

CBIA e² Waste Task Force Summary
October 18, 2019

Harold Blinderman: Day Pitney LLP

Mark Bobman: Bristol Resource Recovery

Issue	Notes
DEEP – Cleanup Transformation	<ul style="list-style-type: none"> • RSR Wave 2 Proposed Regulations <ul style="list-style-type: none"> ❖ Proposed Wave 2 regulations public noticed on July 8, 2019 - - 90 day public comment period. ❖ RSR comment period closed on 10/7/19 – 24 public comments on the CT eRegulations website including comments from the Environmental Professional Organization of Connecticut (EPOC) Board of Directors, Society for Women Environmental Professionals (SWEP), CT DOT, TRC Environmental Corp., O'Reilly, Talbot & Okun, Loureiro Engineering Associates, Inc., Antea Group, MDC, Matthew Hackman, a group of environmental attorneys, and, others. ❖ A limited comment period extension from 10/7/19 to 11/12/19 applies to comments on the interface of the RSRs and the proposed Environmental Use Restriction Regulations (see next item); the comment period has not been extended for comments on all the provisions of the RSRs.
DEEP – Cleanup Transformation (continued)	<ul style="list-style-type: none"> • Environmental Use Restriction Proposed Revisions <ul style="list-style-type: none"> ❖ On September 27, 2019, DEEP posted proposed amendments to the existing Environmental Use Restriction (EUR) Regulations (RCSA Sections 22a-133q-1 through 22a-133q-9). ❖ The EURs describe the process for obtaining and managing either an Environmental Land Use Restriction (ELUR) or a Notice of Activity and Use Limitation (NAUL), which are required to achieve compliance with certain provisions identified in the RSRs. These amendments allow and implement, for the first time, the use of NAULs. ❖ Comments are due by 5 PM on November 12, 2019 and can be submitted to the eRegulations site. A public hearing will be held at DEEP on November 4, 2019 at 1 PM.

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Connecticut Interagency PFAS Task Force	<ul style="list-style-type: none"> • Interagency Task Force Established on June 8, 2019 by Governor Lamont • PFAS Action Plan due to Governor Lamont by October 1, 2019. The purpose of the Action Plan is to develop a strategy to: <ul style="list-style-type: none"> ❖ Minimize human health risk for Connecticut residents; ❖ Minimize future releases of PFAS to the environment; and ❖ Identify, assess, and clean up historic releases of PFAS to the environment. • Draft Action Plan released for public comment on 10/1/19 – comment period closed on 10/15/19. • Finalized PFAS Action Plan to be submitted to Governor Lamont on November 1, 2019 • Summary of Key Recommended Actions from the Draft PFAS Action Plan include: <ul style="list-style-type: none"> ❖ To minimize Connecticut residents' PFAS exposure: <ul style="list-style-type: none"> ▪ Test drinking water for PFAS, including bottled water. ▪ Assess food-related PFAS exposure pathways, including fish and shellfish, agricultural products, and food service ware. ▪ Minimize occupational exposure to PFAS. ❖ To minimize future releases of PFAS to the environment: <ul style="list-style-type: none"> ▪ Reduce or prevent future releases of PFAS-containing firefighting foam, known as aqueous film-forming foam (AFFF), to the environment. AFFF is used to extinguish high-hazard, flammable liquid fires. ▪ Identify and address other significant sources of PFAS contamination. ❖ To identify, assess, and clean up historical releases of PFAS to the environment: <ul style="list-style-type: none"> ▪ Identify areas of concern throughout the state. ▪ Require testing of environmental media at sites where PFAS are likely to have been released. ▪ Evaluate corrective measures and establish PFAS cleanup standards. ❖ Cross-Cutting Actions to address real or perceived risks from PFAS: <ul style="list-style-type: none"> ▪ Enhance education, outreach, and communication on PFAS.

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<p>More PFAS</p>	<ul style="list-style-type: none"> • <u>New Hampshire</u> <ul style="list-style-type: none"> ❖ In July, New Hampshire became the first state to finalize drinking water maximum contaminant levels (MCLs) for perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA), setting levels for those compounds at 15 ppt (parts per trillion) and 12 ppt respectively, effective October 1, 2019. ❖ These actions, which were expeditiously moved through the New Hampshire decision-making processes, now predate final action on New Jersey's proposed MCLs of 13 ppt for PFOS and 14 ppt for PFOA. • <u>New York</u> <ul style="list-style-type: none"> ❖ On July 24, 2019, the New York State Department of Health (DOH) proposed drinking water standards for PFOS) and PFOA. ❖ The DOH set the MCL for both PFOS and PFOA at 10 parts ppt. ❖ Should the proposed rule become final, the MCLs will apply to all public water supplies regulated by the DOH. ❖ If the rule is finalized, it will distinguish New York State as having among the strongest MCL for PFOA and PFOS among the few states to have promulgated one. • <u>EPA Seeks Public Input on Adding PFAS to the Toxic Release Inventory</u> <ul style="list-style-type: none"> ❖ On September 25, 2019 EPA's took its first major action under its February 2019 comprehensive Per- and Polyfluoroalkyl Substances (PFAS) Action Plan by sending a request for public input on whether EPA should add "certain PFAS chemicals" to the Toxics Release Inventory (TRI) to the Office of Management and Budget (OMB). ❖ EPA issues advance notices of proposed rulemaking to get a sense of public reaction before it initiates an important regulatory change, typically before it has conducted significant research or expended agency resources. ❖ Following publication and receipt of public comments, EPA is expected to initiate a formal rulemaking process where it will solicit additional comments.

