

The RT Review

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

• Environmental Engineers & Scientists • Geologists • Remedial Contractors



RIVERFRONT BROWNFIELDS REDEVELOPMENT COMES TO MILLVILLE

HSS Developers recently announced the availability of new residential condominiums, at a Millville riverfront redevelopment site. Located off of Columbia Avenue, the photos below show the riverfront attractiveness, and environmental attributes, of the site. A former rail/trail is located directly across the Maurice River, and recreational boating past the site is common.

The site, as are many riverfront sites, was filled in many years ago and, contains historical fill. Prior to the advent of modern environmental regulations, historical fill was placed along most rivers, throughout the United States in urban areas. HSS Developers is completing remediation of the site, to include installation of cap, as well as a new bulkhead, so that the material placed years ago is not of further environmental concern.

The New Jersey Department of Environmental Protection approved the Remedial Action Workplan for the site, and RT Environmental Services conducts oversight, to make sure the redevelopment complies with the approved plan.

The NJDEP Case Manager, William Dunfee, is a Cumberland County resident, and Mr. Dunfee has commented positively, on the good job HSS has done. Both NJDEP, and State and County planners consider redevelopment of Brownfields sites to be particularly advantageous, as urban infrastructure systems, including water and sewer, typically have capacity to absorb "infill" redevelopments, and, such projects mean that there is less "sprawl", meaning less loss of farmland for "new" developments.

Attractive and well located redevelopment projects such as the Millville project, particularly in waterfront areas, are a national trend. Historically, before there were forms of transportation such as railroads and vehicles powered by internal combustion engines, water commerce or stage coaches were the only way to get around. Large loads were typically hauled by water, and stage coaches were principally used for personal transport.

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RENEWABLE ENERGY PROJECTS ON THE RISE AT RT

Over the last several months, there has been an increase in the number of projects at RT related to renewable energy, specifically on new solar energy fields. As the tightening of economic conditions continues, many of RT's clients have been looking at alternate means of creating revenue at sites that have been stalled from the redevelopment standpoint. Many Brownfields sites that were pegged for redevelopment are now being considered for solar farm improvements some of which have the potential to generate up to 10 megawatts of renewable solar energy. Additionally, some of our clients are looking to existing landfills which have been closed for potential solar farm improvements. Large scale solar sites are being more commonly referred to as "Solar Farms".

which is available. The needed space available for a solar farm includes the area for the solar panel arrays, support equipment and

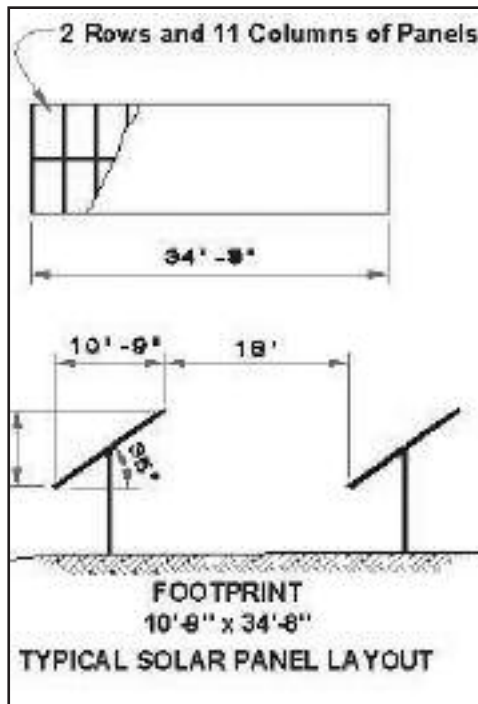


access roadways. There can be as much as 1 megawatt of renewable energy generation per 5 acres at some sites depending on the site conditions. A typical solar farm panel layout is shown below. Available space for a solar farm does not necessarily need to be wide open "fields" as there are many creative ways to make use of space at a site. Some sites are making use of a combination of roof-top mounted panels and open field areas. Other sites are considering conversion of existing open parking areas to covered parking areas which can then accommodate panels mounted above the parked cars.

There are several aspects of solar farm projects which make them attractive to owners of sites, some of which include:

- A cost effective development which can generate revenue at a site which would be sitting dormant otherwise.

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The amount of renewable solar energy which can be generated at a site is primarily dependent on the amount of useable space

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Directory

Corporate Headquarters

215 West Church Road
King of Prussia, PA 19406

Phone: (610) 265-1510

FAX: (610) 265-0687

E-mail: RTENV@AOL.COM

World Wide Web: HTTP://RTENV.COM

24 HOUR

URGENT LINE SERVICE

800-725-0593

Gary Brown, P.E., President

Phone: (610) 768-0232

E-mail: GBROWN@RTENV.COM

Craig Herr, P.G.

Phone: (610) 265-1510 Ext. 215

Hydrogeology Group Manager

E-mail: CHERR@RTENV.COM

Walter Hungarter

Phone: (610) 265-1510 Ext. 238

General Manager

E-mail: WHUNGARTER@RTENV.COM

New Jersey

Glennon C. Graham, Jr., P.G.

Phone: (856) 467-2276 Ext. 122

E-mail: GGRAHAM@RTENV.COM

Suite 306, Pureland Complex

510 Heron Drive, P.O. Box 521

Bridgeport, NJ 08014

Phone: (856) 467-2276

FAX: (856) 467-3476

Southwest Pennsylvania

Justin Lauterbach

E-mail: JLAUTERBACH@RTENV.COM

591 East Maiden Street

Washington, PA 15301

Phone: (724) 206-0348

FAX: (724) 206-0380

Regional Partners

Massachusetts

Andy Irwin

Phone: (508) 653-8007

FAX: (508) 653-8194

Michigan

Michael Carlson

Phone: (248) 585-3800

FAX: (248) 585-8404

North Carolina

Phil Rahn

Phone: (336) 852-5003

Ohio

Ron Clark

Phone: (330) 375-1390 Ext. 207

RT STAFF AND PROJECT NEWS

As of early spring, a number of expanded and new projects were keeping RT staff busy.

-Josh Hagadorn, Walter Hungarter, and Larry Bily of RT's King of Prussia engineering group are working on permitting and approvals for solar projects, at four locations in New Jersey. NJDEP has given an opportunity for accelerated approvals, where solar fields can be placed on landfills. The four projects are underway in Camden (2), Burlington, and Warren Counties.

-Justin Lauterbach in our Southwest Pennsylvania office is working on a series of Phase I Environmental Site Assessments, at western Pennsylvania sites being considered for new and expanded grocery retail stores. Mr. Lauterbach is also continuing assignments on retail pharmacy facilities, in Pennsylvania and New Jersey as well.

-Craig Herr and Walter Hungarter were continuing work on a southeastern PA Superfund site, where geophysical work and new wells are being installed to establish an updated point of compliance for impacted groundwater at the site.

-Gary Brown and Larry Bily are working on a Superfund site in Burlington County, where there were former steel operations. Options for redevelopment include solar energy production and/or relocation to the site of a large personal care products manufacturing and warehouse facility.

-Glenn Graham, Burling Vannote, and Jacci Evans, are completing in-depth site investigation work, at the Gloucester City Southport site. Currently, a former petroleum terminal, a former chemical production facility, and a historic industrial/commercial pier property are under in-depth investigation. Sediments are also being investigated in the Delaware River, and near the mouth of Big Timber Creek.

-Domenic Marino is completing off hours work at a large Philadelphia Center City office building, where asbestos abatement is underway, prior to fit out for a new tenant. Mr. Marino has also tackled a series of mold and lead based paint projects, over the last two months.

-Lisa Mascara has expanded RT's marketing program, to colleges and universities. These institutions have different needs that do other RT clients, and, key issues relate to changes in constructional programs and curricular, sporadic laboratory waste generation, and, management of oils and maintenance chemicals, and in larger institutions-greenhouse gas reporting. Signaling changes in energy use trends, and Penn State University is importing coal by rail, for the time in 50 years.

-Gary Brown and Walter Hungarter are working with major contractor associations in Pennsylvania, as DEP has proposed to lower the statewide health standard for Benzo(a)pyrene. This could cause complications in managing clean fill, and consume more of PENNDOT's budget for managing excavated materials.

-Justin Lauterbach spoke at Pittsburgh's Business of Brownfields Conference, using the former Raymark Industries/Manheim Borough Redevelopment Project, as a key Pennsylvania Brownfield's Success Story. Gary Brown and Justin also spoke on Stormwater Best Management Practices, at the Pennsylvania Chamber of Business and Industry Mid-Atlantic Environmental Conference, in April.

We at RT are seeing a significant uptick in due diligence work, including Phase I Environmental Site Assessments. Lets all hope that an improving economy in our service area, helps assure a more prosperous 2010.

- Gary R. Brown, P.E.

RT JOINS CSHEMA

In March of 2010 RT Environmental joined the Campus Safety Health and Environmental Management Organization. CSHEMA includes over 1,000 health and safety professionals along with more than 400 higher education facilities within the United States. Membership also extends into Australia, Canada, England and Singapore. While CSHEMA offers its members a whole host of benefits and opportunities, it also specializes in assisting member schools with direction as they maintain compliance with various state and federal environmental agencies. RT Environmental Services has the expertise to guide these colleges and universities to meet state and federal environmental and safety rules and laws. We are able to assist with an initial campus inspection, create or update contingency plans, review existing SPCC plans and/or PPC plans and make appropriate recommendations on compliance items. Our team is highly qualified to assist in the implementation of any recommendations.

CSHEMA offers several networking events throughout the year with the largest being the annual conference. This year it will be hosted in Baltimore MD, July 17-21, at the Baltimore Marriott Waterfront.

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RENEWABLE ENERGY PROJECTS ON THE RISE AT RT

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- Federal and potential State Funding sources which can offset portions of the initial construction costs.

- Cost effective construction options for foundations which can minimize the amount of land disturbance beneath the panels which can reduce the overall construction costs as waste material may not need to be disposed offsite.

- Cost recovery through the generation of Solar Renewable Energy Credits (SRECs).

These are credits which are based on the amount of solar energy produced at a site which many companies need to purchase to show that they are meeting sustainability goals set for their industry.

