U. S. Environmental Protection Agency
E-Clips
Prepared by the Office of Public Affairs

Friday, February 15, 2013

Table of Contents
(BNA articles can be viewed online **http://Intranet.epa.gov/desktop/news.htm**

Thursday, February 18, 2010

ADMINISTRATOR JACKSON 4
Perry challenges EPA ruling on unhealthy gasses (*Daily Texan*)..... 4
Will the President Hear Rockefeller? (*State Journal*) 5
EPA chief promises 'clear road map' for utilities (*Greenwire*)..... 6
Did Lobbyists Push Off Regulation of a Controversial Chemical? (*ProPublica*)..... 7
Energy and environment top of agenda for Canadian premiers in D.C. (*Oil Week Magazine*) 8
The Quiet Revolution (*New Republic*)..... 10
US : EPA, DOE to Join States in an Effort to Boost Energy Efficiency (*Instalbiz*)..... 16
EDITORIAL / COMMENTARY / OP-ED / LETTERS 17
Cap-and-Trade Cracks Up (*FOX News*) 17
A Reasonable Bet on Nuclear Power (*New York Times*)..... 18
On the world's changing climate (*Los Angeles Times*) 19
Federal global-warming office a bad idea (*Washington Times*) 20
Legislators have an Ash Tuesday (*Paris Post Intelligencer*)..... 21
The winter of global warming's discontent (*San Francisco Chronicle*)..... 22
The EPA's bureaucratic bloat (*Standard Examiner*)..... 23
AIR..... 24
EPA tests for contaminants at federal complex in K.C. (*Times Leader*)..... 24
Appalachia is slipping from grip of Democrats (*Washington Post*)..... 25
Last-Minute Changes Will Improve Air Pollution Monitoring, EPA Says (*OMB Watch*) .. 29
Lincoln Faces Rough Road (*Wall Street Journal*)..... 30
Cement industry says new EPA regulations would cost jobs (*Fort Worth Star Telegram*) . 32
BROWNFIELDS 33
EPA Says Brownfields Grants on Track in Springfield, MO (*Ozarks First*) 33
Neighborhoods Get Federal Help With Brownfields, Housing, Transport (*Environmental News Service*)..... 34
CLIMATE CHANGE / GLOBAL WARMING..... 36
EPA must rethink rulings, Va. attorney general says (*Virginia Pilot*)..... 36

Business groups challenge EPA on greenhouse gases (*Associated Press*) 37
Story also appeared: *Washington Post* 37
Texas: Dangers of Climate Change Are Questioned (*New York Times*) 38
Environmentalists Cooling on Obama (*New York Times*) 38
3 Companies quit climate coalition (*Los Angeles Times*) 41
States take sides on EPA greenhouse rules (*UPI*) 41
Cuccinelli says EPA climate change data flawed (*Richmond Times Dispatch*) 42
16 'Endangerment' Lawsuits Filed Against EPA Before Deadline (*New York Times*) 43
EPA's Endangerment Finding Inflames Climate Change Debate (*FOXNews.Com*) 44
Lawsuits challenge EPA greenhouse gas stance (*Plastics News*) 45
Texas, Virginia challenge EPA greenhouse gas finding (Christian Science Monitor) 47
Virginia's attorney general asks EPA for more time to challenge climate findings (*Examiner*) 49
Texas challenges EPA ruling on greenhouse gas threat (*Dallas Morning News*) 51
Hostage to hot air (*Gulf Times*) 52
16 'endangerment' lawsuits filed before deadline (*Greenwire*) 54
Controversies Create Opening for Critics (*Wall Street Journal*) 55
ENERGY 58
EPA Chooses Omaha For Energy Efficiency Class (*KETV 7 Omaha*) 58
Prometheus Real Estate Group Expands and Enhances Walnut Creek Civic Executive Center (*Fox Business*) 59
Sen. Graham promotes nuclear power, 'clean coal' in draft renewables bill (*Greenwire*) 61
FUEL 63
EPA Official Explains RFS2 at Ethanol Conference (*Domestic Fuel*) 63
GENERAL 64
EPA recognizes senior campus idea in HMB (*Half Moon Bay Review*) 64
EPA Celebrates Healthy Communities for Active Aging (*Tonic*) 65
HAZARDOUS WASTES 66
Manchin argues against coal ash regulation (*Associated Press*) 66
Story also appeared: *Washington Post* 66
Maine Study May Spur Tougher Disposal Requirements For Pharmaceuticals (*Inside EPA*) 67
Landowners push back against claims of shale hazards (*Calgary Herald*) 69
MINING 72
GAO finds gaps in mountaintop-removal cleanup rules (*Greenwire*) 72
RECYCLING 73
Ameren announces CFL bulb recycling (*KFVS*) 73
SUPERFUND 73
EPA addresses vapor intrusion concerns (*News 10 Now*) 73
TOXICS 74
PCBs Found In Caulking At Three Technical High Schools (*Hartford Courant*) 74
Wis. lawmakers approve BPA limits; Ore. Senate rejects them (*Greenwire*) 75
Researchers find C8 in wide range of foods (*Greenwire*) 76
WATER 77
Conflicts on PCBs' removal (*Albany Times Union*) 77
EPA Seeks Cleaner Waterways (*WESH 2 News*) 79

Report on Marines' water omitted cancer chemical (*Associated Press*) 79
Novel EPA Stormwater Permit May Be Model For Post-Construction Limits (*Inside EPA*) 82
TVA says ash cleanup in Emory River 70% complete (*Greenwire*) 85
New search for Asian carp begins in Chicago area (*Greenwire*)..... 85
EPA gets an earful on proposed water rules (*OCALA. Com*) 86
Area bodies of water wouldn't meet limits (*OCALA.com*) 89
New grease pit too costly; Mama Lacona's to close after 53 years (*DesMoines Register*) .. 91
Alaska's Red Dog Mine is uncertain of new permit over water pollution (*McClatchy Washington Bureau*) 93
Officials looking to improve dredging process (*Troy Record*)..... 94
Mousam Lake lauded in national EPA report (*Foster's Daily Democrat*)..... 95
EPA Seeks Input on Black Mesa Mine Wastewater Permit (*EP Magazine*)..... 96

ADMINISTRATOR JACKSON

==========

Perry challenges EPA ruling on unhealthy gasses (*Daily Texan*)

By Chris Thomas
Daily Texan Staff
Published: Thursday, February 18, 2010
Updated: Thursday, February 18, 2010

The state of Texas filed a petition with the U.S. Court of Appeals on Tuesday, challenging the Environmental Protection Agency's findings that greenhouse gases in the state are a threat to public health.

In the agency's endangerment findings, published Dec. 7, EPA Administrator Lisa P. Jackson concluded that "the current and projected concentrations of the six key well-mixed greenhouse gases — carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride — in the atmosphere threaten the public health and welfare of current and future generations."

Gov. Rick Perry filed the suit with the help of Attorney General Greg Abbott and Texas Agricultural Commissioner Todd Staples. Perry said the EPA is making generalizations and scaring the public.

"Today, the state of Texas is taking its challenge to the EPA," Perry said in a press conference held Tuesday. "This misguided plan paints a big target on the backs of Texas energy producers and the nearly 200,000 Texans that they employ."

Greenhouse gases were formally recognized as harmful to human health in the 2007 Supreme Court case Massachusetts v. EPA. In the case, the court decided the EPA had the right to control greenhouse-gas emissions.

The EPA said in a regulation proposed in September that it would require passenger cars, light-duty trucks and medium-duty passenger vehicles made between 2012 and 2016 to maintain a combined average emissions level of 250 grams of carbon dioxide per mile, which is equivalent to 35.5 miles per gallon. The proposed regulation on greenhouse gases would largely affect Texas, which currently leads the nation in carbon dioxide emissions.

Al Armendariz, EPA regional administrator for Region 6, posted a response to the suit on the agency's Web site. Region 6 includes Texas as well as Arkansas, Oklahoma, Louisiana and New Mexico.

“[Tuesday’s] action is not surprising,” Armendariz said. “Texas officials have repeatedly expressed opposition to the EPA’s common-sense approach to begin reducing harmful greenhouse gases. Texas, which contributes up to 35 percent of the greenhouse gases emitted by industrial sources in the United States, should be leading the way in this effort. Instead, Texas officials are attempting to slow progress with unnecessary litigation.”

EPA Region 6 spokesman Dave Bary said the EPA’s results are scientifically proven and supported with statistics.

“It is disappointing that Perry has seen fit to argue their validity,” Bary said.

Luke Metzger, director of Environment Texas, said Perry’s main problem with the EPA’s findings is that the Intergovernmental Panel on Climate Change, an organization Perry believes has a history of questionable findings, was used almost exclusively for the study.

Metzger said he believes that this claim is unsubstantiated.

“These complaints are bogus, legally wrong and scientifically unsound,” he said. “While the EPA did rely on the IGCC to develop their findings, they also used studies by the [National Oceanic and Atmospheric Administration], NASA and the U.S. Navy.”

Environment Texas is a statewide advocacy group that has aimed to promote clean, renewable energy in Texas since 2006.

“Gov. Perry should win an Olympic medal for taking the environment downhill,” Metzger said. “Global warming is the greatest environmental threat facing Texas and the planet, and Gov. Perry’s obstructionism puts the state at great risk.”

