EPA's National Compliance Initiatives

mapistry

June 2022

Agenda

Introduction

EPA's 2020 -2023 National Compliance Initiatives

EPA Strategic Plan

PFAS: Everyone's Hot Topic

Wrap Up + Q&A

Today's Speakers

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Have More Questions? Contact us!

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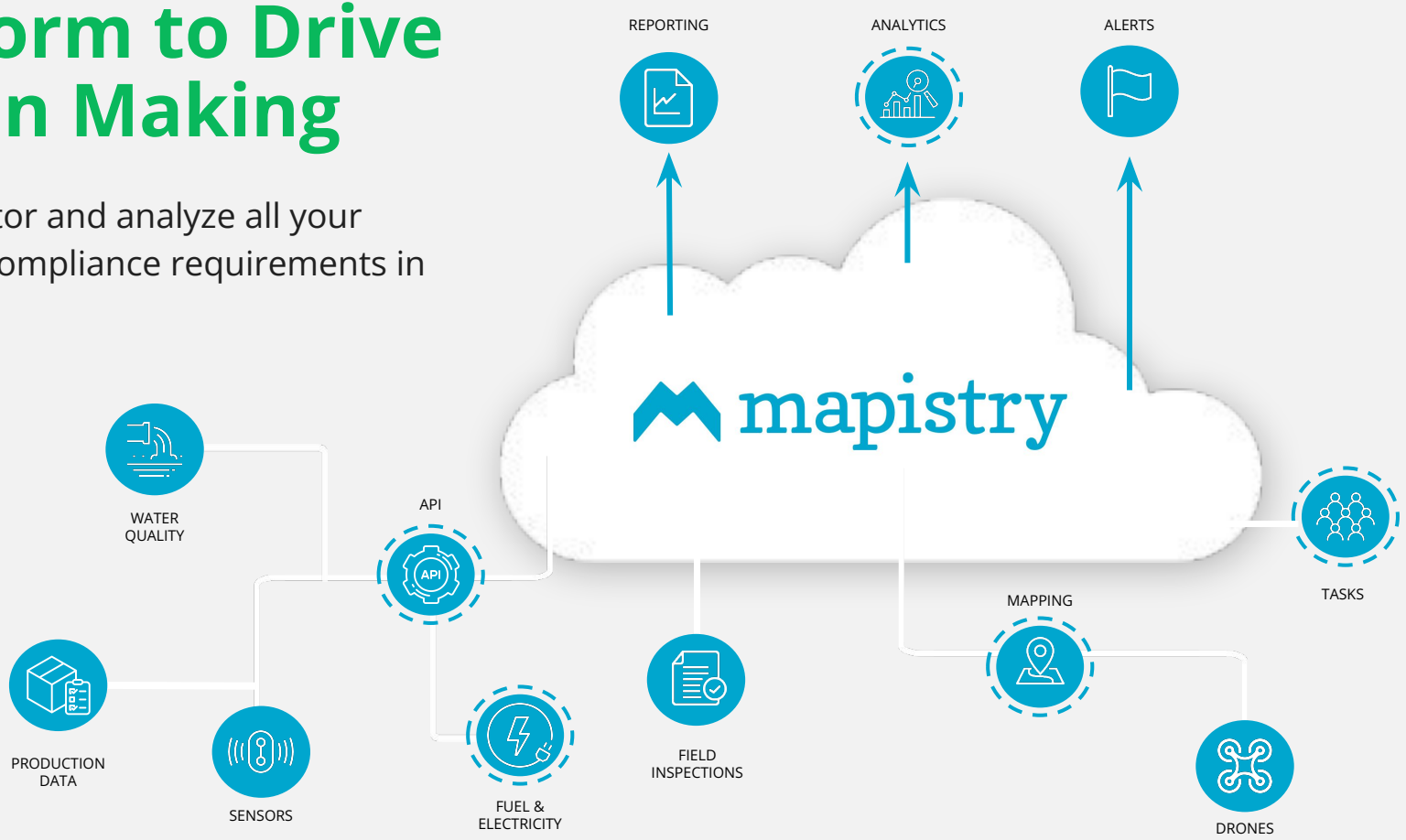
A Platform to Drive Decision Making

Complete, monitor and analyze all your environmental compliance requirements in one place.



