

The RT Review

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

• Environmental Engineers & Scientists • Geologists • Remedial Contractors



RT IS READY

REDEVELOPMENT ACTIVITIES CONTINUING AT A HIGHER RATE THAN GREENFIELDS DEVELOPMENT

Although there is a general economic decline which is expected to worsen in 2009, as measured by RT's projects, redevelopment activities have a much higher incidence of continuing, while many "Greenfields" developments, have been or are being terminated. The reason for this is very simple – government incentives and permitting coordination now tend to make redevelopment projects less risky, than Greenfields development projects.

While updated data on the economy in the fourth quarter will undoubtedly become available during January, the perception in the days leading up to New Years, includes that the economy is stronger in New Jersey, and, that New Jersey's highly touted 75% Cost Reimbursement Program for remediating contaminated sites including old landfills, is keeping many redevelopment projects going. Although Pennsylvania legislators were expected to pass a similar program, action was not taken the legislature, so it is very important, the legislature deal with this issue, early in 2009.

On the other hand, Delaware's programs for Brownfield sites have become more and more friendly, as the Department of Natural Resources and Environmental Control's experience with managing materials such as historic fill in urban areas, has become more common and its cost reimbursement program is realistic and friendly.

New York's Brownfields Program, following settlement of a 2008 litigation challenge, also is becoming more friendly, as the Department of Environmental Conservation staff also becomes more and more experienced with the Brownfields Program, which makes a major difference as to whether a particular purchase is or is not feasible.

There is no question, however, that the "delivered product" after redevelopment, has to show financial return. We all, therefore, need to hope that the difficult economic conditions ahead still allow redevelopment projects to continue as redevelopment projects provide hope to depressed neighborhoods and communities, and these almost always "green projects", in that they maximize use of existing infrastructure and facilitate environmental cleanup.

- Gary Brown

CHALLENGING FINANCIAL CONDITIONS COULD AFFECT PROPERTY ASSET VALUES

At RT Review press time, concerns among those with property assets in the commercial and industrial sector we're reaching new heights. Unlike residences, many commercial and industrial properties, and in particular, malls and retail shopping centers have mortgages with much shorter terms, as little as five years. \$60 billion in mortgages need to be renewed in 2009, according to the Wall Street Journal. Currently, in the United States, many lenders are simply not offering mortgages based on property asset value because of fundamental concerns that declines in property/collateral value in the future could result in a loss to the lender should foreclosure be necessary.

This situation, according to leading financial experts has not occurred for generations, and, several major mall owners in the United States and elsewhere, were already living day to day, not knowing whether there only option was bankruptcy. The Christmas shopping retail season also was not particularly good, based on retail sales data several days before Christmas. A concern about the New Year and first quarter is that significant vacating of retail and office space could occur. Although we in the Greater Delaware Valley and New York City region have been luckier in the recent past than those in the other parts of country with respect to the nationwide mortgage problem, spreading worldwide financial downturn concerns have become increasingly likely to affect our region early in 2009. Detenancing of office, retail, and/or industrial space poses special challenges, mainly relating to protection of asset value, until occupancy levels rise at some point in the future.

To learn more about asset value protection, including mothballing issues, building material, tank and waste environmental issues, we recommend that you attend our upcoming seminar, cosponsored by TriState Realtors, the Montgomery County Industrial Development Corporation, RT, Hamburg, Rubin, Mullin, Maxwell and Lupin (HRMM&L). (See Page 9 for a seminar announcement.)

• For lenders, we will review at this seminar what critical environmental issues must be addressed at properties when foreclosure is to occur, to avoid the lender being considered a responsible party for environmental cleanup.

• For realtors, we will be focusing on the key issues that realtors need to focus on when advising sellers on how to protect asset value, during this financially distressed period, when potential buyers have already become more choosy.

RT is already offering a package of services related to documenting environmental conditions by completing a Phase I Environmental Site Assessment (ESA); at the time the tenant vacate, to include:

- A Phase I ESA.
- A building systems mothballing evaluation.

Call Glennon Graham at 610-265-1510, Ext. 54 for more information on this new service.

RT is already experiencing tenant situations, were building owners are being financially impacted at the time of tenant vacancy. We have found issues where there are wastes left behind, or, there is lead impact, from electronic component repair operations. Unfortunately, in both recent instances, property owners were left "holding the bag" for these environmental liabilities, because bankruptcy unfortunately followed notice that the lease would be terminated and property vacated by a matter of just a few weeks.

Those property managers and owners who have buildings with operations where residual industrial or hazardous waste is produced, or where there are any types of processes which are potentially polluting should seriously consider completing quarterly environmental inspections of the property to make sure that the operations are being completed and waste managed so as to minimize liability to the property owner should tenant operations shutdown. Environmental issues sometimes don't get attention when a tenant's financial situation becomes more difficult.

2009 is expected to be particularly difficult and in particular, the first half of the year. Should you wish to discuss any particular situations further, please call Gary Brown at 610-265-1510, Extension 34, or contact me by email at gbrown@rtenv.com.

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STAFF AND PROJECT NEWS

In late winter, RT's staff was preparing to refocus our services for the upcoming change in property situations due to decline in economic conditions. Gary Brown and Glenn Graham are working on setting up a February Seminar on Property Mothballing, as estimates indicated that nationwide, 2,000 stores could close during the first half of 2009. Concerns about office vacancies were also arising.

Justin Lauterbach and Samantha Linton while working with Gary Brown on a New York Brownfields Site, involved in manufacturing, to address historical environmental conditions. Dominic Marino was working on a project Bryn Mawr, PA where water damage occurred following freeze damage to water piping.

Joshua Hagadorn and Gary Brown were working on an expert case regarding air emissions, from a Pennsylvania Power Plant. A number of RT staff were beginning work on a Trenton, NJ area Brownfields Site where a revised capping approach could potentially facilitate redevelopment which has historically not been cost effective as a result of design criteria a Superfund Record of Decision. New Jersey's Brownfields Program is definitely expected to help move this project forward, as continued advances in the states Brownfields Program are helping to facilitate redevelopment of more and more

sites. NJDEP staff permit coordination and financial incentives are attracting redevelopers to more and more sites throughout the state.

Thomas Donovan continues to handle Phase I Environmental Site Assessment (ESA) assignments, both in Pennsylvania and New Jersey. Justin Lauterbach and Samantha Linton continue to focus on a Wilmington, DE redevelopment site, where Delaware Department of Natural Resources and Environmental Control Officials have been helping to facilitate cost effective use of historic fill, with state financial incentives allowing redevelopment which otherwise would not possible.

Gary Brown has prepared articles for both the TriState Realtors Update and the MidAtlantic Real Estate Journal. Upcoming focus on tenant vacancies and protecting asset value by commercial and industrial property managers and owners is anticipated to be a key component of our services to be provided to clients in 2009. We are preparing for this now, based on experience in the 1980s and 1990s we will help property owners and managers protect asset value through expected declining market conditions so that when the economy improves, properties are ready for reoccupancy as soon as possible.

- Gary Brown

GOVERNMENT STUDY: CLIMATE RAPIDLY CHANGING

The United States faces the possibility of much more rapid climate change by the end of the century than previous studies have suggested, according to a new report led by the U.S. Geological Survey.

The survey - which was commissioned by the U.S. Climate Change Science Program and issued this month - expands on the 2007 findings of the United Nations Intergovernment Panel on Climate Change. Looking at factors such as rapid sea ice loss in the Arctic and prolonged drought in the Southwest, the new assessment suggests that earlier projections may have underestimated the climatic shifts that could take place by 2100.

However, the assessment also suggests that some other feared effects of global warming are not likely to occur by the end of the century, such as an abrupt release of methane from the seabed and permafrost or a shutdown of the Atlantic Ocean circulation system that brings warm water north and cold water south. But the report projects an amount of potential sea level rise during that period that may be greater than what other researchers have anticipated, as well as a shift to a more arid climate pattern in the Southwest by mid-century.

Thirty-two scientists from federal and non-federal institutions contributed to the report, which took nearly two years to complete. The Climate Change Science Program, which was established in 1990, coordinates the climate research of 13 different federal agencies.

(Star Ledger - 12/26/08)

PA DEP PROPOSED CHANGES TO AIR QUALITY PERMIT EXEMPTION POLICY

Joshua Hagadorn

The Pennsylvania Department of Environmental Protection is proposing new Air Quality Permit exemptions that will affect the aggregate and concrete industry. The proposed rules plan to remove from the rules several previously exempt sources from Plan Approval. The sources affected from Section 127.14(a)(8) include:

- Concrete batch plants (Exemption 13)
- Sources of particulate matter controlled by a baghouse that exhaust indoors and that cannot be exhausted outdoors (Exemption 34)
- Sources that exhaust to a filter or baghouse that have particulate loading before control below limits of Chapter 123 (Exemption 37)

In addition to the above changes, the portable crusher exemption criteria has changed from operating for less than 60 days to operating during daylight for less than days 30 days (Section 127.14(a)(8) - exemption 12).

Internal combustion engines regardless of size will now require a Request for Determination (Section 127.14(a)(8) - exemptions 4 and 6).

There are also changes to the exemption rules of Section 127.14(a)(9) regarding physical changes and include:

- Installation of an air cleaning device that is not installed to comply with regulatory requirements and that will not be used to generate emission reduction credits (exemption 12)
- Repairing, replacing, upgrading, maintaining, or installing pollution control device instrumentation or component equipment including pumps, blowers, burners, filters, filter bags, devices for measuring pressure drop across an air cleaning device or filter breakage detector for a baghouse, provided such changes would not violate an operating permit term or condition (exemption 13).

