



August 2, 2021

WHAT'S INSIDE

- 2 Sharpen Your Judgment**
Is firm's water permit at risk if citizens' group sues?
- 3 Who Got Fined & Why**
Pesticide scam artist escapes prison but not big fines
- 4 Air Quality**
Early look at Risk Management Plan changes to come
- 5 Water & Waste News**
Groundwater lawsuits are facing the *Maui* test
- 6 Enviro Regs Update**
Paper hazardous waste manifests being phased out
- 8 Update on Federal Rules**
PFAS chemicals reportable to Chemical Data Exchange

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).

Who's getting nailed for 'greenwashing' the public?

■ False claims lead to egg on face for companies

Like any environmental pro, you want to tout your facility's sustainability bona fides.

Whether it's an electric vehicle program ... or a switch from a toxic chemical ... or finding new ways to re-use waste ... these are the kinds of initiatives your customers and the general public want to hear about.

Just be careful how your sales and marketing pros toot their horns! Claims of being "green" or "100% recyclable" can backfire – badly.

'65% or thereabouts' recyclable?

Case in point: The Sierra Club is suing three beverage manufacturers that label their plastic bottles as 100% recyclable – Coca-Cola (bottler of Dasani water), BlueTriton Brands

(Poland Spring and Deer Park) and Niagara Bottling.

At least 28% of their bottle content (made with PET or No. 1 plastic) is "unrecyclable due to contamination and processing loss," while the labels are made from biaxially-oriented polypropylene (No. 5 plastic), which isn't recyclable.

Federal 'Green Guides' a must-read

The Sierra Club's suing the firms for misleading consumers under California's Environmental Marketing Claims Act.

Companies that manufacture and sell in any state can be fined – and suffer bad publicity

(Please see Who's ... on Page 2)

FRACKING

Fed freeze on oil & gas drilling takes hit in court

■ OIL STATES PUSHING HARD TO REVERSE FRACKING MORATORIUM

Oil & gas producers won the first round against the White House to overturn the drilling moratorium on federal lands.

Judge Terry Doughty of the U.S. District Court for the Western District of Louisiana ruled the Biden administration can't block oil & gas leases on public lands without Congressional approval.

State of Louisiana v. Biden is joined by Alabama, Alaska, Arkansas, Georgia, Mississippi, Missouri, Montana, Nebraska, Oklahoma,

Texas, Utah and West Virginia.

Justice Department attorneys are sure to appeal, so this isn't the end of the legal battle. We'll keep you up to date on appeals.

Keystone Pipeline officially done

In related news: TC Energy, the developer of the Keystone XL Pipeline, announced it's throwing in the towel on the project.

Biden pulled Keystone's permit on his first day in office. Various states are suing to get the Keystone project back on track.

Guide: Ease workers' air quality concerns

Indoor air quality (IAQ) is a hot concern for businesses as more and more employees return to the workplace post-COVID.

Environmental health and safety pros may be called on to offer their advice and assist on plans.

Keep these points in mind, courtesy of energy efficiency experts WellStat:

5 crucial steps

- Ensure outside air is safe. Intakes located near equipment or motor vehicles can draw in pollutants like particulate matter. Your facility department or site vendor may not be aware of a problem. Some facilities are putting air quality sensors outside to monitor if safe air is coming in via intakes.
- Establish IAQ monitoring practices, including benchmarks, prioritization of problems, system performance and building user feedback (asthmatics and allergy sufferers may alert you to a dust or odor problem before others do).
- Implement a preventive, or better

yet predictive, maintenance plan to stay on top of IAQ issues. You'll

Make IAQ data available

avoid unnecessary upgrades, IAQ testing and balancing costs over the long run.

- Make IAQ data available to tenants and building users. People will feel safer if they know what's being done to boost IAQ.
- Set sustainability goals and aim to meet building certification standards such as LEED.

Info: tinyurl.com/wellstatiaguide655

Who's ...

(continued from Page 1)

– for violating the Federal Trade Commission's *Green Guides*, which provide clearcut definitions and parameters for marketing products as "biodegradable" or "carbon-free."

It pays to double check the *Green Guides* closely when rolling out a product or advertising your services: FTC fines can be steep, especially for companies that lack the deep pockets of a Coca-Cola.

