

Fall 2002



Vol. 42, No. 3

Lake Michigan States Section Air & Waste Management Association Newsletter[©]

U.S. EPA Issues Guidance on Federally Permitted Release Definition for Certain Air Emissions

After two and a half years of litigation, the U.S. EPA recently issued Guidance on the Definition of Federally Permitted Release for Certain Air Emissions. The Guidance was published in the Federal Register.¹

As reported in prior *Environmental, Safety & Health Reports*, the Agency issued an earlier document on the subject, entitled "Interim Guidance on the CERCLA Section 101(10)(H) Federally Permitted Release Definition for Certain Air Emissions," on December 21, 1999.² The Agency received extensive comments on the Interim Guidance that were used as the basis of the Final Guidance. Through various memoranda issued by the Assistant Administrator of the Office of Enforcement and Compliance Assurance, the U.S. EPA exercised enforcement discretion to not enforce against facilities for failure to report certain types of air releases until publication of the revised Final Guidance.

The Final Guidance is intended to cover the most common questions regarding federally permitted release definition. The Guidance clarifies that emissions in excess of permit limits and control regulations are not federally permitted. In addition, the Guidance explains how hazardous substances that are components of various criteria pollutant emissions (such as VOCs, particulate matter and NOx) are to be treated. The Guidance discusses how sources subject to exemptions from Clean Air Act requirements based on minor source status are to be treated. The Guidance also makes clear that accidental releases from equipment malfunctions are not federally permitted. Finally, the Guidance explains how emissions during start-up and shut-down should be handled.

Continued on page 11.

Don't miss the September 19, 2002 seminar on "The New Guidance on Federally Permitted Air Releases" being held at 4:00 p.m. See additional information on page 4.



New Members

Daniel D'Auben
D'Auben Associates, Inc.

Linda Gaines
Argonne National Laboratory

David Helm
Mostardi Platt Environmental

Shelly Huskey
ADM

Diana Jagiella
Howard & Howard Attorneys, P.C.

Chris Johnson
Parash Institute

Robert Laplaca
Mostardi Platt Environmental

Ann McCabe
Policy Solutions Ltd.

John Mortensen
Argonne National Laboratory

Peter Rickert
Bretford Mfg. Co., Inc.

Carol Schweiger
DUR-O-WAL/Dayton Superior Corp.

Troy Stucke
Plastics Engineering Company

LM-A&WMA Calendar of Events

At the recent Annual Planning Meeting the LM-A&WMA Board of Directors developed the following preliminary Calendar of Events for the upcoming year. This schedule promises to provide for an exciting year for the organization with many current issues being addressed. Please feel free to contact **Diana Jagiella** at (309) 999-6309 or djagiella@howardandhoward.com if you wish to participate in the development of any of these programs, or if you have a suggestion for future topics. Board of Director meetings are open to all members. Please contact Robin Pelsis at (847) 202-0418 or lm_awma@ameritech.net if you need directions to a Board meeting.

September 19	Board of Directors / Membership Mtg. 3:00 p.m. - Seyfarth Shaw	October 24	Annual Air Conference Willowbrook Holiday Inn 8:00 a.m. - 6:00 p.m.
September 19	Federally Permitted Release Seminar 4:00 p.m. - Seyfarth Shaw	November	Do-It-Yourself EMS Half-day seminar Location and date to be determined
October 17	Board of Directors/Membership Mtg. 8:00 a.m. - Clean Air Engineering	December 3	Holiday Reception IIT Stuart School of Business 5:00 p.m.
October 23	Annual Air Conference Primer 7:00 p.m. - Willowbrook Holiday Inn	Spring 2003	Annual Waste Conference (Full day)

Suggestions are Welcome as Indianapolis prepares for 2004 ACE

The Indiana Chapter will be hosting the AWMA Annual Conference and Exhibition (ACE) during June 20-24, 2004 at the Indianapolis Convention Center. Sound like a long way off? Not really. The Chapter's Local Host Committee is hard at work and is led by Dave Hoffman and Anne Heighway, General Conference Chair and Vice-Chair. And your ideas are welcome!

