



REC Review

of Legislative & Regulatory Actions



The Navy Regional Environmental Coordination Office

May 2019

The *REC Review* publishes environmental and energy related developments for DoD/Navy leaders and installation staff. Covering 21 states, the *REC Review* gives early notice of legislative and regulatory activities relevant to DoD interests in Federal Regions 1 & 3 and Navy interests in Federal Regions 2, 4, & 5.

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



NAVFAC MIDLANT DoD REC Map

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SPOTLIGHT STORY

DoD Chesapeake Bay Program releases the 2019 DoD Chesapeake Bay Spring Journal!



2019 DoD CBP Spring Journal

CLEARED
For Open Publication

May 17, 2019

Department of Defense
OFFICE OF PREPUBLICATION AND SECURITY REVIEW

Highlights include the following:

- Submerged Aquatic Vegetation (SAV): The Unseen Foundation of the Bay's Ecosystem
- SAV in the Chesapeake Bay
- SAV Surveys, Protection, and Restoration at Aberdeen Proving Ground (APG)
- Climate Change and the Future of SAV in the Chesapeake Bay
- Recent Rainfall Trends and Their Effect on SAV
- The Elizabeth River Project: River Star Awards
- Chesapeake Bay Action Team Updates
- Check it Out!

<https://www.denix.osd.mil/chesapeake/library/newsletters/spring-2019-dod-chesapeake-bay-program-journal/>

Continued...

With 130 installations in the Bay watershed, that cover approximately 400,000 acres of land, DoD is one of the largest federal landholders in the Chesapeake Bay watershed. These installations vary widely in their uses and function, including national defense; training; deployment centers; research, development, and testing and evaluation facilities. They range in size from 20 acres to more than 75,000 acres and are located in urban, suburban, and rural areas.

GENERAL INTEREST

Announcing the 2019 Federal Environmental Symposium Call for Presentation Abstracts The Federal sustainability community is cordially invited to attend the 2019 Federal Environmental Symposium, 30-31 October 2019, hosted by the National Institutes of Health (NIH) at the Natcher Center campus in Bethesda, MD. This year's theme is *Federal Agencies Leading Environmental Change*, for the purpose of sharing best practices, success stories, partnerships, and challenges and achievements of the federal practitioner community. The event schedule, registration dates, call for presentation abstracts (now open), and continuous updates to the event can be found on the conference website.

<https://www.fedcenter.gov/Announcements/index.cfm?id=33759>

<https://www.fedcenter.gov/calendar/conferences/symposium2019/cfp/>

<https://www.fedcenter.gov/calendar/conferences/symposium2019/>

FEDERAL NEWS

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

Executive Order (E.O.) 13834, Efficient Federal Operations, was signed on May 17, 2018, directs Federal agencies to manage their buildings, vehicles, and overall operations to optimize energy and environmental performance, reduce waste, and cut costs. Council on Environmental Quality (CEQ) has issued further guidance to agencies for meeting E.O. 13834 goals, including tracking progress and performance, best practices, and key resources for implementation in the Implementing Instructions for E.O. 13834, Efficient Federal Operations.

<https://www.sustainability.gov/eo-efo.html>

https://www.sustainability.gov/pdfs/eo13834_instructions.pdf

<https://www.sustainability.gov/resources-eo-efo.html>

AIR

Stationary Combustion Turbines Residual Risk and Technology Review; EPA is proposing amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Combustion Turbines to address the results of the residual risk and technology review (RTR).

EPA is proposing to find that the risks from this source category due to emissions of air toxics are acceptable and that the existing NESHAP provides an ample margin of safety to protect public health. EPA identified no new cost-

effective controls under the technology review that would achieve further emissions reductions from the source category.

EPA is also proposing to amend provisions addressing periods of startup, shutdown, and malfunction (SSM) and to require electronic reporting. In addition, EPA is proposing to remove the stay of the effectiveness of the standards for new lean premix and diffusion flame gas-fired turbines that was promulgated in 2004.

