



September 15, 2020

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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).

Pollution prevention projects pay off in spades for facilities

■ Benefits outweighed initial costs for P2 winners

Pollution prevention (P2) programs help facilities drastically reduce toxins and contaminants released into the environment – often much more than hoped for.

Added bonus: Becoming a recognized P2 facility reduces the threat of inspections and citizens' group investigations.

Target on its back

A few years ago, JBS Pork in Ottumwa, Iowa garnered all kinds of media attention – but not the kind it was hoping for.

Watchdog group Environmental Integrity Group identified JBS as a

leading source of nitrogen wastewater pollution and “the most polluting slaughterhouse in the U.S.”

JBS disputed the watchdog group's discharge findings. But internally, leaders decided it should do more to protect waters by investing money – and brainpower – in P2.

'That's a lot of waste reduction!'

So JBS got busy installing new troughs under raw product to collect blood, and deflection screens for saws to collect tissue and prevent its escape into wastewater.

JBS also developed new standards for stick hole size to improve blood

(Please see Pollution ... on Page 2)

TSCA

Will EPA phase out this widely used solvent?

- 1-BROMOPROPANE POSES 'UNREASONABLE' RISK TO SOCIETY

Facilities that use vapor degreasing solvents with 1-bromopropane (1-BP) would be wise to look for safer alternatives.

Restrictions on 1-BP are coming as early as 2021 after EPA determined it “presents an unreasonable risk to workers, occupational non-users, consumers and bystanders, under 16 of 25 evaluated conditions of use.”

1-BP was one of 10 chemicals EPA chose for in-depth evaluations after Congress toughened the Toxic Substances Control Act (TSCA).

Thus far EPA hasn't banned any chemicals under TSCA although it's possible EPA phases out 1-BP.

Ozone-safe listing boosted 1-BP

Use of 1-BP boomed when EPA made it a Significant New Alternatives Policy chemical that doesn't deplete the ozone layer in 2009.

1-BP is mostly used as a solvent in vapor degreasing, by dry-cleaning and spot-cleaning facilities, and as an ingredient in stain removers, sealants and adhesives.

Info: tinyurl.com/bromopropane635

WASTE REDUCTION

Upgrades pay off with massive savings

The Clow Valve Company in Oskaloosa, Iowa has been making waterworks valves and fire hydrants for 130 years.

And based on their commitment to sustainable practices, there's no telling how many more years they'll be a leader in their industry.

Clow won an EPA Pollution Prevention (P2) award (*see cover story*) after replacing two electric arc furnaces in its iron foundry with more efficient electric induction furnaces.

The environmental payoff was immediate and huge: Clow was able to eliminate the need for one of its two baghouses.

Updating its melt shop resulted in:

- reducing energy usage by 287,100 kilowatt hours per year
- slashing slag waste by 800 tons and hazardous waste by 200 tons annually, and
- saving more than \$100,000 in operating costs.

Committed to recyclable materials

Source reduction and sustainable practices aren't new endeavors at Clow's metal works.

The company uses ductile iron "made from 100% recycled scrap iron and steel, and the final product is recyclable after its long, useful life" according to the company's website. "All ductile iron pipe manufacturers have a 'buy-back' policy on ductile and cast iron pipes that have been removed from service."

In addition to using ferrous scrap, Clow also operates iron and brass foundries on site.

Pollution ...

(continued from Page 1)

removal, and redesigned product transfer points to collect waste.

Result: JBS slashed meat waste by an average of 10,000 pounds per production day. Best practices were shared with other JBS sites to reduce water and waste company-wide.

Need an idea? Take a look here

What if you're not an agricultural facility trying to solve a wastewater problem? It's important to remember that every P2 success story starts with an "aha!" moment.

Recent P2 award winners targeted areas like painting and coating, cleaning solvents, energy-efficient lighting and re-using water to become more sustainable than their competitors.

They're in sectors like electricity generation, higher education, construction, plastics, metal fabrication, paper and glass manufacturing, and chemicals and petrochemicals.

