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WATERS OF THE UNITED STATES – REQUEST FROM NSSGA TO WITHDRAW PROPOSED RULEMAKING

The National Stone, Sand and Gravel Association has an initiative underway to request that the definition of “Waters of the United States”, being pushed forward by the EPA and Army Corps of Engineers be withdrawn. As previously indicated in the RT Review, the proposal to use the new “connectivity” approach using an ecological “significant nexus” is considered inappropriate and would incorporate marginally aquatic areas that have insignificant impact on traditional navigable waters. If one spends time reading the rule, it removes “significant nexus” and replaces it with “any nexus” which is causing controversy.

As previously indicated, we think that the approach proposed by the Corps and EPA simply will not result in defensible decisions about wetlands delineation. It is simply inappropriate to use “desktop” determinations to effect individual sites and at this point, many states including Pennsylvania oppose the rulemaking. While EPA has indicated that the proposed rule excludes drainage ditches, elsewhere they can be considered navigable water which means that drainage ditches could be regulated, despite EPA’s claim. It is also an important issue that the proposed rule needs to have “clear grandfathering provisions”.

(PA Aggregates and Concrete Association – 2-15)

We will keep you informed of this important rulemaking in the *RT Review*.

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HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS UPDATED TO ALIGN WITH INTERNATIONAL STANDARDS

DOT’s Pipeline and Hazardous Materials Safety Administration (PHMSA) is amending the Hazardous Materials Regulations (HMR) to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. These revisions are necessary to harmonize the Hazardous Materials Regulations with recent changes made to the International Maritime Dangerous Goods (IMDG) Code, the International Civil Aviation Organization’s Technical Instructions (ICAO TI) for the Safe Transport of Dangerous Goods by Air, the United Nations Recommendations on the Transport of Dangerous Goods (UN Model Regulations) and subsequently address three petitions for rulemaking.

The changes in the hazardous materials regulations became effective immediately. However, compliance with the rule is not required until January 1, 2016. Significant changes in the HMR include:

- Updated references to international regulations including the ICAO Technical Instructions, the IMDG Code, the UN Model Regulations, the UN Manual of Tests and Criteria the Canadian Transportation of Dangerous Goods Regulations and various technical standards

- New, revised, and deleted proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, bulk packaging requirements, and passenger and cargo aircraft maximum quantity limits from the Hazardous Materials Table (HMT)

- Adoption of an exception from the

HMR for marine pollutants up to 5 L (1.3 gal) for liquids or 5 kg (11 lb) for solids when these materials are packaged in accordance with the general packaging requirements of 49 CFR 173.24 and 173.24a. These exceptions are consistent with the UN Model Regulations, the IMDG Code, and the ICAO TI.

- Changes to the list of marine pollutants in Appendix B to 49 CFR 172.101

- New minimum sizes for the OVERPACK and SALVAGE markings

- Revisions and additions to vessel stowage codes listed in column 10B of the HMT and segregation requirements in 49 CFR 176.83 consistent with the IMDG Code

- New entries in the HMR for adsorbed gases, together with authorizing packagings; and safety requirements, quantity limitations, and filling limits

- Harmonizing with the latest version of the ICAO Technical Instructions (TI) to ensure that the information currently authorized by the HMR to be provided by means of an alternative document be included on a shipping paper for batteries transported under the provisions of 49 CFR 173.185(c)(4)(v) equivalent to Section IB of ICAO TI Packing Instructions 965 and 968. PHMSA is also harmonizing with the latest version of the ICAO TI by requiring a “CARGO AIRCRAFT ONLY” label on packages containing small lithium metal batteries not packed in or with equipment.

- Amendments to the definition of non-bulk packaging by adding a new paragraph (4) to include bags and boxes conforming to the applicable requirements for specification packagings in subpart L of part 178 of this subchapter, if they have a maximum net mass of 400 kg (882 lb) or less.

(Env. Res. Ctr. – 1-12-15)

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At *RT Review Press* Time, warmer spring weather was finally allowing later spring season construction to start. In response to strong client demand both in the New Jersey and Pennsylvania portions of our service area, a substantial number of vacant Brownfields sites were receiving attention, which were former brass, pump products and commercial retail facilities.

New staff who are joining us include:

Amanda Malacarne has joined RT's Southwest PA office as a Staff Scientist. Amanda has an environmental science degree from California University of PA. She is a wetland scientist and has extensive experience in the ecological services sector, such as stream monitoring, stream surveys, invertebrate identification and plant identification.

Maria Scudder joined RT in the NJ Bridgeport office in January 2015. She recently graduated from Juniata College in December 2014 with a degree in Geology. Thus new to the business, she has primarily focused on preparing Phase I and Preliminary Assessments and has quickly adapted to the RT environment. She hopes to expand her repertoire in the coming months to include field sampling and other Phase II work.

Julian Pozzi recently joined RT in the NJ Bridgeport office. He brings with him experience in conducting Phase I Environmental Site Assessment. He earned a Bachelor of Arts degree in Environmental Studies from The Richard Stockton College of New Jersey. He is excited to gain more experience in conducting field work oversight and

sampling Mr. Drew recently joined RT in the NJ Bridgeport office. He has been working in the environmental industry for more than 12 years. He joined the RT team as a Project Manager/Scientist. He has conducted several Site Investigations, Remedial Investigations and Remedial Actions throughout the state of New Jersey. He has a invested interest in the Remedial Action phase of all environmental investigations. He is currently managing several of RT projects.

John C. Lydzinski, P.G. has joined RT's King of Prussia Office. John has 35-years of mining and environmental compliance experience. Past projects have included numerous Phase I Environmental Site Assessments of mining and oil/gas properties, groundwater investigations, permit preparation, and remediation of petroleum contaminated sites in Pennsylvania and Virginia.

Karl Migliaro has joined RT's King of Prussia Office. Karl is an accounting and business professional with more than 20 years of progressive experience providing quality accounting, project management, and associate management. He is a graduate of Temple University's Fox School of Business with a BBA in Accounting. He will be managing, coaching and mentoring staff in finance and administration.

Christine Confer has joined RT's King of Prussia Office. She will be working with the Administrative Group, doing filing and other special projects.

As always, we appreciate the opportunity to be of service!

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

THE DELAWARE RIVER WATERSHED - A NATIONALLY SIGNIFICANT RESOURCE
See page 5 - NEW LAW

DRINKING WATER	ECOLOGICALLY IMPORTANT
<p>More than 8 million residents in the Basin rely on it for drinking water.</p> <p>Another 8 million people outside the Basin also use it for drinking water.</p> <p>It's the only watershed that supplies drinking water to two of the five largest cities in the United States, New York City and Philadelphia.</p>	<ul style="list-style-type: none"> • The Delaware River is the longest undammed river east of the Mississippi • Internationally recognized for its important shorebird migration sites • Provides habitat for over 200 resident and migrant fish species, includes significant recreational fisheries and is an important source of eastern oyster, blue crab and the largest population of American horseshoe crabs.
<p>ALSO:</p> <ul style="list-style-type: none"> • Contributes approximately \$25 billion annually in economic activity and \$21 billion in ecosystem goods and services • Supports important commercial fisheries in the Delaware Estuary valued at over \$35 million annually. 	<p>ALSO:</p> <ul style="list-style-type: none"> • Supports an internationally renowned cold water fishery that generates over \$21 million in annual revenue through tourism and recreational activities.

RACHEL CARSON'S SILENT SPRING; A 1960'S VOICE FROM PITTSBURGH'S ALLEGHENY COUNTY CHANGES OUR ENVIRONMENTAL HISTORY

In the accompanying article on quail returning to Southern New Jersey, the ultimate manifestation of a concern by Rachel Carson, author of *Silent Spring*, has come to pass. Rachel turned to her attention to conservation, and became very concerned about environmental damage and potential loss of species caused by synthetic pesticides. In shore communities, including in South Jersey, use of pesticides was uncontrolled, with marshes between barrier islands and the mainland being sprayed daily by squadrons of airplanes. There were also spray trucks traveling up and down residential streets each night, spraying DDT to control mosquitoes and greenheads.

Rachel's book, published by Houghton Mifflin in September 1962, got the nation's attention, first by being featured in the *New York Times*, and then being a featured book in the Book of the Month Club. Rachel's concern led to Congress instituting a nationwide ban on DDT for agricultural uses, and inspired an environmental movement leading ultimately to the formation of the United

States Environmental Protection Agency.