This action promulgates NESHAP for stationary combustion turbines. EPA have identified stationary combustion turbines as major sources of hazardous air pollutants (HAP) emissions such as formaldehyde, toluene, benzene, and acetaldehyde. The NESHAP will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT) for combustion.

<https://www.epa.gov/stationary-sources-air-pollution/stationary-combustion-turbines-national-emission-standards>

NEPA

Navy NEPA Compliance Revision Categorical Exclusions The Navy proposed revising portions of its internal regulations that establish the responsibilities and procedures for complying with the National Environmental Policy Act (NEPA). This revision clarifies what types of activities fall under categorical exclusions (CATEXs) and normally do not require additional NEPA analysis. This proposed rule would revise six CATEXs and add five new CATEXs to those listed in 32 CFR 775.6(f).

The proposed rule is the result of a review initiated in 2015 that examined the Navy's CATEXs, those of other federal agencies, and of Navy EA and EIS analyses to identify the environmental effects of previously implemented actions. The Navy currently prepares approximately 3,000 CATEXs annually (approximately 2,000 by the U.S. Navy and approximately 1,000 by the U.S. Marine Corps).

The DoN's criteria for disallowing the application of listed CATEXs are set forth in 32 CFR 775.6(e). This proposed rule substantially revises paragraph (e) to provide specific introductory guidance regarding those circumstances under which use of a CATEX is inappropriate. The proposed rule adds a new paragraph (e)(2) which states that if a decision is made to apply a CATEX to a proposed action that is more than administrative in nature, the decision must be formally documented per existing Navy and Marine Corps policy.

A selection of the proposed new CATEXs:

- (Renumbered) CATEX #45 would cover natural resources management actions undertaken or permitted pursuant to agreement with or subject to regulation by Federal, State, or local organizations having management responsibility.
- CATEX #46 would cover minor repairs in response to wildfires, floods, earthquakes, landslides, or severe weather events that threaten public health or safety, property, or natural and cultural resources, and that are necessary to repair or improve lands unlikely to recover to a management-approved condition (i.e., the previous state) without intervention. Covered activities must be completed within one year of the causal event and may not include the construction of new permanent roads or new permanent infrastructure.
- CATEX #47 would cover the modernization (upgrade) of range and training areas, systems, and associated components that supports current testing and training levels and requirements.
- CATEX #48 would cover revisions or updates to INRMPs that do not involve substantially new or different land use or natural resources management activities and for which an EA or EIS was previously prepared that does not require supplementation pursuant to 40 CFR 1502.9(c)(1).

- CATEX #49 would cover DoN actions that occur on another Military Service's property where the action qualifies for a CATEX of that Service, or for actions on property designated as a Joint Base or Joint Region that would qualify for a CATEX of any of the Services included as part of the Joint Base or Joint Region.

See the Federal Register announcement for additional details and for details on the proposed changes to existing CATEXs.

<https://www.federalregister.gov/documents/2019/04/01/2019-06156/policies-and-responsibilities-for-implementation-of-the-national-environmental-policy-act-within-the>

NATURAL RESOURCES

Fish and Wildlife Service (FWS) Amended List of Endangered & Threatened Wildlife; FWS is amending the List of Endangered and Threatened Wildlife by adding 16 species, removing one species, and updating entries for 17 species:

- Adding the following 16 species: gulf grouper, island grouper, common guitarfish, blackchin guitarfish, daggernose shark, Brazilian guitarfish, striped smoothhound shark, spiny angelshark, Argentine angelshark, narrownose smoothhound shark, Maui dolphin, Hector's dolphin, giant manta ray, oceanic whitetip shark, Taiwanese humpback dolphin, and chambered nautilus.
- Removing the following species: Puget Sound-Georgia Basin distinct population segment (DPS) of canary rockfish.
- Updating the entries for the following 6 species by adding critical habitat designation citations: Gulf of Maine DPS of Atlantic sturgeon, New York Bight DPS of Atlantic sturgeon, Chesapeake Bay DPS of Atlantic sturgeon, South Atlantic DPS of Atlantic sturgeon, Carolina DPS of Atlantic sturgeon, and Main Hawaiian Islands Insular DPS of false killer whale.
- Adding nonsubstantive corrections to entries for 10 other species on the List: Three foreign coral species, dusky sea snake, Banggai cardinalfish, the Tanzanian DPS of African coelacanth, Nassau grouper, and three angelshark species. FWS added these 10 species to the List in 2016, but the entries did not include the Federal Register citations for the final listing rule, as is our standard practice when we add new entries to the List. The changes being made via this rule simply provide information that may be helpful to members of the public who are interested in tracking the regulatory history of these species.