"We realized early on that the success of the Indianapolis ACE will depend on developing a technical program that will appeal to members in our surrounding Sections and Chapters," states Heighway. A QEP and Environmental Affairs Associate with Indianapolis-based Eli Lilly, Heighway led the contingent to bring the ACE to Indiana when she served as Chapter Chair.

"We already have a good head start and will soon be developing a theme for the ACE, selecting a keynote speaker and considering titles of plenary sessions. If any Lake Michigan States Section members have specific ideas, they are invited to forward them to Dan Weiss at Cinergy or Ann McIver at Citizens Thermal Energy, they are coordinating development of our technical program," says Heighway. They can be reached at dweiss@cinergy.com or AMCIVER@cgc.com, respectively.

"Indianapolis is close enough that the Lake Michigan States members can drive to the ACE. So we will make a special effort to include their ideas and continue to keep them advised as our program develops and we countdown toward Indy in 2004," stated Chairman Hoffman who is a past-president of the Association.

Please feel free to contact either Dave Hoffman drhoffmand@aol.com or Anne Heighway heighway_anne_r@lilly.com with any other ideas or if you would like to volunteer!

2002 Air Quality Management Conference

Willowbrook Holiday Inn – Willowbrook, IL

October 23 and 24, 2002

The Lake Michigan States Section of the Air & Waste Management Association is pleased to announce the Midwest's most comprehensive annual program on air quality management issues. The Lake Michigan States air conference has become an October tradition in the region – bringing together environmental professionals from industry, government, environmental services and the legal community to learn about the hottest issues and most important developments in the rapidly evolving field of air quality management.

The one-day air conference on October 24, 2002 will cover a variety of topics of both regional and national interest. Issues to be discussed will include:

- EPA and Environmentalist perspectives on important and controversial federal initiatives, including New Source Review (NSR) Reform and market-based regulations for the utility industry
- Environmental management priorities and new initiatives from the senior regulatory officials of the Lake Michigan States
- Important changes and new opportunities anticipated at the state and federal levels for the Title V and NSR permitting programs
- Rapidly developing air toxics issues, including the challenge of broadly applicable MACT standards and the potential for massive case-by-case MACT permitting under the Clean Air Act's "MACT Hammer"
- Fresh insights into current prospects, changing priorities and new directions for environmental compliance & enforcement

As in the past, session breaks and a closing reception will provide opportunities to effectively network with a wide range of professionals in your field.

LM-A&WMA will again present an **Air Primer Workshop on the evening of Wednesday, October 23, 2002**, prior to the conference. The Air Primer is perfect for both environmental professionals new to the air quality field and senior executives who want an opportunity to learn the details of the program implemented by their staffs.

Mark your calendars for Wednesday and/or Thursday, October 23 and 24, 2002, and watch for more information on registration and the detailed conference program. For information on opportunities to promote your organization's environmental initiatives at the conference, please contact Robin Pelsis of LM-A&WMA at **847-202-0418** or **lm_awma@ameritech.net**.

THE NEW GUIDANCE ON FEDERALLY PERMITTED AIR RELEASES

HOW WILL YOU BE AFFECTED?

A potential enforcement concern has long existed for a facility's normal air emissions to be considered a reportable release under CERCLA, even if the release is from permitted emissions. USEPA has recently provided new guidance as to how they view your reporting requirements. This seminar will help you define the potential problem and develop an effective solution.

Date: *Thursday, September 19, 2002*

Location: *Seyfarth Shaw
55 E. Monroe
Chicago, Illinois*

Time: *Registration begins at 3:45 p.m.; seminar begins at 4:00 p.m.*

Cost: *\$25 for A&WMA members and \$70 for non-A&WMA members.*

Program Co-Chairs: *Eric E. Boyd, Seyfarth Shaw
Diana Jagiella, Howard & Howard*

Reception: *Immediately following the seminar.*

SPEAKERS

THE REGION 5 PERSPECTIVE

Ed Messina
Associate Regional Council
Region 5 EPCRA Expert and Practice Group Leader
U.S. EPA, Region 5

ACCIDENTAL RELEASES AND THE STATE'S PERMITTING PROGRAMS

Hank Naour
Manager of Air Toxics /AQPS
Illinois EPA

PRACTICAL ADVICE FOR THE REGULATED COMMUNITY

Jeffrey Wentz
Senior Environmental Scientist
Baker Environmental

Contact Robin Pelsis at (847) 202-0418 or lm_awma@ameritech.net for registration information.

