

The RT Review

The Latest on Environmental Issues From Your Solution-Oriented Environmental Services Firm



SBA UPDATES ENVIRONMENTAL GUIDELINES

The Small Business Administration (SBA) has updated the environmental investigation steps that must be integrated into lenders and certified development company (CDC) loan programs. This change became effective on October 1, 2011.

The following is an outline of the steps to be followed, when begins by comparing NAICS codes current and historic for site operations to the SBA list of environmentally sensitive industry codes.

1. If there is a code match, the site is a gas station or there were on-site dry cleaning operations. Proceed with a Phase I Environmental Site Assessment (ESA) by a qualified Environmental Professional. (Note: If on-site dry cleaning operations were conducted for more than five years, a Phase 2 ESA must also be conducted.)

2. If there is no NACIS code match, the site is not a gas station or on-site dry cleaner and the loan is more than \$150,000, proceed with an Environmental Questionnaire and Records search with Risk Assessment (RSRA).

a. If the Environmental Questionnaire shows that environmental contamination is unlikely and no further investigation is warranted and the RSRA concludes the property is a "low risk" for contamination, submit the results of the environmental investigation to the SBA.

b. If the Environmental Questionnaire shows that environmental contamination is likely, and former investigation is warranted, or, the RSRA concludes the property is an "elevated risk" or "high risk" for contamination, then proceed with a Phase I ESA by a qualified Engineering Professional.

3. If there is no NAICS code match, the site is not a gas station or on-site dry cleaner, and the loan is less than or equal to \$150,000, proceed with an Environmental Questionnaire.

a. If the Environmental Questionnaire shows that contamination is unlikely and no further investigation is warranted, submit the results to the SBA.

b. If the Environmental Questionnaire shows that contamination is likely and further investigation is warranted, proceed with the RSRA.

i. If the RSRA concludes the property is a "low risk" for contamination, submit the results of the environmental investigation to the SBA.

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PA PLAYS KEY ROLE – EXXON MOBIL REPORT FORECASTS INCREASES IN GAS USE; CLEANER AIR WILL FOLLOW

In early December, the results of a widely respected annual energy forecast document, prepared by the Exxon Mobil Corporation, forecasted significant increases, in natural gas supply and consumption. This information is no surprise to Pennsylvanians, most of whom know that Pennsylvania is now a natural gas exporter; increased Marcellus Shale gas generation now exceeds the state's consumption.

In other recent articles, including those by the Wall Street Journal, it was forecast that:

- The consumption of coal is expected to begin a decline, after 2025.

- By that time, natural gas will replace coal as the lead fuel for electricity production

- Energy companies are starting invest "back home", and both oil and gas produced domestically, could exceed domestic demands.

- Two decades ago, there were considered to be "limits to growth", with occasional forecasts that the United States would face ever increasing energy costs.

- That is now unlikely to happen.

- Hybrid vehicles could increase from 1% to 40% in 2040, with fuel efficiency up to 27 mpg.

We think that good old American ingenuity and technical advances are leading to use of cleaner fuels, at a lower costs, particularly to consumers. Construction and jobs involved in gathering and pipeline construction as well as drilling, are on the rise in Pennsylvania.

Many experienced environmental engineers scientists and managers, never thought that increased use of cleaner fuels would occur in their lifetimes. It is anticipated that when power plants are modified for and/or reconstructed, they will increasingly consume natural gas to produce energy. Already, many power plants use gas fired modular units for "peaking", improving air quality during hot summer months. Undoubtedly, cleaner and cleaner air will occur in the future, which is good for everyone.

Although the fracking and gas gathering process is controversial, we think that the incidence of problems is relatively low, and that more experience will result in safer drilling. The Pennsylvania Department of Environmental Protection is increasing inspection of drilling sites, issuing violations where needed, and most importantly, visiting future drilling sites, to make sure that plans are in order and that

drilling locations are appropriate, before permits are issued.

Deep and horizontal drilling technology has also advanced to the point, that drillers, once they realized that gathering and transmission technology is installed, think that maybe drill pad sites which are generally less than five acres in size, where clusters of wells are installed, may be used repeatedly now that technology can place wells and fracture rocks to deeper depths and to tap Utica Shale in the future. The prospect now is that the Marcellus and Utica Shale will provide clean natural gas for generations to come. With more motor vehicles able to combust natural gas, as an energy option, widespread benefits involving cleaner and cleaner air could be on our horizon.

Pennsylvania suffered through a generation or two of industrial plant closings where there were good jobs for generations. Although it can be said that many drilling jobs are skilled, and involve workers coming from out of state, there are many economic spinoffs from the Marcellus Shale gas development involving employment in the hospitality industry, restaurants, constructing gathering and transmission lines, and the staff ongoing gas production operations, which will benefit many Pennsylvanians.

Just a few years ago, those in Southwestern Pennsylvania heard many Pennsylvanians say that the Marcellus Gas was the "new steel". Although considered an exaggeration at the time, the benefits from gas exploration and extraction could turn out to be much better from an economic and environmental standpoint, as are air becomes cleaner, and homes heating natural gas prices fall. Undoubtedly, a brighter future with cleaner air lies ahead for Pennsylvanians.

- Gary R. Brown, P.E.

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RT STAFF AND PROJECT NEWS

At the end of the fall, RT was seeing an exceptional uptick in business, to include new Marcellus Shale work, and, somewhat surprisingly, intense work on property related environmental due diligence. In one week during December alone, RT prepared more than 15 proposals for Phase I Environmental Site Assessments, more than half of which were at new properties, which is a company record.

Josh Hagadorn and Gary Brown were busy on a series of stormwater expert assignments in southeast and central Pennsylvania. Josh and Gary as well as Tony Alessandrini, were also working on a series of mold evaluation assignments as well as mold remediation, at projects in New Jersey and Pennsylvania. Very wet rainy conditions are contributing to mold problems, either reoccurring or first developing, in a substantial number of buildings.

Craig Herr was wrapping up, along with Adam Messner, work for Act 2 Remediation at a Conshohocken site, along with transfer of a solid waste permit at the same sites.

Justin Lauterbach and Chrisse Stritmatter were busy on a series of environmental due diligence assignments, both for a nationwide lender, and a retail grocery client, some of which involve retail petroleum service stations. Justin is also handling a number of assignments

for a national retail pharmacy chain, in Pennsylvania and New Jersey.

Glenn Graham, Ahren Ricker, and Cortney Savidge, are busy on an assignment involving cleanup of equipment, at a closed hazardous waste facility, in southern New Jersey. The work is for a lender, and mobile equipment is being reclaimed by the mortgagee, with state approval.

Matt Martelli and Gary Brown visited a New England site, and Lisa Mascara visited a Washington, Pennsylvania site, where StormwaterRx technology is being considered at scrap yard facilities, to assure stormwater management compliance.

RT foresees a significant increase in business, in 2012, with particular increased business in:

- Property due diligence services.
- Marcellus Shale services.
- Mold assessment and remediation.
- Stormwater services, including expert services, and installing StormwaterRx modular technology along the East Coast.

As always, we look forward to being of service in 2012 and appreciate all the opportunities that our clients give us.

- Gary R. Brown, P.E.

NATIONAL ATTENTION FOCUSES ON STORMWATER PENALTIES

During the fall, there was focus on impacted stormwater penalties, both at a rail site in Washington State, owned and operated by BNSF, and at RT Review/Press Time, at Lafarge North America Inc Facilities, in Alabama, Colorado, Georgia, Maryland, and New York. In both instances, which involved Federal Court complaints, there were inadequate or missing records, and inadequate stormwater management practices, as well as some violations of effluent limitations.

The facilities involved were:

- A Rail Yard
- Ready Mix Concrete Plants.
- Sand and Gravel Facilities.
- Asphalt Plants.

It should be noted that in some instances, individual facilities may or may not need stormwater permits, depending on the individual site conditions.

The pattern involving stormwater penalties, is at many sites reported to date, companies have promised under their Stormwater Management Pollution Prevention Plan, to

implement certain Best Management Practices, but when inspections occur, record keeping, inspections of Best Management Practices, and/or test results, indicate that promises were not being kept.

In the BNSF case in Washington, an environmental group was involved in the complaint, while in the instance of Lafarge, the EPA noticed the company of the violations. Lafarge has made significant improvements to its stormwater management systems, since the complaints were made. For more information on the Lafarge case, go to http://7thspace.com/headlines/400981/usdoj_lafarge_north_america_inc_agrees_to_pay_740000_penalty_to_resolve_clean_water_act_violations_in_five_states.html. For more information on the BNSF case, go to <http://www.martenlaw.com/newsletter/20111004-wash-stormwater-cwa-violations>.

(Excerpts from 7th Space Interactive Article - December 2011)

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SBA UPDATES ENVIRONMENTAL GUIDELINES (continued from page 1)

ii. If the RSRA concludes the properly is an "elevated risk" or "high risk" for contamination, then proceed with a Phase I ESA by a qualified Environmental Professional.

4. Phase I ESA

a. If the Environmental Professional concludes that no further environmental investigation is warranted, submit the results to the SBA.

b. If the Environmental Professional concludes that a Phase 2 ESA is warranted, the SBA will typically agree with the Environmental

Professional, therefore, proceed with the Phase 2 work.

5. Phase 2 ESA Work

a. If the Environmental Professional concludes that no further investigation is warranted upon completion of the Phase 2 work, submit the results to the SBA.

b. If the Phase 2 ESA reveals that contamination is present and the CDC still wishes to proceed with the loan; then Environmental Professional must have documented:

- i. Whether contamination exceeds the reportable or action levels;
- ii. Whether remediation is necessary;
- iii. An estimate of remediation costs; and
- iv. The projected completion date of any remediation.

SBA environmental due diligence protocols are important for many of our clients.

For more information, please contact Lawrence Bily at 610-265-1510 Ext. 236 or lbily@rtenv.com.

