**U. S. Environmental Protection Agency**
**E-Clips**
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## ADMINISTRATIOR JACKSON

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### OLYMPICS (*Washington Post*)

Vice President Biden is heading to the Winter Olympics, along with his wife, Jill, and members of President Obama's cabinet. The group is heading to Vancouver next week to represent the United States at the Opening and Closing Ceremonies, meetings with U.S. athletes and other events.
Homeland Security Secretary Janet Napolitano, Health and Human Services Secretary Kathleen Sebelius and White House senior adviser Valerie Jarrett also will make the trip. Others from the administration include U.N. Ambassador Susan Rice, Veterans Affairs Secretary Eric Shinseki and Environmental Protection Agency Administrator Lisa Jackson. . . .
U.S. Ski Team men's coach Sasha Rearick said that Bode Miller plans to race all five Alpine events at the Vancouver Olympics.

## EDITORIAL/OP-ED /COMMENTARY/LETTERS

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### A threat to Smart Growth (*Baltimore Sun*)

State's proposed storm water regulations would impede redevelopment projects
By James T. Smith Jr.
February 2, 2010 The Baltimore Sun recently published an editorial in support of the Maryland Department of the Environment's proposed new storm water regulations, to become effective May 4. What The Sun's editorial neglected to appreciate was the threat these new regulations pose to Smart Growth in Maryland.

Particularly for Maryland's most populous jurisdictions, such as Baltimore County, redevelopment provides a critical opportunity to absorb new population growth, maximize the use of public infrastructure and create economic opportunity and jobs, while simultaneously reducing consumption of valuable land and rural open space. Redevelopment decreases sprawl, and its creation of new impervious surfaces, reduces storm water runoff per capita and improves water quality in our existing watersheds by redeveloping sites that were originally built when there was no storm water management whatsoever required.

Unfortunately, the state's new storm water regulations run counter to the principles of Smart Growth redevelopment and will encourage further sprawl and destruction of precious greenfields.

In the editorial, The Sun stated that "if the policy causes more building in open spaces,

wouldn't that ultimately be worse for the environment?" I answer, absolutely. What we do not want to encourage are future Blackwater refuge or Terrapin Run developments. The editorial correctly notes my concern that by discouraging redevelopment or renaissance in established communities, these new regulations will undermine Smart Growth policies and encourage the open space land rush that the Sun editorial warns about.

Baltimore County has served as a model for Smart Growth for at least the last 30 plus years. As a county councilman in the late 1970s and early 1980s, I was involved in establishing our county's land use policies. I led the adoption of our RC-2 Zoning (one lot for 50 acres) and the establishment of the County's Ag Land Preservation Foundation, as well as the adoption of the Owings Mills Town Center Master Plan, which was intended to maximize the proposed Baltimore subway extension and Interstate 795.

Baltimore County has been recognized as one of the most nature-friendly communities in the country in Chris Duerkson's "Nature Friendly Communities." Today, 80 percent of the 802,000 people in Baltimore County live on 30 percent of the land. Controlling sprawl in Baltimore County has preserved our land (one of the largest preserved green spaces in the Mid-Atlantic region), maximized our public infrastructure and has protected Baltimore City's reservoirs and the drinking water of 1.8 million people in the Baltimore region.

During the last seven years, Baltimore County has aggressively promoted our county's renaissance to reinvigorate and enhance our historic older neighborhoods. With the enthusiastic support of the people in our communities, this renaissance mission, built upon our long history of commitment to smart growth, has made a difference.

One example is Towson Manor Village, a redevelopment of 40 deteriorated, substandard rental units built when there was no storm water management into a community of 240 beautiful new housing opportunities in the heart of Towson.

This project has broad community support and is an excellent example of smart growth. The old units have been demolished and the project awaits a turnaround in the depressed housing market. Under the proposed storm water regulations, Towson Manor Village would not even qualify as a redevelopment project and simply would not have happened under the new requirements for greenfield areas. In fact, most of Baltimore County's residential communities in our older neighborhoods between the Baltimore City line and just outside the Beltway would not qualify as redevelopment under the new storm water regulations.

Even in those cases where a project could qualify as redevelopment, the proposed increase in the storm water quality treatment required for redevelopment would jeopardize the project. Kingsley Park, now known and redeveloped as Renaissance Square, eliminated more than 300 crime-ridden and dilapidated units in Essex that also had no storm water management in place. New residential, single-family and senior

housing is now being built, and storm water controls are in place. To make this renaissance possible, Baltimore County provided $7 million in project support. Had the new storm water regulations been in effect, the cost of the storm water treatment would have more than doubled, making this project cost prohibitive.

The recent EPA/MDE strategy for cleaning up the bay relies heavily on retrofitting storm water infrastructure for older communities. To do this, we need our environmental regulations to support redevelopment. We need redevelopment to make smart growth work. We can protect and enhance the Chesapeake Bay and promote smart growth at the same time. We should all be working together to make this happen.

James T. Smith Jr. is the Baltimore County executive. His e-mail is jimsmith@baltimorecountymd.gov.

**Smoke-free: to your health (*San Francisco Chronicle*)**

San Francisco should keep up with many progressive cities and counties that have gone smoke-free, indoors and outdoors "S.F. considers tougher smoking restrictions," Feb. 2.

Berkeley's outdoor dining has been smoke-free since 1996. Our city owes it to restaurant workers who are exposed to eight hours of second-hand smoke exposure every workday. Even in an outdoor setting like a pub, exposure to multiple cigarettes a day can lead to serious health problems, including asthma attacks, chronic bronchitis, irregular heartbeat, nonfatal heart attacks and even premature death in people with heart or lung disease, according to the **Environmental Protection Agency.**

Many cities across California and throughout the world have successfully adopted smoke-free indoor and outdoor measures, resulting in positive health outcomes and greater economic profit. People are more likely to go out to dine and drink when there's a smoke-free environment.

MARCIA BROWN-MACHEN

Berkeley

**AIR**

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February 3, 2010

**In Texas, Resistance Over Stricter U.S. Smog Limits (*New York Times*)**

By JAMES C. McKINLEY Jr.
HOUSTON — Environmentalists squared off against business groups and Texas state officials on Thursday at a hearing on the Obama administration's proposal to tighten standards for smog-producing pollutants, a change that could improve the health of millions but would impose burdensome costs on industry and local governments.

The hearing, before a panel of federal environmental officials, was one of three being held around the country on the proposed new standards, which would replace those set by the Bush administration in March 2008. Those standards, which set the limit for ozone at 75 parts per billion, ignored the advice of a panel of scientists advising the Environmental Protection Agency and have been challenged in court as too weak.

But the Obama administration's proposal to reduce the acceptable level of ground-level ozone to from 60 to 70 parts per billion ran into stiff opposition here, where the oil and gas industry is king and the state environmental agency under Gov. Rick Perry, a conservative Republican, has been generally unwilling to crack down on polluters if it means sacrificing jobs.

The members of the Texas Commission on Environmental Quality, appointed by Mr. Perry, have made it plain they will fight the stricter standards and have called them arbitrary, unnecessary and unachievable.

At the hearing in a hotel ballroom, Michael Honeycutt, the director of toxicology for the Texas commission, questioned the evidence that a higher level of ozone is linked to more hospital admissions for lung problems. Mr. Honeycutt also declared that no ruling would fly in Texas if it required people to drive less or change their daily habits.

"Programs that require lifestyle changes are unacceptable to the public," he said.

The proposed lower standards also drew fire from manufacturers and oil and gas companies, who fear they will bear the brunt of the costs of cutting down the volatile organic compounds and nitrogen oxides that cause smog. Some issued dire warnings of jobs being cut to pay for it.

"It will have a devastating impact on the chemical industry," said Christina Wisdom, of the Texas Chemical Council.

Debbie Hastings, a spokeswoman for the Texas Oil and Gas Association, said that refineries lacked the technology to reach the new goals solely through scrubbing the pollution coming out of smokestacks. Ms. Hastings pointed out that emissions from cars and trucks would have to be drastically cut, too.

"At this point, I really don't think we think we can meet the standard," she said. But environmentalists and health groups, who generally applaud the proposed rule, scoffed at assertions that the petrochemical industry would be forced to slash jobs to meet the requirements. It was an empty threat, they said, pointing out that the federal

government has steadily tightened air quality standards for decades without slowing economic growth.

“Historically, the benefits of cleaning up outweigh the costs three to one,” said Janice Nolen, of the American Lung Association. The hearings were the first step in a process that will eventually produce a plan in each state for putting a new standard in place. A second hearing was held in Arlington, Va., on Tuesday and a third was planned in Sacramento on Wednesday.

Mayor Annise Parker of Houston said that she supported the stricter rules to protect the health of city dwellers, though she cautioned that the city would need years to reach the goal.

**State struggling with EPA rules (*USA Today*)**

**By Brian Winter, USA TODAY**

States are slashing funds for environmental programs, threatening their ability to meet federal standards for clean air and water.

All but two states, Montana and North Dakota, have made significant cuts to initiatives ranging from toxic waste cleanup to sewage treatment, says Steve Brown, executive director for Environmental Council of the States, which unites state agencies.

The budget crunch is so severe that some states are struggling to implement and enforce new rules set by the Environmental Protection Agency. Brown cites a recent requirement for states to regulate waste discharges from more than 60,000 commercial ships that ply U.S. coastal waters.

**SMOKESTACK EFFECT:** Toxic Air and America's Schools
**GREEN HOUSE:** Share ideas about greening your home

"That's a huge undertaking ... and a lot of states are very nervous about how they're going to find the money for it," Brown says. He says states could also have difficulty enforcing an expected decision by the EPA to regulate carbon dioxide emissions.

Brown says he met with EPA officials last month to determine whether federal grants or other measures could help close the gap.

"We're all still pretty much in a head-scratching mode about what to do," he says.

The cuts could pose a significant risk to public health, says Elgie Holstein of the Environmental Defense Fund, a non-profit group. "These programs are often the difference between drinking clean or dirty water, or breathing clean or dirty air."

State officials are finding it easier to cut environmental initiatives than funds for schools or hospitals, says Barry Rabe, a political science professor at the University of Michigan. Among the cuts:

•**Pennsylvania** has cut state funding for its Department of Environmental Protection by 30%. A $15 million energy efficiency grant program for homes and businesses was among the cuts.

•In **Massachusetts**, an 18.1% cut for the state's environmental agency could delay cleanup of toxic mercury and other newly classified pollutants, agency spokesman Edmund Coletta says.

•**California** suspended or cut funds for dozens of environmental projects including a $12 million plan to prevent stormwater runoff into the Santa Monica Bay.

February 2, 2010

**Feinstein, States Support Funding Boosts for EPA's Greenhouse Gas Regs (*New York Times*)**

By ROBIN BRAVENDER of ClimateWire

Battle lines were drawn yesterday as the chief Senate architect of the U.S. EPA spending bill and state regulators backed a White House proposal to ramp up funding for programs to curb greenhouse gas emissions, and congressional opponents vowed to fight the agency's efforts.

"I would support it," Senate Interior Appropriations Subcommittee Chairwoman Dianne Feinstein (D-Calif.) said yesterday of President Obama's suggested $43 million boost for EPA programs to limit greenhouse gases in fiscal 2011. "There's no question about greenhouse gas in my mind."

The White House yesterday requested $56 million -- including $43 million in new funding -- for EPA and states to curb greenhouse gas emissions through regulatory program.

President Obama also urged Congress to pass a cap-and-trade climate bill in his budget proposal yesterday. But as climate legislation languishes in the Senate and EPA presses forward with a regulatory approach, some Senate Democrats said they would support increasing funding for the agency's climate programs.

Sen. Tom Carper (D-Del.) called the increased funding to climate programs "encouraging," but said he had not yet seen the president's request for EPA. Sen. Sheldon Whitehouse (D-R.I.) also had not yet seen the proposal but said he would favor increasing EPA climate funding.

Congressional Republicans, meanwhile, are girding for a fight this year over whether to block EPA climate funding, which could play out in negotiations over the EPA spending bill.

Sen. James Inhofe (R-Okla.), ranking member of the Senate Environment and Public Works Committee, questioned whether climate regulations would move forward or get stalled in court battles. "Until such time as the lawsuits are filed ... there may not be anything to do," Inhofe said, "And so why fund something that doesn't exist? That, in my opinion, is premature."

Rep. Earl Pomeroy (D-N.D.) vowed yesterday to fight during the appropriations process to remove any funding that would go toward EPA climate regulations. Pomeroy last month introduced a **bill (pdf)** that would strip EPA of its authority to regulate greenhouse gas emissions unless the agency was provided explicit authority to do so by Congress.

"At a time when our country is struggling with a deep economic recession, the last thing I want the EPA to do is start regulating greenhouse gases without specific direction from Congress," Pomeroy said in a statement. "I was deeply disappointed to see this budget proposal include $56 million for that purpose, and if I have anything to say about it, that's not going to fly here in Congress" (*E&ENews PM*, Feb. 1).

Sen. Lisa Murkowski (R-Alaska) has launched a bid in the Senate to effectively veto EPA's power to regulate greenhouse gas emissions. She introduced a disapproval resolution last month with the backing of 36 Republicans and three moderate Democrats. Murkowski is expected to seek a vote on the resolution, which requires 51 votes to clear the chamber, next month.

"We shouldn't be going down this path to begin with," said Murkowski spokesman Robert Dillon when asked today about the proposed funding levels.