Will the President Hear Rockefeller? (*State Journal*)

Posted Thursday, February 18, 2010 ; 06:00 AM

Sen. Jay Rockefeller, D-W.Va., recently expressed exasperation with the Obama administration.

During a budget hearing earlier this month, Sen. Jay Rockefeller, D-W.Va., expressed his exasperation with the Obama administration.

The senator, who stood up early to endorse Barack Obama's presidential candidacy, found fault with how the president has talked about supporting clean-coal technology but has not supported it in his proposed budget. Furthermore, Rockefeller said Obama sends inconsistent signals about coal and its future. He noted the Obama

administration's aggressive support of climate legislation, also known as cap and trade. He also mentioned the U.S. Environmental Protection Agency, which has launched an assault on surface mining in Appalachia and is poised to regulate greenhouse gas emissions.

Here's how the New York Times reported Rockefeller's comments:

"He says it in his speeches, but he doesn't say it in here," Rockefeller said, referring to the budget proposal. "He doesn't say it in the actions of (EPA Administrator) Lisa Jackson. And he doesn't say it in the minds of my own people. And he's beginning to not be believable to me. ..."

Later, Rockfeller added: "I just wonder whether they really do understand the importance of coal, the fact the nation can't exist without it."

Let's be clear: Many West Virginians know the Obama administration, through incredible arrogance, is creating economic turmoil in a large region of the nation. While the president shares a party label with most West Virginia voters and elected officials, his views toward coal are harmful to this state and nation.

Obama and his administration cannot defy the laws of economics as they embrace environmental science that remains unsettled and even politically driven. They apparently do not understand a simple fact that Rockefeller emphasized: This nation cannot function today without coal.

Obama uses the promise of supporting untested clean-coal technology to create political cover while his administration significantly reduces coal operators' ability to mine in Appalachia and creates economic uncertainty for utilities and energy-dependent companies because of the looming costs of cap-and-trade policies.

This administration is too clever for its own good or the nation's good. This is no time for nuance, and Rockefeller justifiably questioned the intentions of an administration that has declared an all-out war on coal -- this nation's most affordable and reliable energy resource.

The residents in the southern coalfields of West Virginia are accustomed to straight talk: Are you for us or against us? That's a fair question, and the president has given his answer through his deeds. His position is self evident, and Rockefeller -- the president's political ally -- has sent a message about the nation's need for coal.

Now we will see whether people in the White House are listening.

EPA chief promises 'clear road map' for utilities (*Greenwire*)

Robin Bravender, E&E reporter
02/17/2010
U.S. EPA Administrator Lisa Jackson today vowed to give electric utilities and their state overseers regulatory certainty with a host of forthcoming environmental rules.
Speaking at a conference of state utility regulators today, Jackson outlined a series of pending regulations that will significantly affect utilities, including rules aimed at curbing soot, smog and mercury.

"I believe that we can do it smartly, that we will do it in partnership and that we will do it in a way that gives a clear road map for investors and for regulators and for ratepayers," Jackson said.

EPA will propose a replacement for the Clean Air Interstate Rule in April, Jackson said, to address pollution that crosses state lines.

President George W. Bush's cap-and-trade program was designed to cut sulfur dioxide and nitrogen oxide in the eastern United States. But CAIR was thrown out by a federal appeals court in 2008. The court temporarily reinstated the rule in December 2008 to give EPA time to craft a replacement. Members of the Senate, meanwhile, are pushing a legislative fix for the CAIR rule (*E&ENews PM*, Feb. 4).

"Later this year, we'll propose a new utility MACT standard," Jackson added. EPA is facing a court deadline to require plant-specific maximum achievable control technology for mercury and other hazardous air pollutants at power plants by November 2011 (*Greenwire*, Oct. 23, 2009).

"Working together, we'll set a strong foundation for achieving the reductions that a new MACT and new CAIR rules will require," Jackson said.

Jackson said that although challenges and disagreements will arise during the development of new standards, "the benefits of us getting this right are absolutely unprecedented."

Did Lobbyists Push Off Regulation of a Controversial Chemical? (*ProPublica*)

by Alexandra Andrews, ProPublica - February 17, 2010 1:05 pm EST
Plastic containers containing BPA usually have a '7' symbol (National Institute of Environmental Health Sciences).
This is one of our editors' picks from our ongoing roundup of Investigations Elsewhere [1].

The *Milwaukee Journal Sentinel* reported [2] last weekend that the Environmental Protection Agency delayed regulation of the controversial chemical bisphenol A – known as BPA – just eight days after industry lobbyists met with White House officials

and "aggressively pleaded its case that BPA should not be flagged for greater regulation."

Hundreds of studies have linked the chemical, which lines most food and beverage cans, to a litany of health problems, including cancer. Last month, the Food and Drug Administration reversed its 2008 conclusion [3] that BPA was safe for everyone. (That decision, the *Journal Sentine*l reported previously in its series on BPA [4], was based on two studies paid for by the chemical industry [5].) And the National Toxicology Program has also expressed concern about BPA's effect on fetuses and children, after analyzing 700 studies.

On Dec. 30, the EPA – which, the *Journal Sentinel* noted, has "a broader regulatory reach [than the FDA] when it comes to chemicals" – produced its list of chemicals that would be subject to stricter regulation. BPA was not on it, which surprised some, given that EPA Administrator Lisa Jackson has publicly singled out BPA as high on her list of chemicals deserving tougher regulation. Now the agency says "it won't develop a tougher regulatory plan for the chemical for at least two years" (in the words of the *Journal Sentinel*).

The chemical industry contends that BPA is safe. On Dec. 22, industry lobbyists met with employees of the Office of Information and Regulatory Affairs, a division of the White House's Office of Management and Budget, and pointed to supporting studies. According to the *Journal Sentinel*, only one of them "was written by a scientist without ties to the industry." The *Journal Sentinel* cites government watchdogs as saying that OMB support is crucial for those pressing an agenda.

The newspaper does not, however, say whether BPA had initially been on the EPA's list, nor does it cite any evidence that the meeting influenced EPA decisions. EPA officials would not tell the *Journal Sentinel* why the chemical was not on the list. A spokeswoman for Jackson said that the agency is continuing to develop action plans on other chemicals, including BPA. The paper's attempts to reach staff members at the OMB were unsuccessful.

Feb 17, 2010 12:54:00 PM MST

Energy and environment top of agenda for Canadian premiers in D.C. (*Oil Week Magazine*)

(US-Cda-Governors-Prem)

THE CANADIAN PRESS

WASHINGTON _ Seven Canadian premiers descend upon the U.S. capital this week for the winter meeting of the influential National Governors Association, where they´ll sit down with their stateside counterparts and some key members of President Barack

Obama´s cabinet.

The premiers of Ontario, Quebec, Saskatchewan, Manitoba, Nova Scotia, New Brunswick and Prince Edward Island are in town for the first-ever meeting of the governors association and its Canadian counterpart, the Council of the Federation.

The centrepiece of the visit is two roundtables being held Saturday to discuss energy and the environment.

Alberta´s oilsands, which are unpopular among some key congressional Democrats, are certain to be a hot topic of discussion. Alberta Premier Ed Stelmach isn´t attending the meeting, citing a previous commitment.

A meeting Friday with Lisa Jackson, head of the Environmental Protection Agency, could prove the most fruitful for the premiers. With greenhouse gas legislation stalled in Congress following the Democrats´ recent loss of their filibuster-proof majority in the U.S. Senate, the EPA is threatening to regulate carbon emissions if lawmakers won´t.

That leaves Canada in a state of limbo regarding its own greenhouse gas standards, since it´s been waiting to implement climate-change legislation in lockstep with American legislators. Quebec Premier Jean Charest has been engaged in a war of words with Ottawa on that approach in recent weeks, and his stance signals the premiers won´t exactly be presenting a united front on climate-change legislation while they´re in uncharacteristically snow-bound Washington.

Saskatchewan Premier Brad Wall, who´s co-hosting the Canadian contingent alongside Vermont Gov. Jim Douglas, says there´s no question the premiers have varied opinions on how to battle greenhouse gas emissions.

"Certainly there are differences in the country," Wall said Wednesday from Regina before heading to D.C. "But there´s agreement that we have to make sure that North America is in synch here. There´s general consensus around that."

The meeting with Jackson will be particularly valuable for the premiers, Wall added.

"It´ll be very interesting to determine any unintended consequences of the EPA´s greater involvement in the file, especially as it relates to analyzing products from our country to theirs."

The premiers will emphasize to their U.S. hosts that Canada is their "No. 1 energy partner at a time when America wants energy independence and energy security," Wall said, adding they´ll also stress the country´s abundant supply of hydro, uranium and other energy sources.

They´ll meet with Agriculture Secretary Tom Vilsack on Sunday, where lingering trade irritants are expected to dominate the discussion, particularly the U.S. country-of-origin

food labelling practices.

Canada and Mexico have complained to the World Trade Organization that the Americans are violating NAFTA with the practice, and Canadian meat producers have suffered under the rules since many U.S. processors will no longer buy meat or livestock from north of the border.

In Quebec City on Wednesday, Charest said there was "no shortage of subjects" for premiers and the governors to tackle in the coming days while also taking credit for the historic meeting.

"It´s our first contact. It´s the first time it´s being done and I´m the one who suggested it to Vermont governor, Jim Douglas, who is our neighbour and the head of the national governors´ association," he said. "We want to make it a habit."

