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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).

Surge in self-auditing: Up to 100% in fine reductions and ...

■ More facilities willing to report to EPA

What's your best course of action if you discover a significant air, water, waste or chemical reporting violation at your facility that you or your predecessors never reported?

Report it to your state agency by all means – but make sure to look into self-auditing with EPA as well.

EPA's audit policy, "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations," is picking up steam, proving that the old mantra "carrots work better than sticks" as a motivator is true!

Keeping inspectors at bay is key

Since EPA started touting its audit policy, more and more facilities are

taking the plunge.

A critical benefit is EPA's audit policy requires a non-compliant company to correct problems and meet standards of conformity under laws and regs.

Since 2016, the number of facilities returning to compliance after auditing has doubled – from 931 in 2016 to 1,901 in 2019.

Much lower fines help too

Once a facility's met the nine requirements under the audit policy, it's eligible to reduce all gravity-based violations by up to 100%.

(Please see Surge ... on Page 2)

NAAQS ATTAINMENT

Clean air milestone: State cuts all criteria pollutants

■ TEXAS, NEW YORK & CALIFORNIA
FACE UPHILL BATTLE TO MATCH

Air quality in most regions is cleaner than it's ever been, and nowhere is that more true than in the Sunshine State.

How clean? **Florida** is now the largest state to achieve attainment status for all six criteria pollutants. The Hillsborough-Polk County area was the last in the state to attain safe sulfur dioxide (SO₂) levels.

In addition to SO₂, states need to comply with National Ambient Air Quality Standards for:

• particulate matter

- ground-level ozone
- nitrogen oxide
- lead, and
- carbon monoxide.

Clear picture of cleaner air

Top-of-the-line monitoring technology helps gives regulators timely air quality (AQ) data.

Florida has one of the most robust AQ monitoring networks, with more than 211 monitors at 99 sites and a spatial system that allows for quick updates and access to AQ data.

Info: content.govdelivery.com/accounts/FLDEP/bulletins/27ce32d

RRP RULE

Cha-ching! Contractors easy EPA target

Compliance pros know protecting children from lead exposure is one of EPA's priorities, but plenty of contractors didn't get the memo!

Bottom line: It's a lot cheaper to follow the lead paint rule than having to pay noncompliance fines.

Taking lead shortcuts is foolish

Over the past year, 89 business owners and small- to mid-sized companies were the subject of EPA enforcement actions under the lead Renovation, Repair and Painting (RRP) rule as well as the lead-based paint activities rule.

A hot spot for lead inspections was New England. EPA Region 1 wrapped up 12 settlements alone, with fines as high as \$26,000.

Among the most serious RRP rulebreakers were:

- Walter Clews, owner of American Homeowner Services in Maryland, who pleaded guilty to three criminal counts for certifying houses lead-free when they still contained lead.
- Muhammad Ashraf didn't provide

Renovate Right pamphlets that explain lead paint risks to multiple Pennsylvania homeowners. Ashraf was fined \$84,000.

- Collegiate Entrepreneurs, a home painting company in Massachusetts, falsified records and forged signatures. It pleaded guilty to one criminal count and was fined \$50,000. The firm must also pay \$30,000 in restitution and abstain from any lead paint removal work.

Info: epa.gov/leadaction
planimplementation

Surge ...

(continued from Page 1)

Caveat: The leniency policy doesn't apply to economic benefit violations where companies avoided costs that its competitors couldn't because they complied with regs.

An even more valuable incentive: EPA agrees to waive any criminal enforcement if you audit in good faith. And the agency doesn't insist on systematic discovery for a facility to earn criminal immunity.

Keep in mind repeat violations within a three-year period aren't eligible for reduced fines.

Opportunity for oil & gas sector

Last year EPA approved an audit policy for new owners of oil & gas sites with known compliance issues.

New owners can escape fines by:

- notifying EPA within six months of buying a new site
- conducting an in-depth audit of newly acquired facilities, and
- making needed upgrades or repairs to comply with the Clean Air Act.

