



Equity Environmental Engineering Newsletter

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In This Issue

[EPA News](#)

[New Jersey](#)

[New York](#)

[New York City CEOR](#)

[Pennsylvania](#)

Quick Links

[Register Now](#)

[News](#)

[More About Us](#)



EPA News

EPA Announces 2010 Enforcement and Compliance Results / More than 1.4 billion pounds of harmful air, land, and water pollution to be reduced

The U.S. Environmental Protection Agency (EPA) announced the release of its annual enforcement and compliance results. In fiscal year (FY) 2010, EPA took enforcement and compliance actions that require polluters to pay more than \$110 million in civil penalties and commit to spend an estimated \$12 billion on pollution controls, cleanup, and environmental projects that benefit communities. EPA's civil enforcement actions for violations of the Clean Air Act alone will account for the reduction of an estimated 400 million pounds of air pollution per year. EPA's criminal enforcement program opened 346 new environmental crime cases in FY 2010. These cases led to 289 defendants charged for allegedly committing environmental crimes, the largest number in five years, 198 criminals convicted and \$41 million assessed in fines and restitution. This year's annual results include an enhanced mapping tool that allows the public to view detailed information about the enforcement actions taken at more than 4,500 facilities that concluded in FY 2010 on an interactive map of the United States and its territories. For more info, click the link:

<http://yosemite.epa.gov/opa/admpress.nsf/e77fdd4f5afd88a3852576b3005a604f/78264683b1a9874e852577f10059b840!OpenDocument>

EPA Awards Grant to Protect the Barnegat and Delaware Estuaries

The U.S. Environmental Protection Agency (EPA) awarded nearly \$400,000 to Ocean County College to evaluate the health of Barnegat Bay's coastal marshes. The grant will also allow the college to assess the ability of the marshes to perform natural functions that benefit coastal communities. For more info, click the link:<http://yosemite.epa.gov/opa/admpress.nsf/d10ed0d99d826b068525735900400c2a/a7a53a4797a07e0e852577e00067cb59!OpenDocument>

EPA Fines Drew University for Hazardous Waste Violations

Drew University has agreed to pay \$145,000 to the U.S. Environmental Protection Agency (EPA) for failing to properly manage hazardous waste at its Madison, N.J. campus. In 2007, the university had self-reported violations to EPA and corrected the violations. For more info, click the link:<http://yosemite.epa.gov/opa/admpress.nsf/d10ed0d99d826b068525735900400c2a/d86caf597f85abd08525780f006d6691!OpenDocument>

EPA Issues Annual Report on Chemicals Released Into Land, Air and Water in New Jersey; DuPont Chambers Works, Conoco Phillips and Mercer Generating Station Top the List of NJ Polluters

The annual U.S. Environmental Protection Agency (EPA) report on the amount of toxic chemicals released to the land, air and water by industrial facilities in New Jersey State in 2009 showed a decrease over the past reporting year. The Toxics Release Inventory report issued today by EPA covered 430 New Jersey facilities that are required to report their

releases to the Agency. Total releases to land, air and water by these facilities decreased by nearly 34% from 15.9 million pounds in 2008 to 10.5 million pounds in 2009. For more info, click the link:

<http://yosemite.epa.gov/opa/admpress.nsf/e77fdd4f5afd88a3852576b3005a604f/f31ef41ecc6ee24c852577fb00710899!OpenDocument>

If you would like more information on this topic, please contact Peter Jaran at peter.jaran@equityenvironmental.com

Dear Peter,

Belated Happy New Year! We hope that 2011 started off on a positive note professionally and personally. Because of the short day, typically dreary weather, and post-holiday blues, "they" say that January 17 is one of the worst days of the year psychologically. So; the best is yet to come!

We hope you find this regulatory newsletter informative and useful in your practice. Our staff has provided updates from USEPA, New Jersey, New York State, New York City, and Pennsylvania.

New Jersey

Enough LSRP news already!

The Permit Extension Act of 2008, had extended applicable permits up to December 31, 2010. The Act was modified on January 18, 2010 and now extends some permits until June 30, 2013. The NJDEP has updated it's website to include the revisions to the Act. As of April 1, 2010, the Department has reviewed 2417 permit extension applications which resulted in 1099 extensions of permit deadlines. <http://www.state.nj.us/dep/pcer/extension.htm>

How many of you have read the NJDEP's Transformation Plan. The plan details how the NJDEP plans to change its mission and function. The 30 page document provides details on 18 tasks that it will undertake to modify how it operates over the next several years.

