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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).

EPA gets busy chopping Trump environmental regs

■ Industry won't get greenhouse gas exemption

Environmental regs churned out during the final weeks of the Trump administration are about to get the ax.

President Biden selected 10 rules for repeal or major revisions. No surprise that they're mostly air quality or climate change regs:

Clamping down on emissions

- Refineries, chemical plants, steel mills, incinerators, industrial boilers and other sources won't be exempt from greenhouse gas (GHG) regs. An 11th hour EPA rule would've exempted any industrial sector that contributes less than 3% of U.S. GHGs from carbon rules. The doomed rule would've left power plants and some of the largest

fracking wells subject to GHG regs.

- Oil & gas wells won't gain a reprieve from methane leak requirements after all. New Source Performance Standards for volatile organic compounds and methane are headed for a rewrite.
- Coal-fired power plants stood a better chance of upending the Mercury and Air Toxics Standards (MATS) in court had Trump won. Last year, EPA clarified it should've considered the high costs to industry when drafting MATS, in response to a Supreme Court ruling. The Biden EPA is reversing that position, with lawsuits brought by coal companies about to be heard.
- The Safer Affordable Fuel-Efficient

(Please see Regs ... on Page 2)

CLIMATE CHANGE

Biden axes Keystone pipeline, freezes oil permits

■ FREEZE ON FRACKING, DRILLING ON PUBLIC LAND FOR NEXT 4 YEARS

On his first full day in office, President Biden canceled the permit for the Keystone XL pipeline, fulfilling a pledge to wean off fossil fuels and combat climate change.

Canceling the oil pipeline, which stretches from the tar sands of Alberta through the Plains States, could cost thousands of oil & gas jobs.

Solar, wind to fill the gap?

Biden also called for a 60-day freeze on any new oil & gas drilling on public lands.

Oil & gas projects that haven't broken ground yet are unlikely to receive approval from the Department of Interior unless they rely heavily on carbon capture and sequestration.

The good news for industry: Ongoing projects, particularly in Western states and along the Gulf of Mexico, can't be shut down under federal law.

Biden wants to eliminate emissions from the energy sector by 2035 and wean off fossil fuels by 2050. Reaching that goal will require enormous growth and public/private investments in wind, solar and other renewable fuels.

TOXICS RELEASE INVENTORY

TRI sting shows high cost of late reports

Late or missing reports of chemicals listed in Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) are a sure-fire way to incur big fines.

EPA isn't shy about sending a message to industry from time to time and will publicize a regional sting to get violators in line!

Can't forget to file!

Three metal forging plants in Connecticut are paying the price for sloppy reporting practices.

All three failed to submit Toxics Release Inventory (TRI) reports a few years back:

- J.J. Ryan Corporation, a motor vehicle parts manufacturer in Plantsville, didn't report its use and processing of chromium, manganese and ethylene glycol in 2018. It's out \$33,371 in fines.
- Bourdon Forge in Middletown uses chromium, copper and nickel to make military and parachute hardware. The forging plant failed to report all three chemicals

in amounts above the EPCRA threshold in 2018. Fine: \$54,705.

- The Electric Motion Company, a metal electric component manufacturer in Winsted, didn't file TRI reports for anhydrous ammonia in 2015 and 2016. It paid \$36,006 in fines to EPA.

EPA isn't shy about sending a message to industry

Note: All three companies were able to provide required inventories within days of being cited by EPA. They kept on top of chemical recordkeeping but slipped on reporting. The annual deadline to submit TRI inventories online is July 1.

Regs ...

(continued from Page 1)

(SAFE) vehicle rule for passenger cars and light trucks will get a makeover. The Trump team replaced a 54 mile per gallon efficiency goal for auto and truck makers set by the Obama administration.

- Four separate Energy Department rules which eased energy efficiency requirements for commercial buildings and construction equipment are on hold. These and other late 2020 regs dealing with climate change are potential candidates for the ash heap.

