

# E&LP Land Use Update

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## RULES & REGULATIONS

### Key Legislative Updates and Rules

#### Amendments to the Water Quality Planning Act for Department Rules

Governor Chris Christie signed into law P.L.2011 c.203 on January 17, 2012. This legislation extends the deadlines for Counties and Municipalities to adopt the new regional Wastewater Management Plans (WMPs) required by the 2008 Water Quality Management Planning Rules. More importantly, the legislation maintains the existing WMPs and sewer service areas until the new plans are finalized and adopted. It provides for site specific amendments to the WMP where previously individual projects had to be incorporated into the new regional WMP review process. This includes a process for the approval of septic systems in areas not within the sewer service areas. The legislation also prevents a moratorium on new sewer connections that would have otherwise interrupted new development in the State. The adopted legislation is available online [HERE](#).

E&LP's Princeton Office





In addition to our main office in Clinton, we are proud to announce the opening of our new office in Princeton New Jersey.

To better support our Mercer County clients, we have opened an office in the heart of Princeton at 20 Nass Street. Keep an eye open for details of our Open House in May to celebrate our 12th year in business and our new office.

#### SPILL PREVENTION CONTROL AND COUNTERMEASURE REGULATION UPDATE

Spill Prevention, Control, and Countermeasure (SPCC) regulations are created and enforced federally by the EPA and locally by the New Jersey Department of Environmental Protection (NJDEP). The goal of these regulations is to prevent spills of oil products from reaching soils, groundwater, or regulated water bodies. These regulations apply to a variety of facilities which store, transfer, use, or consume oil and which have a minimum of 1,320 gallons aboveground storage or greater than 42,000 gallons of underground storage on the site. Compliance with the SPCC regulations (and DPCC regulations for larger facilities) requires facilities to maintain containments, install security measures, and have procedures in place to address spill concerns, all of which are required to be planned for and included in a SPCC Plan.

On January 14, 2010 amendments to these regulations took effect which modified the triggers for these plans required certain additional protective measures, and expanded the applicability of these regulations. The newly implemented rules, in many cases had a compliance date of November 10, 2011. Many facilities remain unaware of these new requirements or that their facility either requires an SPCC plan or that it be updated to include addressing these rule amendments. Farms, for instance, are now regulated under these regulations and fines have even been levied against farmers for non-compliance ([http://www.keitu.com/images/Farmer\\_SPCC\\_Fine\\_2010.pdf](http://www.keitu.com/images/Farmer_SPCC_Fine_2010.pdf)). It is important to understand the applicability of these regulations and the requirements for plan upkeep and renewal to avoid such violations.

The amendments included the following key items:

1. Exemptions for hot mixed asphalt (HMA) and HMA containers, pesticide application equipment and related mix containers, and heating oil containers at single-family residences, including those located at farms;
2. New definition of "loading/unloading rack" to clarify the oil transfer equipment subject to the provisions for facility tank car and tank truck loading/unloading racks, as well as amended provisions for this equipment;
3. Amended general secondary containment requirements to provide more clarity;
4. Exemption of non-transportation-related tank trucks from the sized secondary containment requirements;
5. Amended security requirements;
6. Amended integrity testing requirements to allow greater flexibility in the use of industry standards;
7. More prescriptive requirements for a flowline/intra-facility gathering line maintenance program for all production facilities and an alternative compliance option for flowlines and intra-facility gathering lines for contingency planning in lieu of all secondary containment;
8. Alternative compliance option for flow-through process vessels at oil production facilities to comply with the general secondary containment requirements and additional oil spill prevention measures in lieu of the size secondary containment requirements;
9. Definition of "produced water container" and alternative compliance measures for these containers which require general secondary containment, a process or procedure certified by a professional engineer (PE) designed to remove free-phase oil on the surface of the produced water in these containers and compliant with additional oil spill prevention measures in lieu of sized secondary containment requirements; and
10. Clarification of the definition of "permanently closed" as it applies to an oil production facility.



Contact E&LP or the EPA website (<http://www.epa.gov/oem/content/spcc/#com> ) for more information.

ITRC Environmental Molecular Diagnostics Fact Sheets Released

E&LP has been part of the Interstate Technology & Regulatory Council's (ITRC) "Environmental Molecular Diagnostics" subcommittee for the past 2 years, developing the forthcoming regulatory guidance document using these analytical tools to provide better data, to make key decisions on the remediation of contaminated sites.