RT has assisted many clients in determining whether or not they need air permits in Pennsylvania. Call Josh for more information at 610-265-1510 Extension 11 or by email at: jhagadorn@rtenv.com

HOT MIX ASPHALT PLANT GENERAL PERMIT 13 FOR AIR EMISSIONS ISSUED FOR PUBLIC COMMENT

The Pennsylvania Department of Environmental Protection (PADEP) issued a general plan approval and/or operating permit for hot mix asphalt plants on November 22, 2008, which contains a best available technology determination and other applicable requirements for air emissions from hot mix asphalt plants. There is a 45 day comment period after which the PADEP will incorporate any appropriate comments received and issue the Final General Permit 13 which is expected to occur in mid-2009. The General Permit can be issued at facilities with a valid mining permit or where an air quality operating permit has been previously issued. The general permit will allow standard permitting conditions to be used throughout the Industry which will improve compliance as well as allow the use of alternate fuels.

Along with conventional fuels like propane, natural gas, No. 2 oil and No. fuel oil, bio-diesel, On-Specification Waste Derived Liquid Fuel (WDLF) and other alternative fuels may be used in hot mix asphalt plants under the new General Permit.

The General Permit will be issued for a period of five years, after which it can be renewed. The renewal process has been simplified by the Department and will not require stack testing to be completed; instead annual burner tuning will be required.

The Pennsylvania Asphalt Pavement Association (PAPA) Environmental Committee worked for many years with PADEP to make this permit possible and we believe there are significant benefits for the industry and the public, as standardized permitting assumes uniform technology along with high levels of environmental compliance. RT is pleased to have assisted in achieving this accomplishment.

- Walter Hungarter

**See us at the PA Chamber of Business and Industry
Spring Environmental and Energy Conference
and Trade Show on April 7 and 8 in Lancaster.
www.pachamber.org**

STATUS OF LEGISLATION FOR THE PA BROWNFIELD REDEVELOPMENT ACT

Lawrence W. Bily, CHMM

At the Pennsylvania Chamber of Business and Industry's DEP Quarterly Meeting on December 4, 2008, Ms. Jill Gaito, Deputy Secretary for Community Revitalization and Local Government Support, reported on the status of the Brownfield Redevelopment Act, pending legislation that would provide developers with tax credits up to 75% for reimbursement of Brownfield redevelopment costs.

The bill for the Brownfield Redevelopment Act passed the

State Senate in the fall (Senate Bill 1062), was approved by House Committee and sent to the full House for a vote. Unfortunately, it was not received in time to be voted on before the House recessed in November.

PA DEP plans on pushing to have the bill re-introduced in January when the House reconvenes and pressing for passage in time for the spring construction season.

FEDERAL REGULATORY UPDATES

EPA REVISES DEFINITION OF HAZARDOUS WASTE TO ENCOURAGE RECYCLING

A new final rule under RCRA streamlines the regulation of hazardous secondary materials when they are recycled by reclamation. According to EPA, the regulation maintains strong protection of human health and the environment by limiting the streamlined requirements to specific, legitimate recycling activities.

In October 2003, EPA proposed a regulatory exclusion from the definition of solid waste that would streamline requirements for the recycling of hazardous secondary materials. After evaluating public comments and conducting independent analyses, the Agency published a supplemental proposal in March 2007.

This rule finalizes the March 2007 supplemental proposal by establishing requirements for the following:

- Materials that are generated and legitimately reclaimed under the control of the generator (i.e., generated and reclaimed onsite by the same company, or under "tolling" agreements).
- Materials that are generated and transferred to another company for legitimate reclamation under specific conditions.
- Materials that EPA or an authorized state determines to be non-wastes through a case-by-case petition process.

The rule also contains a provision to determine which recycling activities are legitimate under the new exclusions and non-waste determinations. This provision ensures that only authentic recycling, and not treatment or disposal under the guise of recycling, receives the benefits of these streamlined regulations. In order for a material to be legitimately recycled under these exclusions, the hazardous secondary material must provide a useful contribution to the recycling process, and the recycling must make a valuable new intermediate or final product.

Two additional factors also must be taken into account:

1. Whether the recycled material is managed as a valuable product.
1. Whether the recycled product contains toxic constituents at significantly greater levels than a non-recycled product made from virgin materials.

These exclusions are not available for materials that are considered inherently waste-like; used in a manner constituting disposal; or burned for energy recovery.

The restrictions for the exclusions in this final rule are substantially similar to those contained in the supplemental proposal published on March 26, 2007 (72 FR 14172) with certain modifications regarding:

- Reporting and recordkeeping
- Reasonable efforts required of generators to ensure that their hazardous secondary materials are safely and legitimately recycled.
- Intermediate facilities storing hazardous secondary materials for more than 10 days are eligible under the transfer-based exclusion
- Tailoring the financial assurance requirements to intermediate facilities and reclaimers of hazardous secondary materials

The Agency estimates that about 5,600 facilities generating approximately 1.5 million tons of hazardous secondary materials annually may be affected by this rule. The activities most affected are metals and solvent recycling. This action is expected to result in cost savings of approximately \$95 million per year for all affected industry sectors.

For more information about the change in the definition of solid waste, see epa.gov/epawaste/hazard/dsw/index.htm.

(Env. Resource Center – 10/13/08)

EPA INVESTIGATING FORMALDEHYDE EMISSIONS FROM PRESSED-WOOD PRODUCTS

What are the possible risks of formaldehyde emissions from pressed-wood products? EPA is investigating this question and is asking interested parties to submit comments, information, and data to determine the extent of the problem and what to do about it. In addition to establishing a 60-day public comment period, EPA also has scheduled five public meetings to obtain more input.

Through this process, EPA will develop a risk assessment on potential adverse-health effects, evaluate the costs and benefits of possible control technologies and approaches, and determine whether EPA action is needed to address any identified risks. The call for comments follows a citizens' petition received under the Toxic Substances Control Act in March 2008 from organizations and individuals concerned about risks from exposure to formaldehyde.

Formaldehyde is commonly used as a preservative and is found in certain pressed-wood products, where it is a component of glues and adhesives. It adds permanent-press qualities to clothing and draperies and helps preserve some paints and coating products.

Formaldehyde is both an irritant and a probable human carcinogen. Attention to the formaldehyde issue significantly increased after Hurricane Katrina when temporary housing for dislocated families in New Orleans allegedly caused illness in many people from formaldehyde emissions in pressed-wood components.

(Env. Resource Center – 12/1/08)

FEDERAL REGULATORY UPDATES

- Haz Waste/Recycling, pg. 4
- SARA/TRI Updates, pg. 5
- SPCC - Another Revision, pg. 6
- Final NESHAPs, pg. 7

SOLID WASTE RAIL TRANSFER FACILITIES SUBJECT TO STATE LAW

On October 16, 2008, the President signed into law the Clean Railroads Act of 2008, H.R.2095, Title VI. The Act, which is part of a broad law aimed at improving railroad safety, closes to loophole in the Interstate Commerce Commission Termination Act that preempts states and local governments from regulating solid waste transfer stations that are owned or operated by or on behalf of railroads. The ICCTA gave the federal Surface Transportation Board ("STB") exclusive jurisdiction over "transportation by rail carrier," and thus barred any state or local regulation of these so-called rail "transloading" facilities. Pub. L. No. 104-88, 109 Stat. 803 (1995).

Certain segments of the solid waste industry have been taking advantage of the loophole to operate railroad solid waste transfer stations in New York, New Jersey and other northeastern states with little or no environmental regulation. For several years, these rail transloading facilities have been the subject of considerable media attention, litigation and administrative proceedings as states, municipalities, and private citizens have observed unchecked environmental problems at these facilities.

Under the Act, states will now have the authority to enforce environmental laws with respect to existing and proposed solid waste rail transfer stations.

- Operational requirements: Solid waste rail transfer facilities in existence as of the date of the Act have 90 days to come into compliance with state environmental laws that relate to operation issues (e.g., control of blowing litter, inspection of wastes, and the like).

- Solid waste permits: Existing facilities have 180 days to apply for state solid waste permits that do not relate to siting of the facility. In New Jersey, for example, the permits could include an A-901 license, a certificate of public convenience and necessity and a solid waste operating permit (to the extent that such permit does not relate to siting of the facility).

- Siting approvals: Existing facilities do not have to comply with any state law relating to the siting of solid waste facilities. However, states have the authority under the Act to petition the STB for a finding that the facility should be subject to siting requirements and other state land use laws under the so-called "Land-Use Exemption" provisions of the Act.

The STB will issue a Land-Use Exemption

FEDERAL REGULATORY UPDATES (Continued)

to an existing or proposed facility if the STB determines (either on its own or in response to a petition by the state) that the facility does not pose an unreasonable risk to public health, safety or the environment.

That analysis involves, among other things:

(a) Weighing the benefits and adverse impacts of the facility on public health, safety and the environment, as well as on interstate commerce and the rail transportation of solid waste, and

(b) Evaluating (i) the potentially applicable state land-use, zoning and siting laws, (ii) regional transportation planning, (iii) regional solid waste planning, (iv) applicable federal and state environmental laws, (v) unreasonable burdens on interstate rail transportation of solid waste or the potential for discrimination, and (vi) "any other relevant factors."

If the STB finds that the facility presents an unreasonable risk to public health, safety or the environment, then the facility must apply for applicable siting permits.

(By Jane Kocynski, Saul Ewing, LLP – 10/08)

OSHA PUBLISHES LONG-ANTICIPATED CRANES AND DERRICKS RULE

The long-awaited new OSHA rule governing use of cranes and derricks was published in the October 9 Federal Register. At 241 pages, it explains everything in the proposed rule, plus what is excluded from it and why. Comments and hearing requests were due by Dec. 8, 2008, giving the public just 60 days to review it and comment. Interested parties can submit comments, referencing Docket ID OSHA-2007-0066 or RIN No. 1218-AC01, via www.regulations.gov.