Those familiar with Pittsburgh know that the Allegheny River is the region's cleanest, and it is a favorite waterway for recreation each weekend. Rachel Carson grew up in Springdale, where she wrote her book which became famous. Americans reacted very strongly to the potential of there being a "silent spring" and we celebrate the more than 50 years of Rachel's legacy when we see quail returning to Southern New Jersey fields as DDT residues in soils have how degraded over several generations.

Rachel Carson was a marine biologist, but she understood that there would be increasing consequences in the future and weakened ecosystems as sprayed synthetic chemicals could move upward through the food chain. In the late 1960s, species along the shore were threatened as bird's eggs no longer could properly form and a number of species had no further offspring.

When CBS Reports aired a television special called "The Silent Spring of Rachel Carson", Carson was found not to be a "hys-

terical alarmist" as portrayed at the time by chemical companies, and instead reactions from the estimated TV audience of 10 to 15 million people were overwhelmingly positive, as Americans again and again enjoy the environment in our country, and Americans stood tall to assure that humans did not damage ecosystems to compromise our environmental future.

At the Pennsylvania DEP Headquarters in Harrisburg, you can see Rachel's picture in the DEP headquarters office building named in her honor. A simple return of a lost species to South Jersey fields speaks volumes about Rachel's legacy, and we know that the DEP honored and continues to honor one of Pennsylvania's all-time leading environmental citizens who in selecting two simple words "silent spring" helped to assure future generations an improving environment.

Justin Lauterbach, QEP
Vice President
Southwest Pennsylvania Office

SONG OF THE QUAIL IS BACK IN NEW JERSEY

The distinctive singing of wild quail had all but disappeared from Bill Haines' forests and fields in Burlington County, New Jersey.

The chorus of "bobwhite" calls began fading decades ago along with the bird's habitat across New Jersey. Choked forests, paved roads, housing developments, herbicides, and pesticides destroyed the bird's food sources and nesting grounds.

But, early Wednesday morning, the songs remembered so fondly by Haines as he grew up on the land were on their way back again.

Eighty northern bobwhite quail - captured this week in Georgia - were radio-tagged for monitoring, driven about 15 hours, then released into a haven in Chatsworth specially created for them using prescribed burns and tree-thinning practices that produced the optimum surroundings on about 1,500 acres adjacent to Haines' Pine Island Cranberry Co. operations.

With the flutter of wings, the birds took flight from wooden boxes and began exploring their new Pinelands home.

"Hopefully, the quail will thrive," said Haines, who provided the land for the project. "The last time I heard them was in the late '60s when I was in my early teens.

"We never had air-conditioning, so I grew up with the sounds of locust, little frogs we called peepers - and quail," he said. "You would see them and hear them."

When land loses a species, "it's an indicator you could lose more," said certified forester

Bob Williams, owner of Pine Creek Forestry in Laurel Springs who has helped transform the forest into a quail habitat. "When you lose a piece of the puzzle, the puzzle is incomplete; there's a breakdown of the web of life.

"I'm out every day and I haven't seen a quail in years," he said. "There's no question that they wouldn't rebound on their own" without help.

Fifty years ago, wild bobwhite quail were plentiful across parts of the state. Coveys of them were common. Hunters flushed them out by the scores while walking through brushy fields.

The number of birds has fallen off so precipitously that - except for small pockets - they're close to extinction in New Jersey and Pennsylvania, and barely holding on in Delaware, wildlife ecologists say.

Only 600 wild quail were estimated to remain in the southern half of New Jersey, according to a state survey in 2010 - and those numbers have not likely changed much, state officials said.

Conservationists see the project as a possible model for other such research and restoration projects across the state and the nation, and as a productive new avenue of cooperation for forest and wildlife officials.

"This is significant because this is the first time in 20 years that this has been tried in New Jersey," said John Cecil, vice president of stewardship of New Jersey Audubon. "The habitat here is exceptional - the way it's

supposed to be."

Agriculture and conservation can move together "toward a common goal," said John Parke, north region stewardship project director for New Jersey Audubon. In the future, if the quail thrive at the Haines property, "theoretically, we could move some from there to Cumberland County."

In addition to the property, the Haines family - through its foundation - provided \$50,000 toward the preparation of the land and other expenses. The University of Delaware provided \$7,000, and the rest of the \$187,000 project was covered through grants.

In addition to the Haines site, two quail habitats on Maryland's Eastern Shore have been selected as places to reintroduce the bird.

Quail are not doing well anywhere except Georgia and Florida, with some populations in Texas, Louisiana, and Mississippi.

The bobwhite "is the poster child for the need for stewardship," said Williams.

Now, because a forest has been restored and several groups have worked as a team, "you will hear the song of the quail again," he said. "You can say I went to a forest where quail were extinct and I heard them."

That means the environment "is being taken care of," said Haines. "It means we've done all the work of managing the forest and it's paying off."

(by Edward Colimore - Philadelphia Inquirer
- 4-2-15)

ADEQUACY OF STORMWATER MEASURES GETS ATTENTION IN FLORIDA

The Biscayne Bay Waterkeeper indicated that they will appeal an April 10, 2014 Order related to a \$1.6 Billion upgrade of sewer collection systems, pumping stations and treatment plants related to needed long term improvements such that stormwater is not impacted by overflows. One of the key concerns is over long term sea level rise. Issues related to operations and maintenance viola-

tions at the Central District Wastewater Treatment Plant at Virginia Key and penalties were raised by the Court for further violations from an original Consent Decree. A pact was worked out between the United States and Miami-Dade County previously.

It is unclear what issues the environmentalist groups will focus on but so far, the Federal Government has not weighed in and

supported that changes are necessary for infrastructure improvements, taking into account the potential for future climate changes and sea level rises. In other words, planning and engineering of stormwater and wastewater infrastructure does not take future sea level rise as a result of climate change into account, and environmentalists think it should.

NEW JERSEY SUPREME COURT RULES THAT STATUTE OF LIMITATIONS DOES NOT APPLY TO SPILL ACT SUITS

The New Jersey Supreme Court issued a major ruling last week in *Morristown Associates v. Grant Oil Co.*, N.J. (Docket No. A-38-13, decided January 26, 2015) clarifying the deadline for when persons who clean up contaminated property that has been polluted by someone else may bring claims for reimbursement of cleanup costs against the actual polluters. In so doing, the Court reversed a 2013 lower court decision that had held New Jersey's general six (6) year statute of limitations (SOL) for bringing property damage claims is applicable to such actions.

These kinds of suits are called Spill Act contribution claims and they have been authorized by New Jersey's Spill Compensation and Control Act since 1991. However, no SOL for bringing such claims is set forth in the Spill Act, leading many practitioners to believe, prior to 2013, that this meant there was no SOL for Spill Act contribution claims at all.

This belief was reinforced by two 1990s Appellate Division cases, one reported and one not, that had both found no SOL for commencement of Spill Act contribution actions. However, the reported case, while precedential, did not actually deal with the six (6) year SOL but addressed a somewhat different law – New Jersey's ten (10) year statute of repose for claims relating to the development or improvement of property. The other case did hold expressly that the six (6) year SOL was not applicable to Spill Act contribution claims, but it was unreported and therefore lacked binding or precedential

authority. Complicating the matter further, there have also been several federal court decisions finding New Jersey's six (6) year SOL applicable to Spill Act contribution claims although, because those cases are federal decisions, they are not binding on New Jersey state courts. Meanwhile, the New Jersey Supreme Court had never addressed the issue.

In 2013, the Appellate Division held in a reported decision in *Morristown Associates v. Grant Oil Co.*, 432 N.J. Super. 287 (App. Div. 2013), that New Jersey's general six (6) year SOL for bringing property damage claims applies to Spill Act contribution claims. It held that the claimant's request for reimbursement of cleanup costs against a party allegedly responsible for causing the contamination required dismissal because the plaintiff either knew or should have known of the presence of contamination on the property more than six (6) years before the claim was actually filed, regardless of when the claimant may have actually spent the money to clean up that contamination. In so holding, it overruled the unreported Appellate Division case from the 1990s that had decided to the contrary, and it distinguished the other 1990s case that had held New Jersey's ten (10) year statute of repose for improvements to property is not applicable to Spill Act contribution claims.

In reversing the Appellate Division's 2013 decision, the Supreme Court held, in essence, that the Spill Act's failure to delineate any SOL for contribution claims means that there is no such limitation on the com-

mencement of such actions. The Supreme Court was not persuaded by the fact that New Jersey's general six (6) year SOL for property damage claims is intended to be a catch all provision, as it noted that the Legislature had never sought to amend the Spill Act in the several decades after the above-described cases first held there is no SOL for Spill Act contribution claims in the 1990s. The Supreme Court felt this confirmed the legislative intent agreeing with this conclusion.