For example, a Florida-based beauty product and skin care maker paid a \$1.76 million fine for falsely labeling their products as "100% organic" and "certified organic."

Fossil fuel producers may be the FTC's next target. The agency is investigating Chevron for misrepresenting its production of renewable fuels and carbon footprint in print (see ECA 5/17/21, Page 8 for more info).

Info: ftc.gov/news-events/media-resources/truth-advertising/green-guides

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.

■ IS WATER PERMIT AT RISK IF CITIZENS' GROUP SUES?

"I'm not ignoring your concerns," sighed Buck Flanagan, environmental director. "My company's not ignoring you either, Margaret. We just don't agree that our storm or wastewater will harm drinking water, as you say it does."

"We have data to back it up," replied Margaret Farley, the leader of a citizens' group that sued companies like Buck's all the time.

"If you increase production like you plan to, it'll lead to a major increase in nitrates," said Margaret. "The nitrate levels in ground and surface water in this area are already too high."

"We're making a simple request to cut back on production here, at least for the time being," said Margaret.

Company says permit's in order

"Like I said, we don't see it being a problem," said Buck. "Neither does the state. They're ready to issue a permit any day."

"That would be a mistake for your neighbors and the state if that happens," said Margaret.

"You have our petition. A lot of signatures on there. We're not going away!" said Margaret.

"Take it up with the state," said Buck. "The water office seems to think our plan is up to snuff."

The state issued the company a permit. Margaret's group sued to have the permit changed, which put the company's plans in limbo.

Who won this battle?

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



EDITOR-IN-CHIEF: SCOTT BALL
sball@SafetyNewsAlert.com
MANAGING EDITOR: FRED HOSIER
PRODUCTION EDITOR: P.J. FRONZEO
EDITORIAL DIRECTOR: CURT BROWN

Environmental Compliance Alert (ISSN 1069-0131), August 2, 2021, Vol. 29 No. 655, is published semi-monthly, except once in December (23 times a year).

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal or other expert assistance is required, the services of a competent professional should be sought. — From a declaration of principles jointly adopted by a committee of the American Bar Association and a committee of publishers.

Copyright © 2021 Safety | News Alert. Please respect our copyright: Reproduction of this material is prohibited without prior permission. All rights reserved in all countries.

Where other companies are stumbling over compliance

For more fines, visit: www.EnvironmentalComplianceAlert.com/category/who-got-fined-why

Pesticide scammer escapes jail time but not big fines

Individual/Company: Samir Haj, owner of EcoShield, San Diego, California.

Business: Pesticide distributor and importer.

Penalty: Five years probation and \$556,443 fine (total).

Reasons for penalty: Haj imported and sold an unregistered pesticide product from Japan which he marketed as a killer of airborne viruses such as COVID-19, called EcoAirDoctor. He also underreported how much he paid for the products to the U.S. Customs and Border Protection. The product, as noted on the label, contains sodium chlorite, which is an item declared to be unmailable under U.S. Postal rules and regulations.

Note: Haj pleaded guilty to entry of goods falsely classified and distribution of unregistered pesticides.

Building site's stormwater plan left a lot to be desired

Company: ZWJ Properties, Win Hollow Subdivision, Boise, Idaho.

Business: Construction site.

Penalty: \$62,000.

Reasons for penalty: ZWJ failed to:

- prevent untreated concrete washout from running off site to Crane

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.

- minimize turbid discharges of stormwater pollutants
- maintain an adequate Stormwater Pollution Prevention Plan
- install and maintain Best Management Practices, such as erosion and sediment control measures, and
- conduct inspections.

Note: The next Construction General Permit for stormwater includes new requirements for site owners and operators (see top of Page 5 in last issue or search under the Stormwater tab at our website for more info).

Lead paint safety sting nails eight contractors

Companies: Eight residential firms in Spokane, Bellingham and Kennewick, Washington state.

Business: Contractors and renovators.

Penalty: \$200 and higher fines.

Reasons for penalty: The businesses didn't comply with the lead Renovate, Repair and Painting rule, including keeping current EPA certification (go to epa.gov/news/releases/epa-reaches-settlements-eight-washington-renovators-lead-based-paint-violations).

