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The RT Review

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REDUCTION IN GREENHOUSE GAS EMISSIONS IS MAJOR

Since 2005, there has been a 12% drop in coal emissions from the large changeover from coal to natural gas and other fuels as an increasing used fuel for use at electric generating plants.

There has been a significant slow-down of coal emissions particularly in the last three years. In addition, there have been other economic factors shifting combustion away from coal, including a 40% reduction in the cost of wind power and a 60% reduction in the cost of solar power.

In 2016, there is only expected to be a 0.2% rise in greenhouse gas emissions. Just two years ago, in 2013, the greenhouse gases increased by 2.3%.

Of 12 gigawatts of electric power production which was shuttered last year, 80% was from reduced coal-fired power generation.

Figures such as those presented above are likely to increase the debate on whether further increased regulation and major reductions in greenhouse gas emissions are still needed. We at RT think appropriate projections should be made now to determine to what degree greenhouse gases emissions are now automatically expected to be reduced, given the obviously lower power costs, in particular those for natural gas, with changed economics leading to the large scale changeover from coal combustion which is already underway. Wasting money on unneeded regulatory programs is something we do not need. Let's make our environmental programs stay focused on what we need!

- Gary Brown, P.E.

EPA REVISES HAZWASTE GENERATOR RULES AND REVISES EXPORT/IMPORT RULES

By Larry Bily, CHMM

EPA put through Hazardous Waste Rule Changes which went into effect on December 31, 2016. The rules were revised to make them easier to understand and to provide greater flexibility in how to manage hazardous waste to better fit today's business operations. The revisions will also protect Americans by enhancing the safety of facilities that create hazardous waste and the response capabilities of emergency responders by improving risk communication. The new rules directly respond to feedback from the regulated community, states, communities, and other stakeholders.

The final rule includes over 60 changes to the hazardous waste generator regulations that clarify existing requirements, increase flexibility, and improve environmental protection. These changes also reorganize the regulation to make them easier to follow and make certain technical corrections.

Some important features of the new "Generator Improvements Rule" include:

- Very Small Generators (formerly known as Conditionally Exempt Small Quantity Generators - less than 100 kgs/month) may send their waste to a Large Quantity Generator facility under control of the same company, under certain conditions;
- Very Small Generators may maintain their smaller status if there is only episodic generation of larger quantities within 60 days;
- There may be a local waiver of the 50-foot property line buffer for storage of ignitable wastes;
- Generators must now provide certain information to local responders in advance; and

• Generator rules will now be found in one location in the CFR.

Other new requirements include:

- Hazardous Waste containers must now describe hazards and dates of initial accumulation; and

- Small Quantity Generators must re-notify every four years starting in 2021.

EPA has codified several "clarifications" that may require changes for generators who have been unaware of the above Agency interpretations. These include:

- Waste is regulated "as generated" before any mixing, treatment or dilution;
- When a generator may rely on "generator knowledge"; and
- Allowing satellite accumulation areas for Small Quantity Generators.

One EPA change which included a rule-making requirement document determination that waste was not a hazardous waste, was not adopted in the final rule.

The Rules affect trans-boundary shipments currently subject to 40 CFR Part 262, Subpart H, and include those shipments to Canada and Mexico under Subparts E and F. Requirements are streamlined to reduce confusion and increase compliance. Three previous sets of regulations are now folded into revised Subpart H. Specifically shipments to and from Canada will now be subjected to all the requirements of Subpart H. Documents are now to be electronically submitted (although refer to another article from EPA's Inspector General on this important subject, on Page 9 of this RT Review). Requirements of Subpart H also include submittal of export consent information as part of the exporter's declaration to U.S. Customs and border protection, and the requirement that traders similarly arrange for export of hazardous waste, obtain an EPA I.D. number. Exporters must now

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EPA REVISES HAZWASTE GENERATOR RULES AND REVISES EXPORT/IMPORT RULES *(continued from page 1)*

establish and amend contracts to provide additional information on aspects of the shipment, must prepare and provide RCRA Manifests for every shipment listing waste stream consumption numbers matched to each liquid waste, and must prepare and provide an International Movement Document for every shipment. Recognized traders must obtain an EPA I.D. number prior to export.

Other changes will be phased in over time, including electronic reporting to EPA's waste import/export tracking system, and submitting certain information to CBP through its automated export system. The terms of Consents issued prior to the Rule's Effective Date are generally unaffected. The

Rules are effective in all states and civil penalties for each RCRA violation are increased to over \$70,000 per day.

All hazardous waste generators are urged to promptly become familiar with the new requirements and more information can be found at <https://www.epa.gov/hwgenerators/final-rule-hazardous-waste-generator-improvements#rule-summary>

If you have any questions, please contact us for more information.

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RT STAFF AND PROJECT NEWS

Breanna Morris and Christopher Blosenski continue Act 2 work at a convenience store in the Pittsburgh Area. Information on the project was recently featured in the Mid Atlantic Real Estate Journal as an example of an important Act 2 Pennsylvania project where the Act 2 Toolbox was used to reduce remediation costs from several million dollars for the site, down to a much more reasonable several hundred thousand dollars, which could fit into the site redevelopment budget. The project involved addressing petroleum releases to soil and groundwater.

Tony Alessandrini undertook an asbestos abatement project in Clifton, New Jersey which was completed on the same site where redevelopment is underway, and RT is addressing a solvent release under an agreement being reached with the United States Environmental Protection Agency. Other areas of concern at the site are being addressed under the NJDEP LSRP Program.

Craig Herr continues work at a Philadelphia northern Suburbs Shopping Center, where a dry cleaner release is being addressed under the Act 2 Program. To address certain issues raised by the Pennsylvania Department of Environmental Protection, further work is being completed which all shows that issues at the site were satisfactorily addressed during soil vapor extraction remediation.

RT's end of year Christmas Party reaches a high point when annual awards are given out to our best employees. Victoria Jones Long won the top 2016 Award for having the highest monthly bonus total. RT gives out monthly cash awards based on six factors related to technical and progress performance. Victoria has shown that she can complete very high quality field work, and a special award was given recently, both to her and Breanna Morris for having the highest quality field logs on a number of projects. Chris Blosenski also won

a top award related to project performance. In addition to completing work at a number of remediation sites, Chris also completes mold investigations, working with Gary Brown, RT's Certified Microbial Consultant. Chris also undertakes wetlands work, both in Pennsylvania and New Jersey. He is also involved in investigating a former chemical company site in Trenton. Jennifer Berg also won a top award for her project in construction management on the Bellmawr Waterfront Development site, where Gary Brown, P.E., L.S.R.P. recently certified the Phase I Landfill Closure Area as complete. The site is immediately adjacent to New Jersey Route 42, near I-295 near the largest major road interstate complex in Southern New Jersey. The New Jersey Turnpike and New Jersey Route 55, additional major roadways, are just south of the site. The site was used and continues to be used for soil reuse, which totals more than 7 million tons. The majority of soil accepted for the reuse process undertaken at the site comes from Brownfield Projects throughout New Jersey and the Greater Delaware Valley area.

Walter Hungarter and James Sieracki are undertaking work for a new facility at a Superfund Site along the Riverfront in Philadelphia. The facility will be involved with the production of alternative medicinal products.

Justin Lauterbach is wrapping up work at a Trenton, New Jersey remediation site, where several key areas of concern are being addressed. This includes an oil discharge from compressors and addressing historic fill, and former railroad and railroad sidings, where areas of concern are being addressed by capping as part of a property transaction.

RT looks forward to serving our clients in 2017 and beyond.

