**U. S. Environmental Protection Agency**
**E-Clips**
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**ADMINISTRATOR JACKSON**
**==========**

**EPA disappoints biofuel backers once again (*Agriculture Online*)**

Dan Looker
Successful Farming magazine Business Editor
6/22/2010, 4:04 PM CDT
Nothing seems to unite Washington farm and energy lobbyists and Midwest members of Congress from both parties more than the EPA. The Agency angered ethanol supporters last week when it was learned that EPA wonˇt approve higher ethanol blends until September at the earliest, and only for 2007 or newer model cars. Approval for 2001 and newer cars might come in November.

Tuesday, one of the Senate's strongest ethanol supporters, Chuck Grassley (R-IA) was vowing to go over EPA Administrator Lisa Jackson's head to the White House with a letter urging support for 15% ethanol blends in gasoline.

"I'm going around EPA and going to the President," said Grassley, who is glad that President Obama seems to be supportive of the biofuels industry. On a recent trip to the Midwest he visited ethanol and biodiesel plants. "But actions speaker louder than words and the actions have been deathly silent."

Grassley said the latest delay in a request for 15% blends, which were expected to be approved this summer, means they won't be available to consumers until 2011.

Bob Dinneen, president of the Renewable Fuels Association, is even angrier.

"The Agency has once again decided to stick its head in the oil-drenched sands of the Gulf Coast," Dinneen told Agriculture.com.

The way the EPA plans to roll out higher blends will likely hurt the ethanol industry, not help it, Dinneen fears.

Not only would roughly half of all cars on the market not be allowed to buy E15, the EPA will require a big warning label on gas pumps that dispense it. It would say the product has 15% ethanol, with a long list of vehicles that can't use it, Dinneen predicted.

"For 25 years the industry has worked to get labels off the pump," he said.

He also doubts that many retailers would go to the expense of adding extra pumps for E15 if they have to also offer E10 for older vehicles. A blender pump that allows the consumer to choose the level of ethanol in gas is available at 2,000 locations, a drop in the ocean of gasoline sold by 170,000 retailers.

Dinneen said that EPA already has the authority to allow up 12% blends, because in the past it has allowed another octane booster, MTBE, to be blended up to 2% into gasoline that has a 10% ethanol blend.

Dinneen said EPA has no evidence that a 15% blend will harm older vehicles and has failed to back up its decision with scientific evidence.

Grassley said he didn˘t know who will sign on to his letter to Obama, but Dinneen predicted it would be bipartisan.

"The administration should get off its duff and allow the use of E15 for all vehicles as soon as possible," Dinneen said.

Later on Tuesday, Agriculture Secretary Tom Vilsack announced an upcoming report that will show the progress the nation is making toward a renewable fuel standard that will require the nation to use 36 billion gallons of biofuels by 2022. Of that, 15 billion would come from corn ethanol. Vilsack said the industry is already nearing that 15 billion gallons in production capacity.

"I'm absolutely confident of our capacity and ability to meet that threshold by 2022," Vilsack told reporters.

He also said he expects the EPA to approve a blend rate increase for ethanol in gasoline. "What people have to see is the opportunity side of this," he said, referring to doubts over the number of cars that will be allowed to use the fuel.

Vilsack acknowledged a need for better ways to get the fuel to consumers. USDA has financial resources that will be used to encourage more blender pumps, he said. The spending is authorized by the energy title of the 2008 farm bill and USDA can use rural development funds, he said.

Other members of Congress and farm groups have voiced dismay over the EPA delay.

National Farmers Union, which has been more supportive of the Obama administration policies than many groups, is the latest critic.

"NFU is disappointed with the EPA's announcement that the E-15 waiver decision will not be made until fall," said Farmers Union lobbyist Chandler Goule in a statement. "Farmers are getting very impatient with yet another delay in approving higher use amounts of renewable, clean fuels as part of our national energy solution while they watch the continued contamination resulting from the devastating spill in the Gulf of Mexico. At such a critical time, further delay on this decision continues to impede real energy solutions from our nation˘s farms and ranches."

Among prominent Senators angered by the move is Grassley's Iowa colleague, Tom Harkin, a Democrat.

"The Gulf oil spill, which is destroying our natural treasures and the livelihood of millions of Americans, underscores the critical need for American to take bold steps toward an energy future based on renewable energy," Harkin said last week. "By delaying its decision on the use of E15 blends, the Environmental Protection Administration and Department of Energy are showing a real lack of priority. This needless foot dragging maintains our addiction to foreign oil, imperils our environment and delays the further development of our domestic renewable energy industry."

**EPA revises SO2 standard, setting lawsuit clock (*Greenwire*)**

(06/22/2010)
Gabriel Nelson, E&E reporter
U.S. EPA published revised air standards today intended to protect people from jumps in sulfur dioxide, starting a 60-day limit for legal challenges to the rule.
Produced by the combustion of fossil fuels and other industrial processes, airborne SO2 can aggravate respiratory conditions such as asthma and bronchitis. The update to the primary S02 standard, made official with publication in the Federal Register, is the first change to the health-based rule since its creation in 1971.
The final rule focuses the restrictions on sulfur dioxide on short-term spikes rather than long-term exposure. While brief blasts of S02 emissions are known to cause breathing problems, "there is little health evidence to suggest an association between long-term exposure to SO2 and health effects," the agency said in a document released earlier this month.
The rule establishes a limit of 75 parts per billion (ppb) averaged over an hour and revokes previous limits on daily and annual emissions. Though groups such as Clean Air Watch and the American Lung Association asked EPA to leave the annual standard in place, the agency decided a one-hour standard would effectively keep daily and annual levels below previous limits: 140 ppb over a 24-hour period and 30 ppb over an entire year.
"We're taking on an old problem in a new way, one designed to give all American communities the clean air protections they deserve," EPA Administrator Lisa Jackson said earlier this month in a statement announcing the rule. "Moving to a one-hour standard and monitoring in the areas with the highest SO2 levels is the most efficient and effective way to protect against sulfur dioxide pollution in the air we breathe" (Greenwire, June 3).
The new limits are scheduled to take effect Aug. 23. That is also the deadline for legal challenges from industry groups, which have claimed that the rules will have an outsized financial impact on businesses while providing minimal public health gains.
SO2 emissions have been reduced by about 70 percent since 1980. Compliance with tighter restrictions will cost industry $1.5 billion by 2020 with annual health benefits worth between $13 billion and $33 billion, according to agency estimates.

While no counties were in nonattainment for the previous standards, about 60 are exceeding the one-hour standard, according to EPA monitoring results. The agency projects that two dozen counties would be violating the new standard in 2020.
States must make recommendations for nonattainment areas by next June with the first agency decisions scheduled to follow in June 2012.
Though SO2 is perhaps best known as a contributor to acid rain, that type of impact is not addressed by today's rule. The agency is considering the environmental and public welfare impacts of SO2 emissions in a separate review slated for completion in 2012.

**EDITORIAL / OP-ED / COMMENTARY / LETTERS**
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OPINION
JUNE 22, 2010

**A Tale of Two Disasters (*Wall Street Journal*)**

Bush was blamed for local failures after Katrina. Obama got a free ride for weeks as federal failures mounted during the Gulf spill.
By PAUL H. RUBIN
In many respects, the Deepwater Horizon disaster and Katrina are mirror images of each other. The harm from Katrina was on state land—mainly Louisiana, but also Florida, Alabama and Mississippi. As a result, President George W. Bush and the federal government were limited in what they could do. For example, Homeland Security Secretary Michael Chertoff wanted to take command of disaster relief on the day before landfall, but Louisiana Gov. Kathleen Blanco refused. Federal response was hindered because the law gave first authority to state and local authorities.
State and local efforts—particularly in New Orleans, and Louisiana more broadly—interfered with what actions the federal government could actually take. New Orleans Mayor Ray Nagin was late in ordering an evacuation and did not allow the use of school buses for evacuation, which could have saved hundreds of lives. President Bush had no power to change that decision.
The Deepwater Horizon oil spill is on federal offshore territory. The federal government has primary responsibility for handling the situation, while state and local governments remain limited in what they can do. For example, the Environmental Protection Agency has repeatedly changed its mind regarding the chemical dispersants that Louisiana is allowed to use. In the Florida Panhandle, Okaloosa County officials voted to disregard any restrictions from higher branches of government and allow its own emergency management team to do what it views as best, such as creating an underwater "air curtain" of bubbles to push oil to the surface, and using barges to block the oil once it rises. They believe that the federal government is undermining their efforts.

Associated Press

Rescue personnel help flood victims from a boat in the flooded city of New Orleans after Hurricane Katrina.
As opposed to Katrina, state and local attempts to address the oil spill have been hindered by an ineffectual and chaotic federal response.
The Coast Guard has played an important role in both disasters. During Katrina, it rescued over 33,000 stranded people and received commendations from the president and Congress. In the current disaster, the Coast Guard has received widespread criticism for forbidding 16 barges from skimming oil because they were not inspected for life preservers. Louisiana Gov. Bobby Jindal tried to get the barges working, but was for a long time unable to convince the Coast Guard to permit them to deploy.
Behind the Oil Spill Response News Hub: Judge Blocks Offshore Drilling Ban Two days after Katrina's landfall, Mr. Bush suspended the Jones Act (which restricts the ability of non-American ships to work in U.S. waters) to allow assistance for Katrina victims. During Katrina, over 70 foreign countries pledged emergency assistance. In the current situation, President Barack Obama has not suspended the Jones Act. Many countries such as the Netherlands, which would like to help and have expertise in cleaning oil spills, can offer only limited relief. This is significantly delaying the cleanup.

The Jones Act, which requires American crews, is a favorite of organized labor, a major supporter of Mr. Obama.
Mr. Bush was a Republican, and elected Democrats controlled Louisiana and New Orleans, the main victims of Katrina. Many claimed Mr. Bush neglected New Orleans for this reason. Mr. Obama is a Democrat, and the states affected by Deepwater Horizon—Louisiana, Alabama, Mississippi, and Florida—all have Republican governors. I have not seen anyone, even on the right, claim that the ineffectual response of the Obama administration is due to partisan politics.
The final difference is in the press handling of the two issues.
Feinberg Ramps Up $20 Billion Compensation Fund BP Blunted U.S. Demand Impact on Seafood Prices Is Limited BP Cautiously Resumes Collection Efforts U.S. Emphasized Emergency Aid Mr. Bush responded quickly to Katrina but was handicapped by regulations giving power to the states. Nonetheless, the federal response was well coordinated and helpful overall. But Mr. Bush was rapidly and widely blamed for the result of Katrina and for failures that actually occurred at other levels of government.
Now Mr. Obama has much more power than did Mr. Bush, but the federal response is ineffective and often stands in the way of those in the best position to know what to do. It is only in the last week or two that the mainstream press has voiced any criticism of Mr. Obama.
This is because the media's default position for Mr. Bush was "Bush is wrong," and it sought stories aimed at justifying this belief. For Mr. Obama the media's default is "Obama is right," and it takes a powerful set of facts to move it away from this assumption. As oil continues to gush from the unplugged well, this set of facts has unfortunately come to the fore.

Mr. Rubin is a professor of economics at Emory University, and held several senior government positions in the 1980s. He has a summer residence on the Florida Panhandle, where he is fearfully awaiting the arrival of the oil.

**Balancing policy with science (*Washington Times*)**

June 23, 2010 Wednesday
B, COMMENTARY; Pg. 3
Balancing policy with science;
Proposal to ban dioxin in nature is misguided
BYLINE: By Dr. John Doull and Dr. William J. Waddell SPECIAL TO THE WASHINGTON TIMES
As we move to make our world safer from chemi- cals, it is criti- cal that we not use politics to determine environmental policy. The Environmental Protection Agency (EPA) must maintain a clear commitment to reviewing all relevant science in the determination of policy, not just the science that leads to a preconceived conclusion. Major policy changes in this space should produce health benefits, and those benefits must be communicated to the public.

Unfortunately, in the case of the proposed regulation of dioxin announced earlier this year, it is clear to those of us who have been engaged for many years in environmental toxicology that the EPA has stepped beyond what science can actually prove. In fact, the EPA is out of sync with highly respected scientific bodies, including the National Academy of Sciences (NAS), the exceptionally careful World Health Organization and science-based regulatory bodies in Great Britain, Japan and other countries.

Last month, the EPA responded to concerns the NAS had raised about a previous proposal from the agency. The EPA proposed new standards to regulate a group of chemicals called dioxins. If enacted, those standards would set America on a course for "Mission Impossible." It's likely that not even Mother Nature could meet the proposed new standards.

Moreover, the EPA is getting ahead of itself in its zeal to regulate a substance that is more than 90 percent lower in the environment today than it was 25 years ago. In January, the EPA also issued a separate proposal for Preliminary Remediation Goals for soil. If these new soil goals go into effect, they will force local governments to undertake vastly expensive cleanup efforts.

The problem with this approach is that the EPA is premature in setting soil standards when it has not even set standards for human exposure to dioxin. As a result of the process the EPA has set into motion based on narrowly selected science, we are being led to believe, contrary to a large body of studies, that any exposure to dioxin is harmful. Using this logic, the vast majority of us are being exposed to too much dioxin through our food, and our health is as risk because of it.

Unfortunately, without balancing the complete body of scientific evidence with clear policy goals, we are setting a precedent that has potential for sweeping negative consequences. The EPA is suggesting that any suspicious chemical - even if naturally occurring, like dioxins - can pose substantial harm to humans. In the case of dioxin, the main sources today are forest fires, backyard trash fires, indoor wood burning and even volcanic eruptions.

That is why the highly respected NAS asked the EPA to explain why it would rely so heavily on the idea of no threshold for dioxins. In its proposed regulation, based on a linear no-threshold perspective, the EPA is setting a standard that just a few molecules can cause harm. It is saying de facto that eliminating a naturally occurring substance is an optimal policy goal.