DELAWARE RIVER BASIN COMMISSION PROPOSES NATURAL GAS DEVELOPMENT REGULATIONS

All natural gas development projects in the Delaware river basin will be subject to regulation by the Delaware River Basin Commission ("DRBC") starting December 20, 2011, assuming the DRBC acts as expected at its November 21 meeting and adopts its long awaited rulemaking.

While drilling in the Marcellus Shale has been the impetus for this rulemaking, the rules will apply to all natural gas development projects in the basin, regardless of geologic formation, whether the well is for production or exploration and whether high or low volume hydraulic fracturing is concerned.

The DRBC had established a ban on natural gas development within the basin during the past year, and the new regulation is not intended to open the floodgate – it is subject to an 18-month DRBC assessment review and no more than 300 natural gas wells will be approved during this period.

Key components of the draft regulations are:

Approval of Water Sources — DRBC approval is required in order to use any water source within the basin for natural gas development. The draft regulation encourages the use of grey water for hydraulic fracturing, including diversion into the basin of non-contact cooling water, treated wastewater, mine drainage water, and recovered flowback and production water.

Bulk Water Use and Management Approval ("BWA") — Before water from any source, whether inside or outside the basin, is used for natural gas development activities, and prior to commencing well pad construction (including initiating site disturbance) the DRBC must issue a BWA. Normally the Executive Director will issue this approval, except where the project is located in (1) management areas of the National Park Service (NPS) or other areas managed by the NPS or other federal agencies; (2) the watersheds

draining to New York City's Delaware Basin reservoirs; and (3) the Upper Delaware Scenic and Recreational River corridor.

In each of these instances either a docket or variance approval must come directly from the Commissioners.

Natural Gas Development Plan ("NGDP") For Protection of High Value Water Resource Landscapes and Special Protection Waters — Section 7.5 of the draft regulations establishes siting requirements for natural gas development projects and the preparation of NGDPs for large lease holdings.

Management of Wastewater Generated by Natural Gas Development Projects — Untreated natural gas wastewater is not to be released to the groundwater or surface waters of the basin.

Accordingly:

- Flowback and production water must be stored in closed tanks and either reused or removed from the pad site within a defined time (usually 90 days)

- Open impoundments at pad sites may store only freshwater

- Wastewater (whether treated or not), hydraulic fracturing fluid, mine drainage water, other fluids or unused water from any source may not be placed into freshwater impoundments or discharged to groundwater or surface water, roads or other land surfaces or otherwise used at a natural gas project site or elsewhere within the basin without the express written approval of the DRBC Executive Director and the appropriate state agency

- No open storage of any fluid other than fresh water is permitted on a pad site

- Centralized wastewater storage facilities, including open impoundments, serving multiple pad sites may be constructed and operated in

accordance with state law

- No wastewater treatment facility within the basin may accept non-domestic wastewater from a natural gas development project without obtaining approval from the Commission in the form of a new docket or docket modification

- Disposal facilities that do not have discharges will remain the exclusive responsibility of the USEPA and the states; however, transfer facilities accepting natural gas wastewater must still obtain Commission approval in the form of a docket, regardless of whether they provide treatment and/or discharge

- Treatability studies prepared to satisfy state and federal requirements may also be used to satisfy the DRBC

Financial Assurance Requirements — the draft regulations would establish the following financial assurance requirements:

Capping and Closure — \$25,000 per well or \$250,000 in the aggregate

Accidental Spills and Releases — \$5 million for individual well pads not within an NGDP, and \$8,000 per acre, with a maximum of \$25 million for lands within an NGDP; or if insurance is used, \$5 million per occurrence and \$25 million in the aggregate

Mitigation/Restoration — specific to the NGDP

The draft regulations provide no mechanism for the Executive Director to reduce the amount of the financial assurance, nor do they limit the project sponsor's liability or duty to comply with state law closure requirements or the mitigation and restoration requirements for NGDPs. Likewise, the duty to remediate any release or threatened release of hazardous substances, pollutants or contaminants from a project site remains subject to state and federal jurisdiction.

At RT Review Press Time, the full DRBC Commission had not passed the proposed rules.

(By Pamela S. Goodwin – 11/9/11)

RT's HOTTEST MARKETS EXPECTED IN 2012:

- Property Due Diligence
- Stormwater
- Mold
- Marcellus Shale

FEDERAL REGULATORY UPDATES

NEW EPA RULES SPLIT POWER INDUSTRY

The Environmental Protection Agency is set to make final new air-pollution standards for coal-fired power plants by mid-December, sparking disagreement among power companies about how quickly aging coal plants need to be pushed offline.

The divergent lobbying tactics could make it easier for the Obama administration to complete the rules, which promise to reshape America's energy landscape by phasing out plants that emit large quantities of mercury and other pollutants.

The EPA wants to give coal-fired plants three years to comply with the new standards—either by shutting down or going through expensive retrofits—with the possibility of a one-year extension.

Some companies say that is impossible. Interviewed at industry conference in Orlando, Fla., in November, some executives warned that the timeline could put the reliability of the nation's electricity at risk.

Asked whether Southern Co. could meet a three-year time-line, Chief Executive Thomas Fanning said flatly, "No. And no one else can either."

Nick Akins, the incoming chief executive of American Electric Power Co., called the proposed time frame "ridiculous."

If those were the only opinions, the Obama administration might feel overwhelming pressure to back down, as it did on separate rules about smog-forming emission earlier this fall. In that case, where industry was virtually unanimous in arguing that tens of thousands of jobs were at risk, President Barack Obama overruled EPA Administrator Lisa Jackson and ordered a delay in more-stringent standards.

This time, though, a section of the industry argues that the EPA blueprint makes sense.

"I think three years is doable," said Jim Rogers, chief executive of Duke Energy Corp., in an interview. Chris Crane, chief operating officer of Exelon Corp., agreed, saying companies shouldn't be given an easy excuse for putting off the modernization of their fleet.

There are clear reasons for the split. Exelon relies substantially on nuclear power plants fired by cleaner-burning natural gas, so it stands to sell more electricity if older coal plants come offline. Duke says it has already retrofitted many of its coal plants due to state mandates.

Companies pushing for a more lenient timetable have large coal fleets and are facing high compliance costs. Southern alone says the rule could cost \$8.5 billion and has asked for at least six years to comply.

As a result, the industry is not always speaking with one voice when it talks publicly about the issue. "The fact that the utility industry is not unanimous on this issue makes it easier for EPA to stick to its guns," said Christine Tezak, senior energy and environmental policy analyst at Robert W. Baird & Co.

The EPA rule is expected to affect dozens of aging coal-generation units. Analysts at Bernstein Research estimate about 5% of the generation capacity in the U.S. would be retired as a result of

the rule.

Regulations aren't the only factor affecting the companies' choice of fuel. The EPA said the low price of natural gas and other factors could lead companies to shut coal units. Lawmakers are also concerned about ensuring reliable sources of power.

The Edison Electric Institute, a trade group for utilities, has crafted a compromise proposal that both industry factions are backing. It asks the EPA to extend the timeline to six years on a case-by-case basis.

Exelon's Mr. Crane said he believes regulators will make exceptions for plants that are needed to ensure reliability. "If for whatever reason these companies don't think they can comply, give them some extra time, but make them justify it," he said.

An EPA official said the administration was considering proposals that would allow non-compliant plants needed for reliability to run when necessary, but he said those instances were likely to be rare.

(By Ryan Tracy – Wall Street Journal – 11/10/11)

EPA ACCEPTS FIRST GHG REPORTING DATA AND LAUNCHES ELECTRONIC GHG REPORTING TOOL

EPA launched a new tool to allow 28 industrial sectors to submit their 2011 greenhouse gas (GHG) pollution data electronically. Prior to being finalized more than 1,000 stakeholders, including industry associations, states, and NGOs tested the electronic GHG Reporting tool (e-GGRT) to ensure clarity and user-friendliness.

EPA's GHG Reporting Program (GHGRP) launched in October 2009, requires the reporting of GHG data from large emission sources across a range of industry sectors. Suppliers of products that would emit GHGs if released, combusted, or oxidized are also required to report GHG data. Under this program, covered entities are required to submit GHG data to EPA annually and the first round of data will be submitted electronically by September 30, 2011. EPA plans to publish non-confidential GHG data collected through the GHGRP by the end of 2011.

(Environmental Tip of the Week – 8/9/11)

EPA PUBLISHES CHEMICAL DATA REPORTING RULE

EPA is increasing the type and amount of information it collects on commercial chemicals from chemical manufacturers, allowing the Agency to better identify and manage potential risks to Americans' health and the environment. The improved rule, known as the chemical data reporting Rule (CDR), also requires that companies submit the information electronically to EPA, rather than on paper, and limits confidentiality claims by companies. The changes are part of EPA Administrator Lisa Jackson's commitment to strengthen EPA's chemical management program and increase the transparency of critical information on chemicals.

The CDR Rule, which falls under the Toxic Substances Control Act Inventory Update Rule (IUR), requires more frequent reporting of critical

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information on chemicals and requires the submission of new and updated information relating to potential chemical exposures, current production volume, manufacturing site-related data, and processing and use-related data for a larger number of chemicals. The improved information will allow EPA to better identify and manage risks associated with chemicals.

EPA is requiring companies to submit the information through the Internet, using EPA's electronic reporting tool. On-line reporting will improve both data quality and EPA's ability to use the data, as well as make it more accessible to the public.

Companies will be required to start following the new reporting requirements in the next data submission period, which will occur February 1, 2012 to June 30, 2012.

(Environmental Resource Center 8/15/2011)

EPA ISSUES RULE ON CARBAMATE WASTES

EPA issued a direct final rule to revise the Land Disposal Restriction (LDR) treatment standard for carbamate wastes to ensure that the wastes are adequately treated before land disposal to minimize risks to people's health and the environment. Carbamate wastes are wastes generated from the production of pesticides, herbicides, and fungicides. Due to their toxicity, carbamate wastes are regulated as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). This action will extend Best Demonstrated Available Technology (BDAT) as an alternative treatment standard for all carbamate wastes. This alternative treatment standard will help industries comply with stringent hazardous waste disposal regulations and allow EPA to enforce these regulations to their fullest extent.

