

# The RT Review

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## FEDERAL JUDGE THOMAS VARLAN FINDS TVA NEGLIGENT IN COAL ASH DISPOSAL FACILITY OPERATION; GARY BROWN'S TESTIMONY CITED IN OPINION

During one of the world's worst environmental disasters, millions of tons of coal ash flowed from a Tennessee permitted disposal facility in 2008, into wetlands, embayments, onto private residential property, and the Emory and Clinch Rivers in Tennessee. After being retained by the Law Firm of Villari, Brandes and Gianone in Conshohocken, Pennsylvania, Gary Brown, RT's President, visited the site, and the RT Team reviewed documents going back to expansions of the coal ash facility, dating to the 1970s.

RT prepared an expert report, and Gary Brown delivered testimony in federal court. Mr. Brown used his environmental management experience, as well as his experience in the design, management and operation of waste facilities, as a basis for his testimony.

Items of key concern at the TVA facility included:

- Promises to the State Regulatory Agency – TDEC, to monitor water levels on all slopes at the wet coal ash disposal facility were not met.

- TVA made statements to TDEC that the wet material would consolidate, between divider berms, but in one instance, a key divider berm was simply filled over. This means that the coal ash placed in the facility could not dry between pumping cycles, increasing pressure on perimeter berms.

- TVA first promised to keep the facility dry, and not pond water, near berms, but later a technique called "rim ditching" was used, wherein berms were built out of the coal ash material, and wet ditches constructed right next to the outer berms.

Consultants including Worley Parsons and Geosyntec, studied and made recommendations regarding slope failures which occurred at the facility, but despite there

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## SWITCH TO NATURAL GAS FUELS LEADS TO BIG REDUCTION IN CARBON EMISSIONS

Picking up on a smaller year to year net emissions change from 2008 to 2009, greenhouse gas/carbon dioxide releases into the atmosphere more recently have fallen to a 20-year low in the U.S. The surprising disclosure, which came from a little-noticed U.S. Energy Department report, was attributed by government officials to power plant operators switching to cheap and plentiful natural gas from coal. Many of the world's leading climate scientists didn't see the drop coming, apparently because it happened due to market forces rather than direct government action against carbon dioxide, a heat-trapping gas. "There's a very clear lesson here. What it shows is that if you make a cleaner energy source cheaper, you will displace dirtier sources," said a University of Colorado climate expert.

Michael Mann, director of the Earth System Science Center at Penn State University, said the shift away from coal is reason for "cautious optimism" about potential ways to deal with climate change. He said it demonstrates that "ultimately people follow their wallets" on global warming.

While conservation efforts, the lagging economy and greater use of renewable energy are factors in the CO2 decline, the drop-off is due mainly to low-priced natural gas, the agency said.

Both government and industry experts said the biggest surprise is how quickly the electric industry turned away from coal. In 2005, coal was used to produce about half of all the electricity generated in the U.S. The Energy Information Agency said that fell to 34 percent in March, the lowest level since it began keeping records nearly 40 years ago.

The question is whether the shift is just one bright spot in a big, gloomy picture, or a potentially larger trend.

Coal and energy use are still growing rapidly in other countries, particularly China, and CO2 levels globally are rising, not falling. Moreover, changes in the marketplace — a boom in the economy, a fall in coal prices, a rise in natural gas — could stall or even reverse the shift. For example,

U.S. emissions fell in 2008 and 2009, then rose in 2010 before falling again last year.

The International Energy Agency said the U.S. has cut carbon dioxide emissions more than any other country over the last six years. Total U.S. carbon emissions from energy consumption peaked at about 6 billion metric tons in 2007. Projections for this year are around 5.2 billion, and the 1990 figure was about 5 billion.

*(Associated Press/SF Chronicle –  
8/17/2012)*

A few comments from readers:

- The report does not take into account the number of coal fueled power plants that have upgraded to cleaner burning technology and better air emissions control. It seems to only dirty coal burning plants are those that are using air pollution credits. When those credits are taken away from those companies, they too will upgrade or convert to another energy source.

- Don't underestimate the role of regulation in this, the cost of complying with SO2 reduction, mercury emission reduction etc. is significant ... plus the handwriting is on the wall requiring CO2 sequestration, all of which makes natural gas more economical by comparison.

Market forces are the best way to address g.w., but the market needs to reflect true costs ... a typical coal fired plant emits more radiation than a well-functioning nuclear plant, for example, and that's not even accounting for radon released in mining, a big problem in some parts of the country.

Factor in those health costs and similar and then coal is a disaster . . . if you've ever been to a coal producing region, you'd have to be blind not to see that.

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## RT STAFF AND PROJECT NEWS

RT's professional staff is very busy, as we now have 45 sites in the New Jersey Licensed Site Remediation Professional Program. Gary Brown, RT's President, obtained his permanent L.S.R.P. License during the summer.

Current projects include:

- A former drum reconditioning facility in Camden County.
- A former quarry with non-native fill backfill, also in Camden County.
- A site with large historic oil releases, in Morris County.
- A commercial strip center with releases of petroleum constituents and perchlorethylene, near a day care facility, in Camden County.
- A former petroleum station ground water cleanup site being redeveloped for educational use in Atlantic County.
- No. 2 Petroleum Oil release site in Hudson County.
- Two former commercial sites with historic fill in Cumberland County.

RT ramped-up on all of the New Jersey requirements under the extensive remediation rulemaking changes which became effective on May 7th. All key RT Technical Staff attended NJDEP final rule training at Rutgers University in late Spring, and this is backed by topic-by-topic internal RT training for RT New Jersey staff members including Glenn Graham, Chris Ward, Jacci Evans, Cortney Savidge, Ahren Ricker, and Lisa Nocco.

Other projects include:

- Justin Lauterbach and Chrissie Lee were completing an Act 2 assignment involving a former coal gas manufacturing site being redeveloped for educational purposes, at a site in Washington, Pennsylvania.
- Josh Hagadorn was busy at work on large-scale remediation projects, including a landfill site being closed in Phillipsburg, New Jersey, and a river-front site in Salem County where indus-

trial buildings were being demolished, asbestos abated and the site capped.

- Craig Herr and Walter Hungarter were at work updating the overall conceptual model for the Henderson Road site as well as addressing vapor concerns.

- Tony Alessandrini was undertaking a series of asbestos abatement projects, in Southeastern Pennsylvania, and also at sites in Northern New Jersey and Southern New Jersey.

- Gary Brown, RT's President, was receiving accolades from government, collegiate, and private sector officials for his expert work in federal court on the 2008 Christmas time TVA coal ash spill, which is considered one of the world's worst environmental disasters of its kind. Intensive review of environmental documents at the coal ash disposal site adjacent, to power plants in Kingston, Tennessee was completed to reach opinions on environmental standard of care, not following permit requirements, and making promises to a state regulatory agency that were not kept. The Court ruled that the Tennessee Valley Authority was negligent when 5 million cubic yards of coal ash were released, substantial quantities of which flowed into the Emory and Clinch Rivers, tributaries to the Mississippi and Tennessee Rivers. Unfortunately, about 500,000 cubic yards remain in the bottom of the Emory and Clinch Rivers.

In 2011 and 2012, RT has seen a substantial rise in stormwater litigation, and we now have many projects under our belts, including stormwater work at Pennsylvania sites along two tributaries along the Delaware River, and at Susquehanna River sites near Harrisburg, and in the Pennsylvania northern tier. At RT Review press time, we were also retained for expert work at a site in Eastern Virginia, along the Washington D.C. Beltway.

As always, RT appreciates the opportunity to be of service to our clients.

Gary Brown, President

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## SWITCH TO NATURAL GAS FUELS LEADS TO BIG REDUCTION IN CARBON EMISSIONS

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• This is good news for our nation, except California, which already uses mostly natural gas for electrical energy. It is too bad that it is outlawed to modify your own vehicle engines in our state to natural gas or LP gas. Then we can clean up our atmosphere as well. It is hard to understand the logic of our state leg-

islature. May be they have not found a way to tax it, without the vote of the people, so they will stop the people from creating their own innovation. We are not free in California.

• There's a very clear lesson here. What it shows is that if you make a cleaner energy source cheaper, you will displace dirtier

sources," said Roger Pielke Jr., a climate expert at the University of Colorado.

Old Roger, He's a real rocket scientist. Imagine that, people act in their own self-interest!

• Too bad China and India are canceling out everything we do, and then some.

## FEDERAL JUDGE THOMAS VARLAN FINDS TVA NEGLIGENT IN COAL ASH DISPOSAL

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being consultants who came and went, even when water level data was collected on an ongoing basis at locations where slope failures had already occurred, no competent professional engineering review of the data on an ongoing basis was apparently completed. It was also found, based on discovery and testimony from other experts, that although annual inspections were conducted by professional engineers, there was no training, recommendations were not followed-up on, much of the information in the reports on annual inspections was

simply copied from year to year.

A vast majority of disposal facilities in the United States, which have state environmental program oversight, operate safely, and have in depth monitoring, to assure lack of impact to groundwater, human health and the environment. Unfortunately, detailed review of the history of the facility in Kingston showed lack of concern and/or disregard, of sound environmental engineering and management programs for landfill facilities as well as disregard of: promises made to the state environmental agency, TDEC; recom-

mendations by TVA's own consultants; and permit requirements.

Federal Judge Thomas Varland's Opinion, which is 130 pages in length, was very detailed, and well thought out, given the very large volume of documents produced during the discovery process, and extensive testimony provided.

If one takes the time to read the Findings in Judge Varlan's Opinion, one would question whether TVA should be considered qualified to hold environmental permits for land disposal facility operations.