Having served on NAS panels, been leaders in the science of toxicology and written toxicology textbooks used in academic institutions, we say it is not clear to us that the EPA has offered a workable solution incorporating sound science that is clearly protective of public health. These new regulations call into question the body of scientific studies we know about, change the course of how we will answer questions of potential harm in ways that are not validated by science and do so without any explanation of what is to be gained for public health.

During the public-comment period on the EPA proposal, we have a chance to make our voices heard and hopefully prevent the EPA from taking misguided action. Not to do so will lead to billions of dollars of wasted spending with no clear understanding of what cancer or other diseases we are actually preventing.

The public needs to pay close attention to the planned regulatory change, and we call on our fellow scientists to review and weigh in on the EPA's proposal so we can make the best decisions to protect the public's health.

John Doull, M.D., Ph.D., is professor emeritus at the Department of Pharmacology and Toxicology of the University of Kansas Medical Center. William J. Waddell, M.D., is chairman emeritus at the Department of Pharmacology and Toxicology of the University of Louisville School of Medicine.

**Fear as a bar to progress (*Washington Times*)**

June 23, 2010 Wednesday
B, COMMENTARY; Pg. 3
Fear as a bar to progress;
DDT ban hurts the Third World poor
By Temba A. Nolutshungu SPECIAL TO THE WASHINGTON TIMES
Africans already suffer from the Euro- pean Union's bureaucratic ideology known as the "precautionary prin- ciple." As the EU's economies teeter on the brink, fettered by

bloated and inefficient government policies, the United States is in danger of importing this idea. It is bad for Americans and bad for the world's poor.

The principle already is at work in the Environmental Protection Agency (EPA) statement of "the need to assess and manage risk in the face of uncertainty." The President's Cancer Panel likewise stated that we must "act to protect public health, even though we may lack irrefutable proof of harm" because "the true burden of environmentally induced cancer has been grossly underestimated." The panel admitted in its early May report that "at this time, we do not know how much environmental exposures influence cancer risk," yet we should be worried anyway. This is the precautionary principle writ large.

EU restrictions on genetically modified organisms (GMOs) have led to a ban on such technologies by many African governments wishing to protect their farming exports to the EU. Africans pay a price for this in lower crop yields and malnutrition while North Americans happily consume vast quantities of GMOs with no known harm.

From the 1940s to the 1960s, DDT was used widely against mosquitoes, dramatically reducing malaria (and even eradicating it in the Southern United States and Europe). Restrictions on the use of DDT, following the 1962 publication of Rachel Carson's "Silent Spring," led to a surge in malaria in Latin America, Africa and Asia. Although there is no outright global ban, DDT use is inhibited by unnecessarily restrictive limits on residues in agricultural imports to the EU. Every year, about a million people - most of them children - die from malaria. Many of those deaths could be prevented if the residue limits were raised to more realistic - and still safe - levels.

This precautionary idea originated in rich countries that can afford luxuries. Those same nations once relied on calculated risk-taking for their economic and social development. Such risks are crucial for alleviating poverty and for economic growth in rich and poor countries alike.

President Obama's head of the **EPA**, Lisa Jackson, endorsed the precautionary principle in September in her "essential principles for reform of chemicals management legislation." If our ancestors had attempted to apply the precautionary principle to avoid all potential threats, we would still live in terrible misery, if we survived at all. In their early development, now-wealthy countries such as the United States and Japan imposed few restrictions on new technology. In fact, the story of human progress has been primarily one of risk-taking by pioneers, a story of trial and error that is the opposite of the precautionary principle.

Penicillin, vaccines against polio and smallpox, and DDT would not have been allowed if the precautionary principle had been applied when they were introduced. Hundreds of millions of people would have perished as a result. It is all very well to claim that caution saves lives, but there are times when the opposite is true. When drug administrations take too long to approve the sale of lifesaving new drugs, people die who could have been saved. There are times when the precautionary principle, applied to itself,

demands that precaution be abandoned.

The prospect of absolute safety is a mirage. It disregards history and also imposes inappropriate and growth-restricting policies on poor countries that already face a host of difficulties, from unfavorable climates to infertile land. Africa, where economic development has lagged for decades, is just beginning to adopt modern farming technologies. Innovations such as drip irrigation and hybrid seeds in Kenya and Malawi that were long held back by barriers such as tariffs and poor infrastructure are increasingly being used. And there is much more to come. Researchers are developing plants to resist drought and high temperatures - two problems that plague African agriculture.

Unfortunately, as long as the EU - and maybe the United States - continue to legitimize unfounded fears, the uptake of GMOs, herbicides, insecticides and other important modern agricultural technologies will remain limited.

The precautionary principle will harm not only the developed economies that impose them but also the developing world. Before they ban new technologies because of hypothetical, unproven risks, wealthy nations should stop to consider the very real effects of precautionary policies on the poor.

Temba A. Nolutshungu is a director of the Free Market Foundation, an independent think tank in South Africa.

**Mortal after all (*New York Post*)**

The BP spill won't destroy Barack Obama's presi dency. It won't even signifi cantly dent his standing in polls, if current trends hold. But it should mark the end of a period of unbridled liberal presumption that began with his rise in 2007.

In his new book, "The Icarus Syndrome," Peter Beinart writes of "hubris bubbles" that infect American foreign policy after successes. In the domestic arena, liberalism has been riding its most expansive hubris bubble since Lyndon Johnson modestly declared on the cusp of the Great Society, "These are the most hopeful times since Christ was born."

Those millennial expectations returned with the honeyed words of Obama. He promised to heal the planet and turn back the tide of rising oceans, and liberals believed him. So when a mere 35,000-60,000 barrels of oil a day gushing from the bottom of the Gulf of Mexico produced a crisis beyond his control, they lashed out in frustration.

Obama had to get angry! He had to declare war -- and without UN authorization -- on the spill! He had to use the crisis to push through cap-and-trade! And when Obama followed all the stage directions set out for him by his formerly worshipful journalistic

boosters, they still felt empty and unsatisfied because, well, there are really no presidential words or emotions that can make up for miles of soiled coastline.

Obama's much-touted Oval Office address on the Gulf got instantly panned by MSNBC's analysts in a shocker equivalent to Pravda's best pundits dismissing a Brezhnev five-year plan. They complained that the speech was trite and vague, as if that made it any different from most of Obama's gaseous oeuvre.

His call to arms on behalf of a new green economy was particularly tinny for two reasons.

One, Democrats have tapped out the public's appetite for expensive, impossibly complex new government programs. They forced their will on health-care reform, but it remains unpopular, and 21 House Democrats just voted with Republicans in an attempt to repeal a central provision, the individual mandate. No one believes Obama has the votes for a far-reaching plan to remake the energy economy, so he stuck to the same bromides repeated by every president since Jimmy Carter.

Two, the Gulf Coast is not a reassuring backdrop for a stirring summons to more government action. Obama cited the production of planes and tanks during World War II and the Apollo mission to the moon as evidence of government's awesome proficiency. But those were relatively straightforward feats in manufacturing and rocketry from 70 and 40 years ago, respectively.

If landing a man on the moon proves government can do practically anything, what does it prove that it can't get the right kind of boom to the right places and deploy it properly in the Gulf? What does it say that the Environmental Protection Agency couldn't get its story straight on what kind of dispersant BP could use on the oil? What does it show that it took weeks for the government to approve the building of protective sand berms by Louisiana?

That there are indeed challenges, in Obama's words, "too big and too difficult to meet." The largest spill in US history was going to be a chaotic mess regardless of who was president, because it was unprecedented, vast and complex.

The liberal chest-thumping about declaring "war," or even a "holy crusade," on the spill speaks to an impatience with the inevitable delays and inefficiencies of a government operating -- in league with a hated company -- in confusing circumstances. As The New York Times reports, "From the beginning, the effort has been bedeviled by a lack of preparation, organization, urgency and clear lines of authority among federal, state, and local officials, as well as BP."

Welcome to soggy reality. The great liberal disenchantment is the realization that it's beyond Obama's powers to turn back an oil spill, let along the tides. He's just a president, and not even a particularly good one.

**EPA procrastinates on declaring independence from imported oil (*The Hill)***

By Bob Dinneen - 06/22/10 07:41 PM ET
In his first televised address from the Oval Office, President Barack Obama summoned Americans to “a national mission” to end our dependence on oil.

Two days later, the U.S. Environmental Protection Agency (EPA) answered the president’s urgent challenge by saying, in effect, “See you in September.” In its second delay in seven months, EPA deferred a decision until the fall on whether to increase the permissible level of ethanol in gasoline from 10 percent to 15 percent.

Moreover, EPA put two roadblocks on the nation’s path to environmental sustainability and energy security. First, EPA suggested that, when it finally takes action in September, it will approve 15 percent ethanol blends (E15) only for vehicles from model year 2007 or even more recent vintage.

Second, the agency failed to approve immediately the use of 12 percent ethanol blends (E12). This could have been accomplished under existing oxygenate “stacking” rules that allow for 2 percent blends of fuels containing oxygen, such as the additive MTBE, in gasoline. Since ethanol and MTBE are both oxygenates, this additional 2 percent volume could be ethanol.

EPA’s delay is disappointing because, as President Obama declared, “the time to embrace a clean energy future is now.” The oil spill in the Gulf of Mexico, the continuing concern with greenhouse gases, the need to jumpstart the nation’s economy and the turmoil in the Middle East – all underscore the benefits of the leading alternative to imported petroleum: clean-burning American-made ethanol.

While the EPA deliberates, the U.S. ethanol industry is answering the challenges of strengthening the nation’s economy, preserving the natural environment and promoting America’s energy security. Last year, despite the downturn, the industry produced a record 10.75 billion gallons of the biofuel, reducing demand for imported oil by 364 million barrels while supporting nearly 400,000 jobs in every sector of the economy.

According to an analysis conducted by the EPA itself, ethanol reduces direct greenhouse gas emissions by 61 percent compared to gasoline. Also, by paying $15.9 billion in federal, state and local taxes, the industry helps our communities and our country to maintain the national defense, build and repair highways, and hire teachers and police officers and provide other essential services.

Because of EPA's current cap on the amount of ethanol that can be combined with gasoline, commonly called "the Blend Wall," the potential domestic market for ethanol tops out at approximately 12.5 to 13.5 billion gallons.

The U.S. ethanol industry expects to exceed this volume this year, with the result that producers are increasing their exports and the nation is losing many of the biofuel's benefits.

While there is an immediate need to tear down the Blend Wall, there is little reason for the EPA to continue studying ethanol's hypothetical hazards. As of now, the research data shows no ill effects of increased ethanol use on any vehicle, regardless of model year. Other nations, including Brazil, allow higher levels of ethanol blends with no discernible damage to these countries' cars.

Meanwhile, the EPA's delays could set back the continuing evolution of biofuels. U.S. ethanol producers are developing and commercializing technologies that use new feedstocks, such as woodchips, corncobs, native grasses and even garbage. But the Blend Wall is a barrier to the growth of the companies, the workforce, the markets, the vehicles and other elements of the infrastructure that is essential to the industry's survival and success. As President Obama declared last year, the "transition to [the next generation] will be successful only if the first-generation biofuels industry remains viable in the near term."

As July 4 approaches, it's high time the EPA shared the president's commitment to declaring America's independence from imported oil.

Bob Dinneen is president and CEO of the Renewable Fuels Association, which has asked the EPA to rule in
favor of the 15 percent blend level.

**AIR**

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**Victoria could face sanctions, limits on growth with new ozone standard (*Victoria Advocate*)**

By JJ VELASQUEZ •
Originally published June 22, 2010 at 8:51 p.m., updated June 22, 2010 at 10:25 p.m.

Aug. 31 - The Environmental Protection Agency will announce a new ozone standard in the range of 60 parts per billion and 70 parts per billion.

January - The Texas Commission Environmental Quality will recommend the new non-attainment areas ...

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Aug. 31 - The Environmental Protection Agency will announce a new ozone standard in the range of 60 parts per billion and 70 parts per billion.

January - The Texas Commission Environmental Quality will recommend the new non-attainment areas to the federal agency.

August 2011 - Based on the state's recommendations, the EPA will enforce regulations on the newly designated areas.

Victoria could face federal sanctions and limits on economic growth beginning in 2011 if it falls out of attainment for the ozone standard.

Officials from the Texas Commission on Environmental Quality held a public hearing in Victoria on Tuesday to seek public comment from community members on how to enforce the new standard and abate ozone emissions. Fifteen people from Victoria and surrounding areas attended the meeting, Marie Lester, with the city's environmental services department, said.

Depending on where the boundary lines are drawn, nearby residents could see the effects of ozone violations in Victoria.

"They would look at the population in Edna, Bay City," she said. "They may get swept into this non-attainment area."

In January, the EPA announced a new ozone standard proposal in the range of 60 parts per billion to 70 parts per billion. The current standard is 75 parts per billion.

According to 2009 numbers, ozone in Victoria is at 65 parts per billion.

The new standard, which will be set in August, could pull Victoria out of attainment. It has teetered on the brink of violating the standard for the last 15 years.

One monitor of ozone emissions in Victoria County operates 24 hours a day.

The city is installing more monitors for air quality, one in Inez and one in Fannin. Lester said the new monitors will allow environmental services to detect what pollutants migrate into and out of Victoria County.

"We want to see what the air looks like when it gets here and what it looks like when it leaves," she said.

This would tell the city about the sources of pollution - if air pollutants are being produced here or elsewhere.

Transport is a major reason Victoria faces the possibility of ozone non-attainment.

Most of Victoria's ozone problems come from the northeast, ranging from the industrial areas of Houston and Galveston, to Louisiana to the Ohio River Valley.

Area chemical plants are not significant contributors to the ozone problem.

So Victoria could fall out of attainment through no fault of its own.

The results of that could be costly for local industrial plants, said Lester.

"That would mean they would need to spend more money to change their operations," she said. "It could be pretty expensive to put all those new control measures on your equipment."