Metal plant has a lot of improvements to make

Company: Spectro Alloys, Rosemount, Minnesota.

Business: Secondary aluminum recycling.

Penalty: \$110,000 civil fine and up to \$1 million in air pollution control upgrades.

Reasons for penalty: The company was cited for:

- exceeding emission limits from an uncontrolled furnace hearth stack
- failing to maintain a closed vent system at their scrap dryer, and

- failing to properly monitor lime injection at the dryer baghouse.

Note: The company's consent decree requires it to:

- install a new baghouse which will control all emissions from the furnace including the hearth
- upgrade the dryer baghouse
- install new capture hoods and make additional improvements to the dryer closed vent system
- increase emissions monitoring, and
- make improvements to its operations, maintenance and monitoring plan.

Fuel tank leak went undetected: \$150K ticket

Companies: Hawaii Fueling Facilities and Signature Flight Support, Sand Island, Honolulu, HI.

Business: Bulk jet fuel storage facility for Honolulu International Airport.

Penalty: \$150,000.

Reasons for penalty: Both firms violated the Spill Prevention, Control and Countermeasure (SPCC) rule which falls under the Oil Pollution Act. The former operator discovered 42,000 gallons of jet fuel leaked through the bottom of an aboveground storage tank. More than 1,900 gallons of fuel were recovered.

Note: Under the terms of the settlement, the firms will:

- install a double bottom tank floor on all remaining single bottom tanks by December 31, 2028
- conduct more frequent physical tank inspections until all tanks are retrofitted with double bottoms
- implement additional monitoring to detect leaks
- install an impervious liner within three years, or alternatively, implement an improved sub-surface slurry wall, and
- revise the facility's SPCC plan.

RISK MANAGEMENT PLANS

Early look at RMP reg changes to come

EPA asked for comments on whether it should strengthen Clean Air Act Risk Management Plan (RMP) requirements for chemical plants.

Former EPA chief Christine Todd Whitman, two retired generals and a former agency official answered with an affirmative Yes.

The group urged EPA to revisit the 2016 RMP rule and build on it to protect neighboring communities, specifically overburdened areas to satisfy the Biden administration's focus on Environmental Justice.

Following are Whitman and company's recommendations that EPA will look to make a reality soon:

Make analyses mandatory for all

- All RMP facilities should have to conduct safer technology and alternatives analyses (STAAs) to reduce the consequences of a catastrophic release. About 78% of the 12,500 RMP facilities

were exempted from having to conduct STAAs when the Trump administration rolled back RMP revisions, including water treatment plants that use chlorine gas.

- STAAs need to be shared with communities, emergency planning committees and firefighters.
- High-risk facilities need to substitute safer alternatives to processes wherever feasible. Sources include wastewater and drinking water treatment plants, bleach plants, hydrogen fluoride refineries and others among the 2,000 high-risk facilities cited in EPA's National Enforcement Initiatives proposal.
- The RMP-regulated substance list should be expanded to include ammonium nitrate, reactive chemicals and other hazardous substances.

Info: republicreport.org, 6/16/21.

EPCRA

Unmarked pipes and more gaffes result in \$200K hit

■ SITE WASN'T PREPARED FOR AN ACCIDENTAL RELEASE – NOW IT IS

Here's a timely reminder that shortcomings in chemical safety measures can balloon to well over \$100,000 if regulators cite you under multiple statutes:

- the Clean Air Act's (CAA) Risk Management Plan (RMP) rule
- the Emergency Planning and Community Right-to-Know Act (EPCRA), and
- the CAA general duty clause.

Staff lacked written plans

The latest company to be made an example of is the AES Hawaii coal-fired power plant in Kapolei on the island of Oahu.

Inspectors made a number of

alarming discoveries during their tour of the plant. Problems included:

- missing or insufficient labeling on the anhydrous ammonia system's piping and valves
- failure to keep documents and submit to emergency responders
- insufficient process hazard analysis related to ammonia
- lack of safe distance between pieces of equipment and in aisles
- corroded piping and equipment, and
- insufficient staff training as employees weren't given written normal and emergency shutdown procedures.

EPA wrote out citations under CAA section 112r (RMP) and EPCRA for a total of \$199,725 in fines. The utility has corrected the violations.