The public comment period on the rule closed on July 13, 2011. The rule became effective on August 12, 2011.

(Environmental Resource Center - 8/15/11)

EPA PROPOSES REVISIONS FOR UNDERGROUND STORAGE TANK REGULATIONS

EPA is proposing revisions to strengthen the 1988 federal underground storage tank (UST) regulations by increasing emphasis on properly operating and maintaining UST equipment. These revisions will help improve prevention and detection of UST releases, which are one of the leading sources of groundwater contamination. The revisions will also help ensure all USTs in the United States, meet the same standards.

A prepublication version of the proposed UST regulations, signed by EPA Administrator Jackson on October 25, 2011, is available here. EPA's proposed rule revises the UST technical regulation in 40 CFR 280 by:

- Adding secondary containment requirements

FEDERAL REGULATORY UPDATES (Continued)

for new and replaced tanks and piping

- Adding operator training requirements for UST system owners and operators
- Adding periodic operation and maintenance requirements for UST systems
- Removing certain deferrals
- Adding new release prevention and detection technologies
- Updating codes of practice
- Making editorial and technical corrections

EPA is also proposing to update state program approval (SPA) requirements. EPA developed the following resources to help interested and affected stakeholders review the proposed revisions to the 1988 UST regulations:

A crosswalk comparing the 1988 UST regulations and the proposed UST regulations is available.

Versions of the 1988 UST regulations with deletions, additions, and changes marked in red text are available at Red Line Strikeout of 40 CFR 280 and Red Line Strikeout of 40 CFR 281.

A Regulatory Impact Analysis is available which assesses the potential costs, benefits, and other impacts of the proposed revisions to the 1988 UST regulations.

This is the first time EPA is proposing significant revisions to the federal UST regulations since they were first promulgated in 1988.

(Environmental Resource Center - 10/31/2011)

EPA DECIDES TO RETAIN NATIONAL AIR QUALITY STANDARDS FOR CARBON MONOXIDE

EPA has affirmed the current national air quality standards for carbon monoxide (CO). The science shows that the current standards protect public health, including those who are most susceptible, and the environment. Since 1980, levels of CO in the air have fallen by 80%, mostly as a result of motor vehicle emissions controls.

To ensure people are protected from unhealthy concentrations of CO and to develop better information about CO and its health impacts, EPA is revising the air monitoring requirements. The changes will require a more focused monitoring network with CO monitors placed near roads in 52 urban areas with populations of 1 million or more.

Monitors in areas with populations of 2.5 million or more are required to be operational by January 1, 2015 and monitors required in areas with populations of 1 million or more are required to be operational by January 1, 2017. These new monitoring sites will give EPA important data about CO levels that may be affecting public health in neighborhoods located near busy roadways. The data will also be used to determine compliance with the current standards and to help inform future reviews of the standard.

The current health standards are 9 parts per million (ppm) measured over 8 hours, and 35 ppm measured over 1 hour. CO levels at monitors across the country are quite low and are well within the standards, showing that federal, state, and local efforts to reduce CO pollution have been successful and are providing important public health protections to all Americans.

The rule is consistent with the advice and recommendations from the agency's independent

science advisors, the Clean Air Act Scientific Advisory Committee.

(Environmental Resource Center - 8/22/2011)

EPA RELEASES FINAL HEALTH ASSESSMENT FOR TCE

EPA has released the final health assessment for trichloroethylene (TCE) to the Integrated Risk Information System (IRIS) database. IRIS is a human health assessment program that evaluates the latest science on chemicals in our environment. The final assessment characterizes the chemical as carcinogenic to humans and as a human noncancer health hazard. This assessment will also allow for a better understanding of the risks posed to communities from exposure to TCE in soil, water, and air. It will provide federal, state, local, and other policy makers with the latest scientific information to make decisions about cleanup and other actions to protect people's health.

TCE toxicity values as reported in the assessment will be considered in: Establishing cleanup methods at the 761 Superfund sites where TCE has been identified as a contaminant.

Understanding the risk from vapor intrusion as TCE vapors move from contaminated groundwater and soil into the indoor air of overlying buildings.

Revising EPA's Maximum Contaminant Level for TCE as part of the carcinogenic volatile organic compounds group in drinking water, as described in the agency's drinking water strategy

Developing appropriate regulatory standards limiting the atmospheric emissions of TCE—a hazardous air pollutant under the Clean Air Act (CAA).

This assessment has undergone several levels of peer review including, agency review, interagency review, public comment, external peer review by EPA's Science Advisory Board in January 2011, and a scientific consultation review in 2006 by the National Academy of Sciences. Comments from all reviewers are addressed in the final assessment. EPA continues to strengthen IRIS as part of an ongoing effort to ensure concrete research and science are used to protect human health and the environment. In May 2009, EPA restructured the IRIS program to reinforce independent review and ensure the timely publication of assessments. In July 2011, EPA announced further changes to strengthen the IRIS program in response to recommendations from the National Academy of Sciences. EPA's peer review process is designed to elicit the strongest possible critique to ensure that each final IRIS assessment reflects sound, rigorous science.

(Environmental Resource Center - 10/3/11)

EPA EXTENDS FARM COMPLIANCE DATE FOR SPCC REQUIREMENTS

On October 18, 2011, EPA published a direct final rule that extended the compliance date by which farms must prepare, or amend, and implement their SPCC Plans to May 10, 2013. For the purposes of SPCC, a farm is defined as a facility on a tract of land devoted to the production of crops or raising of animals, including fish, which

produced and sold, or normally would have produced and sold, \$1,000 or more of agricultural products during a year (40 CFR Section 112.2). EPA is not extending the compliance date for any other facilities as other facilities are not season-dependent and are less likely to be impacted by severe weather conditions.

This rule is effective on November 7, 2011.

(Environmental Resource Center - 10/24/2011)

EPA MEMO STRESSES 'ENFORCEMENT FIRST' POLICY FOR SUPERFUND REMOVALS

EPA's top enforcement and waste officials in a recent memo are stressing that EPA's policy of enforcing to recoup money from polluters before conducting cleanups with taxpayers' dollars applies to both its remedial and removal programs, despite some officials' reluctance to apply the time-consuming policy to urgent removal actions.

The Aug. 5 memo to EPA's regions, signed by Cynthia Giles, assistant administrator for enforcement and compliance, and Mathy Stanislaus, assistant administrator for solid waste and emergency response, notes that EPA "has a longstanding policy to pursue 'enforcement first' throughout the entire Superfund cleanup process.

"Under this policy, EPA seeks, as appropriate, to find potentially responsible parties (PRP's) to perform response actions before EPA proceeds with an action funded by the Hazardous Substance Trust Fund," according to the memo obtained by the Inside EPA. "This policy promotes the 'polluter pays' principle and helps to conserve the resources of the Fund for the cleanup of those sites where liable and viable responsible parties do not exist," according to the memo.

The memo notes that the application of the "enforcement first" policy to removal actions, which generally tend to be more time sensitive than remedial actions, is not new. But, according to an EPA source, there had been in the past some reluctance amongst removal officials to apply the policy, particularly because of the time element.

In this vein, the memo recognized that in the case of emergency removal actions—which are the most urgent of the three types of removal actions—enforcement first will not always be possible.

In emergencies, "the need to mitigate threats immediately may limit the amount of time EPA has to identify PRPs (where PRPs are known) to pursue a PRP-lead removal," the memo says.

"Thus, in emergencies, if a responsible party is not known or is not capable or willing to perform the necessary removal promptly or properly, EPA would not be able to implement the 'enforcement first' policy. Instead, the only practical enforcement mechanisms will likely be to recover costs after the removal action is completed or have the PRP take over the initial fund-lead federal response work," the memo says.

For time critical and non-time critical removals—the other two types of removals—regional officials "are expected to complete a preliminary PRP search prior to initiating the removal action," the memo says.

FEDERAL REGULATORY UPDATES (Continued)

While the applicability of the policy was previously “buried in the fine print” of existing agency directive, EPA officials decided that it would be beneficial if “the two big bosses said it loud and very publicly” in the memo, the EPA source says. Stanislaus’ signature on the memo is particularly significant, because it shows that the program office that conducts the cleanups, rather than just the enforcement office, is behind the policy, the source adds.

(Superfund Report - September 19, 2011)

EPA HAS A CLEAN AIR WATCH LIST?

According to the Center for Public Integrity, EPA has maintained lists of companies that the agency is keeping tabs on for compliance with the Clean Air Act (CAA), Clean Water Act (CWA), and the Resource Conservation and Recovery Act (RCRA). The Clean Air Act watch list, composed of 464 “serious or chronic violators of the Clean Air Act that have faced no formal enforcement action for many months,” was obtained under a Freedom of Information Act request and was made available online.

According to an EPA data sheet published by Center for Public Integrity, the list does not identify which violations may pose the greatest risk to public health or the environment, but is comprised of a subset of violation identified under EPA enforcement response polices (ERPs). The ERPs define when a violation of environmental laws and regulations becomes significant. In the CAA enforcement program, these violations are referred to as high priority violations. The data sheet also indicates that the watch list might not include facilities that should be listed – particularly if violation data has not been reported properly to EPA by the state. The data sheet indicated that EPA will eventually make all of its watch lists available online as part of the ECHO database.

(Environmental Tip of the Week -11/21/2011)

EPA WEIGHS RULES ON FRACKING DATA IT AIMS TO GIVE “AGGREGATE PICTURES” OF CHEMICALS

The Environmental Protection Agency said in November that it would weigh rules requiring disclosure of the chemicals used in hydraulic-fracturing fluids.

