**U. S. Environmental Protection Agency**
**E-Clips**
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Table of Contents
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## Wednesday, July 07, 2010


ADMINISTRATOR JACKSON ..... 4
EPA tells old coal power plants to upgrade pollution controls (*Los Angeles Times*) 4
Obama tightens limits on emissions in East (*Boston Globe*) ..... 5
EPA: Clean-air rule would overturn Bush-era plan (*Associated Press*) ..... 6
Story also appeared: *Washington Post, Houston Chronicle, Buffalo News, News & Observer, Fresno Bee, Seattle Post Intelligencer, Detroit News, Chicago Tribune, Charlotte Observer, Omaha World-Herald, Lexington Herald Leader, Austin American Statesman, Sacramento Bee, State, Los Angeles Times, Morning Call, Idaho, Statesman, Reuters, San Francisco Chronicle, Seattle Times, NewsMax* .... 6
EPA Air Quality Transport Rule Would Reduce Coal-Fired Power Plant Emissions (*WVNS*) ..... 7
EPA: Clean-air rule would overturn Bush-era plan (*Associated Press*) ..... 8
Ortiz Sends Letter to EPA Administrator (*Texas Insider*) ..... 9
EDITORIAL / OP-ED / COMMENTARY / LETTERS ..... 11
Sound science, not politics, should guide atrazine regulation (*Des Moines Register*) ..... 11
Overreaching EPA (*Great Fall*) ..... 12
Oil disaster should spark bold reform (*Atlanta Journal Constitution*) ..... 13
AIR ..... 15
E.P.A. Issues Rules to Cut Air Pollution From Coal (*New York Times*) ..... 15
EPA targets coal-fired power plants (*Los Angeles Times*) ..... 16
Carbon dioxide may endanger fish (*Los Angeles Times*) ..... 18
Clean-air rules aim to replace old plan (*Charlotte Observer*) ..... 19
EPA plan targets power plant pollution (*Wichita Eagle*) ..... 20
Clean Air Coalition to meet with EPA, DEC (*Tonawanda News*) ..... 22
EPA sets limits on interstate polluting (*St. Louis Post-Dispatch*) ..... 23
Utilities May Shut Smaller, Dirtier Plants Under U.S. EPA Rules (*Bloomberg*) ..... 24
Westport Engine Receives 2010 EPA Certification (*TruckingInfo*) ..... 27

TXI to keep Midlothian wet cement kilns closed (*Associated Press*) ..... 27
EPA targets pollution from power plants (*Baltimore Sun*) ..... 28
E.P.A. Issues Coal Air Pollution Rules (*New York Times*) ..... 30
EPA proposes new rule to cut air pollution from power plants (*West Virginia Public Broadcasting*) ..... 31
The Amazing Benefits of EPA's New Air Pollution Proposal (*OMB Watch*) ..... 31
EPA Proposes New Regs on Power Plant Pollution (*Main Public Broadcasting Network*) ..... 32
Ortiz urges resolution between federal, state regulatory agencies (*Corpus Christi Caller Times*) ..... 33
EPA Proposes to Cut Power-Plant Emissions in 31 States (*Wall Street Journal*) .. 34
EPA Proposes Reducing Pollution From Power-Plants (*Bloomberg Businessweek*) ..... 35
EPA unveils rules on smog-forming emissions from power plants (*Greenwire*) ..... 36
AWARDS ..... 38
MU power plant receives prestigious award from EPA (*UM Maneater*) ..... 38
BP SPILL ..... 40
Louisiana and Scientists Spar Over How to Block Oil's Approach (*New York Times*) ..... 40
Burying the spill (*Houston Chronicle*) ..... 42
More testing needed for giant oil skimmer in Gulf (*Palm Beach Post*) ..... 44
Abandoned well sites may pose risk to Gulf (*NewsOK.com*) ..... 45
Agencies Working To Create First-Time Oil Spill Human Health Registry (*Inside EPA)* ..... 48
BP continues to hold massive DOD contracts (*Greenwire*) ..... 50
Extent of ecological harm to Gulf unclear (*Columbus Dispatch*) ..... 51
CLIMATE CHANGE ..... 53
Global warming debate raged even during Nixon presidency (*Greenwire*) ..... 53
ENERGY ..... 54
EPA salutes Detroit Diesel plant for energy efficiency (*Refrigerated Transporter*) . 54
FREEDOM OF INFORMATION ..... 54
High Court Agrees To Review Case Seeking To Limit Key FOIA Exemption (*Inside EPA*) ..... 54
FUEL ..... 58
Bringing biofuels' benefits back home (*Kansas City Star*) ..... 58
Growing to E15? Delays raise doubt over EPA ruling on higher ethanol fuels (*MyWebTimes*) ..... 60
POLITICAL ..... 62
43 top agency jobs remain unfilled (*Washington Post*) ..... 62
SUPERFUND ..... 63
Rehberg questions EPA's responsibility on cleanup (*Western News*) ..... 63
TOXICS ..... 65
California moving closer to ban on BPA (*Plastic News*) ..... 65
EPA, CDC Crafting Pilot Program To Elevate Health Considerations In NEPA (*Inside EPA*) ..... 66

EPA Extends Certification Deadline for New Lead Paint Rule (*Professional Door Dealer*) ..... 68
WATER ..... 69
EPA finishing up Pavillion-area monitoring wells (*Associated Press*)..... 69
Post Falls approves suit against EPA (*Spokesman-Review*) ..... 70
Gulf of Mexico hides 27,000 abandoned wells (*Associated Press*)..... 70
Story also appeared: *Dallas Morning News* ..... 70
EPA ship to investigate dump site off Isles of Shoals (*Foster's Daily Democrat*) ... 72
A river's reckoning (*Milwaukee Journal Sentinel*)..... 73
AP IMPACT: Some 27,000 aging, abandoned wells in the Gulf possibly leaking but never inspected (*Los Angeles Times*) ..... 83

**ADMINISTRATOR JACKSON**

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**EPA tells old coal power plants to upgrade pollution controls (*Los Angeles Times*)**

A new rule aims to reduce emissions of sulfur dioxide and nitrogen oxide around and downwind of old coal-fired power plants east of the Mississippi, in keeping with an Obama campaign promise.

By Michael Hawthorne, Chicago Tribune

July 7, 2010

In a move that portends cleaner air in communities east of the Mississippi River, the Obama administration cracked down Tuesday on smog- and soot-forming pollution from coal-fired power plants in 31 states and the District of Columbia.

The proposed rule, which follows through on one of President Obama's campaign promises, renews an attempt by the Environmental Protection Agency to reduce pollution in areas around coal plants and in states downwind where air quality is hampered by sulfur dioxide and nitrogen oxide emissions.

Combined with other state and federal regulations, the rule will reduce sulfur dioxide emissions from 2005 levels by 71% by 2014, the EPA said. Nitrogen oxide emissions would drop by 52%.

The rule requires aging coal-fired power plants — many of which were built in the 1940s and '50s — to be upgraded with modern pollution controls. Scrubbers will need to be installed on more plants to cut back on sulfur dioxide emissions, and equipment known as selective catalytic reduction will be required to curb nitrogen oxides.

States will be allowed to engage in limited trading of pollution credits as long as each stays below a set emissions limit.

Coal plants are major sources of sulfur dioxide and nitrogen oxides, which combine in the atmosphere to form lung-damaging smog and the fine particles commonly known as soot. The rule is expected to cost $2.8 billion a year but promises greater benefits from fewer emergency room visits and early deaths.

"This rule is designed to cut pollution that spreads hundreds of miles and has enormous negative impacts on millions of Americans," EPA Administrator Lisa P. Jackson said in a statement. "We're working to limit pollution at its source, rather than waiting for it to move across the country."

The George W. Bush administration proposed a similar action, known as the Clean Air Interstate Rule. But in 2008, the U.S. Court of Appeals for the District of Columbia decided the EPA had overstepped its authority and ordered the agency to revise the rule.

As a result, many power companies scaled back their investments in pollution controls. Now those companies will have to decide whether it is more cost-effective to retrofit their dirtiest power plants or shut them down.

mhawthorne@tribune.com

**Obama tightens limits on emissions in East (*Boston Globe*)**

July 7, 2010 Wednesday
NEWS; National; Pg. 6
Obama tightens limits on emissions in East;
EPA targets coal-burning plant pollution
By Matthew Daly, Associated Press
WASHINGTON - The Obama administration is tightening restrictions on pollution from coal-burning power plants in the eastern half of the country, a key step to cut emissions that cause smog.

The Environmental Protection Agency said the rules, revealed yesterday, would cut sulfur dioxide emissions by 71 percent from 2005 levels by 2014 and nitrogen oxide emissions by 52 percent in the same time frame.

The regulation, known as the Clean Air Interstate Rule, requires 31 states from Massachusetts to Texas to reduce emissions that contribute to smog and soot and can travel long distances in the wind.

The agency predicted the rule would prevent about 14,000 to 36,000 premature deaths a year.

The rule would overturn and toughen rules issued during the administration of President George W. Bush.

More than a dozen states, along with environmental groups, sued the EPA several years ago, contending that the Bush administration ignored science and its own specialists when it decided in 2006 not to lower the nearly decade-old soot standard.

A federal judge threw out the Bush rule in 2008, but an appeals court later reinstated it, while ordering the EPA to make changes that better explain how the rule protects public health.

Lisa Jackson, EPA administrator, said the rule signed yesterday should improve air quality and public health in a broad swath of states, from New England down to Florida, over to Texas, and up to Minnesota.

``We're working to limit pollution at its source, rather than waiting for it to move across the country,'' Jackson said in a statement.

The proposed reductions should save more than $120 billion a year in avoided health costs and sick days and save thousands of lives each year, Jackson said.

Those benefits would far outweigh the estimated $2.8 billion annual cost of compliance, she said.

Environmental groups hailed the tougher rules as a step toward taming pollution from coal-fired power plants and solving the problem of one state's emissions harming residents in other states.

But industry groups said it will boost power prices and force many older coal-fired power plants to be closed.

Senator Tom Carper, a Democrat from Delaware, said the new rules will clean the air in Delaware and other Eastern states.

``As those of us who live in Delaware and other so-called tail pipe states on the East Coast know all too well, air pollution knows no boundaries," Carper said.

Even as Delaware has worked to clean its air, ``pollution from neighboring states has adversely affected the health of Delawareans for too long just by virtue of our location," he said.

**EPA: Clean-air rule would overturn Bush-era plan (*Associated Press*)**

**Story also appeared: *Washington Post, Houston Chronicle, Buffalo News, News & Observer, Fresno Bee, Seattle Post Intelligencer, Detroit News, Chicago Tribune, Charlotte Observer, Omaha World-Herald, Lexington Herald Leader, Austin American Statesman, Sacramento Bee, State, Los Angeles Times, Morning Call, Idaho, Statesman, Reuters, San Francisco Chronicle, Seattle Times, NewsMax***

By MATTHEW DALY
The Associated Press
Tuesday, July 6, 2010; 4:24 PM
WASHINGTON -- The Obama administration is proposing new rules to tighten restrictions on pollution from coal-burning power plants in the eastern half of the country, a key step to cut emissions that cause smog.
The Environmental Protection Agency said the new rules would cut sulfur dioxide emissions by 71 percent from 2005 levels by 2014 and nitrogen oxide emissions by 52 percent in the same time frame.
The regulation, known as the Clean Air Interstate Rule, requires 31 states from Massachusetts to Texas to reduce emissions that contribute to smog and soot and can travel long distances in the wind. The agency predicted the rule would prevent about 14,000 to 36,000 premature deaths a year.
The rule would overturn and toughen rules issued during the administration of former President George W. Bush.

A federal judge threw out the Bush rule in 2008, but an appeals court later reinstated it, while ordering the EPA to make changes that better explain how the rule protects public health.
More than a dozen states, along with environmental groups, sued the EPA several year ago, contending that the Bush administration ignored science and its own experts when it decided in 2006 not to lower the nearly decade-old soot standard.
EPA Administrator Lisa Jackson said the rule signed Tuesday should improve air quality and public health in a broad swath of states, from New England down to Florida, over to Texas and up to Minnesota.
"We're working to limit pollution at its source, rather than waiting for it to move across the country," Jackson said in a statement.
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Sen. Tom Carper, D-Del., said the new rule will clean the air in Delaware and other Eastern states.
"As those of us who live in Delaware and other so-called "tail pipe" states on the East Coast know all too well, air pollution knows no boundaries," Carper said.
Even as Delaware has worked to clean its air, "pollution from neighboring states has adversely affected the health of Delawareans for too long just by virtue of our location," he said.
Still, Carper called the new regulation complicated and open to further lawsuits, which would likely cause even more delays in meeting public health targets.
He said the rule underscores the need for Congress to pass strong air pollution legislation this year.
Jeff Holmstead, a former EPA official who authored the original interstate rule, said it was not clear whether utilities will be able meet the new standards while still providing affordable and reliable electric power.
Online:
http://www.epa.gov/airtransport/pdfs/FactsheetTR7-6-10.pdf

**EPA Air Quality Transport Rule Would Reduce Coal-Fired Power Plant Emissions (*WVNS*)**

Posted Tuesday, July 6, 2010 ; 04:20 PM
Updated Tuesday, July 6, 2010; 04:59 PM
The new rule is expected to avoid tens of thousands of premature deaths, nonfatal heart attacks and cases of acute bronchitis in 2014.
By Pam Kasey

The U.S. Environmental Protection Agency proposed new regulations July 6 to cut air pollution from coal-fired power plants.
By 2014, the proposed “transport rule” and other state and EPA actions would reduce sulfur dioxide, or SO2, emissions by 71 percent from 2005 levels. Nitrogen oxide, or NOx, emissions would drop by 52 percent.
The regulation targets power plants in 31 eastern states, including West Virginia, and the District of Columbia and is expected to reduce premature deaths by 14,000 to 36,000 a year by the time it is fully implemented in 2014.
SO2 and NOx react in the atmosphere to form fine particle pollution and ground-level ozone, or smog, which drift to other states where they cause health problems and interfere with states’ ability to meet air quality standards.
“We’re working to limit pollution at its source, rather than waiting for it to move across the country,” said EPA Administrator Lisa P. Jackson.
The transport rule is expected to yield more than $120 billion in annual health benefits in 2014, preventing not only premature deaths but nonfatal heart attacks, cases of acute bronchitis and aggravated asthma, and sick days.
Annual benefits outweigh the annual cost of compliance, which the agency estimates at $2.8 billion in 2014.
EPA expects that the emission reductions will be accomplished by proven and readily available pollution control technologies already in place at many power plants across the country.
The proposal would replace and improve upon the 2005 Clean Air Interstate Rule (CAIR), which the U.S. Court of Appeals for the D.C. Circuit ordered EPA to revise in 2008.
The agency proposes to set pollution budgets for each state and D.C. and seeks comment on alternatives that would allow interstate trading or only intrastate trading, or would set limits for each power plant and allow no trading but some averaging.
EPA will take public comment on the proposal for 60 days after the rule is published in the Federal Register.
The agency also will hold three public hearings, with dates and locations to be announced shortly.
Information may be found at EPA Air Transport Rule

**EPA: Clean-air rule would overturn Bush-era plan (*Associated Press*)**

By MATTHEW DALY (AP)
WASHINGTON — The Obama administration is proposing new rules to tighten restrictions on pollution from coal-burning power plants in the eastern half of the country, a key step to cut emissions that cause smog.
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Online:
http://www.epa.gov/airtransport/pdfs/FactsheetTR7-6-10.pdf

**Ortiz Sends Letter to EPA Administrator (*Texas Insider*)**

Posted By admin On July 6, 2010 @ 11:07 am In On The Record

Urges Continued Talks Between EPA, TCEQ
Texas Insider Report: Washington, D.C.—U.S. Representative Solomon P. Ortiz (D-Texas) has written the Administrator of the Environmental Protection Agency (EPA) to emphasize his concerns about continuing disagreement between Texas officials and the EPA over permitting for Texas petrochemical refiners and chemical plants under the federal Clean Air Act.
Ortiz told Administrator Lisa Jackson that he was pleased that the staff of EPA continue to work closely with the Texas Council on Environmental Quality to resolve differences on enforcement of the clean air law, but wants to be sure that area refineries and plants are not caught in the middle of a regulatory dispute.

July 2, 2010
The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
Dear Administrator Jackson:
My office continues to monitor the progress of discussions between the Environmental Protection Agency (EPA) and the Texas Council on Environmental Quality (TCEQ) concerning the flexible permit system submitted by TCEQ as part of its implementation of the Clean Air Act Amendments of 1990, and we are aware of EPA's disapproval this week of TCEQ's flexible permit program.
I understand, following disapproval of the Texas Flexible Permits Program, 30 TAC Chapter 122, Subchapter G, that EPA is working actively with TCEQ to put in place a federally enforceable permit process under the Clean Air Act, and in fact, discussing a process in which flexible permit holders and permit applicants can convert to Subchapter B permits from the State of Texas in as little as 45 to 60 days, if they wish. We also understand that some conversions to Subchapter B are already underway in which applicants have had as long as six months to review and analyze their permitting history, including monitoring, reporting and recordkeeping data, and as long as 24 to 30 months to complete the permitting process.
I know we all share a commitment to safeguard the public's health and protect our citizens from harmful air pollution. At the same time, I intend to do everything I can to ensure the uninterrupted operation of permit holders. As you know, there are several petrochemical refining and chemical facilities in the 27th Congressional District of Texas. They provide thousands of well-paying, stable jobs and are an anchor of the Texas economy. I want to be sure that they are not caught in the middle of a dispute over process between state and federal regulatory agencies.
I'm pleased that your staff continues to work closely and cooperatively with TCEQ to resolve differences in interpretation over enforcement of the federal statute. I hope you will keep my staff and I appraised of the progress of your discussions with TCEQ, and let us know if there is any way we can assist the process.

**EDITORIAL / OP-ED / COMMENTARY / LETTERS**
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Guest opinion:

**Sound science, not politics, should guide atrazine regulation (*Des Moines Register*)**

DON COURSEY is an economist at the University of Chicago who has studied atrazine for Syngenta Crop Protection, Inc. Contact: d-coursey@uchicago.edu. July 7, 2010

As the jobs forecast remains murky, federal policy makers should note a significant overhang that might yet impair both job creation and growth.

Regulation moves the margins of profitability. The uncertainty created by unanticipated regulatory review puts research, development and capital spending on hold An ill-founded result can devastate jobs for no reason.

A good example of this is taking place at the Environmental Protection Agency. EPA and its predecessors have regulated the agricultural herbicide atrazine for more than 50 years. EPA reviewed almost 6,000 studies before re-registering atrazine, several times more than similar compounds. In 2006, EPA finished an unprecedented 12-year review that included the largest multi-dose amphibian toxicological study ever. It found atrazine to be no threat to health or safety when used appropriately and scheduled its next product review for 2011.

Yet in late 2009, after Obama administration appointees took the reins at EPA, it announced an unplanned review of atrazine - citing a New York Times article and a report by longtime atrazine opponents at Natural Resources Defense Council, which called for a ban on atrazine.

The economics are clear. Based on studies I have conducted for an atrazine manufacturer, a gross, first-order estimate of banning atrazine shows between 21,000 and 48,000 jobs related to corn production will be lost, with additional job losses in both the sugar cane and sorghum industries. The range is wide because we have never before banned a product on which so many depend and for which suitable replacements have a wide variety of prices and application regimes.

Atrazine is widely used precisely because growers know it well and have learned its benefits. It does what it is supposed to do at a reasonable price.

In 2003, EPA said that losing atrazine would cost corn growers an additional $28 per acre, on average. This figure includes more expensive alternatives and lost yields because the alternatives are less effective (or farmers would use them now). My research, which refers to additional factors, brackets EPA's result, finding replacement costs between $26 and $58 per acre.

If these low and high estimates are multiplied over the 2009 U.S. corn acres to which atrazine was applied, one finds atrazine's corn production economic value between $2.3 billion and $5 billion. EPA's estimate - in 2003 dollars - of losing atrazine to corn, sorghum and sugar cane production was "in excess of" $2 billion per year.

Using 2009 figures, the cash value equivalent created per U.S. labor force member - including unemployed workers - is about $93,000. Dividing the totals of $2.3 billion and $5 billion, respectively, produces estimated corn-production related job losses of between 21,000 and 48,000.

Such a ban acts as a pure tax on corn production, so its impact will be felt distinctly in America's corn-growing rural heartland. Other losses, not included in the per-acre estimates, would be borne by society at large.

For instance, sedimentary runoff is the top pollutant of our streams and rivers. Atrazine makes conservation tillage possible for many corn growers, keeping soil on the land and out of our water. Losing this societal benefit will bring incalculable costs to community water systems, meaning average Americans.

Every incoming administration feels a need to differentiate itself from its predecessor. In the regulatory field, this can amount to "righting" perceived or real "wrongs." It is also normal for friends of any new administration to present their list of items on which they seek official vindication. This is why the safest course for the public - and the economy - is to maintain predictability by keeping sound science at the heart of regulatory decisions, not activist claims and heated rhetoric.