The rule covers equipment use in construction only – not cranes used in general industry or in factories. The rule is a complete revision of Section 1926.550 of Subpart N of 29 CFR part 1926, the construction standards; Subpart N is one of the originally adopted OSHA regulations, meaning it relies significantly on national consensus standards that were in place in 1971.

Key elements of the proposed rule include requirements that employers determine whether the ground is sufficient to support the anticipated weight of hoisting equipment and associated loads before the lift begins; assess hazards within the work zone that would affect safe operation, including power lines; and ensure the equipment is in safe operating condition and employees in the work zone are trained to recognize hazards associated with use of the equipment.

The rule was developed through negotiated rulemaking, a process that employs a committee of industry experts to draft the text. The full text is available here. It does not cover

forklifts, which were already governed by an existing OSHA construction standard (Sec. 1926.602 of Subpart O, Motor Vehicles, Mechanized Equipment, and Marine Operations). This proposed rule defines covered equipment according to the equipment's elemental functions: hoisting, lowering, and horizontally moving a suspended load. Yet dedicated and specific language so users aren't encouraged to use them to lift anything beyond recommended usage; multi-purpose machines also are addressed, but only when configured to use to hoist and horizontally move a suspended load.

Proposed Sec. 1926.1403 would require employers to choose among two options: assemble and disassemble cranes and derricks by following the manufacturer's procedures, or use their own assembly/disassembly procedures (if they meet the proposed rule's criteria in Sec. 1926.1406). An assembly/disassembly supervisor's duties and responsibilities are spelled out in the rule. The supervisor would have to meet the definition of both a "competent" and "qualified" person as OSHA defines those terms – meaning the supervisor has the authority to correct a hazard or stop the process.

Also, the proposed standard would require using a systematic, proactive approach to dealing with the hazard of power lines. The employer would have the option of doing the assessment for the area 360 degrees around the crane or for more limited, demarcated area; if the assessment showed the crane can get closer to an energized line than a trigger distance – 20 feet for lines rated up to 350 kV, 50 feet for lines rated over 350 kV – then encroachment/electrocution prevention measures would have to be implemented to prevent the crane from breaching a minimum clearance distance and protect against electrocution.

(Lift and Access – 10/13/08)

EPA AMENDS SARA TITLE III COMMUNITY RIGHT-TO-KNOW REPORTING REGULATIONS

On October 17, EPA finalized several changes in the reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA, which is also known as SARA Title III). These changes were proposed on June 8, 1998 (63 FR 31268) and include clarification on how to report hazardous chemicals in mixtures as well as changes to Tier I and Tier II forms.

All sections of 40 CFR Parts 355 and 370 will be in plan language, using a question-and-answer format. There are only minor changes to the Emergency Planning and Emergency Release Notification Sections. For hazardous chemical reporting regulations,

there are changes regarding the Tier I and Tier II forms, as well as changes in how to report hazardous chemicals in a mixture.

Changes regarding the Tier I and Tier II Forms include:

- The Tier I and Tier II forms and their instructions have been removed from the CFR. These reporting forms will be available on EPA's website.

- The revised regulation includes a description of the requirements for Tier I and Tier II. You are now required to identify your site's North American Industry Classification System (NAICS) code, rather than SIC code on your Tier I and Tier II form.

- The chemical or common name of the chemical as provided on the Material Safety Data Sheet must now be provided on each Tier II form.

The new rule addresses hazardous chemical inventory reporting for chemical in mixtures with the following changes:

- When determining whether the threshold quality of an extremely hazardous substance (EHS) has been met, you must include the total quantity of that EHS present in the pure form as well as in any mixture, even if any mixture including the EHS is also being reported as a hazardous chemical.

- For hazardous chemicals that are mixtures that do not contain any EHSs, you have an option when determining whether the threshold quantity is present to either:

- Add together the quantity present in its pure form and as a component in all mixtures (even if the mixture is also being reported as a hazardous chemical).

- Consider the total quantity of each mixture separately.

The new final rule does not address EPA's proposed exclusion from particular notification requirements under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and EPCRA for releases of hazardous substances to the air where the source of the release is animal waste at farms. EPA plans to address this proposal in a separate rulemaking package.

(Env. Resource Center – 10/21/08)

EPA PROPOSES TO REVISE DEFINITION OF 'ARTICLE' FOR TRI REPORTING EXEMPTION

Toxics Release Inventory (TRI) reporting is required by Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and Section 6607 of the Pollution Prevention Act (PPA). In a proposed new rule, EPA plans to clarify the scope of the exemption from TRI reporting requirements for items that qualify as articles (see 40 CFR 372.38(b)).

FEDERAL REGULATORY UPDATES (Continued)

EPA believes that language contained in the regulation and the subsequent guidance should clarify what items qualify as articles and are therefore exempt from TRI threshold determinations and TRI release and other waste management calculations and reporting. In this rulemaking, EPA proposes to clarify that an item may not be considered an article after it has been manufactured if the manufactured item, and all like items considered together, continues to release more than 0.5 pounds of a toxic chemical over the course of the calendar year.

(Env. Resource Center – 11/18/08)

OIL SPCC RULE REVISED AGAIN

EPA has published new amendments to the SPCC rule to clarify regulatory requirements, tailor requirements to particular industry sectors, and streamline certain requirements for facility owners or operators subject to the rule. With these changes, EPA expect to encourage greater compliance with the Spill Prevention, Control, and Countermeasure (SPCC) regulations, thus resulting in increased protection of human health and the environment.

The amendments do not remove any regulatory requirement for owners or operators of facilities in operation before Aug. 16, 2002, to develop, implement, and maintain an SPCC plan in accordance with the regulations in effect then. These facilities must continue to maintain their existing plans until revisions are due under the new amendments.

EPA also announced a proposed rule to extend the compliance dates for all facilities to November 2009 and to establish new compliance dates for farms (November 2009), certain qualified farms (November 2010), and marginal oil production facilities (November 2013) subject to SPCC. These revised compliance dates will provide facility owners or operators the opportunity to fully understand the regulatory amendments offered by the SPCC revisions from 2006 to 2008.

Additionally, EPA has announced a final rule that vacates the July 17, 2002, definition of navigable waters and restores the definition of navigable waters that EPA promulgated in 1973. This final rule does not amend the definition of “navigable waters” in any other regulation that EPA has promulgated.

(Env. Resource Center – 11/24/08)

NEW HAZARDOUS WASTE RULE FOR ACADEMIC LABS

EPA has finalized the Academic Laboratory rule to help improve the environmental performance of teaching and research laboratories owned by eligible academic entities. This rule provides increased regulatory flexibility, while enhancing safe management of

hazardous waste. Eligible academic entities include colleges and universities, teaching hospitals, and nonprofit research institutes that are either owned by or formally affiliated with a college or university.

Eligible academic entities will be able to decide where (at the laboratory, at an onsite central accumulation area, or at an onsite treatment, storage, or disposal facility) the hazardous waste determination is made. They also must ensure that certain conditions are met to protect human health and the environment. This flexibility not only allows eligible academic entities to determine the most effective and environmentally protective method of compliance, but it also ensures that a RCRA-trained professional will be making the hazardous waste determination.

The rule requires the development of a laboratory management plan, which is expected to result in safer laboratory practices and increased awareness of hazardous waste management. In addition, the rule provides incentive for eligible academic entities to dispose of old and expired chemicals that may pose unnecessary risk.

(Env. Resource Center 11/24/08)

PROPOSED GUIDELINES TO CONTROL POLLUTION FROM CONSTRUCTION SITES

EPA is seeking comments on its proposed guidelines to control the discharge of pollutants from construction sites. The proposed would require all construction sites to implement erosion and sediment control best management practices to reduce pollutants in stormwater discharges.

“This proposal builds a foundation for cleaner streams and greener neighborhoods through improved treatment technologies and prevention practices,” said Benjamin H. Grumbles, EPA’s assistant administrator for water.

For certain large sites located in areas with high rainfall intensity and soils with a high clay content, stormwater discharges from a construction site would be required to meet a numeric limit on the allowable level of turbidity – a measure of sediment in the water. In order to meet the proposed numeric turbidity limit, many sites would need to treat and filter their stormwater discharges.

Construction activities such as clearing, excavating, and grading significantly disturb the land. The disturbed soil, if not managed properly, can easily be washed off the construction site during storms and enter streams, lakes, and other waters. Stormwater discharges from construction activities can cause an array of physical, chemical, and biological impacts. Sediment is one of the leading

causes of water quality impairment nationwide, including reducing water depth in small streams, lakes, and reservoirs.

(Env. Resource Center – 11/24/08)

EPA PUBLISHES DRAFT TMDLs TO STORMWATER PERMITS HANDBOOK

EPA’s Office of Wetlands, Oceans and Watersheds (OWOW) and Office of Wastewater Management (OWM) have jointly issued a Draft “TMDLs to Stormwater Handbook,” which is now available for public comment. “Stormwater runoff is a major threat to water quality in urban and coastal watersheds across the country,” Assistant Administrator for Water Benjamin H. Grumbles said. “This Draft Handbook is an important new tool to connect key regulatory and monitoring programs under the Clean Water Act and reduce impairments. We look forward to strengthening this draft with input from interested stakeholders who share our goal of protecting and restoring the nation’s waters.”

Currently, there are thousands of Clean Water Act Section 303(d) waters listed as impaired for stormwater-source pollutants, such as pathogens, nutrients, sediments, and metals. This Draft Handbook provides a technical reference for TMDL practitioners and permit writers on current methods being used to develop more detailed stormwater-source.