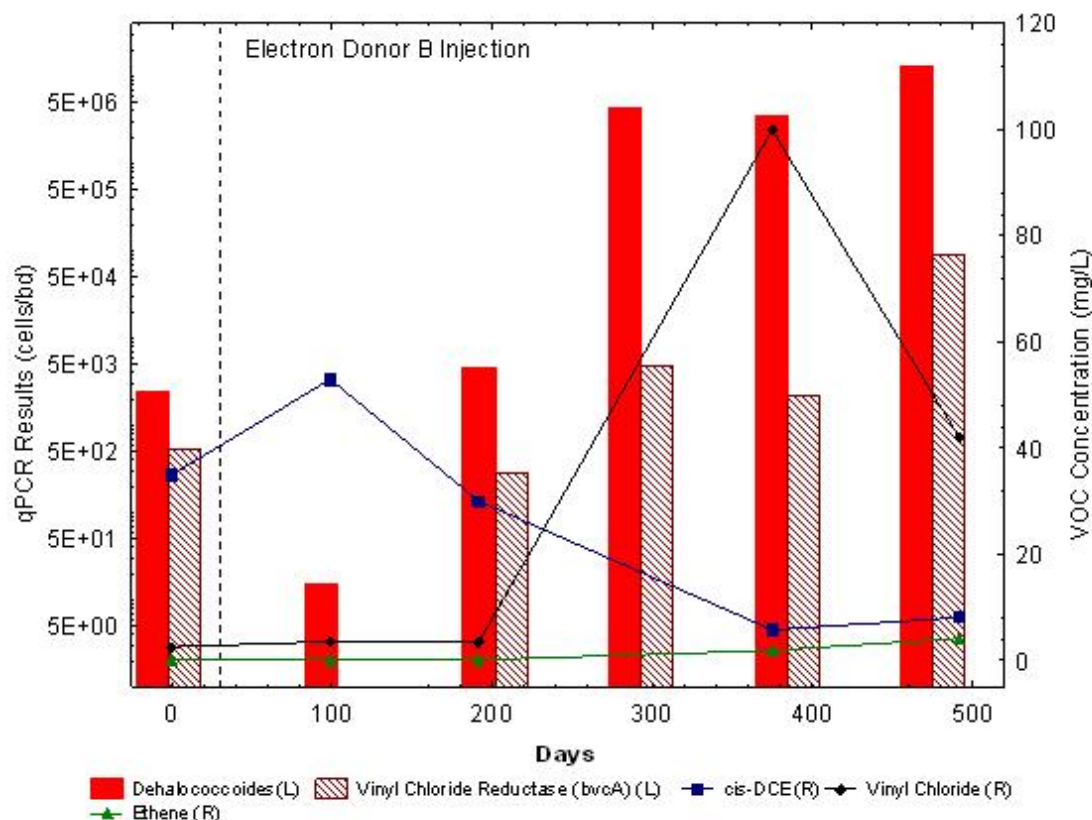
While the complete Guidance Document is still a year away from publication, ITRC has released Fact Sheets to get advanced word out on these emerging tools. The fact sheets can be found at:

[ITRC EMD Fact Sheets](#)

ITRC as a group consists of regulators from all 50 states, the District of Columbia, multiple federal partners, industry participants, cooperating to break down barriers and reduce compliance costs making it easier to obtain regulatory approvals to use new technologies.

As defined by ITRC, "Environmental Molecular Diagnostics" is a collective term that describes a group of advanced and emerging techniques used to analyze biological and chemical characteristics of soils, sediments, groundwater and surface water. Many of the tools were originally developed for applications in medicine, defense, and industry. However, over the last decade, great advances have been made in adapting and applying EMDs for environmental remediation.

The following graph is an example of EMD data that will be in the final ITRC Guidance document, where the abundance of bacteria known to completely biodegrade chlorinated solvent contamination is tracked vs. levels that contaminate after an injection of hydrogen release product, intended to stimulate biodegradation. From the graph, the abundance/population of Dehalococcoides (DHC) significantly grows after the injection, vs. corresponding decrease in the levels of contamination.



EMD data will be significantly more useful and powerful under the NJDEP's Licensed Site Remediation Professional Program, where EMD can provide key supplemental data in support of site closure decisions using professional judgement as allowed under the NJDEP ARRCS regulations.

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