Local businesses, such as gas stations, could also face government sanctions.

The Environmental Protection Agency requires a plant to abate ozone emissions from each area that monitors them.

The city has had its plan in place and is looking at proposed actions in it to determine how effective they are going to be, Lester said.

Measures the city has already taken to reduce ozone include the Blue Sky initiative, in which parents who pick up their children from school are advised not to idle in their vehicles to avoid needless air pollution. At gas stations, customers are advised to stop pumping at the click. And the city soon hopes to harvest methane gas from its landfill rather than flare it off into the atmosphere, which could further cut harmful emissions.

David Brymer, air quality division director for the state agency, said air quality in Texas is improving as federal limits on ozone decrease.

"Air quality is getting better as ozone is getting lower," Brymer said. "But, at the same time, the standard is being lowered, so that's why we're having these hearings."

The state agency holds its next public hearing in Corpus Christi on Wednesday. The hearing will be held at 10 a.m. in the TCEQ regional office at 6300 Ocean Drive.

## Activists Eye Suit To Force Case-By-Case MACT For Kentucky Power Plant (*Inside EPA*)

**Posted: June 22, 2010**

The Sierra Club is threatening to sue EPA to force it to require a case-by-case, facility-specific maximum achievable control technology (MACT) standard to cut mercury and

other emissions at a Kentucky power plant, while EPA is proposing to bolster its Clean Air Act authority for imposing such case-by-case standards.

In a notice of intent to sue filed with EPA June 22, the Sierra Club claims the agency failed to respond within an air act 60 day limit to the group's April 6 petition objecting to a Title V operating permit granted for the Hugh L. Spurlock power plant in Maysville, KY. Sierra Club will file suit over its claims if EPA does not issue a response to the challenge within 60 days.

“A major issue in the petition is that the Spurlock permit is illegal” because it does not contain a case-by-case MACT determination for reducing emissions from the facility, according to the notice.

Environmentalists say the MACT “hammer” provision of the Clean Air Act requires the agency to order a case-by-case assessment for what level of control technology to require after a court has vacated a sector-wide MACT. Federal courts have vacated MACTs for industrial boilers, brick kilns, and polyvinyl chloride plants, though EPA April 30 proposed a new MACT standard for boilers, which under court order must be finalized by Dec. 16.

There is currently no MACT for electrical generating units (EGU) such as the Spurlock facility. The Bush EPA finalized a cap-and-trade rule for reducing mercury emissions but it was vacated by the U.S. Court of Appeals for the District of Columbia Circuit. In the absence of any federal MACT for EGUs, environmentalists are pushing for the Spurlock plant to include a facility-specific MACT to reduce its mercury and other emissions, as required by the air act.

Sierra Club argues MACT controls are necessary to adequately control hazardous air pollutants from the facility, including arsenic, beryllium, cadmium, chromium, dioxins, hydrogen chloride, lead and mercury.

EPA March 30 proposed a rule designed to resolve confusion over when the MACT hammer applies, which says  the hammer should apply in all sectors where the MACT has been vacated. Environmentalists praise the move, while industry and state regulators question EPA's legal interpretation, saying case-by-case MACT is onerous for both industry and permitting authorities.

Environmentalists have sued over the Spurlock plant before, including permit objections calling for state regulators to consider using lower sulfur coal as fuel in the plant's permit. In that instance, EPA agreed with petitioners that the permit should contain analysis of using lower-sulfur coal.

* JUNE 22, 2010, 3:20 P.M. ET

**EPA offers awards for indoor air quality practices (*Juneau Empire*)**

JUNEAU - The U.S. Environmental Protection Agency Indoor Air Quality Tools for Schools Awards Program recognizes schools and school districts that are strongly committed to improving children's health by promoting healthy indoor air quality practices.

For those schools and districts just beginning to implement IAQ management plans to those that have mature, sustainable, districtwide IAQ programs, EPA provides a series of national-level awards. Learn more online at www.epa.gov/iaq/schools/awards.html.

**Congress, industry battle EPA over emissions regs (*Greenwire*)**

(06/22/2010)
Patrick Reis, E&E reporter
As the timber industry and a bipartisan bloc of lawmakers bash U.S. EPA for its plans to regulate carbon dioxide emissions from biomass power plants, the agency is proceeding with its scientific analysis of the subject.
The groups are upset that EPA's "tailoring rule" -- which determines what entities would be covered by carbon regulations coming next January -- did not promise an exemption for facilities generating energy by burning wood and other organic materials.

This week, a coalition of 163 timber companies, forestry advocates and renewable fuels proponents sent a letter to EPA Administrator Lisa Jackson asking her to reconsider the agency's stance. Last week, it was 63 members of the House asking EPA to wait to implement the regulations until the agency asked for further comment and conferred with the U.S. Department of Agriculture.

The House coalition included Rep. Norm Dicks (D-Wash.), former chairman of the Appropriations Committee subpanel that oversees EPA's budget; Rep. Michael Simpson (R-Idaho), the highest-ranking Republican on that panel; and Doc Hastings (R-Wash.), the House Natural Resources Committee's top Republican. The industry groups included timber giants Weyerhaeuser Co. and Plum Creek Timber Co. Inc.

Both groups argue that burning biomass does not contribute to global warming because biomass, unlike fossil fuels, does not take new carbon out of the ground. Instead, the advocates say, biomass plants create renewable energy by siphoning carbon from a natural cycle of plant growth and decomposition.

"The Tailoring Rule neither recognizes nor discusses the clear scientific basis of biomass carbon neutrality," the industry groups wrote yesterday. "This science demonstrates that trees take up the carbon from the atmosphere which is then released upon combustion."

EPA's position on biomass is not final, an agency spokesman said today.

The agency is currently gathering information to assess the effects on climate change of biomass emissions and will eventually work to incorporate that information into its Clean Air Act regulations on greenhouse gas emissions. The agency has not yet determined a time frame for that plan, the spokesman said.

"In separate legal contexts, EPA has ignored the greenhouse gas emissions of biomass facilities, partly under the rationale that some portion of the carbon dioxide emissions is canceled out in the intermediate term by re-growing the fuel," the agency said in a statement. "EPA is mindful of this and is committed to work with stakeholders to examine whether treating biomass-derived carbon emissions as carbon neutral is appropriate."

In attempting to assess biomass's climate complexities, EPA is on the right track, said Nathanael Greene, director of renewable energy policy for the Natural Resources Defense Council.

The climate effects of biomass plants depend on where the biomass comes from, he said. If bare lands are converted to plant growth, they can actually increase the planet's capacity to absorb greenhouse gas emissions, but if working ecosystems are cleared for energy, the climate impacts will be negative, he said.

"The idea that all biomass is carbon-neutral, that this is some sacredly held principle of all scientists around the world, is just nonsense," Greene said. "Some of it is going to be carbon-negative, if we're doing it right. Other times, it's going to be worse than burning fossil fuels."

**BP SPILL**

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**Lawmakers Eye Research 'Czar' To Assess Health Effects Of Gulf Spill (*Inside EPA*)**

Posted: June 22, 2010

House and Senate lawmakers appear to be pushing several options for improving health agencies' research and data gathering into the effects of the BP and other oil spills, including the creation of a special "czar" slot to coordinate short- and long-term human health research and a registry to track people exposed to spills.

At a June 16 House hearing into the government's research on the human health, Rep. Lois Capps (D-CA) suggested the idea of naming a head coordinator or "czar" for streamlining a public health assessment effort."Would that be an idea that should be pursued, that I should keep bugging people about, having a chief coordinator, if you will, or someone to organize -- I find it hard to know who to turn to," Capps told the Energy & Commerce Committee's health subcommittee June 15.

And Rep. Frank Pallone (D-NJ), the subcommittee's chair, asked representatives of several government agencies how far away they were from establishing a detailed registry where data on the symptoms experienced by workers and residents of stricken, regions could be saved and organized for future research.

The lawmakers' suggestions were in response to acknowledgments from government health officials that there are significant gaps in research on the health effects from oil spills even as the agencies ramp up spending to research the ongoing BP oil spill.

Aubrey Keith Miller, senior medical adviser for National Institute of Environmental Health Services (NIEHS) said June 16 before the subcommittee that while extensive data exists on environmental and ecological risks associated with oil spills, effects from exposure to crude oil on human health is an area that has not been well-studied, and even less well-documented.

He noted that a recent article in the *Journal of Applied Toxicology* that reviewed studies in 34 different publications of human health effects from oil spills found that "there is very little data concerning exposed individuals and only for a handful of these incidents."

But Miller said determining actual exposure and risk "is not a trivial task." For example, he noted that the composition of the spilled oil changes over time -- the oil nearest the source of the spill contains higher levels of benzene, toluene and xylene, which are volatile organic compounds (VOCs) that can cause both acute toxicity and chronic effects, such as cancer, birth defects and neurological effects. On the other hand, oil that has been exposed to air and water for a period of time emits fewer VOCs, but may still contain harmful substances such as polyaromatic hydrocarbons and heavy metals.

Miller also raised concerns about the potential toxicity of chemical dispersants, which are used to break up the oil and help prevent it from reaching shore.

**Argument For Better Data**

And government officials argued that better data is needed to better inform spill cleanup. Lisa Kaplowitz, of the Department of Health and Human Services' (HHS) Office of the Assistant Secretary for Preparedness and Response, expressed frustration with a lack of cooperation on the part of BP for refusal to release health information of cleanup workers, data she says is necessary to assess exposure levels and potential health hazards. BP's actions, Kaplowitz said, hinder research efforts and put "public health at a disadvantage. If we had the data, it would be easier to present the risks. And since we don't know what they are, it makes it very, very difficult to counter some of the decisions that are being made."

Kaplowitz downplayed the need to create a new czar, telling lawmakers the department has "been in meetings with EPA" and her colleagues have "coordinated with" the National Oceanic & Atmospheric Administration (NOAA) over concerns about contaminated fish. "There has been a great deal of discussion across departments," she said.

To assess the health impacts of the ongoing BP spill, the National Institute of Health (NIH), which oversees NIEHS, is ramping up its funding and research efforts. NIH Director Dr. Francis Collins told the hearing the agency would commit $10 million for research on the health effects of the oil spill. The funding will recruit a cohort of exposed clean-up workers and Gulf residents, collect their health histories, and tissue samples as well as information about the nature of their exposures, Collins said.

"In the near term, NIH will establish a baseline of such information and then monitor cohort members for respiratory, immunological and neurobehavioral effects."

Miller said NIEHS is using a NIH grant program for time-sensitive research to assess public health impacts of the BP spill, including toxicity testing of ccomplex mixtures, long-term health effects, such as risk of cancer, adverse pregnancy outcomes and neurodevelopment effects in children, and risk assessment research, including the unique risks of vulnerable populations, such as children, pregnant women, the elderly and people with chronic health problems.

Miller said NIEHS is coordinating this research with EPA "to appropriately disseminate the results of this research and to avoid duplication of effort."

Other federal officials suggested that more funding will be needed to conduct the research. Because so little is known about the long-term effects of oil toxicity on human health, impacts of the BP spill must be considered "in the time frame of not weeks and months but years," HHS' Kaplowitz said at the June 16 health subcommittee hearing.

In addition, the Institute of Medicine, (IOM) at the request of HHS Secretary Kathleen Sebelius, will convene an independent panel of scientific experts at a June 22-23 public workshop in New Orleans to address the issue of data gaps, particularly those involving long term health effects on vulnerable populations.

But Capps and other lawmakers stressed that any research needs to be conducted in a way that policymakers will learn from the BP disaster so "that future generations can be better protected."

**Mixed Directions**

Similarly, Rep. Diana DeGette (D-CO) said the subcommittee recently visited the spill zone and talked to a number of concerned citizens and workers who "didn't know what to do" and were receiving mixed directions from BP supervisors and health officials as to how to protect themselves. DeGette referenced one woman who, concerned about the health of her unborn baby and two small children and unable to get any answers about potential health risks related to the spill, was contemplating relocating her family from their Mississippi Gulf Coast home. "Do we know what to tell people like this, and are we telling that to them?" DeGette asked.

But John Howard, director of National Institute of Occupational Safety and Health (NIOSH), said health and safety efforts are "remarkably better organized" for the Gulf spill than they were during previous spills." And he added that the IOM meeting in

Louisiana will help provide health officials with relevant opinions of scientific experts about how to best assess long-term health risks, a vantage point researchers were unable to gain during the Exxon Valdez spill.

## CLIMATE CHANGE

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### Influential Senator Works To Suspend Greenhouse Gas Rule (*Wall Street Journal*)

WASHINGTON (Dow Jones)--As U.S. Senate lawmakers attempt to determine the fate of energy legislation, an influential Democrat is boosting efforts to suspend a controversial greenhouse-gas rule passed earlier this year by the U.S. Environmental Protection Agency.

After introducing a bill to impose a two-year halt on the new EPA rule, Sen. Jay Rockefeller, a Democrat from coal-rich West Virginia, is now working to round up supporters for his legislation.

"I believe that climate change--the science of it--is for real, there's no question," Rockefeller told reporters Tuesday. "I also think that very carbon-rich states like West Virginia should have a chance."

### Bid to halt climate law joins ballot (*Los Angeles Times*)

June 23, 2010 Wednesday
Home Edition
LATEXTRA; Metro Desk; Part AA; Pg. 1
Bid to halt climate law joins ballot;
The initiative would suspend emission limits until a healthy jobs market returned.
By Margot Roosevelt
California headed for a high-stakes battle over **global warming** Tuesday, as an oil industry-backed measure to suspend the state's aggressive **climate-change** law qualified for the November ballot.

The fight will pit the state's powerful environmental organizations and clean-tech businesses against the oil and manufacturing industries. It also arrays many conservative political leaders, including the GOP nominee for governor, Meg Whitman, against Gov. Arnold Schwarzenegger, a fellow Republican who regards the **global warming** law as a key part of his legacy.

