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SAFETY NEWS ALERT

Environmental Compliance Alert keeps industry pros up to date on the latest EPA rules, why companies are being fined, and the latest trends at the federal and state level. Read what environmental pros depend on to prevent pollution and stay in compliance. *Environmental Compliance Alert's* editor is Scott Ball (email: sball@SafetyNewsAlert.com).

Permit's only half the battle: Firm cited for 2,100 violations

■ Discharges didn't comply with water permit

Experienced environmental pros know plenty of regulated sites could be written up for a violation or three if inspectors showed up at their doorsteps unannounced.

But how about 2,100 violations all related to a wastewater permit?

A recent \$190,000 ticket is a word of warning to other discharge permit holders – make sure facility crews are doing what's spelled out on the printed page.

You never know where inspectors may be headed next!

Turned over every rock it could

Pacific Seafood–Westport in Washington state is part of a

global fish and shellfish processing corporation. Pacific employees have to skim and treat shrimp and crab waste before discharging it under its National Pollutant Discharge Elimination System permit.

EPA made a surprise inspection possibly spurred by “fishy” discharge monitoring reports (DMRs). Inspectors tallied up 2,100 specific violations for failing to:

- comply with permit limits for multiple pollutants
- monitor output on a regular basis
- sample correctly, and
- file complete and accurate DMRs.

(Please see Permit ... on Page 2)

HALOGENATED SOLVENTS

EPA puts widely-used degreaser on air toxics list

■ 1-BROMOPROPANE EXPANDS AIR TOXICS LIST FOR 1ST TIME IN YEARS

Heads up: The widely used solvent 1-bromopropane (1-BP) has been designated a hazardous air pollutant (aka air toxic) by EPA.

This move will impact:

- chemical manufacturers of the carcinogenic, halogenated solvent
- workplaces where employees use it in spray form
- hazardous waste treatment, storage and disposal facilities, and
- incinerators that may receive solvent-contaminated shop towels.

EPA may revise air toxic standards for source categories that emit 1-BP or add new source categories for existing major sources.

If you can wean off solvent, do it

Despite warnings from EPA and OSHA about 1-BP's health risks, industry's using the solvent more than it did 20 years ago.

1-BP is primarily used as a vapor and dip degreaser for metal parts and electronics. It's also used in dry cleaning, asphalt production, aircraft maintenance and adhesives.

Info: 85 FR 36,851

GREEN CHEMISTRY

Industry leads way on source reduction

The latest Green Chemistry Award winners provide more proof that replacing toxic, bioaccumulative substances with green ingredients pays off for companies.

Here's how your peers in industry helped reduce both risks to the environment as well as compliance headaches:

'How do we eliminate toxics?'

- Genomatica in San Diego ferments *E. coli* in renewable sugars to produce 1,3-butylene glycol, a cosmetics ingredient used for moisture retention. Its unique process eliminates the warming greenhouse gases that result from the most common processes for manufacturing the chemical.
- Johns Manville in Littleton, Colorado developed a thermoset binder for fiberglass reinforcement applications that doesn't require formaldehyde as an ingredient. Elevated exposure to formaldehyde can cause cancer and leukemia.

- Merck in Rahway, New Jersey found a way to reduce byproduct waste from an antiviral drug by 85%. Its new process improved manufacturing efficiency and sustainability while reducing hazardous waste costs. The drug is used to treat hepatitis and HIV.

This year's award winners coincide with the 30th anniversary of the Pollution Prevention Act, which focuses industry and government on reducing pollution via cost-effective changes in production, operation, and raw materials usage.

Info: epa.gov/greenchemistry

Permit ...

(continued from Page 1)

In addition to paying \$190K in fines, Pacific also had to invest in pollution control upgrades and shore up its operational procedures so it knows what's coming out of its pipes.

The upgrades will reduce fecal coliform, biochemical oxygen demand, total suspended solids, and oil and grease by more than 400,000 pounds per year.

'Permit limits there for a reason'

To make matters worse for the company's reputation, EPA's enforcement division took Pacific to task in a news release announcing the clean water fines.

"Seafood processors have wastewater discharge permit limits for a reason," EPA scolded.

