

*Section of Environment, Energy, and Resources
American Bar Association*

Environment, Energy, and Resources Law: The Year in Review 2022

Chapter E • Environmental Enforcement and Crimes

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Chapter E: ENVIRONMENTAL ENFORCEMENT AND CRIMES 2022 ANNUAL REPORT¹

I. ENVIRONMENTAL ENFORCEMENT RESULTS

The U.S. Environmental Protection Agency (EPA) and Department of Justice's (DOJ) Environmental and Natural Resources Division enforce compliance with environmental laws and regulations, including through administrative proceedings, civil actions, and criminal prosecutions. EPA has highlighted the significance of enforcement in its [FY 2022-2026 EPA Strategic Plan](#), which renews EPA's commitment to "follow the science, follow the law, and be transparent" and now emphasizes EPA's commitment to climate change and to "advance justice and equity."² In the FY 2022-2026 EPA Strategic Plan, EPA articulated a targeted goal to "Enforce Environmental Laws and Ensure Compliance," which calls for collaboration with Tribes, states, and territories "to focus federal enforcement resources on the most serious environmental problems" by continuing to detect violations, promote compliance, and hold environmental violators accountable.³

Consistent with federal policy, EPA and DOJ administered civil and criminal enforcement actions against individuals and corporations, including under the Clean Air Act (CAA), the Clean Water Act (CWA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Toxic Substances Control Act (TSCA), and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).⁴

EPA has also continued its National Enforcement and Compliance Initiatives (NECIs), which were promulgated in 2020, and will remain in effect through 2023.⁵ Formerly called National Compliance Initiatives, the current nomenclature [NECIs](#) "reemphasizes the role of federal enforcement in ensuring that those who violate our environmental laws or contribute to serious environmental problems are held accountable, even as [EPA] continue[s] to strive to promote greater compliance with [] environmental laws."⁶

In 2022, notable enforcement included continued action against "defeat devices" designed to evade emissions standards, violations of National Pollutant Discharge Elimination System (NPDES) permits, fraudulent products claiming to protect against COVID-19, and improper disposal of hazardous materials.

In 2023, EPA enforcement may be affected by a ruling from the Supreme Court. In October 2022, the Supreme Court of the United States heard oral argument in the case of

¹Prepared by Greenberg Traurig attorneys David B. Weinstein, shareholder and chair of the firm's Environmental and Toxic Tort Litigation Practice, Christopher Torres, shareholder, Christopher White, associate, and Kayli Smendec, associate.

²FY 2022-2026 Strategic Plan, U.S. ENVTL. PROT. AGENCY 5 (2022).

³*Id.* at 39.

⁴[Civil Enforcement FY 2022 Annual Results](#), U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023); [Criminal Enforcement FY 2022 Annual Results](#), U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023).

⁵[National Enforcement and Compliance Initiatives](#), U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023).

⁶Memorandum from U.S. Env'tl. Prot. Agency on Updated Policy for EPA's Enforcement and Compliance Initiatives to Reg'l Adm'rs et al. (Dec. 20, 2022).

[*Sackett v. EPA*](#).⁷ Currently, EPA regulates any water with a “significant nexus” to a federally protected water due to the potential effects of upstream pollution in the watershed on the federally protected water. During the oral argument, the Justices seemed interested in this test and in potentially eliminating it. Doing so would limit EPA’s jurisdiction by narrowing the waters it could regulate. A ruling is forthcoming, and a rejection of the significant nexus test would significantly curtail EPA’s enforcement authority.

