



February 1, 2022

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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).

Tainted groundwater? Groups can sue in more ways than one

■ Add RCRA to list of statutes courts accept

More than ever, it pays to know exactly what's lurking beneath your property, especially if you have underground storage tanks or injection wells.

Reason: The courts are allowing citizens' groups to sue under multiple environmental statutes to recover known and potential groundwater contamination.

Utilities, towns in cross-hairs

Case in point: The City of Vacaville, California, is being sued for hexavalent chromium groundwater contamination near the aquifer it draws from for the municipal drinking water supply.

The 9th Circuit Court of Appeals (one rung below the Supreme Court)

allowed the lawsuit, brought by California River Watch, to move forward. A successful appeal to the High Court is unlikely.

What makes this case different – and ominous – for thousands of regulated facilities?

- River Watch sued Vacaville under the Resource Conservation and Recovery Act (RCRA), not the Clean Water Act (CWA) or the Superfund law, and
- Vacaville isn't responsible for the hexavalent chromium pollution.

Carcinogen must be remediated

There's no disputing the source: Two shuttered wood treatment

(Please see Groundwater ... on Page 2)

ENFORCEMENT

Watch out: Avalanche of criminal fines on horizon

- FEDS CARE LESS ABOUT WINNING CASES THAN EXTRACTING FUNDS

The Department of Justice (DOJ) won't be taking it easy on environmental rule breakers – a lot more criminal cases are coming over the next three years.

DOJ reinstated the Yates memo, a 2015 enforcement policy memorandum that required companies to identify all individuals involved in pollution cases, with the quid pro quo of leniency in criminal prosecutions.

The upshot: DOJ's Environment and Natural Resources Division will pursue more Title 18 fraud, conspiracy

and obstruction of justice charges against individuals and corporations, in addition to air, water and other environmental laws.

Flooding the courts with suits

DOJ also isn't as concerned about winning cases based on recent comments from DOJ attorneys at industry and legal conferences.

The upshot: Companies that don't want to rack up big legal bills or risk going to court will agree to heftier settlements and facility upgrades.

Info: tinyurl.com/daviswrighttremain666

ETHANOL

It's tough luck for smaller refineries

Small refineries aren't catching a break from biofuel blending mandates by EPA.

The agency denied 65 pending petitions from small operations for exemptions from the Renewable Fuel Standard (RFS).

Going forward, small- to mid-sized refineries shouldn't expect any leeway unless they can make a strong case for a one-year exemption due to financial hardships.

New diesel requirement on books

In related news, fuel producers have clearcut RFS volume targets for 2020, 2021 and 2022.

Here are renewable blending targets for each year in order:

- cellulosic biofuel: 0.52 billion gallons (bgs), 0.62 and 0.77 bgs
- biomass-based diesel: 2.43, 2.43 and 2.76 bgs
- advanced biofuel: 4.63, 5.20 and 5.77 bgs, and
- total renewable fuel: 17.13, 18.52 and 20.77 bgs.

Good news: Due to the decline in gasoline demand during the first months of the COVID-19 pandemic, the 2020 compliance year total renewable fuel volume obligation (RVO) was reduced to 17.13 bgs (the previous RVO was 20.09 bgs).

EPA is also proposing a supplemental biomass-based diesel

refineries shouldn't expect any leeway

volume requirement of 250 million gallons for 2022 in response to a federal court decision, and will eventually issue a target for 2023.

Info: RIN 2060-AV11

Groundwater ...

(continued from Page 1)

facilities dumped and leaked hexavalent chromium, dating back several decades.

Doesn't matter. Vacaville is now responsible for testing the soil and groundwater for the carcinogenic chemical, removing or containing contamination, and ensuring there's no transfer from the pollution site to clean groundwater.

Maui ruling opened floodgates

Don't forget: The Supreme Court decided in *County of Maui* two years ago that migration of contaminated groundwater could be penalized and permitted under the CWA's National Pollutant Discharge Elimination System program (search for "*Maui groundwater*" at our website).

