



McAfee & Taft

# REGULING

MARCH 2010

REGULATED INDUSTRIES LEGAL INFORMATION NEWS & COMMENTARY

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### ► ENVIRONMENTAL

## Nitrogen soil rice test guards against runoff

A new procedure called the Nitrogen Soil Test for Rice (N-ST\*R) will help farmers apply just the right amount of fertilizer to crops to maximize yields and prevent excess run-off to surface waters. N-ST\*R was developed in part by Richard Norman, a soil scientist with the University of Arkansas Division of Agriculture, and it is the first site-specific test of mineralizable soil nitrogen as a basis for nitrogen fertilizer recommendations in any crop. Scientists

expect verification studies on the new test to begin in 2010. If successful, a wide array of potential benefits exist from implementation of this new test, including increased crop yields, quicker maturity rates, increased ease of harvest, decreased fungi formation and resulting plant disease, and decreased run-off. Overall, farmers are expected to see increased yields and reduced input costs while at the same time providing added protection for the environment.



### ► ENVIRONMENTAL

## United States indicts two companies for Clean Air Act violations

The Department of Justice announced that a federal grand jury indicted Watkins Street Project LLC, Mathis Construction Inc., and three of their respective owners and supervisors for violations of the Clean Air Act. The defendants are also charged with conspiracy to defraud the United States. The indictment describes a year-long scheme where the demolition and salvage companies illegally demolished a plant in Chattanooga, Tennessee, while it contained large amounts of asbestos.

The "work practice standards" of the Clean Air Act are intended to prevent releases of asbestos. Charges were also made for making false statements to EPA Special Agents and obstructing justice. The Clean Air Act violations and the conspiracy charges each carry up to five years in prison, fines of \$250,000 or double the amount of loss to a victim. The obstruction of justice count carries a maximum prison term of 20 years.

The EPA has determined there is no safe level of asbestos exposure as asbestos causes lung cancer, asbestosis, and the nearly always fatal disease mesothelioma.



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► ENVIRONMENTAL

## Two companies pay \$1.3 Million to settle Clean Air Act violations

The Department of Justice and the EPA announced that D.D. Williamson and Co. and First Chemical Corp. agreed in separate settlements to pay a combined total of \$1,331,000 in civil penalties. Both companies also agreed to implement corrective measures resulting from a 2003 explosion at D.D. Williamson's Kentucky plant and a 2002 explosion at First Chemical's Mississippi plant. The 2003 explosion resulted in the death of one D.D. Williamson Employee and the release of an ammonia cloud in a nearby residential neighborhood.

The complaints alleged that the companies failed to adhere to the Clean Air Act's general duty of care standard which obligates companies handling hazardous materials to identify and reduce risks. Depending on the circumstances, the general duty of care may require companies to provide layers of protection on their equipment such as pressure relief valves, automatic shut-off valves and temperature alarms. The general duty of care may also require companies to ensure the integrity of equipment and piping as well as training employees to monitor and address emergencies.



► ENVIRONMENTAL

## Phosphorus decreases after fertilizer ban enacted

The October 2009 *Environmental Protection News* reported that a study, published by a University of Michigan professor, shows that a 2006 Ann Arbor, Michigan, ordinance, which curtailed the use of fertilizer phosphorous on lawns, resulted in phosphorous level drops of an average of 28 percent in the Huron River.

John Lehman, professor of ecology and evolutionary biology at the University of Michigan, joined by students Douglas Bell and Kahli McDonald, published the study in the journal *Lake and Reservoir Management*. Lehman was approached about the study after conducting

similar research in nearby areas. He and his students developed a statistical model to measure the phosphorous levels and then drew samples for about two summers.

The study shows a clear drop in phosphorous levels after the fertilizers were no longer used. Whether the Ann Arbor ordinance actually caused the decrease remains a potential question; public education and general increased awareness may have also contributed to the decrease.

The results may also be important for other research beyond the Huron River for other communities attempting to address this issue. The research was funded by the U.S. Environmental Protection Agency, the U.S. Department of Agriculture, and the city of Ann Arbor.



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