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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).

4 common ways facilities wind up in noncompliance jams

■ Frequently it's not because of money

What's the main reason facilities get cited or sued for environmental problems?

Chances are you'd answer it's due to not investing the necessary time and money needed for controls, monitoring and so forth.

Turns out that's not always the case. There are plenty of simple causes and mistakes that lead to headaches for facilities just like yours.

Here are a few to watch out for, courtesy of Envera Consulting:

Departments not seeking your help

You've got enough work on your plate and you've got to trust the various teams at your site don't pay lip service to compliance.

We've heard from plenty of readers over the years who were shocked to find employees throwing away batteries and paint in their Dumpsters, or taking shortcuts with fielding stormwater samples.

Idea: Check up on departments periodically. Offer to attend staff meetings and discuss how your programs help the ecology. And ask for any questions or concerns.

Losing valuable veterans

The loss of veteran employees, aka "institutional knowledge," can lead to a permit not being renewed or reports not being submitted.

You want the folks who understand

(Please see 4 ways ... on Page 2)

TOXICS RELEASE INVENTORY

More facilities will need to file TRI reports

■ TOXICS PROGRAM GETS TOUGHER TO BOOST ENVIRONMENTAL JUSTICE

Toxics Release Inventory (TRI) regulated facilities will face more reporting hurdles soon.

EPA's expanding TRI reporting duties to protect poor and minority Environmental Justice communities.

Here are the changes the 22,000 TRI facilities need to know about.

Who's on EPA's hit list

- A handful of contract sterilizers that use ethylene oxide (EtO) will need to report data via the TRI-Me online

portal. About half of all medical devices and equipment must be sterilized using EtO.

- Natural gas processing facilities will soon join the list of TRI industry sectors, starting in 2022 or 2023. EPA plans to finalize a rule adding gas processors to the TRI program that's been on hold since 2017.
- EPA also plans to add chemical firms that use any of the 80 toxic substances in the agency's 2014 Work Plan to the TRI program.

The annual TRI reporting deadline is July 1.

Info: tinyurl.com/TRI651

OPACITY

'Ooh that smell ...': Firm fined \$1.45M

Foul odors are a surefire method to turn neighboring communities against a business, even if it employs the people who live there.

You can bet regulators and watchdog groups will be going hard after those whose emissions or discharges impact poor and minority communities (*search for "Biden Environmental Justice" at our website for examples*).

This enforcement action in Massachusetts is a perfect example.

Turned neighbors against it

A few years back, Aggregate Industries in Chelmsford installed new equipment to manufacture crumb rubber asphalt pavement.

The changes led to visible emissions of particulate matter and volatile organic compounds, combined with noxious, acidic smells. Residents as far as three miles away complained about odors waking them up in the early morning hours.

To compound problems, Aggregate failed to maintain and operate the

plant in accordance with its air permit for several months.

The Massachusetts Department of Environmental Protection (DEP) investigated. Company

Enforcement action in Massachusetts

leaders told the DEP they stopped producing the crumb pavement but continued making it.

Result: Aggregate agreed to a \$1.45 million consent decree with the state's Attorney General which includes mandatory repairs.

The company can count on residents to keep the DEP apprised of its progress.

4 ways ...

(continued from Page 1)

rules to share that knowledge with the new breed you'll be depending on.

Sloppy review of permits

It happens more than you might think – a company's forced to comply with unnecessary requirements, such as quarterly source testing when twice a year is more appropriate.

You're bound to that permit unless regulators are willing to amend it. *Idea:* Ask key decision makers and legal counsel to review permits first.

Not reporting process changes

Remember that air permits are crafted to fit your processes. So if you change a process temperature, for example, it could result in an emissions increase.

Keep your regulators in the loop about changes and be prepared to submit a new application if need be.

Info: enveraconsulting.com/
environmental-compliance-problems

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.

