

October 30, 2015 – VOLUME 12, ISSUE 10

EPA Burdens Industry with New Ozone Standards



On Oct. 1, the Environmental Protection Agency (EPA) announced that it would tighten [federal ozone standards to 70 parts per billion \(ppb\)](#). While the new figure is on the least-restrictive end of the range that had been considered (65-70 ppb) it represents a 7 percent reduction of the previous 75 ppb benchmark set in 2008.

Making the announcement, EPA Administrator Gina McCarthy forecast health and environmental benefits represented by the change. McCarthy claimed the new rule will save billions of dollars a year in public health costs related to respiratory illness and is already attainable based on improvements already being made to the system.

Industry groups disagree with the agency's projected benefit to the American people, noting the expected impact on U.S. industrial businesses and the economy as a whole. The National Association of Manufacturers (NAM), which lobbied the Obama administration while saturating Washington, D.C.-area airwaves with advertising against lowering the 75 ppb standard, decried the new rule even while recognizing it could've been worse. ACPPA is a NAM member and has supported its efforts in this area.

"Make no mistake," said NAM President and CEO Jay Timmons in a letter to industry allies, "the new ozone standard will still inflict significant pain on companies that build things in America."

On July 29, more than 260 organizations – including ACPPA – joined NAM on a [letter to the White House](#) opposing lower standards. Celebrating significant reductions in ozone levels since 1980 as an "environmental success story," the letter assured President Obama: "[American manufacturers] are committed to ensuring a clean and safe environment now and in the future. However, we also stand to bear the brunt of the economic pain from a regulation that will make it difficult to manufacture products, build new projects, produce energy, improve infrastructure and hire the workers needed to make this all happen."

Now that the rule has been [officially published in the Federal Register](#), the first of an expected wave of lawsuits has been filed against the EPA. In addition to legal actions, industry groups will continue efforts to mitigate the new standard by engaging Congress to combat the EPA's regulatory agenda.

Get involved: Visit ACPPA-action.org to tell your lawmakers to fight the Obama administration's incursions into American industry.

To learn more about the 70 ppb standard and the fight against it, visit www.nam.org/ozone. To review the government's management of ozone, visit www3.epa.gov/ozonepollution.

OSHA Begins Enforcement of New Confined Space Standard

As of Oct. 2, construction companies face enforcement action for noncompliance with the Occupational Safety and Health Administration's (OSHA) new [confined spaces standard](#). The rule sets forth requirements for practices and procedures for employees engaged in construction activities at a worksite with confined spaces. It also requires employers to determine what kinds of spaces their workers are in, what hazards could be there, how those hazards should be made safe, what training workers should receive, and how to rescue those workers if anything goes wrong.



A "confined space" is a work area that 1) Is large enough for an employee to enter, 2) Has limited means of entry or exit, and 3) Is not designed for continuous occupancy. Examples of confined spaces include manholes (such as sewer, storm drain, electrical, communication, or other utility); tanks (such as fuel, chemical, water, or other liquid, solid or gas); incinerators; scrubbers; concrete pier columns; sewers; transformer vaults; heating, ventilation, and air-conditioning (HVAC) ducts; storm drains; water mains; and precast concrete and other pre-formed manhole units.

The rule contains several new mandates, including requiring:

- 1) Detailed coordination when there are multiple employers at the worksite to ensure hazards are not introduced into a confined space by workers performing tasks outside the space.
- 2) A "competent person" to evaluate the worksite and identify confined spaces, including permit spaces (a permit space is a confined space that may have a hazardous atmosphere, engulfment hazard, or other serious hazard, such as exposed wiring, that can interfere with a worker's ability to leave the space without assistance).
- 3) Continuous atmospheric monitoring whenever possible.
- 4) Constant monitoring of engulfment hazards. For example, when workers are performing work in a storm sewer, a storm upstream from the workers could cause flash flooding, requiring sensor or observers posted upstream to alert workers in the space at the first sign of the hazard, giving the workers time to evacuate.

The new standard also requires employers to have a written policy to determine the existence of confined spaces, permit entry procedures, proper signage, and a training program to support safe operations. ACPPA will continue to evaluate the impact of the rule and the landscape ahead. Visit OSHA's [website](#) for more information.

