Message

From: Vickery, Bryce [Vickery.Bryce@epa.gov]
Sent: 9/24/2019 9:01:55 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily Clips Tuesday 24th

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EPA Labels Seven Areas as 'Serious' Ozone Violators

https://news.bloombergenvironment.com/environment-and-energy/epa-labels-seven-areas-as-serious-ozone-violators

by Stephen Joyce

The Environmental Protection Agency downgraded seven U.S. areas to "serious" ozone nonattainment from "moderate," determining that the areas have a deteriorating ability to meet a federal ozone standard.

Two tri-state areas—Illinois-Indiana-Wisconsin and Connecticut-New Jersey-New York—were among the locations being downgraded under the EPA's 2008 "8-hour" ozone standards.

The Sept. 23 downgrade means more regulation for the areas.

The "responsible state air agencies must submit State Implementation Plan (SIP) revisions and implement controls to satisfy the statutory and regulatory requirements for Serious areas," the EPA said in a statement.

The areas now have until July 2021 to meet the standard. The reclassification is required by the federal Clean Air Act when areas don't meet a standard by deadlines specified in the act.

Other Changes

The EPA also reclassified as "serious" nonattainment several other areas, including Dallas-Fort Worth, Texas; greater Connecticut; Houston-Galveston-Brazoria, Texas; the western part of Nevada County, Calif.; and San Diego County, Calif.

The agency separately determined that two formerly "moderate" nonattainment areas—Baltimore and Mariposa County, Calif.—now met the ozone standard.

It also granted a one-year attainment date extension for two "moderate" nonattainment areas in Sheboygan County, Wis.

Lake Michigan Winds

The change to serious from moderate for ozone pollution in the Wisconsin area indicated a persistent presence of volatile organic compounds and nitrogen oxides, the Wisconsin Department of Natural Resources said.

Ozone pollutants have decreased about 50% in the Midwest tri-state nonattainment area since 2002, yet pollutant levels were still 79 parts per billion (ppb) in 2016-2018, Wisconsin Department of Natural Resources data said.

The pollutants react over Lake Michigan to form high concentrations of ozone, which then get blown back to shore by lake winds. The federal Clean Air Act's 2008 standard for ozone is 75 parts per billion.

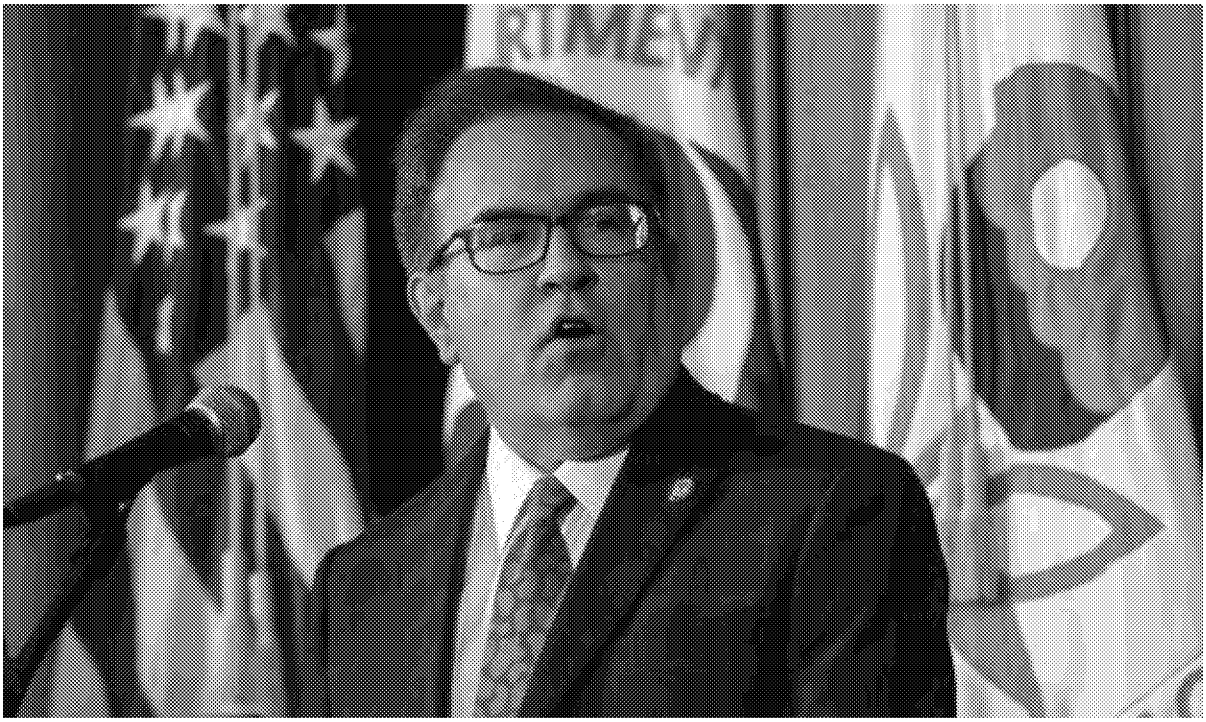
Nationally, a July 2019 EPA air quality report said ozone concentrations have declined by 21% since 1990.

—With assistance from Amena H. Saiyid.

