POWER Engineers Environmental provides planning, permitting, compliance, EHS, engineering, and site assessment and corrective action services to clients worldwide. Across multiple industries, we specialize in the areas of air, water, waste, ecological, cultural and wastewater. And as part of POWER Engineers, we can provide integrated engineering and environmental solutions. With 45 offices located across the country and internationally, we have local resources and expertise where you need it.
The world has changed. In the 1980s, there were no personal computers, cell phones, internet or GIS systems. We calculated areas with a hard copy map and a planimeter (Google it). Phones were hardwired, and we typed all documents using an IBM Selectric typewriter (again, Google it).

If I wanted to understand hydrostatic testing, I talked to our Construction Department, or went to the company library, or maybe even went to Brown’s Book Store in downtown Houston to get a book on pipeline construction. Perhaps my boss would send me to the field to see a hydrotest conducted.

Today, entry-level engineers pull out their smart phones and ask “Siri” to tell them about hydrostatic testing, and in 0.52 seconds they have 9,430,000 results. Although the results are not all useful, when you really consider what we all take for granted, it really is remarkable.

As a result, we enjoy increased efficiency, productivity and knowledge sharing. However, this informational power and a new generation of workers have also had some unintentional side effects. The availability of technical information coupled with social media has created a more informed and mobile society.

Thirty years ago, employees expected to spend their entire career at one place. Today, the U.S. Bureau of Labor Statistics believes that today’s generation of workers will change jobs 20 times before they retire.

What’s the point? I believe our current work environment is causing a disconnect between leadership and our younger generations when it comes to thinking holistically. When I started in the energy industry, I was moved from one department to another learning the business, not just my job.

Our current work environment is causing a disconnect between leadership and our younger generations when it comes to thinking holistically.

The members of today’s highly mobile and connected workforce tend to focus on their specific jobs, jump to other companies doing the same thing, and not stay around to experience the long-term implications of their tasks. For example, they accomplish the task of “getting a permit,” but may not completely understand the background of why a permit is needed and the effect that the permit and its conditions have on the success of the business.

As a business leader, however, I also recognize that this big picture mindset is a two-way street and we need to continue to foster our younger, digitally inclined employees. When I think about those who took me under their wing, I can see how they shaped my thinking and my place in the industry today. So here are a couple of thoughts to consider:

1. Encourage long-term decision making: How many times have we heard, “Just get the permit?” That kind of thinking produces bad results like operating constraints, unnecessary reporting and poor siting decisions—all because we don’t take the time to understand the implication of our actions on the business, not just the project or a single line on a project schedule. Ask your team: “Are you getting the right permit or just the fastest permit?” Take a step back and evaluate whether your decisions are based on short-term incentives versus long-term success.

2. Set the example: As business leaders, we need to create an environment where the project team understands the “why” behind what they are doing. It takes time and attention from our busy schedules to help team members understand their job and how the project affects the operation of the business as part of the overall industry. Encourage your project team to start with the end goal in mind and understand what the end looks like and why.

If you take one thought away from my perspectives, holistic thinking means “think big.” You will be surprised at the difference it makes. 😊
In 1969, Cleveland Ohio’s Cuyahoga River caught fire for the tenth time. The event captivated the nation. Against the backdrop of Vietnam protests and civil rights unrest, there were now conversations about the quality of our environment. Many trace the beginnings of the U.S. environmental movement to this event.

As culture changes, so too does our relationship to the environment. These changes in perspective have historically driven our decisions about what is considered an unreasonable, adverse impact on the environment.

Modern industrial worldview
Prior to the 1960s, our modern industrial society viewed natural resources as commodities. They believed that science could solve issues of scarcity and harm to the environment; therefore, there was little need for regulation. For instance, that culture might say, “Don’t worry about the burning river now, we can fix it tomorrow.”

This explains why, prior to 1960, there were only four major pieces of legislation that framed most environmental standards: Refuse Act (1899), Migratory Bird Treaty Act (1918), Federal Water Pollution Control Act (1948), and the Air Pollution Control Act (1955).

