



# Northern Review

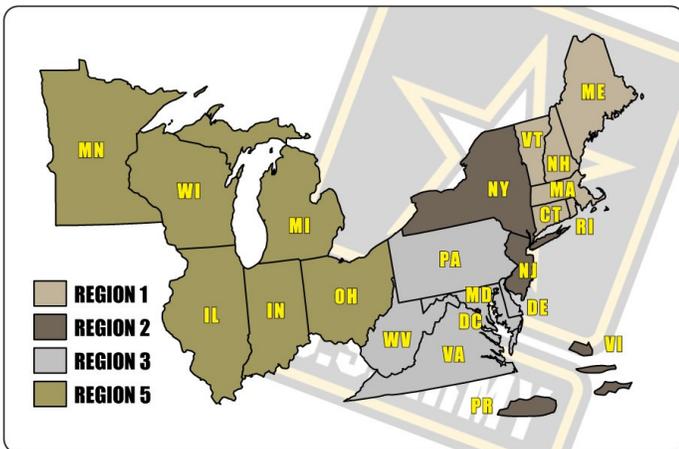
## of Legislative & Regulatory Actions



The U.S. Army Regional Environmental & Energy Office

April 2012

The **NORTHERN REGION REVIEW** provides current information on government affairs, energy and environment relevant to Department of Defense interests in the 22 states and territories in Federal Regions 1, 2, 3 and 5. The Review is intended to be a tool useful to DoD and Army leaders, planners, and program managers in carrying out their responsibilities including meeting legal criteria of ISO 14001. The Northern Region Review monitors and targets proposed and final regulations and legislation that may affect Army or DoD operations. Click here for information on the [Army's Regional Environmental and Energy Offices](#).



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## What's In This Review?

### Region 1

In CT, a proposed rule on regional haze; in NH, proposed rules on pesticide certification; in RI, a final rule for SIP revisions; and in VT, a proposed bill to increase fees charged by VT Department of Environmental Conservation.

### Region 2

Regionally, a proposed rule amending federal water quality criteria for NJ and PR; in NJ, air emission fees raised and a final rule on SIP approval for vehicle inspection and maintenance; in NY, a final notice on U.S. Corps of Engineers' nationwide permits, and a final rule for SIP revisions.

### Region 3

In DE, new emergency regulation for aquatic pesticide use; in MD, a final rule on emissions from bioenergy and other biogenic stationary sources; in PA, a final rule for 24-hour fine particulate matter nonattainment areas; in VA, a new law on vehicle emissions inspections; and in WV new laws signed on hazardous waste violation enforcement and diesel idling restrictions.

### Region 5

Regionally, federal agencies sign MOU with Great Lakes states to streamline offshore wind approvals; in IL, a new bill on wind energy facilities construction, deconstruction and siting; in IN, a new public law on underground storage tank (UST) requirements; in MI, new UST operator certification requirements; in OH, final rules hazardous waste management program, and underground storage tanks; and in WI, multiple new environmental laws.

### Federal Activity

USEPA: Issues a draft 2012 Strategy Response to Climate Change, and a final rule revision for extremely hazardous substances; the Executive Office of the President: Issues two Executive Orders, improving performance of federal permitting and review of infrastructure projects and, establishing White House Council on strong cities, strong communities; OSHA: Issues a final rule which modifies the hazardous classification system.

# 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.



## Connecticut

### PROPOSED ATTAINMENT REDESIGNATION

The Connecticut Department of Energy and Environmental Protection (DEEP) issued a [notice of intent](#) to request redesignation for portions of the State from nonattainment to attainment with respect to the 1997 annual and the 2006 24-hour PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS). This revision to the State Implementation Plan (SIP) will be submitted to USEPA for review and approval. Section 107(d)(3) of the federal Clean Air Act (CAA) provides the requirements for this request. The proposed plan demonstrates that Connecticut's air quality meets the PM<sub>2.5</sub> NAAQS due to a combination of national, regional and local control measures implemented to reduce emissions and presents a maintenance plan that will ensure continued attainment through the year 2025. The comment period closed on 5 Apr 12.

### PROPOSED RULE ON REGIONAL HAZE

USEPA issued a proposed rule that would approve a revision to the Connecticut State Implementation Plan (SIP) that addresses regional haze for the first planning period from 2008 through 2018 [[77 FR 17367](#), 26 Mar 12]. It was submitted by the CT DEEP on 18 Nov 09, 24 Feb 12, and 12 Mar 12. This revision addresses the requirements of the CAA and USEPA's rules that require States to prevent any future, and remedy any existing, manmade impairment of visibility in mandatory Class I areas (also referred to as the "regional haze program"). States are required to assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. The comment period closes on 25 Apr 12.



## Massachusetts

### PROPOSED RULE FOR 8-HOUR OZONE NONATTAINMENT AREA

USEPA issued a proposed rule that makes two separate and independent determinations regarding the Boston-Lawrence-Worcester (Eastern Massachusetts) moderate 1997 8-hour ozone nonattainment area [[77 FR 14712](#), 13 Mar 12]. First, based on complete, quality-assured and certified air monitoring data for 2007-2009, USEPA is proposing to determine that the nonattainment area attained the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ozone as of the area's applicable attainment date, 15 Jun 10. Second, USEPA is proposing to determine that Eastern Massachusetts has attained the 1997 8-hour ozone NAAQS, based upon complete, quality-assured and certified ambient air monitoring data that show the area monitored attainment of the 1997 8-hour ozone NAAQS for the 2008-2010 and 2009-2011 monitoring periods. If this latter proposed determination is made final, under the provisions of USEPA's ozone implementation rule, the requirements for this area to submit an attainment demonstration, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans related to attainment of the 1997 8-hour ozone NAAQS shall be suspended for so long as the area continues to attain the 1997 ozone NAAQS. USEPA is proposing these determinations under the CAA. The comment period closed on 12 Apr 12.



## **PROPOSED RULES ON PESTICIDE CERTIFICATION**

The New Hampshire Pesticide Control Board issued a [proposed rule](#) that readopts the rules relating to pesticides. Chapter 200 contains procedural rules including declaratory rulings and the process of appeals. Chapter 300 contains information on the certificate of registration procedures, for example, exam requirements, for obtaining private and commercial pesticide applicator certification, and also pesticide dealer certification. Additionally it also identifies the categories and levels of certification. Chapter 400 covers the maintenance of a certificate of registration, the continuing status of pesticide applicators to maintain registration, such as certificate renewals and recertification, and the process of revocation, denial and modification. A hearing is scheduled for, and comments are due by 7 May 12.

## **PROPOSED RULE ON EMISSIONS OF TOXIC AIR POLLUTANTS**

The New Hampshire Department of Environmental Services (DES) issued a [proposed rule](#) amending the rules concerning emissions of toxic air pollutants into the ambient air. The rule aims to change the regulated toxic air pollutant (RTAP) status of 15 chemical substances acceptable ambient levels (AALs). In addition to required annual updates, DES is also proposing the following changes, pursuant to Revised Statutes Annotated (RSA) 125-I: de-list toxic low Class II RTAPs that are not expected to cause harmful health effects in the ambient air and de-list RTAPs that do not have an AAL due to a lack of scientific data; exempt major stationary sources that are subject to a federal Maximum Achievable Control Technology (MACT) standard; and meet the requirements of the standard through the operation of pollution control equipment. Finally, exempt devices that burn bio-fuels as defined in Env-A 1401.03(a) because test data has shown that emissions from facilities that burn bio-fuels are well below all applicable AALs, and exempt sewage treatment facilities that do not accept industrial wastewater and process less than 200,000 gallons per day. The comment period closed on 12 Apr 12.