Pro-industry air regs on hit list

Last issue in this space, we predicted the so-called "Secret Science" rule would get shot down, while a clean air cost-benefit analysis policy would survive a court battle (and yes, we stand by those predictions).

The Biden team wants to overturn both regs, which made the list.

Info: tinyurl.com/bidenrepeal645

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.

■ SITE HAS PERMIT, BUT GROUP SUING SAYS RUNOFF IS TOXIC

Buck Flanagan, environmental manager, sat down for a video conference.

This should be interesting, Buck thought. *CAVE has tried suing us for everything under the sun, and it never goes anywhere. But they don't give up!*

CAVE stood for Citizens Against Virtually Everything. After waiting for 10 minutes, CAVE's spokesperson Margaret Farley finally logged on.

"Let's get started, shall we?" Buck asked.

"Of course," huffed Margaret. "I was taking a closer look at our water samples from Ripple Creek. It's worse than we thought. Your facility is discharging aluminum and iron."

Facility says it's not to blame

"Now wait a minute," said Buck. "Our samples show there's nothing out of whack in our discharge."

"You do know we have a strict Clean Water Act permit, just so we're on the same page?"

"Yes indeed," Margaret replied. "That doesn't mean you can just dump any kind of metals you want into a waterway!"

"I don't know what your samples show," said Buck. "But assuming you're right, how do you know we're the source?"

"Come on Buck, your facility is the only likely upstream industrial source," said Margaret. "That's why we're suing you."

Buck's company tried getting the lawsuit thrown out. 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

Years of overflaring catch up to petrochemical sites

Company: Dow Chemical and subsidiary companies Performance Materials and Union Carbide, facilities in Hahnville and Plaquemine, Louisiana, and Freeport and Orange, Texas.

Business: Petrochemicals.

Penalty: \$294 million in mandatory upgrades and \$3 million fine.

Reasons for penalty: The Dow facilities “oversteamed” industrial flares which resulted in excess emissions of volatile organic compounds (VOCs) and air toxics such as benzene for several years.

Note: The four facilities’ 26 flares will be fitted with maximum achievable control technology to reduce VOC emissions by 5,600 tons per year (tpy) and air toxics by 500 tpy. Dow’s also agreed to do benzene fence-line monitoring.

Ignored EPA upgrade order: Firm’s out \$900K

Company: Parker-Hannifin, Oxnard, California.

Business: Membrane and filter manufacturer for consumer products.

Penalty: \$390,000 fine plus \$510,000 in mandatory upgrades.

Reasons for penalty: In 2017 the company agreed to install wastewater treatment technology

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.

under an EPA administrative order. Instead the manufacturer continued discharging contaminated wastewater down drains to the city’s sewer system.

Note: Parker-Hannifin must install pretreatment equipment by November and file semi-annual monitoring reports from now on.

RCRA insurance didn’t cover all the bases: \$25K

Company: Chemical Waste Management (CWM) of the Northwest, Arlington, Oregon.

Business: Hazardous waste treatment, storage and disposal facility.

Penalty: \$25,000.

Reasons for penalty: CWM’s Resource Conservation and Recovery Act (RCRA) permit requires having third-party liability financial insurance since it accepts hazwaste from customers. Regulators discovered CWM’s previous insurance policies didn’t cover third-party bodily injury and property damage claims. Taxpayers would’ve been on the hook for a major hazwaste release.

Expedited settlement saves firm bundle in fines

Company: Everts Air Fuel, Fairbanks, Alaska.

Business: Bulk storage terminal.

Penalty: \$7,562.

Reasons for penalty: A Spill Prevention, Control and Countermeasure (SPCC) plan inspection found:

- the facility’s truck loading/unloading rack lacked adequate secondary containment in case of a spill
- its SPCC plan was outdated and lacked numerous regulatory requirements, and
- the facility lacked adequate spill prevention precautionary measures.

Note: The terminal had a storage

capacity of approximately 166,000 gallons but was in the process of initiating a major tank storage expansion project when inspected. Everts updated its SPCC plan and will spend \$539,000 to build secondary containment.