Ontario Premier Dalton McGuinty says the meeting provides a good opportunity for premiers and governors to share ideas and embrace the importance of freer trade.

"The most important thing we want to do is strengthen our relationships and our ties," he said in Toronto.

"The fact of the matter is that we both lead sub-national governments on both sides of the border, we both find ourselves governing in a time of tremendous economic constraint, and we need to remind each other that we need to look for opportunities to support each other, particularly through trade, instead of turning inwards."

Read more: http://www.oilweek.com/news.asp?ID=26838#ixzz0fpc8hzRV

The Quiet Revolution (*New Republic*)

February 18, 2010
Pg. 15
By John B. Judis
Obama has reinvented the state in more ways than you can imagine.
These days, liberals don't know whether to feel betrayed by or merely disappointed with Barack Obama. They have gone from decrying his willingness to remove the public option from his health care plan to worrying that, in the wake of Democrat Martha Coakley's defeat in Massachusetts, he won't get any plan through Congress. On other subjects, too, from Afghanistan to Wall Street, Obama has thoroughly let down his party's left flank.

Yet there is one extremely consequential area where Obama has done just about everything a liberal could ask for--but done it so quietly that almost no one, including

most liberals, has noticed. Obama's three Republican predecessors were all committed to weakening or even destroying the country's regulatory apparatus: the **Environmental Protection Agency (EPA)**, the Occupational Safety and Health Administration (osha), the Securities and Exchange Commission (SEC), and the other agencies that are supposed to protect workers and consumers by regulating business practices. Now Obama is seeking to rebuild these battered institutions. In doing so, he isn't simply improving the effectiveness of various government offices or making scattered progress on a few issues; he is resuscitating an entire philosophy of government with roots in the Progressive era of the early twentieth century. Taken as a whole, Obama's revival of these agencies is arguably the most significant accomplishment of his first year in office.

The regulatory agencies, most of which date from one of the three great reform periods (1901–1914, 1932–1938, and 1961–1972) of the last century, were intended to smooth out the rough edges (the "externalities," in economic jargon) of modern capitalism--from dirty air to dangerous workplaces to defective merchandise to financial corruption. With wide latitude in writing and enforcing regulations, they have been described as a "fourth branch of government."

That wide latitude could invite abuses of power, but the old-time progressives who fashioned the regulatory state rested their hopes on what could be called "scientific administration." Louis Brandeis and Herbert Croly--to name two of the foremost turn-of-the-century progressives--believed that the agencies, staffed by experts schooled in social and natural science and employing the scientific method in their decision-making, could rise above partisanship and interest-group pressure. Brandeis's famous concept of states as "laboratories of democracy" comes out of his defense of state regulation of industry and was meant to conjure an image of states basing their regulatory activities on the scientific method. For his part, Croly often made the progressive case for disinterested expertise. The success of the regulatory agencies, he wrote, depended upon "a sufficient popular confidence in the ability of enlightened and trained individuals ... and the actual existence for their use of a body of sufficiently authentic social knowledge."

Many of the last century's presidents--from Theodore Roosevelt to Jimmy Carter to Bill Clinton--subscribed to this progressive ideal of regulation based on expertise. But, beginning in the 1980s and culminating in the presidency of George W. Bush, the notion of scientific administration came under attack from Republicans and their allies. They began to subvert the agencies by bringing in business executives, corporate lawyers, and lobbyists--the very opposite of the impartial experts envisioned by Brandeis and Croly.

Reagan chose Thorne Auchter, the vice president of a construction firm, to head osha. Bush appointed a mining company executive to head the Mine Safety and Health Administration and a trucking company executive to head the Federal Motor Carrier Safety Administration. To lead osha, he named Edwin G. Foulke Jr., a longtime foe of the agency who had advised companies on how to block union organization.

Some of the Republican appointees weren't business types, but ideologues or hacks who were utterly unqualified for their positions. Anne Gorsuch, whom Reagan nominated to head the **EPA,** was a rising member of the Colorado House of Representatives, where she was part of a conservative group known as the "House crazies." Michael Brown, whom Bush appointed to run the Federal Emergency Management Agency (fema), had previously been commissioner of the International Arabian Horse Association.

Even some less offensive Republican picks were unable to carry out their agencies' missions. Bush appointed Christine Todd Whitman, a moderate figurehead, to lead the **EPA,** but he boxed her in with a hostile White House above and conservative staffers below--people like Jeffrey Holmstead, who had represented the Chemical Manufacturers Association and was placed in charge of enforcing the **Clean Air Act.**

Obama's regulatory appointments could not be more different--no surprise given that he is the son of two social scientists (one of whom attempted to introduce scientific administration to Kenya) and that he once worked in academia himself. Indeed, the flow of expertise into the federal bureaucracy over the past year has been reminiscent of what took place at the start of the New Deal.

For instance, as a replacement for Foulke at osha, Obama chose David Michaels, a professor of occupational and environmental health at George Washington University. In 2008, Michaels published a book, Doubt is Their Product: How Industry's Assault on Science Threatens Your Health, detailing how businesses had delayed regulations by "manufacturing uncertainty" about scientific findings.

To manage the **EPA,** Obama appointed a slew of highly experienced state environmental officials. (As Bill Becker of the National Association of Clean Air Agencies explains, state officials are ideally suited for the **EPA** because they have firsthand experience in how regulations are enforced and how they work.) Obama's choice to run the agency was **Lisa Jackson,** a chemical engineer who led the New Jersey Department of Environmental Protection. Her deputies include the former secretary of the environment in Maryland, as well as the former heads of the Connecticut Department of Environmental Protection, the Massachusetts Bureau of Resource Protection, and the Arizona Department of Environmental Quality.

Meanwhile, Obama chose as his Food and Drug Administration (FDA) chief Margaret Hamburg, who achieved renown during the 1990s as health commissioner of New York City, where she developed a program for controlling tuberculosis that led to a sharp decline in the disease. Her number two is a former Baltimore health commissioner who, in 2008, was named a public official of the year by Governing magazine. Obama's director of the National Park Service is a 30-year veteran of the agency--and the first biologist to lead it. And his new director of fema is W. Craig Fugate, who performed outstandingly as Jeb Bush and Charlie Crist's head of emergency management in Florida. Fugate may not know anything about Arabian stallions--but he does know a thing or two about hurricanes.

Republican presidents didn't just undermine scientific administration by making poor appointments; they also slashed or held down the regulatory agencies' budgets, forcing them to cut personnel. This was a particular problem in the all-important area of enforcement: If regulatory agencies can't conduct inspections and enforce rules, it doesn't matter how tough those rules are. Osha's budget fell 13.1 percent in constant dollars during the Reagan years and 6.8 percent during the administration of George W. Bush. As a result, an agency that had employed 2,950 people in 1980 employed just 2,089 in 2008--and the number of compliance officers had declined 35 percent. According to Michael Silverstein of the University of Washington School of Public Health, this meant that a workplace could expect an inspection only once every 88 years.

The story was similar elsewhere. Under George W. Bush, the **EPA**'s funding dropped 27 percent, while personnel fell 4.2 percent from 2000 to 2008. Personnel at the National Labor Relations Board, which is responsible for enforcing labor laws, has fallen 41.8 percent over the last 30 years. At the Mine Safety and Health Administration, funding had fallen 5.3 percent and personnel 43.8 percent from 1980 to 2006--when the Sago Mine disaster in West Virginia suddenly awakened Congress to the way the Bush administration had crippled the agency.

Now Obama is reversing these trends. Even in the face of the recession, he proposed and got funding increases for numerous regulatory agencies--some of them dramatic. He asked for $10.5 billion for the **EPA** for 2010--a 34 percent jump over 2009, and the first time in eight years that the budget had increased. He also requested a 19 percent increase in the FDA's budget, the largest in its history; a 10 percent increase for osha, which will allow it to hire 130 new inspectors; and increases of 5 percent, 7 percent, and 9 percent for the Federal Trade Commission, the SEC, and the Commodity Futures Trading Commission.

Obama has done one last thing to lay the groundwork for a return to scientific administration: He has made it less likely that the White House will block regulations. In 1981, the Reagan administration expanded an obscure unit within the White House budget office--the Office of Information and Regulatory Affairs (oira)--into a super-agency that could kill or delay a rule proposed by a regulatory agency if the rule's costs were found to outweigh its benefits. From that point on, cost-benefit analysis became a key tool in the Republican attempt to undermine scientific administration.

As Richard L. Revesz and Michael A. Livermore argue in a recent book, Retaking Rationality, there is nothing intrinsically illiberal about cost-benefit analysis. Indeed, it can be quite consistent with a progressive faith in social science. In 1973, for instance, a Ralph Nader Study Group used cost-benefit analysis to oppose dam-building in the West. But, in the late '70s, conservative intellectuals, working through business-funded think tanks like the American Enterprise Institute (AEI), promoted cost-benefit analysis as an instrument of deregulation. (The co-editor of the AEI journal Regulation was a law professor named Antonin Scalia.) Nader made a brief attempt to fight back--a Nader

Study Group argued in 1979 that the benefits of regulation outweighed the costs--but most defenders of regulation simply condemned cost-benefit analysis outright, leaving the field of battle to the conservatives.