The full brochure and registration form can be found on the website at www.lmawma.org.

Attendees joining LM-A&WMA as a Local Associate Member (\$45) may register at the member rate.

Reducing Costs Through On-site Reuse of Contaminated Soils

In an effort to encourage redevelopment of contaminated properties, several state voluntary remediation programs have guidelines for the on-site beneficial reuse of contaminated soils. This allows on-site reuse of contaminated soil without violating solid waste disposal regulations.

Reusing contaminated soils on-site can result in redevelopment savings by reducing or eliminating the cost and time associated with landfill disposal and importing clean fill. Options can include using contaminated soils for fill beneath a structure or parking lot, consolidating contamination to facilitate redevelopment of a larger portion of a property and replacing soils excavated for treatment to reduce contaminant concentrations.

While technical standards vary, state beneficial reuse programs typically require:

- Characterization of the extent and degree of contamination from all potential sources,
- Demonstration that the planned reuse will remain protective of public health and the environment,
- Confirmation of the contaminant levels in the soils to be reused,
- Notification and reporting,
- Reuse of contaminated soils generated only from the property being redeveloped and

- Use of contaminated soils only within areas of the property that are already contaminated.



Illinois

Beneficial reuse of contaminated soils is regulated through the Illinois EPA Site Remediation Program (SRP) as Soil Management Zones (SMZs). In general, the SMZ regulations require an applicant to:

- Enroll in the SRP,
- Complete a comprehensive site investigation to assess all potential sources of contamination and contaminants of concern,
- Demonstrate planned reuse will meet all requirements of the *Tiered Approach to Corrective Action Objectives* (TACO) and contaminated soils will not be placed in clean areas of the property,
- Obtain state approval prior to constructing the SMZ,
- Construct the SMZ to prevent odors, fugitive emissions, contaminated runoff and pests.
- Complete the SMZ and obtain a No Further Remediation (NFR) determination within a defined time frame.

By complying with the SMZ requirements, applicants will be exempt from solid waste disposal regulations. Additional demonstration of compliance with RCRA regulations is necessary if soils are a hazardous waste.

Additional information regarding the Illinois SRP and TACO can be found at www.epa.state.il.us/land. The SRP and TACO regulations can be found at http://www.ipcb.state.il.us/TITLE_35/main.htm.



Wisconsin

The Remediation and Redevelopment (RR) Program of the Wisconsin Department of Natural Resources administers the redevelopment of contaminated properties. Specific regulations exist for the management of solid wastes excavated during response actions that address the on-site reuse of contaminated soils. In general, to be exempted from solid waste regulations, applicants must:

- Analyze contaminated soils for all potential contaminants associated with land uses of the property,
- Demonstrate the planned reuse will protect public health and the environment in accordance with applicable remediation standards, and

Continued on page 6.

Reducing Costs Through On-site Reuse of Contaminated Soils (con't.)

- Provide required notices to the Department of Natural Resources.

Hazardous waste soils cannot be reused on-site. In addition, contaminated soils cannot be placed within specified setbacks of wetlands, surface water bodies or water wells without prior state approval.

Additional information regarding the Wisconsin RR Program and applicable regulations can be found at <http://www.dnr.state.wi.us/org/aw/rr/index.htm>.



Indiana

The Indiana Department of Environmental Management administers the state Voluntary Remediation Program (VRP). Currently, the beneficial reuse of contaminated soils is not specifically addressed by regulation; however, applicants may submit a site-specific request for review and evaluation.

Additional information regarding the Indiana VRP and applicable regulations can be found at <http://www.in.gov/idem/land/vrp/index.html>.

Contributor: Michael Reese, PG
Senior Geologist
Boelter & Yates, Inc.

