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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).

Is Democrat climate agenda turning in industry's favor?

■ States pushing back hard against methane fees

Oil & gas companies are liable to escape high fees on methane emissions under consideration by the Democrat majority Congress.

A coalition of 19 state attorneys general led by West Virginia AG Patrick Morrissey oppose the Senate's Methane Emissions Reduction Act (Senate Bill 645) and the House's Build Back Better Act (House Resolution 5376) which would charge oil & gas producers between \$1,500 to \$1,800 per ton of methane emissions over set thresholds.

The AGs warn fees will drive up home heating costs this winter, hitting the poor and disadvantaged the hardest. Oil & gas rates are the highest they've been in seven years with no dip in sight.

Methane fees would cost industry \$14.4 billion in part due to the complex formulas and calculations for determining fees and lack of clear guidance from Congress, and an estimated 155,000 jobs could be eliminated, the AGs argue.

If enacted, Congress won't stop with imposing methane fees on the oil & gas sector, the AGs warn. Up next will be:

- farms and ranches
- landfills, and
- coal mines.

Senate margin is razor-thin

The real fly in the ointment for President Biden and Democrats is

(Please see Democrat ... on Page 2)

NITROGEN OXIDES

Manufacturer hammered by \$52 million air fine

■ DIESEL ENGINES MARKED AS EPA COMPLIANT, BUT THEY WEREN'T

follow CAA regs and saved itself a fortune in fines.

An integrated truck and diesel engine manufacturer that skirted Clean Air Act (CAA) emission guidelines just got walloped by EPA.

Navistar, based in Lisle, Illinois, agreed with the feds to:

- pay a \$52 million civil penalty via a consent decree, and
- mitigate at least 10,000 tons of nitrogen oxide (NOx) emissions.

The fact that Navistar can remain in business at least for the time being suggests that it could've afforded to

Cheated and lied about efficiency

Navistar got caught putting more than 7,700 heavy-duty diesel engines onto the roads which didn't meet current emission standards.

The company listed the engines as EPA-certified.

Navistar must forfeit its current account of NOx credits, and purchase and destroy enough older diesel engines to prevent 10,000 tons of future NOx emissions, a primary contributor to smog.

FOREVER CHEMICALS

4 chemicals slated for hazwaste listing

Heads up: Four of the most troublesome per- and polyfluoroalkyl substances (PFAS) will soon be listed hazardous wastes under the Resource Conservation and Recovery Act (RCRA).

The move by EPA was spurred by a petition from New Mexico Governor Michelle Lujan Grisham (D).

Most states are authorized to run their own RCRA programs and can already pursue RCRA enforcement actions against businesses and municipalities with PFAS contamination in groundwater and soil that needs to be addressed.

Effluent regs target PFAS

The four PFAS earmarked for RCRA hazwaste listing are:

- perfluorooctanoic acid
- perfluorooctane sulfonic acid
- perfluorobutanesulfonic acid, and
- GenX.

Industry can expect a flurry of PFAS actions to come as part of the agency's plan to effectively monitor and remediate chemicals in drinking

water supplies.

For example: EPA's Preliminary Effluent Guidelines Plan 15 includes new pretreatment guidelines for Dupont's GenX.

The new guidelines affect:

- organic chemicals, plastics and synthetic fibers (discharges from PFAS manufacturing), and

expect a flurry of actions to come

- metal finishing (PFAS discharges from chromium electroplating facilities).

Info: tinyurl.com/pfasrcra663 and tinyurl.com/effluent663

Democrat ...

(continued from Page 1)

Senator Joe Manchin (D-WV), who's demanded a cease-fire against any further taxing or regulation of coal mining and power plants.

Manchin could be the ally Morrissey and his fellow Red State AGs, including Texas and Louisiana, will need to stymie or at least get a rewrite of the Congressional bills.

Next up: EPA emission regs

In their petition letter to the Senate Committees on Environment and Public Works and Energy and Natural Resources, the AGs argue fees aren't needed because EPA is working on a new oil & gas methane rule (*search for "Biden methane oil gas" at our website for more stories*).