II. NEW ENVIRONMENTAL NEICIS FOR 2020-2023

A. [*Creating Cleaner Air for Communities by Reducing Excess Emissions of Harmful Pollutants*](#)⁸

EPA established a goal to address the health and environmental effects from emissions of hazardous air pollutants (HAPs) and volatile organic compounds (VOCs).⁹ This initiative focuses on sources of HAPs that have a significant impact on air quality and human health. It also addresses sources of VOCs that have a substantial impact on air quality with the potential to impede attainment of the National Ambient Air Quality Standards (NAAQS) and adversely affect vulnerable populations.¹⁰ During fiscal year 2022, EPA’s efforts under this initiative included enforcement actions that resulted in a reduction of approximately 11.9 million pounds of VOCs and other pollutants as well as a reduction of over 60 million pounds of carbon dioxide equivalent of methane and greenhouse gases.¹¹ EPA took additional actions in furtherance of this initiative, including (1) expanding real-time monitoring and mapping of pollutants through optical gas imaging and the National Enforcement Investigations Center’s geospatial measurement of air pollution (GMAP) vehicle; (2) enhancing use of compliance tools; (3) continuing and creating new partnerships; (4) issuing enforcement alerts; and (5) improving the Compliance Assistance Portal.¹² Notably, EPA is providing significant oversight of previously issued emergency orders to address imminent danger to public health and the environment.¹³

B. [*Stopping Aftermarket Defeat Devices for Vehicles and Engines*](#)¹⁴

EPA also focused on halting the manufacture and sale of “hardware and software specifically designed to defeat required emissions controls on vehicles and engines” as part

⁷Transcript of [Oral Argument](#), *Sackett v. EPA*, 566 U.S. 120 (2022); *but see* [Revised Definition of “Waters of the United States,”](#) 88 Fed. Reg. 3004 (Jan. 18, 2023) (to be codified at 33 C.F.R. pts. 328 and 40 C.F.R. pts. 120).

⁸*National Enforcement and Compliance Initiative: Creating Cleaner Air for Communities by Reducing Excess Emissions of Harmful Pollutants*, U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023).

⁹*Id.*

¹⁰*Id.*

¹¹*Id.*

¹²*National Enforcement and Compliance Initiative: Creating Cleaner Air for Communities*, *supra* note 8.

¹³*Id.*

¹⁴*National Enforcement and Compliance Initiative: Stopping Aftermarket Defeat Devices for Vehicles and Engines*, U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023).

of its effort to address mobile sources.¹⁵ Prior to 2020, these devices would cause “more than 570,000 tons of excess NOx and 5,000 tons of excess particulate matter” over the lifetime of certain diesel trucks.¹⁶ In fiscal year 2022, EPA resolved approximately twenty-four civil enforcement cases that “not only doubled the number of CAA violations addressed, but also tripled the civil penalties assessed over the previous fiscal year.”¹⁷ EPA also partnered with states and provided compliance assistance in support of this goal.¹⁸

C. [Reducing Hazardous Air Emissions from Hazardous Waste Facilities](#)¹⁹

EPA is focused on identifying and addressing violations of RCRA related to leak detection and repair requirements for related hazardous waste treatment equipment. While EPA has noted significant RCRA noncompliance, significant progress is being made.²⁰ To further this goal, EPA partnered with authorized states to identify and address violations to ensure a nationally consistent approach. EPA also sought to resolve ongoing incidents of noncompliance and provide better training to prevent future noncompliance. In fiscal year 2022, EPA led a return to onsite inspections, completing 150 of them as well as four off-site investigations—the highest number of inspections completed annually in the NECI’s history.²¹ EPA also concluded twenty NECI formal enforcement cases that brought twenty-one facilities into compliance.²² As a result, over six million pounds of hazardous waste were treated, minimized, or properly eliminated.²³ EPA also provides continued support to build state capacity.²⁴

D. [Reducing Risks of Accidental Releases at Industrial and Chemical Facilities](#)²⁵

EPA recognized significant dangers associated with facilities that store hazardous substances.²⁶ Indeed, EPA’s review of the historical record revealed an average of 150 catastrophic accidents annually at industrial and chemical facilities regulated under the CAA Risk Management Program. EPA has therefore set a goal of “reduc[ing] the risk to human health and the environment by decreasing the likelihood of chemical accidents.”²⁷ EPA sought to accomplish this through improving safety, increasing regulatory compliance, and promoting coordination with state and local responders and communities.

