

CEO's Corner—Regulation Update

by Jim Holland P.E./CEO

I hope you enjoy this edition of our newsletter. We attempt to keep our clients updated on pending regulatory changes and new and interesting developments within Pinnacle. I wanted to touch on a couple of regulatory changes that are bringing a high level of confusion amongst our industrial/manufacturing clientele.

MACT Hammer:

EPA has missed the deadline for issuing a final set of rules known as National Emissions Standards for Hazardous Air Pollutants (NESHAPS). *Because EPA missed these deadlines, owners or operators of major sources of Hazardous Air Pollutants (HAP's) must apply for a Part 70, Federal Air Emissions Permit by May 15, 2002.* Affected companies must submit Part I of the permit application, a notification form, stating that their operations could be affected by one of these NESHAP's. Companies will need to submit Part 2 of the Permit application by May 15, 2004, if they are affected by a particular NESHAP that has not yet been promulgated by EPA.

The referenced NESHAP's are industry and process specific. A listing of NESHAP's covered under this MACT Hammer can be located at [www.epa.gov/ttn/atw/112j/info/112\(j\)-table2.html](http://www.epa.gov/ttn/atw/112j/info/112(j)-table2.html)

The impacts of ignoring these filing dates have the potential to be significant issues in the permitting history of your operation.

Toxic Release Inventory (TRI) Lead Changes: The U.S. Environmental Protection Agency's community right-to-know program, the Toxics Release Inventory (TRI), now requires significantly more reporting of environmental releases of lead. The TRI rule previously required that facilities report lead and lead compound emissions to the air, water, and land if more than 25,000 pounds annually were manufactured or processed or more than 10,000 pounds annually were used. ***That reporting threshold now is lowered to 100 pounds or more annually for each facility using lead and lead compounds.*** These new requirements will apply to 2001 lead emissions. Reports (Form R) on those emissions are due by July 1, 2002.

The TRI is an annual collection of data on toxic releases that is available to the public through several sources, including the Internet at www.epa.gov/tri

If you need assistance or have any questions relating to the above regulations, contact Bill Kelsey at (763) 315-4501 (Minneapolis office) or Steve Schleicher (Rochester operations) at (507) 280-5966.

Next Phase of Storm Water Permit Requirements Coming in Minnesota!



The next phase of storm water permitting and pollution prevention planning required under the Federal Clean Water Act is being finalized by the Minnesota Pollution Control Agency and these permit requirements will be implemented by March 2003. *What does that mean for you?*

Municipalities: *Many cities and counties will be required to get a permit for discharges associated with their municipal storm water management system.*

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AUAR Offers More Flexibility for Developers

A popular tool for long-term planning, the AUAR is gaining popularity.

Pinnacle is working with Penta Development and the City of Blaine to complete an Alternative Urban Areawide Review (AUAR) of a proposed approximately 1,000-acre development in Blaine, Minnesota. The majority of the Site is proposed for residential development with smaller distinct areas of the Site planned for light industrial, commercial, and community use. A large lake and several smaller lakes are also planned in the new development. Creating the lakes not only adds character and value to the development, but the excavated material will be used as fill needed to build up other areas of the Site.

An AUAR is a hybrid form of environmental review that is different from both the Environmental Impact Statement (EIS) and Environmental Assessment Worksheet (EAW) processes. Although only certain types of developments are eligible for the AUAR process, for those that are eligible, an AUAR can be done in place of either an EAW or an EIS. An AUAR is typically done earlier in the planning process than an EAW or EIS would be done, and within the document, several different development scenarios and intensities are evaluated. The AUAR process offers much more flexibility for changes to the proposed development than either an EAW or an EIS would, which can be a useful benefit because developments such as the planned Penta Development may take several years to be fully constructed. Since comments are received on the entire proposed development earlier in the planning process, it is often possible to modify the development to minimize impact in particularly sensitive areas or alleviate identified concerns. Procedures to minimize the environmental impact are compiled into a Mitigation Plan, which is developed during the AUAR process and becomes a binding document for the development.

Pinnacle is the prime consultant on a team that includes a civil engineering company, a natural resources company, a geotechnical company, a planner, the developer, and the City of Blaine. In this lead role, Pinnacle is primarily responsible for 1) making sure that all of the environmental analyses are done in accordance with the project timeline, 2) reviewing the analyses completed by the various team members, and 3) preparing final documenta-

tion for submittal for public review. A key portion of the AUAR involves making sure that the development scenarios for the project fit in with the City of Blaine's Comprehensive Plan.

Pinnacle has completed several AUARs for various developments in the past five years. This tool is growing in popularity for residential, mixed-use, and light industrial developments. If you would like additional information on the AUAR process, please contact Janelle Amendola or Mike Hultgren in our Minneapolis office at 1-763-315-4501.

Key Pinnacle Personnel:

Principal-In-Charge – Jim Holland, P.E.
 Project Manager – Janelle Amendola, P.E.
 Senior Geologist – Mike Hultgren, P.G.
 Natural Resources Specialist – Scott Thelen

Aerial view with 1,000 acre Blaine AUAR site outlined.