That ruling upended decades of legal precedent regarding what constitutes a point source and the statutes under which groundwater pollution cases should be heard.

Info: tinyurl.com/taftlawwater666

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.

FACILITY HAS PERMIT BUT GROUP SAYS IT'S NOT VALID

"This is the life," said Buck Flanagan, the environmental director, as he spun his fishing rod.

Buck's peaceful day off from work to fish was to be short-lived.

"You know, this pond was just re-stocked with fish a few months back," came a familiar voice.

It was Margaret Farley, a citizen activist who sued industrial companies like Buck's.

"Margaret! You startled me," Buck said. "Don't worry, I throw back the little guys."

"That's big of you," Margaret huffed. "I'm afraid your company isn't as concerned about fish and wildlife though."

Buck sighed. "What do you mean, Ms. Farley?" Buck asked.

"My group is appealing your well permit," said Margaret.

Is permit on thin ice?

"Your injection well could have far-ranging impact on fish and other animals," said Margaret.

"EPA didn't seem to think so or it wouldn't have issued the permit," said Buck.

"EPA dropped the ball," said Margaret. "They should've gotten Fish and Wildlife Services to sign off on it. Not to mention, they closed the comment period too soon. We asked for an extension so the public could weigh in and EPA turned us down flat.

"I'd hold off on getting that well project going. Your permit is in trouble," Margaret warned.

Who won the appeal?

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



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Environmental Compliance Alert (ISSN 1069-0131), February 1, 2022, Vol. 29 No. 666, 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

Incinerator air controls taken to task: \$373K fine

Entities: Synagro (operator) and City of Woonsocket (owner) of the Woonsocket wastewater treatment facility, Rhode Island.

Business: Sewage sludge incinerator (SSI) and treatment plant.

Penalty: \$373,660.

Reasons for penalty: Woonsocket's SSI unit didn't comply with 2016 Clean Air Act New Source Performance Standards Subparts LLLL & MMMM, which were promulgated to minimize mercury, lead, cadmium, dioxins and furans, carbon monoxide, particulate matter and nitrogen oxide emissions.

Note: Woonsocket handles sludge from adjacent towns Bellingham, Blackstone and North Smithfield.

Sloppy plant design leads to nasty pollution: \$1.1M

Company: Big Ox Energy, Dakota City, Nebraska.

Business: Waste-to-energy plant.

Penalty: \$1.1 million.

Reasons for penalty: Big Ox violated the Clean Air Act and Clean Water Act by:

- failing to design a safe facility
- not maintaining its digesters
- failing to control accidental releases of extremely hazardous substances

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.

- violating emission limits
- causing the Sioux City wastewater treatment plant to exceed water quality limits
- not complying with EPA and state compliance orders, and
- discharging contaminants to local water bodies.

Note: Multiple inspections revealed Big Ox released hazardous amounts of biomass and biogas. Biomass leaked from the plant's digesters and mixed with stormwater. In 2018, an equipment malfunction resulted in 80,000 gallons of biomass overflowing from the digesters. EPA recorded emissions of methane at flammable levels and hydrogen sulfide in dangerous amounts.

Crude oil rail accident costs firm a pretty penny

Company: BNSF Railway, headquarters in Fort Worth, Texas.

Business: Rail carrier.

Penalty: \$1.5 million.

Reasons for penalty: A BNSF train spilled 117,500 gallons of heavy crude oil when it derailed outside of Doon, Iowa in 2018. The accident unfortunately occurred during heavy rainfall. Residents needed to be evacuated while emergency crews tried to contain the hazardous spill. Drinking water wells had to be shut down and crops were destroyed. BNSF was cited under the Clean Water Act.

Storage tank maintenance out of sight, out of mind

Company: U.S. General Services Administration (GSA), facilities in New York and New Jersey.

Business: Federal property management and contracting agency.

Penalty: \$107,000.

Reasons for penalty: GSA violated Resource Conservation and

Recovery Act (RCRA) requirements for underground storage tanks (USTs) containing diesel fuel. GSA specifically failed to:

- conduct required triennial inspections of overfill prevention equipment
- ensure operations staff were properly trained, and
- ensure staff kept UST management records required by federal law.