All of their success stories started by asking "What if we try ...?"

Info: epa.gov/ks/forms/p2-awards

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.

WILL INSURANCE COVER POLLUTION FROM NEIGHBOR?

Buck Flanagan, environmental director, could barely keep his eyes open with a pounding headache that kept getting worse.

He was in the middle of a tense speakerphone debate with his company's insurance agent, the always slick Jimmy Fresco.

"So you see, Buck, the pollution exclusion clause is clear," said Jimmy. "We can only accept this claim if it was a result of your company's mistake."

"That's just your way to weasel out of paying," said Buck. "I did research on cases like this."

"Our neighbor leaked chemicals into the ground for years, before we even started operations here. Look at the evidence. There's no doubt they were —"

Gray areas in pollution exclusion

"Let me stop you right there, Buck my friend," said Jimmy. "There's some differentiation between your neighbor's records and the contamination you claim has infiltrated your property. That's a fact."

"No way. The facts are on our side," said Buck. "You're ignoring what two environmental remediators said caused the contamination."

"So you'd rather drag this out in court instead of paying this claim?" Buck asked.

"As I said, check your contract. The pollution exclusion is clear — and it's on our side," said Jimmy.

Was the insurance agent right?

- 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

33 months in jail for driver who dumped hazwaste

Individual: Edward Miller, Sidney, NE.

Business: Truck driver.

Penalty: 33 months in federal prison, plus three years of supervised release, and must pay \$25,471 in restitution.

Reasons for penalty: Miller loaded a flatbed truck with containers of chemicals, pesticides and other hazardous wastes from a warehouse at Renkoski Property Development in Sidney, Nebraska. He then transported the hazwaste without a permit and dumped it at three undeveloped sites.

Note: Miller pleaded guilty to criminal violations of the Resource Conservation and Recovery Act (RCRA).

VOC pollution went unchecked for years

Company: Dartex Coatings, North Smithfield, Rhode Island.

Business: Laminating and coating.

Penalty: \$317,000.

Reasons for penalty: Dartex emitted unsafe levels of volatile organic compounds (VOCs). Its Clean Air Act permit required it to capture 100% of VOCs from its laminating machine.

Note: Dartex sold the facility to

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.

Custom Coatings, which agreed to install a thermal oxidizer that will destroy captured VOC emissions. The laminating line is also enclosed completely to prevent releases.

RCRA settlement a big win for community, taxpayers

Companies: JR Simplot and Simplot Phosphates, Rock Springs, Wyoming.

Business: Phosphate fertilizer manufacturer.

Penalty: \$775,000 fine and \$20 million to upgrade waste management programs.

Reasons for penalty: The plant failed to identify and manage phosphate byproducts as hazardous waste as required by RCRA. Simplot also violated the Emergency Planning and Community Right-to-Know Act by underreporting toxic releases (Form R, aka the Toxics Release Inventory). It must resubmit Form Rs for 2013 and 2014.

Note: Under its settlement, Simplot must recover and reuse phosphate and avoid disposing wastes in its gypstack, a large waste pile that also includes acidic wastewater. Simplot secured \$126 million in surety bonds to ensure it can eventually close the facility without taxpayers having to pay for it.

Don't do this when a permit expires! \$300K fine

Company: Pacific Energy (PE) South West Pacific, Pago Pago, American Samoa.

Business: Bulk fuel terminal.

Penalty: \$300,000.

Reasons for penalty: PE owns a large fuel storage terminal on Pago Pago Harbor. It violated its National Pollutant Discharge Elimination System (NPDES) permit by not collecting wastewater samples and monitoring discharges for oil, grease and toxic pollutants. When

its NPDES permit expired in 2015, it continued discharging into the harbor for four more years before EPA caught wind of it.

Bypassing wastewater treatment system a no-no

Company: Pacific Seafood-Eureka, California.

Business: Seafood processor.