The specific funding levels proposed for EPA climate regulations are irrelevant, Dillon said, because "EPA shouldn't be regulating greenhouse gases; it's going to be a costly endeavor."

But if the Senate resolution fails, GOP lawmakers have vowed to look at other vehicles to limit EPA's regulatory authority.

Sen. John Thune (R-S.D.), who worked with Murkowski last year on a failed appropriations rider to limit EPA regulatory authority, said in December that he and his

colleagues would continue to offer amendments to appropriations bills to prevent EPA from moving forward on climate rules until Congress acts.

Of the $43 million in new funding, $25 million would aid states as they begin to account for greenhouse gases in New Source Review and operating permits; $7 million would go toward developing New Source Performance Standards to curb greenhouse gases from major stationary sources; $6 million would be used to implement EPA's pending greenhouse gas standards for automobiles and developing other mobile source regulations; and $5 million would be used to develop the best available practices and technologies for controlling emissions.

States applaud proposed cash influx

Cash-strapped state regulators say the Obama administration's budget proposal signals a renewed commitment by EPA to support state and local environmental programs.

The fiscal 2011 budget request includes $1.3 billion for EPA state and tribal grants -- a 14 percent boost from $1.1 billion this year. The proposed increase comes despite the president's recommendation to trim EPA's overall budget by about 3 percent.

With state environmental agencies suffering from dwindling resources, "the states are broken and we can't continue to make up for EPA's reductions in federal grants to states," said Bill Becker, executive director of the National Association of Clean Air Agencies (NACAA), an association of state and local regulators.

This budget "demonstrates for the first time in many years that EPA is listening," Becker added.

In addition to the $25 million to assist states with new greenhouse gas permitting requirements, Obama's proposal includes $60 million to support state efforts to implement updated air quality standards, and $45 million for states to enhance their water enforcement and permitting programs.

Several of EPA's top officials hail from state regulatory agencies, which experts say likely played a major role in the administration's budget priorities. EPA Administrator Lisa Jackson led New Jersey's Department of Environmental Protection and air chief Gina McCarthy was Connecticut's top environmental regulator.

Eric Schaeffer, director of the nonprofit Environmental Integrity Project, said Jackson's New Jersey roots probably make her sensitive to the budget shortfalls states are facing.

Both Jackson and McCarthy "understand what works and doesn't work and how not having sufficient funding can eviscerate an otherwise effective environmental program," Becker said.

GHG permitting

The $25 million requested for greenhouse gas permitting activities will be particularly valuable as EPA prepares to begin requiring stationary sources to account for the heat-trapping emissions in New Source Review and operating permits, Becker said.
EPA is preparing to soon begin regulating greenhouse gases from automobiles, which would automatically trigger permitting requirements for stationary sources. EPA has proposed a draft tailoring rule that would require the permits only from the largest industrial sources.
Air regulators told EPA in December that due to funding shortfalls, they would face difficulties fulfilling permitting obligations even at the increased thresholds.
In their December **comments** **(pdf)**, NACAA urged the agency to impose fees on industries to fund the additional workload of regulators' greenhouse gas permitting requirements.
Air regulators may need both an appropriation and a permitting fee, but the money in Obama's budget may get the program moving more quickly than having to spend a year getting a permitting fee program up and running, Becker said.
"It'll be helpful in ensuring that the whole burden doesn't fall upon industry," he added.
But Jeff Holmstead, former EPA air chief under the George W. Bush administration, said that if EPA moves forward with efforts to regulate carbon dioxide under the Clean Air Act, the $25 million to states "is just a small drop in the bucket."
The amount of funding needed will depend on whether EPA or states are able to raise state permitting requirements so that only large sources are affected, Holmstead said.
EPA's tailoring proposal would raise emission thresholds for facilities that need permits from 100 or 250 tons of pollution per year to 25,000 tons of carbon dioxide equivalent per year. But nearly 40 states operate under EPA-approved "State Implementation Plans" that establish a 100- or 250-ton threshold for the permitting requirements, according to NACAA. Those state limits could remain in place until state laws and regulations are modified.

**US Reps from Mo. to propose blocking EPA gas rules (*Associated Press*)**

**Story also appeared: *Washington Post***

By CHRIS BLANK
The Associated Press
Tuesday, February 2, 2010; 6:37 PM

JEFFERSON CITY, Mo. -- Two congressional members from Missouri said Tuesday that they plan to file legislation blocking the Environmental Protection Agency from developing its own greenhouse gas rules.

U.S. Reps. Ike Skelton, a Democrat, and Jo Ann Emerson, a Republican, sharply criticized federal environmental regulators and warned that because EPA officials are not elected, the agency is not accountable to the farmers, business owners and other Missouri residents who could be hurt.

The EPA had concluded in December that that emissions of carbon dioxide and other greenhouse gases represent a danger to public health, which allows it to consider rules limiting them. That decision stems from a 2007 U.S. Supreme Court ruling that found greenhouse gases are air pollutants under federal clean-air laws.

But the two Missouri lawmakers say Congress did not intend to give the EPA the authority to regulate greenhouse gases through the Clean Air Act.

"The EPA is controlled by bureaucrats who are not elected and are responsible only to the head of the EPA who is from New Jersey," said Skelton, who represents central and western Missouri. "And I doubt that they understand mid-America, the Midwest, agriculture and what our farmers need to continue to do a good job for our country."

The EPA has said scientific evidence demonstrates that greenhouse gases "threaten the public health and welfare of the American people" and that the pollutants - mainly carbon dioxide from burning fossil fuels - should be reduced. That could be done by Congress or by the EPA.

EPA Administrator Lisa Jackson, who was chief of staff for New Jersey Gov. Jon Corzine, has said there were no further excuses for delaying and that agency was "obligated to make reasonable efforts to reduce greenhouse pollutants."

The U.S. House approved "cap and trade" legislation last summer that would set limits on greenhouse gas emissions and give companies a way to trade emission credits among themselves. That legislation has stalled in the U.S. Senate.

Skelton voted for the cap and trade bill, and Emerson opposed it. Emerson, who represents the southeastern corner of Missouri, said the EPA frequently has sought to establish environmental regulations - even in cases when federal lawmakers have decided not to act.

She said EPA rules for greenhouse gases could be economically disastrous.

"It is totally unfair," Emerson said. "It will undo any positive things that we can do for our economy."

Skelton and Emerson announced plans to file their energy bill during a breakfast in Jefferson City for the state's rural electric cooperatives. The bill is to be co-sponsored by House Agriculture Committee Chairman Collin Peterson, D-Minn.

U.S. Rep. Earl Pomeroy, D-N.D., also has filed legislation seeking to block the EPA from regulating greenhouse gases and carbon dioxide emissions.

A science organization condemned the Missouri lawmakers' plan, calling it an "attack on science" and likening it to declaring that tobacco does not cause cancer.

"Besides pretending that global warming emissions are not air pollutants, the bill would force the EPA to ignore key scientific data when determining which renewable energy sources are the cleanest," said Ron Burke, the director for the Midwest office of the Union of Concerned Scientists.

In addition to restricting the EPA, the lawmakers' bill also would bar federal officials from considering deforestation and land changes in other nations when establishing American biodiesel and ethanol policies, and would seek to help the biofuels industry by broadening the definition of renewable biomass.

U.S. NEWS
FEBRUARY 3, 2010

**Obama Retreats From Goal of Cap-Trade Bill (*Wall Street Journal*)**

By ELIZABETH WILLIAMSON
Agence France-Presse/Getty Images
President Barack Obama looks at LED parts at Arc Energy with CEO Kedar Gupta, right, and executive Carl Rick Schwerdtfeger in Nashua, N.H., on Tuesday.

NASHUA, N.H.—President Barack Obama said for the first time Tuesday that legislation that would require industries to pay for emissions of greenhouse gases may need to be separated from a more popular "green jobs" bill in the Senate, a maneuver that could kill what once had been one of the administration's top policy priorities.

Answering a participant in a town-hall meeting in Nashua who asked about green jobs—those connected to renewable energy—and so-called cap-and-trade legislation, Mr. Obama said, "The only thing I would say about it is this: We may be able to separate these things out. And it's possible that that's where the Senate ends up."

Until now, the Obama administration has refused to entertain in public the idea that lawmakers might have to split up the climate bill. The shift by the president is another sign that the White House is rethinking strategy on big first-year agenda items such as health care and climate legislation, after public dissatisfaction with its focus on those issues helped cost Democrats their filibuster-proof hold on the Senate last month.

The idea behind the cap-and-trade aspect of the climate bill is to create a market in permits that confer the right to emit greenhouse gases, which are believed to contribute to global warming. Businesses would be required to hold these permits, and over time the government would curtail the supply of permits to reduce the total amount of gases produced.

A White House spokesman downplayed the president's comments, saying Mr. Obama still favored a bill that would combine measures to encourage jobs in green-energy fields with the establishment of a trading mechanism for emissions.

Isolating the cap-and-trade proposal would make it easier for Democrats who oppose putting a price on greenhouse-gas emissions to set that part of the climate bill aside, and vote for the more popular jobs incentives now contained in the wide-ranging measure.

Mr. Obama pushed in his State of the Union speech last week for "a comprehensive energy and climate bill with incentives that will finally make clean energy the profitable kind of energy in America."

The climate bill in the Senate is opposed by legislators from both parties whose local economies rely on fossil fuels, and smokestack industries like steel mills and coal-fired utilities. These lawmakers worry a cap-and-trade system will burden these industries with new costs.

Mr. Obama's comments on Tuesday came amid new signs of resistance by some fellow Democrats to his administration's efforts to combat climate change.

On Tuesday, two senior House Democrats—Reps. Ike Skelton of Missouri, chairman of the House Armed Services Committee, and Collin Peterson of Minnesota, chairman of the House Agriculture Committee—introduced legislation to prohibit the Environmental Protection Agency from regulating greenhouse-gas emissions under the Clean Air Act. In a written statement, Mr. Skelton called for setting aside legislation already passed by the House to cap greenhouse-gas emissions, and instead passing "scaled-back energy legislation" that could command greater support in both parties.

"We cannot tolerate turning over the regulation of greenhouse-gas emissions to unelected bureaucrats at EPA," Mr. Skelton said.

One possibility for Senate Democrats is to push forward with a bill already approved by the Senate Committee on Energy and Natural Resources that would require electric utilities nationwide to generate 15% of their electricity supplies through renewable resources, with some portion met by energy efficiency measures, by 2021. The bill would also open the Eastern Gulf of Mexico to leasing and exploration for oil and gas, and establish energy efficiency standard for table and floor lamps.

**Write to** Elizabeth Williamson at elizabeth.williamson@wsj.com

**Peterson sponsors legislation to restrict the EPA (*Review Messenger*)**

**(Washington, DC) – Today, U.S. Representative Collin Peterson joined House Armed Services Chairman Ike Skelton (D-MO) and Representative Jo Ann Emerson (R-MO) in introducing legislation to prevent the U.S. Environmental Protection Agency (EPA) from regulating greenhouse gas emissions under the Clean Air Act, and to stop the EPA from harming the renewable fuels industry.**

**"I have no confidence that the EPA can regulate greenhouse gases under the Clean Air Act without doing serious damage to our economy," Peterson said. "Americans know we're way too dependent on foreign oil and fossil fuels in this country — and I've worked hard to develop practical solutions to that problem — but Congress should be making these types of decisions, not unelected bureaucrats at the EPA."**

**The EPA recently announced in December that it would consider greenhouses gases a danger to public health, as defined by the Clean Air Act. In this circumstance, if Congress does not act the EPA will begin to regulate tailpipe emissions this April. Soon after that energy analysts expect the EPA to announce regulations for power plant emissions too.**

**"The Clean Air Act was not meant for this. It was meant to clean up the air, to get lead out of the air. It was not meant to fight global warming."**

**The Peterson-Skelton-Emerson bill would make clear that the EPA cannot regulate greenhouse gas emissions under the Clean Air Act. The bill would also amend current law to stop the EPA from punishing American farmers for deforestation taking place in foreign countries, and it would broaden the definition of renewable biomass in order to strengthen our own domestic renewable fuels industry.**

**"This is important legislation and I'll be working hard to get it passed because if Congress doesn't do something soon, the EPA is going to impose these regulations on its own. I'm willing to consider other ideas but the bottom line is we need to do something now before the EPA does."**

**Missouri members of Congress seek to rein in EPA (*Missouri Net*)**

by Brent Martin on February 2, 2010

in Environment & Conservation, Politics & Government

Environmental Protection Agency officials would not be allowed to regulate greenhouse gases under legislation being filed by West-Central Missouri Congressman Ike Skelton and Southeast Missouri Congresswoman Jo Ann Emerson.

Skelton says their bill would stop the EPA from regulating greenhouse gases under the Clean Air Act, keep the EPA from calculating foreign deforestation in setting ethanol and bio-diesel policies and change the definition of bio-mass to benefit US farmers and the renewable fuels industry.

The two say a Massachusetts case decided by the United States Supreme Court in 2007 ruled that the EPA had the power to regulate greenhouse gases. The legislation would strip the EPA of that power.

Skelton says regulations proposed by the EPA would drastically raise utility rates in Missouri and dramatically harm Missouri farmers.

“The EPA is controlled by bureaucrats who are not elected and responsible only to the head of the EPA who is from New Jersey,” Skelton said during a Jefferson City news conference. “I doubt that they understand mid-America, the Midwest, agriculture and what our farmers need to continue to do a good job for our country.”

Congresswoman Emerson says the EPA is trying to enforce what it can’t get through Congress.

