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EPA regions using Environmental Justice to target facilities for inspection



A report from EPA’s Office of Inspector General says that the Agency considers Environmental Justice (EJ) when targeting facilities for air toxics inspections, although it is one of many factors that EPA regional offices use when deciding where to conduct these inspections. Other factors EPA uses to target air toxics inspections include:

- Cancer risk in the area surrounding a facility,
- Overall emissions from a facility, and
- A facility’s compliance history.



The report praised this approach, saying that the EPA regions have limited resources to conduct air toxics inspections, and using EJ as a factor helps regions to prioritize their inspections.

With EPA’s approach to EJ, facilities must operate in such a way that no group of people should bear a disproportionate share of the negative envi-

See **EJ helps regions prioritize air toxics inspections**, p. 2

What the June 1 HCS deadline means for your emergency planning requirements



You know that the hazardous chemical storage requirements of EPA’s Emergency Planning and Community Right-to-Know Act (EPCRA) call for facilities that have or prepare Safety Data Sheets (SDSs) under OSHA’s HCS to submit copies of their SDSs to their Local Emergency Planning Committees (LEPCs) and local fire departments. Alternatively, they may submit a list of all their chemicals requiring SDSs. We’ve been hearing that many facilities are concerned about how the June 1st OSHA Hazard Communication Standard (HCS—or HazCom) deadline affects these EPCRA requirements. OSHA revised the HazCom Standard in 2012 to align it with the Globally Harmonized System of

See **LEPCs do not expect revised SDSs right away**, p. 2



TRI reports due July 1st

If your facility is covered by EPA's Toxics Release Inventory (TRI) program, your Form R or Form A must be submitted by July 1st.

For an in-depth look at TRI reporting requirements, and to learn about new reporting elements for this year, see the March 2015 edition of the *Environmental Alert* or

www2.epa.gov/toxics-release-inventory-tri-program/reporting-tri-facilities.



OMB finishes review of Underground Storage Tank rule revisions

At press time, the White House Office of Management and Budget had completed its review of EPA's revisions to the Underground Storage Tank (UST) regulations. This review is the last stage before a rule is final-

ized, meaning it could appear in the *Federal Register* any day.

While EPA published the proposed rule in 2011, most states have already begun working to implement portions of the rule.

Key provisions of the rule apply to states receiving federal UST funding, including requirements for secondary containment and operator training. Watch JJKeller.com for the latest news.



EPA sets state standards for particulates

In December 2012, EPA made revisions to the suite of air quality standards for particulate matter.

Recently, EPA announced a proposal to set requirements that state,

tribal, and local air agencies would have to meet as they implement standards for fine particulate matter (PM2.5). Specifically, the rule would establish requirements that apply to areas designated nonat-

tainment for any PM2.5 standard and revoke the 1997 primary annual standard. See JJKeller.com/wsc.

EJ helps regions prioritize air toxics inspections, Continued from p. 1

ronmental consequences resulting from industrial, governmental, or commercial operations or policies. To further help with selecting facilities for inspection, EPA's Office of Enforcement and Compliance (OECA) developed new tools. One tool, the High-Risk Facilities (HRF) list, identifies large facilities in areas with elevated cancer risks associated with air toxics.

Another new tool is the EJSCREEN, which helps the agency develop an "EJ score." EJSCREEN is an online mapping and analysis tool to help integrate EJ into many facets of the Agency's work.

In addition, OECA has developed new mapping tools that combine data from EJSCREEN with data layers from the EPA's GeoPlatform. These tools produce maps that

provide information about the location of facilities and also note areas of potential EJ concerns in nearby communities.

EPA says these new mapping tools will further aid the regions' inspection targeting efforts.

The report is available at www.epa.gov/oig/reports/2015/20150225-15-P-0101.pdf

LEPCs do not expect revised SDSs right away, Continued from p. 1

Classification and Labeling of Chemicals (GHS), which includes standardizing the format and content of the SDSs.

By June 1st of this year, chemical manufacturers and importers may not ship chemicals unless they are accompanied by the revised

SDSs. This means employers may have gotten, or may soon expect to receive, potentially hundreds of revised SDSs. The question is: Do they need to send these all to the LEPCs right away?

We've learned that LEPCs are not expecting, nor do they want,

a flood of revised SDSs. OSHA's updated standard does not trigger changes in EPCRA reporting requirements. So, facilities should be able to continue sending SDSs to their LEPCs as they have in the past.



Electronic reporting for air emissions data is a possibility



EPA is proposing to revise the 40 CFR Part 60 general provisions and various new source performance standards (NSPS) subparts in the regulations. The revisions would require affected facilities to submit specified air emissions data reports to EPA electronically and allow affected facilities to maintain electric records of these reports.

EPA believes the electronic format will make the reports more useful

— and be less burdensome on the regulated community. To read the proposal, use Docket ID number

EPA-HQ-OAR-2009-0174 at www.regulations.gov.



Small business advocates ask EPA for more flexibility

The Small Business Administration's Office of Advocacy submitted comments to EPA in March in response to the Agency's proposed rulemaking on "National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Brick and Structural Clay Product Manufacturing." Under the proposal, manufacturers in these industries would have to meet specific emission standards

for a wide variety of pollutants, including mercury, acid gases, and particulate matter.

The Advocacy is concerned about the impact the rule would have on small businesses, saying a majority of the firms in brick production are small. The Advocacy believes EPA has underestimated the number of small businesses that would be adversely affected by the rulemaking.

The Advocacy recommended EPA adopt the small business flexibilities proposed in the rulemaking, and look for further flexibilities to minimize the impact on small businesses. In addition, the Advocacy wants EPA to work with small businesses to discover more ways to make meeting emissions standards less onerous.

Find the Advocacy's letter at go.usa.gov/3D2EG.



Bankers, countries, oil companies agree to halt flaring



On April 20, the World Bank announced an agreement with the United Nations, nine countries, ten oil companies, and six development institutions such as international development banks to end routine gas flaring practices at oil production sites by 2030.