Info: epa.gov/compliance/
epas-audit-policy

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 GROUP FILE LAWSUIT YEARS AFTER A SPILL?

"This is a new one by me," said Buck Flanagan, environmental director. "What exactly is a nuisance class action?"

"Basically it means your neighbors don't like that you do business within 100 miles of them," chuckled Cliff Uplander, the company's attorney.

"Sure seems that way," said Buck. "How can they sue us for a spill we took care of years ago?"

"They have some tests that show chemicals infiltrated well water about a mile and a half from here," said Cliff.

"It's only one test, and I don't think it necessarily implicates us."

Facility cleaned up the mess

"That's my point," said Buck. "There was no hiding on our part when our tank ruptured and we had that spill.

"And the spill happened 10 years ago," Buck continued.

"There was minimal groundwater exposure, and we cleaned it up regardless. The soil cleanup took a lot longer but we did everything we could," Buck finished.

"Let's cut to the chase," said Cliff. "These people say they're worried there's a pollution problem and we're the cause. Minus clearcut proof, they have no shot in court."

"I hope you're right about that," Buck sighed.

Buck's company tried getting the class-action suit thrown out of court.

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

Pipes not labeled, other Risk Plan problems: \$268K

Company: Safeway, Phoenix, Arizona.

Business: Ice cream and frozen dessert manufacturing.

Penalty: \$268,406.

Reasons for penalty: Safeway didn't follow chemical release prevention and reporting requirements for anhydrous ammonia that it stored and used in its refrigeration and freezer systems. Risk Management Plan citations were issued for failure to:

- implement recommended process hazard findings
- have appropriate pipe and instrument labeling
- document operating procedures
- comply with process safety information requirements
- identify management of change procedures, and
- ensure process equipment is constructed, installed and maintained properly.

Note: The facility was inspected as part of EPA's National Compliance Initiatives program (*see bottom of Page 5 for related story*).

City & contractor take it on chin for ocean dumping

Entities: Port of Oakland, California, and Dutra Construction.

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.

Business: Shipping port and maritime contractor.

Penalty: \$473,000 (total).

Reasons for penalty: The Port dumped sediment from a dredging project into the ocean, a violation of the Marine Protection, Research and Sanctuaries Act, aka the Ocean Dumping Act. Dutra Construction, working for the port, dredged over 6,000 cubic yards of sediment from an area that hadn't been tested and approved for ocean disposal. It then dumped the sediment at the San Francisco Deep Ocean Disposal Site, about 55 miles offshore of the Golden Gate Bridge.

Note: The Port also didn't report disposal tracking data within 24 hours. Oakland will pay \$300K while the contractor is on the hook for \$173K.

Volatile organic compound leaks not fixed 1st time

Company: MarkWest Liberty Bluestone, Evans City, Pennsylvania.

Business: Natural gas processing.

Penalty: \$150,000.

Reasons for penalty: MarkWest was cited for excess volatile organic compound (VOC) emissions. The company failed to:

- conduct a third-party leak detection and repair audit in a timely manner
- comply with leak-monitoring requirements at connectors, and
- incorporate leak detection requirements under its state operating permit.

Note: Inspectors followed up on the plant's compliance with a previous Clean Air Act administrative order. The plant hadn't done enough to prevent fugitive VOCs.

Neighbors left in dark about hazardous chemicals

Company: Starbucks, Kent, WA.

Business: Coffee manufacturer.

Penalty: \$100,000.

Reasons for penalty: Starbucks stored reportable amounts of sulfuric acid and other hazardous chemicals at two of its Washington state facilities, but didn't file Tier II inventory reports with EPA or the state, as required under section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Emergency responders wouldn't have known what kind of chemicals were on site in the event of a fire and neighbors would've been in the dark if there'd been an accidental release.

Note: EPCRA section 312 requires companies to file Tier II reports by March 1 every year with its state emergency response commission, local emergency planning committee and local fire department.