TMDL allocations, TMDL implementation plans including best management practices, and methods for translating TMDL allocations into National Pollutant Discharge Elimination System (NPDES) stormwater permit requirements. The handbook also provides background information on the components of these programs, but it assumes that the reader has a working knowledge of both TMDLs and NPDES stormwater permits

(Env. Resource Center – 11/25/08)

WATER POLLUTION: COURT RULES EPA MUST SET STORMWATER LIMITS FOR CONSTRUCTION INDUSTRY

A federal appeals court in September upheld a lower court decision requiring U.S. EPA to set standards to control stormwater pollution from strip malls, subdivisions and other new developments by Dec. 1, 2009.

The 9th U.S. Circuit Court of Appeals sided with the Natural Resources Defense Council and the Waterkeeper Alliance, ruling EPA must promulgate effluent limitation guidelines and new source performance standards for stormwater pollution discharges caused by the construction and development industry.

The states of Connecticut and New York supported NRDC and the alliance in the case.

FEDERAL REGULATORY UPDATES (Continued)

NRDC and the alliance predicted the court's decision would prevent beach closings, waterborne disease, flooding, fish kills and contamination of drinking water supplies.

The agency is delaying the rule in order to convene an advisory panel that will examine the economic impact it could have on small businesses, despite previously concluding a panel would not be necessary. EPA said it expected to publish a proposed rule by Dec. 1, 2008, and is still on track to finalize the rule by Dec. 1, 2009, the court-ordered deadline.

(Greenwire, by Katherine Boyle – 10/17/08)

INDUSTRY FEARS BIOSOLIDS SUITS AFTER COURTS REJECT EPA RULE DEFENSE

The biosolids industry is scrambling to assess the financial risk from a growing number of tort suits challenging land applications of biosolids that plaintiffs are filing in state courts as federal courts are rejecting industry defenses that EPA regulations allowing the controversial practice preempt the tort suits.

The new tort challenges – some of which are being brought by high profile trial lawyers – are the “most serious threat to date” to the common practice of reusing treated sewage sludge as fertilizer, James Slaughter, an industry attorney told a conference sponsored by the National Association of Clean Water Agencies Nov. 13.

The group, which represents publicly owned wastewater treatment facilities, strongly backs the disposal practice as a safe and inexpensive way to dispose of millions of tons of solid waste. But food safety and other public health groups say the disposal practice contaminates food and runoff from the land contaminants nearby waters.

Slaughter said the biosolids industry is exploring the financial implications of the increased risk from tort suits, which are creating pressure to accurately reflect the risk of the suits in financial arrangements. Slaughter warned that while the suits have so far targeted companies like Synagro that collect and apply biosolids, he warned that municipalities that land apply “are likely to be sued directly in the next wave of lawsuits will suffer the consequences if Synagro is unsuccessful in defending these lawsuits.” He added that defense costs in the common law suits have “potentially significant financial implications for the industry.”

The biosolids suits are part of a growing tactic by environmentalists and others to rely on common lawsuits to stop what they see are gaps left by EPA regulations and other environmental safeguards. “What do you do when” EPA has regulated an industry but you still want to stop it from moving forward? “You make ‘em bleed,” says one source

following the issue closely.

The source describes industry running an “experiment” on “country bumpkins” who are falling victim to ill health and even death from sewage sludge. Since the ruling, the Center for Food Safety vowed to sue EPA to overturn its rules but the group has not yet acted on its threats.

(Superfund Report – 12/1/08)

BOXER SEEKS EPA OVERSIGHT OF OBAMA'S \$150 BILLION 'GREEN' JOBS PLAN

Senate environment committee Chair Barbara Boxer (D-CA) is vowing to introduce legislation in the 111th Congress that would give EPA control over the \$150 billion green jobs program President-elect Barack Obama has vowed to create as one his top priorities to stimulate the economy.

Boxer told a Nov. 20 press conference that one of the first bills she will introduce next year will be stand-alone legislation authorizing EPA to provide up to \$15 billion a year for 10 years to spur innovations in clean energy, including wind, solar and advanced biofuels, as a companion to the cap-and-trade bill she hopes to pass to regulate greenhouse gas (GHG) emissions.

The bill will cite EPA's authority under section 103 of the Clean Air Act, which gives the agency power to award grants for a range of efforts related to air pollution. The upcoming legislation marks a clear effort by Boxer to give EPA – and the Environment & Public Works Committee (EPW) – significant new spending oversight, an almost 200 percent increase in the agency's current \$7.5 billion budget. But the move could create tension with the Senate energy committee, which oversees renewable energy and other clean energy measures.

But a spokesman for energy committee Chairman Jeff Bingaman (D-NM) downplayed prospects for a jurisdictional dispute. “There are no face-offs or jurisdictional problems” with the environment panel, the spokesman said, adding that Bingaman “has the approach that several committees can collaborate and come together to create a cap-and-trade bill.”

Boxer's effort follows calls by Obama who vowed to aggressively pursue both a cap-and-trade approach to regulate emissions and a 10-year, \$150-billion green jobs stimulus package. “My presidency will mark a new chapter in America's leadership on climate change that will strengthen our security and create millions of new jobs in the process,” Obama said in a Nov. 18 video speech to the Governors' Global Climate Change Summit. “That will start with a federal cap-and-trade system,” he said, adding that he also planned

to invest \$15 billion each year to catalyze private sector efforts to build a clean energy future.

Speaking to reporters Nov. 20, Boxer said she was seeking to implement Obama's approach. “This will be an economic stimulus and follows President-elect Obama's recommendation,” she said in prepared remarks at the press conference. In addition to funding wind, solar and advanced biofuels, Boxer said the \$15 billion will also go toward investments in clean coal technology. Boxer said that her stand-alone bill will create a grants program to provide \$15 billion every year for 10 years – for legislation could either pass as a stand-alone or “may well be part of an economic stimulus package” if Obama wants to take such an approach, Boxer said.

(Superfund Report – 12/1/08)

EPA PUBLISHES FINAL NESHAPs FOR SEVERAL INDUSTRIAL SECTORS

On December 16, EPA published a final rule in the Federal Register pertaining to certain National Emission Standards for Hazardous Air Pollutant (NESHAP) Emissions, affecting 40 CFR 63. The underlying national emission standards reviewed in this action limit and control hazardous air pollutants.

This final rule responds to public comment received on a proposed rule and announces EPA's decision not to revise four national emission standards for hazardous air pollutants that regulate eight industrial source categories evaluated in EPA's risk and technology review process.

The national emission standards and industrial source categories impacted by this final rule include:

- NESHAP Emissions: Group I Polymers and Resins (Polysulfide Rubber Production, Ethylene Propylene Rubber Production, Butyl Rubber Production, and Neoprene Rubber Production)
- NESHAPs for Epoxy Resins Production and Non-nylon Polyamides Production
- NESHAPs for Acetal Resins Production
- NESHAPs for Hydrogen Fluoride Production

On December 12, 2007, EPA proposed not to revise the national emission standards based on their residual risk assessment and technology review. After conducting risk and technology reviews, and after considering public comment on the proposed rule, EPA has conducted that no additional control requirements are warranted under Section 112(f)(2) or 112(d)(6) of the Clean Air Act at this time. The effective date of this final action was Dec. 16, 2008.

(Env. Resource Center – 12/22/08)

FEDERAL REGULATORY UPDATES (Continued)

EPA LISTS ENVIRONMENTAL RESULTS FOR 2001-2008

Looking back on the years 2001 through 2008, EPA states that three major accomplishments have been achieved during this timeframe. EPA says that America's air is cleaner now than a generation ago, that America's water is more secure and sustainable than a generation ago, and that America's land is healthier and more productive than a generation ago.

America's Air is Cleaner Now than a Generation Ago

- EPA issued the most health protective air standards ever for ozone, soot, and lead.
- EPA cut emissions from heavy-duty diesel trucks and buses, off-road diesel equipment, locomotives, and marine diesel by about 90%. These standards are projected to prevent 26,000 premature deaths and nearly 20,000 hospital visits annually by 2030.
- EPA's climate change efforts have prevented an estimated 500 million metric tons of greenhouse gas emissions since 2001, the equivalent of taking 55 million cars off the road. Through the Energy Star Program alone, EPA in 2007 prevented greenhouse gas emissions equivalent to those from 27 million vehicles, while helping American save \$16 billion on their energy bills.
- EPA helped retrofit more than 40,000 school buses through the Clean School Bus USA Program since 2003, which will remove 200,000 pounds of soot from the air we breathe over the next 10 years.

• EPA established the Community Action for a Renewed Environment (CARE) Program in 2005. Through CARE, 860 local organizations – including nonprofits, businesses, schools and governments – work together to improve the local environment, specifically reducing releases of toxic pollutants. Local results include reducing releases from auto body shops and decreasing port air pollution through diesel retrofits.

America's Water is More Secure and Sustainable than a Generation Ago

• EPA issued four national drinking water regulations to boost public health and reduce risks from pathogens and other contaminants: the Cryptosporidium Rule, the Disinfection Byproducts Rule, the Groundwater Rule, and the Lead in Drinking Water Rule.

• EPA responded to the President's wetlands challenge by helping to restore, improve, and protect an estimated 4.5 million acres of wetlands in the last five years.

• EPA launched the WaterSense Program in 2006 to help families and businesses identify products that are at least 20% more efficient than standard models. Today, more than 750

models of toilets, faucets, and accessories have earned the WaterSense label.

• EPA provided a regulatory and scientific framework for deep underground injection and storage of carbon dioxide and protection of groundwater resources.

• EPA engaged in cooperative conservation and regional collaboration to help develop and implement comprehensive new action plans for the Great Lakes, Chesapeake Bay, and Gulf of Mexico.

• EPA and our partners removed more than 800,000 cubic yards of contaminated sediment from the Great Lakes region since 2004. EPA and our partners reduced nitrogen pollution by 5.5 million pounds per year and phosphorus by 244,000 pounds per year from wastewater facilities in the Chesapeake Bay watershed, compared to 2001.