## **PROPOSED RULE ON AIR QUALITY**

DES issued a [proposed rule](#) that readopts existing air quality rules in Env-A 600 with amendments establishing a system for permitting the construction, operation, and modification of certain sources of air pollution emissions, in order to achieve and maintain the ambient air quality standards established in Env-A 300 (pursuant to RSA 125-C:4, I (b)) and the ambient air limits for regulated toxic air pollutants established in Env-A 1400 (pursuant to RSA 125-I:6). The proposal is a readoption of the existing rules with amendments that will allow sources to appoint more than one responsible official, establish modeling thresholds to require modeling only for larger emitters exempt sources emitting Volatile Organic Compounds (VOCs) and subject to Reasonably Available Control Technology (RACT) that have actual emissions less than 10 tons per year from obtaining a permit. In addition, the rule aims to streamline the permitting process for sources registering under a General State Permit, so sources will no longer need to obtain a Temporary Permit (TP or construction permit) prior to obtaining a General State Permit, and streamline the process to allow sources to incorporate the requirement of a TP into their existing state permit to operate via the minor permit amendment process. Finally, this rule will allow DES to propose amendments to a permit for a minor source to make any necessary adjustments to the permit after notifying the source and giving them an opportunity to object and incorporate the most recent federal regulations relative to new source review and prevention of significant deterioration, including WEPCO-like (from a court decision Wisconsin Electric Power Co vs. EPA) provisions for all source types (actual vs. future actual). A hearing is scheduled for 2 May 12, and the comment period closes on 9 May 12.

## **PROPOSED RULE ON VOLATILE ORGANIC COMPOUNDS**

DES issued a [notice of proposed rule](#) that will extend by one year, from 1 Jun 12 until 1 Jun 13, the requirement to apply for a permit to opt out of volatile organic compound (VOC) Reasonable Available Control Technology (RACT) requirements for sources that first became subject to Env-A 1200 on 1 Jun 11. The rule will expand the definition of "minor core activity" to include all VOC RACT categories covered by Env-A 1200, not just coating categories; and clarify that actual, rather than potential, emissions should be calculated in determining whether an activity is "minor core" under Env-A 1201.04(c) and Env-A 1203.38. In addition, it will include a VOC limit for clear topcoats used in miscellaneous metal parts coating operations, which was inadvertently excluded in the readoption of the prior rule. A hearing is scheduled for 16 Apr 12 and the comment period closes on 23 Apr 12.



### FINAL RULE FOR SIP REVISIONS

USEPA issued a final rule approving four State Implementation Plan (SIP) revisions submitted by the Rhode Island Department of Environmental Management (RI DEM) [[77 FR 14691](#), 13 Mar 12]. These revisions demonstrate that the State of Rhode Island meets the requirements of Reasonably Available Control Technology (RACT) for oxides of nitrogen and volatile organic compounds (VOCs) set forth by the Clean Air Act (CAA) with respect to the 1997 8-hour ozone standard. The intended effect of this action is to approve Rhode Island's RACT demonstration and the submitted regulations and incorporate them into the Rhode Island SIP. Additionally, USEPA is approving Rhode Island's negative declarations for several categories of VOC sources. This action is being taken in accordance with the CAA. This rule is effective on 14 May 12 contingent on no adverse comments being received by USEPA by 12 Apr 12.



### PROPOSED BILL TO INCREASE CONSERVATION FEES

On 15 Mar 12, the Vermont House Committee on Ways and Means introduced [HB 769](#), concerning the adjustment of all the Department of Environmental Conservation's fees. The fee for a major stationary source would go up from \$12,500.00 to \$ 15,000.00 and the fee for a non-major stationary source would go up from \$1,000.00 to \$2,000.00. The cost of administrative amendments would go up from \$100.00 to \$150.00. In addition, the Engineering Review, Air Quality Impact Analysis Review Refined Modeling, the Observe and Review Source Emission Testing, Audit Performance of Continuous Emissions Monitors, Audit Performance of Ambient Air Monitoring all would go up from \$1,750.00 to \$2,000.00. The Stormwater Discharge Fees for the individual operating permit would go from \$360.00 to \$430.00 per acre and the Application to Operate Impervious Area, under general operating minimum would go up from \$180.00 to \$220.00 permit for collected per application stormwater runoff which is discharged to Class B waters. Other wastewater fees, hazardous waste, underground storage tank fees, and land use fees would go up as well. On 21 Mar 12, the bill passed the House and was referred to the Senate Committee on Finance.

### RELEASE OF STATE PRIORITY WATER LISTS

The Department of Environmental Conservation issued a [notice](#) on the draft 2012 303(d) List of Impaired Waters and the 2012 List of Priority Waters. The draft 2012 303(d) List of Impaired Waters consists of Part A impaired waters scheduled for Total Maximum Daily Load (TMDL) development. The draft 2012 List of Priority Waters consists of the following: Part B, impaired waters which do not need a TMDL; Part C, waters in need of further assessment; Part D, waters for which TMDL's have been completed and approved by USEPA; Part E, waters altered by exotic species; Part F, waters, altered by flow regulation; and Part G, waters altered by natural fluvial geomorphic adjustments. The comment period closed on 11 April 12.

## 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.



### PROPOSED RULE AMENDING FEDERAL WATER QUALITY CRITERIA

USEPA issued a proposed rule on amending the federal regulations to withdraw human health and aquatic life water quality criteria applicable to certain waters of New Jersey, Puerto Rico, and California's San Francisco Bay, now that those States have adopted and USEPA has approved relevant state criteria [[77 FR 20585](#), 5 Apr 12]. USEPA is seeking public comment on its action with respect to those state criteria that are less stringent than the federally promulgated criteria. The withdrawal of the federally promulgated criteria will enable New Jersey, Puerto Rico, and California to implement their USEPA approved water quality criteria. The comment period closes on 4 Jun 12.



## **BILL ON PERMIT RULES AND TECHNICAL MANUALS**

On 21 Feb 12, New Jersey Assemblyman Ramos (D) introduced [AB 2584](#) which requires DEP to allow for correction of technical and administrative permit application violations, and subjects adoption of DEP technical manuals to "Administrative Procedure Act." This bill would require DEP to authorize the correction of minor technical and administrative violations of DEP permitting rules. The bill would also establish a new class of minor DEP permitting violations, based on satisfaction of the following conditions: (1) the violation is not the result of the purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation; (2) the violation is based on an administrative, technical, clerical, or other non-substantive error or omission in a notice, report, manifest, or document; and (3) the activity or condition constituting the violation is capable of being corrected and compliance achieved within 45-days. DEP would also be required to develop a technical manual for each class or category of permit where each manual would define the procedural and substantive requirements for the completion of an application. On 12 Mar 12, the bill reported out of the Assembly Committee with Amendments.

## **PROPOSED BILL ON CREATING THE HIGHLANDS CONSERVATION TRUST**

On 7 Mar 11, New Jersey Assemblyman McKeon (D) introduced AB 2815 (last session the bill was numbered [AB 3884](#)) relating to the creation of a Highlands Conservation Trust to preserve land in the Highlands Region, and to authorize a Highlands conservation license plate to raise revenue for the Highlands Conservation Trust. At time of publication a status on the bill was unavailable.

## **CONSUMER PRICE INDEX PERCENTAGE ADJUSTMENTS TO AIR CONTAMINANT EMISSION FEES**

DEP issued a [notice](#) on the annual percentage increase in the Consumer Price Index (CPI) relative to the 1989 CPI and the resultant per-ton emission fee for fiscal year (FY) 2012. An annual emission fee must be paid by each major facility subject to N.J.A.C. 7:27-22. The annual emission fee is calculated each year according to N.J.A.C. 7:27-22.31(b), which applies the CPI adjustment to the base amount per ton of emissions. This base amount is \$60.00 per ton (N.J.S.A. 26:2C-9.5.d(1)(a)). Applying the CPI adjustment since 1989 to the base amount of \$60.00 per ton results in an annual emission fee for FY 2012 of \$109.26. Invoices will be mailed to major facilities based on emissions reported in the Emission Statement submitted for calendar year 2010. Even if a major facility has not submitted an Emission Statement or received an invoice, it is obligated to pay emission fees by 9 Apr 12.