In the mid-1900s, environmental regulations were based on the belief that science would be able to consistently and predictably manage natural resources. The modern world image of the environment...
was managed by state and federal agencies, industry, and a loose group of environmental organizations. Any unreasonable, adverse impact on the environment would be scientifically determined by those in charge. This view of the environment was “consumed” by the public with little differentiation.

A striking analogy of this relationship could be seen in the Ford Motor Company’s model of car production. In 1913, Henry Ford introduced an assembly line that reduced the time to assemble a car by more than 10 times. Cars produced on Ford assembly lines were virtually identical in size, color, fashion, and cost. It was a market dominated by the producer, rather than the desires of the consumers.

The problem with post-Fordism

“Fordism” is a description of the productive and consumptive forces in our society and is considered a “modern” perspective. Today, these forces are dominated by the desires of consumers. Many eco-sociologists and economists describe the shift in our patterns of consumption and production as moving from a period of Fordist consumption to post-Fordist differentiated consumption.

In parallel, the western view of the natural world has also placed increasing value on acquiring individualized experiences. This new relationship with the world is often referred to as a “postmodern” era. And these changes are seen in our environmental regulations.

Regulations became specific to resources and interests. Individual resources were given protection beyond their monetary value. Between 1960 and 1990, 23 major pieces of environmental legislation passed. These included the Wilderness Act, Clean Air Act, National Environmental Policy Act, Endangered Species Act, and the Safe Drinking Water Act.

All of society was undergoing a profound shift in the way they engaged with the world. How we viewed ourselves and made decisions changed. A new philosophy focused our attention inward, towards bettering oneself.

Society abandoned the application of deterministic, centralized science, and has become more concerned with a subjective, individualistic approach. From this perspective, nature is seen as beautiful for its collective being and its remarkable components (wildlife, vistas, forests, etc.), rather than for its utility to society.

Society constructed an aesthetic value of nature that has overshadowed utilitarian value. We see this in the growing level of individualized opposition to projects. Individuals are less interested in utilitarian reasons for advancing a project.
Our journey began in August 2007, studying Phase I and II Environmental Site Assessment (ESA) reports for a HVAC parts manufacturing business in Buda, Texas (pronounced BYOO-da).

The owners of the company were ready to sell their business and retire, and they had an interested buyer waiting in the wings. The findings in these buyer-initiated ESA reports, however, created a problem.

Trichloroethylene (TCE), classified by the EPA as a carcinogenic chemical, was identified in the groundwater at approximately 35 feet of depth. Although the ESAs did indicate that TCE, a chlorinated solvent, was used as a parts degreaser in the manufacturing process at the property, they did not identify the source of the TCE release.

The ESA findings led to numerous provisions between the two parties, which ultimately hinged on the sellers’ agreement to enter the property into the Texas Commission on Environmental Quality (TCEQ) Voluntary Cleanup Program (VCP), a brownfields program to remediate the affected environmental media to TCEQ’s risk standards. Without it, the sellers would be subject to enforcement actions and the liability for cleanup could extend to future lenders and landowners: a scenario that would likely have been a deal-breaker for the buyer and any potential buyers in the future.

Engaged by the sellers to help them obtain VCP eligibility for the four-acre property, we knew our goal was the “golden” Certificate of Completion. This deed certification would release both parties from all liability to the State for cleanup of areas covered by the certificate. Without it, the environmental liability could run well over a million dollars.

In December 2007, we submitted the required VCP application and supporting documentation to the TCEQ Remediation Division.

In late January 2008, we received the welcome news from the TCEQ that the property was eligible for the VCP. With the approved eligibility in hand, we developed a plan of attack as to how we would conduct an affected property assessment under the TCEQ Texas Risk Reduction Program (TRRP) rule (risk-based corrective action).

The work plans we prepared and submitted to the TCEQ described the field activities to be conducted, environmental media to be sampled, the target Chemicals of Concern (COCs), sampling rational and procedures, and the relevant analytical methods to be utilized in the affected property assessment.