Gary Brown

## BUILDERS GET EXTRA TIME TO USE PERMITS IN PA AND MAYBE NEW JERSEY

The Pennsylvania Permit Extension Law has been renewed, giving residential and commercial developers some extra relief as the economy slowly continues to come out of recession.

In New Jersey, a similar law is awaiting a signature from Governor Christie.

The renewed act in Pennsylvania will give developers who have obtained nearly any kind of state or local permit, whether it's building, water, sewer or road, until July 2, 2016, to break ground on a project or use that permit without having to secure a new one. Governor Tom Corbett signed the act into law.

The Pennsylvania Homebuilders Association pushed for extending the measure. It was signed into law in 2010, and under that, if a permit was valid on Jan. 1, 2009, it was automatically extended until July 2, 2013. It was implemented so a developer wouldn't have to go through the approval and entitlement process again.

"When that was adopted, there was hope that by 2013 real estate would be moving again," said John C. Snyder, a real estate lawyer with Saul Ewing.

It became apparent that 2013 was not enough time to complete the work under the existing permits. "Development is still not moving forward and money is still not available," Snyder said.

The law addresses several issues. It gives developers a cushion of time for the economy to pick up and support new construction. It will protect the value of development parcels and preserve the tax rates on those sites since approved land is taxed at a higher amount. It also assures sites will be shovel-ready when development financing returns, and helps the building trades have members at the ready to fill jobs when a project is kicked off.

The extension offers some help for builders, but it's not perfect. "It's a big deal except it has one big hole," Snyder said. "It doesn't apply to approvals issued to comply with federal law."

The Pennsylvania legislature in modeled after a law passed in

New Jersey in 2008. At the time, permits issued in the Garden State that were in effect in January 2007 were extended by two years to 2010 and then extended again to the end of this year.

"Now we're coming up on that," said Jason R. Tuvel, a land development attorney at Gibbons.

New Jersey lawmakers have signed off on a two-year permit extension with a new expiration set at December 31, 2014, Tuvel said. It sits on Governor Chris Christie's desk waiting for his signature.

Different permits expire at different times and during the period they are valid, they are protected from zoning, subdivision or other changes that may have taken place. Now, development projects would not be subject to new regulations, including planning or zoning changes that have been implemented between the time a permit was issued or expired.

The New Jersey Chapter of the Sierra Club called the state's permit extension act "worse than ever" and said it takes the sides of developers rather than considering environmental ramifications.

The act allows "builders to evade updated environmental protections," the group said. "This legislation is even worse than before because it includes the Highlands and Pinelands and the 'Dracula Clause,' which would bring back bad projects where permits and approvals have expired. With this bill we will see increased flooding, water pollution, and other environmental problems. The Barnegat Bay, the Highlands, and Pinelands will be the hardest hit by this legislation."

In Pennsylvania, the homebuilders association wanted a five-year extension around but instead got three.

"Hopefully, when this expires in 2016, we're good and rolling again," said Fadullon of the BIA. "It's a little up in the air where we are headed.

(By Natalie Kostelni, Philadelphia Business Journal, 7/20/12)

## FEDERAL REGULATORY UPDATES

### NEW VAPOR INTRUSION PATHWAY – REPRIORITIZING SUPERFUND CLEANUPS?

EPA says its upcoming rule adding vapor intrusion from underground sources of contamination as a pathway for determining whether a site should be placed on the Superfund National Priorities List (NPL) is likely to reprioritize its cleanup program toward those sites because they may pose a higher risk than other sites without such pathways.

The rulemaking would update the agency's Hazard Ranking System (HRS), the scoring system used to evaluate whether sites qualify for the NPL, to allow sites to be placed on the NPL solely for vapor intrusion – a move supported by environmentalists and some states but opposed by industry and the Defense Department (DOD), who argued last year that the NPL process is not well suited to addressing toxic vapor sites (Superfund Report, April 18, 2011).

The agency last year asked for public comment on whether to include a vapor intrusion component in the HRS, and the EPA fiscal year 2013 National Program Manager's Guidance for the Office of Solid Waste & Emergency Response (OSWER), released April 27, says the agency plans to move ahead with a formal rulemaking.

"In order to reflect the science that evolved over the past two decades and to protect public health, in FY 2013, EPA will continue to move forward to add this pathway to the HRS," the program manager's guide says, "The EPA does not expect that this addition will result in additional site assessments being conducted per year. However, because subsurface intrusion sites have the potential to pose a higher level of risk than other exposure routes, EPA expects that there will be a realignment and reprioritization toward subsurface intrusion evaluations."

Elsewhere in the guidance, EPA includes adding a vapor intrusion pathway to the HRS as one of "several significant rulemakings" the agency plans to make progress on in FY13. The other rulemakings include the revised definition of solid waste for hazardous secondary materials, standards for coal combustion residues and financial assurance requirements under the Superfund law.

Adding vapor intrusion as a pathway would be the first time since 1990 that EPA has updated the HRS. The move could add 37 new sites to the NPL, according to a 2010 Government Accountability Office report that said that EPA was failing to adequately address vapor intrusion. The HRS uses information from preliminary assessments and site inspection to assess the relative potential of sites to pose a threat to human health or the environment. The NPL is designed for the

highest priority sites that need long-term remedial action.

The move to potentially add vapor intrusion sites to the NPL comes as the agency is being forced to reprioritize its Superfund activities in light of budget cuts to the program. As part of EPA's FY13 budget request, the Superfund remedial program absorbed more than \$33 million in cuts from the FY12 enacted budget, a reduction that comes after the agency absorbed more than \$40 million in cuts to the budget in FY12, the FY13 program manager's guidance says.

*(Superfund Report, 5/14/2012)*

### EPA REVISES NEW SOURCE PERFORMANCE STANDARDS FOR NITRIC ACID PLANTS

EPA issued a final rule revising New Source Performance Standards (NSPS) for nitric acid plants. Under the revised standards, new, modified, and reconstructed nitric acid plants are required to meet a nitrogen oxides (NOX) limit of 0.50 lb NOX per ton of nitric acid produced, calculated using a 30-day average emission rate.

The revised limit also applies during periods of startup, shutdown, and malfunction. In addition to meeting the revised NOX limit, sources are required to install, calibrate, maintain, and operate continuous emission monitors to measure NOX. EPA is not taking final action to establish a limit for greenhouse gas (GHG) emissions under the revised NSPS, but encourages nitric acid plants to consider technologies that reduce both NOX and nitrous oxide (N<sub>2</sub>O).

*(Environmental Resource Center, 5/21/2012)*

### EPA, INDUSTRY SEEK DATA MONITORING PACT FOR KEY PLASTICS INGREDIENT

EPA is entering negotiations to gain more data on certain siloxane chemicals – data which could be used in crafting risk assessments for the chemicals – the latest move by the agency as it attempts to better regulate the plastics ingredient that has proven problematic because of its potential benefits in medical devices and other applications.

In the May 24 Federal Register, EPA announces that it is seeking to "negotiate an enforceable consent agreement (ECA) to collect certain environmental monitoring data on octamethylcyclotetrasiloxane (D4) and decamethylcyclopentasiloxane (D5) with the Silicone Environmental Health and Safety Council (SEHSC) and other stakeholders in an effort to create "efficient means of developing the data."

EPA is hosting a June 27 public meeting to allow other stakeholders to participate in the negotiations over the agreement, according to the notice.

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- Rail Car Special Permits, pg. 5
- Landfill Air Standards, pg. 6
- EPA TCE Limit, pg. 6

SEHSC, the industry trade association, has already proposed a model consent decree to EPA that would govern an environmental monitoring and data disclosure program. "Under the proposed Environmental Monitoring Program, monitoring will be conducted at four locations that correspond to D4/D5 [manufacturing sites owned/operated by SEHSC member companies that are direct dischargers of process wastewater. At each of the designated locations, there will be two sampling events involving the collection and analysis for D\$ and D% effluent at the [manufacturing] site's outfall and in sediment, surface water, and biota (benthic and fish species) in the receiving waters," according to a March 1 letter to EPA. Monitoring programs will also be conducted at a handful of municipal wastewater treatment plants (WWTPs).

EPA has crafted similar monitoring agreements in the past, including a 2005 agreement with manufacturers of perfluorooctanoic acid, a chemical with broad application in consumer products.

D4 and D5 are both forms of silicone plastics that are high production volume chemicals and have uses in a slew of industrial, commercial and consumer products including personal care products, sealants and adhesives, among others. But many regulators are concerned over the chemicals' potential neurological and developmental harms.

EPA has long sought to require more testing and greater oversight of siloxanes. In 2010, officials proposed a chemical action plan to better regulate siloxanes under its existing Toxic Substances Control Act authority. However, the proposal drew significant opposition from industry and other groups, which charged it would impose a significant burden given the chemicals' wide range of applications, including in manufacturing, medical devices production and the aerospace industry.

*(Superfund Report, 5/28/2012)*

### HIGH COURT RAISES BAR FOR CRIMINAL PENALTIES IN ENVIRONMENTAL CASES

The Supreme Court has ruled that juries, not judges, must set limits for criminal penalties in cases brought under the Resource Conservation & Recovery Act (RCRA), setting a higher bar for EPA as it seeks to enforce fines on polluting companies under a host of environmental laws.

In a 6-3 decision in the case, *Southern Union Company v. USA*, the justices agreed

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with the company, the U.S. Chamber of Commerce and defense lawyers that a prior court precedent requiring prosecutors to obtain jury rulings when seeking enhanced sentencing should also apply to criminal penalties.

“The Sixth Amendment reserves to juries the determination of any fact, other than the fact of a prior conviction, that increases a criminal defendant’s maximum potential sentence,” the majority said in its ruling. “We have applied this principle in numerous cases where the sentence was imprisonment or death. The question here is whether the same rule applies to sentences of criminal fines. We hold that it does.”