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

TECHNOLOGY UPDATES

NEW PUBLICATION SUPERFUND RESEARCH BRIEF 261: IMPORTANCE OF YOUNG DISSOLVED ORGANIC CARBON TO THE RELEASE OF ARSENIC IN AQUIFERS

Carbon from relatively new sources of organic material on the surface, or young carbon, can stimulate microbial communities deep in aquifers, leading to the release of arsenic into water, according to a recent field study by Columbia University Superfund Research Program (SRP) Center researchers. The researchers found that near-surface sources of organic carbon are central in microbial metabolism, even in aquifers that are far below and separated from the land where carbon is derived. For more information, see:

https://tools.niehs.nih.gov/srp/researchbriefs/vi ew.cfm?Brief_ID=261

To get monthly updates on research advances from SRP you can subscribe to their Research Brief mailing at:

[https://list.nih.gov/cgi-](https://list.nih.gov/cgi-bin/wa.exe?SUBED1=SRP-BRIEF&A=1)

[bin/wa.exe?SUBED1=SRP-BRIEF&A=1](https://list.nih.gov/cgi-bin/wa.exe?SUBED1=SRP-BRIEF&A=1)

(Tech Direct – 10-1-16)

MASSACHUSETTS DEP HAS RECENTLY UPDATED IT'S VAPOR GUIDANCE

Massachusetts DEP has recently issued it's final Vapor Intrusion Guidance, which is available at the following link:

<http://www.mass.gov/eea/docs/dep/cleanup/vapor-intrusion-guidance-10-14-2016.pdf>

New Jersey's Licensed Site Remediation Professional Program is to a large degree modeled on the Massachusetts DEP Licensed Site Remediation Professional Program. Environmental Professionals in many states are watching how states apply updated risk assessment information for trichloroethylene, which has the potential to affect many sites.

MERCURY LEVELS HIGH IN FLORIDA DOLPHINS

Bottlenose dolphins swimming off the Florida Everglades, beloved for zipping alongside lonely boaters in the remote bays and rivers chiseled out of the vast marshes, have the highest levels of mercury ever documented in mammals, researchers have found.

But why that is may not be so easy to unravel.

The findings surfaced in a study in the journal Environmental Pollution that looked at pesticides and toxins in South Florida dolphins. Dolphins are considered a sentinel species, providing valuable insight into ecosystems and public health. Last year, for example, in a study that looked at dolphins in the Indian River Lagoon, researchers discovered that elevated mercury levels in dolphins accurately reflected high amounts in the nearby human population.

But in the Everglades, nothing is ever simple.

The high amounts of mercury likely come from the miles of mangrove that line the coast

and form countless islands, said Florida International University marine ecologist and co-author Jeremy Kiszka. Mercury in the Everglades has long been linked to smoke stacks and fertilizer used in farming and led to declines in birds — as well as repeated health warnings over eating fish. But aggressive cleanup efforts have helped reduce levels.

Still, mangroves are remarkably efficient at producing and trapping mercury, and filtering it into the water, so determining where the toxic mercury comes from, and how long it's been there, remains poorly understood, researchers say.

The dolphins inhabiting Florida Bay, Whitewater Bay, Joe River and other areas in Everglades National Park studied by the team have likely had high levels for a long time with no ill effects, he said.

"I doubt there is any impact on the population. However, without any data, it's not reasonable to say," he said. "This is a baseline study."

While boaters to the remote rivers and bays are familiar with the dolphins, little is actually known about them. Kiszka said FIU scientists have been studying the dolphins since 2010 but have focused largely on their distribution and foraging habits, not their physiology. So for this study, the team wanted to see what kind of pollution they could find in the dolphins, as well as pods in the Florida Keys, examining tissue samples taken from scores of dolphins in 2008 and 2013.

Because mangroves trap and transport mercury — other studies have found high levels in the Amazon and other mangrove forests — scientists expected to find elevated levels. But not in such high amounts, he said.

FIU scientists now hope to expand the study to include other animals — alligators and bull sharks — that could give them a better understanding of what mercury is doing in the marine environment.

Still, mangroves are remarkably efficient at producing and trapping mercury, and filtering it into the water, so determining where the toxic mercury comes from, and how long it's been there, remains poorly understood, researchers say.

"I would love to answer this absolutely critical question," Kiszka said. "I understand it's frustrating. We don't know where it's coming from. OK, potentially the mangroves, but there could be other sources."

That also means the dolphins inhabiting Florida Bay, Whitewater Bay, Joe River and other areas in Everglades National Park studied by the team have likely had high levels for a long time with no ill effects, he said.

"I doubt there is any impact on the population. However, without any data, it's not reasonable to reach a final conclusion."

(By Jenny Staletovich – Miami Herald)

TECHNOLOGY UPDATES

- Armories with Lead Impact Nationwide, pg. 3
- Arsenic Impact in Aquifers, pg. 3
- Diesel Generators - A Declining Concern, pg. 7

INVESTIGATION FINDS TOXIC ARMORIES NATIONWIDE

Hundreds of U.S. National Guard armories across the United States have been contaminated by dangerous amounts of lead dust, an 18-month investigation by a sister newsroom of NJ.com has found.

The Oregonian/OregonLive of Portland, Ore., found that the Defense Department and state National Guard officials knew about these toxic armories for nearly two decades but moved slowly to address the problem, leaving soldiers, civilian employees and children exposed.

Armories in big cities and small towns have housed tearful deployments, joyful reunions and thousands of community events. They're civic landmarks, where part-time soldiers drilled one weekend a month and fired weapons at indoor shooting ranges.

But the firearms emitted an insidious form of lead every time a bullet left the chamber. The National Guard's neglect allowed the dust to spread beyond the ranges, into common areas used by the public, including small children most at risk.

The National Guard's indoor firing ranges were supposed to be well-ventilated, cleaned regularly and equipped with air filters to prevent lead from escaping. But in armories from Washington state to Vermont, people tracked dust outside the ranges by foot. Ventilation systems sucked in lead, spreading it to public areas and offices, sometimes as far as roofs, sidewalks and the soil outside, according to inspection records.

The scope of the contamination across the country is staggering. Inspectors have found lead dust at alarming levels in armory gyms, drill halls, conference rooms, hallways, stairwells, kitchens, pantries, offices, bathrooms and a day care center, records and interviews show.

The neurotoxin contaminated coffee makers, ice makers, refrigerators, dishes, soldiers' uniforms, children's toys, medical supplies, water bottles, carpets, soda machines, bookshelves, fans, furniture, heaters, basketball backboards and a boxing bag -- even a deli meat slicer.

The National Guard was put on notice about the lead problem in the 1990s. Guard officials pledged to identify which of their roughly 1,800 firing ranges were polluted, but they never followed through.

The Oregonian/OregonLive did what the Guard failed to do, obtaining more than 23,000 pages of public records from 41 states and building a database from scratch. The database of 1,304 current and former sites offers the nation's most comprehensive accounting of

TECHNOLOGY Updates (Continued)

toxic armories. Louisiana was one of the last states to turn over inspection reports. New Jersey is one of a handful of states that did not turn over any inspection documents.

Inspectors found lead in 424 armories in the past four years, or nearly 90 percent of the places for which results were available. In 192 of those contaminated buildings, inspectors found the toxic material outside the firing range.

More than 700 other armories were not inspected since 2012 despite requirements that officials test former ranges annually and active ranges every two years.

Most of the firing ranges are now closed. But the danger remains.

The Guard converted hundreds of ranges into offices, locker rooms, storage areas, gymnasiums, classrooms and other uses without thoroughly cleaning the rooms first.

The National Guard Bureau declined to answer questions for this story, saying for six months that a response was in the works.

The current round of cleaning follows decades of sporadic and poorly executed initiatives to keep lead contamination at bay. All the while, children - whose developing bodies are the most vulnerable to lead's brain-damaging effects - were placed in harm's way.

Across the country, children have wrestled, danced, played volleyball and learned taekwondo in lead-contaminated rooms. States have rented out armories for baptisms, baby showers and wedding receptions that attracted thousands of children. Cub Scout groups brought the same kids in for meeting after meeting.

No amount of lead is safe in a child's body, according to the federal Centers for Disease Control and Prevention. Children age 6 and

younger are the most vulnerable because their bodies are still developing.

(Rob Davis – The Oregonian/Oregon Live; South Jersey Times – 12/4/16)

Here in Pennsylvania, not all armories failed to receive attention. RT worked with engineers and architects who were updating armories, as the shooting range areas were redesigned and redeployed for future use. Not mentioned in the above article is "projectile scatter", which, depending on how the target area was historically designed, can add to the mass of lead produced from bullets after they pass through the target and hit a typical rear plate. In cases where RT completed the work at armories, work was completed to appropriate residential standards and HVAC systems were checked appropriately so that ducts were clean prior to reuse of the former shooting range areas.

