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SOLAR SITES GETTING MORE ATTENTION IN NEW JERSEY

Potential solar energy sites continue to get more attention in New Jersey, as the state gives certain incentives where the solar fields are built on Brownfields sites. RT has been working on five solar sites in New Jersey, most of which are in operation. These sites are in Tinton Falls, Howell Township and there is a solar field expansion project in Pennsauken. Under construction is a large site in Old Bridge. Another site in Monroe Township, Monmouth County is in the permitting and design stage.

When a public hearing was held in Old Bridge Township, members of the Planning and Zoning Boards were highly complimentary about the State's solar incentive program for former Brownfield's sites. The Old Bridge site had been used for mining and construction of bricks for nearly 100 years, and was never properly reclaimed.

Trees growing in uncovered bricks on a significant portion of the site could not thrive and would blow over during windstorms. A large open area of scrap bricks has now been properly remediated by capping and the entire site will have appropriate revegetation completed under NJDEP's Site Remediation Program.

As potential solar sites receive more attention, RT has staff to move quickly to prepare Solar "T" applications and to investigate the sites. In addition to the solar sites, we have underway or have completed work at more than 75 New Jersey remediation sites, and we have three LSRPs with experience on sites throughout the state.

- Gary Brown, L.S.R.P.



21 SUPERFUND/HAZ WASTE SITES TO RECEIVE EPA IMMEDIATE, INTENSE ACTION

Although some may think EPA is slowing things down, that is not the case with Superfund Sites.

In a December 8 press release, EPA Administrator Scott Pruitt announced that there is a 21-Site list, which sends the message that Superfund moves to the center of EPA's mission.

Questions and Answers for the Superfund Sites Targeted for Immediate, Intense Action On this page:

1. Are these the most contaminated Superfund sites?

No, this list does not reflect the largest or most contaminated Superfund sites. In developing this list, the EPA considered sites with critical upcoming milestones or site-specific actions that will benefit from the Administrator's engagement or directed attention to facilitate near-term progress.

The Superfund National Priorities List (NPL) remains the list of national priority sites where contamination poses risks to public health and the environment.

2. Will these sites be prioritized for additional federal funding?

No. Placement on the list does not reflect the sites most in need of federal funding, nor will it have any bearing on funding decisions. Prioritization for federal funding will continue to happen under a separate process. This process uses a panel of national program experts to evaluate the risk to human health and the environment posed by individual sites. The Agency uses this process to establish funding priorities for all new cleanup construction projects in the Superfund program.

3. Are these sites presented in rank order?

Sites are sorted by EPA region.

4. Why are certain sites not on the list? Why are there more than 10 sites on the list?

The Administrator remains dedicated to addressing risk and accelerating progress towards cleanup at all Superfund sites, not just those on this list. This list is fluid. Sites will be taken off the list after completion of the relevant milestone and other sites may be added as appropriate. At times, there may be more or fewer sites based on where the Administrator's attention and focus is most needed.

The Administrator determined that there were more than 10 sites that would benefit from his direct engagement at this stage.

5. The Task Force report says that as sites are completed, EPA will replenish the list. What does it mean for a site to be completed in the context of this list? How does a site get off the list?

Sites will come off the list as EPA resolves the issue or impasse and achieves the relevant milestone.

6. Will cleanups happen faster at these sites than sites not on the list?

Expeditious cleanup is the goal for ALL Superfund sites. These sites have site-specific issues that will benefit from the Administrator's direct engagement. The Administrator's goal will be to resolve impasses that have delayed progress.

7. How will EPA keep the public informed of which sites are on this list and the progress being made at those sites?

The EPA website will be updated as

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**21 SUPERFUND/HAZ WASTE SITES TO RECEIVE
EPA IMMEDIATE, INTENSE ACTION (continued from page 1)**

needed to reflect changes to the composition of the list, progress on the sites, and other Task Force recommendations.

8. Are federal facility sites and EPA removal sites eligible?

Federal facilities may be added in the future. The same is true for EPA removal sites.

9. What is the difference between this list and the National Priorities List?

The Superfund National Priorities List (NPL) is the list of national priority sites where contamination poses risks to public health and the environment.

This is a list of sites that will benefit from the Administrator's extra attention or directed focus in order to facilitate near-term site progress.

EPA remains dedicated to addressing risk and accelerating progress at ALL of its sites, not just those on this list. The Task Force Recommendations are aimed at expediting cleanup at all Superfund sites.

10. Why are there sites on the list that are not even on the NPL?

This list contains pre-NPL, proposed, and final NPL sites. These sites have upcoming critical milestones and/or site-specific situations that will benefit from the Administrator's extra attention or directed focus to facilitate near-term progress.

11. What criteria did EPA use to determine which sites are on the list?

In developing this list, EPA considered sites with critical near-term milestones that would benefit from the Administrator's direct engagement. These sites require timely resolution of specific issues to progress towards cleanup and redevelopment efforts.

The list is fluid. Sites will not necessarily remain on the list until their final remediation. Rather, sites may move off the list after completion of the relevant milestone.

ADMINISTRATOR'S INVOLVEMENT

12. There are probably a lot of sites that would benefit from the Administrator's engagement. Why is he focusing on these sites?

The Administrator decided his engagement on these specific sites can facilitate substantial progress in the near-term and move the site closer to completion of cleanup. The Administrator will receive regular updates on each of these sites.

13. Will the Administrator be involved in any Superfund sites not on this list? Is the Administrator only engaging on sites on the list?

The Administrator is committed to accelerating the pace of cleanup and protecting public health for all communities near Superfund sites. He may directly engage on any Superfund site where he feels he can make a positive impact, including sites not on this list.

14. Generally speaking, what types of actions might the Administrator take at these sites? What actions might EPA and/or the administrator take at each of the sites on this list?

Examples of actions that the Administrator may take at these sites include:

- Encouraging and supporting timely negotiations with potentially responsible parties;
- Working with all interested parties to determine whether a site will be listed on the NPL;
- Facilitating finalization of remedy decisions; and
- Facilitating dialogue with interested parties on redevelopment opportunities.

