

ENVIRONMENTAL NEWS & HIGHLIGHTS

January 2018

Presented by:

EXCALIBUR GROUP, LLC

Environmental Consultants, Engineers & Liability Management Experts



This latest EXCALIBUR bulletin presents several emerging developments and in-progress initiatives potentially significant to regulated industries and environmental projects regionally and nationally.

USEPA Reveals List of Superfund Sites Targeted for Immediate, Intense Action



Details are provided on the USEPA web site with the list identifying 21 sites from across the United States that Administrator Pruitt has targeted for immediate and intense attention and was created in direct response to the Superfund Task Force recommendations, issued July 25, 2017. In developing this initial list, EPA considered sites that can benefit from Administrator Pruitt's direct engagement and have identifiable actions to protect human health and the environment. These are sites requiring timely resolution of specific issues to expedite cleanup and redevelopment efforts. The list is designed to spur action at sites where opportunities exist to act quickly and comprehensively. The Administrator will receive regular updates on each of these sites with the list: i) intended to be dynamic. Sites will move on and off the list as appropriate. At times, there may be more or fewer sites based on where the Administrator's attention and focus is most needed; ii) there is no commitment of additional funding associated with a site's inclusion on the list; iii) presented in order by EPA region. EPA remains dedicated to addressing risks at all Superfund sites, not just those on the list. The Task Force recommendations are aimed at expediting cleanup at all Superfund sites and Administrator Pruitt has set the expectation that there will be a renewed focus on accelerating work and progress at all Superfund sites across the country. See the entire list here: [View Entire Report](#).

Ohio EPA Requesting Owner's Action at TCE Sites

According to Patton Boggs, Ohio EPA staff will soon be sending letters to hundreds of sites throughout the state requesting that property owners take action to evaluate known trichloroethylene (TCE) contamination. Over the last year, Ohio EPA has been reviewing records and investigating sites that may be contaminated with TCE and it intends to send letters to property owners requesting they take further action because "TCE may be a health concern at their property." In these letters, Ohio EPA plans to ask property owners to "evaluate health risks both on and off their property" and notify Ohio EPA of the property owners' "plan of action and results" regarding TCE. Ohio EPA has not yet shared the letters with the public, but noted that the letters will be sent "in the coming weeks." "Sites targeted by Ohio EPA include some that have satisfied all of Ohio EPA's Voluntary Action Program (VAP) no further action criteria. This is significant for site owners and interested parties who believed all environmental issues on their properties have been addressed." Ohio EPA's notice of "potential" health risks will require property owners, adjacent landowners and environmental professionals to carefully weigh liability and risk issues. Read more at: [Article Link](#).



NCDEQ Takes Action Over GenX Coating Spill



The North Carolina Department of Environmental Quality (NCDEQ) says a spill resulting in an increase of toxic chemical levels in a river hadn't been reported by a chemical company until regulators approached. The StarNews reported state Environmental Quality officials said in a statement the department will take action against Chemours for the spill, which was identified after Environmental Protection Agency tests showed a GenX spike in the Cape Fear River. GenX is a trade name for a chemical that went into production around 2010 as an alternative to a perfluorooctanoic acid (also known as PFOA or C8) in the synthesis of PTFE (ie Teflon). GenX is essential for the production of common household products including non-stick pans, firefighting foam, and common outdoor fabrics (e.g. Gore-Tex). These chemicals are known to be toxic and they are persistent in the environment, which means that they don't break down, and can contaminate water far from the contamination source. When asked about the tests, the company told state officials a chemical they identify as a precursor to GenX had spilled Oct. 6 during planned maintenance. State officials didn't specify what enforcement actions they're considering. During an interview, Chemours CEO Mark P. Vergnano said the company didn't have to stop GenX from reaching the drinking water but took action as part of "good faith" effort. The article and other informative links can be found here: [Full Text](#).

Top Ten Hazardous Waste Mistakes

Williams Mullen summarizes the 10 most common hazardous waste violations arising because employees: (a) are not aware of the requirements; (b) do not understand them; or (c) cut corners, citing RCRA hazardous waste regulations as amended by EPA's 2017 Hazardous Waste Generator Improvements Rule. The entire list of most common hazardous waste mistakes can be found in the link below but a subset include: (1) improper waste determination per 40 CFR 262.11; (2) satellite containers of hazardous waste not properly managed; (3) containers not marked with the words "Used Oil,"; (4) lack of a proper contingency plan and emergency procedures; (5) failure to make arrangements with emergency personnel; and (6) hazardous waste containers not closed / secured. Find the remaining most common mistakes, find them [here](#).