- Gary Brown, P.E.

RT ENERGY NEWS

LATEST UPDATES IN THE NATURAL GAS INDUSTRY

In what is currently seen as a pause in gas drilling and pipeline construction activities, I am pleased to update you on key natural gas industry environmental issues. The latest information from industry observers is that according to the Wall Street Journal, natural gas exports now exceed imports which hasn't happened for decades. Last month the U.S. exported an average of 7.4 billion cubic feet of gas a day, more than the 7 billion cubic feet a day it imported in the same month. The detail is that it has been nearly sixty years since the U.S. last shipped out more natural gas than it brought in annually.

The U.S. energy industry, which is aggressively looking to ramp up its global market

share to help offset a long period of low prices, is getting ready to move. Activity is indicative of things to come according to Sid Perkins, Managing Partner at the Brokerage ION Energy Group. Natural Gas is taking on characteristics similar to the global crude oil market.

Natural gas imports are stable or trending downward, but liquefied natural gas exports are going up. The biggest exports are to Mexico, followed by Canada.

A number of important industry trends have become evident, including:

- Natural gas drilling platforms have generally not been built, taking into account that more drilling could occur. However in the Southwest Pennsylvania and the surrounding state area, it is clear that deeper gas is present which could become economically viable to drill into in the future, in as short a time as a

generation or two. Those considering drilling platform locations, should evaluate likely future construction and pads should be built for the long term. The difference here is that if future drilling locations can be considered at the time of permitting of current pipeline routes and drilling platforms, future drilling at platform locations could be less expensive with no pad permits being needed or with minimal new permits needed at the platform locations, to connect with gathering and/or transport lines.

- Why the best pipeline routes are not always chosen.

- Examining why upgrading existing pipelines and paralleling existing pipeline routes can be advantageous.

- Why the availability of natural gas along expanded pipeline routes means fundamental changes in electric generation and power distribution.

MINING FINANCIAL ASSURANCE

States are pressing EPA for a greater role in mining Financial Assurance. House Republican members are also pressing EPA to share details about what is now considered a controversial Rulemaking.

Consideration is to lower the amount of Financial Assurance companies must post to cover the cost of a potential failure if they have

engineering controls in place, due to state monitoring and reclamation or other requirements. Commenters are requesting EPA to supply a draft of its Financial Assurance formula and allow an opportunity for further consultation with states before issuing a Proposed Rule.

WATER MODELING APPROACH CONSIDERED UNLAWFUL

Elements of the Cross-State Air Pollution Rule Cap and Trading program are considered unlawful, based on statements by the Midwest Electric Utilities opposed to EPA Interstate Emissions Trading Programs. Written comments by the Midwest Interstate Electric Utilities can be found in:

<https://rtenv.sharefile.com/d-s28eae0b753049a39>.

The Midwest Ozone Group contends that EPA current Guidance

and modelling completed over water bodies not only produces inaccurate results for coastal areas, but also contradicts legal precedent. At a meeting, regulators expressed some concern that computer models are still overestimating ozone at locations on the water's edge, such as monitoring stations on the Chesapeake Bay and Rhode Island Sound.

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

FEDERAL REGULATORY UPDATES

EPA CHALLENGED IN WASTEWATER UTILITIES SUIT

Utilities are suing EPA over its alleged failure to implement a 2013 court decision restricting its policies on wet weather wastewater treatment. The issue regards “blending”, and there are complications because the Department of Justice was found to have advised EPA that it should avoid putting a certain Decision in writing, which could cause another round of judicial review.

The utilities group says that EPA and the Department of Justice misled the Court, and EPA and Department of Justice should not have attempted to create an alternative regulatory universe.

As indicated previously in the RT Review, common sense should prevail and the EPA and Department of Justice should act to put this long-standing issue to bed.

- Gary Brown

MS4 PERMIT SUIT CONTINUES ON MUNICIPAL STORMWATER

The Center for Regulatory Reasonableness has filed suit against EPA regarding a General Permit for Stormwater Discharges from small municipal separate storm sewer systems in Massachusetts. EPA has apparently held up the position of the Conservation Law Foundation, but the Center for Regulatory Reasonableness has held that there is really no right for the Conservation Law Foundation to intervene.

The issue is receiving much attention because EPA has put out a novel small MS4 General Permit crafted for Massachusetts, scheduled to take effect in 2017. The Center for Regulatory Reasonableness is prepared to argue that the Permit violates the U.S. Constitution, and that EPA has failed to justify its most stringent terms.

EPA PUBLISHES TSCA LIST OF BANNED MERCURY EXPORTS

In the August 26th Federal Register, EPA, using the TSCA Reform Law, expands on the Mercury Export Ban Act of 2008. That Act bars exports of elemental mercury except to countries that are members of the Organization for Economic Cooperation and Development.

Newly listed mercury compounds are those that could be used to produce elemental mercury in commercial quantities, as supporters said that without the expanded ban, the existing mercury export ban could be undermined. EPA also notes that it has authority to add new compounds through rulemaking.

INDUSTRIES RAISE CONCERNS OVER ARSENIC RISK ASSESSMENT PROCESS

The Arsenic Science Task Force, following up on a previous letter to EPA, has expressed concerns and pushed for consideration of additional studies on how EPA should undertake arsenic risk assessment work. A key issue which is of

concern is concern that EPA is trying to use a risk assessment approach which may be “biologically implausible at low levels”.

EPA BOILER MACT REVISES KEY DEFINITIONS

In a Final Rule, printed in the September 14th Federal Register, EPA has adopted a host of changes to the Boiler MACT, particularly those related to facility startup and shut down definitions. Changes relate to setting alternative particulate matter limits for new oil-fired boilers that burn ultra-low sulfur fuel, retaining a subcategory and more lenient requirements for infrequently used “limited use” boilers, and mandating further performance testing for certain boilers five years after their initial performance tests.

There is also an expanded definition of “clean fuels”. Refer to the “National Emission Standard for Hazardous Air Pollutants for Area Sources: Industrial, Commercial and Institutional Boilers, Final Rule”, for more information.

PETITION CHALLENGES – AIR PERMITS

Rulemaking also mandates certain minimum requirements for the content of petitions, such as requiring a description of exactly how petitioners believe a permit fails to meet applicable clean air requirements. With respect to petitioners raising objections to PSD Permits, EPA notes that it generally defers to state permit authorities on the PSD requirements. A Fact Sheet is available from EPA on this Rulemaking.

TITLE V AIR PERMIT OBJECTIONS ON STATE LEVEL SUBJECT TO EPA RULEMAKING

A proposal published in the August 24th Federal Register was issued by EPA to attempt to approve the process for protesting Title V “Umbrella” operating permits incorporating all applicable and Air Permit requirements. Comments are being received which will require the permitting authorities, usually states, to “prepare complete permit records that are consistent with the requirements” of the Air Law “by requiring them to respond in writing to significant comments received during the public comment period for draft Title V Permits”.

Environmental groups are involved in the current questions and they have advised EPA to move the proposal forward to address the permit backlog, and they urge EPA to adopt a version of the rule that allows designating a continued permit as “proposed” two years after expiration.

EPA lists eight factors that could trigger federal oversight of a continued permit. Concerns include that when permit provisions are “proposed” there is no longer an effective Discharge Permit and facilities could be barred from discharging pollutants to protected waters during the permit renewal process.

FEDERAL UPDATES

- Coal Tar Sealant - Will it Be Banned?, pg.6
- EPA Provides Updated Evaluation of Lead Risk Assessment, pg. 6
- EPA Plans to Clarify Sediment Cleanup Decisionmaking, pg. 7
- Trump Transition “Landing Team”, pg. 7
- EPA Issues Guide for Long Term Stormwater Permitting, pg. 7

BEEKEEPERS AND ENVIRONMENTAL GROUPS DEFEND THEIR LAWSUIT

Beekeepers and environmentalists believe thiamethoxam and clothianidin harm bees and the charge that EPA failed to properly assess the risks of these products under the Endangered Species Act. EPA tried to get the case dismissed. But in a new filing, advocates responded to the EPA’s request and the lawsuit, and they argue that beekeepers have standing because use of the products containing clothianidin and thiamethoxam in fields near their hives, forms beekeeper interest and that suspending the products would resolve the problem.