AGREEMENT REACHED ON NEW RAIL TUNNELS UNDER THE HUDSON RIVER

It was recently announced by the governments in New Jersey and New York that agreement has been reached on funding of tunnels between Penn Station in New York and New Jersey. The existing tunnels, built by the Pennsylvania Railroad, are considered in poor repair due to damage a number of years ago in Hurricane Sandy. This is a critical part of the nation's infrastructure, and should either existing single tunnel fail, trains would drop to only six per hour during rush hour, greatly increasing air pollution due to large increases in needed bus service. The tunnels will be used by Amtrak and will have a cost of 13 billion dollars

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RT STAFF AND PROJECT NEWS

RT had a successful year in 2017, and we look forward to more environmental projects in 2018. The Wall Street Journal recently reported that warehouse sale prices are skyrocketing in Northern New Jersey. Federal Express is quickly building a large facility on Belleville Turnpike in Kearny, across the street from where RT just completed the first phase of an industrial park redevelopment project, 29 acres in size. Both sites are close to New York City and recent updates on the courier industry is that they are gearing up for same day delivery (not just overnight) of goods, as delays in deliveries cause too many cancellations of orders. Same day deliveries will lower the number of order cancellations. Working on the site in Belleville are Chris Ward, L.S.R.P., Gary R. Brown, L.S.R.P. and Christian Alarie.

Chris Blosenski is expanding his work at a former steel plant site in Aliquippa Pennsylvania, along the Ohio River northwest of Pittsburgh. Chris is implementing an updated Groundwater and Surfacewater Management Plan at the site. This site has a Beneficial Use General Permit for the beneficial use of steel slag. The site has the largest deposits of steel slag east of the Mississippi River. The site is being redeveloped under the Award Winning Act 2 Land Recycling Program for support to construct a large material storage area and receive and store piping as a new plant north and west of Pittsburgh

move to the construction phase, where a cracker will be built.

Tony Alessandrini continues to work on a number of asbestos, mold and lead paint projects in Philadelphia and New Jersey. One notable project involves a property where there was no maintenance of a building after a mortgage foreclosure. It is important that all buildings be maintained, obviously, regardless of whether or not they are occupied.

Ben Bailey and Jennifer Berg are continuing to work at a site in Ridgefield Park, New Jersey, near New York City, where methane monitoring is underway. Substantial redevelopment has occurred immediately adjacent to a New Jersey Turnpike entrance/exit ramp, and many buildings have been built and are successfully protected and maintained, so that methane from the former landfills is not of concern. We are working at two remaining sites and when more methane concerns were expressed, RT worked with NJDEP to formulate and implement a plan to address the methane at both sites. NJDEP fully cooperated and now one of the sites is being evaluated for near-term site redevelopment.

RT looks forward to the continued opportunities to work for our clients in 2018 and beyond.

- Gary R. Brown, P.E.
President

VICTORIA JONES LONG – A LEADING RT PROFESSIONAL

Victoria Jones Long is a Senior Technician in RT's King of Prussia headquarters. She has a Bachelor of Arts in Biology with a Minor in Environmental Studies from St. Mary's College of Maryland. Her work previous to joining RT was as a Teaching Assistant and as an Assistant Aquarist from 2012 through 2013.



Known as "Tori", her work is heavily focused on remediation sites, particularly where detailed studies are needed of soil, surfacewater, aquatic areas and groundwater. She has specific training in

ecology of coastal systems, ichthyology, biological statistics, GIS Applications and tropical biology.

Due to her heavy focus and understanding of the environment, she is frequently assigned by Craig Herr, P.G., Associate, to undertake RT's most complicated assignments, where historical impacts from ASTs, USTs and industrial operations impact multiple media. Tori has earned a number of awards at RT, including the top Personal Performance Award, two years in a row!

- Gary R. Brown, P.E.
President

NJDEP RECOMMENDS PERFLUORINATED COMPOUND TREATMENT OPTIONS FOR DRINKING WATER

NJDEP will receive comments through February 5th on recommendations for how to manage perfluorinated compounds in drinking water. For more information you can review or download any of the following:

- Health Effects Subcommittee Report: Health-Based Maximum Contaminant Level Support Document: Perfluorooctane Sulfonate (PFOS)
- Testing Subcommittee Report: Report on the Development of a Practical Quantitation Level for Perfluorooctanesulfonic Acid (PFOS) in Drinking Water

- Treatment Subcommittee Report: Second Addendum to Appendix C: Recommendation on Perfluorinated Compound Treatment Options for Drinking Water

- Original Treatment Subcommittee Report: Appendix C: Recommendation of Perfluorinated Compound Treatment Options for Drinking Water (2015) : (<http://www.nj.gov/dep/watersupply/pdf/pfna-pfc-treatment.pdf>)

We will keep you updated on this in the *RT Review*.

TECHNOLOGY UPDATES

UNIVERSAL WASTES IN OHIO

Ohio EPA's hazardous waste program has prepared a package of proposed hazardous waste management rules pertaining to the classification of certain hazardous wastes as Ohio-specific universal wastes. The new universal wastes include hazardous non-empty aerosol cans, hazardous antifreeze, hazardous paint and paint-related wastes. The public comment period will run until October 17, 2017. A public hearing on this proposed rulemaking will be held to consider public comments in accordance with Section 119.03 of the Ohio Revised Code. This hearing will be held at Ohio EPA, 50 West Town Street, Columbus, Ohio in Conference Room A, on October 17, 2017 at 10:30am.

The commission is set to renew the 5-year license before December 15, when the current license expires.

Environmental groups and Green politicians reacted angrily to the news.

(by Valentina Pop, Wall Street Journal, 11-28-17)

FIGHT ON ROUNDUP USE IN EU SETTLED

By Valentina Pop, Wall Street Journal 11/28/2017

Glyphosate is an herbicide invented by Monsanto Company, and is marketed under the brand name Roundup. The World Health Organization's International Agency for Research on Cancer found that glyphosate has the potential to cause cancer in humans. However, the European Union's chemical agency dismissed these claims. The conflicting conclusions of glyphosate's impact on human health led to a multi-year dispute among the EU concerning the approval of its license. On November 27, the EU approved a five year license renewal of the herbicide. The approval was granted due to Germany's support, which came as a surprise and is said to have been produced out of political disagreements between representatives of the country.

