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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](mailto:sball@SafetyNewsAlert.com)).

## 1,000s of major sources can apply for lenient air permits

### ■ EPA ends 'once-in, always-in' Clean Air policy

**I**t's official: Major sources of hazardous air pollutants (HAPs) can be reclassified as area sources if they slash emissions.

EPA officially rolled back the Clinton-era "once-in, always-in" (OIAI) policy which locked in major sources to Title V permits.

Since OIAI went into effect in 1995, industry groups argued many facilities held off investing in control technologies because they couldn't escape permit costs.

#### Thousands of facilities to benefit?

This final rule amends the National Emission Standards for HAPs

(NESHAP) general provisions so that a major source which reduces its emissions and potential to emit (PTE) below major-source thresholds may reclassify as an area source.

By EPA's definition a major source emits or has PTE 10,000 tons per year (tpy) of a HAP or 25,000 tpy of multiple HAPs.

#### What drove the policy

The Clinton EPA's goal was to drive down levels of dangerous HAPs like mercury, lead, arsenic and benzene from sources like:

- chemical plants
- oil refineries, and

*(Please see Major sources ... on Page 2)*

## ENFORCEMENT

### Everything's bigger in Texas – including the fines

#### ■ MAJOR CHEMICAL & OIL FIRES PROMPT A PENALTY ESCALATION

**T**he Texas Commission on Environmental Quality (TCEQ) is increasing fine amounts, spurred in large part by chemical and oil fires and explosions. TCEQ is proposing:

- 30% to 50% higher maximum penalties for actual releases of chemicals and pollutants
- 50% fine increases for programmatic violations like not getting TCEQ permits, not submitting reports or failing to maintain proper records
- routine monthly violations written

up as weekly citations, potentially quadrupling fines, and

- facilities with two or more prior administrative orders won't be eligible for a 20% total fine deferral.

#### Price to pollute gets steeper

The kicker: TCEQ may also add a 20% penalty for releases in counties with 75,000 or more residents.

Since about 85% of Texans live in counties above that total, a fine percentage increase would make more facilities liable for releases.

**Info:** [jdsupra.com/legalnews/tceq-considers-major-revisions-to-96658](http://jdsupra.com/legalnews/tceq-considers-major-revisions-to-96658)

## Major sources ...

(continued from Page 1)

- factories, et al.

With this change being made by the Trump administration, reclassified sources may now be exempt from having to apply for a Title V operating permit and can instead comply with area source requirements under the Clean Air Act (CAA) section 112.

To put it in perspective More than 7,000 facilities nationwide are major sources.

When EPA proposed rescinding OIAI, it estimated about 3,900 facilities would be able to reclassify as area sources.

### Environmental costs are expected

Now that the OIAI policy is being eliminated, EPA expects there will be an annual increase of 1,258 tpy in HAPs from industry.

But environmental groups predict the jump in pollution will be higher than that.

That's because Title V permit holders are required to reduce HAPs by 95% to 98% using maximum available technologies.



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And many of these facilities have been doing so since the mid-1990s, spurring historic improvements in volatile organic compounds, sulfur dioxide, nitrogen oxides and particulate matter output.

Info: RIN 2060-AM75

### Scorecard of Trump reg changes

When the Commerce Department asked stakeholders in early 2017 which government regs needed to be scaled back the most, EPA air rules topped the list.

Since then, the Trump EPA's taken a hatchet to some of industry's least favorite policies:

- EPA no longer commands "final say" on facilities' preconstruction emission estimates. Firms that can

## Cutting costs, red tape for industry.

demonstrate emissions won't increase from major modifications aren't forced to apply for New Source Review (NSR) permits.

