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Recent Developments

EPA Releases Facility-Level TRI Data In Effort to Allow Quicker Public Access

The Environmental Protection Agency on Nov. 17 released facility-level Toxic Release Inventory data for 2004 as part of an ongoing effort to more quickly move the raw data the agency receives into the public domain. The facility-level data is being released through EPA's Electronic Facility Data Release (e-FDR), which displays TRI data essentially as the data on chemicals releases were received by EPA from thousands of industrial plants and other sites.

This is the second year EPA has offered an early release of the raw data. It unveiled the initial e-FDR release in November 2004, which covered total industry releases for 2003. The TRI, created under the Emergency Planning and Community Right to Know Act of 1986, covers nearly 25,000 facilities and more than 650 chemicals emitted in the United

States. Information about the e-FDR facility level data, including instructions for accessing the data, is available at <http://www.epa.gov/tri-efdr>.

EPA Extends Comment Deadline for TRI Rule

The Environmental Protection Agency announced Nov. 29 an extension in the comment deadline, until Jan. 13, for its proposed Toxics Release Inventory burden reduction rule (70 Fed. Reg. 71,448). The original deadline was Dec. 5. The comment period is being extended in response to comments received from several environmental and citizen organizations, EPA said. The proposed revision of certain requirements for the TRI was intended to reduce burdens on manufacturers related to the reporting of individual chemicals. As proposed in September, the rule would shorten the TRI reporting form and could ease the paperwork reporting burden for about 8,000 business. ABA has lobbied this issue by meeting with EPA staff and other government offices to support the alternate year reporting and continued efforts to make the forms shorter and simpler. For more information, contact Marc Edmonds, EPA's Toxics Release Program Inventory Division, at (202) 566-0758 or at edmonds.marc@epa.gov.

EPA Shuts Down EDOCKET System, Directs Users to Governmentwide Site

The Environmental Protection Agency has shut down EDOCKET, the agency's electronic public docket and comment system and is now directing Internet users to a governmentwide website. Until Nov. 25, EPA maintained the EDOCKET site as a central clearinghouse for detailed information about all of the agencies rulemakings, as well as other agency actions, such as information collections.

EPA said in a statement Nov. 28 that all federal entities with rulemaking responsibilities will be brought onto the governmentwide "regulations.gov" site by the end of 2006.

The EDOCKET site contained all public comments received, as well as internal background documents that illustrated how a rulemaking was developed. The site posted hundreds of thousands of documents about thousands of rulemakings. However, users attempting to access the EDOCKET site Nov. 28 at <http://docket.epa.gov/edkpub/index.jsp> were presented with this message: "EDOCKET No Longer Available. As of Friday, November 25, 2005 at 8 am, EDOCKET is permanently unavailable. If you would like to submit an electronic comment for an EPA docket, please visit the Federal Docket Management System (FDMS) at www.regulations.gov."

Edited BNA Steven D. Cook.

EPA Proposes Revised General Permits For Industrial Stormwater Dischargers

The Environmental Protection Agency proposed revised general permits Dec. 1 for stormwater discharges from industrial facilities in five states to replace permits that expired Oct. 30 (70 Fed. Reg. 72,116). In its notice, EPA proposed revisions to the draft general permits, also known as multisector general permits, that were last issued Oct. 30,

2000, under the Clean Water Act's National Pollutant Discharge Elimination System program.

Once finalized, the multisector general permits would apply to 3,500 facilities spanning 29 industrial categories and located in five states, territories, and most tribal areas that lack the authority to issue their own NPDES permits, according to EPA. Alaska, Idaho, Massachusetts, New Hampshire, and New Mexico, as well as Washington, D.C., will be subject to the newly revised general permits.

The changes that EPA is making to the 2000 multisector general permits pertain to improved monitoring, recordkeeping, training, and inspections of stormwater discharges at industrial sites. In the 2000 multisector general permit, EPA required industrial facilities to develop stormwater pollution prevention plans. Now, EPA is proposing that industries not only develop, but also implement stormwater pollution prevention plans.

To ensure that industrial facilities implement the plans, EPA is requiring quarterly monitoring reports for the first year the permit is in effect. But industries with an average of four monitoring events that do not exceed benchmark are eligible for waivers for the remainder of the permit term. A benchmark is a pollutant concentration in stormwater discharge that could potentially impair or contribute to impairing water quality, according to EPA. The agency uses benchmarks as indicators to see how well an industry is implementing its stormwater pollution prevention plan.

Also added in the 2006 multisector general permit for the first time are benchmark monitoring requirements for total suspended solids.

