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## SAFETY NEWS ALERT

*Environmental Compliance Alert* keeps industry pros up to date on the latest EPA rules, why companies are being fined, and the latest trends at the federal and state level. Read what environmental pros depend on to prevent pollution and stay in compliance. *Environmental Compliance Alert's* editor is Scott Ball (email: [sball@SafetyNewsAlert.com](mailto:sball@SafetyNewsAlert.com)).

## Key to a successful site audit? Know the benefits & pitfalls

■ *Once you're committed, you've got to finish it*

**E**PA's voluntary audit policy is a very fruitful olive branch for regulated facilities.

Uncover an air, water, waste or chemical safety violation – and commit to correcting it ASAP – and you stand a good chance of seeing a significantly reduced or waived penalty.

Self-auditing can help uncover problems like soil contamination and allow your business to be a good steward to the environment.

### Some points to think through

However: There are a few caveats and good rules of thumb to consider before you launch an audit of any of your facilities.

Attorneys Frost Brown Todd outlined some good pointers based on their experiences with regulated facilities and EPA:

### 1. Be prepared to act & pay out

This is a big one: "Prior to beginning the audit process, management should agree that it will do what's needed to address any violations or deficiencies discovered.

Reason: "Doing nothing to address [violations] could lead to additional civil or even criminal liability."

In other words, before you begin unpeeling the onion, there must be a strong financial commitment from the top to finish the job.

*(Please see Audit ... on Page 2)*

## CLEAN WATER ACT

### Temporary WOTUS rule expands pollution liability

■ REGULATORY CERTAINTY? FAT CHANCE AS EPA TWEAKS POLICY

**F**lashback: Federal courts didn't abide by how both the Obama and Trump administrations interpreted Waters of the U.S. (WOTUS).

So until EPA and the Army Corps of Engineers work out all the kinks on a long-term WOTUS rule, the agencies have adopted 1986 regulatory parameters for WOTUS instead.

### Short-term but wide-ranging

Yes you read that right, 35-year-old guidelines will soon be in effect. The good news: This proposed rule, if

finalized, won't be in place for longer than three years from now.

The bad news: The scope of waters under jurisdiction of the Clean Water Act is now wider than what the Obama EPA called for in 2014.

WOTUS now includes:

- traditional navigable and interstate waters, territorial seas and adjacent wetlands and their tributaries
- impoundments to WOTUS, and
- "other waters" that meet either the relatively permanent standard or the significant nexus standard.

**Info:** [tinyurl.com/kandlgateswotus665](https://tinyurl.com/kandlgateswotus665)

## GREENHOUSE GASES

### Will SCOTUS weaken EPA climate plan?

The U.S. Supreme Court (SCOTUS) will most likely rule in industry's favor when it hears four consolidated challenges of climate change regulations (*search for "Biden Supreme Court EPA" at our website for more*).

Many climate activists are concerned SCOTUS could essentially overturn *Massachusetts v. EPA* (2007), which validated greenhouse gases (GHGs) as a pollutant that should be regulated under the Clean Air Act Section 111(d).

#### Court not waiting for Biden rule

Industry's main beef with GHGs since *Massachusetts* became the law of the land:

- rulemaking consistently goes beyond fenceline emissions and instead focuses on companies' supply chain choices, "carbon footprints" and mandates to invest in renewable fuels, and
- the coal and oil sectors are unfairly targeted for restrictions, though both lead to higher concentrations of carbon dioxide emissions than

other fuel sources.

We predict at least five, possibly six, justices will be sympathetic to industry's concerns.

The High Court's decision to hear the appeals before the Biden EPA promulgated its version of a Clean

### Many climate activists are concerned

Power Plan (stayed by the Supreme Court in 2016) is unusual, suggesting the conservative judges intend to curtail EPA's powers.

We'll keep you posted.

#### Audit ...

(continued from Page 1)

Your insurance carriers may be required to soften the burden of a cleanup or upgrade and should be informed immediately if an audit finds problems to fix.

#### 2. Clearly define the audit's scope

An industrial site that's been in business a decade or two is liable to have been in noncompliance with some enviro (or safety) requirement!