State wants waste records going 10 years back

Company: Walmart, 280 stores throughout California.

Business: Retail chain.

Penalty: State appeals court order to produce 10 years' worth of hazwaste management records.

Reasons for penalty: The CA Department of Toxic Substances found multiple instances of hazardous and electronic waste violations at Walmart stores in 2015 and 2017. Stores threw away items like alkaline batteries, small electronics, light bulbs, soap, hair care products and makeup, which went to municipal solid waste landfills instead of hazwaste handlers or recyclers as required by the law.

Note: State attorney generals pursued the company's records dating back to 2010 to see how widespread the company's violations of California's Hazardous Waste Control Law may have been.

OZONE

NOx emission cuts coming for 12 states?

Nitrogen oxide (NOx) emission reductions are on the horizon for coal- and oil-fired power plants.

And it's possible emission cuts may be needed from other sectors besides the energy sector to clamp down on ozone pollution.

A series of federal court cases brought by downwind states in nonattainment for the ozone National Ambient Air Quality Standards (NAAQS) forced EPA to revise the cross-state air pollution rule.

Fossil fuel power plants will be the first place regulators look to cut emissions or shut down in 12 states – Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia and West Virginia.

EPA projects these 12 states' emissions in 2021 will contribute at least 1% of emissions that push neighboring downwind states into NAAQS nonattainment.

Nine other states considered for cross-state designation are off the hook after EPA found their emissions won't significantly contribute to nonattainment or maintenance problems – Alabama, Arkansas, Iowa, Kansas, Mississippi, Missouri, Oklahoma, Texas and Wisconsin.

More targets for NOx cuts

Where else could state regulators seek out NOx reductions? Potential areas include:

- road and highway tailpipes in maintenance/nonattainment areas
- chemical plants, including ones that make paints and solvents which emit volatile organic compounds
- steel and aluminum plants
- transportation and construction
- industrial boilers and combustion turbines, and
- paper and pulp mills.

Info: epa.gov/csapr

NEW SOURCE REVIEW

'Where's your permit?' Facility didn't have answer

- BASIC PRINCIPLE OF NEW SOURCE REVIEW PROGRAM REMAINS INTACT

New Source Review (NSR) reforms over the past four years allow facilities to stop at Step 1 of the NSR process if a modification won't lead to an emissions increase.

(Search for "new source review reform" and "NSR step 1" at our website for more info.)

But a fundamental principle of the NSR program remains the same as always – if you're emitting pollutants at a major source level, you'd better have the permit and necessary controls in place.

VOC emissions spiked after change

Case in point: Sims Metal Management (SMM) New England,

a scrap metals recycler in Johnston, Rhode Island, built a 7,000 horsepower shredder to tear apart cars, appliances and other recyclable metal materials.

The shredder generates enough heat to melt or burn the plastics, paints and oils in the scrap metal materials, which causes emissions of volatile organic compounds (VOCs), particulate matter and air toxics.

Inspectors with the R.I. Department of Environmental Management eventually found out about it. Air monitoring showed the facility was emitting enough to be considered a major source of VOCs.

Result: SMM must pay the state a penalty following a state supreme court order. And it's also paying a \$250,000 Clean Air Act penalty to the feds.

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.

■ CLEANUP ORDER CAN'T WAIT FOR CRUDE OIL SPILL

To: Regional Enforcement Director
From: Inspector Bob Wiley
Re: Spill prevention

Here's the update on the railroad oil spill you requested:

We've contained 97% of the crude oil that leaked from the accident.

In the last 48 hours, we've put booms in place wherever there's a risk of oil moving downstream.

In fact, we have more equipment at our disposal than we'll likely need since this is a massive team effort.

No complaints there!

Round-the-clock work is needed

ABC Rail Services facilitates the shipping of millions of gallons of crude oil every day in various parts of the U.S., as you know.

There's no evidence of sabotage along the rail line.