INSURER DENIES COVERAGE, FACILITY FIGHTS BACK

"Pollution exclusion? Since when do odors qualify as pollution?" asked Buck Flanagan, the environmental manager.

"Let me walk you through this," said Jimmy Fresco, the insurance agent for Buck's company.

"I've reviewed the pollution exclusion in your policy and I'm afraid it does indeed come into play here. We're not talking about an accidental release or an oil spill, after all," said Jimmy.

"Based on our records, you were aware of persistent odor complaints from at least one neighbor over a three-year period," Jimmy continued. "That unfortunately takes us out of the equation for the lawsuit against you."

Can odors trigger exclusion?

"You didn't answer my initial question," said Buck.

"How does an odor – even a persistent odor – qualify as pollution?" Buck asked. "At worst, it's a nuisance.

"We've taken steps to alleviate the problem, as you know. We're also amenable to paying damages to the neighbor," said Buck.

"All that said, our insurance coverage should kick in," said Buck.

"Well I'm afraid the courts may disagree with you," said Jimmy.

"Guess we'll find out," said Buck.

Buck's company took the insurer to court to force it to indemnify it against a lawsuit.

Did Buck's company 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

Illegal waste well found just above aquifer: \$130K

Company: North Star Paving & Construction, Soldotna, Alaska.

Business: Paving contractor.

Penalty: \$130,000.

Reasons for penalty: North Star operated an underground injection well for motor vehicle wastes on site. The well sits above an aquifer that provides drinking water for nearby residents. All underground vehicle waste wells were ordered closed in 2005.

Note: Engine, brake and transmission fluids contain toxic chemicals and metals like benzene, toluene, ethylbenzene, xylenes and lead. Testing showed elevated levels of vehicle fluids in groundwater.

No leniency for sloppy chemical reports: \$314K

Company: N&D Transportation, North Smithfield, Rhode Island.

Business: Trucking company.

Penalty: \$314,658.

Reasons for penalty: The company failed to:

- ensure incompatible chemicals were stored separately
- keep water-reactive chemicals away from the sprinkler system
- submit a Clean Air Act (CAA) risk management plan (RMP)

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.

- conduct a process hazard analysis for its warehouse operations, and
- submit complete, timely Tier II reports with all state and local planning and response authorities for numerous chemicals, including formaldehyde, toluene diisocyanate, peracetic acid and sulfuric acid from 2015-16.

Note: EPA racked up the fines against N&D by citing it under the RMP rule, the Emergency Planning and Community Right-to-Know Act and the CAA general duty clause (*search for “general duty clause enforcement” at our website for related info*).

Caught mismanaging hazwaste, asbestos & oil

Company: CommTank, Wakefield, Massachusetts.

Business: Oil tank installation, maintenance and removal.

Penalty: \$250,000.

Reasons for penalty: CommTank was cited for:

- generating hazardous waste in excess of the volume permitted under its Very Small Quantity Generator permit status
- not properly managing, storing and documenting waste oil and hazwaste
- failing to properly train personnel in hazwaste management
- not having a required asbestos permit before taking apart a large industrial boiler
- failing to use proper air filtration units and contain asbestos dust, and
- not keeping asbestos material wet during removal.

Shop nailed for using emission cheating devices

Company: Adrenaline Performance, Shelley, Idaho.

Business: Car and truck tuning shop.

Penalty: \$48,600.

Reasons for penalty: From 2018 to 2020, Adrenaline sold or installed hundreds of defeat devices that render emission controls on vehicles inoperative. EPA estimates this led to 38,000 pounds of excess emissions of nitrogen oxides and other pollutants. Removing emission controls from one pickup truck is equivalent to putting about 300 new pickups on the road.

Risk plan and Tier II never filed with right agencies

Company: Northern Pelagic Group (NorPel), New Bedford, MA.

Business: Seafood processing plant.

Penalty: \$220,000.