Penalty: \$74,500.

Reasons for penalty: The plant discharged wastewater into the Eureka Slough waterway without the appropriate permit. Violations associated with operation and maintenance of its wastewater pretreatment system included:

- wastewater from the indoor shrimp processing area bypassing the pretreatment system
- a lack of adequate secondary containment in the indoor bulk chemical storage area and outdoor chemical storage area
- wastewater from the de-shelling process entered a storm drain, and
- rinse water from oysters and crabs running directly into the slough.

Note: Since being fined, the plant's corrected all of its issues and is operating in accordance with its Clean Water Act permit.

Hawaii's biggest water problem is hard to miss

Entities: Counties of Honolulu (Oahu) and Hawaii ("Big Island"), HI.

Business: State-owned tourist facilities.

Penalty: \$288,000 (total).

Reasons for penalty: Hawaii has the most large capacity cesspools (LCCs) still operating in the U.S., which were banned under the Safe Drinking Water Act in 2005. The counties agreed to close both LCCs by the end of the year.

Note: More than 3,600 LCCs have been shut down but several hundred are still open.

NEW SOURCE REVIEW

How plantwide permits can cut red tape

EPA is offering a less burdensome option than New Source Review (NSR) permitting for major sources of air pollutants:

They're called Plantwide Applicability Limits (PALs).

Wait – you've heard of PALs?

You're right, PALs aren't new. They've been around since 2002 as part of an NSR reform rule.

With a PAL permit, a facility can make process changes without triggering major NSR, eliminating the need for project-by-project applicability analyses.

But very few facilities and state NSR regulators are taking advantage of PAL's flexibility, says EPA.

EPA: Avoid NSR permit delays

EPA hopes to reverse that trend with a new PAL guidance document. Stakeholders told EPA they think PAL regs are "unduly onerous [and create]

uncertainty and potential risk." As a result, facilities stick with the devil they know – the NSR process.

EPA stresses the main requirement for PAL permit holders is to monitor, record and report actual emissions of PAL pollutants on a 12-month rolling basis, something most sources have to do anyway.

"As long as actual emissions remain below the PAL, a source can implement timely projects, including modifications to existing emissions units and construction of new emissions ... [and avoid NSR] which can take up to 18 months to apply for and obtain."

Also: PAL gives facilities multiple monitoring options – mass balance calculations for activities using coatings or solvents, continuous emissions monitoring, continuous parameter or predictive emissions monitoring, and emission factors.

Info: tinyurl.com/PAL635

NSPS

Methane rollback for gas wells likely to pass muster

■ WILL COURTS THROW WRENCH IN PROCESS? WE'LL SEE SOON ENOUGH

Early on, the Trump EPA didn't always follow the Administrative Procedure Act, and as a result saw attempts to roll back Obama regs hit roadblocks in court.

Under Administrator Andrew Wheeler, the agency's gotten smarter in how it revises what it sees as burdensome regs.

Which is why we expect the O&G methane changes to stick despite pending litigation against them.

More of a relaxation than rollback

EPA removed methane guidelines for the transmission and storage (T&S) segment, citing them as duplicative and unnecessary.

Reason: T&S facilities must still control and monitor volatile organic compound (VOC) emissions, and mandatory pollution controls also reduce methane emissions.

EPA acknowledges leaks from the O&G industry are a big problem at an estimated 30% of man-made methane emissions. But they're coming from the sector's other two segments – production (wells) and processing stations – not T&S.

Gathering and boosting stations still need to monitor for methane leaks, but twice a year from now on instead of quarterly. Federal courts typically defer to EPA when regs are relaxed but not removed altogether.

These New Source Performance Standards changes will save industry \$100 million annually.

Info: tinyurl.com/methane635

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.

■ STORMWATER SAMPLES WERE LONG OVERDUE

To: Regional Enforcement Director
From: Inspector Bob Wiley
Re: Monitoring reports

One of our new field inspectors, Bill Jones, visited Alliance Industries recently. He was checking up on a possible emissions violation.