Companies which supply oil and natural gas producers, should be required to reveal substances used in the mining technology known as fracking, according to a petition filed with the EPA by the environmental group Earthjustice. In a response posted on its website Wednesday, the EPA said it would begin gathering data.

The EPA will try to provide “aggregate pictures of the chemical substances and mixtures used in hydraulic fracturing,” Stephen A. Owens, an assistant administrator at the agency, said in a letter to Deborah Goldberg, an attorney for Earthjustice.

Fracking has led to a natural gas boom in Pennsylvania, West Virginia, and Texas, producing opposition among some residents and environmental groups who say the technology may contaminate drinking-water supplies and add to

air and soil pollution.

The EPA turned down another part of the organizations’ request, telling the groups on November 2 that it wouldn’t mandate toxicity testing for each of the chemicals. It also denied a request that other chemicals used in oil and gas exploration and production be disclosed as well.

Extraction from shale formation has grown to about 15 percent of U.S. natural gas production, and this share is expected to triple by 2035, according to the U.S. Energy Information Administration.

In its letter Wednesday, the EPA said it would issue an advance notice to the public outlining its proposal and questions for companies, local residents, and environmental groups. The agency said one key issue it would discuss was how much of the chemical information provided by companies would be made public.

(By Mark Drajem, Philadelphia Inq. – 11/24/2011)

REVISIONS TO THE AIR EMISSIONS REPORTING REQUIREMENTS FOR LEAD

The existing Air Emissions Reporting Requirements (AERR) in 40 CFR 51 include a reporting threshold of 5 tons per year for lead (Pb). EPA is planning to propose bring that threshold into line with the requirements of the revised Pb national standards (NAAQS) and its associated monitoring requirements of 0.5 tons per year. This action will also include technical corrections to Appendix A of subpart A of the AERR final rule to make it consistent with the final implementation of the Emission Inventory System (EIS), which is used to collect the data required as part of the AERR. This action will propose requiring state, local, and tribal agencies to collect emissions data from additional Pb sources with lower emissions. It will also reduce confusion that now exists because of current final rule inconsistencies between the technical specifications of EIS and data elements and other features of Appendix A.

The rule will affect state, local, and tribal agencies that are responsible for submitting data to EIS by requiring them to collect and submit data for more Pb sources. The action will also clarify for these data submitters the technical elements of their submissions to the EIS.

(Environmental Tip of the Week – 11/28/2011)

FIVE YEAR SURVEY SHOWS WETLANDS LOSSES ARE SLOWING

America’s wetlands declined slightly from 2004-2009, underscoring the need for continued conservation and restoration efforts, according to a report issued in October by the Department of the Interior’s U.S. Fish and Wildlife Service. The findings are consistent with the Service’s Status and Trends Wetlands reports from previous decades that reflect a continuous but diminishing decline in wetlands habitat over time.

The report, which represents the most up-to-date, comprehensive assessment of wetland habitats in the United States, documents substantial losses in forested wetlands and coastal wetlands that serve as storm buffers, absorb pollution that

would otherwise find its way into the nation’s drinking water, and provide vital habitat for fish, wildlife and plants.

“Wetlands are at a tipping point,” said Secretary of the Interior Ken Salazar. “While we have made great strides in conserving and restoring wetlands since the 1950s when we were losing an area equal to half the size of Rhode Island each year, we remain on a downward trend that is alarming. This report, and the threats to places like the Mississippi River Delta, should serve as a call to action to renew our focus on conservation and restoration efforts hand in hand with states, tribes and other partners.”

“This report offers us a road map for stemming and reversing the decline,” said Fish and Wildlife Service Director Dan Ashe. “It documents a number of successes in wetlands conservation, protection and reestablishment, and will be used to help channel our resources to protect wetlands where they are most threatened and reduce further wetland losses.”

The net wetland loss was estimated to be 62,300 acres between 2004 and 2009, bringing the nation’s total wetlands acreage to just over 110 million acres in the continental United States, excluding Alaska and Hawaii.

The rate of gains from reestablishment of wetlands increased by 17 percent from the previous study period (1998 to 2004), but the wetland loss rate increased 140 percent during the same time period. As a consequence, national wetland losses have outpaced gains.

The net loss includes a combination of gains in certain types of wetlands and losses in other types, especially forested wetlands.

“In a five year period, we lost over 630,000 acres of forested wetlands, mostly in the Southeast – an area equal to half a million football fields each year,” Director Ashe said. “We should all be concerned about the substantial loss of this diminishing resource, which helps ensure good water quality for local communities and provides vital habitat for a diversity of important wildlife species.”

The southeast United States, primarily freshwater wetlands of the Atlantic and Gulf coastal plain, and the Lower Mississippi River experienced the greatest losses. Losses were also observed in the Great Lakes states, the prairie pothole region, and in rapidly developing metropolitan areas nationwide. The reasons for wetland losses are complex and reflect a wide variety of factors, including changes in land use and economic conditions, the impacts of the 2005 hurricane season on the Gulf Coast and climate change impacts.

The report, Status and Trends of Wetlands in the Conterminous United States 2004-2009, is the most recent of the five reports to Congress reporting on the status and trends of wetlands across much of the United States since the mid-1950s.

For more details on the report, visit www.fws.gov/wetlands/StatusAndTrends2009 *(U.S. Department of the Interior – 10/6/2011)*

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TECHNOLOGY UPDATES

ASPHALT FUMES – NO SIGNIFICANT RISK

Over a number of years, principally due to odor concerns, there has been a perception that asphalt fumes present a health problem. In-depth testing has now been made available based on work by the International Agency for Research on Cancer (IARC) based in Leon, France. Scientific studies included:

- Human mortality – IARC’s eight-country study (Nested Case Control, 2009) showed no link between exposure to asphalt paving fumes and cancer in paving workers.

- Animal inhalation – Fraunhofer Institute (Germany, 2005-2006) study found no link between asphalt paving fumes and cancer.

- Animal skin painting – A study in the U.S. sponsored by the Asphalt Institute (2009-2010) found no link between asphalt paving fumes and cancer.

The result of the research was that the two key animal studies on paving asphalt did not show any evidence of cancer risk, and a major IARC cancer study of people working in the paving industry in Europe did not show any increased risk for cancer.

It should be noted that there are different types of asphalt products and asphalt cement, which is within the asphalt mix and holds the asphalt together, comes from a petroleum refinery. There are different petroleum fractions which come from refineries, including everything from lighter oils and gasoline, to such products as home heating oil or bunker oil. It so happens that asphalt, contains less carcinogenic compounds, such as benzene, as compared to a lighter oils and gasoline. Gasoline contains significant concentrations of benzene which is carcinogenic.

The asphalt industry has determined that there is only limited exposure to asphalt fumes for its workers actually standing on and behind the paving equipment. Newer paving machines, have ventilation systems to disperse the fumes which come off of the paving machine, at the discharge point.

The bottom line is that there should be no concern regarding asphalt fume health impacts by the general public although asphalt produces a temporary odor, when pavements are placed. Note also that asphalt used in pavement placement is different from “coal tar”, which is a different material which does not come from petroleum refineries.

The comprehensive health assessment work completed is good news for the industry and the general public as there is no need to be concerned about public health when paving operations take place.

CONSIDERATION OF NATURAL ATTENUATION IN REMEDIATING CONTAMINATED SITES (2011)

The Federal Environmental Agency of Germany’s UBA has translated into English a position paper of the Federal/State Working

Group on Soil Protection about the consideration of natural attenuation in remediating contaminated sites. The position paper details the knowledge and approaches existing in Germany and provides practical recommendation. View or download <http://www.umweltbundesamt.de/uba-into-medien-e/4131.html>.

STRONG LINK BETWEEN MOLD AND ASTHMA IN CHILDREN

Exposure to mold before the age of seven substantially raises a child’s risk of developing asthma, according to a new study.

The researchers found that children living in homes with high levels of mold had more than twice the risk of developing asthma than did children in mold-free homes. The study appeared in the *Annals of Allergy, Asthma and Immunology*.

“Early life exposure to mold seems to play a critical role in childhood asthma development,” said Tina Reponen, lead study investigator and University of Cincinnati professor of environmental health. “Genetic factors are also important to consider in asthma risk, since infants whose parents have an allergy or asthma are at the greatest risk of developing asthma.

Another recent study on asthma triggers and prevention found that indoor air cleaners and significantly reduce household air pollution and lower the rates of daytime asthma symptoms to those achieved with some anti-inflammatory asthma drugs. That study appeared in the *Archives of Pediatric and Adolescent Medicine*.

Researchers cautioned, however, that although the air cleaners improved the overall air quality in homes, they did not deduce air nicotine levels and did not counter all detrimental effects of second-hand smoke.

Asthma affects approximately 9 percent of school-age children, but the rates of asthma are often higher in children from poor, urban families.

The direct medical costs of asthma in the United States are approximately \$15 billion per year, with several thousand deaths and millions of lost work and school days, according to the researchers. Asthma may have its origin in early life but once developed may persist for a lifetime.

The investigation was a part of the prospective Cincinnati Childhood Allergy and Air Pollution Study (CCAAPS), which is investigating the role of aeroallergens and traffic exhaust in the development of respiratory disorders.

In the past, one of the problems with mold exposure estimates was the lack of quantitative standardized methods for describing the residential mold burden. A metric called the Environmental Relative Moldiness Index has been developed and validated in a national survey of homes.

The major focus of the study was exposure to molds during infancy and later childhood and the development of asthma. The Institutes of Medicine and World Health Organization

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- Mold & Childhood Asthma, pg. 7
- Asphalt Fumes - No Significant Risk, pg. 7
- Natural Attenuation Guide, pg. 7

(WHO) reviews of the scientific literature regarding dampness and/or mold and asthma have concluded that there was an association between building dampness and/or mold and respiratory health effects, including asthma. But the precise nature of the link had never been quantified.