<http://www.state.nj.us/dep/commissioner/2010transformationplan.pdf>

On November 7, 2005, the New Jersey Department of Environmental Protection (NJDEP) readopted the NJ Ground Water Quality Standards (GWQS). Since that time certain listed compounds now have lower laboratory method detection limits (MDLs) than the previous

GWQS. Select NJ certified laboratories perform an additional analysis (such as EPA Method 8270C Selected Ion Monitoring {SIM}) to achieve the new lower MDLs. The 8270 SIM analysis covers the required limits for hexachlorobenzene, ideno(1,2,3-cd)pyrene, dibenzo(a,h)anthracene, benzo(k) fluoranthrene, benzo(b)fluoranthene, benzo(a)pyrene, and benzo(a)anthracene. For Target Compound List (TCL) Volatile Organic Compounds (VOCs) such as ethylene dibromide and 1,2-dibromo-3-chloropropane, select NJ approved laboratories utilize EPA Method 8011 to achieve the lower MDLs. In some projects where compounds of interest require the lower MDLs the cost to run the additional SIMs and/or 8011 analysis increases the overall fee per sample. Project managers should always check with the NJDEP Case Manager to confirm the applicability of the readopted GWQS to a projects' specific case. Refer to the following link for more information on New Jersey's Remediation Standards. <http://www.state.nj.us/dep/srp/regs/rs/>

If you want more information on this topic please contact Robert M. Fry at robert.fry@equityenvironmental.com

New York State

New York State Proposes New Environmental Review Forms

The Department of Environmental Conservation has released draft Model Environmental Assessment Forms for public comment through February 18th. These are the forms that are completed for actions taken by State agencies or agency approvals of private projects, that are subject to the State Environmental Quality Review Act (SEQRA).

Both the Short Form, typically used for unlisted actions, and the Full Form used for Type I actions and some unlisted actions, have been revised and updated to address a wider range of government actions subject to environmental review, such as planning, policy, and local legislative actions not associated with a particular physical project. Additionally, the forms are intended to reflect growing interest in issues such as climate change and energy conservation, environmental justice, smart growth, and pollution prevention, and to have a clearer format and be compatible with electronic media.

The proposed forms are available at:

<http://www.dec.ny.gov/permits/70293.html>

If you would like more information on this topic, please contact Jim Heineman at jim.heineman@equityenvironmental.com

New York City

CEQR and the Learning Curve - When Does Knowledge Utilization Begin?

It has been said that there are five stages of human learning:

- Stage 1: Experience provides Data
- Stage 2: Data is assessed and turned into Information
- Stage 3: Information over time becomes Knowledge
- Stage 4: Knowledge hopefully becomes Wisdom
- Stage 5: But can Wisdom become Common Sense?

There is a huge library of accumulated data and information gathered during the formative and adolescent years of the "Golden Age of CEQR^[1]" (1977 to 1998). This wealth of information has become institutional knowledge, resident in the professional staffs of NYC agencies and the consulting community involved in the day-to-day CEQR process. Unfortunately, this wealth of institutional knowledge is an underutilized resource. The growth process has been stalled just before entering Stage 4.

According to the Technical Manual, the purpose of CEQR is to determine whether a project may have a significant adverse impact on the environment in the context of New York City. "For any determination, *the significance of a likely effect of a proposed project* (i.e., whether it is material, substantial, large or important) should be assessed in connection with" the setting, probability of adverse impact, duration of the impact, its irreversibility, geographic scope, magnitude, and number of people affected. (Emphasis has been added because nearly all of the potentially significant adverse outcomes for most CEQR assessments is *likely known*.)

However, I am constantly amazed when this wealth of knowledge is not allowed to present itself as wisdom. Instead, the CEQR process finds itself mired down and forced to make "defendable decisions", decision that are strictly process based. Decisions made for the "court", not for the environment, not for the Lead Agency, and not for the expediting of decision-making or providing meaningful, relevant information to community residents and other stakeholders in the land use approval process.

These tough economic times require a new approach. The gained wisdom needs to expedite creative decision-making, breaking the backlog of projects, and reducing the innate costs of "doing" CEQR. How many projects are about to celebrate their second if not third or fourth anniversaries stuck in the queue? How can the process be improved?