"[W]aters can get inundated with body parts, entrails, shell particles, oil and other byproducts in volumes they just can't handle. When discharges exceed permit requirements, companies must take swift action to comply ... or face penalties."

Message received, loud and clear.

SHARPEN YOUR JUDGMENT

This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.

■ CAN FIRM BE SUED FOR AIR POLLUTION UNDER RCRA?

"Something doesn't seem right with this lawsuit," said Buck Flanagan, environmental director.

"What is United Metals suing us for again?" Buck asked.

"Let me read it again," replied company attorney Clifford Uplander. "It says 'Pursuant with the Resource Conservation and Recovery Act (RCRA), Subpart C ...'"

"That's what I thought you said," Buck replied. "United is suing us under RCRA? That doesn't make any sense. We're talking about an emissions problem that happened a few years ago."

"Our company admits we released harmful acid gases back then. That's not a problem anymore with the scrubber system we have in place today."

"But it's not a RCRA case, plain and simple," said Buck.

Firm thinks suit is off-base

"I'm not so sure about that," said Clifford. "United says the contamination migrated into groundwater on its property. So RCRA could come into play."

"Well then the Clean Water Act could apply," said Buck. "Of course, they can't sue us for the same violation under two laws."

"They can try," Clifford chuckled.

"Yeah right, you can try suing for anything!" Buck laughed. "But unless they can show we dumped hazardous materials onto their site, it's not a RCRA case."

The company tried getting the case dismissed. Did it win?

■ *Make your decision, then please turn to Page 6 for the court's ruling.*



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Where other companies are stumbling over compliance

For more fines, visit: www.EnvironmentalComplianceAlert.com/category/who-got-fined-why

Hazwaste facility is on EPA's & lawmakers' radar

Company: Norlite, Cohoes, NY.

Business: Hazardous waste incineration plant.

Penalty: \$150,000.

Reasons for penalty: Norlite exceeded operating parameter limits (OPLs) for maximum gas (dioxins and furans) exit temperature, and the OPL for minimum pressure drop in its scrubber, which controls hydrogen chloride, chlorine gas and particulate matter, over a three-year period. The company voluntarily reported emission spikes of chromium, arsenic, and beryllium from its kilns during a performance test in 2017. Norlite is required to follow Maximum Achievable Control Technology requirements for hazardous waste combustors.

Note: New York lawmakers just banned incineration of firefighting foams that may contain per- and polyfluoroalkyl substances (PFAS). Norlite signed on as a Defense Department contractor to dispose of PFAS foams in 2018.

NSR case wraps up with switch from coal energy

Company: DTE Energy, facilities in Belle River, River Rouge, Saint Clair and Trenton Channel, Michigan.

Business: Coal-fired power plants.

Penalty: \$1.8 million fine and

community diesel bus upgrade project worth \$5.5 million.

Reasons for penalty: DTE failed to apply for New Source Review (NSR) permits when it modified equipment, which led to excess emissions of nitrogen oxides (NOx) and sulfur dioxide (SO2).

Note: DTE must install Maximum Achievable Control Technology or convert to natural gas all of its coal-fired units at four generating stations. The utility also needs to meet SO2 and NOx emission limits at its Monroe facility to avoid further penalties.

Paying up to clean solvent waste mess: \$6.5 million

Company: 145 responsible parties that did business with Omega Chemical Corporation, Whittier, CA.

Business: Shuttered hazardous waste recycling site.

Penalty: \$6.5 million (total).

Reasons for penalty: Omega became a Superfund cleanup site in 1999. Omega handled drums and bulk loads of refrigerant and solvent wastes that were processed to form commercial products from 1976 to 1991. Subsurface soil and groundwater at and around the California site have high levels of trichloroethylene, perc, freons and other contaminants.

Note: EPA has removed 2,700 drums and 12,500 pounds of contaminants from soil and groundwater, and installed a soil vapor extraction system to prevent vapor intrusion.

Oily stormwater went unchecked: Time to fix it

Company: Fisher Sand & Gravel, Glendive, Montana.

Business: Sand, gravel, stone, limestone and construction aggregate material supplier.

Penalty: \$95,000.

Reasons for penalty: Fisher didn't control contaminants from running off site to the Upper Seven Mile Creek watershed. Fisher was ticketed for violating:

- its multi-sector general permit for stormwater, and
- oil spill prevention, control and countermeasure guidelines.