## **RULE READOPTION OF GREEN ACRES PROGRAM RULES**

DEP issued a [rule readoption](#) without amendments on the Green Acres Program rules, N.J.A.C. 7:36. The Green Acres Program rules implement the purposes and objectives of the Green Acres laws in order to help ensure that there is access to and an adequate supply of lands for public outdoor recreation or conservation of natural resources. The rule re-adoption went into effect on 7 Feb 12, and the comment period closed on 8 Apr 12.

## **FINAL RULE ON SIP APPROVAL FOR VEHICLE INSPECTION AND MAINTENANCE**

USEPA issued a final rule approving a proposed revision to the State Implementation Plan (SIP) submitted by the DEP for New Jersey's enhanced inspection and maintenance (I/M) program [[77 FR 15263](#), 15 Mar 12]. New Jersey has made several amendments to its I/M program to improve performance of the program and has requested that the SIP be revised to include these changes. Chief among the amendments USEPA is approving is New Jersey's amendment to its I/M program to establish a new exhaust emission test for gasoline fueled vehicles and the extension of the new vehicle inspection exemption from 4 years to 5 years. USEPA is approving this SIP revision because it meets all applicable requirements of the Clean Air Act and because the revision will not interfere with attainment or maintenance of the national ambient air quality standards in the affected area. The final rule will go into effect on 16 Apr 12.



# New York

## PUBLIC NOTICE ON NATIONWIDE PERMITS

On 14 Mar 12, the New York State Department of State (DOS) issued a [public notice](#) on the U.S. Army Corps of Engineers' consistency determination on the reissuance of the Nationwide Permits (NWP), general conditions, and definitions. The Corps also announced the issuance of two new NWPs, three new general conditions, and three new definitions. These NWPs are issued on a national basis to streamline the authorization of activities that result in minimal individual and cumulative adverse effects on the aquatic environment. The comment period closed on 13 Apr 12.

## FINAL RULE FOR SIP REVISIONS

USEPA issued a final rule approving a proposed revision to the New York State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds [[77 FR 13974](#), 8 Mar 12]. The proposed SIP revision consists of amendments to Title 6 of the New York Codes, Rules and Regulations Part 228, "Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers," Part 234, "Graphic Arts," and Part 241, "Asphalt Pavement and Asphalt Based Surface Coating." The intended effect of this action is to approve control strategies, required by the Clean Air Act, which will result in emission reductions that will help attain and maintain the national ambient air quality standards for ozone. The final rule became effective on 9 Apr 12.

# Region 3

For more information on any state issues in Region 3, contact [Amy Alton](#), Army Regional Environmental Coordinator, Region 3, (410) 436-7098.



# Delaware

## NEW EMERGENCY REGULATION FOR AQUATIC PESTICIDE USE

The Delaware Department of Natural Resources and Environmental Control (DNREC) has adopted an emergency regulatory revision of Section 9.0, Del.C., Chapter 60, General Permit Program, to add Subsection 9.8, Regulations Governing the Discharges from the Application of Pesticides to Waters of the State. The [New Emergency Regulations](#) for Aquatic Pesticide Use were published on 1 Mar 12, went into effect on the same day, and expires on 30 May 12. DNREC currently is in violation of the federal requirements to have an NPDES program in place for the application of aquatic pesticides in or near Delaware waters. This emergency action will bring Delaware into compliance. The emergency regulations will allow pesticide applicators to obtain the required NPDES permits for applying aquatic pesticides from March–September 2012. Much of the aquatic pesticide spraying during this timeframe is concentrated on eliminating mosquito populations, which are a significant risk to human health and welfare due to their ability to transmit diseases and other blood-borne vectors.



# District of Columbia

## PROPOSED RULES FOR REGULATING HAZARDOUS AIR POLLUTANTS

The District Department of the Environment (DDOE) issued [proposed amendments](#) to certain sections of the air quality regulations that pertain to hazardous air pollutants (HAPs) for several source categories such as Stationary Reciprocating Internal Combustion Engines (RICE), and Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources. These rules replace the previous National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements in 20 DCMR § 717 (where older versions of some of these regulations had previously been adopted by reference) and the District's own requirements for HAPs in other sections of 20 DCMR Chapter 7. DDOE is promulgating this rule to conform to the federal rules. The "Emission Standards for Hazardous Air Pollutants for Stationary RICE rule," applies to new and reconstructed stationary reciprocating internal combustion engines such as electricity generators, compressors, and stationary water pumps for firefighting or flood control. This is the first time that the District has

regulated RICE for HAPs and the District has not previously regulated paint stripping and surface coating operations for HAPs. DDOE is not proposing to adopt the area source standards for "Industrial, Commercial, and Institutional Boilers" at this time, as they are awaiting USEPA's final amendments. The comment period closed on 15 Apr 12, and a hearing is scheduled for 17 Apr 12.



### **FINAL RULE ON EMISSIONS FROM BIOENERGY AND OTHER BIOGENIC STATIONARY SOURCES**

The Maryland Department of the Environment issued a [final rule](#) (pg. 339) adopting USEPA's three-year rule deferral on the Prevention of Significant Deterioration (PSD) and Title V permitting requirements related to carbon dioxide (CO<sub>2</sub>) emissions from bioenergy and other biogenic stationary sources (biogenic CO<sub>2</sub>). During this period, USEPA will conduct a detailed examination of the science associated with biogenic CO<sub>2</sub> emissions from stationary sources. This study will consider technical issues that USEPA must resolve in order to account for biogenic CO<sub>2</sub> emissions in ways that are scientifically sound and also manageable in practice. The appropriate parts of this action will be submitted to USEPA for approval as part of Maryland's State Implementation Plan and Title V Program. See technical support document [here](#). The final rule became effective on 5 Mar 12.



### **NOTICE OF DELEGATION OF AUTHORITY TO IMPLEMENT AND TO ENFORCE NESHAPS**

On 17 Oct 11, USEPA sent the Philadelphia Department of Public Health's Air Management Services (AMS) a letter acknowledging that AMS's delegation of authority to implement and enforce National Emissions Standards for Hazardous Air Pollutants (NESHAP) had been updated, as provided for under a previously approved delegation mechanism [[77 FR 16029](#), 19 Mar 12]. USEPA sent this letter in response to an AMS request for the update.

### **FINAL RULE FOR 24-HOUR FINE PARTICULATE MATTER NONATTAINMENT AREAS**

USEPA issued a final rule that determines the Harrisburg-Lebanon-Carlisle-York, Allentown, Johnstown, and Lancaster nonattainment areas (hereafter referred to as "Areas") for the 24-hour 2006 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standard (NAAQS) [[77 FR 18922](#), 29 Mar 12] have reached attainment. USEPA is determining that the Areas have clean data for the 24-hour 2006 PM<sub>2.5</sub> NAAQS. These determinations are based upon complete, quality-assured, quality-controlled, and certified ambient air monitoring data showing that these Areas have monitored attainment of the 24-hour 2006 PM<sub>2.5</sub> NAAQS based on the 2008-2010 data in USEPA's Air Quality System (AQS) database. USEPA's determinations relieve these Areas from the requirements to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans related to attainment of the standard for so long as these Areas continue to meet the 24-hour 2006 PM<sub>2.5</sub> NAAQS. The final rule becomes effective on 30 Apr 12.



### **NEW LAW ON VEHICLE EMISSIONS INSPECTIONS**

On 11 Jan 12, Virginia State Delegate May (R) introduced [HB 805](#) (companion bill is SB 502) concerning vehicle emissions inspections. On 10 Mar 12, the bill was enacted by Governor McDonnell (R) with an amendment, and now titled, "2012 Acts of Assembly Chapter 216." The new law privatizes services provided by the Department of Environmental Quality (DEQ) related to vehicle emissions inspections. The emissions inspection program applies to motor vehicles having actual gross weights of 8,500 pounds or less that are registered in the Counties of Arlington, Fairfax, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The law also updates authorized testing equipment, and allows use of wireless systems and on-road emissions testing. The law becomes effective on 1 Jul 12.

