



Grand Jury Charges W.R. Grace and Executives with Endangerment, Obstruction of Justice, and Fraud

On February 7, the Department of Justice and the Environmental Protection Agency announced that a federal grand jury had indicted current and former executives of W.R. Grace on 10 counts, including endangering human health and withholding information about the dangers associated with its asbestos mining operations in Libby, Montana. The indictment states that W.R. Grace and the named defendants knew as early as the 1970s that tremolite asbestos was contaminating the company's vermiculite products. Also, their internal testing had revealed potential health problems from tremolite asbestos exposure, information they withheld from EPA in violation of the Toxic Substances Control Act (TSCA). The indictment also alleges that, despite the evidence of health problems identified through the testing, the company allowed vermiculite to be dispersed through the community by allowing workers contaminated with asbestos dust to leave the mines and distributing vermiculite and tailings for use in the community (e.g., as fill for gardens). W.R. Grace and the defendants are also charged with obstruction of justice and fraud. Each endangerment charge in the indictment carries a possible 15-year prison sentence, and the defendants could get five years for each conspiracy and obstruction charge. In addition, the company could be forced to pay fines worth up to twice its profits gained from mining at Libby. In addition to the criminal charges outlined in the indictment, W.R. Grace may also be ordered to pay restitution to Libby residents. 1,200 Libby residents are known to have asbestos-related illnesses from exposure to vermiculite.

EPA identified widespread asbestos contamination in and around Libby in 1999, and the Libby Mine and other properties owned by the company were designated a Superfund site in 2002. In October 2003, a District Court judge ordered W.R. Grace to pay EPA \$54 million for response costs incurred through December 31, 2001 cleaning up asbestos contamination at Libby Mine.

Leavitt Confirmed as HHS Secretary; Johnson Becomes Acting EPA Administrator

On January 26, 2005, Michael Leavitt, who had served as EPA Administrator since November 2003, was sworn in as Secretary of the Department of Health and Human Services. With Leavitt's departure from EPA, Stephen Johnson, a 24-year veteran of EPA and President Bush's selection for Deputy Administrator, became the Acting Administrator. Johnson will serve as Acting Administrator until President Bush selects and the Senate confirms a replacement.

Prior to serving as Leavitt's Deputy Administrator, Johnson was the Assistant Administrator of EPA's Office of Prevention, Pesticides, and Toxic Substances (OPPTS). He has also served as Deputy Director of the Office of Pesticide Programs (OPP) and as Director of the Registration Division within OPP.

Johnson holds a B.A. in Biology from Taylor University and an M.S. in Pathology from George Washington University.

Agencies Respond to Crude Oil Spill on Kentucky River

Personnel from EPA Region 4, the State of Kentucky, other federal agencies, and Mid-Valley Pipeline responded to a January 26 pipeline rupture near Perry Park, Kentucky. The rupture in a 22-inch pipe released approximately 83,000 gallons of crude oil into the Kentucky River, and the oil was carried to the confluence of the Ohio River 16 miles downstream by January 31. As of February 2, almost 50,000 gallons of crude oil product had been recovered. The emergency response phase has been completed, and most of the responders have been demobilized. Water sampling and shoreline assessment are ongoing. At the present time, EPA is the lead agency for monitoring responsible party cleanup actions under the National Contingency Plan (NCP). The Kentucky Department of Environmental Protection will assume the lead agency role for long-term monitoring and requiring any additional response actions, as appropriate.

Current information about the cleanup effort is available through EPA's On-Scene Coordinator website, <http://www.epaosc.net/MidValleyPipeline>.

For additional information, contact Art Smith, Federal On-Scene Coordinator, smith.art@epa.gov.

Cleaning Up Superfund Sites Yields Significant Benefits, Study Finds

EPA has announced the release of the draft Superfund Benefits Analysis (SBA). SBA is the first comprehensive study of the benefits of Superfund and involves reviewing data compiled about Superfund sites between 1980 and 2004, identifying and describing the benefits of the Superfund program and where possible quantifying and establishing the monetary value of the identified benefits. Some parts of the study are not yet complete, pending comment from an Advisory Panel of the EPA's Science Advisory Board.