Luckily for the company, it was a reporting error, which Bill quickly figured out.

But as Bill was leaving, he noticed there were multiple Dumpsters without the top lids closed.

He stopped and took a look inside, and found solvents and used oil alongside the Dumpster. Some of the containers were half-full.

That's when Bill took a closer look around. He noticed piles of scrap metal in different spots on the company's two-acre lot.

So he called me before leaving to check Alliance's records.

Good detective work pays off

Sure enough, I found Alliance has a stormwater permit. But we had no sample results going a year back.

Bill asked the site manager if he could take a look at their stormwater samples. The manager said they didn't have any there.

So Bill asked to see their records. The manager couldn't provide them.

Alliance had completely dropped the ball on stormwater. By my calculations, the company is on the hook for \$81,500 in fines.

Hopefully Bill stays with us and we can find more inspectors like him. Part of this job is good detective work and keeping your eyes open.

■ *Dramatized for effect. Based on a settlement with a glass manufacturer in the Southwest.*

BMP

Green stormwater practices catching on

How much are companies implementing green stormwater best management practices (BMPs)?

A stormwater management report from 360 Market Updates breaks out data on the four most popular types of BMPs:

- grass swales
- rain gardens
- pervious pavement, and
- green roofs.

A quick look at the three main market segments (municipal, commercial and industrial) using BMPs is interesting, but ultimately doesn't answer the No. 1 question environmental managers have:

“Which BMPs will reduce our stormwater load best?”

Answer: There's no one right solution for all.

One or more BMPs may work depending on your proximity to lakes, streams, etc., your industrial sector (any equipment or scrap metal

outdoors?) and of course, your budget. After all, not everyone has the luxury of building a retention pond, for example.

Key to success: How BMPs are used

In addition to utilizing one or more BMPs, it's important to pinpoint other problem areas, such as heavy runoff.

For example, when Princeton University redeveloped a brownfield site, the designers:

- removed a point source to a stream by enhancing and enlarging the stream buffer with soil and vegetation, and
- redirected stormwater runoff from a driveway and parking spaces to a basin using grass swale.

For a lot more stormwater case studies from all 50 states, check out the American Society of Landscape Architects' website.

Info: asla.org/tormwater/casestudies.aspx

RCRA

How to handle waste manifests during COVID-19

■ EPA GIVES SOCIAL DISTANCING OPTIONS TO HAZWASTE HANDLERS

Hazardous waste facilities asked EPA how they should obtain generators' signatures on waste manifests and comply with social distancing mandates.

EPA put out a guidance memo for generators, transporters and treatment, storage and disposal facilities (TSDFs) during COVID-19.

Vendors can sign for clients

EPA's first piece of advice is adopt the electronic manifest program (aka Hazwaste E-Manifest).

As we reported last spring, only 1% of facilities are signing electronically because all partners in the chain have

to be using E-Manifest exclusively. Some businesses prefer to follow Department of Transportation (DOT) guidelines, and as of last year, the DOT still required paper copies.

So what if using E-Manifest isn't feasible? EPA suggests:

1. Write the name of the generator in Box 15. Under "Signature," write "COVID-19 signature substitute" (or "COVID-19 sig. sub.").
2. Provide a signature substitute in a text message, email or hard copy letter to the transporter and TSDF.
3. In Box 14, write "documentation for generator signature substitute available upon request" on the manifest.

Info: tinyurl.com/hazwaste635

TRENDS TO WATCH

■ MORE STATES TAKING OVER PSD AIR PERMITTING

Illinois EPA will soon take over Prevention of Significant Deterioration (PSD) and New Source Review air permitting.

Prairie State lawmakers have needed to follow federal guidelines to approve permits.

Once the changes to its state implementation plan are approved, Illinois will become the 46th state with full PSD authority.