We will keep you informed of the outcome of this case in the RT Review. For many years, it has not been known why bee populations are declining, and we think that EPA should be protecting bees and should be providing more information on exactly what the technical issues with the chemical compounds are.

- Gary Brown

ASBESTOS CONVICTION RECONSIDERATION

A man convicted of violating the Clean Air Act by improperly removing and disposing of insulation containing regulated asbestos has been granted a new trial. He claims that he did not knowingly deal with regulated asbestos.

The contractor involved, Butch O’Malley, is serving ten years in prison, yet he says he never knew that the material he was working on, which contained bags full of insulation at an abandoned farmhouse, contained asbestos. Material was also stored in a dumpster near a vacant house after an asbestos abatement company refused to accept the insulation.

The issue came because the parties involved never told Mr. O’Malley what was in the containers.

CHROMIUM RISK EVALUATED BY TEXAS OUTSIDE EPA REVIEW

The Texas Commission on Environmental Quality’s assessment of Chromium 6’s oral cancer risk estimates was recently published and can be accessed here:

<http://www.tceq.com/assets/public/implementation/tox/dsd/proposed/june2016/hexchromoral.pdf>

Research resulted in a hypothesized mode of action which was not mutagenic, and TCEQ accepts the result in its assessment. EPA reached an opposite conclusion in an old 2010 draft Risk Assessment that it is still revising. EPA believes that Cr6 is mutagenic.

We think six years is a long time to take for

FEDERAL REGULATORY Updates (Continued)

EPA to finalize its scientific review work. As hexavalent chromium is a key contaminant at many environmentally impaired sites, we would urge EPA to finalize its determinations without further delay.

- Gary R. Brown

COAL TAR SEALANT – WILL IT BE BANNED?

In a new case, stormwater discharges of contaminants may be limited. The Federal Water Quality Coalition and Federal Stormwater Association intervened in the case. The provisions of the Agreement call for EPA to consider when effluent limitations can be established that constitute best available technological and economically achievable, or best conventional technology as appropriate that ensure permitted discharges are controlled as necessary to meet water quality criteria.

The effect of the rulemaking is to virtually ban coal tar sealant, or expensive monitoring would be needed which would show that there are concerns regarding certain chemical constituents in the coal tar sealants.

PCB HUDSON RIVER CLEANUP QUESTIONED

On August 21st, the New York State Department of Environmental Conservation Office of the Commissioner issued a letter to EPA indicating an objection to the adequacy of the EPA Hudson River PCB cleanup. General Electric manufactured transformers at its Fort Edward facility, and under an NPDES Permit, released PCBs which caused significant sediment contamination from the upper reaches of the Hudson River, down to New York City. Key issues are:

- Significant PCB-contaminated sediment will be left behind.

- Too much reliance on fish consumption advisories.

- New York Department of Environmental Conservation's concurrence on the 2002 ROD was conditioned on the removal of highly contaminated PCB sediment in large sections of the Upper Hudson River, and DEC believes that the sufficiency of the remedy selected in the ROD needs to be further evaluated before any further decisions are reached.

- Gary Brown

EPA SETS DECEMBER 2021 AS TARGET FOR MOST AREAS TO ATTAIN PM2.5 NAAQS

EPA issued a Final Rule in the August 24th Federal Register, setting December 2021 as a target for most areas to attain PM2.5 NAAQS. The terminology refers to fine particulates and EPA has issued a Fact Sheet, which can be accessed below:

<https://www.epa.gov/sites/production/files/2016-07/documents/fact-sheet-final-pm25-impl-rule.pdf>

The Final Rule also details the process for determining pollution control strategies, such as

reasonably available control technology for areas in moderate attainment and tougher Best Management Control Technology for areas in the serious non-attainment category. Also included are Guidelines for Attainment Demonstration, showing how areas may meet the standards.

EPA PROVIDES UPDATED EVALUATION OF LEAD RISK ASSESSMENT

EPA's current policy is to set a limit of 400 parts per million at residential sites for lead. Current review information from lead health studies on lead toxicity has been evaluated by EPA to help establish a "reference value", so that there can be further evaluation of blood lead levels in children one to five years old.

Although there is no final indication as to how this issue will be resolved, it is clear that more extensive removal may be required particularly in schools in the future.

- Are naturally occurring lead, lead-based paint, and consumer use of products containing lead significant sources of lead in soil and dust at Superfund sites within, adjacent, or proximal to the nation's largest lead mining districts?

- What are promising tools and techniques that could inform the attribution of lead in the environment from various sources?

- Are there other techniques (qualitative, semi-quantitative) to evaluate lead sources that would be helpful to the Agency? Does the panel have any advice to facilitate implementing these techniques?

- What are the benefits and drawbacks to these approaches (e.g., technical or, economic challenge)?

- How can information on other sources of lead (e.g., lead-based paint, consumer products) be used to inform a remedial strategy?

- Can the panel recommend best practices that EPA should consider adopting to assist in communicating information on sources of lead at Superfund sites?

We will keep you informed of any further studies by EPA on Lead in the RT Review.

RECENT RULING OPENS DOOR TO WIDER PCB BUILDING CLEANUPS

A recent Federal District Court Ruling in California can lead to expectations that citizens can pursue building-wide cleanups of PCBs if sampling of a portion of a building's caulk shows PCB levels above legal limits. A school district had sampled various rooms in the school buildings and found exceedances of legal limits in samples of caulk.

Although defendants had removed and replaced caulk tested, it was found that there was no evidence that all of the caulk in the buildings in the Malibu Campus, constructed prior to 1979, had been properly tested and removed. Although there is no final indication as to how this issue will be resolved, it is clear that more extensive removal of caulk with PCBs may be required, particularly in schools, in the future.

EPA RETAINS EXISTING LEAD NAAQS

EPA decided to retain its existing lead National Ambient Air Quality Standard of 0.15 micrograms per cubic meter. The limit will serve as both a primary health-based standard and a secondary limit designed to protect the environment. Both states and a lead industry group backed the existing standard. Click here: https://www3.epa.gov/ttn/naaqs/standards/pb/data/20071204_pb_anpr.pdf to access a copy of the Final Rule recently issued by EPA.

EPA MAY TIGHTEN OZONE AIR STANDARD BEYOND BACKGROUND RULES

EPA is defending its authority for tightening its Ozone National Ambient Air Quality Standards below the levels of naturally occurring "background" ozone in some states. A number of Briefs have recently been filed, including:

[http://rtenv.com/doc_resources/final_briefs_us_court_of_appeals/epa2016_2074a\[1\].pdf](http://rtenv.com/doc_resources/final_briefs_us_court_of_appeals/epa2016_2074a[1].pdf)

[http://rtenv.com/doc_resources/final_briefs_us_court_of_appeals/epa2016_2074b\[1\].pdf](http://rtenv.com/doc_resources/final_briefs_us_court_of_appeals/epa2016_2074b[1].pdf)

[http://rtenv.com/doc_resources/final_briefs_us_court_of_appeals/epa2016_2074c\[1\].pdf](http://rtenv.com/doc_resources/final_briefs_us_court_of_appeals/epa2016_2074c[1].pdf)

[http://rtenv.com/doc_resources/final_briefs_us_court_of_appeals/epa2016_2074d\[1\].pdf](http://rtenv.com/doc_resources/final_briefs_us_court_of_appeals/epa2016_2074d[1].pdf)

- Final Briefs stating that nothing in the Clean Air Act requires the Agency to take background into consideration.

[http://rtenv.com/doc_resources/final_briefs_stating_nothing/epa2016_2074a\[1\].pdf](http://rtenv.com/doc_resources/final_briefs_stating_nothing/epa2016_2074a[1].pdf)

[http://rtenv.com/doc_resources/final_briefs_stating_nothing/epa2016_2074b\[1\].pdf](http://rtenv.com/doc_resources/final_briefs_stating_nothing/epa2016_2074b[1].pdf)

[http://rtenv.com/doc_resources/final_briefs_stating_nothing/epa2016_2074c\[1\].pdf](http://rtenv.com/doc_resources/final_briefs_stating_nothing/epa2016_2074c[1].pdf)

[http://rtenv.com/doc_resources/final_briefs_stating_nothing/epa2016_2074d\[1\].pdf](http://rtenv.com/doc_resources/final_briefs_stating_nothing/epa2016_2074d[1].pdf)

- Major Industrial Sectors Litigation.

