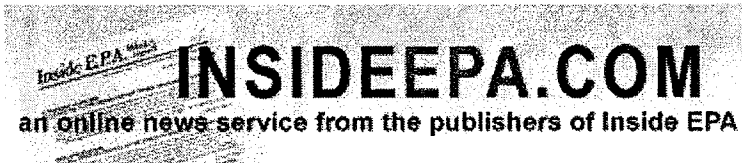


Schnapf, Lawrence

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Sent: Monday, May 04, 2009 9:08 AM
To: Schnapf, Lawrence
Subject: Emailing: InsideEPA.com.htm

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SUPERFUND REPORT - 5/4/2009

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STATE EFFORTS ON CONTAMINATION DISCLOSURE MAY BOOST FEDERAL PUSH

Several states are considering laws that would mandate that environmental site inspectors disclose any contamination they detect, which could potentially boost mounting calls from activists and other stakeholders for federal cleanup laws to also mandate full disclosure of contamination above safe levels.

"Most of the action is at the state level," according to an environmental attorney who works on cleanup issues. "The federal government is not very active under Superfund because they don't have a lot of money, so the states are taking over." The state efforts come amid an ongoing push by activists to require disclosure under federal cleanup law, a move that industry opposes and warns would effectively kill brownfields redevelopment.

In recent weeks, a number of state disclosure laws have moved forward. These include a bill passed by the New Jersey legislature and awaiting Gov. Jon Corzine's (D) signature to establish a licensed site professional (LSP) program that would allow private licensed professionals to oversee cleanups in place of the state Department of Environmental Protection (DEP) or EPA. That legislation would also require LSPs to report contamination to state authorities if they believe it, in their "independent professional judgment," to be "an immediate environmental concern." *Relevant documents are available on InsideEPA.com.*

Environmentalists have largely opposed the LSP bill, calling it unconstitutional and calling on Corzine to veto the bill, which he must do before the next session of the State Assembly meets on May 7 for it not to become law. However, a New Jersey environmentalist familiar says their opposition is based on the LSP program in general, claiming it would effectively outsource state and federal cleanup oversight to private individuals employed by those conducting the cleanup, creating a conflict of interest (*Superfund Report*, April 20).

The source says they support the language in the the bill that compels contamination

disclosure in principle, but adds that activists do not consider the bill's requirements sufficiently stringent. "On the sites, DEP doesn't audit the cleanups, only the LSP board. If they don't report it there's no one to catch them," the source says. "If there was an independent audit [of cleanups] by DEP, there would always be the chance of their getting caught."

Meanwhile, a law introduced in the Connecticut General Assembly April 6 would require LSPs to disclose certain prescribed forms of groundwater contamination to property owners and to disclose all contamination to the Connecticut Department of Environmental Protection. In Illinois, the state's Attorney General Lisa Madigan (D) proposed an amendment to the state's Right to Know law April 27 that requires water inspectors to notify residents of water contamination within 14 days of its discovery.

The New Jersey activist says environmental groups continue to push for mandatory disclosure in other states and on the federal level. "This kind of thing is the direction we're going in other states," the source adds.

In March, environmental attorney Lawrence Schnapf told *Inside EPA* he would be leading an effort to amend the Comprehensive Environmental Response, Compensation and Liability Act, known as the Superfund law, to require site inspectors to disclose contamination above levels considered safe if and when it was discovered, instead of only requiring the disclosure of ongoing releases. Activists and community groups largely support the idea, while industry sources say the move would effectively kill brownfields cleanups (*Superfund Report*, March 9).

One environmental attorney says the push for additional disclosure laws is active in the states because that is where the bulk of cleanup and clean water authority resides, and because many of these laws are being introduced as the result of parochial scandals involving public water and contaminated soils. -- *John Heltman*

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