“It is their goal to, in effect, impose these kinds of regulations that will hurt every single business in Missouri,” Emerson said. “It will decimate our agricultural industry. It will increase the cost for our citizens of their electricity; every time they flip on a light switch.”

The proposed legislation

**Skelton and Emerson vs. EPA on greenhouse gas (*Prime Buzz*)**

JEFFERSON CITY, Mo. (AP) — Two Missouri congressional members plan to file legislation blocking the Environmental Protection Action from developing its own greenhouse gas rules.

Democrat Ike Skelton and Republican Jo Ann Emerson said Tuesday that Congress did not intend for the EPA to regulate carbon dioxide and greenhouse gas emissions. The lawmakers say regulators are not elected and therefore not accountable to the farmers, business owners and Missourians that could be hurt by changes.

In December, the EPA concluded carbon dioxide and greenhouse gases

represent a danger to public health. That permits the environmental agency to set rules limiting them.

Skelton and Emerson announced plans to file their legislation during a breakfast in Jefferson City for the state's rural electric cooperatives.

**API, NPRA question the need for EPA's proposed ozone limits (*Oil & Gas Journal)***

Nick Snow
OGJ Washington Editor

WASHINGTON, DC, Feb. 2 -- Two witnesses from oil industry trade associations separately questioned the US Environmental Protection Agency's plan to significantly toughen ground-level ozone emission limits as they testified at EPA hearings in Houston and Arlington, Va.

EPA's own science does not even support such a move, according to Ted Steichen, a policy advisor at the American Petroleum Institute, and David Friedman, environmental affairs director at the National Petrochemical & Refiners Association.

Neither EPA's review in 2008 nor more recent studies justify lowering the standard based on the health effects of exposure, Friedman continued in his prepared statement at the hearing in Arlington. "The science…during the 2008 review and the latest studies have not changed the earlier conclusion. In fact, in the current reconsideration, EPA indicates that it will rely only on the previous record and not consider any new evidence," he said.

Testifying in Houston, Steichen emphasized progress that has been made improving the nation's air quality in large part through oil and gas industry efforts. More efforts will follow under the existing ozone standards because of pollution controls which are in place or which soon will be implemented, he said.

Cleaner fuels brought to market now and in the future will result in cleaner air for decades to come as cleaner engines are put in place, Friedman said in his prepared statement. "We will see cars and trucks producing significantly lower emissions. In addition, emissions from power plants will be cut in half by 2015. The current National Ambient Air Quality ozone standard is working," he said.

Moving forward with significantly lower ozone limits if there are no demonstrable benefits could unnecessarily increase energy costs, cut jobs, and reduce domestic energy development and energy security, he continued. “These rules represent a stop sign on the road to economic recovery, and will lead to further loss of American manufacturing jobs and increased reliance on imported gasoline and diesel fuel,” Friedman warned.

Contact Nick Snow at nicks@pennwell.com.

**Congress Works to Stymie EPA Authority (*New American*)**

Written by Rebecca Terrell
Tuesday, 02 February 2010 12:22
Congress is acting to shackle Obama's Environmental Protection Agency (EPA) in the its efforts to impose strict regulations on greenhouse gas emissions. Two bills before Congress and a resolution in the Senate have already garnered impressive bi-partisan support. The first is a bill introduced January 9, 2009 by U.S. Representative Marsha Blackburn (R-Tenn.), H.R. 391. Refreshingly unlike much legislation before Congress, H.R. 391 amounts to a mere two straightforward sentences which read: "Section 302(g) of the Clean Air Act is amended by adding the following at the end thereof: 'The term 'air pollutant' shall not include carbon dioxide, water vapor, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.' Nothing in the Clean Air Act shall be treated as authorizing or requiring the regulation of climate change or global warming." The bill has 151 cosponsors, most of whom signed a discharge petition in July 2009 to prompt action on the legislation which has been sitting stagnant in the House Committee on Energy and Commerce since its introduction.

"The rules proposed by the EPA are a virtual gun to the head of Congress," said Rep. Blackburn in a September press release. "The EPA is rushing to implement [Cap and Trade legislation] before it is passed. Sweeping reform like this must be left to Congress, as representatives of the people, to implement; not unaccountable bureaucrats at the EPA."

Representative Blackburn's legislation and comments pre-empted the EPA's December 7th "endangerment finding," which officially declared carbon dioxide and other alleged greenhouse gases a menace to public health and welfare. The ruling paves the way for the

agency to impose the most strict emissions standards in history. Three days later, a White House official brazenly told the press if Congress does not take action, "the EPA is going to have to ... regulate in a command-and-control way."

Hard on the heels of the "endangerment finding," Representative Earl Pomeroy (D-N.D.) introduced H.R. 4396, the Save Our Energy Jobs Act, legislation which would prohibit the EPA from regulating greenhouse gases. Congressman Pomeroy issued a press release predicting dramatic increases in energy and unemployment rates if EPA authority is not disloged. "Regulation of greenhouse gas emissions ... is irresponsible and just plain wrong," said Congressman Pomeroy. "I am not about to let some Washington bureaucrat dictate new public policy that will raise our electricity rates and put at risk the thousands of coal-related jobs in our state."
The Pomeroy bill is specifically aimed at the April 2007 ruling by the U.S. Supreme Court that the Clean Air Act authorizes the EPA to regulate greenhouse gas emissions if the agency finds those emissions harmful to public health and welfare. H.R. 4396 has five co-sponsors and has also been referred to the House Committee on Energy and Commerce awaiting further action.

On the Senate side, more modest means are being pursued. Senator Lisa Murkowski (R-Alaska) introduced a resolution (S.J.Res. 26) to disapprove and nullify the EPA's December endangerment finding. Unfortunately, the resolution would only prevent regulations for stationary sources for one year but would not prevent the EPA from regulating automobile emissions. Senator Murkowski showed blatant ignorance of the fact the U.S. Constitution does not authorize Congress to regulate greenhouse gases when she said in a press release, "Congress is the only agency in the United States with the power to tackle the [climate change] problem in a responsible manner." However, the legislation would at least be a first step toward restraining the EPA's unconstitutional regulatory power. Senator Murkowski's attempt to attach the resolution as an amendment to the agency's fiscal 2010 spending bill was blocked, but S.J. Res 26 can still be amended to other legislation or introduced as a stand-alone bill. Forty senators have signed on as cosponsors.

**ASBESTOS**
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**EPA Concludes Blackburn and Union Privileges Asbestos Cleanup in Walpole, Massachusetts (*Mesotheliaoma Web*)**

Known as the Blackburn & Union Privileges site, this former manufacturing area in Walpole was added to the Superfund "National Priority List" in 1994.

The site has been in existence since the 1600s. In 1891, it was a factory making tires, insulating materials and rubber products. After 1915, the site was converted to a crushing mill for asbestos used in brake and clutch linings for vehicles. In 1937, the site became a textile mill under the auspices of Kendall Co.

Thirty acres in size, the sites were formed as part of 10 water rights districts along the Neponset River in the 17th century. Current owners are Shaffer Realty Nominee Trust and BIM Investment Trust. Municipal wells within four miles of the site supply drinking water to about 19,500 Walpole residents, with the nearest well within one mile.

In 1988, the two owners (Shaffer Realty Nominee Trust and BIM Investment Trust) complied with a U.S. Environmental Protection Agency (EPA) directive that required them to remove waste tanks buried on the property and dispose of them off-site in a designated landfill.

At that time, the owners were also ordered to perform a comprehensive site assessment to determine the extent of the asbestos contamination at the site. A second order, in 1992, was issued to Shaffer and W.R. Grace (of Libby, Montana fame) to perform whatever remediation necessary to prevent the actual or potential release of further asbestos into air or water. Grace owned the asbestos crushing mill through a subsidiary.

The EPA reached an agreement with W.R. Grace and the Kendall Co. which included not only cleanup protocols but the recovery of costs the EPA had assumed for its portion of the cleanup.

In April of 2001, W.R. Grace filed for Chapter 11 bankruptcy, and five months later informed the EPA that it could no longer afford to live up to its financial obligations under the agreement. The EPA is currently receiving some funding for cleanup from the W.R. Grace trust.

In December of 2009, the EPA completed a short-term cleanup, removing almost 30 tons of asbestos from the former mill building and disposing of drums and containers full of asbestos. In spite of that, health officials agree that the cleanup is a long way from being complete, and risks remain - risks that the residents of Walpole have been facing for

almost a century.

Asbestos, undisturbed, unbroken and in good condition, is not dangerous, according to the EPA, but the former crushing mill not only broke asbestos, but failed to institute air-containment measures to keep the broken asbestos fibers within the factory - largely because, in 1937, no one really knew how dangerous asbestos was.

The EPA plans to monitor groundwater in and around Walpole, but this does nothing for all the glasses, cups and pots of water Walpole residents have unknowingly consumed over the last 95 years - a consumption which has led to slightly elevated levels of kidney and lung cancers among Woburn females, though the Mass. Department of Health maintains the incidence is too small to be statistically significant.

Asbestos is the only known cause of malignant mesothelioma, a fairly rare but highly lethal form of cancer (of the mesothelial tissues around the lungs, heart, and abdominal organs) which commonly remains dormant for up to five decades, after which symptoms become severe enough to drive patients to consult a doctor.

By that time, the disease has invaded so much vital tissue and organs that doctors usually give a prognosis of one year, or slightly more, to live. Some doctors will treat even advanced mesothelioma with aggressive regimens of surgery and/or radiation and/or chemotherapy, but other doctors use surgery only to improve breathing and increase patients' levels of comfort.

The best hope for mesothelioma victims, according to most doctors and researchers, is early diagnosis and treatment. That hope is now being fulfilled by a pleural fluid test which examines protein markers delivers high accuracy even in the early stages of the disease.

**BUDGET**

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February 2, 2010, updated 05:06 p.m., February 2, 2010

**Obama's budget knife takes smaller cuts (*Washington Times*)**

Stephen Dinan and Kara Rowland

President Obama on Monday failed to heed his vow to take an ever-sharper scalpel to the budget during tough economic times, instead proposing $1 billion less in discretionary spending cuts than last year and ensuring bruising fights over his plans to

ax manned spaceflight, pet defense projects and a number of popular parks and forest programs in 2011.

Overall, the president's budget calls for the government to spend $3.83 trillion next year and to run a deficit of about $1.3 trillion, assuming the economy rebounds and tax revenues increase. Mr. Obama predicts federal spending will drop slightly in 2012 to $3.75 trillion before beginning a steady rise to $4.39 trillion by 2015.

The president begged Republicans and Democrats to join an effort to strike a balance between boosting the economy in the short run, while trying to get a handle on deficits over the long term.

"I'm willing to reduce waste in programs I care about, and I'm asking members of Congress to do the same," Mr. Obama said. "I'm asking Republicans and Democrats alike to take a fresh look at programs they've supported in the past to see what's working and what's not, and trim back accordingly."

To help pump up the economy, Mr. Obama proposed increasing spending on clean-energy efforts, scientific research and the Department of Education.

In order to meet his spending targets, Mr. Obama called for a three-year freeze on non-security discretionary spending. The president says the freeze would save $250 billion over 10 years, while not hurting security as the country fights two wars.

But key lawmakers said they're not going to be bound by the rules of his freeze.

"We will not exceed his requested level for appropriations, but we will also not exempt any department or activity from review, including foreign aid and the Pentagon, because none of them are without waste," said House Appropriations Committee Chairman David R. Obey, Wisconsin Democrat.

To hit his spending targets, Mr. Obama is proposing more than $23 billion in specific cuts: $10.3 billion in discretionary programs and the rest coming in mandatory spending cuts and administrative savings.

But those discretionary spending cuts are $1.2 billion less than the $11.5 billion he proposed last year, disappointing budget scorekeepers who had hoped for more cuts.

"This year's cuts seem no more ambitious, and in fact seem a little less ambitious, which is not what I would have hoped," said Marc Goldwein, policy director at the Committee for a Responsible Federal Budget. "Having proposed a non-security discretionary spending freeze for three years, I would have thought the administration would be a little more aggressive in cutting real waste to meet that freeze."

Last year Mr. Obama proposed slightly more than $11 billion in discretionary spending cuts and about $6 billion in mandatory spending reductions. When asked about the

amount, which came to less than one-half of 1 percent of total spending, the administration said it was a good start for a first-year budget and promised to go deeper in future years.

Of the 2011 cuts, at least 28 of the 77 discretionary programs Mr. Obama proposed cutting are ones he targeted last year.

Among them are the C-17 transport, which the Pentagon says it doesn't need but which Congress continues to fund and which Mr. Obama wants to reduce from $2.5 billion to zero in 2011. Mr. Obama also called for cutting production of a second engine for the F-35 Joint Strike Fighter, for a savings of $465 million.

Both of those programs are favorites of defense appropriators, who added them back into the 2010 spending bills despite the president's opposition.

Goodbye, moon

The biggest fight this year, however, could be over Mr. Obama's effort to end NASA's Constellation Systems Program, which President George W. Bush pushed as part of his plans to send astronauts back to the moon and then to Mars.

The Obama administration says the program is behind schedule and misguided, given that the U.S. has already landed astronauts on the moon. Peter Orszag, Mr. Obama's budget director, said the government instead will try to spur private companies to develop space vehicles to service the International Space Station.

"What we're saying is, let's redirect that toward longer-range R&D, advanced robotics, research and development, and find those new technologies that will actually allow us to go further in space and not just repeat what we've already done, especially in a program that is behind schedule and over budget," he said.