[http://rtenv.com/doc_resources/major_industrial_sectors/epa2016_2074d\[1\].pdf](http://rtenv.com/doc_resources/major_industrial_sectors/epa2016_2074d[1].pdf)

The Department of Justice is involved in the case, and they can see that background may sometimes be higher than the 70 parts per billion standard for ozone. Industry groups in their Final Reply Brief:

([http://rtenv.com/doc_resources/final_reply_brief/epa2016_2074c\[1\].pdf](http://rtenv.com/doc_resources/final_reply_brief/epa2016_2074c[1].pdf)) that EPA's treatment of background "misses the mark".

There is also a statement that EPA disregards the reality that background levels alone would prevent attainment and EPA does not reply on that important point.

EPA BACKS RULING ON MINE DISCHARGES VIOLATING CLEAN WATER ACT AND PERMIT "SHIELD" SUIT

EPA recently filed with the US Court of Appeals for the 4th Circuit, in a West Virginia case. The suit, found at:

FEDERAL REGULATORY UPDATES (Continued)

http://rtenv.com/doc_resources/clean_water_act_%20shield_%20suit.pdf, is expected to pose a novel suite for the Clean Water Act shield against enforcement for Clean Water Act Permit holders. Permit holders and environmental groups seek to build an exception to a limited set of items in a 2014 Decision in the 4th Circuit. The West Virginia Department of Environmental Protection has been involved in the issue, and the question relates to the use of conductivity as a Discharge Standard.

There are serious discussions regarding the West Virginia Department of Environmental Protection, EPA, and the Department of Justice. The principle issue relates to the relationship between water quality requirements and effluent limits, and whether the mining company involved has a permit which includes appropriate water quality requirements and what methodology should be used to gauge compliance.

We will keep you informed on this important case in the RT Review.

TRUMP TRANSITION "LANDING TEAM" INCLUDES EPA OFFICIAL

EPA Chief of Staff Matt Fritz said that Trump's EPA Landing Team is expected to arrive soon to coordinate with EPA. A top policy-maker, Shannon Kenney, has been selected to provide a timely and coordinated response during the transition. President Obama signed the Presidential Transition Improvements Act which should help make the transition go smoothly.

MASSACHUSETTS MS-4 STORMWATER PERMIT FOR SMALL TOWNS TO BE CHALLENGED

The Massachusetts small MS-4 General Permit is being challenged by the Conservation Law Foundation, the National Association of Homebuilders, the City of Lowell, Massachusetts and the Massachusetts Coalition for Water Resources Stewardship. Petitions will be consolidated with a Petition filed earlier at the D.C. Circuit Court by the Center for Regulatory Reasonableness (CRR). The CRR represents some municipal stormwater and wastewater utilities.

Although the MS-4 Permit will not take effect until July 2017, the Permit requires newly developed properties to include on-site stormwater retention technology such as green infrastructure, unless developers can greatly reduce sediment and nutrient runoff from their land. Challenges include that DEP overall stormwater program and portions of the Clean Water Act itself are variously unlawful or unconstitutional. Another challenge is that mandates were not properly justified with site-specific data, and that the General Permit usurps stormwater control policies. Another challenge is that the Conservation Law Foundation seeks to intervene on EPA's behalf so as to defend the Permit against arguments that the Permit is unlawfully stringent.

EPA SENDS CLEAN WATER ACT CONSTRUCTION GENERAL PERMIT UPDATE FOR REVIEW

The long-delayed Clean Water Act Construction General Permit contains updated information and has been submitted to the Office of Management and Budget for review. The Office of Management and Budget is a White House Office, and the document under review is the final updated Permit. The proposal includes stricter controls on demolition of buildings made with PCBs in building materials, and there is a ban on discharging hazardous substances from washing buildings.

There might be requirements for a site's entire Stormwater Pollution Prevention Plan to be included with an application for coverage under the Construction General Permit. There are also requirements for inspections of sites to occur within 24 hours of any storm that records at a quarter inch of rainfall. For more information on the Permit proposal, go to:

<https://www.epa.gov/npdes/epas-draft-2017-construction-general-permit-cgp>

WESTERN LAKE ERIE CONFUSION ARISES AS MICHIGAN AND OHIO TAKE DIFFERENT APPROACHES TO ALGAE BLOOMS

Confusion is arising between Michigan, Ohio and EPA as there appears to be no organized approach to decide the degree to which Lake Erie may be impaired and/or whether a total maximum daily load approach to address impaired water quality is needed. EPA believes that an assessment and listing process under the Clean Water Act should be led by the United States Environmental Protection Agency in consultation with the states, but Michigan declared its portion of Lake Erie basin as impaired "due to extensive algal blooms caused by excessive letter of phosphorus.

As EPA takes on new programs or expanded programs in response to environmental issues, it is important that more effort be made to assure intergovernmental program coordination.

EPA PLANS TO CLARIFY SEDIMENT CLEANUP DECISIONMAKING

A new report was recently issued by EPA, entitled "EPA Considers Risk Management Principles but Could Clarify Certain Procedures". The Government Accountability Office found that EPA Regional Cleanup Officials were not documenting decisions related to selection of sediment cleanup criteria.

Senator James Inhofe criticized the EPA for only producing "sloppy" documentation and it was indicated that "these sites are often very expensive and technically challenged to cleanup"...so EPA's technical experts may not have information and time to make correct decisions. EPA has a framework of 11 Risk Management Principles, used at Tier 1 sites and large, complex or controversial Tier 2 sites.

DIESEL GENERATORS – A DECLINING CONCERN?

A recent draft study issued by the Ozone Transport Commission indicates a declining threat to air quality in Mid-Atlantic and Northeast States from diesel generators. NOx is declining across the Eastern United States, but spikes of NOx caused by surges in electric generation on hot summer days are still under scrutiny. A finding is that "most states prohibit the participation of emergency engines".

Though more study is believed to be needed, it is thought that review of engines installed with permits and enrolled with a curtailment service provider, operated for non-emergency reasons outside of the times they are called upon by a curtailment service provider has led to a reduction of many diesel engines that unknowingly operated illegally.

EPA ISSUES GUIDE FOR LONG TERM STORMWATER PERMITTING

EPA has recently released a step-by-step Guide to help communities develop long term stormwater plans. The plan is a web-based tool kit, and five communities are being selected to develop plans as national models. Included in the list of five communities is Chester, Pennsylvania.

Each year billions of gallons of runoff which contains trash, nutrients, metals and pollutants, flows into waterways. The focus and improvements relates to street improvements, outdoor open spaces, greenways or recreation, and steps for community revitalization. Click here for a copy of the document:

https://www.epa.gov/sites/production/files/2016-10/documents/draftlongtermstormwater-guide_508.pdf

IS A LEGISLATIVE SOLUTION NEEDED FOR SAFE DRINKING WATER ACT DELAYS?

Water utilities in the United States are concerned that should environmentalists be successful in a broad legal challenge to the Safe Drinking Water Act implementation, that EPA deadlines could be arbitrarily enforced by public interest groups making the ability to run utilities and plan for future drinking water improvements difficult and hard to predict.

Right now, there are 1996 Amendments which are being followed, but lawsuits have been driving the agenda on which water quality improvements need attention and which areas of Safe Drinking Water Act requirements receive attention. An environmental group called the Water Keeper Alliance sent a Notice of Intent to Sue EPA, and there are allegations that there are ten nondiscretionary duties related to drinking water that EPA has failed to perform.

ARMY CORPS OF ENGINEERS ISSUES GUIDE ON ISSUING JURISDICTIONAL FINDINGS UNDER THE CLEAN WATER ACT

The Corps of Engineers on October 31st issued a Regulatory Guidance Letter, clarifying

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the difference between formal or approved jurisdictional determinations and informal or preliminary jurisdictional determinations. You can find a copy of the Letter here:

http://www.usace.army.mil/Portals/2/docs/civil-works/RGLS/rgl_6-01_app1-2.pdf?ver=2016-11-01-091706-840.