Note: GSA will immediately bolster its training program and ensure designated employees are inspecting USTs according to RCRA guidelines. The greatest potential threat from a leaking UST is contamination of groundwater, the source of drinking water for nearly half of all Americans. For more info, go to epa.gov/ust

Pipe upgrades, Spanish manuals needed ASAP

Company: JCI Jones Chemicals, Torrance, California.

Business: Manufacturer and supplier of chemicals for disinfecting water systems.

Penalty: \$200,000.

Reasons for penalty: JCI Jones Chemicals failed to:

- remove corroded piping
- replace chlorine hoses prior to the replacement date
- translate operating procedures for Spanish-speaking employees, and
- address in its hazard analysis the previous derailment of a railcar carrying sulfur dioxide.

Note: As part of its settlement to comply with Risk Management Plan guidelines for chemical safety, the company agreed to:

- translate its operating procedures and safe work practices into Spanish
- adopt a computerized maintenance management system, and
- implement an accelerated schedule for emergency response exercises.

SOCMI MACT

Petrochemical air regs on EPA's radar

Heads up: Air toxics regs for petrochemical plants will probably be tightened before the end of Joe Biden's first term.

Texas Environmental Justice Advocacy Services and other advocacy groups sued EPA for not reviewing and revising New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for the synthetic chemical manufacturing industry (SOCMI), which includes petrochemical makers.

EPA agreed on a consent decree with the intent of tightening emission limits or possibly updating Maximum Achievable Control Technology (MACT) requirements.

Chemical makers put on notice

SOCMI plants were identified as a major source of air toxics by EPA in 1992. Approximately 130 dangerous pollutants are emitted from

smokestacks, flared or released via startup, shutdown, malfunction and maintenance events, the worst of them being including ethylene oxide, 1,3-butadiene, benzene and formaldehyde.

More than 300 plants would be affected by NSPS and NESHAP revisions, many of them along the Gulf of Mexico in Texas and Louisiana, often referred to as "Cancer Alley."

EPA driving for enviro justice

SOCMI plants are typically located in or near low-income cities and towns with minority populations.

Cracking down on air toxics in underserved areas would further EPA's mission to advance environmental justice.

Info: [regulations.gov/document/EPA-HQ-OGC-2021-0850-0002](https://www.regulations.gov/document/EPA-HQ-OGC-2021-0850-0002)

DIESEL EMISSIONS

'Defeat devices' put sellers, installers on hot seat

■ EXCESS NITROGEN & SOOT POLLUTION BLASTS FROM TAILPIPES

Public demand for "ungoverned" diesel trucks and other vehicles remains strong, despite EPA cracking down on aftermarket defeat devices for the past three years.

EPA's primarily targeting sellers and tuning shops which install emissions cheaters.

But any facility operating trucks, vans or cars with tampered emission systems can be fined under the Clean Air Act.

Forced to clean up its act

APlus Truck Sales in Windham, Maine, is the latest company to be dinged for selling and installing defeat devices.

From 2017 to 2019, APlus tampered with emission controls on diesel trucks at least 60 times. The defeat devices prevent pollution controls from activating while on roads and highways.

APlus has now certified to EPA it's no longer selling or installing such defeat devices. The business was fined \$75,000.

EPA's National Compliance Initiatives continue to include "stopping aftermarket defeat devices for vehicles and engines" following the change in administrations.

Tampering with vehicle emission controls causes excess releases of nitrogen oxides and particulate matter. Manufacturing, selling, offering for sale and installing devices that disable, bypass or reduce the effectiveness of emission controls is illegal.

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 HAZARDOUS WASTE TRAINING FOR WORKERS

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

I recommend we initiate enforcement action against Acme Industrial and seek a fine that could easily exceed \$70,000.

We must send a message that companies can't skimp on employee training. Workers must know how to properly maintain a hazardous waste storage area.