Small Business Benefits Highlighted by US Presidents

SMALL
BUSINESS **BIG
IMPACT**

According to the SBA, more than half of Americans either own or work for a small business, and they create about two out of every three new jobs in the U.S. each year. Honoring US small businesses, the current US president stated recently, "Small business owners embody the American pioneering spirit and remind us that determination can turn aspiration into achievement. This week, we affirm our commitment to removing government barriers to the success of American small businesses." He added "America's small business owners transform ideas into reality. They are a strong testament to the opportunities a market economy affords. During this week, we recognize the incredible contributions small businesses make to our country and pledge to foster the conditions that enable them to prosper and thrive." President Obama previously honored US small businesses stating, "America's small businesses reflect the best of who we are as a Nation—daring and innovative, courageous and hopeful, always working hard and looking ahead for that next great idea." More on presidential accolades for small businesses in America can be found at: [Article Link](#).

NJDEP LSRP Requirements for PFOAs and Other Emerging Contaminants

The New Jersey Department of Environmental Protection (NJDEP) announced that the Site Remediation and Waste Management Program had launched a new webpage dedicated to "Contaminants of Emerging Concern." www.nj.gov/dep/srp/emerging-contaminants/. Manko, Gold, Katcher, and Fox noted that the announcement on the new webpage "focuses on Per- and Polyfluoroalkyl



Substances (PFAS)” such as perfluorooctanoic acid (PFOA). Neither the announcement nor the new webpage clearly defines what constitutes a contaminant of emerging concern, but the webpage implies that these contaminants are ubiquitous and include compounds for which there are emerging standards, like PFOA, as well as compounds that are still being studied by NJDEP, the USEPA and other entities. It appears that LSRPs must consider, and responsible parties must remediate, PFOAs and likely the other two PFASs listed on the new webpage: Perfluorononanoic Acid (PFNA); and Perfluorooctanesulfonic Acid (PFOS), but the proposed drinking water standards for these PFASs are in parts per trillion, and it’s unclear how these standards would, for example, translate into soil remediation standards. It’s both unclear what constitutes a contaminant of emerging concern for site remediation purposes, and the extent to which any such contaminant must be remediated. This emerging issue will need to be watched closely. Read the full article here: [Full Article](#).

Revisions to Hazardous Waste Generator Rule



The USEPA (EPA) published revisions to hazardous waste generator regulations on November 28, 2016. These revisions went into effect at a federal level and for non-delegated states on May 30, 2017. Authorized states are required to adopt the more stringent provisions by July 1, 2018. The revisions may apply to any facility that generates hazardous waste. EPA intended the rule revisions to provide greater flexibility in managing hazardous waste in a cost-effective manner, and to provide technical corrections, remove obsolete references, improve readability, and clarify a number of ambiguities. These changes made some regulatory requirements, including hazardous waste determinations, labeling requirements, closure requirements, and contingency planning more stringent; other requirements including waste consolidation at Conditionally Exempt Small Quantity Generators (CESQG), episodic waste generation, and the waiver from the 50-foot rule have been relaxed. To read more on the main revisions to the rules; [Click here](#).

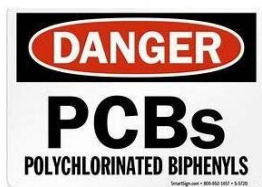
Assessment & Comparison of New TSCA and REACH

A white paper discussing the new TSCA compares its amended provisions to the European Union’s Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) program that was prepared by Jones Day because up till now, the original TSCA was not close to being parallel in their scope. New TSCA expands the situations under which EPA is required to take action against chemicals presenting significant risks that requires risk assessments of all chemicals in the inventory. For example, under New TSCA, “EPA may not consider non-risk factors (such as cost) in determining



whether a risk is unreasonable”. Additionally, Section 4 can require testing of chemicals by manufacturers; Section 5 strengthens regulations to require pre-manufacture notice for new chemical substances and the EPA also issued significant new use rules when it identified a new use of a chemical substance that could result in exposures to, or releases of, a substance of concern. Section 14 of New TSCA has provisions relating to the submission and protection of Confidential Business Information. Further rules establishes inventory notification and a Prioritization, whereby a chemical substance is designated as either High-Priority or Low-Priority, in the initial step. [Read the entire paper here.](#)

