

CBIA e² Waste Task Force Summary
(April 20, 2018)

Harold Blinderman: Day Pitney LLP

Mark Bobman: Bristol Resource Recovery

Issue	Notes
DEEP - - Cleanup Transformation	<ul style="list-style-type: none"> • RSR Wave 2 Roll Out (No Change): <ul style="list-style-type: none"> ❖ Wave 2 proposed regulations remain under legal review and revision at DEEP. ❖ A final internal version, upon completion, will be circulated for management review. ❖ A public notice of intent to issue regulations is expected to occur in the first half of 2018 after DEEP legal and management reviews are completed.
DEEP - - Spill Reporting	<ul style="list-style-type: none"> • Spill Reporting Regulation Status (No Change): <ul style="list-style-type: none"> ❖ P.A.16-199 required DEEP to draft and adopt regulations specifying numeric thresholds for reporting spills, discharges or other releases – reports required if exceed applicable threshold. ❖ An internal DEEP Spill Reporting regulation team continues to draft/finalize a proposed regulation.
DEEP - - P.A.17-242 Update	<ul style="list-style-type: none"> • Adoption of Federal Hazardous Waste Generator Improvement Rule (No Change): <ul style="list-style-type: none"> ❖ <i>P.A.17-242 - AN ACT CONCERNING EDUCATIONAL AND ENVIRONMENTAL ISSUES RELATING TO MANUFACTURING – Stakeholder group proposed to meet and discuss P.A.17-242, which seeks to require DEEP to issue a Notice of Intent to adopt regulations consistent with the Hazardous Waste Generator Improvements Rule by July 1, 2018.</i>
Solid Waste – General	<ul style="list-style-type: none"> • University of Portsmouth Research <ul style="list-style-type: none"> ❖ Enzyme mutation developed to test digestion of PET plastic by bacteria ❖ 20% more efficient at breaking down PET during lab testing ❖ “extremophile bacteria” that can survive temperatures above 70C, at which point PET changes from a glassy to a viscous state, making it likely to degrade 10-100 times faster” • DEEP/MIRA Hartford Waste System Project <ul style="list-style-type: none"> ❖ 30 year term, utilization of existing infrastructure ❖ \$230M project, proposed private financing ❖ 700,000 ton per year capacity at full design ❖ Includes anaerobic digestion, methane generation to renewable energy and aerobic fermentation (compost 37,000 tons) ❖ Trash to energy generating 198 GWh, price \$65 to \$78/ton MSW, \$0 to \$23/ton recycling proposed

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DEEP - - Solid Waste	<ul style="list-style-type: none"> • Solid Waste Management Advisory Committee <ul style="list-style-type: none"> ❖ Next meeting April 24, 2018. ❖ Additional meeting schedule in 2018: June 26, September 25, and October 23.
DEEP - - Remediation Roundtable	<ul style="list-style-type: none"> • Remediation Roundtable held March 20, 2018: <ul style="list-style-type: none"> ❖ Of interest, Roundtable Tip #16 -- Phase I Environmental Site Assessment Expectations (Attachment A): <ul style="list-style-type: none"> ○ “Although the ASTM E1527-13 standard will satisfy the requirements for all appropriate inquiries under CERCLA, and may provide liability protections to the land owner, the ASTM Standard Practice for Phase I ESA’s is not all inclusive of the expectations for completing a Phase I in accordance with the SCGD. [DEEP’s Site Characterization Guidance Document]” ○ “Any Phase I ESA presented to DEEP as basis for support for a remedial program milestone is expected to be completed in FULL accordance with Connecticut’s SCGD. . . regardless of Type of Property Transfer Filing or type of Verification.” ○ “Verifications that rely solely or mostly on findings of ASTM Phase I will be selected for Audit.” ❖ Next meetings June 19 and October 16, 2018
DEEP Website	<ul style="list-style-type: none"> • Recent Updates of Note: <ul style="list-style-type: none"> ❖ Voluntary Remediation Program 133x and 133y Fact Sheet ❖ Concurrence Memo with Interstate Regulatory Council (ITRC) Integrated DNAPL Site Strategy and Integrated DNAPL Site Characterization and Tools Section ❖ The guidance documents are the Integrated DNAPL Site Strategy (November, 2011) and the Integrated DNAPL Site Characterization and Tools Selection (April, 2015) ❖ LEP Verification Audit Program Fact Sheet ❖ Emerging Contaminants Webpage
Federal Brownfields Utilization, Investment, and Local Development (BUILD) Act of 2018 (and continued on next page)	<ul style="list-style-type: none"> • BUILD Act Addresses CERCLA Issues and Brownfield: <ul style="list-style-type: none"> ❖ The Consolidated Appropriations Act of 2018, which President Trump signed on March 23, 2018, includes 2,300 pages of appropriations and priorities for the operation of the federal government over the next fiscal year. It also includes the Brownfields Utilization, Investment, and Local Development (BUILD) Act of 2018 (Attachment B). ❖ The BUILD Act clarifies potential scope of cleanup liability for tenants and state and local governments under the Comprehensive Environmental Response, Compensation & Liability Act, 42 U.S.C. §§ 9601 et