<https://www.federalregister.gov/documents/2019/04/08/2019-06758/endangered-and-threatened-wildlife-and-plants-adding-16-species-removing-one-species-and-updating>

This rule was effective 8 APR 2019.

ENVIRONMENTAL RESTORATION

PFOS and PFOA Remediation Guidance; EPA requests comment on draft interim recommendations for cleaning up groundwater contaminated with perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS). When finalized, the recommendations will provide a starting point for making site-specific cleanup decisions.

EPA recommends the following:

- Screening sites using a screening level of 40 parts per trillion for PFOA or PFOS individually in groundwater.
- Using the existing EPA Health Advisory Levels (HA) of 70 parts per trillion as a preliminary remediation goal (PRG), for groundwater that is a current or potential source of drinking water. The Health Advisory Levels (HA) apply to the combined concentrations of PFOA and PFOS.

<https://www.epa.gov/pfas/draft-interim-recommendations-addressing-groundwater-contaminated-pfoa-and-pfos>
https://www.epa.gov/sites/production/files/2019-04/documents/draft_interim_recommendations_for_addressing_groundwater_contaminated_with_pfoa_and_pfos_public_comment_draft_4-24-19.508post.pdf

Comments are due by 10 JUN 2019.

REGION I



Note: The Connecticut Legislature convened on 9 JAN 2019 and will adjourn on 8 JUN 2019.

PROPOSED LEGISLATION

State Bill 7156 is an act concerning the procurement of energy derived from offshore wind. Its purpose is to authorize the procurement of energy derived from offshore wind. DoD will be requesting projects are coordinated through Federal Aviation Association (FAA) or Office of Secretary of Defense (OSD) Siting Clearinghouse to ensure there are no interferences with military aircraft training routes and warning areas.

<https://www.cga.ct.gov/2019/FC/pdf/2019HB-07156-R000192-FC.PDF>



Note: The Maine Legislature convened on 5 DEC 2018 and will adjourn on 15 MAY 2020.

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



MASSACHUSETTS

Note: The Massachusetts Legislature convened on 2 JAN 2019 and will adjourn on 7 JAN 2021.

PROPOSED RULES

Massachusetts Contingency Plan for Waste Site Cleanup The Department of Environmental Protection has proposed revisions to rules governing the notification, assessment, cleanup and closure of oil and hazardous material disposal sites. The revisions address numerous aspects of the cleanup regulations, including new standards for per- and polyfluoroalkyl substances (PFAS).

https://services.statescape.com/ssu/Regs/ss_8586458909340722400.pdf



NEW HAMPSHIRE

Note: The New Hampshire Legislature convened on 2 JAN 2019 and will adjourn on 30 JUN 2019.

PROPOSED RULES

Water Quality Standards, Monitoring, Compliance, Reporting, and Public Notification for Certain Perfluorochemicals The Department of Environmental Services (DES) proposed amendments to Env-Dw 700-800. Several changes are included in the proposed amendments. One of the amendments adds four perfluorinated compounds (PFC) and would establish new NH-specific, enforceable maximum contamination levels (MCLs) for perfluorooctanoic acid (PFOA) at 38ppt, perfluorooctane sulfonic acid (PFOS) at 70ppt, perfluorononanoic acid (PFNA) at 23ppt, perfluorohexane sulfonic acid (PFHxS) at 85ppt and PFOA & PFOS combined at 70ppt. Monitoring, compliance, reporting, and public notification requirements would also be established for those PFCs. The new MCLs would be applicable to all community and non-transient/non-community public water systems in the State of New Hampshire. https://services.statescape.com/ssu/Regs/ss_8586534314763454161.pdf