- Sources owned by the same company but are located miles apart won't be deemed "adjacent" and classified as a major source. EPA has clarified that adjacent means "nearby, side-by-side or neighboring" for both NSR and Title V permits.
- New owners of upstream oil & gas facilities aren't on the hook for citations by previous owners. The New Owner CAA Audit Policy waives fines for new owners that report violations and bring sites into CAA compliance.
- Two major greenhouse gas regs promulgated by the Obama EPA – the Clean Power Plan for electric utilities and methane regs for oil & gas wells – also got the ax (*for more on the methane rollback, see Page 4 of last issue*).

## 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 ONE BAD TEST PUT WATER PERMIT ON THE LINE?

"I'm shocked," said Buck Flanagan, environmental director. "Water Protectors has no case."

Buck was discussing a lawsuit against his facility brought by an environmental group with his company's lawyer, Cliff Uplander.

"I mean, the state pollution board said they have no case," said Buck. "What gives?"

"It's called an appeal," Cliff chuckled. "It's not over until you can't pay the lawyers' fees."

"Water Protectors has a lot of money in their coffers, of course, so who knows how long they'll try dragging this case out," Cliff said.

### State & board on facility's side

"I'm concerned about one thing," said Buck. "We're in a high-risk, highly regulated industry. These groups keep a very close eye on our activities."

"They keep harping on that bad effluent test," said Buck. "I think the results may have been off to begin with. But all it takes is one failed test to plant a seed of doubt."

"We've been over this already," said Cliff. "Look at our permit. The state gave us an exemption."

"One bad water quality test isn't enough to put the permit in jeopardy. Like you said, those results could've easily been an anomaly."

"I hope you're right," said Buck.

The company tried getting the lawsuit thrown out of court.

Did it win?

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

## Where other companies are stumbling over compliance

For more fines, visit: [www.EnvironmentalComplianceAlert.com/category/who-got-fined-why](http://www.EnvironmentalComplianceAlert.com/category/who-got-fined-why)

### **Lax hazwaste program puts firm on hot seat**

**Company:** Automation Plating, Glendale, California.

**Business:** Metal finishing.

**Penalty:** \$49,706.

**Reasons for penalty:** Inspectors wrote up the facility for failing to:

- make hazardous waste determinations
- prepare hazwaste manifests for shipment
- ship out hazwaste before 90-day limit on its permit expired
- label waste containers correctly, and
- keep a hazwaste container closed.

**Note:** In addition to paying a fine, the company also agreed to develop standard operating procedures to help prevent debris from accumulating, ensure secondary containment systems are in good shape, and inspect and repair epoxy coatings. Metal finishers use a plating or anodizing process that generates sludges containing heavy metals like chromium, cadmium and lead; spent plating solutions containing metals or cyanides; and both flammable and alkaline liquids.

### **'What could go wrong if we had a leak?' not asked**

**Company:** Unicol, Honolulu, HI.

**Business:** Cold storage facility.

**Penalty:** \$210,564.

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.

**Reasons for penalty:** The company failed to:

- label and protect anhydrous ammonia pipes and equipment from potential forklift strikes
- maintain ammonia piping to prevent ice build-up and corrosion
- establish written procedures for inspection, testing, and maintenance tasks for its three engine room emergency ventilation systems
- implement accurate operating procedures
- correct equipment deficiencies
- document response compliance audits and process hazard analysis findings
- install air-tight doors to the engine rooms with panic hardware or adequate labeling, and
- install eyewash and safety shower systems both inside and outside of engine rooms.

**Note:** Inspectors found Unicol's industrial refrigeration system violated the Clean Air Act's Risk Management Plan regs because of mismanagement of large quantities of anhydrous ammonia, a toxic chemical highly corrosive to skin, eyes and lungs. Unicol is Hawaii's largest refrigerated food warehouse.

### **Grease & debris a major project for water experts**

**Entity:** City of Corpus Christi, Texas.

**Business:** Municipal storm sewer system administrators.

**Penalty:** \$1.136 million.

**Reasons for penalty:** State and federal regulators have cited the city for repeated sanitary sewage overflows to surface waters. The city must make wide-scale improvements to its system of 1,100 miles of sewer lines and more than 100 lift stations. The city must address buildup of grease and debris as well as replace broken sewer lines within four years in accordance with the consent decree it agreed to.