Info: tinyurl.com/illinoispsdair635

■ EPA IS PAYING STATES BACK FOR COPPER MINE DEBACLE

Utah is finally being paid back for a toxic mine spill caused by EPA and agency contractors.

When EPA accidentally blew out the shuttered mine in 2015, a deluge of wastewater tainted by heavy metals polluted streams and lakes in Colorado, Utah, New Mexico and Navajo Nation.

Via a settlement with Utah, EPA will shoulder the costs of a Superfund cleanup of Lake Powell, expected to cost \$220 million. Utah will also receive \$3 million in water quality grants.

Info: Search for "gold king mine" at our website for a timeline.

■ EMISSION REG RELIEF FOR NEW ENGLAND FISHERMEN

The lobster industry in Maine gained relief from Tier 4 diesel engine requirements.

Boat manufacturers are hamstrung by a shortage of Tier 4 compliant engines for high-speed commercial boats, which could put fishermen out of business.

EPA extended the Tier 4 implementation deadlines an additional 12 months for most kinds of high-speed diesel boats and three years for more narrow vessels.

Info: RIN 2060-AU30

CLEAN WATER ACT

EPA limits pipeline vetoes by governors

It's official: Governors have one year to review and either approve or veto pipeline projects under Section 401 of the Clean Water Act.

A final EPA rule puts an end to states stalling pipelines, in some cases for years, due to climate change concerns or other issues.

Water quality must be the issue

States will need to provide evidence that water quality may suffer as a result of a pipeline being built or expanded.

The rule was written in response to President Trump's executive order for promoting energy infrastructure and economic growth.

Info: epa.gov/cwa-401

Understanding how chemicals react better

EPA wants to know more about toxicokinetics, defined as how a substance gets into the body and what happens to it in the body.

The agency's doling out nearly \$4 million to five academic teams

who'll study the four processes of toxicokinetics – absorption, distribution, biotransformation and excretion.

Team results could aid EPA in Toxic Substances Control Act rulemaking to keep bioaccumulative substances out of the environment.

Info: epa.gov/chemical-research

DOE greenlights more natural gas exports

Natural gas (NG) producers will soon be able to export products to nations the U.S. doesn't have free trade agreements with.

The Department of Energy is offering long-term authorizations to both Free Trade Agreement (FTA) as well as non-FTA countries for up to 30 years.

This would allow for exporting domestically produced liquefied NG, compressed NG and compressed gas liquids.

Info: jdsupra.com/legalnews/doe-extends-standard-term-of-long-term-91148

WHERE TO GET HELP

■ 'LIST OF LISTS' SIMPLIFIES CHEMICAL THRESHOLDS

Keeping track of reporting thresholds for various chemical laws can trip up the most seasoned environmental pro.

EPA's "list of lists" makes it easier by listing all hazardous chemicals in alphabetical order with limits in columns for the:

- Toxics Release Inventory
- Superfund law, and
- Clean Air Act Risk Management Plan program.

The up-to-date online list was last updated in 2019.

Info: epa.gov/sites/production/files/2015-03/documents/list_of_lists.pdf

■ MAKING EPA GUIDANCE A LOT EASIER TO LOOK UP

EPA guidance documents are being uploaded online every few weeks per a White House executive order to make docs more accessible for businesses.

Guidance lacks the force and effect of law, but over the years courts have tended to view them as de facto regulations in environmental legal disputes.

Info: epa.gov/guidance

SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2)

No. The insurance agent was wrong. The courts ruled that the absolute pollution exclusion in this commercial general liability contract couldn't get the insurer out of handling the damage claim.

In this case, the company had:

- started cleanup efforts
- run environmental studies showing it was a neighbor who'd polluted the soil and groundwater, and
- pursued legal action against the neighbor (which could take years if bankruptcy comes into play).

All of these efforts put a financial burden on the company, which assumed its policy would cover. The insurer claimed only indisputable, accidental contamination caused

by or harming the company was covered.

But there was no specific language spelling that out in the pollution exclusion.