Amendments to Ambient Groundwater Quality Standards Per RSA 485-C:6, I, where state MCLs have been adopted under RSA485:3, I(b), the AGQS must be equivalent to such standards. The DES has proposed rulemaking amendments to the ambient groundwater quality standards (AGQS) listed in Table 600-1 to reflect the proposed MCLs for PFCs: PFOA at 38ppt, PFOS at 70ppt, PFHxS at 85ppt, and PFNA at 23ppt.

https://services.statescape.com/ssu/Regs/ss_8586534295317978615.pdf

Discharges to Groundwater of Wastewater Containing Certain Perfluorochemicals The DES is proposing changes to Env-Wq 402 that would establish a discharge limit for PFOA, PFOS, PFNA and PFHxS in wastewater discharged to groundwater, would account for exceedances of the applicable limits and would include the 4 PFCs in the treatment/alternative response requirements established for 1,4-dioxane.

https://services.statescape.com/ssu/Regs/ss_8586534259072227068.pdf



RHODE ISLAND

Note: The Rhode Island Legislature convened on 12 JAN 2019 and will adjourn on 30 JUN 2019.

PROPOSED LEGISLATION

State Bill 552 would establish appliance and equipment energy and water efficiency standards specified equipment purchased or installed after 1 JUL 2020. <http://webserver.rilin.state.ri.us/BillText19/SenateText19/S0552.pdf>

House Bill 6064 is an act relating to waters and navigation. It would 1) authorize the Department of health to adopt maximum contamination levels for PFAS, 2) require public water supply systems to monitor for PFAS and respond appropriately when results indicate levels of PFAS in excess of the interim drinking water standard level of 20ppt, and 3) require the Department of Environmental Management to adopt surface water quality standards for PFAS. <http://webserver.rilin.state.ri.us/BillText19/HouseText19/H6064.htm>



VERMONT

Note: The Vermont Legislature convened on 9 JAN 2019 and will adjourn on 15 MAY 2020.

PROPOSED LEGISLATION

State Bill 49 is an act relating to the regulation of polyfluoroalkyl substances in drinking and surface waters. It would set interim standards and monitoring requirements for public community water systems and all nontransient, noncommunity water systems. This bill has passed and has been delivered to the Governor for signature.

<http://legislature.vermont.gov/Documents/2020/Docs/BILLS/S-0049/S-0049%20As%20Passed%20by%20Both%20House%20and%20Senate%20Official.pdf>

REGION II



NEW JERSEY

Note: The New Jersey Legislature convened on 9 JAN 2018 and will adjourn on 7 JAN 2020.

PROPOSED RULES

Ground Water Quality Standards and Maximum Contaminant Levels (MCLs) for Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) The Department has proposed to amend the New Jersey Safe Drinking Water Act (SDWA) rules at N.J.A.C. 7:10 to establish, as recommended by the New Jersey Drinking Water Quality Institute, a maximum contaminant level (MCL) for PFOA of 0.014 micrograms per liter ($\mu\text{g/l}$) and an MCL for

PFOS of 0.013 [mu]g/l. https://services.statescape.com/ssu/Regs/ss_8586472064651338336.pdf



Note: The New York State Legislature convened on 9 JAN 2019 and will adjourn on 6 JAN 2021.

PROPOSED RULES

Phase III Watershed Implementation Plan Draft The Department of the Environmental Conservation (DEC) has released the Draft Phase III Watershed Implementation Plan (WIP) for New York's Chemung and Susquehanna River Basins for public comment. DoD CB Program office will be consolidating all service comments and submitting to DEC. Submit your comments through your service CB program lead by 22 MAY 19.

<https://www.dec.ny.gov/lands/112126.html>

REGION III



Note: The Council of the District of Columbia convened 2 JAN 2019 and will adjourn on 31 DEC 2020.