But Sen. Richard C. Shelby, the top Republican on the spending subcommittee that controls NASA's budget, said private companies aren't ready to pick up the slack."

"On Friday, India announced they will be ready for their first manned spaceflight by 2016," Mr. Shelby said. "With this administration's nonsensical NASA budget request, the U.S. will still be working on launching people on rockets that do not exist while Russia, China and India are actually doing it."

Mr. Obama made other cuts to programs that were flooded with money the previous year. That was the situation for the Great Lakes Restoration Initiative, which Mr. Obama funded at $475 million in 2010 but proposed giving $300 million in 2011.

"Because this is a very large new program, it will be difficult for EPA and its partner federal agencies to spend all of the funds in 2010," the administration said in proposing the reduction.

Mr. Obama also went after National Heritage Areas. The program, he said, which is supposed to provide seed money for localities to attract tourism, has wrongly become a permanent source of income for some of those areas.

He proposed cutting the $18 million program in half.

Mr. Obama said he had to make painful choices.

"We eliminate one program that provides grants to do environmental cleanup of abandoned buildings. That's a mission I support, but there are other sources of private and public funds to achieve it," he said.

Budget winners

Some programs saw big increases in the budget.

The Interior Department's Land and Water Conservation Fund was boosted by 29 percent, drawing praise from Democrats who said it can help produce jobs but sparking concern among Republicans who said the National Park Service already has a $9 billion maintenance backlog and buying more land will only add to that.

Acknowledging the political challenge of getting Congress to agree to spending cuts of any kind - particularly in an election year - Mr. Orszag cited the administration's success in achieving most of its proposed cuts last year. For example, he noted, Congress agreed to eliminate the F-22 fighter jet, a program that had eluded previous administrations.

"We are going to fight for the things that we put forward because we believe we need additional job creation now and significant deficit reduction in the out years," he said.

Robert Greenstein, executive director of the Center on Budget and Policy Priorities, said Mr. Obama couldn't have gone with deeper cuts or tax increases.

"Had the president proposed major additional budget cuts and revenue increases, not only would Congress almost certainly have rejected them, but the inevitable harsh attacks on them could have 'poisoned the well' and made them even harder to achieve in the future if and when a more bipartisan atmosphere makes greater budgetary progress possible," Mr. Greenstein said.

Although Mr. Obama's budget projects a deficit of $752 billion in 2015, the White House is counting on a proposed fiscal commission to find a way to balance the budget - excluding debt interest payments - by that time. That means shaving nearly 1 percent of their projected deficit, which amounts to 3.9 percent of the economy, to 3 percent, Mr. Orszag said.

Just one week after the Senate killed a legislative version of the bipartisan commission, officials wouldn't speculate as to how the yet-to-be-created panel - whose recommendations would be nonbinding - would accomplish the feat. Mr. Orszag said the White House has made clear its preference not to raise taxes on middle-income earners.

"We do face a substantial medium-term deficit problem and what we have said is we put forward proposals to get us part of the way there. The commission will have to get us the rest of the way there," he said. "We have been very clear about our stance on taxes and frankly on other spending proposals also. The commission hasn't even been yet named. Let's let it do its work."

**CLIMATE CHANGE/GLOBAL WARMING**

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**California Sets Up Statewide Network to Monitor Global-Warming Gases (*New York Times*)**

By TODD WOODY
DATELINE: SAN FRANCISCO
California is preparing to introduce the first statewide system of monitoring devices to detect global-warming emissions, installing them on towers throughout the state.

The monitoring network, which is expected to grow, will initially focus on pinpointing the sources and concentrations of methane, a potent contributor to climate change. The California plan is an early example of the kind of system that may be needed in many places as countries develop plans to limit their emissions of greenhouse gases.

"This is the first time that this is being done anywhere in the world that we know of," said Jorn Dinh Herner, a scientist with the California Air Resources Board.

While monitoring stations around the globe already detect carbon dioxide, methane and other greenhouse gases, they are deliberately placed in remote locations and are generally intended to measure average global concentrations of greenhouse gases rather than local emissions.

The California network, by contrast, is meant to help the state find specific sources of emissions, as well as to verify the state's overall compliance with a plan it adopted to limit greenhouse gases.

The air resources board has bought seven portable analyzers made by Picarro, a company in Silicon Valley that also supplies the machines to the federal government and academic scientists.

By this summer, the analyzers will be deployed on towers in the San Joaquin and Sacramento Valleys, home to large agricultural operations and oil fields, and on Mount Wilson, outside Los Angeles. Data will also be collected from Picarro machines maintained by the Lawrence Berkeley National Laboratory on the coast and from several monitoring stations operated by other agencies.

Depending on local topography and weather conditions, one Picarro analyzer can cover as much as several hundred miles, the scientists said. For instance, a machine installed on a mountain peak can collect data from most of the Los Angeles basin.

The state's global warming law requires that greenhouse gas emissions be cut to 1990 levels by 2020. To achieve such reductions, the state is planning an emissions-trading market whose integrity will depend on accurate measurement of the gases from oil refineries, power plants and other industrial facilities.

"I think these monitoring networks are going to be essential, as we really need to have a system in place that makes sure markets match reality," said Pieter Tans, a senior scientist in Colorado with the National Oceanic and Atmospheric Administration.

The air resources board uses computer modeling to estimate greenhouse gas emissions in the state. The first task of the new network will be to see if actual concentrations of methane match those estimates.

A Picarro analyzer costs $50,000. It is about the size of a desktop PC and takes precise, real-time measurements of greenhouse gases. Picarro's chief executive, Michael Woelk, said his company's scientists had charted plumes of methane by placing an analyzer in a car and driving from Livermore, Calif., to Sacramento, a route heavy with animal feedlots, truck depots and other industrial operations.

"This is the first critical step to building a nationwide monitoring network," Mr. Woelk said.

**Skelton and Emerson vs. EPA on greenhouse gas (*Associated Press*)**

**Story also appeared: *Kansas City Star***

JEFFERSON CITY, Mo. (AP) — Two Missouri congressional members plan to file legislation blocking the Environmental Protection Action from developing its own greenhouse gas rules.

Democrat **Ike Skelton** and Republican **Jo Ann Emerson** said Tuesday that Congress did not intend for the EPA to regulate carbon dioxide and greenhouse gas emissions. The lawmakers say regulators are not elected and therefore not accountable to the farmers, business owners and Missourians that could be hurt by changes.

In December, the EPA concluded carbon dioxide and greenhouse gases represent a danger to public health. That permits the environmental agency to set rules limiting them.

Skelton and Emerson announced plans to file their legislation during a breakfast in Jefferson City for the state's rural electric cooperatives.

**Trees near Chesapeake Bay growing faster than normal (*Greenwire*)**

02/02/2010
Rising carbon dioxide levels in the atmosphere might be causing hardwood trees in forests by the Chesapeake Bay to grow two to four times faster than expected, researchers said this week.
The unexpected growth spurts in mid-Atlantic trees suggest that these forests might blunt or delay the impact of climate change by soaking up some greenhouse gases, according to a study published in this week's Proceedings of the National Academy of Sciences, though the authors warn the trees are no panacea.

Geoffrey Parker, a senior scientist at the Smithsonian Environmental Research Center in Edgewater, Md., says he has been methodically measuring tree girth since he began working at the facility in 1987.

On average, the woodlands his team are tracking are bulking up by an extra 2 tons per acre annually, he reports. That is as if a new tree 2 feet in diameter sprang up every year.

The ecologists are not sure what is driving the growth or when it began, but they do know that the carbon dioxide levels in the air at the Smithsonian's research center have increased 12 percent in the past 22 years.

Studies have shown that plants will grow faster when raised in air enriched with more carbon dioxide (Timothy B. Wheeler, *Baltimore Sun*, Feb. 2). **– DFM**

**NYC enviro panel suggests 100 building code upgrades (*Greenwire*)**

02/02/2010
An expert panel tasked with advising New York City Mayor Michael Bloomberg (I) and the City Council on environmentally sound building policy issued more than 100 recommendations yesterday on how to improve the city's building codes.

The recommendations include rules for insulating glass skyscrapers and outfitting individual apartments with temperature controls to reduce the need to open apartment windows to vent excess heat.

Many of the proposals would need to be approved by the City Council.

Greenhouse gases produced by the city's buildings are estimated to be the source of about three-quarters of the city's emissions. In December, the City Council passed legislation requiring owners of New York's largest buildings to pay for energy audits, upgrade lighting and take other steps to reduce their carbon footprint.

**ENERGY**

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**Unit 5 recognized by EPA for energy efficiency (*Pantagraph.com*)**

By Phyllis Coulter | pcoulter@pantagraph.com | Posted: Tuesday, February 2, 2010 12:45 pm

NORMAL -- Unit 5 School District is the first district in Illinois to join the EPA's list of Energy Star Leaders, recognizing energy efficiency across all of its buildings.

The status goes to organizations with an overall savings of 20 percent or more. Unit 5's savings top 30 percent, or more than $4.5 million, said Unit 5 spokeswoman Dayna Brown.

"Many district individuals have consciously changed habits to daily reduce district energy demand," said Bruce Boswell, the district's energy educator-manager. "With an overall savings in the district's 27 sites at over 30 percent, we hope to continue finding ways to save more energy need and expenses."

Energy efficiency has been improved by retrofitting older buildings with geothermal systems, better windows and better lighting.

Unit 5 has 13,000 students in 20 schools with seven other sites and more than 1.7 million square feet.

Energy Star was introduced by the U.S. Environmental Protection Agency in 1992 as a voluntary, market-based partnership to reduce greenhouse gas emissions through energy efficiency.

**Incentives haven't yet translated into new 'green jobs' (*Greenwire*)**

02/02/2010
While 10 gigawatts of new wind energy generation capacity came online in the United States last year, manufacturing employment in the sector fell and few jobs were created overall, demonstrating the slow start for President Obama's campaign pledge to create 5 million green jobs in a decade.

Federal stimulus money created 2,000 wind energy installation and maintenance jobs in 2009, roughly the same number of manufacturing jobs that were lost, according to the American Wind Energy Association. Federal officials said last month that 52,000 clean-energy jobs have been created or saved by the stimulus to date.

Though existing tax breaks have boosted the wind industry, they also create uncertainty, industry leaders say. Elizabeth Salerno, director of data and analysis at the wind industry group, said manufacturers won't be willing to step up production unless the government takes steps such as mandating renewable power usage, upgrading the electric grid and putting a price on greenhouse gas emissions.

"Demand is the trigger," Salerno said. "But it has to be long-term, stable demand."

The Department of Energy says it intends to put wind power on an even footing with other technologies, unlike China, which has a booming wind energy industry due in large part to government incentives.

"We are not in the business of picking winners," said Matt Rogers, a senior adviser for stimulus funding at DOE. "We're creating competition among innovative approaches in the marketplace" (Jim Tankersley, *Los Angeles Times*, Feb. 2). **-- GN**

**FUEL**

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FEBRUARY 2, 2010, 1:17 P.M. ET

**ADM Says Profit Falls, Sees Ethanol Demand Rising (*Wall Street Journal*)**

By DOUG CAMERON And TESS STYNES
Archer Daniels Midland Co.'s fiscal second-quarter earnings fell 1.9% amid investment gains and weaker prices, though the company's sales volumes rose and its ethanol business returned to a profit.

Executives from ADM, among the largest U.S. ethanol producers, said they would accelerate the roll-out of new ethanol plants amid expectations that U.S. government rules will boost demand for the gasoline additive.

In December, the U.S. Environmental Protection Agency delayed until mid-2010 a decision on whether to increase the ethanol blend cap to 15% from 10%.

The agency wanted further testing to determine the effect on vehicle engines, and it suggested the higher blend may be limited to cars made after 2001.

Pat Woertz, ADM's chairman and chief executive, said Tuesday that she was "optimistic" EPA would back a higher blend, and hoped it wouldn't be restricted by model year.

Higher ethanol volume and margins helped ADM report higher-than-expected fiscal second-quarter earnings, despite a late U.S. harvest. Executives said global corn and soybean supplies were "ample," and forecast that margins from crushing grain would firm amid improving protein demand.

For its second quarter ended Dec. 31, the company reported a profit of $567 million, or 88 cents a share, down from $578 million, or 90 cents a share, a year earlier. The latest period included $89 million in other income—which includes investment gains and equity in earnings of unconsolidated affiliates—while the prior year included $58 million in other expense.

Revenue decreased 4.6% to $15.91 billion as higher sales volumes and foreign-exchange impacts were more than offset by lower average selling prices because of reduced commodities costs.

Analysts polled by Thomson Reuters most recently forecast earnings of 72 cents a share on revenue of $16.54 billion.

Gross margin fell to 6.6% from 7.3%.

Earnings plunged 68% at its agriculture-services business, one of its largest segment by net sales. The segment handles and transports grain from farm to market before it is processed into products such as cooking oil, animal feed and sweeteners.

Volume and margin opportunities that led to a 47% earnings increase a year earlier "did not recur," the company stated.

The company's much smaller bioproducts division, which includes ethanol, returned to the black as ethanol margins improved amid higher sales volumes and lower corn costs.

At its oilseeds processing unit, which is its biggest segment by volume and includes its biodiesel business, earnings rose 10% amid higher volumes and improved margins.

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**Industry sues over 2011 fuel law (*San Francisco Chronicle*)**

ENVIRONMENT
**By** Wyatt Buchanan, Chronicle Sacramento Bureau

Sacramento
A coalition of oil companies, the trucking industry and others have filed a lawsuit in federal court in an attempt to block the implementation of a first-in-the-world limit on the amount of carbon allowed in fuel approved by California regulators last year.