Whitman has said she would suspend the **global-warming** law for one year but has not endorsed the initiative.

The measure, launched six months ago by Texas oil giants Valero Energy Inc. and Tesoro Corp., comes as the industry has fallen under intense scrutiny in the wake of the Gulf of Mexico oil spill disaster.

Under California's law, known as AB 32, the state is setting limits on greenhouse gas emissions from automobiles, oil refineries and other industries, and will probably require that a third of the state's electricity come from renewable sources by 2020, up from about 15% today. New rules under the law would encourage sales of more fuel-efficient cars.

Supporters of the law say it has spurred a large market for solar, wind and other clean energy sources.

But backers of the ballot effort, who are calling their measure "the California Jobs Initiative," paint the climate law as "an energy tax." Their initiative would halt enforcement of the law until unemployment in the state, now over 12%, sinks to 5.5% for at least a year.

"AB 32 will impose billions of dollars in higher utility rates and fuel prices on California families when they can least afford it," said Jon Coupal, president of the Howard Jarvis Taxpayers Assn, and co-chairof the initiative campaign.

Schwarzenegger lashed back Tuesday, saying, "This initiative sponsored by greedy Texas oil companies would cripple California's fastest-growing economic sector, reverse our renewable energy policy and decimate our environmental progress for the benefit of these oil companies' profit margins."

He added, "I will not allow this to happen on my watch."

Proponents of the measure spent $3 million, more than two thirds of it contributed by the two Texas companies and other energy interests, to gather more than 800,000 signatures to place the measure on the ballot. To qualify, the initiative needed 433,971 signatures, equal to 5% of the ballots cast in the 2006 general election.

"The Texas oil companies think if they can kill their clean energy competition in California, they can do it everywhere," said Steve Maviglio, a spokesman for the initiative's opponents, who set up a campaign committee called Californians for Clean Energy and Jobs.

Valero, which owns two California refineries, has mounted an aggressive campaign against federal efforts to pass climate legislation, including a House bill that was modeled in part on California's law. Environmentalists acknowledge that postponing California's rules to limit greenhouse gases could damage the chances of any federal legislation.

Supporters of the law have marshaled a who's who of the clean-tech world, including 300 companies, to raise money to fight the initiative. "AB 32 is an incubator of innovation," said Google Chief Executive Eric Schmidt.

The law, he said, would lead to "new job creation in many sectors as business responds to the need for energy-efficient buildings, transportation and a growing portfolio of renewable energy resources."

Although the gulf oil disaster could turn undecided voters against the measure, proponents already face a steep hurdle in the wording that will describe the ballot. The title was set by the office of state Atty. Gen. Jerry Brown, a supporter of AB 32 and the Democratic gubernatorial candidate. It will be described on the ballot as follows: "Suspends air pollution control laws requiring major polluters to report and reduce greenhouse gas emissions that cause **global warming** until unemployment drops below specified level for full year."

The ballot wording goes on to say the measure "requires the state to abandon implementation of comprehensive greenhouse-gas-reduction program that includes increased renewable energy and cleaner fuel requirements, and mandatory emission reporting and fee requirements for major polluters such as power plants and oil refineries, until suspension is lifted."

Given deep pockets on both sides and the high cost of television advertising, spending on the initiative could reach $150 million, making it one of the most expensive ballot battles in the state's history.

The ballot will also be crowded with other controversial propositions, including an $11-billion state water bond, a measure to legalize and tax marijuana, an initiative to transfer authority over the redistricting of congressional districts from the Legislature to a commission and a measure to fund state parks with an $18 vehicle license fee.

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**Executive group takes Obama to task (*Washington Post*)**

June 23, 2010 Wednesday
Suburban Edition
A-SECTION; Pg. A12
Maryland
Executive group takes Obama to task;
An ally turns critic Business leaders say policies stifle growth

By Lori Montgomery

The chairman of the Business Roundtable, an association of top corporate executives that has been President Obama's closest ally in the business community, accused the president and Democratic lawmakers Tuesday of creating an "increasingly hostile environment for investment and job creation."

Ivan G. Seidenberg, chief executive of Verizon Communications, said that Democrats in Washington are pursuing tax increases, policy changes and regulatory actions that together threaten to dampen economic growth and "harm our ability . . . to grow private-sector jobs in the U.S."

"In our judgment, we have reached a point where the negative effects of these policies are simply too significant to ignore," Seidenberg said in a lunchtime speech to the Economic Club of Washington. "By reaching into virtually every sector of economic life, government is injecting uncertainty into the marketplace and making it harder to raise capital and create new businesses."

Seidenberg's remarks reflect corporate America's growing discontent with Obama. The president has assiduously courted the nation's top executives since taking office last year, seeking their counsel on economic policy in the wake of the recession and issuing dozens of invitations to the White House. In return, the Roundtable has generally supported the president's policies; it was the only major business group to back Obama's successful push for an overhaul of the health-care system.

In recent months, however, that relationship has begun to fray. First, Democrats included a provision in the health-care bill -- over the Roundtable's objection -- that reduced corporate subsidies for drug coverage to retirees, a move that could cost big companies millions of dollars. Then the EPA unveiled rules to regulate greenhouse-gas emissions even without climate-change legislation, creating uncertainty about the future cost of energy.

The final straw, said Roundtable president John Castellani, was the introduction of two pieces of legislation, now pending in Congress, that the group views as particularly bad for business. One, a provision of the administration's financial regulation overhaul, would make it easier for shareholders to nominate corporate board members. The other would raise taxes on multinational corporations. The rhetoric accompanying the tax proposals has been particularly harsh, Castellani said, with Democrats vowing to campaign in this fall's midterm elections on a platform of punishing companies that move jobs overseas.

"We had been working very closely with them," Castellani said, but things kept popping up that were "not just an irritant but a distraction" to promoting economic growth.

White House spokeswoman Jennifer Psaki disputed that notion. "The president has consistently pursued policies designed to create a better climate for American businesses in order to foster job creation, innovation and economic growth," she said

via e-mail. "We have always had an open door to the business community, and we look forward to an ongoing dialogue."

A White House official said the administration has a "very good relationship" with Seidenberg and expects that to continue. Seidenberg is one of a number of chief executives who have met several times with Obama and repeatedly with senior officials. In February alone, he was invited to dinner with Obama and to the president's Super Bowl party.

Seidenberg, whose company is at odds with the Federal Communications Commission over a plan to regulate broadband providers, first expressed his concerns about the direction of Democratic economic policy in a meeting last month with White House budget director Peter Orszag. When Orszag asked for specifics, Seidenberg polled the members of the Business Roundtable and a sister organization, the Business Council. The result was a 54-page document, delivered to Orszag on Monday, chock full of bullet points about actions taken or considered by a wide array of executive agencies, including the White House Middle Class Task Force and the Food and Drug Administration.

"We believe the cumulative effect of these proposals will help defeat the objectives we all share -- reducing unemployment, improving the competitiveness of U.S. companies and creating an environment that fosters long-term economic growth," Seidenberg wrote in a cover letter for the document, titled "Policy Burdens Inhibiting Economic Growth."

In his speech, Seidenberg said he has been "encouraged" by the administration's response to the letter, which includes an offer of additional meetings to discuss the specific complaints. And he denied that his relationship with Obama has deteriorated, saying he has visited the White House more times in the past year than "in the previous 16."

Obama "is not ignoring us," Seidenberg said. The problem, he said, is translating those discussions into policy actions that do not simply expand government, but help a nervous private sector "create work" in uncertain times.

**Public meeting in Dade to discuss climate (*Miami Herald*)**

June 23, 2010 Wednesday
BYLINE: Miami Herald
DATELINE: June 23 2010
The Obama administration will discuss plans for South Florida to adapt to rising sea levels and other climate changes during a public meeting Wednesday in Miami.

The meeting, which will be held at the Miami-Dade County Commission chambers, is

part of an effort by a federal climate task force to assess local concerns and ideas for dealing with projected global warming impacts that experts predict could have dramatic effects on South Florida.

Senior members of the National Oceanic and Atmospheric Administration and the Environmental Protection Agency will meet with James Murley, chair of the Florida Energy and Climate Commission; County Commissioner Katy Sorenson, who chairs a sustainability committee, and Miami-Dade Clerk of Courts Harvey Ruvin, chair of the Miami-Dade Climate Change Advisory Task Force.

The meeting, which is open to the public, is scheduled to run from 9 a.m. to noon. It will be webcast live at: http://miamidade.granicus.com/MediaPlayer. php?publish_id=168.

**ENFORCEMENT**
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**EPA fines still possible despite renovator reprieve (Tulsa World)**

by: JIM MYERS World Washington Bureau
Tuesday, June 22, 2010
6/22/2010 2:49:35 PM

WASHINGTON -- Renovators and others given a reprieve on getting certified to work on older homes with lead paint could still be fined if they fail to follow lead-safe work practices, a federal agency said Tuesday.

The U.S. Environmental Protection Agency also confirmed those fines could be as high as $37,500 per day.

"The guidance states that EPA will continue to pursue enforcement action to ensure that all contractors follow the lead-safe work practices outlined in the rule," the agency stated in comments provided to the press.

"They include best practices such as dust control, site cleanup and work area containment."

According to EPA, no one has been fined so far for violating the rule, which became effective on April 22.

Cynthia Giles, assistant administrator for the Office of Enforcement and Compliance Assurance, referenced the lead-safe work practices in a memorandum she wrote to delay enforcement of the portion of the rule requiring renovators and others working on homes with lead paint to become trained and certified.

No one with EPA was made available to respond to questions when a group of senators announced the Giles memo last week to the press.

Targeting homes built before 1978, the rule was first proposed in 2006 and was made final in 2008 with a 2010 effective date.

Still, many contractors and others who work on homes say they were caught by surprise by the rule and were left scrambling to become certified.

EPA drew fire for what critics saw as a botched job in implementing the rule.

Specifically, the agency was criticized for not ensuring enough trainers and classes were available to handle the demand for certification.

After initialing standing by its effective date, EPA agreed to delay the enforcement of the certification portion of rules until Oct. 1. Enforcement also will be put off for those who have applied or enrolled in a class by Sept. 30 and complete that training by Dec. 31.

U.S. Sen. Jim Inhofe, R-Okla., who helped lead the charge for the enforcement delay, released a letter Tuesday calling on EPA to extend its public comment period on a proposal to apply lead-safe work practices to renovations on public and commercial buildings as well.

In a letter to Steve Owens, assistant administrator in EPA's Office of Chemical Safety and Pollution Prevention, Inhofe said public and commercial buildings will present an array of different issues.

In order to gain a full understanding of the proposal's potential effects, he said, EPA needs a robust public comment period.

He called on the agency to extend the public comment period, which now ends July 6, another 60 days.

**FUEL**

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**EPA seeks fuel tax fugitive (*UPI*)**

Published: June 22, 2010 at 11:52 PM
WASHINGTON, June 22 (UPI) -- The Environmental Protection Agency says it is searching for a Houston man who pleaded guilty to conspiring to impede collection of

federal fuel excise taxes.

In a news release Tuesday, the federal agency said Yousef Ishaq Abuteir failed to appear for scheduled court proceedings in the case, which began with an investigation into potential violations of the Clean Air Act.

Abuteir purchased kerosene and jet fuel and then blended it with other materials before selling it as diesel fuel in the Houston area, the EPA said.

"Those who are charged with violating the law must have their guilt or innocence determined in a court of law," Cynthia Giles, assistant administrator for EPA's Office of Enforcement and Compliance Assurance, said.

Abuteir and two other defendants pleaded guilty to conspiring to defraud the IRS of millions of dollars in federal fuel excise taxes. Sidney Berle Baldon II, owner-operator of Mid-Coast International, and Tracey Dale Diamond, an officer of the company, purchased more than $10 million of jet fuel from Calcasieu Refining Co. between July 2002 and November 2003, the EPA said.

Baldon falsely represented in correspondence to Calcasieu that the fuel was intended for export to Mexico, allowing Mid-Coast to avoid paying taxes on it. Mid-Coast then transported the fuel from Louisiana to locations Abuteir owned in Houston and Channelview, Texas, where the illegal blending occurred.

From there, the EPA said, the fuel was delivered to Houston area gas stations and sold as taxable motor fuel.

**Underinflated tires cost extra 9 cents per gallon (*Chicago Tribune*)**

By Joe Bruzek, Cars.com
Tribune Media Services
June 22, 2010
Properly inflated tires can improve fuel efficiency by 3.3 percent, saving consumers 8 cents to 9 cents per gallon at the pump, the Environmental Protection Agency says.

The agency also says fuel economy drops 0.3 percent for every one-pound drop in air pressure in all four tires, so at least in theory, having four severely underinflated tires could reduce gas mileage more than 3.3 percent.

Plenty of motorists are guilty of riding on underinflated tires and wasting fuel. A 2009 tire pressure survey by the Rubber Manufacturers Association found that about half of all vehicles have at least one underinflated tire. Worse, nearly 20 percent have at least one tire underinflated by 8 pounds per square inch, the survey says. Tires wear out faster, don't grip as well in turns and have reduced load-carrying capability when underinflated.

Bottom line: There are no benefits to running on underinflated tires and plenty of good reasons to keep them at the proper pressure.

**EPA nixes early approval of E12 gasoline (*Des Moines Register)***

Posted By Philip Brasher On June 22, 2010 @ 1:17 pm In Business, Green Fields: Agriculture and Alternative Energy

[1]Sen. Charles Grassley, R-Ia., took the Environmental Protection Agency to task today for delaying its decision to approve higher blends of ethanol in gasoline. The industry wants the agency to allow gasoline to contain up to 15 percent ethanol. Grassley, speaking to reporters, said the agency ought to at least allow 12 percent ethanol, which would be an increase from the current limit of 10 percent.