¹⁵*Id.*

¹⁶*Id.*

¹⁷*Id.*

¹⁸*National Enforcement and Compliance Initiative: Stopping Aftermarket Defeat Devices for Vehicles and Engines, supra note 14.*

¹⁹*National Enforcement and Compliance Initiative: Reducing Hazardous Air Emissions from Hazardous Waste Facilities, U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023).*

²⁰*Id.*

²¹*Id.*

²²*Id.*

²³*National Enforcement and Compliance Initiative: Reducing Hazardous Air Emissions from Hazardous Waste Facilities, supra note 19.*

²⁴*Id.*

²⁵*National Enforcement and Compliance Initiative: Reducing Risks of Accidental Releases at Industrial and Chemical Facilities, U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023).*

²⁶*Id.*

²⁷*Id.*

In fiscal year 2022, EPA concluded two judicial actions and 113 administrative penalty actions.²⁸ EPA renewed its presence in the field, increased onsite inspections by more than 150% over 2021, and provided training to EPA, states, local authorities, and OSHA staff.²⁹

E. [Reducing Significant Non-Compliance with National Pollutant Discharge Elimination System \(NPDES\) Permits](#)³⁰

In fiscal year 2018, EPA identified 46,000 NPDES-permitted facilities, 20.3% of which were in significant noncompliance with their permits.³¹ As part of the overall goal to improve surface water quality, EPA sought to reduce the noncompliance rate by half by fiscal year 2022 and enforce compliance as to the most serious violators. In fiscal year 2022, EPA reduced the rate of significant noncompliance to 9%, partnered with states and EPA Regions, provided compliance assistance, and improved data transfer processes.³²

F. [Reducing Non-Compliance with Drinking Water Standards at Community Water Systems](#)³³

In fiscal year 2018, EPA identified 40% of the nearly 50,000 Community Water Systems (CWSs)—defined as “regulated drinking water systems that serve water to the same people year-round”—that violated at least one drinking water standard.³⁴ Additionally, more than 30% had monitoring and reporting violations, and 7% had health-based standards violations.³⁵ In fiscal years 2020-2022, EPA decreased the number of CWSs with continuous health-based violations.³⁶ In 2022, EPA issued Safe Drinking Water Act orders to 185 public water systems.³⁷ EPA also expanded inspector capacity and technical expertise and improved system performance with compliance advisors.³⁸

III. CIVIL CASE UPDATE

A. *Notable CWA Enforcement*

In February 2022, Cleveland-Cliffs Steel LLC and Cleveland-Cliffs Burns Harbor LLC entered a proposed consent decree to resolve alleged CWA violations for a 2019

²⁸*Id.*

²⁹*National Enforcement and Compliance Initiative: Reducing Risks of Accidental Releases at Industrial and Chemical Facilities, supra note 25.*

³⁰*National Enforcement and Compliance Initiative: Reducing Significant Non-Compliance with National Pollutant Discharge Elimination System (NPDES) Permits*, U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023).

³¹*Id.*

³²*Id.*

³³*National Enforcement and Compliance Initiative: Reducing Noncompliance with Drinking Water Standards at Community Water Systems*, U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023).

³⁴*Id.*

³⁵*Id.*

³⁶*Id.*

³⁷*National Enforcement and Compliance Initiative: Reducing Noncompliance with Drinking Water Standards at Community Water Systems, supra note 33.*

³⁸*Id.*

discharge of ammonia and cyanide-laden wastewater into the East Branch of the Little Calumet River caused by a pump failure at its steel manufacturing and finishing facility.³⁹ Cleveland-Cliffs failed to provide timely notification as required by the Emergency Planning and Community Right-to-Know Act (EPCRA) and CERCLA.⁴⁰ The cyanide release killed hundreds of fish and caused some beaches to be closed for a week.⁴¹ Under the proposed consent decree, Cleveland-Cliffs must maintain new cyanide and ammonia-N treatment systems and comply with an approved Operation and Maintenance Plan.⁴² Cleveland-Cliffs will pay a civil penalty of \$3 million, split between the United States and the state of Indiana, and will also reimburse EPA \$10,025.37 and the Indiana Department of Environmental Management \$37,650 in response costs from the incident.⁴³

In November 2022, the city of Elyria, Ohio, entered a proposed consent decree to resolve alleged violations of its NPDES permit for unauthorized discharges of pollutants into the Black River or its tributaries from sanitary sewer overflows, discharges of untreated sewage from combined sewer overflows, and bypasses of wastewater treatment facilities.⁴⁴ Under the proposed consent decree, Elyria will pay at least a \$100,000 civil penalty and will be required to complete construction and fully implement projects and pollution control measures estimated to cost \$248 million by the end of 2044.⁴⁵