PROPOSED RULES

Chesapeake Bay Phase III Watershed Implementation Plan The Department of Energy & Environment (DOEE) has developed a Chesapeake Bay (CB) Phase III Watershed Implementation Plan to reduce pollution to the Chesapeake Bay as well as improve the health of local waterways, protect and restore fish and wildlife habitat, increase resilience to the impacts of climate change, and provide opportunities for District residents. The draft document is open for public comment. DoD CB Program office will be consolidating all service comments and submitting to DOEE. Submit your comments through your service CB program lead by 22 MAY 19.

https://doee.dc.gov/sites/default/files/dc/sites/ddoe/service_content/attachments/Phase%20III%20WIP%20Draft%20with%20Appendix_0.pdf



Note: The Delaware General Assembly convened on 8 JAN 2019 and will adjourn on 30 JUN 2020.

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



Note: The Maryland General Assembly convened on 9 JAN 2019 and adjourned on 10 APR 2019.

PROPOSED RULES

Maryland's Phase III Watershed Implementation Plan Draft The Maryland Department of the Environmental (MDE) has invited public comment on the Draft Phase III Watershed Implementation Plan to Restore Chesapeake Bay by 2025 document. DoD CB Program office will be consolidating all service comments and submitting to MDE. Submit your comments through your service CB program lead by 22 MAY 19.

<https://mde.maryland.gov/programs/Water/TMDL/TMDLImplementation/Pages/Phase3WIP.aspx>



Note: The Pennsylvania General Assembly convened on 1 JAN 2019 and will adjourn on 30 NOV 2020.

PROPOSED RULES

Air Quality Fee Schedule Amendments The Department of Environmental Protection (DEP) has proposed increases for plan approval applications and for both Title V and non-Title V operating permits, as well as for the annual operating permit administration fee for both Title V and Non-Title V sources. The annual operating permit administration fee is proposed to be replaced with an annual operating permit maintenance fee that would be due on or before 31 DEC of each year. https://services.statescape.com/ssu/Regs/ss_8586465212571793100.pdf

Pennsylvania's Draft Phase 3 Chesapeake Bay Watershed Implementation Plan The DEP has invited public comment on the draft Phase 3 Chesapeake Bay (CB) Watershed Implementation Plan (WIP), which specifies the steps the Commonwealth will take through 2025 to meet local water pollution reduction goals in the Chesapeake Bay watershed as required by the Chesapeake Bay Total Maximum Daily Load (TMDL). DoD CB Program office will be consolidating all service comments and submitting to PA DEP. Submit your comments through your service CB program lead by 22 MAY 19.

[https://www.dep.pa.gov/Business/Water/Pennsylvania%E2%80%99s%20Chesapeake%20Bay%20Program%20Office/WIP3/Pages/Phase-III-WIP-\(Watershed-Implementation-Plans\).aspx](https://www.dep.pa.gov/Business/Water/Pennsylvania%E2%80%99s%20Chesapeake%20Bay%20Program%20Office/WIP3/Pages/Phase-III-WIP-(Watershed-Implementation-Plans).aspx)



Note: The Virginia General Assembly convened on 9 JAN 2019 and adjourned on 9 MAR 2019.

FINAL LEGISLATION

House Bill 2762 prohibits, beginning 1 JUL 2021, the use for training purposes or for testing, with some exceptions, of a class B firefighting foam that contains intentionally added per- and polyfluoroalkyl substances (PFAS) chemicals, as defined in the bill. Effective 1 JUL 2019. <http://leg1.state.va.us/cgi-bin/legp504.exe?191+ful+CHAP0838>

PROPOSED RULES

Draft Phase III Chesapeake Bay Watershed Implementation Plan The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) have requested public input regarding the Draft Phase III Watershed Implementation Plan for meeting the Chesapeake Bay total maximum daily load (the Draft Phase III WIP). DoD CB Program office will be consolidating all service comments and submitting to Virginia. Submit your comments through your service CB program lead by 22 MAY 19.

<https://www.deq.virginia.gov/Programs/Water/ChesapeakeBay/ChesapeakeBayTMDL/PhaseIIIWatershedImplementationPlanning.aspx>



Note: The West Virginia Legislature convened on 10 MAR 2019 and will adjourn on 30 JUN 2019.