But the agency threw cold water on that idea in a letter last week to ethanol giant Archer Daniels Midland. ADM had argued that EPA could act now to permit the use of E12 on the basis that it was "substantially similar" under gasoline regulations to the E10 now sold.

In a letter to ADM dated May 17 and obtained by the Register, the agency's assistant administrator Gina McCarthy said the EPA would need to look at test data on the effects E12 would have on emissions and isn't aware of any such research.

"With roughly 300 million vehicles and pieces of equipment in consumers hands representing hundreds, if not thousands of different designs by a wide range fo manufacturers from around the world, I know you share our view that it is prudent to be careful and deliberative before any new fuel or fuel additive is introduced into a transportation system and marketplace that affects the entire country," McCarthy wrote.

ADM had argued that the EPA could OK E12 as an interim step while it considered whether to raise the limit to 15 percent.

It's not clear how widely stations would offer the higher ethanol blends if and when they are approved by the EPA, in part because the agency has been talking about restricting the sales to newer vehicles. Grassley portrayed the EPA delay as hurting jobs and keeping the country dependent on fossil fuels.

"It's a simple fact that steps could be taken right now that would have a real impact on our dependence on foreign oil," he said.

Agriculture Secretary Tom Vilsack said today that he's "confident that we're going to get a blend rate increase."

**GENERAL**

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**EPA Readies New Effort To 'Transform' Research & Development Office (*Inside EPA*)**

Posted: June 22, 2010
EPA research chief Paul Anastas is preparing an effort to "transform" the Office of Research and Development (ORD) to make its work more "relevant," a top priority for Anastas when he took office.

Informed sources say Anastas has temporarily reassigned senior staff at ORD's laboratories and research centers to work on the office's transitional strategy.

Senior ORD staff began considering how to "transform" ORD to make its research more relevant, focusing on "problems of broad national significance" conducted by interdisciplinary teams of agency researchers during the transition between the Bush and Obama administrations (see related story).

Though senior staff have expressed support for the program, agency union officials have raised questions about what it will mean for EPA scientists. Anastas approved of the effort, and in March sent all staff a memo supporting the effort and laying out his vision for ORD (Risk Policy Report, April 20).

One source says senior ORD staff are currently holding a retreat to discuss the effort. The re-assignment started a few weeks ago and will last for about two months, sources say. It is unclear if the directors will return to their old positions, or similar positions with new titles under an altered organization chart, one source says.

Among those temporarily reassigned is Peter Preuss, the long-time director of EPA's National Center for Environmental Assessment, which manages EPA's critical risk assessment database, known as the Integrated Risk Information System (IRIS) database, and writes the assessments for it.

An agency source indicates that Anastas "wants [Preuss] to help with the transformation of ORD." The source says Anastas "is very interested in putting his hallmark on the organization, and likes the way [Preuss] thinks. . . . [Anastas] feels [Preuss] would be a good partner in reforming how ORD does its business."

An EPA spokeswoman did not respond to a request for comment by press time. -- Maria Hegstad

**Key EPA Official Touts 'Pragmatic Precaution' As Cost-Benefit Alternative (*Inside EPA*)**

Posted: June 22, 2010
A key EPA official says the agency is using a "pragmatic precaution" approach to determine whether to regulate in the face of scientific uncertainty rather than relying solely on cost-benefit analysis, which the official says falls short of assessing the impact of disasters and the distribution of environmental impacts across communities.
Robert Verchick, the deputy associate administrator in EPA's policy office, told a June 15 event sponsored by the conservative Federalist Society that a "pragmatic precaution" approach allows EPA to prevent risks even when the science is uncertain, while taking into account practical considerations, such as cost.

"Concerning regulation, almost everything that EPA does is driven by some version of what I'll call pragmatic precaution. And what I mean by that . . . is that first, when a threat to public health is sufficiently serious, the agency should address it. . . . Second, it should do so even if the cause and effect relationship is not completely understood by science. And three, in addressing the threat, practical considerations like workability, often cost, even sometimes benefits, should be taken into account," he said.

Verchick compared the pragmatic precaution approach to cost-benefit analysis, which monetizes and compares monetary and non-monetary costs and benefits of regulations. He said EPA usually takes the pragmatic precaution approach because it is "hard wired" into the statutes. In contrast, EPA conducts cost benefit analysis primarily for the purposes of oversight from the White House Office of Information and Regulatory affairs, he said.

However, other speakers at the Federalist Society event urged increased use of cost-benefit analysis. For example, Ronald Cass, the president of Cass & Associates, said proponents of the precautionary principle -- which seeks action on risks even if the science on risks is uncertain -- are really just trying to promote their own agenda. "In today's world in a lot of different areas, not just in the environmental area . . . people talk about the precautionary principle, which really means 'I don't want to do the careful weighing an balancing, I want my bias of one sort of another to win.'"

Cass argued that you cannot consider the health risks of chemicals and pesticides without also considering the risks of not using them. "If you wind up growing fewer crops, more expensively, then there are people who won't get as much food, they won't get it with the same level of freshness, the same level of quality. . . . All of these things are effects of biasing decisions one way. There isn't a way to take risk out of the equation," Cass said. The widely used pesticide atrazine was a key topic of discussion at the event because EPA is currently reviewing its risks.

And Jeffrey Clark, a partner with Kirkland and Ellis, argued that Congress has abdicated its responsibility to decide when cost-benefit should be used in regulations, leaving courts to struggle with the question. To solve this uncertainly, Congress should enact a "clear statement" rule that says if a law is silent on the issue, cost-benefit should be

assumed to apply. "Why shouldn't there be a clear statement rule for cost benefit analysis that essentially says that if Congress doesn't make clear how to treat cost benefit analysis that agencies should be required to do it. That would make it judicially reviewable and that would solve this abdication problem."

Verchick, who is on leave from Loyola University in New Orleans, said that recent disasters like the 2005 Gulf Coast hurricanes highlighted the limits of cost-benefit analysis in addressing low-probability, high-impact events like disasters. He added that cost-benefit analysis is also not good at dealing with addressing the distribution of environmental impacts across different communities or inter-generational problems.

"[Cost-benefit analysis] is helpful in some ways, it's narrow in many others," he said. His comments echo the theme of his recent book, "Facing Catastrophe: Environmental Action for a Post-Katrina World."

**Opposition To Cost-Benefit Reviews**

The Center For Progressive Reform (CPR), which strongly opposes the use of cost-benefit analysis, is praising the book, and links Verchick's concerns about the use of cost-benefit analysis in the case of Katrina to other disasters like the ongoing oil spill in the Gulf of Mexico.

"He . . . points out that 'most of the flaws in the cost-benefit approach regarding monetization, discounting, and uncertainty are grossly amplified in cases of low-probability, high-magnitude events.' Think Katrina. Think Deepwater Horizon," a June 11 CPR blog says.

CPR also praises an alternative approach to cost-benefit analysis that Verchick lays out in the book, which argues that exposure to hazards should be minimized by through the use of natural buffers, attention to environmental justice and a precautionary attitude toward disaster risks, including scenario analysis that considers a range of possible futures, the blog says.

CPR goes on to say, "No set of precepts and processes -- be they the precautionary principle and scenario planning, or environmental justice and awareness of ecosystem services -- can provide a surefire guarantee against another disaster like Deepwater Horizon. But at the very least, following Verchick's approach would have led government officials and business managers to ask the right questions."

**GRANTS**

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Tuesday, June 22, 2010, 2:55pm MDT

**EPA finances green jobs training (*Bizjournals*)**

New Mexico Business Weekly - by Kevin Robinson-Avila NMBW Staff
The Gila Resources Information Project (GRIP) and Santa Fe-based Earth Works Institute will receive $25,000 grants from the U.S. Environmental Protection Agency to provide green jobs training for high school students in New Mexico.

The projects will teach students about climate change mitigation and provide educational tools for teachers to begin training youth for green jobs.

The grants' aim is to assist state government in developing green buildings, alternative transportation, renewable energy, water conservation and sustainable food production, according to the EPA.

GRIP Executive Director Allyson Siwik said her organization will work with the Southwest New Mexico Green Chamber of Commerce – which formed last fall with 140 green-businesses – and with Aldo Leopold High School in Silver City, and local and state government agencies to develop a green jobs curriculum.

"We want to equip students with knowledge, skills and abilities to compete for employment in the growing green jobs sector," Siwik said. "The project will develop a pilot high school-level curriculum this fall that will serve as a pilot program in spring 2011 at Aldo Leopold High School."

GRIP will offer a workshop in June 2011 in Albuquerque for teachers to learn about the curriculum and use it statewide, Siwik said.

"The curriculum will emphasize hands-on job training for students to do things like energy audits and energy efficiency upgrades, such as caulking and weather stripping, for homes," Siwik said. "We'll also work with business through the Green Chamber of Commerce for kids to learn about installing solar photovoltaic panels"

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**PESTICIDES**
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**EPA Reverses Controversial 'Human Guinea Pig' Rule (*Wired News*)**

* By Brandon Keim Email Author
* June 22, 2010
* 4:50 pm

Under proposed changes to federal research ethics standards, the Environmental Protection Agency will no longer accept studies that use people as guinea pigs in chemical tests.

In 2006, under chemical-industry pressure, and over arguments that the studies were scientifically and ethically bankrupt, the EPA declared such data acceptable. On June 16, the EPA reversed its decision.

“What we were really concerned about is toxicity studies, where they’re trying to do a study on humans to determine the dose response of a chemical,” said Jennifer Sass, a senior scientist at the Natural Resources Defense Council, a liberal nonprofit. “If the EPA stops accepting them, there’s no motivation for companies to conduct them.”

Almost every standard code of medical ethics — including the Nuremberg Code, written in response to Nazi doctors’ nightmare studies — forbid human tests of drugs or chemicals that may cause harm, but can provide no direct benefit.

The chemical industry, however, has long argued that the EPA should accept data from tests in which healthy volunteers are paid for exposing themselves to pesticides and other known toxins. The industry says such data provide a more accurate picture of chemical effects than animal studies.

Critics say the resulting science is worthless, with companies running tests on small, non-representative groups of people, such as healthy young men, in order to create a false impression of safety. More importantly, the tests put people at potentially grave physical risk, with no benefit but a cash payment.

“These pesticides are intentionally designed to be toxic. Their whole purpose is to kill insects and invasive plants,” wrote senator Barbara Boxer (D-CA) and representative Henry Waxman (D-CA) in a 2005 report (.pdf) on the industry’s tests. “Yet in the experiments, test subjects swallowed insecticide tablets, sat in chambers with pesticide vapors, had pesticides applied to their skin, had pesticides shot into their eyes and noses, and were even exposed in their homes for six months at a time.”

Continued Waxman and Boxer: “The subjects were not told of the dangers of exposure to the pesticides. Sometimes, they weren’t even told the substances being tested were pesticides. They were misled into believing that they were participating in ‘drug’ trials, not pesticide experiments.”

Nevertheless, the Bush-era EPA — led by Stephen Johnson, a former tobacco-industry scientist — said they’d accept data from those studies. The NRDC, along with liberal nonprofits Pesticide Action Network and Earthjustice, filed suit in federal court.

Proposed rule changes announced by the EPA on June 16are the result of negotiations that accompanied the legal battle. They extend protections from the Common Rule (a widely accepted set of medical ethics that forbid intentional-dosing studies that have no

benefit) to all people involved in EPA-accepted studies. Extra protections are given to children and pregnant women.

“EPA expects its tougher new rules will decrease the number of systemic intentional dosing toxicity studies conducted for pesticides,” reads the EPA website. “We expect the number of systemic toxicity studies to drop to as few as zero or one per year.”

The rules will be opened to public comment in January of 2011, and will need court approval to finally become law.

The American Chemistry Council, the major chemical industry trade group and an advocate of expanded human testing, did not respond to requests for comment.

According to Sass, Some data on human exposures to chemicals may still be used. Reports from accidental poisonings, worker exposures and other unintentional dosing exist, and “EPA could incorporate a lot of that unfortunate, real-world data,” she said.

“Pesticide companies should not be allowed to take advantage of vulnerable populations by enticing people to serve as human laboratory rats,” said Pesticide Action Network senior scientist Margaret Reeves in a press release.

**POLITICAL**

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**Republican files for Fairfax chairman (*Washington Post*)**

A Republican has emerged to challenge Fairfax Board of Supervisors Chairman Sharon Bulova (D) for the county's top elected post in 2011.

Marianne L. Horinko, a small-business owner from Chantilly who served as assistant administrator and acting administrator of the **Environmental Protection Agency** during President George W. Bush's first term, filed paperwork with the state Board of Elections last week to form a campaign committee -- Friends of Marianne Horinko 2011.

Horinko, 49, ran in the Republican primary to fill the 37th District seat in the Virginia Senate vacated by Attorney General Ken Cuccinelli II, eventually losing in a firehouse primary to Steve Hunt, a former Fairfax County School Board member. The seat eventually went to state Sen. Dave W. Marsden (D-Fairfax).

Anthony Bedell, chairman of the Fairfax County Republican Committee, said Horinko's decision to enter the race nearly 18 months before the Nov. 8, 2011, election sends a "strong message." No other Republicans have entered the race.

**SUPERFUND**
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**Tar Creek settlement approved (*NewsOK*)**

environmentCompanies sought pay for work under contested contracts
BY MICHAEL MCNUTT 0
Published: June 23, 2010

The governor and legislative leaders approved a $366,282 settlement Tuesday that ends a lawsuit alleging the Tar Creek relocation trust failed to honor its contracts with two companies that performed demolition and cleanup work at the EPA Superfund site.

NewsOK Related ArticlesTar Creek trust violated meeting act, Oklahoma high... 06/23/2010 The state Supreme Court said the trust involved in the federal relocation plan for residents of Tar Creek should not have allowed appraisers and the state's... Vision Construction and Project Management Inc. and CWF Enterprises Inc. filed the lawsuit last month in Ottawa County District Court against the Lead-Impacted Communities Relocation Assistance Trust.