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.

■ WASTES NOT ID'D OR REPORTED - \$65K IN FINES

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

There's usually more than one reason for RCRA problems at regulated facilities beyond just simple carelessness.

I'm finding that it's the folks who've moved beyond paper and pen recordkeeping that have a much higher rate of compliance.

Case in point is Acme, which is in an industry where one or more waste streams are categorically hazardous – and some companies don't stay on top of RCRA rules governing hazwaste.

Poor waste management habits

Acme was one of several facilities we visited. It didn't take more than a few minutes before we found some basic violations:

- At least two waste streams contained traces of toxic metals. But Acme wasn't separating those toxics or reporting them.
- Acme's hazwaste containers weren't dated or kept closed.
- The worst part was some hazwastes were incompatible, making the risk of an explosion and fire much greater.

Acme has racked up just over \$65,000 worth of fines.

I think a supplemental project may be in order here as well.

Acme could prevent future occurrences if it implements a hazwaste inventory system to track and maintain disposal records.

■ *Dramatized for effect. Based on a settlement between EPA and a research university.*

CLEAN WATER PERMITS

Groundwater cases facing the *Maui* test

Last year, the U.S. Supreme Court ruled subsurface pollutants that reach surface waters may trigger Clean Water Act (CWA) permit liability.

(Search for “Maui point source” at our website for a timeline.)

The *County of Maui v. Hawaii Wildlife Fund* ruling is now being applied to groundwater pollution cases at the state and federal district court level.

For example, the Big Sky Water and Sewer District in **Montana** is being sued for contaminants from sewage holding ponds discharging to the Gallatin River.

The utility argued it couldn’t effectively treat wastewater from the region without operating the holding tanks as is.

The Montana district court denied a temporary injunction against the water utility because the group suing couldn’t show irreparable harm would be done. Elevated nitrogen samples didn’t “provide the kind of time,

distance, and dilution data” that Maui calls for, the court ruled.

All in the eye of the beholder

Talk about a subjective ruling! Cases just like this one are waiting to be heard, and could go either way depending on the judges hearing them.

That’s because the Supreme Court set seven parameters that *may prove relevant* in determining if a discharge permit is necessary for pollution: 1) transit time 2) distance traveled 3) the nature of the material through which the pollutant travels 4) how much the pollutant is diluted or chemically changed as it travels 5) the amount of pollutant entering the navigable waters relative to the amount that leaves the point source 6) the manner by or area in which the pollutant enters the navigable waters, and 7) the degree to which the pollutant maintains its identity.

Info: huntonnickelreportblog.com, 6/18/21.

WATER QUALITY

Court upholds Iowa’s lenient farm runoff policy

■ FARMERS ESCAPE NITROGEN, PHOSPHOROUS LIMITS FOR NOW

A voluntary water pollution policy for corn and hog farms in **Iowa** will remain in place following a ruling by the Hawkeye State’s supreme court.

Environmental groups argued nitrogen and phosphorous limits were needed for farm runoff, and that new concentrated hog farms shouldn’t be built, to reduce pollution in the Raccoon River and other waterways.

The court ruled 4-3 against setting policy as the groups wanted which puts the ball back in state legislators’ court. Agriculture groups will continue lobbying state lawmakers to keep the voluntary policy in place.

The Hawkeye State’s voluntary

policy doesn’t shield farms from citizens’ group lawsuits.

Farms maintain upper hand

One of the judges voting with the majority wrote that the Des Moines Water Works had better standing to sue because utilities (and taxpayers) are funding the waste treatment bill.

But the Des Moines utility lost a federal court case in 2017 in which it sought to get farms to pay their fair share or slash pollution.

Iowa is the No. 1 producer of corn and pork, a byproduct of which is billions of gallons of liquid manure released into lagoons and soil.

Info: iowacourts.gov/iowa-courts/supreme-court/supreme-court-opinions/case/19-1644

TRENDS TO WATCH

■ OIL WELL BUFFER ZONE REG OVERDUE IN GOLDEN STATE

The **California** Geologic Energy Management Division (CalGEM) is late in proposing health and safety regs to protect people living near oil & gas drilling sites.

The regs were due last December per an executive order by Governor Gavin Newsom (D). CalGEM said they’d have a reg ready by spring but missed that deadline too.