By applying jury sentencing to enhanced criminal fines, the court is setting a much higher bar for prosecutors to meet in seeking penalties. While judges make determinations based on the preponderance of evidence, juries are held to the “beyond a reasonable doubt” standard, which is considerably more burdensome.

The case could also force the government in environmental pollution cases to prove that the discharge occurred on each of the alleged days, a higher standard than the current bar of proving that a discharge occurred in a certain period of time.

While the case at issue considered actions under RCRA, industry lawyers have argued that the ruling could also have a bearing in water pollution, toxic substances and mineral mining cases, whose governing statutes are similar to the waste management law.

Industry and other lawyers said the ruling will now require government lawyers to prove to juries the facts necessary to justify the penalties they are seeking. “In the future that’s going to have a significant impact on the way cases are charged and prosecuted, and it’s going to pose a burden on the government to prove the size of the fine, and make it potentially more difficult to obtain very high fines because it appears the government would have to prove how many days of violation there were,” one source says. In the past, the government was tasked with showing that a violation occurred over a certain time frame, so the ruling sets a much higher burden of proof, the source adds.

The source says the ruling could also change how the government seeks criminal fines, pushing them toward seeking retribution under the Criminal Fines Act – which allows prosecutors to obtain twice the cost of damage from the violation – instead of under the per-day fine system of many environmental statutes. “You might see [the government] use the alternative fines provisions even more, but they would still have to prove that the loses were...and those are facts that would have to be proven at trial instead of to a judge during sentencing.”

*(Superfund Report, 6/25/2012)*

### NEW EMISSION STANDARDS FOR AIRCRAFT AND AIRCRAFT ENGINES

EPA is adopting several new aircraft engine emission standards for oxides of nitrogen (NOX), compliance flexibilities, and other regulatory requirements for aircraft turbofan or turbojet engines with rated thrusts greater than 26.7 kilonewtons (kN). EPA has also adopting certain other requirements for gas turbine engines that are subject to exhaust emission standards, as follows. First, EPA has clarified when the emission characteristics of a new turbofan or turbojet engine model have become different enough from its existing parent engine design that it must conform to the most current emission standards.

Second, the Agency has adopted a new reporting requirement for manufacturers of gas turbine engines that are subject to any exhaust emission standard to provide us with timely and consistent emission-related information. Third, EPA has established amendments to aircraft engine test and emissions measurement procedures. EPA actively participated in the United Nations’ International Civil Aviation Organization (ICAO) proceedings in which most of these requirements were first developed. These regulatory requirements have largely been adopted or are actively under consideration by its member states.

By adopting such similar standards, therefore, the US maintains consistency with these international efforts. These final rules were effective on July 18, 2012.

*(Environmental Resource Center, 6/27/2012)*

### EPA TO UPDATE AND EXTEND DEADLINE FOR 2010 CEMENT STANDARDS

In response to a federal court ruling and data from industry, the EPA is proposing changes to its 2010 air standards for the Portland cement manufacturing industry. The proposal would continue the significant emission reductions from the 2010 standards while providing industry additional compliance flexibilities, including more time to implement the proposed updates by extending the compliance date for existing cement kilns from September 2013 to September 2015.

In December 2011, the US Court of Appeals determined that EPA’s standards were legally sound, but asked the agency to account for rules finalized after the cement standards were issued. The proposed updates to certain emissions limits, monitoring requirements, and compliance timelines—which are expected to result in additional cost savings for industry—are being made in response to this court remand and petitions for reconsideration of EPA’s 2010 final rule, which will dramatically cut emissions of mercury, particle pollution (PM), and other air toxics from cement production.

Based on new technical information, EPA is proposing to adjust the way cement kilns continuously monitor for particle pollution and would set new particle pollution emissions limits and averaging times to account for these changes. The proposed rule would not apply to kilns that burn non-hazardous solid waste; those kilns would be covered by other standards. The proposed extended compliance date would allow industry to reassess their emission control strategies in light of the proposed changes to the PM limits and monitoring methods.

EPA will accept comment on the proposed changes for 30 days after the proposal is published in the Federal Register. The agency will hold a public hearing if requested to do so. EPA will finalize the rule by December 20, 2012.

*(Environmental Resource Center, 7/2/2012)*

### RAIL CAR SPECIAL PERMITS INCORPORATED INTO HAZARDOUS MATERIAL REGULATIONS

The DOT’s Pipeline and Hazardous Materials Safety Administration (PHMSA) has merged the provisions of seven widely-used special permits for railroad tank cars into the Hazardous Materials Regulations (HMR), in accordance with the agency’s ongoing initiative to reduce regulatory burdens without lowering safety standards.

In a final rule published in the Federal Register, PHMSA has amended the HMR to allow certain practices that previously required a special permit, for companies to be able to follow. PHMSA received public comments on the then-proposed rulemaking for 60 days beginning August 18, 2011.

Incorporating special permits like these into the HMR will provide users with greater flexibility, eliminate the need for numerous renewal requests, reduce paperwork burdens, and facilitate commerce while maintaining an appropriate level of safety.

Special permits are used to approve hazmat transport not explicitly authorized in the HMR, provided an equivalent level of safety is maintained. For more information, see the 2010 document by PHMSA’s Office of Hazardous Materials Safety titled Plan for Converting Special Permits into Regulations of General Applicability.

*(Environmental Resource Center, 7/2/2012)*

### COURT LEAVES EPA SULFUR DIOXIDE LIMITS IN PLACE

The US Court of Appeals for the District of Columbia Circuit has ruled to uphold a clean air standard that limits dangerous intense bursts of sulfur dioxide pollution from power plants, factories, and other sources, rejecting challenges by polluting industries. The standard will prevent thousands of premature deaths, hospital admissions, and emergency

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room visits, and over 50,000 asthma attacks each year.

Sulfur dioxide pollution causes a variety of adverse health impacts including breathing difficulties, aggravation of asthma, and increased hospital and emergency room visits for respiratory illnesses.

Sulfur dioxide pollution causes a variety of adverse health impacts including breathing difficulties, aggravation of asthma, and increased hospital and emergency room visits for respiratory illnesses. This stronger standard will protect the health of millions of people at risk from sulfur dioxide, especially seniors, children, and people with asthma.

*(Environmental Resource Center, 7/30/2012)*

**EPA TO REVIEW LANDFILL AIR STANDARDS**

The EPA filed a proposed consent decree to establish legal deadlines to review whether its outdated new source performance standards (NSPS) for municipal solid waste landfills are still effective. Under the decree, EPA says it will determine by May 1, 2013, whether to update the municipal solid waste landfill NSPS, last revised in 1996, and, if merited, issue a final rule by May 1, 2014. It would resolve a lawsuit brought last year by Environmental Defense Fund (EDF), represented by Earthjustice against EPA (EDF v. Jackson) over the agency's failure to update the standard as required every eight years under the Clean Air Act (CAA).

EDF in October of 2008 filed a notice-of-intent-to-sue EPA over its failure to update the 1996 landfill NSPS, where it laid out a detailed case for why the agency should include methane limits, saying that landfills regulated by the current NSPS are significant sources of methane, accounting for 22.6% of all domestic methane emissions in 2006. The review could also call into question whether the agency should adopt first-time limits on landfill greenhouse gas (GHG) methane.

*(Environmental Resource Center, 7/30/2012)*

**EPA POSTPONES MERCURY AIR TOXICS RULE**

On February 16, 2012, the EPA issued the National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial Institutional Steam Generating Units, generally referred to as the mercury and air toxics standards (MATS Rule), which established emissions standards for new and existing coal- and oil-fired electric utility steam generating units.

The EPA received petitions, pursuant to section 307(d)(7)(B) of the Clean Air Act

(CAA), from a number of interested parties requesting reconsideration of certain issues in the rule. On July 20, 2012, the EPA issued a letter, stating its intent to grant the petitions for reconsideration on certain new source issues related to the emission standards issued under CAA section 112, including measurement issues related to mercury and the data set to which the variability calculation was applied when establishing the new source standards for particulate matter and hydrochloric acid. In its letter granting the petitions for reconsideration, the EPA stated that it intended to exercise its authority under section 307(d) to stay the effectiveness of those new source standards for 3 months.

The stay was published in the August 2, 2013 Federal Register.

*(Environmental Resource Center, 8/6/2012)*

**COMPROMISE ON SENATE COAL ASH DISPOSAL BILL BOOSTS BIPARTISAN SUPPORT**

A bipartisan group of senators has introduced a long-sought compromise coal ash disposal bill to limit EPA's authority to regulate disposal of waste by giving states primary authority over ash, boosting Senate support for the measure but sparing outcry from activists who say its sets weak standards and restricts EPA too much.

The bill unveiled Aug. 2 has the support of 12 Democrats and 12 Republicans, including Republican Sen. John Hoeven (ND) and Democratic Sen. Max Baucus (MT), whose support has been seen as crucial to any prospect for moving a consensus ash bill. Baucus was said to be working on a compromise measure that would set the parameters of a bill addressing EPA's pending Resource Conservation & Recovery Act (RCRA) coal waste disposal rules (*Superfund Report April 2*).

Prospects for the legislation, however, remain uncertain at best, as the bill would need to pick up additional senators to have a chance of passing the upper chamber. In the House, Rep. Ed Whitfield (R-KY), a key critic of EPA's ash rules, said that lawmakers continue to look for legislative vehicles to attach coal ash legislation before the November elections. However, the Senate is running out of time to move bills, and will recess from August 6 to September 7.