Trump Administration Threatens to Cut U.S. Highway Funds From California

https://www.nytimes.com/2019/09/24/climate/trump-california-climate-change.html

By Coral Davenport
Updated 8:20 a.m. ET



Andrew Wheeler, the Environmental Protection Agency administrator, warned that Washington might withhold federal highway funds from California.J. Scott Applewhite/Associated Press

WASHINGTON — The political war between California and the Trump administration escalated Monday with a letter from Andrew Wheeler, the head of the Environmental Protection Agency, warning that Washington would withhold federal highway funds from the state if it did not rapidly address a decades-long backlog of state-level pollution control plans.

The letter is the latest parry between President Trump and the liberal West Coast state that he appears to relish antagonizing. California's recent actions on clean air and climate change policy have blindsided and enraged him, according to two people familiar with the matter.

While California has angered Mr. Trump with its efforts to adhere to stricter state standards on climate change pollution from vehicles even as Mr. Trump has sought to roll back such standards nationally, Mr. Wheeler's new letter to the state offers a twist on the narrative.

It states that California "has the worst air quality in the United States," including 82 areas within the state with air quality that does not meet federal law. It says that by law, the state is required to submit plans for reducing that pollution, but that California has a backlog of about 130 incomplete or inactive plans, "many dating back decades."

The letter notes that California has more than 34 million people living in areas that do not meet federal air pollution standards for pollutants like soot and smog — "more than twice as many people as any other state in the country."

Mr. Wheeler says in the letter that he is calling attention to California's backlog as part of a broader effort to "dramatically reduce" such backlogs nationally.

He says that California's failure to address the backlogged plans may result in penalties such as the withholding of federal highway funds, or the implementation of federal plans.

The letter requests a response from the state by Oct. 10.

California's governor, Gavin Newsom, called the E.P.A.'s administrator pure politics.

"The White House has no interest in helping California comply with the Clean Air Act to improve the health and well-being of Californians," he said in a statement Tuesday. "This letter is a threat of pure retaliation. While the White House tries to bully us and concoct new ways to make our air dirtier, California is defending our state's clean air laws from President Trump's attacks. We won't go back to the days when our air was the color of mud. We won't relive entire summers when spending time outside amounted to a public health risk. We won't be intimidated by this brazen political stunt."

The E.P.A. letter, made public on Monday but dated Sept. 24, was first reported by The Sacramento Bee. California officials said Monday night that they had only just received it, and they declined to respond until they had time to review it. A spokesman for the White House referred questions to the E.P.A., and a spokesman for the agency did not immediately respond to an emailed request for comment.

The letter follows Mr. Trump's announcement last week that his administration would revoke California's legal authority to set its own stringent state-level regulations on planet-warming pollution from vehicle tailpipes. On Friday, California and more than 20 other states retaliated by filing a sweeping lawsuit expected to be resolved only before the Supreme Court, accusing Mr. Trump of trampling on both states' rights and on major efforts to fight climate change.

In fact, one of the key legal arguments made by the California lawsuit last week is that those tailpipe standards are required for the state to control emissions of the other pollutants, like soot and smog, at levels required to meet even federal standards.

"We need the extra clean cars to meet the standards set by the federal government," Mary Nichols, California's top clean air regulator, said at a news conference last week. "If this prevails, millions of people in California will breathe dirty air. There will be more pollution, more asthma, more hospitalizations, more premature deaths."

Mr. Trump's move to revoke California's authority to set climate standards from vehicle pollution came after an announcement in July that four automakers that opposed Mr. Trump's plan to roll back the national vehicle tailpipe pollution standard signed a deal with California to comply with tighter emissions standards if the broader rollback goes through.

Mr. Trump, who was surprised and angered by that announcement, according to two people familiar with the matter, has since sought to push policies that would punish California.

Earlier this month, the Justice Department opened an investigation into whether the automakers' deal with California violates antitrust laws, although a person familiar with the investigation said that it was not started at the request of Mr. Trump or any administration officials.

For more news on climate and the environment, follow @NYTClimate on Twitter.

Coral Davenport covers energy and environmental policy, with a focus on climate change, from the Washington bureau. She joined The Times in 2013 and previously worked at Congressional Quarterly, Politico and National Journal. @CoralMDavenport • Facebook

Daimler fined $1 billion over diesel car certification

https://www.apnews.com/9852586948364aadbd01f47ef248e591

September 24, 2019

BERLIN (AP) — German prosecutors have fined Daimler 870 million euros ($957 million) over the alleged certification of diesel cars whose emissions didn't comply with regulatory requirements.

Prosecutors in Daimler's home city of Stuttgart said Tuesday that Daimler was fined over a negligent violation of supervisory duties. Daimler said it had concluded that it was "in the company's best interest" to conclude the proceedings and it wouldn't appeal.

The company said prosecutors' finding that Daimler's alleged failings caused some vehicles to deviate from regulatory requirements from 2008 refers essentially to recall orders by German authorities. It said it is maintaining its objections against those orders "in order to get clarity also for the future."

Daimler said the fine won't cause any additional impact to its third-quarter earnings and it is maintaining its forecast.