• EPA and our partners restored, enhanced, or protected 25,500 acres of coastal marine habitat in the Gulf of Mexico since 2001.

America's Land is Healthier and More Productive than a Generation Ago

• EPA assessed more than 8,000 properties while leveraging 28,500 new jobs through the Brownfields and Land Revitalization Program since 2002.

• EPA made more than 400,000 acres of land ready for anticipated use as a result of the Agency's Superfund Program, which cleans up sites with hazardous waste.

• EPA and its partners recycled more than 142 million pounds of electronics through the Plug-In to e-Cycling Program, launched in 2003.

• EPA and its partners helped increase the recycling rate of coal combustion products from 32% to 43% through the Coal Combustion Products Partnership introduced in 2001. This effort kept 15 million tons of coal ash out of landfills and conserved 80 billion BTUs of energy, which is equivalent to the annual energy consumption of more than 420,000 households.

• EPA co-founded the Carpet America Recovery Effort in 2002, to find alternative uses for discarded carpet. To date, partners have recycled 932.7 million pounds of carpet, which prevented the greenhouse gas emissions equivalent of removing more than 621,000 cars from the road for one year.

• EPA improved environmental conditions along the U.S.-Mexico border through the binational U.S.-Mexico Border 2012 Program. Since 2003, more than 3 million scrap tires have been removed from the region, preventing tire fires and reducing the exposure of more than 1 million residents to life-threatening diseases such as dengue fever, encephalitis, and the West Nile virus.

• EPA initiated the National Mercury Switch Vehicle Recovery Program, which,

since 2006, has removed more than 1.8 million mercury-containing automotive switches, reducing mercury emissions by nearly 2 tons.

(Env. Resources Center – 12/22/08)

EPA ADMINISTRATOR JOHNSON COMMENTS ON PRESIDENT-ELECT OBAMA'S NOMINATION OF LIS JACKSON AS EPA'S NEXT ADMINISTRATOR

EPA Administrator Stephen L. Johnson issued the following statement on President-Elect Barack Obama's nomination of Lisa Jackson to be the next EPA Administrator. Until recently, Ms. Jackson was NJDEP Commissioner under the Corzine Administration.

• "For almost 40 years, EPA has led our nation's efforts to protect human health and the environment, for today and for the future.

• Lisa Jackson has a wealth of experience and a solid record of achievement in environmental service. As a former EPA executive, she is uniquely qualified to recognize the challenges facing the Agency and lead from day one. This is an exciting time at EPA, and Lisa will direct an Agency that is poised to build on the many environmental successes accomplished since 2001.

• While environmental responsibility is everyone's responsibility, I am particularly proud of the role EPA has played in bringing about record results on behalf of the American people and our environment. Our air is cleaner, our water is purer, and our land is better protected than just a generation ago.

EPA has not only helped change the way our environment looks, it has helped change the way each of us looks at our individual duty to protect the environment. The hardworking professionals at EPA lead the way in environmental protection, and I'm confident they will continue to do so with Lisa Jackson as Administrator."

(Env. Resource Center – 12/22/08)

**New NJDEP
Commissioner . . .
28 Year Veteran
Mark Mauriello**

**Confirmation Expected Soon!
Formerly -
Assistant Commissioner
Land Use
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Announcing

200,000 stores may close in the U.S., so vacancies will be on the rise! Mortgage foreclosures will also rise

A Seminar on:

BUILDING VALUE PRESERVATION AND PROPERTY MOTHBALLING

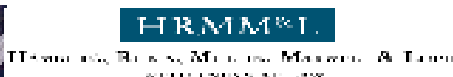
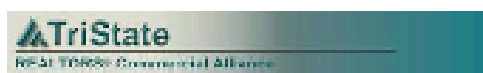
With Presentations on:

- Pre-Foreclosure Steps for Lenders to Avoid Environmental Liabilities
- Inspections Prior to Foreclosure or Lease Termination to Avoid Surprises
- What Should be Done to Protect Asset Value – Roofs and Utility Systems
- Bankruptcy and Lease Abandonment Situations – When these are Costly Issues to Deal with.

In this seminar we will cover these important topics:

<p><u>Foreclosure Issues</u> To maintain lack of liability for environmental liability upon foreclosure, landowners must see to it that tanks are emptied, drums removed, etc. Experts will go over all key provisions to avoid lender environmental liability resulting from foreclosure.</p>	<p><u>USBA Update</u> The U.S. Small Business Administration has updated its environmental due diligence loan requirements. Go to http://www.magnetmail.net/images/clients/NAGGL/attach/serv_sops_50105_AUGUST1.pdf</p>
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NJ REGULATORY UPDATES

NJDEP FRESHWATER WETLANDS RULE CHANGES

Amendments to these rules became final in October 2008. Key provisions include:

- Revisions to General Permit 2, underground utility lines, General Permit 6, non-tributary wetlands, General Permit 21 (above-ground utility lines), including reducing the disturbed area allowed down to 0.5 ac.
- A new General Permit – 6A applying to transition areas adjacent to non-tributary wetlands, with the same disturbance limitation.
- Eligibility for General Permit 10B (new road crossing of wetlands to developable upland site) is more stringent.

New regulations also require mitigation for wetland impacts >0.1 acres for GPs 2, 6, 10A, 10B, 11, 21 and 27. GP 27 relates to redevelopment of previously disturbed areas. (Other affected projects are road crossings, utility lines, intake/outfall structures, and non-surfacewater connected wetlands.) Penalties for wetlands violations have also been increased.

NJ ENACTS PERMIT EXTENSION ACT OF 2008

The Act was implemented in recognition of the national recession and the crisis in the real estate financial sector that has caused real estate developers and redevelopers to experience an industry-wide decline, including reduced demand and fewer buyers who qualify for financing. The Act specifically recognizes that the planning and zoning board approval process, as well as the process of obtaining the many other government approvals required pursuant to legislative enactments and their implementing rules and regulations, is difficult and expensive and that, if they expire or lapse, such permits and approvals are nearly impossible to renew or obtain.

The stated purpose of the Act, therefore, is to “prevent the wholesale abandonment of approved projects and activities due to the present unfavorable economic conditions, by tolling the term of these approvals for a period of time, thereby preventing a waste of public and private resources.”

The Act extends nearly every local and state permit or approval obtained on or after January 1, 2007. Exceptions include:

- Federal permits and any permit issued within an environmentally sensitive area;
- Any permit or approval issued by the Department of Transportation pursuant to N.J.S.A. 27:1A-1 et seq. (Transportation Act of 1966) other than a right-of-way permit issued pursuant to N.J.S.A. 17:1A-5(h)(3) or a permit granted pursuant to N.J.S.A. 27:7-1 et seq. as to approvals and improvements on state highways; and
- Any permit or approval issued pursuant to

the “Flood Hazard Area Control Act,” N.J.S.A. 58:16A-50 et seq. except where work has commenced in any phase or section of the development on any site improvement as defined in N.J.S.A. 40:55D-53a(1), e.g., streets, pavement, grading, sidewalks.

Qualified approvals and permits are extended until July 1, 2010.

(Wolf Block, LLP – 10/21/08)

NEW JERSEY CONSIDERING LICENSED SITE PROFESSIONALS IN ITS VOLUNTARY CLEANUP PROGRAM (VCP)

A Bill (S 1897) has been introduced in the New Jersey legislature to establish a licensed site professional program (LSP). The proposal, developed by the New Jersey Department of Environmental Protection (DEP), was designed to address the growing backlog of more than 18,000 cases. As described in this Scarinci-Hollenback newsletter, “LSP’s, once licensed by NJDEP, will certify that remediation at contamination sites has been performed in conformance with NJDEP’s technical requirements.” The state would establish four gradations of cleanups ranging from direct DEP oversight to sites where the only DEP involvement would be a random audit. Two other states Ohio and Massachusetts – use LSPs in the VCPs, and CT has a similar program.

(Brownfields Policy and Research Newsletter – 10/18/08)

RT is ready for this new approach to privatize and cleanup sites. We have underway or have completed projects in MA, CT, and OH and we anticipate that a number of our principals will qualify as NJ LSPs when the program gets underway. We will keep you informed in the RT Review of implementation steps.

NJ CHOOSES COMPANY TO DEVELOP OFFSHORE WIND FARM

New Jersey has chosen Garden State Offshore Energy to develop a 350-megawatt offshore wind farm, the second such state contract recently awarded.

The company, a joint venture between PSEG Renewable Generation and Deepwater Wind, will begin by evaluating the project’s environmental impact and the wind quality. The 96 wind turbines will be located 16 to 20 miles off the coast of New Jersey’s Cape May and Atlantic counties and will be barely visible from shore, said Ralph Izzo, president, chairman and CEO of Public Service Enterprise Group, Inc., the Newark, NJ-based parent of PSEG Renewable Generation.

The wind farm could be operating in 2012 and completed in 2013. The New Jersey Board of Public Utilities awarded the contract. Five groups submitted proposals to develop the project. Late last month, Rhode Island

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- New Soil Sampling Approach, pg. 10
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chose Deepwater Wind to build a utility-scale wind farm off its coast.

(Waste News – 10/6/08)

NJDEP NEW RULES FOR SOIL SAMPLE ANALYSIS FROM NO 2 FUEL OIL AND DIESEL FUEL OIL SOIL RELEASES

NJDEP is changing the Direct Contact Human Health Based Criterion on the No. 2 fuel oil and diesel fuel oil organic compound cap value from 10,000 mg/kg to 4,800 mg/kg.

DEP evaluated, and determined that a need to develop a criterion for groundwater pathway impact was “non-applicable.” They stress all other Site Remediation requirements apply. Soil sampling shall be performed in accordance with the latest DEP approved methods. New VOC analytical methodology will now require base neutral compounds plus 15 “tentatively identified compounds” (up from 10), analysis of 25% of samples exceeding 1,000 mg/kg. All other site requirements remain in effect.