Define the scope of your audit – determining if you're sitting on a groundwater plume or if air toxics are leaking from your tanks, for example.

#### 3. Don't wait to bring in experts

Audits can take up a lot of time and resources. You may need help.

"Outside consultants ... will bring valuable expertise to the table, while freeing up internal staff to [assist] continue their normal job duties."

Info: [tinyurl.com/frostbrowntodd665](http://tinyurl.com/frostbrowntodd665)

## 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.

### WASTE VENDOR DIDN'T HAVE A PERMIT – IS CLIENT LIABLE?

Buck Flanagan, environmental manager, sat down with his company's attorney for what shaped up to be a long afternoon.

"Before we meet with EPA, let's make sure we're clear on the facts," said Frank, the company attorney.

"Of course," said Buck. "We've been sending our hazardous waste to Acme Treatment for the past couple of years.

"We paid them to treat our waste and keep it out of the environment. That's their specialty," said Buck.

#### Company assumed, didn't verify

"The only problem was Acme didn't have the proper permits to handle it," said Frank. "Right?"

"That's right," said Buck. "We dropped the ball, I guess.

"My understanding was Acme had a permit back when we first contracted with them, which was before I started here.

"But I can't swear to that, and I never saw proof of a permit," Buck admitted.

"Acme is in big trouble obviously," said Frank. "I don't see EPA going light on us either."

"Here's the thing though: Can they show Acme released any of our hazwaste?" Buck asked.

"I don't see any evidence of environmental misconduct on our part," Buck concluded.

EPA fined Buck's company, and the company appealed.

Who won?

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](http://www.EnvironmentalComplianceAlert.com/category/who-got-fined-why)

### **Hazwaste storage area a deadly hazard for staff**

**Company:** MacDermid Enthone, West Haven, Connecticut.

**Business:** Plating chemicals for the semiconductor industry.

**Penalty:** \$86,769.

**Reasons for penalty:** The company violated the Resource Conservation and Recovery Act (RCRA) by failing to:

- determine if all its waste chemicals were hazardous
- properly label hazardous waste containers and a tank, and
- provide adequate aisle space in the hazwaste storage area for employees and emergency personnel.

**Note:** The company corrected its RCRA mistakes and also permanently closed and removed a 500-gallon underground hazwaste storage tank.

### **Oil & chemical releases endangered employees**

**Company:** Limetree Bay Refining, Saint Croix, Virgin Islands.

**Business:** Oil refinery.

**Penalty:** \$259,000.

**Reasons for penalty:** Visible oil and vapor releases into the air, plus fiery flares, sparked an OSHA inspection. The company violated the process safety management standard by failing to:

*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.*

- compile all necessary information on equipment and technology, including relief system design and safe operating limits
- implement hazard controls
- complete a pre-startup safety review, and
- inspect process equipment before starting it up and introducing hazardous chemicals to the process.

### **Storm-sewer overflow fixes to cost county \$1.5M**

**Entity:** Berkeley County Public Service Sewer District, West Virginia.

**Business:** Publicly owned treatment works (POTW).

**Penalty:** \$518,400 penalty and a \$1.14 million supplemental environmental project.

**Reasons for penalty:** This county POTW can't avoid paying for widescale improvements to end storm-sewer overflows any longer. The Berkeley POTW:

- exceeded pollution limits more than 1,300 times
- allowed sanitary sewer overflows more than 500 times
- failed to properly operate and maintain its sewage collection systems, and
- never implemented an adequate municipal separate storm sewer system (MS4) program.

**Note:** Berkeley's settlement with EPA requires it to:

- establish an MS4 program
- assess capacity, mapping and a medial measures plan for its sewage collection system, and
- implement a pump station inspection plan and a corrective action program.

### **Particulate matter levels too high: \$197K penalty**

**Company:** Lehigh Cement, Mason City, Iowa.

**Business:** Cement manufacturer.

**Penalty:** \$197,500.

**Reasons for penalty:** Lehigh is a major air source near overburdened, poor neighborhoods. Inspectors determined that the plant:

- exceeded pollutant limits in its Clean Air Act permit
- failed to submit required monitoring reports to the Iowa Department of Natural Resources, and
- didn't conduct required testing of pollution controls and process equipment.