Guidance includes wording that undertaking any activity and reliance on any form Corps Permit Authorization based on a Preliminary Jurisdictional Determination constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional. There are concerns however, that a Waiver filed in the findings process may not be enforceable in Court.

INSPECTOR GENERAL FINDS PROBLEM WITH EPA E-MANIFEST PROGRAM

The Inspector General issued a report on November 7th that Acquisition Certifications outlined in the Federal Acquisition Certification for Program and Project Managers are necessary, but the information needed for the E-Manifest System is lacking. EPA lacked evidence according to the IG that either program or project managers met the requirements. EPA is responding to the Inspector General's concerns and is in the process of fulfilling the recommendations.

TRUMP HAS MORE TO SAY ON CLIMATE CHANGE

President-elect Donald Trump indicates that he has "an open mind to" ... climate change. A recent article indicated that "I think there is some connectivity" between human activity and climate change.

The underlying disparity between greenhouse gases and economic impacts on industries and society in general, suggests that "carbon dioxide is a greenhouse gas that by itself will result in a slight warming of the lower atmosphere and surface temperatures, as well as a cooling of the stratosphere, ... additional warming is provided by a complicated feedback with water vapor."

We will keep an eye on climate change and global warming in the *RT Review*.

FIVE STATES HAVE GOVERNORS WHO RECOMMEND THAT TRUMP SCALE BACK EPA RULES

The Environmental Chiefs of North Carolina, North Dakota, Nebraska, West Virginia and Alabama have requested a moratorium on new EPA rules and a review of "overreaching" policies as a step to be undertaken when Trump gains administrative authority over EPA. A Letter dated November 6th, says:

"Our country still needs the EPA, but not the EPA of recent years. We need research targeted at our specific, clear environmental challenges. This can best be done by coordinating industry-level initiatives that cross state lines, which can be defined by measurable success. We must put an end to the idea

that more regulation is always good, and instead allow state and local experts to improve the environment".

TRUMP'S OPPOSITION TO CLEAN WATER ACT JURISDICTION RULE POSES QUESTIONS ON ITS FUTURE

The next merit brief in the 6th Circuit case on the Army Corps of Engineers/EPA Jurisdiction Rule under the Clean Water Act is scheduled to be filed on January 18th. That is a mere two days between Donald Trump's inauguration. As described in other articles in the *RT Review*, there are divided rulings in filings over court jurisdiction.

The current key issue is an ability to resolve confusion over whether smaller and isolated waters are subject to the Clean Water Act, following competing Supreme Court rulings. The Department of Justice is currently defending EPA and the Army Corps of Engineers, though there is a stay on implementation which means George W. Bush EPA Guidance is being used for Clean Water Act jurisdiction.

EPA RATIONALE FOR UTILITY MAXIMUM AVAILABLE CONTROL TECHNOLOGY COST ASSESSMENT

A coalition of states and industry groups says that the EPA rationale for Utility MACT Cost Assessment is based on flawed logic, and an appellate court is urged to scrap the MACT Air Toxics Rule. The coalition of states and industry groups says that the Rule's benefits clearly outweigh the costs. An accusation was made that EPA, in the updated Cost Assessment does not actually weigh anything, nor does it explain how it weighed the purported benefits against very large costs. For more information on the current controversy, you can go to:

http://rtenv.com/doc_resources/EPA_rationale-a/epa2016_2473.pdf

http://rtenv.com/doc_resources/EPA_rationale-b/epa2015_1375.pdf

http://rtenv.com/doc_resources/EPA_rationale-c/epa2016_1576a.pdf

http://rtenv.com/doc_resources/EPA_rationale-c/epa2016_1576b.pdf

http://rtenv.com/doc_resources/EPA_rationale-c/epa2016_1576c.pdf

http://rtenv.com/doc_resources/EPA_rationale-c/epa2016_1576d.pdf

http://rtenv.com/doc_resources/EPA_rationale-c/epa2016_1576e.pdf

http://rtenv.com/doc_resources/EPA_rationale-c/epa2016_1576f.pdf

States which are challenging the Rule include Alabama, Arizona, Arkansas, Kansas, Kentucky, Michigan, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, Texas, West Virginia, Wisconsin and Wyoming.

NPDES BEST PRACTICES FOR TOXIC AND HAZARDOUS CHEMICAL DISCHARGES

EPA published a best practices guide and factsheet for National Pollutant Discharge Elimination System (NPDES) permit writers, pretreatment coordinators, and industry professionals with recommendations for how to better address toxic and hazardous chemical discharges from industry to publicly owned treatment works (POTWs). The best practices document describes sources of information that NPDES permit writers and pretreatment coordinators can use to identify discharges of toxic and hazardous chemicals that may affect the integrity of the POTW infrastructure as well as the quality of the POTW's effluent and biosolids. The factsheet helps to inform industry of hazardous waste reporting requirements under the pretreatment regulations.

(*Environmental Resource Center – 11/14/16*)

EPA REVISES NOTIFICATION PROCEDURES FOR AIR PERMITS

EPA is revising the public notice rule provisions for the New Source Review (NSR), title V and Outer Continental Shelf (OCS) permit programs of the Clean Air Act (CAA or Act) and corresponding onshore area (COA) determinations for implementation of the OCS air quality regulations. This final rule removes the mandatory requirement to provide public notice of a draft air permit (as well as certain other program actions) through publication in a newspaper. Instead, this final rule requires electronic notice (e-notice) for EPA actions (and actions by permitting authorities implementing the federal permitting rules) and allows for e-notice as an option for actions by permitting authorities implementing EPA-approved programs.

When e-notice is provided, the final rule requires, at a minimum, electronic access (e-access) to the draft permit. However, this final rule does not preclude a permitting authority from supplementing e-notice with newspaper notice and/or additional means of notification to the public. The EPA anticipates that e-notice, which is already being practiced by many permitting authorities, will enable permitting authorities to communicate permitting and other affected actions to the public more quickly and efficiently and will provide cost savings over newspaper publication. The EPA further anticipates that e-access will expand access to permit-related documents.

(*Environmental Resource Center – 10-24-16*)

BIGGEST CHANGE IN HAZARDOUS WASTE GENERATOR RULES IN 30 YEARS

EPA is about to publish a final rule that includes over 60 revisions and new requirements in the hazardous waste generator regulatory program. According to EPA, the primary intent of these provisions is to foster improved compliance by hazardous waste generators in the identification and management of the

FEDERAL REGULATORY UPDATES (Continued)

hazardous waste they generate and, as a result, improve protection of human health and the environment. Another major objective of this rule is to support the efficient implementation of the hazardous waste generator regulations by the states.

The Agency intends to achieve these objectives in several ways. For example, the most frequent comment the Agency received when it conducted a program evaluation of the hazardous waste generator regulatory program in 2004 was to improve the user-friendliness of the regulations. Prior to this action, the generator regulations were found in several parts of the Code of Federal Regulations (CFR). This final rule reorganizes and consolidates most of the generator regulatory program into 40 CFR 262, with exceptions for very technical and lengthy regulations, such as the RCRA air emissions standards and the land disposal restriction requirements.

Here are just some of the changes that are being finalized:

New definitions for Central Accumulation Areas and Very Small Quantity Generators

New requirements for generators to accurately document which wastes are hazardous wastes

New labeling requirements for hazardous waste at central accumulation areas and satellites

Requirements for LQGs to notify EPA or their authorized state when they plan to close their facilities

Requirements for SQGs to re-notify EPA or the authorized state of their generator status and wastes generated every four years

Requiring LQGs to submit a biennial report that identifies all of the hazardous wastes

generated in the calendar year

Requiring LQGs to prepare a quick reference guide for their contingency plans to assist responders in an emergency

Requiring facilities that recycle hazardous waste without storing the waste to prepare and submit a biennial report

Allowing VSQGs to voluntarily send hazardous waste to LQGs under the control of the same person

Allowing LQGs to apply for a waiver to accumulate ignitable and reactive wastes within the 50 foot facility boundary

Allowing VSQGs and SQGs to voluntarily maintain their existing regulatory status if they have an episodic event that generates additional amounts of hazardous waste which would have resulted in them moving into a higher generator category for a short period of time, so long as they comply with certain conditions

Reorganizing the hazardous waste generator regulations to make them more user-friendly

Revisions that clarify the mixture rule

The new rule will be effective 6 months from the day it is published in the Federal Register. Some portions of the rule will be effective in all states, some will not be effective until your state adopts the rule; and if your state's rules are more stringent than the new regulations, the state's stringent requirements might continue to apply in your state. Learn how to comply with the rule by attending Environmental Resource Center's Hazardous Waste Management Training or the Hazardous Waste Generator Improvements Rule Webcast.