New industrial facilities that do not wish to wait for the final new general permits can obtain individual permits, which take longer to process. Existing facilities will continue to operate under the 2000 permit, which will remain in force until EPA finalizes the 2005 multisector general permit. At this time, industries will be required to submit notices of intent to obtain the newly revised permits.

The agency will accept written and oral comments at the meeting as well as other comments submitted by Jan. 16. More information on the draft multisector general permit and meetings is available from Jennifer Molloy at (202) 564-1939 and at <http://www.epa.gov/npdes/stormwater>.

Edited BNA Amana H. Saiyid.

Mexico- Senate Amends Waste Management Law To Close Loophole, Strengthen Enforcement

Mexico's Senate has approved changes to a two-year-old law on waste management that are designed to close a legal loophole currently being used by some firms to avoid fines and compliance. Constitutional questions surrounding the waste law have kept Mexico's environmental authorities from fully enforcing it.

The General Law for the Prevention and Integrated Management of Waste, which was published Oct. 8, 2003, establishes a coordinated national policy on the management of all types of waste, including urban solid waste, waste requiring special handling, and hazardous waste.

The changes approved Nov. 17 by the Senate were contained in three bills approved in April by the Federal Chamber of Deputies (lower house). Senators removed several proposals made by lower house lawmakers, and the revised bill will now return to the Chamber of Deputies.

The reforms add to the Waste Management Law a specific provision detailing maximum fines and outlining the rights of authorities to issue written orders to violators. The orders may require remediation, set a time frame for compliance, and impose fines. Further provisions give authorities the right to monitor compliance through on-site visits and by issuing new orders or further fines.

The reforms aim to close a loophole in the current law, which refers to the older General Law of Ecological Balance and Environmental Protection (LGEEPA) for specific sanctions for crimes instead of listing possible sanctions within the waste law itself, the committee wrote.

Congressional Resolution Would Direct House, Senate to Recycle Used Electronics

Rep. Mike Thompson (D-Calif.) introduced a resolution Nov. 15 that would direct the House and Senate to coordinate efforts to recycle and reuse obsolete computers and electronic equipment. The resolution would express the sense of the Congress that leaders of Congress and others in the legislative branch should join in establishing and implementing a coordinated program for the reuse, recycling, and appropriate disposal of obsolete computers and electronic equipment.

Thompson is a founder of the congressional E-Waste Working Group. Other members, who joined in cosponsoring the measure, were Reps. Louise Slaughter (D-N.Y.), Randy "Duke" Cunningham (R-Calif.), and Rep. Mary Bono (R-Calif.).

Several bills have been introduced to address reducing and recycling e-waste. A measure (H.R. 425) introduced by Thompson, the National Computer Recycling Act, would require EPA to implement a national e-waste recycling grant program to encourage municipalities, individuals, and organizations to start e-waste recycling programs. Cunningham sponsored legislation (H.R. 320) called the Tax Incentives to Encourage Recycling Act.

China Proposes Regulations to Restrict Hazardous Substances in Electronics

China has proposed regulations to restrict the use of hazardous substances in electronic products, which will create significant new requirements for industry. China notified the World Trade Organization's Committee on Technical Barriers to Trade (TBT) on Sept. 28

of its intention to adopt the Administrative Measures on the Control of Pollution Caused by Electronic Information Products.

The measures are similar to the European Union's Directive 2002/95 on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS Directive).

According to the notification document, China plans to adopt the regulations Dec. 31 and to put them into effect July 1, 2006, the same date that the EU regulations are due to take effect.

According to a draft of the document provided by China's WTO/TBT National Notification and Enquiry Center, it lists lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB), and polybrominated diphenyl ethers (PBDE) as "toxic and harmful substances or elements" to be subject to restrictions -- the same six substances targeted in the EU RoHS Directive.

However, China's rules diverge from the EU directive in a number of ways. First, they add the possibility of regulating "other toxic and harmful substances as specified by the Chinese government." The Chinese rules also define "electronic information products" very broadly, leaving open the possibility that the rules could cover almost any electronic device. The Chinese regulations also require manufacturers and importers of electronic information products to clearly indicate the "safe use" period for each product, which it defines as the period during which any toxic or harmful substances contained in the products will not leak or mutate.

The legislation says the determination of safe-use periods will be left to manufacturers and importers to determine, but that the Ministry of Information Industry (MII) and related government agencies later will mandate the "styles and methods" for labeling safe-use periods.

The regulations also contain a number of other labeling requirements, for which the MII and other agencies will issue specific guidelines later. Product information will need to include the names and concentrations of toxic or harmful substances and notes on recyclability. The rules also cover product packaging, which must be "nontoxic, harmless, easily degradable, and recyclable."