Despite its reputation as a leader in tough environmental and safety regs, California lacks oil & gas well buffer zone rules that states like **Pennsylvania** and **Texas** have.

For example, Texas prohibits wells being closer than 467 feet of a property line.

Industry groups opposed buffer zones for between oil & gas wells and homes, hospitals, schools and parks because it would cut into energy production.

Info: conservation.ca.gov/calgem

■ ANOTHER STATE ADOPTS HAZWASTE GENERATOR RULE

Facilities in **Maryland** now have to comply with EPA’s Hazardous Waste Generator Improvements (HWGI) rule.

Maryland became the 35th state to adopt HWGI. **Tennessee** added the mandatory reg changes to their RCRA programs a couple months ago (*search for “hazardous waste generator states” at our website*).

Most states are adopting two less stringent guidelines – both of which are popular with industry:

- allowing a facility to avoid a higher generator status for an episodic event, such as a tank cleanout, and
- permitting a very small quantity generator to send hazwaste to a large quantity generator under control of the same owner.

Info: www.dsd.state.md.us/MDR/4809.pdf

ELECTRONIC REPORTING

Paper hazwaste manifests phased out

The days of sending in paper-only hazardous waste manifests ended on June 30.

EPA's hazwaste electronic manifest rule (eManifest) gives treatment, storage and disposal facilities (TSDFs) one of four options besides paper:

- all electronic
- hybrid (electronic/image)
- image only, or
- data plus image.

The eManifest rule was enacted to slash paperwork duties for government and industry under the Paperwork Reduction Act.

Industry reluctant to jump aboard

TSDFs can now insist their hazwaste-generating customers create an account in the eManifest online portal.

But TSDFs can continue taking paper manifests for the time being.

Despite all-electronic (online-only) being the easiest and least expensive option, fewer than 1% of facilities are using it.

EPA hasn't announced a sunset date for hazwaste generators (roughly 600,000-plus sites nationwide) and

is sticking with the June 1, 2023 deadline for all facilities to comply fully with eManifest.

Info: *The eManifest portal is at rcrainfo.epa.gov/rcrainfoprod/action/secured/login*

Commitment to ESG a part of financial filings?

The U.S. Senate is considering adding environmental, social and governance-related (ESG) disclosure requirements for publicly traded companies.

The House passed the ESG changes to Securities and Exchange Commission (SEC) filing guidelines along party lines.

Democrats in the Senate can push the bill through with Vice President Kamala Harris' vote if necessary.

If the bill passes, companies would need to report on climate change risk and impact (including any risk management strategies in place), political spending, tax havens, executive pay and corporate diversity.

Info: paulhastings.com/insights (6/21/21).

WHERE TO GET HELP

ONLINE MAPPING TOOL FOR FINDING WATER POLLUTION

Here's a great resource for utilities and water program managers:

An online mapping tool that shows potential sources of drinking water contamination throughout the country.

Drinking Water MAPS is a free online map program from EPA that highlights known polluted areas in U.S. watersheds.

Info: epa.gov/sourcewaterprotection/drinking-water-mapping-application-protect-source-waters-dwmaps

CHECK THIS OVERLOOKED AREA FOR ENERGY SAVINGS

What's a big energy waste for commercial facilities?

Try outdated lighting in parking garages, especially 24-hour facilities.

One advantage: Lighting retrofits can be done in stages without inconveniencing tenants.

Some sites go with light emitting diode (LED) lamps because they last longer and use less electricity.

Info: stouchlighting.com/blog/3-benefits-of-led-parking-lot-lighting

SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2)

The citizens' group won.

The court agreed with the citizens' group that the pollutant discharge elimination system (PDES) permit wasn't strong enough to protect groundwater.

In a previous decision, a lower court ruled the state agency should rewrite the PDES permit so it:

- required the company to monitor for pollutants, and
- set lower discharge limits.

In an odd twist, the state agency balked at being told what to do by the judge, and fell back on a recently passed law that bans regulators from enacting "administrative rules," unless the agency is granted those powers.

That tactic didn't work out too well. The court ruled

there was nothing out of the ordinary with a court ordering regulators to rewrite a permit if citizens make a reasonable argument the environment may be at risk.