The Supreme Court's clarification of the law in this important area will have widespread significance for anybody who owns or is otherwise cleaning up contaminated property in New Jersey, for those responsible for causing such contamination, and for others who are involved in the cleanup process. In this last respect, the opinion is particularly important to attorneys and environmental consultants who have been advising their clients for approximately two decades that there likely is no statute of limitations under the Spill Act. Had the Supreme Court allowed the Appellate Division's opinion in *Morristown Associates* to stand, it could have led to claims against professionals who may previously have advised clients there is no need to be concerned about filing deadlines for Spill Act contribution cases. Those issues have now been avoided.

To learn more about how this may affect you or your business, we invite you to contact Marty M. Judge, Mitchell H. Kizner, or any member of Flaster/Greenberg's Environmental Law Practice Group.

IS MANURE "SOLID WASTE"?

In a January 14th Order, the U.S. District Court for the Eastern District of Washington granted Summary Judgment for environmentalists in that it was found that manure is "solid waste" under the Resource Conservation and Recovery Act. Manure was considered to be solid waste

when applied to crops without regard for the plant's actual nutritional needs. The material was also considered solid waste if it is found to be stored in leaky or otherwise defective lagoons. The case involved *Community Association for Restoration of the Environmental v. Cow Palace, LLC*.

FOCUS ON STRONTIUM NEEDING A NEW DRINKING WATER RULE IS QUESTIONED

EPA made a preliminary determination that Drinking Water Regulation is necessary for Strontium and the American Waterworks Association has submitted comments because, among other things, Strontium is a naturally occurring element and the American Waterworks Association says science is lacking for an EPA Strontium Standard.

In a December 16, 2014 letter to EPA, "AWWA strongly recommends that EPA

support a systematic, adequately funded, external research agenda to develop sufficient science to support risk assessment management decisions for microbial contaminants, as well."

AWWA believes that there is little need to rush into regulation of Strontium in drinking water and that "EPA needs the time to get the science right." AWWA believes that Strontium is a compound that is similar to arsenic, in terms of drinking water regula-

tion. AWWA believes that the cost of compliance like arsenic, could be significant as national arsenic rule compliance costs were in the hundreds of millions of dollar a year.

AWWA indicates that it "wants to register a separate concern about the lack of progress on microbial contaminants through the regulatory development process.

We will keep you informed on these issues in the RT Review.

DIOXIN CLEANUP STANDARDS

EPA issued an Enforcement Action Memorandum on January 7th related to the Tittabawasse River flood plain, Saginaw River and bay site related to the cleanup of dioxin. Cleanup levels cited in the Memorandum include 250 parts per trillion TEQ for maintained residential areas and 2,000 parts per trillion TEQ for other land use areas and there are specific conditions that apply to the criteria, including excavation, backfill and replanting or covering with other clean material.

THE DELAWARE RIVER BASIN CONSERVATION ACT WHAT IS IT?

The Delaware River Basin Conservation Act (DRBCA) is proposed federal legislation that would create a Delaware River Basin Restoration Program in the U.S. Fish and Wildlife Service to:

1. Develop a coordinated approach to identify, prioritize, and implement restoration and protection activities across the Basin.
2. Provide a comprehensive grant and technical assistance program to support on-the-ground work by state and local governments, non-profit organizations, and universities.

Highlights:

1. Non-regulatory approach with a voluntary competitive grant program; House and Senate bills identical.
2. Intended to enhance efficiency and effectiveness of public and private efforts, and complement existing funding programs operating in the Basin.
3. Requires consultation with federal and state agencies, regional partnerships, local government, and other organizations to develop a Basin-wide protection and restoration strategy that is science-based, cost-effective, and facilitates measurable outcomes.
4. Authorizes \$5 million per year; at least 75% of any allocated funds must be used for the grant and technical assistance programs, and the maximum federal share is 50% per project.

The DRBCA would clearly affirm the Delaware River Watershed as a national priority, worthy of the attention and resources currently given to other major watersheds across the country.

WHAT TYPES OF WORK WOULD BENEFIT?

1. Water quality improvements
2. Habitat restoration and protection
3. Flood mitigation
4. Strategic planning to enhance resiliency
5. Public access and recreation
6. Public outreach and education
7. Planning, monitoring, and research

FEDERAL REGULATORY UPDATES

AUTOMOTIVE INDUSTRY TO REDUCE COPPER IN BRAKE PADS

Recently, the EPA, the automotive industry, and the states signed an agreement to reduce the use of copper and other materials in motor vehicle brake pads. The Copper-Free Brake Initiative calls for cutting copper in brake pads to less than 5% by 2021 and 0.5% by 2025. This voluntary initiative also calls for cutting the amount of mercury, lead, cadmium, asbestos fibers, and chromium-6 salts in motor vehicle brake pads. These steps will decrease runoff of these materials from roads into the nation's streams, rivers, and lakes, where these materials can harm fish, amphibians, and plants.

California and Washington have already passed requirements to reduce these materials in brake pads. Prior to their enactment, dust from vehicular braking released an estimated 1.3 million lb of copper into California's environment in 2010 and about 250,000 lb into Washington's environment in 2011. Estimates for California show copper in urban runoff down as much as 61% thanks to changes in brake pad composition.

This initiative includes:

- Education and outreach to bring about the nationwide reduction in brake pads of copper and the other materials
- Testing friction materials and constituents for alternatives
- Marking and labeling friction material packaging and product
- Providing reporting registrars' and agents' contact information to manufacturers, suppliers, and other industry entities
- Working towards achieving the goals in the Copper-Free Brake Initiative within specified timeframes

In addition to EPA and the Environmental Council of the States, eight industry groups signed the initiative: Motor & Equipment Manufacturers Association; Automotive Aftermarket Suppliers Association; Brake Manufacturers Council; Heavy Duty Manufacturers Association; Auto Care Association; Alliance of Automobile Manufacturers; Association of Global Automakers, Inc.; and the Truck and Engine Manufacturers Association.

(*Env. Res. Cntr. – 1-26-15*)

EPA EVALUATING OIL SPILL AGENTS

The Deep Water Horizon oil spill which occurred in 2010 and new EPA research is causing evaluation of new product toxicity and efficacy test methods for listing dispersants and other agents in a schedule of EPA-

acceptable methods and limits may be set on use of the materials. More detailed product application information and human health and safety data is expected to be required to submit to EPA by manufacturers.

EPA Assistant Administrator Mathy Stanislaus said proposed changes are needed to help ensure that emergency planners and responders are well-equipped with the appropriate materials.

The rulemaking proposal addresses recommendations made by the National Commission on the BP Deep Water Horizon oil spill in offshore drilling in a previous report to President Obama. Materials which are expected to be evaluated include dispersants, surface washing agent, surface collecting agents, bioremediation agents, burning agents, sorbents, and miscellaneous oil spill control agents, among others.

“DOWNSTREAM” GAS OPERATORS SEEK ENERGY CREDITS

The issue of limiting methane emissions from natural gas production and transmission has resulted in regulatory programs which attempt to reduce emissions using voluntary programs. Pipeline operators have developed a “heavy reliance” on voluntary programs to cut emissions from certain operating practices including blow downs. EPA is not developing a Methane Rule for existing sources, but a serious question has come up as to why new natural gas production and transmission could get credits while existing operations could not use the same program. EPA has indicated that they do not have a deadline for the agency to develop existing source operations.

Environmentalists are not happy with EPA's answer and those with existing operations believe they're being treated unfairly. We will keep you informed on this issue in the RT Review.

COURT RULES ON CLEAN WATER ACT GENERAL PERMIT SHIELD

In a court case called *Sierra Club v. ICG Hazard, LLC*, the United States District Court for the Eastern District of Kentucky at London decided on January 27th that a discharger can use compliance with the terms of an NPDES Permit as a defense in citizens suits, and that this applies to General Permits.

The case involves a coal companies General Stormwater Permit which, in the 9th Circuit, it was found that the General Permit did not shield it from liability for various

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stormwater releases. Compliance with a General Permit is now allowed to be used as a defense, based on the recent court ruling.

EPA AND AQUIFER EXEMPTIONS

Clean Water Action/Clean Water Fund is pushing EPA to evaluate a portion of its Underground Injection Control Program, which is carried out under the Clean Water Act. The concern is that allowing injection of contaminated fluids directly into certain aquifers essentially “writes off” potential drinking water sources.