Shortly after receiving word of each work plan approval, my colleague, POWER geologist Rob von Czoernig and I began the two-year process of implementing each phase of the assessment.
While on our expeditions, we collected surface and subsurface soil samples from exploratory borings, installed single and multi-casted monitoring wells, collected groundwater samples from two separate groundwater-bearing units (GWBUs) and conducted multiple in-situ aquifer tests (slug tests and pump tests) to determine the Groundwater Resource Classifications for both GWBUs.

As expected, the analytical and aquifer testing results indicated that affected environmental media were limited to the northern half of the property, and the only COC identified as exceeding its critical protective concentration level (PCL) was TCE.

With all the results, an affected property assessment report (APAR) was submitted to the TCEQ in February 2010.

Following an additional two years of monitoring reports and pump test data, the TCEQ acknowledged in January 2012 that the assessment of environmental media at the affected property had been completed. The next step was to submit a Response Action Plan (RAP), putting us one step closer to getting our hands on the “golden” Certificate of Completion.

Upon receiving approval of the RAP from the TCEQ in September 2012, we began two years of response action groundwater monitoring. The response actions outlined in the RAP proved to be on target as the results indicated that TCE concentrations were stable at some source area monitoring wells and had dropped below the critical PCL at other source area monitoring wells.

The TCEQ concurred that the groundwater monitoring frequency could be modified from semi-annual to annual and that the number of monitoring wells to be sampled could be reduced from 23 to 2. Monitored natural attenuation data for the 2014 to 2017 monitoring events demonstrated that TCE groundwater concentrations in the source area were stable and that the affected soils in the source area were not causing the TCE groundwater PCL exceedance zone to expand.

With the evidence in hand, we prepared the Response Action Completion Report (RACR) on January 18, 2018, which contained not only the monitoring data, but also statistical confirmation to demonstrate that the response action objectives for both affected soil and affected groundwater were met. Once again, the wait. Finally, on August 8, 2018, we held our prize, the “golden” Certificate of Completion.

After 11 years, we had one final task to fulfill. The client needed to sign and file the document within the County deed records and submit proof of filing to the TCEQ. This was speedily done in less than two days.

And so, we close a long yet rewarding chapter in this journey. But wait, another saga is coming over the horizon. And as a geologist who loves a challenge, I wouldn’t have it any other way.
rescinding the requirements for employers (with 250 or more employees) to electronically submit Forms 300 and 301 to the agency. OSHA believes the proposal maintains safety and health protections for workers, protects privacy, and reduces the burdens of complying with the current rule. This sensitive information could have been found disclosable under the Freedom of Information Act. OSHA Form 300A, the summary form, will still be required to be submitted electronically for employers with 250 or more employees. The proposed rulemaking will not change the requirement for employers to collect information on employee injuries, illnesses, and accidents on OSHA Forms 300 and 301.

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EPA Proposes Affordable Clean Energy Rule to Replace Clean Power Plan
On August 31, EPA proposed the Affordable Clean Energy (ACE) rule to replace the 2015 Clean Power Plan (CPP). These rules are intended to address climate change by regulating greenhouse gas emissions of fossil fuel-fired electric generating units (EGUs). The ACE rule focuses solely on EGU heat rate (efficiency) improvements as the best system of emissions reductions. Although the CPP included heat-rate improvement (HRI) requirements, it also shifted generation away from coal to natural gas and renewables. To promote implementation of HRI, the ACE rule also proposed revisions to the New Source Review program to make it less likely for an HRI project to trigger preconstruction air permitting requirements by making the applicability test be based on both the annual and hourly emissions change. EPA accepted comments until October 30. For more information about the proposed ACE rule, see Jennifer Seinfeld's article at www.powereng.com/ace.

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OSHA Posts New FAQs and Videos for Controlling Silica in Construction
On August 22, OSHA announced that new frequently asked questions (FAQs) and training videos on its standard for respirable crystalline silica in construction (29 CFR Part 1926.1153) are now available on the OSHA website. The agency has identified specific tasks that typically generate silica exposures below the new action limit of 25 ug/m³ as an 8-hour time-weighted average and are considered outside of the standard. These tasks include mixing small amounts of mortar; mixing small amounts of concrete; mixing bagged, silica-free drywall compound; mixing bagged exterior insulation finishing system base and finish coat; and removing concrete formwork. The FAQs provide employers and workers with guidance on the standard’s requirements. In addition, a series of six new videos instruct users
on methods for controlling exposure to silica dust when performing common construction tasks or using construction equipment. The video topics include handheld power saws, jackhammers, drills, and grinders. 