B. Notable CAA Enforcement

In March 2022, Chevron Phillips Chemical Company LP entered a proposed consent decree to resolve alleged CAA violations at three petrochemical manufacturing facilities in Texas for flares, mechanical devices used to combust waste gases, that resulted in excess emissions of pollutants, including VOCs and HAPs.⁴⁶ Under the proposed consent decree, Chevron Chemical Company LP will pay a \$3.4 million civil penalty and undertake compliance measures estimated to cost \$118 million to help eliminate thousands of tons of air pollution from flares.⁴⁷

³⁹[United States v. Cleveland-Cliffs Burns Harbor](#), LLC, No. 2:22-CV-26-PPS-JEM, 2022 WL 1439213, at *1 (N.D. Ind. May 6, 2022); *see also* [Press Release](#), U.S. Env'tl. Prot. Agency, Cleveland-Cliffs Agrees to Improve Environmental Compliance at Indiana Facility and Pay \$3 Million Civil Penalty for Ammonia and Cyanide Violations (Feb. 14, 2022); [Cleveland-Cliffs Steel LLC and Cleveland-Cliffs Burns Harbor LLC Settlement](#), U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023).

⁴⁰[Cleveland-Cliffs Steel LLC and Cleveland-Cliffs Burns Harbor LLC Settlement](#), *supra* note 39.

⁴¹*Id.*

⁴²*Id.*

⁴³*Id.*

⁴⁴Consent Decree, United States and the State of Ohio v. The City of Elyria, Ohio, No. 1:22-cv-02026 (N.D. Ohio Nov. 9, 2022); [The Elyria, Ohio Clean Water Act Settlement Information Sheet](#), U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023).

⁴⁵[The Elyria, Ohio Clean Water Act Settlement Information Sheet](#), *supra* note 44.

⁴⁶Consent Decree, United States v. Chevron Phillips Chemical Co., No. 4:22-cv-00737 (S.D. Tex. Mar. 9, 2022); *see also* [Press Release](#), U.S. Env'tl. Prot. Agency, Chevron Phillips Chemical Company Agrees to Reduce Harmful Air Pollution at Three U.S. Chemical Plants (Mar. 9, 2022); [Chevron Phillips Chemical Company \[LP Clean\] Air Act Settlement](#), U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023).

⁴⁷[Chevron Phillips Chemical Company LP Clean Air Act Settlement](#), *supra* note 46.

In March 2022, Power Performance Enterprises, Inc. (PPEI), and its president and owner Kory Blaine Willis entered a proposed consent decree to resolve alleged CAA violations for which they also pled guilty to criminal charges.⁴⁸ “[B]etween 2013 and 2018, PPEI and Willis manufactured and sold no fewer than 59,135 electronic tunes or tuning devices that disable filters, catalysts, [exhaust gas recirculation (EGR)] systems, and other critical emissions control devices equipped on diesel pickup trucks.”⁴⁹ PPEI and Willis also marketed and sold devices to disable or bypass EGR systems, electronic tuning products, and empty exhaust pipes designed to remove emissions aftertreatment systems.⁵⁰ PPEI performed such work on more than 175,000 vehicles.⁵¹ Under the proposed consent decree, PPEI and Willis are required to take certain steps to prevent future violations and to pay a civil penalty of \$1,550,000 “in three payments (plus interest) over approximately two years due to [] financial inability to pay a higher penalty.”⁵²

C. *Notable CERCLA Enforcement*

In April 2022, Northrop Grumman and Chemtronics, Inc. entered a consent decree to resolve alleged CERCLA violations arising from the manufacture of explosives, repellants, incapacitating agents, and a variety of chemicals on a superfund site causing benzene, carbon tetrachloride, chloroform, and other hazardous substances to contaminate soil and groundwater.⁵³ The companies will reimburse EPA \$255,348 in cleanup costs spent and will pay over \$18 million in “financial assurance” for remediation efforts.⁵⁴

In May 2022, Chemical Waste Management, Inc., Procter and Gamble, Co., PPG Industries, Inc., International Paper Co., and other companies entered a proposed consent decree to resolve alleged CERCLA violations at the Tremont Barrel Fill Superfund Site in