The concern relates to oil and gas activities and the environmentalists are arguing that oil and gas waste water needs to have a strengthened permit approval process. Newly introduced fluids help oil production, free residual oil and, help it be captured and pumped to the surface. It has been specifically asked to launch an inquiry into whether permitting primacy approval under Safe Drinking Water Act Section 1425, is appropriate or needs to be revised. The Safe Drinking Water Act prohibits any types of waste disposal, mining, energy production or other activities which involve injection from occurring in underground sources of drinking water.

THE ENVIRONMENTAL APPEALS BOARD IS BACKING EPA'S ASSERTION THAT IT HAS CLEAN WATER ACT PERMITTING AUTHORITY

The Environmental Appeals Board is backing EPA's assertion that it has Clean Water Act permitting authority “satellite” sewer systems. There was a conflict over 2010 rules for municipal satellite collection systems, but no action was ultimately taken. The Board says “EPA clearly intended the definition of Publicly Owned Treatment Works to encompass the Clean Water Act Section 212 definition for purposes of both the National Pollution Discharge Elimination System and Pretreatment Program. A Town had claimed that they are “indirect” discharges, but that was not held to be true. The portion of the argument related to whether the town involve was an

FEDERAL REGULATORY UPDATES *(Continued)*

industrial user. The case involves four Massachusetts towns.

TSCA REFORM SHOULD EMBRACE THE BEST APPLICATION OF TOXICOLOGICAL SCIENCE – A PERSPECTIVE FROM ITS PRACTITIONERS | COMMENTARY

The federal law governing chemicals used in commerce in the United States affects every person and business, but few are aware of its importance to their lives or that it is outdated and in serious need of modernization.

That law, the Toxic Substances Control Act, was enacted by Congress when Gerald Ford was president in 1976 and has not been revised since. During that time, our knowledge and abilities to develop, evaluate and manage chemicals has dramatically improved. The new Congress offers an opportunity to take advantage of these advanced capabilities and ensure a revised law will enable application of future scientific and technological progress and that the best science is used to protect public health and the environment.

The Society of Toxicology, which is composed of scientists from across academia, government and industry, will be on the front lines of implementing a revised law and intends to play an active role in determining how that new law develops to best ensure the health and safety of all Americans. The very basis of chemical safety regulation — evaluating hazard, exposure and risk — are core activities that toxicologists engage in daily.

Toxicology provides science and information essential to supporting innovation and addressing human and environmental health, and it is essential that any TSCA reform legislation reflect the human health and economic value of science-informed decision making.

The SOT's approximately 8,000 members worldwide represent the broad spectrum of sciences that toxicology encompasses, ranging from the more mature disciplines of pharmacology, biology, chemistry, microbiology, molecular biology, pathology, pharmacy and veterinary sciences to emerging disciplines such as genomics and computational biology.

As scientists, we advocate for the science. We do not engage on the commercial or political elements that will, no doubt, also influence TSCA modernization. Our goal is simple — to ensure the best science is applied to protect public health and the environment.

SOT formed its TSCA Task Force in 2010. Our TSCA reform efforts adhere to three main principles:

1. Ensure the revised legislation affords flexibility in selection of the best available science for generating and evaluating information used in the safety and risk assessment process.

2. Ensure protection of the authority of the Environmental Protection Agency, working with the scientific community, to judge when and how to apply new techniques and methods.

3. Ensure the terms and concepts used in the legislative language that apply to the science of toxicology are consistent, accurate and unambiguous.

“Best available science” means that experiments and their findings are transparent and reproducible and the methods used are underpinned by our current understanding of the underlying biology. This understanding is not static but is constantly evolving. Congress should resist the temptation to try to spell out specific scientific methods in law and allow scientific evolutionary progress to continue.

Molecular biology advances are now being used to better describe and understand the basic biology of cells and provide tools to evaluate the effects of chemicals on early cellular processes. Advancements in analytical techniques and data analysis have opened a new level of capability for determining the types and amounts of chemicals we actually encounter in everyday life. Alternative approaches to traditional animal testing are increasingly being developed and used, along with an explosion of high through-put tools that offer key insights, in near “real time,” into a chemical’s intrinsic hazard potential.

The law should ensure that as we scientists learn more, we should be free to apply this new understanding to develop and use new methods and approaches for evaluating chemicals for the protection of public health.

TSCA reform should also ensure that only those government agencies with the appropriate scientific expertise, such as the EPA, shall have the authority to judge when to adopt and how to apply new techniques and methods for generating information for safety and risk assessment within TSCA. Recognizing the potential of the many advances in available tools requires a deep understanding of both the capabilities, as well as the limitations, of the science and the skill to be able to synthesize this information

to make chemical safety decisions.

At its core, TSCA is about protection of human health and the environment through the evaluation and regulation of chemicals in commerce. Evaluation of chemical hazard and risk fundamentally involves toxicological sciences. SOT is deeply committed to providing knowledge and working with all stakeholders so that sound, progressive and protective TSCA legislation will emerge in 2015.

(By Norbert E. Kaminski – Science of Toxicology - 2-9-15)

EPA PROPOSES TO REVISE VOC DEFINITION TO EXCLUDE COMMON SOLVENT

The regulatory definition of volatile organic compounds (VOCs) under the Clean Air Act currently excludes t-butyl acetate (also known as tertiary butyl acetate or TBAC; CAS NO: 540-88-5) for purposes of VOC emissions limitations or VOC content requirements on the basis that it makes a negligible contribution to tropospheric ozone formation. However, the current definition includes TBAC as a VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements which apply to VOCs. The regulatory definition requires that TBAC be uniquely identified in emission reports. TBAC is used as a solvent in paints, inks, and adhesives, in which it substitutes for compounds that are regulated as VOCs. This proposed action would remove recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements related to the use of TBAC as a VOC.

EPA has determined that these requirements are not resulting in useful information. According to the Agency, there is no evidence that TBAC is being used at levels that would cause concern for ozone formation. As these requirements are unnecessary and can be burdensome for states and industry, EPA is proposing to revoke these requirements and exclude TBAC from the regulatory definition of VOCs for all purposes. Note that the EPA is not reconsidering its determination that TBAC is “negligibly reactive” with respect to ground-level ozone formation.

(Environmental Resource Center – 2-9-15)

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PA UPDATES

PENNSYLVANIA FIRM PLAYS KEY PART IN IMPROVING STORMWATER MANAGEMENT

A Pennsylvania Firm in Lancaster County, Dutchland, undertakes the manufacture of precast concrete panels used to improve the infrastructure in the United States. As most RT Review readers are aware, stopping combined sewer overflows into large estuaries is one of our nation's largest environmental challenges.

As shown in the photo, precast panels can be assembled and in Alexandria where sewer discharges occur to the Potomac River, to address nutrients in combined sewer overflows a very large new prefabricated tank which will hold 18 million gallons of wastewater.

Estuaries present a special problem from an environmental water quality standpoint because although tidal movement of water can be substantial, there is no continued

PA UPDATES

- Philadelphia Stormwater Plan Update, pg. 8
- Lancaster County Firm in Major Stormwater Improvement Project, pg. 8

downstream dispersion after discharge of contaminants like there are in non-tidal rivers. For more information about Dutchland you can go to: <http://www.dutchlandinc.com>.



PHILADELPHIA STORMWATER PLAN UPDATE BATTLING STORM RUNOFF – AND OTHER ILLS

Sure, newly planted shrubs and trees can soak up storm water that otherwise would have overwhelmed the sewage system.

Now there is early evidenced that they may improve health and safety as well.

Four years ago, the Philadelphia Water Department launched an innovative – and, at a projected cost of \$2.4 billion, expansive – storm-water plan.

The goal is to pepper the city with a myriad small projects – from rain gardens to manufactured wetlands to green roofs – that will sop up the first inch of rain. When all the projects are completed two decades from

now, no longer will storm water inundate the city's sewers and gush untreated into streams, carrying road oil, raw sewage, and other pollutants.

The impetus was environmental, and cost was a key reason for the design. These days, however when the Water Department officials tout the benefits of the plan they often refer to the “triple bottom line,” saying it has social benefits as well.

Going Green is believed to be far less expensive than the huge underground tunnels that other old cities are building to temporarily hold the water. Some are miles long, as

big as a subway tunnel.