### **REVISIONS TO THE PUBLIC WATER SYSTEM SUPERVISION PROGRAM**

USEPA issued a notice in accordance with the provision of Section 1413 of the Safe Drinking Water Act, as amended, and the requirements governing the National Primary Drinking Water Regulations Implementation, 40 CFR part 142, that the Commonwealth of Virginia is revising its approved Public Water System Supervision Program [[77 FR 13125](#), 5 Mar 12]. The Commonwealth has adopted the Long Term 2 Enhanced Surface Water Treatment Rule and the Stage 2

Disinfectants and Disinfection Byproducts Rule. The comment period closed on 4 Apr 12. The rule will become effective on this date contingent on no adverse comments. In addition, the Commonwealth has adopted the drinking water regulation for the Ground Water Rule (GWR) which will provide for better public health protection by reducing public water system consumers' risk of microbial illness from drinking water [[77 FR 18809](#), 28 Mar 12]. USEPA has determined that the Commonwealth rule meets all minimum federal requirements, and that the Commonwealth revision is no less stringent than the corresponding federal regulation. Therefore, USEPA is taking action to tentatively approve these program revisions. The comment or a request for a public hearing must be submitted by 27 Apr 12.

## **CHESAPEAKE BAY TMDL DRAFT PHASE II WATERSHED IMPLEMENTATION PLAN**

The Department of Conservation and Recreation and DEQ issued a [notice](#) requesting comments on the draft Phase II watershed implementation plan (WIP) for the Chesapeake Bay total maximum daily loads (TMDLs) to address the water quality impairment in Virginia's tidal waters of the Chesapeake Bay. These tidal waters were identified as impaired due to a violation of Virginia's general water quality standard for nutrients and dissolved oxygen. USEPA has established a federal TMDL for the 92 tidal segments of the Chesapeake Bay and its tidal tributaries and embayment's that are listed as impaired or segments that deliver pollutant loads to segments listed as impaired under § 303(d) of the Clean Water Act due to excess nutrients and sediments. In accordance with USEPA expectations, the jurisdictions' Phase II watershed implementation plans (WIP) are to identify local and federal partners, how the state will work with these partners to raise awareness as to the level of effort necessary to address the Chesapeake Bay TMDL, and what role those partners can play in reducing pollutants at the local level. USEPA also expects the WIP to explain how jurisdictions will work with federal agencies and how progress by local partners will be tracked. A copy of Virginia's draft Phase II WIP and supporting documentation are available at <http://www.dcr.virginia.gov/vabaytmdl/index.shtml>. The comment period closes on 31 May 12.

## **PROPOSED AMENDMENTS TO MERCURY CONTAINING LAMPS**

DEQ's Waste Management Board issued a [notice](#) that proposes to amend the hazardous waste regulations as they pertain to mercury-containing lamps. The Virginia Hazardous Waste Management Regulations, 9 VAC 20-60, provide requirements for the effective management of hazardous waste in the Commonwealth, including the management of hazardous waste that has been deemed universal waste such as mercury-containing lamps. This proposed amendment is intended to revise the current management requirements and add additional criteria for mercury-containing universal waste lamps. The [comment period](#) closes on 9 May 12.

## **PROPOSED AMENDMENTS TO STORMWATER MANAGEMENT PROGRAM PERMIT REGULATIONS**

The Department of Conservation and Recreation, Soil and Water Conservation Board has [proposed amendments](#) to the applicable portions of Virginia Stormwater Management Program (VSMP) Permit Regulations in order to reauthorize and amend the General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (small MS4s). The Code of Virginia requires that VSMP permits be effective for a fixed term not to exceed five years [§10.1-603.2:2 (B)]. The existing 5-year General Permit became effective on 9 Jul 08 necessitating the regulatory promulgation of a new General Permit before the 8 Jul 13 expiration date. The changes authorized by the Virginia Soil and Water Conservation Board may include, but are not be limited to, incorporating water quality requirements for impaired waters and Total Maximum Daily Loads (TMDLs) including monitoring requirements, consistency requirements with other regulations such as Erosion and Sediment Control, chemical application and handling requirements, and minimum prescriptive measures regarding public notification and reporting. The permit will also consider implementation of new stormwater management technical criteria for post development (including compliance with water quality and quantity standards set out in Part II and compliance with Part III local program technical criteria) and permit requirements for compliance with the Chesapeake Bay TMDL. The [comment period](#) closes on 25 Apr 12.



## **NEW BILL ON HAZARDOUS WASTE VIOLATION ENFORCEMENT**

On 26 Jan 12, West Virginia State Delegate Ferro (D) introduced [HB 4320](#) (companion bill SB495) relating to the settlement of violations of the Hazardous Waste Management Act by consent agreements. This bill gives the Secretary of the Department of Environmental Protection the authority of enforcement on Hazardous Waste violations. In addition, the bill calls for penalties for any person who violates any provision, permit of this law and any order issued under it. Furthermore, this law has a civil administrative penalty, to be levied by the Secretary, of not more than \$7,500 for each day of violation, not to exceed a maximum of \$22,500. On 14 Mar 12, the bill was signed by Governor Tomblin (D) and has been published in both the House and Senate journals.

## NEW BILL ON DIESEL-POWERED MOTOR VEHICLE IDLING RESTRICTIONS

On 8 Feb 12, West Virginia State Senator Facemire (D) introduced [SB 544](#) regarding removing the expiration date for certain diesel-powered motor vehicle idling restrictions. The bill sets forth the permissible and non-permissible conditions for idling including permitting military vehicles to idle while in an emergency or training mode. On 30 Mar 12, the bill was signed by Governor Tomblin (D) and has been published in both the House and Senate journals.

## NEW BILL ON REGIONAL HAZE STATE IMPLEMENTATION PLAN REVISION

USEPA issued a final rule that grants limited approval and limited disapproval of West Virginia's Regional Haze State Implementation Plan (SIP) revision [[77 FR 16937](#), 23 Mar 12]. USEPA is taking this action because West Virginia's SIP revision, as a whole, strengthens the West Virginia SIP. USEPA is finalizing a limited disapproval of the same SIP revision arising from the remand by the U.S. Court of Appeals for the District of Columbia (DC Circuit) to USEPA of the Clean Air Interstate Rule (CAIR). This action is being taken in accordance with the requirements of the Clean Air Act (CAA) and USEPA's rules for states to prevent and remedy future and existing anthropogenic impairment of visibility in mandatory Class I areas through a regional haze program. USEPA is also approving this revision as meeting the infrastructure requirements relating to visibility protection for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) and the 1997 and 2006 fine particulate matter (PM2.5) NAAQS. This final rule becomes effective on 23 Apr 12.

# Region 5

For more information on any state issues in Region 5, contact [Dr. Jim Hartman](#), DoD Regional Environmental Coordinator, Region 5, (410) 436-7096.



## FEDERAL AGENCIES SIGN MOU WITH GREAT LAKES STATES TO STREAMLINE OFFSHORE WIND APPROVALS

Several federal agencies and five Great Lakes states (New York, Pennsylvania, Minnesota, Michigan, and Illinois) have signed a [memorandum of understanding](#) (MOU) to streamline and coordinate state siting requirements and Federal permitting requirements for offshore wind facilities. Federal agencies signing the MOU include the White House Council on Environmental Quality (CEQ), USEPA, the Department of Energy, the U.S. Army Corps of Engineers, and the Fish and Wildlife Service. Under the MOU, CEQ would serve as the "single Federal point of contact" for all Federal environmental reviews and permitting approvals relating to Great Lakes wind facilities. In addition, the state and Federal signatories have committed to develop a "regulatory road map" in 15-months that will coordinate permitting deadlines, data collection, and project review activities.



# Illinois

## NEW BILL AMENDS THE SOLID WASTE MANAGEMENT ACT

On 6 Feb 12, Illinois State Representative May (D) introduced [HB 4986](#) concerning recycling, construction and demolition waste. On 28 Mar 12, the bill passed the House with amendments and as of 29 Mar 12, the bill is in the Senate waiting assignment. The bill amends the Illinois Solid Waste Management Act, creates the Solid Waste Reduction and Management Task Force which will provide recommendations for more efficiently and effectively collecting, processing, and managing recyclable, reusable, and compostable materials that are currently disposed of as solid waste. The Task Force would review the status of recycling and solid waste management planning in Illinois and provide suggestions for managing waste and solid waste in a way that promotes economic development. The bill requires the Task Force to prepare a report that summarizes its work and makes recommendations resulting from its study and to report its findings and recommendations to the Governor and the General Assembly no later than 2-years after the effective date of the amendatory act.