A coalition of industry groups are set to sue the feds as soon as EPA proposes the methane rule for the oil & gas sector.

Info: ago.wv.gov/Documents/2021.10.14%20Methane%20Letter.pdf

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 FACILITY BE LIABLE FOR CUSTOMER'S DISPOSAL BILL?

Buck Flanagan, environmental manager, couldn't believe his bad luck. It was late on a Friday afternoon, but instead of making a tee time with his buddies, Buck was huddled with his company's attorney, Cliff Uplander.

"I've heard of this happening before, but it's a little out of the ordinary," said Buck.

"We could be liable for our customer's hazardous waste problem if the court believes what they're saying," said Buck.

"Well what is the customer saying?" asked Cliff.

Product label didn't spell it out

"They're claiming we said it was OK to pour solvent waste down the drain," Buck said.

"If they can convince a court we helped 'arrange' a hazardous disposal, we'd be responsible for cleanup costs."

"Did we tell the customer that?" Cliff asked.

"No way," Buck replied. "The instructions do say it's fine to collect minor overflows in a pan or bucket if the liquid can be re-used.

"Here's the product label," said Buck, handing Cliff a bottle.

"Hmm. There's nothing on here about what constitutes illegal disposal," said Cliff. "That could cause a problem.

"I've seen too many judges and juries excuse the dumbest mistakes because a product label didn't spell out the obvious!"

Was the company found liable?

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



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Environmental Compliance Alert (ISSN 1069-0131), December 6, 2021, Vol. 29 No. 663, is published semi-monthly, except once in December (23 times a year).

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Where other companies are stumbling over compliance

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

Got hazardous chemicals? EPA needs to know

Companies: Technic in Woonsocket, Rhode Island; TEI Biosciences in Boston; and Nutmeg Container in Putnam, Connecticut.

Business: Specialty chemicals and custom finishing equipment manufacturing; medical equipment and supplies; and protective packaging manufacturer (respectively).

Penalty: \$96,818 (total).

Reasons for penalty: The New England-based companies failed to submit annual Toxics Release Inventory (TRI) reports on hazardous chemicals they used and stored, required under the Emergency Planning and Community Right-to-Know Act (EPCRA). The breakdown:

- Technic was fined \$50,601 for not filing TRI reports for formaldehyde, methanol, and silver and nitrate compounds for 2019.
- TEI Biosciences is out \$34,895 for not reporting chloroform in 2017 and 2018.
- Nutmeg was fined \$11,322.50 for not reporting diisocyanate compounds in 2019.

Time to pony up for railcar oil spill: \$82K fine

Company: Union Pacific Railroad (UPRR), Omaha, Nebraska.

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.

Business: Interstate rail transporting crude oil, liquefied natural gas and other commodities.

Penalty: \$82,000.

Reasons for penalty: In spring 2016, a UPRR train with 96 tank cars carrying Bakken oil from North Dakota to a refinery in Washington derailed and released approximately 47,000 gallons of crude oil in Mosier, Oregon. Most of the spilled oil discharged to the Mosier wastewater treatment plant, which was forced to shut down for two weeks, and created a visible sheen on the Columbia River. About 45,000 gallons vaporized, burned or were captured by a cleanup crew.

Note: UPRR paid for cleanup and improvements to Mosier's wastewater plant.

Filling in stream without a permit isn't a smart plan

Companies: Eagle 1968 and Kings Construction, Lawrence, Kansas.

Business: Real estate development.

Penalty: \$84,000. The companies must purchase \$300,000 of mitigation credits to benefit a local stream and wetland preserve.

Reasons for penalty: Eagle and Kings renovated facilities and grounds of the former Alvamar Country Club, now known as the Jayhawk Club, without first obtaining a Clean Water Act (CWA) Section 404 permit. They discharged pollutants into 7,000 feet of streams by placing fill material into the streams and grading over 256 acres.

Note: Under the CWA, parties must obtain permits before filling in streams or wetlands, or disturbing more than an acre of land adjacent to waters.