The situation I found at Acme during a routine inspection was typical of the problems I'm finding these days as older and more experienced workers retire.

Too often younger, less experienced people don't appreciate just how dangerous some of these waste materials can be.

Unlabeled drums spell trouble

For example, I found several unlabeled drums of waste material. Unless someone told them, workers had no idea what may have been in those containers.

That also increased the risk of workers mixing incompatible wastes together.

Making matters worse, some containers lacked properly-fitting covers, so chemical fumes were escaping.

Acme's plant manager complained he's short-handed and lacks the help he needs to stay on top of hazwaste.

That doesn't excuse the hazards though. If his untrained staff were to mix incompatible wastes, the result could be tragic for the workers and neighbors nearby.

■ *Dramatized for effect. Based on a settlement with a Southwestern manufacturing plant.*

RCRA

Hazwaste inspectors are looking for ...

Most inspections are scheduled visits, but a large percentage are surprise inspections.

Under the Resource Conservation and Recovery Act (RCRA) and state versions of the federal law, inspectors must be allowed in.

Making sure your in-house crew's on top of the basics will greatly lessen the likelihood of a fine.

In fact, the sooner inspectors see a facility's complying with basic hazwaste regulations, the shorter their visit will be.

- certain adhesives, inks and glues
- hazwaste from specific processes or sources, such as bottom sediment sludge
- discarded or out-of-date chemicals and products like pesticides and insecticides
- containers that held hazwaste, and
- all materials used to clean up a hazwaste spill: gloves, towels, absorbents, clothing, or anything else that comes in contact with the hazwaste.

Share this checklist with your team

Facilities must collect, store (separately), label and keep containers closed for materials such as:

- spent solvents, such as toluene, benzene and methyl ethyl ketone
- paints and various industrial and architectural coatings
- cutting fluids and other materials that can pick up metal shavings

Don't forget about universal waste

The same waste management rules go for universal waste, which is still considered hazardous but can be managed more easily and stored for longer periods.

Examples include:

- broken or spent ceiling lamps and ballasts that contain mercury
- computers and monitors, and
- used batteries that contain lead.

SAFE DRINKING WATER

No sign of lead copper rule re-do on the horizon

■ TRUMP EPA GAME PLAN FOR LEAD FIXES IS BEING LEFT IN PLACE

Thousands of drinking water facilities expecting a more stringent lead and copper rule (LCR) threshold can exhale.

The Biden administration is reportedly still mulling a revision to the LCR action level, currently set at 15 parts per billion (ppb), but it's not a high priority. Many in the sector contend the 15 ppb threshold is stringent enough.

To the contrary, EPA is leaving the Trump administration's 10-year strategy for replacing old lead service lines in place – and it's not sitting well with environmental groups.

"The top priority must be to require removal of all lead pipes

within the decade and to set a strict at-the-tap standard, which is the only way to prevent another generation of kids from drinking water through ... a lead straw," says the Natural Resources Defense Council.

Enormous costs to nix lead lines

The reality is the price tag for replacing infrastructure nationwide – especially in major cities that deferred maintenance and repairs for decades – could run into the hundreds of billions of dollars.

The \$2.9 billion of infrastructure law funds which EPA just earmarked for lead pipe removal is a proverbial drop in the bucket.

Info: Search for "lead copper rule" at our website for more details.

TRENDS TO WATCH

■ LONE STAR STATE OVERHAULS WASTE REGS

Hazardous waste guidelines for Texas facilities are rapidly changing on February 3.

The Texas Commission on Environmental Quality (TCEQ) adopted federal updates to the Resource Conservation and Recovery Act governing solid, universal and hazardous wastes.

TCEQ is officially:

- adopting the hazwaste generator improvements rule (*search for "HWGI" at our website*)
- adding aerosol cans to its universal waste program
- nudging more regulated facilities to report using electronic manifests
- revising the definition of solid waste to encourage greater recycling, and
- implementing the pharmaceutical hazwaste standard.