At the age of seven years, children were evaluated for allergic sensitization and asthma based on symptom history, spirometry, exhaled nitric oxide, and airway reversibility. A questionnaire was administered to the parent regarding the child’s asthma symptoms and other potential cofactors.

The study investigated the association between asthma and allergic sensitization to molds (*Aspergillus*, *Alternaria*, *Cladosporium*, and *Penicillium*), cat, dog, and house dust mites. In addition, a questionnaire on the infants’ exposure, heat, and demographics was administered to the caregiver. At seven years of age, the children also completed spirometry and tests for exhaled nitric oxide concentration and airway reversibility and/or airway hyperactivity.

At the age of seven years, 31 of 176 children (18%) were found to be asthmatic. Children living in a high-ERMI value home at one year of age had more than twice the risk of developing asthma than those in low-ERMI value homes. Of the other variables, only parental asthma and allergic sensitization to house dust mites were risk factors for asthma development. In contrast, air-conditioning at home reduced the risk of asthma development.

“The four mold types included in the test panel represent only a small fraction of possible molds in homes,” the researcher noted.

“Additional research is needed to determine which mold species may be the most relevant for asthma pathogenesis. Our study also supports the well-established association between allergic sensitization to house dust mites and asthma. Sensitization to house dust mites in our study was significantly associated with asthma but was not a confounder of the ERMI-asthma relationship. The WHO report entitled *Indoor Air Guidelines: Dampness and Mold* concluded that there is an association between dampness and/or mold and asthma.

(*Indoor Environment Communications*,
September 2011)

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PA UPDATES

PA DEP TO ISSUE TECHNICAL GUIDANCE ON WASTEWATER TREATMENT PERMITTING

The Pennsylvania Department of Environmental Protection (DEP) will soon offer new technical guidance designed to ensure compliance with updated wastewater treatment regulations.

The guidance explains revisions to Title 25 Chapter 95 of the Pennsylvania Code that require new or expanded sources of natural gas wastewater to treat the wastewater to the federal drinking water standard of less than 500 milligrams per liter of total dissolved solids prior to discharge.

“This technical guidance is another step in this administration’s continuing efforts to protect Pennsylvania’s water resources,” DEP Secretary Mike Krancer said. “This document clearly communicates to any facility seeking to increase its discharge of treated wastewater or to any facility seeking to start accepting wastewater that they must meet certain obligations.”

Krancer also said the guidance will ensure consistency in the department’s decision making process in issuing these permits.

In April 2011, Krancer called on the natural gas industry to stop sending unconventional gas production wastewater to facilities that were permitted prior to revisions to the Chapter 95 regulations, which took effect in August 2010. The industry quickly complied. To ensure the continued protection of state waterways, the department is now issuing this guidance to explain the regulations governing new and expanded sources

of discharged wastewater.

The technical guidance document, published in the November 12 Pennsylvania Bulletin, will assist DEP’s permitting staff in implementing the new total dissolved solids effluent standard for discharges of treated natural gas wastewater. The revised Chapter 95 regulations ensure that drinking water, waterways, and watersheds in the state are not impacted by high levels of total dissolved solids. The most common total dissolved solids in Pennsylvania are chlorides and sulfates.

The guidance also clarifies that all facilities that accept shale gas extraction wastewater that has not been fully pre-treated to meet the discharge requirements must develop and implement a radiation protection plan. Such facilities must also monitor for radium-226, radium-228, uranium, and gross alpha radiation in their effluent.

The department will host web-based trainings in the coming weeks to explain the implementation of the guidance document to treatment plants and their customers.

DEP regulates the treatment and discharge of industrial wastewater in the state as part of its administration of the federal National Pollutant Discharge Elimination System (NPDES).

(Environmental Tip of the Week 11/7/11)

EPA RECOGNIZES CARNEGIE MELLON AS A TOP BUYER OF GREEN POWER

The U.S. Environmental Protection Agency announced that Carnegie Mellon University in Pittsburgh is on EPA’s list of the top 50 largest

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- Carnegie Mellon Tops in Green Power, pg. 8
- Frac Wastewater Treatment Permitting, pg. 8

green power purchasers. Carnegie Mellon’s green power purchase of more than 120 million kilowatt-hours (kWh) is equivalent to avoiding the yearly carbon dioxide (CO₂) emissions of over 16,000 passenger vehicles or from more than 10,000 average American homes’ electricity use. The purchase also qualified the university this year for EPA’s Green Power Leadership Club by far-exceeding the organization’s minimum purchase requirement. The University is choosing renewable sources for 100% of its energy needs.

“Carnegie Mellon is making its environmental commitment clear by switching from traditional sources of electricity to cleaner, renewable energy alternatives,” said EPA’s mid-Atlantic Regional Administrator Shawn M. Garvin. “I applaud Carnegie Mellon for making a substantial commitment to sustainability and clean air, and hope many more universities will follow their lead.”

EPA’s Green Power Partnership works with more than 1,300 partner organizations that are voluntarily purchasing green power to reduce the environmental impacts of conventional electricity use. Purchases of green power also help accelerate the development of new renewable energy capacity nationwide and produce no net increase to greenhouse gas emissions.

(EPA – 10/25/2011)

PENNSYLVANIA DEP TO ISSUE NEW GUIDANCE CONCERNING THE DISCHARGE OF WASTEWATER FROM MARCELLUS SHALE NATURAL GAS OPERATIONS –

On November 12, 2011, the Pennsylvania Department of Environmental Protection published as new technical guidance document regarding the permitting of total dissolved solids (TDS) discharges from wastewater treatment plants.

The purpose of the new policy is to assist the Department’s permitting staff in implementing the new TDS effluent standard for discharges of treated natural gas wastewater. The Department’s TDS regulations were recently amended to require new or expanded sources of natural gas wastewater to treat the wastewater to less than 500 milligrams per liter of total dissolved solids, which is the federal drinking water standard, prior to discharge. A plain-language summary of the regulatory revisions is available :

(<http://files.dep.state.pa.us/Water/Wastewater%20Management/WastewaterPortalFiles/TDS/TDSPlainLanguageSummary11-3-11.pdf>).

The new policy also highlights existing legal obligations, such as the requirement for certain wastewater treatment plants to develop and implement a Radiation Protection Action Plan to monitor for any radiation associated with wastewater from natural gas operations. The Department addresses

the details of this and other aspects of the new policy in its Comment-and-Response Document, available (www.library.dep.state.pa.us/dsweb/Get/Document-85968/385-2100-002%20Comment%20and%20Response.pdf).

Although the new policy does not have the force of law, it establishes the framework that the Department will likely exercise its administrative discretion moving forward. That said, the new guidance will increase the costs of monitoring and recordkeeping for wastewater treatment plants that do not currently have a Radiation Protection Action plan, radiation monitoring equipment, or properly trained and qualified radiological personnel. For some plants, the cost to implement could be over \$100,000 in the first year, along with additional annual operation costs of over \$20,000.

The Department’s November 3, 2011 press release announcing the guidance is available as follows: (www.portal.state.pa.us/portal/server.pt/community/newsroom/14287?id=19146&typeid=1).

(By Andrew T. Bockis, 11/7/2011)

NEW JERSEY UPDATES

NEW JERSEY ENVIRONMENTAL BOOK GETS ATTENTION

Tom Belton remembers playing with his pals in the chromium waste that puddle the factory yards of his Jersey City neighborhood. "My Keds would turn sickly yellow...with a whiff of brimstone and burnt rubber on them," he writes in his new book, *Protecting New Jersey's Environment* (Rivergate Books). "We were just kids out for adventure," the author writes. "What did we know?" Who knew that 31 years as a scientist for the New Jersey Department of Environmental Protection would be something of an adventure as well? Or that writing the book would help him come to terms with the deaths of his father, at 67, and his younger brother, at 21. His brother had leukemia; his father, lymphoma. "I wanted to tell my own story and tell about them," Belton says. "And I wanted to be honest with myself about why I became a scientist.

I really was very angry at the industrial milieu we lived in," he continues. "But I began to realize it wasn't that simple. There was no one chemical or one exposure that causes a person to get cancer. "Rather than trying to find someone to blame, it's just fate. We were all exposed to carcinogens, and some of us were unlucky enough to succumb to cancer. But others survived." Now 62 and still with the DEP, Belton lives in Haddonfield with his wife, Bernadette Duncan, an attorney. They have two grown children.

Part memoir, part history, and partly a statement of green principles, his book is as straightforward as its soft-spoken, Irish Catholic author, a self-described city kid who loves protecting the environment of urban and rural New Jersey alike. "I'm lucky I have a job that enables me to do both," he says. After writing occasional freelance opinion pieces for newspapers, including this

one, he decided about three years ago to write the book. Despite sometimes stunning tales of how profoundly New Jersey has mistreated its environment, Belton's book is written by a man who clearly loves his work – and the state he calls home. It's an essentially upbeat story of a hard-fought public consensus and bipartisan political will.

But, the real heroes of the tale are the anonymous civil servants he calls "eco-warriors," who among other accomplishments, have nursed a decimated bald eagle population back to vitality in the Garden State. These and other stories have won *Protecting New Jersey's Environment* praise from the state Council for the Humanities, which it named one of its Honor Books of the year.

"He made a book that seems on its face to be all about science into a human story," says May Rizzo, the Council's interim Executive Director.

Says Belton: "I did a double take when I heard about the award. But I really did want to make the story accessible." He did.

(By Kevin Riordan, Philadelphia Enquirer - 11/27/2011)

BILL TO DELAY TOUGH SEWER EXTENSION RULES ANGER ENVIRONMENTALISTS

The New Jersey Supreme Court will not hear a developer's challenge to the state's rules limiting sewer extensions, but a Democratic lawmaker has introduced a bill to delay their implementation by three years. The high court refused to hear Bi-County Development's appeal alleging the state overstepped when it approved rules in 2008 to prohibit sewer line extensions into environmentally sensitive areas.