The conservative version of cost-benefit analysis stressed costs rather than benefits and subjected only regulation--not deregulation--to cost-benefit scrutiny. Conservatives also sometimes adopted bizarre formulas for assessing costs and benefits. They assigned less monetary value to improvements or protections in poor communities because the residents were willing (that is, able) to pay less for them, and they used a spurious correlation between a society's wealth and the health of its citizens to argue that the costs of regulation outweighed the benefits. Under George H.W. Bush, for example, oira argued that osha regulations on chemical contaminants would end up harming workers more than exposure to chemicals. Wrote James McRae, the acting head of oira, "If government regulations force firms out of business or into overseas production, employment of American workers will be reduced, making workers less healthy by reducing their income."

During the 1990s, Clinton pushed back--he subjected deregulation to cost-benefit analysis and tried to make oira's procedures more transparent--but, soon enough, George W. Bush was in power, and things once again got worse. Bush stopped weighing the costs and benefits of deregulation and issued an executive order allowing oira to intercede before agencies made their initial proposals, thereby providing industry lobbyists with a back door to block regulations. Oira also instructed agencies to discount the value of future lives in constructing cost-benefit analyses by 7 percent a year, so that 100 lives in 50 years would only be worth 3.39 current lives. (Such logic can be used by conservatives to argue that the present cost of regulating greenhouse gases outweighs the future benefits of stopping **climate change.**) In addition, Bush put a political appointee in each of the regulatory agencies whose job was to make sure they were following oira's dictates. From July 2001 to March 2002, Bush's oira killed 20 regulations, more than Clinton's oira had killed in eight years.

Now Obama has put a liberal proponent of cost-benefit analysis, Harvard law professor (and former tnr contributing editor) Cass Sunstein, in charge of the super-agency. He also revoked Bush's executive order allowing oira to intercede at the start of the process and called for reframing cost-benefit analysis to take account of "the role of distributional considerations, fairness, and concern for the interests of future generations." For his part, Sunstein has stated that he wants to make sure "environmental regulations ... are attentive to the interests of future generations and those who are least well-off." These might seem like general ideas, but they are a clear signal that Obama and Sunstein plan to purge cost-benefit analysis of its conservative bias.

The upshot of all this--appointing the right people, giving them enough funding, and signaling that the conservative version of cost-benefit analysis will not stand in their way--is that the regulatory agencies are once again able to serve their intended purpose. Already, it is possible to discern signs of progress. In her first year at the **EPA,** Jackson granted California a waiver to impose tougher greenhouse-gas standards for

new automobiles, which the Bush administration had denied. She declared that the **EPA** would set standards for greenhouse gases under the **Clean Air Act.** (This means that, if Congress fails to pass cap-and-trade legislation, the **EPA** could act on its own to regulate carbon emissions.) And she accepted the **EPA** staff's recommendations for tougher smog standards--recommendations that had been rebuffed by the previous **EPA** head. Science, it seems clear, is back in command at the **EPA.**

At osha, the Bush administration, with the support of Republicans in Congress, had repealed the rules governing ergonomic injuries (which account for 30 percent of compensation claims filed by workers). Osha even eliminated the column in the reports that companies file where such injuries were supposed to be listed. Obama's osha immediately restored the column and is working on a new national regulatory standard for these injuries.

During the Bush years, there was growing evidence that diacetyl, an artificial flavoring used in making popcorn and other food, was causing severe lung illness among workers exposed to it. Foulke refused to take action, declaring the extensive science documenting the link to be "murky." Moreover, Foulke failed to develop standards governing silica dust--which has also been linked to lung ailments. Obama's osha is moving ahead on both fronts. In October, osha also levied its largest fine ever, requiring BP to pay $87 million for a 2005 explosion that killed 15 workers in Texas.

At the FDA, Hamburg has issued warnings on dietary supplements. She also obtained ("by mutual agreement") the resignation of the director of the FDA's controversial Center for Devices and Radiological Health, which, according to the Government Accountability Office, had approved 228 devices without adequate testing between 2003 and 2007. At the Federal Communications Commission (FCC), the new chair, Julius Genachowski, has come out in favor of net neutrality (which means that Internet service providers wouldn't be able to discriminate against content providers). The FCC is also reportedly mulling a broadband plan that would allocate a significant part of the spectrum to free wireless.

The Bush administration steered clear of antitrust prosecution for eight years. Already, the new chair of the Federal Trade Commission, Jon Leibowitz, has sued Intel for restraining trade by attempting to prevent computer makers from using non-Intel chips. At the Consumer Product Safety Commission, the Obama-appointed chair, Inez Tenenbaum, has sent a signal that a new day is at hand by fining Mattel $2.3 million for selling toys containing lead and Mega Brands America $1.1 million for improperly reporting a fatality caused by one of its children's building sets.

Of course, there have been shortcomings in Obama's approach. Some of his appointments have been less than stellar. Mary Schapiro, selected to head the SEC, was formerly CEO of the Financial Industry Regulatory Authority, which was set up and funded by the investment industry--and she appears at least initially reluctant to challenge the Wall Street culture. After boldly proposing last May to conduct 10,000 unannounced inspections of money managers, she eventually settled in December for

only 1,600 inspections.

Meanwhile, oira still bears traces of its conservative past. In reviewing proposed **EPA** coal-ash regulations, which were developed in response to a massive spill at the Tennessee Valley Authority in 2008, Obama's oira has met far more frequently with industry representatives than with environmentalists. Partly as a result, some activists are unhappy with Obama. Four analysts from the Center for Progressive Reform recently wrote that the administration deserves a "B-" for regulation during its first year.

Yet history rarely moves in leaps and bounds, and, by just about any reasonable standard, Obama's approach to regulation has been extremely impressive. More worrisome than the criticisms of activists is the possibility that politics may soon intrude. In 1993, Clinton, too, attempted to revive the regulatory agencies by appointing well-qualified personnel and increasing funding. But, after Republicans took control of Congress in 1994, they managed to cut Clinton's budget proposals and delay or block the implementation of regulations. If Democrats lose Congress this November, the same thing could happen again. In that case, what has been Obama's most significant achievement to date would come to naught--and liberals would have yet another reason to despair.

Lydia DePillis assisted with research on this article.

US : EPA, DOE to Join States in an Effort to Boost Energy Efficiency (*Instalbiz*)

Published on General news | February 18, 2010, 10:35

The U.S. Environmental Protection Agency (EPA) together with the U.S. Department of Energy (DOE) recently announced the setting-up of the State Energy Efficiency (SEE) Action Network.

The step was taken within the frame of the Obama Administration's program for expanding energy efficiency and cutting costs. The network is dedicated to helping states implement optimized, cost-effective, energy-efficient systems in homes, offices, buildings and industrial sectors by 2020.

"In the clean energy future, energy efficiency is action number one. We can cut greenhouse gases and protect our environment at the same time we save money for homeowners, schools and businesses," declared Lisa P. Jackson, EPA Administrator. "The State Energy Efficiency Action Network will help provide states with the technical and policy support they need to invest in energy efficiency, saving energy and money for families and businesses across the country," said Steven Chu, U.S. Energy Secretary.

By means of the SEE Action Network, DOE, EPA and other member entities will support states in their energy efficiency programs, offering such services as residential efficiency initiatives, financing schemes, and improving availability of energy usage

information. The SEE Action Network will boost energy efficiency by setting a large range of targets envisioned by the National Action Plan for Energy Efficiency, but will work hard towards achieving these targets five years earlier than initially planned. These aims range from implementing up-to-date billing schemes that supply consumers relevant data on their energy consumption and costs to promoting strict state policies that will result in strong energy efficiency practices.

EDITORIAL / COMMENTARY / OP-ED / LETTERS

==========

Cap-and-Trade Cracks Up (*FOX News*)

Myron Ebell
- FOXNews.com
- February 17, 2010

It looks like cap-and-trade is dead. But other piecemeal energy-rationing policies are still very much alive.

The coalition of major corporations hoping to get rich off cap-and-trade legislation started to crack up yesterday when BP America, Conoco Phillips, and Caterpillar dropped out of the U. S. Climate Action Partnership (or US CAP [www.us-cap.org]). Their defections end the exceedingly small remaining chance that cap-and-trade could be enacted this year.

BP America and Conoco Phillips did not pull out because they realized that the Climate-gate scientific fraud scandal has revealed that global warming alarmism is based on junk science. Nor did they pull out because they finally recognized that energy-rationing policies will wreck the U. S. economy. They pulled out when it became clear that they were not going to get rich off the backs of American consumers if the cap-and-trade bill enacted is anything like the specific bills being considered in Congress.

The Waxman-Markey bill that the House passed last June by a 219 to 212 vote and the Kerry-Boxer bill introduced in the Senate would, as intended by US CAP, raise energy prices for consumers through the roof. Unfortunately for BP America and Conoco, the primary beneficiaries of this multi-trillion dollar wealth transfer from consumers to big business would be electric utilities and General Electric.

In other words, the two oil companies lost the political pushing and shoving match to James Rogers of Duke Energy and Jeffrey Immelt of GE. That’s no surprise: Immelt has been driving GE into the ground ever since he took over, but he’s a savvy political operator; and Rogers learned how to get to the government trough first from the master, Ken Lay of Enron. It is worth recalling that Enron Corporation was the leading promoter of the Kyoto Protocol and cap-and-trade before it went spectacularly bankrupt.