By Ashley Seitz
Email: aseitz@rtenv.com

PIECES OF NY'S TAPPAN ZEE BRIDGE FIND NEW LIFE

Steel and concrete panels that were once part of a mighty bridge that carried 50 mil-

lion vehicles a year across the Hudson River north of New York City will find new life spanning streams along sleepy



country roads.

With traffic now whizzing across its shiny replacement, the 61-year-old Tappan Zee Bridge is being painstakingly dismantled in a process that will stretch into 2019. Barges haul sections upriver to Albany and downriver to Perth Amboy, New Jersey, where ground-up concrete will be sold for highway construction and steel will be melted down and recycled.

Some pieces of the old bridge will escape the crushers and furnaces and be trucked to upstate towns looking to save thousands of dollars on their own bridge projects. Those parts include some of the 2,000 steel-and-concrete deck panels. New York's Thruway Authority offered 150 to local governments for the bargain price of \$1 apiece when the Tappan Zee project began four years ago, but only 135 met specific local requirements were spoken for. The demolition contractor will disassemble and peddle the rest.

"We're estimating it will save us about \$100,000 per bridge," said Jim Dougan, deputy public works superintendent in northern New York's Essex County, which may build up to five bridges with the dozen pre-fab panels it requested. "For a county with about 38,000 residents, that's pretty important."

Seven other counties also requested some of the 50-foot (15-meter)-long deck panels, which are still considered to have plenty of life in them since they were part of a major upgrade of the bridge that was done from 2007 to 2011.

Essex County's plans include using two panels to span a creek along a gravel road in the tiny hamlet of Ironville, a national historic district near Lake Champlain that bills itself as the "Birthplace of the Electric

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Age." In 1831, an electromagnet now housed in the Smithsonian was used to pull iron from ore there.

Livingston County in western New York is stockpiling six of the Tappan Zee panels, just in case.

"We don't have specific locations for them," said that county's highway superintendent Don Higgins. "We just want to have them in stock when something comes up."

While reusing panels from big projects like the Tappan Zee is uncommon, it's not unheard of. Allegany County, along the Pennsylvania border, got 33 panels from Boston's infamous "Big Dig," a highway and tunnel megaproject completed in 2007. Public Works Superintendent Guy James said the county has put in for six Tappan Zee panels, which will likely be used to replace bridges along dirt or gravel roads.

"The Tappan Zee had 140,000 vehicles per day," James said. "Here, the panels will go on roads that might have 100 cars a day. They should serve the rural population very well."

James was hesitant to take the panels at first because of their weight, 43 tons (39 metric tons).

"We'll have to make sure our bridge supports can handle them," he said. But he foresees no problem trucking the panels to the county's construction stockpile.

But, he foresees no problem trucking the panels to the county's construction stockpile.

In most cases, people will never know they're driving over a segment of the famous Tappan Zee Bridge connecting suburban Rockland and Westchester counties 25 miles north of New York City.

But, in some places they will.

Chemung County Supervisor Tom Santulli envisions a sign or plaque identifying panels that may be used to replace several bridges over a meandering trout stream.

"It's kind of neat to have pieces of the Tappan Zee," Santulli said. "It's a piece of history; when they built it, it was quite a feat."

(This story can also be found on Construction Equipment Guide's

TECHNOLOGY UPDATES *(continued)*

website at www.constructionequipmentguide.com)

(Construction Equipment Guide – 11-29-17)

RT has helped many contractors undertake beneficial use of materials at hundreds of construction sites. The NY Thruway Authority gets it right – materials reuse is good for the environment and cost savings at the iconic Tappan Zee Bridge. A job being well done!!

*Gary R. Brown, P.E.
President*

RT Environmental Services, Inc.

“BEST VALUE” PROCUREMENT COMES TO PHILADELPHIA

By Jason A. Copley and Robert John O’Brien – Cohen Seglias

On May 16, 2017, Philadelphia voters approved a ballot measure amending the Home Rule Charter (the “Amendment”) to allow the City to enter into contracts for certain goods and services based on “best value.” Best value contracting is the practice used by the federal government, many states, and nearly all of America’s twenty largest cities. But what does “best value” mean and how will it change the way contractors bid on City projects?

In evaluating bids for certain professional services, such as legal or IT services, the City has long been permitted to consider factors beyond just cost — considerations like vendor history or past performance. However, before passage of the ballot measure, the City’s Home Rule Charter required construction-related goods and services contracts valued

at greater than \$25,000 to be awarded to the “lowest responsible” bidder. Under this standard, as long as the contractor was deemed “responsible” enough to perform the scope of work, the City was legally obligated to award the contract to whoever submitted the lowest bid. The sole consideration was essentially the bid amount.

Critics of the old system argued that it failed to capture a number of important factors that would help provide the City with the most “bang for its buck,” such as vendor history, past performance, budget, schedule, and workforce diversity. On the other hand, an argument often cited against the “best value” system was that allowing the City to account for criteria besides cost could lead to cronyism or awarding

contracts based on other improper considerations.

From a practical standpoint, the Amendment should not result in earth-shattering changes for contractors who submit bids for City work. Indeed, most contracts will likely still be awarded to the lowest responsible bidder. The best value standard can only “kick in” and be applied when the Procurement Commissioner determines that awarding the contract to the lowest bidder would not yield the best value to the City. The City presently anticipates only about 5% of contracts (or 10 to 12 on an annual basis) will be affected by the transition to the best value system.

Pursuant to the Amendment, the Procurement Commissioner is tasked with considering several factors in addition to price. Those factors include:

- integration of technical or professional service elements;
- quality differences among products and services;
- incorporation of City contracting objectives, including participation of disadvantaged business enterprises; and
- “other attributes” that make price alone a poor indicator of value.

The Amendment also directs the Procurement Department to propound regulations identifying additional factors to be considered in making a “best value” award. The proposed regulations will be posted for public comment, so those affected will have the opportunity to provide feedback.

