



November 1, 2021

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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).

Green chemistry revolution: What's getting results now?

■ Companies taking new sustainability tactics

The green chemistry train isn't slowing down one bit – in fact it appears to be gaining steam judging by all of the different strategies companies are implementing to cut down on harmful ingredients and educate the public.

EPA's list of 33 Safer Choice (SC) Partner of the Year award winners highlights the ways facilities in manufacturing, distribution and other fields are leading the charge.

Who knows, you may find an idea or two that's worth looking into and can help jump-start

sustainability momentum for your organization!

Manufacturing taking chances

- Rust-Oleum is taking an incremental approach to making its product line more sustainable. It's using more concentrates and refillable bottles to reduce plastic use and greenhouse gas emissions.
- Novozymes is going all-in on enzyme ingredients that break down in the environment. The

(Please see Green chemistry ... on Page 2)

ENFORCEMENT

Worn-out hazwaste containers a recipe for disaster

■ ELECTROPLATING SHOP BADLY NEEDED NEW WASTE DRUMS

Hazardous waste containers won't protect workers or the environment if they're not in good shape and used properly.

Case in point: Rusting drums crammed with incompatible waste items landed Techtrix, an electroplating and metal finishing shop in Gadsden, Alabama, in hot water with EPA.

EPA ordered Techtrix to immediately inventory, manage and dispose of all solid and hazardous waste. Inspectors discovered Techtrix

wasn't making waste determinations and that its bins were rusting or in poor condition.

Some containers were visibly leaking waste.

Fines could be crippling

Techtrix faces steep RCRA fines for not managing hazwaste correctly under EPA's tougher Environmental Justice enforcement effort.

The plating shop is located in a primarily residential area. Electroplating sludge may contain a variety of heavy metals, cyanide and other highly hazardous substances.

Green chemistry ...

(continued from Page 1)

- company added six enzymes to its products last year.
- Clorox updated 10 formulations and added a new product to their offering of Safer Choice (SC) certified products.
 - Church & Dwight developed an innovative testing strategy to meet SC pH criteria for laundry detergents.
 - Bona is working to make 100% of its product line SC-certified. It's already reformulated more than 90% of its current cleaner line.
 - The American Cleaning Institute conducted toxicological reviews which resulted in eight chemicals being added to EPA's SC ingredients list, making it the first non-manufacturer to do so.
 - Lonza Specialty Ingredients created a fast-acting hydrogen peroxide-based disinfectant that combats SARS-CoV-2, the virus which causes COVID-19.

- Sensitive Home's entire catalog of dish, laundry and surface cleaners are designed for those with skin sensitivities, compromised immune systems and respiratory issues.

Educating people a key effort

- Retail grocery stores Albertsons and Wegmans both expanded their availability of Safer Choice labeled products. Note: Customers can scan a product's quick response (QR) code with their phone to learn more about ingredients and what EPA's certification is all about.
- The Ashkin Group is training frontline cleaning workers and janitorial staff, many of whom

**People want
greener products!
Who can deliver?**

don't speak or read English as their primary language, on the SC program and chemical safety and health. Ashkin has trained more than 30,000 workers to date.

- The Lake Monroe Sailing Association in Bloomington, Indiana puts SC products on boats and places them at cleaning stations for its members to use.
- King County's (Washington) hazardous waste management program launched a retail product mapping database that lists SC products and info on stores where they're sold.
- Roger McFadden and Associates in Massachusetts gave pro bono technical recommendations to three healthcare facilities which then replaced eight cleaning products (weighing 84,500 pounds) with SC alternatives.

Info: epa.gov/saferchoice

SHARPEN YOUR JUDGMENT

This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.

■ CAN EMISSION RELEASE LEAD TO DISCHARGE PENALTY?

Environmental Manager Buck Flanagan's company had escaped major damage when a hurricane blew through town.

But a power outage led to an accidental release of a hazardous air pollutant (HAP).

Buck promptly reported the 2,300-pound release to EPA and moved on to other concerns.

To his surprise, his report was all EPA inspector Bob Wiley wanted to talk about a few days later.

"Hello Buck, I've just reviewed your HAP release report here with our legal team and ..."

"Legal team?" Buck interrupted.

Release was vaporized emission

"I wanted to let you know that you'll be facing enforcement action for an unauthorized industrial discharge."

"Industrial discharge?" Buck asked. "Where do you see anything about a discharge in the report I submitted?"

