US Magnesium Loses Pollution Appeal

PAUL FOY, Associated Press

SALT LAKE CITY (AP) — Utah is moving to close a regulatory loophole that let industries exceed pollution limits and escape sanctions by blaming malfunctioning equipment.

A change in state regulations that would eliminate the loophole withstood a federal appeals court challenge this week from US Magnesium, a Utah company that had a history of spewing chlorine gas in the 1990s before working out the kinks in new pollution controls, state regulators said.

US Magnesium sued the U.S. Environment Protection Agency for forcing Utah to make about 1,200 industrial plants liable for any unexpected pollution releases. Utah wasn't part of the lawsuit and says it is prepared to have the regulations in place by September.

"The EPA appreciates the state's effort and looks forward to a resolution of our concerns," EPA spokesman Richard Mylott told The Associated Press.

State and federal regulators say they don't know what motivated US Magnesium to challenge the new rule, which shifts the burden of proof to polluters. The rule also is taking effect in many other states.

US Magnesium had no comment on the case or its operations 60 miles west of Salt Lake City, its attorney Michael Zody told the AP.

The company hasn't had an air pollution lapse since 2007 and has perfected controls that capture about 90 percent of its chlorine emissions, said Bryce Bird, director of the Utah Division of Air Quality.

The new rule makes industries prove their errant emissions actually are caused by equipment malfunctions before getting a pass on sanctions. It also drops a blanket exemption that allowed industries to release excessive air pollution for up to two hours and claim equipment breakdowns made it unavoidable.

An environmental group took credit for Utah's change in course by saying it forced the EPA's hand, first by petitioning the agency to crack down on Utah, then by filing a lawsuit against the EPA that was quickly resolved when the federal agency demanded Utah tighten its regulation.

"The key is there's no automatic exemption anymore. It puts the burden of proof on the polluter, not on the public that wants to keep safe from air pollution," said Jeremy Nichols, climate and energy program director at Santa Fe, N.M.-based WildEarth Guardians.

Nichols said the loophole has been used by a number of Utah industries, but only US Magnesium objected to its elimination.

US Magnesium uses solar ponds to bake magnesium from the mineral-rich Great Salt Lake, a process that takes years.

The silvery metal — stronger than steel yet lighter than aluminum — is commonly used in select car parts from engine-valve covers to steering wheels that must be strong but malleable.

During the 1990s, US Magnesium released excessive pollution for months at a time before a chlorine reduction burner was fully functional, Bird said.

Chlorine is a poisonous gas that reacts with the atmosphere to form hydrochloric acid, an irritant that can dissolve metals, he said.

Source URL (retrieved on *11/24/2014 - 4:46pm*):
http://www.chem.info/news/2012/08/us-magnesium-loses-pollution-appeal