Brownfields sites and closed landfills can be ideal sites for these large solar farms which can be anywhere from 10 to 500 acres in size. Utilizing Brownfields and landfill sites for the solar farms helps to minimize the amount of "Greenfields" or farms which would otherwise be considered for develop-

ment. This is an added benefit of re-using a site for many municipalities which are working to preserve farmlands across the State.

It is anticipated that more and more sites will be considered for solar farm improvements in the near future because many industries are moving toward more sustainable business practices with renewable energy being a main focus. Keep posted for more solar project updates from RT or contact Walter Hungarter for more information at our King of Prussia office.

RIVERFRONT BROWNFIELDS REDEVELOPMENT COMES TO MILLVILLE

(continued from page 1)

In the last two decades, Americans have increasingly shown interest in waterfront sites, as heavy industrial use of waterfront sites has been on the decline, and the sites provide recreational opportunities, and are more and more aesthetically appealing.

RT is heavily involved in riverfront site development, with more and more projects every year. Riverfront redevelopment sites include:

- The award winning Grainor Price residential redevelopment site of the former Anchor Glass factory, in Royersford, PA.

- A series of sites which formerly were the locations of a shipyard, asphalt plant, and building material transfer site, in the Port Richmond area of Philadelphia, where work is nearly complete under the Act 2 Land Recycling Program.

- A South Philadelphia site near the Walt

Whitman Bridge, where car importation is scheduled to begin in the very near future.

- Gloucester City's Southport Redevelopment Site, a large scale redevelopment of heavy industrial properties, which is now underway.

RT appreciates the opportunity to assist on the many exciting waterfront redevelopment projects, we have completed, and on those which are now underway.



NEW JERSEY'S LSRP PROGRAM – HOW IS IT WORKING?

Since the November 2009 initiation of the Licensed Site Remediation Professional (LSRP) program in New Jersey, a big question for remediating parties, who have existing cases with the NJDEP is: Do I opt in to the program and proceed without DEP oversight? The process for taking a remediation project and transferring it to an LSRP project has proven to be simple and quite streamlined. The process involves gaining approval from the case manager for the project and the filing of two DEP forms. From there, the project can proceed without DEP pre-approvals while under the supervision of an LSRP.

In the first quarter for 2010, RT has seen

multiple projects opt in to the LSRP program from the previous model. In most cases, extended timeframes for DEP review was causing major delays in cleanup which tend to slow property transaction processes. Once entered into the program, the LSRP process allows for timely and effective remedial action and timely issuance of a Response Action Outcome (RAO) Statement.

RT has already been involved with transferring single Areas of Concern (AOC's) into the LSRP program. RT is able to provide LSRP opinion letters and ultimately an RAO to allow for the redevelopment of a specific area of a large former manufacturing facility. We are also undertaking site wide RAO's.

We now have nine LSRP projects underway throughout the state. These projects involve UST and AST discharges, historic fill and farm dump removals.

In response to this new program, RT has formed a group in our New Jersey Office which reviews the status of all LSRP projects to ensure compliance and to keep projects moving forward. In addition to this, the NJDEP is being very accommodating with answering questions that arise about the program. Now is an ideal time to opt your project into the LSRP Program in New Jersey. Please contact us with any questions you may have about the LSRP Program or how to opt into the program.

FEDERAL REGULATORY UPDATES

DOT REVISES HAZARDOUS MATERIAL PACKAGING REQUIREMENTS

In a new hazardous materials final rulemaking entitled "Miscellaneous Packaging Amendments", published February 2 in the Federal Register, the Pipeline and Hazardous Materials Safety Administration (PHMSA) revised several packaging related definitions; added provisions to allow more flexibility when preparing and transmitting closure instructions, including electronically; added a requirement for shippers to retain packaging closure instructions; incorporated new language that will allow for a practicable means of stenciling the UN symbol on packagings; added requirements for the construction, maintenance, and use of large packagings; and clarified a requirement to document the methodology used when determining whether a change in packaging configuration requires retesting as a new design or may be considered a variation of a previously tested design. The effective date for the final rule is October 1, 2010.

(*Env. Tip of the Week* – 2/9/2010)

HIGH COURT REVIEW SOUGHT FOR CLEANUP LIABILITY BANKRUPTCY PROTECTIONS

The Apex Oil Company is asking the Supreme Court to review an appellate court ruling holding that bankruptcy is not necessarily a defense against cleanup liability, arguing the decision conflicts with the precedent set by the Supreme Court and other appellate courts and that it significantly erodes protections under bankruptcy law.

At issue is the U.S. Court of Appeals for the 7th Circuit's Aug. 25 decision in the case *United States v. Apex Oil Company*, in which the appellate court ruled Apex could not use its bankruptcy as a defense against its cleanup liability at a site in Hartford, IL, where "millions of gallons of oil . . . are contaminating groundwater and emitting fumes that rise to the surface and enter houses in Hartford and in both respects [are] creating hazards to health and the environment." Agreeing with a lower court ruling, the 7th Circuit found the company has "legal responsibility to abate this nuisance because the plume was created by an oil refiner owned by a corporate predecessor of Apex."

The ruling was a win for several other oil companies that sided with the federal government and were concerned that the portion of the cleanup liability for which they are liable at the Hartford sites and at other sites around the country would increase if companies like Apex are allowed to use bankruptcy as a defense to get out of their share of the liability.

Apex, however, in its petition for certiorari argues the decision "conflicts with an uninterrupted line" of Supreme Court precedent on the issues in the case, reiterating the claim it made in its unsuccessful petition for rehearing before the 7th Circuit that the ruling conflicts with the high court's 1985 ruling in *Kovacs v. Ohio* and the 6th Circuit's 1988 ruling in *United States v. Whizco Inc.*

The basic issue addressed in the three cases is whether liability to clean up a contaminated site is "discharged" in bankruptcy where, prior to the conclusion of the bankruptcy proceedings, the debtor is "disposed" of ownership and control of the site. Apex's petition for rehearing noted.

In its August ruling, the 7th Circuit held that only monetary liability could be discharged during bankruptcy proceedings, and that under the Resource Conservation & Recovery Act (RCRA) -- which is the basis of the government's claim -- the government cannot pursue monetary payments. RCRA only authorizes the government to seek claims for injunctive relief under which the company is ordered to conduct the cleanup rather than pay the government to do it, the court ruled, and such claims cannot be discharged during bankruptcy proceedings, the 7th Circuit found (*Superfund Report*, Sept. 7).

In its cert petition, Apex argues, however, that the 7th Circuit ruling conflicts with the high court's decision in *Kovacs*, which "holds that an environmental clean-up order -- indistinguishable from the order in this case -- is a claim subject to payment and discharge in bankruptcy."

(*SUPERFUND REPORT* – 3/5/2010)

EPA FINALIZES TRANSPORTATION CONFORMITY RULE PM2.5 AND PM10 AMENDMENTS

EPA published a final rule amending the particulate matter conformity regulation to reflect the October 17, 2006 rule that strengthened the 24-hour PM2.5 national ambient air quality standard (NAAQS) and revoked the annual PM10 NAAQS. The final PM amendments rule also addresses a court remand concerning hot-spot analyses; this portion of the rule applies to PM2.5 and PM10 and carbon monoxide nonattainment and maintenance areas.

Transportation conformity is a Clean Air Act requirement that ensures that federally supported highway and transit projects are consistent with state air quality implementation plans. Conformity helps protect public health through early consideration of the air quality impacts of transportation decisions in places where air quality does not currently meet federal standards or has not met them in the past.

The final rule provides guidance on how to implement transportation conformity under the 2006 PM2.5 national ambient air quality standards (NAAQS) to ensure that transportation planning and air quality planning are coordinated and that air quality is protected.

Conformity will apply in 2006 PM2.5 nonattainment areas for this NAAQS on December 14, 2010, based on the one-year grace period for newly designated areas in the Clean Air Act and the transportation conformity rule.

The final rule also updates the conformity regulation to:

- Include the requirements for demonstrating conformity for the 2006 PM2.5 NAAQS, including the regional emissions test(s) that would apply before and after SIP motor vehicle

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emissions budgets are established for the revised NAAQS;

- Update the baseline year for the interim emissions test to calendar year 2008 in 2006 PM2.5 nonattainment areas;
- Clarify which budgets PM10 nonattainment and maintenance areas would use for transportation conformity determinations, now that the annual PM10 standard has been revoked; and
- Clarify that federally funded or approved highway and transit projects in PM2.5, PM10 and CO nonattainment and maintenance areas must not delay timely attainment or achievement of other interim milestones.

The final rule improves the health and environmental benefits of the existing transportation conformity program by requiring new PM2.5 nonattainment areas and existing PM10 nonattainment and maintenance areas to use conformity tests that ensure that air quality is protected in areas that need to attain or maintain federal air quality standards. The final rule also clarifies that hot-spot analyses are performed in a manner consistent with the Clean Air Act's public health and environmental requirements.

(*Env. Tip of the Week* – 3/15/2010)

NEW LEAD-BASED PAINT RULE NOW IN EFFECT

A significant new rule from the U.S. Environmental Protection Agency dealing with lead-safe work practices went into effect on April 22, 2010.

Anyone receiving compensation for renovating, repairing and painting work in residences built before 1978 that disturbs painted surfaces is subject to the new Renovation, Repair and Painting Rule (RRP). Also affected by the RRP are those performing similar work on facilities occupied by children under six years of age, such as schools and day-care centers built prior to 1978.

The requirements under the rule apply to maintenance, renovation or repair activities where six square feet (about the size of a poster) or more of a painted surface is disturbed inside, or where 20 square feet or more of painted surface (about the size of a door) is disturbed on the exterior. Window replacement is also covered by the rule. Under the new rule, child-occupied facilities are defined as public or commercial buildings where children under age six are present on a regular basis.

- Those affected by the rule will be required to:
- Apply to EPA to be approved as a Certified Renovation Firm.
- Receive the necessary training and certification from an EPA-accredited training

FEDERAL REGULATORY UPDATES (Continued)

provider for Lead Safe Work Practices.