EPA proposed in 2010 to regulate coal ash as either solid waste under RCRA subtitle D or as hazardous waste subject to stricter control requirements under subtitle C. Activists back subtitle C rules, while industry and many states favor subtitle D, warning that hazardous waste rules will be costly and could harm the ash reuse industry.

The compromise legislation builds off a bill that Hoeven introduced earlier this year, S.

1751, which was similar to a measure passed by the House largely barring EPA from regulating coal ash disposal. Instead, the House bill and original Hoeven measure would give states primary authority to control ash under municipal solid waste rules.

The new bill includes a host of requirements not included in the earlier Hoeven bill, including ash pond lining and enclosure requirements, likely aiming to prevent leaching and spills like the 2008 Tennessee Valley Authority ash spill that prompted EPA's rulemaking. It also appears to include groundwater monitoring mandates not in the earlier measure.

Those changes appear to have brought several senators on board with the compromise.

The bill also revives several provisions that were in the original measure, including giving states power to enforce the waste rules. Hoeven said the bill "provides strong state oversight for storage and management of coal residuals, while empowering industry to safely recycle it into useful and less-expensive construction materials."

"The new legislation enables states to set up their own permitting programs, but they must be based on federal standards for the management, disposal and oversight of coal ash in order to protect human health and the environment. States and industry would have the predictability they need to manage residuals under the bill because the benchmarks for what constitutes a successful management program will be set aside in statute," Hoeven said.

*(Superfund Report, 8/6/2012)*

**INDUSTRY FEARS EPA'S PROPOSED TCE LIMIT WILL SLOW DEVELOPMENT, SPUR SUITS**

Industry officials are concerned that if EPA approves a novel proposed regulatory limit to prevent cardiac birth defects and other harms due to acute inhalation of the ubiquitous solvent trichloroethylene (TCE), it could slow brownfields redevelopment, spur personal injury claims and drive up mitigation costs at workplaces near waste sites.

"This will be insurmountable from a regulatory perspective," says one long-time industry toxicologist.

A second industry source says EPA adoption of the proposed limit will create a misperception that short-term inhalation exposures cause harmful effects, leading to lawsuits against property owners who may be accused of allowing unsafe environments for workers, tenants or even neighboring businesses.

Officials at EPA headquarters are reviewing a proposal from Region IX to set a first-time Removal Action Level (RAL) of 15 micrograms per cubic meter (ug/cu.M.) of TCE for short-term exposures at indoor construction sites at the Middlefield-Ellis-Whisman Superfund (MEW) site in Mountain View, CA,

## FEDERAL REGULATORY UPDATES (Continued)

where developers are building new offices for Google, Inc. and others (see related story).

The proposed regulatory limit is derived in part from EPA's recently finalized Integrated Risk Information System (IRIS) assessment for TCE, which set a reference concentration (RfC) – or the amount of the substance EPA anticipates can be inhaled daily over a lifetime without causing adverse health effects – of 2 ug/cu.M. to protect against non-cancer risks, including cardiac birth defects.

But industry groups are strongly criticizing the region's proposal, saying the science is too uncertain, the method for crafting the limit is at odds with agency policy and the limit is order of magnitude stricter than similar levels crafted by other agencies.

The proposed limit is especially worrying for industry because of EPA and states' growing focus on addressing risks of vapor intrusion in indoor air from underground sources of contamination, such as volatile compounds like TCE.

EPA is poised to issue guidance on assessing and mitigating the effects of vapor intrusion from chlorinated solvents and petroleum hydrocarbons and is also planning a rule to allow regulators to list contaminated sites on the Superfund National Priorities List (NPL) based solely on the presence of vapor intrusion. EPA says its upcoming rule adding vapor intrusion as a basis for listing sites on the NPL is likely to reprioritize its cleanup program toward those sites because they may pose a higher risk than sites without such pathways.

Although industry officials have criticized the level as orders of magnitude stricter than similar levels crafted by other agencies, an environmental and community advocate has suggested the proposed RAL for the MEW site also be considered at nearby Moffett Field, a former naval air station, where TCE levels were recently measured at levels that exceed both proposed and existing standards.

In a May 31 statement, the Center for Public Environmental Oversight's (CPEO) executive director Lenny Siegel tells members of a listserv that Moffett Field's Building 10, where TCE concentrations of 50 ug/cu.M. were recently measured, "might also become a test case for EPA Region IX's proposed Removal Action Level, capping short-term concentrations in commercial buildings at 15 ug/cu.M." Siegel previously supported the RAL in a May 29 letter to EPA, provided it is backed by science.

A site remediation professional from New Jersey says stricter standards always leads to more remediation, and increased costs, but in some states, the source says, the impact might not be significant. New Jersey, for example, already has a similar short-term standard, called a Rapid Action Level, of 20 ug/cu.M.,

the source says.

While some industry officials are suggesting the RAL is overly strict and will hurt business, the environmentalist has suggested that RAL and MEW should also be considered for nearby Moffett Field, which is also contaminated with TCE by co-mingled groundwater contamination from industry and the Navy.

*(Superfund Report – June 11, 2012)*

### NEW RULE ON SOLVENT-CONTAMINATED WIPES AND TOWELS EXPECTED SOON

In 2003, EPA proposed to modify the hazardous waste regulations for management of solvent-contaminated industrial wipes to conditionally exclude laundered wipes from the definition of solid waste.

Based on comments received on the proposal, EPA revised its risk analysis used to evaluate the risks to human health and the environment if solvent-contaminated wipes or laundry sludge are disposed of in a municipal solid waste landfill.

EPA's revised rule was sent to the Office of Management and Budget on April 23. When finalized, this regulation will impact the management of both wipes disposed of in land disposal units or by combustion after use, and wipes that are laundered after use to remove the solvent and then are used again.

*(Environmental Resource Center, 5/14/2012)*

### DOT TO SIMPLIFY HAZARDOUS MATERIALS REGULATIONS FOR REVERSE LOGISTICS

The DOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) recently announced its intent to simplify the hazardous materials regulations for reverse logistics. Reverse logistics is the process that is initiated when a consumer product goes backwards in the distribution chain. It may be initiated by the consumer, the retailer, or anyone else in the chain. The process may involve consumers, retailers, manufacturers, and even disposal facilities.

Following the publication of an advance notice of proposed rulemaking (ANPRM), PHMSA anticipates publishing an NPRM that will propose to simplify the regulations for reverse logistics shipments and provide avenue means for regulatory compliance that maintains transportation safety. To fully engage the broad spectrum of stakeholders affected by reverse logistics, the ANPRM solicits comments and input on several questions in the context of reverse logistics. Comments must be received by October 3, 2012.

### EPA TO KEEP GREENHOUSE GAS REGULATORY FOCUS ON LARGEST EMITTERS

The EPA announced that it will not revise greenhouse gas (GHG) permitting thresholds under the Clean Air Act (CAA). This final rule is part of EPA's phased-in approach to GHG permitting under the CAA, announced in 2010 and recently upheld by the US Court of Appeals. The final rule maintains a focus on the nation's largest emitters that account for nearly 70% of the total GHG pollution from stationary sources, while shielding smaller emitters from permitting requirements. EPA is also finalizing a provision that allows companies to set plant-wide emissions limits for GHGs, streamlining the permitting process, increasing flexibilities, and reducing permitting burdens on state and local authorities and large industrial emitters.

A fact sheet is available at:  
[www.epa.gov/nsr/documents/20120702fs.pdf](http://www.epa.gov/nsr/documents/20120702fs.pdf)

After consulting with the states and evaluating the phase-in process, EPA states that it believes that current conditions do not suggest that the Agency should lower the permitting thresholds. Therefore, EPA will not include additional, smaller sources in the permitting program at this time.

The final rule affirms that new facilities with GHG emissions of at least 100,000 tons per year (tpy) carbon dioxide equivalent (CO<sub>2</sub>e) will continue to be required to obtain Prevention of Significant Deterioration (PSD) permits. Existing facilities that emit 100,000 tpy of CO<sub>2</sub>e and make changes increasing the GHG emissions by at least 75,000 tpy of CO<sub>2</sub>e, must also obtain PSD permits. Facilities that must obtain a PSD permit, to include other regulated pollutants, must also address GHG emission increases of 75,000 tpy or more of CO<sub>2</sub>e. New and existing sources with GHG emissions above 100,000 tpy CO<sub>2</sub>e must also obtain operating permits.

The GHG Tailoring Rule will continue to address a group of six GHGs: carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>). The PSD permitting program protects air quality and allows economic growth by requiring facilities that trigger PSD to limit GHG emissions in a cost effective way.

*(Environmental Resource Center – 7/9/12)*

### EPA REVISES TIER II FORMS FOR EPCRA REPORTING

EPA is adding some new data elements and revising some existing data elements on the Emergency and Hazardous Chemical Inventory Forms (Tier I and Tier II) under Section 312 of the Emergency Planning and Community Right-to-Know Act. (EPCRA). State and local implementing agencies requested that EPA add the new data elements

## FEDERAL REGULATORY UPDATES *(Continued)*

since the additional information would be useful to develop or modify their community emergency response plans. EPA is also revising some existing data elements in the chemical reporting section of the Tier II Inventory form to make reporting easier for facilities and make the form more user-friendly for state and local officials.

This final rule, which becomes effective on January 1, 2014, is requiring facilities to report the latitude and longitude and the identification numbers assigned under TRI and the risk management program. Also, the Tier I and II inventory forms will require facilities to indicate if the location where the hazardous chemicals are stored is manned or unmanned. In addition, instead of requiring facilities to report the maximum number of full-time employees, EPA is requiring facilities to report the maximum number of occupants that may be present at the facility at any one time. EPA decided not to require the facility phone number on the Tier I and Tier II forms, but will include it as an optional data element on the revised inventory forms.