According to the World Bank, the endorsers of the "Zero Routine Flaring by 2030" initiative currently represent more than 40 percent of flaring worldwide.

The bank claims that approximately 140 billion cubic meters of natural gas produced together with oil is

flared, or burned off, at thousands of sites globally. Gas is flared for many reasons, including technical, regulatory, and/or economic reasons.

Participants in the zero flaring initiative have agreed to work to eliminate ongoing routine flaring as soon as possible, but by 2030 at the latest. They have also agreed to publicly report on their progress toward this goal on an annual basis. Finally, under the agreement, no routine flaring will occur in new oilfield developments.

For a list of participants and other information, visit bit.ly/1E2TZrp.





Exclusions for comparable fuels go away



Last October, the U.S. Court of Appeals for the D.C. Circuit ordered EPA to remove its regulatory exclusion for comparable fuels and for “gasification.” The “Comparable Fuels Rule” had excluded fuels made from materials identified as hazardous waste from the definition of solid waste, if, when they were generated, treated,

or blended they were sufficiently similar to the fossil fuels they were replacing.

In order to be a hazardous waste, a material must first be a solid waste. So the Comparable Fuels Rule allowed facilities to burn these alternate fuels without having to jump through a number of regulatory hoops.

The gasification rule allowed facilities that inserted oil-bearing hazardous secondary materials into a gasification unit located at a petroleum refinery to exclude the materials from the definition of solid wastes. (Note, though, that EPA says no facilities have ever taken advantage of this exclusion.)

The Court told EPA that the Agency must require that fuels produced from hazardous wastes remain classified as hazardous wastes under Subtitle C of

the Resource Conservation and Recovery Act (RCRA). In November 2014, EPA asked the Court to give it a few months to allow affected facilities to come into compliance with the hazardous waste regulations, and these facilities were given until Mar. 30, 2015, to do so.

With the removal of the exclusions, facilities burning comparable fuels are now subject to air regulation as hazardous waste combustors under 40 CFR Part 63, Subpart EEE, as well as the applicable hazardous waste regulations.

In addition, a number of RCRA-authorized states will now have to revise their own programs or risk losing their authorized status. State regulations must be at least as strict as federal requirements. If a state still allows the exclusions for comparable fuels, that will be less strict than the federal regulations.

The ruling revises the regulations at 40 CFR §261.4(a)(12)(i) and removes and reserves §261.4(a)(16) and §261.38.



“EPA should try to keep up with the times” with notifications

Any time a federal agency plans to start a Superfund activity such as treating contaminated soil from a neighborhood or removing drums of leaking waste from an abandoned industrial site, the agency is required to notify the public about it.

Until recently, because of a 1990 regulation under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), that notice had to be made by newspaper — more specifically via an announcement in a “major local newspaper of general circulation.”

However, effective May 4, EPA expanded the media choices for those public notices. Agencies may now use other methods of transferring information about Superfund activities, such as door-to-door flyers, mailing notices, email notifications, telephone calls, or web postings.

Proposed last October, the regulation garnered seven comments, most in favor of the change. According to one commenter, “It is difficult even for organized groups to constantly scan the local newspaper for publication notices. To have our rights for participation denied because we do not have time to peruse the local newspaper each

and every day seems contrary to EPA’s mission to inform and protect the public.”

Another commenter asked why EPA didn’t allow additional methods of notification across the board, such as for other types of environmental notifications. A third commenter noted that in today’s world, the best methods for reaching people are constantly changing. “EPA should try to keep up with the times,” the commenter said.

The NCP is the primary regulation of the Superfund Program.

To read the final rule, go to 1.usa.gov/1CWureR.



EPA publishes comprehensive waste analysis guidance

In April, EPA published its guidance manual on “Waste Analysis at Facilities that Generate, Treat, Store, and Dispose of Hazardous Waste.” The information in the manual is provided for information only; EPA says that facilities may use alternative approaches to satisfy the

requirements of state and federal regulations.

The document, which is over 200 pages long, includes an overview of the regulatory requirements to conduct a Waste Analysis; developing a Waste Analysis Plan (WAP); document the Waste Analysis; corrective and preventative measures; and much more.

Waste generators may find parts of the document to be particularly helpful, such as a comprehensive discussion of sampling techniques, a sample Waste Profile Sheet, sample Waste Analysis Plans, and various checklists.

Find it here: www.epa.gov/epa-waste/hazard/tsd/permit/tsd-regs/tsdf-wap-guide-final.pdf.



New York cracks down on retailers, groceries, and pharmacies

Big box retailers, supermarkets, home improvement stores, paint suppliers, and pharmacies in New York State should brace themselves for more inspections — and more citations — from the New York Department of Environmental Conservation (NYDEC) over hazardous waste management regulations. In a statement in a January stakeholder’s meeting, NYDEC said it would

begin to enforce Resource Conservation and Recovery Act (RCRA) regulations as they applied to listed and characteristic hazardous wastes at supermarkets and drug stores.

The NYDEC will aim its efforts at non-industrial sites that may need to remove expired cleaning products or pharmaceuticals from their shelves, or receive returned consumer products that must ultimately be disposed.

Note that federal EPA is still deliberating on how to handle reverse distribution — or situations where the store is returning unused or defective products to the manufacturer.

NY DEC’s RCRA Compliance Page for pharmacies and other retailers is www.dec.ny.gov/chemical/99555.html.



One-time reporting proposed for manufactured nanomaterials

EPA currently reviews new nanomaterials before they are allowed into the marketplace to ensure that they are safe.

For the first time, the agency is proposing to use the Toxic Substances Control Act (TSCA) to collect existing exposure and health and safety information on nanoscale chemicals currently in the marketplace.

The proposal will require one-time reporting from companies that manufacture or process chemical substances as nanoscale materials.

Companies will notify EPA of:

- Certain information, including specific chemical identity;
- Production volume;
- Methods of manufacture; processing, use, exposure, and release information; and,
- Available health and safety data.

According to EPA, the proposal is not intended to conclude that nanoscale materials will cause harm to human health or the environment. Rather, EPA will use the information to determine if any further action under TSCA is needed.