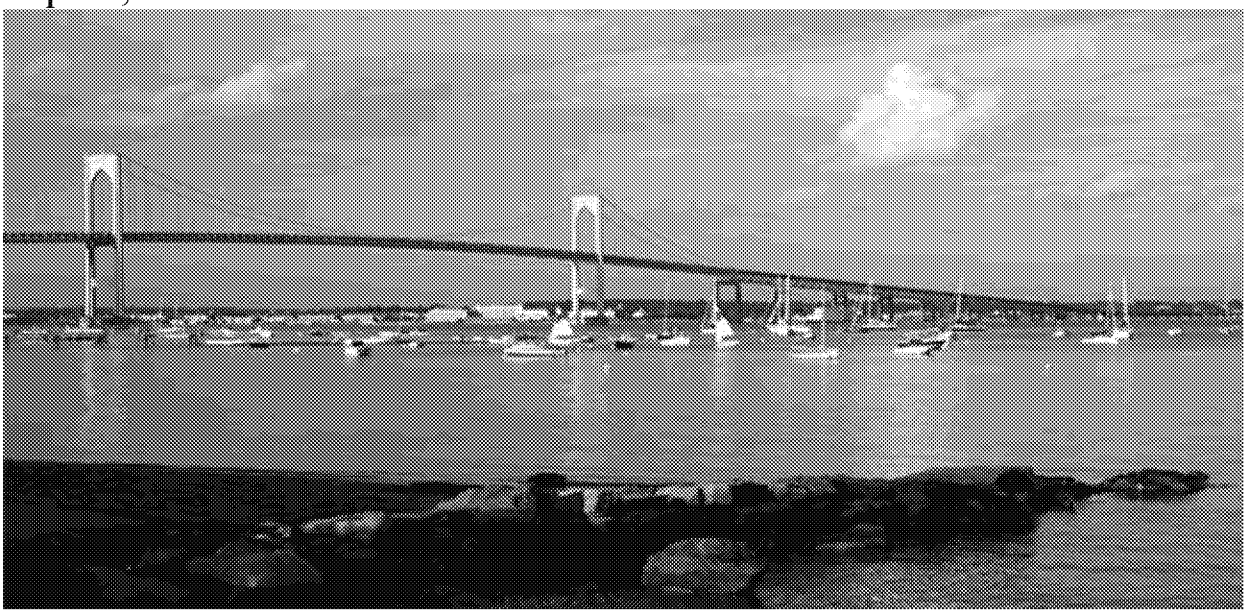
The Water Infrastructure Finance and Innovation Act Cleaning Up Narragansett Bay

https://eponline.com/articles/2019/09/24/the-water-infrastructure-finance-and-innovation-act-cleaning-up-narragansett-bay.aspx?m=1

Last week, the EPA announced a WIFIA loan to the Narragansett Bay Commission (NBC) to help reduce pollutant discharges into Narragansett Bay. The first of its kind in New England, the loan will help protect public health

and ecosystems as a part of the Combined Sewer Overflow (CSO) Phase IIIA Facilities Project.

- Sep 24, 2019



On September 20, 2019, the EPA awarded a loan to the NBC titled the Water Infrastructure Finance and Innovation Act (WIFIA). The loan will contribute approximately $269 million as a part of a larger project to prevent discharged pollutants from entering communal water sources.

"This WIFIA loan will improve water quality in the Narragansett Bay, protect the health of local residents, and deliver on President Trump's commitment to upgrade our nation's infrastructure, create jobs, and safeguard public health and the environment," said EPA Administrator Andrew Wheeler. "With this loan closing, EPA has now issued 12 WIFIA loans totaling over $3 billion in credit assistance to help finance over $7 billion for water infrastructure projects and create over 12,000 jobs."

Pollutants are more likely to come into contact with water systems and local rivers in the event of heavy storms. Pollutants like sewage solids, metals, oils, grease, and bacteria can overflow current water systems if preventative systems are not in place. The CSO Phase IIIA Facilities project will head the building of a long deep rock tunnel, two work shafts, four drop shafts, a tunnel pump station, and several improvements to the wastewater collection system in the Narragansett Bay area.

The EPA's WIFIA loan of about $269 million will finance about half of the CSO project's total cost of $548 million. Additionally, the Rhode Island Infrastructure Bank (RIIB)—with the funding support of the Rhode Island Clean Water State Revolving Fund (RI CWSRF) and other programs—will cover another portion of the costs. The WIFIA loan will save the NBC an estimated $99.6 million compared to typical bond financing. The project is expected to create 1,755 jobs.

"EPA is very pleased that the first WIFIA loan award here in New England will result in cleaner and more healthy water in Narragansett Bay," said EPA New England Regional Administrator Dennis Deziel."In a major

storm event, this Combined Sewer Overflow construction project will keep approximately 60 million gallons of water contaminated with raw sewage, metals, oil, grease and bacteria from being discharged directly into Narragansett Bay."

As a main source of water for the largest estuary in the region, Narragansett Bay serves a large New England population. Ensuring its water safety is essential to both human and ecosystem health.

Newark Water Filters Are Working, Tests Suggest

https://www.ecowatch.com/newark-drinking-water-lead-2640577993.html?rebelltitem=2#rebelltitem2

Jordan Davidson

Sep. 24, 2019 10:42AM EST

Newark water is safe to drink, if you use the U.S. Environmental Protection Agency (EPA) approved filters issued by the city, according to new test data that city and state officials announced Monday.

New Jersey Governor Phil Murphy announced that more than 1,700 samples were taken from 300 homes. The tests showed that the filters were tested and 97 percent of the filters worked effectively once the tap was turned on. That number rose to 99 percent when the tap was allowed to run for five minutes before a sample was collected, as the AP reported.

"These results are a welcome jolt of positive news that allows us collectively to charge ahead in implementing our short-term, midterm and long-term solutions," Murphy said at a news conference on Monday, as The New York Times reported.

Newark officials had handed out more than 38,000 lead filters to address the issue, but two filters tested last month showed levels of lead as high as 57.9 parts per billion — nearly four times the EPA action level of 15 parts per billion, as the New York Post reported. The failed test spurred the city and religious groups to distribute bottled water to nearly 14,000 homes.