The legislation further requires that electronic products be certified in advance by authorized agencies, and that products imported into China receive certification ahead of time. It explicitly states, however, that the rules do not apply to exports.

Contact information for China's TBT National Enquiry Point is available at http://www.wto.org/english/tratop_e/tbt_e/tbt_enquiry_points_e.htm.
Edited BNA Jason Subler.

Legislation Introduced to Provide Incentives For Ethanol, Alternative-Technology Vehicles

A bipartisan group of lawmakers in the Senate and House introduced legislation Nov. 15 to speed up development and use of alternative vehicle fuels such as ethanol and to encourage energy conservation. Among other things, the legislation would provide incentives for automakers to produce, and for consumers to purchase, "flexible-fuel" vehicles that can run on gasoline or alternative fuels, gas-electric hybrids, plug-in hybrids, fuel cell vehicles, and other alternative technologies.

"This is not a liberal issue or a conservative issue," said Sen. Joseph Lieberman (D-Conn.), referring to the Senate legislation (S. 2025) introduced by Sen. Evan Bayh (D-Ind.). "Energy independence is a bipartisan goal." In the House, Rep. Jack Kingston (R-Ga.) introduced legislation (H.R. 4409) similar to the Senate bill, saying his bill "is a plan to help America realize its fuel independence from Middle East oil by 2015." "We are reaching across party lines to achieve sound legislation that will benefit everyone," Rep. Eliot Engel (D-N.Y.) said

State Update

Colorado Issues Handbook on Brownfields Reuse

The Colorado Department of Public Health and Environment and the Colorado Department of Local Affairs have released a booklet to assist communities in brownfields redevelopment projects. The booklet, *The Colorado Brownfields Handbook: A Local Government Guide to Site Reuse and Economic Redevelopment*, incorporates information from two pilot cleanup and redevelopment projects in Rangely and Alamosa. It also provides a comprehensive list of technical and financial resources, answers to frequently asked questions, and suggested methodology for cleanup. Since the state established its "Voluntary Cleanup Program" in 1994 to assist communities and private parties in redevelopment of contaminated properties, a majority of sites have been put back into productive use and are generating tax revenues and providing jobs, according to the departments. The handbook project was made possible by a grant from the Environmental Protection Agency. The handbook is available at www.cdphe.state.co.us/hm/bfhandbook.htm.

New York - Environment Department Proposes Rules to Implement Brownfield Cleanup Program

The New York State Department of Environmental Conservation (DEC) published proposed regulations Nov. 16 to implement a 2003 law that formally established the state's brownfield cleanup program. The main provisions of the proposed regulations include contaminant-specific soil cleanup standards that are based on a site's current,

intended, or reasonably anticipated future use. The standards apply to different land use categories including residential, commercial, and industrial.

The standards, which cover hundreds of contaminants, were developed by the DEC in conjunction with the state Department of Health. They are based on the potential impact of contaminants on public health, groundwater, ecological resources, and background concentrations in rural soils, according to DEC.

The proposed regulations also establish four different cleanup tracks that can be used to determine the remedy for brownfield sites, including unrestricted use, restricted use, restricted use with modified soil cleanup objectives, and site-specific use. The regulations also implement certain changes in the superfund program and a state program that provides grants to municipalities for investigating and remediating brownfields.

The proposed regulations will be subject to seven public information meetings and three formal public hearings. Public comments will be accepted until March 27. Text the regulations and accompanying documents are available at <http://www.dec.state.ny.us/website/der/superfund>.

New York - Environmental Commissioner Confirmed

The New York State Senate unanimously confirmed the appointment of Denise M. Sheehan on Nov. 29 as commissioner of the state Department of Environmental Conservation. Sheehan, who was nominated by Gov. George E. Pataki (R) in September, has been acting commissioner since February. She formerly served as the executive deputy commissioner of the department, the assistant commissioner of administration, and as a special assistant in the department, helping to coordinate implementation of the Clean Water/Clean Air Bond Act. Before joining the Department of Environmental Conservation, Sheehan worked for 11 years at the state Division of the Budget, where she oversaw the budgets of the state's environmental, recreational, and energy agencies. Her appointment was effective immediately.

Texas - Ethanol Plant Powered by Cattle Manure To Be Constructed in West Texas in 2006

A Dallas company will build a 100 million-gallon ethanol plant powered by cattle manure in west Texas, a project spokesman confirmed Nov. 16. Panda Energy will build the \$120 million facility in Hereford, about 50 miles southwest of Lubbock, said Harold Green, senior director of communications. The plant will convert 1 billion pounds of manure into a clean-burning biogas that will be used to create steam necessary to produce ethanol, he said.