



LANSNET

Environmental News & Notes

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River Rouge Sues for Cleaner Air

Michigan's top polluter, U.S. Steel plant, was sued at the end of November in federal court by the City of River Rouge and its residents who say toxic fallout from the company's operations is illegal and out of control.

Citizens complain they have to constantly clean the dust off their cars and are constantly changing air filters in their home filtration systems. River Rouge Mayor Greg Joseph said the plant's former owner, National Steel, let pollution-control equipment deteriorate for years. Since U.S. Steel bought the facility in May of last year, little has changed.

John Armstrong, a U.S. Steel spokesman in the company's Pittsburgh headquarters, said the company does not comment on pending lawsuits, but denied allegations that the company has been unresponsive, "we have been addressing environmental issues," he said, "We have not been dragging our feet."

The class-action suit, representing the entire city's residents, seeks compliance with state and federal air pollution laws. The DEQ is also expected to unveil a proposed consent agreement with U.S. Steel before the end of the year.

That agreement would require the company to stop ongoing violations and upgrade pollution controls.

According to the DEQ, U.S. Steel has been cited at least seven times this year by regulators for environmental violations. DEQ spokesman Bob McCann said part of the problem comes from air vents in the roof of the plant that allow unfiltered pollutants to leak out.

Air tests conducted in River Rouge show the presence of pollutants including benzene, chromium, lead, copper manganese and zinc from the plant. Of 43 air samples tested by the state this year, 21 showed excessive levels of manganese, which can cause central-nervous-system damage. The plant was the state's largest generator of toxic materials in 2002, the last year for which figures are available, according to the EPA's Toxic Release Inventory. It was also the fifth-highest generator of airborne emissions.



LEGISLATIVE REPORT

The legislature is currently adjourned until December 29, when it will formally end its work for the 2003-2004 session. The 2005-2006 legislative session will commence on January 12, 2005. Committee meetings will resume later that month or in February as well. Many of the House committees will have new chairs, members and some of the committees will be changing their names and functions. A report of the changes will be included in LANSNET as the changes are announced.

The last meeting of the Senate Committee of Natural Resources and Environmental Affairs for the year and legislative session was short and productive. The first bill, HB 4406 by Rep. Chris Kolb, would regulate/ban the manufacturing and release of PBDEs. The compounds are no longer manufactured in Michigan and were developed as fire retardants for use as plastics and textile coatings. This bill addresses one class of PBDEs, the penta-compound, while SB 1458 (tie-barred) by Sen. Birkholz addresses the octa version. One amendment was added, which would exempt the manufacturers of parts currently in production. The bill was reported, with immediate effect, and sent on to the full Senate. HB 4406 was passed by both the House and Senate on 12/07. SB 1458 was passed by the House and Senate on 12/09.

The legislature also passed SB 1432 (Patterson) which allows communities to create "watershed alliances" for the purposes of complying with Phase II of the federal Storm water program. There was concern that a "watershed alliance" would create a new regulatory authority for municipalities to regulate manufacturers already regulated under the program. However, the bill was amended to specifically prohibit the creation of any new regulatory authority. Representative Ruth Johnson, Chairwoman of the Land Use and Environment Committee, offered the amendment. The language added a new section, which reads: "Sec.31206. This part does not provide a watershed alliance or any of its members with any additional authority not otherwise provided by law."



ENVIRONMENTAL UPDATES

EPA Administrator to New Department

President Bush announced on December 13th the nomination of Michael O. Leavitt, current Administrator for the EPA, to the position of Secretary of Health and Human Services. The nomination comes after current Secretary Tommy Thompson filed his resignation with the White House.

Leavitt, like his predecessor, served as Governor for a number of years. When confirmed by the Senate, Leavitt will be charged with a broad agenda for the health and safety of the American people. In this new term, he will be charged with implementing the first-ever prescription drug benefit for seniors under Medicare, expanding federal

cooperation with faith-based groups that provide services, such as counseling and treatment for addictions, and continued pursuit of medical research.

Leavitt will assume the position once confirmed by the Senate.



LANSNET Environmental News and Notes
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AGENCY NEWS

MDEQ News

* The DEQ isn't responsible for the costs incurred by a receiver overseeing the sale of property in a bankruptcy case that would fund environmental remediation costs. In *Attica Hydraulic Exchange v Clifford Seslar*, the parties to an environmental contamination case went bankrupt. After a receiver was sought and put in place to deal with the sale of two pieces of property by the trial court, the receiver and the receiver's attorney incurred substantial cost in selling the property and clearing the title. The property in question was contaminated and DEQ sought to intervene to ensure that the sale would deal with the contamination in question. Ultimately the land couldn't be sold due to federal bankruptcy proceedings. The Court of Appeals held that the trial court lacked authority to impose the costs on the agency.

* A man who built a garage in wetlands without knowing he needed a permit must tear the building down before he can apply to the DEQ to build it back up again. The Court of Appeals published a decision Friday in *Robert Maxwell v. DEQ* (No. 248241) that before Maxwell can apply for a permit to build a garage he already constructed; he needs to take down the barn and the pilings that were used to keep the barn from sinking into the swamp. He claimed in court that the DEQ had been to the house a few times while the garage was under construction, but didn't say anything until the garage was almost done. State law doesn't give the DEQ any flexibility in this case. If Maxwell doesn't tear down his barn, the DEQ is required to go to the Attorney General with the case.