"The release was vapor, from a pressure valve that failed, as I documented," said Buck.

"Your HAP release likely ended up in the creek near your facility," said Bob.

"Unfortunately you'll be fined for a 2,300-pound discharge that wasn't authorized in your Clean Water Act permit," said Bob.

"That's outrageous!" said Buck. "

Buck's company challenged the EPA penalty.

Did it have to pay?

■ *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

Wide range of hazards at factory brings \$3.5M fine

Company: Firestone Polymers, Sulfur, Louisiana.

Business: Rubber manufacturing.

Penalty: \$3.5 million.

Reasons for penalty: The company failed to:

- minimize emissions of nitrogen oxides, carbon monoxide, volatile organic compounds, particulate matter and sulfur dioxide
- follow operating and maintenance requirements for detection and repair and mechanical integrity
- limit hazardous air pollutants such as 1,3-butadiene, n-hexane, styrene, formaldehyde and methanol from facility dryers
- inspect heat exchangers, and
- install controls and monitors on covered flares.

Note: To get into compliance with the Clean Air Act, the plant has installed a regenerative thermal oxidizer system to receive waste gases from dryers, reduced n-hexane solvent concentrations and is regularly inspecting and testing heat exchangers.

No toxics reporting by plant in poor community

Company: Owens-Brockway Glass Container, Portland, Oregon.

Business: Glass manufacturing.

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.

Penalty: \$38,900.

Reasons for penalty: The company didn't report the toxic chromium compounds it uses as required by the Emergency Planning and Community Right-to-Know Act's Toxic Release Inventory (TRI) provisions. For 2017 and 2019, the plant didn't file TRI reports despite storing more than 25,000 pounds of chromium compounds at its Portland facility, which is higher than the TRI threshold.

Note: EPA's press release notes the glass plant is located in an Environmental Justice neighborhood (*search for "Biden environmental justice" at our website for more stories*). Owens-Brockway uses iron chromite to make green glass at the facility. When super-heated in a furnace, iron chromite produces new chromium compounds which are then incorporated into bottles.

Missed the mark on RCRA basic requirements: \$31K

Company: JACAM Chemicals, Sonora, Texas.

Business: Oilfield chemical blending facility.

Penalty: \$31,404.

Reasons for penalty: The company was cited for:

- not conducting hazardous waste determinations and classifications
- failing to keep waste activity records
- unauthorized use of saltwater disposal wells, and
- unauthorized disposal of industrial waste onto soil.

Smelly, dirty discharges harm streams: Time to pay

Company: LPG Land and Development, Morgantown, West Virginia.

Business: Builder.

Penalty: \$125,000 fine and \$600,000 for stream restoration.

Reasons for penalty: While working on Mon Fayette Industrial Park in Morgantown, the developer illicitly discharged:

- dredged or fill material into 2,168 feet of two perennial and two intermittent tributaries
- sediment-laden construction stormwater from clearing and grading more than 18 acres, including an unstabilized vertical cut into a hillside, and
- odorous solvents into streams.

Note: LPG failed to obtain an Army Corps of Engineers water permit before starting construction and filling streams. As part of its settlement, LPG will submit a plan for stabilizing the vertical cut into the hillside, and conduct monthly and post-rain inspections of the slope, diversion ditch, pipe slope drains and dams.

Risk Management Plan needed before site opened

Company: Grafton & Upton (G&U) Railroad, North Grafton, Massachusetts.

Business: Propane transfer terminal for rail.

Penalty: \$52,000.

Reasons for penalty: G&U didn't file a Risk Management Plan before opening for business. Its terminal stores and handles significant quantities of propane, listed as an extremely hazardous material under the Clean Air Act Section 112(r).

Note: EPA inspectors found the terminal was well-designed in accordance with industry standards, but were concerned about fire safety. The terminal's water cannons spray water to cool tanks if there's a fire, but water must be manually turned on in the winter to avoid freezing pipes. The facility's sited near homes, a school and other businesses.

PYROLYSIS & GASIFICATION

Waste incinerators eyed for new air regs

Two forms of waste-to-energy technologies are being earmarked for Clean Air Act (CAA) regulation:

- pyrolysis units, and
- gasification units.

The CAA doesn't list either process. Currently emissions from waste facilities that turn feedstocks into products are subject to the CAA Section 129 (waste incinerators).

Depending on what stakeholders tell EPA, both processes could eventually be subject to new National Emission Standards for Hazardous Air Pollutants.