The companies sought a judgment of $366,282; they said they were not paid for work they performed on 37 properties.

The lawsuit claims Lloyd Stone received a contract in February to clean up or demolish 156 houses in the Tar Creek area. Stone's Backhoe, Dozer and Trucking Co. of Miami, OK, hired Vision Construction and CWF Enterprises to provide "various demolition and cleanup work for the trust," according to the lawsuit.

Work was suspended in April when it was determined the trust violated the state Open Meeting Act by failing to vote during an open meeting to award the contract, said Assistant Attorney General Scott Boughton, who serves as legal adviser for the trust.

Work was halted
The trust told the companies last month that no more work could be done because the contract had been contested; the companies then filed a lawsuit to get paid for the work they had done.
The trust can approve payments up to $250,000, Boughton said.

Anything over that amount has to be sent to the Contingency Review Board, which is made up of Gov. Brad Henry, House Speaker Chris Benge, R-Tulsa, and Senate President Pro Tempore, Glenn Coffee, R-Oklahoma City.

The three approved the claim in a meeting that lasted less than 10 minutes.

The state is using federal stimulus money to pay for the work, Boughton said.

Settling the case was in the state's best interest because attorney's fees "could have gotten out of hand," he said.

"We would have lost," Boughton said. "They did the work."

The Central Services Department is taking bids on the contract to complete the work "so there can't be any problems with favoritism or anything like that," Boughton said.

"It's going to take probably at least another $1 million or maybe even more than that to finish up," he said. "I don't even think they're halfway done with that part of it."

The trust was formed after a 2006 Army Corps of Engineers study showed that the ground above abandoned lead and zinc mines under Picher and the nearby communities of Cardin and Hockerville had a high risk of caving in, prompting a $60 million federally funded buyout.

The area, called Tar Creek, is contaminated by mining waste and is an Environmental Protection Agency Superfund site.

**Lautenburg Touts GAO Findings To Push Renewal Of Superfund Tax (*Inside EPA*)**

Posted: June 22, 2010
Sen. Frank Lautenburg (D-NJ) is touting a Government Accountability Office (GAO) finding that EPA's costs to remediate existing and future Superfund sites will likely exceed its current funding levels as a reason to pass his legislation reinstating the long-expired Superfund taxes on industry.

Republicans however are pushing back against the effort, and accusing Democrats of trying to exploit anti-oil industry sentiment caused by the BP oil spill by taxing the industry, along with others.

John Stephenson, director of natural resources and environment for GAO summarized the results of a new report during a June 22 subcommittee hearing chaired by Lautenburg. The GAO report says that cleanup remedy construction for fiscal years 2011 and 2012 will cost between $253 and $414 million more that the $267 million in annual funding the agency allocated for remedial actions in fiscal year 2009. EPA estimates that between $123 to $199 million in funding from other sources -- such as settlement agreements with polluters -- could be available to supplement the annual appropriations, but the GAO says that such a supplement would still not be enough to cover the estimated total costs for the two fiscal years.

According to the report, 60 percent of the 75 non-federal sites on EPA's National Priorities List (NPL) that have unacceptable human exposure have all or more than half of the work remaining to complete remedial construction. At federal sites, the polluting federal agency -- often the Defense Department -- is responsible for funding cleanup.

Ultimately, EPA has plans to control human exposure at all of the 75 sites with unacceptable human exposure, but EPA regional officials expect 41 of the sites to continue to have unacceptable exposures until fiscal year 2015 or later, GAO says.

Remedy construction has not been conducted in the most timely and cost-efficient manner at some sites because EPA has had to balance limited program resources among various program activities, the report adds. At one site in Utah, where people are facing human health risks due to contact with soil and dust contaminated with lead from mining activities, EPA officials estimated that an additional $3 to $5 million per year would have allowed them to complete remedy construction at the site 3 to 4 years earlier than currently anticipated. Such delays have come despite a fiscal boost the Superfund program received from the economic stimulus package, the GAO says.

In addition, GAO found that most EPA and state officials expect that more sites will be added to the NPL in the next five years than had been during the previous five years. Some Democrats had criticized the agency under under the Bush administration for adding on average only about 16 new sites per year, but officials estimate the average will increase to between 20 to 25 sites in the coming years -- which the GAO notes will mean increased costs.

During the hearing, Lautenburg touted the GAO's findings as a reason to support his Superfund tax legislation, which he noted has seven cosponsors in the Senate. EPA Administrator Lisa Jackson sent a letter to congressional leaders June 21 encouraging them to approve the legislation.

But Sen. James Inhofe (OK), the ranking Republican on the Environment and Public Works (EPW) committee, said Jackson's letter was evidence the Obama administration was seeking to exploit the BP spill. "The Obama Administration has consistently supported that tax--but until recently, other than mentioning it in budget documents, its public support was muted," Inhofe said. "But the spill has changed that--now they feel the political climate is right to tax oil and gas companies."

Inhofe Cites Bailout

Inhofe also argued that Democrats' claim they want to reinstate the tax to ensure that polluters -- rather than the public -- pay to cleanup up contamination is inconsistent with the federal government's recent bailout of the auto industry that Democrats supported. Inhofe claimed that the bailout allowed companies such as General Motors and Chrysler to escape liability for cleanups at their former facilities and argues that private citizens will ultimately have to fund the cleanups through their tax dollars.

Inhofe also took aim at the Obama EPA's integrated cleanup initiative (ICI), which he said is an example of the agency spending Superfund money on administrative items rather than actual cleanup. ICI, which among other things establishes new metrics to measure progress at Superfund sites, amounts to EPA "essentially using taxpayers hard-earned dollars to create a public relations tool," Inhofe said.

In addition, Inhofe argued that reinstatement of the Superfund tax would essentially cause companies that are already paying to clean up their own sites to in addition pay for the cleanup of sites for which they are not responsible. Lautenburg, however, countered that without the tax, so-called orphan sites, at which viable responsible polluters no longer exist, are payed for with taxpayer dollars. "I will continue to fight to ensure that the polluters pay," Lautenburg said.

Democrats are eying various legislative proposals on jobs, tax and energy polices as potential vehicles for attaching the Superfund tax legislation, sources told Inside EPA recently (see related story).

**Oversight of the Environmental Protection Agency's Superfund Program (*Canada Free Press*)**

By EPW Blog Tuesday, June 22, 2010
Good afternoon. Chairman Lautenberg, as always, it's good to see you, and I continue to hope for your speedy recovery.

We are here today to hold an oversight hearing on EPA's Superfund program. As the Ranking Member on the EPW Committee, and as the Ranking Member on this subcommittee, I am glad to be here to discuss this important program.

As I've noted before, the Obama Administration has exploited the BP spill to pursue a radical agenda to shut down America's domestic production of oil and gas. Of course, there's ample evidence for that-just consider its recent support for legislation to re-impose the Superfund tax.

The Obama Administration has consistently supported that tax-but until recently, other than mentioning it in budget documents, its public support was muted. But the spill has changed that-now they feel the political climate is right to tax oil and gas companies.

Yet many forget how broadly the Superfund tax applies. If you own a business with over $2 million in revenue-regardless of what you manufacture-you would pay the tax. In other words: the Superfund tax is also a small business tax, affecting thousands of such businesses across the country, and their employees.

If the Obama Administration is serious about finding ways to stimulate the economy and create jobs, imposing a tax on small businesses is obviously the wrong remedy.

I should also note that responsible parties under Superfund already pay for approximately 70 percent of the clean-ups. I would challenge EPA to show me one site where a viable, potentially responsible party has not been made to pay their share. That's as it should be. The other 30 percent are orphan sites-that means EPA can't locate the responsible parties, because they no longer exist. Now again, some think reimposing the Superfund tax means more sites will be cleaned up faster. But that's not true. As the Government Accountability Office noted last year in a report I requested, "the balance in the Superfund trust fund does not affect the funds available for current or future annual appropriations."

Now, I'd like to turn to something more positive. I would be remiss not to mention EPA Region Six and once again say how pleased I am with the progress that we have achieved at Tar Creek. There is much more to be done, but I am very pleased with the progress we have made so far.

According to the Agency for Toxic Substances and Disease Registry, one in four Americans lives near a Superfund site. For instance, the Washington Naval Yard is the closest Superfund site to the Capitol, located on the Anacostia River. Superfund sites are all around us, making this a program of great importance.

The pace of cleaning up Superfund sites has been a prominent issue and remains so today. However, the logical reason for this is not due to a lack of funding, as some of my colleagues may argue. This is due to the fact that EPA is addressing larger and much more complex sites, such as Tar Creek. By their very nature, these large sites take more time and resources to complete. EPA prioritizes these sites, and for those of us who have waited patiently, while other states have had multiple sites cleaned up in a given year, it is frustrating to hear these complaints.

If we want to expedite the pace of clean-ups, and ultimately reduce costs, in some cases, we should give more latitude to local and state officials, who know these sites first hand. That's because sometimes, unfortunately, EPA can get in the way.

A prime example of this is the Highway 71/72 Refinery in Bossier City, Louisiana. This was a former refinery that was redeveloped for private residences and that eventually became contaminated. This was a site where the local and state governments and the company jointly worked out a viable solution. EPA, however, to the dismay of those involved, objected and overruled it.

One other Superfund issue that I would like to address is the need for EPA to reduce its administrative costs. A perfect example of this is EPA's new Integrated Cleanup Initiative. This initiative attempts to remarket EPA's progress at Superfund sites. This will provide new metrics to measure progress at Superfund sites. So EPA is essentially using taxpayers hard-earned dollars to create a public relations tool.

I believe that this makes no sense, and I hope that my colleagues on this committee will agree with me. Even if we disagree on Superfund issues, we will always use the same

metrics that have been used for the past thirty years to measure progress at Superfund sites. So no one, except EPA, will be using this initiative. This is money that could be used on the ground to fund clean-ups; instead, it's being used to wage a public relations campaign. This is exactly the type of administrative cost that EPA should be reducing instead of increasing, and I hope that they will redirect their funds to actually cleaning up these sites.

I look forward to hearing from the witnesses especially Dr. J. Winston Porter testimony on panel two. Thank you.

**TOXICS**
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**Toxic trails a legacy of Gold Rush (*San Francisco Chronicle*)**

California
June 23, 2010 Wednesday
FINAL Edition
Main News; Pg. A1
Toxic trails a legacy of Gold Rush;
ENVIRONMENT
By Kelly Zito, Chronicle Staff Writer
The thousands of mine shafts that pockmark the Sierra Nevada and testify to California's Gold Rush riches have also left a legacy of toxic contamination in some of the state's popular recreation areas, according to a new study.

Soil tests on a handful of trails near mine mouths in the foothills have revealed extremely high levels of lead, arsenic and asbestos, said researchers at the Sierra Fund, a small environmental advocacy group.

The naturally occurring minerals were pounded to dust generations ago and carted to the surface, where they are now stirred up and inhaled by hikers, off-roaders, bikers and horseback riders.

The Gold Rush "not only brought wealth and hundreds of thousands of people to California, it also brought mining machines that ripped down sides of mountains and tunneled thousands of feet into rock, leaving behind arsenic and lead," said Elizabeth Martin, chief executive of the nonprofit group. "This is the longest neglected environmental problem in California."

While their analysis was limited to 80 samples from 11 trails and recreation spots in the Foresthill, Downieville and Nevada City areas, the group says California's 47,000 abandoned mines pose significant threats to public safety, particularly in the dry

summer months when families flock to the foothills.

"A lot of people are aware that their kids can fall into a hole at an old mine. But they don't know that asbestos fibers can lodge into their lungs or lead can be absorbed into their skin," Martin said in an interview Tuesday.

For that reason, the group said additional testing must be done in select areas where historic mine waste intersects with well-trafficked trails. The fund is also pushing for warning signs and, in some cases, restricting access to public trails with high levels of hazardous minerals.

Federal attention

So many mines are scattered across different landscapes and under various ownership that it is unclear who would coordinate such an effort and how - not just in California but across the country.

With development and recreational activity encroaching on remote areas, the problem has gained the attention of federal authorities.

A federal audit in 2008 charged the Bureau of Land Management, which controls a number of abandoned mining sites in California, Nevada, Arizona and other states, with endangering public health by failing to clean up arsenic, lead and mercury near the shafts or to erect barriers around them. In the Rand Mining District outside Los Angeles, the inspector general of the Interior Department found piles of toxic mine waste in residential areas as well as biking trails awash in arsenic particles.

That same year, the agency closed about half of the Clear Creek Management Area, a 31,000-acre off-road vehicle paradise in the hills outside of Hollister, after a U.S. Environmental Protection Agency report said waste from the defunct asbestos mining in the area posed a serious risk to those who work, camp, hunt and ride on the property.

Above safe levels

In the Sierra Fund's study, researchers reported levels of arsenic, asbestos and lead well above levels deemed safe for human exposure. At the Foresthill Off-Highway Vehicle area near the Marall Chrome Mine pit, science director Carrie Monohan said lead levels were nearly 18 times the state and federal standards, and 40 percent of the soil samples showed asbestos contamination.

Asbestos, a mineral that shows up in nature as bundles of tiny, twisty fibers, is of significant concern because it can embed in throat and lung tissue, causing cancer and other respiratory diseases.

Difficult to clean up

Because of the diffuse nature of the hazardous minerals in surface soils, they are almost impossible to clean up, according to David Christy, spokesman with the Bureau of Land Management's Central California division.

"The technology is a challenge," he said. "The approach to cleaning up mines is steam cleaning them and cementing over them, and that costs a lot of money."

Under President Obama's federal stimulus plan, California received about $20 million of the $73 million set aside for cleaning and maintaining abandoned mines nationwide. Some estimates peg the number of abandoned mines in the United States at 500,000 and the amount needed to detoxify them in the billions.

