ENVIRONMENTAL NEWS, REGULATIONS, & TECHNICAL DISCUSSIONS

January 2010

Atlanta Environmental Management, Inc.

Newsletter

Inside this issue:

Steven Hart, P.G.

AEM is pleased to announce that Mr. Steven W. Hart, P.G., has joined AEM as a Senior Project Manager and Senior Consultant. Mr. Hart brings approximately 30 years of professional consulting experience to AEM, including expertise in contaminant fate and transport, regulatory compliance, corrective action, brownfields redevelopment, and litigation support. He has extensive experience assisting industrial and commercial clients with RCRA, CERCLA, and Georgia HSRA issues, as well as other state programs. Mr. Hart will assume responsibility for several upcoming remediation projects in the Southeast, in addition to providing senior-level input and support to other AEM staff on a myriad of complex projects.

A graduate of Boston University, Mr. Hart started his professional consulting career in Atlanta after working several years for the Geologic Survey Branch of the Georgia Environmental Protection Division (EPD). While he has worked on projects throughout the United States, he spent several years in Albany (New York) and Pittsburgh before he returned to Atlanta in 1993.

Mr. Hart has provided expert testimony in several cases and is known in the environmental legal community as a highly qualified expert witness. Specific cases include preparation of an expert report and rebuttal in a case concerning the age and timing of releases of industrial solvents at a former manufacturing facility. In another case, he reviewed the U.S. EPA case file and related depositions associated with a former phosphate fertilizer operation in Georgia and rendered his opinion in an expert report regarding certain environmental issues at the facility. In other cases, Mr. Hart prepared opinions of cost for remediation of a property in the city of Atlanta listed on the state Hazardous Site Inventory and for remediation of a property in Brunswick, Georgia, affected by a release of tetrachloroethene from an adjacent dry-cleaning property. Mr. Hart has also been qualified by the U.S. Federal Court, Northern District of Georgia, to provide expert and rebuttal reports, depositions, and trial testimony concerning the age and timing of releases of petroleum hydrocarbons.

During his career, Mr. Hart managed the entire RCRA Facility Investigation of a synthetic organic chemical manufacturing facility in Augusta, Georgia, from work plan preparation to completion, and supervised corrective actions including the installation of a 350-foot horizontal recovery well and enhanced biodegradation via low-flow oxygen injection. He also negotiated and prepared the RCRA permit renewal application for the facility, as well as for a separate plating-waste landfill at a manufacturing facility in Conway, South Carolina. At a petroleum refinery in Pascagoula, Mississippi, he prepared a substantially revised Part B Permit Application, including significant revisions to the classification of several of the Hazardous Waste Management Units.

Mr. Hart also participates in multiple civic organizations. As a volunteer member of the City of Atlanta's Beltline Tax Allocation District Advisory Committee (TADAC) he has lent his expertise to help the city develop the visionary Beltline project, the largest current urban development project in the United States. His recent article "Brownfields: Urban Renewal Opportunities and the Beltline" has been published by the National Brownfields Association (NBA) and can be found at the Georgia Chapter page of the NBA web site. Copies of the article can be provided upon request.

EPA Enforcement Nets $5B for 2009

The U.S. EPA has concluded that polluters invested more than $5 billion in pollution controls, cleanup, and environmental projects from enforcement actions in fiscal year 2009.

These results have been released alongside a web-based tool and interactive map that provides detailed information by location and enforcement actions taken at 4,600 facilities around the country.

The interactive map gives information about civil enforcement actions taken at facilities, criminal cases prosecuted under federal statutes and the U.S. Criminal Code, and EPA-supported cases prosecuted under state criminal laws.

Users also can choose to view air, water, and land pollution actions taken at facilities.

In fiscal year 2009, EPA concluded 51 enforcement actions against federal agencies and federal facility contractors for alleged violations of environmental laws.

The agency also obtained $371 million from settlements with responsible parties to reimburse the agency for its past expenditures for Superfund cleanup sites. This is the highest cost recovered ever for the Superfund program.

EPA organizes annual enforcement results by estimating pounds of pollutants reduced and estimating the cost of commitments made by defendants to control or reduce pollution.

The data and interactive map can be found through EPA's website.