- Assign a Certified Renovator to be present at each project.
- Ensure that lead safe work practices are used throughout the project.
- Provide consumers or tenants with the EPA pamphlet Renovate Right prior to the start of any project that will disturb six or more square feet of interior painted surface or 20 or more square feet of exterior painted surfaces in housing and child occupied facilities built before 1978.
- Maintain records documenting that the required information has been provided at each project subject to the rule.

Landlords, who perform the work described above, are also affected by the rule and bound by the same requirements. To find a certified firm near you go to:

http://cfpub.epa.gov/flpp/searchrrp_firm.htm.

For more information please go to: www.epa.gov/lead or call the National Lead Information Center at 1-800-424-LEAD, 1-800-424-5323.

Individuals, contracting firms and property owners seeking to become certified and trained can find more information on the process and a list of accredited trainers at:

[/www.epa.gov/lead/pubs/renovation.htm#contractors](http://www.epa.gov/lead/pubs/renovation.htm#contractors).

(EPA – 3/22/2010)

EPA MAY EXTEND SPILL RULE COMPLIANCE DEADLINE TO ADDRESS INDUSTRY UNCERTAINTY

EPA is extending the compliance deadline for revisions it made to a Bush-era oil Spill Prevention, Control & Countermeasure (SPCC) rule, saying the extension is needed to address industry uncertainty stemming from the changes.

The agency has sent a proposed rule to the White House Office of Management & Budget (OMB) to extend the compliance date for meeting the new requirements. OMB received the rule from EPA's waste office March 17, according to its Web site.

The agency's new proposal is designed to resolve uncertainty about compliance requirements following the changes to the SPCC rule made by the Obama EPA in 2009, according to the agency's recently updated list of new regulatory actions that it initiated in February. EPA in its February action initiation list says that the Nov. 13 rule could create some uncertainty among industry about their compliance deadlines. Because of some of the changes made in the Nov. 13 amendments -- including removal of certain provisions from the December 2008 version of rule -- "facilities may need additional time to comply with the SPCC amendments. Because of the uncertainty surrounding the final amendments to the December 5, 2008 rule and the delay of the effective date, the agency will propose to extend the compliance date," according to EPA's action initiation list.

(SUPERFUND REPORT – 3/22/2010)

EPA TO PROBE IMPACT OF CHEMICAL BISPHENOL-A

The Environmental Protection Agency said that it would investigate the impact of the chemical Bisphenol-A on the U.S. water supply and other parts of the environment.

Federal regulators have been ramping up their scrutiny of the controversial plastic-hardener at the behest of scientists and activists who say it can interfere with infant growth and development.

The EPA said in a statement it would begin measuring levels of BPA in drinking and ground water. More than one million pounds of BPA are released into the environment each year, says the agency.

The EPA will also "look for ways to reduce unnecessary exposures, including assessing substitutes."

BPA is found in canned food linings, water bottles, CDs and hundreds of other household items.

In January the Food and Drug Administration changed its position on the chemical's safety, voicing "some concern" about its effects on children and infants. The agency previously concluded in 2008 that the trace amounts of the chemical that leach out of food containers were safe.

Dozens of animal studies have linked the chemical to abnormal growths and cancerous tumors, but those results have never been confirmed in humans.

The American Chemistry Council, an industry trade group, has argued that BPA is safe and has been used widely since the 1950s.

(by Matthew Perrone, *Philadelphia Inquirer*, 3/30/2010)

PERMIT REQUIREMENT FOR EMISSIONS DELAYED

The Environmental Protection Agency said Monday that power plants, refineries and other businesses emitting large amounts of carbon dioxide won't be required to file for emissions permits before January 2011, confirming a decision the agency signaled last month.

EPA Administrator Lisa Jackson has faced strong pressure in recent months from state regulators, lawmakers and various industry groups to delay moves to regulate greenhouse-gas emissions from steel mills, cement kilns, the petroleum industry and other stationary sources. States said they lacked the necessary resources to handle an expected boost in permitting, while businesses said they needed time to prepared for the new rules.

(by Ian Talley, *Wall Street Journal*, 3/30/2010)

EPA ADVANCES RULE THAT COULD MAKE IT HARDER TO BURN WASTE AS FUEL

The EPA sent to the White House for review a proposal to define non-hazardous solid waste under the Resource Conservation & Recovery Act (RCRA) that determines which materials that are burned as fuel qualify as waste and are thus

subject to stricter air rules for incinerators. Those materials burned as fuel that are not defined as solid waste under RCRA escape regulation under the pending strict new source performance standards (NSPS) for incinerators issued under section 129 of the Clean Air Act. Instead, they are subject to less stringent standards for boilers under section 112 of the CAA. Industry and states worry about the negative economic impacts if materials such as tires or sewage sludge that are often burned as fuel become subject to stricter emissions rules that precludes their future use as fuel.

(*Waste Business Journal* – 3/24/2010)

EPA SEES STRICT NEW GUIDES ENDING MOST MOUNTAINTOP MINES' 'VALLEY FILLS'

EPA says its new guidance setting strict first-time numeric standards to protect water quality from mountaintop coal mining operations in Appalachian states will likely force an end to most "valley fills," the industry's controversial disposal practice of dumping waste rock in nearby valleys, which environmentalists have vehemently opposed.

"We expect that, generally, it will be easier for projects with no or few valley fills to demonstrate that they comply" with the Clean Water Act (CWA) and the guidance, EPA said in a summary of the document, unveiled April 1. "Conversely, projects with multiple valley fills will generally raise serious questions about their compliance with CWA requirements and may require permit objection under [section] 402 or . . . possible veto under [section] 404."

The new guidance's requirements will apply to dozens of permits for mountaintop mining projects the Obama EPA has stalled since taking office, as well as future permit applications. Administrator Lisa Jackson told reporters that many of the already proposed projects will often "have to look at a redesign of a mine."

Among other things, the guidelines set strict limits on waters' conductivity levels, a measure of salinity, requires permits to include water quality-based effluent limits (WQBEL) or utilize EPA's strict toxicity testing method -- known as the Whole Effluent Toxicity (WET) test -- which measures aggregate impacts of multiple pollutants, and requires industry to minimize and mitigate harmful impacts while strictly monitoring water quality.

Mine operators applying for a permit "must first demonstrate that there is no practicable alternative to the proposed discharge" to waterways that would have less of an impact on the aquatic ecosystem, and if not, then take every appropriate step to minimize adverse impacts of discharges, according to the summary.

Some of the items in the guidelines are even stricter than a draft version the agency was set to announce last month but which stalled due to opposition from state and federal agencies. For example, the agency had reportedly been preparing to propose a conductivity standard of

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400 microsiemens per centimeter (uS/cm) as the level at which operators would be required to adopt best management practices to protect aquatic life, but the guidelines propose a 300 uS/cm standard. The guideline also maintains a 500 uS/cm-limit as a threshold at which EPA can deny permits.

Jackson said the conductivity standard was based on evolving science that showed it to be a good measure for aquatic health, although she acknowledged it would require substantial changes to many pending mine permits and would greatly limit the ability of mine operators to establish valley fills.

Environmentalists cheered the guidance, which they say represents a significant step forward in their long-running campaign to curtail mountaintop mining. "It's not a silver bullet that's going to stop all mountaintop mining, but it goes a long way," one environmental attorney following the issue says.

Industry and state regulators, meanwhile, expressed concerns that EPA's recommended limits were too stringent and questioned whether it was appropriate to set identical standards across multiple states. Industry and states also criticized EPA's decision to rely on the standards outlined in the guidance without going through a formal rule-making process.

(SUPERFUND REPORT – 2/5/2010)

EPA DROPS RADIATION DEFAULT CLEANUP LIMITS, PROMPTING ACTIVISTS' CONCERNS

EPA is no longer relying on default guidelines to determine when it should initiate emergency response actions at sites contaminated with radiological contaminants and will instead rely on site-specific criteria, according to an EPA spokeswoman, a policy change that activists say heightens their concerns the agency may be taking actions that weaken its Superfund cleanup and drinking water standards.

At issue are EPA's removal action levels (RALs), which are numerical guidelines agency officials use to help them determine when to initiate an emergency response action such as providing the public with an alternative source of drinking water or taking emergency cleanup actions. A disagreement among EPA staff in the Office of Solid Waste & Emergency Response (OSWER) over whether the guidelines apply to sites contaminated with radiological contaminants, detailed in internal e-mails *Inside EPA* recently obtained under the Freedom of Information Act, has alarmed activists who fear the disagreement could lead to a weakening of EPA protections (*Superfund Report*, March 22).

Now the EPA spokeswoman says RALs no longer exist for radioactive sites and that "[a]ction levels for radiologic contaminants are derived on a site-specific basis." The statement is heightening activists' concerns, with one activist saying the policy described by the agency spokeswoman is reminiscent of "optimization," a controversial cleanup approach the agency's

Office of Radiation & Indoor Air (ORIA) developed under the Bush administration as part of a new draft guide for nuclear emergencies. The document, known as the draft protective action guide (PAG) for nuclear incidents has been under internal review since the Obama administration halted its publication in the Federal Register during its first days in office.

The EPA spokeswoman says the agency's radiological removal policy is no different than the one it uses for chemical contaminants in that "OSWER's policy regarding the use of removal authority for either chemical or radiological contamination is that decisions are based on a variety of site-specific factors. Comparison of site data to" the agency's cancer risk guidelines and drinking water regulations -- the basis of the numerical RALs the agency uses for chemical contaminants -- "would be among the factors considered on a site-specific basis," the spokeswoman said.

(SUPERFUND REPORT – 2/5/2010)

JUDGE FINDS TVA NOT EXEMPT FROM DAMAGE SUITS OVER COAL ASH SPILL

The Tennessee Valley Authority (TVA), which has long-argued it is exempt from environmental damage claims because it is a government entity, has now lost a third recent case charging it is liable for damages caused by environmental releases, bolstering activists' efforts to clamp down on the utility's pollution.

A federal judge March 26 denied a TVA motion to dismiss class action suits sparked by the catastrophic failure of a coal ash disposal pond in December 2008, saying the utility is not exempt from citizen suits because of its status as a wholly-owned government corporation because the Clean Water Act (CWA) and Resource Conservation & Recovery Act (RCRA) include waivers to sovereign immunity that apply to TVA.