JUNE 23, 2022

EPA NATIONAL COMPLIANCE INITIATIVES UPDATE

Alison Torbitt, Partner, Nixon Peabody LLP

2022 Mapistry Joint Live Webinar

NATIONAL COMPLIANCE INITIATIVES

The EPA focuses enforcement and compliance assurance resources by the development and implementation of National Compliance Initiatives (NCIs).

The EPA has developed the following six (6) NCIs for Fiscal Years 2020 to 2023:

- Air
  - Creating Cleaner Air for Communities by Reducing Excess Emissions of Harmful Pollutants
  - Stopping Aftermarket Defeat Devices for Vehicles and Engines
- Hazardous Chemicals
  - Reducing Hazardous Air Emissions from Hazardous Waste Facilities
  - Reducing Risks of Accidental Releases at Industrial and Chemical Facilities
- Water
  - Reducing Significant Non-Compliance with NPDES Permits
  - Reducing Non-Compliance with Drinking Water Standards at Community Water Systems

1. CREATING CLEANER AIR

PROBLEM

- Persons living in non-attainment (NAAQS) areas or communities near HAPs (hazardous air pollutants known or suspected to cause cancer/serious health effects; e.g., mercury, benzene, dioxin, lead compounds, VOCs).

GOALS AND RESULTS

- FY 2021 enforcement actions resulted in (allegedly) over 15.7 million pounds of methane reduction and 6.7 million pounds of VOC and HAP reduction
- 2020-2022 Examples:
  - Sims Metal Management
  - Drummond Company
  - Hydrite Chemical Company
  - Dow Chemical Company
  - Firestone Polymers
  - Riverbend Landfill

2. STOPPING AFTERMARKET DEFEAT DEVICES

PROBLEM

- Significant contributions to air pollution by aftermarket emission control “defeat devices”, specifically designed to defeat CAA-required emissions controls for NOx and PM, for vehicles and engines

GOALS AND RESULTS

- Aggressive enforcement of aftermarket automobile parts manufacturers
- FY 2021: Resolution of 40 civil enforcement actions, stopping the manufacture and sale of defeat devices
- 2021 Examples:
  - Xtreme Diesel Performance
  - Advanced Flow Engineering
  - Gear Box Z
  - JEG’s Automotive
  - Premier Performance


DODGE
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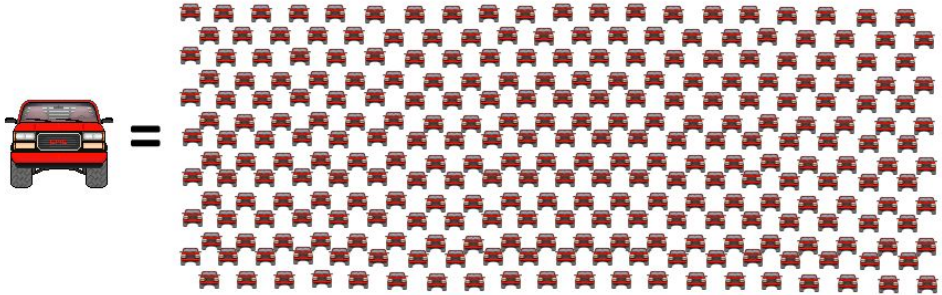
2. STOPPING AFTERMARKET DEFEAT DEVICES

EPA Estimated Emissions Increase Due to Full Delete



Oxides of nitrogen (NOx) increased ~310x
Non-methane hydrocarbons (NMHC) increased ~1,140x
Carbon monoxide (CO) increased ~120x
Particulate matter (PM) increased ~40x

These test results show increases in NOx, NMHC, CO, and PM when a tuner enables the full removal of emissions controls (i.e., "a full delete") from a diesel pickup truck. These tests were conducted without the selective catalytic reduction (SCR), diesel particulate filter (DPF), diesel oxidation catalyst (DOC), and exhaust gas recirculation (EGR) emission controls.