EPA has posted additional information and a fact sheet on the specifics of the proposal on the nanomaterials webpage: www.epa.gov/oppt/nano/.



Facilities may need to report 1-bromopropane to TRI

On April 15, EPA proposed to add 1-bromopropane to the list of chemicals subject to reporting under the Toxics Release Inventory (TRI). The chemical has been classified by the National Toxicology

Program in their 13th Report on Carcinogens as “reasonably anticipated to be a human carcinogen.”

Based on a review of the available production and use information, 1-bromopropane is expected to

be manufactured, processed, or otherwise used in quantities that would exceed the EPCRA section 313 reporting thresholds. To find out more, use Docket ID Number EPA-HQ-TRI-2015-0011 at www.regulations.gov.



Seattle now flagging food waste in garbage

The city of Seattle, Washington, has been offering its residents curbside food waste collection since 2005. City officials say the program has had an 80- to 90-percent buy in. But as of January 1 of this year, the program is no longer voluntary. Seattle is now requiring both residents and businesses to compost at least 90 percent of their food waste, includ-

ing food-contaminated paper napkins, paper towels, and cardboard (think pizza box).

After July 1, if municipal workers spot food waste in the trash, they can cite the homeowner with fines of up to \$1 per week. Apartment owners and commercial customers can be given a \$50 fine for each violation.

The city hopes to prevent up to an additional 38,000 tons of food scraps from the landfill by the end of this year.

Businesses that generate food waste in Seattle must now hire a composting service, compost their food and compostable paper on-site, or transport food waste themselves to a composter or processor.

Learn more at bit.ly/1P6DldS.



Transportation Board issues urgent recommendations for rail cars

In April, the National Transportation Safety Board (NTSB) issued four “urgent” recommendations to the Pipeline and Hazardous Materials Safety Administration (PHMSA) calling for improved rail tank cars for carrying flammable liquids such as crude oil and ethanol.

NTSB proposed an aggressive schedule of replacing or retrofitting the current rail car fleet with better thermal protection against heat from fire and increasing the capacity of pressure relief devices.

The Board says the current fleet of DOT-111 tank cars rupture too quickly when exposed to fire caused by a derailment or other accident with resulting spillage and ignition. Further, NTSB said that, based on a series of accidents it has investigated in recent months, performance of the industry’s

enhanced rail car, the CPC-1232, is not satisfactory.

NTSB also called for swiftness in changing the fleet and called for intermediate deadlines and transparent reporting to ensure the tank car fleet is being upgraded as quickly as possible.

NTSB’s four safety recommendations to PHMSA

R-15-14 Require that all new and existing tank cars used to transport all Class 3 flammable liquids be equipped with thermal protection systems that meet or exceed the thermal performance standards outlined in 49 CFR 179.18(a).

R-15-15 Require that all new and existing tank cars used to transport Class 3 flammable liquids be equipped with appropriately sized pressure relief devices that allow the release of pressure under fire conditions at 49 CFR 179.18(a).



R-15-16 Require an aggressive, intermediate progress milestone schedule, such as a 20 percent yearly completion metric over a 5-year implementation period, for the replacement or retrofitting of legacy DOT-111 and CPC-1232 tank cars to appropriate tank car performance standards..

R-15-17 Establish a publicly available reporting mechanism that reports at least annually, progress on retrofitting and replacing tank cars subject to thermal protection system performance standards.

Learn more at 1.usagov/1GpbW08.



Renovators get more time to recertify

In January, EPA published a proposed rule that would amend the Lead Renovation, Repair, and Painting rule (Lead RRP) to eliminate the requirement that renovator refresher training have a hands-on component.

However, because the renewal date for many renovators falls before the rule will be finalized, EPA decided to extend the certifications of thousands of individual renovators.

With the extension, renovators who received certification on or before Mar. 31, 2010, now have until Mar. 31, 2016, to get recertified. Reno-

vators who received certification between Apr. 1, 2010, and Mar. 31, 2011, will have one year added to their five-year certification. Subsequent certifications for renovators receiving the extension will be five years. These extensions do not apply to renovators under authorized state programs.



“It’s only a matter of time until we lose another plane”

On April 14, Rep. Peter DeFazio (D-OR) argued for stricter regulations for the transportation of lithium batteries and cells, especially by air. In a hearing before the House Railroads, Pipelines, and Hazardous Materials Subcommittee, DeFazio said, “It’s only a matter of time until we lose another plane.”

Since 2006, at least three cargo planes caught fire or crashed due to improper packaging of bulk shipments of lithium batteries. Accord-

ing to DeFazio, the same fate could await a passenger plane.

Because lithium batteries and cells can overheat and ignite if not packaged correctly, they must be packaged and shipped according to the hazardous materials regulations at 49 CFR 171, 172, 173, and 175.

But DeFazio wants the Pipeline and Hazardous Materials Safety Administration (PHMSA) to promulgate stricter regulations to protect pilots, airplane crews, and passengers. Last August, the DOT issued a final rule addressing lithium batteries.

While that rule aligned with the International Civil Aviation Organization’s (ICAO) technical instructions, DeFazio says DOT should take safety to the next level.

PHMSA Acting Administrator Timothy Butters said “We agree that the limitation to the ICAO technical instructions is a problem. Lithium batteries do pose transportation hazards — and the ability for the U.S. to promulgate more stringent safety regulations is something we’re certainly interested in doing.”



PHMSA, railroad administration address rail cars carrying crude

On April 17, the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Federal Railroad Administration (FRA) issued three Safety Advisories, one Emergency Order, and one request for comments on rail cars carrying crude oil.