**Note:** Corpus Christi has one of the largest sewer systems in Texas. For more details on this settlement, go to [justice.gov/news](http://justice.gov/news).

### **Outdated spill plan left responders in the dark**

**Company:** Hays Oil, Medford, Oregon.

**Business:** Fuel oil supplier.

**Penalty:** \$5,625.

**Reasons for penalty:** Hays Oil didn't comply with Spill Prevention, Control and Countermeasure (SPCC) program requirements. Its plan was outdated and didn't adequately describe its current design and storage capacity. Hays also wasn't inspecting its oil tanks on a regular basis.

**Note:** The company has since updated its SPCC plan and is documenting how it's doing routine tank inspections now.

### **Fuel didn't meet clear standards: \$2.4M fine**

**Company:** Gulf Oil, Wellesley Hills, MA (headquarters).

**Business:** Refineries.

**Penalty:** \$2.4 million.

**Reasons for penalty:** Gulf produced and sold gasoline at facilities in Massachusetts, New Jersey, New York, Rhode Island, Maine and Connecticut that didn't meet:

- gasoline volatility standards
- the annual average gasoline benzene credit retirement requirements, and
- certain reporting requirements.

**Note:** Another oil company, George E. Warren (headquartered in Vero Beach, Florida), was cited for the same violations as Gulf. It will pay a \$5.1 million fine. Warren has facilities in NJ and Texas.

## ACCIDENTAL RELEASES

### Crackdown on chemical safety rolls on

Regulatory agencies are turning up the heat on chemical safety violators for a good reason:

Too many facilities are ignoring EPA's Risk Management Plan (RMP) and OSHA's Process Safety Management (PSM) guidelines, putting their employees, neighbors and the ecology at risk.

Case in point: The largest cold storage facility in Hawaii didn't maintain or label pipes transporting anhydrous ammonia, a hazardous gas.

EPA fined the company more than \$200,000 (see *Fines on Page 3*).

#### Gulf Coast firms on notice

There's an old saying that regulatory fines are "just a cost of doing business" for companies with big wallets. A few chemical and oil corporations that experienced fatal explosions and infernos because of delayed maintenance and damaged equipment fit that description.

To stem the tide, the Texas Commission on Environmental Quality is jacking up fines for accidental releases and significant permit violations by 50% (see *bottom of Page 1 for more*).

#### Making an example of rulebreakers

EPA and OSHA have made sure to send a loud-and-clear message to businesses with substantial fines in recent months:

- an **Arizona** produce storage site didn't handle ammonia safely. It paid a \$25,000 RMP fine and \$98,000 toward a supplemental community project, and
- an **Iowa** pork producer's process analyses and operating procedures didn't jibe with PSM protocols. Fine: \$43,577.

**Info:** [www.spencerfane.com/publication/epa-and-osha-continue-aggressive-enforcement-of-accidental-chemical-releases](http://www.spencerfane.com/publication/epa-and-osha-continue-aggressive-enforcement-of-accidental-chemical-releases)

## TAILPIPE EMISSIONS

### Will zero-emission car mandate turn into a battle?

- CALIFORNIA PHASEOUT OF GASOLINE VEHICLES TURNS UP THE HEAT

California Governor Gavin Newsom (D) appears to have bitten off more than he can chew in calling for a phaseout of gasoline-fueled automobiles by 2035.

EPA administrator Andrew Wheeler questioned the legality (and practicality) of Newsom's call to eventually ban vehicles with internal combustion engines.

Unless the Golden State can guarantee affordable electric vehicles to its citizens by that time, Newsom's directive won't survive lawsuits brought by citizens' groups (and likely the feds), says Wheeler.

Wheeler and others also criticized Newsom for going all-in on electric vehicles while his state's in the middle

of rolling blackouts, wildfires and worsening drought.