A state appeals court said in June the Department of Environmental Protection has the

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- Environmental Book Gets Attention, pg. 9
- Sewer Extension Rule Criticism, pg. 9
- Site Remediation Reform Act - How Is It Doing, pg. 10

authority to regulate the extensions, which are key to lucrative new housing and business development. Environmentalists said the decision upheld one of the most important protections for open space. Under the rules, counties must draw up plans that more tightly restrict development.

A new threat has emerged, they say: Assemblyman Albert Coutinho introduced a bill Monday to delay the implementation of those plans by three years and allow building under old, less-restrictive regulations. "I've been singularly focused on doing whatever we can to create jobs and get development moving forward," said Coutinho (D-Essex). "To the extent that people are ready and willing to build, we shouldn't get in the way."

Coutinho said he has discussed the bill with the Christie administration and hopes to see it passed during the Legislature's lame-duck session. Christie spokesman Michael Drewniak said the governor's office has not taken an official position on the bill, but will review it.

Counties were supposed to implement their plans in 2009. But the deadline for the plans has been twice delayed, most recently under an administrative order that expired April 7. None of the county plans have since been approved by state officials, said Larry Hajna, a spokesman for the DEP.

(By Christopher Baxter, The Star-Ledger - 11/25/2011)

EPA TO SET STANDARDS ON WASTEWATER FROM FRACKING

The US Environmental Protection Agency has decided to begin a regulatory process, which would result in rules by 2014, focusing on extracted wastewater from deep gas wells. Many people are not aware that in deeper formations, starting at thousands of feet below the ground surface, water with high salinity (salt) is typically found. Historically, deep injection has been considered a reasonable wastewater disposal approach, because the water that deep is not considered potable (suitable for drinking). EPA is expected to start a study to determine the impact of its extracted frack water, which is the return water that results from opening rock to extract gas during deep gas well development. EPA has indicated that it will take a number of years to develop the regulations, and it will first need to conduct a study to determine fracking's impact on water quality. EPA wants to determine whether fracking has contaminated water supplies.

Currently, wastewater is treated or disposed of in deep wells and in Pennsylvania, the state asked, and the industry and the industry properly responded, to not send such wastewater, to publically owned treatment works, where minimal contaminant removal is practiced, because the plants were not designed to remove salts. Each day, however, responsible management of both frack wastewater and coal bed methane (CBM) water occurs in many areas of Pennsylvania, (CMB has similar characteristics to frack return water).

Those familiar with proper environmental management know that the issue is not just one of regulation, but also proper planning. There was little attention to this important issue as Marcellus Shale development took place, and we think that regulation alone is not the answer. There are clearly tradeoffs between deep wells and, proper surface wastewater treatment, decisions on future treatment needs have to have input from officials in Pennsylvania, Ohio, and New York.

It is mainly in New York, the northwestern part of Pennsylvania, and Ohio, where deep geologic formations are present, with saline water, which is never considered "potable", that is, used for drinking. Undoubtedly, deep well injection will be considered as one of the more practical and cost effective approaches, for managing this type of wastewater.

Let's all hope that an intelligent discussion goes forward on this important issue, and that a regulatory program without proper facilities planning is not the outcome a new regulatory program.

-Gary R. Brown, P.E.

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(Excerpts from Wall Street Journal, October 21, 2011,

Article from Deborah Solomon)

NEW JERSEY SITE REMEDIATION AND REFORM ACT – HOW IS IT WORKING?

The New Jersey Site Remediation Reform Act, put the Department of Environmental Protection on the road to privatization, and the use of Licensed Site Remediation Professionals to provide site environmental investigation, due diligence, and remediation services, in most instances, without NJDEP oversight. After several years into the program, the consensus seems to be that cleanup work is moving more quickly, and in many instances, more cost-effectively.

DEP has been very serious and thorough when it comes to flexible technical assistance and training. The DEP staff have also been very helpful through the transition period, although many Licensed Site Remediation Professionals are overloaded with work, as many cleanup projects move faster. A recent pickup in the real estate market, is also causing a need to speed up projects, to meet real estate transaction timeframes.

The above are obvious advances; but some disadvantages to the program are:

- There is some controversy between LSRPs and the DEP, as to whether “guidance” requires a variance, or only “regulations” do. DEP is moving to correct this. Variances will only be required for regulations.

- Guidance regarding “clean fill”, does not appear to be workable. LSRPs are raised a series of questions on clean fill in a fall training session, which DEP promised to answer, but no responses have been forthcoming so far. DEP has proposed to use a statistical testing method which does not appear appropriate or workable in the field. There is no proper, credible distinction from a “bright line” standpoint, as to “how clean is clean” for materials such as historic fill, which is widespread in New Jersey.

- The standards for impact to groundwater, and use of the SPLP leachability procedure

are technically well founded, but they are apparently only “guidance”. New Jersey needs to have firm, fully promulgated direct contact and impact to groundwater standards, without delay. Without this, LSRP Response Action Outcomes can be challenged or key issues can be avoided, which is a significant gap in the program.

In conclusion, the program is working, but a few aspects of guidance regulations need to be promulgated and finalized without delay, for a fully privatized cleanup program to work. Let’s hope that the gaps related to clean fill and impact to groundwater can be addressed by DEP early 2012. The program is off to a good start, so let’s keep the ball rolling.

For more information on the LSRP program, you can contact Gary R. Brown, P.E. at 610-265-1510 ext. 234 or by email at : gbrown@rtenv.com.

RT’S EMAIL BLAST ARCHIVES

Go to www.rtenv.com/email_blast_archive.html to view

Post Date	Title – Download	Description
12/07/2011	Arsenic & Dioxin - As Toxic as Reported? Not on Your Life!	Gary Kayajanian, has reanalyzed the Taiwan study on arsenic
12/02/2011	RT Summarizes Revisions To NJDEP Remediation Rules	NJDEP proposed a number of significant changes to its Remediation Program...
11/21/2011	May 7, 2012 – Key Deadline for New Jersey Property Owners Who Have Not Finished Cleanup	The State Legislature and the NJDEP have imposed deadlines on property owners of contaminated sites
11/17/2011	Flood Issues in New Jersey	Barry Chalofsky, former longtime DEP Stormwater Program Manager, recently offered an opinion on flooding in NJ
11/15/2011	Change in Rules for Building Renovations, Related To Lead Paint Management	The Mintz Levin Law Firm recently issued an Environmental Alert
11/08/2011	Stormwater - Federal Enforcements Increases on East and West Coast	In recently announced enforcement activities related to stormwater
11/03/2011	Mold - What is the Best Way to Sample?	Sampling of mold requires skill to get meaningful results.
11/01/2011	SPCC Implementation on the Doorstep!	The date for full implementation of SPCC Plans is here
10/14/2011	NJDEP Changes Policy Related to Vapor Intrusion Potential in Unoccupied Buildings	NJDEP has changed its policy with respect to contamination proximal to unoccupied structures at remediation sites
11/10/2011	NJDEP Responds on Vapor Intrusion	NJDEP recently responded to RT on a change in NJDEP policy on how to address vapor intrusion
10/13/2011	MTBE Problems in Petroleum Retail Service Station Drip Pans are Still an Issue of Concern	Because a number of states do not require inspection of drip pans, particularly under gasoline dispensers, new MTBE release are occurring
10/12/2011	PA Governor Corbett Proposes Marcellus Shale Impact Fee Tax	PA’s Governor Corbett recently announced his plan for Marcellus Shale fees
09/26/2011	Modular StormwaterRx Solutions for Waste Industry Sites	Word is getting out around the country on how functional and cost-effective <i>StormwaterRx</i> modules are
09/22/2011	PA DEP Changes Administration of Oil and Gas Regulatory Program	The PADEP is creating a stand alone “Oil and Gas Bureau”
08/9/2011	Changes In Marcellus Shale Gas Well Permitting Are Being Evaluated As A Result Of Chesapeake Bay Foundation Case Settlement	A number of changes are being evaluated as a result of a settlement with the Chesapeake Bay Foundation
06/27/2011	<i>StormwaterRx</i> Announces <i>Retenu</i> – Modular Treatment for Sites with Elevated Suspended Solids in Runoff	<i>StormwaterRx</i> recently announced the availability of <i>Retenu</i> – a modular advanced treatment system for use at sensitive sites.
05/24/2011	Strategic Alliance Announced With D-Fence	D-Fence offers a sound solution, to install & maintain silt fences
04/6/2011	<i>StormwaterRx</i> Technology Heading East	<i>StormwaterRx</i> LLC technology units are now in

COMMENTARY ON EPA DIOXIN RISKS

BY GARY KAJAJANIAN, J.D., PH.D.

EPA regulators have taken four bites at TCDD, more casually known as dioxin -- in 1985, 1994, 2003 and, most recently, 2009 -- each time characterizing this chemical as the most potent carcinogen known to man, but without the scientific underpinning to make that description stick. Agency regulators wanted to justify lowering dioxin body burden levels for chemical, oil and gas workers from several hundred to a few thousand parts per trillion (ppt) down to a non detect level of 1.3 ppt; they even wanted to lower normal background levels of less than 10 ppt to non detect levels. Splitting the non-cancer section and proceeding with it represents a tacit admission by the Administrator that the cancer claims the Agency regulators propose now (and have proposed since 1985) are indefensible scientifically.

Bite 1. In 1985, Agency regulators made the case that in the Kociba life time feeding study there was a significant elevation in liver cancers in the mid dose [3,300 ppt] and high dose [25,600 ppt] female rats compared to the control animals. This finding, which the Agency's Science Advisory Board (SAB) accepted, allowed the EPA to characterize dioxin as a known carcinogen in rats and, therefore, a possible human carcinogen. But reducing the EPA-calculated one-in-a-million lifetime cancer risk [about 300 cancers over 70 years, or fewer than five extra cancers per year] was not worth the regulatory cost of implementing such a regulation.