Can’t cut corners when working next to water

Company: Guam Shipyard, Apra Harbor, Guam.

Business: Shipyard repair facility.

Penalty: \$68,388.

Reasons for penalty: The shipyard didn’t prevent sandblasting grit and paint chips from entering Apra Harbor in violation of the Clean Water Act.

Note: Under the terms of its settlement, the shipyard must:

- obtain a National Pollutant Discharge Elimination System permit
- develop a Stormwater Pollution Prevention Plan
- install controls to contain sandblast and paint debris
- prevent non-stormwater discharges from entering Apra Harbor, and
- ensure spill response equipment is available on site.

Lead paint sting nabs firms in high-risk area

Companies: Four property managers in Vermont.

Business: Real estate development, management and rentals.

Penalty: \$16,493 (total).

Reasons for penalty: The companies didn’t follow the lead Renovation, Repair and Painting (RRP) rule, such as following lead-safe work practices and providing Renovate Right pamphlets to homeowners. EPA conducted the RRP sting because of elevated blood lead levels in children in Bennington, Rutland and Windham counties.

CLIMATE CHANGE

Trump power plant reg axed by courts

The Biden administration didn't have to take a hatchet to the Affordable Clean Energy (ACE) rule for fossil fuel power plants.

That's because federal judges did the deed the day before Biden was sworn in to office.

A three-judge panel for the Washington DC Circuit Court of Appeals (a rung below the Supreme Court) ruled ACE violated the Clean Air Act (CAA).

Reason: ACE only addressed greenhouse gas (GHG) emissions from coal electricity generating units but didn't set parameters for natural gas or oil power plants.

Trump & Obama regs shot down

EPA argued that it could only regulate emissions at stationary sources' fencelines.

The DC Circuit rejected the argument, saying EPA could have considered renewable energy

sources as a means of reducing GHG emissions as the Obama administration's Clean Power Plan (CPP) did.

Now that the ACE rule's been remanded back to EPA, will the agency churn out a CPP clone?

That's unlikely since CPP got shut down in the Supreme Court in 2015. Industry groups argued CPP amounted to overreach in part because it:

- set different GHG reduction goals for all 50 states, in some cases favoring those with abundant hydro resources, and
- favored natural gas and renewable fuels over coal.

Waiting for marching orders

No doubt energy providers would like clarity from EPA, and soon.

Many facilities will look to wean off fossil fuels further despite historically low prices.

NITROGEN OXIDES

Firm nailed after faulty stack tests: \$2.6M settlement

MONITORING REPORTS DIDN'T MATCH SMOKESTACK POLLUTANTS

Did a medical waste incinerator "rig" its stack tests to hide high levels of nitrogen oxide (NOx) as reported by the *Salt Lake Tribune*?

Or did the facility merely "fail to properly conduct stack tests" as EPA's news release put it?

It's a thin line between civil and criminal violations, and luckily for Utah waste processor Stericycle, it landed on the civil side of the enforcement line!

Shutdown ahead for violator

Utah regulators started gathering evidence of Stericycle's NOx violations in 2013.

Reason: The facility's monitoring

reports didn't match actual emissions wafting into the North Salt Lake neighborhoods nearby.

Citations were issued for:

- multiple exceedances of NOx and air toxics limits on the permit
- improperly conducted stack tests, and as a result
- inaccurate emissions reports.

Stericycle will pay \$600,000 in fines and contribute \$2 million to municipal school districts to retrofit or replace diesel buses.

The Illinois-based company's decided to shut down the incinerator within the next two years.

Other Stericycle facilities are facing EPA scrutiny due to ethylene oxide (EtO) emissions. EtO is used to sterilize medical equipment.

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.

DUMPSTER DIVE FINDS LOAD OF HAZWASTE IN THE TRASH

To: Regional Enforcement Director
From: Inspector Bob Wiley
Re: RCRA

There are far too many businesses ignoring hazardous waste laws in our region.

And the investigation we just wrapped up is proof positive of it. I'm recommending further sweeps of industrial and retail sites until businesses get the message.