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**Stormwater CGP Modifications Expected Late 2018**

After EPA issued the 2017 Construction General Permit (CGP) in January 2017, the National Association of Home Builders and the Chesapeake Bay Foundation filed petitions for review of the CGP in the D.C. Circuit Court. Following the review, EPA announced earlier this year that it will propose a narrow scope of changes to the CGP focusing on clarifying site operator liability, operator responsibilities when sharing stormwater controls, and aligning permit language with effluent limitation guidelines for construction and development. The proposed CGP modifications will not affect state-issued CGPs or change the current five-year permit term. EPA plans to release the proposed changes to the CGP for public comment by the end of the 2018 calendar year.

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**Revisions to Disposal of CCRs from Electric Utilities**

On August 29, EPA finalized certain revisions to the minimum criteria for existing and new surface impoundments. Two alternative performance standards were approved that may be implemented by either EPA or states with an approved coal combustion residuals (CCR) permit program. Also, revisions were made to the groundwater protection standard for four constituents that do not have maximum contaminant limits: cobalt, lead, lithium, and molybdenum.

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**EPA Proposes NESHAP Changes for Surface Coating of Large Appliances and Metal Furniture**

On September 12, EPA published results of the residual risk and technology reviews (RTR) for the 2017 Construction General Permit (CGP) in January 2017, and the Chesapeake Bay Foundation filed petitions for review of the CGP in the D.C. Circuit Court. Following the review, EPA announced earlier this year that it will propose a narrow scope of changes to the CGP focusing on clarifying site operator liability, operator responsibilities when sharing stormwater controls, and aligning permit language with effluent limitation guidelines for construction and development. The proposed CGP modifications will not affect state-issued CGPs or change the current five-year permit term. EPA plans to release the proposed changes to the CGP for public comment by the end of the 2018 calendar year.

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**Renewable Fuels Standard Program Acquires New Feedstock**

On July 24, EPA issued a final notice approving pathways for renewable fuels derived from sorghum oil that include biodiesel, heating oil, jet fuel, and liquefied petroleum gas. This approval is a boon for farmers who have experienced a downturn in the commodities market, resulting in lower revenues. Sorghum oil is a by-product in the production of ethanol from sorghum grain. A major benefit to the production of these biofuels is a reduction in greenhouse gas emissions that will allow users of this fuel to qualify for credits. It’s estimated that sorghum oil will produce around 21 million gallons of fuel resulting in flexibility and diversity in biofuels.

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**STATE NEWS**

**Jon Niermann Named Chairman of the TCEQ**

On August 31, Texas Governor Greg Abbott announced the appointment of Jon Niermann as Chairman of the Texas Commission on Environmental Quality (TCEQ). Mr. Niermann has been on the commission since 2015 and will continue to serve as the governor’s appointee on the Western States Water Council, working with 17 other western states concerning conservation, development, and management of water resources. He is also responsible for overseeing the $209 million of Texas mitigation funds resulting from Volkswagen’s fraud to evade federal vehicle emission standards. Mr. Niermann replaces Dr. Bryan Shaw who retired in September.

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**PADEP Finalizes Industrial Cleaning Solvents Rule**

On August 11, the Pennsylvania Department of Environmental Protection (PADEP) published its final industrial cleaning solvents rule in the Pennsylvania Bulletin. The regulation (25 Pa. Code §129.63a) applies to facilities at which an industrial cleaning solvent is used or applied in a cleaning activity at a cleaning unit operation, a work production-related work area, or a part, product, tool, machinery, equipment, vessel, floor, wall or tank. The regulation requires the implementation of control measures to reduce volatile organic compound (VOC) emissions from affected facilities that are not regulated elsewhere in 25 Pa. Code Chapter 129 or Chapter 130. A facility at which the total combined actual VOC emissions from all subject cleaning unit operations are equal to or greater than 2.7 tons per 12-month rolling period, before consideration of controls, is required to (1) meet a solvent VOC content limit or solvent VOC composite vapor pressure limit or (2) utilize a capture/control device to reduce atmospheric releases of VOCs.