Reasons for penalty: Norpel failed to:

- file a Risk Management Plan to minimize chemical releases
- adequately design and operate its refrigeration system which used anhydrous ammonia, and
- file its annual Tier II chemical inventory report for 2015 with state and local emergency response authorities as required by the Emergency Planning and Community Right-to-know Act.

Sulfur dioxide monitors turned off: EPA jumps in

Company: Limetree Bay Terminals, Christiansted, Saint Croix, U.S. Virgin Islands.

Business: Refinery.

Reasons for penalty: The company turned off all five of its sulfur dioxide (SO₂) ambient air monitoring stations. SO₂ monitoring is required under Prevention of Significant Deterioration regs and the company's plantwide applicability permit. Limetree Bay also didn't operate a meteorological tower.

Note: The company's violations are likely to result in a six-figure fine and mandatory improvements.

GREENHOUSE GASES

HFC coolants about to be phased out

Manufacturers and chemical companies still using hydrofluorocarbon (HFC) coolants are scrambling to find alternatives.

Reason: The White House announced a crackdown on HFCs over the next 15 years.

Industry will need to begin cutting importation, manufacture and use of these global-warming chemicals by a whopping 85% starting in 2022.

HFC emissions have increased worldwide over the last three decades. HFCs are commonly used in:

- air-conditioning equipment
- refrigerators and freezers, and
- a wide range of building materials.

Time to draw down is here

EPA says phasing out HFCs will slash 4.7 billion metric tons of carbon dioxide (CO₂) equivalent from the air by 2036. That's roughly the amount of CO₂ fossil fuel power plants emit

in a three-year period.

Looking at the big picture, phasing out HFCs will eliminate two years' worth of total CO₂ emissions by the middle of the century, according to the Natural Resources Defense Council.

The most promising alternative coolants to replace HFCs are

85% reduction in HFCs by 2036.

hydrofluoroolefins, ammonia and (yes) CO₂, which has a much lower global warming potential.

HFCs can linger in the atmosphere for up to 250 years. They were developed as an alternative to hydrochlorofluorocarbons which damage the ozone layer.

Info: tinyurl.com/hfc651

RISK PLANS

Half-million RMP fine ... and no accidental release?

■ FEDS PROMISED TOUGHER PENALTIES AND THEY'RE FOLLOWING THROUGH

The new administration promised a heavier hand in environmental enforcement (*search for "enforcement Biden EPA" at our website*).

A recent EPA fine is proof positive of that!

CSL Behring in Bradley, Illinois will pay \$527,144 to resolve violations of the Clean Air Act's Risk Management Plan (RMP) rule.

None of the citations involve hazardous air pollutant emissions or an accidental chemical release.

Not prepared for an emergency

CSL Behring is a biopharmaceutical company that does research, development and manufacturing of

blood-plasma-based medical therapies and has to comply with multiple environmental, health and safety regs.

One reg that slipped through the cracks unfortunately was RMP guidelines. Inspectors wrote the company up for failing to:

- develop written operating procedures for chemical safety
- implement a mechanical integrity program
- create an emergency response program with instructions on the use of relevant equipment, and
- meet recordkeeping requirements.

The half-million fine is an unsubtle warning that companies can't avoid the costs of stewardship.

CSL Behring has since hired personnel to strengthen its chemical safety program and training.

INSPECTOR'S LOG

This feature provides insights into the enforcement process – from the point of view of EPA and state inspectors – so you can avoid routine compliance mistakes made by other companies.

■ STORMWATER FENCING AND PLAN WERE IN BAD SHAPE

To: Regional Enforcement Director
From: Inspector Bob Wiley
Re: Clean Water Act

At our next all-staff meeting we should discuss the importance of construction stormwater site analysis and plans.

I'm concerned that too many businesses view stormwater control as a "one-and-done" endeavor.

Acme Homes has multiple building sites throughout the surrounding counties. We recently paid their newest construction area a visit.

Controls weren't up to snuff

Their site manager had the site permit on him. He told me, "Don't worry, we have all our ducks in a row here." But a quick tour around the site showed Acme wasn't doing as good a job as they thought.

