, no hearing date was set for the bill.



## New York

**GHG REPORTING DURING ANNUAL ENVIRONMENTAL AUDITS** On June 15, 2009 [A.B. 3419](#), passed the Assembly and was referred to the Senate Committee on Rules. The bill would amend the Environmental Conservation Law relating to the annual requirement that state agencies conduct an annual environmental audit. The bill would require that the audits include a calculation of the amount of GHG emitted as a result of the agencies' operations. Each agency would be required to describe actual emissions, steps taken to reduce emissions and potential further actions to reduce emissions.



## Puerto Rico

**GUAYNABO PM10 LIMITED MAINTENANCE PLAN AND REDESIGNATION REQUEST** USEPA has proposed approving the Limited Maintenance Plan for the Municipality of Guaynabo non-attainment area in Puerto Rico [74 FR 45387, September 2, 2009]. USEPA has also proposed granting the request by the commonwealth of Puerto Rico to redesignate the area from non-attainment to attainment for NAAQS for PM10.

# Region 3

For more information on any state issues in Region 3, contact Amy Alton, Army Regional Environmental Coordinator, Region 3, (410) 436-7098, e-mail: [Amy.Alton@us.army.mil](mailto:Amy.Alton@us.army.mil).



## Delaware

**SIP REVISION TO REDUCE IDLING OF HEAVY-DUTY VEHICLES** USEPA has issued a direct final rule approving a Delaware State Implementation Plan (SIP) revision governing idling of heavy-duty vehicles [74 FR 51792, October 8, 2009]. The revision contains a regulation to reduce engine idling time to three consecutive minutes for the operation of most heavy-duty vehicles in the state, with certain exceptions. The regulation exempts tactical military vehicles in training operations. Barring adverse comment the direct final rule becomes effective on December 7, 2009.

**UPDATE OF VOC DEFINITION** The Delaware Department of Natural Resources and Environmental Control (DDNREC) has adopted [amendments](#) that update the definition of volatile organic compound (VOC). The amendments exempt certain organic compounds as ground-level ozone precursors and update the definition of a VOC to be the same as the federal definition. The adoption allows Delaware users of solvent containing products (e.g. coatings, adhesives, cleaning compounds, aerosol propellants, and blowing agents) to utilize these VOC exempt compounds which may provide desired product properties without contributing to ozone formation. The amendments became effective on September 10, 2009.

**HAZARDOUS AIR POLLUTANTS FOR AREA SOURCE PLATING AND POLISHING OPERATIONS** DDNREC has [amended](#) Regulation 1138 by adding a new Section 10 that covers plating and polishing operations. The amendment provides increased protection for Delaware citizens against a variety of potential adverse health effects linked to a long term exposure to cadmium, chromium, lead, manganese, or nickel compounds. The amendment provides greater consistency between Delaware's air toxics standards and the recently promulgated federal standard (40 CFR Part 63 Subpart WWWW) on which the amendment is heavily based. In addition, the amendment includes more health protective requirements that currently exist in similar air standards found in Regulation 1138. The amendment became effective on November 11, 2009.

**AMENDMENTS TO THE HAZARDOUS WASTE REGULATIONS** DDNREC has proposed [amendments](#) to the Delaware Regulations Governing Hazardous Waste (DRGHW). The amendments would allow the State of Delaware to maintain authorization from USEPA to administer its own hazardous waste management program, by maintaining a state program that is equivalent to the federal program. The amendments make miscellaneous changes to the DRGHW that correct existing errors in the hazardous waste regulations, add clarification, or enhance the current hazardous waste regulations.



## Maryland

**VEHICLE EMISSIONS INSPECTION PROGRAM REVISIONS** The Maryland Department of the Environment (MDE) has issued a [proposed rule](#) to modify the Vehicle Emissions Inspection Program regulations (COMAR 11.14.08.01 thru .42). The proposed rule would: (1) eliminate the IM240 dynamometer exhaust emissions test; (2) make gas cap testing mandatory for vehicles undergoing the idle exhaust emissions test; (3) revise idle exhaust emissions test standards for certain model year vehicles; (4) re-establish the Fleet Inspection Station program, while implementing new equipment requirements; and (5) set new equipment requirements for Certified Emissions Repair Facilities. The proposed rule also includes various minor procedural changes to reflect operational developments, and various organizational and editorial changes to improve readability and structure. Once finalized, MDE will submit the rule to USEPA for approval as a SIP revision.

**LOW EMISSIONS VEHICLE PROGRAM REVISIONS** MDE has issued a [proposed rule](#) to amend the low emissions vehicle program regulations (COMAR 26.11.34.02). The proposed rule reflects changes made to the California regulations since their original adoption in Maryland in November 2007. The individual regulatory changes can be grouped into five major areas: (1) streamlining of evaporative emissions requirements and test procedures; (2) On-Board Diagnostics (OBD) and emission warranties; (3) in-use vehicle emissions-related recall provisions; (4) smog index labels and addition of global warming index; and (5) zero emission vehicles (ZEV).

**REGULATIONS FOR DEVELOPMENT IN THE CRITICAL AREA** The Maryland Critical Area Commission for the Chesapeake and Atlantic Coastal Bays has issued a [proposed rule](#) to provide clarification to certain sections of the Code of Maryland Regulation (COMAR). The proposed rule would update certain sections of COMAR to make them consistent with new terminology and insert existing development standards language to ensure consistency. The proposed rules would amend the regulations for development in intensely developed areas by: (1) prohibiting the location of a road, bridge, or utility in a critical area designated as a habitat protection area; and (2) adding requirements for maximum erosion protection, minimal negative impact on wildlife, maintenance of hydrologic processes and retention of the tree canopy and stream water temperature. In addition, the rule would prohibit any development that would cross a stream or increase flood frequency.