The rule is requiring facilities to provide contact information for facility emergency coordinator, Tier I and Tier II contact information, as well as the email addresses of the owner or operator and emergency contacts(s). EPA is also adding data elements to indicate if the facility is subject to EPCRA section 302 and if the facility is subject to Clean Air Act (CAA) section 112, also known as the Risk Management Program (RMP). Page one of the revised Tier II inventory form would also include the table of range codes and amounts for reporting maximum amount and average daily amount.

The final rule is adding separate data fields for reporting pure chemical and mixtures in the chemical reporting section of the Tier II inventory form, as proposed. In addition, this final rule requires facilities to provide a description for the storage types and conditions rather than reporting codes.

*(Environmental Resource Center – 7/16/2012)*

### HOUSE PASSES BILL STREAMLINING ENVIRONMENTAL PERMITTING FOR MINING

The House has passed mining industry-backed legislation to streamline environmental permitting for mining rare earth minerals used to produce electronic, energy-efficiency and other products, despite strong opposition from the Obama administration and Democratic lawmakers who charged it would also lift environmental protections for nearly all types of hardrock mining on federal lands.

In a 256-160 vote July 12, lawmakers approved H.R. 4402, the National Strategic and Critical Mineral Production Act. The bill is one of several measures intended to increase

production of rare earth elements that is prompting EPA to step up its efforts to assess the elements' risks, as well as the potential impact of related mining and recycling activities for the critical materials.

The bill broadly defines strategic and critical minerals as those necessary for national defense, energy infrastructure, manufacturing, housing, agriculture, telecommunications, healthcare and transportation infrastructure, and for national economic security and the balance of trade.

Critics say the bill would also consider sand, gravel and crushed stone rare and strategic minerals, and would apply to virtually any mine, including silver, uranium and coal mines, on public lands. The bill would also limit total environmental review times to 30 months for issuing mineral exploration or mine permits, set 60-day time restrictions on lawsuits challenging mineral mining projects and effectively allow permitting documents that provide "procedural and substantive safeguards" to substitute for National Environmental Policy Act (NEPA) reviews.

During floor debate July 12, Democratic lawmakers failed in their attempts to pare back the bill's reach, while Republicans succeeded in expanding it to retroactively allow mining companies to apply the legislation to permits for which they have already applied, and to effectively waive the Forest Service's "roadless rule" for the purpose of mineral development.

Republicans argued on the House floor that the bill would help the U.S. Economy. "This bill is a bipartisan plant that cuts red tape by streamlining the permitting process for mineral development, which will create jobs and help grow the economy," Rep. Doug Lamborn (R-CO) said July 12. The bill would shorten government approval times for projects from as long as 10 years down to a little more than two years, he said.

The bill, however, has received significant criticism, with the Obama administration July 10 announcing that it "strongly opposes" the bill, but stopping short of threatening to veto the legislation. In its Statement of Administration Policy, the administration says the vaguely worded bill "would undermine and remove the environmental safeguards, for, at a minimum, almost all types of hardrock mines on Federal lands." The bill would eliminate "appropriate review" under NEPA and circumvent public involvement in formulating alternatives to mining proposals, it says. The administration says it also opposes the legislation's "severe restrictions on judicial review," which it says include an extremely short statute of limitations and "vague constraints on the scope of prospective relief."

Rep. Edward Markey (D-MA), who argued July 12 that supporters of the bill were "using strategic and critical minerals as a pretext for

gutting environmental protections relating to virtually all mining operations," failed in his attempt to get an amendment passed that would have required mining companies to pay a 12.5 percent royalty on the value of hardrock minerals mined on federal lands. Revenue from the royalty payments, which Markey predicted would generate nearly \$400 million over 10 years, would have gone toward cleaning up abandoned hardrock mines that have contaminated soils and waterways. The Government Accountability Office estimates that there are more than 160,000 abandoned hardrock mines in the western United States, Markey said. His amendment failed on a 163-253 vote.

*(Superfund Report – 7/23/12)*

### HAZARDOUS WASTE FINES DOUBLED TO \$40,000

Congress has increased fines for hauling hazardous wastes without proper registration.

House Bill 4838, approved by the House and the Senate, and signed by the President, increases the fine for hauling hazardous wastes without a permit from "not more than \$20,000" to "not less than \$20,000, but not to exceed \$40,000."

Also, part of the legislation is the approval of a hazardous material technical assessment, research and development, and analysis program. The program would be aimed at reducing the risk associated with the transportation of hazardous material and identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous materials.

*(Environmental Resource Center – 7/23/12)*

### EPA FINALIZES EPCRA FORM CHANGES

EPA has finalized revisions to its Emergency Planning & Community Right-to-Know Act (EPCRA) reporting requirements, narrowing the codes for how much of a hazardous material is stored on site and clarifying how chemical mixtures are reported despite opposition to the changes from some in industry.

EPA made the changes to the EPCRA emergency and hazardous chemical inventory forms – known as Tier I and II reporting forms – to better aid state and local emergency planners by adding new data elements to make the forms more useful and to revise existing data elements to ease reporting. The agency finalized the changes July 3, and the rule becomes effective on 1/1/14.

The revisions respond to stakeholders' requests, are intended to clarify reporting while upholding environmental protection, and may add minimal reporting burden onto facilities, EPA says. Specifically, the agency is adding new data requirements, such as the



## FEDERAL REGULATORY UPDATES *(Continued)*

latitude and longitude of facilities, number of employees and contact information for a facility's emergency coordinator, and allows voluntary reporting of hazardous chemicals below reporting thresholds.

EPA explains in the final rule that the existing codes were "very broad," and "not as useful as specific quantity information for effective emergency response planning. In order for States, local agencies and emergency response officials to have information on the maximum amount and average daily amount that are closer to the actual amounts present at

the facility, EPA proposed to narrow the ranges," it says. The final ranges, for instance, change range code 02 on Tier II forms from reporting a range of 100 to 999 pounds, to instead reporting a range of 100 to 499 pounds.

EPA notes the law requires only ranges be used but explains that the reporting threshold for extremely hazardous substances (EHSs) can vary anywhere from 500 pounds for many chemicals down to 1 pound-levels for others.

The agency says in the final rule that it "believes it is necessary to narrow the ranges

so that [local emergency planners] would obtain information on the amount of EHSs that have very low [threshold planning quantity (TPQ)] in a range most likely closer to the actual amount present at the facility," EPA says.

EPA also finalized proposed changes to clarify how chemical mixture information is reported. EPA is requiring separate data fields for reporting pure chemicals and mixtures in order to maintain consistency in reporting mixtures under EPCRA section 311, EPA says.

*(Inside EPA – 7/9/12)*

### TBA – AT SERVICE STATION REMEDIATION SITES, WHEN SHOULD WE WORRY ABOUT IT?

An expansive body of evidence is causing environmental managers to reach the conclusion that Tertiary Butyl Alcohol (known as TBA), at significant concentrations, can inhibit normal bioremediation, where aerobic biodegradation using injection techniques, is used to address petroleum releases at service station sites.

Commonly accepted information is that TBA is a degradation product of MTBE (methyl tertiary butyl ether), but such is not always the case. For many years, TBA was used as an oxygenate as an additive ingredient to gasoline, in high concentrations, before MTBE was used as an oxygenate. TBA was widely used from about 1980, but tended to fall out of favor, by the early 1990s, when MTBE was more frequently used.

An FAQ document, prepared by API makes it clear that MTBE and TBA rapidly biodegrade, both in situ, and ex-situ, under aerobic conditions. Conversely, there is significant evidence, that where conditions are not maintained, and anaerobic conditions predominate, the cleanup site can become "stuck", with further biodegradation of oxygenates and BTEX compounds, no longer occurring.

As historically, TBA could have been added at the refinery to gasoline, well up into the percentage range, and significant quantities of contaminants are left behind at service stations with early 1990's underground storage tank removals, aerobic bioremediation techniques may simply not reach an acceptable endpoint. When this problem is found, much work is needed to maintain aerobic conditions, than originally planned. The remedial cost may go way up. Oxygen injection may be a better remedial approach at sites with high TBA concentrations in groundwater.

For more information, go to: [www.api.org/~media/files/ehs/clean\\_water/bulletins/26\\_bull.ashx](http://www.api.org/~media/files/ehs/clean_water/bulletins/26_bull.ashx)

### EMAIL BLAST ARCHIVES

Post Date	Title - Download	Description
8/24/12	TVA Is Liable For 2008 Coal Ash Spill	In a ruling on one of the world's worst environmental disasters involving a massive coal ash spill in December 2008.
8/23/12	Switch to Natural Gas Fuels Leads to Big Reduction in Carbon Emissions	Greenhouse gas/carbon dioxide releases into the atmosphere Big Reduction in Carbon Emissions more.recently have fallen to a 20-year low...
8/2/12	Opting Out Rule for Renovation of Buildings Containing LBP	On June 22, 2012, the US Court of Appeals for the DC Circuit upheld the US Environmental Protection Agency's (EPA) removal of the opt-out provision for work that disturbs lead-based paint in pre-1978 housing.
7/11/12	Ambient Air	Based on its review of the air quality criteria and the national ambient air quality standards (NAAQS) for particulate matter (PM).
7/3/12	Giant Eagle Wins PEC Award	Giant Eagle, a Pittsburgh grocery retailer for more than 80 years, is one of the largest, privately-owned and family-operated companies in the United States.
7/2/12	Bacteria Linked to Indoor Mold Water-Damage	In a new study, a University of Cincinnati (UC) environmental health research team found evidence linking two specific strains of bacteria...
6/29/12	Chlorinated Solvent Contamination: New Challenges for Properties	For properties where chlorinated solvents have been released, new regulatory challenges and related liability concerns are increasing as a result of controversial human health studies recently published by the federal Environmental Protection Agency (EPA).
6/26/12	PA UST Operator Training Deadline	PA rules require that underground storage tank operators (UST) operators must be designated by tank owners and trained no later than Aug. 8, 2012.
6/18/12	EPA Proposes Fine Particles in Air NAAQS Reduction	The U.S. Environmental Protection Agency has proposed that allowable levels of soot in the nation's air be reduced to protect public health.
5/7/12	Today Is D-Day	New Jersey have to retain a Licensed Site Remediation Professional (LSRP).
4/26/12	PADEP Site Redevelopment & Stormwater Issues	The Pennsylvania Department of Environmental Protection recently issued Guidance in the form of an update to its statewide Erosion and Sediment Control manual.

