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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)).

## Simple fixes could've prevented \$80K clean air fine

### ■ *Is your risk plan up to date?*

**F**act: Simple facility upgrades, timely equipment maintenance and signage help prevent very costly Clean Air Act (CAA) fines.

The CAA Risk Management Program (RMP) rule covers facility design and layout as well as safety measures – including legible signs and labels where they're supposed to be – that all go into the goal of preventing a toxic release.

The following EPA enforcement action illustrates perfectly why facilities can't afford to slip up on the fundamentals – they're relatively easy to fix and prevent big fines.

### Signs, barriers a glaring hazard

Green Gate Fresh, a produce grower and distributor in Salinas,

California, uses an anhydrous ammonia piping system to keep its products cold.

EPA inspectors did a walkthrough and wrote the company up for two glaring problems:

- Evaporators and piping in some parts of the facility lacked barriers or other kind of protection from forklift strikes.
- Process piping, equipment and fencing throughout the facility didn't have adequate or consistent safety labels and signage.

Also: Safety information for supervisors and staffers was out of date which made accurate hazard analysis impossible.

*(Please see Simple fixes ... on Page 2)*

## FREEDOM OF INFORMATION ACT

### Supreme Court favors EPA's right to privacy

#### ■ WATCHDOG GROUPS & INDUSTRY WON'T GET ACCESS TO REG DATA

**E**nvironmental and industry groups alike will face an uphill battle getting to see federal agency documents used to promulgate rules.

The Supreme Court ruled 7-2 that agency documents can be withheld from Freedom of Information (FOIA) requests.

The Sierra Club filed an FOIA petition to see biological opinions from the Fish and Wildlife Services and the National Marine Fisheries Service that EPA considered for its cooling water intake rule.

Power plants were eventually given multiple control options to limit fish and egg kills. Groups like the Sierra Club argued power plants needed to do more to protect the ecology.

### Opinions are protected

The High Court ruled the biological opinions were part of a deliberative process and therefore protected.

Rookie Justice Amy Coney Barrett authored the majority's opinion. The 9th Circuit Court of Appeals ruled in favor of the FOIA request.

**Info:** [supremecourt.gov/opinions/20pdf/19-547\\_new\\_1537.pdf](https://supremecourt.gov/opinions/20pdf/19-547_new_1537.pdf)

## ENFORCEMENT

### Who's OSHA targeting for COVID checks?

Watch out: OSHA is targeting high-risk industry sectors for COVID-19 compliance under a new National Emphasis Program.

Inspectors will focus on:

- strict adherence to mask and/or face shield mandates
- six-feet distancing, and
- proper reporting of coronavirus infections in the workplace.

#### Food & chemical sites in cross-hairs

The primary targeted facilities for programmed inspections are:

- meat and poultry processing plants
- animal slaughtering services (excluding poultry)
- general warehousing and storage sites, and
- home healthcare services and assisted living facilities.

Secondary industries tabbed for programmed inspections include:

- chemical manufacturing
- heavy and civil engineering construction
- metal manufacturers

- agriculture, and
- food and beverage makers.

Sites should double check they're following OSHA's standards for

### Sites should double check they're following OSHA's standards.

respiratory protection, injury and illness reporting and recordkeeping, bloodborne pathogens and Personal Protective Equipment general requirements.

**Info:** [osha.gov/sites/default/files/enforcement/directives/DIR\\_2021-01\\_CPL-03.pdf](https://www.osha.gov/sites/default/files/enforcement/directives/DIR_2021-01_CPL-03.pdf)

#### Simple fixes ...

(continued from Page 1)

Result: The company has to pay \$80,000 in fines.

#### Count on an enforcement push

OSHA also enforces chemical safety through its Process Safety Management (PSM) standard, though historically it's focused on "inside the fenceline" problems that put employees at risk.

The safety agency will refer egregious cases to EPA because higher CAA fines can be assessed (*search for "EPA OSHA chemical safety" at our website for examples*).

**Word of warning:** We expect the two agencies will coordinate more joint RMP-PSM enforcement actions under the Biden administration to send industry a stern message.

We're also hearing the Justice Department and federal agencies plan to pursue more criminal actions against noncompliant facilities.

Now's the time to self-audit.