This is a big deal. An emerging form of urban greening is storm-water infrastructure. Philadelphia's concept has been touted as the biggest and most ambitious in the nation. Other cities are watching.

Michelle Kondo, a few years ago, began to study 52 of the city's green storm-water projects. All had been guilty before 2013, as the city was first implementing its plan. Most were very small.

“some of them are just two feet by five

(continued on page 9)

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(continued from page 8)

feet – planters or little rain gardens,” Kondo said. “But they also tend to be in public spaces.”

She and her colleagues, including Penn epidemiologist Charles Branas, who had studied vacant lots, compared the 52 sites with 186 similar areas where projects were planned but not yet built. The factored in socioeconomic data from the census, crime statistics, and health data.

Their results, published in January in the American Journal of Public Health, were an eyebrow-raiser: Between 2000 and 2012, incidents of drug possession at the project sites dropped by as much as 27 percent compared with the control sites.

As far as a half-mile away, “we saw a significant reduction,” Kondo said.

She spoke to police, who interpreted the

findings as roughly parallel to the “broken-windows” model of policing – clean up a community by enforcing laws against vandalism and other petty crimes, disorder will decline, and residents will take more responsibility for their neighborhood. Storm-water projects – living patches of green that are regularly maintained – may signal what the study refers to as a community’s “defensible space”: areas the neighborhood is engaged with and watches over.

Christopher Crockett, the Water Department’s deputy commissioner of planning and environmental services, and widely respected environmental professional, praised the study’s vigor and said it showed “we’re on the right track.”

With the tunnels that other cities have embraced, “all you do is have negative impacts on communities,” Crockett said.

“You dig holes in the ground, you tear up neighborhoods for decades, and the benefits of reduced overflows occur someplace else, near the streams.”

With incremental greening projects, some benefits kick in right away, right there.

What the study did not find, however, remains puzzling. The researchers saw no significant reduction in nondrug crimes, such as assaults or burglaries. Nor did they establish a link to measures of better health among nearby residents, such as lower blood pressure or cholesterol levels.

That may come. The Water Department is still ramping up. Hundreds more projects have been completed or are in the works. Future studies will have more robust data.

(Sandy Bauers – Philadelphia Inquirer – March 1, 2015)

EPA PROPOSES MANDATORY ELECTRONIC REPORTING FOR NEW SOURCE PERFORMANCE STANDARDS

EPA is proposing to revise the 40 CFR 60 General Provisions and various new source performance standards (NSPS) subparts in their regulations to require affected facilities to submit specified air emissions data reports to the EPA electronically and to allow affected facilities to maintain electronic records of these reports. Comments on the proposal may be submitted by May 19, 2015, to Ms. Gerri Garwood, Measurement Policy Group (MPG), Sector Policies and Programs Division (D243-05), Office of Air Quality Planning and Standards, US EPA, Research Triangle Park, NC 27711, 919-541-2406; fax: 919-541-1039; and email: garwood.gerri@epa.gov (Env. Resource Center – 3-23-15)

FLORIDA MOLD ASSESSORS AND REMEDIATORS – NEW PROPOSED RULE

Florida is close to issuing a proposed rule establishing minimum standards and practices for mold assessors and mold remediators. Among other requirements, guidelines are established for remediation of materials with mold growth. There are three types of cleanup methods referenced, including:

- Method 1 – Wet vacuum, or in the case of carpets and upholstered materials steam cleaned;
- Method 2 – Damp-wipe surfaces with water and detergent solution unless the surface is wood. Damp-wipe wood surfaces with wood floor cleaner.
- Method 3 – High Efficiency Particulate Air (HEPA) vacuum after the material has been thoroughly dried. Dispose of the contents of the HEPA vacuum in well-sealed plastic bags. At the conclusion of the mold remediation, the mold remediator shall:
 - (a) HEPA vacuum and then clean, with a damp cloth (or mop) and a detergent, the mold remediation work area as well as access and egress areas;
 - (b) Place the polyethylene sheeting that was used for containment or as surface covers in sealed impermeable plastic bags and remove the bags from the building for disposal;
 - (c) Leave all areas and surfaces dry and visibly free of contamination and debris; and
 - (d) Provide the client with documentation clearly stating the mold remediation has been successfully completed.

There are also requirements regarding furnishing documentation to the customer at the end of the job.

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TECHNOLOGY UPDATES

NEW PUBLICATION

Summary of Treatment Technologies for Mining-Influenced Water. The U.S. EPA Office of Superfund Remediation and Technology Innovation released a report in 2014 that highlights select mining-influenced water (MIW) treatment technologies used or piloted as part of remediation efforts at mine sites. The Reference Guide to Treatment Technologies for Mining-Influenced Water includes short descriptions of treatment technologies and information on the contaminants treated, pre-treatment requirements, long-term maintenance needs, performance, and costs. Sample sites illustrate considerations associated with selecting a technology. Website links and sources for more information on each topic are also included. This online, searchable database lists technologies provided in Appendix A of the Reference Guide to Treatment Technologies for Mining-Influenced Water, which includes summary information for the technologies discussed in the body of the report, as well as additional technologies or products designed as passive or low cost treatment options. View and search technologies at <http://www.clu-in.org/mining/miw>.

CLOTHES DRYERS EARN ENERGY STAR LABEL

Appliances in the home can consume substantial energy but unlike clothes washers, there have not been approvals of dryers under the EPA Energy Star Program. Efficiency specifications for dryers were developed including input from the U.S. Department of Energy, and the Energy Star Program has now certified dryers including gas, electric and compact models.

Dryers use advanced heat pump technology in most instances and are 40% more efficient than conventional models. Widespread use of the new models could save those in the United States \$1.5 billion each year, and electricity use would be reduced by the overall demand used in 1.3 typical American homes.

130 BILLION TONS PER YEAR MELT INTO THE SEA IN ANTARCTICA

Water is eating away at the Antarctic ice, melting it where it hits the oceans. As the ice sheets slowly thaw, water pours into the sea – 130 billion tons of ice per year for the last decade, according to NASA satellite calculations. That's the weight of more than 356,000 Empire State Buildings, enough ice melt to fill more than 1.3 million Olympic swimming pools. And the melting is accelerating.

In the worst-case scenario, Antarctica's melt

could push sea levels up 10 feet worldwide in a century or two, recurring heavily populated coastlines.

Here on the Antarctic peninsula, where the continent is warming the fastest because the land sticks out in the warmer ocean, 49 Billion tons of ice are lost each year, according to NASA. The water warms from below, causing the ice to retreat onto land, and then the warmer air takes over. Temperatures rose 5.4 degrees Fahrenheit in the last half century, much faster than Earth's average, said Ricardo Jana, a glaciologist for the Chilean Antarctic Institute.

In January, scientists noticed in satellite images that a giant crack in an ice shelf on the peninsula call Larsen C had grown by about 12 miles in 2014. Ominously, the split had broke through a type of ice band that usually stops such cracks. If it keeps going, it could cause the breaking off of a giant iceberg somewhere between the size of Rhode Island and Delaware, about 1,700 to 2,500 square miles, said British Antarctic Survey scientist Paul Holland. And there's a small chance it could cause the entire Scotland-size Larsen C ice shelf to collapse like its sister shelf, Larsen B, did in a dramatic way in 2002.

A few years back, scientists figured Antarctica as a whole was in balance, neither gaining nor losing ice. Experts worried more about Greenland; it was easier to get to and more noticeable, but once they got a better look at the bottom of the world, the focus of their fears shifted. Now scientists in two studies use the words *irreversible* and *unstoppable* to talk about the melting in West Antarctica. Ice is gaining in the East Antarctica, where the air and water are cooler, but not nearly as much as it is melting to the west.

"Before Antarctica was much of a wild card," said University of Washington ice scientist Ian Joughin. "Now I would say it's less of a wild card and more scary than we thought before."

What's happening is simple physics. Warm water cats away at the ice from underneath. Then more ice is exposed to the water, and it too melts. Finally, the ice above the water collapses into the water and melts.

Climate change has shifted the wind pattern around the continent, pushing warmer water farther north against and below the western ice sheet and the peninsula. The warm, more northerly water replaces the cooler water that had been there. It's only a couple of degrees warmer than the water that used to be there, but that makes a huge difference in melting, scientists said.

The world's fate hangs on the question of

TECHNOLOGY UPDATES

- Energy Star Clothes Dryers, pg. 10
- Mine-Influenced Water Treatment, pg. 10
- Antarctica Ice Melt, pg. 10
- Window Screen Cleans the Air, pg. 10

how fast the ice melts.