CAFO can expect fines unless it cleans up its act

Company: Slater Farms, Holton, Michigan.

Business: Large concentrated animal feeding operation (CAFO).

Penalty: \$12,000.

Reasons for penalty: Slater Farms allowed cattle waste containing nitrogen, phosphorus and E. coli to pollute the White River watershed. The CAFO didn't have a discharge permit as of 2012. After obtaining a permit, it continued to allow illicit discharges to streams and lakes.

Note: Slater can reduce half of its fine if it doesn't violate the Clean Water Act for one year under the terms of its settlement with Michigan's Attorney General. The CAFO generates 8.9 million gallons of liquid waste and 1,500 tons of solid waste per year.

Inspection shows site not ready for chemical leak

Company: Taylor Farms, Salinas, California.

Business: Manufacturer of fruit and vegetable packs and other products.

Penalty: \$178,000.

Reasons for penalty: Taylor Farms violated chemical release prevention and reporting requirements of the Clean Air Act's Risk Management Plan (RMP) program. The company uses significant amounts of anhydrous ammonia, a highly hazardous chemical. Inspections of Taylor's food storage and distribution facilities revealed numerous process safety and equipment maintenance issues, including failure to:

- properly conduct hazard assessments
- document the design, maintenance, inspection, testing and operation of electrical equipment, and
- implement written operating procedures.

Note: Anhydrous ammonia is historically the most cited hazardous substance in RMP and EPCRA enforcement actions.

NAAQS

Get ready for a stronger PM 2.5 standard

We've been warning readers about this for the past two years – EPA scientists want to strengthen air quality standards for particulate matter (PM).

A new agency report suggests national ambient air quality standards (NAAQS) will be tightened before President Biden's first term ends.

EPA scientists argue PM 2.5 (fine particulates 2.5 microns in diameter or smaller) from sources like power plants and tailpipes are largely to blame for lung disease, childhood asthma and early deaths.

30K lives saved per year?

The policy assessment concludes that “scientific evidence, air quality analyses and the risk assessment for a type of pollution called fine particulate matter can reasonably be viewed as calling into question the adequacy of the public health protection afforded by the [NAAQS].”

AIR MONITORING

Study: Magnetism a cheaper way to find pollution

■ POOR TOWNS & COUNTRIES COULD BENEFIT FROM MAGNETIC TESTING

Using air quality monitors and chemical analyses to pinpoint a pollution problem isn't cheap and is often time-consuming.

Researchers at the National Autonomous University of Mexico have a better idea – using magnetism to measure air quality.

Reason: The most common processes that produce tiny particulates such as fossil fuel combustion also release heavy metals.

So pinpoint an area where airborne heavy metals are higher than normal and you'll know where pollution controls may be needed, such as flue gas desulfurization for a power plant.

“Combustion of fossil fuels,

Unlike four of the other criteria pollutants regulated by NAAQS under the Clean Air Act, PM standards have

EPA: Tougher reg will save 1,000s

been revised a half-dozen times since 1971. The current primary NAAQS for PM 2.5 is 12 micrograms per cubic meter of air ($\mu\text{g}/\text{m}^3$).

How low could the primary and secondary standards end up going?

In 2019, a group of EPA air and radiation office regulators recommended the NAAQS be set between 8 $\mu\text{g}/\text{m}^3$ and 10 $\mu\text{g}/\text{m}^3$. An agency draft report at the time estimated a reduction of 34,000 deaths annually as a result.

Info: tinyurl.com/particulates663

particles caused by the wear of roads and tires, metal smelting, production of cement, coal-burning power plants, steel manufacture and agricultural processes” all leave clues in the environment like roadside dust, topsoil, plants and home air filters inside homes.

Not the end-all, be-all

Researchers acknowledge magnetic measurements can be affected by “exposure time, source distance/ strength, sampling height ... number and intensity of rainfall events, and wind velocity and direction.”

Magnetic indicators should be compared with baseline data such as natural metallic properties of local soil and plants.