## 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.

### CLEANUP PROJECT LEADS TO A SUPERFUND COMPLAINT

"Let me guess," asked Buck Flanagan, environmental director. "Someone is suing us?"

"You know that's the only reason I'd drop by your office at 5:30!" Cliff laughed.

"CAVE has filed a Superfund lawsuit against us over the Brant Park redevelopment."

CAVE stood for Citizens Against Virtually Everything, a group that sues companies like Buck's.

"Brant Park? We cleaned up Brant Park!" Buck replied.

"There was more garbage in the stream there than you'd find at a small landfill. A lot of it was hazardous to boot," Buck continued.

"This has to be a mistake. What does the lawsuit say?" Buck asked.

#### Can firm be liable for cleanup?

"CAVE says that after cleaning the stream, it increased the flow rate," said Cliff. "Whatever the heck that means."

"It means once we removed all of that junk and oil to make Brant Park a nice place for families to go, it made the water flow downstream faster than before," said Buck.

"Got it," said Cliff. "Well anyway, the group says a substantial amount of landscaping and construction was needed to protect the shoreline."

"That may be true, but they have nerve filing a Superfund claim," said Buck. "We should fight this."

Buck's company tried getting the lawsuit dismissed.

Did it win?

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



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## Where other companies are stumbling over compliance

### **Particulate matter affects low-income neighborhood**

**Company:** Schnitzer Steel, Oakland, California.

**Business:** Shredding and sorting of metal materials sold for reuse in steel mills.

**Penalty:** \$4.1 million settlement.

**Reasons for penalty:** Schnitzer emitted fine particles of hazardous metals, including lead, cadmium and zinc, that exceeded its air permit. Under its settlement, the company is required to:

- inspect its perimeter for byproducts and dispose of them as hazardous waste
- install air pollution control equipment to reduce toxic emissions
- prevent metal shreds from getting into storm drains or outfalls, and
- issue warnings to West Oakland residents about exposure to chemicals, mandated by the state's Proposition 65 law.

### **Multiple spills & lack of plans brings major fine**

**Company:** Fleur de Lis, Johnston and Natrona counties, Wyoming.

**Business:** Oil & gas fields.

**Penalty:** \$1.9 million.

**Reasons for penalty:** Fleur de Lis failed to:

- prepare Spill Prevention, Control and Countermeasure (SPCC) plans for five facilities adjacent to tributaries to Salt Creek
- implement adequate Facility

Response Plans (FRPs) to deal with significant oil spills, and

- develop an FRP training and drill exercise program.

**Note:** Fleur de Lis experienced at least six spills of oil and produced water between 2016 and 2018. Facilities with 1,320 gallons of oil that have the potential for a spill to reach surface waters must have SPCC plans. Sites with oil storage capacities above one million gallons with the potential to impact fish, wildlife and sensitive environments must meet FRP guidelines.

### **Why no stormwater controls? No good answer**

**Company:** Rolling Hills Dairy Farm, Luxemburg, WI.

**Business:** Concentrated animal feeding operation (CAFO).

**Penalty:** \$144,000.

**Reasons for penalty:** The CAFO:

- unlawfully discharged contaminated runoff from its feed storage area at the main dairy to the East Twin River at least two times
- failed to build runoff controls required by its Wisconsin Pollutant Discharge Elimination System permit at its satellite facility
- stored feed in an unapproved location, and
- land-spread manure before a rain storm which ran off the field it was applied to.

**Note:** Rolling Hill staffers also prevented state regulators from inspecting sections of the property.

### **Accidental release tied to not following procedures**

**Company:** Shell Oil Products U.S., Anacortes, WA.

**Business:** Refinery.

**Penalty:** \$191,000. Shell already paid \$420,000 to the Northwest Clean

Air Agency and the Washington Safety and Health Agency for process safety violations.

**Reasons for penalty:** During maintenance work in February 2015, Shell employees deviated from operating procedures. This resulted in the release of 700 tons of toxic vapors containing hydrogen sulfide, dimethyl sulfide, mercaptans, pyrophoric iron and benzene. More than 550 people in the area were impacted with many of them needing medical attention. The company was cited for violating Risk Management Program (RMP) requirements for:

- hazard assessment
- process safety information
- operating procedure and management of change, and
- mechanical integrity.

**Note:** The facility is implementing an up-to-date RMP plan, as well as training procedures, to reduce and minimize the risks of an accidental release.