The court ruled the insurer was acting in bad faith and must pay up.

■ ANALYSIS: IF THERE'S A SPILL, LEAK, ETC., AND SOMEONE IS HARMED, DON'T GIVE UP ON CLAIM

Insurance companies will often use vague language in pollution exclusions so they can deny coverage whenever possible. Then you get lawyers arguing over what the contract really says.

The good news is, the courts typically side with customers in disputes like these. Bottom line: Never accept denial of coverage for claims as the "final word."

Cite: *1100 West v. Travelers Indemnity*, IN Supreme Court, No. 49F12-0702-PL-005175. Dramatized for effect.

EPCRA

Timely storm guidance for chemical sites

2020 could bring more devastating tropical storms and hurricanes to the Gulf of Mexico and East Coast.

Which means facilities that use and store hazardous chemicals need to be prepared for a worst-case scenario.

EPA reminded operators of their duty to minimize releases that do occur, and report chemical or oil releases and discharges in a timely manner, as per the Superfund law, the Right-to-Know Act, and the National Oil and Hazardous Substances Pollution Contingency Plan.

Get team members on same page

If you haven't done so already, make sure to:

- review procedures for shutting down processes and securing facilities, especially hazardous chemicals
- check updated state-federal guidelines for flooding preparedness (tinyurl.com/flooding635)
- ensure designated staffers know when and how to contact the National Response Center in case a spill or release occurs, and
- check local response contacts, including Local Emergency Planning Committees (LEPCs) and State Emergency Response Centers (SERCs) that need to be contacted as part of your emergency plan.

For a list of LEPC and SERC contacts by state, go to epa.gov/epcra/state-emergency-response-commissions-contacts.

Info: epa.gov/natural-disasters

COVID-19 complaints to OSHA high in Midwest

As of the end of July, OSHA received more than 7,800 coronavirus-related complaints.

Some states are faring worse than others. Most complaints are coming

from Midwestern states.

OSHA Region 5, which covers Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin, tallied the most complaints with more than 1,500.

Info: nexsenpruet.com/insights/who-is-filing-coronavirus-related-osha-complaints

7 employees got COVID-19 here

Some companies are being fined because of employees becoming infected. Healthcare provider OHNH EMP reported seven of their employees were hospitalized because of the coronavirus.

After three of its Ohio nursing facilities were inspected, OSHA cited each one for not having a comprehensive written respiratory protection program and not evaluating workers for respirator use.

The agency also issued a Hazard Alert Letter because the company allowed employees to re-use N95 respirators after seven days and didn't do initial fit-testing.

The company was fined \$40,482.

Congress weighs more Environmental Justice

Democrat Senators are proposing the Environmental Justice (EJ) for All Act to lessen air pollution and other problems in minority and poor neighborhoods, and for at-risk populations like the elderly.

The EJ Act would authorize regulators to consider cumulative impacts in permit decisions under the Clean Air Act and Clean Water Act.

The bill is sponsored by Vice Presidential nominee Kamala Harris (CA) and former presidential candidate Cory Booker (NJ).

Info: congress.gov/bill/116th-congress/house-bill/5986/text

REAL PROBLEMS/SOLUTIONS

SLOPPY HAZWASTE HANDLING PUT US AT RISK

(From Ed Detmer, senior environmental specialist, City of Vernon, CA)

Managing different types of hazardous waste can feel like a full-time job.

One nagging problem we had was drilling the importance of documentation into staffers.

Sometimes staffers would get careless and not mark specific ID numbers for hazwaste.

They'd skip some of the digits, maybe assuming they or their co-workers would know what the waste was.

That wouldn't cut it with an EPA inspector – or me.

'See how shortcuts backfire?'

First thing we did was retrain all of our hazwaste handlers on proper documentation.

We spelled out how we wanted containers labeled and stressed that it's OK if it took extra time.

Then we showed them why it mattered with published articles about other companies paying fines for hazwaste violations, often for the kinds of mistakes we made.