(Environmental Resource Center – 11/7/16)

EPA FAST-TRACKS FIVE CHEMICALS IN NEW TSCA

EPA is taking swift steps to carry out requirements in the Frank R. Lautenberg Chemical Safety for the 21st Century Act to reform the Toxic Substances Control Act and to reduce exposure to certain persistent, bioaccumulative, and toxic (PBT) chemicals.

"The threats from persistent, bioaccumulative and toxic chemicals are well-documented," said Jim Jones, assistant administrator in EPA's office of chemical safety and pollution prevention. "The new law directs us to expedite action to reduce risks for these chemicals, rather than spending more time evaluating them. We are working to ensure the Frank R. Lautenberg Chemical Safety Act signed in June of 2016 delivers on the promise of better protecting the environment and public health as quickly as possible."

The five chemicals to receive expedited action are:

Decabromodiphenyl ethers (DecaBDE), used as a flame retardant in textiles, plastics and polyurethane foam

Hexachlorobutadiene (HCBd), used in the manufacture of rubber compounds and lubricants and as a solvent

Pentachloro-thio-phenol (PCTP), used as an agent to make rubber more pliable in industrial uses

Tris (4-isopropylphenyl) phosphate, used as a flame retardant in consumer products and other industrial uses

2,4,6-Tris(tert-butyl)phenol, used as a fuel, oil, gasoline or lubricant additive

The statutory deadline for EPA to propose action is June 22, 2019.

(Environmental Resource Center - 10/17/16)

NJ UPDATES

PERFLUORINATED CHEMICALS IN NEW JERSEY

PFCs, more formally known as perfluorinated chemicals, are currently considered a contaminant needing attention in New Jersey, but according to Mr. Ken Kloo, the director of the Division of Remediation Management at NJDEP, forcing cleanups is currently not possible using state or federal authorities.

Difficulties include determining an inventory of potential sources of PFCs, as the chemicals were used in consumer and industrial applications as well as firefighting foam. There is concern that firefighting training sites may be contaminated across the country. Currently, there is also very little information on migration pathways. New Jersey is moving to expand its regulatory authority to deal with this issue.

There are no immediate costs, since no shale operations are currently sending wastewaters to publicly owned treatment works, but that is not true.

Increased expectations of proper and coordinated Rulemaking should be expected given the Trump administration's expected focus on following laws and regulations, and minimizing

excessive regulatory costs and programs such as EPA's.

SEA LEVEL RISE IN NEW JERSEY BY 2050 COULD BE AS HIGH AS 1 to 1.8 FEET

Two reports prepared by Rutgers University for the New Jersey Climate Adaption Alliance provide information on the rate of sea level rise expected in New Jersey going forward. Between 2010 and 2030, the level of sea level rise in coastal parts of New Jersey is expected to be two to four inches per decade.

By 2030, there is a 50% probability that sea level-rise will either meet or exceed .8 feet and an 83% probability of a rise of one foot or more.

Projections after 2050 could be dependent on future greenhouse gas emissions and how well nations can limit climate-changing pollution. Under a high-emissions outcome, sea level-rise by 2100 could be from 2.4 to 4.5 feet. Coastal officials have expressed concern that with a post-Sandy emphasis on home elevations, residents may not realize that even though homes were raised, roadways, infrastructures and other critical facilities are not being addressed.

(Philadelphia Inquirer – 10-13-16
By Tim Johnson, NJ Spotlight.com)

NJ UPDATES

- Sea Level Rise - Update from Rutgers University, pg. 9
- Perfluorinated Chemicals, pg. 9

PERFLUORO-OCTANOIC ACID (PFOA) DRINKING WATER LIMIT SUBJECT TO SCRUTINY

The New Jersey Department of Environmental Protection issued a Report dated June 27, 2016, which is a support document for the proposed Health-Based MCL for PFOA. EPA has a less stringent limit, but New Jersey believes they have adequate support for 14 parts per trillion. EPA previously set a health advisory of 70 parts per trillion.

More information has become available on an EPA proposed rule entitled "National Pollution Discharge Elimination System Applications and Program Updates". EPA believes that it has the authority to promulgate these regulations as part of alignment of NPDES requirements with statutory requirements under 1987 Clean Water Act amendments.

PA UPDATES

PENNSYLVANIA DRILLERS SUE EPA

The Pennsylvania Grade Crude Oil Coalition filed litigation on November 7th, to challenge EPA's June 28th Final Rule for the "Effluent Limitations Guidelines and Standards for the Oil and Gas Extraction Point Source Category." Pennsylvania has always had conventional drilling operations, and an objection is that EPA lumped conventional drilling and unconventional drilling and operations should instead be categorized by the type of wells used.

Conventional wells in some locations, such in the Borough of Ridgeway, Pennsylvania, have been effectively and appropriately sending waste to treatment plants which is demonstrated not to present any problems. It is also indicated that the EPA has made mistakes in its

Rulemaking by concluding that there are no immediate costs, since no shale operations are currently sending wastewaters to publically owned treatment works, but that is simply not true.

New Document for Hikers

THE CIRCUIT TRAILS

A recent PowerPoint presentation is of interest to thousands upon thousands of Delaware Valley residents who enjoy walking, hiking or running on trails. Trails are receiving more and more recreational use throughout the Delaware Valley. Counties leading the efforts on trails include Montgomery, Bucks, Chester and Philadelphia Counties in Pennsylvania, and Burlington County in New Jersey.

Featured in the PowerPoint presentation is

PA UPDATES

- PA Drillers Sue EPA, pg. 10
- The Circuit Trails, pg. 10

the widely acclaimed Chester City Riverwalk, which is now considered a part of the East Coast Greenway. RT performed work at the former PECO Generating Station Brownfields Redevelopment Site on behalf of the City of Chester to help the trail become a reality. The trail passes under the Commodore Barry Bridge, and is right next to the soccer stadium where beautiful views of the River are now possible.

To see the PowerPoint click here:
http://rtenv.com/doc_resources/trails/trailsppt.pdf

EPA FINALIZES TECHNOLOGY REVIEW RELATED TO LEGIONELLA

EPA has recently released a document entitled "Technologies for Legionella Control in Premise Plumbing Systems: Scientific Literature Review." The document, released on September 21st, 2016, assesses the effectiveness of six technologies currently used to control bacteria, and summarizes peer reviewed scientific and other reports – focusing in particular on the plumbing systems in large buildings such as hotels, hospitals and schools, where Legionella outbreaks are most likely to occur.

To obtain a copy of the document, click here:
https://www.epa.gov/sites/production/files/2016-09/documents/legionella_document_master_september_2016_final.pdf

This document covers risk management approaches to address Legionella in regards to the physical and chemical risks in various parts of the premise plumbing system, such as water management programs, hazard analysis and critical control point and water safety plans. It

presents information technical information on the following treatment technologies:

- Chlorine
- Monochloramine
- Chlorine dioxide
- Copper-silver ionization
- Ultraviolet light, and,
- Ozone

For each treatment technology, a summary of the reviewed studies is presented regarding its effectiveness against Legionella, potential water quality impacts that may result from using the technology, and operational considerations. The document also discusses other control technologies that are used for emergency remediation such as superheat-and-flush, hyperchlorination and point of use filtration.

DOES YOUR STORE HANDLE UNSOLD AND RETURNED ITEMS LEGALLY?