YOU Can Help Your Profession Through the Lake Michigan States Section of the A&WMA

Volunteer for AWMA Teacher Training!

The purpose of A&WMA is to enhance environmental knowledge and provide quality information on which to base environmental decisions. An important part of this effort is the AWMA teacher training program. The program provides teachers with a basic understanding of environmental issues and the materials to take back to the classroom to use in their lessons. The LM-AWMA teacher training program is part of AWMA Public Education and Outreach. The goal is to improve the environmental literacy of teachers and students.

Teacher training is done by AWMA members who volunteer to conduct training workshops. The latest of these workshops was performed last May 16 at Waukegan High School with 45 primary grade teachers. During these workshops, teachers receive an introduction to environmental topics and materials they can take back and use in the classroom. The material – an ERG (Environmental Resource Guide) is the focus of the workshop. The ERG has been prepared by AWMA and contains scripted lessons on science and environmental topics for the teachers to use in the classroom. The ERG's are currently available in two topics – Air Quality and Nonpoint Source Pollution. Each topic has four volumes relating to grades K-2, 3-5, 6-8, and 9-12.

This program relies on AWMA member volunteers to work. We need your help. What does it take to become a presenter? An enthusiasm for environmental education! A Presenters Manual is provided to each volunteer trainer that gives step-by-step instructions on putting on a workshop. Workshops can be tailored to the group of teachers and typically last 2 hours.

Since training materials are provided free of charge to workshop participants, funding this program is also an important issue. We rely on outside funding to keep these materials free to teachers. If your company might be willing to help fund this program so we can provide an ERG free of charge to each teacher that completes a workshop, please contact me.

Interested in becoming a trainer or donating? Please contact Mark Roach at 847-991-6200 ext 4599.

The Lake Michigan States Section of the Air & Waste Management Association Can Help **YOU**

MEMBERSHIP OPTIONS AND BENEFITS:

⇒ **Regular Section Member - Included with National Association Dues**

- Quarterly newsletter and special program notices
- Regular networking opportunities
- Professional announcements in newsletter
- Unlimited possibilities for professional/personal enrichment
- Special rates on technical programs
- Voting privileges
- May hold office in the section

⇒ **Section Organization Member - \$250.00 Annually**

- May nominate up to five (5) individuals to participate as Regular Section Members (but not Association Members)
- Corporate link on section web page
- Identification of organization in Section newsletter and other publications
- Priority given for event exhibitor requests

⇒ **Local Associate - \$45.00 Annually**

- All privileges of Regular Section Membership, with the exception of holding office in Section
- Not entitled to benefits of Association Membership

⇒ **Student Member - \$15.00 Annually**

- Discount rates on Section technical programs
- Eligible for Annual Research Paper Competition
- All privileges of Regular Membership if also an Association Member

EVENT SPONSORS

Half Day - \$125* / Full Day - \$250*

- Sponsor name identified in event materials and newsletter
- One pass for free attendance
- Provided with list of registrants
- Sponsor name and logo identified by sign at event
- May be identified as Sponsor of Refreshments (extra cost)

EVENT EXHIBITOR

\$500 (Full Day Events Only)

- Same benefits as Full Day Sponsors
- Exhibit space provided

CONTRIBUTOR TO TEACHER TRAINING/STUDENT EDUCATION FUND

- Provided certification to support full deductibility
- Satisfaction from supporting these worthwhile Section endeavors
- Identification of organization in newsletter and other publications

**Fee waived if Sponsor supplies Event Location
Association Member is a classification of National Membership*

LM-A&WMA Membership Bulletin Board

The LM-A&WMA Section is also seeking *volunteers* to participate in the following activities:

Environmental Authors: Our LM-A&WMA Board Secretary, Bob Wells, is always looking for talented writers to contribute articles on current environmental issues to the quarterly Lake Michigan States Section Newsletter. If you have interesting information to share from industry, government, academia or consulting, please feel free to contact **Bob Wells** at 630-462-6864 or wellsrobertc@earthlink.net.