The DEP intends to eventually replace the 4,800 mg/kg value with a site specific approach using Extractable Petroleum Hydrocarbon (EPH) methodology to provide a termination if a hazard index of 1 is exceeded at the site (No. 2 fuel oil and diesel fuel oil only).

The DEP is establishing an ecological screen value of 1,700 mg/kg, applicable to petroleum hydrocarbon discharges only and then only if a sensitive environmental receptor is potentially impacted (as determined by a baseline ecological evaluation).

Implementation is as follows: (Approvable applications only)

- Any approvable RAWP or RAR submitted within 6 months of 3/17/09 may employ the 10,000 mg/kg organic cap value.
- Any RAWP or RAR that is not approvable or is submitted following 3/17/09 shall employ values established by the Guidance.

DEP DRAFT GREENHOUSE GAS CAP & TRADE REGULATIONS

New Jersey is one of the 10 states participating in the RGGI, which means that the state will participate in the Northeast and mid-Atlantic power plant emissions cap & trade CO2 program. This program works by conducting an auction of a limited amount of CO2 allowances, with the amount declining over time. RGGI released a set of model regulations establishing the cap & trade program

NJ REGULATORY UPDATES *(Continued)*

back in August 2006 and, this July, the DEP issued proposed regulations for its own CO₂ cap & trade program for fossil-fuel-fired electric generators. While the DEP will not have these rules adopted by the first CO₂ auction, New Jersey expects to participate in the second auction. Furthermore, while the mandatory cap & trade program currently only applies to electric generators, anyone generating CO₂ emissions may want to follow this program to determine whether CO₂ emissions are potential revenue-generating assets or expenses.

These proposed regulations substantially are based on the RGGI model but add a New Jersey-specific spin by maximizing the opportunities in the model regulations to provide flexibility in: 1) applicability and source exemptions; 2) allowance allocations; 3) allowance set-asides; and 4) permitting. The DEP program will apply to any fossil-fuel-fired electric-generating unit 25 MWS or larger, but exempts electric-generating units that sell less than 10 percent of their electric output to the grid. The program requires each covered source, within two months of the end of a control period, to have sufficient allowances in its compliance account to cover the amount of its reported emissions for that control period. The first control period will begin January 1, 2009, and will last for three to four years. Covered sources are allowed to use offset allowances to meet a portion of their compliance obligations, and the proposed rules also allow for the use of certain alternative fuels. In addition, New Jersey's proposed rules will allow 99 percent of New Jersey's CO₂ allowances to be sold at auction, less any allowances sold or allocated directly to certain covered units.

The DEP considers this proposed cap & trade program a revision to the State Implementation Plan (SIP). While this program currently affects only electric plants, it should be seen as a prelude to future regulations affecting other types of facilities emitting CO₂.

If you like to receive further information on RGGI and/or the proposed DEP cap & trade program regulations, contact Jenn Cohen at Drinker Biddle at Jennifer.cohen@dbr.com or (609) 716-6510.

(Drinker Biddle – 9/08)

NEW JERSEY'S CONTROVERSIAL PUBLIC ACCESS RULES DOWN BUT NOT OUT

In an effort to save its Public Access Rules from complete evisceration, on December 9, 2008, the New Jersey Department of Environmental Protection (the "NJDEP") filed a petition for certification with the New Jersey Supreme Court requesting review and reversal of the Appellate Division's decision in Borough of Avalon v. New Jersey Department

of Environmental Protection (A-3410-07T3) declaring, in significant part, that the NJDEP's controversial Public Access Rules were invalid and void. The outcome of this case has broad ramifications for all owners of property along New Jersey's coast and the tidal waterways, as well as all municipalities seeking Shore Protection Funds, given the potential impact of these rules on any project. For example, the requirement that the public be provided "24/7" access to the ocean or tidal waterway (absent exceptional circumstances) could significantly impact the use, design and financial viability of any project subject to the rules.

In late 2007, the NJDEP adopted certain rules – commonly known as the Public Access Rules – requiring (among other things) that (i) any developer or property owner along the ocean or a tidal waterway needing a development permit under the Coastal Area Facility Review Act ("CAFRA") provide the public with access across their properties to the shore as a condition of obtaining the permit; and (ii) any municipality seeking an appropriation of Shore Protection Funds from the State enter into a State Aid Agreement obligating the municipality to ensure "unfettered access to beaches and tidal waterways at all times," except when the NJDEP grants the municipality permission to limit access, and to provide parking and restroom facilities for use by the public as required by the NJDEP. After the NJDEP imposed the applicable Public Access Rules on the Borough of Avalon as a condition of the Borough obtaining Shore Protection Funds, the Borough appealed. In a potentially far-reaching decision that provides the analytical framework to invalidate all of the Public Access Rules, the Appellate Division declared those Public Access Rules applicable to the municipalities "invalid" on the grounds that they "are not statutorily authorized and infringe on the statutory powers of municipal government" to control public access to tidal waterways and their shores.

Although the only issues before the Appellate Division concerned the validity of the Public Access Rules as they related to municipal obligations, the precedent and rationale of the decision provides grounds for any property owner or developer to challenge any attempt by the NJDEP to apply the Public Access Rules to them in connection with any CAFRA permit application. It is unclear whether the NJDEP will attempt to impose the remaining Public Access Rules on any applicant or municipality while an appeal of this case is pending.

Whether the New Jersey Supreme Court will grant the NJDEP's petition for certification is uncertain. However, even if the petition is denied or the Court grants the petition but affirms the Appellate Division's decision, the

NJDEP still can seek to have the legislature pass enabling legislation that would support the rules. In the interim, while the parties and public wait to see if the New Jersey Supreme Court will grant the petition for certification and review the Appellate Division's decision, any applicant seeking a CAFRA permit should be keenly aware of the Avalon decision and its potential implications with respect to any permit conditions that the NJDEP may seek to impose regarding public access.

(By David C. Apy, Saul Ewing – 12/16/08)

WATER CONSERVATION AND METERING ACT PASSES

A-1628, the Water Conservation and Metering Act was amended, approved, and released by the Assembly Environment Committee by a vote of 6-0-1. The legislation, long advocated by the NJ Apartment Association, would permit sub-metering and individual resident's water usage at multifamily properties across New Jersey.

Our projections indicate that sub-metering technology has the potential for saving 2.1 billion gallons a year of water a year, reducing strain on the state's potable water supply. Securing Committee approval of this legislation is a significant victory for the NJAA.

The NJAA will continue to advocate for approval of a statewide policy on water & sewer sub-metering in New Jersey, and look forward to the day that the Garden State joins the 49 other states as well as the federal Environmental Protection Agency (EPA) in accepting sub-metering as a proven and reliable technology to advance water conservation.

(MidAtlantic Real Estate Journal – 12/19/08)

**See us at the PA Bar Institute
Environmental Law Forum
March 11 and 12
in Harrisburg.
www.pabar.org**

ATTENTION NEW JERSEY CHILD CARE CENTER OWNERS AND OPERATORS!

RT is now conducting Indoor Environmental Health Assessments (IEHA) for your child care re-licensing needs. IEHA's are now required by the Department of Health and Senior Services for re-licensing. An IEHA is an evaluation conducted to assess conditions inside of a building which may impact the health of its occupants.

Please call us at (856) 467-2276 for more information.

PA UPDATES

NEW PA CRANE OPERATORS LICENSURE BILL PASSED

The Crane Operator Licensure Act (Act 100 of 2008) establishes the State Board of Crane Operators within the Department of State. Composition of the Board, its operation and powers and duties are further provided for the legislation. An individual may not operate a crane unless licensed by the board. For purposes of acquiring the experience necessary to obtain certification, a trainee who has passed a written examination of the national commission for the certification of crane operators or of a national association deemed equivalent by the board may operate a crane when under the immediate supervision of a crane operator. A license would only be valid in conjunction with certification and only in the specialty for which the crane operator is certified. The bill provides for a license without certification in certain circumstances. A license would be issued on a biennial basis. The bill provides for fines and penalties for violations and for revocation and suspensions of licenses. \$85,000 would be appropriated to the Department for the administration of this act.

The following Sections will take effect in 24 months:

- > Section 501.
- > Licensure, Section 503.
- > Crane operators in other states, territories or Dominion of Canada; Section 702
- > Violation of act; and
- > Section 706 Reinstatement of license.

Here is how a "Crane" is defined in Act 100 of 2008:

A power-operated hoisting machine that has a power-operated winch, load line and boom moving laterally by the rotation of the machine on a carrier on base which has a manufacturer's rated maximum lifting capacity of 15 tons or more as specified in ASME B30.5, and includes a derrick, crawler crane and wheel-mounted crane of both truck and self-propelled wheel type. The term does not include a crane or drag line used in coal mining operations, forklift, digger derrick truck, aircraft, bucket truck, vehicle or machine not having a power-operated winch, tow truck or wrecking crane when used for towing or vehicle recovery, locomotive crane, load line or crane used in

longshore or other intermodal operations, or a crane used in manufacturing applications.

A grandfather clause included in the bill may provide some help to contractors. Consult the full text of the Bill for more information.

(PACA InfoFax – 10/13/08)

REVISIONS TO DEP POLICY RELATING TO LOCAL APPROVALS SUCH AS ZONING, ETC.

This policy, which was effective on March 6, 2004, provides direction to guidance to Department staff, permit applicants and local and county governments concerning the Department's implementation of Acts 67, 68 and 127 of 2000. The policy guidance addresses how the Department considers and relies upon comprehensive planning and zoning ordinances in its authorization of facilities and infrastructure. Substantive revisions were previously made to the guidance document, which were advertised for comment at 35 Pa.B. 6283 (November 12, 2005). Due to changes between the November 2005 version of the guidance document and the most recently revised version of the document, the Department is reissuing the guidance as draft for additional public comment.