**ADOPTION OF FEDERAL SDWA REGULATIONS** MDE has issued a [proposed rule](#) to adopt federal regulations under SDWA, that establish or revise disinfection byproduct requirements and surface water treatment requirements for public water systems. The regulations include the Stage 2 Disinfectants and Disinfection Byproducts Rule and the Long Term 2 Enhanced Surface Water Treatment Rule. MDE is required to adopt the regulation in order to maintain primacy authority for the state Safe Drinking Water Act program.



## Pennsylvania

**DETERMINATION OF CLEAN DATA FOR THE 1997 PM<sub>2.5</sub>** USEPA has issued a final rule determining that the Johnstown (Cambria and Indiana Counties), Lancaster (Lancaster County), Reading (Berks County), and York (York County), Pennsylvania non-attainment areas for the 1997 fine particulate matter (PM<sub>2.5</sub>) NAAQS have clean data for the 1997 PM<sub>2.5</sub> NAAQS [[74 FR 48863](#), September 25, 2009]. The final rule became effective on September 25, 2009.

**EROSION AND SEDIMENT CONTROL AND STORM WATER MANAGEMENT REGULATORY REVISIONS** The Pennsylvania Department of Environmental Protection (PADEP) has issued a [proposed rule](#) to amend 25 Pa. Code Chapter 102, relating to erosion and sediment control and storm water management. The amendments would: (1) update agricultural planning and implementation requirements; (2) update erosion and sediment (E & S) control requirements; (3) incorporate the Federal Clean Water Act "Phase II" NPDES permit requirements for storm water discharges associated with construction activities. The amendments include post construction storm water management (PCSM) requirements, establish riparian forest buffer provisions, and include provisions for a permit-by-rule option. Comments are due by November 30, 2009.

**AMENDMENTS TO NOX CONTROL RULES** USEPA has proposed a rule to approve a SIP revision submitted by the Commonwealth of Pennsylvania [[74 FR 48695](#), September 24, 2009]. The revision addresses the requirements of

USEPA's Clean Air Interstate Rule (CAIR) and modifies other requirements in Pennsylvania's SIP that interact with CAIR including: (1) termination of Pennsylvania's NOx Budget Trading Program; (2) statewide provisions for large, stationary internal combustion engines; (3) statewide provisions for large cement kilns; (4) provisions for small sources of NOx in the Pennsylvania portion of the Philadelphia eight-hour ozone nonattainment area; and (5) emission reduction credits. The revision would allow Pennsylvania to meet CAIR requirements by participating in cap-and-trade programs. USEPA has proposed to approve the SIP revision, as interpreted and clarified herein, as fully implementing the CAIR requirements for Pennsylvania. A final approval action for this SIP revision will result in the automatic withdrawal of the CAIR FIP in Pennsylvania.

**LEAD AND COPPER RULE SHORT TERM REVISIONS** PADEP has [proposed amendments](#) to incorporate provisions of the Federal Lead and Copper Rule: Short Term Regulatory Revisions, promulgated by USEPA on October 10, 2007, into the state Safe Drinking Water regulations. The proposed amendments would: (1) clarify the definition of "tap" for lead and copper sampling to be a tap that provides water for drinking; (2) require water systems to reevaluate lead service lines (LSL) previously deemed "replaced" through testing if the system resumes an LSL replacement program; (3) require water suppliers to provide a "consumer tap notice" to consumers whose taps are sampled; (4) revise the public education and Consumer Confidence Report (CCR) provisions, with respect to lead, to clarify the mandatory language, expand delivery requirements and require an informational statement in all CCRs; and (5) rescind the provision that allows water systems to remain on a reduced monitoring frequency if either the lead or copper action level is exceeded. Water systems must meet both water quality parameter ranges and the lead and copper action levels to remain on a reduced monitoring schedule. Note that this is more stringent than the Federal regulation because USEPA allows systems to exceed copper and remain on a reduced frequency.

**PRESCRIBED BURN STANDARDS** The Pennsylvania Department of Conservation and Natural Resources (PDCNR) has [proposed](#) Prescribed Burn Standards that were developed under the requirements of P. L. 76, Act 17, 2009, "The Prescribed Burning Practices Act", effective July 14, 2009. The standards establish common terminology and definitions and identify planning and implementation procedures for the use of prescribed fire in Pennsylvania. The standards also specify what is minimally acceptable for prescribed fire planning and implementation. Organizations may choose to establish additional standards and policy direction, but they must adhere to, and cannot modify, these minimums. The proposal includes sections on Prescribed Fire Burn Boss, Holding Specialist, Firing Boss, Safety, Prescribed Fire Plans, Escaped Prescribed Fires, After Action Review, and Documentation. Comments are due by November 25, 2009.



## West Virginia

**AMBIENT AIR QUALITY STANDARDS** The West Virginia Department of Environmental Protection (WVDEP) has approved a [rule](#) to revise and update state air quality regulations at 45 CSR 8. The rule establishes ambient air quality standards for sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide and lead, equivalent to those national primary and secondary National Ambient Air Quality Standards (NAAQS) established by USEPA. When the rule is finalized WVDEP will submit it to USEPA as a SIP revision. The rule was approved by the Legislative Rule-Making Review Committee on October 13, 2009, and it will be considered by the 2010 Legislature.

**STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES** WVDEP has approved a [rule](#) adopting national standards of performance for new stationary sources and other regulatory requirements promulgated by USEPA. The rule codifies general procedures and criteria to implement standards of performance for new stationary sources set forth in 40 CFR Part 60. Any person who constructs, modifies, reconstructs or operates an affected facility after the effective date of any NSPS under 40 CFR Part 60 must comply with the applicable NSPS and this rule. Revisions to this rule are necessary to maintain consistency with current federal regulations, and to fulfill the State's responsibilities under the CAA. The rule incorporates, by reference, the following new or revised NSPS standards promulgated as of June 1, 2009: (1) Stationary Spark-Ignition Internal Combustion Engines, Fossil Fuel-Fired Steam Generators and Industrial-Commercial-Institutional Steam Generating Units; (2) Stationary Combustion Turbines; (3) Non-road Spark Ignition Engines, (4) Alternative Work Practice To Detect Leaks From Equipment; (5) Petroleum Refineries and Performance Specification 16 for Predictive Emissions Monitoring Systems; (6) Amendments to Testing and Monitoring Provisions; and (7) Nonmetallic Mineral Processing Plants. The rule was approved by the Legislative Rule-Making Review Committee on October 13, 2009, and it will be considered by the 2010 Legislature.

**EMISSION STANDARDS FOR HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL** WVDEP has approved a [rule](#) that adopts emission standards for the treatment, storage, and disposal of hazardous waste promulgated by USEPA pursuant to the Resource Conservation and Recovery Act (RCRA). The rule incorporates by reference the

following provisions of 40CFR Parts 260, 261, 264, 265, 266 and 270 promulgated as of June 1, 2009: (1) Identification and Listing of Hazardous Waste; (2) Revisions to the Definition of Solid Waste; (3) Standards Applicable to Generators of Hazardous Waste; and (4) Expansion of RCRA Comparable Fuel Exclusion. Any person who constructs, reconstructs, modifies, or operates any hazardous waste treatment, storage, or disposal facility must comply with the West Virginia Hazardous Waste Management System, the codified federal emission standards, and this rule. The rule was approved by the Legislative Rule-Making Review Committee on October 13, 2009, and it will be considered by the 2010 Legislature.



## Virginia

**REVISION TO CAIR SULFUR DIOXIDE TRADING PROGRAM** USEPA has issued a direct rule approving a SIP revision submitted by the Commonwealth of Virginia [[74 FR 54485](#), October 22, 2009]. The revision pertains to the timing for the first phase of the sulfur dioxide (SO<sub>2</sub>) trading budget under the Commonwealth's approved regulations that implement the requirements of the CAIR. USEPA has approved the revision to change the start date of Virginia's CAIR SO<sub>2</sub> trading budget from the control period in 2009 to the control period in 2010 in accordance with the requirements of CAA. Barring adverse comment the direct final rule becomes effective on December 21, 2009.

**VIRGINIA POLLUTION ABATEMENT (VPA) PERMIT REGULATION** The Virginia Department of Environmental Quality (VDEQ) has [adopted amendments](#) that implement legislative changes to the State Water Control Law as a result of [HB 2558](#), Chapter 42 of the Acts of Assembly. The changes clarify public notice requirements for permit applications of biosolids for land application acreage increases of 50 percent or more and clarify when a permit for land application is issued in relation to the public meeting and public comment opportunity on the application. The amendments became effective on September 30, 2009.

**VIRGINIA IMPORTED FIRE ANT QUARANTINE** The Virginia Department of Agriculture and Consumer Services (VDACS) has issued a [final rule](#) establishing regulated areas under the Virginia Imported Fire Ant Quarantine. The action was necessary due to the detection of permanently established and naturally spreading colonies of imported fire ants in the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, as well as the counties of James City and York. The quarantine restricts the movement of regulated articles from regulated localities to nonregulated localities. The regulated articles, which include soil, pose a significant risk of transporting imported fire ants. These regulated articles may move freely within the regulated areas. The state quarantine is necessary to prevent the US Department of Agriculture from imposing a federal quarantine regulating the entire state of Virginia. The rule became effective on August 31, 2009.

## Region 5

For more information on any state issues in Region 5, contact Tony Nesky, Army Regional Environmental Coordinator, Region 5, (410) 436-7248, e-mail: [Tony.Nesky@us.army.mil](mailto:Tony.Nesky@us.army.mil).

**REINSTATEMENT OF THE GRAY WOLF IN THE WESTERN GREAT LAKES UNDER ESA** USFWS has issued a final rule to comply with a court order that reinstates regulatory protections under the Endangered Species Act (ESA) for the gray wolf in the western Great Lakes [[74 FR 47483](#), September 16, 2009]. The final rule corrects the gray wolf listing in our regulations and reinstates the listing of gray wolves in all of Wisconsin and Michigan, the eastern half of North Dakota and South Dakota, the northern half of Iowa, the northern portions of Illinois and Indiana, and the northwestern portion of Ohio as endangered. The final also reinstates the listing of wolves in Minnesota as threatened. The final rule also reinstates the former designated critical habitat for gray wolves in Minnesota and Michigan and special regulations for gray wolves in Minnesota. There is potential impact on Army installations. The gray wolf in the western Great Lakes is recorded on site Camp Ripley and Fort McCoy. The final rule became effective on September 16, 2009.