## TECHNOLOGY UPDATES

### ASTDR URGES EPA TO STRENGTHEN LEAD ASSESSMENT AT SMALL ARMS RANGES

A federal health agency is urging EPA to strengthen soil sampling procedures and land use controls for addressing lead left at former military small arms ranges, some of which are accessible to children, saying that current policies have not adequately prevented harmful exposure at an elementary school located at Tyndall Air Force Base in Florida.

“Current environmental regulations, policies, standard operating procedures, and methods employed during the environmental investigations of Tyndall Elementary School have failed to address the major health concern and hazard to children – the direct ingestion of lead shot,” the Agency for Toxic Substances & Disease Registry (ATSDR) says in a June 13 report. The report is available on Inside EPA.com. See page 2 for details. (Doc ID: 2403843)

While the investigation focused on exposures at Tyndall, where an elementary school is now located on the site of a former military target shooting area, the report calls for EPA to strengthen its policies to limit exposures and for the military to change its practices across its facilities.

ASTDR’s calls could also bolster efforts by environmentalists who are urging EPA to regulate lead shot and fishing tackle under the Toxic Substances Control Act (TSCA) as a way to prevent harmful exposures to wildlife, though agency officials have so far rejected their efforts.

The health agency’s call for EPA to strengthen sampling and control requirements is the latest from federal officials to prevent lead exposures in the wake of findings by advisors to the Centers for Disease Control and Prevention (CC), who found the long-held standard – a blood lead level of concern of 10 micrograms per deciliter or more – may not adequately protect children from adverse effects of lead exposure. (*Superfund Report, May 28*)

The advisors recently urged policymakers to do more to prevent exposures due to the irreversible harms that occur due to even small exposures to the metal. In response, EPA and federal health officials are planning to meet to address the advisors’ recommendations.

In the case of Tyndall, ATSDR found that EPA’s current sampling methods and reporting procedures failed to account for direct ingestion of lead fragments or shot. Instead, EPA and the Air Force Center for Environmental Excellence recommend lead sampling methods to characterize only soluble lead and fine lead particles, which they

consider the primary source of lead exposure, according to a March 2011, ATSDR letter.

But ATSDR says this approach fails to account for “direct ingestion of lead shot by a curious child who intentionally picks up the small bead (lead shot) and puts it in his or her mouth” as well as lead that has leached from the shot into the soil matrix, where it can stick to children’s hands.

“The soil sampling protocol conducted in accordance with environmental regulations for soluble lead does not address both types of hazards presented by lead shot, and therefore, provide[s] incomplete hazard characterization,” ATSDR says. “This may have jeopardized the safety of children who used the area.”

The agency adds that remediation decisions based solely on the results of soluble lead analysis may indicate that lead levels are too low to require clean up, leading to a mischaracterization of the site hazard and allowing lead shot to remain in the soil. ATSDR says that was the case in a 1992 incident when a child at the Tyndall site brought lead shot home but analysis of soluble lead concentrations were too low to warrant cleanup. Therefore, no further actions were taken until 2009, it adds.

ATSDR calls the approach to a “health hazard loophole.”

The agency is also proposing a three-pronged approach that includes engaging the military services to proactively take administrative actions, engaging EPA and state health agencies to develop an advisory plan, and seeking to educate the public.

*(Superfund Report, 7/9/2012)*

### NANOTUBE SPONGE HAS POTENTIAL IN OIL SPILL CLEANUP

A carbon nanotube sponge that can soak up oil in water with unparalleled efficiency has been developed with help from computational simulations performed at the DOE’s Oak Ridge National Laboratory (ORNL).

Carbon nanotubes, which consist of atom-thick sheets of carbon rolled into cylinders, have captured scientific attention in recent decades because of their high strength, potential high conductivity and light weight. But producing nanotubes in bulk for specialized applications was often limited by difficulties in controlling the growth process as well as dispersing and sorting the produced nanotubes.

ORNL’s Bobby Sumpter was part of a multi-institutional research team that set out to grow large clumps of nanotubes by selectively substituting boron atoms into the otherwise pure carbon lattice. Sumpter and Vincent Meunier, now of Rensselaer

### TECHNOLOGY UPDATES

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- Small Arms Ranges, pg. 10
- Nanotubes . . . Oil Cleanup, pg. 10
- Mold Mitigation/Flood Cleanup, pg. 10

Polytechnic Institute, conducted simulations on superconductors, including Jaguar at ORNL’s Leadership Computing Facility, to understand how the addition of boron would affect the carbon nanotube structure.

“Any time you put a different atom inside the hexagonal carbon lattice, which is a chicken wire-like network, you disrupt that network because those atoms don’t necessarily want to be part of the chicken wire structure,” Sumpter said. “Boron has a different number of valence electrons, which results in curvature changes that trigger a different type of growth.”

Simulations and lab experiment showed that the addition of boron atoms encouraged the formation of so-called elbow junctions that help the nanotubes grow into a 3-D network. The team’s results are published in *Nature Science Reports*.

“Instead of a forest of straight tubes, you create an interconnected, woven sponge-like material,” Sumpter said. “Because it is interconnected, it becomes three-dimensionally strong, instead of only one-dimensionally strong along the tube axis.”

Further experiments showed the team’s material, which is visible to the human eye, is extremely efficient at absorbing oil in contaminated seawater because it attracts oil and repels water.

The material’s mechanical flexibility, magnetic properties, and strength lend it additional appeal as a potential technology to aid in oil spill cleanup, Sumpter says.

*(Environmental Resource Center, 5/14/2012)*

### MAKE MOLD MITIGATION TOP PRIORITY IN FLOOD CLEANUP

Your basement was flooded during the recent storm – and now what? You can haul away the soggy cardboard boxes, the water-logged family room furniture and the ruined furnace and water heater and begin the hard work of cleaning up. But there is an often hidden and far more insidious interloper following a storm or flood – mold.

Excess moisture and standing water contribute to the growth of mold in homes and other buildings, and the Center for Disease Control (CDC) urges homeowners that when returning to a home that has been flooded, be aware that mold may be present and pose a serious health risk for your family.

What sort of a threat does mold present?

The Minnesota Department of Health (MDH) says mold spores can germinate and grow in a moist or damp environment on any surface that contains organic matter. A home that's been flooded can provide ideal conditions for the growth and proliferation of mold.

According to the CDC, people with asthma, allergies, or other breathing conditions may be more sensitive to mold. People with immune suppression (such as people with HIV infection, cancer patients taking chemotherapy, and people who have received an organ transplant) are more susceptible to mold infections. People who are sensitive to mold experience stuffy nose, irritated eyes, wheezing, or skin irritation. People allergic to mold may have difficulty breathing and shortness of breath. People with weakened immune systems and with chronic lung diseases such as obstructive lung disease, may develop mold infections in their lungs. If you or your family members have health problems after exposure to mold, contact your doctor or other health care provider as soon as possible.

In addition to health complaints, the MDH states that mold damages building materials, goods or furnishings when it grows on them. Mold growth and moisture may eventually compromise the building's structural integrity as well. Because of potential health concerns and damage to property, molds should not be allowed to grow and multiply indoors.

How will I know if it's mold?

The CDC suggests that there are basically two ways to determine if there is mold growth in your home:

- Sight (are the walls and ceiling discolored, or do they show signs of mold growth or water damage?)

Smell (do you smell a bad odor, such as a musty, earthy smell or a foul stench?)

The Department of Health says to look for visible mold growth (which may appear cottony, velvety, granular or leathery and have varied colors of white, gray, brown, black, yellow, green). Mold often appears as discoloration, staining or fuzzy growth on the surface of building materials or furnishings.

Homeowners are advised to search areas with noticeable mold odors.

Look for signs of excess moisture or water damage. Look for water leaks, standing water, water stains and condensation problems. For example, do you see any watermarks or discoloration on walls, ceilings, carpet, woodwork or other building materials?

Search behind and underneath materials (carpet pad, wallpaper, vinyl flooring, sink

cabinets), furniture or stored items. Sometimes destructive techniques may be needed to inspect and clean enclosed spaces where mold and moisture are hidden – opening up a wall cavity, for example, to get to the moldy area.

Is there any way I can prevent the spread of mold?

- Clean and dry out the building quickly (within 24 to 48 hours) says the CDC. Open doors and windows. Use fans to dry out the building. Remove all porous items that have been wet for more than 48 hours and that cannot be thoroughly cleaned and dried. These items can remain a source of mold growth unless removed. Porous, non-cleanable items include carpeting and carpet padding, upholstery, wallpaper, drywall, floor and ceiling tiles, insulation material, some clothing, leather, paper, wood, and food. Removal and cleaning are important because even dead mold may cause allergic reactions in some people.

To prevent mold growth, the CDC advises you clean wet items and surfaces with detergent and water.

If there is mold growth in your home, you should clean up the mold and fix any water problem, such as leaks in roofs, walls, or plumbing. Controlling moisture in your home is the most critical factor for preventing mold growth.