At its current rate, the rise of the world's oceans from Antarctica's ice melt would be barely noticeable, about one-third of a millimeter a year. The oceans are that vast.

But if all the West Antarctic ice sheet that's connected to water melts unstoppably, as several experts predict, there will not be time to prepare. Scientists estimate it will take 200 to 1,000 years to melt enough ice to raise seas by 10 feet, maybe only 100 years in a worst case scenario. If that plays out, developed coastal cities such as New York and Guangzhou could face up to \$1 trillion a year in flood damage within a few decades and countless other population centers will be vulnerable.

(By Luis Andres Henao and Seth Borenstein – Philadelphia Inquirer – 3-1-15)

WINDOW SCREEN CLEANS THE AIR

It would be great if somebody figured out how to filter small particles of pollution from the air. The next best thing would be at least to keep them out of people's lungs.

The first of those goals is a tall order. But researchers at Stanford University have come up with an intriguing approach to the second. Using nanotechnology, they have developed a low-cost filter that captures tiny airborne particles while remaining largely transparent.

The technology, the scientists hope, might someday be used in window screens that would allow light and air to pass through while improving indoor air quality. An added benefit: The technology would function without requiring any energy or costly equipment and duct work.

It's no coincidence that some of the researchers are from China, where rapid industrialization has led to serious air pollution. Yi Cui, a Stanford professor of materials science and co-author of a paper describing the research, said he is struck by the intensity of smog during visits to his native land.

The scientists aimed at particulate matter under 2.5 microns in size—invisible particles small enough to penetrate deeply into the lungs and damage health. Such material is a witch's brew of dust, soot and liquids—organic and inorganic alike—from factories, coal-fired power plants, motor vehicles and heating systems.

Already, some cars and planes are among the users of filters made from extremely tiny

TECHNOLOGY UPDATES *(Continued)*

fibers, whose tiny pores capture particles. Water-filtration systems also use nanotechnology.

Dr. Cui's lab, which has studied the possibilities of such technology in making better batteries and warmer clothing, this time focused on spinning polyacrylonitrile, a substance commonly used in surgical gloves, into extremely slender fibers about a thousandth the diameter of a human hair. These were made into a coating for a mesh screen.

Testing their invention on a bad air day in Beijing last summer, the researchers found that it captured nearly 99% of particulates (dust, soot and other particles that can harm the lungs) while maintaining 77% transparency.

Eventually, the filters lose significant transparency. That's a signal they are heavily laden with particulates, which bond so tightly they can't be washed off. Dr. Cui says the screens should be cheap enough to simply throw away.

Reference: "Transparent Air Filter for High-efficiency PM2.5 Capture," Chong Liu, Po-Chun Hsu, Hyun-Wook Lee, Meng Ye, Guangyuan Zheng, Nian Liu, Weiyang Li and Yi Cui, *Nature Communications* (Feb. 16)

(By Daniel Akst –
Wall Street Journal – 3-1-15)

NEW TECHNOLOGY DIESEL EXHAUST RESEARCH

The Health Effects Institute has collaborative studies underway focused on chronic exposure to new-technology diesel exhaust in rats. The studies are focused on newer engines in which pollutants are reduced by 90%, as compared to older engines. One study found a few mild changes in lungs, consistent with long term exposure to nitrogen dioxide. There was also a finding of no lung cancer, which contrasts with results from previous studies.

(*The Health Effects Institute* – 2-17-15)

NEW WEB RESOURCES

Combining Remedies for More Effective Site Cleanup. These case studies provide examples of the use of multiple technologies to develop remedial approaches that address contamination resulting from the release to the subsurface of non-aqueous phase liquids (NAPLs) and other chemical species. Combining remedy approaches can be a two-part process. The first part ensures that the chosen technology or technologies are the ones best suited for the problem both initially and as the cleanup process evolves.

The second part of the process is observa-

tional. It recognizes that the continued application of a cleanup technology in and of itself changes the subsurface conditions from the conditions that were present when the technology was first applied. Monitoring data need to be evaluated periodically to ensure that the original technology is still the most effective option for the current conditions and is not simply operating as designed. Combined remedies and/or treatment trains are deployed most effectively when the hydrogeological and chemical contaminant conditions in the subsurface are well defined. EPA has developed the Triad approach to gather data more cost effectively and recommends using tools that provide for high-resolution site characterization.

View the case studies at:
<http://clu-in.org/products/combinedremedies/>
(*Tech Direct* – 3-1-15)

Big Ice Melt
in Antarctica . . .
See page 10

CHICAGO CSO STORMWATER CASE DRAWS ATTENTION

Environmental Groups including the Alliance for the Great Lakes and the Natural Resources Defense Council have taken issue with a stormwater pact involving the City of Chicago's Metropolitan Water Resources District. One of the challenges is that the Clean Water Act does not require the elimination of all combined sewer overflows, which is the position of the District.

Environmentalists are contending that a pact to combine several sewage reservoirs and certain "Green Infrastructure" provisions are only "meager".

EPA's Year 2000 Combined Sewer Overflow Control Policy is cited by the District and a Federal District Court will now need to weigh in on the issue.

Further hearings on the issue were expected in February.

CONSERVATION LAW FOUNDATION IN NEW ENGLAND SUING EPA RELATED TO TMDLs

In February 10th letter to the USEPA the Conservation Law Foundation is pushing EPA to issue Discharge Permits that will assure compliance with TMDLs. Environmentalists have sent notices related to lawsuits in Massachusetts and Rhode Island, but there are similar active TMDL Programs elsewhere. There was concern that if the lawsuit meets with success, EPA will have to regulate stormwater and that there will need to be additional controls for stormwater discharges.

We will keep you informed of the outcome of this in the *RT Review*.

NEW YORK STATE BANS FRACKING

New York State officials announced on December 17 that fracking will be banned in New York State due to public health and environmental concerns.

The decision included in an environmental impact statement to be released in 2015.

Neither the final Supplemental General EIS nor the findings statement will be subject to any comments, according to Martens.

“It is clear from the existing literature and experience that HVHF [high-volume hydraulic fracturing] activity has resulted in environmental impacts that are potentially adverse to

public health,” the 184-page study from the Department of Health said. “Until the science provides sufficient information to determine the level of risk to public health from HVHF and whether the risks can be adequately managed, HVHF should not proceed in New York State.”

The public health study identified seven areas of potential concern, including the impact fracking on water, air, soil, and climate change. It also identified concerns about the impact of fracking on earthquakes and community matters such as noise, traffic, and odors.

(em, AWMA – 2-15)

NEW ENERGY EFFICIENCY STANDARDS TO HELP SAVE ENERGY, CUT CARBON POLLUTION

The U.S. Energy Department announced two new energy efficiency standards recently. The new standards for general service fluorescent lamps (GSFLs) and automatic commercial ice makers (ACIMs) are the ninth and tenth standards to be finalized in 2014. Altogether, the ten standards finalized this year will help reduce carbon dioxide emissions by over 435 million metric tons and save American families and businesses \$78 billion in electricity bills through 2030.

Typically used for indoor lighting in homes, commercial establishments such as restaurants, and in industrial factories, GSFLs are used on average for approximately 630 hours per household, 4,000 hours per commercial establishment, and 4,500 hours per establishment in the industrial sector each year. The new standard for GSFLs will help reduce harmful carbon dioxide pollution by 90 million metric tons – equivalent to the carbon pollution from the annual electricity use of more than 12 million homes – and save Americans more than

\$15 billion in electricity bills through 2030.

The standard for automatic commercial ice makers, which provide large volumes of ice that is typically used in soft drinks, ice water, and other beverages, and also to keep fresh fish, salad bars, and other products cold, will help reduce harmful carbon dioxide pollution by 4 million metric tons and save Americans nearly \$600 million in electricity bills through 2030. This equipment is used in a wide variety of locations, including in hotels, restaurants and cafeterias, hospitals, schools, grocery and other retail stores, and office buildings.

Since the beginning of the Obama Administration, the Energy Department has finalized new efficiency standards for more than 30 household and commercial products, including dishwashers, refrigerators and water heaters, which are estimated to save consumers nearly \$480 billion through 2030.