House Moves Forward on Multiyear Highway Bill

On Oct. 22, the House Transportation & Infrastructure (T&I) Committee unanimously approved the Surface Transportation Reauthorization & Reform (the STRR Act [[H.R. 3763](#)]), potentially a six-year bill providing \$325 billion for roads, bridges and transit infrastructure (\$261 billion for highways, \$55 billion on transit, and approximately \$9 billion on safety programs).

The committee's decisive action comes as the House elected Rep. Paul Ryan (R-Wisc.) to be the chamber's new speaker. While the bill contemplates flat funding, H.R. 3763 currently doesn't have a revenue title (in other words, there's zero money beyond the already inadequate Highway Trust Fund revenues) and Ryan's ascension to House Speaker means he'll be leaving his post as Ways & Means Committee chairman where he'd been tasked with identifying new revenue.

Whether the legislation is ultimately a six-year bill depends on Congress' ability to come up with a way to pay for the final three years. Consequently, similar to the Senate-passed [DRIVE Act](#), which provided three-years of guaranteed investment in a six-year authorization, the STRR Act is essentially a three-year proposal.

Far from perfect, the industry supported STRR Act does move the ball forward and gets closer to finalizing a multiyear highway bill this year. Meanwhile, Congress enacted legislation extending [MAP-21](#)'s authorization until Nov. 20 to give House more time to pass STRR and allow lawmakers from both chambers to reconcile differences between their respective bills. However, once the House does approve H.R. 3763 (passage is expected the week of Nov. 2), a quick conference with the Senate's DRIVE Act is anticipated as both are similar proposals.

For more information about the STRR Act, visit the [House Transportation & Infrastructure Committee's information page](#).

House Votes to Reverse Crude Oil Export Ban

On Oct. 9, the House passed legislation to lift the 1970's era crude oil export ban ([H.R. 702](#)). The 261 "Yea" votes – which included 26 Democrats along with nearly every Republican – represent a bipartisan victory for the effort to overturn the 40-year-old policy. If enacted, H.R. 702 will expand U.S. producers' overseas oil markets, substantially increasing domestic output and creating greater demand for equipment used to support oil exploration and production.

The crude oil export ban was designed to stifle the impact of potential oil embargoes by foreign producers. Today, it's a drag on the economy as the United States is now the world's number one oil producer. However, oil companies are still unable to sell the raw product to overseas consumers.

Lifting the crude export ban would have a significant impact on companies and industrial groups across the energy supply chain. The [Energy Equipment & Infrastructure Alliance](#) estimates that allowing U.S. producers to export crude could create as much as \$47 billion per year in additional economic activity (i.e., equipment, product support, labor, construction contracting services, materials sales).

Unfortunately and unsurprisingly, some lawmakers and President Obama have made the commonsense proposal partisan. Opponents cite unsubstantiated concerns, such as increased gasoline prices (lifting the ban would actually lower U.S. gasoline prices, which are set based on international, not domestic oil prices), a negative impact on domestic refiners and climate change as reasons for disapproval.

The bill now moves to the Senate for consideration, where its future remains murky given the 60-vote threshold required to overcome a filibuster. The White House has already indicated opposition to any

measure overturning the ban, so H.R. 702 would face a likely veto should it somehow clear the upper chamber and arrive on the president's desk.

Court Dams “Waters of the United States” Rule

On Oct. 9, the U.S. Court of Appeals for the 6th Circuit issued a [nationwide stay against enforcement](#) of the Environmental Protection Agency and Army Corps of Engineers' new rule defining the scope of the “waters of the United States.”



The “WOTUS” rule, which was issued on May 27, significantly expanded the EPA’s jurisdiction under the Clean Water Act (CWA). In 2014, ACPPA joined other industry groups opposing the agency’s proposal to redefine “waters of the United States” for purposes of federal regulatory oversight. Unfortunately, the final rule failed to heed those public comments; it is virtually identical to the original proposal.

While there is some dispute about the jurisdiction of the 6th Circuit Court to rule on WOTUS appeals, the majority was clear on the merits of the case. In the ruling, Judges McKeague and Griffin indicated that a stay of enforcement was merited due to a “substantial possibility of success on the merits of [the petitioners] claims.”