**Note:** Lehigh will need to conduct additional emissions tests as part of its settlement with EPA. Cement plants are the third largest industrial source of air pollution, emitting more than 500,000 tons per year of particulate matter, air toxics and carbon dioxide.

### **FIFRA sets a high bar for pesticides & labeling**

**Company:** TriCal, Gilroy, California.

**Business:** Pesticide applicator.

**Penalty:** \$44,275.

**Reasons for penalty:** County and state agencies received multiple complaints from neighbors who reported health effects consistent with pesticide exposure from an almond field near Selma. They traced applications to TriCal and referred the case to EPA. Inspectors cited TriCal for infractions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA):

- misuse of its fumigants by not meeting all the label requirements
- noncompliance with the product label's soil surface compacting requirement, and
- failure to complete a site-specific fumigation management plan.

**Note:** The active ingredient in Tri-Cal's restricted-use fumigant is chloropicrin, an irritant with characteristics of tear gas.

## AIR PERMITS

### Keep the permit process on the fast track

Getting an air permit approved can take time, as you well know.

The last thing you want is a mistake coming from your end delaying the process even further.

Here are five ways you can keep your air permit application on the fast track, courtesy of Sarah Kronholm, a principal engineer at SLR Consulting, based in Washington and other states.

#### A smart game plan is critical

##### 1. Have discussions with the regulator (or regulators) beforehand.

Even just one pre-application meeting can be helpful because the regulator will get a mental picture of your industry and operations.

And as with any business relationship, getting off on the right foot and making a good impression can't hurt.

##### 2. Make sure your application is complete and accurate.

Something as simple as failing to number every page in a long application can cause a delay for your organization.

##### 3. Keep in touch.

A permit can stop dead in its tracks if the regulators aren't clear on something in it.

Give them a call or send an email to answer any questions and see if they need additional info.

##### 4. Be prepared for public concerns.

Keep in mind, environmental groups stay abreast of any air permits in the works.

##### 5. Justify your reasoning.

For example: Does your application include reasons for why your upstream or downstream emission units aren't included?

You'll save time predicting the regulator's concerns ahead of time.

## TOXICS RELEASE INVENTORY

### TRI reporting now mandatory for liquid natural gas

#### FIRST REPORTING OBLIGATION IS JULY 1, 2023 FOR GAS PROCESSORS

The list of industry sectors that must file Toxics Release Inventory (TRI) reports hasn't changed in recent years – until now.

Natural gas processing (aka gas liquid extraction facilities) have been added to the TRI program.

The final EPA rule went into effect on December 27 and applies to the reporting year starting January 1. Facilities will need to submit initial TRI reports by July 1, 2023.

#### 21 hazardous chemicals the issue

At least 282 natural gas processors with 10 or more employees are subject to the reg.

Environmental groups first petitioned for this addition in 2012. The Obama EPA declined making a move in 2015.

EPA believes natural gas-processing facilities use at least 21 TRI-listed chemicals such as n-hexane, hydrogen sulfide, toluene, benzene, xylene and methanol.

Compliance costs for the first year are about \$11.8 million and then about half that amount per year after 2022-23.

Failure to file TRI reports can lead to five- and six-figure fines. EPA is less likely to reduce chemical safety reporting violations than other types.

Good news: Companies that report violations can get fines waived or reduced under EPA's voluntary audit policy (see cover story for more).

Info: 86 FR 66,953

## 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.

### ■ WAY OVER THE THRESHOLD – AND NO RISK PLAN

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

We should expand our regional enforcement of agricultural fertilizer plants, based on a recent inspection we wrapped up.

No one wants a repeat of the tragic fire at the West, Texas fertilizer plant a few years ago.

But I'm afraid too many companies may have the attitude, "It can't happen here."

I nearly did a double take when I learned ABC-Ag kept well over half a million pounds of anhydrous ammonia at its warehouse.

We're talking about more than six times the threshold under the Clean Air Act Risk Management Program (RMP) rule.

### Lots of people at risk

Unfortunately that was news to the site manager. The emergency plan he showed me didn't come close to meeting the requirements necessary to prevent leaks, or inform firefighters and the community about the risks.