Beyond the “best value” factors, the new system includes more disclosure obligations that must be made at the time of bid submission. The obligations are as follows (codified in § 17-400 of the Philadelphia Code):

- campaign contributions made by the contracting company (if submitting a bid on behalf of the company) to City politicians;
- campaign contributions made by the individual or an immediate family member (if submitting the bid as an individual) to City politicians;
- the name of consultant(s) used in obtaining City contracts;
- campaign contributions made by the consultant(s);
- the names of subcontractors that will be used (in the event the contract is awarded to the bidder);

- whether City employee(s) requested money, services, or something of value; and

- whether City employee(s) provided advice on satisfying minority, women, disabled, or disadvantaged business participation goals.

Companies contributing \$11,900 or more per calendar year to a City politician or political candidate, as well as individuals contributing \$3,000 or more per calendar year, will not be eligible to be awarded contracts valued at \$25,000 or greater for businesses and \$10,000 or more for individuals, during the candidate’s term in office.

The City expects to post its first best value contract opportunity within the next six to nine months. Contractors planning to submit bids should track their contributions to City candidates and officeholders and watch out for the new regulations from the Procurement Department.

If readers have further questions or concerns regarding the new system, please do not hesitate to reach out to us.

Jason is a Partner and Robert is an Associate in the Construction Group. They can be reached at 215.564.1700 or jcopley@cohenseglias.com and robrien@cohenseglias.com.

For Brownfield Redevelopment opportunities, the Contractors requirement to identify the Environmental Consultant under those rules could be of significant benefit when evaluating past performance and the type of professional services to be included with the bid. Contractors need to inform their consultants of the new requirements for disclosure of political contributions so there are no potential issues with a potential award of contract. RT will keep our Contractors posted as this Amendment is finalized.

*-Walter Hungarter
whungarter@rtenv.com*

COLGATE-PALMOLIVE SETTLES CLAIM FOR ASBESTOS IN THEIR TALCUM POWDER PRODUCT

Colgate-Palmolive settles a claim for the alleged link between the company’s Cashmere Bouquet talcum powder product and asbestos exposure.

The New York based company agreed to settle a lawsuit claiming a Pennsylvania woman developed mesothelioma after using their talcum powder product for more than

TECHNOLOGY UPDATES *(continued)*

20 years. Colgate-Palmolive avoided a trial in a New Jersey State Court with the undisclosed settlement on October 30, 2017, according to court filings. The Plaintiff alleged stated that the company failed to warn her of the risks associated with using Cashmere Bouquet, and claiming that inhaling the asbestos-contaminated talcum product led to her cancer.

The case is the latest in the ongoing saga of talcum users accusing manufacturers that their products may pose health risks. Colgate-Palmolive currently faces more than 170 cases claiming the company sold asbestos-containing talcum powder. The company has resolved 43 asbestos in talcum cases so far this year.

Generations of Americans grew up with talcum powder in their homes. Colgate-Palmolive manufactured Cashmere Bouquet from 1871 to 1985 and continued to market it until 1995. Talcum powder is still sold and used today in many products, coveted for its ability to absorb moisture while improving a textural feel. However, before federal regulations were ordered in the 1970s, reports show some talcum products contained traces of asbestos. Asbestos and Talc are two minerals often found naturally in the ground near each other.

Inhaling asbestos fibers can lead to serious health conditions, including asbestosis, lung cancer and mesothelioma. The latency period for these diseases is typical-

ly decades, meaning people exposed to asbestos-contaminated talc products before regulations were in place may only just now develop symptoms.

Source:

Feely, J. and Fisk, M. (2017, November 10). Colgate-Palmolive Settles Claims Over Asbestos in Its Talc.

If you have any questions in regards to the health dangers of talcum powder, please call Tony Alessandrini at 856-467-2276.

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NJ UPDATES

SOIL REMEDIATION STANDARDS

The New Jersey Department of Environmental Protection recently announced that Soil Remediation Standards will change for Tetrachloroethene (PCE) and Benzo(a)Pyrene (BaP). NJDEP generally follows EPA in using EPA risk assessment values to set cleanup standards. Benzo(a)Pyrene is very important as it is present ubiquitously in many urban areas in New Jersey, due to the historic extensive use of coal-burning, which declined after the 1930s when natural gas and petroleum became more commonly available as heating fuel. Benzo(a)Pyrene number is particularly important at non-residential sites, and a summary of the changes of the most important contaminants is as follows:

- Benzo(a)Pyrene had a previous residential direct contact soil remediation standard of 0.2 mg/kg; this will now increase to 0.5 mg/kg.

- The Benzo(a)Pyrene nonresidential standard was previously 0.2 mg/kg and this increases to 2 mg/kg.

- For Tetrachloroethene, also known as PCE a dry cleaning fluid, the previous residential direct contact standard was 2 mg/kg; this will increase to 43 mg/kg. The previous non-residential direct contact soil remediation standard for this was 5 mg/kg; this will rise to 1,500 mg/kg.

- One direct contact soil remediation standard, that for Trichloroethene will be reduced as follows:

- o The previous residential direct contact soil remediation standard was 7 mg/kg; this will be reduced to 3 mg/kg.

- o The previous nonresidential direct contact soil remediation standard for this

was 20 mg/kg, this will change to 10 mg/kg.

Please note that other standards also apply to each of these constituents – there are impact to groundwater standards, which alternatively can be addressed at many sites using the synthetic precipitation leaching procedure.

The date when these will become effective is not known but after comments are received, these will become final. The prior soil remediation standard can be used if a Remedial Action Work Plan and Remedial Action Report is submitted to NJDEP by March 18, 2018. The updated Soil Remediation Standards can be used after September 18, 2017.

Other states are taking similar steps, although it is anticipated that it make take Pennsylvania three years to have revised cleanup standards be able to be usable. Ohio has let its Certified Professionals know that they should review prior remedies at individual sites to see if the cleanup standards are still effective.

IN SITE REMEDIATION: DESIGN CONSIDERATIONS AND PERFORMANCE MONITORING TECHNICAL GUIDANCE DOCUMENT

The NJDEP recently issued an important article update on “In Situ Remediation: Design Considerations and Performance Monitoring Technical Guidance Document.” The document is dated October 2017 and is very detailed, being 146 pages long. Appendix materials include:

NJ UPDATES

- More Solar sites, pg. 1
- DEP Guidance - In site Remediation, pg.6
- NJDEP 2017 - New Guidance, pg. 10

- Parameters and equations.
- Field Parameters and entries for field logs.