Hearing those stories got their attention. Result: The sloppy mistakes are a thing of the past.

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.

"This newsletter is very valuable. Its format is simple and easy to follow. Very informative and up to date on current topics."**"**

Noel Padron
WorldPak Flexible Packaging
Reno, Nevada

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

BOILER MACT

Big changes to the Boiler MACT (Maximum Achievable Control Technology) air regs are published in the *Federal Register* (FR).

MACT revisions increase limits on 28 large-source industrial boiler subcategories (of 90 total).

Boiler owners/operators will need to comply with tougher limits for formaldehyde, benzene and polycyclic organic matter after citizens' groups recorded spikes of formaldehyde from boilers. A federal court ordered EPA to toughen limits.

EPA isn't changing the carbon monoxide (CO) limit of 130 parts per million, and isn't budging from its choice of CO as the appropriate surrogate pollutant for Boiler MACT.

Comments are due by October 23, but the White House Office of Management and Budget recommends getting feedback in by September 23 to ensure it's considered.

For more info, contact EPA's Jim Eddinger at (919) 541-5426 or eddinge.jim@epa.gov.

(For a timeline of these National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters, go to our website and search for "Boiler MACT.")

Info: 85 FR 52,198

SO2 NAAQS

Sulfur dioxide (SO₂) levels are dropping thanks largely to industry's

investments in scrubber technologies.

Case in point: Areas in Missouri, Ohio, Nebraska and Texas are in SO₂ attainment for the 2010 National Ambient Air Quality Standards (NAAQS) based on monitoring results from 2017-19.

Areas/counties now designated as attainment are:

- portions of Franklin and Saint Charles Counties in MO
- all of Lancaster County in NE
- all of Gallia County and a portion of Meigs County in OH, and
- all of Milam County in TX.

These areas were designated as unclassifiable in round two of NAAQS designations for SO₂. Since then states added or upgraded their air quality monitoring technology.

Info: epa.gov/sulfur-dioxide-designations/sulfur-dioxide-designations-regulatory-actions

ENDANGERED SPECIES

The U.S. Supreme Court agreed with a landowner that the terms "habitat" and "critical habitat" aren't clearly defined in the Endangered Species Act (ESA).

Two years after that ruling in *Weyerhaeuser v. U.S. Fish and Wildlife Services* (FWS), the feds propose that habitats are physical places where:

1. "individuals of a species depend upon to carry out one or more life processes ... [and the place has] the capacity to support [the species]," or
2. "[where the species doesn't] presently exist but [has] the capacity to support [it]."

Bottom line: FWS and the National Marine Fisheries Service will still be able to designate an area where no threatened species is currently living as a critical habitat.

Weyerhaeuser involved a critical habitat protection for the dusky gopher frog. A Louisiana landowner

couldn't develop on 1,500 acres in Saint Tammany Parish.

Info: 85 FR 47,333

OZONE STANDARD

EPA's rationale for retaining current ozone limits is now on the books in the FR.

The National Ambient Air Quality Standards, established in 2015, are currently set at 70 parts per billion (ppb) in terms of a 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations.

EPA says the primary standard established in 2015 protects public health with an adequate margin of safety, including of at-risk populations. Both the primary and secondary standards remain set at 70 ppb.

Comments are due October 1. Contact is Regina Chappell, chappell.regina@epa.gov, (919) 541-3650.

Info: 85 FR 49,830

HAZARDOUS MATERIALS

The Department of Transportation's (DOT) *Emergency Response Guidebook* gives "guidance on what to do during the critical first 30 minutes of a hazardous material transportation accident."

The 2020 edition is now available in both print and as a mobile app. Nearly 2 million print copies will be given to firefighters, emergency medical technicians, first responders and law enforcement officers.

The guidebook includes an indexed list of dangerous materials and their associated ID numbers, the hazards they pose and recommended safety precautions.

Info: phmsa.dot.gov/hazmat/erg/emergency-response-guidebook-erg