Open Board Meetings: If you are an interested LM-A&WMA member and would like to become more active or if you would like to present an issue or idea to our Board, come and attend one of our open Board meetings. Contact LM-A&WMA's Administrative Assistant, **Robin Pelsis**, at 847-202-0418 to find the date and location of the next Board meeting or to be placed on the meeting agenda.

LM-A&WMA Advisory Committee: Our Section formed an Advisory Committee for our members who are interested in being actively involved with the A&WMA Board and its conference planning activities. If you have such an interest, please contact our LM-A&WMA Board Chair, **Eric Boyd**, at 312-269-8903.

LM-A&WMA Student Chapter: A student chapter has been formed at the Illinois Institute of Technology [IIT] and is open to students affiliated with the IIT Chicago Kent College of Law, School of Environmental Engineering and the Stuart School of Business. If you are interested in becoming active in the Student Chapter, please contact LM-A&WMA Membership Chair, **Bill Forcade**, at 312-923-2964.

The Call for Abstracts is now available!



The Air & Waste Management Association's 96th Annual Conference & Exhibition will be held in San Diego, CA, June 22–26, 2003. On behalf of A&WMA, we are pleased to invite abstracts of original work on any environmental issue, including those related to the proposed sessions list. The abstracts will be evaluated for

- technical quality;
- relevance and significance to current environmental issues; and
- lack of commercialism.

*Abstracts must reach the A&WMA headquarters no later than **September 20, 2002**.*

If possible, please submit your abstract electronically, preferably via the on-line submittal form (available at www.awma.org). Please indicate your presentation preference on the form. Paper and poster presentations will be treated identically in all aspects, except in the form of presentation at the meeting. A paper presentation is given orally, while a poster is visual in presentation.

Authors will be notified of the acceptance of their abstract by mid-November 2002. For inclusion in the Annual Meeting Technical Program, a complete draft manuscript of the paper must be received by mid-January 2003. The draft manuscript will be reviewed and a revised final manuscript will be due mid-April 2003. The manuscript must adhere to the style guide that will be provided upon notification of the acceptance of your abstract.

Member News

Sandeep Agnihotri, Ph.D. student in the **Department of Civil and Environmental Engineering at University of Illinois UC**, won 1st place in the M.S. student poster competition at the 95th Annual AWMA Conference in Baltimore, MD. The poster titled “Destruction of 1,1,1-trichloroethane Using Non-Thermal Plasma” focused on use of electrical discharges to remove pollutants from gas streams. Sandeep also won 1st place in the LM-A&WMA student paper competition that provided support for his travel costs to attend the annual meeting in Baltimore.

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Robert C. (Bob) Wells is pleased to announce the formation of **Wells Environmental Systems**. The company’s mission is to provide creative solutions to air quality and environmental management challenges of industry and the regulated community, with particular emphasis on air permitting, environmental compliance issues and environmental management systems. Mr. Wells has 24 years of experience in solving problems and building flexible systems in a wide range of industries, including electric power, petroleum, chemical, and general manufacturing, and is committed to providing the thoughtful attention of experienced environmental professionals in a flexible, cost-effective manner. Mr. Wells can be reached at 630-462-6864 or wellsrobertc@earthlink.net.

Ann McCabe joined **Policy Solutions Ltd.** in late May. Her partners at the environmental and economic policy consulting firm are Henry Henderson, former Chicago Environment Commissioner, and Don Coursey, University of Chicago Harris School of Public Policy professor and economist. The firm does regulatory analysis, risk assessment and communication, natural resource valuation and compliance assistance.

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MOSTARDI PLATT ENVIRONMENTAL (MPE) is pleased to announce the opening of our East Coast Operation headquartered in Orlando, Florida. **Ms. Lisa Beeson**, Regional Director, will be managing the startup venture. Lisa was formerly the Manager, Gas Turbine Auxiliaries, Siemens-Westinghouse Power Generation (Orlando) and also worked for several years in the Environmental Engineering and Services Department. Her most recent position was Senior Vice President, Corporate Development, at Control Center LLC, where she successfully started their Engineering Services and Advanced Technologies departments. Lisa has a Mechanical Engineering degree from Georgia Tech, and is actively involved with the Astronaut Scholarship Foundation.