In ABC-Ag's defense, they did have some chemical safety measures in place. The manager knew about all the health risks with ammonia.

Yet they grossly underestimated how much of a risk that much ammonia presented without abiding by RMP.

I recommend we seek penalties of \$140,000. We should discuss getting word out to all regional offices. It doesn't look like everyone got the message after West.

■ Dramatized for effect. Based on a settlement between EPA and a Midwest fertilizer plant

## OIL POLLUTION

### Crackdown on spills! Who's paying out?

State attorneys general and the U.S. Department of Justice (DOJ) are extracting huge settlements for oil and chemical spills that wreak havoc on the ecology and fish.

Case in point: Texas AG Ken Paxton and the DOJ just reached a \$15.3 million settlement with barge owner Kirby Inland Marine.

One of Kirby's barges collided with a cargo ship, spilling about 168,000 gallons of oil into Galveston Bay. The spill contaminated 160 miles of coastline, including a wildlife refuge.

Texas and the DOJ prosecuted Kirby under the Oil Pollution Act. The company must also reimburse EPA and the state for cleanup costs.

#### Acid spill killed 270,000 fish

Massachusetts AG Maura Healey and the feds negotiated a \$1.5 million settlement with Barnhardt Manufacturing, a cotton bleaching company.

Three years ago, an outdoor aboveground storage tank at Barnhardt's facility in Colrain, leaked between approximately 53 and 60 gallons of concentrated sulfuric acid directly onto the ground.

The concentrated sulfuric acid killed more than 270,000 fish, including thousands of state-listed rare species, in the North River.

Records show company officials knew the storage tank was in need of

### No mercy on oil polluters! Millions in fines.

repairs, but didn't empty the tank or fix the tank soon enough.

Barnhardt was also fined for discharging wastewater in excess of its water permit and mismanaged hazardous waste oil.

## RCRA

### Biennial hazwaste reporting deadline is March 1

■ YOU'VE GOT A FEW PRECIOUS WEEKS TO GET REPORTING DATA IN ORDER

March 1 is right around the corner and it's an important deadline for thousands of regulated sites – the biennial reporting deadline for large quantity generators (LQGs) of hazardous waste.

Your report should be submitted to your state environmental agency or EPA every even-numbered year.

To avoid any unwanted scrutiny from regulators, make sure your report includes:

- your EPA ID Number
- facility name and address
- the quantity and nature (ignitable, corrosive, reactive, etc.) of hazwaste generated on-site, and

- descriptions of whether the hazwaste was sent for recycling, treatment, storage or disposal.

#### Some small generators are affected

LQGs are the main target of biennial reporting under the Resource Conservation and Recovery Act (RCRA).

But keep in mind that some small and very small hazwaste generators may need to report, as a few state agencies require it.

Note: If you're required to file biennial reports, inspectors will frequently ask to see your previous report. Make sure to keep a paper or electronic file easily accessible.

Info: [epa.gov/hwgenerators/biennial-hazardous-waste-report](http://epa.gov/hwgenerators/biennial-hazardous-waste-report)

## TRENDS TO WATCH

### ■ AIR PERMITTING BAR SET HIGHER IN NORTHWEST

The Oregon Department of Environmental Quality (DEQ) is tightening air permit guidelines for new sources.

DEQ's short-term directive will "ensure that short-term (1-hour and 24-hour) National Ambient Air Quality Standards (NAAQS) aren't exceeded for new sources."

New or modified sources that trigger major New Source Review (NSR) or state NSR for pollutants will need to perform air quality modeling and risk assessments, according to Pacific Northwest law firm Davis Wright Tremaine.

DEQ is likely to focus on fine particulate matter, ozone-causing pollutants and air toxics.

Info: [jdsupra.com/legalnews/oregon-deq-issues-air-permit-rules-for-7333418](http://jdsupra.com/legalnews/oregon-deq-issues-air-permit-rules-for-7333418)

### ■ STATES CRACKING DOWN ON FOREVER CHEMICALS

The Washington Department of Ecology is designating per- and polyfluoroalkyl substances (PFAS) as hazardous substances.

Ecology's next move: setting cleanup action levels for five kinds of PFAS compounds.