## Illinois

**CHICAGO AND EVANSVILLE NON-ATTAINMENT AREAS** USEPA has proposed a rule determining that the Chicago (Illinois and Indiana) and Evansville (Indiana) areas have attained the 1997 PM<sub>2.5</sub> NAAQS [[74 FR 48690](#), September 24, 2009]. The proposed determinations are based upon quality-assured, quality-controlled, and certified ambient air monitoring data that show that the areas have monitored attainment of the 1997 PM<sub>2.5</sub> NAAQS for the 2006 to 2008 monitoring period. Preliminary data for 2009 suggest that the areas continue to monitor attainment. If these proposed determinations are made final, the requirements for these areas to submit an attainment demonstration and associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs revisions related to attainment of the standard shall be suspended for as long as each of these areas continue to meet the 1997 PM<sub>2.5</sub> NAAQS.

**PRIVATE SEWAGE DISPOSAL LICENSING ACT AMENDMENTS** On October 30, 2009, both the House and Senate overrode the Governor's previous Amendatory Veto of [H.B. 170](#). The bill amends the Private Sewage Disposal Licensing Act to prohibit the installation of surface discharging septic systems without a NPDES permit issued by the Illinois Environmental Protection Agency (IEPA). The bill requires an amendment of the private sewage disposal code to reflect the new permit requirement, and applies to all state departments. The Illinois Environmental Protection Act, sets forth a General Assembly finding that compliance with the federal Clean Water Act (CWA) dictates that IEPA require NPDES permits for surface discharging private sewage disposal systems that discharge into waters of the State. The bill will now be sent to the Secretary of State and become law.

**RECYCLING AND CONSTRUCTION DEBRIS** On August 11, 2009, Governor Pat Quinn signed into law [H.B. 266](#). The new law amends the Illinois Environmental Protection Act to specify that the term "recyclable general construction debris" includes clean wood that is segregated from general construction or demolition debris and that is processed for use as fuel. The law also amends the Illinois Solid Waste Management Act to provide that "recycling" includes the combustion of wood or biomass fuel for energy recovery. The law also specifies that the combustion of wood or other biomass fuel for energy recovery shall not be considered recycling for grant or incentive programs administered by IEPA. The new law became effective upon signature.

**WIND TOWER REGULATIONS** August 11, 2009, Governor Pat Quinn signed into law [H.B. 3746](#), which amends the Counties Code and the Illinois Municipal Code. The new law provides that a county or municipality may not require a wind tower or other renewable energy system that is used exclusively by an end user to be setback more than 1.1 times the height of the renewable energy system from the end user's property line. The new law becomes effective on January 1, 2010.



## Indiana

**LEAD MAINTENANCE PLAN UPDATE FOR MARION COUNTY** USEPA has issued a direct final rule approving a SIP revision submitted by the Indiana Department of Environmental Management (IDEM) on April 1, 2009 [[74 FR 48659](#), September 24, 2009]. IDEM submitted an update to its lead (Pb) maintenance plan for Marion County for continued attainment of the 1.5 micrograms per cubic meter NAAQS promulgated in 1978. The update satisfies CAA section 175A, and is in accordance with USEPA's May 10, 2000, approval of the State's Redesignation Request and Maintenance Plan for the Marion County Pb nonattainment areas. Additionally, the Pb maintenance plan satisfies the requirements for maintenance plans contained in the September 4, 1992, USEPA memorandum entitled "Procedures for Processing Requests to Redesignate Areas to Attainment." Barring adverse comment the direct final rule becomes effective on November 23, 2009.

**CARBON MONOXIDE MAINTENANCE PLAN UPDATES** USEPA has issued a direct final rule to approve updates submitted by IDEM for the Carbon Monoxide (CO) Limited Maintenance Plan for Lake and Marion Counties [[74 FR 52891](#), October 15, 2009]. The Limited Maintenance Plans demonstrate continued attainment of the CO NAAQS for Lake and Marion counties for an additional ten years. Barring adverse comment the direct final rule becomes effective on December 14, 2009.

**CHICAGO-GARY-LAKE COUNTY OZONE NON-ATTAINMENT AREA** USEPA has issued a proposed rule determining that the Chicago-Gary-Lake County, Illinois-Indiana (IL-IN) ozone non-attainment area has attained the 1997 eight-hour ozone NAAQS [[74 FR 48703](#), September 24, 2009]. The determination is based on complete, quality-assured ambient air quality monitoring data for the period of 2006-2008. Preliminary data for 2009 shows that the area continues to attain the standard. USEPA has also proposed approving a state request to exempt sources of NO<sub>x</sub> in Lake and Porter Counties from CAA requirements for Reasonably Available Control Technology (RACT). The state's NO<sub>x</sub> RACT waiver request is based on the most recent three years of complete, quality-assured ozone monitoring data, which demonstrate that additional reduction of NO<sub>x</sub> emissions would not contribute to attainment of the 1997 eight-hour ozone NAAQS in the Chicago-Gary-Lake County, IL-IN area.