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3. REDUCING AIR EMISSIONS FROM HAZARDOUS WASTE FACILITIES

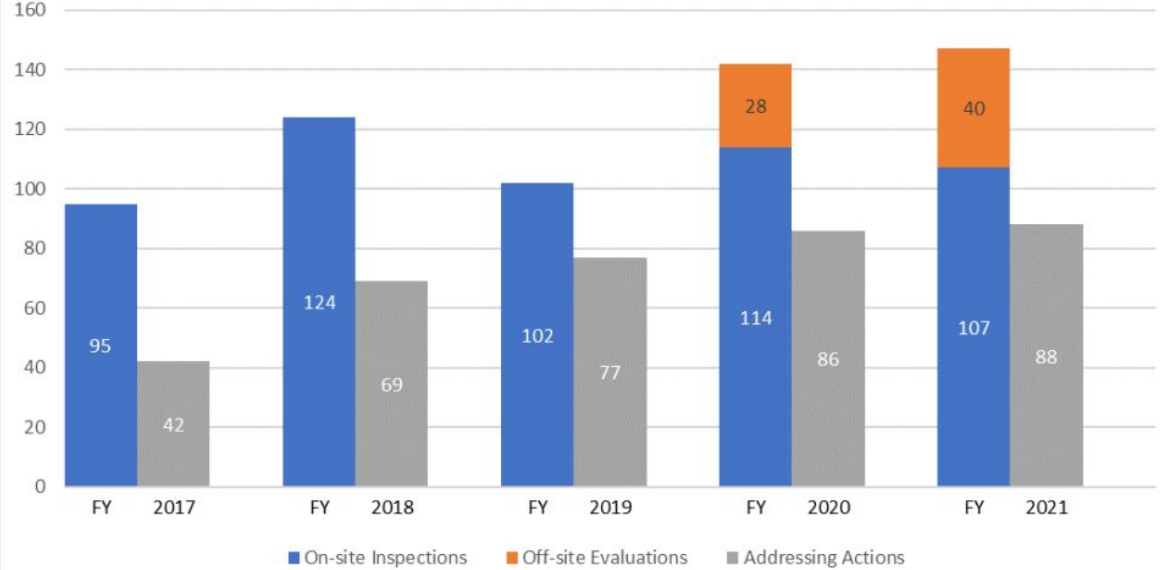
PROBLEM

- Improper management of hazardous waste (HW) and air monitoring requirements under RCRA
- Failure to effectively monitor for identification and repair leaks from HW storage tanks, pipes, valves, and other equipment
- E.g., Constituents known or suspected to cause cancer or birth defects, contributions to non-attainment with CAA NAAQS

GOALS AND RESULTS

- FY 2021 enforcement action conclusions have doubled, allegedly reducing over 680,000 pounds of pollutants
- Protection of overburdened communities
- 2021 Examples:
  - Fairchild Semiconductor Corp.
  - Emerald Kalama Chemical LLC
  - 3M Company
  - Clean Harbors
  - Fuchs Lubricants

3. REDUCING AIR EMISSIONS FROM HAZARDOUS WASTE FACILITIES



*Addressing action means that a facility is subject to a federal enforceable order (judicial or administrative) requiring compliance, a facility has been inspected and violations returned to compliance without enforcement, or a facility was found to have no signficant violations.