To remove mold growth from non-porous hard surfaces such as walls, floors and tables, Carlton County Emergency Manager Brian Belich suggests you scrub first with soap and water and rinse with water. Then mix one-fourth cup to one-half cup of bleach with a gallon of water, wipe surfaces with this bleach mix and allow to air dry. This mixture can hurt your skin and lungs, so use with caution. Wear gloves and old clothes that cover your skin as well as protective eye wear. Open windows and doors and use a fan to blow the air outside. Use dehumidifiers.

Belich cautioned that homeowners should not mix bleach with other products, and use it with caution.

If you plan to be inside the building for a while or you plan to clean up mold, the CDC states you buy an N95 mask at your local hardware or home supply store and wear it while in the building. Make certain that you follow instructions on the package for fitting the mask tightly to your face. If you go back into the building for a short time and are not cleaning up mold, you do not need to wear an N95 mask.

Non-porous materials can be saved if they are properly cleaned and dried and then kept that way.

Do not use the bleach mix for dishes, children's toys or surfaces that hold food, and do not use on porous surfaces like

carpet or ceiling tile. Look for mold on porous items that may have absorbed moisture – including sheet rock, insulation, plaster, carpet/carpet pad, ceiling tiles, wood (other than solid wood), and paper products. If you see evidence of mold, these items should be removed, bagged and thrown out. Porous materials that may have been in contact with sewage should also be bagged and thrown away.

Do not eat, drink or smoke in the contaminated area, since disease-causing organisms from sewage or floodwater may be present.

What's next?

The MDH suggests enclosing moldy items in plastic before you carry them out, urging that when transporting moldy materials, use the shortest path into and out of the building. It might be a good idea to hang plastic sheeting to seal off the work area, and be sure to remove the outer layer of your work clothes before leaving the work area. Bag any contaminated clothes or wash them separately, and damp clean all surfaces in and around the work area to remove any fine dust.

In the days ahead, the MDH urges affected homeowners to be vigilant in continuing to keep an eye out for signs of moisture or new mold growth, paying special attention to areas where mold grew previously. If the mold returns, repeat the cleaning process, and consider using a stronger disinfecting solution. The MDH says new mold growth may mean that the contaminated material should be removed, or that you still have a moisture problem.

Above all, be patient about rebuilding your home or getting new furnishings. Wait until everything has been completely cleaned and dried – and remember that drying out wet building materials may take a long time.

(Pine Journal – 7/7/12)

## NJ'S LSRP PROGRAM UPDATE

New Jersey's LSRP program is moving smartly forward. Intensive training through the spring and summer brought hundreds of professionals to Rutgers and Burlington County training locations.

Also, Gary Brown is training Municipal Engineers in Lineau construction activities this fall. RT has 45 LSRP projects in progress.

## PA UPDATES

### GAS DRILLERS IN PA REDUCE ENVIRONMENTAL VIOLATIONS

Natural-gas drillers in Pennsylvania's Marcellus shale reduced the rate of blowouts, spills and water contamination by half since 2008, according to a study based on state-agency actions.

State regulators issued environmental violations at 27 percent of the wells drilled in the first eight months of 2011, 54 percent below the full-year rate in 2008, according to a study from the University at Buffalo's Shale Resources and Society Institute.

Stronger regulations, tougher enforcement and improved industry practices helped trim the violations, researchers found.

"It's pleasing to me, and it should be pleasing to everyone," former state Department of Environmental Protection Secretary John Hanger said responding to the study.

The DEP reports more than 4,000 wells since 2009 were drilled by hydraulic fracturing, a technique that pumps millions of gallons of chemically treated water to crack underground rock and free trapped gas.

Of 845 incidents that caused measurable amounts of pollution from that drilling, 25 involved major impacts to air, water and land resources, according to the report. Of those, environmental impacts weren't corrected in six cases, the study found.

Pennsylvania managed "the brisk pace of unconventional gas development, while preserving the economic opportunity that development has afforded the community," according to the study's authors.

John Martin, who formerly studied environmental issues surrounding shale gas for the New York State Research and Development Authority, is the institute's director and helped write the report. His co-authors were University of Wyoming professor Timothy J. Considine and Pennsylvania State University professor emeritus Robert W. Watson, who have previously written studies commissioned by the Marcellus Shale Coalition, an industry group.

Martin has said this report was funded only by the university, university spokesman Cory Nealon said. Martin could not be reached for comment on Wednesday.

Blowouts, fires and spills have happened periodically across the state. The state levied its record fines during the same time period in 2011 targeted by the study. On the same day in May 2011, Chesapeake Energy Corp. received a \$900,000 fine for contaminating private water wells in Bradford County and \$188,000 fine for a tank fire in Washington County that injured three subcontractors.

Those actions, combined with four separate packages to update drilling regulations pushed

drillers toward better safety practices, Hanger said. Local investments from multinational companies with strong safety cultures and technological advancements from the companies operating here helped, Hanger said.

*(By Timothy Puko; Pittsburgh Tribune – Review, 5/17/12)*

### NEW DOCUMENT – EPA OPTIMIZATION EVALUATION, NORTH PENN AREA 6 SUPERFUND SITE, LANSDALE, MONTGOMERY COUNTY, PENNSYLVANIA (EPA 542-R-11-012)

The North Penn Area 6 Superfund Site (NPA6 Site) addresses multiple sources of contamination and a broad contaminant plume that underlies a large portion of Lansdale, Pennsylvania. Tetrachloroethene (PCE), Trichloroethene (TCE), and associated degradation products are the primary contaminants of concern. EPA originally identified 26 facilities in the Lansdale area as possible sources of contamination due to their use of site-related solvents. These 26 properties were grouped into two operable units (OUs) for soil contamination that would address source control through soil remediation. OU1 addressed 20 properties where EPA would perform remedial activities. OU2 will address the six remaining properties where the owners/operators will complete the work with EPA oversight.

The groundwater contamination underlying the area is addressed in the OU3 Record of Decision (ROD) signed in August 2000. OU3 includes groundwater extraction and treatment of the contaminated groundwater at 10 source locations. Of these 10 locations, six are funded by Superfund (Fund-lead) and four are funded by potentially responsible parties (PRPs). Groundwater remedies for five of the Fund-lead locations have been constructed and are the focus of this optimization evaluation report. EPA Region 3 requested that an optimization evaluation be conducted to identify potential opportunities to improve these five OU3 systems and to identify potential options for replacing or supplementing the existing remedies (April 2012, 146 pages). View or download at: <http://clu-in.org/techpubs.htm>.

### PA DEP IMPLEMENTS PERMIT DECISION GUARANTEE

On July 24, 2012, Governor Corbett issues Executive Order 2012-11, requiring DEP to implement a Permit Decision Guarantee immediately by:

- Assessing how best to make timely permitting decisions;
- Providing clear expectations for applicants to improve the quality of applications;

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- Establishing performance measures for review staff; and

- Developing, improving and encouraging electronic permitting tools.

For the last 18 months, DEP has been reviewing all existing permitting procedures and now is prepared to make several effective improvements. Providing regulatory certainty to local governments, non-profit organizations and businesses is critical and must be the rule going forward. DEP's focus will be on receiving complete and adequate applications and the amount of time it should take to review them.

Executive Order 2012-11 rescinds a 1995 Executive Order establishing the Money Back Guarantee. The attached draft "[Permit Review Process and Permit Decision Guarantee](#)" policy replaces the former Money Back Guarantee policy. The draft policy will be published for a 30-day public comment period beginning in early September.

### Permit Applications Executive Order Will Better Protect Environment

By MIKE KRANCER

Governor Tom Corbett promised to bring reform to the way government operates in Pennsylvania. Good government means the efficient delivery of government services, which includes permitting decisions by the Department of Environmental Protection. There is no question that both DEP and the public we serve saw room for improvement. Our own review confirmed it.

We have to start with insisting upon top-quality permit applications from businesses, nonprofit organizations, local governments and these groups' consultants. That is an important basis and starting point of the governor's recently signed executive order, upon which DEP will build the permit guarantee process.

It is an important point that media commentary so far on the executive order has missed. Our study of applications and permit procedures revealed that about 40 percent of permit applications submitted to DEP are deficient, meaning information important to making a decision was missing.

In addition, a former DEP secretary reported that of about 125,000 permits or authorizations issued from 1995 to 2002, less than two dozen "money-back guarantee" refunds were issued. So permits were being issued, eventu-

## PA UPDATES *(Continued)*

ally, but only after months or years of the merry-go-round of taking applications "off the clock" and then back "on the clock" and then back "off the clock" - until finally, they were ready for a decision to be made. Often, DEP permit review personnel spent much time doing the work for applicants to get their applications to the "complete" stage. That process caused frustration both internally and externally and, importantly, wastes the time of both DEP personnel and the public we serve.

The draft Permit Decision Guarantee policy document that will be published for public comment in the coming weeks is being developed by DEP personnel at all levels who have done permitting work for years. The new process will free DEP personnel from the merry-go-round and allow them to spend more of their time reviewing quality, complete

permit applications and, thus, concentrate on protecting the environment. The system will work better and more efficiently, and the environment will be better protected. At the same time, the process will deliver to the regulated community a more predictable and efficient manner of permit application review and decision.

The draft policy, which comes from the executive order, will be built upon four core principles:

1) Complete and quality permit applications are crucial to DEP's ability to guarantee a timely decision;

2) Every full and complete permit application will receive a thorough review in an efficient manner;

3) DEP will not issue any permit that does not meet all legal and statutory requirements to

protect the environment and public health and safety; and

4) DEP will make decisions based on the law, facts and sound science.

We encourage the public and all stakeholders to give it a fair and open-minded review and offer feedback to us once it is published for public comment.