Severe weather can be ruled out as well.

Our initial analysis is the same: ABC is responsible for the train derailment and the resulting environmental damage here.

My recommendation is we issue the company an immediate cleanup order. This isn't an exhaustive list, but ABC should be responsible for:

- maintaining containment and recovery of oil in all streams and rivers affected until we call the cleanup off
- round-the-clock water and air sampling, and
- educating residents who may be affected and contribute to safe drinking water efforts.

- *Dramatized for effect. Based on an enforcement action against a Northwestern rail service company.*

RCRA

Hazwaste e-Manifest needs big changes

Hazardous waste generators, transporters and receiving facilities are slow to embrace electronic manifests (e-Manifests).

Very few are signing manifests electronically, for example. And the majority of regulated sites are still printing out paper and uploading images.

That's despite the fact receiving facilities must adopt e-Manifests by June 30, 2021 and generating facilities by June 30, 2023.

Hazwaste eManifest was designed to relieve recordkeeping burdens on all parties that must do biennial reporting (and follow through on Congress's mandate in the Paperwork Reduction Act to slash paper waste).

Board: 'One signature's enough'

An advisory panel gave EPA recommendations for streamlining electronic signature procedures and giving e-Manifest a jump-start.

The board's key recommendation

is to make cross-media electronic reporting rule requirements apply only to the final submission of the manifest, which in practically every situation will be the receiving facility, aka Treatment, Storage and Disposal Facility (TSDF).

EPA agreed with the board's idea, with the caveat that the generator, transporter and TSDF all be registered in the e-Manifest system.

DOT elephant in room remains

What's slowing down e-Manifest adoption is simple:

Most TSDFs still follow Department of Transportation (DOT) guidelines, and thus far DOT hasn't made e-Manifests mandatory.

As of last year, fewer than 5% of manifests were originating electronically, and the majority of those still involved paper in one or more steps of the process.

Info: tinyurl.com/emanifest640

SAFE DRINKING WATER

Water plants nailed for shoddy testing, reporting

INSPECTORS ARE MAKING WATER UTILITY SAFETY A TOP PRIORITY

Water utilities that drop the ball on testing and reporting won't escape regulators' eye for long.

Case in point: Nine small drinking water facilities in Wyoming and Indian Countries neglected to test for or report contaminants.

Contaminants included lead and copper, nitrate, nitrite, total coliform bacteria and synthetic organic contaminants. Fines weren't announced, but as part of their Safe Drinking Water Act settlements, the entities must:

- monitor for lead, copper, etc.
- correct system deficiencies
- develop a total coliform sample

siting plan, and

- distribute Consumer Confidence Reports to their customers.

Local fines, national scope

Protecting drinking water systems is one of EPA's National Compliance Initiatives (NCIs). Inspections are outside of core EPA programs.

The other five NCIs are:

- air toxics emissions from hazardous waste handlers
- Risk Management Plan compliance
- emission defeat (cheat) devices
- air toxics pollution in overburdened communities, and
- polluted discharges to surface water.

Info: epa.gov/enforcement/national-compliance-initiatives

TRENDS TO WATCH

SELF-REPORT TO AVOID LAWSUITS, BIG FINES

Mobile sources that self-report air quality violations can take advantage of reduced penalties, courtesy of the California Air Resources Board (CARB).

Vehicle and engine manufacturers that report infractions by December 31 are eligible for 25% to 75% reductions in fines.

Violations may involve auxiliary emission control devices or other kinds of defeat devices, plus unapproved running changes and field fixes, submission of false data and noncompliance with regulatory test requirements.

CARB has initiated some of the costliest Justice Department settlements with auto manufacturers in recent years.

Info: tinyurl.com/CARBreportingleniency640

FLORIDA WANTS TO CALL SHOTS ON WETLAND PERMITS

The Florida Department of Environmental Protection (DEP) is seeking control of wetland permitting from the U.S. Army Corps of Engineers.