Info: tinyurl.com/airstudy663

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 RUNOFF ORIGINATED OFF SITE

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

I'm recommending we cite Acme Activities for violating federal stormwater rules.

The fine could easily exceed \$90,000. Acme failed to adopt best management practices to control stormwater discharges while it builds a new facility.

After receiving a number of complaints from neighbors, we conducted a surprise inspection at Acme. Just as the complaints stated, we found muddy streams running off the property and draining into a creek nearby.

This was no isolated incident. Some of these runoff streams revealed highly eroded and gouged-out gullies.

Runoff picked up oil, grease

An Acme exec insisted that his company wasn't responsible.

“All this water's running down from the mountains and over our property. If we weren't here it would still flow into the creek,” he said. “Why should we spend money to stop nature?”

I told him that it doesn't matter where runoff originates. If it leaves an industrial property, that owner has to control it.

Acme's runoff was picking up oil and grease from all the equipment on site. There was an obvious sheen on the runoff.

Before we let Acme resume construction, the company must apply for a stormwater permit.

■ Dramatized for effect. Based on a settlement between EPA and an industrial facility.

DISCHARGE PERMITS

Process changes can trigger permit need

Just because a facility hasn't been a categorical wastewater site doesn't mean it'll always be that way.

Changes in processes can easily change a facility's situation.

'No-discharge' requires a waiver

Fact: Municipal wastewater plants are increasingly demanding that industry pretreat their wastewater before it reaches the end of the pipe.

That can be a costly – and preventable – step for some facilities.

Your best bet: An engineering report can help make the case that pretreatment (or a discharge permit altogether) isn't needed.

Reminder: "No-discharge" facilities may need waivers certifying they're no-discharge sites.

4 tips for complying with permits

What if there's just no way around it and you're stuck having to comply with a discharge permit?

Here are four best practices for complying:

1. What the permit says, goes. No more, no less.
2. Don't turn in quarterly samples early. The results are no good if they come too quickly after a previous

Keep regulators in the know.

sampling. It's a waste of your time and can lead to a check by your state agency.

3. Sample early in the quarter. Over time you'll get more reliable results, and you'll be less likely to miss reporting deadlines.
4. If you modify your processes, you should let both your reporting agency as well as the local or county wastewater treatment plant know.

employee injuries or a release to the environment through a fire or explosion.

Separate containers a must

Clean Harbors in San Jose is a TSDF that provides wastewater treatment for generators of corrosive liquids, as well as fuel blending.

EPA conducted a RCRA inspection in 2019 after a referral from the California Department of Toxic Substances Control.

Wastes are incompatible if they can corrode or decay through container liners or tank walls, or if co-mingling with other wastes might produce heat or pressure; fire or explosion; violent reaction; toxic dust, mists, fumes or gases; or flammable fumes or gases.

TRENDS TO WATCH

■ OSHA COVID-19 POLICY KICKS IN JAN. 4: WHAT IT SAYS

Employers with 100 or more employees are required under OSHA's new emergency temporary standard (ETS) to have a mandatory COVID-19 vaccination policy.

Caveat: Employers that require employees to either get vaccinated or undergo regular testing, and wear a face covering at work, are considered in compliance.

Employers aren't required to pay for testing of unvaccinated employees or for face coverings.

The ETS requires employers provide paid time to workers to get vaccinated and to allow for paid leave to recover from any vaccination side effects.

Recordkeeping is critical

Employers will also have to:

- determine vaccination status of each employee and obtain acceptable proof of vaccination
- mandate employees give "prompt notice" if they test positive for COVID-19
- remove COVID-19 positive employees from the workplace, regardless of their vaccination status, and
- ensure unvaccinated or not fully vaccinated workers are tested at least weekly if they're in the workplace at least once a week.

OSHA is offering compliance assistance to help employers implement the ETS, including a webinar, frequently asked questions page and other materials.

More than 25 states and many labor unions are suing the Biden administration, arguing vaccine mandates and an ETS are unconstitutional. We'll keep you posted on pending cases and the status of the ETS.