(*Waste & Recycling News*—January 4, 2010)

NPDES Storm Water Permitting: Construction Projects Under One Acre

The National Pollutant Discharge Elimination System (NPDES) permit program is designed to reduce water pollution by regulating point sources that discharge pollutants into waters of the United States. The NPDES storm water program requires operators of construction sites to obtain coverage under an NPDES permit for their storm water discharges when they are engaged in clearing, grading, and excavating activities that disturb one acre or more of land. Smaller sites, however, are also required to obtain permit coverage if they are part of a larger common plan of development or sale.

The U.S. Environmental Protection Agency (EPA) has interpreted the phrase "a larger common plan of development or sale" to mean a contiguous area where multiple separate and distinct construction activities may be taking place at different times and on different schedules under one integrated plan. For example, if a developer purchases a 10-acre lot and builds roads, installs pipelines, and runs electricity with the intention of constructing homes or other structures at some time in the future, this would be considered a larger common plan of development or sale. If the land is parceled off or sold, and construction subsequently occurs on plots that are less than one acre, by separate, independent builders, this activity would still be subject to the storm water permitting requirements if the smaller plots were included on the original site plan. The "larger common plan of development or sale" also applies to other types of land development such as industrial parks or well fields. The Construction General Permit requirements are triggered if one or more acres of land will be disturbed, regardless of the size of any of the individually owned or developed sites.

Construction activities involving less than one acre of land disturbance could also be subject to the Construction General Permit requirements if the NPDES Permitting Authority or EPA Regional Administrator were to determine that the activities had the potential to contribute to a violation of a water quality standard or the potential for significant contribution of pollutants to waters of the United States.

NESHAP for Paints and Allied Products

Companies that manufacture paints and allied products should carefully review the U.S. EPA's final National Emissions Standard for Hazardous Air Pollutants (NESHAP) for area sources to determine whether they are covered by the rule. Entities subject to the NESHAP have until December 3, 2012, to comply. Requirements include the following:

- Separate standards for metal HAP emissions and volatile HAP emissions
- An initial visual emissions test using EPA Method 203C
- Quarterly visible emissions tests using EPA Method 22
- Notification, recordkeeping, and reporting requirements

The rule is applicable to owners and operators of area sources that perform paints and allied products manufacturing and processes and use or generate materials containing benzene, methylene chloride, and compounds of cadmium, chromium, lead, and nickel.

The rule does not apply to the manufacture of products that do not leave a dried film of solid material on the substrate, such as thinners, paint removers, brush cleaners, and mold release agents; the manufacture of electroplated and electroless metal films; the manufacture of raw materials, such as resins, pigments, and solvents used in the production of paints and allied products; and activities by end users of paints or allied products to ready those materials for application.

Area sources that manufacture both coatings and resins are required to comply with the paints and allied products NESHAP as well as the area source NESHAP for chemical manufacturing.

For metal HAP emissions, the rule requires operation of a particulate control device during the addition of pigments and other solids that contain compounds of cadmium, chromium, nickel, or lead and during the grinding and milling of pigments and solids containing those metals.

For volatile HAP emissions, owners and operators must cover vessels that store or process materials containing benzene or methylene chloride lids.

The covers or lids can be of solid or flexible construction, provided they do not warp or move around during the manufacturing process.

Mixing vessels that process or store materials containing one or more of the target volatile HAPs must be equipped with covers that completely cover the vessel, except for safe clearance of the mixer shaft.

Also, leaks and spills of materials containing benzene or methylene chloride must be minimized and cleaned up as soon as practicable, but no later than 1 hour from the time of detection.

EPA estimates that 110 of the 2,190 facilities in the source category are subject to the volatile HAP requirements and 460 facilities are subject to the metal HAP requirements.

The rule does not address VOC emissions from coatings, which the Agency intends to address in a separate rule.

EPA Strengthens Transboundary Hazardous Waste Shipment Regulations

Washington—The U.S. Environmental Protection Agency (EPA) is strengthening the regulations that govern the shipment of hazardous waste for recycling between the United States and other countries. The new measures are meant to increase the level of regulatory oversight and to 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 U.S. and strengthen the extensive set of regulations under the Resource Conservation and Recovery Act (RCRA) governing the shipment of hazardous waste within the U.S.

Specifically, this rule effects the following revisions:

- Revision of existing RCRA regulations regarding the transboundary movement of hazardous wastes for recovery among countries belonging to OECD, to conform to legally required revisions made by OECD, such as the following:
  - 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
  - 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
- Revision of RCRA regulations for spent lead-acid batteries (SLABs), to add export notification and consent requirements in order to provide stricter controls and greater transparency for exports of SLABs to any country, to ensure that the batteries are sent to countries and to reclamation facilities in those countries that can manage the SLABs in an environmentally sound manner.
- Revision of hazardous waste import–related requirements for U.S. hazardous waste management facilities, to confirm that individual import shipments comply with the terms of EPA's consent.
- Revision of the address to which export exception reports are to be sent.