Inspectors checking farms for pesticide compliance

Company: C&S Farms, Laurel, Delaware.

Business: Grain, poultry, produce and manure farm.

Penalty: \$25,000.

Reasons for penalty: C&S didn't comply with the Worker Protection Standard (WPS) for pesticides. It failed to:

- provide decontamination supplies for workers in pesticide treatment areas, and
- display pesticide and safety info related to spraying for all agricultural workers.

Note: State agencies and EPA could increase spot checks of farms to ensure WPS compliance. The WPS was updated three years ago (*search for "pesticide safety standard" at our website*). The WPS falls under the Federal Insecticide, Fungicide and Rodenticide Act.

Dropped the ball big-time on hazmat training: \$6M

Company: Humes McCoy Aviation, Atlanta.

Business: Cargo air flights.

Penalty: \$5.89 million.

Reasons for penalty: Humes McCoy didn't train pilots and crew members on how to handle and store hazardous materials safely. The Federal Aviation Administration cited the company for hazmat negligence on at least 270 flights.

To help your firm avoid common mistakes and violations, we present a cross-section of recent enforcement actions in each issue. Penalties for firms or individuals can include fines, mandatory facility upgrades, house arrest and even jail time.

BEST AVAILABLE CONTROL TECHNOLOGY

What ties up BACT permits? A case study

Industry-friendly air permits issued at the state level all too often get shot down in court.

And for the permitted parties involved, the costs are high in lost productivity, legal fees, and time – years in many cases.

A decision by the 1st Circuit Court of Appeals (a rung below the Supreme Court) is a prime example:

Costly control pulled at last minute

The Massachusetts Department of Environmental Protection (DEP) issued a construction permit to Algonquin Gas Transmission, for a new compressor station along the Atlantic Bridge natural gas pipeline.

Since it's an energy infrastructure project, the DEP relied on the Federal Energy Regulatory Commission's pollution control analyses instead of its own Best Available Control Technology (BACT) study.

Algonquin chose a dry low nitrogen

oxides (NO_x) combustion turbine, which burns a small amount of natural gas and an electric motor, to minimize NO_x emissions.

But the company decided against the motor because it would cost up to \$12 million and opted for an all-gas turbine. The DEP green lighted the project as BACT despite the change.

Tied up in court for years

Citizens sued, arguing the DEP didn't follow BACT guidelines, educate residents of Environmental Justice (EJ) communities about the project, or consider resulting noise from the compressor station before granting the air permit.

The 1st Circuit dismissed the EJ and noise complaints, but agreed with the citizens' BACT argument. With the permit vacated, it's back to the drawing board for Algonquin and the DEP to get the project rolling.

Info: tinyurl.com/PierceAtwood631

REGIONAL GREENHOUSE GAS INITIATIVE

Northeast power plants facing tougher CO₂ caps

■ RGGI HAS ITS EYE ON SMALLER UTILITIES FOR GHG REDUCTIONS

The Regional Greenhouse Gas Initiative (RGGI) of Northeastern states may tighten caps on carbon dioxide from power plants.

RGGI member states are mulling changes that put more pressure on electricity providers – including smaller power plants – to wean off coal and oil in lieu of natural gas and renewable fuels.

Can older utilities adapt?

New York is proposing a 75 million tons annual cap for regional CO₂ emissions beginning in 2021 and declining thereafter.

The Empire State also wants to eliminate two offset categories for

private and public entities, and add fossil-fuel-fired electricity generation units (EGUs) with a nameplate capacity equal to or more than 15 megawatts (MW) to the program.

More pressure to drop coal

RGGI is a mandatory cooperative effort program to cap and reduce CO₂ emissions from the power sector. Member states are Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont.

Fossil-fuel-fired EGUs with a capacity of 25 MW or higher have to hold allowances equal to their CO₂ emissions over a three-year period.

Info: dec.ny.gov/regulations/120061.html

INSPECTOR'S LOG

This feature provides insights into the enforcement process – from the point of view of EPA and state inspectors – so you can avoid routine compliance mistakes made by other companies.