Unplanned reviews to satisfy implacable activists may bring political benefits, but wiping out established inputs based on anything less than clear and compelling science treats jobs and income cheaply - and expresses wanton indifference to our need for economic recovery.

July 6, 2010

**Overreaching EPA (*Great Fall*)**

I would like to express my gratitude to all U.S. Senators who recently voted against allowing the Environmental Protection Agency to impose an unprecedented level of regulation on American businesses and families. Unfortunately, Sens. Max Baucus and Jon Tester were not among those who stood up to the Obama administration's unwise regulation plan.

This bipartisan resolution, sponsored by Sen. Lisa Murkowski of Alaska, was designed to protect small business from the proposed EPA regulations. It failed by a 47-53 margin last Tuesday in the Senate. I'm encouraged because that vote signals that at least a few Democrats are willing to work across the aisle rather than blindly follow the administration. Hopefully, that bipartisan spirit can survive for the upcoming debate on the larger energy bill.

Any increase in the regulatory realm of the Clean Air Act under the EPA would not only be against the act's original intent, but would further weaken the U.S. economy. With one out of every 10 Americans unemployed, nearly every household in America has been affected by the economic downturn. What we need is to take advantage of every opportunity to grow businesses and jobs.

In order for our country to economically prosper, our energy companies must be free to push forward and develop new technology without having to fight off overreaching restrictions of the EPA.

Montana deserves better. I urge Sens. Tester and Baucus to stop the partisan politics and work across the aisle during the upcoming energy debates in Congress.

— Karli Hill, Lewistown

**Oil disaster should spark bold reform (*Atlanta Journal Constitution*)**

By Katharine Wilkinson and Sam Gill
8:47 a.m. Tuesday, July 6, 2010
As 20-somethings who grew up under the shadow of the Exxon-Valdez spill, we don't agree with those who believe Deepwater Horizon will create lasting momentum for energy reform. Even the president recently compared the spill to the 9/11 attacks, saying it would shape "how we think about the environment and energy for many years to come."

Far from an indelible mark on our national psyche, history tells us that the Gulf spill will be forgotten soon after the well is finally controlled.

Despite a succession of environmental catastrophes, our nation suffers from a short-term memory problem that inhibits sustained attention to addressing our dangerous reliance on fossil fuels. The lesson should be clear: If we don't act now, we never will.

We were 6 years old in March 1989, when the Exxon-Valdez oil tanker ran aground off the coast of Alaska. The images that followed — more than 10 million gallons of oil gushing into Prince William Sound, birds coated in black muck, and oil-stained shorelines — remained etched in our young minds.

In elementary schools on opposite ends of the country, we learned about the spill and the cleanup, and environmental protection became the subject of countless classroom activities. Like our teachers and parents, we assumed the dire lesson of Exxon-Valdez would stay with our generation, making us lifelong warriors for a cleaner environment. But soon the images faded and, for many of our peers, the passion subsided.

Every generation experiences an environmental disaster that captures the national spotlight, occasionally forces congressional action, and then rapidly fades from public view.

A June 1969 fire in the Cuyahoga River helped spur the modern environmental movement and propelled creation of the Clean Water Act and the EPA.

March 1979 saw the meltdown at Three Mile Island, and in April 1986, Reactor 4 at Chernobyl, Ukraine, set off the worst nuclear disaster in history — killing dozens and sickening thousands more.

The power of these catastrophic moments derives from the way they put intense scenes of devastation on display, making it impossible to discount the costs of environmental negligence. The drama is critical. Polls show that issues such as jobs, the economy and national security routinely trump environmental concerns. Just three months ago, a Gallup/USA Today poll asked whether we should protect the environment if it risked economic growth, or focus on growth even if it harmed the environment. Over half (53 percent) chose the economy.

By the end of May, the numbers had reversed: 50 percent sided with the environment, and only 43 percent stuck with economic growth.

This same trend has created a rare opportunity for the prospect of a new energy bill — which only weeks ago had been left for dead. Recent polling by Joel Benenson, one of President Barack Obama's pollsters, shows that support for clean energy and fossil fuel regulation enjoys substantially higher support now than in early May.

Energy and pollution reform suddenly appeals to voters far beyond the traditional "Green Base" of liberal Democrats. Nearly two-thirds (63 percent) of independents support an energy bill, as do a large minority of Republicans (45 percent — compared to 47 percent who oppose).

When major environmental disasters strike, we tend to treat them as if they accrue in our collective consciousness over time, each contributing to the overall reform cause.

But they are actually much more fleeting. They tend to provoke strong initial reactions but soon retreat from public view.

Deepwater Horizon may be the closest we'll come to feeling the effects of our fossil fuel addiction here and now.

Now it’s time for Washington to capitalize on this moment before it passes — as it almost surely will. In time, we may erase the stain of oil from the Gulf. National support for energy reform is likely to fade much more quickly.

Katharine Wilkinson of Atlanta and Sam Gill of Minneapolis were Rhodes Scholars at the University of Oxford.

**AIR**

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**E.P.A. Issues Rules to Cut Air Pollution From Coal (*New York Times*)**

July 7, 2010 Wednesday
Late Edition - Final
Section A; Column 0; National Desk; Pg. 10
By JOHN M. BRODER
WASHINGTON -- Acting under federal court order, the Obama administration proposed new air-quality rules on Tuesday for coal-burning power plants that officials said would bring major reductions in soot and smog from Texas to the Eastern Seaboard.

The Environmental Protection Agency is issuing the rules to replace a plan from the administration of President George W. Bush that a federal judge threw out in 2008, citing numerous flaws in the calculation of air-quality effects.

Gina McCarthy, head of the E.P.A.'s air and radiation office, said the new rules would reduce emissions of sulfur dioxide and nitrogen oxides by hundreds of thousands of tons a year and bring $120 billion in annual health benefits. Those benefits, Ms. McCarthy said, include preventing 14,000 to 36,000 premature deaths, 23,000 nonfatal heart attacks, 21,000 cases of acute bronchitis, 240,000 cases of aggravated asthma and 1.9 million missed school and work days.

The rule would substantially reduce the unhealthy smog that shrouds American cities, especially during heat waves like the one now enveloping much of the East.

The cost of compliance to utilities and other operators of smog-belching power plants would be $2.8 billion a year, according to E.P.A. estimates.

"This is attempting to give people cleaner air to breathe," Ms. McCarthy said.

The proposed regulation will require utilities operating coal-burning plants to install scrubbers and other technology to reduce emissions of the pollutants. Some companies

may decide to retire older plants rather than invest in new control measures because other new rules under the Clean Air Act are expected in the coming years.

A spokesman for the utility industry said companies had already achieved large reductions in the pollutants since 1990.

"E.P.A.'s new proposal would require dramatic reductions in power-sector emissions, on top of major reductions to date, on a very short timeline," said Dan Riedinger of the Edison Electric Institute, the main lobby for the utilities.

The companies were grateful, Mr. Riedinger said, that they would be allowed to trade emissions permits, but the prospect of tougher standards on other pollutants beginning in 2012 created "a great deal of regulatory uncertainty."

Environmental advocates welcomed the new rules, saying they were better than those proposed by the Bush administration and more likely to survive legal challenge. But they also said that the E.P.A. still had a lot of work to do.

"The E.P.A. proposal is a big step in the right direction," said Frank O'Donnell of Clean Air Watch, an advocacy group. "It's a step toward taming the environmental beast known as the coal-fired power plant. But it is only a first step. E.P.A. still needs to move ahead with plans next year to limit power plant emissions of toxic mercury and other hazardous air pollutants."

The new rules do not address power plant emissions of carbon dioxide and five other pollutants that contribute to global warming. The Obama administration is moving forward with a plan to phase in regulation of such heat-trapping gases, a move that is being challenged in Congress and in the courts.

The pollutants being singled out in the new rule making -- sulfur dioxide and nitrogen oxides -- react in the atmosphere to form fine particles (soot) and ground-level ozone (smog). They are easily carried by the wind and affect states and cities far downwind from the plants where they are produced. The proposed regulation, called a transport rule, would apply to power plants in 31 states east of the Rockies, with the exception of the Dakotas, Vermont, New Hampshire and Maine.

The agency will hold hearings in the coming months.

**EPA targets coal-fired power plants (*Los Angeles Times*)**

July 7, 2010 Wednesday
Home Edition
MAIN NEWS; National Desk; Part A; Pg. 11
EPA targets coal-fired power plants;
The goal is to upgrade and cut emissions that foul the air in states east of the Mississippi.

By Michael Hawthorne
In a move that portends cleaner air in communities east of the Mississippi River, the Obama administration cracked down Tuesday on smog- and soot-forming pollution from coal-fired power plants in 31 states and the District of Columbia.

The proposed rule, which follows through on one of President Obama's campaign promises, renews an attempt by the Environmental Protection Agency to reduce pollution in areas around coal plants and in states downwind where air quality is hampered by sulfur dioxide and nitrogen oxide emissions.

Combined with other state and federal regulations, the rule will reduce sulfur dioxide emissions from 2005 levels by 71% by 2014, the EPA said. Nitrogen oxide emissions would drop by 52%.

The rule requires aging coal-fired power plants -- many of which were built in the 1940s and '50s -- to be upgraded with modern pollution controls. Scrubbers will need to be installed on more plants to cut back on sulfur dioxide emissions, and equipment known as selective catalytic reduction will be required to curb nitrogen oxides.

States will be allowed to engage in limited trading of pollution credits as long as each stays below a set emissions limit.

Coal plants are major sources of sulfur dioxide and nitrogen oxides, which combine in the atmosphere to form lung-damaging smog and the fine particles commonly known as soot. The rule is expected to cost $2.8 billion a year but promises greater benefits from fewer emergency room visits and early deaths.

"This rule is designed to cut pollution that spreads hundreds of miles and has enormous negative impacts on millions of Americans," EPA Administrator Lisa P. Jackson said in a statement. "We're working to limit pollution at its source, rather than waiting for it to move across the country."

The George W. Bush administration proposed a similar action, known as the Clean Air Interstate Rule. But in 2008, the U.S. Court of Appeals for the District of Columbia decided the EPA had overstepped its authority and ordered the agency to revise the rule.

As a result, many power companies scaled back their investments in pollution controls. Now those companies will have to decide whether it is more cost-effective to retrofit their dirtiest power plants or shut them down.

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**Carbon dioxide may endanger fish (*Los Angeles Times*)**

July 7, 2010 Wednesday
Home Edition
MAIN NEWS; bad desk code; Science Desk; Part A; Pg. 6
Carbon dioxide may endanger fish;
After high exposure to the greenhouse gas, they swim toward the smell of predators.
By Amina Khan
The ocean's rising carbon dioxide levels may cause many coral reef fish to swim toward the smell of predators rather than away from them, and thus toward likely death, marine ecologists said Tuesday.

The greenhouse gas' ability to alter fish behavior for the worse points to an "unexpected potential impact of elevated carbon dioxide in the oceans," said Philip Munday, a marine ecologist at James Cook University in Queensland, Australia.

Much study has been done on the effects of ocean acidification on coral and shelled animals, but little on how the effects would manifest in other forms of marine life, said Munday, who led the study published Tuesday in the Proceedings of the National Academy of Sciences. "What we wanted to find out was how it affects those that don't have a skeleton on their outside."

The scientists put larval fish in water enriched with various levels of carbon dioxide, whose concentration in the oceans has been rising as a result of rising levels in Earth's atmosphere. The lowest was 390 parts per million (the current level in the ocean) and the highest 850 ppm (which the scientists estimated would be the carbon dioxide level in the water by the end of the century if current trends continue). Then the scientists allowed each of the larval fish to pick a water source, one that had been scented with a predator's chemical signature or one that was clear of dangerous smells.

They did the experiment twice: once with baby clownfishes raised in captivity and once with wild-caught young damselfishes.

Many coral reef fish can smell nearby predators, a key ability, biologists said, given what an appetizing snack larval fish make for rock cod, dottybacks and other larger fish.

"They're kind of like Hershey's Kisses ... everybody's after them," said Mark Hay, a marine ecologist at the Georgia Institute of Technology, who was not involved in the study.

Normally, larval fish would flee from the predator odors. But fish exposed to the highest levels of carbon dioxide in the experiment did not. They even seemed to be attracted to the very odor that should have set off their neuronal alarms.

The scientists then tested these fish in the ocean. They lopped off pieces of coral reef and moved them to empty spots in the sand, making temporary one-fish habitats.

Experienced scuba divers discreetly watched each fish as it swam around its new home.

They found that the fish that had spent time in the highest levels of carbon dioxide ventured farther away from their coral and acted much more boldly than their counterparts in normal water -- striking aggressively at food and exploring without trying to hide, for example. They were also five to nine times more likely to die.

In other words, merely having been exposed to higher levels of carbon dioxide altered the behavior of the fish for some time after they were again in water with normal levels.

Hay said the study's findings raised questions, such as how carbon dioxide affects a fish's ability to smell and whether the findings are applicable to many other types of fish and marine life. But he said the study shows that the effects of greenhouse gases on marine life could be far more complex and far-reaching than thought.

"Most organisms don't have eyes, don't have ears; they rely extraordinarily deeply on those [chemical] cues to decide whether to eat the next thing or run from it or mate with it," he said. "Here's an example of dramatic alteration in the [biological] machinery ... that would be catastrophic for young fish."

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**Clean-air rules aim to replace old plan (*Charlotte Observer*)**

July 7, 2010
WASHINGTON  The Obama administration is proposing new rules to tighten restrictions on pollution from coal-burning power plants in the eastern half of the country, a key step to cutting emissions that cause smog.

The Environmental Protection Agency said the new rules would cut sulfur dioxide emissions by 71 percent from 2005 levels and nitrogen oxide emissions by 52 percent, both by 2014 .

The regulation, known as the Clean Air Interstate Rule, requires 31 states from Massachusetts to Texas to reduce emissions that contribute to smog and soot and can travel long distances in the wind. The agency predicted the rule would prevent about 14,000 to 36,000 premature deaths a year.

The rule would overturn and toughen rules issued during the administration of former President George W. Bush.

A federal judge threw out the Bush rule in 2008, but an appeals court later reinstated it, while ordering the EPA to make changes that better explain how the rule protects public health.

More than a dozen states, along with environmental groups, sued the EPA several year ago, contending that the Bush administration ignored its own experts when it decided in 2006 not to lower the nearly decade-old standard.

The proposed reductions should save more than $120 billion a year in avoided health costs and sick days and save thousands of lives each year, Jackson said. Those benefits would far outweigh the estimated $2.8 billion annual cost of compliance, she said.

Environmental groups hailed the new rule as a step toward taming pollution from coal-fired power plants and solving the problem of one state's emissions harming residents in other states.

But industry groups said it will boost power prices and force many older coal-fired power plants to be closed.

**EPA plan targets power plant pollution (*Wichita Eagle*)**

July 7, 2010
WASHINGTON — The Environmental Protection Agency on Tuesday proposed a new federal plan to reduce the pollution from electric power plants that wafts hundreds of miles across state lines.

The new rule would require pollution reductions in 31 states, including Kansas, and the District of Columbia — most of the eastern half of the U.S., from Texas and Minnesota to the coast.

To make the cuts, power plants would be required to install new equipment or use lower-sulfur fuels.

The plan is one of the most significant steps the EPA has taken toward cleaning the air for millions of Americans who live in areas where the quality of the air doesn't meet national standards.

It comes after many months of planning since a federal court ordered the EPA to revise its 2005 Clean Air Interstate Rule. Coincidentally, it was announced in the middle of a heat wave along the East Coast, where smoggy air was at unhealthy levels from North Carolina to New York state.

Smog aggravates asthma and acute bronchitis and is linked to heart attacks. The EPA estimates that when the new plan is fully in effect in 2014 it will save as many as 36,000

lives a year. The agency says the rule also would improve visibility in parks and help protect natural environments that pollution has harmed, including Appalachian streams, lakes in the Adirondack Mountains and coastal waters.

"What this is attempting to do is give people cleaner air to breathe," said Gina McCarthy, EPA's assistant administrator for air and radiation.

The EPA estimated that electricity prices would increase less than 2 percent as a result of the pollution reduction requirements. It estimated that the benefits, mostly from better public health, would be $120 billion to $290 billion annually by 2014, and the compliance cost would be $2.8 billion per year.

The new rule won't become final until after a 60-day public comment period, expected to begin later this month. The final rule is expected by mid-2011.

The plan calls for the federal government to set a pollution limit for each state that produces pollution that crosses into another state. The previous plan allowed for a regional rather than state-by-state limit.

Only limited trading of pollution permits among states would be allowed. The earlier EPA plan, from the Bush administration, allowed regional trading.

Plan begins in 2012

If the plan becomes final, states will be required to reduce sulfur dioxide and nitrogen oxide emissions that cross state lines beginning in 2012, within a year after the rule is finalized. By 2014, the rule and other state and EPA actions would reduce power plant sulfur dioxide emissions by 71 percent over 2005 levels and nitrogen oxide emissions by 52 percent.

"Power plants spew so much of these pollutants that they must be cleaned up if our nation hopes to reduce the burden of ozone smog and particle pollution in the East and Midwest," Charles Connor, president of the American Lung Association, said in a statement. He said the new rule was an important step forward but needed to be strengthened.

Dan Riedinger, a spokesman for the Edison Electric Institute, an industry group for power plants, said the power industry already had reduced emissions over the past two decades. He said the EPA's proposal would require "dramatic reductions in power sector emissions, on top of major reductions to date, on a very short timeline." In addition, he said, a further change in the ozone standard that's expected soon "leaves the power sector exposed to a great deal of regulatory uncertainty."

The new rule applies to all power plants, but coal is the most polluting fuel.

The EPA is planning other pollution reductions — including stricter standards for ozone, or smog — later this year. It's expected to tighten restrictions on mercury and other hazardous pollutants, as well. The agency also is considering whether to regulate coal ash as a hazardous waste. A combination of these regulations would add costs for coal-fired power plants.

The EPA's McCarthy said the transport rule by itself wasn't likely to force any of the country's older and dirtier coal plants to shut down.

July 7, 2010

**Clean Air Coalition to meet with EPA, DEC (*Tonawanda News*)**

Staff Reports The Tonawanda News
TOWN OF TONAWANDA — The Clean Air Coalition of WNY is hosting a public meeting tonight to brief residents on improvements made at the embattled Tonawanda Coke facility on River Road.

Representatives from the Environmental Protection Agency and the state Department of Environmental Conservation will attend the meeting, scheduled for 7 p.m. at the Sheridan Parkside Community Center.

The Clean Air Coalition has been working since April to schedule tonight's meeting to get an update from regulators on getting Tonawanda Coke to improve its practices.

In January, the EPA issued Tonawanda Coke three notices of violations documenting dozens of air, water and hazardous waste violations, while mandating that the company make significant improvements in the plant or be subject to fines up to $37,500 each day the plant is out of compliance.

The EPA said the plant was in violation of the Clean Air Act for uncontrolled releases of ammonia and benzene.

Last month the DEC issued three more violation notices accusing Tonawanda Coke of pollution-related violations.

The DEC also charged that the plant violated its air permit and the requirements of a 1981 consent order, which set strict limits on emissions caused by leaks.

Tonawanda Coke is owned by J.D. Crane, whose facility in Erie, Pa., also has come under fire for similar violations. The Clean Air Coalition recently met with environmental groups in Erie to see how they've worked to get Erie Coke to clean up its operations.

Tonight's presentation will provide information on the changes the plant has made since the violation notices were issued. Federal and state regulators have been directly

involved in the compliance work at Tonawanda Coke, and will provide a complete overview of the improvements made.

A question and answer session will follow.

In addition to tonight's meeting, the Clean Air Coalition will host Jim Bowers from the New York State Department of Health at 7 p.m. July 15, also at the Sheridan Parkside Community Center.

Bowers will share information on the health study that was conducted for Tonawanda.

**EPA sets limits on interstate polluting (*St. Louis Post-Dispatch*)**

July 7, 2010
WASHINGTON • The Environmental Protection Agency on Tuesday proposed a new federal plan to reduce the pollution from electric power plants that wafts hundreds of miles across state lines.

The new rule would require pollution reductions in 31 states, including Missouri and Illinois, and the District of Columbia. To make the cuts, power plants would be required to install new equipment or use lower-sulfur fuels.

The plan calls for the federal government to set a pollution limit for each state that produces pollution that crosses into another state. A previous plan, enacted under President George W. Bush, allowed for a regional rather than state-by-state limit.

If the new plan becomes final, states will be required to reduce sulfur dioxide and nitrogen oxide emissions that cross state lines beginning in 2012. Only limited trading of pollution permits among states would be allowed. The Bush administration plan allowed regional trading.

The new plan aims to improve air quality in areas that don't meet national standards and comes after several months of planning since a federal court ordered the EPA to revise its 2005 Clean Air Interstate Rule.