### **TSCA reporting errors can cost you a pretty penny**

**Company:** Western Reserve Chemical Corporation, Stow, Ohio.

**Business:** Chemical importer for rubber, plastic, adhesive, sealant and coating products.

**Penalty:** \$357,000.

**Reasons for penalty:** From 2012 to 2015, the company didn't submit reports for 18 chemicals it imported and distributed, which is required under the Toxic Substances Control Act (TSCA).

**Note:** To find out if a chemical is on the TSCA chemical substance inventory, go to [sor.epa.gov/sor\\_internet/registry/substreg/LandingPage.do](http://sor.epa.gov/sor_internet/registry/substreg/LandingPage.do)

*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.*

## CLIMATE CHANGE

### Factories are going all-in on Energy Star

Being energy-efficient isn't exactly a "Get Out of Jail Free" card from climate change enforcement.

But it certainly can't hurt as the Biden administration focuses on carbon emitters in oil & gas and manufacturing sectors.

Ninety-five factories just awarded Energy Star certification, for example, can quantify how much carbon they keep out of the atmosphere through efficiency projects.

#### Less strain on the grid

"By strategically managing their energy use while our country dealt with challenges of the pandemic, Energy Star-certified plants saved nearly \$400 million on energy bills, equal to the payroll value of over 8,000 U.S. manufacturing jobs," EPA reported in a news release.

"[Manufacturing plants] avoided the consumption of 80 trillion BTUs of energy compared to average plants

and prevented over five million metric tons of greenhouse gas emissions, equivalent to those from the energy use of nearly 600,000 homes."

#### Cement, glass, refineries get stars

A wide variety of manufacturing sectors achieved Energy Star status, including some of the most regulated sectors, such as:

- cement kilns
- glass containers and flat glass
- pulp mills
- petroleum refining
- bakeries and snack foods
- automobile parts, engines, transmissions and assembly
- pharmaceuticals, and
- nitrogenous fertilizers.

**Info:** [energystar.gov/buildings/reference/find-energy-star-certified-buildings-and-plants/registry-energy-star-certified-buildings](https://energystar.gov/buildings/reference/find-energy-star-certified-buildings-and-plants/registry-energy-star-certified-buildings)

## CSAPR

### Power plants in 12 states must cut NOx further

- BIG DROPS IN ASTHMA ATTACKS, HOSPITAL VISITS ARE PREDICTED

Starting this summer, power plants in 12 states must reduce nitrogen oxide (NOx) emissions that put other states in nonattainment.

EPA is tightening the Cross-State Air Pollution Rule (CSAPR) to satisfy the 2008 National Ambient Air Quality Standards for ground-level ozone (smog).

The upshot: Power plants lacking state-of-the-art NOx combustion controls for electricity generating units will need to curtail production or buy more natural gas and renewables.

#### MACT compliance a must

Fossil fuel power plants are affected by the NOx update in the following

12 upwind states: **Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia and West Virginia.**

Power plants can expect an increase in inspection check-ups on control technology compliance; making sure baghouses, flaring, desulfurization equipment, et al., are being used properly; and that reported emissions match actual output.

EPA estimates NOx will drop by 17,000 tons starting this summer due to the CSAPR rule change. Ozone season NOx emissions in these 12 states should be 25,000 tons lower in 2021 than in 2019, leading to 290,000 fewer asthma attacks and 560 fewer hospital and ER visits.

**Info:** [epa.gov/csapr](https://epa.gov/csapr)

## 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.*

### ■ DIDN'T BEEF UP SPILL PLAN AFTER A TANK LEAKED

**To:** Regional Enforcement Director  
**From:** Inspector Bob Wiley  
**Re:** Oil pollution

We're keeping a closer eye on compliance issues with underground and aboveground storage tanks.

The simple fact is too many companies don't have contingency plans, and that includes sites where they just had a spill.

A perfect example is Acme Auto Dealer. Last January we caught wind of an oil sheen in Palmer Creek.

The source was a pinhole leak from a tank buried under Acme's back lot. Luckily it was a small leak and we contained it easily.

We cited Acme for spill plan violations and laid out the steps they needed to take immediately to prevent a bigger environmental problem in the future.

#### Facility dragged its heels

Our follow-up site visit two months later was disappointing, to put it mildly.

