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Environmental Update

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DEP Proposes Amendments to Chapter 62-788, Florida Administrative Code

Contact: Mike Petrovich
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On November 24, 2010, DEP proposed amendments to Chapter 62-788, Florida Administrative Code, in order to incorporate several statutory changes. The statutory changes clarified the Voluntary Cleanup Tax Credits application process and allowed an increase of the available tax credit types, percentages, and amounts. The proposed rule would, among other things, allow for a one-time tax credit of up to 50% of the costs of certain solid waste removal activities from dry cleaning and brownfield sites, up to a total of \$500,000.

DEP Announces Rulemaking Workshops for Rules Relating to Solid Waste Management

**Contact: Mike Petrovich
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DEP has announced a second series of workshops as the agency considers proposed revisions to its rules relating to solid waste management. These include Chapters 62-716 (solid waste grant and assistance programs), 62-722 (regulation of recovered materials), and 62-701 (solid waste management facilities, including liner requirements for C&D debris disposal facilities), Florida Administrative Code. The rulemaking is mandated, in significant part, by Chapter 2010-143, Laws of Florida, which addresses implementation of Florida's 75% solid waste recycling goal, to be reached by 2020. DEP previously held workshops in September. The upcoming workshops are scheduled for January 12, 2011 for Chapters 62-716 and 62-722 and on January 13 for Chapter 62-701. Both workshops will be held in DEP's offices in Tallahassee.

Legislative Enactment of CS/HB 569 and CS/CS/HB 1385

**Contact: Mike Petrovich
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Two bills vetoed by Governor Crist were legislatively enacted in a special session held on November 16, 2010 by the newly elected members of the Florida Legislature. The bills are now law and were legally effective as of November 17, 2010.

CS/HB 569 amends Section 403.708, Florida Statutes. It allows Class I landfills with active gas-collection systems to collect yard trash if the gas is beneficially reused. DEP must develop a program awarding recycling credit to landfills that accept yard trash. To take advantage of this exception, landfills must obtain a minor permit modification describing how the gas will be collected and reused. The county in which the landfill is located must be allowed to comment on the proposal, if the county owns and operates a composting, waste-to-energy, or biomass facility.

CS/CS/HB 1385 amends DEP's responsibilities under its petroleum contamination cleanup program. DEP is required to reevaluate some program criteria and funding allocations. Interim-soil source removals are no longer funded, some low-scored sites will be expedited in obtaining Site Rehabilitation Completion Orders, and DEP is directed to reevaluate sites to determine the active cleanup needed based on a new category of "long-term" natural attenuation monitoring. DEP will be issuing draft technical guidance for public review and comment addressing low-scored sites and long-term natural attention monitoring.

EPA Proposes Tank Compatibility Guidance for Ethanol and Biodiesel Blends

**Contact: Mike Petrovich
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On November 17, 2010, EPA proposed guidance for the compatibility of ethanol and biodiesel blended fuels, when stored in underground tanks. 75 Fed. Reg. 70,241. Higher biofuel blends are being used now than in the past, such as E15, 15% ethanol, and B20, 20% biodiesel. Because “ethanol and biodiesel blends can compromise the integrity of some” tanks, EPA intends to clarify for owners and operators of underground storage tank systems how to demonstrate compliance with Subtitle I of the Solid Waste Disposal Act. The EPA draft guidance proposes three ways to meet the compatibility requirements: certification of components by an independent third party, approval by an affirmative statement of compatibility by the component’s manufacturer, or use of another method to demonstrate compatibility to EPA or the appropriate state agency. EPA is accepting comments until December 16, 2010 and plans to issue final guidance in early 2011.

EPA Issues “SIP Call” to Florida; Regulation of GHG Emissions Expected under a FIP

Contact: Brian Accardo

On December 1, 2010, EPA released its final “Finding of Substantial Inadequacy and SIP Call” for regulation of greenhouse gas emissions. Publication in the *Federal Register* is forthcoming. A copy of this document is available at <http://www.epa.gov/NSR/documents/20101201finalrule.pdf>.

The rule finds that the State Implementation Plans of 13 states, including Florida, do not authorize the states to regulate GHG emissions as part of their PSD programs, which will be necessary as of January 2, 2011. The rule establishes a deadline of December 22, 2010, for Florida to submit its revised SIP. Florida had previously opted into this early deadline so that EPA can issue a finding of failure to submit a SIP and promulgate a Federal Implementation Plan before January 2. At this time, it appears that EPA will implement GHG permitting for Florida after January 2, while DEP will maintain permitting responsibilities for all other regulated air pollutants.