However, the ruling did dismiss claims by the plaintiffs for punitive damages against TVA for the spill, saying the Supreme Court and appellate courts have ruled that federal entities are generally not subject to punitive damages except where expressly stated in their charters -- a statement that is absent from TVA's congressional mandate. Plaintiffs had sued for "Aggregate compensatory damages in excess of \$5,000,000" plus attorneys' fees and "other, further and general relief" as deemed appropriate by the court.

The ruling is the latest in a series of defeats for TVA seeking to stave off common law suits for environmental damages. A series of trial and appellate court rulings have upheld North Carolina's ability to sue TVA for its air emissions. And last year, the the U.S. Court of Appeals for the 2nd Circuit upheld Connecticut and other states' ability to sue TVA and several other utilities for the damages caused by their greenhouse gas emissions.

Such rulings could bolster efforts by environmentalists who have been lobbying Congress and

the Obama administration to strengthen environmental enforcement against TVA, in part to overcome a landmark appellate ruling that struck down EPA's authority to enforce environmental laws against the federally owned utility.

In a March 26 ruling in the case of Larry Mays et al., v. TVA in the U.S. District Court for the Eastern District of Tennessee, Judge Tom Varlan said the defendant's motion to dismiss the suit based on the plaintiffs' failure to state a claim is baseless because the suit makes the simple and plausible claim that TVA's discharge of coal ash onto the plaintiffs' properties, when assumed to be true, constitutes a "taking" and therefore subjects the defendants to liability under RCRA and the CWA.

TVA also said in its motion that the plaintiffs' erred in their claim that RCRA and the CWA's immunity waivers -- which apply only to failures to adhere to the "requirements" of the acts -- do not extend to common law nuisance claims but rather to the enumerated requirements of the statute. "TVA asserts that the waivers in these statutes should be strictly construed and only waive immunity for the public purposes of enforcing the requirements of the statutes, not the 'requirements' of state common law, enforced through tort actions," the ruling reads. "Further, TVA argues that the discretionary function doctrine would be applicable to any tort claims Plaintiffs assert under the CWA and the RCRA, and thus, TVA would still be shielded from liability."

Judge Varlan declined to decide on the veracity of that claim because the plaintiffs clearly had standing to bring the suit on the basis of a simple takings claim, which the court was required to assume was true for the purposes of considering the motion. TVA said in its motion that the plaintiffs had failed to properly explain what functions of their property were now limited because of the discharge and therefore what demonstrate what taking had in fact occurred for the purposes of the suit. Varlan said such a demonstration was unnecessary because the claim was plausible on its face and should therefore should not be dismissed.

(SUPERFUND REPORT – 4/5/2010)

BATTERY TRANSPORTATION CHANGES BECAME EFFECTIVE ON JANUARY 1

Effective January 1, 2010, the DOT began regulation of shipments of all batteries other than 1.5 and 9 volt alkaline batteries and 6 volt carbon zinc batteries. These batteries are typically used in portable power applications and are not covered under other shipping names. For example, the new regulation now in effect does not address shipments of other types of batteries covered by their specific shipping names (e.g., lithium, electric storage, or sodium batteries).

Batteries now covered under the new requirements must be assigned the shipping name: Batteries, dry, sealed, n.o.s. Special provision 130 is assigned for these batteries and subjects

FEDERAL REGULATORY UPDATES *(Continued)*

these shipments to only the following regulatory requirements:

- Incident reporting (telephone report for aircraft incidents and written report for other modes) if a fire, violent rupture, explosion or dangerous evolution of heat occurs from a dry battery;

- Packaging must prevent dangerous evolutions of heat or short circuits and can be accomplished by packaging each battery or device individually in a non-conductive material; separating batteries in a manner to prevent contact with other batteries; or ensuring exposed terminals or connectors are protected by non-conductive caps or non-conductive tape. If the outer packaging is not completely impact resistant, the batteries should be securely cushioned and packed to prevent shifting which could loosen terminal caps or reorient the terminals to prevent short circuits; and

- Batteries contained in devices must be securely installed and terminals must be protected.

Used batteries are subject to the same requirements and waste contractors may reject shipments not properly packaged. No other regulations apply (e.g., marking, labeling, placarding, or shipping papers).

(Env. Tip of the Week- 1/4/2010)

EPA STRENGTHENS REGULATIONS FOR TRANSBOUNDARY SHIPMENT OF HAZARDOUS WASTE

EPA is strengthening the regulations for shipments of hazardous waste for recycling shipped between the United States and other countries. The new measures are meant to increase the level of regulatory oversight, provide stricter controls, and greater transparency. The final rule aligns EPA's hazardous waste import/export/transit shipment regulations with the procedures of the Organization for Economic Cooperation and Development (OECD), an international consortium that comprises 30 countries including the United States.

EPA's new measures bolster regulations regarding hazardous waste shipments into or out of the United States and strengthen the extensive set of regulations under RCRA governing the shipment of hazardous waste within the United States.

Specifically, this rule revises:

- Existing RCRA regulation regarding the transboundary movement of hazardous wastes for recovery among countries belonging to the OECD to conform to legally required revisions made by the OECD, such as:

- Requiring U.S. recovery facilities to submit a certificate after recovery of the waste has been completed,

- Adding provisions to ensure that hazardous wastes are returned to the country of export in a more timely and documented manner when it is necessary to do so, and

- Adding new procedures for imported hazardous wastes that are initially managed at U.S.

accumulation and transfer facilities to better track and document that subsequent recovery by a separate recycling facility is completed in an environmentally sound manner.

- RCRA regulations for spent lead-acid batteries (SLAB) to add export notification and consent requirements to provide stricter controls and greater transparency for exports of SLABs to any country, and should ensure that the batteries are sent to countries and reclamation facilities in those countries that can manage the SLABs in an environmentally sound manner.

- Hazardous waste import-related requirements for U.S. hazardous waste management facilities to confirm individual import shipments comply with the terms of EPA's consent.

- The address to which export exception reports are to be sent.

(Env. Tip of the Week- 1/4/2010)

EPA CONSIDERING LIMITING PCB USE

EPA has issued an advanced Notice of Proposed Rulemaking for the use and distribution in commerce of certain classes of PCBs and PCB items and certain other areas of the PCB regulations under the Toxic Substances Control Act (TSCA). EPA is reassessing its TSCA PCB use and distribution in commerce regulations to address: The use, distribution in commerce, marking, and storage for reuse of liquid PCBs in electric and non-electric equipment; the use of the 50 parts per million (ppm) level for excluded PCB products; the use of non-liquid PCBs; the use and distribution in commerce of PCBs in porous surfaces; and the marking of PCB articles in use. Also in this document, EPA is also reassessing the definitions of "excluded manufacturing process," "quantifiable level/level of detection," and "recycled PCBs." EPA is soliciting comments on these and other areas of the PCB use regulations. EPA is not soliciting comments on the PCB disposal regulations at this time.

The April 7th Federal Register has additional details.

(Federal Register – 4/7/2010)

EPA PROPOSES ADDING 16 CHEMICALS TO TOXICS RELEASE INVENTORY DISCUSS

EPA is proposing the addition of 16 chemicals to the Toxics Release Inventory (TRI) list of reportable chemicals, the first expansion of the program in more than a decade. Established as part of the Emergency Planning and Community Right to Know Act (EPCRA), TRI is a publicly available EPA database that contains information on toxic chemical releases and waste management activities reported annually by certain industries as well as federal facilities. The proposal is part of Administrator Lisa P. Jackson ongoing efforts to provide communities with more complete information on chemicals.

EPA has concluded, based on a review of available studies, that these chemicals could

cause cancer in people. The purpose of the proposed addition to TRI reporting requirements is to inform the public about chemical releases in their communities and to provide the government with information for research and potential development of regulations.

Four of the chemicals are being proposed for addition to TRI under the polycyclic aromatic compounds (PACs) category. The PACs category includes chemicals that are persistent, bioaccumulative, toxic (PBT) and are likely to remain in the environment for a very long time. These chemicals are not readily destroyed and may build up or accumulate in body tissue.

The TRI, established as part of the EPCRA of 1986, contains information on nearly 650 chemicals and chemical groups from about 22,000 industrial facilities in the U.S. Congress enacted EPCRA to provide the public with additional information on toxic chemicals in their communities. EPA will accept public comments on the proposal for 60 days after it appears in the Federal Register.

(Env. Tip of the Week – 4/12/2010)

EPA ANNOUNCES NEW RESTRICTIONS ON PHOSPHINE FUMIGANTS

EPA is requiring new restrictions on aluminum and magnesium phosphide products to better protect people, especially children, from dangerous exposures. The new restrictions prohibit all uses of the products around residential areas, increase buffer zones for treatment around non-residential buildings that could be occupied by people or animals, and create more protective product labeling. These actions are part of Administrator Lisa P. Jackson's comprehensive effort to strengthen the agency's chemical management program and assure the safety of chemicals.

"Phosphine fumigants are poisons and must be kept away from where our children live," said Steve Owens, assistant administrator of EPA's Office of Prevention, Pesticides, and Toxic Substances. "These new safeguards prohibit the use of these toxic pesticides near homes and impose restrictions to protect our families from exposure to them."

Aluminum and magnesium phosphide fumigants are used primarily to control insects in stored grain and other agricultural commodities. They also are used to control burrowing rodents in outdoor agricultural and other non-domestic areas. The fumigants are restricted to use by specially trained pesticide applicators and in only narrow circumstances.

EPA is expediting approval of the new labels to reduce the potential for accidental poisonings. The primary manufacturer is voluntarily implementing the changes. EPA will apply these changes to all aluminum and magnesium phosphide products.

(Env. Tip of the Week – 4/12/2010)

KEY STEPS TO ADEQUATE HYDROGEOLOGIC SITE CHARACTERIZATION USING GEOPHYSICAL TOOLS

When installing groundwater monitoring wells for site characterization and delineation of a dissolved plume, it is important to understand the geology of your site when deciding where to screen each well interval. As much of the groundwater in the southeastern portion of Pennsylvania is found within fractured bedrock, two field tasks can be completed in between drilling of the borehole and the construction of a monitoring well that can be important data used to develop a site conceptual model. These tasks include borehole geophysics and straddle packer testing.