ANALYSIS: IT'S BETTER TO NIP CITIZENS' CONCERNS IN THE BUD THAN RISK A BATTLE

This company had an opportunity to go back to the drawing board and ease the citizens' group's concerns about water quality.

Citizens made a compelling case the company (a cattle feedlot) should scale back in size to prevent a spike in nitrate and bacteria levels.

The state agency should've set tighter guidelines. The company ended up paying for the agency's mistake.

Cite: *Clean Wisconsin v. Department of Natural Resources*, WI Circuit Court, No. 2015-cv-002633. Dramatized for effect.

SUPREME COURT

Refineries win biofuel waiver battle

The U.S. Supreme Court ruled 6-3 in favor of small refineries' right to exemptions from blending biofuels into gasoline, as mandated by the Renewable Fuel Standard (RFS).

The ruling reversed a decision against Oklahoma, Utah and Wyoming refineries that were awarded waivers by the Trump EPA.

Ethanol makers take it on chin

Larger refineries, as well as producers of ethanol, cellululosic biofuel and other renewables, have argued that by granting waivers to small refineries, it forces them to fulfill annual RFS production volumes and to purchase more credits.

Few refineries were awarded waivers until Trump's term. But eventually ethanol advocates convinced the administration to ease up on issuing exemptions.

Info: [supremecourt.gov/opinions/20pdf/20-472_0pm1.pdf](https://www.supremecourt.gov/opinions/20pdf/20-472_0pm1.pdf)

Enviro Justice program gets \$50M jump-start

The American Rescue Plan approved by Congress will allocate \$50 million to environmental justice (EJ) initiatives, by far the largest funding of its kind.

The largest slice will go toward EJ grants. EPA is doling out funds to asthma and air quality community projects in Los Angeles, Houston, Madison, Wisconsin, Hartford, Connecticut and other areas (\$16.6 million total).

- \$7 million will fund the Diesel Emissions Reduction Act rebate program with overburdened communities eventually receiving electric buses.
- \$5.1 million will go toward civil and criminal enforcement with added monitoring near low-income communities and drinking water

sources for pollution like air toxics and hazardous metals.

Info: [epa.gov/environmentaljustice](https://www.epa.gov/environmentaljustice)

Changes to corrosive waste definition nixed

Phew! EPA won't be lowering the threshold for corrosive waste under the Resource Conservation and Recovery Act (RCRA).

The agency denied a petition to reduce the threshold for a corrosive hazardous waste from a pH level of 12.5 to 11.5, and to expand the corrosive definition to also include non-aqueous waste.

The Public Employees for Environmental Responsibility (PEER) first petitioned for the changes in 2015 because World Trade Center firefighters and emergency responders developed lung disease from breathing in alkaline dust. Had a lower limit been in place in 2001, more responders would've worn face masks and respirators.

Avoids RCRA headaches for many

EPA "tentatively" denied the petition in 2016. The Biden EPA has now officially denied it.

PEER's suggested changes would've added a slew of waste items to RCRA's hazardous listings.

For example, ammonia has a pH level of about 11.6. Facilities that generate ammonia waste would've needed to expand waste determinations to cover their hides and protect workers, emergency responders and the public.

A waste is corrosive if it's:

- aqueous with a pH less than or equal to 2 or greater than or equal to 12.5, or
- a liquid that corrodes steel at a rate greater than 6.35 millimeters per year at a test temperature of 55 degrees Celsius.

REAL PROBLEMS/SOLUTIONS

DASHBOARDS SHOW WHERE TO IMPROVE EFFORTS

What are your significant environmental impacts?

Water, air, waste, or is it all of the above?

Whatever your answer, you need to be measuring them regularly and with a very critical eye.

We've gotten the best results using electronic dashboards via an online program.

But when the cards show "green" results across the board or in most areas, it's not a time for patting everyone on the back.

Green results can be a sign your metrics aren't tough enough, whether it's trash you landfill, specific air pollutants you have to monitor, you name it.

Always green? Set higher goals

On the flip side, red results can mean you are setting the bar high enough – maybe too high – in certain areas.

For our purposes, we want red to show if we're close to a target or way under.

That way we know if those metrics need to be adjusted, or if our team isn't doing all it can do.