CERCLA Update Eases Development

In January, President Bush signed into law amendments to CERCLA that will make it easier to develop brownfields properties. The amendments – 1) create exemptions and liability protections for minimal volume and low toxicity waste contributors, and 2) provide additional liability protections for purchasers and developers of contaminated properties and property owners who have had their land impacted by contaminants migrating onto their properties. **Pinnacle will be sending out more information in the coming months regarding these critical changes to CERCLA.**



Pinnacle Expands Services to Ethanol Industry

Pinnacle expanded their service line-up during 2001 to include partnerships with the ever growing ethanol industry. As states move closer and closer to their self-imposed ban of methyl tert butyl ether (MTBE), namely California (December, 2002), Arizona (June, 2003) and New York (January, 2004), the necessary increase in ethanol production capacity from this ban is in the order of billions of gallons. Environmental Protection Agency's (EPA) estimate of widespread MTBE contamination that has an estimate clean-up cost of over \$29 billion has added weight to upholding the MTBE legislation.

With the increasing ethanol demand has come a number of facility expansions throughout Minnesota. Along with day-to-day permitting, process, and compliance requirements, the facility expansions have brought the need for air permit modifications, updated risk management plans (RMP), updated process safety management plans (PSM) and updates to all facility permits affected by the expansions. Pinnacle is currently involved with updating facility RMP, PSM and Integrated Contingency Plans. Pinnacle is also assisting facilities with a potentially required best available control technology (BACT) analysis.

The increased popularity and capacity of ethanol production has brought with it, increased regulatory scrutiny. Extensive stack testing and increased capacities are potentially subjecting facilities to meet New Source Review (NSR) and Prevention of Significant Deterioration (PSD) requirements. The Minnesota Pollution Control Agency (MPCA) and Region 5 EPA are reportedly working on an initiative through the wet-mill ethanol production industry to address these NSR/PSD requirements. The PSD major source threshold level for facilities included in the 28 source categories is 100 tons per year of potential emissions of any air pollutant.

Pinnacle will be attending upcoming ethanol conferences in Springfield, Illinois (FEW Workshop) and Omaha, Nebraska (ACE Annual Conference). Pinnacle will be presenting at the FEW Workshop on the "Current status of and future need for, Process Safety Management in the Ethanol industry."

For more information regarding Pinnacle's Ethanol services contact Steve Schleicher in the Rochester area at 1-507-280-5966 or Glen Rosenhamer in our Minneapolis office at 1-763-315-4501.

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As part of the permit, a Storm Water Pollution Prevention Program (SWPPP) must be developed and implemented. The SWPPP includes six primary topics: public education and outreach, public participation and involvement, illicit discharge detection and elimination, construction site runoff control, post construction runoff control, and pollution prevention/good housekeeping. There will be very specific requirements in each of these areas. The program will need to be developed prior to the March 2003 permit application submission deadline since the application requires specific information about the program and its planned implementation.

Construction Permits: *All construction projects that will disturb one acre or more will now need a permit (previously only projects disturbing more than five acres were required to obtain a permit). In addition, projects that disturb less than one acre will need a permit if they are part of a larger common plan of development or sale. Pollution prevention and planning requirements are expected to be similar to those currently required for larger construction projects.*

Industrial Exemptions: *Under the new rules, it will be possible for some industrial facilities that were required to obtain a storm water permit under the 1990 rules to obtain a Conditional No Exposure Exclusion. The new program will include specific requirements for obtaining and maintaining this exclusion.*

The specific requirements for each of these permit types are being finalized now. Please contact Janelle Amendola at Pinnacle, (763) 315-4501 if you would like to know more about the upcoming requirements or how to get involved with the permit development process.

(See www.pca.state.mn.us/water/stormwater.html for additional MPCA information regarding these regulations.)

Regulatory Calendar



May 1, 2002 - Metropolitan Council Brownfield grant application deadline

May 1, 2002 - Minnesota Trade and Economic Development grant application deadline

June 30, 2002 - MCES Industrial Wastewater Sampling (Metro Area Semi-Annual reporters)

June 30, 2002 - USDOT Hazardous Materials Federal Registration (State registration follows Federal approval)

July 1, 2002 - TRI (Form R/A) Reporting (Lead reporting thresholds lowered to 100 pounds)

July 1, 2002 - Pollution Prevention Progress Report (Form R reporters)

July 31, 2002 - MCES Industrial Wastewater Report (Metro Area Semi-Annual reporters)

July 31, 2002 - Air Emissions Deviation Report (State & Federal Permit Holders)

June 30, 2005—Minnesota Petrofund Sunset. Final date to perform reimbursable investigation or cleanup of petroleum storage tanks in Minnesota.

Pinnacle Projects in Progress ...

INDUSTRIAL

- **Anodizing Plant, Minneapolis, MN**—a 60,000 sq. ft. facility upgrade involving environmental issues, engineering design and construction management.
- **Industrial Facility, Minneapolis, MN**—mercury clean up of drain systems.
- **Defense Contractor, Minneapolis, MN**—an engineering assessment of a plating area waste water treatment system, and a sewer integrity review.

ENVIRONMENTAL

- **6,000 Acre Wetland Restoration project, Baudette, MN**
- **Condominium Redevelopment project, Osseo, MN**—building demolition, geotechnical, and environmental assessment.
- **Downtown Osseo Redevelopment, Osseo, MN**—grant application for investigation and cleanup.

We recently finished redesigning our web site—presenting a new look!

Log on to www.pineng.com and see for yourself. You will find updated information, archived articles, newsletters, a 2002 Regulatory Calendar and more.

If you would like to receive future Perspective newsletters via email, call or send us your email address via pinnacle@pineng.com.



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