## **NEW BILL DEFINES HISTORIC RESOURCE AND AMENDS HISTORIC PRESERVATION ACT**

On 8 Feb 12, Illinois State Representative Brauer (R) introduced [HB 5234](#) which amends the Illinois Historic Preservation Act. On 23 Mar 12, the bill passed the House with an amendment and as of 29 Mar 12, the bill was in the Senate and referred to assignment. The bill adds and defines the term "historic resource" to mean any property which is either publicly or privately held and which meets one or more listed criteria. It removes the terms "registered Illinois Historic Place", "person", "municipal preservation agency", and "critical historic feature". The bill removes several powers from the list of powers granted to the Illinois Historic Sites Advisory Council including the power to nominate places to the Illinois Register of Historic Places. The bill defines "Historic resource" to mean any property which is either publicly or privately held and which: (1) is listed in the National Register of Historic Places (2) has been formally determined by the Director to be eligible for listing in the National Register as defined in Section 106 of Title 16 of the United States Code; (3) has been nominated by the Director and the Illinois Historic Sites Advisory Council for listing in the National Register; and (4) meets one or more criteria for listing in the National Register, as determined by the Director. House Floor Amendment No. 1 adds reference to 20 ILCS 3410/3 from Ch. 127, par. 133d3 by further amending the Illinois Historic Preservation Act.

## **NEW BILL ON WIND ENERGY FACILITIES CONSTRUCTION, DECONSTRUCTION, AND SITING**

On 7 Feb 12, Illinois State Senator Frerichs (D) introduced [SB3271](#) which Creates the Wind Energy Facilities Construction, Deconstruction, and Siting Act. The bill has 2 amendments pending in the Senate and had a new deadline established of 26 Apr 12. The bill provides that every commercial wind energy operator that is the owner of a commercial wind energy facility located on land owned by another person or entity shall enter into an agricultural impact mitigation agreement with the Illinois Department of Agriculture to preserve the integrity of any agricultural land that is impacted by commercial wind energy facility construction. The bill also provides that the commercial wind energy operator is responsible for deconstruction of the commercial wind energy facility and for all costs associated with deconstruction of that facility and associated facilities and provides that the Department shall adopt rules that are necessary and appropriate for the implementation and administration of the act including that the setback standards. must adhere to 92 Ill. Adm. Code 14.530, 14.730, and 14.830.

## **FINAL RULE APPROVAL OF SIP REVISIONS**

USEPA issued a final rule approving, under the Clean Air Act (the Act), revisions to the Illinois State Implementation Plan (SIP) submitted on 29 Jul 10, 16 and 29 Sep 11 [[77 FR 16940](#), 23 Mar 12]. The purpose of these rules is to satisfy the Act's requirement that States revise their SIPs to include Reasonably Available Control Technology (RACT) for sources of volatile organic compound (VOC) emissions in moderate ozone nonattainment areas. Illinois' VOC rules provide RACT requirements for the Chicago and Metro-East St. Louis 8-hour ozone nonattainment areas. These rules are approvable because they are consistent with the Control Technique Guideline (CTG) documents issued by USEPA in 2006, 2007 and 2008 and satisfy the RACT requirements of the Act. USEPA proposed this rule for approval on 30 Nov 11 and received comments from Illinois EPA. This final rule becomes effective on 23 Apr 12.



## **NEW PUBLIC LAW ON UST REQUIREMENTS**

On 4 Jan 12, Indiana State Senator Gard (R) introduced [SB133](#) which allows the Solid Waste Management Board to adopt rules and establish requirements for underground storage tanks in conformance with the delivery prohibition program under 42 U.S.C. 6991k. On 14 Mar 12, the law was signed by Governor Daniels (R) and became Public Law 38-2012. PL 38-2012 provides that the Commissioner of the Department of Environmental Management may determine whether an UST is eligible for delivery, deposit, or acceptance of a regulated substance, and issue a temporary order to enforce compliance. The law becomes effective on 1 Jul 12.

## **NEW PUBLIC LAW ON COST BENEFIT ANALYSIS REQUIREMENTS**

On 19 Mar 12, Public Law 131-2012 (formerly [SB311](#)) was signed by Governor Daniels (R) creating a requirement for cost benefit analysis of administrative rules meeting certain criteria. The cost benefit analysis would address the first three years following a rules' effective date. For affected administrative rules, Office of Management and Budget (OMB) is required to make the cost benefit analysis available to interested parties, regulated persons and nonprofit corporations whose members may be affected by the rule, at least 30-days before presenting it to the Governor and the originating legislative committee.

## **FINAL RULE ON AIR QUALITY PERMITTING FOR FEDERAL CONFORMITY**

The Indiana Department of Environmental Management (IDEM) issued a [final rule](#) that amends the rules at 326 IAC 2 that will make the state air permit review rules consistent with federal requirements. This rulemaking is part of an initiative (Article 2 Initiative) that amends 326 IAC 2 and any related rules in Title 326 to improve the efficiency of issuing permits. This rule was filed with the publisher on 6 Feb 12 and went into effect on 7 Mar 12.

## **PROPOSED RULE ON RESTRICTED USE PESTICIDE PRODUCTS**

On 21 Mar 12, the Indiana Pesticide Review Board issued a [notice to adopt a new rule](#) in order to establish a list of state restricted use pesticide products. The "Restricted Use" classification restricts a product, or its uses, to use by a certificated pesticide applicator or under the direct supervision of a certified applicator. This means that a license is required to purchase and apply the product. Certification programs are administered by the federal government and /or individual states.

## **PROPOSED RULE ON ORGANIC SOLVENT DEGREASERS**

IDEM issued a [proposed rule](#) that amends the rules in to 326 IAC 8-3 concerning organic solvent degreasers in Indiana. IDEM is seeking to reduce emissions of Volatile Organic Compounds (VOCs) that occur as a result of evaporation from storage and handling of fresh and spent solvents. This rule is being proposed as part of a multi-state effort led by the Lake Michigan Air Directors Consortium to identify and recommend regional VOC controls to help states in the Midwest Regional Planning Organization, Illinois, Indiana, Michigan, Ohio, and Wisconsin, to achieve and maintain compliance with the National Ambient Air Quality Standard (NAAQS) for ozone. The continuation of the second notice comment period closed on 13 Apr 12.

## **FINAL RULE ON THE APPROVAL OF SIP REVISIONS ON LEAD**

USEPA issued a tentative final rule approving a request submitted by the IDEM on 24 Nov 10, to revise the Indiana State Implementation Plan (SIP) for lead (Pb) under the Clean Air Act (CAA) [[77 FR 12482](#), 1 Mar 12]. This submittal incorporates the National Ambient Air Quality Standards (NAAQS) for Pb promulgated by USEPA in 2008. This final rule will be effective 30 Apr 12, contingent on USEPA not receiving adverse comments by 2 Apr 12. If adverse comments are received, USEPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.



## **NEW UNDERGROUND STORAGE TANK (UST) OPERATOR CERTIFICATION REQUIREMENTS**

The Michigan Department of Environmental (MDEQ) issued a [notice](#) on 9 Mar 12 that they are promulgating amended rules for UST operations. These amendments, resulting from new federal rules, will require UST facilities to have Class A, B or C certified operators by 8 Aug 12. Given the short deadline for compliance, MDEQ is encouraging UST owner/operators to take early action to get the necessary training, if required, and be prepared to take the certification test. The International Code Council will be in charge of the Michigan-specific testing and certification. A listing of test times, registration requirements and designated testing sites will be made available at [www.iccsafe.org](http://www.iccsafe.org) as soon as the new rules are enacted.