"A lot of people are aware that their kids can fall into a hole at an old mine. But they don't know that asbestos fibers can lodge into their lungs or lead can be absorbed into their skin."

Elizabeth Martin, Sierra Fund

**New Jersey chemical plant needs better protection, Greenpeace says (*NorthJersey.com*)**

Wednesday, June 23, 2010
BY JAMES M. O'NEILL
Herald News
STAFF WRITER

A South Kearny chemical facility has failed to reduce the risk of a catastrophic accident or
terrorist attack on the plant and has grossly underestimated to the government what the "worst case scenario" would be in such an event, the environmental activist organization Greenpeace argued.

Greenpeace sent a letter to the U.S. Department of Homeland Security and to the company, Kuehne Chemical Co., complaining about lax security after conducting its own
"citizen's inspection" of the facility, which is bordered by the Hackensack River and extends under the Pulaski Skyway.

"Greenpeace was able to move freely around the perimeter of this plant in daylight without
interruption or contact with any plant security or other security personnel," Greenpeace legislative director Rick Hind said in the letter.

Greenpeace was able to take pictures of the plant from Greenpeace boats on the Hackensack, from above the plant on the Pulaski Skyway and in front of the plant's

main gate, Hind said.

In a "worst case" disaster scenario that it was required to report to the federal Environmental Protection Agency, Kuehne estimated that the catastrophic release of one 90-ton rail car of chlorine gas would put 12 million people at risk within a 14-mile radius of the plant in the New York-New Jersey region.

The Greenpeace photos indicated the presence of more than one rail car labeled with chlorine, and the company has reported on-site storage of 2 million pounds of chlorine gas, Hind said.

"Our inspection shows that the chemical disaster scenario that Kuehne has given to the EPA is as unrealistic as the estimates BP first gave about the size of their Deepwater oil rig blowout," Hind said.

Donald F. Nicolai, president and chief executive officer of Kuehne, was unavailable to comment. The chemical company was cited in 2008 for 31 safety violations and fined nearly $50,000 by the federal government for mishandling chlorine.

Other companies that routinely handle chlorine are moving to a just-in-time on-site generation of chlorine gas to reduce the risk of a catastrophic accident or terrorist attack, but Kuehne has not done so, Hind said.

Kuehne and dozens of other facilities along waterways are exempted from a temporary federal law regulating chemical facilities because they fall under the Maritime Transportation Security Act, which Hind said provided less stringent rules.

In Washington, the House has passed a more comprehensive bill which seeks to improve security and reduce the risk at such facilities. Sen. Frank Lautenberg has announced plans to introduce a Senate version of the bill within the next few weeks.

"Many of the highest-risk facilities have not taken even the least expensive and already available steps to reduce their attractiveness to terrorists by using safer chemicals or processes," Lautenberg said in March when announcing that he would introduce the bill.

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**EPA Issues New Lead Rule (*Zanesville Times Recorder*)**

June 23, 2010
ZANESVILLE -- To protect against lead poisoning,
the U.S. Environmental Protection Agency has issued
a new Lead Renovation, Repair & Painting Rule.

Under the rule, contractors performing renovation, repair and painting projects that disturb lead paint-based paint in homes, schools and daycare centers built before 1978 must be certified to follow lead-safe work practices.

The Muskingum Healthy Homes Collaborative and the city of Zanesville Building Department would like to bring the EPA's RRP training locally for those who need it. The cost of the course will be comparable to other RRP courses, but organizers need an estimate of how many are interested in taking this training prior to scheduling.

Contact one of the following for more information or to become involved: Zanesville-Muskingum County Health Department, Kim Foster at (740) 454-9741 Ext. 262 or kimberleef@zmchd.org; City of Zanesville, Tim Smith at (740) 455-0646 or tsmith@coz.org. The deadline is July 6. For information, visit www.zmchd.org.

**Contractors given lead-paint reprieve (*Tulsa World*)**

June 23, 2010
Builders have training time, with enforcement set to begin Oct. 1.

Bill Powers (left) watches as Ron Willhite, Allen Jordan and Granville Crittenden hang protective sheeting during a lead removal training recently. TOM GILBERT / Tulsa World file

Local contractors scrambling to get training for a new EPA lead-paint rule were breathing easier Monday after an announcement that enforcement won't begin until Oct. 1.

Modifications by the U.S. Environmental Protection Agency also delay enforcement of rules against untrained renovators working on older houses until Dec. 31, so long as they enroll in a certification class by Sept. 30.

Contractors such as Ken Saltink, the president of the Remodelers Council at the Home Builders Association of Greater Tulsa, said the changes are a welcome reprieve for the many contractors still trying to get certification.

"We feel that's a good start," he said. "Their reasoning behind it was because of the difficulty getting training."

But homeowners might not be able to use the delay as a way to skip out on lead testing and removal, which must be performed on any professional remodeling job that disturbs the paint of houses built before 1978. Steve Womble, the president of The Womble Co., a window and door contractor, said his crews would continue to test all older homes where they are working.

"At this point, the delay won't affect us at all," he said. "As we see it, they've just delayed enforcement, not compliance."

Violators of the rule face fines of up to $37,000 per day.

Local contractors had complained about being unable to get training before the rule's original deadline of April 22, although Bill Powers of Powers Design and Build said the problem was even worse elsewhere across the country.

"The rumors we've been hearing is that some parts of the East Coast were shut down due to the inconvenience and expense of conforming to this rule," he said.

Saltink said that although most of the larger contractors have been trained, many smaller companies haven't been able to. He said the delay in enforcement — announced Friday — should give them more time to get certified.

The Tulsa HBA is offering training classes twice a month, and other companies are offering certification classes as well.

Certification for lead paint removal, which involves sealing the affected rooms, wearing head-to-toe paper suits and using powerful industrial vacuums, can be costly. Womble said he had to pay $150 each to certify his 20 workers, plus $2,000 for each of his two lead paint removal crews.

And these costs typically get passed on to the customer. Womble, like other certified contractors, has been charging $195 to clean up the paint on a door or window replacement job on top of the $500 to $1,000 base cost.

"I hope that the price can come down in the future as we get more guidance on compliance from the EPA," he said.

Despite the delays, many local contractors are still frustrated with the new rules. Powers, who has conducted multiple test runs of lead paint cleanups, called the regulations "burdensome" and said he would have preferred a permanent provision to allow homeowners to opt out if the home is not occupied by pregnant women or children younger than 6.

"It was originally set up that way, and at the last minute they dropped the provision," he said.

Studies indicate that lead poisoning can cause lower IQs, learning problems and aggressiveness in children, as well as memory loss and mood swings in adults.

The EPA has allowed homeowners to opt out of the rule under the same circumstances if they began renovation jobs within 60 days of the enactment of the rule in April, although the opt-out period is set to end within days.

Saltink said he's still concerned that the burdens and costs involved in compliance will drive clients away from certified contractors.

"People will either seek people who don't care about doing it right or getting caught, or they'll do it themselves," he said.

**Inhofe seeks more comment time on commercial paint rules (*Greenwire*)**

(06/22/2010)
Elana Schor, E&E reporter
Sen. James Inhofe (R-Okla.) yesterday asked U.S. EPA to extend the period for public comment on its proposed lead-paint rules for commercial buildings, signaling that the agency's recent move to delay a similar rule for residential properties has not allayed congressional concern over the issue.
In calling for an additional 60 days of comment on the pending commercial lead-paint rules, Inhofe -- the senior Republican on the Senate Environment and Public Works Committee -- said past federal actions against lead-paint poisoning have focused on a smaller group of Americans than the new rule would potentially affect.

"Previous lead paint programs have focused on high-need subpopulations, such as pregnant women and children, and residential buildings," Inhofe wrote to Stephen Owens, assistant EPA administrator in the Office of Chemical Safety and Pollution Prevention. "Public and commercial buildings will present an array of different issues."

Inhofe's letter opens a new chapter in the clash over EPA's residential lead-paint rule, which culminated late Friday in a memo that directed regional enforcement offices not to enforce an April certification requirement for contractors. The delay gives homebuilders until September to enroll in federally approved training on safe lead-paint work practices and until December to complete the course.

Several GOP senators, including Inhofe, won 60 votes for an amendment to last month's supplemental appropriations bill that aimed to block EPA from levying fines on contractors found in violation of the lead-paint training rule.

Lead is now known to pose an array of human health risks, particularly to children, who can be vulnerable to developmental disabilities when exposed to the element in

common products such as paint. But lead paint is still a common presence in millions of homes built before the government banned it in residential properties in 1978.

Industry groups hailed EPA's Friday delay in enforcing the lead-paint training rule. Similarly, another request for extended public comment on the proposed lead-paint rules for commercial buildings was filed on May 19 by 15 industry and labor groups.

Signed by the National Association of Home Builders, the National Association of Realtors, the Associated General Contractors and other groups, that letter described EPA's proposed regulations for commercial lead-paint use as "unprecedented."

In addition, the groups warned that requiring more training for commercial contractors could "seriously undermine" progress on the type of energy-efficiency building retrofits that played a central role in the White House's 2009 American Recovery and Reinvestment Act.

**Greenpeace report says Hudson County chemical plant has highest risk in U.S. (*Hudson Reporter*)**

Jun 23, 2010
HUDSON COUNTY -- The non-profit environmental group Greenpeace says they recently conducted an informal survey of a chemical plant in South Kearny that holds containers of chlorine gas for use in producing liquid bleach.

They said that they obtained photos and other information suggesting that the plant is vulnerable and could leak the gas for miles if attacked by terrorists.

The Greenpeace report starts off saying that according to "[The] chemical company's own reports to the Environmental Protection Agency (EPA), its South Kearny New Jersey facility puts 12 million people at risk in the New Jersey-New York City area due to the bulk storage of 2 million pounds of chlorine gas. This plant puts more people at risk of a chemical disaster than any other plant in the U.S."

They also say that the plant is aware of "safer chemical processes that could eliminate these risks."

Read more: Hudson Reporter - Greenpeace report says Hudson County chemical plant has highest risk in U S

**WATER**
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**EPA plans gas-drilling meetings (*Press & Sun Bulletin*)**

Sessions to focus on hydraulic fracturing
By Jennifer Micale •jmicale@gannett.com • June 22, 2010, 10:26 pm
The U.S. Environmental Protection Agency will host four public meetings on its proposed study of the relationship between hydraulic fracturing and its potential effects on drinking water. The last is scheduled for Aug. 12 at Binghamton University's Anderson Center for the Performing Arts.

Stakeholders on all sides of the issue landowners, industry representatives and environmentalists — plan to attend and offer their input on the study.

"It's a recognition that Broome County is at the center of this potential activity," said Assemblywoman Donna Lupardo, D-Endwell.

Those who plan to attend said they expect crowds similar to previous hearings on drilling in the Marcellus Shale formation.

In November 2009, more than 1,000 people crowded into the Chenango Valley High School auditorium for a state Department of Environmental Conservation hearing on the issue. It resembled a political rally, with costumed and sign-bearing protesters in the crowd and speakers drawing applause as they praised or criticized the drilling industry.

"I think we're going to see the same reaction that we saw in the DEC hearings," said Lindsay Wickham, a field representative for the New York State Farm Bureau who hopes to attend.

Known as fracking, the process is used in drilling for oil and natural gas. It involves pumping fracturing fluids — a mix of water and chemical additives — as well as sand into rock formations, creating fractures that allow natural gas or oil to flow into a production well.

The EPA issued a study in 2004 under the Bush administration showing fracking poses no threat to water supplies or public health.

However, U.S. Rep. Maurice Hinchey, D-Hurley, has said the 2004 study collected data from sources with a vested interest in the oil and gas industry and ignored other relevant information. The new study comes from a provision Hinchey authored.

The meetings will provide public information about the proposed study's scope and design and give the public a chance to comment. The EPA hopes to complete the study design by September. Its Office of Research and Development plans to have initial study results available by late 2012.

The Aug. 12 meeting will be split into three sessions running from 8 a.m. to noon, 1 to 5 p.m., and 6 to 10 p.m., according to the EPA. Other sessions will be held July 8 in Fort Worth, Texas; July 13 in Denver, Colorado; and July 22 in Canonsburg, Pa., outside of Pittsburgh. Stakeholders will need to pre-register for the meetings at least 72 hours before they start.

The study could potentially affect the gas drilling timetable in New York, currently stalled until the DEC completes its ongoing review of the Supplemental Generic Environmental Impact Statement — an assessment of the impact of fracking — later this year.

In late May, environmentalists went to Albany to push for a state bill that would prohibit issuing natural gas drilling permits in the Marcellus Shale until three months after the federal study is completed.

Earlier this month, frustrated landowners made their trek to the Capitol, urging legislators to stay out of the way of the DEC's environmental review and halt legislation that's threatening to delay drilling even longer. Landowners say the new study is unnecessary, that fracking has been used successfully in the state for 60 years.

"Fracking is not the problem. The problem is the lack of oversight and regulation," said Wickham of the Farm Bureau. "It's human error."

Lupardo said she believed New York state "is at least two years ahead of the EPA in thinking through the ramifications and regulations for hydraulic fracturing." Once the DEC is finished with its recommendations, Lupardo said she's convinced the state will have the strictest regulations for gas drilling in the country.

People on all sides of the issue expect discussion on the study's scope.

"I think the public in New York is pretty interested in what the EPA is doing," said Deborah Goldberg, a lawyer for Earth Justice, an environmental group challenging the state's readiness to oversee drilling in New York. "I think it's important they hear from the people on the ground on the things they should be looking at."

Industry representatives also plan to be on hand, whether to answer questions or give comment, said Chris Tucker of Energy in Depth, an industry group in Washington, D.C. Their role is undetermined, although they've already submitted comments to the EPA's Science Advisory Board.

"The scope of this study is important," Tucker said. "We want to make sure it's science-based and it's peer-reviewed."