#### Fed-state partnership on ice

Since the 1970s, EPA let California's Air Resources Board introduce fuel efficiency goals for autos and trucks.

But Wheeler has since pushed CARB to the side. For example, EPA rolled back Obama-era fuel efficiency standards last year over CARB's and several car and truck makers' recommendations.

*In related news:* California Assembly Bill 2954 would mandate greenhouse gas (GHG) sequestration on agricultural, grazing and forest lands. CARB says agriculture produces 8% of the state's GHG emissions.

**Info:** [tinyurl.com/ghgag638](http://tinyurl.com/ghgag638)

## 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.*

### ■ SITE DIDN'T HANDLE BANNED SUBSTANCE THE RIGHT WAY

**To:** Regional Enforcement Director  
**From:** Inspector Bob Wiley  
**Re:** PCBs

I'm recommending when personnel spot warning labels for polychlorinated biphenyls (PCBs) on older equipment that the inspection doesn't end there.

Just because a facility follows the law and labels the equipment doesn't mean it's done its job.

For example, ABC Industrials has a lot of older equipment and infrastructure at its main plant.

We were on a site visit because of the hazardous chemicals it deals with. ABC was in compliance with everything on my punch list.

But when I saw the "CAUTION: CONTAINS PCBs" sign on an electrical transformer, I figured it was worth a closer look.

#### Leak stains were evident

Good thing I did. On closer inspection, I could see that the rubber insulation was worn out and missing in several spots.

There were stains indicating leaks too. I couldn't verify that it was dielectric fluid containing PCBs, but I'd bet on that as the source.

Their site manager didn't deny he deals with PCBs, but still insisted the site had a good handle on it.

I can't agree. There was no eye protection or any safety gear nearby. He couldn't show me any training logs either.

By my calculations, ABC has racked up \$95,000 in violations.

- *PCBs are heavily regulated because of their toxicity under the Toxic Substances Control Act. This case dramatized for effect, based on a settlement by a Midwestern electrical supply company.*



## CLEAN WATERS

### Prevent oil spill plan fines: 6 expert tips

No two regulated facilities' compliance issues are exactly alike – and that goes for oil and hazardous substance spill plans.

Unfortunately some companies assume that plans and controls which work for similar facilities will work perfectly for them too.

Here are six spill plan mistakes to avoid from Ryan Whitchurch, response readiness manager for environmental consultants WSP in Portland, Oregon:

#### Time to check is right now

- *Combining different kinds of facilities into one plan:* This makes things simpler for firms, and states generally OK the practice. But all it takes is a big leak and overmatched containment, and you have a costly mess on your hands.
- *Operators aren't involved in drafting the plan:* The folks who run your organizations day to day and are responsible for preventing and

mitigating spills are too important to be left out of the planning stages! Get new operators' input as well on what your plan will entail.

- *The plan's outdated:* Always factor in facility changes, how much oil or fuel is on site and where containers and piping are located. (See "Fines" on page 3 for an example of a facility that didn't update its spill plan and got caught.)
- *Details are sorely lacking:* Does the plan list who's responsible for calling emergency responders? Are boom locations marked on the diagram? These are details folks need to find quickly.
- *No vapor release modeling:* Will vapors rise or stay on the ground where they can ignite? Your whole team and responders need to know.
- *Outdated contacts:* Test the call list for listed federal emergency response, state and local fire departments. Numbers change!

Info: [wsp.com/en-US/what-we-do](http://wsp.com/en-US/what-we-do)

## SOLID WASTE

### Municipal recycling programs aren't sustainable

#### ■ CHINESE BAN ON RECYCLABLES IS A WAKEUP CALL TO STRAPPED TOWNS

Municipalities that set zero-waste goals are running into two significant hurdles:

- China's "National Sword" ban on solid waste exports that's pushed the value of many recyclable materials down the tubes, and
- long-term budget shortages that force towns to slash programs.