The PUR filters issued by the city reduce traces of lead to less than 10 parts per billion, the test showed, according to CNN. However, scientists say there is no safe level of lead in water. High blood lead levels may impair a child's mental development and damage organs, while even small amounts can affect a child's intellectual development, according to The New York Times.

"We thank God that the filters work, but we are not in any way having a victory lap," said Ras Baraka, Newark's mayor, as the New York Post reported. "It is good news in a long and arduous task to make sure we have clean drinking water."

Baraka is looking to lead by example, insisting that he drinks the water now, as WCBS reported.

Since it is not a victory lap, the city will continue to distribute bottled water until a final report on the test samples is issued and all doubt about the efficacy of the filters is removed. Additionally, the city will launch a community assistance program to help ensure all affected residents are using the filters correctly, according to the AP.

New Jersey recognizes the scientific consensus that there is no safe level of lead in the water, so it is waiting for President Trump to sign a bill that allows $100 million from the Clean Water State Revolving Fund to be used to replace lead pipes in New Jersey, as CNN reported.

Gov. Murphy said that 6,500 households in Newark have signed up for lead service line replacement, and so far more than 900 service lines have been replaced. The city is replacing the lines at no cost to homeowners thanks to funding recently secured by Essex County. The Essex County Improvement Authority announced in August that it will lend $120 million to Newark to replace lead pipes, which will allow the city to fix 18,000 lead service lines in two to three years, instead of the initial expectation of eight to 10 years, as CNN reported.

The National Resource Defense Council, which has sued Newark over lead levels and its mismanagement of its water problems, welcomed the results, but expressed caution.

"We say 'trust, but verify,'" Erik Olson, a senior director at the group, said, as The New York Times reported. "The city, state and federal Environmental Protection Agency should provide all test results and the protocols used to test the filters to the public so Newark residents can feel confident that filters will protect their health. Anything less than full transparency will breed further distrust and skepticism."

New Drinking Water Report: Communities of Color More Likely to Suffer Drinking Water Violations For Years

https://www.nrdc.org/media/2019/190924

September 24, 2019

WASHINGTON – Race bears the strongest relationship to slow and ineffective enforcement of the federal drinking water law in communities across the nation, according to a new report released today. ***Watered Down Justice*** is a new analysis of EPA data that confirms there is unequal access to safe drinking water, based most strongly on race, a scientific conclusion that mirrors the lived experience of people of color and low-income residents in the United States.

The report—co-authored by the Natural Resources Defense Council (NRDC), Coming Clean, and the Environmental Justice Health Alliance (EJHA)—reinforces the widely held belief that ongoing water contamination in majority-black communities like Flint, Mich., and Newark, N.J., is related to a history of community disinvestment, residential segregation, and discrimination.

"As a scientist, I was surprised to find that race had the strongest relationship to the length of time people had to live with drinking water violations. But as a black woman, I was not surprised at all. It is a travesty that the nation's drinking water laws does not protect everyone equally. No one should have to wonder about the safety of their water every time they turn on their tap," said **Kristi Pullen Fedinick, PhD, Director of Science and Data at NRDC.**

Drinking water systems that constantly violated the law for years were 40 percent more likely to occur in places with higher percentages of residents who were people of color, according to EPA data from 2016-2019 analyzed in the report. Even when actions were taken to compel systems to fix their violations, it took longer for water systems in communities of color to come back into compliance.

"Every child deserves safe drinking water but, today, race still matters. The sad reality that communities of color are *still* more likely to face unsafe drinking water makes it clear that we have a lot farther to go. For decades communities across the country have been leading a movement for environmental and economic justice; yet, even 55 years after the passage of the Civil Rights Act, the law still does not ensure that the color of your skin won't mean you're more likely to drink polluted water," **said Michele Roberts, National Co-Coordinator of the Environmental Justice Health Alliance**. "It has been nearly 30 years since the First National People of Color Environmental Leadership Summit formally challenged environmental racism. That's why we're renewing our call for the moral and political will to find justice for our communities and equitable access to safe drinking water for everyone," said Roberts.

Race, together with ethnicity and language spoken had the strongest relationship to serious longstanding violations and ineffective enforcement of the nation's drinking water law, the Safe Drinking Water Act. Aging, underdeveloped, and underfunded water infrastructure contributes to unsafe water conditions, as does dysfunction of the law, in part because some dangerous contaminants are not regulated. Drinking contaminated water is linked to high costs to human health, including cancer, compromised fertility, developmental effects, serious infections, and more.

"What we have found in Newark is that its residents continue to be besieged with untenable living conditions, poverty and a myriad of health concerns exacerbated by drinking water contaminated with dangerous levels of lead. At its core, environmental justice hits the black and brown community in ways that are not seen or felt immediately. As a public school teacher, I see the effects of this every day. More importantly, I witness the apathy and naivete from my students because of a lack of education regarding environmental justice. This report highlights the steps that are necessary to begin to turn the collective tide towards health equity," said **Yvette Jordan, of NEW Caucus**, a group of public school teachers who have sued Newark to secure safe drinking water.

Large cities are not the only places with water contamination. Small systems – those that serve less than 3,300 people – were responsible for more than 80 percent of all violations.

"California rural communities depend on small water systems to fulfill daily basic needs. Farm working families of Latino and Mexican Indigenous origin, many of them single-mother households face social and economic barriers such as language and inaccessibility to healthcare. They should not have to endure the burden of unsafe drinking water in addition to other environmental contaminants," said **Suguet Lopez, Executive Director of Lideres Campesinas, the Women Farmworker Leadership Network**.