The biggest problem was Acme hadn't started overhauling its contingency plan despite the tank leak weeks earlier.

Our office prescribed several containment options for their tanks. But Acme hadn't taken steps to implement any of them.

No doubt there are other employers like Acme who aren't doing enough to contain spills either. Citing Acme will hopefully send a message to them too.

I'm recommending a \$17,500 penalty for Acme.

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

### SAFE DRINKING WATER

## Lead & copper rule put on back burner

Drinking water plants will be waiting a while longer for the final lead and copper (LCR) rule.

As it's done with other regs finalized toward the end of 2020, EPA's reviewing the LCR rule and also extending deadlines.

The implementation of the LCR rule that was scheduled to start March 16 is extended until June 17.

If all or most of the LCR rule survives the agency's review, water plants' compliance deadline is extended from January 16, 2024 to September 16, 2024.

Last-chance comments on LCR are due April 12. Depending on how many comments come in and what stakeholders have to say, EPA could extend the comment deadline again until December 16.

### Groups say deadlines too lenient

Several states and advocacy groups are suing EPA over the Trump reg. Most argue it doesn't go far enough

to protect minority and low-income neighborhoods from outbreaks related to lead leaching in pipes.

Groups' major complaint is the LCR rule gives communities too much time – as long as 33 years in some situations – to replace old, corroded and weakened lead lines.

### Where will funds come from?

Lead in drinking water outbreaks that harm children are very expensive. A \$641 million judgment to Flint, most of it from Michigan's coffers, is proof positive of that!

But the needed upgrades of town and city sewers, supply lines and related infrastructure nationwide go well into the hundreds of billions according to EPA.

The most at-risk systems will need funding from outside their communities for improvements.

**Info:** [epa.gov/dwreginfo/lead-and-copper-rule](http://epa.gov/dwreginfo/lead-and-copper-rule)

### INDUSTRIAL RUNOFF

## Proof: Stormwater permit must be followed to letter

■ THIS FACILITY'S PERMIT SAT IN A DESK DRAWER COLLECTING DUST!

Permits aren't worth the ink and paper they're printed on if compliance teams don't stay on top of environmental duties.

Regulators can quickly calculate the amount of pollution that's released by not following a permit – and they'll tack those costs onto a fine in almost every situation.

### High annual toll on waterways

Case in point: KAG West, a petroleum transport and delivery facility in Tacoma, Washington, violated its Industrial Stormwater General Permit between 2017 and 2019. Inspectors threw the kitchen

sink at KAG for failing to:

- install and maintain Best Management Practices to reduce stormwater pollution
- immediately clean up spills
- use secondary containment to contain spills
- follow permit sampling and monitoring procedures
- file required annual reports, and
- train employees on its stormwater pollution prevention plan.

All told, these clean water gaffes resulted in 14,000 pounds of pollutants to annually enter Blair Waterway and Commencement Bay, a Superfund site.

KAG was fined \$133,225 and is correcting all of its shortcomings.

### ■ BIG DECLINE IN TOXIC POLLUTION NEAR BIG EASY

Good news: Chemical plants in Louisiana have cut their emissions of ethylene oxide (EtO) by a third since 2016 to just under 41,000 pounds in 2019.

But facilities will need to go further than that to stay in regulators' good graces and avoid crippling lawsuits.

That's because the cancer risk for residents near the Bayou State's numerous chemical plants is still double the minimum acceptable standard of a 1-in-10,000 chance of cancer from breathing polluted air for at least 70 years.

EtO is the biggest problem in this region because of how prevalent and toxic it is.

Not all chemical manufacturers agree with EPA's high-risk assessment of the substance, but many are playing ball regardless.

For example, BCP Ingredients in Saint Gabriel has reduced its EtO emissions 96% from 2014 to 2019. EtO is most commonly used as a sterilizing agent.

**Info:** [theadvocate.com/baton\\_rouge/news/article\\_baad053e-6020-11eb-be4d-77f69457fdbd.html](http://theadvocate.com/baton_rouge/news/article_baad053e-6020-11eb-be4d-77f69457fdbd.html)

### ■ MONTH-LONG OUTAGE GIVES WATER UTILITY BLACK EYE

Late-winter storms that shut down Texas's electricity grid also did quite a number on municipal drinking water supplies in parts of Mississippi (search for "Texas grid" at our website).