Information for Mostardi Platt Environmental’s East Coast Operation follows:

Mostardi Platt Environmental
P.O. Box 620058
Oviedo, Florida 32762-0058

Phone: 407-359-5414
Fax: 407-977-9646
Cell Ph.: 407-314-9906
Email:

LBeeson@mostardipltattenv.com

MOSTARDI PLATT ENVIRONMENTAL (MPE) is a leading full-service environmental consulting firm providing complete permitting, compliance and assessment services since 1976. Corporate offices are located in Oak Brook, Illinois. For more information on our capabilities or to discuss issues concerning your specific environmental needs, please call Mr. F. Peter Gabrek at (630) 993-2684 or visit our web site at www.mostardipltattenv.com.

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RK & Associates, Inc. is pleased to announce that **Mr. Michael Fiore** CIH, CSP has joined the firm as an Associate in its Glen Ellyn office. Mr. Fiore will be responsible for expanding RK & Associates, Inc.’s consultation services to include all aspects of industrial hygiene, safety and occupational health. He is a certified industrial hygienist (CIH), a certified safety professional (CSP) and has a Masters of Environmental & Occupational Health Services from the University of Illinois-Chicago. Michael comes to us with over 10 years of professional experience involving government, private industry and professional consulting.

Member News

BT², Inc., an environmental engineering consulting firm based in Madison, Wisconsin, is proud to announce the following promotions:

Jennifer DeSteno to Project Engineer II. Ms. DeSteno's areas of expertise include: air quality engineering and permitting, environmental compliance audits, hazardous and non-hazardous waste management and disposal, Spill Prevention, Control, and Countermeasures Plans (SPCC), and Storm Water Pollution Prevention Plans (SWPPPs). Ms. DeSteno holds a B.S. in Chemical Engineering from the University of Minnesota-Twin Cities. She has been a team member of BT² since 2000.

Eric Nelson to Project Engineer II. Mr. Nelson's areas of expertise include: soil and groundwater remediation, remedial action design and cost estimating, project specification and plan preparation, bidding, and construction, and landfill construction oversight and documentation, and solid waste design. Mr. Nelson holds a B.S. in Geological Engineering and Geology and Geophysics from the University of Wisconsin-Madison. He has been a team member at BT² since 1997.

Brenda Peterson to Project Engineer II. Ms. Peterson's areas of expertise include: air quality engineering and permitting, air dispersion modeling, environmental reporting and data management, compliance planning, including SPCC Planning, SWPPP and Risk

Management Planning. Ms. Peterson holds a B.S. in Geological Engineering from the University of Minnesota-Twin Cities. She has been a team member at BT² since 1998.

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Wingra Engineering, S.C. is pleased to announce that **Steve Klafka**, PE, DEE and **Kurt Jacobsen**, PE presented the following technical papers at the 9th Annual Conference of the Air & Waste Management Association in Baltimore, Maryland:

“Evaluating Local Impacts of a Utility Selective Catalytic Reduction Retrofit Project”

“Challenging a Title V Operation Permit with the Part 79(8) Petition Process: An Aluminum Foundry Case Study”

“Using a Flexible Compliance Strategy to Issue a Title V Operation Permit”

“Influence of Emission Estimates on a BACT Determination for Iron Foundry Core Making Operations”

Abstracts and PowerPoint presentations for these papers are available at the Wingra Engineering web site:
www.wingraengineering.com/Publications.htm

For more information or text copies of these technical papers, please contact Steve Klafka at (608) 255-5030 or sklafka@wingraengineering.com.

To better serve its customers in the Great Lakes Region, **Pavilion Technologies Environmental Group** now has an office in Oak Brook, Illinois. Pavilion's software solutions allow customers to measure, monitor, report and optimize their environmental performance while achieving their business goals. Pavilion's modeling and optimization software helps clients to gain new insights from their environmental data, predict real time emissions, optimize processes and quickly produce reports related to continuous monitoring. Pavilion's patented neural net technology helps customers replace problematic sensors and analyzers, improve efficiency of combustion units and submit compliance reports more easily.