"All people deserve safe drinking water, wherever they live, but our national water law has failed. Nearly 130 million people in the United States live with drinking water violations, often putting their health at risk. Societal inequality and disinvestment exacerbates this in communities of color. We need Congress and the states to take action to fix the Safe Drinking Water Act, while increasing enforcement," said **Pullen Fedinick**.

Recommendations to secure safe and affordable drinking water for every community include:

- Improving the national law to measurably increase access to safe drinking water for communities of color, starting by identifying, engaging and funding water infrastructure projects;

- Preventing water contamination, by effectively controlling industrial and agribusiness discharges and spills and by expanding the list of chemicals and substances regulated under the Clean Water Act and Safe Drinking Water law;

- Enforcing the law to ensure safe drinking water for all.

Key findings:

- NRDC, EJHA, and Coming Clean conducted an analysis of the approximately 50,000 active community water systems in the country and sociodemographic factors such as race and income.
- The data from June 1, 2016 to May 31, 2019 included nearly 200,000 violations of the Safe Drinking Water Act, the federal law.
- Drinking water systems that constantly violated the law for years were 40 percent more likely to occur in places with higher percentages of residents who were people of color.
- All levels of government have disinvested in people and places through residential segregation and other forms of discrimination. This has led to aging, underdeveloped, and underfunded water infrastructure in water systems serving populations of color and low-income communities.
- Nearly 130 million people in the U.S. got their drinking water from systems that violated federal law during the time period reviewed in this report.
- Small systems – those that serve less than 3,300 people – were responsible for more than 80% of all violations. The EPA has noted many small systems are "likely to serve low-income, vulnerable populations."
- Dysfunction of the drinking water law leaves millions nationwide potentially exposed to unsafe water, whether it's because some dangerous contaminants are not regulated or because some systems simply do not report any data at all.

EPA granted full biofuel waivers to U.S. refineries despite energy dept recommendations: memo

https://af.reuters.com/article/idUSKBN1W91S6

Reporting by Jarrett Renshaw; writing by Richard Valdmanis; editing by Susan Fenton

FILE PHOTO: The U.S. Environmental Protection Agency (EPA) sign is seen on the podium at EPA headquarters in Washington, U.S., July 11, 2018. REUTERS/Ting Shen

(Reuters) - The U.S. Environmental Protection Agency granted some refineries full waivers from biofuels regulations for the 2018 compliance year even though the Department of Energy had recommended only partial exemptions, according to an EPA memo seen by Reuters.

The Trump administration's decision in August to grant 31 full waivers to small refineries, freeing them from their obligation to blend biofuels like ethanol into their fuel, angered the U.S. corn lobby and led President Donald Trump to promise a "giant package" to farmers that would boost the ethanol market. That plan has yet to be released.

Critics warn Trump EPA's coal ash plan will let polluters off the hook

http://pulse.ncpolicywatch.org/2019/09/24/critics-warn-trump-epas-coal-ash-plan-will-let-polluters-off-the-hook/

By Allison Winter

WASHINGTON — The Trump administration wants to give electric utilities a pass on proving they could finance a hazardous waste cleanup in the event of a Superfund disaster.

The proposed rule from the U.S. Environmental Protection Agency says electric utilities should not have to make "financial assurances" to cover the risk the industry will produce pollution it cannot afford to clean up.

The rule comes in response to a decade-long push and legal battle with environmental groups, who petitioned the EPA to write the rules during the Obama administration. But under the Trump administration, EPA decided electric utilities do not pose a significant risk and can forego the requirement.

The decision calls into question who will be on the hook to pay for and clean up old waste sites with lagoons of coal ash, the toxic byproduct that is left when coal is burned in power plants to produce electricity. Stored in pits, coal ash can contaminate drinking water or blow into nearby communities. It went largely unregulated until EPA issued rules in 2015 to address the problem.

Earlier this year, the NC Department of Environmental Quality determined that the Duke Energy must remove all coal ash from its remaining nine impoundments at six plants in North Carolina: Allen, Belews Creek, Cliffside/Rogers, Marshall, Mayo and Roxboro.

According to the order, Duke can move the coal ash– roughly 100 million tons in total — to lined, dry landfills, either onsite or offsite. The utility can also recycle the ash at beneficiation plants, which prepare the material to be reused in concrete. Three such facilities are planned for North Carolina: in Wayne, Chatham and Rowan counties.

Some advocacy groups are concerned EPA's proposal could open the door for coal-fired power plants to abandon toxic coal ash pollution or leave consumers to foot the bill.

"We know there is coal ash pollution across the United States that will cost billions of dollars to clean up, and the question becomes who is going to pay for it," said Sarah Saadoun, a researcher at Human Rights Watch, an international human-rights advocacy group that is tracking the regulation.

The obscure federal rule has gone mostly overlooked since its proposal in July. The public comment deadline closes Sept. 27, but there are currently only seven comments filed — while other environmental regulations garner hundreds of submissions.

"This regulation is a little technical-sounding … but it can have very real repercussions in terms of whether or not coal ash will be cleaned up and whether consumers will be saddled with that expense, or whether the companies that have been polluting will pay to clean it up," Saadoun said.

Who has to pay?

Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or "Superfund" law in 1980, in response to environmental disasters like Love Canal. It allows EPA to clean up contaminated sites and forces responsible parties to help pay for it.