Caterpillar's case is different. As the major manufacturer of heavy equipment used in coal mining, Caterpillar must have been asleep when they joined US CAP. The National Center for Public Policy Research's Free Enterprise Project has been gently shaking Caterpillar's top executives for several years, and perhaps they finally woke up.

So cap-and-trade is dead. But other piecemeal energy-rationing policies are still very much alive. The Environmental Protection Agency is going ahead with regulating greenhouse gas emissions using the Clean Air Act. Senator Lindsey Graham (R-S.C.) is working with Senators John Kerry (D-Mass.) and Joseph Lieberman (D-Conn.) on a "compromise" package that can gain bipartisan support. Senator Jeff Bingaman (D-N.M.) has passed a renewable electricity requirement and new building energy efficiency standards out of his committee.

And big corporations are still circling the trough. By my count, U.S. CAP still has twenty-three corporate members plus eight environmental pressure groups that front for big business. And of course, BP America, Conoco Phillips, Caterpillar, and many other companies that don't belong to U.S. CAP still hope to make money off the "right" sort of policies to raise energy prices.

The good news is that public opinion has turned decisively against global warming alarmism and energy-rationing. People have figured out that they, not big business special interests, will end up paying the bills when energy prices, in President Obama's elegant formulation, "necessarily skyrocket." And, guess what? In the November elections, the American people will have a lot more votes than James Rogers of Duke Energy or Jim Mulva of Conoco Phillips.

Myron Ebell is the director of Freedom Action .

A Reasonable Bet on Nuclear Power (*New York Times*)

February 18, 2010 Thursday
Late Edition - Final
Section A; Column 0; Editorial Desk; EDITORIAL; Pg. 26
President Obama's decision to commit $8.3 billion in loan guarantees to help build two nuclear reactors in Georgia and restart the American nuclear power industry makes good sense.

We know that many environmentalists want Mr. Obama to put all of his chips on energy efficiency and renewable fuels, like wind and solar power. But nuclear power, which generates far fewer greenhouse gases than ordinary fossil fuels, should be part of the energy mix as this country and others move toward a less-carbon-intensive world.

There are just more than 100 working nuclear plants in this country, supplying about one-fifth of the nation's electricity. But a new plant has not been built here since the

1979 accident at Three Mile Island.

While the United States has sat on the sidelines, other governments are enthusiastically embracing nuclear power as a way to lessen their greenhouse emissions and their dependence on imported oil. Several also rightly see nuclear technology as a strong export business.

The nuclear industry's safety record has improved since Three Mile Island. The next generation of plants -- with advanced designs, new construction techniques and strong oversight -- should be even safer.

The biggest remaining obstacle has been financing. Nuclear reactors are very expensive. The tab for a new reactor can run as high as $7 billion to $8 billion, and overruns can add more. There is a long lead time before a plant starts selling power and paying returns. For these and other reasons, banks have not been willing to lend.

It would be nice to think that the private sector could address this problem on its own. But the private sector does not underwrite the nuclear industry in other countries -- governments do.

And nothing is going to happen here without government loan guarantees.

There are certainly financial risks. If the reactors are completed and operate profitably, the borrowers will repay the banks, in addition to an upfront fee to the federal government in exchange for the loan. If the project fails, the government -- meaning the taxpayers -- could be left holding a rather large bag.

From where we sit, the risks are worth taking to get the United States back into the game, for the sake of the climate, this country's energy future and the jobs a vibrant nuclear technology industry could create.

On the world's changing climate (*Los Angeles Times*)

February 18, 2010 Thursday
Home Edition
MAIN NEWS; Editorial pages Desk; Part A; Pg. 16
LETTERS;
On the world's changing climate
Re "Q&A: Snowstorm and climate change," Feb. 12

This article tells us that the record snowstorms we have just experienced are consistent with global warming. We have already been told that a lack of snow is also consistent with global warming. I am beginning to wonder if there is any weather event that is not consistent with the global warming theory.

Marty Callahan
Orange

Climate change humor during a snowstorm exposes our naivete and tricks us into acting against our own interests. To dig our way out of climate change, tossing out science ain't so smart.

We should be educating ourselves rather than pretending science is hogwash. Even if you do not care about polar bears, sea-level rise and drought threaten to destabilize governments and create refugees. By ignoring science, we give other countries the advantage in the clean-energy race.

We need policies based on the best science and economics. Cap and trade won't lower CO2 enough, but it will encourage Wall Street games. Rep. Bob Inglis (R-S.C.) has a simple bill that would encourage a quick transition to clean energy. His "carbon fee and dividend" sets a predictable price on energy while spurring U.S. technologies and jobs. That's no joke.

Amy Hoyt Bennett
Encinitas, Calif.

Federal global-warming office a bad idea (*Washington Times*)

February 18, 2010 Thursday
B, LETTERS; Pg. 2
A federal global-warming office ("New federal office would study global warming," Politics, Feb. 9), supposedly President Obama's attempt to improve the accuracy of climate data, would be a squeaky-clean repository of climate-change knowledge, held to the highest standards of scientific integrity. Really?

The National Oceanic and Atmospheric Administration (NOAA) and its National Climatic Data Center, as well as NASA Goddard Institute of Space Sciences, are the focus of yet another "Climategate." These two organizations have systematically reduced the number of worldwide temperature reporting stations in their database from 6,000 to 1,500. A January study by Joseph D'Aleo et al. finds a clear bias in the reduction process that removes higher-altitude, higher-latitude and rural stations that normally report colder temperatures. The reduction bias creates a warm bias of unknown magnitude in the database, from which global temperatures have been and still are provided to the U.N. Intergovernmental Panel on **Climate Change.**

Moreover, it appears that a larger percentage of the remaining stations in the database are now located in urban areas, where they are subject to heat-island contamination.

Numerous peer-reviewed papers in recent years have clearly demonstrated that the urban heat-island effect can overstate the long-term warming of the past several decades by 30 percent to 50 percent.

It would appear that relying on NOAA or any of its affiliates to be repositories of accurate climate data may be akin to allowing the fox to guard the henhouse.

DONALD K. "DEKE" FORBES
Scientists and Engineers for Energy and Environment
Dumfries, Va.

Legislators have an Ash Tuesday (*Paris Post Intelligencer*)

Progress of Kingston cleanup detailed
Published: Wednesday, February 17, 2010 12:30 PM CST
This Ash Wednesday is an appropriate time for a report on the progress of the coal ash cleanup at TVA's Kingston steam plant.

Some 70 percent of the toxic ash spilled into the Emory River has been removed, a state environmental official told legislators Tuesday. The rest of the river ash is expected to be out by May.

That's just the river part, which is the most serious from an environmental standpoint. A second cleanup phase, which could take three years, will haul away some 2 million cubic yards along the river bank. And that's only about half of what was spilled.

So far, the cleanup work itself has produced no new health hazards, officials from the Environmental Protection Agency and TVA told lawmakers.

The air around the site has been found safe to breathe, they said, and groundwater nearby shows no pollution from the spill

That doesn't mean there's not a whale of a problem.

A layer of ash varying from a few inches to 10 feet in thickness lies along 15 miles of river bottom.

The coal ash contains mercury, arsenic and selenium — all poisonous. These chemicals occur naturally in soil, but the ash has about three times the arsenic and six times the selenium that occur naturally.

Selenium is particularly toxic to fish and water life, and environmentalists are concerned that it can build up in fish over a period of years.

The EPA has promised to rule on whether coal ash is a toxic substance that should be regulated, but it has not yet done so. Some are urging the state to make that ruling rather than waiting on the federal agency.

Coal ash is to the steam plants what atomic waste is to nuclear power plants. Nuclear waste is more toxic, but is produced in much smaller quantities than the mountains of coal ash our steam plants turn out.

Some ash is recycled into building materials like wallboard. More than 140 trainloads from the Kingston spill have been taken to a landfill in Alabama.

Finding a way to handle wastes of all sorts is an integral part of modern life. The mentality of just dumping stuff into a gully doesn't work any more.

The winter of global warming's discontent (*San Francisco Chronicle*)

(California)
February 18, 2010 Thursday
FINAL Edition
Op-Ed; DEBRA J. SAUNDERS; Pg. A12
By Debra J. Saunders
The last few months have been cruel and wintry for global-warming true believers. The long storm began in November, when a leak of e-mails from Britain's University of East Anglia Climate Research Unit revealed that key global-warming scientists tried to stifle dissent, politicize peer-review, which led to revelations that the researchers had dumped much of the raw data used to bolster the alarmist argument.

Then came the news that that the Intergovernmental Panel on **Climate Change** 2007 report - you know, the one that reported that man-made **global warming** was "unequivocal" - wrongly predicted that it was likely Himalayan glaciers would disappear by 2035, based not on peer-reviewed research, but on an article in a popular magazine. Oh, and it turns out that the IPCC was wrong in reporting that 55 percent of The Netherlands is below sea level.

Last week, Phil Jones, the unit's director at the time of the e-mail leak, answered tough questions posed by the BBC in an interview, during which he admitted that there has been no statistically significant warming of the planet since 1995. Jones also rejected Al Gore's mantra when he said he did not believe that "the vast majority of climate scientists think" the debate over **climate change** is over.

Like the Wicked Witch of Oz, the **global-warming** machine is melting into a wretched puddle.