⁴⁸Consent Decree, *United States v. Power Performance Enterprises, Inc.*, Case No. 2:22-cv-00693 (W.D. La. Mar. 15, 2022); *see also* [Press Release](#), U.S. Evtl. Prot. Agency, PPEI and President Kory Willis Plead Guilty and Agree to Pay \$3.1 Million in Criminal Fines and Civil Penalties for the Manufacture and Sale of Illegal Delete Devices and Tunes for Diesel Trucks (Mar. 15, 2022); [Power Performance Enterprises, Inc., and Kory Blaine Willis, Clean Air Act Settlement](#), U.S. ENVTL. PROT. AGENCY (last visited Feb. 19, 2023).

⁴⁹*Power Performance Enterprises, Inc., and Kory Blaine Willis, Clean Air Act Settlement*, *supra* note 48.

⁵⁰*Id.*

⁵¹PPEI and President Kory Willis Plead Guilty and Agree to Pay \$3.1 Million in Criminal Fines and Civil Penalties for the Manufacture and Sale of Illegal Delete Devices and Tunes for Diesel Trucks, *supra* note 48.

⁵²*Power Performance Enterprises, Inc., and Kory Blaine Willis, Clean Air Act Settlement*, *supra* note 48.

⁵³[United States v. Chemtronics, Inc.](#), No. 1:20-cv-272-MR, 2022 WL 1124189, at *1 (W.D.N.C. Apr. 14, 2022); *see also* Morgan Conley, [Northrop, Chemtronics to Pay \\$18M in Cleanup Deal](#), LAW360, (April 15, 2022) (subscription required).

⁵⁴Conley, *supra* note 53.

Ohio.⁵⁵ Under the proposed consent decree, the companies must pay \$500,000 for past response costs and \$27.7 million toward additional clean-up costs.⁵⁶

D. Notable RCRA Enforcement

In July 2022, PCS Nitrogen Fertilizer L.P. entered a proposed consent decree to resolve alleged RCRA violations at a former phosphoric acid fertilizer and production facility, including failure to properly identify and manage certain waste streams as hazardous wastes.⁵⁷ These waste streams were improperly mixed with process wastewater and phosphogypsum from phosphoric acid production resulting in the mixture of wastes being disposed of in surface impoundments.⁵⁸ Under the proposed consent decree, PCS Nitrogen Fertilizer L.P. will pay a \$1,510,023 civil penalty, treat over one billion pounds of hazardous waste, ensure the closure of its facility is protective of the environment, and spend over \$84 million to reduce environmental impact.⁵⁹

Following a June 2021 settlement, in October 2022, a Final Order was entered, putting into effect the Consent Agreement between EPA and United Parcel Service, Inc. (UPS) to resolve alleged RCRA violations, including failure to make land disposal determinations and conduct proper onsite management of hazardous waste at 1,160 facilities across forty-five states and Puerto Rico.⁶⁰ Under the Final Order, UPS will pay over \$5.3 million and will prepare compliance plans.⁶¹

In December 2022, a [Final Order](#) was entered, putting into effect the Consent Agreement between EPA and TForce Freight, Inc. to resolve alleged RCRA violations at 174 facilities across thirty-nine states, “including failure to make hazardous waste determinations, and conduct proper onsite management of hazardous waste....”⁶² TForce Freight, Inc. must come into compliance at all 174 locations within three years and must pay a civil penalty of \$860,400.⁶³

⁵⁵Consent Decree, *United States v. Responsible Environmental Solutions Alliance II*, No. 3:22-cv-00132-MJN-PBS (S.D. Ohio May 19, 2022); *see also* Morgan Conley, [Feds Ink \\$27.7M Deal for Waste Cleanup at Ohio Landfill](#), LAW360, (May 19, 2022) (subscription required).

⁵⁶Consent Decree, *Responsible Environmental Solutions Alliance II*, No. 3:22-cv-00132-MJN-PBS, at ¶¶ 25, 33.