The revised policy requires applicants to submit County and Municipal Land Use Letter with their authorization application packages to assist the Department in their decisionmaking process. Additionally, the revised guidance now provides that the Department's Office of Community Revitalization and Local Government Support will be involved in the review and determination of facility and infrastructure authorization applications when potential land use and zoning issues arise. Interested persons were to submit written comments on this guidance document by January 15, 2009.

RT COMMENTS ON STREAM BUFFERS

PADEP is proposing establishment of buffers along streams throughout the Commonwealth. Concern has been expressed that riparian buffers are frequently the best location for constructing stormwater Best Management features. Lack of flexibility

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- Asphalt Plant General Air Permit, pg. 3
- PA Brownfields Redevelopment Act, pg. 3
- Local Approvals Policy, pg. 12
- Stream Buffers - Enlightened PA Approach, pg. 12

could cause less than the best BMPs to be implemented. Cathy Curran Myers Deputy Secretary for Waste Management recently responded to RT on this subject as follows.

*Mr. Gary R. Brown, P.E. President
RT Environmental Services, Inc.
215 W. Church Road
King of Prussia, PA 19406*

Dear Mr. Brown:

Thank you for your recent letter regarding buffers and their role in stormwater management and protection of Pennsylvania's waterways. The Department of Environmental Protection (DEP) is working toward comprehensive integrated approaches to water resources management, including the incorporation of riparian buffers.

DEP has been working on a riparian buffer policy for a number of years through the Bureau of Watershed Management. One element of that policy is a model buffer ordinance for municipal implementation. We anticipate that the policy will support the scientific evidence that riparian and alternatives. Additionally, we expect the model ordinance to encourage municipal involvement. All future considerations for any riparian buffer policy developed by DEP will have logical exceptions in place.

Thank you again for your support in protecting the waters of this Commonwealth and continued efforts to conserve Pennsylvania's water resources. If you have any additional comments, please contact Kenneth Murin, Chief of the Division of Waterways, Wetlands and Stormwater Management, in DEP's Bureau of Watershed Management, by email at kmurin@state.pa.us or by telephone at (717) 787-6827.

We at RT thank Mr. Murin and Ms. Myers for this enlightened response.

NEW YORK CITY'S DEPARTMENT OF HEALTH AND MENTAL HYGIENE REVISES MOLD GUIDELINES

The New York City Department of Health and Mental Hygiene releases revised Guidelines of Assessment and Remediation of Fungi in Indoor Environments. The guidelines were last revised in 2000, with some minor edits in 2002. The guidelines are intended for building owners, facility managers, and environmental consultants such as RT.

The purpose of the guidelines is to provide an approach to address potential and observed mold growth in commercial and residential

buildings. Water accumulation in indoor environments can lead to mold growth. The presence of mold growth, musty odors, and water damage should be addressed within 48 hours.

RT personnel have extensive experience in addressing moisture problems, mold growth and developing site-specific work plans. If you would like more information please call us at either office King of Prussia – (610) 265-1510 or (856) 467-2276.

TECHNOLOGY UPDATES

POROUS PAVEMENTS: MANAGING RAINWATER RUNOFF

After a century of steadily paving the U.S. landscape with highways, parking lots, sidewalks, and driveways, Americans are gradually beginning to recognize the negative environmental effects of installing so much impervious pavement. Parking lots, for example, present a problem because they collect oil, anti-freeze, and other automobile contaminants that are swept into nearby streams with rainfall. This rapid runoff not only carries pollutants to local streams and lakes, it interferes with the natural hydrology that supports aquifer recharge and, ultimately, base flow in streams. One potential remedy is the development of porous pavements that filter rainwater runoff. National Risk Management Research Laboratory (NRMRL) urban watershed researchers are evaluating the performance of one porous pavement system—interlocking concrete pavers with filter/gravel layers.

Background

The recent advancement of porous pavements has created a specialized vocabulary, although the terms are often used interchangeably. Porous (or permeable) pavement is a special type of pavement that allows rain (and snowmelt) to pass through it, thereby reducing runoff and trapping some pollutants. There are two types of porous pavement – pervious concrete and porous asphalt.

Pervious concrete mixes water and cement to a thick paste that coats aggregate particles without the usual sand. This mix creates a system of connected voids that drains rapidly typically about five gallons per square foot per minute, or more. The ability of pervious concrete to capture and allow storm water to seep slowly into the ground is especially attractive to developers because it may reduce the need for storm sewers, curbing, retention ponds, and other controls required to meet runoff regulations for new construction. See the Pervious Concrete Website: www.perviouspavement.org/) for more information.

Porous asphalt pavement consists of coarse aggregate bonded by asphalt cement with sufficient connected voids to make it highly permeable. Both types of porous pavement are typically laid over layers of gravel and crushed stone that act as a storage reservoir. A filter fabric installed beneath gravel layers screens fine soil particles and surface debris.

Interlocking concrete pavingstone is a low-impact storm water control system made of impermeable pavers, but the spaces between them are backfilled with stone that allows water to infiltrate, removing pollutants.

NRMRL watershed management scientists selected the interlocking pavement system for

evaluation because the layers are easily removed for examination and replacement, a necessary condition for long-term monitoring and maintenance. An initial bench-scale (small) study measured discharge volume, flow rate, total suspended solids of influent and effluent, and the performance of a permeable geotextile filter fabric between gravel layers. A set of four pavingstone systems were constructed in 3-foot by 2-foot plastic bins: two with filter fabric between gravel layers and two without. Homogenized urban storm water was “rained” onto the systems to simulate years of rain: 4.5 gallons per rain event simulating a 1.2-inch rainfall per event, twice a day, five days a week for 12 weeks.

Preliminary results showed that, although both types of systems removed total suspended solids, the filter fabric measurably increased the percentage of solids removed. In measurements of flow rate, the average peak infiltration rates were 7.5 percent smaller in systems constructed with filter fabric compared to those without. Further research will examine the role of microbial communities in pollutant removal and carbon presence.

The bench-scale evaluation is a preliminary step toward a full-scale parking lot evaluation currently under development. In the larger study, the parking lot exfiltrate will be collected and monitored for selected water quality parameters and pollutants. Following the study of materials and hydraulics, the exfiltrate will be examined to ensure that it has improved sufficiently to release to surface or ground waters.

(NRMRL – 10/08)

‘GREEN’ NY FIRM CLOSES IN ON A ZERO-NET-ENERGY PRIZE

Northeast winters can challenge even the greenest of buildings. Solar panels struggle on dreary days. Insulation is tested by subzero temperatures.

So the owners of Hudson Valley Clean Energy are laying claim to a conservation coup. Their unremarkable-looking headquarters 90 miles north of New York City is “zero net energy,” meaning it makes more energy than it takes over a year. If the claim is verified in the coming months by the advocacy group Northeast Sustainable Energy Association, the company is eligible for a \$10,000 prize for the “best” net-zero-energy building from New England to Maryland. Just as importantly, company president Jeff Irish and vice president John Wright will get official bragging rights for a building that runs an electricity surplus in the Northeast.

“This can be replicated for any size commercial building,” Irish said. “Any doctor’s office, a lawyer’s office, a small store.” Irish and Wright run this business designing and

TECHNOLOGY UPDATES

- Porous Pavements, pg. 13
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installing renewable energy systems for homes and business around the Hudson Valley. It made sense to practice what they peddled when they began building their own 5,472-square foot office and warehouse in 2006. Once they moved in, they attempted to run an energy surplus over one year, beginning July 2, 2007.

Power comes from solar panels on the roof’s south slope. Under a “net-metering” program, the building draws electricity when the sun is absent and pushes it back into the grid when it’s bright. Water is heated by a separate solar panel. Heat and air conditioning come from a geothermal system that loops liquid from 500 feet below ground. The system relies on a steady subterranean temperature of around 55 degrees to help keep the office space cool in the summer and warm in the winter.

The trick for a zero-net-energy building in upstate New York is to “bank” enough excess electricity in the sunny summer to more than cover needs in the winter. Irish wasn’t sure if they would make it. By February, the sun’s puny power couldn’t match the need of 25 employees’ computer, printers, fax machines, milling machines and appliances. There were a few winter days when no energy was generated because of snow on the solar panels. But the building started running energy surpluses again in May and came out ahead by July 2. Irish will now send in his documentation to the sustainable energy group, which will consider the applications early next year.

Even with the solar and geothermal units, Irish and Wright would not have succeeded without lots of insulation. Their metal-clad buildings is cocooned in foam, from the 10 inches of soy-based stuff sprayed between the roof rafters to the boards beneath the concrete slabs.

It also helps that the pair are energy conservation fiends. Signs posted next to switches remind employees to turn off the lights, which are compact fluorescents. Computers are shut off at night to reduce “phantom load.” Appliances are high-efficiency Energy Star. None of this is groundbreaking. Some items, like the lights, can be picked up at Lowe’s. But as Irish notes, “What we’re doing differently is putting the pieces together.