Superfund includes a requirement for industries to make "financial assurances" if there is a risk the industry will produce pollution it cannot afford to clean up. The "assurances" can include trust funds, bonds, insurance policies or corporate guarantees. But the government had never written regulations to actually make industries do it.

The financial assurances could help provide some financial backing in case of disaster and protect taxpayers if there is contamination after a company goes out of business. Congress wrote at the time that another goal is to "enlist insurers to provide additional policing and incentives" to monitor the industry and make sure it does not pollute.

Environmental groups have been working for a decade to get EPA to write the rules for electric utilities, oil and gas, and mining companies. The agency is on a court-mandated timeline to complete them in the next year. EPA officials say they plan to release proposals on petroleum and chemical manufacturing in December.

The agency already decided the financial reporting requirements were not necessary for hardrock mining, a 2017 decision that environmental groups have challenged in court.

The current proposal, due to be finalized by early December, covers electric power generation, transmission and distribution facilities. EPA decided there was not enough of a risk to warrant the extra work of financial assurances.

Publicly-owned utilities have a low risk of bankruptcy and already have detailed financial reporting requirements, according to EPA.

"By proposing no new financial requirements, we will be ensuring that no duplicative or unnecessary burdens fall on America's energy producers," EPA Administrator Andrew Wheeler said in a statement announcing the rule.

But Saadoun of Human Rights Watch takes issue with how EPA calculated the risk of power plants. The agency only looked at pollution generated after 2015, when coal ash was first regulated. And it grouped coal-fired plants with other utilities, which she says downplays the financial risk.

"As a practical matter we have coal-fired utilities which are closing and not setting aside funds to pay for decades of coal ash pollution that is continuously contaminating groundwater in ways that threaten drinking water," Saadoun said.

Grassley impatient for biofuel package

https://subscriber.politicopro.com/article/2019/09/grassley-impatient-for-biofuel-package-3885901

09/24/2019 10:43 AM EDT

Sen. Chuck Grassley (R-Iowa) is tired of waiting for the White House to produce its biofuels booster package.

"This agreement we have with the White House, it's 15 billion gallons, why isn't that the end of it?" Grassley told reporters on a call today. "Let's either do our job or get off the pot. Let's call this thing to an end. We ought to have this paper from the EPA yesterday."

Grassley and five other farm-state senators met with Trump two weeks ago and they left believing they had a deal, Grassley said. Under the broad outlines of the deal Grassley described, small refiners would continue to get economic hardship waivers, but EPA would reallocate enough gallons to ensure that the mandate requires the rest of the refiners to blend 15 billion gallons of conventional ethanol.

Grassley said Trump's decision to approve 31 small refiner waivers for the 2018 year and failure to move quickly on the biofuels agreement is starting to wear out farmers' patience.

"This is hurting the president more in Iowa than even the China debate," Grassley said, referring to the trade war with China that is slashing demand for soy and corn. "I think farmers have patience with China, the negotiations going on with China. They know China has been cheating. What they don't understand is, they're promised 15 billion gallons of ethanol to be used, but get 13.6 [billion gallons]."

U.S. Brings First Fiat Diesel Charges, Indicting Engineer

https://www.bloomberg.com/news/articles/2019-09-24/first-u-s-criminal-action-against-fca-over-diesel-emissions

Tom Schoenberg

- Palma aided by others at carmaker, prosecutors allege in case

The U.S. brought its first criminal charges related to allegations of diesel-emissions cheating at Fiat Chrysler Automobiles NV, extending a scandal that has roiled the global auto industry.

In an indictment unsealed Tuesday in Michigan, Emanuele Palma, a senior Fiat Chrysler engineer, was accused of conspiring with others at the company to mislead regulators and the public about the emission of pollutants from its diesel vehicles in a suspected scheme running from at least 2011 to 2017. The other employees weren't named.

Palma led a team of engineers who developed and calibrated diesel engines for several years at the company's U.S. headquarters in Auburn Hills, Michigan, prosecutors said. The charges against him include conspiracy to violate the Clean Air Act, wire fraud and making false statements. Palma was still working for the company when the indictment was issued on Sept. 18, it said.

The Italian-American automaker agreed to pay $800 million last January to settle lawsuits brought by states, car owners and the U.S. Department of Justice, which said its diesel-powered pickups and sport-utility vehicles violated clean-air rules. At the time, an attorney for the Justice Department called Fiat "a corporate bad actor" and said its violation of emissions laws was "a very serious offense."

Despite the civil settlement, Fiat Chrysler could face other financial penalties related to the criminal investigation, depending on what it turns up. The indictment could be a sign of more to come, said Peter Henning, a former U.S. prosecutor who's now a law professor at Wayne State University.

"It's hard to think that one person could create a defeat device and not have it noticed by anyone else," Henning said. "The whole thing with defeat devices is they're there to sneak things past the EPA," he said, "so it's hard to think it would be just one person."

The auto industry is still struggling with the consequences of Volkswagen AG's diesel-cheating scandal, which cost the automaker more than $80 billion in fines and related costs and led to criminal charges against several executives in the U.S.

Earlier on Tuesday, prosecutors in Germany charged Volkswagen's two top executives with market manipulation in the four-year-old diesel scandal, arguing they were too slow to inform investors about their diesel findings. Hours later, Mercedes-Benz owner Daimler AG was fined 870 million euros ($960 million) in a separate probe for rigging vehicles.

Fiat Chrysler said it was cooperating fully with authorities and pointed to earlier statements that there was no deliberate effort to deceive regulators.