EPA News

* EPA is publishing a Supplemental Notice of Proposed Rulemaking with optional methods and procedures for determining localized concentrations of particulate matter (PM) in areas where transportation conformity is required for PM_{2.5} and PM₁₀. Transportation conformity is required by the Clean Air Act (CAA) to ensure that federally supported highway and transit project activities do not cause new air quality violations, worsen existing violations, or delay timely attainment of an air quality standard. The options included in this proposal apply to PM_{2.5} and PM₁₀ nonattainment areas. EPA is requesting further comment on options it previously proposed and is proposing several additional options for states regarding this type of local analysis.

* The EPA released a Notice of Data Availability (NODA) for its proposed Clean Air Mercury Rule. The NODA summarizes the more than 680,000 public comments received during the comment period and solicits further comment on new data and information to help EPA evaluate which regulatory approach will best reduce mercury emissions from power plants. The NODA is part of the EPA process toward delivering a final mercury rule by March 15, 2005. Initially proposed on Jan. 30, 2004, the Clean Air Mercury Rule would reduce mercury

emissions from power plants for the first time ever. Administrator Mike Leavitt has outlined five guiding principles that provide context for additional inquiry and that narrow the focus of the Agency's deliberations. EPA will take comment on this action for 30 days after publication in the Federal Register. For more information on the NODA, visit: http://www.epa.gov/mercury/control_emissions/noda.htm; on the Clean Air Mercury Rule, visit: <http://www.epa.gov/air/mercuryrule/>; and on the Clean Air Interstate Rule, visit: <http://www.epa.gov/interstateairquality/>.

* EPA is proposing new rules to reduce emissions of air pollutants from the last remaining category of waste incinerators requiring Clean Air Act regulation. This final category is called "other solid waste incinerators" (OSWI). OSWI consist of institutional waste incinerators and very small municipal waste combustors. Institutional waste incinerators can be located in schools, churches, and local, state or federal buildings that burn waste generated on site. Very small municipal waste combustors burn less than 35 tons per day of municipal solid waste. For a prepublication copy of the proposed rules and a fact sheet go to: <http://www.epa.gov/airlinks/airlinks1.html>. EPA will finalize the OSWI regulations by Nov. 30, 2005.



Bill Tracking

The following are bills of interest to the environmental community that have seen legislative action since our last issue.

HB 4406 (Kolb)

Regulates release of PBDEs.
12/08/04 - Sent to full Senate by Committee on Natural Resources and Environmental Affairs.
12/09/04 - Passed Senate (35-0).
12/09/04 - Sent to full House. Passed House (82-13).

HB 5055 (Ward)

Restricts fees under certain circumstances for soil erosion and sedimentation control.
12/08/04 - Passed Senate (37-0).
12/09/04 - Sent to full House. Passed House (98-0).

HB 6196 (Minore)

Prohibits sale of thermostat devices containing mercury.
12/01/04 - Reported out of committee to full House.
12/02/04 - Passed House (69-18).
12/02/04 - Referred to Senate Committee on Government Operations.

HB 6198 (Minore)

Prohibits sale or use of blood pressure recording devices that contain mercury.
12/01/04 - Reported out of committee to full House.
12/02/04 - Passed House (66-20).
12/02/04 - Referred to Senate Committee on Government Operations.

HB 6243 (Casperson)

Regulates nonferrous metallic mining and reclamation.
12/02/04 - Reported to full Senate from Committee on Natural Resources and Environmental Affairs.
12/08/04 - Passed Senate (37-0).
12/08/04 - Sent to full House. Passed House (98-0).

SB 790 (Brown)

Establishes recycling advisory council.
12/02/04 - Passed House (57-48).
12/07/04 - Returned to full Senate.
Passed Senate (27-4).

SB 854 (Birkholz)

Establishes office of statewide recycling coordinator.
12/03/04 - Defeated by House (51-44).
12/07/04 - Vote reconsidered. Passed House (58-44).

SB 1171 (Van Woerkem)

Expands definition of litter to include abandoned vehicles.
12/08/04 - Passed House (71-30).
12/09/04 - Returned to Senate. Senate Passed (37-0).

SB 1181 (Birkholz)

Modifies term of submerged log removal permit.
12/01/04 - Reported out of committee to full House.
12/08/04 - Passed House (99-0).

SB 1432 (Patterson)

Provides for watershed alliances.
12/08/04 - Passed House (99-0).
12/09/04 - Returned to Senate. Passed Senate (37-0).

SB 1458 (Birkholz)

Regulates products containing PBDEs.
12/09/04 - Passed House (100-3).
12/09/04 - Sent to full Senate. Passed Senate (34-0).



Future Dates of Interest

Please contact the MDEQ at 800-662-9278 for more information on these events.

Dec.	Life after ROP	Various Locations
Jan.	SARA Title III Tier Two Workshops	Novi & Grand Rapids
Feb.	2005 Intro to MAERS	Various Locations
Feb.	Complying with CAFO	Various Locations