Through the study, EPA has identified health, ecological, materials (i.e., the reduction of risk and encouraging the reuse of non-residential properties), and amenities (i.e., enhancing a property, as through the destruction of unsightly buildings) as the fundamental benefits of cleanups. A property-based valuation method (hedonic pricing method) was used to calculate the monetary value of some of the fundamental benefits.

The health benefits section of the report describes collected data, and the Advisory Panel will provide input on the best method to use for data assessment. The current draft summarizes earlier studies that correlate hazardous substance exposure and increased risk of acute accidents, birth defects, cancer, and other non-carcinogenic health effects (e.g., thyroid dysfunction). Several methods are proposed to quantify ecological benefits, including using data from Natural Resource Damage Assessments—assessments made of damage to ecological systems. The benefits in terms of materials and amenities cannot be quantified, but a description of their value has been provided in the report.

In addition, EPA identified and described a number of “embedded,” unquantifiable benefits, including empowering residents living near Superfund sites through participation in the cleanup process, deterring the improper use of hazardous substances, improving emergency preparedness, developing new technologies and improving existing ones, and benefiting the international community through all the aforementioned benefits.

The draft report was prepared for the Office of Superfund Remediation Technology Innovation. Additional information about the draft report is available online at: <http://www.epa.gov/superfund/news/benefits.htm>.

For additional information, contact Melissa Friedland, OSRTI, friedland.melissa@epa.gov or (703) 603-8864.

Reuse Plan Completed for Velsicol Chemical Corporation Site

Through a year-long planning process, local stakeholders in St. Louis, Michigan have developed a reuse plan for the Velsicol Chemical Corporation Superfund site. To help fund the development of the plan, the City of St. Louis received \$70,000 in pilot project funding through the Superfund Redevelopment Initiative, an EPA program that encourages the productive reuse of former contaminated properties. The community worked closely with environmental consultants and the Michigan Department of Environmental Quality to create the plan.

The community hopes the site will be actively used by area residents, and to this end, the plan recommends: a commercial area that would serve as a gateway to the city, a recreation area with a sports fields and trail system, a community area that could include an amphitheater, and an education and commemoration area that would teach residents about the site’s history. The St. Louis Land Use Committee plans to prioritize the redevelopment so that some portions of the site, such as the education and commemoration area, can be available for use as soon as possible. The education and commemoration area will give visitors the unique opportunity to watch the dredging of contaminated sediments on the Pine River from behind a protective wall.

The Velsicol Chemical Corporation site, where chemicals were manufactured between 1936 and 1978, was added to the National Priorities List in 1983 after elevated levels of

contamination were detected on-site and at the county landfill and golf course. Although remediation at the Velsicol site was completed in 1985, high levels of contaminants, including DDT, were detected in the Pine River in 1996.

For additional information, contact James Wilkinson, E² Inc. Project Manager, (434) 975-6700, jwilkinson@e2inc.com.

OSRE Issues Model RD Administrative Order on Consent

By Theodore Kim, Office of Site Remediation Enforcement

On January 6, 2005, Susan Bromm, the Director of the Office of Site Remediation Enforcement (OSRE), issued the "Model Administrative Order on Consent for Remedial Design." The Order signifies EPA's first such document in this area and represents EPA's attempt to expedite the Remedial Design (RD) where appropriate. To accomplish this, the Order bifurcates the RD from the Remedial Action (RA), which is a practice that EPA generally disfavors. However, bifurcating the RD from the RA may be beneficial in certain site-specific circumstances, such as when a delay is anticipated in the negotiation of a RD/RA Consent Decree (CD) or in the lodging and entry of a RD/RA CD in court. OSRE ensured that this Order is consistent with the provisions set forth in the May 2001 Model RD/RA CD, such that this Order should be considered a companion document to the CD.

For additional information, contact Theodore Kim, OSRE, kim.theodore@epa.gov.

In The Courts

Settlement for Bayonne Barrel & Drum Finalized

A cost recovery settlement with 37 responsible parties went into effect on January 14 at the Bayonne Barrel & Drum site in Newark, New Jersey following expiration of the 30-day comment period. The parties agreed to reimburse EPA \$2,986,500 in removal costs incurred through January 31, 2003 in three installments under a CERCLA §122(h) administrative order. Region 2 received no comments on the proposed settlement (69 FR 71408, December 9, 2004).