Info: safetynewsalert.com/articles/osha-employee-vaccination-deadline-jan-4-2022

HAZARDOUS WASTE

Outdated equipment tags merit \$25K RCRA fine

■ HAZWASTE TREATMENT SITE GETS NO SLACK FROM EPA INSPECTOR

Heads up: Hazardous waste treatment, storage and disposal facilities (TSDFs) may be held to a higher standard than other industry sectors when it comes to Resource Conservation and Recovery Act (RCRA) violations.

Case in point: A California TSDF is paying \$25,000 in fines for:

- not replacing metal tags on equipment used to transfer hazwaste. Tags help employees to readily distinguish equipment that require monitoring under RCRA Subtitle C regs, and
- failing to separate all containers of incompatible hazwaste during storage. This mistake can lead to

RULE ROLLBACKS

Climate restored as core tenet of NEPA

Rollbacks of Trump administration rules continue – this time it’s three reforms of the National Environmental Policy Act (NEPA) finalized in 2020.

The White House Council on Environmental Quality (CEQ) is restoring three “core procedural provisions” of NEPA:

Emissions take center stage

1. Evaluation of and emphasis on climate change effects, such as greenhouse gas emissions from a fracking project, must be a priority of impact reviews for developing on public lands.

2. NEPA rules are meant to be the floor not the ceiling for impact reviews. More stringent rules by federal agencies must be part of the permit evaluation process.

3. Federal agencies shouldn’t be limited in seeking alternative approaches to minimize environmental impacts, including getting input from communities where projects are slated to be built.

Additional changes are on the way for NEPA guidelines to increase public input on fracking, mining and

other kinds of projects, and emphasize environmental justice concerns.

Info: tinyurl.com/neparollback663

TSCA: Imports with mercury to be reported

Watch out: Companies that import preassembled products containing a mercury-added component must report imports to EPA under the mercury inventory reporting rule.

The rule change will affect importers and retailers because products like wristwatches with mercury-added batteries are now reportable.

EPA amended the 2018 rule after the 2nd Circuit U.S. Appeals Court vacated the exemption in 2020. The court ruled EPA didn’t provide a valid reason for its exemption.

The original rule only covered manufacturers and importers of mercury or mercury-added products, or entities that “otherwise intentionally use mercury” in a manufacturing process.

Info: RIN 2070-AK93

WHERE TO GET HELP

WHO’S HAULING PRODUCT & KEEPING EMISSIONS DOWN?

Moving goods to places they’re needed while minimizing greenhouse gas emissions is more challenging than ever, but a handful of companies are showing how it can be done.

EPA’s annual SmartWay Excellence Awards honor top shippers in retail and manufacturing, along with truck, barge and multimodal carriers, for how they move products and supplies.

Winning companies are utilizing state-of-the-art logistics systems to track miles driven, and measure output of nitrogen oxides and carbon dioxide.

Info: epa.gov/smartway/smartway-excellence-awardees#list

GENEROUS FUNDS AVAILABLE FOR LEAD IN WATER TESTING

School districts and municipalities are taking advantage of hefty grants to monitor for water quality and make system upgrades.

For example, **Maine** received more than \$600K to test for lead in public schools through the Water Infrastructure Improvements for the Nation Act.

Info: usagrantsapplications.org

SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2)

No. Buck’s company wasn’t found liable for its customer’s cleanup costs.

The customer insisted the company should pay toward the cleanup because it had helped “arrange” disposal of a hazardous waste.

That “help” was in the operating instructions, which stated that the operator could drain the solvent into a bucket for final disposal.

Also: The customer argued the instructions weren’t clear enough about what constituted illegal, unsafe disposal, which should put the company on the hook for what would be an expensive Superfund cleanup.

Result: A federal court rejected the argument. It agreed

with the company that the directions were clear and didn’t condone pouring solvent down a drain.