PROPOSED RULES

Draft Phase III Watershed Implementation Plan The West Virginia Department of the Environmental Protection (DEP) has invited public comment on the Draft Phase III Watershed Implementation Plan. DoD CB Program office will be consolidating all service comments and submitting to WV DEP. Submit your comments through your service CB program lead by 22 MAY 19. <http://www.wvchesapeakebay.us/WIP/WIP3.cfm>

REGION IV



Note: The North Carolina General Assembly convened on 16 JAN 2019 and will adjourn on 30 JUN 2020.

PROPOSED LEGISLATION

House Bill 560 would ban per- and polyfluoroalkyl substances (PFAS) in fire retardant foam.

<https://www3.ncleg.gov/Sessions/2019/Bills/House/HTML/H560v1.HTML>

House Bill 566/Senate Bill 651 would make persons causing or contributing to contamination responsible for costs of cleanup and provision of alternative water supplies to persons with water supplies affected by such contamination. <https://www3.ncleg.gov/Sessions/2019/Bills/House/HTML/H566v1.HTML>

<https://www3.ncleg.gov/Sessions/2019/Bills/Senate/HTML/S651v1.HTML>

State Bill 518 would establish the "PFAS TASK FORCE" to identify and analyze all per- and polyfluoroalkyl substances (PFAS) in the lower Cape Fear River basin; to identify their source of discharge and their health impact on the human population therein; to establish allowable maximum health standards for exposure to PFAS; and to provide for the immediate replacement and/or upgrade of drinking water systems, including private wells, within the affected area. <https://www.ncleg.gov/BillLookup/2019/S518>



KENTUCKY

Note: The Kentucky Legislature convened on 7 JAN 2019 and adjourned on 28 MAR 2019.

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

REGION V



ILLINOIS

Note: The Illinois General Assembly convened on 9 JAN 2019 and will adjourn on 31 MAY 2020.

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



INDIANA

Note: The Indiana General Assembly convened on 3 JAN 2019 and adjourned on 21 APR 2019.

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



MICHIGAN

Note: The Michigan Legislature convened on 9 JAN 2019 and will adjourn on 31 DEC 2020.

PROPOSED LEGISLATION

House Bills 4390 and 4391 would prohibit firefighting foam concentrate containing per- and polyfluoroalkyl (PFAS) chemicals in any firefighter training and equipment calibration purposes. This bill requires the best practices regarding proper use, handling, and storage of firefighting foam.

<http://www.legislature.mi.gov/documents/2019-2020/billintroduced/House/htm/2019-HIB-4390.htm>



OHIO

Note: The Ohio General Assembly convened on 7 JAN 2019 and will adjourn on 31 DEC 2020.

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



WISCONSIN

Note: The Wisconsin Legislature convened on 7 JAN 2019 and will adjourn on 4 JAN 2021.

PROPOSED LEGISLATION

Assembly Bill 85 requires the Department of Health Services to establish state health-based groundwater quality standards for perfluorooctanoic acid and perfluorooctane sulfonate, commonly referred to as PFOA and PFOS, respectively. <http://docs.legis.wisconsin.gov/2019/related/proposals/ab85.pdf>

MEET THE REC STAFF

RADM Charles W. Rock

DoD Regional Environmental Coordinator
(757) 322-2800, DSN 262-2800

Director, Regional Environmental Coordination
(REC) Office
(757) 341-0363

REC Counsel
(757) 322-2938, DSN 262-2938

Cultural Resources
(757) 341-0925

Potable Water, Stormwater, Groundwater,
Wastewater
(757) 341-0429

Air Quality, Asbestos, Radon
(757) 341-0395

P2, EPCRA, RCRA - HW/SW
(757) 341-0408

Navy On-Scene Coordinator Representative
(757) 341-0449

POL/Tanks
(757) 341-0453

Regional NEPA, Natural Resources
(757) 341-0494

Land Use, Encroachment
(757) 341-0264

Environmental Restoration
(757) 341-0394

REC Support
(757) 341-0430

REC Outreach
(757) 341-0395

DoD Chesapeake Bay Coordinators
(757) 341-0383
(757) 341-0424

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