- Monitoring for common reagent products

Covered are thermal processes, physical chemical processes, biological processes, as well as an overview of the technologies used for in situ remediation. To get a copy of the document click here:

http://www.nj.gov/dep/srp/guidance/srra/in_situ_remediation.pdf?version_1_0

HUDSON RIVER CLEANUP – IS IT COMPLETE?

General Electric undertook a large cleanup of the Hudson River, but New York Attorney General Eric Schneiderman and Governor Andrew Cuomo of New York indicated that the State of New York may sue EPA if US EPA certifies the cleanup as complete. There were questions regarding EPA’s 2002 Record of Decision and the State of New York is concerned that declines in PCB levels in fish after General Electric undertook dredging have not occurred.

As being one of the largest cleanups completed in the United States in a river, following this issue is important. We will keep you posted on any further updates in the RT Review.

FEDERAL REGULATORY UPDATES

CLEAN WATER ACT RULE CITED IN SUPREME COURT RULE ON WASTEWATER “BLENDING” POLICY

A Petition was filed with the Supreme Court in late August by the Center for Regulatory Reasonableness (CRR). An argument is being made by CRR that the Supreme Court must take up the CRR’s Appeal on a longstanding wastewater blending case, which was filed related to the applicable Clean Water Act jurisdiction.

CRR says the government cannot use different venues for challenging certain Clean Water Act EPA policies which are not backed by the rule of law or any regulation. The suit is over an informal EPA policy blocking issuance of Clean Water Act Permits that allow wastewater utilities to blend partially and fully treated effluent in order to avoid wastewater overflows. CRR believes that EPA can’t forbid blending permittee compliance strategies so long as final discharges under the NPDES Program Permits meet permit limits.

We at RT agree with CRR – informal policies which disregard the efforts of wastewater managers to stay in compliance have no place in modern environmental regulatory practice. We think that EPA should be rewarding efforts to achieve permit compliance, not informally disagreeing with appropriate wastewater best management practices.

- Gary R. Brown, P.E.

POTW NESHAP REVISED

In the October 26 Federal Register, EPA finalized the residual risk and technology review (RTR) conducted for the Publicly Owned Treatment Works (POTW) source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, the Agency took final action addressing revised names and definitions of the subcategories, revisions to the applicability criteria, revised regulatory provisions pertaining to emissions during periods of startup, shutdown, and malfunction (SSM), initial notification requirements for existing POTWs, revisions to the requirements for new POTWs, requirements for electronic reporting, and other miscellaneous edits and technical corrections.

The revised NESHAP renames Industrial POTWs as Group 1, and non-industrial POTWs as Group 2. While EPA does not anticipate any emission reductions as a result of these revisions, the Agency indicated that the changes should provide clari-

ty for sources determining applicability and ensuring compliance.

(Environmental Resource Center – 10-30-17)

PROPOSED NEW MERCURY REPORTING REQUIREMENTS

EPA published a proposed rule under TSCA section 8(b)(10) to require reporting to assist in the preparation of “an inventory of mercury supply, use, and trade in the United States.” The rule would require reporting from any person who manufactures (including imports) mercury (including mercury compounds) or mercury-added products, or otherwise intentionally uses mercury in a manufacturing process.

EPA published its initial inventory report in the Federal Register on March 29, 2017, which noted data gaps and limitations encountered by the Agency in its historic reliance on publicly available data on the mercury market in the U.S. As stated in the initial inventory report, “[f]uture triennial inventories of mercury supply, use, and trade are expected to include data collected directly from persons who manufacture or import mercury or mercury-added products, or otherwise intentionally use mercury in a manufacturing process.” The proposed reporting requirements would help the Agency narrow such data gaps, as well as to prepare subsequent, triennial publications of the inventory, and to execute the mandate to “identify any manufacturing processes or products that intentionally add mercury; and . . . recommend actions, including proposed revisions of Federal law or regulations, to achieve further reductions in mercury use” (15 U.S.C. 2607(b)(10)(C)).

This information could also be used by EPA to assist in its national reporting regarding its implementation of the Minamata Convention on Mercury (Minamata Convention), to which the U.S. is a Party. The Minamata Convention is an international environmental agreement that has as its objective the protection of human health and the environment from anthropogenic emissions and releases of elemental mercury and mercury compounds. Article 21 of the Convention requires Parties to include in their national reports, among other information, information demonstrating that the Party has met the requirements of Article 3 on Mercury Supply Sources and Trade and of Article 5 on Manufacturing Processes in Which Mercury or Mercury Compounds Are Used. As proposed, the

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reporting requirements of the rule will further enhance the understanding of the use of mercury in the U.S., in particular with respect to mercury supply sources and trade, mercury-added products, and manufacturing processes, thus providing a body of information that will assist the U.S. in its implementation of the reporting requirements of the Minamata Convention. EPA intends to use the collected information to implement TSCA and shape the Agency’s efforts to reduce the use of mercury in commerce. In so doing, the Agency would conduct a timely evaluation and refinement of these reporting requirements so that they are efficient and non-duplicative for reporters.

EPA proposed that supply, use, and trade of mercury include reporting requirements for activities comparable to established TSCA terms: Manufacture, import, distribution in commerce, storage, and export. The reporting requirements also would apply to otherwise intentional use of mercury in a manufacturing process. Persons who manufacture (including import) mercury or mercury-added products, or otherwise intentionally use mercury in a manufacturing process, would report amounts of mercury in pounds (lb) used in such activities during a designated reporting year. Reporters also would identify specific mercury compounds, mercury-added products, manufacturing processes, and how mercury is used in manufacturing processes, as applicable, from pre-selected lists. For certain activities, reporters would provide additional, contextual data (e.g., country(ies) of origin/destination for imports/exports and NAICS codes for mercury or mercury-added products distributed in commerce).