At the same time, the Washington Department of Health is working on state action levels for drinking water plants.

Most of Washington's PFAS contamination stems from military bases, airports, petroleum and chemical plants, and local fire departments using fire extinguishing foams that contain PFAS, commonly known as "forever chemicals" because they take decades to break down once in the environment.

The state banned firefighting foams containing PFAS in 2019 but exempted the users listed above.

Info: [ecology.wa.gov/Blog/Posts/October-2021/PFAS-forever-chemicals-now-regulated-under-state](http://ecology.wa.gov/Blog/Posts/October-2021/PFAS-forever-chemicals-now-regulated-under-state)

## CUMULATIVE IMPACTS

### EPA making the case for enviro justice

EPA has long contended that poor and racial minority neighborhoods are hit harder by pollution.

A soon-to-be-released cumulative impacts risk assessment guide is designed to justify the Biden administration's emphasis on environmental justice (EJ).

We've reported on how EPA plans to go after permit violators in overburdened communities (*search for "Biden environmental justice" at our website for examples*).

Hazardous waste, contaminated stormwater runoff, illicit wastewater discharges and air toxics emissions are target areas.

#### How wide's the disparate impact?

Law firm Crowell and Moring says that in order to bolster its EJ enforcement push, EPA wants to "demonstrate scientific methods on how to assess and mitigate environmental health risks to minority and low-income communities facing exposure to a complex combination of pollutants, in addition to other non-chemical stressors."

EPA's External Civil Rights Compliance Office is also working

on cumulative impacts guidance for recipients of federal funds disbursed by EPA.

#### Report: Algal blooms are a growing problem

EPA's Inspector General (IG) says the agency isn't taking harmful algal blooms (HABs) seriously enough.

The agency should be "focused on reducing, mitigating and controlling freshwater HABs" under the Clean Water Act and Safe Drinking Water Act, according to the IG.

#### Fertilizer runoff not going away

HABs occur when high levels of nutrients like nitrogen and phosphorus run off to rivers and lakes. The most common runoff sources are:

- livestock operations
- fertilizer from farm fields, lawns and gardens
- urban stormwater, and
- industrial and municipal discharges.

**Info:** [epa.gov/system/files/documents/2021-09/epa\\_ig\\_20210929-21-e-0264.pdf](https://epa.gov/system/files/documents/2021-09/epa_ig_20210929-21-e-0264.pdf)

## WHERE TO GET HELP

### ENERGY STAR FACTORIES SLASH CARBON EMISSIONS

Going with Energy Star-certified equipment and building materials not only cuts down on greenhouse gas (GHG) emissions, but it merits kudos from EPA.

And there's no downside to keeping on the good side of environmental regulators!

EPA praised 580 manufacturers for slashing 17 million metric tons of GHGs like carbon dioxide and methane in under five years.

Bonus: Investing in Energy Star products helped save more than \$443 million in energy costs.

Energy Star manufacturers are in sectors like:

- automobile plants
- paper mills
- bread and roll bakeries
- pharmaceutical companies
- cement makers
- glass factories
- electronics manufacturers, and
- textile plants.

**Info:** [energystar.gov/about/origins\\_mission/impacts](https://energystar.gov/about/origins_mission/impacts)

## SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2)

EPA and the Justice Department won.

Buck's company had to pay a steep Resource Conservation and Recovery Act (RCRA) fine for sending hazardous waste to an unpermitted waste handler.

The fine (\$1.4 million) is peanuts compared with the waste handling project the company must pay for.

Through its settlement with the feds, the company will invest \$16 million to build deep wells where it will inject liquid waste, safely away from groundwater sources.

#### RCRA puts onus on businesses and customers

This company paid a steep price for not contracting with a RCRA-certified waste handler.

Under federal and state laws, customers of contractors and vendors that don't have the proper licenses or permits are just as liable for air, water and waste violations.

### ANALYSIS: REGULATORS MOSTLY FOCUSED ON 'CRADLE-TO-GRAVE' OWNERSHIP OF WASTE

Just as larger facilities are pre-treating wastewater on site, a growing number of companies are turning to on-site waste treatment as well.

This settlement shows the feds are more concerned with how this company protects people and habitats from hazardous byproducts.