SCOPE OF SERVICES

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- Field Analytical Testing (Volatiles, Metals, PCB's, Gasoline, and Oil Compounds)
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- Asbestos Testing & Abatement
- Lead-Based Paint Testing & Abatement
- Feasibility Studies
- Storm Water Management

BROWNFIELDS/LAND RECYCLING:

- Reuse Plans
- PCB Remediation
- Risk Assessment
- Capping/Paving
- Bioremediation
- Natural Attenuation

OIL & GAS SERVICE:

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- Spill Prevention Control and Counter Measure Plans
- Release Response Act 2 Cleanups
- Permits
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INDOOR AIR QUALITY:

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- Mold Investigations
- IAQ Management Programs
- Mold Remediation

REMEDIATION:

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- Waste/Soil Excavation
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- Bioremediation
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- Thermal Oxidation
- Thermal Desorption
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NJ UPDATES

ROUTINE FLOODING FORECAST IN JERSEY BY 2020, STUDY SAYS

When does the threat of climate change become reality? When does a forecast of sea-level rise become a here-and-now problem?

In a new study, National Oceanic and Atmospheric Administration researchers grappled with that question and defined the "tipping point" as the moment when coastal locations routinely experience at least 30 days of flooding each year.

By that measure, Annapolis, Maryland; Wilmington, North Carolina and Washington are already in trouble. Seven other cities, including Baltimore, Atlantic City, New Jersey and Port Isabel, Texas will be there by 2020. And within the next 35 years, the study says, most cities along the Mid-Atlantic, Gulf and Pacific coasts will be dealing with routine flooding.

It's important to note that this is not storm-related flooding. The NOAA analysis looked at "nuisance flooding" — the inundation of city streets and landmarks by routine high tides — as measured at and projected for NOAA tidal stations with a record stretching back at least 50 years.

Such flooding is already much more common than in decades past, the report's co-author, William Sweet, an oceanographer at

NOAA's Center for Operational Oceanographic Products and Services, said in a statement, adding: "This is due to sea level rise."

The analysis was published Thursday in the American Geophysical Union's online journal, *Earth's Future*.

(by Lori Montgomery – Washington Post, 12-21-14)

STATE GEOLOGIC MAP GETS AN UPDATE USING LATEST DATA

A map detailing geologic formations across New Jersey has been updated with the latest science and mapping information, the state Department of Environmental Protection said. It commemorates a map first published more than a century ago.

The new poster-size map was developed by the DEP's New Jersey Geological and Water Survey and will be useful to geology buffs as well as engineers, well drillers, planners, educators, and other professionals.

"Right beneath our feet is a rich, complex story of geology going back a billion years," said state geologist Karl Muessig. "Printed on quality poster-size paper, the new Bedrock Geologic Map of New Jersey features high-end graphics that will shed new light and detail on the many geologic forma-

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- Routine Flooding by 2020, pg. 13
- State Geologic Map Update, pg. 13

tions that stack up like layer cake thousands of feet thick beneath our state."

The vintage 1914 map had been in demand but out of print for many years, despite reprintings by state geologists Henry B. Kummel in 1931, Meredith E. Johnson in 1950, and Kemble Widmer in the early 1960s.

The new map was compiled with data from a cooperative mapping program between the NJGWS and the U.S. Geological Survey. It was produced by a team of geologists including Richard Dalton, Donald Monteverde, Peter Sugarman, and Richard Volkert.

This latest publication continues the organization's 180-year mission to provide important information about earth science.

For more details about the map, go to www.philly.com/bedrock_map.

To buy a copy of the map, which costs \$20, including shipping, go to : www.philly.com/buy_map.

(By Edward Colimore – Philadelphia Inquirer – 4-6-15)

ISOLATED WETLANDS COURT DISPUTE GETS ATTENTION

A Clean Water Act suit involving a housing development site in Texas appears to turn on whether Prairie Potholes should be considered jurisdictional under the Clean Water Act. A question has arisen as to whether the potholes share a "significant nexus" to downstream waters.

Although environmentalists argue that the

potholes have a significant nexus to downstream waters, a question has also arisen as to whether there is federal regulation as there apparently is no nexus to interstate commerce according to the Corps of Engineers.

We will keep you informed on the outcome of this case.

PROPOSED DRUG TAKE-BACK LAW IS CONTROVERSIAL

A "Drug Take-Back" law has been proposed in the United States to help assure that drugs which are not sold or which pass the "expiration date" shown on the packaging are properly managed. The Pharmaceutical Research and Manufacturers of America have filed an Amicus Brief asking that such a law is not permitting under the Constitution's Commerce Clause. The law was passed by Alameda County in California which is controversial because it is described as "extending producer responsibility".

Further it is being stated that Supreme Court has long held that under the Dormant Commerce Clause, state and local governments have "no power to protect" their legislation into other jurisdictions, and they therefore can't regulate commerce that takes place wholly outside their borders". We will keep you informed of developments on this important case in the *RT Review*.

PENNSYLVANIA BULLETIN NOTICES

12-13/14 - The Department of Environmental Protection published notice of an opportunity to comment on a draft technical guidance related to the beneficial use of coal ash at coal mines
12/13/14 – DEP published notice of proposed changes to the state Air Quality Implementation Plan related to Lyons Nonattainment Area in Berks County for lead. A public hearing will be held January 12 in Room 105 Rachel Carson Building, Harrisburg, Starting at 10:00
12/13/14 – DRAFT: DEP ID: 563-2112-228. Title: Guidelines for the Beneficial Use of Coal Ash at Coal Mines. Description: This guidance explains new requirements for the beneficial use of coal ash under the provisions of 25 Pa. Code Chapter 290 (relating to beneficial use of coal ash). It clarifies implementation of new requirements in areas such as water monitoring, ash quality monitoring and certification of coal ash sources.
12/20/14 – The Department of Environmental Protection published notice asking for comments on two draft technical guidance documents: An interim final policy implementing Act 162 of 2014 related to stream buffer requirements in special protection and other watersheds and a revised clean fill policy.
12/20/14 – DEP published a separate notice December 20 announcing the availability of the stream buffer options under Act 162.
12/20/14 – DRAFT: DEP ID: 310-2135-001. Title: Implementation Plan for Act 162 of 2014. Description: This interim final policy provides guidance on the Department's interpretation of Act 162 of 2014, related to regulatory requirements for riparian buffers or riparian forest buffers.
12/27/14 – PROPOSED: DEP ID: 563-2000-301. Title: Use of Reclamation Fill at Active Noncoal Sites. Description: This guidance describes the process of and conditions in which the Department may permit the use of certain fill materials (deemed "Reclamation Fill") obtained from an off-site source in the reclamation plan of an active noncoal mine site. This revised version, drafted in cooperation with the Pennsylvania Aggregate and Concrete Association, replaces the previously published version. Changes were made to Appendix A. After consultation with the Department's Land Recycling Program, the derived tables in 25 Pa. Code Chapter 250 (relating to administration of land recycling program).
1/3/15 – The Department of Environmental Protection published notice of final technical guidance on Coordinating Immediate Responses and Final Remediation of Releases under the Land Recycling Program and a draft technical guidance on Designation Criteria for Regulated Small Municipal Separate Storm Sewer Systems (MS4).
1/3/15 – FINAL: DEP ID: 260-0500-001. Title: Policy for Coordinating Immediate Responses and Final Remediation of Releases of Regulated Substances. Description: This policy summarizes how the Department oversees immediate responses and final remediation of releases of regulated substances. The purpose of the policy is to facilitate the consistent investigation of and the response to releases of regulated substances and to coordinate immediate and final responses in accordance with the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101 –6026.908). Contact: Rand Roush, 717-787-1566 or send email to: rroush@pa.gov.
1/3/15 – DRAFT: DEP ID: 385-0820-001. Title: Designation Criteria for Regulated Small Municipal Separate Storm Sewer Systems (MS4). Description: This technical guidance is for identifying the criteria that the Department uses in designating regulated small MS4s. It describes in more detail automatic designation, designation by the Department with a required evaluation, designation by interconnection, designation by petition and designation of "nontraditional MS4s." This technical guidance is necessary to provide documentation of the designation criteria. The guidance will serve as a clarification of the procedures that the Department follows to designate a regulated small MS4. By providing a guidance document, the Department can work in cooperation with the potential MS4 communities and "nontraditional" MS4s which may be introduced into the Environmental Protection Agency Phase II Stormwater Program. The guidance will also serve as a public education tool in describing the process of how MS4s will be designated.
1/17/15 - The Department of Environmental Protection published notice in the January 17 PA Bulletin of the final modifications to the Air Quality General Plan Approval for Natural Gas Compression and Processing Facilities (BAQ-GPA/GP-5) which included- <ul style="list-style-type: none"> – Removal of the 100,000-ton per year greenhouse gas emissions applicability threshold for the use of GP-5. – Clarifying that the Applicability/Scope of GP-5 applies to all types of natural gas-fired compressors. – Addition of an annual compliance certification requirement signed by a Responsible Official. – Clarifying that EPA Method 323 is the appropriate test method to determine formaldehyde emissions. – Deletion of references to 40 CFR Part 63, Subpart HH (relating to National emission standards for hazardous air pollutants from oil and natural gas production facilities). The draft changes to GP-5 were published for comment in the November 15 PA Bulletin.
2/14/15 – The Governor's Office formally published a copy of Executive Order 2015-03 imposing a moratorium on further leasing of State Park and Forest Lands for oil and gas development.
2/21/15 - The Department of Environmental Protection published notice of draft technical guidance on the Acid Mine Drainage Set-Aside Program. DRAFT: DEP ID: 370-5500-001. Title: Acid Mine Drainage Set-Aside Program: Program Implementation Guidelines. Description: This document establishes uniform procedures to ensure that the Acid Mine Drainage Set-Aside Program is implemented in a scientifically sound and cost-effective manner to maximize the stream miles restored with the funds available. The document, initially drafted in 2009, was reevaluated and revised, and will be finalized after receipt and consideration of public comments.
2/28/15 – The Department of Environmental Protection published notice of 2015 allocation of nitrogen oxide and sulfur dioxide allowances.
2/28/15 – DEP also published notice of a federal Coastal Zone Management consistency determination concerning a notice by the National Marine Fisheries Service of changes to the Guidelines for National Standard 1, 3 and 7.
2/28/15 – The Fish and Boat Commission published notice of changes to the List of Wild Trout Streams and List of Class A Wild Trout Waters.
2/28/15 – The Department of Environmental Protection published notice of bond rate guidelines for calculation of land reclamation bonds and notice of rates to be used for calculating long-term operation and maintenance for replacement water supplies.
2/28/15 – DEP also published notice rescinding and withdrawing a number of enforcement related technical guidance documents relating to the Clean Streams Law.
3/21/15 - The Department of Environmental Protection published notice March 21 of two proposed technical guidance documents implementing the Act 162 stream buffer requirements law- --DEP ID: 310-2135-002. Title: Riparian Buffer or Riparian Forest Buffer Equivalency Demonstration. Description: This interim final technical guidance document outlines the equivalency demonstration criteria and process related to the riparian buffer or riparian forest buffer equivalency demonstration required by -- DEP ID: 310-2135-003. Title: Riparian Buffer or Riparian Forest Buffer Offsetting. Description: This interim final technical guidance document outlines the offsetting criteria and process related to the riparian buffer or riparian forest buffer offsetting required by Act 162.
4/4/15 - The Department of Environmental Protection published notice of an alternative option to comply with nitrogen oxide emission limit requirements for non-electric generating units, including the right to appeal recent allocations of credits.
4/4/15 - DEP also published notice of proposed technical guidance dealing with community and transient non-community drinking water systems.