The city of Jackson kept a precautionary boil order in place for over a month because water pressure dropped too low to guarantee safe flow.

More than 160,000 residents had to rely on bottled water or boil water from the tap.

**Info:** [nytimes.com/2021/03/12/us/jackson-mississippi-water-winter-storm.html](http://nytimes.com/2021/03/12/us/jackson-mississippi-water-winter-storm.html)

## CLIMATE CHANGE

### Keystone pipeline: It's states vs. Biden

The Keystone XL pipeline isn't officially dead for good until the courts decree it is.

Twenty-one states led by Texas and Montana sued President Biden for revoking the permit due to climate change concerns.

Their argument is pretty straightforward: Under the Commerce Clause, only Congress can cancel a multi-state and cross-border project like Keystone.

#### Permit move felt at the pump

The good news for oil & gas companies and the states suing is the courts will probably take their side. Federal agencies like the Interior Department, which withdrew Keystone's permit, lose when they veer too far from clear language in statutes.

The bad news? It'll take at least two years for the case to wind its way through the courts.

Since Biden nixed the pipeline on his first day in office, gasoline prices have crept up every day as oil imports slowly increase.

Keystone moves oil from tar sands in Alberta southward to refineries in Illinois, Nebraska and Oklahoma and

to major storage sites in Port Arthur and Houston, TX.

**Info:** [media.dojmt.gov/wp-content/uploads/TX-and-MT-v.-Biden-Complaint.pdf](https://media.dojmt.gov/wp-content/uploads/TX-and-MT-v.-Biden-Complaint.pdf)

### Formaldehyde goes under EPA microscope

EPA is resuming a risk assessment of formaldehyde which could lead to tougher industrial use restrictions.

The agency lists formaldehyde as a probable human carcinogen. Health and safety groups want it reclassified and the chemical put out of use.

Formaldehyde was one of 10 chemicals EPA chose for assessments after Congress strengthened the Toxic Substances Control Act in 2016.

An EPA National Air Toxics Assessment (NATA) found formaldehyde is one of three pollutants responsible for over 90% of the cancer risk in census tracts that are above the NATA 100-in-1-million people threshold.

**Info:** [epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluation-formaldehyde](https://epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluation-formaldehyde)

## WHERE TO GET HELP

### KEEP EYE OUT FOR INVALID HAZWASTE MANIFESTS

Check the tracking number on printed hazardous waste manifests before using them.

EPA warned businesses that a series of manifests were made by a non-approved printer.

Check for a manifest tracking number between 4059725FLE to 140662224FLE.

EPA sent the notice to facilities enrolled in the electronic manifest program. Most hazwaste generators are still using paper in one step of the process despite EPA's mandate that businesses transition to paperless manifests.

**Info:** [rcrainfo.epa.gov/rcrainfoprod/action/secured/login](https://rcrainfo.epa.gov/rcrainfoprod/action/secured/login)

### COPPER DISINFECTANT A MAJOR KILLER OF SARS

A copper alloy disinfectant product is effective at killing SARS-CoV-2, the virus that causes COVID-19, over an extended period.

EPA approved the 95% copper product for long-term protection of hard surfaces.

**Info:** [epa.gov/pesticide-registration/list-n-appendix-supplemental-residual-antimicrobial-products-coronavirus](https://epa.gov/pesticide-registration/list-n-appendix-supplemental-residual-antimicrobial-products-coronavirus)

## SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2)

Yes, Buck's company won. A federal court dismissed the citizens' group's complaint.

This group tried getting the company to pay for extensive renovations that were needed after a hazardous waste cleanup.

It sued under the Superfund law, formerly known as the Comprehensive Environmental Response, Compensation and Liability Act (aka CERCLA).

### ANALYSIS: CLEANUP LED TO MORE WORK BEING NEEDED, BUT NOT A HAZARDOUS CONDITION

There's always the possibility that had the company done a poor job of identifying, controlling and removing

hazardous waste, it could've easily been on the hook for a Superfund cleanup.

As it was, the cleanup increased the flow rate of the waters. That made it necessary to build up the banks to preserve the shoreline and people's homes – none of it inexpensive work.

But the lawsuit had a fatal flaw right from the start: The company's work didn't create a condition that put people's health or the environment at risk.