We got word from a neighboring business of ABC Stores about illegal waste going into Dumpsters.

Sure enough, we found ABC dumped ignitable and corrosive liquids, toxic materials, batteries, electronic devices and all kinds of e-waste in their trash containers.

Our inspector also found hazardous waste from spill cleanups and damaged products.

Other sites were noncompliant

The store manager gave us a clue about how widespread the problem was. He was shocked to learn you don't trash batteries, for example.

All he could tell us was he'd never gotten word one about how to separate and handle different kinds of waste.

Suffice to say we checked with ABC's other stores throughout the region. Same problems over and over at every single location.

I recommend contacting the district attorneys for these areas. This is a pattern of neglect.

By my math, ABC has racked up over a million dollars in fines for violating the Resource Conservation and Recovery Act (RCRA).

■ *Dramatized for effect. Based on a settlement with a California auto parts retailer.*

STORMWATER

Fewer hurdles in final multi-sector permit

What will industrial permitted sites have to do to keep contaminated stormwater from running off?

As it turns out, not as much as what EPA had proposed more than a year ago.

The final Multi-Sector General Permit (MSGP) for stormwater discharges due to industrial activity won't include:

- a prohibition on runoff containing coal-tar sealcoat
- automatic delays on new discharger authorization if a facility's in the middle of an enforcement action
- universal benchmark monitoring for all discharges rather than longstanding sector-specific requirements, and
- requiring sector-specific control measure fact sheet checklists.

Some permit changes survived

Other proposed requirements that did make the final MSGP:

- Stormwater Pollution Prevention Plan (SWPP) signage must be visible on site
- the SWPP must be made available on a public website
- monitoring needs to be done for pH, Total Suspended Solids and Chemical Oxygen Demand if there are no sector-based benchmark monitoring requirements, and
- indicator monitoring is required for polycyclic aromatic hydrocarbons for some subsectors.

Clock ticking for permit apps

The MSGP is effective March 1. Permittees covered under the 2015 MSGP have until May 30 to submit a new Notice of Intent (NOI).

New dischargers must submit an NOI 30 days before discharging stormwater, and implement an SWPP prior to filing an NOI.

Info: epa.gov/npdes/stormwater-discharges-industrial-activities-epas-2021-msgp

UNIVERSAL WASTE

Alert: Does your waste storage area look safe?

- TIP: AISLE SPACE & DOCUMENTED INTERNAL INSPECTIONS ARE KEY

Air and water quality compliance may be costlier, but keeping tabs on hazardous and universal waste gives facilities the most headaches.

That's true for even small quantity generators, like a Washington state furniture shop discovered.

Lesson learned: Good housekeeping goes a long way toward staying off inspectors' hit lists.

Expedited settlement lowers fine

Queen Anne Upholstery and Refinishing of Seattle uses varnishes, lacquers, paints and solvents that contain volatile organic compounds.

The company's well aware of

Washington's dangerous waste guidelines and complied with several basic requirements.

But inspectors couldn't ignore glaring problem areas during a recent visit, citing it for failure to:

- maintain adequate aisle space to allow unobstructed movement
- conduct weekly inspections of dangerous waste accumulation areas
- properly manage four containers of dangerous waste, and
- store universal paint waste safely so that it's not thrown out with common trash.

Queen Anne agreed to an expedited settlement. The shop fixed all of its problems immediately to cut down the total fine to \$7,000 (see Page 3 for more on expedited settlements).

TRENDS TO WATCH

■ NEW YORK CATCHING UP ON EPA HAZWASTE CHANGES

New York state facilities can expect big changes to hazardous and universal waste regs in 2021.

The Empire State is:

- adopting the hazwaste generator improvements rule (search for "HWGI" for a timeline of the rule at our website)
- making some changes to hazardous materials recycling guidelines
- switching to electronic hazwaste manifests (search for "hazwaste e-manifest at our website for a timeline of the rule), and
- implementing the hazwaste pharmaceuticals reg.

New York should also add aerosol cans and paint to its list of universal waste by year's end.