Mixed paper is a prime example. From March 2017 to March 2018, its value plummeted from roughly \$160 per ton to \$3 per ton.

#### 'Diverted' waste still took its toll

Warehouses on the West Coast are jam-packed with materials China

and other Asian nations don't want anymore. Western towns that shipped waste to China are forced to landfill or incinerate a host of products they used to be able to recycle, in many cases for a nice profit.

Take San Jose, California, whose recycling program's won multiple awards. Much of the materials the city "diverted" were reprocessed by Chinese factories with pollution controls well below U.S. standards. San Jose's citizens certainly benefited, but its garbage was passed on to Chinese citizens in the form of air and water pollution.

Info: "As City Budgets Shrink, It's Time to Rethink Recycling Programs," [quillette.com/2020/09/21/as-city-budgets-shrink-its-time-to-rethink-recycling-programs](http://quillette.com/2020/09/21/as-city-budgets-shrink-its-time-to-rethink-recycling-programs)

## TRENDS TO WATCH

### ■ ENVIRO JUSTICE LAW AIMS TO LEVEL PLAYING FIELDS

New Jersey just passed the toughest state Environmental Justice law in the country.

The NJ Department of Environmental Protection must make permitting decisions based on how a project will affect "overburdened" communities. Permits can only be approved or renewed if there's no disproportionate, cumulative impact on nearby residents.

"Overburdened" is defined as at least 35% low-income as defined by the U.S. Census, 40% or higher minority population or 40% or higher non-English speaking.

The law's expected to impact industrial sectors like power plants, hazardous and solid waste facilities, landfills, scrap metal yards, sewage treatment centers and some medical waste incinerators.

Will other blue state legislatures and governors follow New Jersey's lead? We'll keep you posted.

Info: [nj.gov/governor/news/news/562020/approved/20200918a.shtml](http://nj.gov/governor/news/news/562020/approved/20200918a.shtml)

### ■ STATE'S COAL ASH REGS GIVES INDUSTRY CLARITY

Illinois EPA has come out with coal ash pond regs for power plant owners and operators.

The agency defines coal combustion residuals as "fly ash, bottom ash, boiler slag and flue gas desulfurization materials generated from burning coal for ... the purpose of generating electricity."

Coal ash pond sites will need to do a closure alternatives analysis that ensures pollutants are handled safely to minimize release to surface water or groundwater.

Also: Owners will need to hold two public meetings before submitting a permit application.

Illinois coal ash regs are at least as stringent as federal EPA's.

Info: [tinyurl.com/coalashIL638](http://tinyurl.com/coalashIL638)

### CHEMICALS

## Does Proposition 65 stifle free speech?

California's Proposition 65 list of carcinogens – arguably the most restrictive chemical reg in the U.S. – may be on the ropes.

The state's Office of Environmental Health Hazard Assessment (OEHHA) listed the weed killer ingredient glyphosate based on the International Agency for Research on Cancer's (IARC) finding that the substance is a probable carcinogen.

As a result, products like Roundup sold in the Golden State would need Prop 65 warning labels.

The National Association of Wheat Growers brought a free speech lawsuit against CA. Bolstering its argument – a 2016 EPA finding that glyphosate isn't a carcinogen.

### Feds don't agree with IARC

Result: A district court ruled in industry's favor, temporarily exempting manufacturers from having to use Prop 65 labels. California District Attorney Xavier Becerra is appealing. But some legal experts predict an uphill climb for the DA.

"The real problem for the AG and OEHHA, the agency tasked with listing Prop 65 chemicals and regs

... [is] the court's disagreement as to the authoritativeness of the IARC's findings," says attorney Fernando Diaz of Taft Stettinius & Hollister.

"This is problematic for the OEHHA because many, if not most, of the OEHHA decisions to include certain chemicals on the Prop 65 list ... are based on IARC carcinogenicity determinations," Diaz advises.

Depending on how higher courts rule, a host of other product makers could follow suit with free speech lawsuits. We'll keep you posted.