■ NO RISK PLAN OR CONTROLS FOR AMMONIA = \$225K FINE

To: Regional Enforcement Director
From: Inspector Bob Wiley
Re: Clean Air Act

Ramping up facility checks for risk management plans (RMPs) helped us identify a major problem – right in the middle of a neighborhood.

We noticed a cold storage company, ABC Industrial, hadn't submitted an RMP even though they undoubtedly store and use ammonia.

Our site visit turned up a host of violations. The supervisor looked stunned when we asked for their risk plan.

We talked about how employees would respond if there was an accidental release of ammonia.

They didn't have any answers because company leaders hadn't considered the possibility.

That was a dangerous mistake considering there are homes closer than half a mile down the road.

Homes less than a mile away

We took a look around and found other problems. Some of the refrigeration pipes were corroded, increasing the risk of a rupture.

They had no leak detectors, and the ventilation on the refrigeration system was shoddy, at best.

I've added up the penalties and it totals \$225,000.

The good news is, ABC's making changes. They've put in ammonia leak detectors and took care of those corroded pipes.

And yes, they have an RMP that passes muster now.

■ *Dramatized for effect. Based on a settlement between EPA and a New England cold storage company.*

RCRA

EPA updates ignitable waste exemption

If your facility generates aqueous alcohol waste, you'd be wise to conduct a hazardous waste determination ASAP.

EPA's changed a 40-year-old exemption under the Resource Conservation and Recovery Act (RCRA) Subtitle C.

Ignitable wastes flew under radar

The RCRA exemption in place since 1980 covered "aqueous" liquids with less than 24% alcohol, such as latex paints and wines.

Over the years stakeholders made EPA "aware that the aqueous alcohol exclusion may inadvertently exclude certain wastes from the ignitability characteristic – aqueous liquids with small amounts of alcohol, where these wastes are ignitable due primarily to non-alcoholic components – contrary to the intent of the exclusion.

"[Therefore certain wastes were] excluded from the ignitability characteristic despite potentially

exhibiting the same hazards as ignitable wastes that don't fall within the scope of the exclusion."

No longer. From now on, the definition of "aqueous" alcohol waste means it must contain "at least 50% water by weight" to be exempt from RCRA hazwaste treatment, storage and disposal guidelines.

This move aligns RCRA regs with existing Department of Transportation protocols for shipping waste.

Less reliance on mercury to test

In addition, EPA approved using non-mercury thermometers as well as several kinds of modern equipment and techniques for making hazwaste determinations.

These moves give facilities more flexibility with their RCRA programs and reduce the risks of workers being exposed to mercury.

Info: epa.gov/hw-sw846/final-rule-modernizing-ignitable-liquids-determinations

STAFF TRAINING

Eliminate hazwaste mistakes with these 3 strategies

- TIP: LABEL WASTE CONTAINERS BEFORE ADDING ANY MATERIALS

Good training, done regularly, can prevent the expensive hazardous and universal waste fines your peers in industry are paying.

Here are a few best practices:

Mix training regimens

Formal classroom instruction is effective for people who want to learn – and if they don't want to learn, they shouldn't be on the compliance team.

As staff come and go, make sure to do refresher trainings. It's critical for new people and can help jog the memory of those who've heard the basics before.

And incorporate on-the-job training

to familiarize everyone with waste streams, storage areas, etc.

Focus on the specifics

Don't try to squeeze too much into one session. Break important topics into their own lessons.

For example: container labeling, filling out manifests, keeping corrosives (C) and flammables (F) separated, and so on.

Label before you fill

Always label waste containers first before filling them.

It's a "trick" that will remind staffers to mark the accumulation start date and other info before they put waste in.

TRENDS TO WATCH

■ MIDWEST STATES AT RISK FROM PIPELINE SPILLS

Pipeline companies that don't follow enforcement settlements risk fines and tighter scrutiny from agencies like:

- the Department of Energy
- EPA, and
- the Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA).

Enbridge Gas was ordered to take care of thousands of shallow dents indicating metal loss and cracking in its Lakehead Pipeline System, which runs across northern **Minnesota** and northwestern **Wisconsin**.

Result: EPA issued \$6.7 million in Clean Water Act fines. Enbridge agreed to make pipeline improvements after a major oil spill in **Michigan** and pipeline leaks in **Illinois**, both in 2010.