"What this is attempting to do is give people cleaner air to breathe," said Gina McCarthy, the EPA's assistant administrator for air and radiation.

The new rule won't become final until after a 60-day public comment period, expected to begin later this month. The final rule is expected by mid-2011.

The new rule would apply to all power plants, but coal plants, which are used widely across the Midwest, use the most polluting fuel.

McCarthy said the transport rule by itself wasn't likely to force any of the country's older and dirtier coal plants to shut down. But the EPA also is planning other pollution reductions — including stricter standards for ozone, or smog — later this year. It's expected to tighten restrictions on mercury and other hazardous pollutants as well.

The agency also is considering whether to regulate coal ash as a hazardous waste. A combination of these regulations would add costs for coal-fired power plants.

The EPA estimates that electricity prices would increase less than 2 percent as a result of the pollution reduction requirements proposed Tuesday. The cost to the industry is estimated at $2.8 billion per year.

But Dan Riedinger, a spokesman for industry group Edison Electric Institute, said the EPA's proposal would require "dramatic reductions in power sector emissions, on top of major reductions to date, on a very short timeline." In addition, he said, a further change in the ozone standard that's expected soon "leaves the power sector exposed to a great deal of regulatory uncertainty."

Proponents of the changes point to the expected savings in other areas. The EPA estimated that the benefits of the new rules, mostly from better public health, would be $120 billion to $290 billion annually by 2014.

"Power plants spew so much of these pollutants that they must be cleaned up if our nation hopes to reduce the burden of ozone smog and particle pollution in the East and Midwest," Charles Connor, the president of the American Lung Association, said in a statement. He said the new rule was an important step forward but needed to be strengthened.

**Utilities May Shut Smaller, Dirtier Plants Under U.S. EPA Rules (*Bloomberg*)**

July 07, 2010, 1:16 AM EDT
By Kim Chipman
July 7 (Bloomberg) -- The Obama administration proposed tougher air pollution rules for 31 states from Massachusetts to Texas that may lead energy companies to shut some power plants.

American Electric Power Co., the biggest U.S. producer of coal-fueled electricity, and Southern Co., the second largest, are among companies that may be affected by the regulations announced yesterday by the Environmental Protection Agency to curb smog and acid rain. The rules would take effect in 2012.

“It’s generally a negative for all of them,” Kevin Book, managing director at ClearView Energy Partners LLC, a Washington-based policy analysis firm, said in an interview. “They are either going to have to buy new technology, switch the fuel they use or shut down plants.”

The rules, tightening those issued by the Bush administration five years ago for pollution that crosses state lines, would add $2.8 billion in annual costs for utilities, the EPA said yesterday.

The regulations will probably trigger the closing of the “smallest and dirtiest coal plants” when coupled with new limits expected from the EPA for mercury emissions from coal-fired generators, K. Whitney Stanco, a Washington-based analyst with Concept Capital, said in a research note to clients yesterday before the rules were announced.

The agency doesn’t know whether the regulations would result in shutting plants, Gina McCarthy, the EPA’s assistant administrator, said on a conference call yesterday with reporters.

The EPA said the regulations would result in more than $120 billion in annual health benefits in 2014, protecting Americans against illnesses from asthma to heart attacks that have been linked to air pollution.

Breathing Unhealthy Air

“Millions of people continue to breathe unhealthy air,” McCarthy said.

The Obama regulations would cut sulfur dioxide, which produces acid rain, by 71 percent by 2014 from 2005 levels, according to the EPA. It would reduce nitrogen oxide, the cause of smog, by 52 percent over the same period.

A federal court rejected in 2008 the regulations issued under President George W. Bush, saying the EPA sought to create an unlawful emissions-trading program. The Obama administration’s proposed rewrite of those rules would limit trading of pollution rights while slashing permitted levels of pollutants.

The standard for sulfur dioxide is more stringent than Bush’s and starts earlier than had been expected, an industry group said.

‘Very Short Timeline’

“EPA’s new proposal would require dramatic reductions in power-sector emissions, on top of major reductions to date, on a very short timeline,” Dan Riedinger, a spokesman for the Edison Electric Institute, a Washington-based trade association representing utility companies including AEP, Southern and Duke Energy Corp., said in a statement yesterday. The standard “leaves the power sector exposed to a great deal of regulatory uncertainty.”

The new regulations, known as transport rules, would protect the public from the health dangers better than those issued under Bush, and the requirements would achieve “greater reductions more quickly,” McCarthy of the EPA said.

“This rule represents an important and necessary step to cut the harmful air pollution that forms smog and deadly soot pollution from the industrial sector most responsible for these emissions,” the Natural Resources Defense Council, a New York- based environmental group, said in a statement.

The proposal caused the sulfur-dioxide emissions market to trade lower yesterday, in part because the rules appear to eliminate the ability to use surplus sulfur-dioxide trading permits, Paul Tesoriero, director of environmental trading at Evolution Markets LLC in White Plains, New York, said in an interview.

Limited Cap-and-Trade

The EPA is proposing that emissions be reduced through a limited cap-and-trade system among the states and Washington, D.C., letting companies that exceed their pollution limits buy credits from those that pollute less.

The EPA also proposed two alternative approaches, one that would permit emissions trading only within a state and another that would enable a company to trade pollution rights among its own power plants.

“These are pretty aggressive cuts,” Tesoriero said. “Companies are going to have to figure out a way to meet the reductions. They will have to put in controls faster than they possibly thought they would have to.”

Duke Commenting Later

Duke Energy spokesman Tom Williams said the Charlotte, North Carolina-based company would release a statement during the EPA’s 60-day public comment period for the rules. Duke, the third-largest operator of U.S. coal-burning power plants, had sued to overturn a part of the Bush administration’s rule that based emissions-trading allowances on 20-year-old data.

Melissa McHenry, a spokeswoman for Columbus, Ohio-based AEP, said the company is reviewing the EPA’s statement. Valerie Hendrickson, a spokeswoman for Atlanta-based Southern Co., the second-biggest U.S. utility owner, didn’t return calls seeking comment yesterday.

Under Bush’s rules, the cap on sulfur dioxide would have been about 4.66 million tons a year, while the proposed regulations would permit about 3.4 million tons a year, Book said.

“This is another example of the Obama administration trying to be very aggressive in satisfying their environmental constituency,” Jeff Holmstead, a former assistant administrator at the EPA and now a partner at Bracewell & Giuliani LLP in Washington,

said in an interview. “The industry will be surprised just how tight the sulfur dioxide caps are.”

--With assistance from Simon Lomax in Washington and Allison Bennett in New York.
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7/7/2010

**Westport Engine Receives 2010 EPA Certification (*TruckingInfo*)**

Westport Innovations' GX 2010 15L engine has been certified by the Environmental Protection Agency to 2010 emissions standards.
The GX engine is certified and compliant to U.S. EPA 2010 emission limits of no more than 0.2 g/bhp-hr (grams per brake horsepower-hour) of nitrogen and 0.01 g/bhp-hr of particulate matter (PM) without the use of emissions credits.

"With EPA certification, Westport's GX engine meets the most stringent current North American emissions standards, in addition to providing fleets the energy security and robust performance the GX is known for," said Jonathan Burke, vice president of GX sales and market development at Westport. "2010 trucks with the Westport GX engine, now available for sale to interested customers in North America, will have superior fuel economy while maintaining high reliability and performance."

**TXI to keep Midlothian wet cement kilns closed (*Associated Press*)**

By TERRY WALLACE (AP)
DALLAS — Texas Industries announced Tuesday that it will close all four of its wet-process cement kilns in Midlothian permanently, handing a victory to grass-roots opponents who had waged a lengthy fight over downwind pollution from the plants.
The TXI plant in Midlothian, 25 miles southwest of Dallas, is part of the nation's greatest concentration of cement plants.
The Dallas-based construction materials company said in a statement that, henceforth, it would rely on the plant's dry-process kiln that the citizen activists agree burns cleaner and uses more up-to-date technology.
"It's the culmination of a 21-year fight that began in 1989 by a group of residents who found that burning hazardous waste in cement kilns was not a good idea," said Jim Schermbeck, director of the group Downwinders at Risk.

TXI called the closings "an opportunity to enhance the operational efficiency of TXI's modern (dry-process) kiln at the same plant," as well as "result in reduced emissions." The company said the move will have no effect on the present force of 170 workers at the plant.
The decision does not call for demolition of the four wet kilns, which had been idled since 2008 by a construction market shrunken by the economic recession, said TXI spokesman David Perkins. However, upgrades to the 50-year-old units would be impractical, he said.
As for future demolition, "obviously that will be a consideration," Perkins said.
Aside from TXI's dry-process kiln, the move leaves two dry-process cement kilns run in Midlothian by Waltham, Mass.-based Holcim (US) Inc. and three wet-process cement kilns run by Overland Park, Kan.-based Ash Grove Cement Co. Schermbeck said the cement kiln fight would now focus on the Ash Grove kilns.
A message left with an Ash Grove spokeswoman Tuesday was not returned.
State, local or industry officials had long said decades of studies prove the air around the nation's largest concentration of cement plants is just fine. Residents, however, have reported a list of health woes they have attributed to air pollution from the plants.
In Midlothian, the plants are tightly clustered a few miles apart in this town of about 16,000 just south of Dallas. The factories, with 10 massive kilns that bake limestone and other ingredients into cement at temperatures up to 2,800 degrees, can produce up to 6 million tons of cement a year by a pollution-producing process fueled mostly by coal, hazardous waste or old tires.
According to the most recent EPA statistics, the plants in 2007 emitted about 300 tons of sulfuric acid, nearly 20 tons of benzene, and smaller amounts of mercury, chromium, manganese and other chemicals. Those emissions were within the annual limits allowed on their state emissions permits.
The announcement came six days after the U.S. Environmental Protection Agency officially overturned a 16-year-old Texas air permitting program it says violates the Clean Air Act. However, Perkins said that was not a factor in TXI's decision

**EPA targets pollution from power plants (*Baltimore Sun*)**

Proposed rule could make Maryland's air cleaner
By Timothy B. Wheeler, The Baltimore Sun
8:14 PM EDT, July 6, 2010
As Maryland and much of the Northeast suffered through unhealthy air quality Tuesday, the Environmental Protection Agency proposed new curbs on power plant pollution that drifts from the Midwest across the eastern United States.
EPA's "transport rule" would target power plant emissions in 31 states and the District of Columbia, aiming to reduce smog and soot pollution that is tied to premature deaths, asthma, heart attacks and other health problems.
The rule was drawn up to replace an interstate air pollution regulation adopted by the Bush administration in 2005, which a federal court ordered the EPA to redo two years ago. It is expected to reduce emissions of sulfur dioxide by 71 percent by 2014 and of

nitrogen oxide by 52 percent. The two pollutants form fine particulate or soot pollution and ground-level ozone, or smog, which are linked to widespread health problems, including missed school and work.

"This enables the Clean Air Act to work as intended," said Gina McCarthy, the assistant EPA administrator. "It'll help downwind states attain health-based standards."

Jay Apperson, spokesman for the Maryland Department of the Environment, said the EPA action should help clean the state's air, since officials estimate that up to 70 percent of the ozone detected in Maryland drifts here from other places.

The EPA analysis said the curbs would help eliminate unhealthful levels of fine particulate or soot pollution in Baltimore by 2014 and would help keep ozone pollution from slipping back into unhealthful levels in Anne Arundel County. But Apperson said that the EPA was relying on old information and that both areas now meet federal air-quality standards.

Maryland's Healthy Air Act, adopted in 2006, requires the state's power plants to reduce sulfur dioxide by 85 percent and sulfur dioxide by 75 percent, Apperson said.

However, further reducing emissions by power plants in other states should help Maryland improve its air quality, Apperson said. The EPA had announced earlier this year that it plans to lower the threshold for safe exposure to ground-level ozone, saying that research indicates harmful effects at lower levels than the current standard allows. EPA officials said the agency probably would call for further emissions cuts in 2012.

Environmentalists applauded the EPA move, but said more action is needed to prevent health problems caused by air pollution.

"You couldn't find a day more appropriate to say we need to do more to clean up the air," said Frank O'Donnell of Clean Air Watch in Washington.

While Maryland's air quality has improved, it still experiences periods of harmful smog. On Tuesday, ozone in Maryland reached "Code Red" levels for the second straight day, bad enough that experts urge that everyone — not just people with breathing or heart problems — stay indoors. The "Code Red" level was measured in Davidsonville in Anne Arundel County. "Code Orange" levels were detected in five other places, including Essex and Edgewood, with children and sensitive individuals urged to limit time outdoors.

But an industry lobbyist warned that the proposed rule risks power brownouts in the East.

Scott Segal, a lawyer with Bracewell-Guiliani in Washington, said the new rule is "significantly more stringent" than the one produced by the Bush administration. He contended that it would raise the cost of generating power and could prompt some plants to close.

McCarthy said she did not expect power companies to close plants rather than upgrade them to meet stricter emissions limits.

The regulation proposes allowing companies to buy and trade emissions credits, though there is less latitude than under the Bush rule. The EPA estimates health and lost-work benefits at $120 billion, including tens of thousands fewer premature deaths and heart attacks, which the agency says far outweighs the projected compliance costs of $2.8 billion.

But McCarthy said she expects that the proposed regulation will be challenged in court once it's finalized, which would occur after a 60-day period for comment.

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July 6, 2010

**E.P.A. Issues Coal Air Pollution Rules (*New York Times*)**

By JOHN M. BRODER
WASHINGTON — Acting under federal court order, the Obama administration proposed new air-quality rules on Tuesday for coal-burning power plants that officials said would bring major reductions in soot and smog from Texas to the Eastern Seaboard.
The Environmental Protection Agency is issuing the rules to replace a plan from the administration of President George W. Bush that a federal judge threw out in 2008, citing numerous flaws in the calculation of air-quality effects.
Gina McCarthy, head of the E.P.A.'s air and radiation office, said the new rules would reduce emissions of sulfur dioxide and nitrogen oxides by hundreds of thousands of tons a year and bring $120 billion in annual health benefits. Those benefits, Ms. McCarthy said, include preventing 14,000 to 36,000 premature deaths, 23,000 nonfatal heart attacks, 21,000 cases of acute bronchitis, 240,000 cases of aggravated asthma and 1.9 million missed school and work days.
The rule would substantially reduce the unhealthy smog that shrouds American cities, especially during heat waves like the one now enveloping much of the East.
The cost of compliance to utilities and other operators of smog-belching power plants would be $2.8 billion a year, according to E.P.A. estimates.
"This is attempting to give people cleaner air to breathe," Ms. McCarthy said.
The proposed regulation will require utilities operating coal-burning plants to install scrubbers and other technology to reduce emissions of the pollutants. Some companies may decide to retire older plants rather than invest in new control measures because other new rules under the Clean Air Act are expected in the coming years.
A spokesman for the utility industry said companies had already achieved large reductions in the pollutants since 1990.
"E.P.A.'s new proposal would require dramatic reductions in power-sector emissions, on top of major reductions to date, on a very short timeline," said Dan Riedinger of the Edison Electric Institute, the main lobby for the utilities.
The companies were grateful, Mr. Riedinger said, that they would be allowed to trade emissions permits, but the prospect of tougher standards on other pollutants beginning in 2012 created "a great deal of regulatory uncertainty."
Environmental advocates welcomed the new rules, saying they were better than those proposed by the Bush administration and more likely to survive legal challenge. But they also said that the E.P.A. still had a lot of work to do.
"The E.P.A. proposal is a big step in the right direction," said Frank O'Donnell of Clean Air Watch, an advocacy group. "It's a step toward taming the environmental beast known as the coal-fired power plant. But it is only a first step. E.P.A. still needs to move ahead with plans next year to limit power plant emissions of toxic mercury and other hazardous air pollutants."

The new rules do not address power plant emissions of carbon dioxide and five other pollutants that contribute to global warming. The Obama administration is moving forward with a plan to phase in regulation of such heat-trapping gases, a move that is being challenged in Congress and in the courts.
The pollutants being singled out in the new rule making — sulfur dioxide and nitrogen oxides — react in the atmosphere to form fine particles (soot) and ground-level ozone (smog). They are easily carried by the wind and affect states and cities far downwind from the plants where they are produced. The proposed regulation, called a transport rule, would apply to power plants in 31 states east of the Rockies, with the exception of the Dakotas, Vermont, New Hampshire and Maine.
The agency will hold hearings in the coming months.

**EPA proposes new rule to cut air pollution from power plants (*West Virginia Public Broadcasting*)**

By Ben Adducchio
July 6, 2010 • The Environmental Protection Agency is proposing new changes to air pollution regulations that are intended to cut power plant emissions that drift in 31 eastern states and the District of Columbia.
Under the new rule the EPA hopes to cut sulfur dioxide and nitrogen oxide emissions that cross state lines.

The EPA plans to cut sulfur dioxide emissions by 71 percent by 2014, over levels in 2005.

Nitrogen oxide emissions would also drop by 52 percent.

Gina McCarthy is the EPA's assistant administrator for air and radiation.

"I think it is a large statement for us moving forward, but again, it's not the final answer," she said.

The EPA believes the rule will yield more than $120 billion in annual health benefits.

The agency will take public comment on the proposal for 60 days and also plans to schedule public hearings.

Dates and locations for the hearings will be announced soon.

**The Amazing Benefits of EPA's New Air Pollution Proposal (*OMB Watch*)**

Today, the U.S. Environmental Protection Agency (EPA) announced its plan to regulate air pollution that crosses state lines. The so-called clean air transport rule targets downwind emissions, mainly smog and soot, from power plants in 31 states (mostly in the east) and D.C.

The rule is still in the proposed stage; EPA does not plan to finalize it until the summer of 2011. If finalized, the rule would require a significant reduction in air pollution and, as a result, lead to significant public health gains. (See more on the details of the rule here.)

When industry lobbyists and conservatives talk about regulation, the discussion is usually centered around the economic impact of regulation, that is, the costs of compliance and the impact on the free market. As a result, cost discussions shape Congressional debates, permeate media accounts, and even color the way regulators view their work. (In my opinion, industry and conservatives are better at promoting their message than liberals and public interest types are at promoting theirs – that regulation can help people in real ways.)

Too often, the benefits of regulation are ignored. That's because, in part, regulations' benefits are often realized farther into the future than their costs. It's also because, in some cases, benefits are invisible – they are the absence of a risk or the avoidance of a damaging event. If sufficient regulations had been in place to prevent the BP-Deepwater Horizon oil spill, how would we have ever witnessed the benefits?

EPA estimated the benefits of its clean air transport rule, and while the monetary estimate is impressive in its own right, the health and welfare statistics are truly amazing:

Today's action would yield more than $120 billion in annual health benefits in 2014, including avoiding an estimated 14,000 to 36,000 premature deaths, 23,000 nonfatal heart attacks, 21,000 cases of acute bronchitis, 240,000 cases of aggravated asthma, and 1.9 million days when people miss school or work due to ozone- and particle pollution-related symptoms. [Emphasis added.]

That's just for one year, people. (EPA estimates the rule's costs at $2.8 billion for 2014.)

Protections like these, whether for air pollution, consumer products, or workplace hazards, are critical to Americans' well-being and often, their very lives. It's an idea that needs to be discussed more often.

(Matthew Madia 07/06/10)

**EPA Proposes New Regs on Power Plant Pollution (*Main Public Broadcasting Network*)**

07/06/2010 02:40 PM ET

The regs are intended to cut down on air pollution that blows long distances across state lines, and causing smog and other health threats downwind.

The U.S. Environmental Protection Agency is proposing new air quality regulations on power plants that are aimed at cutting smog-producing pollutants that blow across boundaries into eastern states, including Maine.

EPA officials say the new rules would affect power plants in 31 states and the District of Columbia. The new proposal, called the transport rule, would cut sulfer dioxide emissions by 71 percent over 2005 levels, and nitrogen oxides by 52 percent, by the year 2014, the EPA says.

The pollutants react in the atmosphere to create fine particle pollution and ozone, which have been linked to serious health problems, including asthma and heart attacks. "We're working to limit pollution at its source, rather than waiting for it to move across the country," says EPA Administrator Lisa Jackson in a statement. She says the reductions will save lives and billions in health care costs.

Maine has long been described as being at the "tail pipe" of the nation. Jackson says the rules are aimed at helping states that have trouble complying with air quality standards due to pollution blowing over their borders.

A public comment period and hearings will be held on the proposal. The states where power plants would be affected by the rules are outlined in the map below.

**Ortiz urges resolution between federal, state regulatory agencies (*Corpus Christi Caller Times*)**

Other congressional leaders sent letters last month
By Fanny S. Chirinos
Originally published 01:23 p.m., July 6, 2010
Updated 01:50 p.m., July 6, 2010
CORPUS CHRISTI — U.S. Rep. Solomon P. Ortiz, D-Corpus Christi, has joined the list of Texas congressional leaders urging the Environmental Protection Agency to resolve its disagreement with the state's environmental agency.