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VOC emissions. Certain work practice, recordkeeping, and reporting requirements also apply to affected facilities.

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**EPA to Reclassify DFW and HGB Nonattainment Areas**

On October 1, TCEQ announced that EPA intends to reclassify the Dallas/Fort Worth (DFW) and Houston-Galveston-Brazoria (HGB) nonattainment areas from “moderate” to “serious” on or before January 18, 2019. The reclassification will lower the Major Source Potential to Emit thresholds for the area from 100 tons per year (tpy) to 50 tpy for VOC and NOx and the Major Modification emission increase thresholds from 40 tpy to 25 tpy for VOC and NOx. Additionally, emissions netting will be triggered for projects with 5.0-tpy increases. Credit generation projects in the area submitted after the January 18, 2019 date will be required to use a more recent state implementation plan baseline year.

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**Ozone Designation for the San Antonio Metropolitan Area Announced**

EPA designated Bexar County, Texas as a marginal nonattainment area for the 2015 Ozone National Ambient Air Quality Standards (NAAQS) on July 17 (effective September 24, 2018). Additional counties within the San Antonio metropolitan areas (Atascosa, Bandera, Comal, Guadalupe, Kendall, Medina, and Wilson) were designated as attainment/unclassifiable. This completes the initial designations for the 2015 Ozone NAAQS. The initial designations will be summarized in 40 CFR Part 81 for each state.

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**Weight-of-evidence—Fordist thinking**

Should we remember some lessons from the Fordist world? Does science have a renewed role to play in these decisions?

For example, scientists have developed a system to clearly evaluate large amounts of environmental data used to evaluate cleanup projects. This weight-of-evidence (WoE) approach has been used by regulators to guide mediation of some of the most polluted places in the United States.

WoE is the process by which multiple measurements are related to an assessment to evaluate whether significant risk of harm is posed to the environment. WoE is reflected in three characteristics of measurement endpoints: a) the weight assigned to each measurement; b) the magnitude of response observed in the measurement; and c) the concurrence among outcomes of multiple measurements.

The WoE approach focuses on specific measurement and assessment endpoints to be used to estimate environmental risk. Assessment endpoints are the explicit expression of the environmental values to be protected, while measurement endpoints are the features for which data are collected to see if the assessment endpoint is impaired.

The problem formulation would include identification of specific exposure pathways (e.g., species near routes could be exposed to a stressor in the environment), identification of hypothetical receptors (i.e., plants or wildlife exposed to the stressors associated with the project), and selection of potential stressors to evaluate.

Is the WoE approach the right mechanism to evaluate more than just cleanup sites?

The ability of this process to consider multiple and diverse types of information and to systematically assign a value to each in a transparent fashion is seemingly the right model for evaluating a project’s potential ecological risk.

Imagine using a WoE approach for evaluating ecological risks to birds and bats in proposed wind resource areas. This technique could examine the strengths and limitations of various measurement endpoints (radar passage rates, bird flight direction, species, breeding location, flight height, mortality estimates, etc.) when determining whether a specific stressor (e.g., wind turbines) has caused or could cause an unreasonable impact to a species or group of species.

**Balancing subjectivity with science**

Perhaps it is time to look for a process that allows regulators and project proponents to agree on what is an “unreasonable adverse impact” through a deliberate structured method. The post-Fordist world has led to individualized relationships with the environment that have improved environmental quality and led to important regulations. Despite some of the progress we have made in environmental regulation, there are also pieces that we have forgotten in our collective quest for individuality.

I welcome having the opportunity to develop biological objectives for evaluating the potential impacts of a project and evaluating against a scientific standard. Maybe we should look back to some of the lessons of a Fordist society and recreate certainty and transparency between project developers, regulators, and the public.
On January 1, 2019, facilities using refrigerants and certain "substitutes" must begin complying with additional refrigerant management requirements, including leak detection standards, imposed by the Environmental Protection Agency (EPA). These requirements have been phased in under EPA's 2016 final rule (Rule) and the Clean Air Act (CAA). While many requirements are already in effect, and additional requirements are slated to become effective at year-end, there is continued uncertainty. In the face of ongoing litigation, EPA issued a proposed rulemaking that would rescind portions of the Rule. This article briefly addresses some of these developments and key requirements.