⁵⁷Consent Decree, *United States and Louisiana Department of Environmental Quality v. PCS Nitrogen Fertilizer, L.P.*, No. 3:22-cv-00468-SDD-RLB (M.D. La. July 13, 2022); *see also* [Press Release](#), U.S. Env'tl. Prot. Agency, Settlement with PCS Nitrogen Fertilizer to Require Treatment of More Than a Billion Pounds of Hazardous Waste and Closure of Huge Phosphogypsum Waste Stacks and Impoundments (July 14, 2022); [PCS Nitrogen Fertilizer, L.P. Settlement Information Sheet](#), U.S. ENVTL. PROT. AGENCY (last visited Feb. 20, 2023).

⁵⁸Settlement with PCS Nitrogen Fertilizer to Require Treatment of More Than a Billion Pounds of Hazardous Waste, *supra* note 56.

⁵⁹*Id.*

⁶⁰Final Order, In re: United Parcel Service, Inc., Dkt. No. RCRA-06-2022-0942 (Oct. 17, 2022); *see also* Dave Simpson, [UPS to Pay \\$5.3M Nationwide Hazardous Waste EPA Penalty](#), LAW360, (Oct. 19, 2022) (subscription required).

⁶¹Simpson, *supra* note 60.

⁶²[Press Release](#), U.S. Env'tl. Prot. Agency, EPA Announces Settlement with TForce to Correct Hazardous Waste Violations in 39 States (Dec. 13, 2022).

⁶³*Id.*

IV. CRIMINAL CASE UPDATE

A. *Notable CWA Enforcement*

In January 2022, the plant manager of a barrel cleaning operation pled guilty to making false statements and engaging in a conspiracy to conceal violations of the CWA.⁶⁴ Local officials in King County, Washington, previously conducted a covert investigation and fined the company for dumping effluent with a high pH level in violation of its permit.⁶⁵ The fine was reduced only when the company installed a pretreatment facility.⁶⁶ But EPA inspectors noted continued dumping of high-pH water into the sewer system and installed covert monitors.⁶⁷ When the monitors detected high-pH water, agents executed a search warrant and discovered a portable pump directing caustic water into a hidden drain that connected to the sewer.⁶⁸ The government recommended a sentence of not more than one year and one day in prison for the plant manager.⁶⁹ The plant manager's cousin, who is the owner of the company, had previously been convicted of "conspiracy; twenty-nine violations of the Clean Water Act for discharging pollutants to the sewer; four counts of submission of False Clean Water Act Certifications; and making a false statement to special agents of the EPA."⁷⁰

In February 2022, a plant manager at a wastewater treatment plant in Oklahoma was sentenced for "knowingly falsifying, tampering with, and rendering inaccurate, a monitoring device and method required to be maintained under the [CWA]...."⁷¹ The manager had falsified required samples by treating them with a bleach solution and adding deionized water before shipping the samples to the lab.⁷² The tampering concealed elevated levels of E. Coli in the treated wastewater.⁷³ The manager pled guilty, and a judge in the Western District of Oklahoma sentenced him to two years' probation and a \$10,000 fine.⁷⁴

B. *Notable CAA Enforcement*

In March 2022, a judge in the Northern District of Texas ordered an individual defendant to pay a \$250,000 fine for smuggling refrigerant into the United States.⁷⁵ Under CAA, EPA regulates the import and production of ozone-depleting gases.⁷⁶ Since 2020,

⁶⁴[Press Release](#), U.S. Dep't of Just., Plant Manager of Seattle barrel reconditioning company pleads guilty to conspiracy and lying to investigators (Jan. 27, 2022).

⁶⁵*Id.*

⁶⁶*Id.*

⁶⁷*Id.*

⁶⁸Plant Manager of Seattle barrel reconditioning company pleads guilty to conspiracy and lying to investigators, *supra* note 64.

⁶⁹*Id.*

⁷⁰*Id.*

⁷¹[Press Release](#), U.S. Dep't of Just., Former Project Manager of the El Reno Wastewater Treatment Plant Sentenced After Pleading Guilty to Violating The Clean Water Act (Feb. 23, 2022).

⁷²*Id.*

⁷³*Id.*

⁷⁴*Id.*

⁷⁵[Press Release](#), U.S. Dep't of Just., Judge Orders Freon Smuggler to Pay \$250,000 (March 1, 2022).