The dispute involves the air permitting process for some of Texas' largest employers -- refineries and other chemical plants.

The federal agency in May took over the operating permit of Flint Hills Resources East refinery in Corpus Christi after objecting that the Texas Commission on Environmental Quality process violates the U.S. Clean Air Act. Two more local refineries, Flint Hills West and Valero East, are among 40 state companies with pending permits the EPA has objected to.

The federal Clean Air Act requires refineries with multiple units to have a permit for each unit. Texas allows those refineries to operate under an umbrella permit known as a flex permit instead.

Texas' two U.S. senators and 26 U.S. House representatives sent two letters to the Environmental Protection Agency last month urging a quick resolution between it and the state agency on air permitting issues. Ortiz's legislative aide said the congressman

didn't sign one letter because it wasn't bipartisan and the other because of time constraints.

In a letter dated Friday to EPA Administrator Lisa Jackson, Ortiz wrote that he was pleased the EPA was working closely with the state agency to resolve differences and that he wants to ensure the uninterrupted operation of permit holders.

"As you know, there are several petrochemical refining and chemical facilities in the 27th Congressional District of Texas," Ortiz wrote. "They provide thousands of well-paying, stable jobs and are an anchor of the Texas economy. I want to be sure that they are not caught in the middle of a dispute over process between state and federal regulatory agencies."

JULY 6, 2010, 1:20 P.M. ET

**EPA Proposes to Cut Power-Plant Emissions in 31 States (*Wall Street Journal*)**

By MARK PETERS And TENNILLE TRACY
The U.S. Environmental Protection Agency announced new rules Tuesday to cut air pollution from power plants, in an attempt to revive a five-year-old plan to reduce smog and soot in the Eastern U.S.

The agency plan is aimed at slashing the emissions of sulfur dioxide and nitrogen oxides, mainly from coal-fired power plants, in 31 states and the District of Columbia. The rule replaces a program announced in 2005 by the EPA under President George W. Bush, but was sent back to be rewritten by the agency by a federal appeals court.

The plan is one of several new regulations expected to curb pollution from coal-fired power plants in the coming years, likely forcing the shutdown of many older units. The EPA estimates the new rule would cost $2.8 billion a year, but envisages sweeping health benefits from reduced emergency-room visits to fewer premature deaths.

The new proposal would require emissions cuts in the Southeast, Northeast and Midwest starting in 2012. The program would employ limited trading of pollution allowances among states, but also require each state to meet pollution limits. The EPA also will seek comment on two other alternative rules that likely would place additional limits on allowance trading. States would be tasked with formulating plans to reduce their contribution to pollution levels in other states.

"This rule is designed to cut pollution that spreads hundreds of miles and has enormous negative impacts on millions of Americans," EPA Administrator Lisa Jackson said in a press release.

By 2014, the proposed rule and other state and EPA steps would reduce sulfur dioxide emissions by 71% from 2005 levels. Nitrogen-oxide emissions would drop by 52%.

The Bush administration rule called the Clean Air Interstate Rule used the nation's first cap-and-trade programs—started in the 1990s to cut acid rain and smog—to achieve further emission reductions.

The plan prompted a flurry of activity in U.S. emissions markets and increased investments by utilities in pollution controls. But a federal appeals court in July 2008 rejected the rule, saying it was fatally flawed, and sent it back to the EPA to rewrite. That drove some utilities to pull back on pollution-control projects, while the thriving market for U.S. emission allowances collapsed and remains in disarray.

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**EPA Proposes Reducing Pollution From Power-Plants (*Bloomberg Businessweek*)**

July 06, 2010, 1:44 PM EDT
By Kim Chipman
July 6 (Bloomberg) -- The Obama administration proposed regulations limiting air pollution from power plants in 31 eastern states and Washington, D.C., a rewrite of rules aimed at curbing smog and acid rain.

The Environmental Protection Agency's rules would revamp those issued by the Bush administration in 2005 for pollution that crosses state lines, the agency said today on a conference call with reporters.

The regulations, called transport rules, would result in more than $120 billion in annual health benefits in 2014 while adding $2.8 billion in yearly costs for utilities, the agency said. Pollution from power plants has been linked to illnesses such as asthma and heart attacks, the EPA said.

"Millions of people continue to breathe unhealthy air," Gina McCarthy, the EPA's assistant administrator, said on the call.

The proposed regulations would cut sulfur dioxide, which causes acid rain, 71 percent by 2014 from 2005 levels and nitrogen oxide, the cause of smog, by 52 percent over the same period, according to the EPA.

"Yesterday most of the East Coast had pretty lousy ozone days" as temperatures soared, McCarthy said, referring to ground-level ozone formed when chemicals from burning fossil fuels combine with sunlight.

A federal appeals court struck down the Bush administration's regulations two years ago, saying it overstepped its authority in creating the Clean Air Interstate Rule, which reduced allowable emissions of sulfur dioxide and nitrogen oxide in 28 eastern U.S. states.

The EPA expects the new rules to be challenged in court, McCarthy said. She said the requirements will achieve "greater reductions" more quickly than those issued under former President George W. Bush.

--With assistance from Christopher Martin. Editors: Larry Liebert, Steve Geimann

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**EPA unveils rules on smog-forming emissions from power plants (*Greenwire*)**

(07/06/2010)
Gabriel Nelson, E&E reporter
U.S. EPA released proposed rules today for smog and soot-forming emissions from power plants, setting up the start of a rulemaking process that could influence Senate negotiations on an energy and climate bill.

Cleared by the White House Office of Management and Budget last week, the program announced today by EPA air chief Gina McCarthy would supersede the Clean Air Interstate Rule, a George W. Bush-era program that capped emissions of sulfur dioxide (SO2) and nitrogen oxides (NOx) from power plants. Those pollutants are frequently carried by air currents, accumulating in the northeastern United States and making it more difficult for those "tailpipe" states to meet air quality standards.

Though the "transport" rule could have teeth on its own, experts say, it could also suffer the same legal fate as its predecessor, which was struck down in 2008 by U.S. Circuit Court of Appeals for the District of Columbia. The court's unusually acerbic decision described the program as "fundamentally flawed," saying it failed to "connect states' emissions reductions to any measure of their own significant contributions."

With both industry groups and public health advocates seeking a measure of certainty, the release of the CAIR replacement rule could prod the Senate to get moving on legislation.

One likely option would be a proposal from Sens. Tom Carper (D-Del.) and Lamar Alexander (R-Tenn.) that would codify a cap-and-trade program for SO2, NOx and

mercury. The three-pollutant bill (S. 2995) aims to slash power plants' S02 emissions 80 percent by 2018 while achieving a 50 percent reduction in NOx emissions and a 90 percent reduction in mercury emissions by 2015.

Carper has said he would seek a markup of his bill after EPA rolls out its draft CAIR replacement rule and its modeling of his legislation, which is also expected to be released soon (E&ENews PM, April 20).

The senator may try to include the three-pollutant bill in a comprehensive climate and energy bill, though Carper would also move forward with stand-alone legislation if the votes do not appear to be there for the climate and energy bill, according to a Senate aide familiar with the proposal.

"If climate's not moving, then we have options to put it on something else," the aide said. "If we have the votes to run it on its own, we'll run it on its own."

Carper's staff has talked to Sen. Jeff Bingaman (D-N.M.) about including the three-pollutant bill in a climate measure aimed at capping greenhouse gas emissions from only the utility sector, the aide said. Bingaman's draft bill represents a narrower approach to an economywide cap-and-trade system and is among the options Senate leadership is considering as it prepares for a floor debate on climate and energy legislation later this month.

"I know that they're interested," the aide said of Bingaman's office, adding that Carper has also talked to other co-sponsors of Senate climate proposals, including Sens. John Kerry (D-Mass.), Joe Lieberman (I-Conn.) and Barbara Boxer (D-Calif.).

With a utility-only approach gaining steam in the Senate, codifying limits on power plant emissions that contribute to smog and soot could help broker a deal. But because SO2 and NOx are detached from energy and climate issues, public health groups are concerned that rollbacks in EPA's rules would end up being used as incentives to get utilities on board, said Frank O'Donnell, president of Clean Air Watch.

"It would be the height of folly to weaken public health regulations for a weak climate bill," O'Donnell said. "There is potential benefit to legislation if it's good legislation. Senator Carper has come up with good legislation, and we support that quite aggressively, but as we've learned in other battles, it's not always easy to get from Point A to enactment."

States want more

States have pushed for a tighter cap on NOx in particular, feeling that the Carper-Alexander bill and EPA's proposed rules would both be "insufficient for resolving the pervasive ozone problems throughout the East," said Bill Becker, executive director of the National Association of Clean Air Agencies.

Environmental officials representing New York and Maryland met with Senate Environment and Public Works Committee staffers last month, urging them to tighten the NOx cap to 900 million tons by 2014. They said the CAIR replacement was the right way to limit emissions because reductions at coal plants would cost a fraction of the cost of reductions at other facilities (Greenwire, June 25).

Becker said today he was disappointed with the agency's decision to base the NOx limits on the 1997 primary ozone standard of 84 parts per billion (ppb) rather than the George W. Bush-era ozone standard of 75 ppb. That 2008 standard is now being reconsidered by the Obama administration, which wants to revise the limit to between 60 and 70 ppb averaged over an eight-hour period.

"It is essential that EPA quickly rectify this when it publishes its second transport rule," Becker said. "While we are encouraged that EPA recognizes the urgency of finalizing the second transport rule in 2012, it is critical that they maintain this schedule, especially since states' mandates ... depend upon the timeliness of the agency's rulemaking."

Reporter Robin Bravender contributed.

**AWARDS**

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**MU power plant receives prestigious award from EPA (*UM Maneater*)**

In 2012, the power plant will add a new biomass boiler.
By Jon Parker
Published July 7, 2010
The MU power plant has been recognized by the U.S. Environmental Protection Agency as a 2010 EPA Energy Star Combined Heat and Power award recipient, one of three universities in the nation to receive the award.

Power plants at the University of California in San Diego and Fairfield University were also recognized.

"MU is very proud of Energy Management's track record of improving campus energy efficiency while reducing energy costs and lowering emissions," Campus Facilities Assistant Vice Chancellor Gary Ward said in a news release.

The plant operates at more than 70 percent efficiency. Conventional fossil-fueled plants only operate at approximately 30 percent efficiency.

"We applaud the University of Missouri's effort because the improvement in efficiency translates to a reduction in total fossil fuel use, reduced emissions of air pollutants and carbon dioxide, the leading greenhouse gas contributor to global climate change," Susan Wickwire, EPA chief of the energy supply and industry branch said.

According to the news release, MU has been producing electricity by combined heat and power since 1892. This system helps MU reduce carbon dioxide emissions by approximately 107,000 tons per year.

"Combined heat and power is an efficient, clean and reliable approach to generating power and thermal energy from a single fuel source," Wickwire said. "CHP plays an important role in reducing the environmental impact of power generation."

Workers at the MU power plant work alongside researchers in an effort to discover alternative fuels and more efficient methods to heat, cool and power the university.

Other awards the power plant has won include the 2008 Energy Efficiency award from the National Wildlife Federation, the 2004 International District Energy Association's System of the Year award and the 2001 Energy Star Partner of the Year award.

"We are looking forward to adding a new biomass boiler to our CHP system in 2012 to build on the success we have already achieved," Ward said.

With one of MU's coal-powered burners approaching the end of its service life, it opened a window of opportunity for MU to reach another milestone in reducing its carbon footprint in 2012.

The new burner, which will be designed by Babcock and Wilcox Power Generation Group, comes with a $62 million price tag. The selling of bonds will fund the project.

"Other colleges and universities are likely to take notice of the University of Missouri's decision to convert its physical plant to utilize a renewable, environmentally friendly fuel, and we are confident B&W PGG has the technology to meet their needs," Babcock and Wilcox Power Generation Group President Richard Killion said in a news release.

Unlike older burners, the new burner will only use natural waste material such as corncobs, switch grass and waste woods brought in from mid-Missouri.

"An ice storm downed trees in Ashland, Mo.," Campus Facilities spokeswoman Karlan Seville said. "The lost trees were chipped up and brought to campus. The plant also received wood from a supplier near Lake of the Ozarks."

**BP SPILL**
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**Louisiana and Scientists Spar Over How to Block Oil's Approach (*New York Times*)**

July 7, 2010 Wednesday
Late Edition - Final
Section A; Column 0; National Desk; Pg. 1
By JOHN COLLINS RUDOLF
With oil hitting Barataria Bay, a vast estuary in southeast Louisiana that boasts one of the most productive fisheries in the country, local parish officials hatched a plan in May to save the fragile ecosystem: they would build rock dikes across several major tidal inlets between the bay and the Gulf of Mexico to block and then capture the oil.

Gov. Bobby Jindal of Louisiana supported the plan, and BP agreed to pay for the project, estimated to cost $30 million. By early June, about 100,000 tons of rock began being loaded onto barges on the Mississippi River for transport to the coast.

But over the weekend, the Army Corps of Engineers denied a permit for the project, citing environmental concerns, in particular the potential for the rock barriers to cause widespread erosion and the breaching of Barataria Bay's existing barrier islands. The ruling echoed the sentiments of independent experts on coastal wetlands who had strongly objected to the plan.

Now the rock sits on 75 barges on the Mississippi River with no immediate use.

As the gulf oil spill enters its third month, Louisiana officials have grown increasingly enamored of large-scale engineering projects, like sand berms and rock walls, to keep the oil off their coast. But these projects, which demand the swift restructuring of eastern Louisiana's dynamic and fragile coast, have brought the desires of state and local officials into sharp conflict not only with a complicated federal bureaucracy charged with protecting wetlands and estuaries, but also with an experienced and highly vocal community of local coastal scientists.

"They're just sitting back criticizing," said Deano Bonano, the emergency-preparedness director for Jefferson Parish, which borders Barataria Bay. "Where are they when it comes to protecting this bay?"

In a speech on Tuesday in New Orleans, Mr. Jindal said: "No one can convince us that rocks in the water are more dangerous than oil. That is absolutely ridiculous. The only people who believe that are the bureaucrats in Washington, D.C., who can't see the oil, smell the oil or touch the oil."

The scientists insist the rock plan was misguided.

"There was very strong scientific backing for not doing this," said Denise Reed, a wetlands specialist and director of the Pontchartrain Institute for Environmental Sciences in New Orleans. "This could really devastate our barrier shoreline, our first line of defense."

For decades, the independent experts have worked hand-in-hand with the state and the federal government to save and restore Louisiana's wetlands, which have lostroughly 1.2 million of acres to erosion since the 1930s and continue to disappear at the rate of 25 square miles every year.

It was these experts, along with their scientific peers in federal agencies like the National Oceanic and Atmospheric Administration and the Environmental Protection Agency, who offered the strongest opposition to the proposed rock barrier. Many of those critiques were included in supporting documents released by the Army Corps of Engineers before the official ruling was announced.

The scientists explained to the corps how narrowing the inlets with rock would set the stage for the breaching of existing barrier islands during the region's frequent storms. They warned that damage to these islands -- which have buffered the impact of major storms like Hurricane Katrina -- would prove difficult to repair, perhaps impossible, and would most likely outstrip any benefit to the wetlands gained by stopping the oil with the rock barriers.

Having raised their voices in objection, these coastal experts now bristle at the accusation that they are out-of-touch academics or pencil-pushing bureaucrats, as state and local officials have charged.

"It's really offensive, I think, and not fair, to call the scientific community bureaucrats," said Dr. Ioannis Y. Georgiu, a professor of marine engineering at the University of New Orleans. "We are being demonized."

Yet by siding with federal agencies blamed from the beginning of the spill for a slow-footed and chaotic response -- and for which resentment still lingers over the failings of the federal response to Hurricane Katrina -- these coastal scientists have made themselves easy targets for leaders eager to portray themselves as stopping at nothing in the fight against the oil. For these politicians, swifter action is crucial.

"You don't wait weeks and weeks for studies and federal permits in the middle of a war," Mr. Jindal, a Republican, said in a speech on July 2. "You do what you need to do as quickly as possible to protect your land and your people."

The local scientists argue that quick-fix solutions are being sold to the public with little firm evidence that they will succeed, and with potentially dire side effects being minimized and ignored. A lack of engagement of the scientific community has also bred frustration. On the rock barrier plan, for instance, coastal experts were consulted only after a local engineering firm had drafted the permit application and orders had been

placed for thousands of tons of rock to dump in the inlets.

"We've got such a coastal brain trust here, and they're being left out in the cold," said Dr. Len Bahr, a coastal scientist and former director of the Louisiana Office of Coastal Activities. "To me that's just unconscionable."

Some coastal experts concede that the scientific community has been more reactive than proactive regarding the spill, and has often waited to be consulted on solutions rather than offering up its own innovative ideas to keep oil off the coast, a criticism that local officials have echoed.

"We want to prevent the damage -- we don't want to clean it up," Mr. Bonano, the emergency-preparedness director, said. "That's the big difference between us and them."

As charges fly back and forth, the prospect for a detente between the federal government and the coastal science community on the one hand and state and local officials on the other remains cloudy at best. Even with the rock plan soundly rejected by the Army Corps of Engineers, officials in Louisiana, from the governor's office down, continue to argue that the plan to build the rock dikes was scientifically sound, and vow to carry on their fight to see it carried out.

Mr. Jindal said in a statement Tuesday that officials would resubmit the plan.

"We've made countless revisions," said Garret Graves, the director of the governor's Office of Coastal Activities. "We jumped through all these hoops to address their concerns, only to wait a month and be rejected."

Mr. Jindal's office has also said the governor will keep pressing for the rock barrier.

Coastal scientists, for their part, say they are ready to start investigating other options for stopping the movement of oil into the bay.

"I just wish the energy would go into looking for alternatives, not into just banging on the table," Dr. Reed, of the Pontchartrain Institute, said. "Laying rock across passes is not the only way to stop the oil from getting into the marshes."

**Burying the spill (*Houston Chronicle*)**

July 7, 2010
Disposal of BP spill waste in Texas needs more public scrutiny.
Texas beaches got their first taste of the BP oil spill over the July Fourth weekend as a smattering of little tar balls washed ashore on Bolivar Peninsula and Galveston Island. Because of the small amounts, it's uncertain whether they were transported by ocean

currents or by ships fouled by passing through the main oil slick south of the Mississippi delta.

However, thousands of barrels of oily water and other waste products generated by the spill are already in Texas or on the way, shipped here for disposal in salt domes, injection wells and other processing facilities.

As with other aspects of the spill, public information is sketchy on the content and quantity of the waste coming to Texas and what safeguards are being taken to prevent contamination of groundwater and air in communities near the Lone Star disposal sites. The Chronicle's Monica Hatcher found that the government, BP and contractors involved in the spill cleanup could not provide a comprehensive description of the disposal operation.

Estimates of the amount of oil leaking from the Macondo well have varied wildly since the Deepwater Horizon exploded in April, killing 11 workers and initiating the biggest oil spill in U.S. history. Since then, skimmers have collected an estimated 671,000 barrels of oily water, but only a fraction of that amount has made it to Texas so far. A waste management plan filed by BP after the spill identified Houston area facilities, including the BP refinery at Texas City, as disposal points for liquid wastes.

Much of the spill waste is not recyclable, and cannot be burned. Entombment in secure geological formations such as salt domes is a common method of disposal.

As environmental consultant Richard Steiner told Hatcher, "It would be nice to know that there is integrity in these salt domes so they are not fracturing and that pollutants won't contaminate the ground water supplies."

Last week the federal Environmental Protection Agency issued guidelines to BP requiring disclosure to communities of waste shipments in their area and access by local government to disposal facilities. They also require additional analysis of waste products and public disclosure of results.

Unfortunately, the rules only apply to the four states most affected by the spill: Louisiana, Mississippi, Alabama and Florida. Texas, a major destination for waste shipments, is inexplicably not included.

As a result, even state regulators are in the dark concerning the composition of spill waste. BP informed the Texas Railroad Commission that it was sending nontoxic waste, including unused drilling mud and water used to clean vessel storage compartments. However, other sources indicated some of the most toxic sludge is Texas-bound because many of the facilities licensed to dispose of it are located here.

Through luck, it appears that our coastline has escaped a direct impact from the environmental disaster so far. To keep it that way, we need to have a much better handle on the spill waste being brought into the state and its disposal.

State regulators and local governments must have the same access to information that the EPA has mandated for the other Gulf States.

**More testing needed for giant oil skimmer in Gulf (*Palm Beach Post*)**

July 7, 2010
Choppy seas have temporarily foiled attempts to see whether a giant oil skimmer can be a silver bullet for cleanup efforts in the Gulf of Mexico.

Bob Grantham, spokesman for Taiwanese shipping firm TMT, says the company's vessel, dubbed A Whale, will need further testing off the coast of Louisiana.