**ADOPTION OF FEDERAL WATER QUALITY STANDARDS** IDEM has adopted a [rule](#) amending the drinking water standards at 327 IAC 8-2, 327 IAC 8-2.1, 327 IAC 8-2.5, and 327 IAC 8-2.6. The rule also adds section 327 IAC 8-2.3 to reflect recent changes to federal regulations concerning revisions and additions to the national primary drinking water regulations. The amendments incorporate the following federal requirements: (1) [Stage 2 Disinfectants and Disinfection Byproducts Rule](#), as promulgated on January 4, 2006; (2) [Long Term 2 Enhanced Surface Water Treatment Rule](#), as promulgated on January 5, 2006; (3) [Ground Water Rule](#), as promulgated on November 8, 2006; and (4) [Lead and Copper Rule 2007 Short-Term Revisions](#), as promulgated on October 10, 2007. In general, the state required promulgation process usually takes three months from the final adoption date plus an additional 30 days after filing of the promulgated rules to become effective.

**READOPTION OF SEWER AND WASTE RULES** IDEM has [readopted](#) rules regarding combined sewer overflow public notification, small quantity generator public notification, and storage structures. The readoption is required under IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. The rules listed to be readopted have an expiration date of January 1, 2010. IDEM has chosen to readopt all affected rules at one time rather than readopt each rule separately as its expiration date approaches. The readoption became effective on October 16, 2009.

**WATER QUALITY STANDARDS** IDEM has [readopted rules](#) concerning water quality standards, as part of its annual review required by IC 12-14-9.5-1.1. The review is based on a seven year cycle, and the following is a list of rules that have been effective for seven years and were up for review: (1) Water Quality Standards Applicable to All State Waters Except Waters of the State Within the Great Lakes System; (2) Basic NPDES Requirements; (3) Special NPDES Programs; (4) Drinking Water Standards; (5) Disinfectants and Disinfection; (6) Storm Water Run-Off Associated with Municipal Separate Storm Sewer System Conveyances; and (7) On-Site Residential Sewage Discharging Disposal Systems within the Allen County On-Site Waste Management District. The rules were reviewed and presented to the appropriate environmental board for consideration on whether to direct IDEM to start a new rulemaking. It was decided to not to initiate any new rulemaking so the rules will remain as is until the next seven year review.



## Michigan

**AMENDMENTS TO WETLAND AND WATER QUALITY REGULATIONS** On October 15, 2009 Governor Jennifer Granholm signed into law [S.B. 785](#). The new law amends the Natural Resources and Environmental Protection Act (NREPA) Part 52 (Strategic Water Quality Initiatives), Part 88 (Water Pollution and Environmental Protection Act), Part 301 (Inland Lakes and Streams), Part 303 (Wetlands Protection), and Part 325 (Great Lakes Submerged Lands). The amendments: (1) revise provisions regarding the establishment by the Michigan Department of Environmental Quality (MIDEQ) of minor project categories of wetlands activities and projects; (2) revise notice and hearing requirements for wetland project permits; (3) revise the definition of wetland; (4) require the MIDEQ to implement a pilot program aimed at increasing the efficiency of the wetlands project permitting process, and a pilot program to facilitate the development of wetland mitigation banks; (5) authorize MIDEQ to impose on certain wetland permits a requirement for compensatory wetland mitigation; (6) require MIDEQ to pursue an agreement with the USACE to issue State programmatic general permits under federal law; and (7) require MIDEQ to pursue an agreement with USEPA to expand the categories of discharges subject to a waiver from certain requirements under federal law. The new law became effective upon signature.



## Minnesota

**PETITION TO LIST THE NORTHERN LEOPARD FROG AS THREATENED** USFWS has announced the reopening of the comment period for the July 1, 2009, petition to list the western US population of the northern leopard frog as threatened under ESA. The extension of the comment period will provide all interested parties with an additional opportunity to submit information and materials on the status of the northern leopard frog. Information previously submitted does not need to be resubmitted because it has already been incorporated into the public record and will be fully considered in the 12-month finding. There is potential impact on Army installations. There are many Army installations within the range of the proposed western population of northern leopard frog. The petitioner requested that the western population of northern leopard frog include areas in eighteen states, including Minnesota, to be listed as a threatened Distinct Population Segment (DPS).



## Ohio

**REDESIGNATION OF THE CLEVELAND-AKRON-LORAIN AREA** USEPA has issued a final rule determining that the Cleveland-Akron-Lorain area (Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit Counties) has attained the 1997 eight-hour ozone NAAQS [[74 FR 47413](#), September 15, 2009]. The determination is based on quality-assured ambient air quality monitoring data for the 2006-2008 ozone seasons that demonstrate that the eight-hour ozone NAAQS has been attained in the area. Preliminary 2009 air quality data show that the area continues to attain the eight-hour ozone standard. USEPA has also approved: (1) a SIP revision for maintaining the eight-hour ozone NAAQS through 2020 in the area; (2) a redesignation of the Cleveland-Akron-Lorain area to attainment of the eight-hour ozone NAAQS; (3) the 2002 base year emissions inventory for the Cleveland-Akron-Lorain area; (4) Ohio's 15 percent Rate of Progress (ROP) plan as meeting the requirements of the CAA for the one-hour ozone standard; (5) a waiver, for the Cleveland-Akron-Lorain area, from the NOx RACT requirements of section 182(f) of the CAA in relation to the 1997 eight-hour ozone NAAQS; and (6) the state's 2012 and 2020 VOC and NOx Motor Vehicle Emission Budgets (MVEBs) for the Cleveland-Akron-Lorain area. The final rule became effective on September 15, 2009.