What the EPA regulators did not share with the SAB were other relevant findings in Kociba: (a) in the male rats the liver cancer incidence was significantly reduced in the lowest and most relevant exposure group [540 ppt] -- this beneficial finding would have more than offset the reported liver cancer observation in females; (b) more importantly, in both the male and female rats at both the low and mid exposure levels, total cancer incidence was very significantly reduced ($p < 0.01$) compared to the control animals. These withheld findings subsume the female liver cancer data EPA regulators reported to the SAB, the Administrator and the public. A greater than 40 percent reduction in total cancers in low dosed male rats and a greater than 20 percent reduction in total cancers in low dose female rats would have led to the conclusion that dioxin was a known anti-carcinogen in this rat strain and a possible anti-carcinogen in humans.

Bite 2. In 1994, EPA regulators used a 1991 NIOSH retrospective study of cancer mortality rates in male workers in 12 plants where dioxin was an expected low level contaminant by-product of a chemical manufacturing process to justify three claims to the SAB: (a) the significant increase in total cancers in men was entirely due to the presence of dioxin -- with none of the other chemicals contributing to the cancer increase in any way; therefore, (b) dioxin was a known human carcinogen (c) with a EPA calculated risk of one-in-ten-thousand cancer risk. The pooling of data from the 12 chemical plants and the failure to identify the other chemicals used or produced in each of these plants made traditional criticism of the NIOSH findings difficult. First, I disclosed to the SAB the broader Kociba findings to make the case that diox-

in was an anti-carcinogen in rats.

Second, I asked how might one detect an anti-carcinogen in humans: if dioxin prevented the replication of cancer cells, one would see a reduction in diagnosed cancers shortly after exposure to the chemical, say within a year; if dioxin prevented the promotional step in cancer creation, one might see a reduction in expected cancers beginning several years after exposure; if dioxin blocked the initiation step in cancer creation, it would take much longer to see a reduction in most expected cancers. The Italian Government prospectively studied the population of Seveso, Italy exposed to dioxin and many other chemicals when a nearby chemical plant blew up in 1976. In women with low exposure to dioxin [21 - 77 ppt], 8.6 uterine cancers were expected in the first five years of the study, 9 were found; 13 uterine cancers were expected in the second five years, none were found -- a very significant observation; also, total cancer incidence was significantly reduced in the second five years compared to the first five years. (Total cancer incidence in low exposure Seveso men was reduced but not significantly in the second five years, compared to the first five years.) So, in low dose Seveso women, dioxin acts with the timing of a promoter blocker. In the NIOSH study that EPA regulators endorsed, cancer mortality was reported in five-year intervals, starting for each worker from the time of initial employment (that is, initial dioxin exposure): the total cancer mortality rate was significantly lower in the second five years, compared to the first five years. So, in men, dioxin acts as if it were a promoter blocker of cancers [a 1999 paper by NIOSH allowed for a calculated body burden range from 3 to 10,000 ppt for workers in some of these plants].

In 1995, the SAB told the Administrator that EPA regulators had not made the case that dioxin was a known human carcinogen and recommended these regulators incorporate a more thorough analysis of Kociba, which the regulators misrepresented, and Seveso data, which the regulators ignored.

Bite 3. In 2003, EPA regulators used a 1999 follow-up paper by NIOSH to rephrase their claims on dioxin -- as an even more potent human carcinogen than claimed in 1994. The NIOSH update used paper records to estimate dioxin body burden levels for workers in eight of the 12 plants. Unfortunately for Agency regulators, all but one of the excess cancers were identified (a) in one plant with virtually no dioxin exposure [3ppt] and (b) in the two highest exposure plants [10,000 ppt], where the types of cancers found in excess in one plant were unlike the types of cancers found in excess in the other -- so those excess cancers logically could not be attributed to the dioxin.

EPA regulators also failed to factor into their dioxin cancer review the 30-plus year prospective Operation Ranch Hand Study of Vietnam Era veterans conducted by the US Air Force. The defoliant used by exposed veterans was about 50 percent dioxin and body burden levels for this persistent chemical [half-life about 7.5 years] was carefully monitored over time. Among the veterans with the highest body burdens when their service ended

[over 123 ppt], (skin cancer and total cancers other than skin) incidence was significantly lower than with control veterans who could have been matched to them or to the comparison group as a whole.

Bite 4. I participated as a commentator in the second and third SAB reviews of dioxin. I understand why the EPA regulators have such a difficult problem in assessing cancer risks they feel are associated with dioxin. Agency regulators classify a chemical as a carcinogen at a high dose and MODEL, through EXTRAPOLATION, that a health benefit will attach by reducing exposure. Extrapolation should never be employed as a regulatory tool when it is contradicted by significant data. What would be the appropriate dose range in which to extrapolate in these dioxin studies?: the dose range from 0 to 540 ppt [the lowest exposure group in Kociba with significant total cancer findings], which has a negative slope; the dose range from 0 to the dioxin level for low exposure women in Seveso [21-77ppt], which has a negative slope for total cancers; and, the dose range from 0-10 ppt in the Ranch Hand Study to over 123ppt also has a negative slope for skin cancers and total cancers other than skin. The focus of the risk assessment modeling should not be the shape of the dose response curve over the entire dose range, only on the lowest portion of the range from 0 to the lowest significant finding.

The Agency should use some common sense in efforts to clean up dioxin. First, if it is an anti-carcinogen, why clean it up. If the fear is that 1,000 ppt levels of dioxin for residential land and 5,000 to 20,000 ppt for industrial land is thought to create too much of a health risk, then why not test the level of dioxin in the serum of residents who live on or near these sites. That testing would provide better information on whether this potential dioxin exposure results in dioxin uptake by the body. [Be reminded, some Air Force veterans in the Ranch Hand Study were much closer physically to, and actually mixed, defoliant with dioxin levels of 500,000,000,000 ppt.]

So far I have focused my comments on dioxin as it relates to cancer endpoints, not to non-cancer endpoints, not to chemicals structurally related to dioxin and not to clean up costs. Let me deal with these additional topics briefly now. One reason, I suspect, EPA regulators have split the cancer and non cancer projects into two parts, with the non cancer section being reviewed first is to prevent the anti-cancer effects of dioxin exposure offsetting any non cancer toxicology. EPA regulators have created an index that relates the toxicology of many chemicals structurally similar to dioxin but about which much less is known to dioxin, which is well studied. If dioxin is an anti-carcinogen, then why aren't these "relatives?" If the dioxin and "relatives" are beneficial, why spend treasure to clean them up?

I am sure EPA spokespeople believe a defensible dioxin cancer document will issue shortly. I am betting it won't, because the Agency's dioxin cancer claims are not defensible.

(Inside EPA -- 8/29/11)



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Additional information on our firm and its expertise can be found on our Web Page at [Http://WWW.RTENV.COM](http://WWW.RTENV.COM) or, you can call us at 800-725-0593 for a complete Qualifications Statement.

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KEY HIGHLIGHTS FROM RECENT EMAIL BLASTS

MOLD - WHAT IS THE BEST WAY TO SAMPLE?

Lately, mold is a hot topic. There is a lot of stigma about mold there is poor information on mold and the health effects associated with mold. Some common myths on mold are:

- All mold that appears black is “black mold.”
- If you can’t see mold growing you are “safe.”
- All mold causes health problems.
- If you see mold growing you can just use bleach to kill it.

Recently, due to an unusually rainy year in which the ground remained saturated for an extended period, buildings have become more damp due to flooding and leaks and mold may have begun growing where it did not before. When there is flooding, mold will start to amplify within the first 48 hours of water inundation and during this time it is critical to dry out any wet building materials. Mold exists everywhere, and if you call us to investigate a situation, it is our commitment to you to identify any health threatening molds and if necessary, develop a plan for abatement. We team with the best microbial remediation contractors and follow all recommended guidelines to ensure safety to you and your home or building.

RT Environmental Services, Inc. offers a wide range of Indoor Air Quality Services, including – testing for odors, VOCs, and mold. RT offers services to perform moisture surveys to identify wet building components as well as assess the quality of the air by measuring relative humidity to determine if conditions exist that are conducive to mold growth and amplification. Generally, a combination of a visual assessment along with moisture readings can determine if indoor air sampling for mold is necessary. RT recommends two types of mold air sampling – spore trap and culturable agar plate sampling.

Spore trap sampling offers the benefits of a preliminary screen to determine if mold is present in the air in quantities above background levels or if there are species identified in the indoor air sample that are not detected in the background sample. A background sample is required to be collected of outdoor air for comparison to indoor air samples. Sampling and analysis can be completed in as little as one day and analysis includes of a wide range of airborne particles - fungal spores, pollen, insect parts, skin cell fragments, fibers, and other inorganic particulates. The downside of this sampling procedure is that the mold spores can’t be identified as living or dead and individual species of mold can’t be differentiated from a risk assessment standpoint.

Culturable sampling offers the benefit of determining the living spores and identifying individual species of molds. Once individual species are known an abatement plan can be developed due to the severity of the mold amplification or if risk assessment molds exist. The process involves collecting the air sample on an agar plate, which the laboratory incubates and grows before using microscopy to identify the mold species; the process takes two weeks from sample collection to analysis.

RT has the knowledge to assist homeowners as well as building owners and property managers with all of your indoor air sampling needs. We provide professional service and are well-trained in the field of indoor air quality, which includes providing you with a Certified Microbial Consultant (CMC) trained and certified through the American Council for Accredited Certification. Our staff are members of the Indoor Air Quality Association.

For more information contact: Gary R. Brown, P.E., President, Phone: 610-265-1510, Ext. 234 or Email: gbrown@rtenv.com.

EPA REVISES LEAD PAINT RULES FOR BUILDING RENOVATIONS

The U.S. Environmental Protection Agency (EPA) will not require dust wipe tests under the Renovation, Repair and Painting Rule (RRP Rule) in connection with work that disturbs lead-based paint in pre-1978 housing and facilities serving children under six. The revised RRP Rule was effective on October 4, 2011. EPA has announced it will increase enforcement of the lead paint rules and has begun assessing penalties under the RRP Rule.