For example, the silt fencing they'd put in at the beginning of the job was in tatters or missing altogether in some areas.

We've had some heavy rain the past few weeks, so I believed the manager when he said the fencing had taken a pounding.

There were missing chunks of vegetation leading towards a natural pond. The next heavy rains would send metals and vehicle fluids rolling straight downhill into it.

Whatever spill kits they started with had been nearly used up. They weren't ready for the next one.

We found similar problems at Acme's other sites.

Acme is looking at well over \$100,000 in citations.

■ *Dramatized for effect. Based on a settlement with a Northeastern homebuilder.*

NEXTGEN TECHNOLOGY

EPA's game plan for water polluters

Heads up: EPA is calling on citizen activists to keep tabs on freshwater pollution. And it's given them a useful new tool to identify contaminants to boot.

The Sanitary Survey App for Marine and Fresh Waters is designed to help anglers, swimmers, boaters and any other recreational users of lakes, streams, rivers, bays and oceans to identify oil, metals and biological waste.

This is EPA's first water pollution app for the general public designed for fresh waters. It doesn't require Wi-Fi or an Internet connection to use out in nature.

Can't let monitoring slide

The upshot: Facilities will need to work harder to prevent:

- contaminated stormwater flow
- breaks in wastewater pipes
- discharges from outfalls, and
- underground releases of oil or

hazardous materials wells that migrate to surface waters.

If you're like many companies whose monitoring and reporting efforts have been affected by the coronavirus pandemic, now's the time to ensure either you and your staff, or a vendor, are staying on top of storm and wastewater compliance.

Info: epa.gov/beach-tech/sanitary-surveys-recreational-waters#epa

Biden prioritizes Enviro Justice

EPA's Next Generation technology tools won't just stop with apps like the freshwater tool.

The agency's also beefing up its Environmental Justice (EJ) Screen online mapping tool that helps identify potential pollution sources. Critics have complained EJ Screen is hard to use and isn't stable.

Info: vox.com/22151188/biden-transition-epa-pollution-environmental-justice-data-anti-racist-policy

RE-USE, RECYCLE

Industry says plastic bill won't reduce carbon output

■ DEM-CONTROLLED CONGRESS COULD PUSH BILL THROUGH

The American Chemistry Council (ACC) and other industry groups are taking aim at a Congressional bill designed to reduce plastic waste in the oceans and lower greenhouse gas emissions (GHGs).

The Break Free from Plastic Pollution Act calls for reductions or bans of single-use products, sets minimum recycled content requirements for beverage containers, and mandates plastic producers fund wide-ranging waste management and recycling programs.

ACC argues a closer look at the fine print of the bill paints a different picture: "The [Act] includes damaging provisions that would

restrict the production of modern and innovative plastic materials, and limit advanced recycling technologies needed to recover plastic waste and revolutionize how we use – and reuse – our plastic resources."

Will bill hurt some manufacturers?

ACC cited studies showing many alternatives to plastics, including some biodegradable materials, create more GHG emissions.

Democrat lawmakers behind the Act believe industry will spend more on R&D to find safer alternatives and spur changes, particularly in some single-use plastics that aren't suitable for re-use or recycling.

Info: congress.gov/bill/117th-congress/senate-bill/984?s=2&r=7

TRENDS TO WATCH

■ FOSSIL FUEL SQUEEZE TIGHTENED IN BAY STATE

Massachusetts lawmakers are doubling down on greenhouse gas (GHG) reductions with the Climate Change Roadmap.

The new law mandates:

- net-zero GHGs statewide by the year 2050
- emission reductions for these sectors: electricity, transportation, commercial and industrial buildings, residential buildings, industrial processes and natural gas distribution
- emissions be 50% lower than they were in the state in 1990 by 2030 and 75% lower by 2040
- utilities buy an additional 2,400 megawatts of wind power, raising the state's level to 5,600 mw, and
- more creative alternative energy procurement by utilities, such as geothermal heat pumps.