The proposed reporting requirements would not apply to persons engaged in the generation, handling, or management of mercury-containing waste, unless that person manufactures or recovers mercury in the management of that waste with the intent to use the recovered mercury or store it for use. In addition, persons engaged in trade (e.g., brokering, selling wholesale, shipping, warehousing, repackaging, or retail sale), but who do not first manufacture mercury or

FEDERAL REGULATORY UPDATES (continued)

mercury-added products, or otherwise intentionally use mercury in a manufacturing process, are not required to report. Finally, in an effort to avoid reporting that is unnecessary or duplicative, the Agency is proposing certain exemptions for persons who already report for mercury and mercury-added products to the TSCA section 8(a) Chemical Data Reporting (CDR) rule and the Interstate Mercury Education and Reduction Clearinghouse (IMERC).

(*Environmental Resource Center – 10-30-17*)

EPA PLANS TO REPEAL HEAVY DUTY GLIDER TRUCK KIT/AIR EMISSIONS RULE

The EPA plans to repeal the Medium- and Heavy-Duty Truck Phase II Greenhouse Gas Emission and Fuel Efficiency Standards for the glider industry. Gliders are a specially manufactured type of heavy duty highway vehicle assembled from newly manufactured kits that include the vehicle's frame and cab, to which a used engine, transmission, and axles are added.

Due to the unique way that gliders are manufactured, the Agency is proposing that gliders should not be regulated as "new motor vehicles" or "new motor vehicle engines" under section 202(a)(1) of the Clean Air Act. This action does not affect nor propose to affect EPA's authority to address heavy-duty engine rebuilding practices under Clean Air Act section 202(a)(3)(D).

EPA estimates that about 10,000 gliders are manufactured annually, comprising less than 5% of the Class 8 heavy-duty highway truck market.

The public comment period for the proposal will be open through January 5, 2018. More information on the proposal is available here. <https://www.epa.gov/regulations-emissions-vehicles-and-engines/regulations-greenhouse-gas-emissions-commercial-trucks>

EPA COAL ASH DISPOSAL RULE

EPA's Coal Ash Disposal Rule is still being contested in the courts. In a court case called *Utilities Solid Waste Activities Group (USWAG), et al. v. EPA, et al.* concerns were raised about coal ash leaking from inactive sites.

One issue was whether EPA should apply the Resource Conservation and Recovery Act to closed plant ash disposal sites. The rule actually goes back to 2014, and there is

a question on whether leaks, spills and/or other contamination from closed power plant coal ash sites is "passive disposal". A mixed court ruling regarding the key issues being challenged may occur.

EPA LOOKS AT WAYS TO TAILOR ENVIRONMENTAL REGULATIONS TO PROMOTE GROWTH

The EPA recently released its final report on how EPA is implementing President Trump's Executive Order 13783 to cut regulations in order to promote energy production and economic growth—while protecting human health and the environment.

The report discusses nine EPA actions on energy-related regulations covered by EO 13783. It further includes the following four initiatives EPA plans in undertaking to implement this order:

1. New Source Review reform (NSR) – EPA is establishing an NSR Reform Task Force to review and simplify the NSR application and permit process.

2. National Ambient Air Quality Standards (NAAQS) reform – EPA plans to use the newly formed Ozone Cooperative Compliance Task Force to review administrative options to meaningfully improve air quality as it relates to ozone. EPA will also work to streamline the approval of state air pollution plans, and eliminate EPA's backlog of state pollution plans.

3. Robust Evaluations of the Employment Effects of EPA regulations – Five environmental statutes state that EPA must conduct continuing evaluations of potential shifts in employment that may result from implementation of statutes. EPA intends to conduct these evaluations consistent with the statutes.

4. Reestablishing the Smart Sectors Program – EPA recently relaunched the Smart Sectors program to re-examine how it engages with American businesses to cut regulations, while protecting human health and the environment.

(*Environmental Resource Center – 10-30-17*)

We at RT believe that these four additional initiatives are favorable and will benefit the American public, the business community, and the real estate and development industry. NSR requires stationary sources of air pollution to get permits before construction starts, so any measures implemented to streamline this permitting process will be welcomed. Additionally, streamlining the approval of air pollution

plans and eliminating the federal backlog of permits will likely further jump start the manufacturing industry. Employment is currently a major issue in the United States and recent job reports indicate that unemployment is decreasing, however any evaluation on how environmental regulations are impacting the employment industry should be seen as a good thing which should lead to improvement and more jobs. Cutting regulations for business can also be seen as a good thing, but we may need to hold off on judgement of this issue until the details are known. Regulations can not be cut at the expense of the environment and our future.

-Justin Lauterbach, QEP
Vice President
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EPA DEFENDS ITS STATE NPDES PERMIT AUTHORITY

In a case called *CAHABA Riverkeeper et al., Petitioners v. United States Environmental Protection Agency, et al., Respondents*, EPA has taken the position in a Brief that the Agency has broad authority to work with states in deciding how to implement the NPDES Program. The Riverkeepers sought to have Alabama's Clean Water Act National Pollutant Discharge Elimination System permit authority withdrawn.

EPA claims in its Brief that denial of their petition would be arbitrary, capricious and not in accordance with the law. EPA also indicates in its Brief that the Agency believes it acted appropriately, sensibly and well within the bounds of discretion under the Clean Water Act in deciding to work with Alabama to improve its permit program.

Although environmental groups are somewhat frequently challenging and fighting EPA over state-authorized wastewater discharges, courts are increasingly questioning the validity of the lawsuits.

Articles in the RT Review are provided for information and education purposes and do not constitute legal or technical advice. Readers are advised to contact the referenced information source or publically available information sources if any question.

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SUSQUEHANNA RIVER BASIN COMMISSION PROPOSES NEW REGULATIONS ON REGISTRATION OF LARGE WATER WITHDRAWALS

The Susquehanna River Basin Commission starts a registration program on January 1, 2018, for registration of large water withdrawals. There are registration fees associated with the new registration process. Susquehanna River Basin Commission (SRBC) believes that registration must be accurate, so a FACT SHEET can be found here <http://www.srbc.net/grandfathering-registration/assets/docs/registration-grandfathered-water-withdraws-factsheet.pdf>. Many of those having existing withdrawal registrations have already begun to receive communications from the SRBC on the process.