## **PROPOSED REVISIONS TO GREEN HOUSE GAS AND PM2.5 RULE AMENDMENTS**

The MDEQ Air Quality Division will hold a [public hearing](#) (on Part 55 Air Pollution Control (pg.3)) on 3 May 12 on [proposed revisions](#) to Air Pollution Control Rules (ORR 2010-035 EQ). Notice of the rule promulgation was first made on 26 Jul 10. The latest proposed revisions to Part 2, Air Use Approval, R 336.1201 to R336.1299 provide MDEQ with the legal authority to write and issue permits for facilities becoming subject to federal Title V requirements by virtue of their greenhouse gas emissions and will incorporate emission thresholds for pollutant PM 2.5. The comment period closes on 3 May 12.



## Minnesota

### UPDATES TO THE STANDARDS FOR GASOLINE RANGE ORGANICS/DIESEL RANGE ORGANICS

On 7 Mar 12, the Minnesota Pollution Control Agency Petroleum Remediation Section issued a [notice](#) that it is in the process of updating the standard for Gasoline Range Organics/Diesel Range Organics (GRO/DRO). The update is based on a review of current toxicity data and risk from individual compounds. The updated GRO/DRO standard affects Limited Site Investigation (LSI) requirements following tank removal, soil excavation, and contaminated soil treatment and reuse.



## Ohio

### FINAL RULES FOR ASBESTOS EMISSION CONTROL

The Ohio EPA, Division of Air Pollution Control, has completed a five-year review of Ohio Administrative Code (OAC) 3745-20, Asbestos Emission Control Rules and issued a final set of rules with adopted amendments. The rules amended are: **3745-20-1, -3, -4, -5, -6, -7, -8, -9, -10, -11, -12, -13** and **-15**. The amendments are being made to 3745-20-01(B) for the definitions of "Facility"; "Friable asbestos material"; and the addition of new definition "Residential exempt structure", for clarification purposes only. The amendment to 3745-20-05(A) will allow only Category I nonfriable Asbestos-Containing Material that is not a Regulated Asbestos-Containing Material to go to a Construction and Demolition landfill. The amendment will make this rule consistent with the federal asbestos National Emissions Standards for Hazardous Air Pollutants regulations at 40 CFR Part 61.154(b). Clarifying changes were made regarding referenced items in rules 3745-20-07, -8, -9, -12, -13, and -15. The final rules went into effect on 2 Mar 12.

### FINAL RULES ON HAZARDOUS WASTE MANAGEMENT

On 17 Mar 12, Ohio EPA finalized an action amending, rescinding, or adopting 87 new rules of the Ohio Administrative Code governing hazardous waste management. These changes make Ohio rules consistent with and equivalent to regulations adopted by the USEPA pursuant to the Resource Conservation and Recovery Act. The final amendments are being made to Sections: **3745-50, -28, -31, -32, -33, -34, -35, -51, -52; 3745-51, -1, -2, -4, -5, -6, -7, -23, -30, -33, -39, -40; 3745-52, -10, -20, -23, -34, -42, -50, -51, -52, -53, -54, -55, -56, -57, -60, -200, -205; 3745-53, -10, -11, -20; 3745-54, -12, -16, -52, -71, -72, -94, -99; 3745-55, -44, -74, -75; 3745-57, -43, -72, -91; 3745-65, -12, -16, -19, -52, -71, -72, -77; 3745-66, -18, -74; 3745-266, -70, -80, -104; 3745-270, -01, -02, -03, -04, -05, -06, -07, -31, -40, -44, -50; 3745-273, -03, -08, -20, -40, -56, -70**. The final rules went into effect on 17 Mar 12.

### DRAFT GENERAL NPDES PERMIT FOR STORMWATER DISCHARGES FROM BULK FUEL STORAGE FACILITIES

The Ohio EPA issued a [notice](#) on a draft general National Pollutant Discharge Elimination System (NPDES) permit to renew coverage to the Bulk Fuel Storage Facilities permit. The permit covers primarily storm water discharges from bulk fuel storage facilities to waters of the State of Ohio. The permit covers facilities that include storage tanks and/or pipelines which provide storage or conveyance for crude oil, petroleum products or other fuel materials such as ethanol or biodiesel and may also cover certain process waste waters such as tank water draws, if it is adequately treated. The permit does not cover any discharges that the Director of the Ohio EPA has determined to be contributing to a violation of a Water Quality Standard (WQS) as determined in Ohio Administrative Code, Chapter 3745-1. The comment period closes on 1 May 12.

### FINAL RULES ON UNDERGROUND STORAGE TANKS

The Department of Commerce, Division of State Fire Marshal has adopted amendments related to Ohio's underground storage tank (UST) program, found at Ohio Administrative Code Chapter 1301:7-9. These amendments were developed in connection with the five-year review process. The final amendments are to Sections: **1301:7-9, -01, -02, -03, -04, -09, -10, -11, -12, -13, -14, -15, -16, -17**. The final rules become effective on 1 Jul 12.

### PROPOSED UPDATE TO WATER QUALITY MANAGEMENT PLAN

The Ohio EPA issued a [notice](#) which proposed updates to water quality management plans, as required by Sections 303 and 208 of the Clean Water Act. These plans describe and promote efficient and comprehensive programs for controlling water pollution from point and nonpoint sources in a defined geographic area. This update includes updated

208 Plans from the several area-wide Councils of Governments. The Area-wide Agencies prepare and approve the 208 Plan in their counties. Pursuant to applicable regulations, the State of Ohio has authority to certify that the documents include the required plan elements, are consistent with one another, and are consistent with basin plans. Although the State of Ohio prepares and maintains the 208 Plan applicable in the remaining 64 counties, no updates to these counties are being considered at this time. The Governor then certifies the entire 208 Plan via submission to USEPA for their approval. A hearing is scheduled for, and comments are due by 9 May 12.

### **CROSS-MEDIA ELECTRONIC REPORTING PROGRAM REVISION**

USEPA issued a notice of approval on the State of Ohio's request to revise/modify certain of its USEPA-authorized programs to allow electronic reporting which is effective 4 Apr 12 for the State of Ohio's National Primary Drinking Water Regulations Implementation program. If no timely request for a public hearing is received and accepted by the Agency on 5 Mar 12, then USEPA will issue a notice of approval for the other authorized programs [[77 FR 13123](#), 5 Mar 12].

### **FINAL RULE AUTHORIZATION GRANTED TO HAZARDOUS WASTE PROGRAM**

USEPA issued a final rule granting Ohio final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA) [[77 FR 15966](#), 19 Mar 12]. The agency published a proposed rule on 14 Sep 11 at [76 FR 56708] and provided for public comment. The public comment period ended on 14 Oct 11. USEPA received no comments and now the comment period is closed. USEPA has determined that these changes satisfy all requirements needed to qualify for final authorization. USEPA now is issuing a final decision to authorize Ohio's changes through this final action. The final authorization went into effect on 19 Mar 12.



### **NEW LAW ON INDIRECT SOURCES OF AIR POLLUTION**

On 26 May 11, the Wisconsin Joint Committee for Review of Administrative Rules introduced [SB 111](#), an act to create 285.60 (11) of the statutes relating to the regulation of indirect sources of air pollution, and the suspension of a rule promulgated by the Department of Natural Resources (DNR). On 7 Mar 12, the law was signed by Governor Walker (R) and became Act 121 and is designated "2011 Wisconsin Act 121." This law prohibits DNR from setting carbon monoxide standards. Under current law, DNR issues permits for certain stationary sources of air pollution. The current definition of "stationary source" includes facilities that indirectly emit air pollution. DNR has promulgated rules that require permits for certain indirect sources of air pollution, including certain parking lots and highways. Some of the requirements that apply to other stationary sources do not apply to indirect sources. This prohibits DNR from requiring air pollution control permits for indirect sources such as carbon monoxide pollution.