Bottom line: Businesses that get tripped up by contractor/vendor infractions can expect to pay a king's ransom to rectify the situation.

**Legal Cite:** Based on *U.S. v. Innophos*. This case has been dramatized for effect.

## ENFORCEMENT

### RCRA, RMP inspectors on the prowl

Facilities that stockpile hazardous waste without a permit can be ordered to cease normal business operations by regulators.

Case in point: EPA ordered U.S. Technology (UST) Media, an Ohio corporation with facilities in Georgia, Ohio and Utah, to stop accepting shipments of spent blast media (SBM) until it disposes of the 3.4 million pounds it's currently storing.

Treating and disposing of waste from sandblasting is one of the company's bread-and-butter operations.

#### On inspectors' radar in 3 states

UST Media was fined for improper management and storage of hazwaste without a Resource Conservation and Recovery Act (RCRA) permit at its multiple facilities.

Its SBM is toxic for cadmium, chromium and lead.

The company can start accepting hazardous SBM in the future so long as it complies with federal and state hazwaste laws.

Fine: \$200,000.

**Info:** [epa.gov/enforcement/us-technology-media-inc-settlement-information-sheet](https://epa.gov/enforcement/us-technology-media-inc-settlement-information-sheet)

### Chemical safety violators put funds into facilities

Chemical safety settlements are focusing more on mandatory equipment and facility upgrades – often times, very expensive ones.

For example, a California grape packing and storage facility, as part of a \$188,882 civil settlement, agreed to:

- replace the louvered doors in its ammonia machinery rooms with solid panel doors per “industry standards”
- replace its machinery room emergency ventilation system

- install a safety shower and eye wash station, and
- replace pressure relief valves for its ammonia refrigeration system.

#### Documents didn't meet the mark

Giumarra Vineyards, located in Bakersfield, was penalized under the Clean Air Act's Risk Management Plan (RMP) guidelines and the Emergency Planning and Community Right-to-Know Act requirements.

Inspectors weren't satisfied with Giumarra's documentation that its refrigeration system was properly designed to prevent ammonia releases. The company also didn't provide accurate ammonia data to first responders and chemical regulators.

**Info:** *Go to our website and search for “ammonia chemical safety” to see related stories.*

### Biden amps up zero emission goals for feds

President Biden wants all federal government agencies to go all-in on renewable energy.

The Biden Federal Sustainability Plan announced in December sets five ambitious goals:

- 100% carbon pollution-free electricity by 2030, at least half of which will be locally supplied clean energy to meet 24/7 demand
- 100% zero-emission vehicle acquisitions by 2035 and entirely zero-emission light-duty vehicle purchases/leases by 2027
- net-zero emissions from federal procurement no later than 2050, including a Buy Clean policy to use construction materials with lower embodied emissions
- a net-zero emissions building portfolio by 2045, and
- net-zero emissions from overall federal operations by 2050.

## REAL PROBLEMS/SOLUTIONS

### ■ GOING WITH REUSABLE TOWELS CUT WASTE IN HALF

Our employees use hundreds of shop towels for cleaning tools and products.

At one point we were filling two 55-gallon drums with solvent-soaked disposable rags every day.

We knew other companies were going with reusable wipes and cutting down on dangerous waste as a result.

Shortly after making the switch, we cut the amount of waste to just one drum per week.

Now we have an industrial laundry pick up, clean and return the reusable rags.

#### Saw a big savings in first year

In addition, we improved our ordering system for buying and storing materials.

That way we get stuck with far less material that didn't meet our customers' specs.

In the past, we'd have to throw out material that we couldn't use. The new system allows us to greatly reduce waste.

Both initiatives have paid off enormously. We saved \$50,000 in disposal and compliance costs in one year and reduced landfill waste by 20,000 pounds.

## ▼ 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.*

**“**This newsletter keeps me in the know on different issues and is easy to share. It also helps me to do prevention planning.”