Info: malegislature.gov/bills/192/S9

■ CALIFORNIA'S TAILPIPE RULE AUTHORITY COMING BACK?

California's longstanding waiver from federal fuel efficiency standards for cars and trucks is primed for a comeback.

EPA is taking comments on whether to reinstate the Golden State's authority to set its own vehicle standards after the Trump administration eliminated it in the 2019 Safer Affordable Fuel-Efficient Vehicles rule.

Sounds like it's a done deal judging by EPA chief Michael Regan's comments: "I am a firm believer in California's long-standing statutory authority to lead. The 2019 decision to revoke the state's waiver ... was legally dubious and an attack on the public's health and wellbeing."

Comments are due July 6.

Info: tinyurl.com/californiaairwaiver651

CALIFORNIA

Smog rule targets warehouses, trucks

California warehouses and the diesel trucks that roll in and out of their parking lots are facing new emission regs.

The South Coast Air Quality Management District board passed the Warehouse Indirect Source Rule to curb smog-forming nitrogen oxide emissions from companies like Amazon, Walmart, grocery store wholesalers, etc.

About 3,000 warehouse centers will either need to cut emissions directly or apply for offset credits to comply.

The region's one of the worst for summertime smog. More than 2.4 million people live within the affected air region.

Info: aqmd.gov/docs/default-source/news-archive/2021/board-adopts-waisr-may7-2021.pdf

Feds pulling back on lenient bird take policy

U.S. Fish and Wildlife Service (FWS) is revoking a bird take rule finalized in early January.

FWS sought to exclude incidental bird takings from enforcement

under the Migratory Bird Treaty Act (MBTA). The move would've allowed sectors like wind farms to avoid fines so long as they have controls to minimize bird killings.

Going forward, deliberate or incidental takings of 1,000-plus birds that are protected under the MBTA will be subject to fines and potential criminal enforcement.

Info: 86 FR 24,573

Quad Oa methane rule for oil & gas is a go

The Obama EPA's OOOOa (aka Quad Oa) methane rule covering upstream, midstream and downstream oil & gas operations is about to make a full comeback.

EPA had stripped some of the more onerous requirements toward the end of President Trump's term. The Senate vacated the changes on April 29.

Companies will need to bolster methane leak controls, invest in leak repair systems and monitor more frequently. Additional methane regs are likely in the pipeline.

Info: tinyurl.com/methane651

WHERE TO GET HELP

FOOD WASTE EXPERTS CAN WIN HEFTY EPA GRANTS

Does your facility have a great food waste reduction strategy that might work for others?

Consider applying for a Sustainable Materials Management grant from EPA.

The agency will award \$30,000-\$60,000 grants to fund up to three or four projects that enhance recycling markets or reduce food waste.

Applications are due June 1.

Info: epa.gov/grants/region-5-fy-21-sustainable-materials-management-grants

SMARTER WAY TO TRACK WASTE & RECYCLING EFFORTS

The Energy Star program has a waste-tracking program that practically any facility can take advantage of.

Energy Star's Portfolio Manager online suite features a waste and materials tracking feature for 29 different types of waste, including drywall, glass, paper and plastics.

It helps facilities see where they can recycle better and slash waste.

Info: tinyurl.com/ESwaste651

SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2)

No, Buck's company lost.

A state appeals court ruled the insurance carrier could deny coverage based on the wording of the pollution exclusion in its policy.

Buck's company argued the pollution exclusion shouldn't come into play because:

- odors aren't the same as air or water pollution, and
- even if foul odors were the same as pollution, the offensive smells were "unique and unexpected."

The court rejected both arguments, ruling a jury could easily find foul odors were de facto pollutants.

Also: Records showed the company knew about odors, so there was no surprise element.

Buck's company can either appeal the decision or settle the lawsuit on its own – but it will have to pay, not its insurance carrier.