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*Mike Krancer is secretary of the Pennsylvania Department of Environmental Protection. This article recently appeared in the local Chambersburg, PA newspaper.*

**RT'S 24-HOUR  
URGENT LINE  
(800) 725-0593**

### CENTRAL PENNSYLVANIA PROJECT WINS AWARD

Based on an RT design, with construction by Keystruct Construction, Inc., an award was issued by the Associated Builders and Contractors, Inc. organization, in Central Pennsylvania. The project involved retrofit and upgrade of heavy duty concrete pits used for receipt and mixing of waste materials. Rebar materials in the concrete were upgraded, from a previously constructed pit floor design, to minimize creep, and, special toppings were used to maximize design life.

The three new side by side pits went into operation, early this year.

### MARYLAND STORMWATER USER FEES LAW RECEIVES NATIONAL ATTENTION

Legislation has been passed in Maryland, which gives authority for a watershed protection and restoration program, to be implemented by counties or municipalities throughout the State.

Allowed under the new legislation are:

- Local watershed protection and restoration funds.
- Stormwater remediation fees. Fees may be collected from individual properties, based on a:
  - o A flat rate;
  - o An amount that is graduated, based on the amount of impervious surface on each property; or
  - o Another method of calculation selected by the county.

New policies and procedures to be followed in implementing the new legislation include:

- Guidelines for determining which on-site systems, facilities, services, or activities may be the basis for a fee reduction, including guidelines:
  - o Relating to properties with existing advanced stormwater Best Management Practices;
  - o Relating to agricultural activities or facilities that are otherwise exempted from stormwater management requirements by the county or municipality; and
  - o That account for the costs of, and the level of treatment provided by, stormwater management facilities that are funded and maintained by a property owner.

There are many areas of the country where stormwater fee imposition is very controversial, so we should keep an eye on Maryland's program. Even the federal government is challenging stormwater fees, including the Bonneville Power Administration in Vancouver, Washington and the U.S. Postal Service, in Renton, Virginia. One aspect of the controversy is that there are frequently allegations when the fees are imposed, that the fees are discriminatory.

*We at RT think imposition of reasonable fees for stormwater management are needed, particularly in areas where there is ongoing runoff of debris, trash and garbage into navigable waterways, in areas which were historically developed intensively, and lack any basic stormwater controls, even for street runoff.*

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

## PENNSYLVANIA BULLETIN NOTICES

The Fish and Boat Commission approved the addition of 30 new waters to its list of wild trout streams.	April 28, 2012
Draft TBD: Substantive revision. DEP ID: 394-2000-001. Municipal Reference Document: Guidance for the Implementation of the Chapter 85 Bluff Recession and Setback Regulations.	May 26, 2012
Final: DEP ID: 563-2504-001. Conventional Bonding for Land Reclamation – Coal. Description: This guidance describes regulatory and statutory requirements for determining bond amounts.	May 19, 2012
The Department of Environmental Protection published notice of a final policy revision on calculating penalty assessments for air quality. Final: DEP ID: 273-4130-003. Guidance for Application of Regional Civil Assessment Procedure.	June 2, 2012
The Department of Environmental Protection published a notice of available for a new Online Sewage System Training Program Manual.	June 11, 2012
The Department of Environmental Protection published notice of an advanced final rule for comment setting standards for ultra low sulfur fuel oil. The proposed rulemaking contained a compliance date of May 1, 2012, for revised sulfur limits. The draft final rulemaking changes the compliance date for revised sulfur content limits to July 1, 2016.	June 25, 2012
The Department of Environmental Protection published notice announcing its intent to amend the Water Quality Toxic Management Strategy statement of policy to compliment recent proposed changes to Chapter 93 Water Quality Standards required by the Triennial Review of Water Quality Standards.	July 9, 2012
Final DEP ID" 292-0400-002. Nuclear Power Generating Station Incident Manual. This document has been superseded by the Bureau of Radiation Emergency Response Plan (BRP). The BRP Radiological Emergency Response Plan is structured along the lines of the Commonwealth's Nuclear/Radiological Incident Plan, which is a "Related Incident Specific Plan" to the Commonwealth of Pennsylvania – State Emergency Operations Plan.	July 23, 2012
The Public Utility Commission formally published notice of its procedures for implementing the drilling impact fee under Act 13.	August 2, 2012
The Fish and Boat Commission published a notice confirming additions to the Class A Wild Trout Waters list and a second notice with additions to and removal from the Wild Trout Streams list.	August 6, 2012
DEP published a notice of availability of draft technical guidance on Best Practices for Environmental Protection in the Mushroom Farming Community.	August, 13, 2012
The Independent Regulatory Review Commission voted to approve final regulations increasing non-coal mining permit fees after the package was resubmitted to the Commission by the Environmental Quality Board without change. The Commission had disapproved the regulation in June saying they imposed too much of a burden on the industry.	August 20, 2012

### DOT REVISES HAZARDOUS MATERIAL REGULATIONS TO CONFORM TO INTERNATIONAL STANDARDS

DOT's Pipeline and Hazardous Material Safety Administration has released a proposed rule to amend 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 HMR with recent changes made to the International Maritime Dangerous Goods (IMDG) Code, the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations, and subsequently address a petition for rulemaking. Among the changes proposed, are:

Authorization to allow wood as a material of package construction for certain explosives

Revised vessel storage codes for explosives

Adopt a new packaging type: Flexible Bulk Container

Adopt new requirements for chemicals under pressure and distinguish them from liquefied gases

Specify minimum size requirements for identification number markings on non-bulk packages

Changes to the hazardous materials table to add, revise, and remove proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, and bulk cargo aircraft maximum quantity limits.

*(Environmental Resource Center, 8/2/2012)*

**FEDERAL REGISTER NOTICES**<http://www.epagov/homepage/fedrgstr>

**Environmental Protection Agency;** Elemental Mercury Used in Barometers, Manometers, Hygrometers, and Psychrometers; Significant New Rule.

*(Federal Register – 5/30/2012)*

**Environmental Protection Agency;** Protection of Stratospheric Ozone: Alternative for the Motor Vehicle Air Conditioning Sector Under the Significant New Alternatives Policy (SNAP) Program.

*(Federal Register – 6/6/2012)*

**Environmental Protection Agency;** Regional Haze: Revisions to Provisions Governing Alternatives to Source-Specific Best Available Retrofit Technology (BART) Determinations, Limited SIP Disapprovals, and Federal Implementation Plans.

*(Federal Register – 6/7/2012)*

**Environmental Protection Agency;** National Pollutant Discharge Elimination System-Proposed Regulations to Establish Requirements for Cooling Water Intake Structures at Existing Facilities; Notice of Data Availability Related to Impingement Mortality Control Requirements.

*(Federal Register – 6/11/2012)*

**Environmental Protection Agency;** National Pollutant Discharge Elimination System- Proposed Regulations for Cooling Water Intake Structures at Existing Facilities; Notice of Data Availability Related to EPA's Stated Preference Survey.

*(Federal Register – 6/12/2012)*

**Environmental Protection Agency;** Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standards and Test Procedures.

*(Federal Register – 6/18/2012)*

**Environmental Protection Agency;** Air Quality: Revision to Definition of Volatile Organic Compounds-Exclusion of trans-1,3,3,3-tetraflouropene.

*(Federal Register – 6/22/2012)*

**Environmental Protection Agency;** National Ambient Air Quality Standards for Particulate Matter.

*(Federal Register – 6/29/2012)*

**Environmental Protection Agency;** National Ambient Air Quality Standards for Particulate Matter; Correction

*(Federal Register – 6/29/2012)*

**Environmental Protection Agency;** National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants.

*(July 18, 2012)*

**Environmental Protection Agency;** National Pollutant Discharge Elimination System (NPDES) Concentrated Animal Feeding Operation (CAFO) Reporting Rule.

*(July 20, 2012)*

**Environmental Protection Agency;** Revisions to the Unregulated contaminant Monitoring Regulation (UCMR 3) for Public Water Systems.

*(July 25, 2012)*

**Environmental Protection Agency;** Final Rule to Implement the 1997 8-Hour Ozone National Ambient Air Quality Standard: Classification of Areas that were Initially Classified Under Subpart 1; Revision of the Anti-Backsliding Provisions to Address 1-Hour Contingency Measure Requirements; Deletion of Obsolete 1-Hour Ozone Standard Provision.

*(July 25, 2012)*

**Environmental Protection Agency;** New Source Performance Standards Review for Nitric Acid Plants

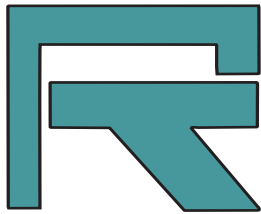
*(August 14, 2012)*

**Environmental Protection Agency;** Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews.

*(August 16, 2012)*

**Environmental Protection Agency;** Documents Pending Publication – Approvals and Promulgations of Air Quality Implementation Plans: Pennsylvania; Attainment Plan for Philadelphia-Wilmington, Pennsylvania-New Jersey – Delaware 1997 Fine Particulate Matter Nonattainment Area.

*(August 28, 2012)***SEE US AT THE PENNSYLVANIA CHAMBER FALL ENVIRONMENTAL CONFERENCES****TUESDAY, OCTOBER 2, 2012**Four Points at Sheraton Pittsburgh North  
Mars, PA**WEDNESDAY, OCTOBER 27, 2012**Radisson Harrisburg Hotel  
Camp Hill, PA**WEDNESDAY, OCTOBER 31, 2012**Crowne Plaza Valley Forge  
King of Prussia, PA



**KEY HIGHLIGHTS**

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- LSRP Program Update, pg. 11

**PA UPDATES**

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**FEDERAL UPDATES**

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