Those petitioners, U.S. state governments whose actions were combined from four separate cases, contend “that the [waters of the United States] definitional changes affect an expansion of respondent agencies’ regulatory jurisdiction and dramatically alter the existing balance of federal-state collaboration in restoring and maintaining the integrity of the nation’s waters.” This central claim – that the WOTUS rule dramatically and illegally expanded the jurisdiction of the EPA – has long been echoed by ACPPA and its industry allies.

For these reasons, the ruling concluded that it is in the nation’s interest to maintain the standards of the previous WOTUS definition while challenges to the new rule are resolved:

What is of greater concern to us, in balancing the harms, is the burden – potentially visited nationwide on governmental bodies, state and federal, as well as private parties – and the impact on the public in general, implicated by the Rule’s effective redrawing of jurisdictional lines over certain of the nation’s waters ... the sheer breadth of the ripple effects caused by the Rule’s definitional changes counsels strongly in favor of maintaining the status quo for the time being.

The EPA’s efforts at regulatory overreach have been held at bay...for now. Stay tuned to ACPPA as the rule’s fate is determined.

Liberal Election Victory Heralds Big Changes on Canadian Policy Front

Justin Trudeau's Liberal party shocked the political world on Oct. 19, winning 184 out of Canada's 338 parliamentary seats, an outright majority. The Liberals' decisive victory, which polls and pundits failed to anticipate, means Trudeau will be Canada's next prime minister and brings an end to almost ten years of Conservative Party rule in Canada.

The 44-year old Trudeau, son of former Prime Minister Pierre Trudeau, becomes the second youngest prime minister in Canadian history. One of the biggest casualties from last night is Prime Minister Stephen Harper, whose party has been relegated to official opposition and who has resigned as Conservative party leader since the election results were announced.



The New Democratic Party (NDP) under the leadership of Tom Mulcair is also licking its wounds in the wake of the poll results. If this year's elections were about change, NDP clearly failed in its efforts to convince voters of its vision for a new direction in Canada. The party lost more than half its parliamentary seats along with its opposition status.

The new Liberal government is poised to usher in sweeping policy changes that will inevitably impact the economy, society and Canada's role in the world. Trudeau has promised increased taxes on upper earners, more spending on health care, marijuana legalization, a realignment of Canada's defense resources, and withdrawal from the bombing campaign against the Islamic State.

Trudeau has also said he will make infrastructure investment a top priority. Among other things, he plans to run federal budget deficits for up to \$10 billion over the next two fiscal years to strengthen the backbone of Canada's economy by building roads, bridges, public transit, and ports.

Pressure Pipe Post

ACPPA's Monthly Source for Industry News

October 2015

To keep members aware of the activities of government and standards organizations, we regularly sweep public databases and publications for the industry-specific terms indicated below. We then provide our members with links to documents identified in the search. Please note that in some cases the URLs may link to subscription-only databases. The purpose of this service is to identify emerging threats and trends as well as opportunities for collective action by ACPPA.

NEWS RESULTS

Water Infrastructure

Transition Complete for 13,000 Households to City Utilities Water

10/07/15 <http://www.21alive.com/nbc33/news/Transition-complete-for-13000-households-to-City-Utilities-water-331181082.html>

After complaints of high prices and low quality water, the City of Fort Wayne purchased Aqua Indiana's southwest water system in December 2014, spending this year transitioning customers to City Utilities' water.

How Small Communities Fund Big Infrastructure Projects

10/09/15 <http://www.wateronline.com/doc/how-small-communities-fund-big-infrastructure-projects-0001>

Tap water infrastructure is among the biggest and most challenging expenses for small and medium-sized communities. Just ask James Wright, a public authority CEO in New York.

Sacramento-Based Electro Scan Inc. Applauds New California Law for Reporting & Validating Water Losses

10/12/15 <http://www.reuters.com/article/2015/10/12/ca-electro-scan-idUSnBw125278a+100+BSW20151012>

Electro Scan Inc., a leading provider of leak detection devices and cloud computing applications, today applauded the passage of Senate Bill (SB) 555, signed last week by California Governor Jerry Brown.