Aerosol cans became the fifth EPA-listed universal waste in early 2020, but not all state agencies will add them to their lists.

Info: dos.ny.gov/info/register/2021/010621.pdf

■ TEXAS DISCHARGERS DON'T HAVE TO DEAL WITH EPA

Texas companies will only have to deal with one state agency for discharge permits.

The TX Commission on Environmental Quality (TCEQ) will take over National Pollutant Discharge Elimination System (NPDES) permitting for produced water, hydrostatic test water, gas plant effluent, and oil and gas discharges from the Railroad Commission of TX.

EPA approved TCEQ's bid to control NPDES permitting and enforcement of oil & gas sites, pipelines and natural gas processing plants. Facilities previously needed NPDES authorization from the Railroad Commission and EPA.

Info: natlawreview.com/article/tceq-receives-npdes-program-authorization-oil-and-gas-discharges

TSCA

Is asbestos finally on the way out?

The Chemical Data Reporting (CDR) rule is filled with loopholes and must be revised, ruled a federal district court in California.

EPA is liable to toughen the CDR rule within the year. The Biden EPA could also move to ban future asbestos use through a Toxic Substance Control Act (TSCA) rule.

Factories on notice

The Asbestos Disease Awareness Organization argued the rule exempted these risky asbestos uses:

- cement products
- compressed fiber jointing paper
- heat-resistant clothing
- millboard
- felt, yarn and thread
- cords and string
- woven or knitted fabric
- asbestos articles in civil aircraft
- crocidolite footwear
- headgear and accessories
- asbestos paper
- compressed asbestos fiber jointing in sheets or rolls
- asbestos woven or knitted fabric

- wallboard and floor tiles
- window caulking
- recycled asphalt shingle scrap
- adhesive mastic
- gaskets for motorcycles
- brake pads for All Terrain Vehicles and scooters, and
- impurities in makeup, crayons and other children’s toys made from talc (which often includes asbestos).

Info: bdlaw.com/publications/epa-ordered-to-revise-tsca-cdr-rule-for-asbestos

Carbon capture can claim generous tax credits

Finally: The IRS released guidelines on carbon capture tax credits.

The final rule shortens the recapture period from five years to three and provides definitions of what qualifies as capture equipment.

Companies can qualify for tax credits up to \$50 per metric ton of sequestered carbon equivalent.

Info: irs.gov/pub/irs-drop/td-9944.pdf

WHERE TO GET HELP

■ SHOULD YOU BE REPORTING TOXICS? CHECK THIS SITE

Failing to file Toxics Release Inventory (TRI) reports can lead to heavy fines and follow-up inspections (see Page 2).

Often facilities don’t realize they’re supposed to report until it’s too late.

Solution: EPA’s free TRI threshold screening tool is a step-by-step questionnaire to determine if you meet or exceed facility, employee and chemical thresholds, and are required by Section 313 of the Emergency Planning and Community Right to Know Act (EPCRA) to report to the TRI program.

- You may need to report if you’re
- included in a TRI-covered North American Industry Classification System code
 - have 10 or more full-time employee equivalents (a total of 20,000 hours or greater), and
 - manufacture, import, process or otherwise use any EPCRA Section 313 chemical in quantities greater than the established threshold during a calendar year.

Info: cdxnodengn.epa.gov/cdx-tri-threshold-screening-tool/action/home#!/

SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2)

No. Buck’s company couldn’t get the lawsuit dismissed and will have to defend itself against pollution charges.

The watchdog group will have to convince the court the company’s discharges were primarily responsible for polluting waterways, or that its discharges weren’t allowed under its permits.

The company could decide to settle the complaint rather than duke it out in court.

Group had enough data to make a case

Buck’s company argued it was protecting waters downstream of its facility because it had a general stormwater permit and followed it to the letter.

The watchdog group countered the pollutants it discovered weren’t covered by a stormwater permit.

And the group made a compelling enough argument the facility was the source of aluminum, iron and other pollutants that the court let the case move on.