- As an artifact of bulletproofing, how many projects have been forced to complete expensive and costly additional analyses to demonstrate that an impact was "not significant?" Most thresholds are fickle ... is it really necessary to spend many hours and many dollars on detailed quantitative analysis each time a threshold is exceeded, even when the reviewers, based on their accumulated years of experience, are quite confident that ultimately no impact will be identified? Read here, use of professional judgment.
- Build known and reliable mitigation methods into the project descriptions to avoid significant adverse impacts. If the solution to 99.5% of the sites where petroleum contamination is suspected is a liner and sub-slab venting for hazardous materials issue, incorporating these measures into the building design at the outset, rather than after a prolonged investigation whose outcome is a foregone conclusion, would be just as effective in safeguarding project occupants. This will speed up the review process.
- Most projects are not unique with unique significant adverse impacts. In 98 percent of all CEQR reviews, collecting more data does not provide more information. It only delays the completion of the review.

Valuable staff resources, always in short supply, are now in shorter supply because of staff reductions. This

contributes to making CEQR a process that is slow, expensive, and unpredictable; a process that has few supporters or allies. Yes, the outcome is "always" bulletproof, but at what cost?

[1] CEQR: The New York City Environmental Quality Review process was created in 1973, and reformulated three times, the last in 1991.

For more information on this topic please contact Mark London at

mark.london@equityenvironmental.com

NYCDEP Parking Lot Stormwater Pilot Project

The NYCDEP recently announced the launch of the Stormwater Pilot Program for stand-alone parking lots, that requires parking lot owners to pay a charge for the stormwater runoff they produce, or demonstrate that they are addressing stormwater on site with green infrastructure or other measures. This Stormwater Pilot Program was a component of the Fiscal Year 2011 Water Rate, and it complements the NYC Green Infrastructure Plan unveiled by Mayor Bloomberg last September. http://www.nyc.gov/html/dep/html/press_releases/11-04pr.shtml

Pennsylvania

DEP's Newly Designated Critical Water-Planning Areas to Better Protect Resources Threatened by Water-Use Demands

The three newly designated planning areas include Laurel Hill Creek and Back Creek in the Ohio Basin, and the combined Marsh Creek and Rock Creek watersheds in the Potomac Basin. The DEP is placing this designation on these watersheds because the existing or future demand on them exceeds or threatens to exceed their supply. DEP will work with local critical area advisory committees and the regional water resources committees to develop a voluntary critical-area resource plan for each watershed. For more information, visit www.pawaterplan.dep.state.pa.us.

PA Ready to Help Clean Up Chesapeake Bay State's Comprehensive Cost-Effective Plan to Build on Significant Past Pollution Reductions, Keep Industries Viable

Now that the U.S. Environmental Protection Agency has outlined its final "pollution diet" for states in the Chesapeake Bay watershed, Pennsylvania's top environmental and agriculture officials say the state is ready to do its part to improve water quality. Pennsylvania's Watershed Implementation Plan, or WIP, calls for continuing existing programs that have proven effective and, in some cases, improving the capacity to track and expand those efforts; implementing new programs that take advantage of advanced and innovative technologies; and enhancing common sense compliance efforts, particularly for nonpoint sources such as agriculture and stormwater runoff from development. For more information, visit www.depweb.state.pa.us, keyword: Chesapeake Bay.

DEP Releases Report on the Evaluation of Total Particulate Matter Emissions from Coal-Fired Electric Generation Units

The DEP released a report that evaluates the emission control technologies for both filterable and condensable portions of particulate emissions. The study was conducted to determine the quality and accuracy of total particulate matter (TPM) emissions from coal-fired electric generating units (EGU) including waste coal-fired power plants. The final report is available on the DEP's web site at <http://www.dep.state.pa.us/dep/deputate/airwaste/aq/default.htm>.

Land Recycling Program

The Environmental Quality Board has amended Chapter 250 relating to the administration of the Land Recycling Program updating the Statewide Health Standards (SHS) using EPA guidance and updated toxicological information. For further information contact Troy Conrad/Director of Land Recycling Program (717)-783-7816.

Dam Safety and Waterway Management

The Environmental Quality Board has amended Chapter 105 relating to dam safety and waterway management. The amendments are the result of an audit program conducted by the Auditor General's office and to incorporate amendments to strengthen the program. For further information contact Roger Adams/Division of Dam Safety (717)-772-5951.

If you would like more information on this topic, please contact Bob Jackson at bob.jackson@equityenvironmental.com

One of the reasons that we are dedicating this newsletter to regulatory updates is that they are in flux. It seems that over the last year the amount of regulatory activity has increased dramatically. In our busy world, it is often difficult to stay up on the latest changes. Hopefully, you found our updates helpful. If you are interested in additional information on any of the topics presented, please email the person at the end of the article.

Looking forward to Spring,

Peter Jaran
Equity Environmental Engineering LLC