PHMSA is usually the lead agency making sure pipeline owners are implementing leak detection technology and preventive maintenance strategies to keep communities safe.

■ SITE REMEDIATION TO GET TOUGHER IN GARDEN STATE

Owners and operators of contaminated sites in **New Jersey** have a few more compliance chores on their plates.

The NJ Department of Environmental Protection (DEP) is proposing new regs for soil leachate and indoor air quality related to vapor intrusion.

DEP has also added remediation standards for a handful of contaminants and removed others from the regs.

Stakeholders have an extra two months to weigh in on the changes because public meetings couldn't be held during the COVID-19 outbreak. The deadline to submit comments is August 5.

Info: tinyurl.com/newjersey631

CORONAVIRUS

COVID-19 an OSHA-recordable injury

Heads up: All employers must now determine whether employees who have the coronavirus contracted it at work, according to new guidance issued by OSHA.

This applies to employers with 10 or more non-contract workers in any industry sector. OSHA previously required only healthcare facilities to submit injury reports.

Recording violations are considered other-than-serious, with the maximum fine amount capped at \$13,000 per violation.

Need to report or not?

An employer must file a Form 300 if an employee's illness is:

- diagnosed as coronavirus
- work-related, and
- meets OSHA's recording criteria – death, days away from work, medical treatment beyond first aid.

You'll need to do a mini investigation to determine if it's possible the employee contracted COVID-19 at your facility.

According to OSHA, an employee most likely contracted the virus at work (if there's no alternative

explanation) if there's more than one case of co-workers being diagnosed and job duties include frequent, close exposure to the general public.

Cases of coronavirus are likely not work-related, says OSHA, if an employee's the only one in the workplace to contract it and doesn't have contact with the general public.

Info: [jdsupra.com/legalnews/osha-updates-its-covid-19-recordkeeping-32589](https://www.jdsupra.com/legalnews/osha-updates-its-covid-19-recordkeeping-32589)

Six-month reprieve for inefficient wood heaters

Wood heaters that don't meet national emission standards can be sold for an additional six months, through Nov. 30.

"Step 1" wood heaters, pellet heaters/stoves, hydronic heaters and forced-air furnaces don't have the best system of emissions reduction to minimize smoke.

Clean Air Act-compliant Step 2 heaters keep smoke emissions at two grams or less per hour.

Info: 85 FR 31,124

■ SUPER YEAR FOR CLEANING UP CONTAMINATED SITES

Results from the Superfund program cleanup efforts for Fiscal Year 2019 are out.

EPA deleted all or part of 27 sites from the National Priorities List, the largest number of deletions in a single year since 2001.

Hundreds of companies, trusts, site owners and other responsible parties kicked in \$570 million to clean up Superfund sites and \$280 million to reimburse EPA for remediation costs.

Info: [semsspub.epa.gov/work/HQ/100002479.pdf](https://www.semsspub.epa.gov/work/HQ/100002479.pdf)

■ TAKE ADVANTAGE OF MOBILE CHEMICAL ACCESS

For staffers that need access to safety data sheets (SDSs) and related chemical info, mobile access should be part of any cloud or software program.

More employers are going with mobile platforms that sync with users' smart phones and tablets.

The big benefit: No more dropping everything to find a sheet of paper or log onto a desktop computer.

Info: [msdsoln.com/solutions](https://www.msdsoln.com/solutions)

SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2)

No, Buck's company lost. It couldn't convince the court to dismiss the lawsuit.

More than likely, the company will settle for a hefty sum instead of dragging it out in court.

The company argued the Clean Water Act (CWA) should preclude any Resource Conservation and Recovery Act (RCRA) claims.

But the court ruled that hazardous waste can be deposited on a neighboring property in a number of ways:

- through the air
- via streams or other waterways
- through stormwater runoff, and

- through soil seepage.

It doesn't matter how hazardous waste makes its way onto other properties and it doesn't have to be dumped.

More importantly, a RCRA claim may still be valid even if a CWA claim seems like the more appropriate law to file a case under.

■ ANALYSIS: IT DOESN'T MATTER EXACTLY HOW HAZARDOUS WASTE GOT THERE, UNDER RCRA

The company's neighbor was able to show environmental damage done to flora and fauna, and tie that damage to the company's activities.