Members of the Joint Landowners Coalition of New York are currently talking about attending, said Scott Kurkoski, a partner with Levene, Gouldin & Thompson who represents the group, and Dan Fitzsimmons, coalition president. The coalition has an environmental engineer with 40 years experience — Bob Williams — who plans to speak, said Marchie Diffendorf, a Broome County legislator who's also a leader with the coalition.

"We welcome any light that can be shed on the process; it's still very experimental," said Chris Burger, chairman of the Binghamton Sustainability Coalition. "We need to better understand the problems related to this process. Hopefully, the EPA study will shed more light on the problems."

If it's anything like the meeting at Chenango Valley High School, there will be more speakers than there's time for, Diffendorf noted.

"I just hope it doesn't turn into a circus," said Fitzsimmons. "It would be nice if they go over the facts."

Staff writer William Moyer contributed to this report.

**DEP predicts W.Va. clash with Pennsylvania may go to court (*Associated Press*)**

**Story also appeared: *WTKR News***

By VICKI SMITH
Associated Press Writer
June 23, 2010
MORGANTOWN, W.Va.
West Virginia's top environmental official says the state is being held to a different standard than its neighbors for surface-mine permitting, and the conflict could lead to litigation.

Department of Environmental Protection Secretary Randy Huffman predicts his agency will eventually be party to a lawsuit involving the U.S. Environmental Protection Agency.

DEP employees are attending a meeting with EPA staff this week over water-quality standards the EPA set for six states' surface-mining permits April 1.

Huffman argues the standards are unattainable and unfairly enforced.

But a spokeswoman says EPA ensures they're applied consistently and fairly across the targeted states by holding weekly conference calls between headquarters and regional offices.

Tuesday, June 22, 2010, 2:40pm EDT

**EPA issues development-related fines (*Boston Business Journal)***

Boston Business Journal - by Kyle Alspach
Two companies constructing a residential development in Ayer, Mass., could be fined up to $177,500 in connection with discharges of contaminated storm water, the U.S. Environmental Protection Agency said Tuesday.
The EPA's New England office said it has issued a complaint seeking the penalty under the federal Clean Water Act. The complaint accuses Crabtree Development, LLC of Ayer, Mass., and R.A. Powell Construction Corp. of Lunenberg, Mass., of committing unauthorized storm water discharges from a construction site.
Crabtree Development is the developer of the Pingry Hill residential development in Ayer, and Powell is the general contractor, according to the EPA.
On two separate occasions in 2009, an EPA inspector observed the discharge of storm water that contained contaminants including sand, dirt, sediment and residues of construction material into adjoining waters and wetlands, the EPA said.

**Focusing on your community (*Washington Post*)**

June 23, 2010 Wednesday
Suburban Edition
METRO; Pg. B02
Maryland
Each week, our photographers bring you scenes from your community. Today, take a look through the lens of Jahi Chikwendiu at a scene from Watts Branch Stream in the District.

A small group of volunteers works to clean trash from the Watts Branch Stream, where its slight flow of water crosses from Maryland into Northeast Washington where Southern and Eastern avenues meet to form the right corner of the District's diamond shape. It took the falling of an old tree, its trunk skimming the stream's flow just enough to be a filter, to reveal what besides water and tree debris was headed toward the already poisoned Anacostia River. Styrofoam folding food trays and cups at all levels of disintegration, alcohol bottles from top shelf to bottom, potato chip bags and plastic motor oil containers were among the trash. In an **Earth Day** 2010 effort organized by the Anacostia Watershed Society, volunteers participated in a massive trash cleanup along the shores of the polluted river and its tributaries. The National Oceanic and Atmospheric Administration reports that roughly 20,000 tons of trash enter the Anacostia River from local creeks and streams each year. The **Environmental Protection Agency** has officially declared the Anacostia to be "impaired by trash," only the second river in the nation to receive such a distinction. It lists human beings as the

chief source of the litter, so it's only fitting that humans help repair their damage. More important, the trash project raises the question of developing a mentality that prompts us to properly dispose of our waste in the first place.

**Visitors warned about algae in lake (*Columbus Dispatch*)**

June 22, 2010
New and potentially dangerous algae have moved into Grand Lake St. Marys, joining a toxic bloom that forced state officials to warn visitors last year to keep their distance.

The 13,000-acre lake has long been considered one of the state's most polluted. Fertilizers and manure from farms in Mercer and Auglaize counties have helped turn the lake green with algae. But now a second strain of algae has officials worried.

Friday, Department of Natural Resources officials placed warning signs urging visitors to be cautious around the lake's three beaches, said Heidi Hetzel-Evans, department spokeswoman. The signs say visitors should avoid touching "visible surface scum."

The new algae are called Aphanizomenon gracile and are capable of producing three toxins. The Ohio Environmental Protection Agency has sent samples out of state to see if this bloom is dangerous.

Last year, the algae were planktothrix, which produce a neurotoxin called microcystin. It was so thick in May 2009 that the state warned that it could cause skin rashes, sicken people and kill small animals, including dogs.

Officials put up warning signs at the lake last year, but they took them down this April when toxins declined.

In 2008, the lake attracted more than 737,000 visitors. Last year, the number fell to 687,000.

Though common in Lake Erie, the algae previously had not been discovered in an inland lake in Ohio. They later were discovered in Buckeye Lake. In Erie's western basin, the algae grow into dense "blooms" that help create a vast, oxygen-depleted dead zone where no plant or fish life can survive.

In humans, the toxin can cause skin rashes, sore throats and watery eyes. In high concentrations, it can cause weakness, dizziness, breathing problems, convulsions and liver and kidney damage.

Both planktothrix and Aphanizomenon gracile are cyanobacteria, or blue-green algae.

Aphanizomenon gracile can produce clyindrospermopsin, which can cause liver tumors and gastrointestinal distress, and anatoxin and saxitoxin, toxins that affect the nervous system.

It isn't clear if Aphanizomenon gracile is the only species present.

The study of cyanobacteria "is an emerging science," said Dina Pierce, an EPA spokeswoman. "It's not uncommon for different species to dominate at different times."

Joe Logan, agricultural director for the advocacy group Ohio Environmental Council, said residents can't catch a break.

Last year, levels of microcystin were four times higher than the World Health Organization's "low-risk" mark for swimmers and 82 times higher than its standard for drinking water.

"We don't know if this is more dangerous than last year," Logan said. "We have a lot to learn about this species, but what we know so far is alarming."

Joseph Conroy, an ODNR fisheries biologist, said toxins can build up in fish tissue and kill them, while decaying algae blooms can suck oxygen from the water during decomposition.

"Things seemed really low in productivity," Conroy said. "In the last few weeks, things have shot up."

**Fecal bacteria at high levels in Golden Gardens stream (*Seattle Times*)**

June 22, 2010
Visitors have been warned not to play in or drink from the stream that runs through Seattle's Golden Gardens Park because of recent reports of high levels of fecal coliform and E. coli in the water.

Visitors to Seattle's Golden Gardens Park should stay away from the stream that runs through it because of recent reports of high levels of fecal coliform and E. coli in the water, said an official with Public Health — Seattle & King County.

"If there is contact with the stream, wash with soap and warm water," said Charles Wu, a health and environmental investigator for the agency. "And make sure kids aren't drinking the water."

Volunteer water quality testers from the Surfrider Foundation, an environmental organization, tested the Golden Gardens stream every two weeks since March and found high levels of fecal coliform and E. coli. They've also found high bacteria levels at

Leschi Park near Lake Washington and Pontiac Point near Sand Point, though not as high as at Golden Gardens.

Wu said that the public health department is not taking further action until it can verify the Surfrider data.

"They've been filling us in," Wu said. "We're working with scientists at Seattle Public Utilities and the King County department of natural resources in helping us evaluate their test results."

Until more tests are done, Wu said the current message is: Keep the kids out of the water. If they do ingest water, he said it could lead to gastrointestinal illnesses, depending on how much water they drink and what's in it.

Wu said the bacteria in the water could be coming from faulty sewage systems or stormwater runoff — or directly from people, pets and wildlife.

The Surfrider Foundation, a nonprofit organization of recreational water users "dedicated to the protection and enhancement of the world's waves and beaches," has been testing nine sites for water quality in the Seattle area. Abigail McCarthy, a Surfrider volunteer, said the county doesn't have the funding to do all the water monitoring it needs to so the nonprofit is attempting to "fill in the gaps."

She and other volunteers teamed with J. Scott Meschke, University of Washington environmental and occupational health sciences professor, to do the testing.

"We follow EPA standard procedures, and most of us in charge of testing have a fairly substantial science background and lab experience," said McCarthy, who has an master's in fisheries sciences.

Carly Flandro: 206-464-2108 or cflandro@seattletimes.com

**Residents speak out against EPA mandate (*Milford Daily News*)**

By Melanie Graham/Daily News staff
Milford Daily News
Posted Jun 23, 2010 @ 12:44 AM
FRANKLIN — Local officials and the public lined up last night to make their opinions loud and clear about "devastating" effects a costly stormwater regulation would have on Milford, Bellingham and Franklin.

Their voices were heard at a public hearing held by the federal Environmental Protection Agency at Tri-County Regional Vocational Technical High School in Franklin.

The hearing was one of the last opportunities for people to submit comments and opinions.

"I find this action to be the most significant underfunded mandate in my entire political career," said state Rep. John Fernandes, D-Milford. "It is unacceptable in today's economy."

The federal regulation, which aims to reduce phosphorous in the Charles River, is narrowing in on properties in Milford, Franklin and Bellingham to reduce the amount of stormwater draining into the Charles River.

The regulation applies to properties with 2 or more acres of impervious surface, which includes rooftops and parking lots, as well as to stormwater coming from municipal drains.

Officials have estimated that private businesses in Milford will spend $30 million to $55 million on systems that control stormwater while the town is estimating a cost of $35 million to $60 million.

Fernandes was one of roughly 80 people present, and one of nearly 30 people who spoke.

If the regulations are to be enforced, Fernandes said, the EPA should come up with the money.

"My comments are harsh because this is harsh on the (communities)," Fernandes said.

EPA officials explained last night that the three communities were singled out partly because of their location at the headwaters of the river and because of the density of commercial properties in the three towns. The Milford, Bellingham and Franklin communities, officials said, are in the top 10 in the watershed for impervious surface area.

"I see a classic case of bureaucratic bullies teaming up with a bunch of environmental fanatics," said Milford resident Mike Barton.

State Sen. Richard Moore, D-Uxbridge, said that rebuilding the economy is what local officials should be concerned with, not a multi-million dollar stormwater system.

"The economic impact (of the regulation) has yet to be fully understood," Moore said.

Federal officials also weighed in on the matter. U.S. Sen. Scott Brown's State Director Jerry McDermott read an excerpt from a letter to the EPA signed by Brown, U.S. Sen. John Kerry, U.S. Rep. Richard Neal, D-2nd, and U.S. Rep. James McGovern, D-3rd.

"It is just not right to saddle these communities with this burden," the letter reads.

The EPA's process in issuing the regulation was also heavily criticized last night, with several people arguing that "the cart is coming before the horse."

In a separate, municipal regulation, the towns will have 10 years to implement a phosphorous control system, while under the business regulation, properties only have five years.

Officials argue that the EPA is encouraging businesses to hop on a municipal stormwater plan rather than implement one individually. However, some argue that a municipal system may not be up and running before businesses are asked to comply.

"If you were to design a process that would fail, this would be the process," said Milford selectmen Chairman William Buckley.

There is a separate municipal regulation which will apply to all towns in the Charles River watershed and also focus on the reduction of phosphorous and the actual treatment of the water.

The regulation applying to businesses in Milford, Bellingham and Franklin, though, is a pilot program for other communities, officials said, and if effective, could be implemented in the rest of the towns in the watershed later.

Buckley, as well as several other officials, encouraged those at the EPA to "slow down the process" and wait to see if funding is available before mandating the regulations.

Officials estimate businesses could spend $6,000 to $120,000 per acre on systems used to redirect stormwater.

"The benefits (of cleaning the river) are grossly overstated and do not justify the expense," said Franklin Director of Public Works Robert Cantoreggi.

Cantoreggi argued that legislation should be sought to control sources of the phosphorous, such as lawn fertilizer. He also said "social research" should be conducted to see if there is support within the communities to fund phosphorous control systems.

"Let the people decide where their money goes," Cantoreggi said.

Despite harsh words from many local business owners, many supporters from environmental groups stepped up to the microphone to support the regulation.

"We should not tax Americans to clean up pollution from individual property owners," said Bob Zimmerman, the executive director of the Charles River Watershed Association.

If businesses do not follow the new regulations and reduce the stormwater runoff, it would mean "the death of the Charles River," Zimmerman said.

According to EPA officials, the phosphorous from stormwater causes excess plant growth in the river and its attached ponds, throwing off the natural balance and ecosystem of the aquatic life.

Advocates for the regulation also argue that the reduced plant growth will provide aesthetic benefits for those who use the river, as it will allow for safer, more enjoyable recreation.

A lawyer from the Conservation Law Foundation argued that the current regulation proposal is not enough, and that the regulation set aside for Milford, Bellingham and Franklin should be extended throughout the watershed and to properties with only 1 acre or more of impervious surface.

The foundation also said it is concerned with the EPA taking "such small steps" in the process, saying that a delay would create a more costly and difficult process.

Steve Pearlman from the Neponset River Watershed Association and Massachusetts Rivers Alliance Policy Director Susan Beede were also on hand to offer their support for the regulation, which they hope will eventually extend to other watersheds and rivers across the state.

"We strongly support this draft permit," Beede said, adding that she urges the EPA to provide property owners with information about several techniques and solutions for dealing with stormwater.

The public comment period for the regulation ends at midnight on June 30. Written comments can be submitted to Mark Voorhees, US EPA Region 1, 5 Post Office Square Suite 100, Mail Code 06-4, Boston, MA 02109. For more information, Voorhees can be reached at 617-918-1537 or Voorhees.mark@epa.gov.

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