The suit, filed in federal court in Fresno, seeks an injunction to stop the implementation of the regulation, which is set to take effect next year. The so-called low-carbon fuel standard requires fuel manufacturers to cut the carbon intensity of fuels sold in the state 10 percent by 2020 - lowering the amount of greenhouse gases released for every unit of energy produced.

If the regulation's goal is reached, it will account for 10 percent of the state's overall goal for reducing greenhouse gases by 2020.

The suit claims that the standard violates the commerce clause of the U.S. Constitution in several ways, including interfering with interstate commerce and discriminating against fuels produced outside of California. The standard has been controversial, especially among ethanol producers, because it accounts for the indirect carbon impact of making fuel.

In other words, for corn ethanol producers, that means accounting for the loss of land that is converted to grow corn for fuel instead of food or other changes in habitat to grow corn.

"The practical outcomes of the California standard are higher fuel costs for consumers, dramatic reductions in the availability of those fuels, and a rapid expansion of the state's already unacceptable level of dependence on foreign, unstable regimes for its energy," said Michael Whatley, vice-president of the Consumer Energy Alliance, one of the groups that filed suit.

But Mary Nichols, chairwoman of the California Air Resources Board that adopted the standard, called the lawsuit filing "shameful" and said the standard would save consumers in the state up to $11 billion over the next decade.

"This is a critical tool to help us break our dependence on fossil fuels. It will protect us

from volatile oil prices and provide consumers with cleaner fuels," Nichols said in a statement.

February 3, 2010

**White House report: Develop more crops for biofuels (*DesMoinesRegister*)**

*By PHILIP BRASHER*
*pbrasher@dmreg.com*

**Washington, D.C. —** The nation won't meet its biofuels goals unless the government accelerates the development of biofuel crops and products, the White House says.

In a report being released today, an administration task force said the government needs, among other things, to set targets for commercializing new types of fuel crops, such as switchgrass.

The government also needs to work regionally to develop fuels and feedstocks that make sense in each part of the nation, the report said.

In the Midwest, where corn ethanol production is concentrated, the government could focus on increasing sales of E85, a combination of 85 percent ethanol and 15 percent gasoline. In the Southeast, the focus could be on making ethanol from sugarcane.

The 14-page report makes some recommendations that could raise concerns in the industry, including a suggestion that federal agencies identify environmental and social issues that may confront biofuels development.

The report also says new biofuel refineries must have guaranteed markets. The industry says that requirement has made it virtually impossible for companies to obtain federal loan guarantees.

A 2007 law requires the nation to use 36 billion gallons of biofuels by 2022, but all but 15 billion gallons of that will have to be products other than conventional corn ethanol.

Many companies are working to produce ethanol from switchgrass, crop residue and other nonfood sources, but they have been stymied in part by the economic downturn and lack of credit.

"Past performance and business as usual will not get us there," the report says of the 2022 mandate. "Today, only 12 billion gallons of biofuels are produced annually," mostly corn ethanol.

President Barack Obama will be discussing biofuels policy today with a bipartisan group

of governors and key Cabinet members, according to an administration official.

The report is the product of a group representing the government agencies involved in biofuels policy, including the Agriculture and Energy departments and the Environmental Protection Agency.

The report did not say how the agency was going to act on a couple of pressing issues facing the industry: the 10-percent cap on the amount of ethanol that can be added to gasoline, and greenhouse-gas reduction standards that could limit the increased production of ethanol and biodiesel.

The White House could issue the greenhouse-gas rules as soon as today.

One industry official welcomed the White House's plan.

"A more coordinated effort from federal agencies, together with the continuation of sound biofuels policies, such as extending existing incentives, will go a long way toward meeting and exceeding America's renewable fuel potential," said Bob Dinneen, president of the Renewable Fuels Association.

## HAZARDOUS WASTES

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### California Investigating Cluster of Birth Defects in Kettleman City (*AboutLawsuits.com*)

Published: February 2nd, 2010
Health investigators have begun looking into a number of birth defects that have occurred in Kettleman City, a small town in Kings County, California. Residents suspect that the Kettleman City birth defects may be caused by hazardous waste from a nearby chemical disposal facility, which has been looking to expand.

Governor Arnold Schwarzenegger ordered both the California Department of Public Health and the California Environmental Protection Agency (CAL-EPA) to take aggressive action to investigate the environmental and health issues in Kettleman City on Friday. Out of 20 children born in the town of 1,500 between September 2007 and November 2008, five had facial birth defects. Residents also say there have been a high number of miscarriages as well.

The probe was launched after residents protested outside of U.S. EPA headquarters last week.

Chemical Waste Management, Inc. seeks to expand a nearby hazardous waste disposal facility which is already the largest in the western part of the country. Residents

were unsuccessful in convincing the Kings County Board of Supervisors to deny the company permission to expand the facility last year.

Chemical Waste Management officials say that they believe their facility meets all state standards and is not playing a role in the recent cluster of birth defects in Kettleman City. Some have suggested that Kettleman City may also be exposed to potential health problems due to diesel emissions or pesticides used on nearby farms. The town is located between San Francisco and Los Angeles on Interstate 5, a major trucking corridor.

“There is nothing more important than the health and safety of the public,” Governor Schwarzenegger said. “My administration is committed to the community of Kettleman City and will use our resources to conduct a thorough investigation to provide these hard-working people with answers and the peace of mind they deserve.”

CAL-EPA and state health officials will present their initial findings on February 9.

Posted on Tue, Feb. 02, 2010

**Residents of poor community experiencing birth defects are finally being heard (*San Luis Obispo County Tribune*)**

By CYNDEE FONTANA
FRESNO, Calif. - For months, activists and residents of the poor Kings County town of Kettleman City clamored for an investigation into a rash of birth defects and infant deaths.

To little avail. The pleas of a tiny, largely Latino community got little traction with distant government officials - until the last few weeks.

Now, agencies ranging from the state's health department to the U.S. Environmental Protection Agency are rushing to examine the concerns of the town situated only a few miles from the largest hazardous waste landfill west of the Mississippi.

Why the sudden flood of interest? Academic, political and other experts say the issue finally reached a boiling point - influenced by a lawsuit over landfill expansion, in-your-face activism by residents and environmental groups and a crescendo of publicity about the town's complaints.

"It just becomes a critical mass," said Simon Weffer-Elizondo, assistant professor of sociology at the University of California, Merced.

Robin DeLugan, assistant professor of anthropology at UC Merced, said the families' now well-publicized stories are too compelling to ignore: "It's hard for the appropriate levels of government to turn a blind eye."

But - to hear the residents and activists tell it - that's exactly what had happened. They say they repeatedly asked government agencies to investigate why six babies were born with birth defects in a 15-month period starting in late 2007. Three babies died.

Complaints became more public and heated last year as activists and residents in the town of about 1,500 protested expansion of the Waste Management Inc. landfill about three miles away. Some suspect birth defects are linked to toxic waste stored there.

Kings County officials approved the expansion in December. Environmental groups countered with a lawsuit to block those plans.

Over the past few months, news media outlets carried stories and pictures of babies born with cleft palates. Photos and videos of protests and families surfaced on YouTube and Facebook.

While few official pronouncements were made, the issue was gaining steam in government offices. A new EPA regional administrator started work. And the governor - following a briefing on a health department review of the birth defects - on Friday ordered an investigation.

Wednesday, Jared Blumenfeld, the EPA's new administrator for the Pacific Southwest region, is expected to tour the landfill and meet with several families. It is one of his first site visits since starting work Jan. 4.

Blumenfeld has said that he will place special emphasis on historically underserved and vulnerable communities such as Kettleman City, and also will address inequitable environmental burdens.

He also has ordered an internal investigation into the EPA's handling of complaints about the landfill. Blumenfeld declined to be interviewed for this story.

Experts watching the drama unfold have similar theories about why agencies now are reacting at lightning speed.

Professor Julie Sze, founding director of the Environmental Justice Project for the University of California, Davis' John Muir Institute for the Environment, said Kettleman City's history is an important factor.

Back in the 1990s, Kettleman City protests helped block plans for a toxic-waste incinerator. In 2006, Pacific Gas & Electric Co. agreed to pay $295 million to settle claims in Kettleman City and other areas that water supplies had been contaminated by chromium 6, the cancer-causing chemical made famous in the movie "Erin Brockovich."

In the environmental justice movement, Kettleman City's story is familiar - and demonstrates residents' organizing skills.

"The residents have been politicized around the issue of environmental health and inequality," Sze said. "The birth defects fall into that already pretty defined experience and framing of the issues."

DeLugan, the UC Merced professor who is involved in the area of environmental justice, said the community's ability to network with other groups gave them more clout.

"All of a sudden, their voice is stronger," she said.

Greenaction for Health and Environmental Justice, based in San Francisco, is one of the groups working with the Kettleman City community. Bradley Angel, the group's executive director, believes sustained protests and media attention eventually galvanized agencies into action.

Tom Holyoke, assistant professor of political science at California State University, Fresno, said, "They've been able to make use - politically - of the birth defects." And "nothing gets attention like a lawsuit."

The issue rose on the EPA's radar because the Obama administration, after a year to settle in, is ready to look at companies with possible environmental problems, Holyoke said.

County and landfill officials say they also played a role in the recent state and federal response.

Kit Cole, spokeswoman for Waste Management, said the company has pushed since last summer for an investigation into the birth defect cases. The fact that the company and Greenaction agree on that "is something the regulators can't ignore," she said.

Multiple studies show that the landfill is not a hazard to human health or the environment, Cole said. But, she added, "the reality is these families in Kettleman City deserve answers."

Richard Valle, who represents the area on the Kings County Board of Supervisors, said he has long listened to residents' concerns. He also noted that the board formally asked the state to investigate birth defects in December - the same month supervisors approved the landfill expansion. He believes that request helped propel the state's recent announcement.

"This has been a long, drawn-out process ... this is the safety net that I've been looking for," Valle said.

**POLITICAL**
**==========**

**New EPA regional chief from El Paso will be sworn in today (*Water World*)**

By Zahira Torres, El Paso Times, Texas
Feb. 2--AUSTIN -- Cleaning up the old Asarco smelter and making sure that state-issued air-quality permits meet federal standards are some of the challenges facing the El Paso native who is the EPA's new regional chief.

Al Armendariz, 39, will be sworn in today in Dallas as Environmental Protection Agency administrator for the region.

He said his office is working with the state to clean up Asarco and make sure that lead and arsenic from the site does not seep into the water.

"We have to make sure that that facility and that the legacy of the operation of that smelter is cleaned up in a way that is protective of the community," he said.

Armendariz's office is also looking at air-quality permits that are issued by the Texas Commission on Environmental Quality to be certain that they meet minimum federal requirements.

One of the permits that will be examined is that of Western Refining.

"There is a whole variety of facilities in Texas, but it is the refining ones and the chemical plants as well that tend to have the permits that we are most worried about," he said.

The process will take several years but Armendariz said if companies are found noncompliant with federal standards they might have to reapply for their permits.

A professor of environmental and civil engineering at Southern Methodist University, he is taking a leave of absence from academia to serve in the federal government. Armendariz has been critical of several decisions made by the state's environmental

agency.

"It was only because I felt that as the lead environmental agency in the state their job was to be aggressive and assertive and use all the legal tools at their disposal," he said of his involvement.

President Obama appointed him as regional EPA director responsible for Arkansas, Louisiana, New Mexico, Oklahoma and Texas.

And, he said, he has already started working toward the president's goals to combat global warming and enforce stricter environmental protection measures.

He said he also would work on cleaning up the waste from mining sites throughout the region.

Armendariz wants to put in place programs that in the long term will help curb pollution in coastal Louisiana that is killing fish in the Gulf of Mexico.

As a professor, Armendariz was critical of the TCEQ's decision to renew Asarco's permit in El Paso. Last year, the EPA declared that the permit granted by the state's environmental agency did not comply with federal standards.

U.S. Rep. Silvestre Reyes, D-El Paso, will swear in Armendariz at the ceremony today.

"I am pleased President Obama has appointed an EPA administrator who is familiar with El Paso's environmental concerns, such as the challenges associated with Asarco's cleanup," Reyes said in a statement.

Armendariz graduated from Coronado High School in 1988. He has a bachelor's degree in chemical engineering from the Massachusetts Institute of Technology, a master's in environmental engineering from the University of Florida and a doctorate in environmental engineering from the University of North Carolina at Chapel Hill.

Zahira Torres may be reached at ztorres@elpasotimes.com;512-479-6606.

**TOXICS**

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**Bills would ban products with 2 chemicals in Md. (*Baltimore Sun*)**

Compounds used in baby bottles, canned food linings, TV cabinets
By Timothy B. Wheeler
February 3, 2010
Lawmakers in Annapolis are being asked to ban products containing two chemicals that have triggered serious concerns about toxicity.

On Tuesday afternoon, the House Health and Government Operations Committee aired HB33, which would ban the sale, manufacture or distribution of children's toys or child-care articles such as baby bottles made with bisphenol-A, or BPA. The bill, sponsored by Del. Jim Hubbard, a Prince George's County Democrat, would prohibit it by Jan. 10, 2011.

The plastic has been widely used as a lining in canned foods and some plastic water and baby bottles.