Info: [tinyurl.com/taft638](http://tinyurl.com/taft638)

## Long-chain PFAS face tighter EPA restrictions

A significant new use rule (SNUR) went into effect on September 25 for long-chain per- and polyfluoroalkyl substances (PFAS). Facilities must notify EPA within 90 days before importing, making or distributing.

The SNUR covers 26 PFAS with perfluorinated carbon chain lengths equal to or greater than seven carbons and less than or equal to 20 carbons.

Info: [tinyurl.com/lcpfas638](http://tinyurl.com/lcpfas638)

### WHO ARE THE LEADERS IN GREEN CHEMISTRY TODAY?

Looking to enhance your green chemistry programs? Look no further than the 2020 Safer Choice Partner of the Year award winners for ideas that just might work for your operations.

Here's how a handful of awardees reduced their use of chemicals and waste:

- Apple developed an internal safer cleaner and degreaser assessment tool for its facilities and vendors in its supply chain.
- Clorox developed a new website that lists ingredient disclosures for all certified products and includes Spanish translations.
- ECOS has partnered with schools and museums to educate children on green chemistry, with 11,000 students being taught by the program so far.
- Hazardous Waste Management Program holds safer cleaning classes at community colleges and train-the-trainer sessions. Plus it donates cleaning kits with educational materials and Safer Choice-certified dish soaps.

Info: [epa.gov/saferchoice/2020-safer-choice-partner-year-award-winners-profiles](http://epa.gov/saferchoice/2020-safer-choice-partner-year-award-winners-profiles)

## SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2)

No. Buck's company couldn't get the lawsuit dismissed.

A state appeals court reversed the pollution board's ruling. The court said the state shouldn't have given the company an "out" in its water permit.

Reason: The Clean Water Act (CWA) and the state's laws don't allow for any exemptions from citations.

The state wrote a permit for the company that said a failed Whole Effluent Toxicity test wouldn't necessarily mean the facility was in noncompliance. Its permit allowed for a re-test and the possibility a failed test could be anomalous.

Not only does the CWA not allow that, but in most cases states won't offer that kind of generous term to a host of

industries that would like one!

Judges ruled the state can't write permits for the "convenience of permittees and regulators." Now the company appeal or settle.

### ANALYSIS: PERMITS CAN BE UNDONE BY ONE FAILED TEST – ROUTINE MONITORING IS KEY

Environmental pros increasingly tell us they monitor wastewater or stormwater runoff regularly for the pollutants they worry about or that they're required to control.

We know some facilities that found results were skewed by testing mistakes, as well as metals or chemicals in runoff coming from neighboring properties.

Cite: *Puget Soundkeeper Alliance v. Washington Pollution Control Hearings Board*, No. 45609-5-II, Court of Appeals of WA, Division 2. Dramatized for effect.

## WATER QUALITY

### Even more PFAS limits for water utilities!

Just last issue, we let you know about which states are enacting stringent water quality standards for per- and polyfluoroalkyl substances (PFAS).

(See Page 2, previous issue.)

Here are two more states that decided to go above and beyond the federal testing limit of 70 parts per trillion (ppt):

#### Testing to begin in New Year

Massachusetts set a maximum contaminant level (MCL) of 20 nanograms per liter (ng/L) for the compounds PFOS, PFOA, PFDA, PFHpA, PFHxS and PFNA.

Public drinking water plants must begin monitoring in 2021 using EPA Method 537 or 537.1, both of which can analyze for PFAS and other chemical compounds.

Info: [pfascentral.org/news/massachusetts-finalizes-drinking-water-standard-for-pfas](https://pfascentral.org/news/massachusetts-finalizes-drinking-water-standard-for-pfas)

#### Tough trigger limits on dock

Not to be outdone, Illinois set a stringent MCL for its most problematic groundwater contaminant – 140,000 ng/L for PFBS.