A variety of projects in the Sunshine State are on hold because of Clean Water Act Section 404 dredge-and-fill permits that are awaiting Corps approval.

Roughly 31,000 acres of restoration projects are waiting for permits. They're designed to store billions of gallons of muddy discharges that wash into streams and marshes.

Since the early 1990s, 70% of Florida's shallow wetlands have been developed on or dried up.

DEP must demonstrate that its program would be as rigorous as the Corps to protect waters.

Info: tinyurl.com/floridawetlands640

METHANE

Venting & flaring rule on thin ice

The Bureau of Land Management’s (BLM) methane venting and flaring rule was struck down by a Wyoming federal district judge.

This reg’s been tied up in litigation since it was promulgated in the final days of the Obama administration, then weakened in 2018, prompting lawsuits by New Mexico and California to reinstate the original.

The judge ruled BLM went outside its statutory authority by regulating emissions. BLM sought to restrict methane leaks from oil & gas wells on federal lands.

Info: *Wyoming v. U.S. Department of Interior*, No. 2:16-CV-0285-SWS, District Court WY, 10/8/20.

NPDES electronic system not up to scale yet

The electronic reporting program for National Pollutant Discharge Elimination System (NPDES) permit holders has hit a snag.

EPA extended the deadline for states to comply with phase 2 of the eRule designed to phase out paper reporting. Several states told EPA

they wouldn’t be able to meet the December 31 deadline.

Once all NPDES permittees are reporting online, EPA will be able to track industrial sources of water contamination better. NPDES compliance is one of EPA’s National Compliance Initiatives (*see bottom of Page 5 for related story*).

EPA postponed the eRule deadline but didn’t set a new date yet.

Info: 85 FR 69,189

Risky pesticides get feds’ stamp of approval

Controversial pesticides were cleared for continued use via EPA interim decisions:

- paraquat – shown to double the risk of Parkinson’s disease in farmworkers and families
- pyrethroid insecticides – highly toxic to fish and bees, and
- methomyl – a neurotoxic insecticide that’s a threat to endangered species such as whooping cranes and all protected salmon species.

Info: tinyurl.com/pesticides640

WHERE TO GET HELP

WEBINAR: ABOVEGROUND STORAGE TANK COMPLIANCE

If you manage an aboveground storage tank (AST), you’re already vulnerable to increased EPA scrutiny – and if you don’t meet standards, you face hefty fines.

An online webinar from Premier Learning Solutions – “AST Maintenance & Compliance Guidelines” – can help you protect your company.

Joyce Rizzo, an expert on AST regs and compliance, discusses:

- how to meet Spill Prevention, Control and Countermeasure (SPCC) rule requirements
- troubleshooting to avoid common AST issues
- keys to quality inspections and improvement strategies to find and fix tank leaks, and
- preparing for an AST inspection to ensure that your tanks are good to go.

The webinar is 60 minutes long and costs \$99. You can claim 0.05 continuance of certification points from the Board of Certified Safety Professionals by watching.

Info: learningpremier.com/product/aboveground-storage-tank-maintenance-compliance-guidelines

SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2)

Yes, Buck’s company won.

A court ruled the citizens’ group didn’t make a convincing case that migrating pollution from a spill that occurred years ago may have contaminated their drinking water.

Based on what previous court decisions said, a nuisance claim must include a “substantiated physical invasion of a property.”

The group suing presented well samples that showed the presence of chemicals. But the company countered with other samples that showed no elevated levels of pollutants in well water.

Also: The company documented all the cleanup that

went into restoring groundwater and soil.

Defendants claimed they feared future contamination from chemicals in the water. But the court ruled fear of contamination didn’t make for a case.

LESSON LEARNED: WHEN CITIZENS COMPLAIN, GET TESTS DONE AND SHARE THE RESULTS

Facilities can’t let down their guard based on legal outcomes like this. Citizens’ groups are making inroads against facilities that impact quality of life, whether it’s odors related to production, vehicle emissions, etc.