FROM OUR SUBSCRIBERS

More than 90% of our readers report in surveys that Environmental Compliance Alert, with its quick-read format, is more valuable than any other publication they read.

"The brief format allows me to survey a wide variety of topics. It's topical, timely and well-written."

Cameron Walker
Site Specialist
Metropolitan Water
Willow Springs, Illinois

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

Certain per- and polyfluoroalkyl substances (PFAS) will need to be reported electronically to the Chemical Data Exchange if a proposed Toxic Substances Control Act (TSCA) Section 8(a)(7) rule goes through.

The reg affects PFAS manufactured or imported here since Jan. 1, 2011. Reporting data must include PFAS uses, production volumes, disposal, exposures and hazards.

Hundreds of PFAS are subject to reporting. But the reg exempts:

- PFAS which aren't categorized as chemical substances under TSCA
- designated pesticides under the Federal Insecticide, Fungicide and Rodenticide Act, and
- food items, food additives, drugs, cosmetics or devices as defined by the Food, Drug and Cosmetic Act.

For technical info, contact Stephanie Griffin, (202) 564-1463, griffin.stephanie@epa.gov. For general info, contact the TSCA hotline at (202) 554-1404 or TSCAHotline@epa.gov.

Info: RIN 2070-AK67

BUREAU OF LAND MANAGEMENT

President Biden's choice to head the Interior Department's Bureau of Land Management (BLM) is unlikely to get an up-or-down vote.

Tracy Stone-Manning was involved in spiking trees slated for a timber sale in 1989. She informed federal officials about her environmental group spiking trees in Idaho's Clearwater

National Forest and warned that "a lot of people could get hurt" if the sale went through.

Tree spiking damages chain saws and other kinds of blades and puts users at risk of physical injury. The practice is illegal under federal law.

"It's clear that Ms. Stone-Manning was intentionally trying to deceive the Senate Committee on Energy and Natural Resources," said U.S. Senator John Barrasso (R-Wyoming). "She told the committee she had never been the subject of an investigation and yet complained about being investigated in the press."

ASBESTOS

EPA will take another crack at an asbestos data rule under a federal court order.

The U.S. District Court for the Northern District of California ruled in favor of the state attorneys general for California and Massachusetts against EPA.

EPA agreed to promulgate a data reporting rule for asbestos and eliminate reporting exemptions (under TSCA) for the carcinogen.

The Trump administration denied petitions by health groups and AGs to regulate asbestos via TSCA in 2019.

A proposed rule is due in nine months and final rule 18 months after the date of settlement.

Info: oag.ca.gov/news, 6/7/21.

AIR TOXICS

EPA will provide national air toxics data annually instead of every three to four years from now on.

The agency announced it will provide a systematic update for all air toxics info, including emissions, ambient concentrations, national screening risk estimates and monitoring data.

The most recent air toxics assessment from 2018 was based on

2014 emissions data.

Starting late this year, EPA will make data on estimated risks of air toxics available to the public.

Info will be incorporated into EJScreen, the agency's Environmental Justice screening tool, to help communities and regulators screen for potential health risks.

Eventually annual air toxics data will be included in the annual *Air Trends Report*.

STATE PLANS

One trend at EPA that doesn't appear to be changing despite the change in administrations is speedier approval of state implementation plans (SIPs).

Here are a few of the SIPs approved by the feds in recent weeks:

- **Texas** – Coal Combustion Residuals permit program
- **Indiana** – Portland cement air monitoring requirements
- **Illinois** – multi-air pollutant standards for coal-fired electricity generating units
- **California** – 8-hour ozone nonattainment area requirements for Eastern Kern County
- **Iowa** – Title V air SIP and air operating procedures
- **New York and New Jersey** – revisions to the 1997 national ambient air quality standards for ozone attainment demonstrations
- **Arizona** – Maricopa County Air Quality Department's Rule 510 revisions to maximum allowable levels of ambient air pollution, and
- **Colorado** – aerospace, oil & gas and other Reasonably Available Control Technology requirements under the 2008 ozone 8-hour standard for the Denver/North Range Front nonattainment area.

Info: federalregister.gov/agencies/environmental-protection-agency, 6/22/21-6/25/21.