Tuesday, the New York Times jumped in to save the day. An editorial reminded readers

that, despite "isolated errors and exaggerations," the IPCC report did win a Nobel Prize. Columnist Tom Friedman suggested that calling "**global warming**" by a different name, "global weirding" would change the debate. Friedman apparently believes that people who don't agree with him are so stupid that a new name will distract them from any ideas or facts on an issue.

The alarmists also have taken to scolding skeptics who have pointed to this year's record snowfalls as dimwits who do not know the difference between weather and climate. This is choice - after all the years during which the **global-warming** believers pointed to every warm season, low-snowfall report and storm as proof that the "tipping point" was near.

They've done this to themselves. In announcing that all scientists supported the IPCC, they claimed a mantle of scientific infallibility.

Their actions and attitudes did not reflect the sort of behavior you would expect from people who truly believe that the planet is in peril. The high-profile **global-warming** partisans focused on ridiculing nonbelievers, rather than persuading them. They hopped onto private planes to be seen at confabs, where nothing real got done. Biggies like Gore would refuse to debate - even as they argued that Mother Earth's condition was near critical.

The worst part is that these loud mouths have drowned out the voices of scientists - including those who believe **global warming** is largely caused by man - who have been ready to engage in the complexities of climate science. In their hubris, they decided that they, and only they, would *save* the planet.

But their egos got in the way.

OUR VIEW:

The EPA's bureaucratic bloat (*Standard Examiner*)

By Standard-Examiner staff
Last Edit: Feb 17 2010 - 9:28pm
It doesn't take a genius to know that Ogden's air can be quite unhealthy. However, the Environmental Protection Agency's demand that Utah return to the drawing board and submit a new, costly process to formulate a particulate matter 10 reduction plan for areas, such as Ogden, that are plagued with PM10 particles, is unreasonable.

We hope that the state's Division of Air Quality officials convince EPA officials to stem this potentially costly example of bureaucratic bloat. We know we have problems with PM10 in Ogden and other areas, but we don't need to redo an already completed study. That would be a big waste of time and money.

Besides, we are making progress in reducing the pollution. Since 2005, PM10 in Ogden has decreased. Nevertheless, the EPA recently nixed Ogden's plan, four-plus years in the making, citing three main reasons:

* existing state rules that are inconsistent with EPA policy,

* technical issues with the state's submission of a policy,

* and a problem with an EPA rule change -- made in 2007 -- after the plan was submitted.

Although it seems ridiculous that a plan submitted in 2005 would be rejected by the feds more than four years later, that is unfortunately how government sometimes works.

Nevertheless, these differences between Utah and the feds need to be resolved without the expense and time of a new PM10 reduction policy. The strongest argument for this is that what was submitted to the EPA is working. The PM10 particles are decreasing. The air has become cleaner.

In fact, since 2005, Ogden has not exceeded the allowed limit of PM10 level of 150 micrograms per cubic meter in a 24-hour period, points out Bryce Bird, state Division of Air Quality branch manager.

Bird added that the state is preparing a letter to the EPA addressing the concerns and asking that the plan already submitted by the model be used. We hope the feds listen. We've still got many things to do to make the air cleaner in Ogden and other parts of Utah.

We don't want to waste energy on an air-quality problem that we are already solving.

AIR

==========

EPA tests for contaminants at federal complex in K.C. (*Times Leader*)

Maria Sudekumfisher • The Associated Press •
February 18, 2010

Kansas City -- The Environmental Protection Agency has tested the air for contaminants at a 310-acre federal complex in south Kansas City that houses facilities for the General Services Administration and the Department of Energy.

Chris Whitley, a spokesman for the EPA's regional office in Kansas City, Kan., would not say what the agency was testing for, but said results were likely in the next day or

two.

"It's premature for us to talk about that for now," Whitley said Wednesday.

Recent air tests conducted for the GSA at the Bannister Federal Complex detected trichloroethylene, or TCE, an industrial solvent and likely carcinogen. The Missouri Department of Natural Resources said the tests did not completely conform with testing protocols and recommended that they be redone.

Whitley said the agency's Feb. 4-7 tests at the site in south Kansas City focused on a building housing a day-care center and another with GSA property management offices.

The sprawling federal complex, which has housed various federal facilities, including a Department of Defense landfill and manufacturing sites for weapons parts and aircraft, has been the subject of several environmental inquiries over the years. "This place has been under considerable scrutiny for quite some time," Whitley said. "This is not new."

The complex has about 5,000 employees and includes a Department of Energy plant where non-
nuclear components for nuclear weapons are made.

Appalachia is slipping from grip of Democrats (*Washington Post*)

February 18, 2010 Thursday
Met 2 Edition
A-SECTION; Pg. A01
Maryland
Appalachia is slipping from grip of Democrats;
14-term Va. incumbent Boucher faces intensity of anti-Washington ire
By Amy Gardner
WISE, VA.
The anger at Washington that is seeping across the country registered a while back in the high ridges of Appalachia, a once-indomitable Democratic stronghold where voters turned away from President Obama in 2008 just as overwhelmingly as they embraced him most everywhere else.

Voters in Virginia's 9th Congressional District are mad that the government has spent hundreds of billions to fix an economy that seems only to deteriorate around them. They're fearful of a federal takeover of health care. They're petrified that proposed emissions limits would destroy the coal industry that provides most of the region's jobs. And they want no part of a president they view as elitist and unlike them.

That anger, combined with the area's traditional Democratic ties, makes this mountainous region -- and a wider, rural arc from southern Ohio to Arkansas -- a prime

battleground in this year's congressional elections. Democrats have been losing ground here for a generation, but 2008 brought a seismic party shift that Republicans hope to make stick in November. Already, four of the region's remaining Democrats have announced their retirements.

Even Rep. Rick Boucher, a 14-term incumbent who hasn't faced a strong challenger since the Reagan years, is in peril, prompting him to shift into campaign mode months earlier than usual and before Republicans have chosen his opponent. Whether he -- and other Democrats like him -- can hold on will probably determine whether his party can continue to control Congress.

In the "Fightin' 9th," Boucher's support of the coal industry and efforts to modernize the local economy give Democrats their best chance to hold a seat they can't afford to lose. But in a year when incumbency appears to be as much a burden as a boon, Boucher's race will be a test of whether the intensity of anti-Washington anger will outweigh the power of long-standing service.

To win, Boucher will attempt to keep the race local, focused on what he has done for his district in his years in Congress. Republicans will attempt to nationalize the race, casting Boucher as just another Democratic vote for a socialist president and his liberal friends in Congress.

"It's a challenging time, undeniably," Boucher, 63, said in a recent interview in his Capitol Hill office, where O. Winston Link's photos of Appalachian steam engines evoke the region's past glory. "The economy is foremost; that creates a huge amount of angst, uncertainty and disquiet. That, I think, is the largest single problem that anyone in government faces."

'A damn dictator'

In Wise County, about 400 miles southwest of Washington, the area's Democratic loyalties have faded with the decline of coal and the union workers who manned the mines. That trend has been exacerbated by an aversion to Obama, who has precipitated a dramatic shift in party leanings and an open antipathy.

Over biscuits, grits and eggs at the Huddle House restaurant on a recent snowy morning, home builder Wayne Sturgill said 2008 was the best year his business ever had -- and 2009 the worst since the 1970s. Sturgill blames Obama: "We got a carbon copy of Jimmy Carter up there," he said, prompting his pals to nod in agreement.

Richard Holmes, 61, a property manager sitting in the next booth, leaned around with a wide grin that was followed by an off-color joke about Obama and stimulus spending.

"Oh, yeah," construction worker David Graham, 34, said, laughing. "If you think you got an extra dollar left, he'll come back around for you!"

Residents talk often of their "pridefulness" and independence. But they feel like criminals when politicians try to take their guns away, like children when they're told they need health care and like villains when coal is blamed for destroying the environment although it provides most of the region's jobs and half of the nation's power. They assume that Obama doesn't get any of this -- or doesn't care.

"He wants to be a damn dictator," said Alex Hill, 70, a retired miner, police officer and onetime moonshiner, while getting his hair trimmed at Peoples Barber Shop on Main Street in Wise.

Race is also a factor. Sometimes it's subtle, such as when Obama is described as un-Christian or un-American. Other times, slurs directed at Obama are part of the normal conversation.

Race adds another challenge for Boucher, who enthusiastically endorsed Obama early in the 2008 Democratic primary. In a year when defining himself apart from Washington is crucial to his survival, Boucher has chosen to align himself with a president whom some of his constituents will never support.

"Candidly, yes, I think some people are motivated by these more traditional attitudes," Boucher said. "It's unfortunate, but it's a fact."

An advocate for coal

Boucher is a native of Abingdon, Va., about 10 miles from Tennessee, but his horn-rimmed glasses, woolen trousers and absence of mountain twang contribute to a professorial demeanor that can seem out of touch with the gritty reality of his district.

Boucher might not look the part of 9th District congressman, but he is well-known and well-liked as an advocate for the coal, tourism and music industries. He voted against the House version of the health-care bill because it would have threatened several hospitals in his region. He has a long record of trying to produce jobs to replace those lost in the coal industry. And he is credited with helping transform southwest Virginia into one of the most wired rural regions in the country.

But Republicans promise that history will be less potent this year, in part because of Boucher's support for the American Clean Energy and Security Act -- commonly known as cap and trade and seen here as a fatal blow to the coal industry.