The Bayonne site is a former drum reconditioning facility that operated from the early 1940s until the owner-operator filed for bankruptcy in 1982. Site operations resulted in hazardous liquids, solids, and sludges being left on site in drums, surface and underground tanks, a wastewater treatment system (oil/water separator) and associated plumbing, contaminated buildings, building sumps and pits, and ash piles. The wastes included highly toxic compounds such as dioxin, PCBs, acids, and other chemicals. EPA

began conducting removal activities in 1994. The Agency established 24-hour security, repaired and installed fences, gates, and warning signs, and removed over 16,500 gallons of liquid wastes, 46,000 drums, gas cylinders, several ash piles, over 700 tons of whole and shredded tires, and 787 tons of scrap metal.

The settling parties agreed to pay EPA \$300,000 by January 31, 2003, another \$500,000 within 30 days after the effective date, and \$2,186,500 within 540 days after the effective date. Pursuant to EPA's orphan share policy, the final payment is subject to reduction by 25 percent of the cost of future work the settling parties perform at the site. This offset is contingent on EPA reaching agreement with the parties on the work to be performed before the final payment is due.

Eleven of the settling parties are parties to a previous administrative agreement requiring them to continue EPA's removal efforts at the site. In that agreement, which went into effect on December 27, 2003, these 11 "performing" parties agreed to remove liquids, solids, and sludge from the underground and surface storage tanks, the wastewater treatment system and associated plumbing, the furnace sumps and pits, abate and remove asbestos, demolish buildings, remove solid waste and demolition debris, remove and dispose of dioxin and PCB-contaminated ash piles, and repair and maintain the site's fences and gates.

The 11 performing parties have also been conducting a remedial investigation under New Jersey Department of Environmental Protection regulations. EPA will use the results of that investigation to develop a final cleanup plan, which will determine the amount of any orphan share offset in favor of the parties to the cost recovery settlement should they reach agreement with EPA on performing the future work. Negotiations on that agreement are currently under way. EPA estimates that future work may cost as much as \$10 million. A 25 percent orphan share credit calculated on that amount would offset the final payment owed under the cost recovery settlement.

For additional information, contact Sarah Flanagan, EPA Region 2, (212) 637-3136.

Company Will Pay Penalty and Complete a SEP for RCRA Violations

AMSTED Industries, Inc. has agreed to pay EPA \$25,857 to resolve violations of the Resource Conservation and Recovery Act (RCRA). The violations, identified in a June 2003 complaint, were observed at the company's Griffin Pipe Products plant in Lynchburg, Virginia and include operating without a hazardous waste storage permit and failing to close or properly label hazardous waste containers.

In addition to paying a penalty, AMSTED has agreed to complete a supplemental environmental project (SEP) worth over \$200,000. The SEP involves installing a new pollution control system at the Griffin Pipe Products plant. The in-duct treatment dust

injection system will take hazardous baghouse dust produced by the company's melting and metal treatment processes and render it non-hazardous waste.

For additional information, contact Bonnie Smith, EPA Region 3, (215) 814-5543.

Tidbits

OSWER Training Forum Provides Training Opportunities

By Karen "Tomi" Tomimatsu, Office of Solid Waste

The Office of Solid Waste and Emergency Response (OSWER) Training Forum is comprised of training coordinators who represent the following groups: EPA Headquarters, EPA's Environmental Response Team (ERT), Superfund Regional Training Coordinators, RCRA Regional Training Coordinators, the Interstate Technology Regulatory Council (ITRC), and the Association of State and Territorial Solid Waste Management Officials (ASTSWMO).

The Forum was created in 1986 to respond to the training needs of EPA and state personnel involved in solid and hazardous waste cleanup and emergency response. The members of the Forum coordinate their efforts to provide training to EPA, federal, state, and tribal personnel responsible for regulatory and enforcement activities.

The training coordinators and regional representatives assist with planning and logistics for training, course selection, development, assessment, promotion and tracking. They help spread the word about upcoming training and search for specialized training for particular groups of individual staff members. These coordinators are also involved in selecting vendors and managing training budgets.