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

EPA Final Rule: The Environmental Protection Agency (EPA, or the Agency) is publishing a final rule that revises several recycling-related provisions associated with the definition of solid waste used to determine hazardous waste regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA). The purpose of these revisions is to ensure that the hazardous secondary materials recycling regulations, as implemented, encourage reclamation in a way that does not result in increased risk to human health and the environment from discarded hazardous secondary material.

(Federal Register – 1/13/15)

Proposed Rule: National Emission Standards for Aerospace Manufacturing and Rework Facilities Risk and Technology Review

(Federal Register – 2/17/15)

Proposed Rule: Clean Water Act Methods Update Rule for the Analysis of Effluent - EPA proposes changes to pollutant analysis methods that are used by industries and municipalities to analyze the chemical, physical, and biological components of wastewater and other environmental samples that are required by regulations under the Clean Water Act. EPA designed the proposed changes to increase flexibility for the regulated community, improve data quality, and update CWA methods to keep current with technology advances and analytical methods science. EPA updates and revises the CWA analytical methods from time to time, the most recent updates being completed in 2012. The new set of proposed changes described in this notice include revisions to current EPA methods and new and/or revised methods published by voluntary consensus standard bodies, such as ASTM International and the Standard Methods Committee. EPA also proposes to approve certain methods reviewed under the alternate test procedures program and clarify the procedures for EPA approval of nationwide and limited use alternate test procedures. Further, EPA proposes amendments to the procedure for determination of the method detection limit to address laboratory contamination and to better account for intra-laboratory variability.

(Federal Register – 2-19-15)

Final Rule: Revisions to the Air Emissions Reporting Requirements: Revisions to Lead (Pb) Reporting Threshold and Clarifications to Technical Reporting Details - This action finalizes changes to the Environmental Protection Agency's (EPA) emissions inventory reporting requirements. This action lowers the threshold for reporting lead (Pb) emissions sources as point sources, eliminates the requirement for reporting emissions from wildfires and prescribed fires, and replaces a requirement for reporting mobile source emissions with a requirement for reporting the input parameters that can be used to run the EPA models that generate emissions estimates. Direct Final Rule: Amendments Related to: Tier 3 Motor Vehicle Emission and Fuel Standards, Nonroad Engine and Equipment Programs, and MARPOL Annex VI Implementation

(Federal Register – 2/19/15)

Decision on Petition for Rulemaking: Petition to Initiate Rulemaking; Use of Explosives on Surface Coal Mining Operations.

(Federal Register – 2/20/15)

Proposed Rule: Request for Information to Improve the Health and Safety of Miners and to Prevent Accidents in Underground Coal Mines

(Federal Register – 2/26/15)

Final Rule: Pipeline Safety: Miscellaneous Changes to Pipeline Safety Regulations

(Federal Register – 3/11/15)

Final Rule: Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces

(Federal Register – 3/16/15)

Final Rule: National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations - This action finalizes the residual risk and technology review (RTR) conducted for the Off-Site Waste and Recovery Operations (OSWRO) source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, the Environmental Protection Agency (EPA) is finalizing amendments to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown and malfunction (SSM); add requirements for reporting of performance testing through the Electronic Reporting Tool (ERT); revise the routine maintenance provisions; clarify provisions pertaining to open-ended valves and lines (OELs); add monitoring requirements for pressure relief devices (PRDs); clarify provisions for some performance test methods and procedures; and make several minor clarifications and corrections.

(Federal Register – 3/18/15)

EPA Proposed Rule; Amendments: Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards - Proposed Rule; Amendments The Environmental Protection Agency (EPA) is proposing to revise the part 60 General Provisions and various new source performance standards (NSPS) subparts in our regulations to require affected facilities to maintain electronic records of these reports.

(Federal Register – 3/20/15)

Proposed Rule: Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements. The Environmental Protection Agency (EPA) is proposing requirement that state, local and tribal air agencies would have to meet as they implement the current and future national ambient air quality standards (NAAQS) for fine particulate matter (PM 2.5). Specifically, this notice provides details on how the EPA proposes that air agencies meet the statutory state implementation plan (SIP) requirements that apply to areas designated nonattainment for any PM 2.5 NAAQS, such as: general requirements for attainment plan due dates and attainment dates; emissions inventories; attainment demonstrations; provisions for demonstrating reasonable further progress; quantitative milestones; contingency measures; and nonattainment New Source Review (NNSR) permitting programs, among other things. This proposed rule clarifies the specific attainment planning requirements that would apply to PM 2.5 NAAQS nonattainment areas based on their classification (either Moderate or Serious), and the process for reclassifying Moderate areas to Serious. Additionally, in this notice, the EPA is proposing to revoke the 1997 primary annual standard because the EPA revised the primary annual standard in 2012. The EPA first established the PM 2.5 NAAQS in 1997, completed a review of those standards in 2006, and most recently completed a review of the PM 2.5 NAAQS on December 14, 2012.

(Federal Register – 3/23/15)

Proposed Rule: Oil and Natural Gas Sector: Definitions of Low Pressure Gas Well and Storage Vessel

(Federal Register - 3/23/15)

Final Rule: National Emission Standards for Hazardous Air Pollutants: Coal – and Oil-Fired Electric Steam Generating Units: On November 19, 2014, the Environmental Protection Agency (EPA) proposed amending certain reporting requirements in the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units (Mercury and Air Toxics Standards (MATS)) rule. This final rule amends the reporting requirements in the MATS rule by temporarily requiring owners or operators of affected sources to submit certain required emissions and compliance reports to the EPA

(Federal Register – 3/24/15)



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