The United States participates in a number of bilateral waste agreements between countries and in the multilateral waste agreement controlling the shipment of hazardous waste for recovery between OECD member countries.

For more information on the final rule, see http://www.epa.gov/epawaste/hazard/international/oecd-slab-rule.htm

Comprehensive Reform of Toxic Substance Laws: EPA Announces Actions to Address Chemicals of Concern, Including Phthalates

Washington—The U.S. Environmental Protection Agency (EPA) has announced a series of actions on four chemicals raising serious health or environmental concerns, including phthalates. For the first time, EPA intends to establish a "Chemicals of Concern" list and is beginning a process that may lead to regulations requiring significant risk reduction measures to protect human health and the environment. The agency's actions indicate its intention to use its authority under the existing Toxic Substances Control Act (TSCA) to the fullest extent possible, reflecting EPA's position that the 1976 law is outdated and in need of reform.

In addition to phthalates, the chemicals that EPA is addressing are short-chain chlorinated paraffins, polybrominated diphenyl ethers (PBDEs), and perfluorinated chemicals including PFOA. These chemicals are used in the manufacture of a wide array of products and have raised a range of health and environmental concerns.

EPA also recently announced that three U.S. companies have agreed to phase out DecaBDE, a widely used fire retardant chemical that may potentially cause cancer and may impact brain function.

When TSCA was passed in 1976, there were 60,000 chemicals on the inventory of existing chemicals. Since that time, EPA has only successfully restricted or banned five existing chemicals and has only required testing on another two hundred existing chemicals. An additional 20,000 chemicals have entered the marketplace for a total of more than 80,000 chemicals on the TSCA inventory.

The announced actions today include the following:

- Adding phthalates and PBDE chemicals to the concern list
- Beginning a process that could lead to risk reductions actions under section 6 of TSCA for several phthalates, short-chain chlorinated paraffins, and perfluorinated chemicals
- Reinforcing the DecaBDE phaseout, which will take place over three years, with requirements to ensure that any new uses of PBDEs are reviewed by EPA prior to returning to the market

This is the first time that EPA has used TSCA's authority to list chemicals that "may present an unreasonable risk of injury to health and the environment." Inclusion on the list publicly signals EPA's strong concern about the risks that those chemicals pose and the agency's intention to manage those risks. Once listed, chemical companies can provide information to the agency if they want to demonstrate that their chemical does not pose an unreasonable risk.

More information on EPA's legislative reform principles and a fact sheet on the complete set of actions on the four chemicals are available at http://www.epa.gov/oppt/existingchemicals

WE HELP SOLVE ENVIRONMENTAL AND ENGINEERING PROBLEMS! PLEASE GIVE US THE OPPORTUNITY TO WORK WITH YOU.

Contact Us:

2580 Northeast Expressway
Atlanta, Georgia 30345
Phone: (404) 329-9006
Fax: (404) 329-2057

E-mail: janet-hart@aem-net.com

Please visit us on the web:

www.aem-net.com

ABOUT US ...

AEM is a full-service environmental firm based in the southeastern United States, which has been in business for 21 years and has project locations nationwide. AEM's mission remains providing individualized, technically competent, responsive, yet highly cost-effective environmental consulting and engineering services to our clients. AEM has many long-term clients, including industrial, governmental, and commercial, who have been clients for decades. Although company growth is an objective, it is our philosophy that growth is secondary to client service and quality. Put simply, the company's primary loyalty is to its clients, not to the growth of the company, unless growth provides for better client service. Building strong and lasting relationships with our clients is the most important thing that we can do to achieve our goals and ensure long-term stability and future success.

One quality that sets AEM apart from the competition is the personalized service, quick response, and attention given to clients—direct response to our clients' needs in a timely manner. We continuously work to improve the quality of our services to our clients.

AEM actively supports a number of charities including Doctors Without Borders, the U.S.O., Antares Orphan Foundation, the Humane Society of the United States, and the Society for the Prevention of Cruelty to Animals.

Atlanta Environmental Management, Inc.

2580 Northeast Expressway

Atlanta, Georgia 30345