Info: tceq.texas.gov/assets/public/legal/rules/rule_lib/adoptions/19086335_aex.pdf

■ GOLDEN STATE ALL-IN ON DIVERTING FOOD WASTES

A wide-ranging restriction on food and other organic waste from ending up in landfills went into effect in California.

Senate Bill 1383 targets short-lived climate pollutants like methane gas released when organic matter decays.

Companies that haul waste and operate solid waste landfills, municipalities, restaurants, grocery stores and hotels are responsible for separating edible food from common trash and seeing that it gets diverted to recycling centers.

Waste processors must meet an annual average mixed waste organic content recovery rate of 50% starting in 2022.

Biomass manufacturers are expected to use food waste as a feedstock as well.

EMERGING CONTAMINANTS

PFAS testing begins for water plants

Publicly owned treatment works (POTW) will need to monitor for 29 types of per- and polyfluoroalkyl substances (PFAS) and lithium under a Safe Drinking Water Act rule.

EPA wants a representative sample of POTW systems that serve 3,300 or more people and a smaller sample of 800 systems that provide for 25 to 3,299 people.

Public webinars for EPA's fifth Unregulated Contaminant Monitoring Rule (UCMR 5) will be announced later this winter. EPA uses the UCMR to monitor for "emerging" contaminants in drinking water every five years.

Info: 86 FR 73,131

Court reinstates OSHA COVID-19 vax mandate

OSHA's COVID-19 emergency temporary standard (ETS) for businesses with 100 or more employees is back in effect after the 6th Circuit Court of Appeals lifted an earlier injunction.

The Supreme Court was scheduled to hear challenges brought by multiple

states on January 7.

We'll keep you posted on the outcome and how OSHA plans to enforce the ETS.

Also: The GOP minority in Congress may try stopping the ETS as Democrat Joe Manchin of West Virginia opposes a COVID-19 mandate on private employers.

OSHA can now enforce the ETS but won't issue fines for noncompliance before January 10.

Info: [osha.gov/coronavirus/ets](https://www.osha.gov/coronavirus/ets)

Tailpipe emission reg a boon for electric vehicles

EPA and the National Highway Traffic Safety Administration revised greenhouse gas tailpipe standards for cars and light-duty trucks through model year 2026.

The tightening of fuel efficiency standards may result in one-fifth of auto manufacturers' fleets being comprised of all-electric or hybrid vehicles by the end of the decade.

Info: RIN 2060-AV13

WHERE TO GET HELP

\$1.1 BILLION GOES TO SUPERFUND CLEANUP SITES

At least 49 Superfund contamination sites are receiving a \$1.1 billion shot in the arm via the bipartisan infrastructure law.

Many of these locations on the National Priorities List are backlogged Superfund sites with new construction projects that have lacked funding for years.

More than 60% are in underserved communities including smelting plants, mines, and wood and battery factories from New England to the West Coast.

Info: [epa.gov/superfund/superfund-sites-new-construction-projects-receive-bipartisan-infrastructure-law-funding](https://www.epa.gov/superfund/superfund-sites-new-construction-projects-receive-bipartisan-infrastructure-law-funding)

GLOBAL CARBON EMISSIONS FLAT THROUGH 2010'S

A new report from the Global Carbon Project shows worldwide emissions of carbon dioxide were flat over the past decade.

In 2021, CO2 emissions from fossil fuels and cement jumped 4.9% after dipping in the first year of the coronavirus pandemic.

Info: [carbonbrief.org/global-co2-emissions-have-been-flat-for-a-decade-new-data-reveals](https://www.carbonbrief.org/global-co2-emissions-have-been-flat-for-a-decade-new-data-reveals)

SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2)

Buck's company won the appeal.

The EPA Environmental Appeals Board (EAB) ruled the company's permit could stand and hadn't been issued in haste or error.

The activist argued EPA should have gotten Fish and Wildlife Services' input on the permit because federally listed species and critical habitats could be harmed.

EPA and the company rejected that argument because the activist couldn't show evidence of what endangered animals may be at risk.

Hypothetical risks aren't enough to strike down a water or air permit, the EAB ruled.