Grantham said in an e-mail Monday that conditions in the Gulf over the weekend were too choppy to get definitive answers on the vessel's capability.

Billed as the world's largest oil skimmer, A Whale, is supposed to be able to suck up 21 million gallons of oily water per day.

Grantham says testing will resume as soon as the water is calmer.

Cloudy skies cast a pall over South Florida beaches and rough seas hampered clean-up efforts in the Gulf -- even as crews were hoping a massive new skimmer would get the government green-light to join the fight against the growing oil spill.

Rough seas also kept clean-up vessels idle off the coasts of Florida, Alabama and Mississippi over the holiday weekend, officials said. The current spate of bad weather is likely to last well into this week, according to the National Weather Service.

Among the ships that continued to work the spill off the coast of Louisiana was a converted oil tanker called A Whale. Its makers, Taiwan's TMT, say the craft can process up to 21 millions gallons of oil-fouled water a day.

A Whale had undergone tests in a patch of water close to the wellhead over the weekend as the government tried to determine the vessel's effectiveness. The ship is also awaiting approval from the Environmental Protection Agency.

On Sunday, Florida's top emergency official downplayed a recent study that suggested oil from the gulf spill could get sucked into the loop current and be dragged through Florida's Keys and up the state's east coast.

The National Oceanic and Atmospheric Administration has estimated the likelihood of oil hitting South Florida's beaches at between 61 and 80 percent -- albeit with minimal or no environmental damage.

Florida's Director of the Division of Emergency Management David Halstead said the study was based on computer models that do not fully reflect a powerful eddy off Florida's gulf coast that is keeping the oil out of the loop current.

"At this time, there is a loop current ring that is not attached to the main loop current channel in the Florida Straits and there is currently no strong evidence to support that this feature will reattach in the near future," Halstead said in a release. 'The State of Florida is aggressively monitoring the Deepwater Horizon impacts, utilizing air, water and land reconnaissance and is prepared to respond, should conditions change."

NOAA spent two weeks creating 500 models, using 15 years worth of weather and ocean current data, to predict where the oil gushing from the well will end up.

While the study suggests that Florida's Keys and beaches along the east coast are vulnerable, it also found the environmental impact would be minimal.

"Any oil reaching this area would have spent considerable time degrading and dispersing and would be in the form of scattered tar balls and not a large surface slick of oil," the agency wrote in a release.

**Abandoned well sites may pose risk to Gulf (*NewsOK.com*)**

July 7, 2010

More than 27,000 abandoned oil and gas wells lurk in the hard rock beneath the Gulf of Mexico. No one — not industry, not government — is checking to see if they are leaking, an Associated Press investigation shows.

At a glance

History of well concerns

The AP documented an extensive history of warnings about environmental dangers related to abandoned wells:

→The General Accountability Office, which investigates for Congress, warned as early as 1994 that leaks from offshore abandoned wells could cause an "environmental disaster," killing fish, shellfish, mammals and plants. In a lengthy report, GAO pressed for inspections of abandonment jobs, but nothing came of the recommendation.

→A 2006 Environmental Protection Agency report took notice of the overall issue regarding wells on land: "Historically, well abandonment and plugging have generally not been properly planned, designed and executed." State officials say many leaks come from wells abandoned in recent decades, when rules supposedly dictated

plugging procedures. And repairs are so routine that terms have been coined to describe the work: "replugging” or "re-abandonment.”

→A GAO report in 1989 provided a foreboding prognosis about the health of the country's inland oil and gas wells. The watchdog agency quoted EPA data estimating that up to 17 percent of the nation's wells on land had been improperly plugged. If that percentage applies to offshore wells, there could be 4,600 badly plugged wells in the Gulf of Mexico alone.

→According to a 2001 study commissioned by MMS, agency officials were "concerned that some abandoned oil wells in the Gulf may be leaking crude oil.” But nothing came of that warning either. The study targeted a well 20 miles off Louisiana that had been reported leaking five years after it was plugged and abandoned. The researchers tried unsuccessfully to use satellite radar images to locate the leak.

The oldest of these wells were abandoned in the late 1940s.

The AP investigation uncovered particular concern with 3,500 of the neglected wells — those characterized in federal government records as "temporarily abandoned.”

Regulations for temporarily abandoned wells require oil companies to present plans to reuse or permanently plug such wells within a year, but the AP found that the rule is routinely circumvented, and that more than 1,000 wells have lingered in that unfinished condition for more than a decade. About three-quarters of temporarily abandoned wells have been left in that status for more than a year, and many since the 1950s and 1960s — even though sealing procedures are not as stringent as those for permanent closures.

As a forceful reminder of the potential harm, the well beneath

BP's Deepwater Horizon rig was being sealed with cement for temporary abandonment when it blew April 20, leading to one of the worst environmental disasters in the nation's history. BP alone has abandoned about 600 wells in the Gulf, according to government data.

There's ample reason for worry about all permanently and temporarily abandoned wells — history shows that at least on land, they often leak. Wells are sealed underwater much as they are on land.

Experts say such wells can repressurize, much like a dormant volcano can awaken. And years of exposure to seawater and underground pressure can cause cementing and piping to corrode and weaken.

"You can have changing geological conditions where a well could be repressurized,” said

Andy Radford, a petroleum engineer for the American Petroleum Institute trade group.

Whether a well is permanently or temporarily abandoned, improperly applied or aging cement can crack or shrink, independent petroleum engineers say.

"It's in everybody's interest to do it right," said

Bill Mintz, a spokesman for Apache Corp., which has at least 2,100 abandoned wells in the Gulf, government data show.

Officials at the

U.S. Interior Department, which oversees the agency that regulates federal leases in the Gulf and elsewhere, did not answer repeated questions regarding why there are no inspections of abandoned wells.

State officials estimate that tens of thousands are badly sealed, either because they predate strict regulation or because the operating companies violated rules.

Texas alone has plugged more than 21,000 abandoned wells to control pollution, according to the state comptroller's office.

Offshore, but in state waters,

California has resealed scores of its abandoned wells since the 1980s.

In deeper federal waters, though — despite the similarities in how such wells are constructed and how sealing procedures can fail — the official policy is out-of-sight, out-of-mind.

The U.S. Minerals Management Service — the regulatory agency recently renamed the Bureau of Ocean Energy Management, Regulation and Enforcement — relies on rules that have few real teeth. Once an oil company says it will permanently abandon a well, it has one year to complete the job. MMS mandates that work plans be submitted and a report filed afterward.

Unlike California regulators, MMS doesn't typically inspect the job, instead relying on the paperwork.

The fact there are so many wells that have been classified for decades as temporarily abandoned suggests that paperwork can be shuffled at MMS without any real change beneath the water.

**Agencies Working To Create First-Time Oil Spill Human Health Registry (*Inside EPA)***

Posted: July 6, 2010
Federal health agencies are planning to move forward with a first-time registry monitoring the health of people exposed to the BP oil spill, congressional sources say, a move that proponents say could help identify the harmful effects of spilled oil and facilitate needed research on long-term health risks.

The agencies have determined they have authority under the Security and Accountability for Every (SAFE) Port Act of 2006, to create the registry because the Superfund law has long barred agencies such as the Department of Health and Human Services (HHS) from creating registries aimed at oil exposure studies.

The agencies' effort prompted House Energy & Commerce Committee Chairman Henry Waxman (D-CA) to cancel a planned markup of a bill that would have granted HHS, in consultation with EPA and the Occupational Safety & Health Administration (OSHA), authority to create a voluntary registry and mandate that HHS establish a national surveillance system to track the health conditions of those exposed to the leak.

The registry and surveillance efforts are intended to fill research gaps in understanding the long-term effects of crude oil exposure, something that has not been thoroughly studied or documented in previous spills, Aubrey Keith Miller, senior medical adviser for National Institute of Environmental Health Services (NIEHS) testified at a June 16 hearing of the Energy & Commerce Committee's health subcommittee.

The draft bill also would have directed $21 million in federal funding for 2011 fiscal year, an additional $4 million a year following that until fiscal year 2015, and bestowed grant power upon HHS' Assistant Secretary for Preparedness and Response (ASPR) in public health emergency situations, a function the office currently lacks.

The legislation would have assigned the majority of health assessment responsibility to the HHS Secretary, in response to an effort to streamline the public health assessment response to the BP spill, spearheaded by Rep. Lois Capps (D-CA).

Capps earlier this month asked the White House to remove all worker and public health protection functions from BP and place them in the hands of a senior public health official to serve as a "public health coordinator" or "czar" to oversee monitoring and research. A House source said Capps' request has received "little feedback" from HHS.

Need For Health Registry

Rep. Frank Pallone (D-NJ), the health subcommittee's chair, raised the question during a June 16 hearing about the need for a detailed health registry of exposed workers and Gulf states residents. In response, NIOSH Director John Howard said health officials were organizing a "roster" as a "foundational step" toward moving it into a registry at

some point during the response effort. “A registry is active management of those workers in terms of assessing their exposure profile, the health effects that they may be feeling and following them through time,” Howard said. “So the first step in a registry may indeed be collecting the names and demographic information of workers that you would then put into a registry.”

Rep. Diana DeGette (D-CO) also stressed the need to gather public health information on oil exposure as a practical database to use not just in fielding questions from spill workers wanting to know how to protect themselves and residents of the stricken region wondering whether their children may be at risk for health problems, but also to prepare for future spills. “So we’ll get the data for the next one.”

As described in the language of the unnumbered markup bill, the “Horizon Registry,” as the bill dubs it, would allow health officials to track and store data that could help “facilitate research on identification, diagnosis, prevention, or treatment of adverse health effects resulting from the Deepwater Horizon incident.” The registry would also be used in having a ready way of providing medical information to exposed workers who chose to enroll in the registry. The markup bill, which would have created the Deepwater Horizon Health Response Act of 2010, also would allow HHS to create additional registries in the event of future spills, an authority that previous had been barred under the Comprehensive Environmental Response, Compensation, & Liability Act of 1980 (CERCLA), known as the Superfund law. The Superfund law, which grants HHS registry authority, contains an explicit exclusion for crude oil pollution as an area that can be studied.

The bill’s markup session, scheduled for July 1, was canceled when HHS realized a maritime security law known as the SAFE Ports Act of 2006 gave them congressional authority to create a health monitoring registry in the event of a disaster where there is significant exposure risk to a contaminant, a House source said.

The SAFE Ports Act, created in the wake of 9/11, gives HHS temporary authority to establish and maintain “medical surveillance programs and environmental exposure or disease registries.”

It is not clear how much progress HHS has made on the registry at this time, though an HHS spokeswoman indicated work on the registry was already underway. HHS did not respond by press time to specific questions about who was directing registry efforts or how much progress has been made.

In the June 16 health subcommittee hearing, Capps called for a “czar” to be appointed for the coordination of response efforts in the Gulf, removing BP officials from the equation because she said workers had received contradictory instructions from various public health agencies and BP on protecting themselves from oil exposure during their shifts. Capps also in a June 8 letter to the White House, asked for “heightened, coordinated action” to be taken to protect public health. “Furthermore, you should appoint a senior public health official within the administration to coordinate the work of

all federal, state, and local agencies focused on human health protection, including monitoring, surveillance, prevention and treatment activities." Capps said in her letter, adding that "a coordinator is needed to ensure that all aspects of the public health response are managed in an effective and transparent manner."

Capps' request was met with limited response from HHS, a House source said. -- Bridget DiCosmo

**BP continues to hold massive DOD contracts (*Greenwire*)**

(07/06/2010)
Even as it faces legal action and possible debarment from federal contracts, BP PLC continues to be a major supplier of aviation fuel and petroleum products for the Defense Department.
BP holds defense contracts worth at least $980 million this year, and in 2009 it was the largest supplier of fuel with 11.7 percent of the total fuel purchased. Defense Logistics Agency spokeswoman Mimi Schirmacher called BP "an active participant in multiple ongoing Defense Logistics Agency acquisition programs" but did not provide more details.
BP spokesman Robert Wine said he knew of at least one "big contract" with the military signed after the April 20 oil rig explosion providing fuels for European operations.
President Obama has promised that BP will "pay for the damage" done by the Deepwater Horizon explosion and leak in the Gulf of Mexico, but so far much of the conversation has focused on blocking the company from any new drilling leases. U.S. EPA, however, has explored cutting the company off from federal contracts, including defense contracts. EPA had begun a debarment investigation relating to the Clean Water Act and Clean Air Act because of BP's 2006 spill in Alaska and a 2005 explosion at a Texas refinery. Those discussions are on hold until the Gulf spill investigations are finished.
Jeanne Pascal, a former EPA lawyer who was involved in the BP debarment review, said she initially supported such action but held off after a Defense official warned her of the Pentagon's reliance on BP fuel for Middle East operations. An official told her BP was supplying around 80 percent of the fuel used for transporting U.S. forces. Pascal sought a settlement that allowed BP to continue its federal contracts while also forcing the company to focus more on health, safety and environmental issues.
Defense spokeswoman Wendy Snyder said a Defense Logistics Agency official "informed the EPA that there are adequate procedures and processes to protect the U.S. military missions should EPA determine that BP should be debarred." Shirmacher also said that BP's current contracts did not directly support operations in Iraq or Afghanistan and that the department could continue without BP fuel (R. Jeffrey Smith, Washington Post, July 5). – JP

**Extent of ecological harm to Gulf unclear (*Columbus Dispatch*)**

People walk along a beach as workers shovel and bag oiled laden sand.
WASHINGTON -- How dead is the Gulf of Mexico?
It is perhaps the most important question of the BP oil spill -- but scientists don't appear close to answering it despite a historically vast effort.

In the 2 1/2 months since the spill began, the Gulf has been examined by an armada of researchers - from federal agencies, universities and nonprofit groups. They have brought back vivid snapshots of a sea under stress: sharks and other deep-water fish suddenly appearing near shore, oil-soaked marshes turning deathly brown, clouds of oil swirling in deep water.

But, with key gaps remaining in their data, there is wide disagreement about the big picture. Some researchers have concluded that the Gulf is being spared an ecological disaster. Others think ecosystems that were already in trouble before the spill are now being pushed toward a brink.

"The distribution of the oil, it's bigger and uglier than we had hoped," said Roger Helm, a U.S. Fish and Wildlife Service official and the lead scientist studying the spill for the Interior Department. "The possibility of having significant changes in the food chain, over some period of time, is very real. The possibility of marshes disappearing is very real."

Helm said that his prognosis for the spill had worsened in the past week - as the amount of oily shoreline increased from Louisiana to Florida, despite cleanup efforts. "This just outstrips everybody's capability" to clean up, he said.

The research has mainly occurred in the background, as public attention has focused on the "open-heart surgery" at BP's leaking wellhead.

The patient is a 600,000-square-mile sea, which contains swirling currents, sun-baked salt marshes and dark, cold canyons patrolled by sperm whales. Complicating matters is that even before the spill began in late April, the patient already was sick.

In recent years, Louisiana has been losing a football field's worth of its fertile marshes to erosion every 38 minutes. In the Gulf itself, pollutants coming from the Mississippi River's vast watershed helped feed a low-oxygen "dead zone" bigger than the entire Chesapeake Bay. Measuring the spill's damage, then, requires distinguishing it from the damage done by these other man-made problems.

So far, even the simplest-sounding attempts to measure the spill's impact have turned out to be complex.

The official toll of dead birds is about 1,200, a fraction of the 35,000 discovered after the Exxon Valdez spill in 1989. But this, too, has been called into question. Officials can

only count the birds they can find, and many think a number of oily birds have sought refuge in the marshes.

"It's an instinctive response: They're hiding from predators while they recover," said Kerry St. Pi, head of a government program that oversees Louisiana's Barataria Bay marshes. "They plan to recover, of course, and they don't. They just die."

Other scientists have focused on more subjective measures of the Gulf's health - not counting the dead, but studying the behavior of wildlife, the movements of oil and the state of larger ecosystems. For them, solid answers are even more elusive.

For example: Is the oil killing off Louisiana's coastal marshes? State officials have said in interviews that they've seen it coating the grasses and mangroves that hold the region's land in place.

"The marsh grasses, the canes, the mangrove are dying. They're stressed and dying now," said Robert Barham, secretary of the state's Department of Wildlife and Fisheries. "There's very visible evidence that the ecosystem is changed."

But Paul Kemp of the National Audubon Society said he flew over the same area and saw a different picture: The oil's damage was relatively small, at least in comparison with the marsh's existing problems.

"Here, we have a patient that's dying of cancer, you know, and now they have a sunburn, too," Kemp said. "What will kill coastal Louisiana is not this oil spill. What will kill coastal Louisiana is what was killing it before this oil spill," including erosion and river-control projects that have reduced the buildup of new land.

Further offshore, federal scientists and university researchers have disagreed about the existence of "plumes" or "clouds" of dissolved or submerged oil. Several educators have reported finding underwater oil dozens of miles from the spill; sometimes, they reported it was so well dissolved that the water appeared clear. In other situations, they found what they thought to be oil globs the size of golf balls.

Just around the leaking BP wellhead, a Texas A&M University scientist reported finding pockets of water with very low dissolved oxygen. That might be a sign that bacteria were consuming oil from the spill - but, in the process, the water became suffocating for other sea life.

The government has presented a very different picture of the deep Gulf.

An official at the National Oceanic and Atmospheric Administration (NOAA) said his agency had found evidence of significant submerged oil - 1 to 2 parts per million - from the BP spill only within 6 miles of the well. In addition, the U.S. Environmental Protection Agency (EPA) has said it has not seen "large scale" problems with low dissolved oxygen around the submerged oil in the Gulf.

Doug Inkley, senior scientist at the National Wildlife Federation, said he did not think the government had studied these areas well enough yet.

"I've been frustrated with the calm reassurances that we've been receiving, because I don't know what they're based on," Inkley said. In particular, he said he was worried that submerged oil might kill deep-water coral colonies that had grown over the course of centuries.

For those who study fish - literally, moving targets - the data so far are a confusing hash of anecdotes and sightings.

In Sarasota, Fla., scientists found an 11-foot tiger shark, normally an open-water fish, drifting near the surf. That, plus sightings of whale sharks and other creatures outside their normal environmental range, raised concerns that oily water or low oxygen in the central Gulf might be driving fish toward land.

"It would be like, to these fish, almost like an island, a huge island rising up in the middle of the Gulf," said Bob Hueter, of the Mote Marine Laboratory in Sarasota.

Federal scientists, however, say that they've seen evidence that even plankton - some of the smallest, most sensitive creatures in the Gulf - are living in the area around the leaking well.

## CLIMATE CHANGE

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### Global warming debate raged even during Nixon presidency (*Greenwire*)

(07/06/2010)
White House officials were discussing the possibility of global warming more than three decades ago, according to documents released Friday by the Nixon Presidential Library.

Adviser Daniel Patrick Moynihan, who would become a Democratic senator representing New York, wanted the Nixon administration to start monitoring carbon dioxide in the atmosphere. In a 1969 memo, Moynihan wrote that there was widespread agreement that carbon dioxide content would rise by 25 percent by 2000.

"This could increase the average temperature near the earth's surface by 7 degrees Fahrenheit," Moynihan wrote. "This in turn could raise the level of the sea by 10 feet. Goodbye New York. Goodbye Washington, for that matter."

Moynihan, then the counselor for urban affairs, received a response in January 1970 from Hubert Heffner, the deputy director for the administration's Office of Science and

Technology. Heffner agreed that the issue should be explored and that he would ask the Environmental Science Services Administration to explore more.

President Nixon was interested in the environment and established U.S. EPA. The first Earth Day was approved during his administration, a move Moynihan saw as a way to get the president involved with a "large student movement."

The memos were among 100,000 documents released Friday as part of an effort to move Nixon's archives from Washington to his presidential library in California (AP/*Seattle Times*, July 2). **-- JP**

## ENERGY

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### EPA salutes Detroit Diesel plant for energy efficiency (*Refrigerated Transporter*)

Jul 6, 2010 2:27 PM
Detroit Diesels Engine Manufacturing Center in Redford MI has been recognized by the US Environmental Protection Agency (EPA) as one of the first manufacturing facilities to meet the Energy Star Challenge for Industry.
Under the EPAs Energy Star Challenge for Industry, manufacturing sites establish an energy intensity baseline, set a 10% reduction goal within five years or less, implement energy efficiency projects, track energy use, and verify their savings.
Detroit Diesels Engine Manufacturing Center exceeded the EPAs reduction goal by reducing its energy intensity by 17% within one year. Detroit Diesel has been an Energy Star partner since 2009.
In addition, the facility was also recognized for Outstanding Achievement at the DTE Energy and The Engineering Society of Detroits Energy Conference and Exhibition for the Industrial Sustainable Energy Program of the Year. This award recognizes the Michigan-based industrial company that has made the most contributions in the area of energy conservation.