The dominance of coal is everywhere in this region: in the reflective stripes on the cuffs and knees of the miner buying his breakfast; in the bumper sticker on the pickup that reads, "Earth First: We'll mine the other planets later"; in the Wal-Mart on the high, flat plateau that was once a mountaintop before a coal company blasted it away.

Mountaintop removal, a form of surface mining, is a testy topic in these parts. It is seen by environmentalists as a water-quality catastrophe, but most residents view it as

essential to their livelihood and the nation's energy capacity. It enrages residents that Obama doesn't seem to get that.

"You can't just snap your fingers and make it go away if you don't have anything to replace it," said Vince Justice, who said he will not vote for Boucher because of his position on cap and trade.

Voters such as Justice deeply frustrate Boucher because he agrees with them. Boucher is at odds with Obama over surface mining, and he is trying to persuade regulators not to impose new rules that he said would delay permits, close mines and put miners out of jobs.

Boucher's support for cap and trade was good for his district, he said, because he negotiated major concessions for the industry. And if Congress does not begin regulating carbon emissions, the Environmental Protection Agency will -- without those concessions, Boucher said.

"On cap and trade, there is real misunderstanding on my role and what the bill was designed to do," he said.

A Republican opportunity

Like dozens of Appalachian communities, Wise County defied the national trend in 2008 and voted overwhelmingly more Republican than it had four years earlier. Republicans hope to capitalize on that and take down a long-serving incumbent.

"This is a district that has been in the hands of the Democrat Party for decades," said House Minority Whip Eric Cantor, who represents Virginia's 7th District. "A reversal of that and election of a Republican will speak volumes about the success that we look forward to having in November."

Some constituents who know Boucher well say they will support him even this year.

"He has brought jobs to the area. He has brought technology to the area," said Matt Taylor, the owner of a small information technology company, who comes from a mining family and did not vote for Obama.

Back at Peoples Barber Shop, Robert Breeder, 70, a retired miner, said he isn't sure whether he'll support Boucher, primarily because he's a Democrat.

Over the buzz of clippers and George Jones singing "He Stopped Loving Her Today," Breeder and Hill, the other retired miner in the shop, made clear how strongly they feel.

"You know there's very few homes around here that doesn't have weapons," Hill said. "The bigwigs up in Washington don't want us to have guns."

"You wonder why they don't," Breeder said.

"I know why," Hill said: Guns equal power, and this government doesn't want regular people to have power.

"The Republicans gave the Democrats the majority -- why? Because they didn't know how to keep their hands out of the till," Hill said. "But the Democrats, they're trying to push all these things on the American people. And we don't want it."

Last-Minute Changes Will Improve Air Pollution Monitoring, EPA Says (*OMB Watch*)

Allegations that the White House watered down an EPA rule on air pollution monitors are false, according to a senior EPA official who says the White House's Office of Information and Regulatory Affairs (OIRA) actually made the rule stronger.

EPA Assistant Administrator for clean air Gina McCarthy told the Wonk Room, a blog of the Center for American Progress, that OIRA prompted EPA to rearrange the placement of air pollution monitors to ultimately better protect vulnerable populations, all without reducing the overall number of monitors. Wonk Room reports this quote from McCarthy:

[OMB] asked us, "Did we respond to the states' comments?" We realized we could design the monitoring system in a better way than we had proposed. We could take the 40 monitors and place them by roadways near our most vulnerable populations. It was a significant win for us to be able to do that. It didn't diminish the system.

At issue is the air monitoring network for nitrogen dioxide pollution. Last month, EPA issued a final rule tightening the standard for nitrogen dioxide exposure and announced a new framework for detecting pollution levels by placing more monitors in urban areas, especially near roadways. EPA describes these environments as "high-risk."

At first glance, it looked like OIRA had pushed EPA to reduce the overall number of monitors, just days before the rule was due. (I perpetuated that idea here.) But, according to McCarthy's comments, the last-minute changes made to the monitoring network did not reduce the number of monitors; instead, the changes grant on-the-ground EPA and state officials more flexibility to site monitors themselves.

The change means that 41 fewer near-road monitors will be required, but that 40 more monitors will be required "in communities where susceptible and vulnerable populations are exposed to NO2." Those communities may or may not be near roads – it's up to EPA regional administrators, working with the states.

The rulemaking docket contains emails showing that another senior EPA official objected to a proposed reduction in the number of monitors. However, from McCarthy's comments, it would appear the granting of authority to regional administrators appeased all sides, since the total number of monitors remains about the same.

This instance does not change my view that the rule-by-rule review required by Executive Order 12866 and carried out by OIRA is unnecessary and at times counterproductive. However, in this case, it seems OIRA worked with, not against, the EPA. "There was no arm-twisting involved," McCarthy told Wonk Room.

FEBRUARY 18, 2010

Lincoln Faces Rough Road (*Wall Street Journal*)

Arkansas Democrat Sinks in Polls Despite Attempt to Navigate Centrist Path in Senate
By STEPHANIE SIMON
Radio ads slamming Arkansas Democratic Sen. Blanche Lincoln began airing in her state this week. But the ads weren't sponsored by her Republican rivals. They were paid for by a left-leaning environmental organization.
Ms. Lincoln has tried to carve out a role for herself as a centrist Democrat only to take heavy fire from both liberals and conservatives—a squeeze that has driven her poll numbers down from mediocre to woeful.
Congressional Contests
Her plight has national party activists nervous at a time when a number of Democratic senators have either declined to run again, as was the case this week with Evan Bayh of Indiana, or appear to have only a tenuous hold on their seats.
Running for a third term, Ms. Lincoln trails two leading Republican contenders by roughly 20 percentage points, according to two recent polls in which her disapproval ratings hovered around 60%.

"Blanche Lincoln is the most vulnerable Democratic incumbent in the Senate," said Tom Jensen, director of Public Policy Polling, a North Carolina firm that works mostly for Democrats.

On paper, Ms. Lincoln has several advantages. She has raised $7.1 million, far more than any opponent, with sizable contributions from the financial and medical industries and agribusiness. She recently took over as chairwoman of the Senate agricultural committee, a key post for her largely rural state

Her campaign manager, Steve Patterson, said he was confident voters would recognize her as "a centrist, common-sense Democrat who works to get things done."

Mr. Patterson said the beating Ms. Lincoln has taken in the polls was primarily due to a $6 million barrage of attack ads over the past six months from special-interest groups. "I'm glad the election is not today," he said.

The eight candidates in the Republican primary have tried to paint Ms. Lincoln as a rubber stamp for a radical administration, noting that she cast the decisive vote to end a GOP filibuster of the health-care overhaul and put the Senate's plan to a vote. The package has since stalled, but Ms. Lincoln's role still rankles voters on the right.

Sen. Blanche Lincoln, top, shown at a December news conference in Washington, is trailing a pair of potential Republican challengers in opinion polls: State Sen. Gilbert Baker, above middle, and Arkansas U.S. Rep. John Boozman, above.

Not that liberals are pleased with her, either.

Ms. Lincoln opposed a government-run "public option" and helped to keep it out of the Senate bill. That infuriated some unions and the liberal activist group MoveOn.org.

Labor is also angry at Ms. Lincoln for her endorsement of trade pacts they oppose and for her vote against one of President Barack Obama's nominees to the National Labor Relations Board. The AFL-CIO has invited Ms. Lincoln to speak at its convention next month, but union President Alan Hughes said "she has her work cut out for her" if she expects an endorsement.

MoveOn.org, meanwhile, ran a TV ad earlier this month criticizing Ms. Lincoln's efforts to block the Environmental Protection Agency from regulating greenhouse gases. A 60-second radio spot by the Sierra Club reprises that theme, accusing the senator of allowing polluters to poison the air. The League of Conservation Voters, another environmental group, also plans to campaign against Ms. Lincoln; she tops the group's list of 2010 targets.

Mr. Patterson, her campaign manager, said Ms. Lincoln fears EPA action on greenhouse- gas emissions would damage the economy and hurt farmers, whose machinery and fertilizer can be a big source of such emissions.

Liberals angry at Ms. Lincoln have been trying to draft Lt. Gov. Bill Halter to challenge her in the Democratic primary in May. He said he was considering a run and would decide soon.

On the Republican side, leading candidates include Arkansas U.S. Rep. John Boozman and state Sen. Gilbert Baker, who said the anti-incumbent mood sweeping the nation is alive—and aggressive—in Arkansas.

"The first question voters ask me is, 'Are you from D.C?' " Mr. Baker said. "There's a strong feeling that it's time to throw everyone out and start over."

Veteran observers of Arkansas politics say it's certainly possible for Ms. Lincoln to come back.

Republicans have a tough time winning statewide office in Arkansas; they often nominate hard-line social conservatives who lack broad appeal, said Janine Parry, a political scientist at the University of Arkansas and director of the Arkansas Poll.

The attacks from environmental and liberal groups might even turn out to be a plus for Ms. Lincoln, Dr. Parry said, by reminding voters that she has not always walked in step with Mr. Obama, who is extremely unpopular in Arkansas.

Ms. Lincoln hasn't dipped into her war chest to parry the recent attack ads; she will have plenty of cash to go after whichever Republican emerges from the primary.

"This race is far from over," said Skip Rutherford, a longtime Democratic strategist and dean of the Clinton School of Public Service at the University of Arkansas. "She really has not yet begun to fight."