ANALYSIS: QUICK ACTION CAN NIP ODOR, NOISE & OTHER NUISANCE LAWSUITS IN THE BUD

Numerous state high courts have ruled odors may fall within the pollution exclusion, leading to insurance companies being able to wriggle out of indemnifying clients being sued.

Your best bet for handling an odor complaint is taking neighbors' concerns seriously, doing everything possible to alleviate the problem, and communicating. Facilities that follow this advice are more likely to stay out of court.

Cite: *South Carolina Insurance Reserve Fund v. East Richland County Public Service District*, SC Court of Appeals, No. 5393. Dramatized for effect.

HWGI

More states changing hazwaste regs

Slowly but surely, states are implementing EPA's hazardous waste generator improvements (HWGI) rule.

Texas facilities will have to comply starting January 1, 2022.

And Tennessee just became the 34th state to adopt HWGI – the rule went into effect in the Volunteer State on May 13.

Hazwaste changes to expect

HWGI eliminates some onerous RCRA protocols but ups the ante in other ways. Changes include:

- tougher contingency plan and emergency preparedness guidelines
- mandatory marking and labeling rules for hazwaste bins and tanks, including in satellite accumulation areas, and
- quadrennial re-notification requirements for hazwaste generators starting this year.

States can also choose to adopt an annual hazwaste shelf/tank cleanout provision that prevents facilities from having to change their generator status.

Info: For a timeline of the rule, search for "hazardous waste generator improvements" at our website.

Drinking water top environmental concern

Industry's efforts to protect the environment have made an impact – Americans are less worried about pollution than ever before.

Drinking water pollution remains the No. 1 worry according to Gallup's annual poll. Fifty-six percent of respondents say they're highly concerned about it.

Public less worried about climate

The good news? Americans expressing high concerns for all

environmental issues are at the lowest levels since Gallup started conducting this poll 20 years ago.

The top 6 issues of concern are:

1. drinking water pollution (56%)
2. pollution of rivers, lakes and reservoirs (53%)
3. loss of tropical rain forests (45%)
4. global warming (43%)
5. air pollution (41%), and
6. plant and animal extinction (40%).

Info: news.gallup.com/poll/347735/water-pollution-remains-top-environmental-concern.aspx

Gas, biomass & wood top sources of early deaths

Harvard researchers found that burning natural gas, biomass and wood is causing more health problems than coal in most states.

Researchers examined mortality rates of people living near coal and gas power plants, industrial boilers, commercial and residential buildings, and industrial sites along the oil and gas supply chain from 2008-17.

Soot pollution cuts lives short

Tiny particulate matter (PM 2.5) continues to be the greatest air quality threat, but gas has overtaken coal as the leading source of PM 2.5 pollution in 19 states.

Biomass and wood combustion deaths nearly tripled in this span, from around 14-17% of average total deaths from stationary sources to 39-47% by 2017.

Fuel-consuming facilities led to \$524 billion to \$777 billion in health impacts and 47,000-69,000 premature deaths in 2017, with 33,000-53,000 of premature deaths related to fuel sources other than coal.

Info: hsph.harvard.edu/c-change/news/stationarysources

REAL PROBLEMS/SOLUTIONS

WHO NEEDS CHEMICALS WHEN TAP WATER WILL DO?

Businesses are always looking for "greener" chemical agents for cleaning their buildings.

Our mission is eliminating chemicals and cleaning with tap water that's been "engineered" to clean deeper.

What that means is changing simple tap water using a small electric charge so that it's activated or electrolyzed.

Repeated tests show that using engineered water in spray and vacuum systems effectively removes bacteria without having to use cleaning chemicals.

Spraying pressurized water works a lot like a solvent in breaking up dirt and grease so that it's easy to pull up.

Works for many cleaning tasks

It's true that engineered water has its limitations.

Disinfecting areas in hospitals still requires chemicals, whether they're green or not.