The EAB also rejected the activist's complaint that an

extension for public comments should have been granted.

EPA allowed for a 34-day comment period in line with similar permit notices.

There was enough time for concerned individuals to weigh in, and EPA was within its rights to not extend the deadline, the EAB ruled.

ANALYSIS: TO OVERTURN A PERMIT, COURT WANTS EVIDENCE WHY THERE'S A RISK

EPA and states do issue permits in error, but the burden of proof is on opponents to show how and why.

The EAB and the courts give deference to regulators unless plaintiffs can show a statute wasn't followed or environmental problems are likely to result.

Legal Cite: *In re: Archer Daniels Midland*. This case has been dramatized for effect.

ETHYLENE OXIDE

Industry battles EPA view on air toxic

Industrial facilities that make and use ethylene oxide (EO) aren't the only ones that think EPA is overstating its harmful effects.

The Texas Commission on Environmental Quality (TCEQ) disagrees with EPA's Integrated Risk Information System (IRIS) value for EO. TCEQ developed an independent effects screening level for EO which rates its cancer risk lower than the IRIS assessment.

Industry groups that plan to challenge recent and pending EO rulemakings will cite TCEQ's screening level.

Whether it's enough to sway the courts is questionable – EPA's opinions typically outweigh conflicting views from state agencies.

Just how hazardous is EO?

EPA redesignated EO as a known carcinogen in 2016, estimating the chemical's risk value was 30 times more potent than previous estimates.

A 2018 National Air Toxics Assessment showed high cancer areas near sources that emit highly hazardous air pollutants like EO in Louisiana, Texas, West Virginia and other states.

Twenty-nine medical equipment sterilization facilities must begin tracking EO (and ethylene glycol) releases this year and report them to the Toxics Release Inventory online portal by July 1, 2023.

Info: "EPA forges ahead on EO actions ...," Beveridge & Diamond, 12/7/21, bdlaw.com/publications

Hazwaste check-ups sure to rise post-pandemic

Federal and state environmental inspections dropped dramatically during the COVID-19 pandemic – none more so than Resource Conservation and Recovery Act

(RCRA) compliance checks for hazardous waste.

EPA's Inspector General (IG) reported the agency conducted 47% fewer RCRA inspections according to data from California, Georgia, Hawaii, Louisiana, New Jersey, New York, North Carolina and Texas between March 2020 and February 2021.

Fewer visits, same problems

Despite the drop, the number of RCRA violations cited per visit didn't change much during the slowdown.

The IG noted there was an average of just one fewer citation for every 10 inspections.

Word to the wise: RCRA noncompliance is a financially risky mistake, especially for small companies, because EPA can issue RCRA fines up to \$75,000 per day, per violation.

Info: epa.gov/system/files/documents/2021-11/epaog_20211201-22-e-0009.pdf

EPA updates testing criteria for EV batteries

Electric vehicle battery (EVB) manufacturers should consult new guidance from EPA for confirmatory chassis testing.

EPA requests that light-duty EVB manufacturers submit vehicle instructions at least two weeks before testing to ensure sufficient time to prepare for tests.

For current and voltage measurements, manufacturers must include the direction of the flow of current, the number of current clamps required and the preferred method to install them.

Info: dis.epa.gov/otaqpub/display_file.jsp?docid=54454&flag=1

REAL PROBLEMS/SOLUTIONS

CUT ENERGY WASTE WITH LOW-COST PLASTIC FILM

Like many facilities, we've seen our share of hotter than normal summers in recent years.

Result: Air conditioning the building drove up energy usage.

Keeping our employees cool in the summer swelter was a priority – but so was reducing consumption.

The more I thought about it, the easiest and most cost-effective solution was reducing how much sunlight streams in.

We have a lot of windows here. And while natural light has its advantages, too much of it made our AC system work overtime.

Immediate return on investment

I looked at a lot of options and went with a clear winner: reflective film for the inside of windows that keeps heat rays out.

The film blocks 60% of the sun's rays to reduce warming, but still lets plenty of natural light in.