■ ANALYSIS: PERMITS THAT DON’T COVER ALL THE BASES WON’T SHIELD YOU FROM A LAWSUIT

This company assumed its permit would be enough to avoid a lawsuit, but no dice.

Industrial sites like wastewater plants and utilities are common targets for water quality complaints. Permits that list and set limits for likely runoff pollutants can help prevent lawsuits and fines.

Cite: *California River Watch v. Mendocino County*, U.S. District Court, Northern Dist., CA, No. 4:15-cv-03263. This case has been dramatized for effect.

PROP 65

California ramps up chemical label law

California Proposition 65 chemical safety requirements are about to get even tougher.

Prop 65 amendments proposed by Cal EPA's Office of Environmental Health Hazard Assessment would:

- restrict the use of short-form warnings to "small" products. "Small" is defined as a product five square inches or less, or unable to affix a full warning label to
- require companies use the Prop 65 short-form warning to identify at least one listed chemical contained in any product per exposure pathway. The short-form warning text for a product containing a listed carcinogen would read: *Cancer Risk From ... Exposure – www.P65Warnings.ca.gov*, and
- end the use of short-form warnings for Internet or catalog purchases. This applies to food products.

Toughest chemical law in nation

There are currently more than 1,000 chemicals on the Prop 65 list. Most states and EPA don't recognize many of the substances as known human carcinogens or reproduction inhibitors.

Manufacturers and retail stores that sell products containing Prop 65 substances must label them.

These amendments will go into effect one year after they're approved by California's Office of Administrative Law.

Comments are due March 8.

Info: oehha.ca.gov/proposition-65/cnr/notice-proposed-rulemaking-amendments-article-6-clear-and-reasonable-warnings-0

'Permanent' COVID rules coming for businesses

Virginia is the first state to issue permanent COVID-19 workplace rules. Other states may follow suit.

(We'll keep you posted on a national standard from OSHA in the works.)

The Cavalier State's standard mandates appropriate personal protective equipment, sanitation, social distancing, infectious disease preparedness and response plans, record keeping, training and hazard communications for facilities.

Checklist other states may look to

All Virginia workplaces will be required to have:

- face masks for employees whose jobs require facing the public
- ready access to hand sanitizer
- regular cleaning of common work spaces, and
- training for employees on coronavirus safety.

There are also guidelines for returning to work and communicating about employees who test positive and potential exposures.

Info: tinyurl.com/4xcajfrx

Chemical firms paying \$4B for PFAS lawsuits

The bill for per- and polyfluoroalkyl substance (PFAS) water pollution is coming due – and the first major down payment is a doozy.

DuPont and Chemours settled hundreds of class-action lawsuits for a whopping \$4 billion. More than \$83 million will go to Columbus, Ohio plaintiffs.

PFAS are known as "forever chemicals" because of how long they stay in the environment and human bloodstream. PFAS chemicals were commonly used to stanguard furniture, make non-stick cookware and in fire extinguisher foam.

Both companies will contribute to an escrow account dedicated to cleanups and settlements every year for the next eight years.

REAL PROBLEMS/SOLUTIONS

■ INSTALLING TIMERS SOLVED WASTEWATER EXCEEDANCES

Like many facilities in our area, we pump wastewater to the local treatment plant.

Most days we stayed well below our capped, daily threshold.

Then all of a sudden we were getting hit for surcharges by the city water department.

At first, I thought it had to be a mistake, and we were getting penalized for someone else's wastewater load. Not so.

As soon as we started tracking the water, I could see we were now exceeding our limit at least two or three times a month.

Small change pays off big

Turns out the reason was our water softeners.

Our treatment units dumped softener into the water every time there was an exchange.

Problem was, they were exchanging all at once. And that would put us over the limit one day every two weeks or so.

Solution: We installed timers on the exchange units. They ensure a regulated amount of softener goes into the water every day.

Now we're in compliance and not getting hit with costly surcharges.

▼ 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 gives a good review of current topics and new issues on the way. It's pithy."