(Star Ledger/AP – 11/27/08)

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PENNSYLVANIA BULLETIN NOTICES

Final Rulemaking – Triennial Review of Water Quality Standards (25 Pa Code, Chapter 93)	9/19/08
Final Rulemaking – Hazardous Waste Amendments	9/19/08
Final Rulemaking – Diesel Vehicle Idling (25 Pa Code, Chapters 121 and 126)	9/19/08
Final Rulemaking (With Notice of Proposed Rulemaking Omitted) – Clean Air Interstate Rule-Repeal.	9/19/08
Draft – Certification Guidelines for the Chemical and Physical Properties of Coal Ash Beneficially Used at Mines. The guidance has been updated to incorporate additional chemical parameters.	9/19/08
Draft – Mine Sites Approval for the Beneficial Use of Coal Ash	9/19/08
Final – Laboratory Reporting Instructions for Total and Fecal Coliform Bacteria in Public Drinking Water Distribution Systems	9/19/08
Final – Citizens' Requests: Receiving, Tracking, Investigating, Appealing, and Filing.	9/19/08
Final – Changes to Licenses, Bonds and Permits for Mine Operators.	9/19/08
Draft – Interim Technical Guidance Pertaining to Continuous Source Monitoring Systems for Mercury.	9/26/08
Final – 2008 Environmental Education Grants Program Manual and Forms.	9/26/08
Final – Pennsylvania's Nonpoint Source Management Program Update.	10/10/08
Draft – Compliance Assurance Policy for Continuous Emission Monitoring Systems (CEMS) on Combustion Units.	10/10/08
Regulations – The Environmental Quality Board published final air quality regulations covering certain consumer products, architectural and industrial coatings.	10/10/08
EPA Recognizes Southwest Household Hazardous Waste Task Force With President's Award – U.S. Environmental Protection Agency Regional Administrator Donald S. Welsh this week honored the Southwestern Pennsylvania Household Hazardous Waste Task Force with the President's Volunteer Service Award in recognition of the group's work to organize hazardous waste events in western Pennsylvania.	10/20/08
Regulations – The Department of Agriculture published final certification regulations for odor management technicians for farm operations.	10/24/08
The Department of Environmental Protection published notice of voluntary climate change registries accepted by the agency.	10/24/08
Technical Guidance & Permits – DEP published a proposed general permit for small flow treatment systems.	10/24/08
Regulations – The Environmental Quality Board published final Water Resources Planning.	11/5/08
Regulations – The Environmental Quality Board withdrawing proposed diesel vehicle idling regulations.	11/15/08
Technical Guidance & Permits Interim – Guidelines for the Development and Implementation of County Municipal Waste Management Plan Revisions.	11/7/08
Technical Guidance & Permits Draft – Implementation Guidance Temperature Criteria. Includes consideration of situations where there is an incomplete mix between the discharge flow and the receiving water.	11/7/08
Technical Guidance & Permits Draft – Permitting of Bulk Water Hauling Systems.	11/7/08
Technical Guidance & Permits Rescinded – Monitoring and Reporting Methodology for Individuals Occupationally Exposed to Medical X-Rays While Wearing Protective Apparel.	11/7/08
Technical Guidance & Permits – The Department of Environmental Protection published a proposed policy on reviewing local comprehensive plans and zoning ordinances in connection with permit applications and a change to the Nutrient Credit Trading Program policy.	11/14/08
Technical Guidance & Permits Draft – Air Quality Permit Exemptions.	11/21/08
Regulations – The Environmental Quality Board published the proposed Safe Drinking Water Groundwater rule for comment.	11/29/08
Regulations – The State Conservation Commission published final-form regulations on facility odor management.	11/29/08
Technical Guidance & Permits Draft – Best Available Technology and Other Permitting Criteria for Municipal Solid Waste Landfills.	11/29/08
Regulations – The Department of Environmental Protection published a notice extending the General NPDES Permit for Stormwater Discharges Associated With Construction.	12/12/08
Regulations – The Independent Regulatory Review Commission published its formal order disapproving the EQB proposed Triennial Review of Water Quality Standards regulation.	12/12/08
Regulations – The Environmental Quality Board published notice of proposed changes to the surface water treatment rule and Stage 2 disinfectants and disinfection byproducts rule.	12/19/08
Regulations – The DEP Coal and Clay Mine Subsidence Insurance Board published proposed changes to its regulations on the issuance of mine subsidence insurance policies.	12/19/08
Technical Guidance & Permits – Laboratory Reporting Instructions for Radiological Contaminants in Drinking Water Systems.	12/19/08
Technical Guidance & Permits Rescind – Best Available Technology and Other Permit Criteria (Section 7.2: Best Available Technology – Boilers).	12/19/08
Technical Guidance & Permits Draft – Guidance for Commonwealth Funded Water Supply Response Actions.	12/20/08
Technical Guidance & Permits Final – Technical Guidance Pertaining to Continuous Source Monitoring Systems for Mercury.	12/26/08
Technical Guidance & Permits – The Department of Environmental Protection published notice two proposed general waste permits, one for hot mix asphalt plants and a second for converting municipal waste to fuel products.	12/30/08

FEDERAL REGISTER NOTICES

<http://www.epagov/homepage/fedrgstr>

Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources; Proposed Rule.	<i>(Federal Register – 10/6/08)</i>
Environmental Protection Agency Control of Emissions from Nonroad Spark-Ignition Engines and Equipment; Final Rule.	<i>(Federal Register -10/8/08)</i>
Environmental Protection Agency Standards of Performance for New Stationary Sources; National Emission Standards for Hazardous Air Pollutants; and National Emission Standards for Hazardous Air Pollutants for Source Categories; Proposed Rule	<i>(Federal Register 10/9/08)</i>
Environmental Protection Agency National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins; Marine Vessel Loading Operations; Mineral Wool Production; Pharmaceuticals Production; and Printing and Publishing Industry; Proposed Rule.	<i>(Federal Register -10/10/08)</i>
Department of the Interior Implementation of the National Environmental Policy Act (NEPA) of 1969; Final Rule.	<i>(Federal Register -10/15/08)</i>
Environmental Protection Agency Control of Hazardous Air Pollutants from Mobile Sources; Early Credit Technology Requirement Revision; Final Rule.	<i>(Federal Register -10/16/08)</i>
Environmental Protection Agency National Emission Standards for Halogenated Solvent Cleaning; Proposed Rule.	<i>(Federal Register -10/20/08)</i>
Environmental Protection Agency NESHAP: National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors: Reconsideration; Final Rule.	<i>(Federal Register – 10/28/08)</i>
Environmental Protection Agency Revisions to the Definition of Solid Waste; Final Rule.	<i>(Federal Register – 10/30/08)</i>
Environmental Protection Agency Emergency Planning and Community Right-to-Know Act; Amendments to Emergency Planning and Notification; Emergency Release Notification and Hazardous Chemical Reporting; Final Rule.	<i>(Federal Register – 11/3/08)</i>
Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries; Proposed Rule.	<i>(Federal Register – 11/10/08)</i>
Environmental Protection Agency National Primary Drinking Water Regulations: Minor Correction to Stage 2 Disinfections Byproducts Rule and Changes in References to Analytical Methods; Proposed Rule.	<i>(Federal Register – 11/14/08)</i>
Environmental Protection Agency Revised National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitations Guidelines for Concentrated Animal Feeding Operations in Response to the Waterkeeper Decision; Final Rule.	<i>(Federal Register – 11/20/08)</i>
Environmental Protection Agency Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category; Proposed Rule.	<i>(Federal Register – 11/28/08)</i>
Environmental Protection Agency Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators; Proposed Rule.	<i>(Federal Register – 12/1/08)</i>
Environmental Protection Agency Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities; Final Rule.	<i>(Federal Register – 12/1/08)</i>
Environmental Protection Agency Amendment to the Universal Waste Rule: Addition of Pharmaceuticals; Proposed Rule.	<i>(Federal Register – 12/2/08)</i>
Environmental Protection Agency Formaldehyde Emissions From Pressed Wood Products. Advance notice of proposed rulemaking and notice of public meetings.	<i>(Federal Register – 12/3/08)</i>
Environmental Protection Agency Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure Rule Requirements – Amendments; Final Rule.	<i>(Federal Register – 12/5/08)</i>
Environmental Protection Agency Regulation of Fuel and Fuel Additives: Gasoline and Diesel Fuel Test Methods. Direct Final Rule.	<i>(Federal Register – 12/8/08)</i>
Environmental Protection Agency Civil Monetary Penalty Inflation Adjustment Rule; Final Rule.	<i>(Federal Register – 12/11/08)</i>
Department of the Interior Office of Surface Mining Reclamation and Enforcement. Excess Spoil, Coal Mine Waste, and Buffers for Perennial and Intermittent Streams; Final Rule	<i>(Federal Register – 12/12/08)</i>
Environmental Protection Agency Rulemaking To Reaffirm the Promulgation of Revisions of the Acid Rain Program Rules; Proposed Rule.	<i>(Federal Register – 12/15/08)</i>
Environmental Protection Agency National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins (Polysulfide Rubber Production, Ethylene Propylene Rubber Production, Butyl Rubber Production, Neoprene Production); National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production; National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards (Acetal Resins Production and Hydrogen Fluoride Production) (Risk and Technology Review); Final Rule.	<i>(Federal Register – 12/16/08)</i>
Environmental Protection Agency Expansion of RCRA Comparable Fuel Exclusion; Final Rule.	<i>(Federal Register – 12/19/08)</i>
Environmental Protection Agency Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007. Direct Final Rule; Stay.	<i>(Federal Register - 12/22/08)</i>
Environmental Protection Agency Standards of Performance for Petroleum Refineries; Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007; Proposed Rule.	<i>(Federal Register – 12/22/08)</i>

BENCHMARKING BUILDINGS FOR ENERGY CONSUMPTION WITH ENERGY STAR®

ENERGY STAR® is a U.S. Environmental Protection Agency program helping businesses and individuals conserve energy through superior energy efficiency. Businesses are reducing their energy use by 30 percent or more through effective energy management practices that involve assessing energy performance, setting energy savings goals, and regularly evaluating progress. Benchmarking enables building managers to determine the key metrics for assessing

performance, to establish baselines, and to set goals for energy performance. Any type of building can benefit from benchmarking.

RT can assist building owners and managers in identifying where their energy dollars are being spent and show the way to increased energy performance. Please call Larry Bily at (610) 265-1510 Extension 36 for more information.

KEY HIGHLIGHTS

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