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CT Transfer Act	<ul style="list-style-type: none"> • PA 19-75 - AN ACT CONCERNING THE AUDIT PERIOD FOR THE TRANSFER OF HAZARDOUS WASTE ESTABLISHMENTS <ul style="list-style-type: none"> ❖ Adds exceptions to the Transfer Act program ❖ Shortens to one year the window for DEEP to commence an audit of final remediation verifications ❖ Establishes a working group to recommend further changes to the Transfer Act by February 1, 2020 <ul style="list-style-type: none"> ▪ Most recent meeting of working group held October 15, 2019. ▪ Subsequent meetings TBD
Next DEEP Advisory Meetings	<ul style="list-style-type: none"> • Remediation Roundtable -- October 22, 2019 • Solid Waste Advisory Committee Meeting -- October 22, 2019 • Hazardous Waste Advisory Committee -- November 2019 (tentative)
Endangered Species Act	<ul style="list-style-type: none"> • On September 25, a coalition of states and cities, led by California and including Connecticut, filed suit in the U.S. District Court for the Northern District of California challenging three rules recently issued by the U.S. Fish and Wildlife Service and National Marine Fisheries Service under the Endangered Species Act (ESA): <ul style="list-style-type: none"> ❖ These final Rules, published in August, revise how the federal government will designate critical habitat, provide for a case-by-case evaluation of protection required for threatened species and revise the interagency coordination process under Section 7 of the ESA. The rules also allow agencies to compile data on the economic effects of extending protections during the listing evaluation. • In their complaint, which seeks to set aside the Final Rules, the plaintiffs allege that these rules run contrary to the underlying goals of the ESA and roll back longstanding regulatory protections without adequate explanation or justification.

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<p>Recycling: Emerging Technologies and Markets</p>	<ul style="list-style-type: none"> • Fiberite: <ul style="list-style-type: none"> ❖ 115 towns and cities contracted, \$70/ton tip fee ❖ Fiberite.- 180k tpy facility in Maine, \$70 million, 144,000-square-foot plant will make cellulose, biogas, plastic products and fuel from plastics ❖ pulp process proposed to generate clean cellulose for paper products ❖ residual wash water will be sent to the anaerobic digester and mixed with organics to produce biogas • EcoHub MaxDiverter™: <ul style="list-style-type: none"> ❖ Placer County Utah ❖ Roseville CA ❖ Oslo Norway • Robotics: <ul style="list-style-type: none"> ❖ While technology advances, what role will automation play in older, retrofitted recycling facilities?
<p>New England Capacity Crisis</p>	<ul style="list-style-type: none"> • HB 7293 – AN ACT CONCERNING REDEVELOPMENT OF CERTAIN SOLID WASTE FACILITIES <ul style="list-style-type: none"> ❖ DEEP attempt to “order” Materials Recovery and Innovation Authority (MIRA) to contract for services ❖ Lengthy outage from November into February caused statewide capacity shortage ❖ Tip fee increase of \$9.35 per ton effective April 1 (recovery of additional costs related to extended outage, November 5 through March 5) ❖ FY 2020 municipal tip fee \$83.00 to \$87.00 (depending upon term, "Tier 1 long term" being the lowest)
<p>Product Stewardship</p>	<ul style="list-style-type: none"> • HB 7295 – AN ACT CONCERNING A RECYCLING PROGRAM FOR PAPER AND PACKAGING <ul style="list-style-type: none"> ❖ DEEP attempt to introduce legislation, despite concerns raised by Task Force in 2017 ❖ Producers to submit to the Environment Committee a plan to establish state-wide packaging and paper recycling program to: <ul style="list-style-type: none"> ▪ provide for free, convenient and accessible opportunities for the receipt of packaging ▪ utilize existing collection systems and commercial facilities to the greatest extent possible ▪ provide for producer-financed end-of-life management for packaging and paper ▪ provide for producer-financed litter and marine debris abatement of packaging and paper