Your best bet: Communicate with neighbors ASAP if you have a spill, leak, etc. Pay for testing to alleviate concerns. It can prevent disputes from ending up in court.

Cite: *Smith v. ConocoPhillips Pipe Line*, U.S. Appeals Court, 8th Circuit, Case No. 14-219. This case has been dramatized for effect.

HAZARDOUS CHEMICALS

Ruling clarifies process safety standard

An Oklahoma refinery appealed a process safety management (PSM) fine as far as any company can, but lost in the end.

The 10th Circuit Court of Appeals (a rung below the Supreme Court) upheld PSM standard fines against Wynnewood Refining over a fatal boiler accident in fall 2012.

Two workers were starting a boiler but allowed too much natural gas to enter the firebox, which led to the boiler exploding. One was killed by the blast and the second died a month later in the hospital.

The boiler didn't contain any highly hazardous chemicals but was connected to two other parts of the refinery that did – the fluid catalytic cracking unit and alkylation unit.

Connectivity of boiler was key

On appeal, Wynnewood argued its boiler process wasn't covered under PSM because that standard only applies to processes involving "a threshold amount of highly hazardous chemicals."

The 6th Circuit affirmed the Occupational Safety and Health Review Commission's (OSHRC) decision because the boiler was "located such that a highly hazardous chemical could be involved in a potential [chemical] release."

OSHRC clarified PSM applies to:

- any group of vessels which are interconnected, and
- separate vessels which are closely located in a manner that a highly hazardous chemical could be involved in a potential release.

Info: tinyurl.com/processsafetyruling640

Mercury exemption for plant saves 1,000 jobs

The largest producer of purified phosphoric acid, used in consumer

products like toothpaste, received a carveout exemption from mercury emission regs.

As a result, IPCS Phosphate in Aurora, North Carolina, will be able to keep 1,000-plus employees and contractors on the job.

EPA amended Maximum Achievable Control Technology (MACT) requirements in National Emission Standards for Hazardous Air Pollutants for phosphoric acid manufacturers in 2015 with numerical mercury limits for calciners.

MACT limit was off, firm argued

IPCS petitioned EPA in 2016 for a carveout because the MACT floor didn't reflect actual emissions from its six calciners, which were used to set the MACT floor.

EPA says the exemption won't increase mercury emissions from IPCS's smokestacks.

Info: tinyurl.com/mercurycarveout640

Water infrastructure money for small towns

Rural drinking water and wastewater systems in 43 states are receiving \$891 million from the U.S. Department of Agriculture (USDA) to make infrastructure upgrades.

The money will fund 220 separate projects including water main replacements, new pump stations and an expansion to an overburdened sewage plant.

Rural areas and towns with populations of 10,000 or less can apply for USDA water and waste disposal loans and grants.

Info: rd.usda.gov/programs-services/water-waste-disposal-loan-grant-program

REAL PROBLEMS/SOLUTIONS

STORYTELLING RAMPS UP TRAINING EFFECTIVENESS

(Adapted from a presentation by Joe Korpi, Manager, Safety & Health, Renewable Energy Group, Ames, Iowa, at ASSP's Safety 2020)

A lot of training relies on slide presentations, and unfortunately they have too many bullet points.

I've found a more effective way to drive your point home is through storytelling.

Stories about companies' compliance successes – or failures – draw people in with a limited amount of mental distraction (fewer slides and bullet points).

Trainees aren't focused on taking notes – they're actually listening!

A good story (and storyteller) can help trainees "feel" what the characters feel in your story – they're developing empathy.

Don't skip on questions

But a good story all by itself isn't enough. You still need discussion and involvement from workers.

Ask questions about the story without making it a quiz. Ask what they think are the important points to remember or how it might apply to their line of work.

Trainees will also discover the importance of the story themselves, helping them remember key points.

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.

"ECA is helpful because it covers regulation changes and where other companies are struggling on compliance issues."