Once a company establishes contamination was caused, a RCRA case typically can move forward.

Cite: *Little Hocking Water Association v. DuPont*, U.S. District Court, Southern Dist., Ohio, No. 09-cv-1081. This case has been dramatized for effect.

NATURAL GAS

Supreme Court OKs pipeline in wildlife

The Supreme Court overturned a ban on a natural gas pipeline being built hundreds of feet below the Appalachian Trail.

Justices ruled 7-2 in favor of the 600-mile Atlantic Coast pipeline designed to expand energy services to East Coast states.

Other permits tied up in court

The ruling overturns a decision by the 4th Circuit Court of Appeals. The U.S. Forest Service had authorized building the pipeline.

Wildlife groups argued permission needed to come from higher up the chain by the National Park Service.

This ruling clears a major hurdle for developers but they still need additional approvals that are tied up in litigation.

Info: casetext.com/case/united-states-forest-service-v-cowpasture-river-preservation-assn?

Amazon, eBay still selling COVID-19 scam products

Online retail giants like Amazon and eBay haven't cracked down on illegal pesticide sales.

EPA warned eight technology companies in April about unscrupulous dealers selling unregistered pesticides and other products marketed as effective against the spread of coronavirus.

E-sellers not tackling fraudsters

Now the agency's ordering eBay and Amazon to crack down on pesticide scam artists or risk fines. "[eBay and Amazon] have thus far failed to consistently keep unregistered, misbranded, or restricted-use pesticides, and pesticide devices off their websites," says EPA.

One third-party dealer on eBay was selling 55-gallon drums of methylene

chloride for use as a paint stripper and "COVID-19 killer."

Suffice to say, the chemical isn't a registered disinfectant and it's no longer an acceptable ingredient in consumer paint strippers (*see Page 8 for more info*).

Info: June 11 news release, [epa.gov/enforcement](https://www.epa.gov/enforcement)

Hazwaste reg changes you want to know about

Twenty states haven't updated their programs as required by EPA's Hazardous Waste Generator Improvements (HWGI) rule, or are waiting for EPA's final approval on their plans.

(For a map of where HWGI is approved: www.epa.gov/hwgenerators/where-hazardous-waste-generator-improvements-rule-effect#map).

Three provisions in the reg relax RCRA permit costs and compliance duties for businesses. But since they're less stringent than earlier RCRA regs, your state doesn't have to approve any of them.

Not sure what's allowed?

Your best bet is to call your state environmental agency and ask if you're able to:

- clear out a large amount of hazwaste in one month without it changing your generator size status through the Episodic Generation provision (*search for "HWGI episodic" at our website for more info*)
- send hazwaste to a large quantity generator location that's owned or controlled by your company, and
- vent containers at satellite areas in certain situations.

Info: 81 FR 85,732

REAL PROBLEMS/SOLUTIONS

GREEN ROOF THE ANSWER TO OVERHEATED BUILDING

(From Annette Shine, associate professor, University of Delaware, Newark, DE)

We were faced with a costly upgrade to our heating, ventilation and air-conditioning (HVAC) system for a building that was notoriously hard to cool.

With AC at full blast, temperatures still hit the 80s. We installed reduced wattage lighting and improved ventilation. But nothing could address the key problem – the flat roof was a very effective heat absorber.

Saw results immediately

Solution: We teamed our chemical engineers with landscaping designers to study the advantages of installing a green roof.

We started building out slowly, first just covering about a quarter of the roof with four inches of dirt and heat-resistant plants.

That cut indoor temperatures by at least six degrees, and we avoided the much more costly option of installing a new HVAC system.

The green roof offers other advantages. We've cut our energy usage and bills, reduced greenhouse gas emissions, and improved stormwater control by using rain barrels to water vegetation.

FROM OUR SUBSCRIBERS

More than 90% of our readers report in surveys that Environmental Compliance Alert, with its quick-read format, is more valuable than any other publication they read.

“ I find the short and concise nature of the articles to be valuable. It allows for a quick evaluation of what is happening on the national stage.”