For years, the Food and Drug Administration maintained it was safe, but amid growing scientific evidence of potential harm, the agency last month reversed course and declared concern about the effects of BPA on the brain, behavior, and prostate gland in fetuses, infants and young children. The agency is pushing to end the use of BPA in baby bottles and infant feeding cups and is pressing for safer alternatives to line canned formula and other foods.

Chemical industry trade groups oppose the state legislation, its sponsor noted, but he believes it's necessary.

"I don't want to depend on the federal government," Hubbard said Tuesday. "I want to defend my own citizens."

Connecticut and Minnesota already have banned BPA in certain children's products, according to legislative analysts, and 18 states last year weighed legislation to curtail the plastic. Meanwhile, several major retailers have begun phasing out the use of BPA, including Walmart, Toys "R" Us and Babies "R" Us.

On Feb. 10, the House Environmental Matters Committee will hear another Hubbard bill, HB35, which would ban the sale of products containing brominated flame retardants. Decabromodiphenyl ether, or decaBDE, is used in a wide variety of plastic products, including television cabinets and other electronics, in wire insulation, and in draperies and upholstered furniture.

Hubbard has pressed for a ban before, but his bill failed to pass.

Last year, the Environmental Protection Agency, citing concerns that exposure to decaBDE may cause cancer and impair brain function, announced an agreement with chemical manufacturers to phase out its use by 2013. Hubbard reintroduced the bill this year, seeking to ban it in Maryland by January 2011.

**EPA adds lead rules to painters' prep work (*Spokesman Review*)**

Protocols, which take effect in April, focus on dust hazard
Becky Kramer
The Spokesman-Review
Pat Lehne, foreground, and Ryan Studley construct a plastic doorway pass-through, designed to contain lead paint in a work area.
Spokane's South Hill provides painting contractor Shon Vantuyl with most of his clients. Many of the Craftsman-style homes he works on date to the early 1900s, when lead was a primary ingredient in oil-based paints.

In the past, “you’d go out to a 100-year-old house and scrape away,” said Vantuyl, who owns Northern Lights Paint with his wife, Michelle. “You’d just be careful not to kick up dust, and you’d take precautions if there were kids in the house.”

But in the near future, contractors will have to take greater precautions to protect people from lead dust, a toxin linked to lower IQ in children. On April 22, the U.S. Environmental Protection Agency will start enforcing new rules for safe removal of lead-based paint.

The rules apply to any paid contractor or handyman – including electricians, plumbers and painters – who work on homes built before 1978. Remodeling projects in other buildings from that era where children age 5 or younger are present, such as schools or day care centers, also fall under the rules.

Sanding walls, repairing plaster or even replacing windows or carpets can release invisible clouds of lead dust.

A certified renovator who has taken an eight-hour class in dust management must be present at each work site to teach workers how to safely contain and clean up lead dust. Work areas must be screened off with sheets of heavy-duty plastic or other impervious materials. The cleanup includes wiping down walls or vacuuming them with a machine equipped with special filters.

“This rule protects people in their homes,” said Wallace Reid, EPA’s lead team leader in Seattle. “When we see elevated blood-lead levels in kids, it’s usually because of a lead dust hazard, not because they were eating paint chips.”

Before 1978, lead was used as a pigment, preservative and drying agent in oil-based paints. In addition to lower IQ, lead exposure has been linked to behavioral problems in children and delayed physical development. In adults, lead exposure is associated with low sperm counts, kidney disease and cardiovascular problems.

Vantuyl recently completed the eight-hour class on safe lead paint removal. He anticipates that complying with the new EPA rules will cost him about $1,500 in training, certification fees and new equipment, including a specialized vacuum.

The payoff is lowered risk of lead exposure for consumers.

In Eastern Washington, a 2-year-old boy was recently diagnosed with lead poisoning after he was exposed to paint dust from an exterior house-painting project. The boy’s blood-lead level peaked at 24 micrograms per deciliter but has since dropped, said Cynthia Sanderson, the Washington Department of Commerce’s lead program manager.

According to the Centers for Disease Control and Prevention, adverse health effects can occur from blood-lead levels of 10 micrograms per deciliter or less.

“Children in the crawling stage are at greatest risk,” Sanderson said. “They’re down on the floor and their hands are in their mouth.”

Through the 1940s, paint manufacturers frequently added lead to oil-based paints. Over time, the lead content dropped as substitute materials became available. In 1978, the U.S. Consumer Products Commission banned all but trace amounts of lead in paint.

Exemptions to the new rules are available for older buildings without lead-based paint. But a qualified lead risk assessor must determine that the paint used was lead-free, Reid said. Small interior projects that disturb less than six square feet also are exempt.

Failure to abide by the new rules could result in large fines for contractors. The maximum fine is $37,500 per violation per day, Reid said.

The new rules will bring parity to remodeling projects, said Sanderson, Washington’s lead program manager.

When contractors weatherize or remodel low-income housing using federal dollars, they’re already required to use safe lead-handling practices, she said. Homeowners paying out of their own pocket didn’t have the same protections.

People doing their own remodeling are exempt from the new rules.

“But I strongly recommend that they get training, too,” Sanderson said. “You could end up getting poisoned if you don’t work lead-safe.”

Eventually, the state of Washington will take over enforcement of the EPA rules – which the federal government encourages states to do.

In Washington, Sanderson said she’ll focus on making sure contractors take the necessary classes instead of paying hefty fines.

“This is an education issue,” she said. “Quite frankly, I want them to get the training and follow the rules.”

**Report: Smelter not health threat (*Gary Post Tribune*)**

February 3, 2010
**BY GITTE LAASBY, (219) 648-2183**

EAST CHICAGO -- Breathing the air, drinking tap water or playing in soil in neighborhoods near the lead-contaminated U.S. Smelter and Lead Refinery site in East Chicago won't harm people's health, a federal agency announced Tuesday.

But more sampling is necessary to determine any impact on the environment, especially near the Grand Calumet River and in adjacent wetlands, the Agency for Toxic Substances and Disease Registry concluded in a review released Tuesday.

The agency is a public health component of the U.S. Department of Health and Human Services that evaluates the human health effects of exposure to hazardous substances.

In September 2008, the U.S. Environmental Protection Agency proposed listing the U.S. Smelter and Lead site as a Superfund site, one of the most contaminated in the nation. At that time, the agency revisited its earlier public health assessment.

EPA added the site to its Superfund list in April 2009.

"Homes and yards to the north and northeast of the site are safe and do not pose a health hazard from lead," the agency said in the public health assessment.

It is out for public comment until March 1.

Lead exposure can lead to decreased intelligence, impaired growth, impaired neurobehavioral development and decreased hearing.

The agency concluded that lead-contaminated air from the site posed a public health hazard until the facility closed in 1985.

In 2004, contaminated soil was excavated and removed from 14 residential yards, but "several hundred other residential yards may still be contaminated," the agency said in its review.

Before 2006, lead contamination in yards downwind of the site also posed a public health hazard for young children eating contaminated soil, according to the agency's review.

It estimates that more than 11,800 people live within a mile of the site, the closest within a quarter of a mile north.

Some 1,500 children six years or younger live within a one-mile radius. Less than 3 percent of children tested for blood lead levels in 2008 had a level of concern, the agency said. It stressed that lower levels can still cause harmful effects.

The agency recommends that parents concerned about their children's exposure to lead have their children's blood lead levels tested by their health care provider.

As part of a previous remediation, IDEM oversaw structures on the site being buried and capped in an on-site landfill. But it's uncertain whether that took care of the problem.

"No post-remediation sampling is available to confirm that the contamination is contained or no longer accessible," the agency review said. "Contaminated wetlands and contaminated soil remain on site."

The agency has asked the EPA to sample on and near the Smelter site and to figure out clean-up options and their costs -- something EPA normally does with Superfund sites.

**Coal Ash Industry Manipulated EPA Data, Ghost-Wrote Agency Reports for a Decade (*AlterNet*)**

By Joshua Frank, TruthOut.org
Posted on February 2, 2010, Printed on February 2, 2010
http://www.alternet.org/story/145507/

The coal ash industry manipulated reports and publications about the dangers of coal combustion waste, reports Public Employees for Environmental Responsibility (PEER). The group stated that the Environmental Protection Agency allowed the multibillon-dollar coal ash industry to have virtually unfettered access to the EPA during the Bush administration and now under President Obama.

As a result of the industry's formal relationship with the EPA, insiders were allowed to edit and ghostwrite publications and official reports on the effects of coal waste. The documents obtained by PEER indicate that the coal ash industry "watered down official reports, brochures and fact-sheets to remove references to potential dangers" of coal ash waste. Additionally, the so-called "environmental benefits" of coal ash were repeatedly aggrandized.

"For most of the past decade, it appears that every EPA publication on the subject was ghostwritten by the American Coal Ash Association," stated PEER Executive Director Jeff Ruch, whose group examined thousands of coal industry and EPA communications. "In this partnership it is clear that industry is EPA's senior partner."

There is little debate that coal ash is toxic, despite what the wavering EPA and steadfast coal industry purport.

Coal ash is the sludgy muck that is left over after coal is burned to produce electricity and is often laden with heavy metals like arsenic, mercury, cadmium, lead and selenium. These harmful substances can produce cancer, kidney problems and nervous-system disease. The amount of heavy metals in coal-ash depends largely on the type of coal burned. However, all coal produces this waste, even though the toxicity may vary

slightly depending on the type of coal being incinerated.

While the EPA continues to discuss whether or not it should classify coal ash as a hazardous waste, the environmental and health effects of a coal slurry impoundment at the Tennessee Valley Authority's (TVA) Kingston coal-fired power plant in Harriman, Tennessee, are still not known. The December 2008 catastrophe caused more than 500 million gallons of toxic coal ash to enter the Tennessee River.

The spill was over 40 times larger than the 1989 Exxon Valdez spill in Alaska. Approximately 525 million gallons of black coal ash flowed into tributaries of the Tennessee River - the water supply for Chattanooga and millions of people living downstream in Alabama and Kentucky. The true adverse effects of the spill are still not known.

An immediate crackdown on TVA and other coal-slurry impoundments by the EPA was likely sidelined as a result of the American Coal Ash Association's formal partnership with the EPA during the Bush administration. If coal ash were deemed a hazardous waste, coal companies could potentially lose billions of dollars in revenue, as they would not be able to promote their toxic coal ash substances for agricultural, consumer and industrial use.

It seems as if the efforts of coal industry representatives have paid off handsomely. Back in 2002, the EPA released a report that indicated the agency had information on the risks of coal ash, yet requests for the data under the Freedom of Information Act were either denied or the documents that were released, with the estimates of cancer risks, were largely blacked out.

Then in 2007, an EPA study found that people living near coal ash sites had as high as a 1-in-50 chance of developing cancer from drinking arsenic-contaminated water. The report also showed that living near such storage sites raised an individual's risk of damage to the liver, kidneys, lungs and other organs exposed to toxic metals in the ash. But the report, according to the Environmental Integrity Project and Earthjustice, only made available some of the data, while covering up the true extent of the health risks associated with coal ash.

Recent documents obtained by PEER indicate that the coal industry had access to these health reports and was successful in manipulating the information presented to the public about coal ash's negative effects on humans and the environment.

References indicating the "high-risk" potential of coal combustion waste were deleted from PowerPoint presentations. Cautionary language about

coal waste uses in agricultural practices was altered in order to remove negative connotations. In 2007, the coal ash industry inserted language in an EPA report to Congress about how "industry and EPA [need to] work together" in order to block or water down "state regulations [that] are hindering progress" in the use of coal ash waste.

"It is no joke - the terms of the coal ash partnership tuck EPA snugly into bed with industry for the purpose of marketing coal combustion wastes as a product," Ruch of PEER added, noting that the partnership has now crossed over into the Obama administration. "EPA is supposed to be an objective regulatory agency dedicated to protecting the public instead of protecting a gigantic subsidy for a powerful industry."

Joshua Frank is an environmental journalist and author of "Left Out! How Liberals Helped Reelect George W. Bush." He is co-editor, with Jeffrey St. Clair, of "Red State Rebels: Tales of Grassroots Resistance in the Heartland." Frank and St. Clair are also the authors of the forthcoming book, "Green Scare: The New War on Environmentalism." He can be reached at brickburner@gmail.com.

**Rule addresses hazards from lead-based paint dust (*Associated Press*)**

**This story also appeared: *Chicago Tribune***

Associated Press
2:02 AM CST, February 2, 2010
SPRINGFIELD, Ill
Sanding, cutting and demolition can create lead dust, which can be harmful to adults and children.

A new federal rule taking effect April 22 requires contractors, property managers and others paid to renovate structures built before 1978 to be certified by the U.S. Environmental Protection Agency.

The goal is to protect children from leaded dust that may result from disturbing lead-based paint.

Lead poisoning can cause health problems including learning disabilities, kidney disease, high blood pressure, miscarriages and birth defects.

The Illinois Department of Public Health Lead Program is holding 16 meetings around the state to inform the public about the new rule. For information, contact the Illinois Lead Program at (217) 782-3517.

**Widow thought home, because it was not old, was safe from radon (*Chicago Sun Times*)**

'The house is what caused it'
February 3, 2010
HEALTH WITH MONIFA THOMAS mjthomas@suntimes.com.
After seeing a story on the news, Joe Linnertz talked to his wife, Gloria, about getting their home of 18 years tested for radon. But their house wasn't very old, so they decided it wasn't necessary.

A year later, Joe Linnertz, a nonsmoker, was diagnosed with lung cancer that his wife later found out was likely caused by exposure to high levels of radon.