## FREEDOM OF INFORMATION

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### High Court Agrees To Review Case Seeking To Limit Key FOIA Exemption (*Inside EPA*)

Posted: July 6, 2010

The Supreme Court has agreed to review a case that could decide the reach of an increasingly used exemption from Freedom of Information Act (FOIA) disclosure requirements that courts have determined allows EPA and other federal agencies to withhold documents that parties can use to circumvent agency regulations.

The case in question involves the cleanup of a former weapons depot but could have implications for public access to internal government documents related to other cleanups and environmental contamination concerns across the country.

The high court June 28 granted certiorari review of *Glen Milner v. U.S. Department of the Navy*, a case involving the Navy's refusal to provide a citizen activist with specific maps and explosives safety plans on scuttling sites that would be used for naval vessels carrying munitions to and from the Naval Magazine Indian Island (NMII), a weapons depot in Washington state. Milner wants the information to determine how the weapons depot threatens the safety of local communities as well as the Puget Sound environment, according to the group Ground Zero Center for Nonviolent Action, to which Milner belongs.

In the case, the U.S. Court of Appeals for the 9th Circuit ruled last August against Milner, finding that a government department could "keep secret any document that is 'predominantly internal and its disclosure presents a risk of circumvention of agency regulation,'" according to Milner's March 22 petition, citing the court ruling. The appeals court affirmed the district court's decision.

At issue in the case is the scope of FOIA's "personnel policies" exemption, dubbed "Exemption 2," which allows agencies to withhold documents "related solely to the internal personnel rules and practices of an agency." Some courts have interpreted the measure to allow for two categories of exemptions: a "Low 2" exemption and a "High 2" exemption.

The Low 2 aspect relates to trivial internal processing information such as how parking spaces are allocated, says one attorney with a public interest group. With regard to the Low 2 exemption, the Supreme Court has previously ruled that an agency can keep secret trivial documents, but FOIA mandates disclosure of matters that are of genuine public interest.

At issue before the high court now is whether a High 2 exemption exists, and if so, what its scope is, the attorney says. A D.C. Circuit *en banc* decision in the 1981 case *Crooker v. Bureau of Alcohol, Tobacco & Firearms* is considered the benchmark case establishing the High 2 component of Exemption 2, according to the Navy. In it, the court found that a document is exempt under Exemption 2 from a FOIA request if "(1) it is 'predominant[ly] internal,' and (2) its 'disclosure [would] significantly risk circumvention of agency regulations or statutes,'" the Navy says in its opposition brief, citing the ruling.

But in his petition, Milner argues that the 9th Circuit "has gone far afield in this matter from even those other circuits that have adopted the High 2 reading." For instance, the

ruling has allowed "the Navy to assert a risk from any person, rather than limiting the exemption to risks presented by the subjects of agency regulation."

"The Ninth Circuit's decision allows a government agent to keep secret any document, as long as it was not designed for public release nor widely released, and can be shown to create any level of risk to any type of agency operation," the petitioner says. *Relevant documents are available on InsideEPA.com.*

'Failure To Adhere'

He argues the court's "failure to adhere to FOIA's plain language has far-reaching implications." He contends there is little information that would not have some potential impact on an agency's operation, and therefore could be used to help a lawbreaker interfere with an agency's regulations, citing for instance the posting of a Navy museum gift shop's hours would provide lawbreakers with times it would not be supervised and therefore easier to burglarize.

The use of Exemption 2 has increased significantly in the last decade, according to the public interest attorney, who cites a report by the Coalition of Journalists for Open Government that found between 1998 and 2006, the exemption's use rose 334 percent while FOIA requests increased 83 percent.

The source says part of the increased use of the exemption stems from Bush administration advisories. A memo from Bush Attorney General John Ashcroft, in the wake of the 9/11 terrorist attacks, emphasized the use of Exemption 2 to protect federal assets from security breaches. "Agencies should be sure to avail themselves of the full measure of Exemption 2's protection for their critical infrastructure information as they continue to gather more of it, and assess its heightened sensitivity, in the wake of the September 11 terrorist attacks," Ashcroft wrote.

But the practice has continued under the Obama administration. Federal agencies in 2009 cited Exemption 2 to deny FOIA requests 77,783 times, according to the Sunshine in Government Initiative. The data covers 29 agencies, which account for 97 percent of all FOIA requests, a source with the group says. Of that overall number, the Department of Homeland Security accounts for about 91 percent of the uses of Exemption 2, the source says. EPA used the exemption 46 times in 2009, while DOD used it 2,592 times, according to the group.

In his petition to the high court, Milner notes the increasing expansion of High 2, saying it initially was applied only to law enforcement documents in cases such as *Crooker*. Then it expanded to administrative regulations, then to documents which, if released, would be "operationally useless" or give an entity a competitive advantage, "and now to the instant case wherein a hypothetical security risk from a hypothetical lawbreaker to a non-regulatory agency is sufficient to trigger Exemption 2's protection," the petition says.

He asks the high court to "hold that Exemption 2 is limited to trivial administrative materials, and is not a catch-all for any information a government agency speculates may risk harm to agency operations."

While Milner argues in the petition that there is a conflict in the circuits on the interpretation of Exemption 2, and whether High 2 exists and how extensive it is if it does, the Navy in its opposition brief disputes that. "[T]here is no conflict among the circuits on the 'high 2' component of Exemption 2. As the Ninth Circuit observed, by formally adopting the *Crooker* standard, it brought itself into complete alignment with not only the D.C. Circuit, but also several other Circuits," the Navy says. "Indeed, we are aware of no appellate decision that rejects *Crooker*."

The Navy argues for instance that the split the petitioner asserts "is very stale," citing cases for instance where the information's disclosure would not have risked circumvention of law or cases that predated *Crooker*.

Disclosure Of Requested Information

The Navy also says that disclosure of the requested information "would in fact significantly risk circumvention of the law," fearing that it could be used by terrorists or other lawbreakers "to exploit the risks that attend the storage and handling of ordnance, and intentionally cause the very sort of catastrophe that [the requested] information is developed to avoid."

Both the petitioner and the public interest attorney contend that the High 2 reading, however, gives agencies too much discretion.

"The High 2 reading has created the very situation FOIA was enacted to prevent, wherein government agents are empowered to decide which documents citizens are allowed to see," the petitioner says.

The public interest attorney says the exemption may be used for items that cannot be classified, and believes it is overused as a "catch-all." But if such documents are "shoehorned into exemptions," withheld for the wrong purpose, "it's giving agencies more discretion to withhold things that are not falling within agencies' exemptions," the attorney says.

And the petitioner cites the fear of relying on an "overbroad Exemption 2" to "short-cut the classification or statutory protection process" for government documents. It would be significant if in this case, the Navy is "trying to turn a modest exemption into a new national security exemption," a source with an activist group says of the case.

The source with the activist group believes the chances for the petitioner to win the case are dim, noting that the 9th Circuit is considered the most liberal circuit. If that circuit gave the petitioners an adverse ruling, "on the surface [it] would suggest they may have a weak case," the source says. -- *Suzanne Yohannan*

**FUEL**
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**Bringing biofuels' benefits back home (*Kansas City Star*)**

July 7, 2010 Wednesday
SECTION: A; Pg. 15
July 7 2010
It's not your father's ethanol industry anymore.

Founded three decades ago in order to enhance the nation's energy security, the U.S. ethanol industry is searching overseas for new opportunities to expand its markets. And the industry is succeeding well beyond what most observers would have believed possible only a few years ago.

According to recent reports by the U.S. Department of Agriculture and the Census Bureau, the industry exported 83 million gallons of ethanol during the first three months of 2010 and is on track to sell a record total of at least 330 million gallons by the end of this year.

While the top importers of U.S. ethanol are Canada and the Netherlands, the industry is also finding some unlikely purchasers, including a major petroleum producer, the United Arab Emirates, and two leading ethanol exporters, India and Brazil.

At first glance, the increase in ethanol exports seems to be unequivocally good news. The ethanol industry supports hundreds of thousands of American families, creates economic opportunity in countless rural communities, and provides new markets for farmers' grain. During 2009 alone, the industry produced a record 10.75 billion gallons of ethanol, supported nearly 400,000 jobs throughout the economy and bought 3.8 billion bushels of corn.

Moreover, American-made ethanol reduced demand for imported oil by 364 million barrels. And the industry generated $15.9 billion in federal, state and local tax revenues, helping to pay for school systems, police and fire departments and highway construction.

Here in the Farm Belt, ethanol is essential to our economy. Missouri's six farmer-owned ethanol cooperatives produce approximately 275 million gallons of the biofuel every year, using approximately 20 percent of the state's corn. In Kansas, 11 plants produce 440 million gallons of ethanol annually, creating a market for about 157 million bushels of sorghum and corn.

The world's thirst for American ethanol is a tribute to the biofuel's high quality and

affordable price. This clean-burning, renewable fuel works well in many kinds of vehicles. With American farmers' unparalleled productivity and American producers' technological breakthroughs, U.S. ethanol is the most cost-effective alternative fuel on the global market today.

But increased ethanol exports also have a downside. By using more biofuels here at home, Americans can help to cure their addiction to imported oil, reduce air pollution and greenhouse gas emissions, and become less dependent on unfriendly governments in unstable parts of the world.

As the tragedy in the Gulf of Mexico demonstrates, a shift away from petroleum cannot happen soon enough.

The U.S. ethanol industry is seeking new customers abroad because domestic markets have become saturated as a result of public policies that artificially limit demand for the biofuel. The U.S. Environmental Protection Agency (EPA) sets a 10 percent limit on the quantity of ethanol that can be blended with gasoline for use in most cars.

As long as this "Blend Wall" exists and current trends continue for gasoline usage, the domestic market for ethanol cannot exceed approximately 12.5 to 13.5 billion gallons a year. U.S. ethanol producers are expected to produce about that much ethanol this year alone. They'll be compelled to export the additional ethanol that they produce, while the nation will have a harder time weaning itself off imported oil.

Fortunately, public policies can promote clean-burning American-made biofuels in three ways.

First, tear down the "Blend Wall." EPA should allow the use of 15 percent ethanol (E15) in a gallon of gasoline.

Second, Congress should extend important tax incentives for ethanol production and use, such as the Volumetric Ethanol Excise Tax Credit.

Third, let's deploy the infrastructure, such as blender pumps and flexible fuel vehicles, to dispense and use higher level ethanol blends (higher than E15).

Yes, we can use more clean-burning, American-made biofuels here at home while exporting more of our ethanol abroad.

Steve Gardner is general manager of East Kansas Agri-Energy in Garnett, Kan. Ryland Utlaut, of Alma, Mo., is the president and general manager of Mid-Missouri Ethanol in Malta Bend, Mo.

**Growing to E15? Delays raise doubt over EPA ruling on higher ethanol fuels (*MyWebTimes*)**

07/07/2010, 12:14 am
Jonathan Bilyk, newsroom@mywebtimes.com, 815-433-2000

Bob Beutke doesn't grow corn to make ethanol.
But if more ethanol were to be made in the next few years, Beutke wouldn't mind.

And that's why Beutke is among a number of corn growers in La Salle County and elsewhere perturbed at federal regulators for delaying a decision on a proposed new rule that would allow more of the primarily corn-based biofuel to flow into American fuel tanks.

"Very little of the actual corn I grow goes toward ethanol," said Beutke, who farms near Grand Ridge. "But the more ethanol that can get made, the better it is for all of us who grow corn."

For months, farmers and ethanol producers have waited on the U.S. Environmental Protection Agency to issue a ruling on a request from farm groups and biofuel manufacturers to increase by 50 percent the amount of ethanol blended into the fuel that fills vehicle fuel tanks across America.

Ethanol makers have for years ramped up production, fueled mainly by a federal mandate requiring the use of billions of gallons in ethanol in American gasoline fuel blends.

But now ethanol manufacturers fear a glut of ethanol might develop, as ethanol use approaches the ceiling of that mandate. And that is why farm groups and ethanol makers are pushing the EPA to create a new market for their product by issuing a mandate that fuel be blended with 15 percent ethanol, up from the current requirement of 10 percent.

The EPA had been expected to render a decision on the request concerning that fuel, known commonly as E15, in July. However, the federal agency in June said it intended to push back its decision to September.

The decision to delay has miffed supporters of the E15 rule, like Beutke and Ken Beck, a Mendota farmer who represents the region on the Illinois Corn Growers Association board.

"I'm not happy about this, because I don't know why they're dragging their feet," Beutke said. "We've given them all the evidence they need that this stuff is safe, and they just keep putting it off."

Opposition to E15 has been led by automobile makers and convenience store operators, who claim a transition to E15 will shorten vehicle life and impose expensive burdens on them to alter engines and install new fuel pumps at gas stations to accommodate higher ethanol blends.

But Beck thinks the delay is mainly due to politics, as lawmakers from traditionally strong corn producing states can make more hay of a ruling in the fall, closer to the November elections, than they could if the ruling came in July.

Beck is confident the EPA will rule in favor of the supporters of E15.

"I'd guess there would be some kind of restriction on it," Beck said. "But I think we're going to get something."

Farmers await E15 decision

Ken Beck isn't happy the U.S. Environmental Protection Agency has delayed its decision on whether to allow more ethanol into America's fuel supply.
But the Mendota farmer and local member of the Illinois Corn Growers Association board still believes federal regulators will side with farm groups in allowing the E15 fuel blend to flow.
"The EPA has had all of the solid science given to them that we can give," Beck said. "Now, they're going to decide."
Should E15 be allowed, the increase in ethanol production would be sharp, as new demand could rise by about 6.5 billion gallons, according to the Renewable Fuels Association. Presently, the U.S. produces about 10.5 billion gallons of ethanol annually, heading toward 15 billion gallons by 2015.
The possibility of such an increase has farmers dreaming of sustained high demand for corn, and thus, relative sustained high corn prices.
However, while the EPA may allow higher ethanol blends, just how far that decision might go remains unclear.
Automakers and convenience store operators, along with some environmental groups, have opposed any allowance for higher ethanol fuel blends. Automakers in particular fear higher ethanol blends will damage car engine parts, particularly in older vehicles whose engines were not designed to handle higher amounts of ethanol.
This concern has led the EPA to indicate it might allow E15 only for cars made after 2001. It also, however, might limit E15 use only to vehicles made after 2007.
While Beck said he could begrudgingly accept restricting use of E15 to cars made after 2001, the possibility of restricting it to post-2007 vehicles worries him and other supporters of E15.
"If you're going to restrict it to 2007 and newer, what's the point, really?" Beck said. "That accounts for so few cars on the road."

As a compromise, large ethanol maker Archer Daniels Midland has suggested the EPA consider approving a 12 percent ethanol blend instead.
But Beck and others have wondered what the EPA and the U.S. Department of Energy — the federal department conducting the tests of the higher ethanol fuel blends — would do with that request.
“If they say, ‘Sure, we’ve already done all the tests on E15, so E12 is fine,’ then great,” Beck said. “But are they going to make E12 go through all of those tests, just like E15, meaning they would basically be starting over? I don’t know.”
Whatever the EPA decides, ethanol makers and the farmers who provide the corn that feeds their fuel hope it will provide a boost. Beck and Beutke pointed out the fuel would be made in the U.S., displacing some demand for oil.
And Beck noted it could help create jobs, as ethanol makers build new plants or expand existing ones to meet renewed demand, as the U.S. builds toward its goal of 36 billion gallons of biofuels in use by 2022.

**POLITICAL**
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**43 top agency jobs remain unfilled (*Washington Post*)**

By Al Kamen
Wednesday, July 7, 2010; A13

Looking for a top job in a Cabinet-level agency? The pickings now are pretty slim, with only 43 such jobs available in the larger agencies. As a result of the Senate's shocking realization of its constitutional obligations two weeks ago -- who knew it was supposed to confirm presidential appointees? -- the Transportation Department and the Environmental Protection Agency have no openings at all. The departments of Energy and Homeland Security have but one opening each.

Of the 369 jobs at these agencies tracked by The Washington Post's Head Count, the White House has filled 88 percent (if those announced or formally nominated are included).

Still, some pretty good jobs are available. For example, there's the assistant secretary for import administration at the Commerce Department. That's the person who watches out for such things as illegal dumping of goods into this country. The job has been vacant since the beginning of the administration, and as recently as last month, Undersecretary Francisco Sanchez was saying that Commerce were still looking for someone.

This led to some grousing amongst the rank and file that if Sanchez were to spend more time looking and less time traveling, they'd find a candidate.

It's certainly true that Sanchez, a late-March recess appointee himself, has been on the road a goodly amount of late: a week or so in early May with health companies on a trade mission to Saudi Arabia and Qatar; another week in China at the end of May; then a week in Lima, Peru, and Bogota, Colombia, in late June. Next Wednesday he's off for a week to Eastern Europe (Poland, the Czech Republic, Slovakia) and Austria for a civil nuclear trade mission with U.S. executives.

But that may not be the reason for the opening. It seems the job is not an easy one to fill, especially because many of those qualified for it have been lobbyists. Apply quickly, though -- we hear Commerce is getting close to picking somebody. On the other hand, we've heard that before.

## SUPERFUND

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### Rehberg questions EPA's responsibility on cleanup (*Western News*)

Posted: Tuesday, July 6, 2010 7:30 pm | Updated: 7:34 pm, Tue Jul 6, 2010.
The Western News
Montana Rep. Denny Rehberg sent a letter last week to an Environmental Protection Agency official asking for clarifications relating to the Superfund cleanup, especially that of Operable Unit 1 adjacent to Riverfront Park in Libby.

The questions mostly regarded what the EPA's responsibility would be in the event that the cleanup proves to not be protective of human health in the future.

"As much as the folks in Libby want this cleanup to be over, they also want it to be done right," Rehberg said in a prepared statement. "… This isn't the first time we've seen a less than thorough response from the federal government, so the skepticism of the local community is completely justified."

Before the EPA released records of decision for the former export plant (OU1) and former screening plant sites in May, local groups and individuals questioned the agency about its decision to move forward without a toxicity assessment of Libby amphibole asbestos, as well as the risk of the current presence of visible asbestos-laced vermiculite. Residents also voiced a fear that the agency would refuse to open up a ROD once a remedy is already in place, even if new science points to a better alternative.

Rehberg caught wind of the concerns and laid them out in five questions addressed to Bill Murray, director of EPA's Region 8 Superfund Remedial Program.

“We’ve answered those questions,” EPA’s Victor Ketellapper, Libby team leader, said concerning the letter. “… We will respond to his concerns in writing and, at this point, we plan to proceed with implementing this remedy (for OU1) and making the property ready for use of a park for the city.”

Rehberg’s letter notes that some locals aren’t satisfied with EPA’s responses.

“Many in Libby believe their questions haven’t been adequately answered,” his letter reads, “particularly in regards to whether EPA will return to Libby if future evidence reveals that vermiculite exists in areas deemed safe by the ROD.”

EPA officials have maintained throughout the Superfund process that the agency is obligated to review a ROD at least every five years to determine if it is still protective of human health.

Ketellapper clarified that the RODs for the former screening and export plant sites are signed, but that the design and construction for the remedy is still in the works. The EPA is working with the city to clean up OU1 in a way that will be compatible with the city’s future plans of a larger Riverfront Park.

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2. Please use good taste and respectful language so that all readers feel welcome when commenting within this forum.

3. Please do not use language that abuses or discriminates.

4. Debate is welcome but do not attack others. It’s acceptable to disagree and express your own opinions but please do so in a respectful manner.

5. Do not use the reader comments area to promote commercial ventures.

6. Ask yourself the following four questions before posting – Is it a positive remark? Will I be hurting anyone? Children can come to this site … is it appropriate for their eyes? Would I want my name on this forum?

Note: Comments are not edited in any way and are either approved or rejected in their original form.

**TOXICS**

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**California moving closer to ban on BPA (*Plastic News*)**

By Mike Verespej | PLASTICS NEWS STAFF
Posted July 6, 2010
SACRAMENTO, CALIF. (July 6, 2:10 p.m. ET) -- California is moving close to a ban on bisphenol A in baby products.

Reversing a 37-29 no vote taken just three days earlier, the state Assembly voted 41-31 on July 1 to approve a ban on BPA. The bill now goes to the Senate, which last year approved a BPA ban that was rejected by the Assembly.

California's ban would go into effect Jan. 1, 2012 on baby bottles and other feeding products for children ages 3 and younger. The ban would further apply to infant formula cans starting July 1, 2012.

New York recently became the fifth state this year -- and the seventh in the last two years -- to enact a ban on BPA. If Gov. David Paterson signs the legislation, as expected, New York would be the largest state to date with a BPA ban.

Vermont, Connecticut, Wisconsin, Washington, Maryland, Minnesota, the city of Chicago and four counties in New York state — Albany, Schenectady, Suffolk and Rockland — have BPA bans.

BPA is used to make polycarbonate plastics, including baby bottles, sports bottles, reusable food and drink containers, bicycle helmets, CDs and DVDs. It is also an ingredient in the epoxy resins used to line metal cans.

A number of laboratory studies have linked BPA — a synthetic estrogen — to birth defects, low birth weight, cancer, early puberty and other health problems in rats. However, 11 safety agencies around the world have said that BPA is safe for use in food-contact applications.