You can find more information on this program at <http://www.srbc.net/>

DEP - BALL FLOAT VENT VALVE AND DROP TUBE SHUTOFFS

The Division of Storage Tanks at the Pennsylvania Department of Environmental Protection recently announced that there are certain technical requirements related to how the hardware is installed, the storage tank cannot properly vent. a DEP Southeast Region Director from 2012 until last year. He previously worked in EPA Region II Headquarters, which covers New Jersey, New York, Puerto Rico and the U.S. Virgin Islands.

A second concern is that if the ball float vent valve is still operable and the ball float closes the storage tank vent pipe at 90% of its capacity and a drop tube shutoff valve is installed, the ball float vent valve would directly interfere with the ability of the drop tube shutoff valve to function properly and close at 95% of the tank capacity. Additionally, when overflow prevention device operability testing occurs, the operability testing may incorrectly evaluate the drop tube shutoff valve and not the ball float vent valve.

The Department's Storage Tank certification regulations, Chapter 245, Sections 108 and 132, require certified installers to install equipment properly so it does not cause a violation of the Storage Tank and Spill Prevention Act, the Storage Tank Regulations, the Clean Streams Law, etc. and so the equipment does not cause pollution or a release. Improperly installing new overflow prevention equipment or leaving parts of previous overflow prevention equipment installed could directly cause release.

If you have questions you can call:

The Division of Storage Tanks at (717) 772-5599 and ask to speak with a member of the Underground Storage Tank Unit.

COSMO SERVIDIO IS NEW EPA REGION III DIRECTOR

We are pleased to announce that Cosmo Servidio is the new Regional Administrator for EPA Region III, which covers Pennsylvania, Delaware, Maryland, West Virginia, Virginia and the District of Columbia. Mr. Servidio served as Pennsylvania DEP Southeast Region Director from 2012 until last year. He previously worked in EPA Region II Headquarters, which covers New Jersey, New York, Puerto Rico and the U.S. Virgin Islands.

We at RT believe that Mr. Servidio is an excellent environmental leader, and he helped move many important environmental projects forward in Southeastern Pennsylvania. He has already announced that he wants to improve EPA's relationship with states, and we congratulate him on this new position.

- Gary Brown

PADEP ISSUES TRIENNIAL REVIEW OF WATER QUALITY STANDARDS

On the October 21, 2017 Pennsylvania Bulletin, the Pennsylvania Department of Environmental Protection issued its Triennial Review of Water Quality Standards. Included are changes to the following criteria:

- Ammonia criteria
- Bacteria criteria
- Chloride criteria

Also included are updates on the list of substances and there is information on human health and aquatic life criteria for toxic substances.

Please use the following link to view the October 21, 2017, Pennsylvania Bulletin Notices

<https://www.pabulletin.com/secure/data/vol47/47-42/index.html>

CHANGES TO PENNSYLVANIA TIER II REPORTING - KEY TIPS FOR RT CLIENTS

EPA has amended the Tier II reporting rule, and the Pennsylvania Tier II Reporting System (PATTS) was required to implement the change by January 1, 2018. The change will impact every facility report.

The current 5 potential physical and/or health hazards (Fire/Pressure/Reactivity/Immediate/Delayed-Chronic) for a hazardous substance will be replaced by the 24 hazard categories implemented under the Globally Harmonized System (GHS). The only way

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to identify these hazards is to refer to the newer Safety Data Sheet (SDS) which replaced the Material Safety Data Sheet (MSDS).

Until this change, EPA did not require a newer SDS for a Tier II report if an MSDS was available. However, this change will require that you have an SDS uploaded for each hazardous substance. Pennsafe will not have a generic library of SDS in the new version of PATTS, so you will not be able to locate an SDS in their system. You may request SDS from your supplier or search for them on the internet. If you have not been uploading the newer SDS for your hazardous substances, please start acquiring PDFs of these now and uploading them to system to replace the old MSDS.

Also, please be aware that you must read through the SDS to determine if there is a Hazard Not Otherwise Classified (HNOC). While specific hazards are clearly identified by pictograms and warnings, the SDS may also indicate if there are any potential hazards that do not fit the classifications, which would qualify as a HNOC.

Examples of HNOCs:

- gasoline has the potential to collect static electricity
- certain solvents when applied to a cloth may cause that cloth to become combustible
- certain solders when heated above the recommended temperature may cause noxious fumes.

Please read through the SDS to verify if any warnings of this type are listed, because these would require you to check off HNOC as a hazard.

Once PATTS goes live with the new version, all reports submitted thereafter will require these new hazard categories. For facilities with multiple hazardous substances, you may want to develop a spreadsheet that will make it to easier prepare yourself and use as a reference to update your hazardous substance information.

This will be a challenging reporting change for both facilities and for Pennsafe. If you have questions, please contact the PA Department of Labor & Industry, Bureau of Occupational Health & Safety Pennsafe Program staff at 717-783-2071 Option 0.

- Larry W. Bily

FEDERAL REGISTER NOTICES<http://www.federalregister.gov>

Notice EPA – EPA Smart Sectors Program Launch – The U.S. Environmental Protection Agency (EPA) is announcing the Smart Sectors program in the Office of Policy. Based on the successful EPA Sector Strategies program, EPA's Smart Sectors program will re-examine how EPA engages with industry in order to reduce unnecessary regulatory burden, create certainty and predictability, and improve the ability of both EPA and industry to conduct long-term regulatory planning while also protecting the environment and public health.