4. REDUCING ACCIDENTAL RELEASES AT INDUSTRIAL AND CHEMICAL FACILITIES

PROBLEM

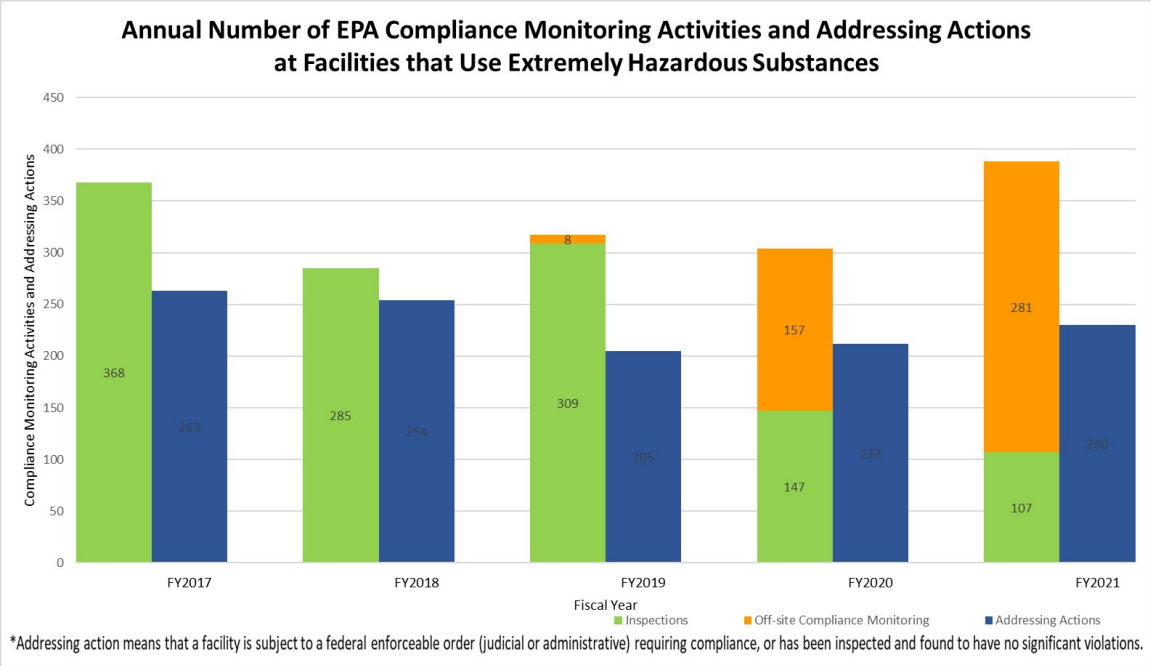
- Catastrophic incidents at industrial and chemical facilities utilizing hazardous substances (i.e. petroleum, anhydrous ammonia)
- Risk Management Program: Deficient safety protocols and failure to meet risk management requirements

GOALS AND RESULTS

- FY 2021 enforcement penalty action conclusions have surpassed any prior FY since initiation of NCIs
- Requirements to identify hazards resulting from releases, design and maintenance of safe facilities, release prevention
- 2020-2021 Examples:
  - Formosa Plastics Corporation
  - CSL Behring
  - Apache Nitrogen Products
  - Big West Oil
  - Winfield Solutions