**REDESIGNATION OF THE COLUMBUS AREA** USEPA has issued a final rule determining that the Columbus area has attained the 1997 eight-hour ozone NAAQS [[74 FR 47403](#), September 15, 2009]. The Columbus area includes Delaware, Fairfield, Franklin, Knox, Licking, and Madison Counties. The determination is based on quality-assured ambient air quality monitoring data for the 2006-2008 ozone seasons that demonstrate that the eight-hour ozone NAAQS has been attained in the area. Preliminary 2009 air quality data show that the area continues to attain the eight-hour ozone standard. USEPA has also approved: (1) a SIP revision for maintaining the eight-hour ozone NAAQS through 2020 in the area; (2) a redesignation of the Columbus area to attainment of the eight-hour ozone NAAQS; (3) the 2002 base year emissions inventory for the Columbus area; and (4) the state's 2012 and 2020 VOC and NOx MVEBs for the Columbus area. The final rule became effective on September 15, 2009.

**STORM WATER PROGRAM REGULATORY REVISIONS** The Ohio Environmental Protection Agency (OEPA) has adopted amendments to Storm Water Program regulations at OAC Chapter 3745-39. Specifically, the rules amended are: (1) [3745-39-01](#) - Applicability of rules of procedure and definitions; (2) [3745-39-02](#) - Objectives of the OEPA storm water management program for small MS4s; and (3) [3745-39-03](#) - OEPA NPDES requirements for small MS4s. Adopted changes for the small MS4 rules include updated citations, grammatical edits and formatting revisions to comply with the Ohio Legislative Service Commission's Rule Drafting Manual, and a clarification on the fire fighting activities exclusion in paragraph (C)(2)(c)(iii) of rule 3745-39-03. The changes are housekeeping in nature and do not change the current rule requirements. The amendments became effective on October 5, 2009.



**REGULATING THE CONSTRUCTION AND OPERATION OF WIND ENERGY SYSTEMS** On September 30, 2009, Governor Jim Doyle signed into law [S.B. 185](#). The new law requires the Public Service Commission (PSC) to promulgate rules establishing common standards for political subdivisions to regulate the construction and operation of wind energy systems. The law also revises the definition of “wind energy system” to include associated facilities of the equipment specified under current law. The PSC’s rules must specify the restrictions a political subdivision may impose on the installation or use of such a system, and may include subjects such as visual appearance, setback distances, decommissioning, shadow flicker, electrical connections to the power grid, and interference with radio, telephone, or television signals. The PSC must also promulgate rules specifying requirements and procedures for a political subdivision to enforce such restrictions. If a political subdivision chooses to regulate such systems, its ordinances may not be more restrictive than the PSC rules. The new law became effective on October 15, 2009.

**REMOVAL OF TRUMPETER SWAN AND OSPREY FROM STATE ENDANGERED/THREATENED LIST** The Wisconsin Department of Natural Resources (WDNR) has adopted a rule deleting the trumpeter swan from the Wisconsin endangered species list and the osprey from the Wisconsin threatened species list. Both species will continue to receive protection under the federal Migratory Bird Treaty Act. The rule became effective on November 1, 2009.

**MANAGEMENT OF ACCUMULATED SEDIMENT IN DETENTION STRUCTURES** WDNR has [proposed a rule](#) to amend the regulations covering the management of accumulated sediment from storm water structures. The proposed rule moves the responsibility of clearing accumulated sediment from storm water structures from state staff to a system of self regulation. The proposed rule would place WDNR in an oversight role thereby minimizing and targeting uses of scarce staff resources.

**PROPOSED REVISION OF GROUNDWATER STANDARDS FOR EXPLOSIVE RESIDUES** The Wisconsin Department of Natural Resources is [proposing revisions](#) to Wisconsin Administrative Code NR 140, Chapter 24, Groundwater Quality. The proposed changes include a preventive action limit of 0.005 µg/L for the total residues of dinitrotoluene (summed isomers) and 0.7 µg/L for perchlorate. A series of [public hearings](#) will be held on December 11, December 14, December 15 and December 16, 2009. Comments are due on December 30, 2009.

## PROFESSIONAL DEVELOPMENT

WHAT	WHEN	WHERE	DETAILS
<a href="#"><u>Partners in Environmental Technology Technical Symposium &amp; Workshop</u></a>	12/1 - 12/3/09	<b>Washington, DC</b>	Sponsored by the DoD's Strategic Environmental Research and Development Program (SERDP), and DoD's Environmental Security Technology Certification Program (ESTCP). Technical sessions will highlight research and innovative technologies that assist DoD in addressing increasingly complex environmental and mission sustainability challenges. The deadline for submitting abstracts for consideration is July 31, 2009.
<a href="#"><u>2010 North American Environmental Field Conference and Exposition</u></a>	1/12 - 1/15/10	<b>Tampa, FL</b>	The conference is presented by the Nielsen Environmental Field School, Inc. The conference will include interactive indoor and outdoor workshops, conference presentations, and field equipment demonstrations. A wide variety of stakeholders in environmental site characterization and monitoring will be represented, including Federal, State, tribal, regional, county and local government officials; and DOD and DOE environmental staff.
<a href="#"><u>Identifying and Reporting Environmental and Disposal Liabilities</u></a>	1/26/09	<b>Washington, DC</b>	Hosted by the Department of Interior (DOI) the class will teach a systematic approach for managing environmental liabilities. Participates with will learn about: (1) identifying and reporting environmental liabilities; (2) the federal financial accounting standards as they relate to environmental liabilities; (3) roles and responsibilities within an agency for reporting environmental liabilities; and (4) the federal government's environmental liabilities.
<a href="#"><u>Green Cleanup Symposium: Integrating Green Approaches for Site Cleanup and Sustainable Reuse</u></a>	2/10 - 2/11/10	<b>Philadelphia, PA</b>	The symposium will cover: (1) the ABC's of Sustainable Reuse; (2) cleaning up properties while using green practices; (3) cutting-edge analysis and tools for long-term cleanups; (4) initiatives promoting renewable energy on cleanup sites; and (5) ecological revitalization at contaminated properties.
<a href="#"><u>2010 DoD Environmental Monitoring &amp; Data Quality (EMDQ) Workshop</u></a>	4/12 - 4/16/10	<b>Louisville, KY</b>	The 7th annual workshop is open to all interested members of the environmental community involved with DoD sites or projects. It will include technical training sessions, technical presentations, a Q&A Forum, component meetings, a plenary session featuring distinguished speakers, an update on the DoD ELAP, an informal poster session, and networking opportunities with members of the environmental community.
<a href="#"><u>Hazardous Waste Operations &amp; Emergency Response (HAZWOPER)</u></a>	4/20/10	<b>Washington, DC</b>	Hosted by DOI the training is for federal employees with HAZWOPER training who need an 8-hour refresher. The course will review key elements of a safe and effective emergency planning program. Topics covered by the course include: (1) learning practical aspects of selecting personal protective equipment (PPE) and spill-control supplies; (2) review of environmental regulations and the National Incident Management System (NIMS) as they apply to federal agencies and facilities; (3) implementation of the agency's Emergency Response Plan (ERP) or Spill Prevention