In a fractured bedrock groundwater regime, the task of identifying the fractures transmitting groundwater and those fractures transmitting impacted groundwater are important for developing a comprehensive site conceptual model. After the drilling of the borehole is complete, the geophysical logging of the borehole identifies fractures conveying groundwater. A suite of geophysical tools is run the length of the borehole. A typical suite of geophysical tools include measuring the average diameter of the borehole, a borehole video log, measuring water temperature and conductivity of the saturated portion of the borehole, measuring the resistivity of the geologic unit, and using a heat pulse flowmeter. These tools identify the presence of fractures by measuring; differences in the borehole diameter; fluid temperature, conductivity; and resistivity. When combined, the results provide data to identify water-producing fractures. Further geophysical logging can determine if groundwater within the borehole is moving vertically upward or downward.

From the geophysical logging data, a Professional Geologist can identify specific water producing fractures to investigate prior to construction of each monitoring well. This task is conducted utilizing straddle packers. The straddle packers are tools that are typically connected as a pair, inserted into the borehole, and are positioned with an upper and lower packer straddling a water-producing fracture

or fracture zone. The packers are inflated, like a balloon, which seal off the upper and lower portions of the borehole. The portion of the borehole between the upper and lower packers is then purged and a water sample collected. Additionally, pressure transducers are used to identify if the fracture located between the upper and lower packers is isolated in the system or is connected to a fracture above or below the isolated zone.

From the analytical data, the Geologist can determine if multiple vertically discrete wells can be used to provide sufficient information for characterization. For instance, if a 200 foot borehole is drilled and the geophysical logging and straddle packer testing are conducted it is determined that all the fractures within the 200 foot borehole are interconnected, the Geologist may decide to construct a shallow groundwater monitoring well, saving the expense of either multiple clustered wells or deeper wells.

The importance of identifying the water bearing fractures, both clean and impacted, are key to developing appropriate site conceptual model as early on the site characterization stage as possible. Proper and cost effective hydrogeologic characterization can go a long way to develop an appropriate remedial approach to clean up groundwater at many sites.

Although it may cost a bit more to use extra tools early on, there are frequently cost savings as compared to conventional well by well installation approaches. In addition, total costs are frequently less and the groundwater investigation steps needed to determine cleanup needs goes more quickly. The differences between sites given PA's rock geology make geophysical tools a very good approach at many sites.

RT has conducted hydrogeologic site investigations using geophysical tools at many sites. For more information call Craig Herr, PG, at 610-265-1510 extension 215.

NJDEP UPDATE – EXTRACTABLE PETROLEUM HYDROCARBON (EPH) ANALYSIS

The EPH method must be employed for the analysis of samples from all petroleum contaminated sites in NJ with the exception of those contaminated with volatile distillate hydrocarbons such as naphtha, gasoline, kerosene, jet fuel, and mineral spirits.

NJDEP has established two petroleum site categories. Category 1 sites are known to be contaminated with Fuel Oil 2 and/or Diesel Fuel only. These sites may also require contingency analysis for Naphthalene and 2-Methylnaphthalene. Category 2 sites are defined as sites contaminated with other non-volatile petroleum products. Contingent analysis for these sites is defined in the Technical Requirements for Site Remediation, Table 2-1. However, active sites may not require use of the new EPH method if a RAWP or RAR is approved by the DEP or filed by and LSRP.

On April 12, 2010 NJDEP revised the Protocol for Addressing Extractable Petroleum Hydrocarbons establishing a new implementation date for use of this EPH method. The implementation date has been moved from May 10, 2010 to **September 1, 2010**.

The primary differences between the new EPH method and the OQA TPH method currently in use are as follows:

- NJDEP EPH requires separation into aliphatic and aromatic fractions,
- NJDEP EPH requires reporting of four equivalent carbon ranges for each fraction,
- NJDEP EPH requires reporting of results using the DEP EPH calculator.

The method also specifies a hardcopy reporting format which includes raw data and quality control results.

If contingent analysis by SW-846 Method 8270 is needed, the EPH analysis will require accelerated turnaround to satisfy the fourteen (14) day extraction holding time for soil samples.

A seven (7) day EPH turnaround time is typically sufficient for contingent analysis unless samples have been held for several days in the field prior to laboratory receipt. Quicker turnaround may also be needed if EPH analysis has been delayed for any reason. The required fractionation procedure of the new EPH method is a time consuming, labor intensive step, which limits the laboratories ability to perform rapid turnaround analysis.

(By: Joe Garzio, Accutest – 732-329-0200)

RT's Recent Email Blasts

To access our Email Blasts go to our webpage at
http://rtenv.com/email_blast_archive.html

<u>Date</u>	<u>Article-Download</u>	<u>Description</u>
April 21, 2010	RT Becomes New Member to CSHEMA!	The EPA has instituted the Compliance Assistance Initiative for Colleges & Universities
April 14,2010	Business of Brownfields on April 20th &	Justin Lauterbach, presented information on the Raymark Industries/Manheim Redevelopment Site Project — Download the Presentation
April 12, 2010	2010 Mid-Atlantic Annual Environmental	Exclusive Diamond Sponsor for this event Best Management Practices for Stormwater Management Presentation by Justin Lauterback & Gary Brown
April 8, 2010	PA DEP Proposes to Tighten Standards for Arsenic & Benzo(A)Pyrene	Increases in Redevelopment Costs Expected; Clean Fill Impacts Too
March 2, 2010	NJDEP Reopens Comments Period for Many Proposed Rules	Executive Order No. 1 & 3 (2010)

RT ENVIRONMENTAL HELPS TRANSFORM VACANT MT. AIRY, PHILADELPHIA BUILDING INTO MODERN SENIOR APARTMENTS



The Presser Building located at 100 West Johnson Street, in the Mount Airy section of Philadelphia, has been vacant for the past several years. The Presser Building was constructed in the first part of the 20th Century as a retirement home for Retired Music Teachers. The building itself is a testament to Philadelphia architecture of its time, constructed of buff Roman brick and reinforced concrete floors and roof. It features large indoor common areas, recital hall, a kitchen, and several fireplaces. When RT was first contracted to complete a Phase II Environmental Site Assessment, the building was in less than livable condition.

RT conducted several environmental assessments and investigations at the Presser Building property. Because of an oversight from a previous consultant, RT noticed an underground storage tank, utilized for heating oil at the property. The former owner and people familiar with the site were unaware of its presence. RT also conducted subsurface soil investigations at the site to determine if fuel lines coming into the basement of the building were of concern. Based on RT's professional ability and problem solving skills, these potential environmental issues were addressed and extensive renovation of the property started on schedule.

The Presser Building project is now going forward as \$14 million in renovation work is underway to convert the building into 45 affordable senior apartments. This project has already supplied 138 new jobs for Philadelphia construction workers. The redevelopment firm, Nolen Properties, has obtained 100% funding and anticipates being able to start showing units in January, 2011.

Nolen Properties also has purchased the Nugent Building which is located to the south of the Presser Building on the same block of West Johnson Street. Nolen Properties anticipates being able to perform similar renovations to the Nugent Building, transforming the vacant property into 31 affordable senior apartments.

RT has also performed a subsurface soil investigation at the Nugent Building to determine if prior use and adjacent properties have impacted the conditions at the site. Based on RT's investigation, all conditions at the property were determined to not be of environmental concern.

The Nugent Building is planned for renovation in approximately a year. With the progress Nolen Properties and RT Environmental Services, Inc. are making with these two properties, Mount Airy is undergoing renewal and jobs are brought to an area when they are much needed.

(By: Thomas Donovan, Project Manager)

NJ REGULATORY UPDATES

PERMIT EXTENSION ACT RENEWAL

In January, Governor Corzine signed the Permit Extension Act Renewal that would extend most municipal, county and regional approvals to December 31, 2012. For more information on this, you can visit: www.njleg.state.nj.us/2008/Bills/A4500/4347_11.PDF.

DEP ENVIRONMENTAL STANDARDS COMPENDIUM WEB SITE

The NJDEP Standards Consistency Workgroup has put together a compendium of environmental standards at your fingertips, including Drinking Water, Ground Water, Surface Water and Soil Standards. The Web site lists standards by constituent and also has links to all of the standards tables and program web sites. This site will have the most up to date standards for your

reference.

The web site can be found at: www.nj.gov/dep/standards/

ANTI-SPRAWL MEASURE DELAYED AGAIN

An anti-sprawl measure the Legislature tried but failed to delay earlier this year is being put off again by Gov. Chris Christie's administration.

Department of Environmental Protection Commissioner Bob Martin signed an administrative order in March, delaying until April 2011 a waste water management rule the DEP first adopted in 2008. The rule would allow DEP to restrict the extension of septic systems and sewer lines — and therefore development — in environmentally sensitive areas. The same delay was proposed in a bill vetoed in January by then-Gov. Jon

NJ REGULATORY UPDATES

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- EPH Analysis Update, pg. 8

Corzine when the federal Environmental Protection Agency said it could put the state in violation of federal Clean Water rules.

The rule was supposed to take effect last July, but did not because of a time-consuming requirement that the state's 21 counties draft plans outlining existing and potential development as well as all existing or proposed wastewater systems that would handle any growth.

The effective date of the rule already had been pushed back until April 2010, but the counties still have not completed their work.

(Gloucester County Times – 3/30/2010)

HEXAVALENT CHROMIUM

RT has been recently retained by a contractor for a global turbine manufacturer to address the hexavalent chromium (Cr(IV)) exposure to their workers while working at a large power plant project. The new OSHA standard for Cr(IV) requires that sampling of the workplace be conducted when working with materials that contain forms of chromium. The OSHA standard sets a Permissible Exposure Limit (PEL) of 5 ug/m3 and an Action Level for Cr(IV) is 2.5 ug/m3 for an 8 hour day. Additional periodic monitoring is required by OSHA if

levels are detected at the Action Level or above.