Processes result in useful products

Pyrolysis and gasification use heat-induced thermal decomposition processes to convert feedstocks into chemical commodities, gaseous and liquid fuels like ethylene and propylene, and energy for electricity generating units.

The big difference: gasification occurs in the presence of air while pyrolysis doesn't.

A wide range of feedstocks can be used for either process: municipal solid waste, commercial and industrial garbage, hospital and medical/infectious waste, miscellaneous solid wastes, sewage sludge, biomass, coal (for gaseous fuels), plastics, tires, organic contaminants from soil and oily sludge.

Comments due early November

Facilities that would be impacted by new rules include any sites utilizing municipal waste combustor, pyrolysis or gasification units.

Comments are due November 8. EPA contact is Nabanita Modak, (919) 541-5572, email: modak.nabanita@epa.gov.

Info: 86 FR 50,296

GREENHOUSE GASES

Study: Climate change effects getting worse

- LATEST UNITED NATIONS REPORT SHOWS WARMING IS GETTING WORSE

Climate change is causing more severe storms and rising sea levels according to the latest Intergovernmental Panel on Climate Change (IPCC) report.

The IPCC report finds CC is:

- bringing "more intense rainfall and associated flooding, as well as more intense drought to many regions"
- disrupting rainfall patterns with higher latitudes seeing more rain and subtropical areas in Africa and South America experiencing longer droughts
- causing sea level rises in many coastal areas
- thawing permafrost and seasonal snow cover and melting glaciers and

ice sheets, and

- increasing marine heatwaves and ocean acidification.

Industry sectors under the radar

The American energy sector is now No. 3 behind China and India in greenhouse gas (GHG) emissions. However: American industry as a whole contributes about 35% of the world's GHGs.

Broken down by sectors it's:

- natural gas and petroleum – 40%
- chemicals and plastics – 27%
- cement/concrete – 4%
- coal mining – 4%, and
- iron and steel – 4%.

Info: ipcc.ch/2021/08/09/ar6-wg1-20210809-pr/

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.

■ NO SPILL PREVENTION PLAN DESERVES A \$40K FINE

To: Regional Enforcement Director
From: Inspector Bob Wiley
Re: SPCC rule

A routine inspection at Acme Inc. uncovered some alarming deficiencies – like the company not having a spill prevention plan.

As I walked around the building, I saw gallons of hazardous materials like lubricants and spent fuel in open tanks.

When I asked to see their Spill Prevention, Control and Countermeasure (SPCC) plan, the foreman wasn't able to show me a single file.

In the event of a major spill, Acme had no procedures for how to handle it.

Evidence of past spills clear

I took a closer look and found Acme didn't have secondary containment for spills or uncontrolled releases either.

Any waste that leaked out of the drums would go straight into the ground because there was no secondary containment.

In fact, in a few areas, there was already evidence of spills.

Some of the drums contained oil, and we detected dark, wet spots underneath them.

I'm recommending a \$40,000 penalty for Acme.

I also recommend the company immediately come up with a spill prevention plan and submit it for review.

- *Dramatized for effect. Based on a settlement with a Northwest petroleum distributor.*

STORMWATER

4 testing mistakes you want to avoid

Imagine taking water quality samples and getting back no-result findings for pollutants from the testing lab.

Then you find the reporting limit the lab used is higher than your state's water quality benchmarks.

You now have useless data plus potential fines looming!

That's just one stormwater disaster story environmental consultant Robert Brunette has dealt with. Some of his clients learned the hard way how errors in water sampling, testing and analysis can cost a bundle.

Here are four ways to avoid it:

1. Wear the right gloves to sample

Water testing can be skewed by zinc particles in powdered latex gloves. One of Brunette's clients thought it was discharging metal in runoff before discovering the problem.

Field testers should wear vinyl gloves or other products that don't contain metal coating.

2. Take care with water bottles

Residue from previous sampling can taint new samples, skewing the results one way or the other.

Silicone or glass bottles are more expensive, but removing trace elements of chemicals and other residue is easier. They may be a better choice than plastic bottles.

3. Find a strong testing lab

Depending on the kind of analysis you want, the lab you're using may not be the best choice.

Reason: Not all water testing labs are accredited in every area of analysis. One example: turbidity.

4. Stay below the limit

Make sure the reporting limits are at, or even below, your state's most current benchmarks.

You want meaningful results on a consistent basis when doing quarterly water quality samples.