During regularly scheduled teleconference calls and meetings the training forum members: share information about regional activities, address concerns such as duplication of training, learn about new innovations in the training field, and consider other training needs and issues.

The Forum can help to ensure that high-quality, effective technical training is available in the Regions at a low, or even no cost, through the CERCLA Education Center (CEC) and the Environmental Response Training Program (ERTP). Training options and opportunities can be publicized and training coordinators can look for ways to address concerns about training on a national basis.

The Forum established a training exchange home page at: <http://www.trainex.org>. This webpage provides a wealth of information regarding what type of training courses are available and training modules that are already developed and ready for use on-line. You can also register for EPA training courses on-line, browse the course descriptions, locate

training being offered, and participate in on-line courses. There are also links to other EPA and non-EPA web sites with training information.

The Forum is supported by the Office of Superfund Remediation and Technology Innovation (OSRTI). The members help to present CERCLA Education Center courses throughout the Regions, to conduct needs assessments, revise course materials, administer training and monitor training attendance.

For a list of Regional representatives who can assist with training needs or for additional information, contact Karen "Tomi" Tomimatsu, OSW, (703) 605-0698.

National Corrective Action Conference - May 3-4, 2005 - Denver, CO

The next National Corrective Action Conference is scheduled to take place in Denver, CO, May 3-4, 2005. The theme of this year's conference is: "Implementing the 2020 Corrective Action Initiative." Please make your travel arrangements to attend. The conference web site is up and running and ready to take your registration, which is FREE! The web address is: <http://www.nationalcaconf.com>. The conference will cover such topics as: meeting national program goals, major policy issues and guidance documents, and implementation of the 2020 Corrective Action Initiative. The conference will also provide an open forum for EPA, Regional, State and Community Leaders, as well as Industry representatives and environmental consulting professionals to have a frank discussion on corrective action issues.

The Hyatt Regency Hotel, located at 1750 Welton Street, Denver, CO will be the host for the 2005 Conference. Information regarding the hotel and reservations can be found at the web site.

If you have any questions regarding this conference, please contact William Rothenmeyer at (303) 312-6045 or Karen Tomimatsu at (703) 605-0698.

Calendar

March 30-31, 2005

Long-Term (Groundwater) Monitoring Optimization Seminar
<http://www.trainex.org/offeringslist.cfm?courseid=379&all=yes>
Sacramento, CA

May 3-4, 2005

National Corrective Action Conference
<http://www.nationalcaconf.com/home.html>
Denver, CO

July 12-15, 2005

2005 Community Involvement Conference and Training

<http://www.epancic.org/2005/overview.cfm>

Buffalo, NY

Glossary

ASTSWMO	Association of State and Territorial Solid Waste Management Officials
CD	Consent decree
CEC	CERCLA Education Center
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
EPA	Environmental Protection Agency
ERT	Environmental Response Team
ERTP	Environmental Response Training Program
HHS	Department of Health and Human Services
ITRC	Interstate Technology Regulatory Council
NCP	National Contingency Plan
OPP	Office of Pesticide Programs
OPPTS	Office of Prevention, Pesticides, and Toxic Substances
OSRE	Office of Site Remediation Enforcement
OSRTI	Office of Superfund Remediation Technology Innovation
OSW	Office of Solid Waste
OSWER	Office of Solid Waste and Emergency Response
PCB	Polychlorinated biphenyls
RA	Remedial Action
RCRA	Resource Conservation and Recovery Act
RD	Remedial Design

SBA	Superfund Benefits Analysis
SEP	Supplemental Environmental Project
TSCA	Toxic Substances Control Act

Subscription Information

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CleanupNews is a publication of EPA's Office of Site Remediation Enforcement, in cooperation with the Office of Superfund Remediation and Technology Innovation, Office of Underground Storage Tanks, and Office of Emergency Prevention, Preparedness and Response. Past issues of *CleanupNews* can be found at <http://www.epa.gov/compliance/resources/newsletters/cleanup/cleanupnews.html>

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We have developed an electronic supplement to the *CleanupNews* print edition called *CleanupNews II*. The print issue will still be available four times a year, and the newsletter will be delivered electronically nine times a year (four issues consisting of the print edition text and five issues consisting of supplemental news).