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<p>Federal Brownfields Utilization, Investment, and Local Development (BUILD) Act of 2018 (continued)</p>	<p>seq. (CERCLA) and significantly not only reauthorizes Brownfields program at current funding levels through 2023 but makes a number of “development friendly” changes to the Federal Brownfields program.</p> <ul style="list-style-type: none"> • Significant Provisions of the BUILD Act include: <ul style="list-style-type: none"> ❖ Section 4 of the BUILD Act adds orphan (no potentially responsible party) petroleum-contaminant sites to the list of funding-eligible categories of Brownfield sites: ❖ Section 5 of the BUILD Act extends the definition of a bona fide prospective purchaser to include lessees of property who enter a lease after January 1, 2002, (effective date of the 2002 act) and who meet the other criteria for the bona fide prospective purchaser defense. The innocent purchaser defense in the 2002 amendments excluded state and local governments acquiring properties involuntarily from liability. Section 2 of the BUILD Act clarifies that states and local governments that acquire properties through seizure or other law enforcement activities are also excluded from CERCLA’s definition of owner and operator. ❖ Section 6 of the BUILD Act expands the types of entities that are potential recipients of brownfield revitalization funding to include nonprofit and community development entities. In addition, certain public entities may receive brownfield grants and use brownfield grants and loans to characterize and remediate properties acquired before the 2002 amendments, even if the public entity does not qualify as a bona fide prospective purchaser. Section 6 also increased the size of remediation grants from \$200,000 to \$500,000 and may go as high as \$650,000. <p>Section 9 of the BUILD Act establishes a program for multipurpose brownfield grants of up to \$1 million for an eligible entity to inventory, characterize, assess, plan or remediate one or more brownfield sites within a designated area. With some limitations, entities are now allowed to pay administrative costs with grant or loan funds under Section 10 of the BUILD Act.</p> <ul style="list-style-type: none"> ❖ Section 11 of the BUILD Act adds several new criteria to be considered in evaluating grant applications. For example, the criteria now include whether the site is adjacent to a body of water or within a federally designated flood plain and whether the brownfield redevelopment would generate renewable electricity from wind, solar or geothermal energy or would improve energy efficiency (including a project for a combined heat and power system or a district energy system). Finally, Section 11 authorizes brownfield funding of up to \$200,000,000 per year for fiscal years 2019 through 2023.

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<p>Toxic Substances Control Act</p>	<ul style="list-style-type: none"> • EPA Issues for Review as Draft an Updated TSCA Inventory <ul style="list-style-type: none"> ❖ On April 12, 2018, EPA issued a draft updated version of the TSCA Inventory (draft updated Inventory). The TSCA Inventory provides information about the chemical substances that are considered to be "active" in U.S. commerce. The draft is of importance to chemical manufacturers, importers, and entities that purchase and use chemical substances and mixtures (processors) because it is generally unlawful to produce or use a substance which is not on EPA's list of "active" chemicals. ❖ The draft updated Inventory released by the EPA relies on the following sources of information in listing chemical substances as active: (1) information submitted in 2012 and 2016 pursuant to the Chemical Data Reporting Rule; (2) notices of commencement received by the agency since June 21, 2006; and (3) data submitted pursuant to the TSCA Inventory (Active-Inactive) Rule by February 7, 2018. ❖ The draft updated Inventory as released is the first version of the Inventory to include information submitted to EPA pursuant to the TSCA Inventory Active-Inactive Rule. The draft updated Inventory includes almost 31,000 active substances (an increase of over 20,000 active chemical substances over the June 2017 version of the Inventory). ❖ Along with the draft updated Inventory, EPA also released a database containing a list of only those substances for which information was submitted pursuant to the TSCA Inventory (Active-Inactive) Rule. According to EPA, this database is intended to help processors determine whether chemical substances important to their business operations have been designated as "active" by the manufacturers or importers of those substances.
<p>Resource Conservation and Recovery Act (RCRA)</p>	<ul style="list-style-type: none"> • EPA Information Collection Request – RCRA Definition of Solid Waste <ul style="list-style-type: none"> ❖ On February 26, 2018, EPA published a Federal Register notice informing the public that it will submit to the Office of Management and Budget (OMB) an information collection request regarding the operation of four final 2015 revisions to the RCRA definition of solid waste the “generator-controlled exclusion”; the “verified recycler exclusion”; the manufacturing exclusion; and the revised speculative accumulation requirement. ❖ Before submitting this request to collect information to OMB, EPA is soliciting public comments on this proposal, and these comments are now due to EPA on or before April 27, 2018.

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PFAS	<ul style="list-style-type: none"> • EPA To Convene National Leadership Summit On PFAS: <ul style="list-style-type: none"> ❖ On March 19, 2018, EPA announced that it will hold a National Leadership Summit on May 22-23, 2018 to discuss per- and polyfluoroalkyl substances (PFAS). ❖ Following the Summit, EPA will travel to states with communities impacted by PFAS to engage further on emerging contaminants at the state, local, and tribal levels. ❖ Using information from the National Leadership Summit and community engagement, EPA plans to develop a PFAS Management Plan for release later in 2018. • NYDEC Undertaking Statewide PFAS Evaluation at Remediation Sites <ul style="list-style-type: none"> ❖ The New York State Department of Environmental Conservation (“DEC”) is requiring owners of remediation sites across the State (including those already remediated to NYDEC’s (satisfaction) to analyze and report on the presence of 1,4-dioxane and per- and polyfluoroalkyl substances in groundwater. This has been triggered by concerns about these “emerging contaminants” at certain sites across the State. ❖ DEC has begun to send letters to many remediation site owners notifying them of the new statewide evaluation requirements and asking site owners to schedule sampling dates. The letter sent to site owners asks them to prepare, within 30 days, a draft work plan that identifies the wells proposed for sampling, a brief description of the sampling methods and an anticipated sampling date. DEC has provided site owners with guidance titled “Groundwater Sampling for Emerging Contaminants,” which includes, among other things, reporting and detection limits, preferred sampling and analytical methodologies, and target analytes.