IMPAIRED WATERS

EPA wants states to get tougher on water pollution

■ FEDS MORE LIKELY TO FLAG 'INCOMPLETE' STATE PLANS

The Trump EPA tended to approve the majority of state implementation plans sent its way, part and parcel of its mission to let states control their own affairs.

Going forward, states can expect more push-back from the feds if states don't tackle known pollution as aggressively as they can.

For example, EPA just added 40 water bodies to the impaired waters list for Missouri over state regulators' wishes.

Show Me State needs to do more

Under the Clean Water Act Section 303(d), states must submit impaired

waters lists every two years to EPA.

Impaired (aka threatened) streams, river segments and lakes are then protected through Total Maximum Daily Loads, resulting in water permit limits imposed on industries like agriculture, manufacturing, power plants and heavy industry.

The Missouri Department of Natural Resources declined to list 40 water bodies that show impairment of lake numeric nutrient criteria, specifically for chlorophyll-a.

These water bodies are within Lake of the Ozarks and Truman Lake. Chlorophyll-a is threatening aquatic life and habitats.

Info: epa.gov/mo/epas-action-add-waters-missouris-2020-list-impaired-waters

TRENDS TO WATCH

■ GOLDEN STATE TAKES AIM AT HAZARDOUS EMISSIONS

Metal shredding facilities in California have been misinterpreting state hazardous waste regs and as a result not controlling dangerous emissions.

The California Department of Toxic Substances Control (DTSC) issued an emergency rule that:

- aligns the definition of scrap metal with federal language, and
- spells out when scrap metal can be exempted from hazwaste treatment guidelines.

The conditional nonhazardous waste classification (F waste) used by metal shredding facilities is officially revoked.

Metal shredders in the Golden State will require DTSC authorization to operate once the emergency reg is finalized.

Shredding scrap metal creates lead, copper and zinc dust emissions which if not controlled may cause lung disease in affected populations.

Info: tinyurl.com/scrapmetalcalfornia661

■ N.J. ENVIRO JUSTICE LAW WILL STIFLE PERMITTING

New Jersey now has an Environmental Justice (EJ) policy to deny permits to potential polluters in overburdened communities.

The NJ Department of Environmental Protection rule impacts Title V air permittees (think power plants), landfills, incinerators, sewage treatment facilities that process more than 50 million gallons per day, scrap metal recyclers and other recycling facilities that process more than 100 tons per day.

Existing permit holders can expect tougher enforcement in coming years. Obtaining a new or renewed permit will be a lot more difficult and costlier in this geographically small state with plenty of EJ neighborhoods.

Info: nj.gov/dep/ej/docs/njdep-ao-2021-25-environmental-justice.pdf

TSCA

Reporting deadline looms for 50 chems

Chemical manufacturers gained more time to report any of 50 high-priority substances to the Chemical Data Exchange (CDX).

The deadline is December 1 for any of the 20 chemicals designated as high-priority, including 1,3-butadiene, TBBPA, DBP, formaldehyde, TPP and ethylene dibromide.

For the 30 organohalogen flame retardants, the reporting deadline is January 25, 2022.

Compliance bar raised higher

Businesses that use, process or import any of these 50 substances must submit a premanufacture notice to EPA, under the Toxic Substances Control Act Section 8(d).

This is the first significant addition of chemicals for mandatory CDX reporting in several years.

Info: 86 FR 54,386

SEC spells out climate info firms should reveal

What should publicly traded companies disclose about their

greenhouse gas emissions and overall impact on climate change?

The U.S. Securities and Exchange Commission (SEC) released a sample letter listing seven categories it deems noteworthy for corporate climate change disclosures:

- material effects of transition risks to your business, such as regulatory changes in the works that could impose or increase compliance costs, market trends, credit risks or technological changes
- litigation risks including ongoing lawsuits
- pending legislation, regs or international accords that could affect your business
- capital expenditures for climate-related products
- “indirect” consequences of climate regs or business trends
- physical effects such as flooding, droughts or rising sea levels on your operations, and
- material compliance costs.

Info: sec.gov/corpfin/sample-letter-climate-change-disclosures#_ftnref2

WHERE TO GET HELP

■ TAKE A BOW, GREEN ENERGY LEADERSHIP WINNERS

EPA honored five organizations for important innovations in green energy generations.