WHAT	WHEN	WHERE	DETAILS
<a href="#"><u>7th International Conference Remediation of Chlorinated and Recalcitrant Compounds</u></a>	5/24 - 5/27/10	<b>Monterey, CA</b>	The conference is organized and presented by Battelle. The conference focuses on innovative application of new and existing technologies and approaches for characterizing, treating, and monitoring chlorinated and other recalcitrant compounds in various environmental media. Abstracts are due by July 31, 2009.
<a href="#"><u>2010 NDIA Environment, Energy &amp; Sustainability Symposium &amp; Exhibition</u></a>	6/14 - 6/17/10	<b>Denver, CO</b>	The symposium is hosted by the National Defense Industrial Association (NDIA). For the 2010 symposium, NDIA is inviting administration senior leaders from the White House, DoD, DoE, USEPA, and the Services to present their organizations' goals for the next three years. The Services will emphasize their leadership initiatives, program, and budget changes in order to provide attendees with policy updates and technical training. Abstracts are due by December 1, 2009.
<a href="#"><u>Endangered Species Recovery Planning and Implementation Training Course</u></a>	8/2 - 8/6/10	<b>Shepherdstown, WV</b>	Hosted by Department of the Interior (DOI) the course covers the technical, policy, and practical aspects of recovery planning and implementation for threatened and endangered species. Topics covered include: statutory framework, purpose and steps of recovery plan development, policies and guidance relevant to recovery, the relationship of recovery to all parts of the ESA, five-year reviews, the application of conservation tools such as decision analysis and adaptive management to recovery efforts, and monitoring. Case studies and exercises are included to reinforce lecture sessions.
<a href="#"><u>5th National Conference on Coastal and Estuarine Habitat Restoration</u></a>	11/13 - 11/17/10	<b>Galveston Island, TX</b>	Hosted by <i>Restore America's Estuaries</i> , the conference theme is, "Preparing for Climate Change." The conference brings together the coastal habitat restoration community and a group of diverse stakeholders from across the country, including top representatives from federal, state, and local governments; corporations and businesses; and education—all united in the search for solutions to the needs of our coastal ecosystems.
<a href="#"><u>The Conservation Leadership Network Training Courses</u></a>	Various Times	<b>Various Locations</b>	Hosted by the The Conservation Fund, the courses are designed to foster collaboration and to replicate real world scenarios. The courses are applicable for individuals from a variety of disciplines and sectors, with responsibilities that scale the national, regional, and local levels. Examples of courses include; Strategic Conservation Planning Using the Green Infrastructure Approach, and Balancing Nature and Commerce in Communities that Neighbor Public Lands.
<a href="#"><u>GoLearn</u></a>	Anytime	<b>Online</b>	GoLearn.gov provides government employees and military personnel with web-based learning and development courses, as well as many other products and services. Recent course addition includes, working effectively with Tribal governments. Site registration is required, including a nominal fee for federal users.