**Sam Kipe**  
Plant Manager  
Chemical Containers  
Lake Wales, Florida

## Air, Water & Waste regs that affect your operations

**H**ere's ECA's digest of recent Federal Register (FR) notices, Regulatory Identifier Numbers (RINs) and other national activities concerning air, water and waste issues. For these and more federal updates, visit: [www.EnvironmentalComplianceAlert.com/category/update-on-federal-rules](http://www.EnvironmentalComplianceAlert.com/category/update-on-federal-rules)

### GAS MEGA RULE

Natural gas distribution companies are bracing for the so-called “gas mega rule” (GMR)!

Ten years in the making, GMR is the most comprehensive safety mandate for onshore gas gathering facilities of all shapes and sizes.

The Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) considered industry's cost concerns, but nevertheless finalized a rule that satisfies President Obama's executive order to reduce the risks of pipeline accidents.

While pipeline ruptures are rare, they can be devastating. PHMSA tallied pipeline accidents between 2005-2017 that resulted in 168 fatalities, 592 serious injuries and \$5.4 billion in total costs.

Operators will have to test all pipelines for maximum allowable operating pressure, including previously exempt lines, within 14 years of the final reg's effective date.

All gas gathering lines must submit 2022 annual reports to PHMSA no later than March 15, 2023 (off-shore gathering sites are exempt).

**Info:** 86 FR 63,266

### UNDERGROUND STORAGE TANKS

The National Underground Storage Tank (UST) program is getting results – more than half a million tank releases were remediated over the past six years nationwide.

The 2015 UST rule is driving the program. Site owners and operators had to update leak detection technology and inspect USTs and piping annually (*search for “underground storage tank rule” at our website*).

Inspectors are keeping industry on its toes. Since the fall of 2020, 86,625 total inspections were conducted at federally regulated sites.

Approximately 81 million people live within a quarter of a mile from a known UST release. Many of these tanks are in under-served communities that are considered overburdened by pollution.

**Info:** [epa.gov/ust/ust-performance-measures](http://epa.gov/ust/ust-performance-measures)

### OIL & GAS LEASES

Historically high crude oil and gasoline prices are liable to continue under President Biden's planned fee hikes for drilling companies.

The Interior Department is mulling an increase to the 12.5% royalty fee oil & gas firms pay to drill on public lands. That rate's been in effect for more than a century.

A recent auction for the right to drill on millions of acres in the Gulf of Mexico drew a whopping \$190 billion in bids from ExxonMobil and other giants in the industry – suggesting that the richest firms can afford to pay higher fees.

Smaller oil & gas firms? They may stand to be priced out from fracking during Biden's presidency.

From the climate change angle, several environmental groups argue the White House isn't getting tough enough on fossil fuel producers.

**Info:** [tinyurl.com/oilgasdrilling665](http://tinyurl.com/oilgasdrilling665)

### CLEAN WATER ACT

State environmental agencies and EPA don't always see eye-to-eye when it comes to determining what's a

polluted body of water and the steps that need to be taken.

For example, EPA added 32 sources to Minnesota's impaired waters list, which will require total maximum daily load (TMDL) limits.

The 32 waters have measured sulfate concentrations exceeding the criterion used for producing wild rice. These newly-listed streams, river segments and lakes need a TMDL to reduce contaminant runoff.

EPA can override states' impaired waters lists under the Clean Water Act Section 303(d).

Bottom line: The previous administration's hands-off approach to states' water issues is null and void (*for related stories, search for “Trump states” at our website*).

**Info:** [epa.gov/tmdl/epas-additions-minnesotas-2020-impaired-waters-list](http://epa.gov/tmdl/epas-additions-minnesotas-2020-impaired-waters-list)

### CERCLA

ASTM International is revising E1527, industry's standard practice for Phase I environmental site assessments.

E1527 is the most common standard property buyers and sellers use to establish liability for cleanup and remediation under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Revisions include:

- clarifying terms such as “recognized environmental condition”
- adding more detailed site reconnaissance requirements
- a formal definition of a “significant data gap” that can prevent being designated as a responsible party to a cleanup, and
- updated info on emerging contaminants such as per- and polyfluoroalkyl substances (PFAS) as a business risk.

**Info:** [jdsupra.com/legalnews/2021-revision-of-the-astm-phase-i-1907565](http://jdsupra.com/legalnews/2021-revision-of-the-astm-phase-i-1907565)