Safety Advisories

1. PHMSA reminded hazardous materials shippers and carriers of their responsibility to ensure that current, accurate, and timely emergency response information is immediately available to first responders. (1.usa.gov/1GHwiHz)
2. PHMSA and the FRA reminded railroads operating a high-hazard flammable train that certain

information may be required by PHMSA or FRA personnel during the course of an investigation immediately following an accident. (1.usa.gov/1JZR6bB)

3. FRA recommended that railroads use highly qualified individuals to conduct the brake and mechanical inspections and recommended a reduction to the impact threshold levels the industry currently uses for wayside detectors that measure wheel impacts. (1.usa.gov/1KtMhrb)

Emergency Order

The FRA issued an Emergency Order, effective April 17, requiring that trains transporting large amounts of Class 3 flammable liquids through certain highly populated areas adhere to a maximum

speed limit of 40 mph. Trains that are affected by the order include those that have:

- 20 or more loaded tank cars in a continuous block or 35 or more loaded tanks cars of Class 3 flammable liquid, and
- At least one DOT Specification 111 tank car loaded with a Class 3 flammable liquid. (1.usa.gov/1QJEOIX)

Request for comments

The FRA requested comments concerning rail cars carrying petroleum crude oil in any train involved in an FRA reportable accident. Submit comments to FRA using Docket Id No. FRA-2015-0007-N-2 to www.regulations.gov.



Pretreatment standards for oil & gas wastewater proposed

EPA is proposing pretreatment standards for the Oil & Gas Extraction Category. The regulations would address discharges of wastewater pollutants from onshore unconventional oil and gas extraction facilities to

publicly-owned treatment works (POTWs).

EPA says the rule would fill a gap in existing federal wastewater regulations to ensure that the current practice of not sending wastewater discharges from existing and new

unconventional oil and gas extraction facilities continues into the future.

Documents related to this rulemaking can be found at www.regulations.gov using Docket ID Number EPA-HQ-OW-2014-0598



Be sure all is well before putting damaged tanks back into service

EPA updated its Natural Disasters and Underground Storage Tanks (UST) website to remind UST owners to properly evaluate their UST systems after a natural disaster. Forces of nature such as tornadoes, hurricanes, tsunamis, earthquakes, volcanoes, and fires can cause significant damage to UST systems, which can result in releas-

ing regulated substances into the environment.

EPA says that before returning a damaged UST to service, the owner or operator needs to ensure the system has been properly evaluated and restored to safe operating condition.

The webpage lists resources EPA developed to help UST owners and operators prepare for, prevent, or

lessen the catastrophic effects and environmental harm from natural disasters. These resources include EPA's *Underground Storage Tank Flood Guide*, *Post-Severe Weather Checklist*, and a state summary for climate change adaptations for USTs.

The updated webpage is at www.epa.gov/swerust1/natdisaster.html.



Advisory bulletin urges pipeline operators to plan for floods

In April, PHMSA issued an advisory bulletin to alert pipeline operators of the potential for damage to pipelines caused by severe flooding. PHMSA advises operators to analyze the potential for damage to pipelines from river scour or channel migration and to keep emergency responders in the loop. In

addition, pipeline operators should coordinate with other pipeline companies in flood areas to establish emergency response centers.

If a pipeline has suffered damage or is shut-in as a precautionary measure due to flooding, the operator should advise the appropriate PHMSA regional office or state pipeline safety authority

before returning the line to service, increasing its operating pressure, or otherwise changing its operating status.

Reporting a safety-related condition as prescribed in §§191.23 and 195.55 may also be required.

Find ADB-2015-01 at 1.usa.gov/1JxNznp.



Consolidated List of Lists updated for the first time since 2012

EPA recently updated its Consolidated List of Lists for the first time since October 2012. The list details chemicals that are subject to the reporting requirements of the Emergency Planning and Community Right-to-Know Act (EPCRA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and Section 112(r) of the Clean Air Act.

Changes include corrections to:

- Certain CAS numbers; and
- Reducing factors used to figure the threshold planning quantity for molten solids and for solids in solution.

EPA also revised chemical information relating to the Toxic Release Inventory (TRI) program by:

- Adding new TRI Chemical, o-Nitrotoluene: On November 7, 2013, EPA added the chemical o-Nitrotoluene (CAS number 88-72-2) to the TRI list. The action is effective for the 2014 TRI reporting year with the first reports due from facilities by July 1, 2015.
- Adding new TRI Category, Nonylphenols: On September 20, 2014, EPA added the category of Nonylphenol (Category code N530) to the TRI chemical list. The action is effective for the 2015 TRI reporting year with the first reports due from facilities by July 1, 2016.
- Updating Appendix D—TRI Chemical Categories with the following:
 - Adding the Nonylphenol category; and
 - Deleting duplicate listings.
- Other revisions to the List of Lists include:
- Adding Nonylphenol as another EPCRA section 313 category whose members are included in the list of specific chemicals by CAS number, not in the category listing.
- Updating and correcting the list of chemicals tables in the CAS number order chemical list and Appendix A, the alphabetical order chemical list.

Find the updated Consolidated List of Lists at www2.epa.gov/epcra/consolidated-list-lists.

Region 1 (New England) — CT improves water facilities

Two Connecticut cities will make significant upgrades to their drinking water treatment plants by eliminating the use of chlorine gas at the facilities. These actions settle claims by EPA that the cities violated federal clean air Risk Management Plan requirements. In addition to paying fines, both cities will replace the chlorine gas with sodium hypochlorite for water disinfection.

Region 2 (NJ NY) — Group sues over dust from NYC attack

In oral arguments before the U.S. Court of Appeals for the D.C. Circuit, EPA agreed to make a decision on issuing dust rules by Mar. 31, 2016. Public Employees for Environmental Responsibility (PEER) sued EPA over what it's calling weak protections from the RCRA alkaline corrosivity standards — which, they say, exposed first responders to the 2001 World Trade Center attacks to permanent lung damage. (www.peer.org)

Region 3 (Mid-Atlantic) — More serve time for WV spill

The U.S. Department of Justice announced that two more company officials pleaded guilty to environmental crimes associated with a January 2014 chemical spill into the Elk River in West Virginia. Both men admitted to negligently discharging the chemical methylcyclohexanemethanol (MCHM) into the river without a permit. They will be sentenced on June 24, 2015. (Read the official report on the spill at bit.ly/1AxzG4o)

Region 4 (Southeast) — EPA slams SC company for claims

A South Carolina pesticide registrant, along with its authorized distributor based in MO, will pay several thousands of dollars in fines

to EPA for alleged violations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). According to EPA, the company sold a pesticide with claims and directions for use that differed substantially from the product's registration.