### **NEW LAW ON GENERAL PERMIT ACTIVITIES NEAR NAVIGABLE WATERS**

On 8 Dec 11, Wisconsin State Senator Kedzie (R) introduced [SB 326](#) which streamlines various waterway permits issued by the Department of Natural Resources (DNR) and removes many of the prior regulations placed on pier owners. The bill would require DNR to follow specific procedures and timelines for issuing individual wetlands permits. All waterfront property owners will be guaranteed the right to place a pier, but allowing the DNR to place conditions on the size, location and design of piers located in environmentally sensitive waters. Unlimited maintenance and repair to existing wet boathouses will be allowed. On 3 Apr 12, the bill was signed by Governor Walker (R) and titled "2011 Wisconsin Act 167."

### **NEW LAW ON WETLAND PERMITS**

On 6 Jan 12, Wisconsin State Senator Kedzie (R) introduced Senate Bill [SB 368](#) which requires the DNR to follow specific procedures and timelines for issuing individual wetlands permits. This will enable DNR to focus on larger and more complex projects by issuing general permits, rather than individual permits, for smaller, less complex projects. The bill deletes the statutory definition of an Area of Special Natural Resource Interest (ASNRI) wetland. The bill substitutes the term "wetland permit" for, "water quality certification," and specifies that the issuance of a wetland permit by DNR takes the place of a water quality certification required by federal law. However, federal requirements from the U.S. Army Corps of Engineers remain the same, and are not modified by the bill. The bill had 12 amendments added and also authorizes DNR to prohibit discharges into certain types of wetlands identified by DNR, such as coastal plain marshes and calcareous fens. The bill grants DNR the authority to charge a \$500 fee for reviewing wetland general permits and \$800 fee for a wetland individual permit. The bill also modifies other DNR fees. On 29 Feb 12, the bill was signed by Governor Walker (R) and titled, "2011 Wisconsin Act 118."

## **NEW LAW ON OZONE-DEPLETING REFRIGERANTS**

On 9 Jan 12, Wisconsin State Senator Grothman (R) introduced [SB 370](#) relating to regulating certain substitutes for Ozone-Depleting Refrigerants (ODR). Current law imposes certain restrictions on ODRs used in air conditioners for motor vehicles and motor vehicle trailers. The restrictions prohibit the sale of an ODR in a container holding less than 15 pounds of the ODR. Unless certain requirements are satisfied, the restrictions also prohibit repairing such an air conditioner, if the repair may release ODRs, and installing or servicing such an air conditioner, if the air conditioner contains ODRs. The requirements that must be satisfied to perform such work include training or certification requirements established by the Department of Agriculture, Trade and Consumer Protection (DATCP) that the individual who performs the work must satisfy, as well as requirements for removing and recycling the ODRs. In addition, the bill prohibits DATCP from promulgating rules regulating an individual's noncommercial use of an ODR substitute that is sold in such a container. On 2 Apr 12, the bill was approved by Governor Walker (R) and titled, "2011 Wisconsin Act 187."

## **NEW LAW AUTHORIZING WOLF HUNTING**

On 31 Jan 12, Wisconsin State Senator Moulton (R) introduced [SB 411](#) which authorizes the Department of Natural Resources (DNR) to establish a season for the hunting of wolves in response to the federal delisting of the species from the endangered species list. Under the bill, both state residents and nonresidents may be issued a license. The license authorizes both the hunting and trapping of wolves. The bill requires that there be a single annual season for wolf hunting and trapping from 15 October through the end of February. Under the bill, DNR may limit the number of licenses issued and the number of wolves to be harvested. The bill requires DNR to divide the state into up to four wolf harvesting zones. A wolf harvesting license authorizes the license holder to hunt or trap or both only in the zone that is specified on the license. On 2 Apr 12, the bill was signed by Governor Walker (R) and titled, "2011 Wisconsin Act 169."

## **NEW LAW ON GASOLINE VAPOR RECOVERY**

On 27 Feb 12, Wisconsin State Senator Lazich (R) introduced [SB 518](#) relating to gasoline vapor recovery requirements and granting rule-making authority. USEPA has approved this state's State Implementation Plan (SIP) and the DNR administers an air pollution control program in accordance with the SIP. USEPA's regulations, as provided in the Clean Air Act, currently require a state with an area that has levels of atmospheric ozone that violate federal standards to include, in its SIP, requirements that gasoline stations in that area have systems for capturing gasoline vapors from the fueling of motor vehicles (vapor recovery systems). This bill would prohibit a state from removing requirements for vapor recovery systems at gasoline stations before the USEPA approves a revision of the state's SIP. Currently, state law requires vapor recovery systems at gasoline stations in ozone nonattainment areas and those requirements are included in this state's SIP. USEPA has a proposed waiver regulation; however, it was not finalized as of 20 Feb 12. Under this bill, a gasoline station (the construction of which begins after the bill takes effect) is not required to have a gasoline vapor recovery system. On 2 Apr 12, the bill was signed by Governor Walker (R) and titled "2011 Wisconsin Acts 196."

## **BURN PERMITS AND DAILY BURN RESTRICTIONS**

DNR issued a request to those who have burn permits to call the toll-free 1-888-WIS-BURN (947-2876) or visit the [DNR website](#) and enter the keyword "fire" each day of intended burn to learn of any restrictions on open burning in place for specific location on that day. The webpage and the phone messages are updated daily at 11 a.m. According to DNR people are getting the required annual burning permit, but failing to call or check online for the daily burn restrictions. DNR allows burning after 6 p.m. when winds are calm and the humidity rises. However, this time of year, burning permits can also be suspended from day-to-day when the fire danger elevates due to a lack in precipitation or prolonged drought conditions.

## **PROPOSED RULE REVISION ON INVASIVE SPECIES**

DNR issued a [Scope Statement](#) on a proposed rule revision that will classify additional invasive species into existing categories established in Ch. NR 40, Wis. Admin. Code. These revisions will be subject to existing administrative rules and statutes that regulate the introduction, possession, transfer, and transport of invasive species in order to prevent them from becoming established in Wisconsin or to prevent already-established invasive species from spreading within the state. Other proposed revisions will address accommodations to facilitate compliance with NR 40, clarify language, and improve organization of the rule. This statement of scope was approved by Governor Walker (R) on 12 Mar 12.

# Federal Activity

## CLIMATE CHANGE

### **DRAFT 2012 STRATEGY RESPONSE TO CLIMATE CHANGE**

USEPA's National Water Program issued a draft 2012 long-range "[Strategy Response to Climate Change](#)" document that describes how the agency will address water issues as they relate to climate change challenges to its mission of protecting human health and the environment [[77 FR 19661](#), 2 Apr 12]. The comment period closes on 17 May 12.

### **DRAFT GUIDANCE ON FEDERAL GHG ACCOUNTING AND REPORTING**

The Council on Environmental Quality (CEQ) has released a [draft revision](#) to their guidance on "[Federal Greenhouse Gas Accounting and Reporting](#)." This guidance establishes requirements for the reporting agency level emissions of GHGs as required by Executive Order (EO) 13514 [[77 FR 14507](#), 12 Mar 12]. In addition to clarifications, the draft adds new sections addressing reporting on-site versus off-site renewable energy use, retention of renewable energy certificates, renewable energy purchases and use of renewable energy certificates to meet GHG reduction targets, and hosting third-party operated renewable energy on agency land. The comment period on the revised guidance closed on 11 Apr 12.

## EXECUTIVE ORDERS

### **IMPROVING PERFORMANCE OF FEDERAL PERMITTING AND REVIEW OF INFRASTRUCTURE PROJECTS**

On 22 Mar 12, President Obama [issued](#) an Executive Order 13604, that establishes a Steering Committee on Federal Infrastructure Permitting and Review Process for infrastructure projects in sectors including surface transportation, aviation, ports and waterways, water resource projects, renewable energy generation, electricity transmission, broadband, pipelines, and other such sectors as determined by the Steering Committee. The Steering Committee will be chaired by the Chief Performance Officer (CPO) in consultation with Council of Environmental Quality. Committee membership includes DoD and specifically the Department of the Army. A list of infrastructure projects of national or regional significance is due to the CPO by 30 Apr 12.