Regulatory framework
In 1987, the U.S. signed the Montreal Protocol, an international agreement to regulate (and phase out) ozone-depleting substances. In 1990, the U.S. amended the CAA to include Title VI, which prohibits the ventilation or release of refrigerants, such as from refrigeration equipment or air-conditioning units. Pursuant to CAA Section 608, EPA implemented regulations addressing Class I and II ozone-depleting refrigerants at 40 C.F.R. Part 82, Subpart F. On November 18, 2016, EPA amended these regulations when it issued the Rule, extending regulation to refrigerants known more for their greenhouse gas potential than for ozone depletion (e.g., hydrochlorofluorocarbons [HFCs]).

The Rule expands regulation to non-ozone-depleting refrigerants, known as "substitutes." Substitutes include numerous refrigerants, including HFCs, that were utilized across industry sectors to comply with earlier prohibitions and phase-outs for ozone-depleting refrigerants to meet the goals of the Montreal Protocol. The Rule does not apply to every substitute, however, as it provides a list of "exempt" substitutes.

Overview of the rule
The Rule details various requirements for owners, operators, technicians, and others regarding refrigerants and appliances. It may affect anyone handling appliances containing Class I or II substances or non-exempt substitutes. Several provisions are already in effect concerning the technician certification, safe disposal and refrigerant evacuation requirements for substitutes, and recordkeeping. Beginning 2019, more requirements are scheduled to take effect.

The Rule prescribes management practices for three system types: industrial process refrigeration (IPR), commercial refrigeration, and comfort cooling. The heart of the Rule is the leak detection and repair practices for appliances with 50 or more pounds of regulated refrigerant. The Rule lowers the leak threshold rates for each system type. Currently, threshold rates are set at 35% for IPR and commercial refrigeration and 15% for comfort cooling. Beginning 2019, these are reduced to 30% for IPR, 20% for commercial refrigeration, and 10% for comfort cooling. Once a system surpasses its threshold, the Rule imposes a duty to repair the leaking appliances. Owners and operators of appliances must submit reports to EPA for appliances that leak 125% or more of a full charge in a calendar year.

The second set of new requirements addresses leak inspections, which also vary based upon system type. For IPR, appliances must be inspected every three months until leak rate calculations show that the appliances have not surpassed their thresholds for four quarters in a row. Commercial refrigeration and comfort cooling systems must be inspected once per calendar year until the appliances have not surpassed their thresholds for one year. Alternatively, owners and operators may utilize automatic leak detection systems. The Rule should be consulted for technical requirements, as these vary based upon the type of system.

The third notable change concerns recordkeeping. Generally, the Rule expands existing reporting and recordkeeping requirements to appliances containing non-exempt substitutes. These provisions impose a three-year record retention period.

In the face of ongoing litigation, EPA issued a proposed rulemaking that would rescind portions of the Rule.

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Regulatory outlook

The Rule's fate remains unclear. In response to litigation in the D.C. Circuit, EPA issued a proposed rulemaking in September 2018. The proposal would rescind those portions of the 2016 Rule that extended leak repair and maintenance requirements to substitutes. Additionally, EPA requested comments on whether the technician certification, evacuation, disposal, and reclamation requirements for substitute refrigerants should also be rescinded. The deadline for comments on the proposal is November 15, 2018. For the time being, however, the Rule remains in effect, and the next compliance date is quickly approaching at year-end.

There is another complicating factor that could impact EPA's next steps in regulating refrigerants. On October 15, 2016, the U.S. signed the Kigali Amendment to the Montreal Protocol, which requires signatory countries to phase out HFCs over 35 years. The U.S. has yet to ratify the Kigali Amendment, and even if/when it does, EPA would ultimately be responsible for its implementation through additional regulation.

The regulated industry should remain attentive to additional developments and consult professionals who are familiar with these issues.