W. Scott Sherman
Environmental Coordinator
Great Plains Manufacturing
Salina, Kansas

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

COAL ASH PONDS

Some unlined coal ash ponds can remain open past the closure deadline in the original Coal Combustion Residuals (CCR) rule.

But there's a catch – utilities must demonstrate ponds and landfills aren't a threat to nearby groundwater resources through a two-step Holistic Approach to Closure.

Unlined ponds must demonstrate they're not a threat to leak to surface or groundwater.

Some states may insist on groundwater monitoring to stop closure orders, and may also order companies to stop accepting coal ash as a precautionary measure.

(For a timeline of CCR, search for "coal ash rule" at our website.)

Info: epa.gov/coalash

FERTILIZER REUSE

Fertilizer byproduct phosphogypsum was approved for use as a filler material in road and highway construction by EPA.

The move eliminates massive waste handling duties for chemical manufacturers and Agriculture.

Phosphogypsum is typically disposed of in stacks that can span thousands of yards.

Currently just 20% of phosphogypsum is diverted from stacking. Other countries use it for road building, construction material, fertilizer and landfill cover.

Phosphogypsum is a byproduct of phosphate fertilizer manufacturing.

It contains radionuclides from uranium and radium.

Info: 85 FR 66,550

ASBESTOS BILL

A Congressional bill that would've banned asbestos under the Toxic Substances Control Act fell apart at the 11th hour.

The Alan Reinstein Ban Asbestos Now Act (House Resolution 1603) had bipartisan support in the Democrat-controlled chamber.

Some GOP lawmakers dropped off when language drafted by trial lawyers was added that would make cosmetics manufacturers liable to class-action lawsuits.

Asbestos is sometimes used as an ingredient in cosmetics and can be an accessory mineral in talcum powders.

Women who've gotten ovarian cancer have sued talcum powder manufacturers due to potential asbestos exposure.

Info: asbestos.com/news/2020/10/07/asbestos-ban-vote-stalls-congress

REGIONAL HAZE PLANS

Utah's regional haze plan has passed muster with EPA. The feds withdrew a 2016 federal implementation plan following air quality improvements.

The Beehive State earned emission credits after PacifiCorp installed nitrogen oxide (NOx) controls at the Hunter and Huntington power plants.

Sulfur dioxide, NOx and particulate matter pollution are also down following the closure of a power plant in Carbon.

Utah's plan will reduce overall air toxics emissions by 1,879 tons per year. The Arches, Canyonlands and seven other protected national parks and wilderness areas are already experiencing improved

visibility and less smog pollution.

Info: beta.regulations.gov/document/EPA-R08-AR-2015-0463-1142

PESTICIDE SPRAYING

Agriculture had a lot of questions and complaints about tighter application exclusion zone (AEZ) requirements for spraying pesticides.

An EPA final rule clarifies AEZ guidelines under the 2015 Worker Protection Standard:

- AEZ guidelines only apply within farm/ranch boundaries, but not "off-farm."
- Immediate family members of farm owners are exempt from AEZ regs. Farm owners and family can shelter in place inside closed buildings and don't have to stay on-site during pesticide spraying.
- Spraying needs to stop if individuals enter an AEZ zone, but it may resume once people leave the AEZ.
- Criteria for determining if the AEZ must be 25 feet wide or 100 feet surrounding a spraying area has been simplified.

Info: RIN 2070-AK49

HAZMAT SHIPPING

The Other Regulated Materials – Domestic (ORM-D) designation for small quantities of hazardous materials packaged for retail sale and shipped by ground is being phased out on December 31.

The Department of Transportation is replacing ORM-D with a Limited Quantity Mark that should be affixed to packages.

ORM-D has already been phased out for air and vessel shipment. The phaseout is required under a 2011 DOT rule (HM-215K) designed to harmonize U.S. regs with international standards for small hazmat quantities.

Info: tinyurl.com/hazmatsmallquantities640