OMAHA FIRE/RESCUE

4. REDUCING ACCIDENTAL RELEASES AT INDUSTRIAL AND CHEMICAL FACILITIES



5. REDUCING SIGNIFICANT NON-COMPLIANCE WITH NPDES PERMITS

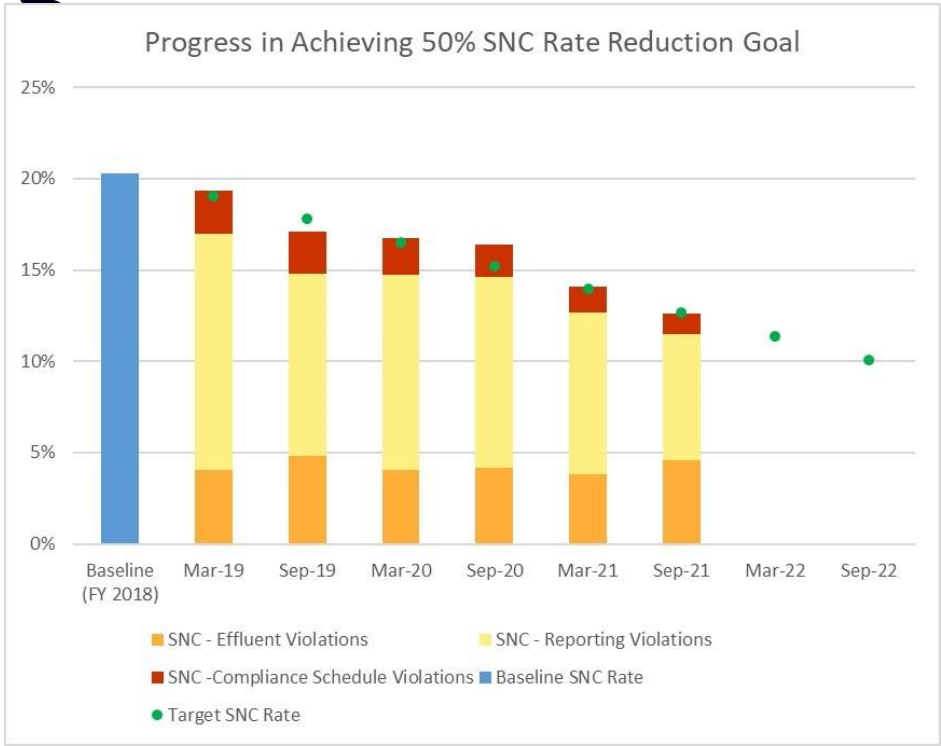
PROBLEM

- Facility failure to comply with National Pollutant Discharge Elimination System (NPDES) Permits
- Over 46,000 major and minor NPDES-permitted facilities, approximately 20.3% of which were in significant non-compliance (SNC) as of FY 2018
- SNC range from exceedance of effluent limits and failure to submit required reporting

GOALS AND RESULTS

- Improvement of surface water quality to protect public health and reduce pollution impacts on drinking water supplies, aquatic life, and public enjoyment
- Enforcement actions: Baseline SNC halved from 20.3% to 10.1% between FY 2018 and FY 2022
- 2020-2021 Examples:
  - Pacific Energy American Samoa Terminal
  - City of Colorado Springs, CO
  - City of Wapato, WA

5. REDUCING SIGNIFICANT NON-COMPLIANCE WITH NPDES PERMITS



6. REDUCING NON-COMPLIANCE WITH DRINKING WATER STANDARDS

PROBLEM

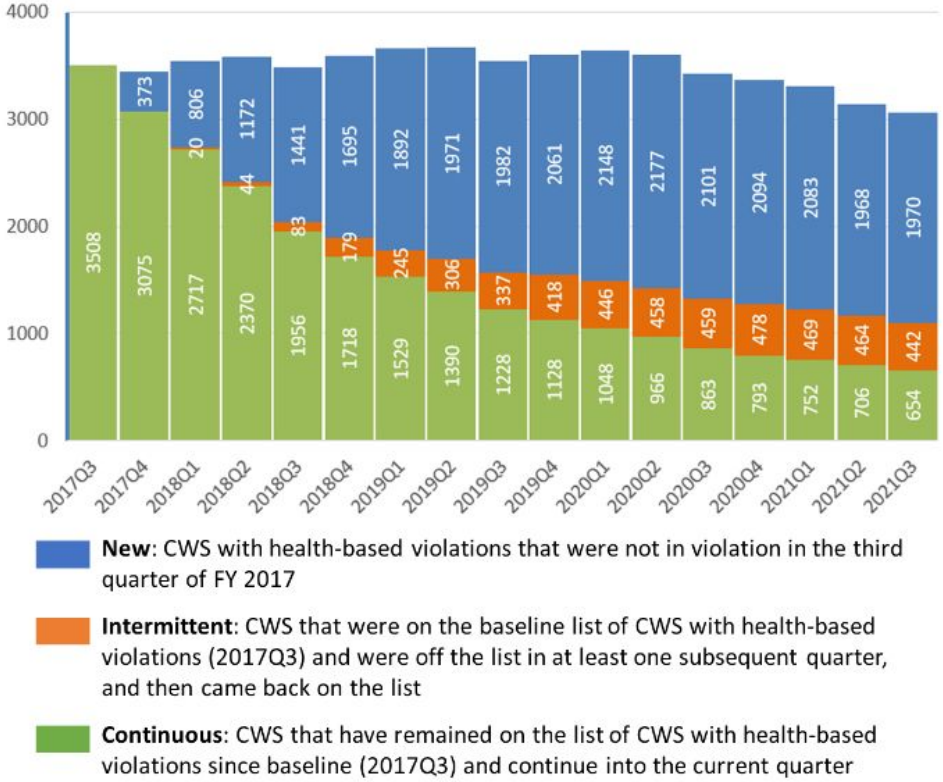
- In FY 2018, 40% of the ~50,000 regulated Community Water Systems (CWSs) were in violation of at least one drinking water standard
- Monitoring and reporting violations at more than 30% of CWSs
- Health-based violations at ~7% of CWSs