UConn Settles With US EPA for Improper PCB Disposal



UConn failed to classify soil contaminated with PCBs from window caulk as PCB remediation waste. UConn transported the waste under a manifest that did not identify the material as PCB remediation waste and sent the waste to a facility not licensed to accept PCB remediation waste and was subsequently fined \$28,125 as part of a settlement with U.S. EPA resolving allegations that UConn improperly disposed of PCB-contaminated soils during a renovation project in 2013. Academic institutions with buildings built or renovated in the 1950s, 60s, and 70s need to be particularly careful to use knowledgeable contractors and consultants as many building materials from that time period contain PCBs, the disposal of which is carefully regulated and must be conducted consistent with the Toxic Substances Control Act, as well as employee safety rules. According to EPA guidance, PCBs are commonly found in building materials currently in use in institutions such as schools built or renovated between 1950 and 1979. Building materials that may contain PCBs include caulking around windows, building joints, masonry columns, and door frames. PCBs may also be found in adhesives, ceiling tiles, acoustic boards, and paints, as well as certain lighting fixtures. PCBs in these materials may contaminate adjacent materials, as well as nearby soil. Read the entire article by Beveridge & Diamond PC here. [_Full Article.](#)

USEPA Clears Monsanto Roundup Chemical of Health Risks to Humans

In an article published in the Insurance Journal, the U.S. EPA has said that glyphosate, the key ingredient in Monsanto Co.'s top-selling weed killer Roundup, is not likely to be carcinogenic to humans, contradicting a World Health Organization (WHO) panel. “The EPA, in a draft risk assessment report issued on 12/25/17, also said it found “no other meaningful risks to human health” when glyphosate, the world’s biggest-selling weed killer, is used according to its label instructions.” “The WHO’s International Agency for Research on Cancer, or IARC, fueled concerns about health risks when it said in 2015 that glyphosate was “probably carcinogenic.”



Monsanto, which is being acquired by Bayer AG, rejected the conclusion along with groups representing U.S. corn, soy and wheat farmers, citing other reviews.” “A large, long-term study on glyphosate use by U.S. agricultural workers, published last month as part of a project known as the Agricultural Health Study, or AHS, found no firm link between exposure to glyphosate and cancer. [Read the full article here.](#)

New VA Regulations for USTs at Airport Hydrant Fuel Distribution Systems, Emergency Generator Installations and Elsewhere



VDEQ is now phasing in new regulatory requirements for USTs at airports and emergency generator installations. Airport Hydrant Fuel Distribution system USTs and field-constructed USTs will now be regulated and have their own set of requirements. Tank and piping release detection will be required for emergency power generator USTs.

Additionally, a tank owner/operator must permanently close any tank with an internal liner that is no longer performing in accordance with the original design specifications and cannot be repaired in accordance with industry standards. Ball float valves (flow restrictors) will no longer be an option for newly installed USTs or as replacements when existing ball floats fail the required integrity test. Other overfill prevention devices such as shut off valves in fill pipes or alarms will be required. Facilities with temporarily closed tanks must have certified and trained Class A, Class B, and Class C operators and must demonstrate financial responsibility for temporarily closed tanks. Further requirements and implementation schedule can be found at this [LINK](#).

M&As Expected to Jump in 2018

Experts are predicting a busy 2018 in the M&A space. “The Intralinks Deal Flow Predictor Report suggests that the pace of M&A activity will increase in 2018, based in large part on “a combination of gradual acceleration in global economic growth, low inflation in advanced and emerging economies, buoyant asset markets and low-interest rates that continue to bolster the M&A markets.”



While there are concerns that could impact the potential increase in deal flow (such as a rise in economic protectionism or a global equity sell-off) the prevailing view is that the positive conditions for M&A activity will continue to rule the day and drive increasing dealmaking.” Deloitte’s “The State of the Deal-M&A Trends 2018” report takes a similar view. The Deloitte report, based on a survey of business executives, notes that a significant majority of respondents expect M&A deal flow to increase over the next 12 months, while deal size is expected to increase as well. “The Deloitte report cites acquiring technology, expanding customer base in existing markets and expanding/diversifying products and services as the leading drivers for M&A

deals. Among other positive factors, the Deloitte report notes that cash reserves are up significantly at potential acquirers, and that the primary intended use of that cash is for acquisitions.” Read the full article [here](#):

EXCALIBUR manages and mitigates environmental risks and liabilities with clients' business objectives in mind. **EXCALIBUR** develops better solutions more compatible with its customer's operations and budgets. Clients hire **EXCALIBUR** again and again because it is loyal, innovative, resourceful, and results-oriented. In our business, best ideas lead to client advocacy wins. Read what our customers say at [Customer Commendations](#). For more information on **Excalibur**, visit www.excaliburgrpllc.com or email us at info@excaliburgrpllc.com.

Excalibur Group, LLC, 1350 Beverly Road, Suite 115, PMB 443, McLean, VA 22101, (866) 490-0039