The Environmental Protection Agency (EPA) recently unveiled a strategy to address retailers' concerns on hazardous waste issues. When materials in stores have to be disposed of and can no longer be sold in commerce, there are situations where certain retail items such as pesticides and/or electronics, under the Universal Waste Regulations, become hazardous waste.

In 2008, the EPA began reviewing the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations that apply to the retail sector. EPA's goal was to better understand challenges retailers face in complying with RCRA regulations.

In early 2011, President Obama signed an Executive Order (EO 13563), which required the EPA and other federal agencies to develop a plan to "...determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives." To satisfy EO 13563, the EPA published a Retail Notice of Data Availability (NODA) in 2014. The NODA was utilized to share information the EPA had collected through initial reviews and to obtain

additional information.

A total of 44 stakeholders responded with comments. The stakeholders included retailers, industry/trade associations, government organizations, recyclers, waste management and treatment, storage and disposal facilities, law firms, reverse logistics provider, and anonymous commenters.

Based on these comments the EPA developed the following three draft rules to ease the burden of managing hazardous wastes in a retail setting:

- DSW Rule
- Generator Improvements Rule
- Pharmaceuticals Rule

The DSW Rule provides conditional exclusions for hazardous secondary materials. It states that if these materials are managed according to specified conditions and legitimately recycled at a verified recycler than the waste would not be regulated as a solid waste.

The Generator Improvements Rule is being developed to advance approaches for addressing a number of issues that the hazardous waste generator community faces.

The Pharmaceuticals Rule will ease regulations on retailers with a pharmacy. Key items of

the rule include handling P-listed hazardous waste pharmaceuticals and nicotine-containing smoking cessation products.

In addition to these draft rules, the EPA is undertaking a number of upcoming activities that will also address the RCRA concerns of the retail sector and other stakeholders. Primarily, these activities include issuing a guide to recycling aerosol cans, proposing to add aerosol cans to the federal universal waste rules, and developing a policy that addresses the reverse distribution process for the retail sector as a whole.

A complete copy of the EPA Strategy for Addressing the Retail Sector under RCRA's Regulatory Framework can be found at link provided below:

https://www.epa.gov/sites/production/files/2016-09/documents/strategy_for_addressing_the_retail_sector508.pdf

Several big nationwide retailers have been fined for not properly managing hazardous waste. For more information on staying compliant, contact Chris Blosenski (cblosenski@rtenv.com/724-674-9089)

FEDERAL REGISTER NOTICES

<http://www.federalregister.gov>

Notice – Notice of Availability: Three Updated Chapters in the Environmental Protection Agency’s Air Pollution Control Cost Manual - USEPA	(Federal Register – 9-22-16)
Rule – Protection of Stratospheric Ozone: Determination 32 for Significant New Alternatives Policy Program - USEPA	(Federal Register – 10-11-16)
Notice – Thirtieth Update of Federal Agency Hazardous Waste Compliance Docket – USEPA	(Federal Register – 10/24/16)
Rule - Protection of Stratospheric Ozone: New listings of Substitutes; Changes of Listing Status; and Reinterpretation of Unacceptability for Closed Cell Foam Products Under the Significant New Alternatives Policy Program; and Revision of Clean Air Act Section 608 Venting Prohibition of Propane – USEPA	Federal Register – 12-1-16)
Notice – Final Revision to the PAG Manual: Protective Action Guides and Planning Guidance for Radiological Incidents. USEPA	(Federal Register – 12-8-16)

PENNSYLVANIA BULLETIN NOTICES

8/20/16 – The Environmental Quality Board published notice in the August 20 PA Bulletin of proposed regulations updating Environmental Laboratory Accreditation requirements and setting new permit fees.
8/27/16 – Final Regulation – Updating the cleanup standards under DEP’s Land Recycling Program
9/3/16 – The Fish and Boat Commission published notice of final regulations making changes to the Commission’s lists of endangered, threatened and candidate species.
9/24/16 – The Environmental Quality Board published final regulations on the Total Coliform Rule for Public Water Systems
10/22/16 – The City of Philadelphia published notice of a proposed revision to the State Air Quality Implementation Plan proposing a 15 ppm sulfur standard for commercial fuel oil.
10/22/16 – The Environmental Quality Board published notice of final regulations setting VOC emission standards for automobile and light duty truck coatings operations; and published notice of final regulations amending the coal remining requirements.
10/29/16 – The Environmental Quality Board published notice of a correction to its Chapter 78a Marcellus Shale Drilling regulations related to the definition of “well development pipelines”.
10/29/16 – The Environmental Quality Board published notice it is accepting a rulemaking petition for study related to changing the stream classification for a tributary to Whetstone Run in Delaware County.
10/29/16 – The Game Commission published notice of a proposed regulation eliminating the osprey from the threatened category of species.
11/19/16 – The Public Utility Commission published notice of the final Order implementing the Alternative Energy Portfolio Standards related to net metering and other purposes.

SCOPE OF SERVICES

ENVIRONMENTAL SURVEYS

Phase I & II Environmental Site Assessments

- Field Investigations
- Computer Regulatory Database Checking
- Field Analytical Testing (Volatiles, Metals, PCB’s, Gasoline, and Oil Compounds)
- Remedial Action Plans
- Asbestos Testing & Abatement
- Lead-Based Paint Testing & Abatement
- Feasibility Studies
- Storm Water Management

BROWNFIELDS/LAND RECYCLING:

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

OIL & GAS SERVICE:

- Drill Pad Inspections
- Spill Prevention Control and Counter Measure Plans
- Release Response Act 2 Cleanups
- Permits
- Erosion and Sediment Control Plan

INDOOR AIR QUALITY:

- Baseline Assessments
- Mold Investigations
- IAQ Management Programs
- Mold Remediation

REMEDIATION:

- Groundwater Recovery/Treatment
- Waste/Soil Excavation
- Vapor Extraction
- Bioremediation
- Liquid and Vapor Phase Carbon Treatment
- Thermal Oxidation
- Thermal Desorption
- Tank Removals/Lagoon Closures

LANDFILLS:

- Design & Permitting
- Gas Recovery Systems
- Truck Wash Facilities
- Leachate Collection/Treatment
- Cap, Cover and Slurry Walls

OTHER SERVICES:

- Training Programs
- Contingency Plans
- Source Reduction

- Waste Minimization
- Soil Testing
- Geotechnical Engineering
- Superfund Project Management
- Expert Witness Testimony

AIR EMISSIONS:

- Emissions Permitting and Inventories
- Emissions Testing
- Odor Control Studies
- Dispersion Modelling

PROCESSING FACILITIES:

- Transfer Stations
- Recycling Facilities
- Industrial Metal Processing
- Residual Waste Planning Compliance

CONCEPT THROUGH START-UP:

- Design and Project Management
- Permitting
- Construction and Construction QA/QC
- Start-up Operations Services
- Operations and Maintenance





KEY HIGHLIGHTS

TECHNOLOGY UPDATES

- Armories with Lead Impact Nationwide, pg. 3
- Arsenic Impact in Aquifers, pg. 3
- Diesel Generators - A Declining Concern, pg. 7

FEDERAL UPDATES

- Coal Tar Sealant - Will it Be Banned?, pg.6
- EPA Provides Updated Evaluation of Lead Risk Assessment, pg. 6
- EPA Plans to Clarify Sediment Cleanup Decisionmaking, pg. 7
- Trump Transition "Landing Team", pg. 7
- EPA Issues Guide for Long Term Stormwater Permitting, pg. 7

PA UPDATES

- PA Drillers Sue EPA, pg. 10
- The Circuit Trails, pg. 10

NJ UPDATES

- Perfluorinated Chemicals, pg. 9
- Sea Level Rise, pg. 9

RT ENERGY NEWS

- Greenhouse Gas Reductions, pg. 1
- Latest Updates on the Natural Gas Industry, pg. 4

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**EPA REVISES HAZARDOUS WASTE
 GENERATOR RULES**

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DELAWARE VALLEY CIRCUIT TRAILS

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SEA LEVEL RISE IN NEW JERSEY

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**DOES YOUR STORE HANDLE UNSOLD
 ITEMS AND RETURNED GOODS
 ILLEGALLY?**

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