LESSON LEARNED: HAZWASTE GENERATORS ARE LIABLE IF THEY DUMP WASTE ILLEGALLY

This case clearly shows it’s primarily – though not always exclusively – the responsibility of a hazardous waste generator to dispose of that waste properly – not a vendor or manufacturer that supplies a product.

The court emphasized that simply having knowledge that a customer could dispose of a product unsafely doesn’t make a manufacturer responsible for the resulting mess.

Caveat: If a vendor does give or put “bad info” in writing, then all bets are off.

Cite: *Team Enterprises v. Western Investment Real Estate Trust*. This case has been dramatized for effect.

CLIMATE CHANGE

Will Supreme Court rein in Biden EPA?

Fourteen years ago, the Supreme Court ruled greenhouse gases (GHGs) like carbon dioxide and methane qualified as air pollutants that could be regulated under the Clean Air Act in its decision *Massachusetts v. EPA*.

Next year, the High Court will reassess how much leeway the government should get to regulate GHGs from the energy sector.

More conservative court to decide

The Supreme Court agreed to hear a challenge of EPA's regulatory powers brought by West Virginia Attorney General Patrick Morrisey and 18 other AGs (*see cover story and top item of Page 8 for related news*).

Morrisey argues EPA rulemaking has decimated the coal mining industry, and Biden EPA proposals will lead to skyrocketing energy costs and job losses.

The AG says Biden needs Congress's approval to "reshape" the energy industry but can't do so via EPA rulemaking.

Justices will hear oral arguments in February and most likely issue a ruling no later than June.

Four conservative judges (Alito, Kavanaugh, Gorsuch and Thomas) are near-locks or locks to support the AGs, but they'll need Roberts or Barret to swing a 5-4 decision in industry's favor.

Info: supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/20-1530.html

Hard-rock mining nixed in Build Back Better bill

Hard rock mining companies say they're getting the proverbial shaft from Congress through the Build Back Better (BBB) bill.

Some good news: Legislators removed a few of the more onerous

restrictions on mining, including the so-called "dirt tax" that charged companies per ton of non-ore materials displaced during mining.

A gross royalty tax of 4% on new mines and mine expansions replaces an 8% hit in earlier legislation. Existing mines with approved plans of operation face a 2% royalty tax.

Domestic mining in cross-hairs

The reworked BBB cancels a federal land exchange that had permitted the Resolution Copper project in Pinal County, Arizona.

Resolution reportedly would've supplied 25% of industry's copper need for decades.

Bottom line: Mining on government-owned lands will continue to be cost-prohibitive for at least the next three years.

Info: Snell & Willmer, www.swlaw.com/blog/environmental-and-natural-resources, 11/2/21.

Which HFC refrigerants are going out first?

EPA is considering petitions from enviro and industry groups to quickly phase out hydrofluorocarbons (HFCs).

Both sides agree on banning the refrigerant R410A in new domestic and commercial air conditioning equipment on Jan. 1, 2025.

Petitioners support a 150 global warming potential (GWP) limit for most refrigeration, including supermarkets and ice rinks, and a 750 GWP limit for air conditioning.

HFC manufacturers are drawing down HFC production due to the American Innovation and Manufacturing Act which calls for an 85% reduction by 2036 (*search for "HFC coolants" at our website*).

Info: coolingpost.com/world-news/us-epa-considers-r410a-ban-from-2025/

REAL PROBLEMS/SOLUTIONS

■ MAKE RECYCLING EASY AND IT'LL BE A BIG SUCCESS

About 15% of people will always recycle. Another 15% are skeptics who don't buy in.

Then there's the 70% in the middle. That's the target audience who make or break a program.

They'll recycle, but only if it's convenient and easy.

Placement of bins is key

Confusion is what ruins many recycling programs. So bins should clearly show what they're for.

We use different colors to distinguish recycling bins from regular trash.

And it's best to label with clear and consistent language.

Restrictive lids are another great way to cut down on contamination.

For example: A bin for cans should optimally have a round slot opening.

And finally, where you place recycling bins is vital. Whenever possible, put bins in the areas where waste is being generated.