The six major manufacturers of baby bottles last year agreed to stop selling PC bottles in the United States. Epoxy resins, however, are still used in the lining of most canned foods and beverages, including infant formula.

In late March, the U.S. Environmental Protection Agency began a series of actions to address the potential effects of BPA and issued an action plan that concentrates on the chemical's environmental effects. EPA said it would look to add BPA to its list of chemicals of concern, which would mandate environmental testing for BPA.

In mid-January, the Food and Drug Administration reversed its long-held stance that BPA is safe for food contact applications. Regulators said they were particularly concerned about BPA's effect on the development of fetuses, infants and young children. But FDA did not ban BPA or require manufacturers to label products that contain BPA, saying that there is not enough information to require that.

Approximately 7 billion pounds of BPA is produced globally each year for use in baby bottles, dental sealants, compact discs, water bottles, food cans, and a wide variety of other items.

**EPA, CDC Crafting Pilot Program To Elevate Health Considerations In NEPA (*Inside EPA*)**

Posted: July 6, 2010
EPA Region IV and the Centers for Disease Control & Prevention (CDC) are crafting a pilot program to determine whether coordinated actions between the two agencies will help enhance public health considerations and mitigate harmful project impacts when agencies conduct National Environmental Policy Act (NEPA) and other environmental reviews.

While the agencies are still working to resolve some implementation issues, "once we have all the kinks out of the way and figured out a framework to make this happen," the agency envisions the effort going national, says a Region IV source familiar with the program.

The EPA/CDC partnership is the latest indication that the Obama administration and others are seeking to elevate consideration of human health impacts when conducting NEPA reviews. Earlier this year, the National Academy of Sciences (NAS) convened a panel -- sponsored by EPA and the Department of Health & Human Services -- to develop guidance for conducting health impact assessments (HIAs) of public- and private-sector projects, in much the same way that agencies conduct environmental assessments under NEPA. The panel had its first meeting in March and is expected to issue its guidance next year.

In addition, the Health Impact Project -- a recent collaboration between the Robert Wood Johnson Foundation and the Pew Charitable Trusts -- in early June announced $1 million in grants to six projects to conduct HIAs at the state and local levels.

But the efforts to raise health impacts in NEPA and other actions are controversial, with critics noting the additional step may only further delay what are often complicated projects that already take too much time to win permits.

Still, a source with the Pew project calls the EPA/CDC partnership a "fantastic effort" by the agencies to pool their resources. "It is a good-faith effort to look at the way EPA

treats health. . . . There are folks at CDC committed to HIA and people at EPA seem very willing to work on this issue."

The EPA-CDC pilot program stems from an agreement signed earlier this year requiring the agencies to "seek to advance efforts in achieving mutual environmental public health goals and strengthening the bridge between environmental and public health impact assessment." It will seek to "enhance the collective understanding of linkages between proposed changes in the built and natural environment and ensuing human exposures and potential health outcomes so as to better inform decision-makers."

According to the document, the program is intended to determine whether this type of coordination between EPA and CDC will enhance public health considerations and mitigation within NEPA and other environmental assessment processes that guide decisionmaking.

Subject To Presidential Orders

The agreement is not limited to NEPA but notes at its "cornerstone," the agencies will "leverage" their comments on NEPA reviews, as well as activities subject to presidential executive orders on children's health and environmental justice. "The partners are especially committed to safeguarding the environmental health of populations that are particularly vulnerable to hazards in the built and natural environment -- children, the elderly, people with disabilities and those at high risk due to socioeconomic conditions," the agreement says.

The two-year agreement requires the agencies to conduct a minimum of two "joint agency reviews" per year to systematically review a NEPA analysis, after establishing the evaluation framework.

The agencies are now working on developing a performance evaluation framework to assess and document the outcomes of the projects, as well as criteria to identify NEPA reviews to use as pilots, the EPA Region IV source says. The agencies have not yet identified specific health outcomes they will consider, the EPA source says, but the agreement says possible areas can include air quality, water quality, social and economic resources, subsistence resources, environmental justice, children's health and land use considerations.

The EPA Region IV source adds the agencies are seeking to identify priority sectors for appropriate reviews such as transportation and energy projects, and are considering a highspeed rail transit project as an initial pilot to help develop the criteria.

The source says the agreement arose from recent EPA efforts to look at HIA combined with the opportunity to have a CDC staff detail at the region. "CDC had the capacity and know-how, and we had the need," the source says.

EPA and CDC will be presenting their baseline findings at an American Public Health Association meeting in November that the source says should include a series of case studies and results.

Meanwhile, EPA's Office of Environmental Justice (OEJ) chief Charles Lee called the issue of raising health impacts in NEPA reviews one that is here to stay. At a recent National Advisory Council on Environmental Policy & Technology (NACEPT) meeting, he said the issue is "something that is truly emerging and has a bit of traction."

Other EPA sources at the NACEPT meeting noted that OEJ is more broadly reviewing NEPA for equity issues with a particular focus on health.

An EPA spokeswoman declined to provide further details on the OEJ effort but confirmed that HIAs are being discussed as a potential equity tool. The spokeswoman adds that the agency is monitoring the NAS effort "and will utilize the results to design a systematic strategy" for regional NEPA reviewers to effectively include health impacts.

In addition to the Region IV effort, the spokeswoman pointed to a Region IX project to consider HIA as it addresses issues associated with ports and transportation.

Additionally, EPA Region X made an initial effort to include health in a NEPA review for the proposed expansion of an Alaska mine in 2008.

The final supplemental environmental impact statement for the Red Dog mine, issued in October 2009, includes a brief chapter on health effects analysis that listed possible health impacts from the expansion, including physical impacts "such as water discharges and fugitive dust," subsistence impacts "from mine-related activities on . . . subsistence users," and occupational impacts "such as worker exposure to toxins." -- *Dawn Reeves*

**EPA Extends Certification Deadline for New Lead Paint Rule (*Professional Door Dealer*)**

http://www.professionaldoordealer.com/
Posted on: 07/06/2010
The Environmental Protection Agency’s Lead: Renovation, Repair and Paint Rule” went into effect last April, and requires those who work on homes built before 1978 to be EPA-certified.

However, acknowledging a lack of trainers available to certify those in need to make their businesses compliant, the EPA has agreed to extend their deadline for certification to Oct. 1, 2010. That means dealers must be enrolled by Sept. 30, and have complete training by Dec. 31.

The EPA states it will not take enforcement actions for violation of certification requirements before Oct. 1, at which time dealers could be responsible for the fines that top out at $37,5000 per day.

Read the EPA's press release here.

**WATER**
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**EPA finishing up Pavillion-area monitoring wells (*Associated Press*)**

By MEAD GRUVER
CHEYENNE, Wyo. — The U.S. Environmental Protection Agency has almost finished drilling two monitoring wells to test for pollution in a central Wyoming community where residents suspect chemicals related to gas drilling have contaminated their well water.
Meanwhile, the EPA has pushed back a meeting with residents of the Pavillion area. Originally planned for July, the public meeting now will be held in August.
The agency wants to make certain ahead of the meeting that homeowners have accurate information about the contamination and any health risks, EPA spokesman Richard Mylott said.
"One of the things that's become clear is getting a good health-based assessment of the many wells we've sampled is time-consuming," Mylott said Tuesday.
Area residents say chemicals related to a process called hydraulic fracturing, or "fracking," may have polluted their wells. Fracking involves pumping water, sand and chemicals underground at high pressure to open fissures and improve the flow of oil or gas.
The EPA tested wells in the area in March 2009 and January 2010. Contamination is suspected in 11 water wells.
Mylott said two new wells to check for groundwater pollution are being completed and should be operational by August.
One homeowner, Louis Meeks, said the EPA considered but decided against drilling a monitoring well on his property because he'd tried drilling a new water well and hit dangerous amounts of natural gas.
"They were scared of that and so were the drillers," Meeks said Tuesday. "They didn't want to have problems."
A couple weeks ago, an EPA employee tested his water by turning on hot shower water and running a detector to see if gas was present, Meeks said.
"He did say there was a problem. There was gas there," he said.
Meeks said he hauls drinking water to his home at his own expense. His well water "reeks" from pollution, he said, and taking a shower "cleans your sinuses."
Meeks said he has health problems and so does his wife but no one seems to care.
"They're not doing anything out there for anybody, Encana," he said, referring to the company that did the gas drilling locals believe caused the pollution.

EnCana Corp. officials have said no link has been confirmed between groundwater pollution and the company's drilling in the area. The EPA expects to release its findings on a pollution source by year's end.
Encana spokesman Randy Teeuwen did not return a message Tuesday seeking comment.

**Post Falls approves suit against EPA (*Spokesman-Review*)**

Becky Kramer
The Spokesman-Review
The Post Falls City Council passed a resolution tonight approving a lawsuit against the federal government over a phosphorus-reduction plan for the Spokane River.

City Manager Eric Keck said Post falls is willing to do its part to reduce the amount of algae-spurring contaminates in treated sewage discharged into the river. But city officials contend that phosphorus limits in the plan crafted by the Washington Department of Ecology would strangle growth in North Idaho, unfairly penalizing Idaho dischargers while giving more generous limits to Washington municipalities.

In May, the U.S. Environmental Protection Agency endorsed the interstate plan for improving the river's water quality despite strong objections from Idaho dischargers.

Keck said that the Hayden Area Regional Sewer Board will join Post Falls in the lawsuit, which could be filed as early as this week in federal court in Boise. The city of Coeur d'Alene also has concerns about the new permit limits, but hasn't decided whether to pursue litigation, said Sid Frederickson, Coeur d'Alene's wastewater superintendent.

**Gulf of Mexico hides 27,000 abandoned wells (*Associated Press*)**

**Story also appeared: *Dallas Morning News***

12:00 AM CDT on Wednesday, July 7, 2010
Jeff Donn and Mitch Weiss, The Associated Press

More than 27,000 abandoned oil and gas wells lurk in the hard rock beneath the Gulf of Mexico, an environmental minefield that has been ignored for decades. No one – not industry, not government – is checking to see if they are leaking, an Associated Press investigation shows.

The oldest of these wells were abandoned in the late 1940s, raising the prospect that many deteriorating sealing jobs are already failing.

The AP investigation uncovered particular concern with 3,500 of the neglected wells – those characterized in federal government records as "temporarily abandoned."

Regulations for temporarily abandoned wells require oil companies to present plans to reuse or permanently plug such wells within a year, but the AP found that the rule is routinely circumvented and that more than 1,000 wells have lingered in unfinished condition for more than a decade.

As a forceful reminder of the potential harm, the well beneath BP's Deepwater Horizon rig was being sealed with cement for temporary abandonment when it blew April 20. BP alone has abandoned about 600 wells in the gulf, according to government data.

The U.S. Environmental Protection Agency acknowledged Tuesday that it has had to deal with leaks at abandoned wells in shallow state waters of Louisiana and Texas. The U.S. Bureau of Ocean Energy Management, Regulation and Enforcement – which oversees wells in federal waters – also acknowledged Tuesday that it has dealt with "a few" failed abandoned wells farther out in the gulf.

Experts say abandoned wells can repressurize, much like a dormant volcano can awaken. And years of exposure to sea water and underground pressure can cause cementing and piping to corrode and weaken.

Oil company representatives insist that the seal on a correctly plugged offshore well will last virtually forever.

"It's in everybody's interest to do it right," said Bill Mintz, a spokesman for Apache Corp., which has at least 2,100 abandoned wells in the gulf, according to government data.

State officials estimate that tens of thousands of wells on both land and sea are badly sealed, either because they predate strict regulation or because the operating companies violated rules.

The U.S. Minerals Management Service – recently renamed the Bureau of Ocean Energy Management, Regulation and Enforcement – relies on rules that have few real teeth. Once an oil company says it will permanently abandon a well, it has one year to complete the job. The bureau requires that work plans be submitted and a report filed afterward.

The bureau doesn't typically inspect the job, instead relying on the paperwork.

The AP documented an extensive history of warnings about environmental dangers related to abandoned wells:

• The Government Accountability Office, which investigates for Congress, warned as early as 1994 that leaks from offshore abandoned wells could cause an "environmental

disaster," killing fish, shellfish, mammals and plants. In a lengthy report, the GAO pressed for inspections of abandonment jobs, but nothing came of the recommendation.

• A 2006 Environmental Protection Agency report said of the overall issue regarding wells on land: "Historically, well abandonment and plugging have generally not been properly planned, designed and executed."

• A GAO report in 1989 provided a foreboding prognosis about the health of the country's inland oil and gas wells. The watchdog agency quoted EPA data estimating that up to 17 percent of the nation's wells on land had been improperly plugged. If that percentage applies to offshore wells, there could be 4,600 badly plugged wells in the Gulf of Mexico alone.

• According to a 2001 study commissioned by the Minerals Management Service, agency officials were "concerned that some abandoned oil wells in the gulf may be leaking crude oil." But nothing came of that warning, either.

Jeff Donn and Mitch Weiss,

Article published Jul 7, 2010

**EPA ship to investigate dump site off Isles of Shoals (*Foster's Daily Democrat*)**

PORTSMOUTH — A 225-foot research vessel pulled into the state pier on Tuesday for what is expected to be three-day effort by scientists to study an offshore site previously used to dump materials dredged from the Piscataqua River.

The Environmental Protection Agency's Ocean Survey Vessel "Bold" is slated to assist the Army Corps of Engineers in studying a former dump site located off the Isles of Shoals.

Capt. Jerel "Jerry" Chamberlain — a Maine native and captain for Seaward Services Inc. — said research scientists will board the ship on July 8 and mobilize for a project that will see experts using side-scan sonar to determine what the dump site looks like and how the dropping of dredged materials might be impacting bottom-based marine life like clams and worms.

Chamberlain — a Maine native — said sonar towed from a cable behind the ship will give scientists a clear picture of what the dump site looks like in the event that it is selected as the future site for more dredged materials.

"We look at every rock on the bottom and they sample around the edges (of the dump site) to see how its effecting sea life," Chamberlain said.

Chamberlain said experts look to avoid dumping dredge materials near rocks and other structures.

"They want a perfectly flat piece of mud," Chamberlain said.

The EPA-owned "Bold" has a crew of 18 individuals and is tasked with serving as a mobile research platform for government agencies and has spent recent years traveling everywhere from Texas to the Gulf of Maine.

The ship was built in 1989 and once served as a submarine hunting vessel, according to Chamberlain — a man who has spent his life at sea as the former captain of a cargo container ship that made numerous trips to Iceland.

The captain of the "Bold" said he took a pay cut to move from a container ship to a research vessel that suits his interest in science.

Chamberlain said the ship has its homeport in Florida, but spends most of its time housing scientists who study coastal waters.

The EPA's website indicated the "Bold" was acquired by the agency in 2004 as their only ocean and coastal monitoring vessel.

It is equipped with state-of-the-art sampling, mapping, and analysis equipment including side-scan sonar, underwater video, water sampling instruments, and sediment sampling devices, which scientists can use in various monitoring activities.

The ship is used to collect water quality and sediment samples, fish, and other organisms.

Chamberlain said the ship recently returned from a mission studying the ocean floor of Massachusetts and in Cape Cod Bay where sonar studies identified upward of 19 previously uncharted shipwrecks.

The ship is expected to leave the state pier and begin studying the dump site slightly east of the Isles of Shoals on July 9.

The "Bold" will spend future weeks cruising off the coast of New York and New Jersey studying the ocean floor near the continental shelf.

**A river's reckoning (*Milwaukee Journal Sentinel*)**

July 06--First of two parts.

Chicago likes to think of the filth flowing in its namesake river as nobody's business but its own, and for most of the last century that might have been true. But today that dirty water has become a problem for all the Great Lakes -- the world's largest freshwater system and a drinking water source for 40 million people.

Blame the Asian carp.

More than a century ago, the city reversed the Chicago River to carry its sewage away from Lake Michigan and into a Mississippi River-bound canal system. Today, those canals have become a flashpoint in the battle to protect the Great Lakes from the leaping carp that can devastate prized fish populations and inflict brutal blows on unsuspecting boaters.

With the invaders finning their way up the canal waters toward the Lake Michigan shoreline, a push is on to reconstruct the natural barrier between the Great Lakes and the Mississippi basins that the Chicago canals destroyed so long ago.

It is a project that would almost surely mean that Chicago's river -- and some of the city's wastewater -- would again flow into Lake Michigan.

This itself would be an ecological disaster -- if Chicago sewage officials can't figure out how to clean up sewage discharges that are among the nastiest in the nation.

Chicago has a rare distinction among major American cities It does not employ a disinfection stage at its three main sewage treatment plants.

The result is a river and canal system running so thick with fecal coliform that signs along the banks warn that the contents below are not suitable for "any human body contact."

It is poison, basically.

Even before the carp arrived, conservationists had been pushing the Metropolitan Water Reclamation District of Greater Chicago to not just do basic sewage treatment, but also to disinfect its discharges, a step nearly every other major American city takes. That's something the district boss dismisses as not worth the expense, which would be no more than $2 to $3 per household per month according to the U.S. Environmental Protection Agency.

The reclamation district shows no signs of budging on the issue, even as pressure mounts to do whatever it will take to safeguard the Great Lakes -- and its $7 billion fishing industry -- from what biologists call a menacing invader.

That's not what reclamation district boss Richard Lanyon calls the fish.

He calls them "these stupid Asian carp."

The big flush

Chicago has been treating Lake Michigan like a giant toilet tank since it engineered a crude sewer system to suck from the lake about 6 billion gallons of water per day, a flow big enough to drain a body of water the size of Lake Winnebago in a single summer.

You can think of that colossal water grab as a super-size flush, inside a continent-sized commode. Chicagoland's raw sewage once plunged into the man-made Chicago Sanitary and Ship Canal, and that canal whooshed the Windy City stew into the Mississippi River and down to the Gulf of Mexico, Chicago's toilet bowl.

Before canal construction in 1900, the city simply dumped its feces into the Chicago River, a fetid dribble that flowed into Lake Michigan -- Chicago's drinking water source.

This wasn't just gross, it was deadly; about 2,000 Chicagoans a year succumbed to typhoid.

"It was a matter of survival," Lanyon says of channeling the polluted river so it flowed away from the lake.

The city's decision to blast a canal through the continental divide that separates the waters of the Great Lakes and Mississippi guaranteed Chicago a boundless supply of safe freshwater, fueling its growth and development for decades to come.

It also ignited courtroom battles.

Neighboring Great Lakes states claimed Chicago stole their water and permanently lowered Lake Michigan; St. Louis was revolted that Chicago sewage flowed from its faucets, diluted as it was by the time it got to town.

In a 1930 ruling, the U.S. Supreme Court allowed reduced flows in the canal to protect Chicagoans from "possible pestilence and ruin" had they continued to drink what they flushed.

Since then, the Midwest has tolerated Chicago's crap, but politicians are now lining up to do something about its carp -- and its canal system.

First a fix, then a mess

Chicago Mayor Richard M. Daley convened a summit seven years ago that drew scientists, engineers and invasive species experts to figure out how to stop the inexorable advance of invading carp toward the Great Lakes.

The canal had indeed been a forceful solution to the city's 19th century sewage problem. But by the beginning of the 21st century, the true costs of destroying a

continental divide -- which some conservationists refer to as Chicago's "original sin" -- were finally coming into focus as water, waste and noxious species mixed in a manner nature never intended.

Pipe-clogging invasive mussels from the Caspian Sea region -- which have shredded the Great Lakes' food web and cost billions of dollars to industries and municipalities -- rode Chicago's canal waters out of Lake Michigan and into the rest of America. They were followed by round gobies, a prolific predator of native fish species' eggs. Today a fish-killing, ebola-like virus is threatening to spill inland from southern Lake Michigan, an invasion that could have dire consequences for fish farmers in the South.

With Asian carp on the way north, Daley knew by 2003 that it was time to do something "bold" to deal with the economic and ecological consequences of linking America's two grand drainage basins.

"The longer you put off solving a problem, the more it costs you in the long run," Daley told the group. "An aggressive solution to a problem is almost always cheaper than repairing the damage later."

The group brainstormed for two days and concluded it was time to atone for the destruction; it was time to reconstruct the continental divide by putting a barrier in the canal.

But the solution Daley had asked for was widely dismissed as outlandish.

Tilting river flows back toward Lake Michigan in dinner plate-flat Chicago would likely require costly upgrades in the city's sewage system because it would no longer have the luxury of flushing its bacteria-laden waste downstream.

Damming the canals also would mean trouble for the barge industry that relies on free-flowing water to float industrial goods such as coal, salt, cement and chemicals.

Then came the carp.

In November, the U.S. Army Corps of Engineers acknowledged that new environmental DNA sampling revealed the fish had breached the lake's last line of defense on the canal, an electric barrier system about 35 miles downstream from Lake Michigan.