WHAT	WHEN	WHERE	DETAILS
<a href="#">US Army Corps of Engineers Training Program</a>	Various Times	<b>Various Locations</b>	USACE Fiscal Year 2010 training program is now available and open for registration. For further information, contact USACE, (402) 697-2559, or <a href="#">register</a> online.
<a href="#">Naval Civil Engineer Corps Officers School (CECOS) Training Courses</a>	Various Times	<b>Various Locations</b>	During FY 2010, CECOS will offer 57 different courses with 260 individual course offerings. The Mobile Training Teams will be conducting over 80 percent of the courses. Courses being offered include: facilities energy management; environmental compliance assessment; DoD conservation law enforcement program; introduction to cultural resource management laws and regulations; historic preservation law and Section 106 compliance; natural resource conservation; and basic and to advanced environmental law.
<a href="#">USEPA Watershed Academy Web</a>	Anytime	<b>Online</b>	USEPA online training website offers a variety of self-paced training modules that represent a basic and broad introduction to the watershed management field. Modules vary in time to complete, from half hour to two hours.
<a href="#">USEPA and ITRC Training Website</a>	Multiple Dates	<b>Multiple Locations</b>	USEPA, in partnership with the Interstate Technology Regulatory Council (ITRC) provides a range of training relevant to hazardous waste remediation, site characterization, risk assessment, emergency response, site/incident management, counter-terrorism, and the community's role in site management and cleanup. The website includes training schedules for courses - both classroom and Internet-based.
<a href="#">NPDES Training and Workshops</a>	Various Times	<b>Various Locations</b>	The NPDES permitting program offers training courses, workshops, and webcasts to explain the regulatory framework and technical considerations of the NPDES permitting program. The courses are designed for permit writers, dischargers, USEPA officials, and other interested parties.
<a href="#">USEPA Watershed Assessment Tools Training</a>	Various Times	<b>Various Locations</b>	USEPA offers training on various watershed modeling or aquatic toxicity simulation tools such as BASINS, AQUATOX, and others.
<a href="#">USEPA Online EMS Training Course</a>	Any Time	<b>Online</b>	The course provides an overview of how environmental management systems (EMS) can support facility programs. The course takes about one hour to complete.
<a href="#">Qualified Recycling Program Course</a>	Various Times	<b>Various Locations</b>	The course provides training on how to identify and market recyclable materials. The course is for any person or organization that generates recyclable materials, is associated with an installation recycling program or DoD precious-metals recovery program, or works for a Defense Reutilization and Marketing Office.

# Personnel Directory

## Jim Hartman

Director & DOD REC Region 5

410-436-7096

[james.hartman1@us.army.mil](mailto:james.hartman1@us.army.mil)

## Vance Hobbs

Deputy Director

410-436-0482

[vance.hobbs@us.army.mil](mailto:vance.hobbs@us.army.mil)

## Counsel

410-436-1275

[APGR-USAECNREORegionalCounsel@conus.army.mil](mailto:APGR-USAECNREORegionalCounsel@conus.army.mil)

## Bob Muhly

Army REC - Regions 1&2

410-436-6224

[robert.muhly@us.army.mil](mailto:robert.muhly@us.army.mil)

## Amy Alton

Army REC - Region 3

410-436-7098

[amy.alton@us.army.mil](mailto:amy.alton@us.army.mil)

## Tony Nesky

Army REC - Region 5

410-436-7248

[tony.nesky@us.army.mil](mailto:tony.nesky@us.army.mil)

(Home International)

## Project Manager

Cathy O'Connell

[APGR-USAECNREOProjectManager@conus.army.mil](mailto:APGR-USAECNREOProjectManager@conus.army.mil)

(Home International)



# Internet Resources

## FEDERAL SOURCES

USAEC <http://aec.army.mil/>

USEPA <http://www.epa.gov/>

Region 1 <http://www.epa.gov/region01/>

Region 2 <http://www.epa.gov/region02/>

Region 3 <http://www.epa.gov/region03/>

Region 5 <http://www.epa.gov/region5/>

USDA <http://www.usda.gov/>

DOI <http://www.doi.gov>

Federal Register  
<http://www.gpoaccess.gov/fr/index.html>

Code of Federal Regulations  
<http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>

## STATE / TERRITORY SOURCES

Connecticut <http://www.state.ct.us/>

Delaware <http://www.state.de.us/>

District of Columbia <http://www.dc.gov/>

Illinois <http://www.illinois.gov/>

Indiana <http://www.state.in.us/>

Maine <http://www.maine.gov/>

Maryland <http://www.maryland.gov/>

Mass. <http://www.mass.gov/>

Michigan <http://www.michigan.gov/>

Minnesota <http://www.state.mn.us/>

New Hampshire <http://www.nh.gov/>

New Jersey <http://www.state.nj.us/>

New York <http://www.state.ny.us/>

Ohio <http://www.ohio.gov/>

Pennsylvania <http://www.state.pa.us/>

Puerto Rico <http://www.gobierno.pr/>

Rhode Island <http://www.state.ri.us/>

Vermont <http://vermont.gov/>

Virgin Islands <http://www.usvi.org/>

Virginia <http://www.myvirginia.org/>

West Virginia <http://www.wv.gov/>

Wisconsin <http://www.wisconsin.gov/>

## Regulatory Affairs Specialist

410-436-4044

[APGR-USAECNREOEnvironmentalSpecialist@conus.army.mil](mailto:APGR-USAECNREOEnvironmentalSpecialist@conus.army.mil)

[Specialist@conus.army.mil](mailto:Specialist@conus.army.mil)

(Home International)

## Administrative Assistant

410-436-7097

[APGR-USAECNREOAdministrativeAssistant@conus.army.mil](mailto:APGR-USAECNREOAdministrativeAssistant@conus.army.mil)

[Assistant@conus.army.mil](mailto:Assistant@conus.army.mil)

(Home International)

## General Office Number

410-436-7097

## Fax Number

410-436-7110

The *Northern Region Review* is a publication of the US Army Office of Regional Environmental and Government Affairs - Northern. OREGA-N welcomes your comments.

Commercial: 410-436-4044

Fax: 410-436-7110

DSN: 584-4044

To be added to the distribution list and/or to receive back issues of the *Northern Region Review*, call or email the OREGA-N Regulatory Affairs Specialist at 410-436-4044, [APGR-USAECNREOEnvironmentalSpecialist@conus.army.mil](mailto:APGR-USAECNREOEnvironmentalSpecialist@conus.army.mil) or visit <http://www.asaie.army.mil/Public/ESOH/reo>.