Water utilities will need to take action for readings at or above:

- 140 ng/L for PFHxS
- 14 ng/L for PFOS, and
- 21 ng/L for PFBA, PFOA and total PFOA and PFOS in any combination.

Info: [jdsupra.com/legalnews/illinois-epa-proposes-pfas-standards-49610](https://jdsupra.com/legalnews/illinois-epa-proposes-pfas-standards-49610)

### Court strikes down coal-friendly air regs

Some coal-fired power plants are getting too much leniency from state regulators, as a Pennsylvania court case demonstrates.

The 3rd Circuit Court of Appeals ruled the PA Department of Environmental Protection (DEP) and EPA allowed lower emission limits for five power plants even though those facilities were capable of lowering pollution further.

#### Did state bend rules for King Coal?

“EPA ignore[d] its own Air Markets Program Data showing that all five Pennsylvania power plants ... have actually achieved much greater [pollutant] reductions,” wrote the 3rd Circuit judges.

Judges cited a “pernicious loophole” in the ground-level ozone state implementation plan (SIP) for coal utilities which allows turning off pollution controls when an emission stream falls below 600 degrees.

The 3rd Circuit threw out Pennsylvania’s SIP. EPA may appeal to the Supreme Court.

Info: [documentcloud.org/documents/7047900-3d-Cir-Pa-Ract-Opinion-8-27-20.html](https://documentcloud.org/documents/7047900-3d-Cir-Pa-Ract-Opinion-8-27-20.html)

### CEOs float carbon tax to slow climate change

CEOs for many of the biggest companies in the world are pushing for a carbon tax.

“Addressing Climate Change,” a report from the Business Roundtable (BRT), is vague on how governments and companies levy a tax, who should pay or how. What’s clear is most Fortune 500 companies don’t agree with the Trump administration’s hands-off approach to climate change.

BRT members also want the U.S. to rejoin the Paris Accord and invest in alternatives to fossil fuel energy.

CEOs signing on to the carbon tax represent Amazon, Apple, Duke Energy, Dow, General Motors, Johnson & Johnson and Raytheon.

Info: [businessroundtable.org](https://businessroundtable.org)

## REAL PROBLEMS/SOLUTIONS

### FACILITY UPGRADES CUT ENERGY USE BY OVER 1/3

(Adapted from an EPA news release about a public school energy efficiency case study)

There’s no good reason to heat or cool a space if it’s not occupied. But that’s standard operating procedure in too many schools.

Working with CCG Energy Solutions, we made major efficiency upgrades at our schools. Together we did an energy audit looking for upgrades that would bring long-term savings.

Upgrades included:

- retrofitting ceiling lamps and installing new fixtures
- replacing a steam boiler with a hot-water unit, and
- implementing heating, ventilation and air-conditioning controls that reduce or shut off equipment when rooms aren’t being used.

### Huge reduction in GHGs

The results speak for themselves.

We’ve reduced our greenhouse gas (GHG) emissions by 1,514 metric tons, the equivalent of energy emissions from 138 homes in a single year.

And we reduced our total energy use by just over 36%.

## 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.

“The real-life situations presented in ECA, both good and bad, help me with prevention planning. It keeps me in the know and is easy to share.”

Sam Kipe  
Plant Manager  
Chemical Containers

## Air, Water & Waste regs that affect your operations

**H**ere'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](http://www.EnvironmentalComplianceAlert.com/category/update-on-federal-rules)

### CRITICAL MINERALS

Mining companies may be getting a big shot in the arm via a presidential executive order (EO).

President Trump's EO calls for:

- more grants and loans being made available for companies to mine domestically for critical and rare earth minerals, and
- federal rulemaking led by the Interior Department to increase critical mineral procurement.

Currently U.S. manufacturers depend on Chinese imports for 31 out of 35 critical minerals used in cell phones, motherboards, airplanes, electric vehicles, transmission systems and countless electronic products.

The EO notes that the U.S. produced more rare earth minerals than any country in the 1980s until China began price-fixing and dominating the market.