"The settlements do not change the company's position that it did not engage in any deliberate scheme to install defeat devices to cheat emissions tests," the company said in January after settling with authorities. "Further, the consent decree and settlement agreements contain no finding or admission with regard to any alleged violations of vehicle emissions rules."

Fiat Chrysler has been dogged by investigations into its diesel emissions since at least early 2017, when the Environmental Protection Agency said it found software in more than 100,000 Jeep Grand Cherokees and Ram 1500s that allowed the automaker to exceed pollution limits on the road.

The indictment lays out several instances beginning in December 2011 in which Palma and others allegedly worked to mislead regulators about the emissions capabilities of 3.0 liter Fiat vehicles, including the Jeep Grand Cherokee and Ram 1500. This involved designing a control system that produced lower emissions during federal testing procedures yet higher emissions when the vehicles were being driven on the road.

Prosecutors cite several email messages in which Palma and others discuss their strategy for getting the engine approved by regulators. In one message, an alleged conspirator says that someone might eventually go to jail. The person referenced in that email isn't identified in the indictment.

They also discussed ways to refer to the software system used during the emissions testing in a way that wouldn't bring scrutiny from regulators, according to the indictment. If asked, the system, known as T_Eng or t engine, was to be described as a program used to "warm up" a cold engine as opposed to being used for "cycle recognition," which is a red flag for regulators searching for devices used to rig testing procedures, prosecutors allege.

"I would like to the have the strategy active but I don't want to disclose the t engine," Palma wrote in a June 2013 email.

Palma and his conspirators later came up with another false explanation for the T-Eng software, according to the indictment, claiming that the rate of emissions controls were being ramped down during federal testing as the efficiency of a second controls system improved, and as the engine warmed up. Upon hearing this excuse,

according to the indictment, Palma's supervisor wrote: "Nice []! We will 'baptize' t-engine as an efficiency factor of the SCR system."

— *With assistance by Ryan Beene*

(Updates with comment from ex-U.S. prosecutor.)

In fight against food waste, EPA and corporate leaders focus on business case

https://www.wastedive.com/news/EPA-business-case-for-food-waste-mitigation/563526/

Emma Cosgrove

NEW YORK — On Sunday morning at the Bronx, New York, headquarters of online grocer Fresh Direct, EPA Administrator Andrew Wheeler met with nonprofits and food-waste conscious firms, along with other agency officials to receive an update on regional organic waste mitigation work in progress.

"Food waste is a top domestic and international priority for the Trump administration," Wheeler said. In April, the administration recommitted to reducing food waste 50% by 2030, launching six strategies to meet this goal – including a two-year partnership with nonprofit ReFED. The U.S. wastes 75 billion pounds of food annually, the equivalent of 4.4 billion tons of carbon dioxide, the administrator said.

The Trump administration has taken a more carrot-based path by emphasizing a "2030 champions program and eschewing the regulatory routes several states have taken to mandate responsible re-purposing and/or recycling of surplus food.

Twenty-five corporations, including Ahold Delhaize, Yum! Brands, Campbell's, Walmart, Blue Apron and Pepsico, have signed onto the program. The companies have committed to cutting food waste caused by their operations in half by 2030. The committed companies are required to post their progress publicly on their websites, but so far no formal benchmarks beyond the 2030 deadline have been made public, according to the EPA.

Recognition from the White House can be a powerful inducement to action, but ReFED Executive Director Chris Cochran told the group the financial case against food waste can be just as compelling.

"I think it's important not to frame it first environmentally, but to frame it first in the business case because there is one," Cochran said.

The cost of food waste not only includes the cost of the product, but also disposal cost, Wheeler said. The administrator added he would try to talk more about the economic benefit of lowering food waste.

"One of the challenges in introducing this to people who are thinking about it for the first time — maybe executives — is when they hear food waste and then they hear the environmental stats first, I think their mind goes, 'okay I need to pass this off to my corporate affairs team versus my CFO,'" Cochran said.

Measuring food waste in volume and value is the crucial first step to moving mitigation work out of the philanthropic realm and into a financial or operational portfolio, Cochran told Supply Chain Dive.

"Right now it sits in a lot of different silos and different departments in companies, but putting that together into a single view of how much food waste is happening and how much that's costing them is a first step," Cochran said.

Andrea Kelly, senior analyst for global partnership solutions at PepsiCo, echoed that sentiment.

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"Everything that we're doing, we're constantly trying to build the business case internally," Kelly said of the company's food waste mitigation work. "I think that's really important not only to get executive-level buy-in, but also for long term sustainability of the program because it's not dependent on grant funding —we view it as an opportunity for business growth."

Good data can also help to allay the concerns Cochran often sees from executives surrounding the unintended consequences of fine-tuning supply chains to minimize food waste — for example, stockouts.

"It's fear of unintended consequences that can be a barrier," he said. Cochran emphasized during the meeting that in order to meet the 2030 goal, stakeholders need to move out of the research phase and toward action and implementation. The United Nations, which first set its own 2030 goal, said last year that understanding progress is nearly impossible due to a lack of data and standardized measurement.

Beyond the private sector, the Trump administration is also working with the FDA to encourage consistent date labeling practices to keep consumers from discarding edible food.

Trump officials threaten to withhold highway funds from California for its 'chronic air quality problems'

https://www.washingtonpost.com/climate-environment/2019/09/24/trump-officials-threaten-withhold-highway-funds-california-its-chronic-air-quality-problems/

By Juliet Eilperin and Dino Grandoni

Trump administration officials threatened this week to withhold federal highway funds from California, arguing that it had failed to show what steps it is taking to improve its air quality. The move by the Environmental Protection Agency escalates the fierce battle between President Trump and the left-leaning state, and could put billions in federal funds in jeopardy.