GOALS AND RESULTS

- Delivery of safe water to communities by improving Safe Drinking Water Act (SDWA) compliance
- Greater collaboration between EPA and states, tribes and territories to create more effective national program
- Increase EPA's enforcement and compliance assurance capacity

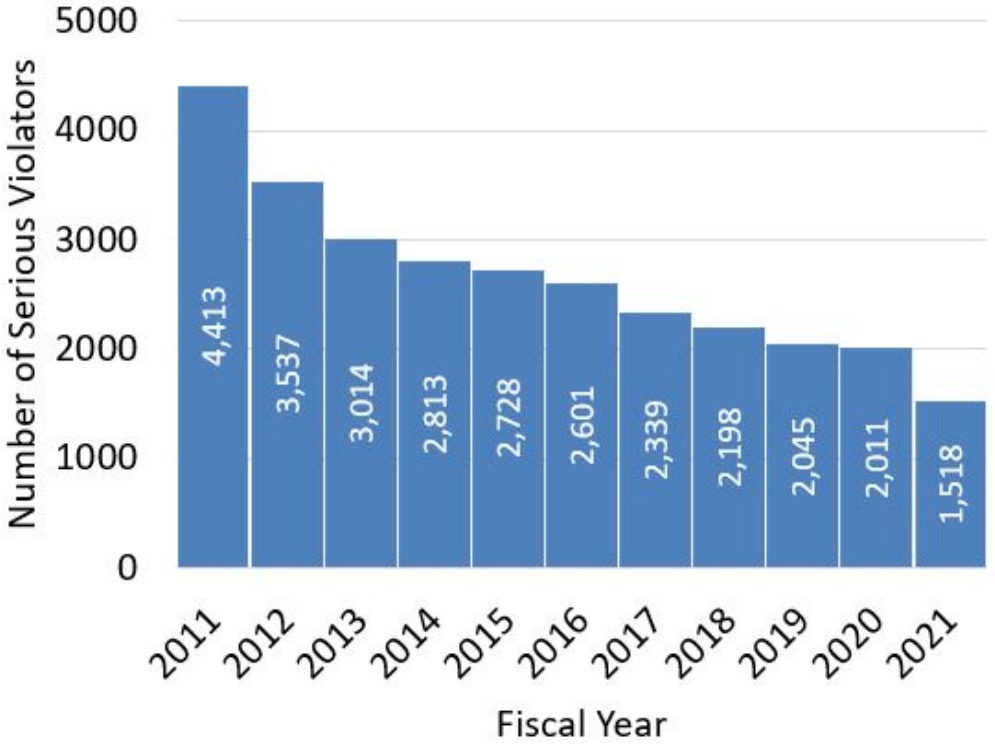
6. REDUCING NON-COMPLIANCE WITH DRINKING WATER STANDARDS

Persistent Increases in Number of CWSs with Health-Based Violations



6. REDUCING NON-COMPLIANCE WITH DRINKING WATER STANDARDS

Results: Reduction in Number of CWSs Identified as Serious Violators



2022 AND BEYOND

EPA STRATEGIC PLAN (FY 2022-2026)