Testing of the couple's home in Downstate Waterloo after Joe Linnertz's death in 2006 showed radon levels four times higher than the U.S. Environmental Protection Agency standard.

"I wanted to tear the house down," Gloria Linnertz said. "I thought, 'The house is what caused this.' "

Radon -- an odorless, colorless radioactive gas that seeps into homes from soil -- is the second-leading cause of lung cancer, after smoking. And 46 percent of Illinois homes have radon levels higher than the EPA standard, according to the Illinois Emergency Management Agency.

"The only way to know you have a problem is to test," said the state agency's Pat Daniels.

Yet, many homeowners and home buyers don't follow that advice, according to Chicago-area real estate agents and state data.

"Very rarely do I have anybody in my area calling for a radon test," said Patrick Zomparelli, an Orland Park real estate agent for more than 20 years.

"Nobody really asks about it," said Mabel Guzman, president-elect of the Chicago Association of Realtors and a Realtor in the South Loop.

Illinois was the first state to require that home buyers receive educational pamphlets about radon. After the Illinois Radon Awareness Act took effect in 2008, radon testing was conducted during 25 percent of real estate transactions statewide, including home sales, compared with 8 percent in 2007, Daniels said, citing data from radon measurement and mitigation companies licensed by the state emergency management agency.

Still, only about 100,000 homes statewide have been tested since 2003 -- a fraction of the millions of housing units in Illinois, Daniels said.

Any home, whether it's new or old, can have a radon problem. And levels can vary from house to house even on the same block.

Radon levels in the six-county metropolitan area are generally lower than in the rest of the state.

Smokers are particularly vulnerable to radon exposure.

Professional testing costs about $125 to $150. Test kits can also be purchased at hardware stores and home centers.

The EPA recommends fixing your home if radon levels are above 4 picocuries per liter of air.

Fixing a radon problem -- called radon mitigation -- typically costs from $800 to $1,200. Mitigation systems collect radon before it enters the home, and they dilute radon concentrations inside the home through increased ventilation.

To find a list of licensed labs that sell test kits, contact the Illinois Emergency Management Agency at (800) 325-1245 or go online to *radon.illinois.gov.*

"It's a simple test," Gloria Linnertz said. "You could be saving the life of someone you love."

**On Eve Of Bill's Release, States Back Push To Reverse TSCA Test Burden (*Inside EPA*)**

Tuesday, February 02, 2010
A key group of state regulators is backing calls from EPA and environmentalists to require industry, not the agency, to bear the burden of showing that chemicals are safe under the Toxic Substances Control Act (TSCA), lending new weight to the approach shortly before proponents unveil a long-awaited TSCA reform bill requiring the new stance.

But the state officials are silent on the brewing debate of what safety standard industry must meet before new chemicals can be introduced into commerce.

"Federal policies need to reverse the prevailing assumption that all chemicals are safe unless proven otherwise," the cross-media committee (CMC) of the Environmental Council of the States (ECOS), a group representing state environmental commissioners, says in a new report. The panel "strongly supports having

manufacturers provide the necessary information to allow EPA to conclude that new and existing chemicals are safe . . . before they enter commerce," according to the Jan. 29 report, "State Experiences With Emerging Contaminants: Recommendations For Federal Action."

At issue are provisions in current law requiring EPA to prove substances pose an "unreasonable risk" before they can be regulated but EPA, environmentalists and others have been pushing to shift the standard to require manufacturers to prove their products are safe before they can be introduced to the market, an approach that the European Union has also required.

Critics of current law say it sets too high a bar for regulators, allowing industry to introduce into commerce scores of chemicals that pose a risk. "We need to do a more effective job of preventing harmful chemicals from entering the marketplace, and for this reason, I look forward to considering reforms of the [TSCA] in the coming months," House Energy & Commerce Committee Chairman Henry Waxman (D-CA) said recently.

**Lautenberg Poised To Introduce Bill**

Sen. Frank Lautenberg (D-NJ), who in past Congresses has introduced legislation shifting the burden to industry, is expected in the coming weeks to introduce the latest version of his bill, with a companion measure likely to be considered in Waxman's panel.

Lautenberg, who chairs the Senate Subcommittee on Superfund, Toxics, and Environmental Health, is scheduled to hold a hearing Feb. 4 to examine "the current science on public exposures to toxic chemicals," which could help him make the case for his bill.

While the ECOS panel is backing calls by EPA and others to shift the burden to industry to show that chemicals are safe, the report appears to sidestep the thorny question of what safety standard to set.

Past versions of Lautenberg's bill have proposed that manufacturers must demonstrate a "reasonable certainty of no harm" before they can introduce new chemicals -- an approach that is drawn from federal pesticide law. But some industry groups oppose that standard, arguing it is vague and could be hard to meet.

In addition to calling for industry to bear the burden of proving that chemicals are safe, the state group is also recommending that TSCA be reformed "to require submission of toxicity data covering a broad suite of toxicity concerns for all chemicals in commerce."

The CMC also recommends EPA set up a data-sharing program with the European Union, which is expected to begin collecting data on chemicals under it nascent Registration, Evaluation, Authorisation and Restriction of Chemical Substance, or

REACH, laws, along the lines of the Security and Prosperity Partnership agreement that the U.S. signed with Canada and Mexico.

**Use Of Safer Chemicals**

The group also says federal and state governments should support initiatives to promote the use of safer chemicals, and makes suggestions to improve the material safety data sheets that accompany chemicals.

The CMC also asks federal officials to consider nanoscale materials "as a special class of emerging contaminant" because of the properties of the materials, which can behave different from their bulk counterparts. The move seems to in part support some recent agency actions: EPA has said it was reexamining its decision that nanomaterials be considered "existing" materials, and is also considering promulgating a significant new use rule under TSCA to cover all nanomaterials (*see related story*).

"Federal agencies and ECOS should continue to develop federal-state nano and biotechnology structures to obtain and exchange more detailed risk information from other state organizations, including the North American Hazardous Materials Management Association," according to the report.

The report also calls for further collaboration between ECOS and the federal groups coordinating nanotechnology research, building on an October 2009 meeting between ECOS, EPA, the White House's Office of Science & Technology Policy and other groups.

The CMC also makes a number of recommendations about expanding and reforming how research is done in an attempt to foster more data sharing. "Federal agencies should provide states with human health and ecological data and risk analyses for emerging contaminants, including their fate, transport, deposition, bioaccumulation, toxicity profiles, and dose-response relationships," the report says.

The group suggests EPA develop uniform laboratory methodologies for analyzing specific emerging contaminants, which would make the data more comparable across laboratories, and asks for more federal research help for state regulators on cumulative risks; concentrations of concern; and promulgating "acceptable media standards or action levels" for contaminants.

The recommendations also focus on states' needs to develop "messaging and education materials to communicate risk issues throughout product lifecycles, including disposal," and asks for increased funding for states to do assessments of emerging waste problems.

The report also included case studies from Maine, Maryland, Massachusetts, Pennsylvania, South Carolina, Virginia and Washington that outline a host of initiatives at the state level and describes experiences with chemical prioritization.

In December, ECOS released a set of criteria to help states prioritize contaminants of concern, like nanomaterials or pharmaceuticals in the water stream, among other issues. The tool was designed to help states with limited resources determine which issues could reasonably be addressed.

Both the prioritization tool and the new report were both funded by a grant from EPA's Office of the Chief Financial Officer. The report recommendations reflect the opinions of the CMC and not all ECOS members. -- *Aaron Lovell*

**WATER**

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Article published Feb 3, 2010

**Councilors cry foul over sewer rate hike for treatment plant (*Worcester Telegram*)**

By Lee Hammel TELEGRAM & GAZETTE STAFF
lhammel@telegram.com
WORCESTER — The City Council last night seemed ready to revolt against the federal government, or at least the environmental dictates that are driving up the city's sewer rates.

"It's not only rigged, it's outrageous," Councilor-at-Large Konstantina B. Lukes said. She was referring to the hundreds of millions of dollars in improvements to the Upper Blackstone Water Pollution Abatement District plant ordered by the federal Environmental Protection Agency. The most recent $1.3 million in cost at the plant in Millbury, which treats the city's sewage, will drive up the city's sewer rate by another 19 cents.

That is a 143 percent increase in the cost of 100 cubic feet of water since 2004. On top of $200 million that has already been sunk into the plant to meet environmental standards, Robert L. Moylan, commissioner of public works and parks, said, the EPA wants another $200 million in improvements, which the city has appealed.

But he estimated the regulations give the city less than a 1 in 3 chance of winning the appeal. The only recourse after that administrative appeal is to try the federal appeals court, he said.

On top of those $400 million in improvements, Mr. Moylan said, EPA is discussing requiring work that he said he could cost $1.2 billion for the city, to meet renewal terms for its storm water permit, and several other measures that could cost between $5 million and $20 million.

Several councilors called the situation ridiculous, particularly after Mr. Moylan said the

federal Clean Water Act “doesn’t recognize recessions. They just keep rolling out” the orders for improvements.

Councilor-at-large Michael Germain said, “We need to put a stake in the ground and say no more.” If appeals do not work, he mentioned civil disobedience as an option. “Somebody has to stand up to these people and say enough is enough.”

But District 2 Councilor Philip P. Palmieri observed that protesting environmental mandates when it is time to raise sewer rates seems like an annual “rite of passage” for city councilors. While he agreed the city can not afford the more than $1 billion worth of work, he said after discussions of civil disobedience, “I think every single councilor here would look good behind bars.”

The councilors said they appreciate the need to clean the environment, but some said they would rather pay the legal fees to go to the federal appeals court than submit to the EPA’s orders.

City councilors also were unhappy to hear from Mr. Moylan that the city’s purchase of 13,000 street lights from National Grid, discussed during last year’s budget deliberations, still is not complete. District 1 Councilor Joffrey A. Smith worried that now the city will be liable for a recently announced rate hike because the purchase has not been completed.

The city planned on saving $1.2.million by buying the street lights from National Grid, even taking into account that the company, the city’s largest taxpayer, would no longer be paying taxes on the street lights, Mr. Moylan said.

He said negotiations were complex, particularly around liability issues, but he expects them to be completed this month. If they are, then, he said, he does not expect the city to have to pay the rate hike, although he acknowledged the city will realize only half the savings this year because of the delay.

Nick Kotsopoulos of the Telegram & Gazette staff contributed to this report.

**Lawmakers Seen Weighing Narrower Effort To Address Gas Fracking Risks (*Inside EPA*)**

Tuesday, February 02, 2010
Key House lawmakers seeking to allow EPA to regulate the controversial natural gas drilling practice known as hydraulic fracturing, or fracking, appear to be considering more limited legislation that requires disclosure of fracking chemicals but stops short of giving EPA authority to regulate the practice under the Safe Drinking Water Act (SDWA), industry sources say.

While proponents say they will continue to push for legislation that restores EPA's authority to regulate the practice under SDWA, they also note that disclosure will provide important data about chemicals that may be contaminating drinking water. EPA is also investigating the impact of fracking on drinking water.

Moving the disclosure requirements now, without the controversial regulatory provisions, could give proponents a quick win while satisfying critics who say SDWA rules are unnecessary, one industry source says.

At the same time, environmentalists are expanding their efforts to win stricter regulation of the practice under existing authorities. Activists are increasingly pushing EPA and the Department of Interior to use existing authorities to allow quick oversight of fracturing while Congress continues to debate the need for broader fracking regulation.

Fracking is a controversial type of drilling for natural gas where water and chemicals are forced into the ground to crack shale formations and release natural gas so it can be extracted. But Congress' 2005 decision to exempt the practice from regulation under the drinking water law has prompted considerable concern, especially given growing use of the practice and increasing demand for natural gas as a cleaner burning fuel than coal.

**Balancing Climate and Drinking Water Concerns**

The issue has been particularly tricky for some environmentalists and Democrats who are seeking to encourage increased use of the fuel as a way to limit greenhouse gas emissions -- but who are concerned that it could result in increased contamination of drinking water.

Many environmentalists are backing H.R. 2766, introduced by Rep. Diana DeGette (D-CO), and S. 1215, introduced by Sen. Bob Casey (D-PA), which seek to reinstate EPA's authority to regulate the practice, while also requiring industry to disclose the chemicals they use in fracking.

Some industry officials, however, oppose reregulation, charging it will undermine their efforts to recover domestic natural gas supplies that increasing energy independence and decrease greenhouse gas emissions.

Now, Congress is again focusing on the issue in light of a recent merger deal between ExxonMobil and the extraction company XTO, which included a provision that allowed ExxonMobil to back out of the merger if new legislation outlaws fracking or makes it commercially impracticable.

At a hearing on the impact of the merger on U.S. energy markets before the House Energy & Commerce environment panel Jan. 20, DeGette won public confirmation from the top officials of the two companies that they do not object to disclosure as long as proprietary information is protected. She also pressed the executives to prove that

federal disclosure requirements would be more expensive than various different state disclosure requirements.

A DeGette spokesman says the congresswoman continues to press her bill as introduced, and says strategy for moving the measure has not been decided.

**Emerging Support**

But industry attorneys say that comments by DeGette and other lawmakers at the hearing may show emerging support for moving only the disclosure portion of the bill. The industry attorney points out that DeGette frequently referred to disclosure requirements without raising the SDWA regulation portion of her bill, a move that may open the door to moving a limited measure that could gain more support. “To the extent that she intends to push more the disclosure portion of the bill, that is something that Congress as a whole would be more amenable to,” the source says.