Planning of Urban Underground Infrastructure Using a Broadband Seismic Landstreamer

10/17/15 <http://library.seg.org/doi/abs/10.1190/geo2015-0052.1>

We have developed a multicomponent broadband seismic landstreamer system based on digital sensors and particularly suitable for noisy environments and areas in which high-resolution images of the subsurface are desired.

Actionline

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Flint Water Crisis Exposes Michigan's Infrastructure Funding Problem

10/20/15 http://www.mlive.com/opinion/flint/index.ssf/2015/10/op-ed_flint_water_crisis.html

It was great to see the Michigan Legislature come together and put politics aside as they voted unanimously in finding a resolution to the recent Flint drinking water crisis.

Geospatial Corporation Announces Plans to Launch GeoUnderground Android App

10/26/15 <http://spatialnews.geocomm.com/dailynews/2015/oct/26/news1.html>

Geospatial Corporation (OTCQB:GSPH) announced today that the Company will be launching an Android App version of our powerful GeoUnderground cloud-based GIS.

Concrete and Pipes

KBR Closes Deals to Spin-off Construction and Pipe Businesses

10/09/15 <http://www.chron.com/business/article/KBR-closes-deal-to-spin-off-construction-and-pipe-6561219.php>

KBR announced Friday it finalized deals to spin off its construction segment and sell its Canadian pipe fabrication facilities. The company, a Houston-based engineering and construction firm, is bringing back the Brown & Root name as it creates a new construction and industrial services subsidiary jointly owned with Bernhard Capital Partners.

Global Concrete Pipe Industry Market Research Report 2015

10/13/15 <http://prsync.com/qyresearch/global-concrete-pipe-industry--market-research-report--770030/>

The Market Research Report on Global Concrete Pipe Industry 2015 is a professional and in-depth study on the current state of the Concrete Pipe industry.

Cement, Brick, Steel and Wood Interests Challenge EPA Clean Power Plan

10/26/15 <http://www.concreteproducts.com/news/9354-cement-brick-steel-and-wood-interests-challenge-epa-clean-power-plan.html#.VjD5SberRhE>

Portland Cement Association and peer groups representing enclosure and structure types that compete head to head with concrete methods have joined a National Association of Manufacturers (NAM) legal effort to stop implementation of the Clean Power Plan, through which the Environmental Protection Agency seeks sharp reductions in carbon dioxide emissions from utilities and energy-intensive industries.

Pipelines and Energy

Preliminary Injunction Offers Reprieve from Federal Fracking Rules

10/02/15 http://www.bloomberg.com/research/markets/news/article.asp?docKey=600-201510021045KRTRIB_BUSNEWS_23485_7183-1

Without the preliminary injunction granted this week, one-third of production from North Dakota's Bakken oil play could have been affected by federal fracking rules.

People Protest Against Proposed Oil Pipeline Across Iowa

10/15/15 <http://www.kcrg.com/subject/news/people-protest-against-proposed-oil-pipeline-across-iowa-20151015>

About 100 people turned out Thursday for an Iowa Citizens for Community Improvement rally outside the Iowa Utilities Board offices in Des Moines. The group is opposing the planned Bakken Pipeline across Iowa.

Coal and Fly Ash

EPA Limits Coal Plants' Toxic Discharges. Finally.

10/01/15 <http://appvoices.org/2015/10/01/epa-limits-coal-plants-toxic-discharges-finally/>

The long-awaited update to the 34-year-old standards for wastewater discharges from America's power plants were finally released on Sept. 30 by the U.S. Environmental Protection Agency.

TVA Gets OK to Store Ash Onsite

10/01/15 <http://www.roanecounty.com/content/tva-gets-ok-store-ash-onsite>

TVA will be able to store fly ash in its Class II landfill at the Kingston Fossil Plant. The Tennessee Department of Environment and Conservation announced Tuesday that it has approved the agency's request for a permit modification.

EPA Issues Stringent Effluent Limitation Guidelines for Steam Electric Power Plants

10/05/15 <http://www.ldsupra.com/legalnews/epa-issues-stringent-effluent-14198/>

The final rule, touted by EPA as eliminating environmental impacts and cancer risks, substantively changes longstanding regulations regarding steam electric power plants.