Typically, welding, plating and some painting operations can lead to Cr(IV) exposure to the worker. RT is offering compliance services for this new OSHA rule. Air samples are typically taken over an 8-hour day and done so using minimally invasive personnel air pumps and a national recognized laboratory for analysis. Please feel free to contact Burling Vannote or Domenic Marino at RT's New Jersey office if you have any questions

RT HONOR ROLL

This is a new feature in our *RT Review*, it is designed to highlight the accomplishments of our people who help our clients meet their environmental goals!

- Congrats Pittsburgh office on your new retail grocery client!
- Great job Samantha Linton for going above and beyond, special thanks from Becky Irwin and Marie Hitchner for the national retail pharmacy client project!
- Kristin Foldes, Congrats on your special invite to tour the World Trade Center, and working so diligently on the Bellmawr Waterfront Development Site!
- Glenn Graham for all your motivational and professional guidance in the NJ office! (anonymous co-worker)
- Chris Ward and Domenic Marino on your hard work with new retail service station client!
- Great job Jackie Evans on the professional job and dedication on the Gloucester City job and West Deptford job!
- The college email blast looks great, thanks to Robyn Williams!
- Craig Herr, your late hours and weekend work installing monitoring wells at the KOP site has not gone unnoticed. Thank you!
- Walter Hungarter, Larry Bily and Josh Hagadorn- great job on the solar farm projects!
- Tom Donovan, Great job managing the phase I and phase II ESA's, AND working on two UST removal projects!
- Justin Lauterbach, Impressive presentation at the Business of Brownfield Conference!
- Mara Tammaro, Thank you for being available for so many! You are valuable to us all!

TECHNOLOGY UPDATES

NJDEP CERTIFICATION OF TERRE KLEEN HYDRODYNAMIC SEPARATOR

Terre Hill Stormwater Systems announced in March that NJDEP has issued a Certification Letter for the Terre Kleen hydrodynamic separator. This Certification amends the previously issued certification. The Terre Kleen design produces the greatest square footage of sedimentation surface area in the smallest structure footprint, making the Terre Kleen the lowest cost, logical choice for stormwater treatment for TSS removal.

For more information, contact Gene Lamanna at 800-242-1509.

EPA PLANS 'FRACKING' RISK STUDY

EPA announced March 18 that it is launching a study into the potential risks of well drilling fracturing techniques impacting drinking water. This was mandated in the agency's fiscal year 2010 spending law. Nonbinding report language attached to the law called on the agency to "carry out a study on the relationship between hydraulic fracturing and drinking water, using a credible approach that relies on the best available science, as well as independent sources of information." EPA at this time has a draft plan for conducting the study, which is under review.

(EPA – 3/24/2010)

RISING ACIDITY OF OCEANS OF CONCERN

The Environmental Protection Agency is exploring whether to use the Clean Water Act to control greenhouse gas emissions, which are turning the oceans acidic at a rate that's alarmed some scientists.

With climate change legislation stalled in Congress, the Clean Water Act would serve as a second front, as the Obama administration has sought to use the Clean Air Act to rein in emissions of carbon dioxide and other greenhouse gases administratively.

Since the dawn of the industrial age, acid levels in the oceans have increased 30 percent. Currently, the oceans are absorbing 22 million tons of carbon dioxide a day.

Among other things, scientists worry that the increase in acidity could interrupt the delicate marine food chain, which ranges from microscopic plankton to whales.

The situation is especially acute along the West Coast. Northwest winds during the summer cause upwelling, which brings deep water to the surface along the continental shelf from Queen Charlotte Sound in British Columbia to Baja California.

The water in the deep Pacific Ocean is already more acidic than shallower water is because it's absorbed the carbon dioxide that's produced as animals and plants decompose.

Some of the deep water in the Pacific hasn't been to the surface for 1,000 or more years.

By the end of the century, that deep water is expected to be 150 percent more acidic than it is now, and as it's brought to the surface by upwelling, it's exposed to even more carbon dioxide.

"The immensity of the problem on the West Coast is of serious concern," said Richard Feely, an oceanographer with the National Oceanic and Atmospheric Administration in Seattle.

Scientists suspect that acidic water connected with upwelling killed several billion oyster, clam and mussel larvae that were being raised at the Whiskey Creek Shellfish Hatchery near Tillamook on the Oregon coast in the summer of 2008. The hatchery provides baby shellfish to growers up and down the West Coast.

Feely said the oceans' acidity levels were higher than they'd been at any time in the past 20 million years. Based on "pretty good" evidence, Feely said, previous high acid levels in the oceans have caused mass extinctions of marine plants and animals, which can take 2 million to 10 million years to re-evolve.

The Clean Water Act considers high acidity a pollutant, but the standard hasn't been updated since it was written in 1976. The act has been used previously to help combat acid rain and mercury emissions.

In late March, the EPA published a Federal Register notice seeking public comment on whether the Clean Water Act could be used to address ocean acidity.

"It's not 100 percent clear where we go here," Suzanne Schwartz, the deputy director of the EPA's Office of Wetlands, Oceans and Watersheds, said in an interview. "This is not an easy issue. We are trying to figure out how to proceed."

Schwartz said the agency was looking to see whether there were more efficient ways to deal with ocean acidification than using the Clean Water Act. She also said the cleanup mechanism used in the act — controlling total daily maximum loads of pollutants — was aimed more at single sources of pollution

(by Les Blumenthal, Star Ledger, 4/4/2010)

STANDARD FOR GREEN BUILDINGS RELEASED

Several leading organizations in the indoor environmental field have teamed up to produce a definitive new standard for the construction and maintenance of "green buildings".

The International Green Construction Code (IGCC) represents the merger of two existing efforts to develop adoptable and enforceable green building codes.

By combining the two initiatives, the groups hope to draw on the expertise of all the various individuals who work in the green building

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field: architects, building safety professionals, indoor air quality experts, energy and lighting engineers, green buildings practitioners, technical standards developers and others.

The purpose of the IGCC, according to its creators, is to provide the building industry with language that both broadens and strengthens building codes in a way that will accelerate the construction of high performance green buildings across the U.S.

The new effort was announced March 15 by the International Code Council (ICC), the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), the U.S. Green Building Council (USGBC) and the Illuminating Engineering Society of North America (IES).

The IGCC Standard 189.1, is designed to regulate construction of new and remodeled commercial buildings.

For decades, ICC and ASHRAE have worked to develop codes and standards that become the industry standard of care for the design, construction, operations and maintenance of residential and commercial buildings in the U.S. and internationally.

In coordination with the efforts of ICC and ASHRAE, USGBC has been leading a nationwide green building movement centered on the LEED Green Building Rating System since LEED was launched in 2000.

The newly launched code is aimed at establishing a regulatory framework for the construction of high performance commercial buildings that are "safe, sustainable and by the book," the groups said in their announcement.

A crucial part of the technical content of the IGCC is the inclusion of ANSI/ASHRAE/USGBC/IES Standard 189.1, Standard for the Design of High Performance Green Buildings Except Low-Rise Residential Buildings, as an alternate path of compliance.

Standard 189.1 is a set of technically rigorous requirements, which like the IGCC, covers criteria including water use efficiency, indoor environmental quality, energy efficiency, materials and resource use, and the building's impact on its site and its community.

The standard was written by experts representing all areas of the building industry, who contributed tens of thousands of hours. Developed in a little over three years, the standard underwent four public reviews in which some 2,500 comments were received.

The U.S. Department of Energy (DOE), through the National Renewable Energy Laboratory, has made a preliminary estimate

TECHNOLOGY UPDATES (Continued)

based on Standard 189.1 as published. Applying the minimum set of prescriptive recommendations in the standard resulted in site energy savings of 27 percent when compared to earlier standards.

Standard 189.1 requires that each building project be designed to be ready for renewable energy in the future. The prescriptive energy path also normally requires a certain amount of annual energy to be provided by on-site renewable energy systems. This requirement is a small increment but a necessary start toward the goal of net-zero-energy buildings.

The standard is not a design guide or a rating system, though it is hoped that organizations responsible for the development of voluntary building rating systems will integrate this standard into their rating programs. Green building rating systems have been developed for implementation as a voluntary system and not to be implemented as mandatory requirements within a jurisdiction. They often provide a limited number of prerequisites with many optional credits to allow focus on the green building aspects most important to the user of the system.

Standard 189.1 is primarily based on the mandatory requirements (with some elements allowing a choice between a prescriptive or performance options for compliance) that establish baseline criteria for a high-performance green building found in voluntary rating systems.

Also, because Standard 189.1 is a code-intended standard, it references documents that are in normative language, meaning those documents are not just for informative purposes

but are required for compliance with the standard.

For more details on IGCC: <http://www.iccsafe.org/cs/IGCC/Pages/default.aspx>.

For more information on Standard 189.1: www.ashrae.org/greenstandard.

(by Tom Scarlett, Indoor Environment Connections, 4/2010)

HIGH DEFINITION SURVEYS – LIKE AN AS BUILT!

High-Definition Survey (HDS) services utilizing 3D laser scanning technology provides unprecedented speed, accuracy and resolution in field survey and as-built generation. The ultra-high-speed laser collects field measurements up to 300 meters away. The collected data is then represented in a 3D point cloud and can be viewed in a CADD environment to create 3D models, existing conditions plans, elevations and sections for project designers. The cost and time savings of HDS far outweigh that of conventional survey methods.

Why 3D Laser Scanning / High-Definition Survey (HDS)?