To learn more about Pavilion's environmental solutions, please contact Mike Bounama at (630) 620-5351, or e-mail mbounama@pav.com.

Send Us Your News!



LM-A&WMA wants to share your news. Send your announcements of new employees, new location, awarding of a job, etc. to lm_awma@ameritech.net. Your announcement will be included in the next issue of this newsletter. Newsletters are published on a quarterly basis.



Environmental Professionals

RK & Associates, Inc. is seeking environmental professionals to supplement its Glen Ellyn multimedia environmental engineering staff. Senior and staff positions are available.

Experience in multiple fields such as UST assessment and closure, brownfield redevelopment, environmental assessment and remediation action design and implementation and regulatory compliance audits are desirable.

Although positions are available at senior and staff level, senior level positions must have a minimum of a B.S. degree and 10 or more years of applicable experience. E-mail resume to rfollett@rka-inc.com or mail to RK & Associates, Inc. 739 Roosevelt Road, Building 8, Suite 301, Glen Ellyn, Illinois 60173, Attn.: Ms. Rhiana Follett.

If your firm would like to place a help wanted ad in the next issue of the LM-A&WMA newsletter, please contact Robin Pelsis at (847) 202-0418 or e-mail her at lm_awma@ameritech.net for exact specifications and deadlines.

U.S. EPA Issues Guidance on Federally Permitted Release Definition for Certain Air Emissions (con't.)

Even though the Guidance was issued as a final interpretation, the Agency once again is using its enforcement discretion to not apply the Guidance to releases for 180 days. Until October 14, 2002, the Agency will not enforce against facilities claiming that releases are federally enforceable unless the release is:

- (1) An unanticipated release, such as an accident or malfunction;
- (2) A release in excess of a permit limit or control regulation as described in *In Re: Mobil Oil Corp.*;
- (3) A release from an emergency release valve as described in *In Re: Borden Chemicals and Plastics*;
- (4) A release from a source that is grandfathered and not subject to Clean Air Act permits or control regulations; or
- (5) A release from a source that is otherwise exempt and not subject to any federally enforceable Clean Air Act permit or control regulation.

A week after issuing the new guidance, the Agency also issued guidance on the definition of federally permitted releases as applied to "Grandfathered" Sources.³ This Guidance concludes that releases from grandfathered sources do not generally meet the definition of federally permitted releases. To the extent such sources are subject to permits or control regulations, however, the emissions may be subject to the federally permitted release definition. The Guidance gives a facility several choices. First, they could evaluate their emissions of hazardous substances and conclude that releases above reportable quantities will never occur. Second, they could seek changes in existing permits to make sure that emissions are subject to permit requirements. Finally, they could file continuous release reports with the U.S. EPA and relevant state agencies. Exactly what strategy should be pursued will depend on the facts of the particular case.

**Contributor: Eric E. Boyd
Seyfarth Shaw**

¹ 67 Fed. Reg. 18899 (April 17, 2002)

² 64 Fed. Reg. 71614 (Dec. 21, 1999)

³ 67 Fed. Reg. 19750 (April 23, 2002)



Lake Michigan States Section
Air & Waste Management Association
11 Pleasant Hill Blvd.
Palatine, IL 60067

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Howard and Howard

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& Research Center

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Mark Roach
Clean Air Engineering

Carol Schweiger
DUR-O-WAL

Tom Tramm
Consulting

Jeffrey Wentz
Baker Environmental, Inc.



Surface Coating MACT Standards National Webcast Conference September 30, 2002 1 pm – 3 pm

Don't miss this important national webcast update on the surface coating MACT standards for plastic parts, miscellaneous metals and automotive coatings. Presentations by Dianne Byrne, Kim Teal and Dave Salman of USEPA. Moderated by Jeff Pfof of ERM, Inc. Locally sponsored by LM-AWMA and ERM at:

10 South Riverside Plaza
Training Room, Suite 1800
Chicago, Illinois
Cost: \$10.00

To register - call, FAX or e-mail to: Robin Pelsis
LM-AWMA
(847) 202-0418 Ph
(847) 202-0427 FAX
lm_awma@ameritech.net



www.lmawma.org

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