This year’s winners are:

- **Boston University** (see Page 7 for a related story)
- **Dane County, Wisconsin**
- **Microsoft** (search for “Microsoft greenhouse gases” at our website for a recent related story)
- **Starbucks**, and
- **the University of California.**

Almost half of Dane County’s electricity comes from green sources, including an innovative 9 megawatt solar energy project with the local utility at the county airport.

Cal has put 18 renewable systems on site in Berkeley and tripled its green power production since 2018.

EPA defines green power as “electricity generated from renewable energy resources that offer the greatest environmental benefits compared to fossil fuel generation.”

Green power sources include solar, wind, low-impact hydropower, and some forms of biomass.

Info: epa.gov/greenpower

SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2)

Yes. Buck’s company lost the argument and was hit with a Clean Water Act penalty for an unauthorized discharge to the creek.

There was no disagreement that there had been a release of the hazardous substance. Buck calculated the release was 2,300 pounds of allyl alcohol. Buck then properly reported the release because it exceeded the 100 pound reportable quantity threshold for that material.

But Buck’s company insisted the liability should be limited to an emission release because it escaped as a gaseous cloud.

Any penalty should be limited to the air release because there was no way to determine that an emission release

was the same as discharging the same 2,300 pounds into the creek, the company said.

But the agency’s administrative law judge (ALJ) disagreed and ruled EPA can indeed draw a direct link between the HAP release and the discharge to the creek.

■ LESSON LEARNED: GASEOUS EMISSIONS CAN RESULT IN ILLICIT DISCHARGE VIOLATION

The ALJ ruled what goes up must come down, and therefore it doesn’t matter whether a hazardous substance leaves a property in a gaseous, liquid or solid state.

Faced with a similar dilemma, a facility would have to provide definitive data proving exactly how much material actually ended up in the creek to avoid this type of Clean Water Act liability.

Based on: *In the matter of MFG Chemical.* This case has been dramatized for effect.

STORY HEAD

EPA puts kibosh on Pebble copper mine

The immense Pebble Mine expanse in Alaska won't be operational during the remainder of President Biden's time in office.

EPA is making a Clean Water Act Section 404(c) determination that will prevent mining of copper, gold and molybdenum in Bristol Bay.

The bay is home to large commercial and recreational fisheries worth about \$400 million annually to the Last Frontier State.

Chinese, African mines filling need

Pebble's developers contend the project would only cover 5.3 square miles and 1,700 feet deep, and would comply with various federal and state regs to protect ground and surface waters.

Metals mining remains restricted domestically with manufacturing having to depend on African and Chinese mines to fill the gap.

Electronics manufacturing and the booming electric vehicle market will require greater amounts of critical minerals like molybdenum, cobalt and bauxite.

Section 404 permits issued by the Army Corps of Engineers allow for controlled discharges of dredged or fill material into certain streams, wetlands, lakes and ponds.

Info: epa.gov/bristolbay

Babies taking brunt of microplastics in products

Prevalence of microplastics in countless products is being felt by the most helpless in society.

Infants have up to 15 times more microplastics in their bodies than adults, according to a study conducted in New York state.

While the sample size of the study was small – three newborns, six infants and 10 adults – stool samples showed polyethylene terephthalate

(PET) and polycarbonate (PC) blood levels were significantly higher among the babies.

They're everywhere

Microplastics are used in all kinds of cosmetics, biotechnology, washing products and drug capsules.

They frequently come loose when products are run under tap water. Microplastics are less than five millimeters in thickness.

Some manufacturers use them just to add "grittiness" to products like toothpaste. The European Union is weighing a ban on microplastics while some manufacturers have pledged to phase them out.

Info: pubs.acs.org/doi/abs/10.1021/acs.estlett.1c00559

Higher Ed divesting from fossil fuel profit makers

Public and private universities are showing their displeasure with fossil fuel companies by divesting in them.

Boston University is the latest school to announce it's divesting in companies that extract fossil fuels.

Only a small fraction of BU's portfolio includes oil & gas companies so it won't hit the school hard in the wallet at all.

Other universities to divest in fossil fuels include California, Brown, Cornell, Georgetown and Harvard.

Correction: Page 2 article in previous issue

In the article "Does EPA guide promote greenwashing?" we misstated Microsoft's greenhouse gas emissions as 22 metric tons rather than the correct 22 million metric tons.

We apologize for the error and have corrected the mistake on our website.

REAL PROBLEMS/SOLUTIONS

WASTE 'SNAPSHOTS' TELL US WHERE WE CAN DO BETTER

There were some built-in advantages for us getting a top waste diversion program going.