In May 2010, EPA proposed several revisions to the RRP Rule, including requiring dust wipe testing after certain types of renovations to demonstrate that remaining dust lead levels are below clearance levels. After receiving over 300 comments, EPA decided not to impose these requirements, concluding that the work practices already established in the RRP Rule are “reliable, effective, and safe.” EPA said its decision is consistent with the original intent of the RRP Rule: renovators should address the lead-based paint hazards created during renovation but are not required to go beyond the scope of the renovation activity. For instance, the RRP Rule does not require renovators to clean dust in areas beyond those in and around the work area. Nor does it require renovators to replace carpets or refinish or seal floors in the area of the renovation.

EPA did, however, promulgate other proposed revisions. Renovators will now be allowed to collect paint chip samples from components to be affected by a renovation for testing by a certified laboratory, instead of using test kits to determine whether lead-based paint is present.

EPA also made minor revisions in the training provider accreditation and application process, clarified certain training and recordkeeping requirements and established a minimum penalty authority for state and tribal programs.

Finally, EPA clarified the requirements for vertical containment for certain exterior renovations, prohibited or restricted work practices, the use of high-efficiency particulate (HEPA) vacuums and on-the-job training provided by renovators.

EPA is increasing its enforcement of the lead paint rules, with a focus on education, recordkeeping and reporting requirements, and work practice standards. The National Program Manager Guidance, issued by EPA’s Office of Enforcement and Compliance in April 2011, directs the regions to “promote compliance with all of the [lead-based paint rules] with a significant focus on the [RRP Rule].”

In particular, the Guidance instructs that 60% of inspection/enforcement actions under EPA’s Toxic Substances Control Act (TSCA) programs should focus on lead-based paint, with the majority of those directed to the RRP Rule.

EPA has already brought one enforcement action for violation of the RRP Rule. It filed a complaint in May 2011 seeking penalties against a Rockland, Maine renovator for six violations of the RRP Rule, including failing to contain dust and debris generated during a repainting project and for failing to ensure that employees were properly trained or supervised. EPA learned of the violations through an anonymous tip linking to a YouTube video taken in October 2010. EPA is seeking civil penalties of up to \$37,500 per day per violation, for a minimum of \$225,000.

If you need further information, Jennifer Sulla of Mintz Levin can be reached at (617) 348-3092 or by email at jsulla@mintz.com.

By: Jennifer Sulla – Mintz Levin – 10/14/2011

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

Environmental Protection Agency; Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews; Proposed Rule <i>(Federal Register – 8/23/2011)</i>
Environmental Protection Agency; Review of National Ambient Air Quality Standards for Carbon Monoxide; Final Rule. <i>(Federal Register – 8/31/2011)</i>
Environmental Protection Agency; Draft Toxicological Review of 1, 4-Dioxane: In Support of Summary Information on the Integrated Risk Information System (IRIS); Notice of public comment period and listening session. <i>(Federal Register – 8/31/2011)</i>
Environmental Protection Agency; Mandatory Reporting of Greenhouse Gases: Technical Revisions to the Electronics Manufacturing and the Petroleum and Natural Gas Systems Categories of the Greenhouse Gas Reporting Rule; Proposed Rule <i>(Federal Register – 9/9/2011)</i>
Environmental Protection Agency and National Highway Traffic Safety Administration (NHTSA), DOT; Greenhouse Gas Emissions Standards for Medium- and Heavy-Duty Engines and Vehicles; Final Rules. <i>(Federal Register – 9/15/2011)</i>
Environmental Protection Agency; Certain High Production Volume Chemicals; Test Rule and Significant New Use Rule; Fourth Group of Chemicals; Proposed Rule <i>(Federal Register – 10/21/2011)</i>
Environmental Protection Agency; Final Response to Petition From New Jersey Regarding SO ₂ Emissions From the Portland Generating Station; Final Rule <i>(Federal Register – 11/7/2011)</i>
Environmental Protection Agency; National Emission Standards for Hazardous Air Pollutant Emissions for Primary Lead Processing; Final Rule. <i>(Federal Register – 11/15/2011)</i>
Environmental Protection Agency; Revising Underground Storage Tank Regulations – Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training; Proposed Rule <i>(Federal Register – 11/18/2011)</i>
Environmental Protection Agency; Hazardous Waste Management System; Identification and Listing of hazardous Waste; Carbon Dioxide (CO ₂) Streams in Geologic Sequestration Activities; Proposed Rule <i>(Federal Register – 11/23/2011)</i>
Environmental Protection Agency; National Emissions Standards for Hazardous Air Pollutants: Ferroalloys Production; Proposed Rule <i>(Federal Register – 11/23/2011)</i>
Environmental Protection Agency; National Emissions Standards for Hazardous Air Pollutants: Mineral Wool Production and Wool Fiberglass Manufacturing; Proposed Rule. <i>(Federal Register – 11/25/2011)</i>
Environmental Protection Agency and National Highway Traffic Safety Administration (NHTSA); 2017 AND Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards; Proposed Rule. <i>(Federal Register – 12/1/2011)</i>
Environmental Protection Agency; National Emissions Standards for Hazardous Air Pollutants: Primary Aluminum Reduction Plants; Proposed Rule. <i>(Federal Register – 12/6/2011)</i>
Environmental Protection Agency; Release of Final Integrated Review Plan for the National Ambient Air Quality Standards for Lead; Notice of Availability. <i>(Federal Register – 12/9/2011)</i>

PENNSYLVANIA CHAMBER ENVIRONMENTAL ENERGY CONFERENCE

The Pennsylvania Chamber of Business and Industry has announced that its 2012 Annual Environmental and Energy Conference will be held at the Eden Resort Inn and Suites in Lancaster, Pennsylvania. The all day event will be held on April 18, 2012. Justin Lauterbach and Gary R. Brown, P.E. will be speaking on stormwater, which is expected to gather much attention, particularly with stormwater penalties becoming a national issue. The conference this year will include our presentation on stormwater compliance, which commercial and industrial facilities need to be kept up to date on.

Go to <http://www.pachamber.org/> to watch for the conference announcement, and find registration information.

PENNSYLVANIA BULLETIN NOTICES

Letter to: U.S. Environmental Protection Agency – 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

August 4, 2011

Regulations, Technical Guidance & Permits – A final guidance has been issued on Regional Civil Assessment Procedures.

August 15, 2011

Letter to: U.S. Environmental Protection Agency – RE: Comments on the Proposed 316 (b) Rule – Existing Facilities-Cooling Water Intakes at Existing Facilities Rule.

August 18, 2011

Regulations, Technical Guidance & Permits – Policy on Clean Alternative Fuel Conversion Systems

August 22, 2011

New Source Review – PA Bulletin - The Environmental Quality Board (Board) amends Chapters 121 and 127 (relating to general provisions; and construction, modification, reactivation and operation of sources) to read as set forth in Annex A. This order was adopted by the Board at its meeting of May 18, 2011. This final-form rulemaking was effective upon publication in the Pennsylvania Bulletin.

September 3, 2011

Regulations, Technical Guidance & Permits – Final Guidance: Blasting Near Utility Lines on Mining and Construction Sites and Bituminous Coal Mining Within the Right-of Way or Easement of Utility Lines.

September 5, 2011

Regulations, Technical Guidance & Permits – Notice of proposed control measures being considered by the Northeast Ozone Transport Commission.

September 12, 2011

Regulations, Technical Guidance & Permits – Three notices were published related to extending the NPDES General Permits for Stormwater Discharges – PAG-13 – Municipal Separate Storm Sewer Systems, PAG-12- Concentrated Animal Feeding Operations and notice of the PAG-13 – permits.

September 19, 2011

Regulations, Technical Guidance & Permits – The DEP Board of Coal Mine Safety published notice of final regulations updating underground coal mine safety regulations.

October 10, 2011

Regulations, Technical Guidance & Permits – The Department of Environmental Protection published notice of Interim Final Guidance on single source determinations for the natural gas industry.

October 24, 2011

Regulations, Technical Guidance & Permits – Department of Environmental Protection Secretary Mike Krancer alerted the federal agency that Pennsylvania reserves the options to submit its own State Implementation Plan, which would allocate air emission allowances for 2013 under the new EPA Cross State Air Pollution Rule.

October 31, 2011

Regulations, Technical Guidance & Permits – The Department of Environmental Protection published notice of changes to final guidance relating to the discharge of Total Dissolved Solids under NPDES permits. - Policy and Procedure for National Pollution Discharge Elimination System Permitting of Discharges of Total Dissolved Solids (TDS) – On August 21, 2010, revisions to 25 Pa. Code § 95.10 became final.

November 14, 2011

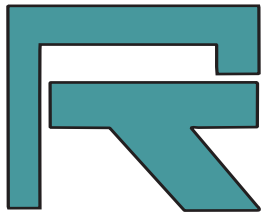
Regulations, Technical Guidance & Permits – Notice of the 2012 mining reclamation fee.

December 5, 2011

Regulations, Technical Guidance & Permits – A notice extending PAG-02 NPDES General Permit for stormwater discharges related to construction activities.

December 5, 2011

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KEY HIGHLIGHTS

FEDERAL UPDATES

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- GHG Reporting Tool, pg. 4
- UST Revisions Coming, pg. 4
- TCE Health Assessment, pg. 5

NJ UPDATES

- Environmental Book Gets Attention, pg. 9
- Sewer Extention Rule Criticism, pg. 9
- Site Remediation Reform Act - How Is It Doing, pg. 10

PA UPDATES

- Carnegie Mellon Tops in Green Power, pg. 8
- Frac Wastewater Treatment Permitting, pg. 8

TECHNOLOGY UPDATES

- Mold & Childhood Asthma, pg. 7
- Asphalt Fumes - No Significant Risk, pg. 7
- Natural Attenuation Guide, pg. 7

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