Government agencies have since dumped about $4.5 million worth of fish poison into the Chicago waterways as an emergency dose of chemotherapy to try to knock back the spreading ecological malignancy.

The poisoning is part of a $78 million federal emergency plan to buy the Great Lakes some more time. It includes three electric fish barriers in the canal and research into beating back the invaders with bubbles, lights and even noise.

Criticized as more desperate and disparate than directed, few believe these quirky schemes offer the Great Lakes any long-term protection.

Yet the seeds planted at Daley's summit seven years ago are finally beginning to sprout, and it's not just Illinois' neighbors who are pushing for big changes on the 110 year-old canal.

In late June -- just three days after a 3-foot long Asian carp was found six miles downstream from Lake Michigan -- Illinois Democratic Sen. Dick Durbin proposed legislation forcing the Army Corps to expedite a study of what it will take to separate the canals from Lake Michigan.

Even canal operators realize the days of a free flow to the Gulf of Mexico may be numbered.

"Could it happen?" says reclamation district executive director Lanyon. "Sure. It would be challenging, but it could happen."

And one reason it could happen is that remarkable progress has been made since 1900 in technologies to disinfect waste discharged from sewage treatment plants.

Arteries and intestines

The 1972 Clean Water Act led to a universal push by environmental regulators to try to force cities everywhere to treat their rivers as the vital arteries that they are.

Except in Chicago.

It still treats its river like an intestine.

"What's happening here is insane," John Quail of the conservation group Friends of the Chicago River says on a steamy mid-May day in the northern suburb of Evanston. Quail is standing on a floating dock in a canal carved a century ago through Chicago's tony north shore suburbs to flush their waste downstream.

At the end of the dock a team of middle-aged moms lowers a crew boat into waters so filthy with fecal coliform -- an indicator of the presence of human waste -- that it would be illegal in Wisconsin and almost anywhere else.

But not here. Not on the North Shore Channel. Not downstream on the Sanitary and Ship Canal. And not on the Cal-Sag Channel, south of downtown, which also flows into the Sanitary and Ship Canal.

Built primarily to float waste -- and therefore given a pass on the normal disinfection requirements -- these three canals are thick with bacteria at levels that can be more than 1,000 times higher than what is discharged at Milwaukee's Jones Island sewage

treatment plant. It signals the presence of human-borne viruses, bacteria and even worms that can cause everything from hepatitis to respiratory infections to dysentery.

Cities typically have strict limits on how much fecal coliform they can discharge; Jones Island discharged an average of 29 fecal colony forming units per 100 milliliters of water in 2008. Records from the Chicago Reclamation District show the North Side treatment plant averaged 12,279, with daily spikes as high as 170,000. At Chicago's big three reclamation treatment plants, there is no cap.

The reason, essentially, is Chicago treatment plants discharge into a sanitary canal, giving wastewater a chance to dilute and be cleansed naturally before it reaches a river.

Chicago now caring

The sewage situation doesn't fit with the self-image of a city led by a mayor whose goal is to make it the "most environmentally friendly city in the nation."

When people realize what the reclamation district is putting into the picturesque river, Friends of the Chicago River executive director Margaret Frisbie says, people are "shocked and disgusted."

The Natural Resources Defense Council's Henry Henderson still shakes his head at an episode last year during the heat of the failed push to land the 2016 Summer Olympics.

Chicago's hope was to host the world's first "Blue-Green Games," focusing on environmental protection and showcasing its urban shoreline and waterways.

As part of the campaign, the bid committee's Environment Advisory Council wanted to take a visiting international delegation on a boat ride down the Chicago River.

Henderson suggested the event might be an appropriate time to announce that, in the spirt of the Blue-Green motto, Chicago was going to begin disinfecting the sewage discharges that account for the majority of the water in the Chicago canal system.

The environment advisory council members were stunned that such filth flows daily through the heart of their city.

"You could just see their faces as they tried to figure it out," says Frisbie, also an environment advisory council member. "They were saying What? What? They didn't believe it."

So how does Chicago get away with it?

"It's a good question," says Linda Holst, the U.S. Environmental Protection Agency's regional water quality branch chief.

"Well, Mr. Mayor?"

Mayor Daley wants the reclamation district to start disinfecting its discharges.

So does Governor Pat Quinn, as does Attorney General Lisa Madigan, as well as a bipartisan group of congressmen from the region.

But they don't run the sewer system that serves most all of Cook County -- including about 125 communities outside Chicago city limits.

Lanyon and his elected board do, and they don't want to pay for it. Lanyon says even if the district did raise the money to install disinfection systems, a state tax cap means the district could not afford to run them at its three major plants, Stickney, North Side and Calumet.

His response to Daley's push for disinfection?

"Well, Mr. Mayor, write me a check," he says. "Put your pocketbook where your mouth is."

Lanyon points to a soon-to-be released epidemiological study his district commissioned that will show the canal water isn't getting people sick at any higher rate than other water bodies.

Critics say the study doesn't prove people aren't contracting bugs and passing them along to others. They also contend the study doesn't take into account that many people don't use the canals the same way they use other bodies of water, precisely because of the dangers.

Many of those who do venture onto the canals do so with great caution.

The leafy North Shore channel is a training ground for college crew teams, as well as high school rowers, many of whom see the dirty water as the best route to a varsity letter, and perhaps college scholarship.

Space for all rowers is tight on busy training days, and on weekends they have to dodge droves of kayakers and canoeists.

All of them float past the warning signs lining the banks that caution against any body contact at all.

Only a fool -- or an unsupervised child trying to beat the heat on a hot summer day -- would purposely take a dip in the North Shore Channel, but that doesn't mean people aren't getting wet.

New Trier Township High School assistant crew coach Hope Poor says her kids are schooled to wash well after practice, scrub popped blisters and keep their heads above water on the rare occasion someone takes an accidental plunge.

"All of the kids are aware of how dirty the water is," Poor says.
Sometimes that's not enough. Poor remembers one student who was forced to drop out of the sport.
"She got two staph infections from cuts on her leg and her mother wouldn't let her row anymore," she says.
The girl, she says, wasn't part of the reclamation district's epidemiological study.
'Not your babbling brook'
Lanyon says people should know what they're getting into when they go on the water.
"This is not your babbling brook. ... It's an open channel or a pipe," he says.
And that characterization has made all the difference.

In the years just after passage of the Clean Water Act in 1972, the district was disinfecting its wastewater, but beginning in the mid-1980s it convinced state regulators it wasn't worth the expense because nobody was fishing or swimming in the waters.

The reclamation district also argued the chlorine it was putting into the water was doing more harm than good to fish, though that problem is easily solved with a dechlorination stage, as is done in Milwaukee.

The state of Illinois responded by giving the district a pass on disinfection.

The U.S. Environmental Protection Agency, which commonly delegates Clean Water Act enforcement to individual states, could have stepped in and put the hammer down. Instead it let it slide, and the dirty water has been flowing since.

"The river wasn't used that much for recreation and the U.S. EPA basically said, 'We're not going to take on the state of Illinois and the (reclamation) district and fight them over this,' " says Dale Bryson, former director of U.S. EPA's regional water division, and also a former board chairman for the Alliance for the Great Lakes. "It was just a decision we made because we had other things that were a higher priority."

Disinfection issues aside, Bryson says the reclamation district has made big strides in cleaning canal waters in recent decades. He points to Chicago's deep tunnel and reservoir project that already has reduced overflows from about once every three days to about once a month. Overflows typically happen in big rains when treatment plants are overwhelmed and raw sewage gets dumped in the canals.

Once the reservoir system is finished, sometime in the 2020s, it will ratchet overflows down to one to three per year, and perhaps zero, says Illinois EPA's Rob Sulski.

The overflow reduction already has caused fish populations in the canal system to explode and, ironically, may have opened the door to the Asian carp. In previous decades they might not have been able to survive in the canal.

Still, the waterway will never be safe for humans until discharges coming out of the treatment plants are disinfected.

"The district is a pretty progressive outfit other than the last few years, when they decided to say no to everything," says Bryson.

Illinois EPA is now recommending that the district begin disinfecting, and the Illinois Pollution Control Board, which sets environmental rules for the state, is weighing the matter.

While the U.S. EPA has deferred to the state on the matter for decades, that could soon change.

"At some point, if we feel like it's dragging on and on and on, we'll have to decide whether or not we need to step in," says U.S. EPA's Holst.

The carp might well force the issue.

The Natural Resources Defense Council's Henderson isn't surprised the reclamation district has dug in its heels on disinfection and is dismissing the threat the carp pose.

"It has a long history of being a very insular institution," he says.

"The only public input they want is when you flush your toilet."

In the district's hands

The reclamation district has been taking issues into its own hands since canal builders slipped out of town on a train under the cover of darkness on Jan. 17, 1900, racing 30 miles downstream to open the canal and beat a feared U.S. Supreme Court injunction sought by Missouri.

That chilly morning, a dam was opened for the first time and a green sheet of water tumbled forth. Lake Michigan and the Mississippi basin were wed in a ceremony the New York Times characterized as one of "undignified haste."

More than 100 years later, the fight sparked by that late-night raid on the continent's circulatory system continues.

This winter, Wisconsin and several other states hoped the threat of Asian carp would persuade the Supreme Court to re-open an ongoing case over the canal that was initially filed in the 1920s. The Supreme Court justices declined, but Great Lakes

politicians outside Illinois are pushing for a new law that would require the U.S. Army Corps to immediately shut down two navigation locks on the canal system as an emergency -- and crude -- attempt to once again separate the lake from the Mississippi.

Illinois politicians and business leaders have argued against an emergency lock closure. They say the lock gates aren't entirely waterproof so they might still allow fish to pass through.

Shutting them with essentially no notice would also deal a brutal blow to a barge industry that is largely a byproduct of the sewage canals.

And closing the locks permanently at this point likely would also cause severe flooding because the canal system is designed to flow backwards into the lake if big rains overwhelm the treatment plants. Operators respond by diverting straight sewage into the canal and gates are opened so the waste can tumble into Lake Michigan.

But it's possible that separation might be accomplished in a way that would not force flooding and still accommodate, if not enhance, regional barge traffic.

Yet it will take planning and time -- time the Great Lakes might not have.

Biologists say this is a bigger issue than just Asian carp.

It is about the biological integrity of the Great Lakes, home to about 20% of the globe's fresh surface water, a geographic phenomenon every bit as unique as the Himalayas.

The freshwater seas evolved essentially isolated from the rest of the aquatic world.

They were protected on the east by the towering Niagara Falls and on the west by the continental divide that separated them from the Mississippi River basin.

Canada's Welland Canal, first constructed in the 1800s, allowed oceangoing vessels -- and the ruinous critters they unintentionally carry -- to bypass Niagara Falls, and the front door to the Great Lakes swung wide open.

The back door opened wide when Chicagoans blasted their way into the Mississippi basin.

The result is that today the Great Lakes are home to more than 185 non-native species, and a delicate balance established over 10,000 years has been destroyed in a matter of decades.

That doesn't mean the lakes have seen everything the globe can send them.

The reviled northern snakehead, for example, is already loose in the Mississippi basin. The razor-toothed fish that can breathe air and slither short distances across land is a prime candidate to follow the carp north toward the lakes.

"This whole issue should not be framed in terms of carp. It's about lots of other species," says David Lodge, the University of Notre Dame professor who pioneered the DNA testing in the canals.

There is another reason Chicago needs to rethink its 19th century approach to managing its water, says Josh Ellis, a water supply specialist for the area's nonprofit Metropolitan Planning Council.

He looks down the road and sees a congested megalopolis going dry if it doesn't figure out how to better use the 2.1 billion gallon per day cap of lake water that was imposed by the Supreme Court as a result of the decades-old lawsuit.

Soon enough, he says, the foolishness of using much of its precious water budget to flush the city's waste is going to become apparent.

Under the Supreme Court ruling, every drop the city returns to Lake Michigan is a drop Chicago can use to slake its thirst and fuel its businesses.

"Over the next 100 years Chicago will be at a disadvantage in terms of water supply," says Ellis. "And I think that's the real reason to build a separation -- it's about the water."

And the money that goes with it.

By the numbers
29

Average fecal-colony forming units per 100 milliliters of water discharged in 2008 at Milwaukee's Jones Island facility
12,279

Average at Chicago's North Side treatment plant that same year
170,000

Daily spikes at the Chicago plant can reach this level

**AP IMPACT: Some 27,000 aging, abandoned wells in the Gulf possibly leaking but never inspected (*Los Angeles Times*)**

More than 27,000 abandoned oil and gas wells lurk in the hard rock beneath the Gulf of Mexico, an environmental minefield that has been ignored for decades. No one — not

industry, not government — is checking to see if they are leaking, an Associated Press investigation shows.

The oldest of these wells were abandoned in the late 1940s, raising the prospect that many deteriorating sealing jobs are already failing.

The AP investigation uncovered particular concern with 3,500 of the neglected wells — those characterized in federal government records as "temporarily abandoned."

Regulations for temporarily abandoned wells require oil companies to present plans to reuse or permanently plug such wells within a year, but the AP found that the rule is routinely circumvented, and that more than 1,000 wells have lingered in that unfinished condition for more than a decade. About three-quarters of temporarily abandoned wells have been left in that status for more than a year, and many since the 1950s and 1960s — eveb though sealing procedures for temporary abandonment are not as stringent as those for permanent closures.

As a forceful reminder of the potential harm, the well beneath BP's Deepwater Horizon rig was being sealed with cement for temporary abandonment when it blew April 20, leading to one of the worst environmental disasters in the nation's history. BP alone has abandoned about 600 wells in the Gulf, according to government data.

There's ample reason for worry about all permanently and temporarily abandoned wells — history shows that at least on land, they often leak. Wells are sealed underwater much as they are on land. And wells on land and in water face similar risk of failure. Plus, records reviewed by the AP show that some offshore wells have failed.

Experts say such wells can repressurize, much like a dormant volcano can awaken. And years of exposure to sea water and underground pressure can cause cementing and piping to corrode and weaken.

"You can have changing geological conditions where a well could be repressurized," said Andy Radford, a petroleum engineer for the American Petroleum Institute trade group.

Whether a well is permanently or temporarily abandoned, improperly applied or aging cement can crack or shrink, independent petroleum engineers say. "It ages, just like it does on buildings and highways," said Roger Anderson, a Columbia University petroleum geophysicist who has conducted research on commercial wells.

Despite the likelihood of leaks large and small, though, abandoned wells are typically not inspected by industry or government.

Oil company representatives insist that the seal on a correctly plugged offshore well will last virtually forever.

"It's in everybody's interest to do it right," said Bill Mintz, a spokesman for Apache Corp., which has at least 2,100 abandoned wells in the Gulf, according to government data.

Officials at the U.S. Interior Department, which oversees the agency that regulates federal leases in the Gulf and elsewhere, did not answer repeated questions regarding why there are no inspections of abandoned wells.

State officials estimate that tens of thousands are badly sealed, either because they predate strict regulation or because the operating companies violated rules. Texas alone has plugged more than 21,000 abandoned wells to control pollution, according to the state comptroller's office.

Offshore, but in state waters, California has resealed scores of its abandoned wells since the 1980s.

In deeper federal waters, though — despite the similarities in how such wells are constructed and how sealing procedures can fail — the official policy is out-of-sight, out-of-mind.

The U.S. Minerals Management Service — the regulatory agency recently renamed the Bureau of Ocean Energy Management, Regulation and Enforcement — relies on rules that have few real teeth. Once an oil company says it will permanently abandon a well, it has one year to complete the job. MMS mandates that work plans be submitted and a report filed afterward.

Unlike California regulators, MMS doesn't typically inspect the job, instead relying on the paperwork.

The fact there are so many wells that have been classified for decades as temporarily abandoned suggests that paperwork can be shuffled at MMS without any real change beneath the water.

With its weak system of enforcement, MMS imposed fines in a relative handful of cases: just $440,000 on seven companies from 2003-2007 for improper plug-and-abandonment work.

Companies permanently abandon wells when they are no longer useful. Afterward, no one looks methodically for leaks, which can't easily be detected from the surface anyway. And no one in government or industry goes underwater to inspect, either.

Government regulators and industry officials say abandoned offshore wells are presumed to be properly plugged and are expected to last indefinitely without leaking. Only when pressed do these officials acknowledge the possibility of leaks.

Despite warnings of leaks, government and industry officials have never bothered to assess the extent of the problem, according to an extensive AP review of records and regulations.

That means no one really knows how many abandoned wells are leaking — and how badly.

The AP documented an extensive history of warnings about environmental dangers related to abandoned wells:

— The General Accountability Office, which investigates for Congress, warned as early as 1994 that leaks from offshore abandoned wells could cause an "environmental disaster," killing fish, shellfish, mammals and plants. In a lengthy report, GAO pressed for inspections of abandonment jobs, but nothing came of the recommendation.

— A 2006 Environmental Protection Agency report took notice of the overall issue regarding wells on land: "Historically, well abandonment and plugging have generally not been properly planned, designed and executed." State officials say many leaks come from wells abandoned in recent decades, when rules supposedly dictated plugging procedures. And repairs are so routine that terms have been coined to describe the work: "replugging" or the "re-abandonment."

— A GAO report in 1989 provided a foreboding prognosis about the health of the country's inland oil and gas wells. The watchdog agency quoted EPA data estimating that up to 17 percent of the nation's wells on land had been improperly plugged. If that percentage applies to offshore wells, there could be 4,600 badly plugged wells in the Gulf of Mexico alone.

— According to a 2001 study commissioned by MMS, agency officials were "concerned that some abandoned oil wells in the Gulf may be leaking crude oil." But nothing came of that warning either.

The study targeted a well 20 miles off Louisiana that had been reported leaking five years after it was plugged and abandoned. The researchers tried unsuccessfully to use satellite radar images to locate the leak.

But John Amos, the geologist who wrote the study, told AP that MMS withheld critical information that could have helped verify if he had pinpointed the problem. "I kind of suspected that this was a project almost designed to fail," Amos said. He said the agency refused to tell him "how big and widespread a problem" they were dealing with in the Gulf.

Amos is now director of SkyTruth, a nonprofit group that uses satellite imagery to detect environmental problems. He still believes that technology could work on abandoned wells.

MMS, though, hasn't followed up on the work. And Interior Department spokeswoman Kendra Barkoff said agency inspectors would be present for permanent plugging jobs "only when something unusual is expected." She also said inspectors would check later "only if there's a noted leak." But she did not respond to requests for examples.

Companies may be tempted to skimp on sealing jobs, which are expensive and slow offshore. It would cost the industry at least $3 billion to permanently plug the 10,500 now-active wells and the 3,500 temporarily abandoned ones in the Gulf, according to an AP analysis of MMS data.

The AP analysis indicates that more than half of the 50,000 wells ever drilled on federal leases beneath the Gulf have now been abandoned. Some 23,500 are permanently sealed. Another 12,500 wells are plugged on one branch while being allowed to remain active in a different branch.

Government records do not indicate how many temporarily abandoned wells have been returned to service over the years. Federal rules require only an annual review of plans to reuse or permanently seal the 3,500 temporarily abandoned wells, but companies are using this provision to keep the wells in limbo indefinitely.

Petroleum engineers say abandoned offshore wells can fail from faulty work, age and drilling-induced or natural changes below the seabed. Maurice Dusseault, a geologist at the University of Waterloo in Ontario, Canada, says U.S. regulators "assume that once a well is sealed, they're safe — but that's not always the case."

Even fully depleted wells can flow again because of fluid or gas injections to stimulate nearby wells or from pressure exerted by underlying aquifers.

Permanently abandoned wells are corked with cement plugs typically 100-200 feet long. They are placed in targeted zones to block the flow of oil or gas. Heavy drilling fluid is added. Offshore, the piping is cut off 15 feet below the sea floor.

Wells are abandoned temporarily for a variety of reasons. The company may be re-evaluating a well's potential or developing a plan to overcome a drilling problem or damage from a storm. Some owners temporarily abandon wells to await a rise in oil prices.

Since companies may put a temporarily abandoned well back into service, such holes typically will be sealed with fewer plugs, less testing and a metal cap to stop corrosion from sea water.

In the Deepwater Horizon blowout, investigators believe the cement may have failed, perhaps never correctly setting deep within the well. Sometimes gas bubbles form as cement hardens, providing an unwanted path for oil or gas to burst through the well and reach the surface.

The other key part of an abandoned wells — the steel pipe liner known as casing — can also rust through over time.

MMS personnel do sometimes spot smaller oily patches on the Gulf during flyovers. Operators are also supposed to report any oil sheens they encounter. Typically, though, MMS learns of a leak only when someone spots it by chance.

In the end, the Coast Guard's Marine Safety Laboratory handles little more than 200 cases of oil pollution each year.

And manager Wayne Gronlund says it's often impossible to tell leaking wells from natural seeps, where untold thousands of barrels of oil and untold millions of cubic feet of gas escape annually through cracks that permeate the sea floor.

The AP National Investigative Team can be reached at investigate(at)ap.org

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