⁷⁶*Id.*

the importation and production of R-22, i.e., freon, without a specific allowance, has been prohibited.⁷⁷ Nevertheless, the defendant imported R-22 from China, and his co-conspirator sold it to HVAC companies in the United States.⁷⁸

Also in March 2022, the owner of a Nevada apartment complex pled guilty to violating the CAA.⁷⁹ Instead of taking precautions with asbestos-containing materials during renovations, the owner directed staff to renovate apartments without wetting the materials or wearing proper protective equipment.⁸⁰ This placed the staff and community at risk of exposure to asbestos.⁸¹ The owner also tried to cover up the violation by having staff remove the dumpster with asbestos-containing waste prior to an inspection.⁸² The owner continued the same conduct while on pretrial release for an earlier incident.⁸³ The owner's guilty plea resulted in a possible sentence of "up to five years in prison and a \$250,000 fine for each count, and up to three years of supervised release."⁸⁴

C. *Notable RCRA Enforcement*

In October 2022, the owner of several companies in north Georgia was sentenced for dumping hazardous waste.⁸⁵ The owner moved hundreds of drums containing, among other things, benzene, lead, and chromium wastes from one of his industrial facilities to agricultural land owned by another one of his companies.⁸⁶ There, the owner had the waste stored in old chicken houses or in trenches.⁸⁷ The owner pled guilty and a court in the Northern District of Georgia sentenced him to "two months in prison to be followed by one year of supervised release and ordered [him] to pay a \$25,000 fine and restitution in the amount of \$32,596.93."⁸⁸

D. *Notable COVID-19-Related Enforcement*

In August 2022, a judge in the Southern District of California sentenced the owner of Eco Shield, LLC to eight months in custody as well as a forfeiture of profits and payment of restitution.⁸⁹ Eco Shield had imported and sold devices that it claimed protected the wearer from COVID-19.⁹⁰ The devices actually emitted low quantities of chlorine dioxide

⁷⁷*Id.*

⁷⁸*Id.*

⁷⁹[Press Release](#), U.S. Dep't of Just., Nevada Apartment Complex Manager Pleads Guilty To Violating Clean Air Act Asbestos Regulations at Two Facilities (March 14, 2022).

⁸⁰*Id.*

⁸¹*Id.*

⁸²*Id.*

⁸³Nevada Apartment Complex Manager Pleads Guilty To Violating Clean Air Act Asbestos Regulations at Two Facilities, *supra* note 79.

⁸⁴*Id.*

⁸⁵[Press Release](#), U.S. Dep't of Just., North Georgia Businessman sentenced to prison for dumping hazardous waste (Oct. 27, 2022).

⁸⁶*Id.*

⁸⁷*Id.*

⁸⁸*Id.*

⁸⁹[Press Release](#), U.S. Dep't of Just., Local Firm and Owner Sentenced in COVID-19 Fraud Scheme (Aug. 12, 2022).

⁹⁰*Id.*

gas that were too low to be effective against viruses and potentially harmful to the wearer.⁹¹ The company also shipped the devices through the postal services despite them containing hazardous waste.⁹² In addition to the owner's personal criminal liability, the company also was ordered to pay a \$42,000 fine.⁹³

In December 2022, a judge in the District of New Jersey sentenced an individual who controlled two companies and worked for another that engaged in the sale of a chemical he claimed killed the coronavirus.⁹⁴ In reality, the chemical was an unregistered pesticide, and its sale violated FIFRA.⁹⁵ The individual pled guilty, and the court sentenced him to five years in prison and forfeiture of all \$2.7 million in sales of the pesticide.⁹⁶

⁹¹*Id.*

⁹²*Id.*

⁹³Local Firm and Owner Sentenced in COVID-19 Fraud Scheme, *supra* note 89.

⁹⁴[Press Release](#), U.S. Dep't of Just., Burlington County Businessman Sentenced to Five Years in Prison for Defrauding over 75 Victims of More Than \$2.7 Million in Nationwide Scheme to Sell Pesticides Falsely Billed as Registered with EPA and Approved to Kill Coronavirus (Dec. 8, 2022).

⁹⁵*Id.*

⁹⁶*Id.*