Region 5 (Great Lakes) — IN smelter upgrades equipment

An Indiana lead smelter agreed to spend over \$3.9 million to install state-of-the-art pollution control equipment to reduce lead emissions. The agreement settles a lawsuit brought by EPA and the State of Indiana alleging clean air violations for excess lead emissions from the smelter. It will also resolve claims that the facility's failure to comply with emission standards resulted in releases of excess lead in an area that does not meet federal air quality standards.

Region 6 (South Central) — OK okays thermostat recycling

The Oklahoma Dept. of Environmental Quality (ODEQ), along with private businesses, created the OK Mercury Thermostat Recycling Initiative. According to the ODEQ, a typical wall thermostat contains as much mercury as 800 fluorescent lights. Oklahoma residents can drop off intact thermostats to various locations throughout the state. (www.thermostat-recycle.org)

Region 7 (Midwest) — MO agency runs afoul of feds

The Missouri DOT agreed to implement a compliance program and pay a \$750,000 civil penalty to settle alleged violations of the Clean Water Act at two road construction sites. EPA determined that both sites had serious erosion control issues. MO DOT was cited for failing to install or implement adequate stormwater control measures.



Region 8 (Mnts and Plains) — CO company to pay over \$70M

In a settlement with EPA, the Department of Justice, and the state of Colorado over alleged Clean Air Act violations, an energy production company will spend \$60 million on system upgrades, monitoring, and inspections to reduce emissions — in addition to \$8.5 million for environmental projects, and a \$4.5 civil penalty. The company allegedly failed to adequately design, size, operate, and maintain tank vapor control systems.

Region 9 (Pacific SW) — CARB partners with locals, feds

The California Air Resources Board (CARB) teamed up with local air agencies to enforce the state's heavy-duty diesel regulations. Through these partnerships, local air districts and ports can cite noncompliant vehicles without having to wait for CARB to respond. CARB also developed an agreement with federal EPA for enforcement of drayage tucks and aftermarket parts. (www.arb.ca.gov/truckstop)

Region 10 (Pacific NW) — Oops, OR contractor sends Hg to road

EPA reports that federal, state, and local authorities cooperated in an emergency cleanup of mercury at an Oregon home. On April 16, EPA received a report of a release of two tablespoons of mercury onto a residential driveway. A contractor washed the driveway, spreading the mercury into the street. EPA emergency responders assessed the contamination and cleaned up the area. The source of the mercury is unknown. (www.epa.gov/mercury/spills/index.htm)

Disposing of PCB-contaminated wastes

The scenario: Your company has been hired to demolish an old industrial warehouse and dispose of the materials. You know that the building was manufactured in 1952, so you made sure to test the building's bricks, caulk, paint, and mortar for PCBs. PCBs were produced and used in many buildings from the 1920s through 1979, when their manufacture was banned by the Toxic Substances Control Act (TSCA). You know that when PCBs were used in caulk, they would sometimes leach into attached porous building materials.

Sure enough — the building's caulk and attached masonry and concrete tested positive for PCBs. Just as with demolition or renovation work in buildings containing lead-based paint, you know that you have to follow prescribed work practices to protect your employees and the public from the PCB-contaminated materials. You can find an EPA guidance document on *Handling PCBs in Caulk During Renovation* at 1.usa.gov/110IumX.

Before disposal

Once you're done removing the PCB-contaminated materials, you'll need to dispose of them safely and legally. Note that PCB wastes are not covered by the Resource Conservation and Recovery Act (RCRA), the law that governs hazardous waste disposal. Rather, PCB activities, including disposal, are covered under TSCA at 40 CFR Part 761.

Before you can dispose of any PCB wastes, you need to submit a *Notification of PCB Activity Form* to EPA. While you can find EPA form 7710-53 online (epa.gov/epawaste/hazard/tsd/pcbs/pdf/771053.pdf), you must mail a paper copy of the form to EPA's Office of Resource Conser-

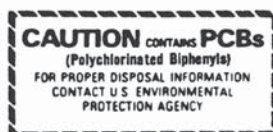
vation and Recovery (ORCR). EPA will assign the construction site an identification number for handling PCBs. If the site already has an EPA ID number for generating hazardous wastes, EPA will verify the number and assign the same ID number for the site's PCB activities. It's not necessary to have an EPA ID number for hazardous waste to receive a PCB ID number.

Storage

To store the PCB-contaminated materials onsite before disposal, you need to know what the end-use of those materials will be (e.g., disposal, reuse, recycling). Unless you are working with a certain subgroup of PCB materials such as transformers, items containing PCBs that are intended for disposal may be stored for up to 30 days in a temporary storage area — or for up to one year in a permanent PCB storage location.

In all cases, you must mark the items with the date they were removed from service. You must inspect the storage area at least once every 30 days for signs of leaks and spills. Further, the temporary storage for disposal area must meet the following requirements:

- Be marked with a PCB ML label (\$761.45)



Keeping it Real

- Have a roof and walls to protect the PCB-contaminated materials from the elements.
- Have an “adequate floor” with continuous curbing at least six inches high to provide a containment volume to at least two times the internal volume of the largest PCB article or container or 25 percent of the total internal volume of all PCB containers stored there.
- No floor drains, valves, joints, sewer lines, or other opening that would permit liquids to flow from the curbed area.

Transport

Once you're ready to send the material off to its final disposal site, you must use an appropriate transport company. Transporters do not need approval per se, but whoever is offering the waste for shipment must ensure that the transporter has submitted a *Notification of PCB Activity Form* and received a PCB ID number for their PCB activities.