A Superfund claim was possible only if the group could show a potential toxic threat to people, wildlife or aquatic life had been created.

Since that wasn't the case here, the group couldn't sue for recovery of those costs (at least not under CERCLA). Result: Case dismissed.

**Cite:** *Dunn v. Savage*, U.S. District Court, Eastern Dist. MI, Case No. 04-75061. Dramatized for effect.

## ESG TRANSPARENCY

### Feds want companies' real climate data

**H**eads up: The Securities and Exchange Commission (SEC) is getting into the climate change enforcement business!

The SEC is forming a Climate and Environmental, Social and corporate Governance (ESG) task force that'll target "ESG-related misconduct."

In other words, publicly-traded companies that may be "greenwashing" the public and investors about their ESG initiatives will face stiff fines and potentially criminal investigations.

#### What are firms' real impact?

The task force "will evaluate and pursue tips, referrals, and whistleblower complaints on ESG-related issues," warns the *National Law Review*.

Climate cops will use "sophisticated data analytics to mine information across registrants and proactively identify potential ESG-related misconduct, including material gaps and misstatements in required disclosure of climate risks under existing rules and guidance."

Count on climate disclosures, specifically reported greenhouse gas emissions, to be a hot target for task force investigations.

The SEC wants more businesses to disclose their climate impact and those without ESG policies to get busy drafting them.

**Info:** [natlawreview.com/article/new-sec-task-force-further-demonstrates-biden-administration-s-sharp-focus-climate](https://natlawreview.com/article/new-sec-task-force-further-demonstrates-biden-administration-s-sharp-focus-climate)

### Fracking banned in Delaware River basin

Oil & gas companies are banned from fracking in the Delaware River Basin (DRB) for now.

The DRB Commission finalized a permanent fracking ban on a

13,500 square mile area covering parts of New York, New Jersey, Pennsylvania and Delaware.

#### Courts still to weigh in

A temporary ban's been in place since 2010. The Commission and citizens' groups argue high-volume hydraulic fracturing poses a significant risk to groundwater wells.

Wayne Land and Mineral Group, a natural gas company in Pennsylvania, is leading an industry lawsuit to overturn the ban.

Five years ago, a 3rd Circuit Court of Appeals judge (*one rung below the Supreme Court*) ruled the Commission exceeded its authority in banning all fracking and remanded the industry case back to the lower court.

It's a good bet the 3rd Circuit or possibly the Supreme Court will get the final say.

This area's home to more than seven million people.

**Info:** [state.nj.us/drbc/home/newsroom/news/approved/20210225\\_newsrel\\_HVHF-rulemaking.html](https://state.nj.us/drbc/home/newsroom/news/approved/20210225_newsrel_HVHF-rulemaking.html)

### EPA's climate change website is back online

EPA reinstated a web page on climate change that had been pulled by the Trump administration.

"Climate facts are back on the EPA's website where they should be," announced EPA chief Michael Regan. "Considering the urgency of this crisis, it's critical that Americans have access to information and resources so that we can all play a role in protecting our environment, our health and vulnerable communities."

EPA's climate page is light on articles and data but the agency promises to beef it up soon.

**Info:** [epa.gov/climate-change](https://epa.gov/climate-change)

## REAL PROBLEMS/SOLUTIONS

### ■ WE KEYED IN ON LEAKS TO PRESERVE DRINKING WATER

There's more than one way to reduce water consumption, and it's in facilities' best interests to try as many as possible.

Often businesses will look at how much water they use in processes and total consumption on their water bills.

That can detract you from checking the biggest source of water waste: leaks.

Every facility has leaks at one time or another, in some piece of equipment.

And you can always start by looking at your plumbing.

#### Fixes, upgrades make difference

A few years back we rolled up our sleeves and checked all of the plumbing throughout our multiple facilities.

First we installed stainless steel flex lines for every toilet to reduce the risk of leaks.

In the process, we discovered numerous dripping faucets.

So we made hardware fixes with those where needed.

We've prevented big leaks and reduced water waste too – the savings are easy to measure.

## ▼ 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.*

**"E**CA gives me more time to spend researching things that are applicable to our facility without having to sort through the regulatory schedule myself."

**Mark Carpenter**  
EH&S Specialist  
ProFusion Industries

## 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.

### HYDROFLUOROCARBONS

An allowance trading program to speed the phaseout of hydrofluorocarbons (HFCs) is coming down the pike from EPA.