**Info:** [tinyurl.com/criticalminerals638](http://tinyurl.com/criticalminerals638)

### CLIMATE CHANGE

The Supreme Court will decide, once and for all, whether class-action climate change lawsuits brought against fossil fuel companies should be heard by federal or state courts.

The high court agreed to review a 4th Circuit Court of Appeals ruling that a climate change case be litigated at the state level.

Twenty-one states have brought cases against oil & gas companies to recover damages related to climate change in their communities.

Companies would prefer the cases to be heard in federal court where the Clean Air Act is the statute judges refer to and firms stand a better chance of getting suits dismissed.

**Info:** [tinyurl.com/climatechangesupremecourt638](http://tinyurl.com/climatechangesupremecourt638)

### HAZWASTE GENERATORS

The Hazardous Waste Generator Improvements (HWGI) rule was recently adopted by **Michigan, Wisconsin and Ohio.**

Thirty states have now updated their Resource Conservation and Recovery Act programs for hazardous waste by adopting HWGI.

HWGI eases recordkeeping and compliance duties for facilities but makes labeling of hazwaste containers in satellite storage areas a must. Containers should be kept closed and waste characteristics made clear to whoever reads a label.

Michigan's regs can be found at: [michigan.gov/legle/0,9429,7-135-3312\\_72907\\_72912-410842--,00.html](http://michigan.gov/legle/0,9429,7-135-3312_72907_72912-410842--,00.html)

For Wisconsin: [dnr.wisconsin.gov/topic/Waste/Hazardous.html](http://dnr.wisconsin.gov/topic/Waste/Hazardous.html)

Ohio's rule is at: [epa.ohio.gov/Portals/30/rules/HW%20Rules/oac\\_rules/All%20Rules.pdf](http://epa.ohio.gov/Portals/30/rules/HW%20Rules/oac_rules/All%20Rules.pdf)

**Info:** 81 FR 85,732

### GAS SYSTEMS

Heads up, natural gas distribution sites: The Department of Transportation's Pipeline and Hazardous Materials Safety Administration has put out two safety advisories.

The first advisory is a warning about how low-pressure distribution systems may fail due to overpressurization.

This warning refers to a 2018 accident in **Massachusetts** that damaged homes and killed someone.

And the second advisory reminds companies how inside meters and

regulators can fail and how to troubleshoot issues.

**Info:** 85 FR 61,097 (overpressurization), 85 FR 61,101 (inside meters)copy

### TOXIC SUBSTANCES

EPA has pinpointed unreasonable risks from cyclic aliphatic bromide cluster (HBCD) to the environment and occupational users but not the general public.

Following its Toxic Substances Control Act risk assessment, the agency will develop a plan for minimizing risks sometime in the next two years.

Seven more risk evaluations must be wrapped up by the end of 2020. EPA picked 10 high-risk chemicals for its first round of assessments (*search for "top 10 toxic substances" at our website for info*).

HBCD is a brominated flame retardant used in building insulation, upholstered furniture, automobile parts and electronic equipment.

**Info:** [epa.gov/assessing-and-managing-chemicals-under-tsca/final-risk-evaluation-cyclic-aliphatic-bromide-cluster#documents](http://epa.gov/assessing-and-managing-chemicals-under-tsca/final-risk-evaluation-cyclic-aliphatic-bromide-cluster#documents)

### MACT RULES

Does EPA have to do a risk assessment for a hazardous pollutant every time it revises Maximum Achievable Control Technology (MACT) requirements?

No, ruled a federal district court.

A citizens' group argued EPA should've done technology and risk reviews for two emission standards covering coke ovens.

EPA countered that the Clean Air Act requires a risk assessment only with the initial adoption of an air rule. And the court concurred.

**Info:** [courthousenews.com/wp-content/uploads/2020/06/EPACokeOvens-RULING.pdf](http://courthousenews.com/wp-content/uploads/2020/06/EPACokeOvens-RULING.pdf)