### **EO 13602 ESTABLISHING WHITE HOUSE COUNCIL ON STRONG CITIES, STRONG COMMUNITIES**

President Obama issued an Executive Order (EO)13602, establishing a White House Council on Strong Cities, Strong Communities (SC2) [[77 FR 16131](#), 20 Mar 12]. The EO calls for the council members to incorporate SC2 implementation efforts into their annual performance plans and results. This includes conducting community outreach for the development of technical assistance, planning, and financial tools to assist communities build local capacity to address economic challenges/issues, and support comprehensive planning and regional collaboration. Many agencies, including DoD, are represented on the SC2 council.

## ENERGY

### **PETROLEUM REDUCTION AND ALTERNATIVE FUEL CONSUMPTION REQUIREMENTS**

The Department of Energy (DOE) has released a proposed rule to provide implementing regulations for reduction in petroleum consumption and increase in alternative fuel consumption for Federal fleets as mandated by Section 142 of the Energy Independence and Security Act (EISA) of 2007 [[77 FR 14482](#), 12 Mar 12]. Consistent with Section 142 of the EISA, beginning in fiscal year (FY) 2010, each Federal fleet is required to ramp down annually in order to meet the 1 Oct 15 requirement of at least a 20% lower annual petroleum consumption, relative to its FY 2005 baseline level. For FYs 2010 through 2014, proposed 10 CFR 438.103(a) sets forth non-mandatory interim milestones to assess Federal fleet progress in meeting the FY 2015 annual petroleum reduction and alternative fuel use requirements. Although these interim milestones are non-mandatory, the milestones are consistent with the petroleum reduction requirements set forth in EO 13514. DOE would require submission of annual reports containing information on petroleum and alternative fuel use in Federal fleet motor vehicles. The report would include alternative fuel used in exempt vehicles and low speed electric vehicles. All reports under this section would be submitted through the Federal Automotive Statistical Tool Web-based reporting system (FAST) no later than December 15 of each calendar year. The comment period closed on 11 Apr 12.

## **PETROLEUM REDUCTION AND ALTERNATIVE FUEL CONSUMPTION REQUIREMENTS**

DOE issued a Request for Information (RFI), on whether the proposed method for calculating the fiscal year 2005 alternative fuel consumption baseline should include the alternative fuel consumed by exempt vehicles and low-speed electric vehicles [[77 FR 18718](#), 28 Mar 12]. This RFI follows the 12 Mar 12, DOE proposed rule to provide implementing regulations for reduction in petroleum consumption and increase in alternative fuel consumption for Federal fleets as mandated by EISA Act of 2007. The comment period closes on 27 Apr 12.

## **HAZARDOUS MATERIALS**

### **FINAL RULE REVISION FOR EXTREMELY HAZARDOUS SUBSTANCES**

USEPA issued a final rule to revise the manner for applying the threshold planning quantities (TPQs) for those extremely hazardous substances (EHSs) that are non-reactive solid chemicals in solution [[77 FR 16679](#), 22 Mar 12]. This revision allows facilities subject to the Emergency Planning requirements that have a non-reactive solid EHS in solution, to first multiply the amount of the solid chemical in solution on-site by 0.2 before determining if this quantity equals or exceeds the lower published TPQ. This change is based on data that shows less potential for non-reactive solid chemicals in solution to remain airborne and dispersed beyond a facility's fence line in the event of an accidental release. Previously, USEPA assumed that 100% of non-reactive solid chemicals in solution could become airborne and dispersed beyond the fence line in the event of an accidental release. This rule is effective 23 Apr 12. Entities that would be affected by this final rule are those facilities subject to Section 302 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and its implementing regulations found in 40 CFR part 355, Subpart B—Emergency Planning.

### **FINAL RULE MODIFIES HAZARDOUS CLASSIFICATION SYSTEM**

The Occupational Safety and Health Administration (OSHA) issued a final rule modifying its Hazard Communication Standard (HCS) to conform to the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals (GHS) [[77 FR 17574](#), 26 Mar 12]. OSHA has determined that the modifications will significantly reduce costs and burdens while also improving the quality and consistency of information provided to employers and employees regarding chemical hazards and associated protective measures. Consistent with the requirements of Executive Order 13563, which calls for assessment and, where appropriate, modification and improvement of existing rules, OSHA has concluded this improved information will enhance the effectiveness of the HCS in ensuring that employees are apprised of the chemical hazards to which they may be exposed, and in reducing the incidence of chemical-related occupational illnesses and injuries. This final rule becomes effective on 25 May 12.

## **NATURAL RESOURCES**

### **PROPOSED RULEMAKING ON EXPANDING INCENTIVES FOR VOLUNTARY CONSERVATION ACTIONS**

On 15 Mar 12, the U.S. Fish and Wildlife Service (FWS) published an Advance Notice of Proposed Rulemaking (ANPR) requesting public comment on potential improvements to its Endangered Species Act (ESA) implementing regulations, policies, and guidance to better recognize voluntary conservation actions that benefit species [[77 FR 15352](#), 15 Mar 12]. Specifically, FWS has concluded that the present ESA regulations, guidance, implementing procedures, and existing conservation agreements do not adequately capture or encourage voluntary conservation efforts that may be undertaken prior to a species' listing. The comment period closes on 14 May 12.

## **WATER**

### **USEPA TEMPLATE FOR CONSTRUCTION PROJECT STORMWATER P2 PLANS**

USEPA has released a MS Word based [Template](#) for developing construction project Stormwater Pollution Prevention (P2) Plans (SWPPP) [[77 FR 12286](#), 29 Feb 12]. The 58-page template is designed to help users develop a project-specific SWPPP that is compliant with the minimum requirements of USEPA's 2012 Construction General Permit. USEPA's 2012 Construction General Permit applies in areas of the country where EPA is the National Pollutant Discharge Elimination System permitting authority, including, Massachusetts, New Hampshire, Puerto Rico, and Washington, DC. Additional requirements may apply in other jurisdictions.

# Professional Development

For a full listing of Professional Development opportunities please visit the REEO-N website at:  
[www.asaie.army.mil/Public/ESOH/.REEO/Northern/proDevelopment.html](http://www.asaie.army.mil/Public/ESOH/.REEO/Northern/proDevelopment.html).

## Internet Resources

### STATE REGULATORY / LEGISLATIVE SOURCES

Connecticut:	<a href="#">DEP</a> / <a href="#">General Assembly</a>	New Jersey:	<a href="#">DEP</a> / <a href="#">State Legislature</a>
Delaware:	<a href="#">DNREC</a> / <a href="#">General Assembly</a>	New York:	<a href="#">DEC</a> / <a href="#">Assembly</a> / <a href="#">Senate</a>
District of Columbia:	<a href="#">DDOE</a> / <a href="#">City Council</a>	Ohio:	<a href="#">EPA</a> / <a href="#">General Assembly</a>
Illinois:	<a href="#">EPA</a> / <a href="#">General Assembly</a>	Pennsylvania:	<a href="#">DEP</a> / <a href="#">General Assembly</a>
Indiana:	<a href="#">DEM</a> / <a href="#">General Assembly</a>	Puerto Rico:	<a href="#">DNER</a> / <a href="#">Government</a>
Maine:	<a href="#">DEP</a> / <a href="#">State Legislature</a>	Rhode Island:	<a href="#">DEM</a> / <a href="#">General Assembly</a>
Maryland:	<a href="#">MDE</a> / <a href="#">General Assembly</a>	Vermont:	<a href="#">ANR</a> / <a href="#">State Legislature</a>
Massachusetts:	<a href="#">DEP</a> / <a href="#">General Court</a>	Virgin Islands:	<a href="#">DPNR</a> / <a href="#">Legislature</a>
Michigan:	<a href="#">DEQ</a> / <a href="#">State Legislature</a>	Virginia:	<a href="#">DEQ</a> / <a href="#">General Assembly</a>
Minnesota:	<a href="#">PCA</a> / <a href="#">State Legislature</a>	West Virginia:	<a href="#">DEP</a> / <a href="#">State Legislature</a>
New Hampshire:	<a href="#">DES</a> / <a href="#">General Court</a>	Wisconsin:	<a href="#">DNR</a> / <a href="#">State Legislature</a>

## Staff Directory

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