Manifesting

PCB wastes must be accompanied by the Uniform Hazardous Waste Manifest. This is the same manifest that you use to ship hazardous wastes, EPA form 8700-22. Note that because PCBs are not regulated by RCRA, they do not have a RCRA waste code. But some states track shipments of PCB wastes and may assign them a state-specific waste code.

Disposal

Finally, you must send the waste to an approved PCB disposal facility. The disposal facility will also have notified EPA of their PCB activities

See **PCB**, p. 11

PCB, Continued from p. 10

and received a PCB ID number. You can check with your state for a list of approved disposal sites.

Recordkeeping

As with all waste activities, you must keep a documentation log of your storage and disposal activities per the requirements of §761.180. These documents will include copies of the manifests, and certificates of disposal from the disposal company, the annual documentation

log, and any records of inspections or cleanups.

PCB Bulk product waste

With this job, you're going to end up with a whole lot of PCB-contaminated wastes, so you'll want to be aware of EPA's 2012 reinterpretation of the Agency's position on "PCB bulk product wastes." The reinterpretation allows building materials that are "coated or serviced" with PCB bulk product waste (e.g., caulk, paint, mastics,

sealants, etc.) at the time of disposal to be managed as PCB bulk wastes, even if the PCBs have migrated to attached materials. By handling the materials as PCB bulk product wastes, you'll have a more straightforward path to disposal, meaning you won't have to treat each PCB-contaminated material differently under the regulations. Find the regulations for disposing PCB bulk product waste at §761.62.

NIOSH webpage highlights safe, green, sustainable construction

The National Institute of Occupational Safety and Health (NIOSH), a study arm of the U.S. Centers for Disease Control and Prevention, developed a webpage for builders and designers interested in "safe, green, and sustainable construction." NIOSH is working with its Construction and Prevention through Design (PtD) programs to highlight building design and construction practices that address safety and health hazards during the five stages of construction:

1. Pre-design,
2. Design,
3. Construction,
4. Occupancy and maintenance, and
5. Demolition.

"Green construction," is "the practice of creating structure and using processes that are environmentally responsible and resource-efficient throughout a building's life-cycle from siting to design, construction, operation, maintenance, renovation, and deconstruction. This practice expands and complements the classical building design concerns of economy, utility, durabil-

ity and comfort. Green building is also known as a sustainable or high performance building."

NIOSH is more concerned about worker safety during the construction and occupancy of a building than in its environmental impact. As the demand for more green construction grows, more workers may be put at risk. In fact, NIOSH statistics show that in 2011, more than 70 percent of construction businesses reporting using at least one green technology or practice, and over 50 percent were involved in improving energy efficiency within their establishments or reducing the creation of waste materials.

The NIOSH PtD program aims to prevent occupational injuries, illnesses, fatalities, and exposures by eliminating hazards and mitigating risks to workers in the design and re-design of facilities; work methods;

processes; equipment and tools; and products.

Find the new NIOSH webpage at www.cdc.gov/niosh/topics/green-construction/default.html.



It's time to prepare for next year's CDR reporting

EPA's Chemical Data Reporting (CDR) rule under the Toxics Substances Control Act (TSCA), requires manufacturers to report information on the chemical substances they produce domestically or import into the U.S. during the principal reporting year. The next CDR submission period is in 2016 and the principal reporting year is 2015.

On April 9, EPA published two fact sheets explaining how changes that were published in the final 2011 CDR rule are being phased in.

The first fact sheet, "Reporting thresholds for 2016," provides guidance on the CDR rule and provides information about regulatory thresholds that are applicable to the 2016 reporting period. For 2016, manufacturers must consider production volume from 2012 – 2015 as well as the effect of certain TSCA actions on certain reporting thresholds when determining what they need to report.

2016 reporting information

- The submission period for 2016 is June 1, 2016 – Sept. 30, 2016.
- Reporting is triggered if the annual reporting threshold is met during any of the calendar years since the last principal reporting year (2012 – 2015).
- In most cases, the reporting threshold is 25,000 lbs per site.

However, a reduced reporting threshold of 2,500 lbs now applies to chemical substances subject to certain TSCA actions.

- For chemical substances that trigger reporting, total annual production volume must now be reported for each calendar year since the last principal reporting year.
- There is no longer a different reporting threshold for processing and use information. That provision expired after the 2012 CDR. The reporting threshold for processing and use information is the same as the reporting threshold for CDR generally (25,000 lbs or 2,500 lbs).
- Processing and use information are still only reported for the principal reporting year (2015);
- Exemptions from reporting processing and use information are still available under 40 CFR 711.6(b).

The fact sheet explains each of the above requirements in more detail and also includes examples of when the reporting thresholds would apply.

The second fact sheet, "Chemical Substances which are the subject of certain TSCA actions," explains how CDR reporting requirements for 2016 may be affected when chemicals substances are

the subject of certain TSCA actions. EPA says for 2016, manufacturers must consider the effect of certain TSCA actions on reporting thresholds



when determining whether they need to report.

For the 2016 CDE, certain TSCA actions may have one or more of the following effects for specific chemical substances:

1. Reduction in the threshold production volume that triggers reporting requirements. (See §711.8(b) and §711.15)
2. Limitation on certain full or partial exemptions from reporting requirements:
 - Certain exemptions are unavailable for any chemical substance that is also the subject of the following TSCA actions:
 - A rule proposed or promulgated under TSCA section 4, 5(a)(2), 5(b)(4), or 6;
 - An enforceable consent agreement (ECA) developed under 40 CFR part 790;
 - An order issued under TSCA section 5(e) or 5(f);
 - Relief that has been granted under a civil action under TSCA section 5 or 7.
3. Limitation on use of the small manufacturer exemption (See §711.9)

The fact sheet also goes into more detail about reporting on substances that have undergone a change in TSCA regulatory status since 2012; the effects of TSCA actions on different CDR requirements or exemptions; and the effect of certain other TSCA actions.

For questions about CDR, contact the TSCA Hotline at (202) 564-1404. Find both factsheets and other CDR updates at www.epa.gov/cdr.



Final water jurisdiction rule ready for approval

In early April, EPA and the U.S. Army Corps of Engineers sent their joint rulemaking for the “Definition of Waters of the United States” to the White House for review and approval.