Coal Ash Regulations Will Create New Opportunities for the Waste & Recycling Industry

10/12/15 <http://waste360.com/special-waste/coal-ash-regulations-will-create-new-opportunities-waste-recycling-industry>

The National Waste & Recycling Association has been working extensively to gather accurate and developing information on the issue of coal ash disposal following the new rules recently set by the U.S. Environmental Protection Agency (EPA).

The Global Fly Ash Concrete Market to be Fueled by its Low-costs and Raising Environmental Concerns

10/26/15 http://www.bloomberg.com/research/markets/news/article.asp?docKey=600-201510260900PR_NEWS_USPRX_enUK201510263871-1

Fly ash is typically produced as a byproduct of coal combustion at thermal power plants. Fly ash is largely made of silica and alumina. Fly ash is used as a substitute for Portland cement in concrete as it has pozzolanic properties.

REGULATORY RESULTS

Pressure Pipe

Environmental Protection Agency | Proposed Rule | Approval and Promulgation of Air Quality Implementation Plans; State of Iowa

10/2/2015 <http://www.gpo.gov/fdsys/pkg/FR-2015-10-02/pdf/2015-24995.pdf>

The Environmental Protection Agency (EPA) proposes to grant full approval of Iowa's attainment demonstration State Implementation Plan (SIP) for the lead National Ambient Air Quality Standard (NAAQS) nonattainment area of Council Bluffs, Pottawattamie County, Iowa, received by EPA on February 9, 2015.

International Trade Administration | Notice | Welded Stainless Pressure Pipe From India: Initiation of Antidumping Duty Investigation

10/27/2015 <http://www.gpo.gov/fdsys/pkg/FR-2015-10-27/pdf/2015-27364.pdf>

On September 30, 2015, the Department of Commerce ("the Department") received an antidumping duty ("AD") petition concerning imports of welded stainless pressure pipe ("welded stainless pipe") from India.

Water Infrastructure

Environmental Protection Agency | Notice | Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Public Water System Supervision Program

10/27/2015 <http://www.gpo.gov/fdsys/pkg/FR-2015-10-27/pdf/2015-27311.pdf>

The U.S. Environmental Protection Agency (EPA) has submitted an Information Collection Request (ICR) for the Public Water System Supervision Program.

Water Supply

Army Corps of Engineers | Notice | Notice of Open House—Draft Environmental Impact Statement for Updated Water Control Manuals for the Apalachicola-Chattahoochee-Flint River Basin

10/2/2015 <http://www.gpo.gov/fdsys/pkg/FR-2015-10-02/pdf/2015-25057.pdf>

Notice is hereby given that the U.S. Army Corps of Engineers, Mobile District (USACE), has released the Draft Environmental Impact Statement (DEIS) and will conduct open house style meetings and accept comments on the Draft DEIS for the update of the Apalachicola Chattahoochee-Flint Basin (ACF) Water Control Master Manual (Master Manual).

Bureau of Reclamation | Notice | Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Actions

10/27/2015 <http://www.gpo.gov/fdsys/pkg/FR-2015-10-27/pdf/2015-27272.pdf>

This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities.

LEGISLATIVE RESULTS

Water Infrastructure

S.1894 | Introduced by Dianne Feinstein (D-Calif.) | California Emergency Drought Relief Act of 2015
10/8/2015 <https://www.congress.gov/bill/114th-congress/senate-bill/1894?>

To provide short-term water supplies to drought-stricken California.

H.R. 3668 | Introduced by Paul Cook (R-Calif.) | California Minerals, Off-Road Recreation, and Conservation Act
10/16/2015 <https://www.congress.gov/bill/114th-congress/house-bill/3668?>

To codify in law and expand certain off-highway vehicle recreation areas in the State of California, to designate as wilderness certain public lands in the State of California.

Water Supply

S.1936 | Introduced by Tom Udall (D-N.M.) | New Mexico Drought Preparedness Act of 2015
10/8/2015 <https://www.congress.gov/bill/114th-congress/senate-bill/1936?>

To provide for drought preparedness measures in the State of New Mexico, and for other purposes.