A second industry attorney notes that lawmakers on the panel mentioned the importance of a pending EPA fracking study in guiding future policy, which seems to show that lawmakers believe they need more information before moving forward with the regulatory portion of the bill. “It doesn’t make sense and there is no support for doing anything more until the scientific evaluation is complete,” the source says.

Rep. Edward Markey (D-MA), the panel chair, appeared to echo this argument when he twice mentioned the importance of EPA’s pending study in his remarks at the hearing. “Congress recently urged the EPA to study the potential impacts of hydraulic fracturing on drinking water sources. The results of that study will help to guide policy to ensure adequate protection of public health and the environment,” Markey said in his opening remarks, according to a transcript of the hearing.

The study requirement, included in report language attached to EPA’s fiscal year 2010 spending law, asks the agency to conduct a study of the drinking water impacts of fracking.

In addition to a possible narrowing of the legislation, some say shifting political momentum on climate change may help the success of some type of fracking legislation in 2010. For example, a blog on the Web site of the law firm Bracewell & Giuliani says that as the prospects of climate cap-and-trade legislation have faded, support for an “environment-friendly” energy bill have grown, and that the sponsors of the fracking bill will likely try to include the measure in any proposed energy bill.

But one oil and gas industry source says DeGette’s focus on the disclosure portion of the bill is more an effort to downplay the impact of her bill than an effort to narrow the measure. “What DeGette is trying to do is create the perception that the bill is merely setting in place a mechanism of standardized disclosure of chemicals,” the source says. “The true burden of the DeGette bill is the imposition of additional regulation of fracking,” the source says. -- *Kate Winston*

**Activists' Petitions Forcing Stricter EPA Oversight Of State Water Rules (*Inside EPA*)**

Tuesday, February 02, 2010
Environmentalists are increasingly petitioning EPA to withdraw states' authority to administer the Clean Water Act (CWA) in a tactic that is already winning stricter agency oversight of some states' water quality programs -- and may even bolster Obama administration vows to strengthen state programs.

EPA Region I officials earlier this month struck down a draft discharge permit issued by regulators for a facility in Vermont -- one of the states activists are targeting -- in the first such action by the region, possibly ever, sources say. The agency charged that the state permit relaxed allowable nitrogen pollution limits without considering downstream impacts on impaired waters in another state.

The region's action comes in the wake of a slew of petitions environmentalists have filed urging EPA to withdraw states' delegated authority. In the latest of these petitions, groups in Alabama Jan.14 urged EPA to withdraw the Yellowhammer State's delegated authority to administer the water act, citing lax collection of monitoring data, delayed and inadequate permits and a failure to inspect major dischargers, the petition says.

The Alabama petition is the latest in a series of requests environmentalists have filed over the past 18 months that activists say are aimed not at removing the state's authority to enforce the federal law but to prompt stronger federal oversight and stricter state rules. The Alabama petition follows similar actions in Alaska, Indiana, Illinois, Iowa, and last December, Maryland -- a state that is already subject to strict EPA oversight as part of the agency's push to clean up the Chesapeake Bay.

The petitions -- which target states with delegated CWA programs -- focus on a diverse number of issues, with the groups in Illinois and Iowa concerned about inadequate state rules governing concentrated animal feeding operations (CAFOs), Indiana groups focused on antidegradation provisions, and activists in Alabama and Maryland concerned about inadequate state stormwater and other point source permits.

**Seeking EPA Scrutiny**

To address the concerns, the groups are seeking closer EPA scrutiny of the state programs as well as other measures to strengthen the state programs. For example, the petition against Maryland's program urges EPA to require the state to increase permit fees, provide greater transparency and other measures.

The petitions are not coordinated efforts, activists say, but rather demonstrate a growing trend among groups to seek stronger oversight from EPA in state implementation of the

CWA, particularly given Administrator Lisa Jackson's vows to strengthen state programs.

Since taking office, the Obama administration has ramped up oversight of state programs, in the wake of an agency study that found significant flaws in state enforcement of the water act and other delegated programs. Last year, for example, Jackson unveiled an action plan to bolster state enforcement, a plan that Region I is citing as one reason for blocking the Vermont permit.

At the same time, Jackson has also said that she is willing to consider withdrawing states' authority if states do not comply with agency efforts to strengthen their programs. "Many of these state programs are 20, 30 years old, and we might even need to hit the reset button and say, 'OK, we're going to hold you to a standard. If you're doing your job, great, but if you're not, we're going to be here going inside until you are'," the administrator told the New Orleans *Times-Picayune* last year. "We often say we're partners, but we're also delegating our authority to a state, and of course, ultimately that means your ultimate answer would be to take it back," she said.

While some environmentalists admit that Jackson is more intensely focusing on state programs that the past administration, they believe that filing the petitions forces the agency to look at specific states and how they implement the CWA.

A source involved with the petition targeting Vermont's program says that some of the petitions are aimed at rectifying problems that arose during the Bush administration when EPA was granting states too much deference. "I don't think it's surprising that after eight years of a hands-off approach that you'd see state programs have slipped," the source says.

**Region's Rejection**

The source welcomed Region I's recent objection to Vermont's draft permit, saying the agency's concerns echo concerns raised in activists' petition seeking to withdraw the state's authority. "Vermont is not responsive to the bottom line. I'm not surprised that things have gotten to the point with Vermont that EPA is taking formal action to say 'yes, you're out of compliance.' There is going to have to be a dramatic change in the way Vermont implements the program," the source says.

An environmentalist involved in the Maryland effort says petitioners do not expect EPA to actually withdraw the state authority -- an approach EPA has long opposed given the increased resource burden the agency would face if federal officials were to step in. "Realistically, if we get a strong reaction from EPA," and perhaps an audit of the state program with either recommendations or mandates for change, "I would certainly be satisfied with that," the source says.

"Ultimately we . . . took this action because we felt like there [were] Band-Aids put over these . . . problems," the source says. The environmentalists "felt we needed to do

something to say it's more systemic than that." Sources say there has been no formal response yet from EPA on the Maryland petition, and there is no legal timeline for response.

But such petitions give activists considerable leverage over both EPA and state programs and they are already bearing fruit.

In addition to Region I's opposition to the Vermont permit, other states are also responding to the pressure. In Illinois, regulators last month revised the state's permitting requirements for CAFOs that went beyond some EPA public participation requirements to comply with demands in a long-pending withdrawal petition filed by the Environmental Integrity Project and other groups. Environmentalists who filed the petition say that while they are pleased the state has strengthened its permit, they are leaving the petition in place to ensure the state implements its new CAFO permit. "We're still pursuing the petition," a source said.

And in North Carolina, activists succeeded in having EPA block a controversial state guidance for mitigating water quality harms from hydroelectric projects -- though without a formal petition seeking to withdraw the state's delegated authority.

A state source agrees that it is unlikely EPA will remove authority from any of the states facing petitions, since "it will cost them double what they're paying now, if not triple," to implement the CWA. "And that is something that they're going to have a very difficult time absorbing in very many places," the source says.

"We feel like the states have a very strong role in these programs," and that the "difficulties that we're facing now are largely budget ones." To that end, the source says that state agents recently met with EPA leadership and, in part, discussed problems that states are facing, particularly with budgeting shortfalls and implementation of new rules coming out of the agency.

For instance, the source says, Georgia has seen a 43 percent cut to its program over the last year. The source says that EPA and the states are hoping to work together in the future to discuss "process improvement programs" to better streamline state actions. -- *Erica Martinson*

February 3, 2010

**Sheboygan River cleanup heads to next phase (*Sheboygan Press*)**

Two informational sessions planned for this week

*By JOSH LINTEREUR*
*Sheboygan Press staff*

Officials are finalizing plans for the next phase of a now decades-old project to dredge contaminated sediments from the Sheboygan River.

Work could begin as early as this spring to remove polychlorinated byphenyls — a known carcinogen, commonly called PCBs — from the lower stretches of the river between the Waelderhaus Dam in Kohler and the inner harbor near Lake Michigan.

The details, including the exact location of the dredging work and disposal locations, will be worked out in the coming weeks.

The Environmental Protection Agency is overseeing the project with assistance from the state, City of Sheboygan and Sheboygan County.

Meanwhile, local officials are also considering applying for a federal grant to cover additional PCB cleanup work not covered by the upcoming EPA-led project.

Their hope is that a clean river will benefit the environment and lead to new development on shore.

"We want the river to be healthy again," said Jim Hulbert, county planning director. "If we don't get the contamination out of the river, we may still have adverse environmental impacts. It's also very important from an economic development perspective."

The public can provide input on both projects and hear updates from state, local and federal officials during a pair of meetings being held this week. The first meeting begins at 7 p.m. Thursday at the Fine Arts Theater on the University of Wisconsin-Sheboygan campus. A second meeting will be held at 12:30 p.m. Friday at the Blue Harbor Resort and Conference Center.

One of the most significant — and controversial — issues still to be settled revolves around where to dewater and dispose of the waste.

The most contaminated sediments will be trucked to Michigan, according to Hulbert. Less-contaminated sediments will likely go to a landfill in Chilton, although if it's cost effective, it's possible that some of the waste will remain in the county.

Hulbert said at least one local township has expressed interest in storing it, though he wouldn't disclose which one.

The dredging project dates to the mid 1980s when a 14-mile stretch of the river was designated as a hazardous waste site under the federal Superfund act.

The site runs from Sheboygan Falls to the mouth of the river in Sheboygan, with PCB contamination traced to the former Tecumseh Products Co. plant in Sheboygan Falls. Past estimates put the entire project's cost at $40 million.

The first phase of the cleanup project was completed in 2007 covering a 3.4-mile section between Sheboygan Falls and the Waelderhaus Dam. The upcoming phase will cover the remaining portion of the 14-mile Superfund site.

Tom Wentland, DNR waste management engineer, said the agency will eventually set up a monitoring program to gauge the effectiveness of the dredging operation.

However, Hulbert said the Superfund-designated work won't remove all remaining contamination from the river, which is why local officials are considering applying for additional project funding through the federal Great Lakes Legacy Act.

Money from that program would cover 60 percent of the cost to remove additional contaminants not removed by the Superfund work. The remainder would have to come from local governments.

Taken together, the two projects would cover the dredging and disposal of up to 200,000 cubic yards of sediment from the lower river and harbor.

Sheboygan Mayor Bob Ryan favors the additional cleanup work, saying it would result in a cleaner and more navigable river. Currently, the river gets too shallow for many boats outside of the harbor area.

The EPA's official decision on the project's scope, issued in 2000, calls for between 2 to 4 feet of contaminated sediment to be removed. A layer of gravel will be left in its place. The legacy act work would likely take it deeper.

Ryan said that in a perfect world the river would be 10 feet deep from 14th Street to Eighth Street and 14 feet deep from there to the lake.

"Navigation is a fringe benefit to pulling out those pollutants," Ryan said. "Whether we can achieve that is another story."

If they do, Ryan believes the economic impact would be huge.

"From a tourism standpoint, we could entertain cruise boats in our harbor, and wouldn't it be nice if you had a condo on the river and were able to park your boat out back," Ryan said.

**Coastal restoration in 2011 White House budget (Associated Press)**
**Story also appeared: WXVT News**

*Associated Press - February 3, 2010 5:34 AM ET*

NEW ORLEANS (AP) - In its 2011 budget proposal, the White House wants to spend $35.6 million on coastal restoration projects in Louisiana.

Garret Graves, a coastal adviser to Gov. Bobby Jindal, said the budget demonstrates that President Barack Obama is serious about fixing Louisiana's coastal problems.

But the amount for Louisiana fell far short of spending on restoration in other parts of the country. For example, the president's budget would give the Environmental Protection Agency $300 million for the Great Lakes Restoration Initiative and a combined $255 million to the Army Corps of Engineers and Interior Department for South Florida ecosystem restoration efforts.

The White House's budget proposals will be taken up by Congress.

**CA-POW files suit against Greece seeking to stop Dewey Avenue Wal-Mart (*RocNow*)**

Meaghan M. McDermott – Staff writer
Local News – February 3, 2010 - 5:00am

Alleging violations of the federal Clean Water Act, an environmental group has filed suit against Greece seeking to halt new development, including the construction of a Wal-Mart supercenter on Dewey Avenue.

The suit was filed Jan. 20 in U.S. District Court on behalf of Citizens Alert: Protect Our Waters (CA-POW). CA-POW attorney David Seeger said the group includes Greece and Monroe County residents, some of whom were also part of Residents Against Wal-Mart, a citizen’s group that last year lost a legal bid to prevent the 146,000 square-foot Wal-Mart from being built at Northgate Plaza.

According to the lawsuit, CA-POW alleges the town never properly adopted a storm water management plan as called for in the Clean Water Act. According to the Environmental Protection Agency, such plans are in place to minimize harm caused to bodies of water by storm water runoff. Runoff flows over land, parking lots, streets and rooftops, picking up contaminants, debris and chemicals that could affect overall water quality if left untreated. The suit also alleges the town has not and does not properly require developers to submit storm water pollution prevention plans for proposed construction sites.

Robert Koegel, an attorney representing the town, said the suit is without merit. He said the town has a storm water management plan as part of the Stormwater Coalition of Monroe County and complies with all aspects of the Clean Water Act.

“The town will vigorously oppose this lawsuit and will seek any and all costs or sanctions it can under the law,” he said.

Seeger said CA-POW is asking the court to declare that Greece is violating the Clean Water Act, enjoin the town from approving site plans, granting subdivision approvals or issue building permits for projects that did not comply with Clean Water Act provisions, and levy fines against the town.

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