Larry Kennedy
Environmental Manager
Round Mountain Gold
Nye County, NV

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

TSCA CHEMICAL RESTRICTIONS

Chemical makers will need to explore [alternatives for five toxic substances restricted by EPA](#).

Five persistent, bioaccumulative and toxic substances are now restricted as follows:

- Hexachlorobutadiene (HCBd) is banned from manufacture, import, processing and distribution. EPA notes that the production of chlorinated solvents produces HCBd as a byproduct, and that a "very limited subset of that byproduct" will be distributed in commerce for burning as waste fuel. HCBd is a halogenated aliphatic hydrocarbon byproduct from the manufacture of chemicals like carbon tetrachloride.
- Pentachlorothiophenol (PCTP) is banned in all products unless concentrations are at or below 1% by weight. PCTP is used in rubber manufacturing, including as an ingredient in golf ball rubber cores.
- Phenol, isopropylated phosphate (PIP (3:1)) is banned except for certain specific exclusions. It can't be released to water. PIP (3:1) is used as a plasticizer, flame retardant, anti-wear additive, anti-compressibility additive, and in hydraulic fluids, lubricants, industrial coatings, adhesives, sealants and plastic articles.
- Decabromodiphenyl ether (DecaBDE) is also banned except for limited exclusions. DecaBDE is a flame retardant in plastic enclosures for TVs, computers, audio and video equipment, textiles, upholstered articles, wires and cables.

- 2,4,6-tris(tert-butyl)phenol is prohibited in products at concentrations above 0.3% in any container with a volume less than 35 gallons for any use, and in concentrations above 0.3% by weight for use as an oil lubricant or additive, regardless of container size. 2,4,6-TTBP is used as an intermediate/reactant in chemical processing, a fuel additive, a liquid lubricant and a grease additive.

Info: epa.gov/assessing-and-managing-chemicals-under-tsca/persistent-bioaccumulative-and-toxic-pbt-chemicals-under

MIDNIGHT REGS

The website Propublica tracked "midnight" regs proposed or finalized after election day by the Trump administration, including 23 potential environmental regs.

At our press time, [19 had been finalized before Joe Biden was sworn in](#). The new administration will try to overturn several rules but will be challenging to undo.

The White House budget office is reviewing two proposed regs and one final rule. Another six proposed regs are in the queue.

For related news, see cover story and top of Page 4.

Info: projects.propublica.org/trump-midnight-regulations/

HAZMAT SHIPPING

The U.S. Postal Service (USPS) [raised hazardous material shipping violation penalties](#) for 2021.

USPS's maximum civil penalty increased from \$127,525 per violation to \$129,032 per violation, while the minimum civil penalty increased from \$320 to \$324.

All federal agencies applied inflationary increases to fine amounts, including EPA (*see last issue, bottom of Page 1, or search for "EPA fines increase" at our website.*)

Info: public-inspection.federalregister.gov/2021-00447.pdf

SURFACE COATINGS

A Significant New Use Rule (SNUR) for per- and polyfluoroalkyl substances (PFAS) will affect surface coating manufacturers and companies that use coatings.

An EPA guidance document, *Compliance Guide for Imported Articles Containing Surface Coatings Subject to the Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances SNUR*, is meant to help businesses that plan on continuing to use PFAS.

Companies that use, manufacture, import or process [certain long-chain PFAS must get prior approval](#) from EPA at least 90 days beforehand.

The SNUR also prohibits importing articles that use long-chain PFAS as a "surface coating" as well as carpets containing perfluoroalkyl sulfonate chemical substances without EPA reviewing it first.

Info: RIN 2070-ZA23

WIND ENERGY

The Department of Interior will shift sharply toward climate change issues under an executive order (EO) from President Biden.

Biden's EO directs Interior to:

- suspend issuing of new leases for oil & gas drilling on federal lands and offshore waters
- review the department's permitting and leasing practices for fossil fuels, with changes likely to come, and
- identify steps to [double energy production from offshore wind](#) by the end of the decade.

Biden's aim is to preserve 30% of federal lands and waters by 2030.

Info: doi.gov