But for many cleaning needs, it's worth considering engineered water to help the environment and reduce utility costs.

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 helps me more than other publications because it's so quick. I just don't have much time to read."

Mike Pond
Facility Manager
ACSS, Phoenix

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

HAZMAT FINE INCREASES

For the second time this year, the Department of Transportation (DOT) is increasing civil penalties.

The move affects enforcement actions by the:

- Pipeline and Hazardous Materials Safety Administration
- Federal Motor Carrier Safety Admin.
- Maritime Admin.
- Great Lakes Saint Lawrence Seaway Development Corporation
- National Highway Traffic Safety Admin., and
- Federal Aviation Admin.

Fines are being increased to:

- \$84,425 per day, per violation (pd/pv) – maximum civil fine for a typical hazmat shipping violation
- \$196,992 pd/pv – maximum civil fine for a violation that results in death, serious illness, severe injury or substantial property damage, and
- \$508 pd/pv – minimum fine for failing to provide hazmat training.

Federal agencies can increase penalty amounts annually based on the rate of inflation since Congress passed the Bipartisan Budget Act six years ago.

Info: 86 FR 23,241

LANDFILL NESHAP

Municipal solid waste landfills (MSWLs) had plenty of questions and concerns about a final air toxics rule finalized in 2020.

EPA has clarified and corrected

multiple portions of Subpart AAA of the NESHAP (National Emission Standards for Hazardous Air Pollutants) regarding:

- wellhead monitoring requirements for identifying excess air infiltration
- applicability of general provisions under 40 CFR 63, Subpart A to affected MSWLs, and
- handling of monitoring data for combustion devices during system breakdowns, repairs, calibration checks and adjustments.

EPA also clarified the trigger when MSWLs must install gas collection systems, and corrected two operational and reporting requirements.

More than 700 MSWLs, including major and some minor sources, must comply with the NESHAP to minimize emissions of vinyl chloride, ethyl benzene, toluene, benzene and other dangerous chemicals.

Regulated landfills must use a gas collection and control system with a control device like flares or enclosed combustion devices capable of cutting non-methane organic compounds by 98% by weight.

Info: RIN 2060-AV01

OSHA HAZCOM STANDARD

OSHA extended the comment period on its proposed Hazard Communication Standard update.

Public hearings may also be held depending on the type and amount of feedback OSHA gets.

The safety agency wants to align the hazcom standard with the most current Globally Harmonized System of Classification and Labeling of Chemicals.

Included in the proposed rule:

- changes in health hazard definitions
- new chapters on skin corrosion, irritation and serious eye damage
- expanded categories for flammable gases

- new chapters on desensitized explosives and aerosols
- changes to label elements including updated hazards, guidance and precautionary statements, and
- updates to Safety Data Sheets (SDS) sections 9 and 11.

Regulators say the update will improve information on labels and SDS, therefore better protecting workers.

Some changes also align the hazcom standard with the DOT's hazardous material regs.

Info: 86 FR 18,924

SOCIAL COST OF CARBON

Ten Republican Attorneys General (AGs) not only disagree with the Biden administration's move to increase the social cost of carbon (SCC) – they argue the SCC is unconstitutional in and of itself.

Reason: The Obama administration enacted the SCC through an executive order without proper review and comments. That's a violation of the Administrative Procedures Act.

The AGs are suing to overturn the SCC valuation which affects greenhouse gas rulemaking and permit decisions (search for "social cost of carbon" at our website).

Biden wants to reinstate Obama-era values of:

- \$51 a ton for carbon dioxide
- \$18,000 a ton for nitrous oxide, and
- \$1,500 a ton for methane.

Louisiana AG Jeff Landry is leading the lawsuit joined by Alabama, Florida, Georgia, Kentucky, Mississippi, South Dakota, Texas, West Virginia and Wyoming.

Info: kwyr.com/governor-noem-joins-lawsuit-against-president-biden-over-social-cost-of-carbon