A local company did the install and for a good price.

We only lined the windows where the most sun was coming in.

Payoff: Our electric bill dropped 25% by the end of the first summer!

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 is exactly what we need. It's a quick and easy resource for employee toolbox talks because of its broad scope."

Prince Knight
LE&C Manager
Norlite
Cohoes, NY

Air, Water & Waste regs that affect your operations

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

TSCA EVALUATIONS

Chemical manufacturers and distributors should brace for EPA bans on some of the most controversial substances still in use.

EPA released a draft Toxic Substances Control Act (TSCA) systematic review protocol for chemical risk evaluations.

The protocol, which incorporated feedback from the National Academies of Sciences, Engineering and Medicine, was revised to include:

- coordinated data evaluation training and calibration exercises for reviewers
- improved chemical evaluation forms
- two levels of review (primary and secondary quality-control), and
- an explicit conflict resolution step when reviewers don't agree.

Also: Instead of the current quantitative/weighted scoring system for data evaluation, the protocol applies ordinal rankings for making qualitative categorizations of high, medium, low or critically deficient.

Recent media reports about industry influence on TSCA rulemakings got the attention of the White House and Congress.

Comments are due February 18.

EPA contact is Todd Peterson, 202-564-8450, peterston.todd@epa.gov.

Info: 86 FR 71,891

HAZMAT SHIPPING FINES

The Coast Guard is increasing hazardous material penalties for shipping vessels.

Maximum fines for hazmat violations are going up from \$83,439 to \$84,425.

Any fatality, serious injury or illness, or substantial property damage can bring fines of \$196,992 (up from \$194,691).

Training deficiencies can be fined at \$508 (up from \$502).

Info: 86 FR 57,532

CFATS PENALTIES

Higher fines are also on the table for regulated facilities that don't comply with the Chemical Facility Anti-Terrorism Standards (CFATS).

The Department of Homeland Security increased the maximum CFATS penalty to \$35,905.

CFATS covers chemical manufacturers and distributors that may be a target of terrorists. For more info on CFATS, go to our website: www.environmentalcompliancealert.com/inspection-checklist-6

NESHAP - PERCHLOROETHYLENE

Dry cleaning facilities that use perchloroethylene (perc) must upgrade their pollution controls.

All dry-to-dry machines at existing major and area sources will need refrigerated condensers and carbon adsorbers as secondary emission controls.

EPA proposed the changes to the dry cleaning sector's National Emission Standards for Hazardous Air Pollutants.

Comments are due February 10.

EPA contact is Brian Storey, 919-541-1103, brian.storey@epa.gov.

Info: 86 FR 73,207

EPA HIGHLIGHTS 2021

It's been an extremely busy year for EPA, not to mention other federal regulatory agencies.

To review, EPA provided a recap of key accomplishments during 2021 on its website.

We covered every item, some of them on multiple occasions, but here's a rundown of EPA 2021 highlights for your records:

- issuing the most ambitious greenhouse gas emissions standards for vehicles (*see Page 6 for more*)
- reducing production of climate change-causing hydrofluorocarbons by 85% in 15 years (*search for "85% reduction of powerful greenhouse gas is underway" at our website for details*)
- proposing methane reductions on the oil & gas industry
- directing \$100 million in funding toward environmental justice initiatives and air monitoring in overburdened communities
- leveraging enforcement authority to protect overburdened communities from pollution
- launching a national per- and polyfluoroalkyl substances testing strategy and designating the emerging contaminants PFOA and PFOS as hazardous substances under the Superfund law
- restarting the Clean Water Act Section 404(c) process which will protect Bristol Bay in Alaska from any ecological damage related to a copper mining project
- stopping the use of the pesticide chlorpyrifos on all food to protect children and farmworkers
- clearing a backlog of 49 previously unfunded Superfund sites and speeding up cleanup work at dozens of other sites, and
- relaunching the agency's climate change website and climate indicators report after a four-year absence.

Info: epa.gov/newsreleases/epa-wraps-year-significant-accomplishments