Congress mandated the new program in the American Manufacturing and Innovation Act signed into law in 2020.

Essentially a cap-and-trade program, manufacturers can earn credits for greenhouse gas reductions or buy credits from other companies that have already weaned off HFC refrigerants.

HFCs aren't a significant ozone layer depletant but they are a very potent greenhouse gas.

The Montreal Protocol calls for an 85% reduction in HFC production worldwide by 2036.

The White House wants to phase out HFCs altogether by 2035 as part of its climate change plan (*search for "Biden climate change" for recent stories at our website*).

**Info:** *Latham & Watkins*, [coglobalelr.com/2021/02/epa-begins-term-with-congressional-mandate-to-phase-down-hfcs](http://coglobalelr.com/2021/02/epa-begins-term-with-congressional-mandate-to-phase-down-hfcs)

### LIQUEFIED NATURAL GAS

States must act on applications for water quality certificates for liquefied natural gas (LNG) terminals or gas pipelines within a year under a Federal Energy Regulatory Commission (FERC) final rule.

FERC is codifying the one-year waiver for authorizations under the Natural Gas Act, Sections 3 and 7, Parts 153 and 157.

Section 401 of the Clean Water

Act gives states authority to review whether potential discharges from a project may require a license or permit. Companies can get FERC approval to start work while they're waiting for an answer on a water permit from host states.

FERC considers one year a "reasonable amount of time" for a state agency to review an application and act on it.

**Info:** *Morgan Lewis*, [tinyurl.com/LNGgas648](http://tinyurl.com/LNGgas648)

### HAZE PLANS

Arkansas won't have to follow a federal implementation plan for reducing haze after all.

EPA approved the Razorback State's state implementation plan addressing visible pollution.

Its plan calls for best available retrofit technology to be installed at the Domtar Ashdown Mill to reduce sulfur dioxide, particulate matter and nitrogen oxide emissions.

Haze forms when sunlight hits tiny particles of air pollution and reduces clarity and color of what we can see. Exposure to small particles is linked to respiratory illness, decreased lung function and premature death.

**Info:** [epa.gov/ar/epa-finalizes-revisions-arkansas-clean-air-plan-regional-haze-and-visibility-transport](http://epa.gov/ar/epa-finalizes-revisions-arkansas-clean-air-plan-regional-haze-and-visibility-transport)

### RCRA

Here's a reminder about polychlorinated biphenyls (PCBs) for hazardous waste treatment, storage and disposal facilities:

While PCBs aren't a RCRA (Resource Conservation and Recovery Act) listed hazwaste, make sure to see what your state or states have to say about the matter.

Numerous states, including Texas, California and New York, list PCBs in their RCRA plans, which means

you must abide by certain guidelines like storing waste in safe, closed and labeled containers.

The good news: Items like fluorescent light ballasts and electrical transformers that contain PCBs can, in most cases, be stored for one year like other universal wastes.

PCBs were banned by Congress in the late 1970s after workers who handled electrical capacitors containing PCBs were dying from cancer. The chemicals were covered under the Toxic Substances Control Act but not listed under RCRA, which became the law of the land in 1980.

Specific rules for storing and disposing of PCBs vary depending on whether they're liquids, in items like fluorescent light ballasts, or remediation waste.

**Info:** [www.epa.gov/pcbs/policy-and-guidance-polychlorinated-biphenyl-pcbs](http://www.epa.gov/pcbs/policy-and-guidance-polychlorinated-biphenyl-pcbs)

### MERCURY DISCHARGES

If you like your dentist, consider checking if he or she is up to date on the dental amalgam rule.

EPA is checking in on Pennsylvania dental facilities to make sure they have filter controls in place to collect mercury-containing amalgam on spit sink drains.

The amalgam rule was designed to reduce mercury discharges to municipal water treatment plants by five tons annually, plus five tons per year of additional metals found in dental fillings.

Best management practices for dentists include using separators; prohibiting flushing waste amalgam, such as from traps or filters, down the drain; and prohibiting the use of bleach or chlorine-containing cleaners that can dissolve mercury.

**Info:** [www.epa.gov/eg/dental-effluent-guidelines](http://www.epa.gov/eg/dental-effluent-guidelines)