For one thing, the vendors at our site have prioritized waste reduction as a business goal.

That put pressure on us to develop a smart program.

The other advantage: Vendors want to do business here and with our partners.

So there's pressure on them to walk the talk.

Use data to find opportunities

Suffice to say, we've gotten great results.

As a team, we divert approximately 12 tons of organic material – food scraps, napkins, and food-soiled paper – from landfills every month.

Those efforts have helped us win awards and recognition.

But we don't rest on our laurels.

Our waste hauler keeps us appraised of how much and exactly what kind of garbage we generate on a weekly and monthly scale.

That way we can look at spikes and dips and figure out where we can do better.

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 has lived up to our expectations. This is the only publication we get."

Larry Richey
Plant Manager
ABC Industries
Warsaw, Indiana

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

HAZWASTE E-MANIFEST

Heads up, hazardous waste generators and treatment, storage and disposal facilities (TSDFs):

EPA will host online learning sessions on the hazwaste electronic manifest (e-Manifest) rule on November 3 from 1 to 5 p.m. Eastern Standard Time.

Topics being covered:

- current e-Manifest functionality and workflow
- a potential option to allow receiving facilities to upload electronic signatures to EPA, and
- other options that may require policy or regulatory change.

Thus far, TSDFs and industry have been reluctant to utilize all-electronic steps to report hazwaste manifests (for a timeline of the rule and implementation, go to our website and search for "hazardous waste electronic manifest"). Complicating matters, many facilities prefer to continue following Department of Transportation guidelines for hazwaste shipments.

To register for the online session, go to usepa.zoomgov.com/webinar/register/WN_yUyCEpZ9ToqHF3EU9IEyWw

EPA will accept public comments until December 30.

Info: regulations.gov/document/EPA-HQ-OLEM-2021-0608-0001

ENDANGERED SPECIES

Gray wolf populations in the Western U.S. and Rocky Mountains

are slated for the endangered or threatened species list.

U.S. Fish and Wildlife Services (FWS) agreed to look into protections for the species after considering two wildlife group petitions.

The gray wolf was first listed as an endangered species in 1978 but was eventually taken off the list.

Endangered or threatened listings will affect areas of Arizona, California, Colorado, Idaho, Montana, Nevada, Utah, Washington and Wyoming.

Info: 86 FR 51,857

EXTINCT SPECIES

In related news: FWS announced a total of 24 listed species have gone extinct.

The list of birds, fish and plants that no longer exist include:

- 13 species of birds
- eight freshwater mussels
- a Texas fish, and
- a Hawaiian plant.

Most of the species have been in danger going back decades.

For example, the ivory-billed woodpecker known for its black and white plumage and chiseled beak, was last seen in 1944.

Info: 86 FR 54,298

PFAS

The U.S. House of Representatives passed a bill that would make two emerging contaminants – perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) – hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

The Senate is expected to consider the Per- and Polyfluoroalkyl Substances (PFAS) Action Act of 2021 sometime this fall.

This Congressional bill gives EPA

greater impetus to regulate PFAS under CERCLA (aka the Superfund law) along with the:

- Safe Drinking Water Act
- Clean Water Act
- Clean Air Act (as hazardous air pollutants), and
- Toxic Substances Control Act.

Several states have enacted or are considering tighter maximum contaminant levels for PFAS than EPA's 70 parts per trillion benchmark (for a timeline of PFAS action, go to our website and search for "PFAS").

Info: House Resolution 2467, congress.gov/117/bills/hr2467/BILLS-117hr2467rh.pdf

VOC COATINGS REG

An EPA proposed rule that updates the national volatile organic compound (VOC) emission standards for aerosol coatings is on the books.

Industry groups such as the American Coatings Association first petitioned EPA for updates to VOC regs to help reduce formation of ground-level ozone.

The proposed rule:

- updates the table of Maximum Incremental Reactivity values for aerosol coatings
- adjusts the default values
- modifies regulatory language to allow for changing the value of existing compounds if needed, and
- adds several aerosol coating compounds used in manufacturing.

A proposed rule under Section 183(e) of the Clean Air Act is due by the end of the year.

Reactivity limits for aerosol coatings were last updated in 2008.

Comments are due before November 16. Agency contact is Kaye Whitfield, (919) 541-2509 or whitfield.kaye@epa.gov.

Info: 86 FR 51,851