(Federal Register – 9-26-17)

Notice EPA - Notice of Intent to Establish Voluntary Criteria for Radon Credentialing Organizations

(Federal Register – 10-5-17)

Notice EPA – FY 2018-2022 Environmental Protection Agency Strategic Plan

(Federal Register – 10-5-17)

Rule EPA – National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semi-chemical Pulp Mills. This Final Rule was effective October 11, 2017

(Federal Register – 10-11-17)

Rule EPA – National Emission Standards for Hazardous Air Pollutants: Nutritional Yeast Manufacturing Residual Risk and Technology Review

(Federal Register – 10/16/17)

Proposed Rule EPA – Mercury; Reporting Requirements for the TSCA Mercury Inventory

(Federal Register – 10-26-17)

Rule EPA – National Emission Standards for Hazardous Air Pollutants: Publically Owned Treatment Works Residual Risk and Technology Review – This Final Rule is effective on October 26, 2017

(Federal Register – 10-26-17)

Proposed Rule Engineer Corps and EPA – Definition of “Waters of the United States” – Addition of an Applicability Date to 2015 Clean Water Rule (<http://www.federalregister.gov/documents/2017/11/22/17-25321/definition-of-waters-of-the-united-states-addition-of-an-applicability-date-to-2015-clean-water-rule>)

(Federal Register - 11/22/17)

Rule EPA – Renewable Fuel Standard Program: Standards for 2018 and Biomass-Based Diesel Volume for 2019 – This final rule is effective on February 12, 2018

(Federal Register – 12-12-17)

THE LATEST NJDEP GUIDANCE

New Jersey's successful Licensed Site Remediation Program has resulted in a careful look at many important aspects of environmental cleanup and regulation. Guidance's put forth continue to be of high quality and advance cleanups and make them more cost effective in many cases. Here are recent Guidance's; many of these are excellent:

- Contaminants of Emerging Concern – Web Page available – November 3, 2017
- Revised Remedial Action Permit for Groundwater Guidance available – October 20, 2017
- Confirmed Discharge Notification (CDN) and ISRA General Information Notice (GIN) Online Services available October 20, 2017
- Updated Extractable Petroleum Hydrocarbon Calculator (Version 3.0) available – October 19, 2017
- Underground Storage Tank Updates – October 17, 2017
- New Technical Guidance – In Situ Remediation: Design Considerations and Performance Monitoring Guidance available October 17, 2017
- Updated Soil Remediation Standards – September 18, 2017

PENNSYLVANIA BULLETIN NOTICES

9/16/17 – The Department of Environmental Protection published notice of proposed changes to technical guidance related to Coal and Noncoal Surface Mining Activity Permit Pre-Application Review

9/30/17 – DEP published two notices related to the Nutrient Credit Trading Program – certification of specific credits and approval for a 1-year extension of specific credits.

9/30/17 – DEP published notice extending the NPDES General Permit for Discharges from Aquatic Animal Production Facilities (PAG-11).

9/30/17 – The Department of Environmental Protection published Notice of proposed technical guidance on Processing Completion Reports for Coal Mining Operations for comments

11/18/17 – The Environmental Quality Board published notice that regulations making changes to a series of stream water quality standards and classifications in each of the river basins across the state

11/25/17 – The Department of Conservation and natural Resources published notice asking for comments on proposed changes to Chapter 45 regulations and the list of Native Wild Plants that are endangered, threatened or rare regulated under the Wild Resource Conservation Act

12/2/17 – DEP Published Notice in the December 2 PA Bulletin rescinding coal mining regulation technical guidance related to DEP ID: 563-2112-611. Title: Permitting Pre-existing Pollutational Discharges

12/2/17 – DEP Published Notice in the December 2 PA Bulletin rescinding coal mining regulation technical guidance related to DEP ID: 563-2504-612. Title- Monitoring, Compliance & Bond Release for Subchapter F or G Permits

12/9/17 – The Department of Environmental Protection published notice that it is extending the availability of the PAG-02 general stormwater permit until December 29, 2017

12/9/17 – The Department of Environmental Protection published notice that it is rescinding technical guidance DEP ID: 391-3200-004. Aquatic Life-Use Attainability Studies for Flowing and Impounded Water Bodies. Description: The contents of this document were updated and published as part of the Assessment and Listing Methodology as Federally required. Questions should be directed to M. Josh Lookenbill by sending email to mlookenbill@pa.gov or calling 717-787-9637.

HORIZONTAL PIPELINE DRILLING – RUNNING INTO TROUBLE

In some cases, horizontal pipeline drilling can be harder and may be riskier than was thought. Pressurized air and water and use of bentonite has caused impacts to private wells in Pennsylvania.

More pipelines are being installed to bring Marcellus and Utica shale energy East to markets in Philadelphia, which will include shipment to overseas markets in ships, loaded in the Delaware River.

The Pennsylvania Department of Environmental Protection required work to stop at some locations. Recognizing the situation, one company is changing plans, and now wants to use the traditional open trench cut techniques in an area with wetlands and streams. Water would be pumped around the work area.

It is sometimes thought that new technology solves problems, while the reverse can occur if there is not adequate consideration of the environment. Unstable subsurface conditions and not considering soil and geology can lead to bad assumptions about environmental impacts from the project.

The Pennsylvania Department of Environment Protection and the pipeline company involved are evaluating the situation to make sure that the job is done right. Let's all hope that lessons learned will avoid future problems as sound environmental engineering and geology work can avoid unrealistic assumptions in permit applications, which should not occur in the first place.

EPA HONORS 2017 ENERGY STAR PARTNERS OUTSTANDING ACHIEVEMENTS IN ENERGY

Selected Energy Star Partners of the year in 2017 were:

(Los Angeles, Calif.) KB Homes achieved a major milestone, surpassing a total of 100,000 Energy Star certified homes built to date.

(Louisville, Ky.) Olin Brass, a leading manufacturer of copper and copper-alloy sheet, strip, foil, tube, and fabricated components achieved more than a six-percent reduction in energy intensity over the past year for savings of one million dollars.

(New York, N.Y.) Vornado Realty Trust, one of the largest owners and managers of commercial real estate in the nation, continued to demonstrate a sophisticated and strategic approach to energy management. This approach resulted in 36 properties earning the Energy Star certification. Vornado achieved a weather-normalized site energy use reduction of 4.8 percent across its portfolio, saving \$882,000 in 2016, for a total of \$8.6 million in savings since 2012.

(New Port Richey, Fla.) Welbilt, with its family of brands, continues to help food service businesses save energy and money. The Frymaster brand, which offers chefs, restaurants and other commercial kitchens highly-efficient electric fryers, introduced more than 300 new Energy Star models in 2016, each offering customers an average of \$125 (or 1,100 kilowatt-hour) savings per year.



KEY HIGHLIGHTS

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