For example, one university put recycling bins in classrooms where students discarded bottles.

Result: Their recycling rate increased by 128%!

▼ FROM OUR SUBSCRIBERS

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

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

Mark Carpenter
EH&S Specialist
ProFusion Industries

Air, Water & Waste regs that affect your operations

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

OIL & GAS METHANE

The Biden EPA announced a methane emissions plan that could be one of the most expensive regs for the oil & gas sector, and consumers, in agency history.

The rule calls for:

- a comprehensive monitoring program for new and existing well sites and compressor stations
- a zero-emissions mandate for pneumatic controllers, which account for approximately 30% of methane from the sector (a limited alternative standard is proposed for sites in Alaska)
- phasing out practices like venting associated gas
- a “capture-and-sale-of-gas” mandate for new and existing oil wells
- tougher performance standards for storage tanks, pneumatic pumps and compressors, and
- a requirement that state regulatory agencies engage with overburdened (aka environmental justice) communities to develop state implementation plans.

EPA will give owners/operators flexibility to use advanced leak detection technologies to locate major leaks.

The overriding goal is to slash methane emissions by 41 million tons through 2035, the equivalent of 920 million metric tons of carbon dioxide.

The reg will also reduce emissions of volatile organic compounds by 12 million tons and hazardous air pollution by 480,000 tons by 2035.

EPA estimates cumulative net climate change benefits (taking into account savings from recovered natural gas) will be between \$48 to \$49 billion from 2023 to 2035.

The agency will take comments on the plan for 60 days once it's published in the FR.

(For related stories, see cover story and top item on Page 7.)

Info: epa.gov/system/files/documents/2021-11/2021-oil-and-gas-proposal.-overview-fact-sheet.pdf

OSHA LEADERSHIP

OSHA will have its first administrator in over four years.

The Senate confirmed Doug Parker as head of the Department of Labor's OSHA by a 50–41 vote.

President Trump's nominee was held up for months and dropped out. A second candidate wasn't put forward, leaving the agency without a confirmed administrator for Trump's entire term.

As Chief of California OSHA, Parker oversaw the Emergency Temporary Standard for COVID-19 workplace safety which other states and the feds looked to for similar health and safety guidelines.

OSHA is rolling out a COVID policy for businesses with more than 100 employees as per a Biden executive order (see sidebar, Page 5, for more info).

Before heading CalOSHA, Parker served as deputy assistant secretary of policy at the Mine Safety and Health Administration.

TSCA

Chemical companies can expect tougher rulemaking under the Toxic Substances Control Act (TSCA).

EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) recently announced:

- two new internal science policy

advisory councils to assist OCSPP

- a senior-level science policy advisor who'll consult with the assistant administrator, and
- improvements of existing TSCA policies and procedures.

So far this year, OCSPP has inventoried and reviewed over 100 different standard operating procedures, guidances and science policies under TSCA. Many will be updated in the coming year.

A recent news report blamed infighting between EPA divisions, as well as too much chemical industry influence, for a lack of robust TSCA actions since Congress strengthened the law in 2016.

Info: epa.gov/chemicals-under-tsca

ETHYLENE OXIDE

Facilities that use ethylene oxide (EtO) in their processes face new reporting obligations to the Toxics Release Inventory (TRI).

EPA notified 31 facilities that utilize EtO as a sterilizing agent for medical instruments, or in the chemical manufacture of ethylene glycol, that they may be required to report quantities and releases soon.

TRI is an annual reporting program for hazardous chemicals that affects more than 22,000 facilities as part of the Emergency Planning and Community Right-to-Know Act.

EPA believes these 31 contract sterilization facilities use the highest amounts of EtO, likely higher than the 10,000 pounds per year “otherwise used” TRI reporting threshold.

EtO is a known human carcinogen linked to seven kinds of cancer – lymphoma, non-Hodgkin lymphoma, leukemia, and breast, lung, brain and uterine cancers.

Info: epa.gov/newsreleases/epa-takes-next-step-broaden-tri-reporting-requirements-ethylene-oxide