Sean Lieske
Environmental Services Manager
City of Aurora Water

Air, Water & Waste regs that affect your operations

Here's ECA's digest of recent Federal Register (FR) notices, Regulatory Identifier Numbers (RINs) and other national activities concerning air, water and waste issues. For these and more federal updates, visit: www.EnvironmentalComplianceAlert.com/category/update-on-federal-rules

TOXICS RELEASE INVENTORY

One hundred and seventy-two types of per- and polyfluoroalkyl substances (PFAS) must now be reported to the Toxics Release Inventory (TRI).

Any facility that manufactures, processes, otherwise uses or releases 100 pounds or more of a listed PFAS must submit data to the online database TRI-Me (epa.gov/toxics-release-inventory-tri-program).

The 2020 National Defense Authorization Act passed by Congress added PFAS chemicals to the TRI (required by the Emergency Planning and Community Right-to-Know Act) effective this year.

Groundwater wells on and near military bases are testing positive for PFAS due to runoff of fire retardant foam that contains the chemicals. PFAS are linked to cancer and liver and thyroid disease.

This final EPA rule went into effect on June 22.

Info: 85 FR 37,354

MERCURY IMPORTS

The 2nd Circuit Court of Appeals vacated a Toxic Substances Control Act (TSCA) rule which exempted importers from reporting products with components containing mercury (example: battery-powered watches).

Judges ruled TSCA doesn't allow for any mercury exemptions, domestically manufactured or imported, and disagreed with EPA's argument the exemption eliminated redundant reporting.

The court didn't weigh in on

other parts of the rule which exempt manufacturers of assembled products with mercury-added components and partially exempt high-volume manufacturers from mercury reporting under TSCA.

Those provisions will be hammered out at the lower court level. The 2nd Circuit is one rung below the U.S. Supreme Court.

TSCA - METHYLENE CHLORIDE

EPA wrapped up the first of the 10 high-risk chemical evaluations it kicked off in 2016 – methylene chloride (DCM).

DCM can no longer be manufactured for use in consumer products like paints and thinning solvents. The ban went into effect on Nov. 22.

Many of the biggest retail stores took DCM products off their shelves before the ban because of people dying from toxic fumes in closed quarters.

Regulated facilities can still use DCM as long as they provide workers with personal protective equipment, train workers on chemical risks and provide environmental controls like venting to contain harmful vapors.

The toxic chemical can still be used as a solvent in vapor degreasing, metal cleaning, producing refrigerant chemicals, and as an ingredient in sealants and adhesive removers.

Info: epa.gov/assessing-and-managing-chemicals-under-tsca/final-risk-evaluation-methylene-chloride#documents

NAAQS

Air pollution is going down under the Trump EPA despite regulatory rollbacks and a few lifelines being extended to the coal industry.

From 2017 to 2019, criteria and precursor pollutants regulated under National Ambient Air Quality Standards (NAAQS) dropped:

- nitrogen oxides – 10%
- fine particulate matter equal to or smaller than 2.5 microns in diameter (PM 2.5) – 1%
- sulfur dioxide (SO₂) – 16%
- carbon monoxide – 6%, and
- volatile organic compounds – 3%.

During that time period, the number of days listed as unhealthy for sensitive groups in the Air Quality Index dropped by 34% as these criteria pollutants dipped:

- carbon monoxide 8-hour – 10%
- lead 3-month average – 28%
- nitrogen dioxide annual – 4%
- nitrogen dioxide 1-hour – 2%
- ozone 8-hour – 4%
- coarse particulate matter equal to or larger than 10 microns in diameter (PM 10) 24-hour – 22%
- PM 2.5 annual – 7%
- PM 2.5 24-hour – 12%, and
- SO₂ 1-hour – 10%.

Since 1990 all air toxics have dropped 47% largely due to regs on smokestacks and tailpipes.

Info: gispub.epa.gov/air/trendsreport/2020/#home

BOILER MACT

The Boiler MACT (Maximum Achievable Control Technology) air rule is about to get tougher, courtesy of a federal court ruling.

Later this summer, EPA will announce changes to emission limits for some kinds of industrial boilers and carbon monoxide (CO) as the precursor pollutant.

Watchdog groups argued EPA didn't make a strong-enough case for mandating facilities monitor CO emissions at a limit of 130 parts per million (ppm).

Another big problem: Formaldehyde emissions may spike when boiler systems run at or below the 130 ppm limit for CO.