- **Time savings**
 - o Faster data collection than conventional survey methods
 - o Quickly and easily generate 2D & 3D deliverables
 - o No need to revisit the site for additional data
- **Safety**
 - o Scanner can collect data from dark, high or restricted areas

- o Reduces the amount of time spent in hazardous locations

- o Does not interfere with normal operations

- **Completeness and accuracy of data**

- o A complete, 3D existing conditions as-built

- o Extremely accurate (within 4-6mm), high level-of-detail and the ability to view and precisely measure as-built conditions, architectural details, building envelope and structural controls

- o Full panoramic photos and 3D file eliminate the need to revisit the site for additional data and provide a reference during project design

- **Enhanced team collaboration & communication**

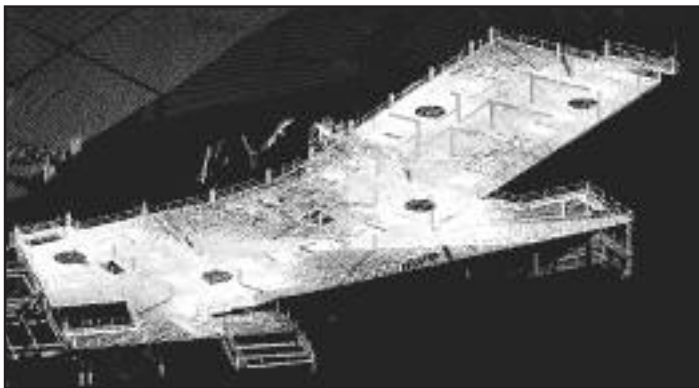
- o Ability to share data amongst design team members throughout the project

- o Understanding of existing surrounding 3D spatial environment and its impact on proposed design

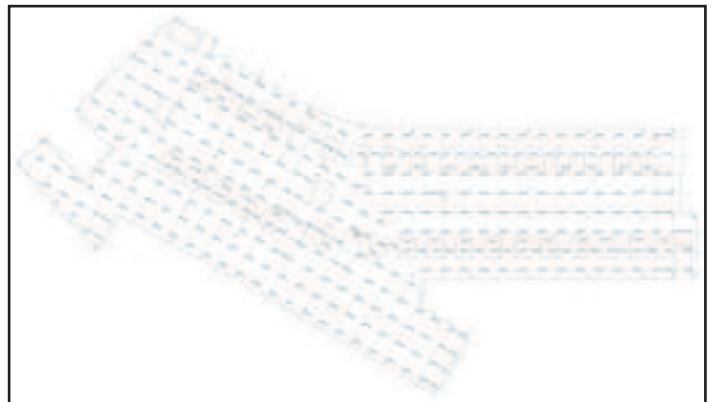
For more information on 3D laser scanning technology and Nave Newell's High-Definition Survey (HDS) services, contact **Tim Brennan, PE** at tbrennan@navenewell.net or 610-265-8323 and be sure to check out our portfolio including many projects that have benefited from laser scanning technology. www.navenewell.com.

Nave Newell, Inc. is a multi-discipline consulting firm that specializes in land development. With 30 professionals, we offer expertise in land planning, civil engineering, land surveying, landscape architecture and 3D laser scanning / high-definition survey (HDS) from our office in King of Prussia, PA.

Capital Health Replacement Hospital



3D Point Cloud



Floor Plan Deliverable

NJDEP – More Friendly?

At RT Review Press Time, NJDEP was undergoing a reorganization to make the Department more "User Friendly".

A key position - Deputy Commissioner was given to Irene Kropp, who worked hard to improve the Site Remediation Program.

Congratulations Irene!

PA UPDATES

DEP PROPOSES OVERHAUL OF NPDES PERMITTING REGULATIONS

On February 13, 2010, the Pennsylvania Environmental Quality Board ("EQB") published for public comment a proposed rulemaking to completely overhaul the existing regulations governing the National Pollutant Discharge Elimination System ("NPDES") permitting program in Pennsylvania. The proposal scraps entirely the current regulations at 25 Pa. Code Chapter 92 and replaces them with a new Chapter 92a, with the stated intent of more closely aligning them with the federal program regulations. However, in addition to reorganizing the regulations, the proposal includes several new provisions, including a fee structure that would substantially increase NPDES permitting fees collected by the Pennsylvania Department of Environmental Protection ("PADEP").

The proposed new fee structure is designed to increase the funds collected from permittees in order to cover the full cost to the Commonwealth of running the program. The proposal states that the Commonwealth currently collects approximately \$750,000 in fees and the new system would increase that amount to approximately \$5 million. Pennsylvania proposes to replace the existing \$500 permit application fee, paid every 5 years, with a framework of generally higher initial application fees as well as new annual fees. The annual fees will vary with the type of discharge (sewage, industrial waste, etc.) and the design flow of the facility. For example, the annual fee for a major industrial facility with a design flow of less than 250 million gallons per day ("MGD") would be \$5,000 and would jump to \$25,000 for larger design flows. Application fees for those types of facilities would be \$10,000 and \$50,000, respectively. Stormwater permits would carry a \$2,000 application fee and a \$1,000 annual fee.

In addition to reorganizing the regulation and incorporating federal requirements by reference, the proposal includes several new provisions. These include, among others, provisions addressing cooling water intake structures and federal Clean Water Act Section 316(b) compliance, notification of new or increased discharges, stormwater discharges, new permits-by-rule for pesticide application and for single-residence sewage treatment plants, new treatment requirements for sewage (including a tertiary treatment standard for certain discharges) and for industrial wastewaters (CBOD5 and TSS), consideration of local planning and zoning ordinances in permit application review, concentrated aquatic animal production, reissuance of expiring permits, and more.

(Manko Gold Katcher & Fox Special Alert – 3/10/2010)

PROPOSED AMENDMENTS TO PENNSYLVANIA'S STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL REGULATIONS Eliciting Strong Comment

The Pennsylvania Department of Environmental Protection ("PADEP") is pressing

forward with efforts to finalize highly controversial and significant changes to Pennsylvania's regulations governing erosion and sedimentation control measures set forth in 25 Pa. Code Chapter 102. The proposed regulations not only revise existing requirements pertaining to erosion and sedimentation controls, but add, among other things, an array of new provisions (1) governing the management of stormwater discharges during construction activities, (2) imposing long term obligations to manage stormwater discharges following the completion of construction activities, and (3) requiring the creation and maintenance of forested riparian buffers in certain instances as a condition to receiving permits to proceed with activities that will result in earth disturbances. It appears that PADEP is focused on attempting to ensure that the proposed regulations are finalized and in effect prior to the gubernatorial election later this year.

The Pennsylvania Environmental Quality Board ("EQB") published the proposed regulations in the Pennsylvania Bulletin in late August 2009 triggering a 90-day public comment period. The EQB received more than 1,300 comments concerning the proposed regulations from a broad array of entities that will be directly affected by the proposed changes and from various watershed associations and private citizens generally supporting the proposed changes. In addition, many state legislators submitted comments regarding the proposed regulations. A number of other governmental entities such as the Pennsylvania Department of Transportation and the Pennsylvania Department of Conservation and Natural Resources likewise submitted comments. These comments highlight the far reaching impacts that the proposed regulations will have in Pennsylvania, encompassing almost any activity that involves earth disturbances including agricultural operations, construction projects, infrastructure projects, and maintenance activities.

On December 30, 2009, the Pennsylvania Independent Regulatory Review Commission ("IRRC") issued to the EQB detailed comments going to the very core of the proposed regulations. For example, IRRC raised significant questions as to whether the proposed regulations are in the public interest, challenged the cost-benefit analysis that PADEP proffered in support of the proposed regulations and questioned the basic need for regulatory changes. In addition, IRRC highlighted many elements of the proposed regulations that are poorly drafted, impose unreasonable burdens on the regulated community and/or appear to be unwarranted. The comments prepared by IRRC will help to frame many of the battles that are likely to take place during the coming weeks.

Three elements of the proposed regulations in particular appear to be engendering substantial controversy – (1) the inclusion of a permit-by-rule ("PBR") for earth disturbance activities and associated stormwater discharges, (2) the imposition of post-construction stormwater management requirements that apply in perpetuity, and (3) the requirement that earth disturbance

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activities requiring permits in areas along certain special protection waterways be predicated on the creation and maintenance in perpetuity of riparian forest buffers at least 150 feet wide. The policy considerations underlying these elements of the proposed regulations reflect a marked shift in emphasis. The current regulations impose requirements that apply during earth disturbance activities to protect water quality. The proposed regulations are dramatically broader in scope, containing requirements for managing stormwater and protecting water quality that apply in perpetuity after the earth disturbance activities have been completed. As such, the proposed regulations may create tremendous stumbling blocks for projects that even PADEP would desire to encourage. Moreover, the long-term consequences of imposing obligations that survive in perpetuity have not been adequately evaluated by PADEP and the EQB.

Given the depth and breadth of the concerns surrounding the proposed regulations, IRRC has strongly recommended that after carefully addressing the multitude of issues that have been raised, the EQB publish an advanced notice of final rulemaking providing an opportunity for additional public comment regarding the revised form of the proposed regulations before attempting to finalize the regulations. PADEP appears to have decided not to do this and appears to be planning to move ahead with finalizing the proposed regulations with the objective of presenting the final regulations to the EQB for approval at the EQB's meeting on June 15, 2010.

Preliminary indications suggest that while PADEP intends to make some changes to the proposed regulations (such as abandoning the proposed PBR option), it intends to retain and even expand other highly controversial components of the proposed regulations (such as the requirements to create and maintain riparian buffers).

(By Michael Meloy – Manko Gold Katcher and Fox – 3/2010)

Justin Lauterbach and Gary Brown presented information on these revisions at the PA Chamber of Business and Industry Mid-Atlantic Environmental & Energy Conference in Harrisburg in April.