While the details of the rule won’t be known until it is finalized, EPA head Gina McCarthy and Assistant Secretary of the Army (Civil Works) Jo Ellen Darcy shared some key points of the rulemaking in an EPA blog titled, “Your input is shaping the Clean Water Rule.” And as far as input goes, since the rule was proposed over a year ago, it has received over a million comments!

McCarthy said the agencies used the feedback to understand the “genuine concerns and interests of a wide range of stakeholders. In the final rule, people will see that we made changes based on those comments, consistent with the law and the science. We’ve worked hard to reach a final version that works for everyone — while protecting clean water.”

Key points and changes expected in the rule include:

Significant waters: The final rule will better define the technical term “significant waters” and how agencies will determine if a waterbody is a significant water.

Tributaries: Commenters told the agencies that the rule’s definition of “tributaries” was confusing and ambiguous. The rule will provide a more precise definition.

Adjacent waters: The rule seeks to protect wetlands that border protected waterways such as rivers and lakes, and will provide a clear definition about which waters are considered “adjacent waters.”

Regional water treasures: Many commenters were concerned about a category in the proposed rule called “other waters” because it was too broad and undefined. The final rule will be more specific about the waters that are important to protect.

Tributaries — not ditches: The blog says the final rule will limit protection to ditches that “func-



tion like tributaries and can carry pollution downstream — like those constructed out of streams.” The proposed rule mentioned “upland ditches,” which confused many people.

Exclusions and exemptions for agriculture: McCarthy and Darcy insist that the final rule will not adversely affect farming and ranching. “Normal agriculture practices like plowing, planting, and harvesting a field have always been exempt from Clean Water Act regulation.”

Municipal storm sewer systems: State and local governments questioned the agencies about waters within permitted Municipal Separate Storm Sewer Systems (MS4s). The blog says the agencies do not intend to change any rules applying to MS4s.

The final rule was originally scheduled for release in April, and now it looks to be on track for some time this summer. Read the blog here: 1.usa.gov/1Jv64Zx.

Dueling TSCA bills aim to make public safer

The Toxic Substances Control Act (TSCA) passed almost 40 years ago, but hasn’t been revised since. EPA has stated that it is crucial to modernize and strengthen the law to provide the agency with the tools necessary to ensure chemical safety.

It has proven challenging for EPA to limit or ban chemicals that the agency has determined pose a significant health concern. As a result, EPA has only been able to regulate or ban five chemicals under TSCA section 6. Even the agency’s attempts to phase out most uses of

asbestos in products was mostly overturned in federal court.

However, two bills recently introduced in the Senate would give EPA stronger authority over the safety of chemicals in the marketplace.

On March 10, Senator Tom Udall (D-NM) introduced legislation (S. 697) favored by industry, and on March 12, Senator Barbara Boxer (D-CA) introduced an opposing bill (S. 725) favored by environmental groups.

One important area that differentiates the two bills is their approach to preemption. Under the Udall



bill, once EPA acts on a chemical substance, a uniform federal standard applies across the nation. The Boxer bill does not allow EPA to preempt state authority to protect its citizens from chemicals and would allow states to enforce federal chemical restrictions.

Bill summaries are found at bit.ly/1FR1pzv and 1.usa.gov/1LP7yiw.

10 foolproof ways to increase your mpg

EPA recently updated one of its Transportation and Air Quality webpages to shed light on various factors that can increase (or decrease) the mileage a vehicle can obtain on a gallon of fuel.

According to the Y.M.M.V. (Your Mileage May Vary) page, you can increase your mileage by doing the following:

1. Slow down. Speeding uses more fuel.
2. Accelerate and brake gently. Try to avoid sudden stops and starts.
3. Avoid idling.
4. Reduce cargo. Don't leave unnecessary items in the vehicle.
5. Reduce use of air conditioning and other car accessories.
6. Use cruise control. Some cars

may also offer a special "eco" driving mode to reduce fuel consumption.

7. Keep your vehicle well maintained.
8. Keep tires properly inflated.
9. Buy low rolling resistance tires.
10. Combine several short trips into one longer trip.

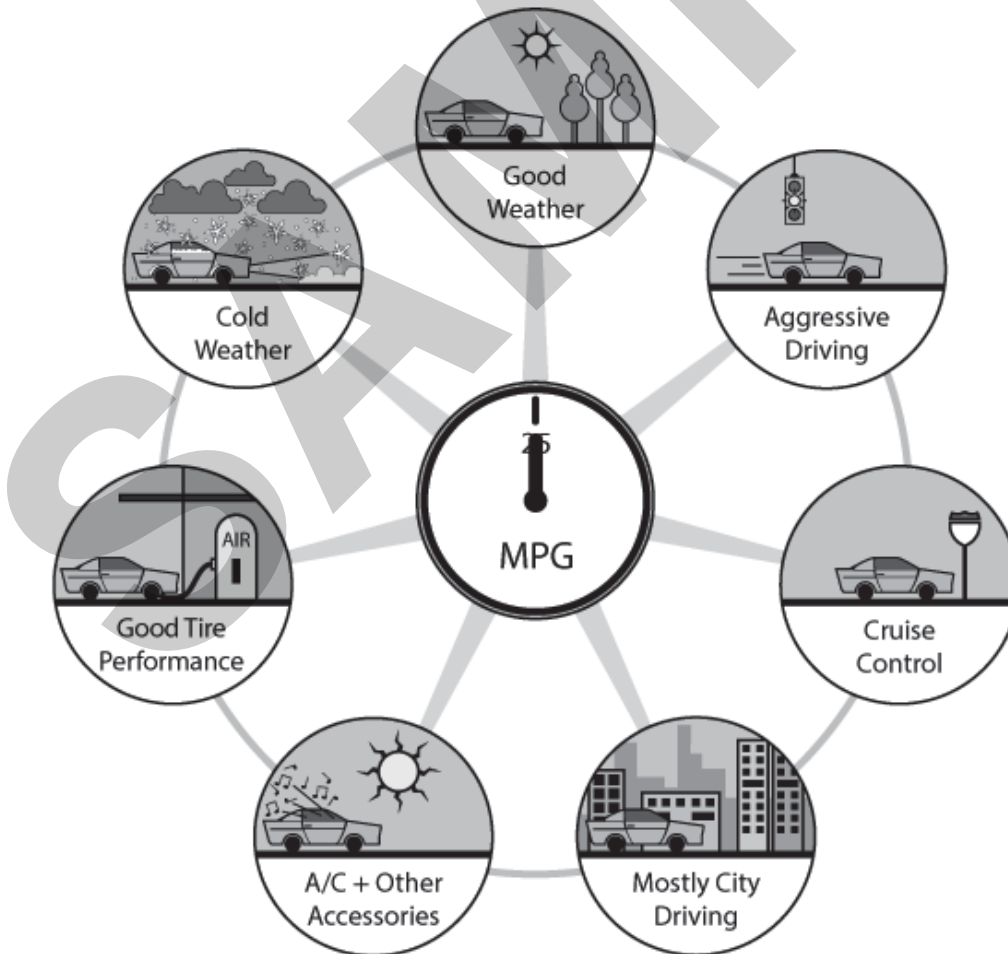
On the other hand, there are actions you can take that will decrease your mileage. These are:

1. Speeding.
2. Quick acceleration and hard braking.
3. Using a remote starter with long idle periods.
4. Using a roof rack.
5. High air conditioning and car accessory use.

What You Can Do

6. Not keeping your vehicle maintained.
7. Driving in hilly or mountainous regions.
8. Stop and go traffic conditions (unless you are driving a hybrid).
9. Cold outside temperatures.
10. Hot outside temperatures if you use your A/C system.
11. Driving on bumpy or poor roads.

EPA has created a clever interactive infographic on factors that affect fuel economy. Find it at epa.gov/greenvehicles/you/yymm.htm.



Watch out for garbage trucks — Train waste workers to be safe

In March, the National Waste & Recycling Association (NWRA) reported on a Harris Poll survey conducted on its behalf. The survey suggests that two-thirds of Americans refuse to slow down around garbage trucks — and 40 percent of survey respondents said they actually speed up to get around them. The survey also found that less than 10 percent of Americans are aware that garbage collectors have a higher fatality rate than firefighters, police officers, or paramedics. However, when they were informed about the statistics, 90 percent of respondents said they would support laws protecting garbage collectors.

According to NWRA, being struck by motorists is the leading cause of death for waste and recycling collection workers. In response, the NWRA started the Slow Down to Get Around campaign, which,

among other things, promotes legislation to protect waste workers.

The National Institute for Occupational Health and Safety (NIOSH) is a major backer of the campaign. Promoting sanitation worker health and safety is nothing new to NIOSH, which published a safety alert in 1997 on “Preventing Worker Injuries and Deaths from Moving Refuse Collection Vehicles.”



The Slow Down to Get Around campaign worked with NIOSH to develop a flyer that helps motorists know what to do when they are behind a garbage truck. Other resources include radio and TV



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commercials and decals to place on garbage trucks.

The NWRA recommends that motorists take the following precautions:

1. Slow down when approaching a garbage truck making its rounds. Stop if necessary to allow workers to do their jobs.
2. Look for workers before attempting to pass the truck.
3. Check for traffic approaching from the opposite direction before proceeding around the truck.
4. Avoid distractions like texting, talking on the phone, changing the radio station, or programming a GPS system while driving near a garbage truck.

A few states have already enacted laws to protect sanitation workers. Florida, West Virginia, and Wisconsin require motorists to use caution when approaching garbage trucks.



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Employee Handout: Don't throw safety out with the trash

If you work in the waste and recycling industry, you know that you face many hazards on the job. These hazards run the gamut from risks of developing musculoskeletal injuries, to exposure to lead or other toxic chemicals, to risks from heavy machinery or moving conveyer parts. However, one of the most dangerous jobs in the industry is refuse collection. Whether you're operating a rear-loading trash truck to empty dumpsters, or you're collecting household waste curbside, you face a variety of occupational hazards.

Data from the Bureau of Labor Statistics show that in 2013, 61 workers in the waste management and remediation industry were killed on the job. The industry also had a total recordable case rate of 4.7 injuries or illnesses that result in death, days away from work, job restrictions, or transfers per 100 workers. That's compared to a

national average for all occupations of 3.3 cases per 100 workers.

With figures like that, you know you have to keep safety in mind as you go about your daily work. Both the Occupation Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) have published safety recommendations for refuse collection workers to help them stay safe and avoid injuries or fatalities on the job.

For employees working on or around rear-loading trash trucks, OSHA recommends you or your employer:

1. Inspect all devices used to tip up and empty dumpsters into rear-loading trucks (including the trunnion bar locking mechanism, wire rope, and hooks with safety latches) to assure that the devices are present, appropriately connected, and in full working order.

2. Develop a training program and procedures regarding the use of securing devices when emptying dumpsters into rear-loading trash trucks. Train all employees to cycle the compactor only when the dumpster is on the ground.
3. Review and follow industry consensus standards and best practices, including ANSI Z245.1-1999 for Equipment Technology and Operations for Wastes and Recyclable Materials — Mobile Wastes and Recyclable Materials Collection, Transportation, and Compaction Equipment Safety Requirements.

For refuse collection workers who ride on or work near refuse collection vehicles, among other things, NIOSH recommends you and your employer:

1. Develop and implement safe work procedures for riding on and working near moving refuse collection vehicles;
2. Train in these procedures.
3. Recognize hazardous areas around refuse collection vehicles. The size of this hazardous area depends on the boundaries of the drivers' blind spot and the distance needed to stop the vehicle gradually, without throwing a step rider from the steps.
4. Observe safe backing procedures.
5. Observe safe riding procedures.
6. Wear vests or other highly visible clothing to help vehicle operators and other motorists locate you, especially if working during non-daylight hours.



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