STRATEGIC GOALS

1. **Tackle the Climate Crisis**
2. **Take Decisive Action to Advance Environmental Justice and Civil Rights**
3. Enforce Environmental Laws and Ensure Compliance
4. Ensure Clean and Health Air for All Communities
5. Ensure Clean and Safe Water for All Communities
6. Safeguard and Revitalize Communities
7. Ensure Safety of Chemicals for People and Environment

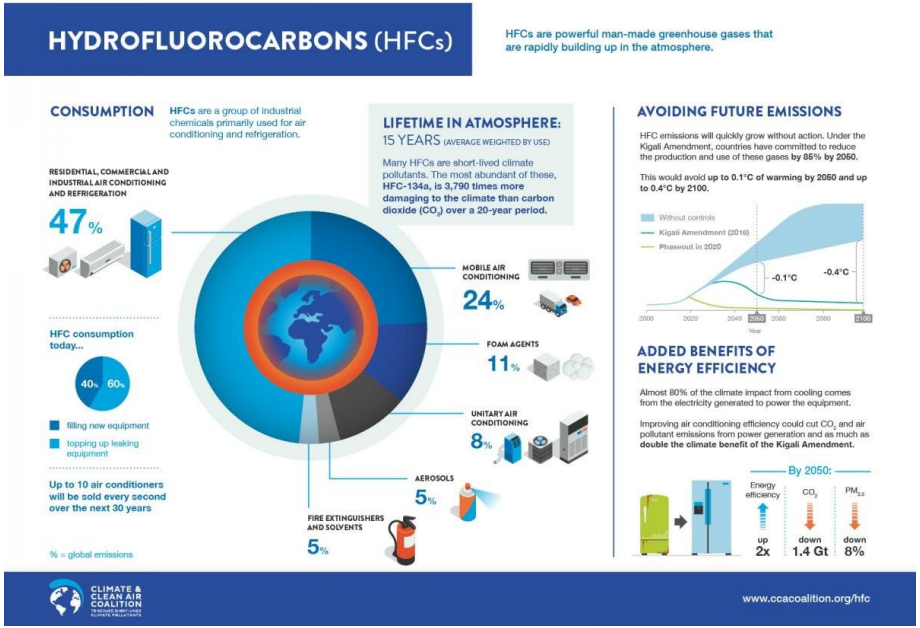
CROSS-AGENCY STRATEGIES

1. Ensure Scientific Integrity and Science-Based Decision Making
2. Consider the Health of Children at All Life Stages and Other Vulnerable Populations
3. Advance EPA's Organizational Excellence and Workforce Equity
4. Strengthen Tribal, State, and Local Partnerships and Enhance Engagement

EPA PRIORITY GOALS (FY 2022-2023)

AGENCY PRIORITY GOALS (APG)

- Phase down the production and consumption of hydrofluorocarbons (HFCs)
- Deliver tools and metrics for EPA and its Tribal, state, local, and community partners to advance environmental justice and external civil rights compliance
- Clean up contaminated sites and invest in water infrastructure to enhance the livability and economic vitality of overburdened and underserved communities



PFAS AND THE EPA STRATEGIC ACTION PLAN

PFAS (Per- and Polyfluoroalkyl Substances) are a large, complex, and ever-expanding group of manufactured chemicals extensively used in industrial and commercial processes, and that were not previously regulated.

- In October 2021, EPA announced its comprehensive national strategy to confront PFAS
- In March 2022, EPA's Strategic Action Plan included analysis and strategies to address the manufacture and release of PFAS into the environment and effects on safe drinking water
- EPA is proposing to designate PFOA and PFOS as hazardous substances under CERCLA
- EPA is currently developing proposed National Primary Drinking Water Regulations for PFOA and PFOS in drinking water