**PA Contractors –
DEP Has Proposed to Make
Clean Fill/Arsenic/PAH
Standard More
Stringent - See our
4/8 Email Blast
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PENNSYLVANIA BULLETIN NOTICES

Final: Guidelines for the Development and Implementation of County Municipal Waste Management Plan Revisions	1/2/2010
Large Appliance and Metal Furniture Surface Coating Processes; The Environmental Quality Board Proposed to Amend Chapter 129; The purpose of this proposed rulemaking is to reduce VOC emissions from large appliance and metal furniture surface coating operations.	1/16/2010
Notice of Comments Issued: Environmental Quality Board Erosion and Sediment Control and Stormwater Management; IRRC Comments Issued	1/16/2010
Final: Advanced Notice of Final Rulemaking for the Administration of the Water and Wastewater Systems Operators' Certification Program	1/23/2010
Oil and Gas Wells; Department of Environmental Protection is soliciting comments on proposed changes o its regulations for the construction of oil and gas wells, updated casing and cementing requirements will provide an increased degree of protection for both public and private water supplies.	1/30/2010
Proposed Revisions to the State Implementation Plan for the Philadelphia-Wilmington, PA-NJ-DE Fine Particulate and Philadelphia-Wilmington-Atlantic City, PA-NJ-DE 8-GHour Ozone Nonattainment Areas	2/6/2010
Final Minor Revision: Pennsylvania Combined Sewer Overflow (CSO) Policy	2/6/2010
National Pollutant Discharge Elimination System (NPDES) Permitting, Monitoring and Compliance; The Environmental Quality Board (Board) proposes to rescind 25 Pa. Code Chapter (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance) and replace it with a new Chapter 92a of the same name. This chapter describes the process that the Department of Environmental Protection (Department) uses to issue National Pollutant Discharge Elimination System (NPDES) permits for point source discharges of treated wastewater and stormwater, to meet the requirements of the Federal Clean Water Act (33 U.S.C.A 691.1-691.1001). The 1251-1387) and The Clean Streams Law (35 P.S. §§?§§ primary goal of the proposed rulemaking is to reorganize the existing Chapter 92 so that it will be consistent with the organization of the companion Federal regulations as set forth in 40 CFR Part 122 (relating to EPA administered permit programs: the National Pollutant Discharge Elimination System). This general reorganization is extensive, and it requires that Chapter 92 be replaced with a new chapter, Chapter 92a, to avoid confusion. A new NPDES permit fee structure designed to cover the Commonwealth's share of the cost of running the NPDES program is being proposed. Several new provisions to incorporate recent new requirements in the Federal program are also proposed. Certain treatment requirements are proposed to be added or reorganized to standardize the Department's approach to discharges of treated sewage and industrial wastewater.	2/13/2010
Tentative Order: Interim Guidelines for the Filing of Electronic Transmission Line Siting Applications; Doc. No. M-2009-2141293	2/13/2010
Land Recycling Program; The Environmental Quality Board (Board) proposes to amend Chapter 250 (relating to Administration of Land Recycling Program). The amendments update the Statewide health standards by using current Environmental Protection Agency (EPA) guidance and updated toxicological information. The proposal also corrects errors and codifies certain established policies into regulation.	3/6/2010
Proposed Rulemaking to Amend Schedule of Water Charges	3/6/2010
Coal Mining Program Amendments Proposed Rulemaking; It is proposed to amend 25 Pa. Code §§ 86.1 (relating to definitions), 86.5 (relating to extraction of coal incidental to non-coal surface mining), 86.36 (relating to review of permit applications), 86.37 (relating to criteria for permit approval or denial), 86.62 (relating to identification of interests), 86.103 (relating to procedures), 86.129 (relating to coal exploration on areas designated as unsuitable for surface mining), 86.133 (relating to general requirements), 86.159 (relating to self-bonding), 86.165 (relating to failure to maintain a proper bond), 86.281(c), (d) and (e) (relating to financial guarantees to insure reclamation-general), 86.282 (relating to participation requirements), 86.283 (relating to procedures), 86.284 (relating to forfeiture), 87.112 (relating to hydrologic balance: dams, ponds, embankments and impoundments—design, construction and maintenance), 88.321 (relating to disposal of noncoal wastes), 89.111 (relating to large impoundments), 90.112 (relating to hydrologic balance: dams, ponds, embankments and impoundments—design, construction and maintenance) and 90.133 (relating to disposal of noncoal wastes)	3/16/2010
Final: Form Amendments to 25 Pa. Code Chapter 145, Subchapter C; Control of NOx Emissions from Cement Kilns; The Department of Environmental Protection (Department) recommends final-form amendments to Subchapter C (relating to emissions of NOx from cement manufacturing) under 25 Pa. Code Chapter 145 (relating to interstate pollution transport reduction) for consideration by the Environmental Quality Board (Board)	3/16/2010
Final: Final-form Amendments to 25 Pa. Code Chapters 121 and 129; Control of NOx Emissions from Glass Melting Furnaces; The Department of Environmental Protection (Department) recommends final-form amendments to 25 Pa. Code Chapters 121 and 129 (relating to general provisions; and standards for sources) for consideration by the Environmental Quality Board (Board) for the reduction of nitrogen oxide (NOx) emissions from glass melting furnace facilities	3/16/2010
Acceptance of Rulemaking Petition for Study; A petitioner claims that it is problematic if not difficult to ascertain the ownership or the right of a purveyor of a water supply, thus making it difficult to notify these parties. The petitioner proposed to amend 25 Pa. code Chapter 78 (relating to oil and gas wells) to add a provision that would "deem" the well operator to have been refused access to test the supply if the operator sends two separate certified letters to the water supply owner and the owner either refuses to accept the letters or the letters are unclaimed or are undeliverable.	3/27/2010
Board of Coal Mine Safety Acceptance of Rulemaking Petition for Study	4/3/2010
Proposed Change in Guidance; Blasting Near Utility Lines on Mining and Construction Sites and Bituminous Coal Mining Within the Right-of-Way or Easement of Utility Lines. This guidance is being revised to provide better protection to underground or overhead utility lines from the effects of blasting.	4/5/2010
Final: Environmental Laboratory Accreditation; Order	4/10/2010
Dam Safety and Waterway Management; The Environmental Quality Board (Board) proposes to amend 25 Pa. Code, Chapter 105 (relating to Dam Safety and Waterway Management). The proposed amendments address the findings from an audit of the Dam Safety Program (Program) by the Auditor General's office, clarify existing sections, as well as amend outdated sections.	04/24/2010

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

Environmental Protection Agency Primary National Ambient Air Quality Standards for Nitrogen Dioxide; EPA is establishing a new 1-hour standard at a level of 100 ppb, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations, to supplement the existing annual standard. EPA is also establishing requirements for an NO₂ monitoring network that will include monitors at locations where maximum NO₂ concentrations are expected to occur, including within 50 meters of major roadways, as well as monitors sited to measure the area-wide NO₂ concentrations that occur more broadly across communities; Final Rule

(Federal Register – 2/9/2010)

Environmental Protection Agency; Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5}); Notice of Proposed Rulemaking To Repeal Grandfathering Provision and End the PM₁₀ Surrogate Policy; Proposed Rule

(Federal Register – 2/11/2010)

Environmental Protection Agency; Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Proposal for Additional Stay; Proposed Rule

(Federal Register – 2/11/2010)

Council of Environmental Quality National Environmental Policy Act (NEPA) Draft Guidance, Establishing, Applying, Revision Categorical Exclusions Under the National Environmental Policy Act; Notice of Availability

(Federal Register – 02/23/2010)

Environmental Protection Agency Hydrogen Sulfide; Community Right-to-Know Toxic Chemical Release Reporting; Intent to consider lifting administrative stay; Opportunity for public comment

(Federal Register – 02/26/2010)

Environmental Protection Agency; Hydrogen Sulfide; Community Right-to-Know Toxic Chemical Release Reporting; EPA is announcing that it is considering whether to lift the Administrative Stay of the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313 toxic chemical release reporting requirements for hydrogen sulfide (Chemical Abstracts Service Number (CAS No.) 7783-06-4)

(Federal Register – 2/26/2010)

Environmental Protection Agency; National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; Final Rule

(Federal Register – 3/3/2010)

Environmental Protection Agency; Hazardous Waste Technical Corrections and Clarifications Rule; The Environmental Protection Agency (EPA or the Agency) is taking Direct Final action on a number of technical changes that correct or clarify several parts of the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations that relate to hazardous waste identification, manifesting, the hazardous waste generator requirements, standards for owners and operators of hazardous waste treatment, storage and disposal facilities, standards for the management of specific types of hazardous waste and specific types of hazardous waste management facilities, the land disposal restrictions program, and the hazardous waste permit program. These changes correct existing errors in the hazardous waste regulations that have occurred over time in numerous final rules published in the Federal Register, such as typographical errors, incorrect or outdated citations, and omissions. Some of the corrections are necessary to make conforming changes to all appropriate parts of the RCRA hazardous waste regulations for new rules that have since been promulgated. In addition, these changes clarify existing parts of the hazardous waste regulatory program and update references to Department of Transportation (DOT) regulations that have changed since the publication of various RCRA hazardous waste final rules.

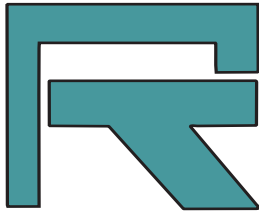
(Federal Register – 3/18/2010)

Environmental Protection Agency Polychlorinated Biphenyls (PCBs); Reassessment of Use of Authorizations; EPA issued an ANPRM for the use and distribution in commerce of certain classes of PCBs and PCB items and certain other areas of the PCB regulations under the Toxic Substances Control Act (TSCA). EPA is reassessing its TSCA PCB use and distribution in commerce regulations to address: The use, distribution in commerce, marking, and storage for reuse of liquid PCBs in electric and non-electric equipment; the use of the 50 parts per million (ppm) level for excluded PCB products; the use of non-liquid PCBs; the use and distribution in commerce of PCBs in porous surfaces; and the marking of PCB articles in use. Also in this document, EPA is also reassessing the definitions of "excluded manufacturing process," "quantifiable level/level of detection," and "recycled PCBs." EPA is soliciting comments on these and other areas of the PCB use regulations. EPA is not soliciting comments on the PCB disposal regulations in this document; Advance Notice of Proposed Rulemaking

(Federal Register – 4/7/2010)

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RT E-MAIL DIRECTORY

LARRY BILY	LBILY@RTENV.COM	WALTER HUNGARTER	WHUNGARTER@RTENV.COM
GARY BROWN	GBROWN@RTENV.COM	JUSTIN LAUTERBACH	JLAUTERBACH@RTENV.COM
THOMAS DONOVAN	TDONOVAN@RTENV.COM	DOMINIC MARINO	DMARINO@RTENV.COM
KRISTIN FOLDES	KFOLDES@RTENV.COM	LISA MASCARA	LMASCARA@RTENV.COM
GLENNON GRAHAM	GGRAHAM@RTENV.COM	CHRIS WARD	CWARD@RTENV.COM
CRAIG HERR	CHERR@RTENV.COM	BURLING VANNOTE	VANNOTE@RTENV.COM

VISIT OUR WEBSITE [WWW. RTENV.COM](http://WWW.RTENV.COM)



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