In a predated letter sent late Monday to the California Air Resources Board, EPA Administrator Andrew Wheeler suggested that the state "has failed to carry out its most basic tasks under the Clean Air Act," and needs to either update its plans to tackle air pollution or risk losing federal highway funds. California receives billions in highway funding from the U.S. government every year, and federal officials have the right to halt that money if they determine that a state is not taking sufficient steps to show how it aims to cut air pollution such as soot or smog-forming ozone.

In the letter, Wheeler notes that 34 million Californians live in areas that don't meet federal National Ambient Air Quality Standards, more than twice as many residents than any other state. California has more than 130 "state implementation plans," which serve as blueprints for how California would tackle these pollutants, awaiting federal approval.

"California has the worst air quality in the United States," he wrote, adding that many of its plans "are inactive and appear to have fundamental issues" that would keep them from getting approved.

The decision to invoke a rarely used federal punishment represents the latest salvo in the Trump administration's feud with California over environmental and other policy issues. Just last week, the EPA joined the Transportation Department in revoking California's right to set stricter pollution limits on cars and light trucks.

California officials have repeatedly argued that they have sought to impose stricter limits on greenhouse gas emissions from vehicles as part of a broader effort to tackle air pollution in their state. The vehicle standards the Trump administration is blocking, CARB chairwoman Mary Nichols said last week, "are necessary to protect the public health standards and welfare."

Nichols could not immediately be reached for comment Tuesday.

Bill Becker, president of Becker Environmental Consulting, said in a phone interview that it did not make sense for the administration to punish California for failing to address air pollution in the state when it was simultaneously blocking its efforts to cut down on these emissions.

"Isn't it ironic that EPA is taking away some of the important regulatory tools for meeting the federal health-based standards, and then sanctioning California?" Becker said. "It's like the kid killing his parents, and then pleading for mercy because he's an orphan."

EPA targets California over poor air quality

https://federalnewsnetwork.com/government-news/2019/09/epa-targets-california-over-poor-air-quality/

By MICHAEL CASEY

September 24, 2019 1:10 pm

The Trump administration's environmental battle with California intensified Tuesday, as the Environmental Protection Agency warned the state that it could lose federal highway funds if it doesn't clean up its air.

In a letter sent Tuesday to the California Air Resources Board, the EPA described the state's air quality as the worst in the country with 34 million people living in areas that do not meet National Ambient Air Quality Standards. That is twice the number of people as in any other state, the agency said.

EPA called on the state to address a backlog in plans aimed at reducing air quality and to work with the agency to develop workable plans or risk highway funding sanctions and other penalties.

"California has failed to carry out its most basic responsibilities under the Clean Air Act, and as a result, millions of Californians live in areas that do not meet our nation's air quality standards," EPA Administrator Andrew Wheeler said. "EPA stands ready to work with California to meet the Trump Administration's goal of clean, healthy air for all Americans, and we hope the state will work with us in good faith

The move by the EPA is the latest battle the Trump administration has picked with California over its environmental policies.

Last week, the Trump administration revoked California's authority to set its own emission standards — authority the state has had for decades under a waiver from the federal Clean Air Act.

In response, California sued to stop the Trump administration from revoking its authority to set greenhouse gas emission and fuel economy standards for cars and trucks, enlisting help from other states in a battle that will shape a key component of the nation's climate policy.

Federal law sets standards for how much pollution can come from cars and trucks. But since the 1970s, California has been permitted to set tougher rules because it has the most cars and struggles to meet air quality standards. On Thursday, the National Highway Traffic Safety Administration withdrew California's waiver.

California has also sued the Trump administration over its rollback of environmental and clean air regulations.

Enforcement deputy to leave EPA

https://insideepa.com/daily-feed/enforcement-deputy-leave-epa

September 24, 2019

Patrick Traylor, a top political official in EPA's Office of Enforcement & Compliance Assurance (OECA), will leave the agency early next month, according to a message OECA chief Susan Bodine sent to staff.

Traylor was out of the office Sept. 24 and EPA's press office did not respond to a request for comment, but *Inside EPA* confirmed his departure with two sources.

Traylor, who has served as OECA's deputy assistant administrator since June 2017 when he came to the agency from the firm Hogan Lovells, was considered an experienced hand from the get-go.

Though his position was political, it did not require Senate confirmation and his selection won quick praise from former OECA officials. However, those officials also warned he could face pressure to curb enforcement under the deregulatory approach of the Trump administration.

That September, Traylor told an Environmental Council of the States (ECOS) conference that he was 'very excited" to explore what state and federal goals for cooperative federalism would mean for enforcement, and that he hoped to delve into specific implementation issues to improve transparency and communication in enforcement matters.

But in November of 2017, Traylor was talking about "refreshing" self-audit policies to expand compliance incentives for new facility owners to report past violations, rather than enforce against them.

At the 2018 ECOS conference, Traylor touted a new audit policy for streamlining disclosure of non-compliance by new oil and natural gas facilities, and sought state input on the matter.

And earlier this year, he told ECOS that EPA would consider state requests for pacts allowing new oil and gas facility owners that comply with voluntary state audit programs to also qualify for penalty relief under the federal policy.

The reason for Traylor's looming departure is unclear but he is one of many top officials to leave since June, including air office chief Bill Wehrum and chief financial officer Holly Greaves.