Write to Stephanie Simon at stephanie.simon@wsj.com

Cement industry says new EPA regulations would cost jobs (*Fort Worth Star Telegram*)

Posted Wednesday, Feb. 17, 2010
By MIKE LEE
mikelee@star-telegram.com
A day after Texas sued the federal government over global warming, the U.S. cement industry kicked off a campaign against tighter environmental regulations, releasing a study on the economic impact of regulations and dropping hints about filing a lawsuit.

The Environmental Protection Agency has proposed a set of rules that would force cement plants to cut their emissions of mercury, soot, hydrochloric acid and hydrocarbons such as benzene. Environmental groups in Texas support the rules because they would reduce emissions at the complex of cement plants in Midlothian, which is the biggest source of industrial pollution in North Texas.

The Portland Cement Association's report, written by a Southern Methodist University researcher, said the rules could lead to job losses at American plants and the importation of cement from countries with less-stringent regulations. Portland cement is made by cooking limestone in giant kilns, and it's one of the key ingredients in concrete, mortar and other building materials.

"The U.S. economy is literally built on concrete," wrote Bernard Weinstein, an economist at SMU's Maguire Energy Institute.

Cement plants employ about 17,000 workers, and 153,000 workers in the construction industry have jobs tied to the price of cement.

Cement production dropped from more than 100 million metric tons in 2006 to about 80 million in 2008 as the recession took hold. Production is expected to rebound as the economy recovers and as the federal stimulus bill pumps money into construction projects.

Weinstein predicted that the industry would lose jobs after reviewing the cement industry's written responses to the rules. That could lead to cement imports from countries that lack strict environmental laws and cause a net increase in pollution worldwide, he said.

"Already, there's some evidence the industry is leery about making the capital investments because of the uncertainty of when these [rules] are going to come down," he said.

Andy O'Hare, vice president of the cement association, said the industry might challenge the rules in court, the same way Texas and several industry groups are contesting the EPA's decision to regulate greenhouse gases.

O'Hare said the rules could cost the industry $4 billion and raise the price of cement from $100 per ton to $121 per ton.

Jim Schermbeck, with the environmental group Downwinders at Risk, discounted the industry's argument. "First of all, the technology to meet these standards is out there right now," he said.

Also, much of the pollution comes from the cement industry's habit of burning tires, used motor oil and other waste in its kilns, he said. Some of the emissions, such as the mercury, are naturally occurring and are released when the plants heat limestone to turn it into cement.

EPA officials said last summer that some plants already meet the new standards and that compliance will cost $222 million to $624 million.

The EPA also said the rules could prevent 620 to 1,600 premature deaths from lung disease and other illnesses and save $4 billion to $11 billion in healthcare costs.

The rules are expected to be finalized by June.

MIKE LEE, 817-390-7539

BROWNFIELDS

==========

EPA Says Brownfields Grants on Track in Springfield, MO (*Ozarks First*)

Reported by:
Wednesday, Feb 17, 2010 @04:11pm

(Springfield, MO) -- Congressman Roy Blunt and Karl Brooks, the Region 7 EPA Administrator, toured Brownfields locations Wednesday.

The Butler, Rosenbury building downtown is one of several Brownfields grant sites in Springfield.

In August 2009, the EPA gave $510,000 in grant money to Springfield through the Recovery Act.

The money is meant to help clean up and redevelop industrial sites that had traces of hazardous substances.

It funded low or no-interest loans for jobs.

Blunt and Brooks met with Springfield city leaders to chat about the progress of the grant money.

Brooks has only been on the job for two and a half weeks, but says he can already tell things are on the right track.

"From what I've seen, I'm really impressed with the attitude, the energy, and with the spin-off potential here," he says. "Looks like it'll be good for the environment, good for the city economy, and a good source of ideas for the future."

Nationwide, Brownfields grants have funded nearly $77 million in cleanup.

The other sites in Springfield: West Meadows, the former Willowbrook Processing Plant and the IDEA Commons.

Neighborhoods Get Federal Help With Brownfields, Housing, Transport (*Environmental News Service*)

WASHINGTON, DC, February 17, 2010 (ENS) - A new Office of Sustainable Communities is being created within the U.S. Environmental Protection Agency to help communities take an integrated approach to making environmental, housing and transportation decisions.

The Office of Sustainable Communities aims to help create neighborhoods that offer good jobs, educational opportunities, safe and affordable homes and transportation options while minimizing their impact on the environment.

At the outset, five communities will get planning and technical assistance to accomplish their sustainable redevelopment goals.

The Office of Sustainable Communities is an outgrowth of an eight-month long collaboration between the EPA, the Department of Housing and Urban Development and the Department of Transportation to help communities strategically align their environmental, transportation and housing investments.

Together, EPA, HUD, and DOT have selected for assistance five pilot sites across the country where brownfields, the need for public transit and the need for affordable housing converge.

The Pilot Technical Assistance Program for Sustainable Communities aims to help communities clean and reuse brownfield sites to provide new housing choices that will create jobs and new economic opportunities by providing planning and technical assistance.

The five sites selected for the Sustainable Communities Partnership Pilots are:

1. **The Fairmount Line in Boston, Massachusetts**
   Organizations in the Boston area have cleaned up many brownfields along this commuter rail line, and the pilot program will build upon these successes by creating a transit-oriented development village on the site of a former brownfield.

   The community wants to clean up and redevelop additional brownfields without displacing current residents. The three federal agencies will assist with transit-oriented development planning to minimize displacement and develop affordable housing. Nonprofit housing providers, such as community development corporations, will be assisted to clean up and redevelop brownfield properties.

2. **The Smart Growth Redevelopment District in Indianapolis, Indiana**
   The community here plans to redevelop brownfields for green infrastructure, urban agriculture, affordable housing, and new commercial development. The pilot will focus on two areas within the district - a former railyard that will be redeveloped to support urban agriculture, and two former maintenance facilities that will be redeveloped as affordable housing and permanent supportive housing units.
3. **The La Alma/South Lincoln Park neighborhood in Denver, Colorado**
   The Denver Housing Authority and EPA have identified redevelopment opportunities in this community, one of Denver's oldest neighborhoods.

   Technical assistance needs include: the design and construction of green buildings; stormwater control best management practices in traffic control corridors; green job generation through community gardens and fresh food markets; the promotion of energy efficiency, including renewable energy; the reuse and recycling of demolition materials; and promoting water efficient buildings and infrastructure.

   In the last few months, Regional, EPA, HUD and DOT representatives have been meeting to identify and leverage relevant programs. HUD has already committed $10 million in grants to this effort.

4. **The Riverfront Crossings District in Iowa City, Iowa**
   Iowa City plans to redevelop brownfields in its Riverfront Crossing District to

create a walkable, urban neighborhood close to a proposed light rail stop. This will provide affordable housing; ground floor retail and office space; pedestrian-oriented streetscapes; entertainment and recreational facilities; and public open space and trails along the Iowa River.

HUD, DOT, and EPA will help the community develop a strategy to identify, clean up, and redevelop brownfields and revitalize an area within Iowa City affected by the disastrous flooding of 2008.

5. **The Westside Affordable Housing Transit-Oriented Development in National City, California**
National City, California has requested assistance in creating and implementing a sustainability plan and financial strategy for a 14-acre brownfield site that was once the state's largest auto mall and site of heavy industrial and commercial services. Research has shown this community to be at risk, with a density of 389 polluters per square mile and more than 50 percent of adults with no health insurance.

HUD, DOT, and EPA will assist the community in developing a plan to address the former brownfield and focus on green building and energy-efficient redevelopment plans that incorporate stormwater and flood control management. This project has received funding from HUD, DOT and the State of California.

The federal agencies are using this pilot program to encourage states to use their Clean Water State Revolving Fund loan programs to better support communities that adopt such sustainable strategies as transit-oriented, mixed-use development.

Two other federal pilot programs are also in the works. A new pilot grant program is designed to help three states - New York, Maryland and California - use their clean water funding programs to support efforts to make communities more sustainable.

And a new pilot program to clean up and redevelop contaminated brownfield sites, in coordination with communities' efforts to develop public transportation and affordable housing will also receive assistance from the new Sustainable Communities Office.

CLIMATE CHANGE / GLOBAL WARMING

==========

EPA must rethink rulings, Va. attorney general says (*Virginia Pilot*)

RICHMOND

The Environmental Protection Agency should reconsider its conclusion that greenhouse gases are a danger to public health and global warming because it relied on flawed and "doctored" research, Virginia's attorney general said Wednesday.

Attorney General Ken Cuccinelli defended the petitions he filed against the agency in the U.S. Court of Appeals in Washington questioning the EPA's ruling. Cuccinelli was among several utility and energy companies, as well as think tanks, that filed petitions before the deadline Tuesday.

Cuccinelli, who on the campaign trail last year questioned whether people have contributed to global warming, received $238,846 in donations from energy and natural resources interests.

At issue for Cuccinelli is the EPA's reliance on information from the United Nations' Intergovernmental Panel on Climate Change. The credibility of the panel and some prominent climate researchers in England has recently been questioned. E-mails stolen from the Climate Research Unit of the University of East Anglia showed that some climate scientists stonewalled skeptics and discussed hiding data on climate change.

"It's political science, not real science," Cuccinelli said.

Members of the Sierra Club, an environmental advocacy group, attended the attorney general's news conference and criticized Cuccinelli for "cherry-picking " information.

Glen Besa, the group's state director, said that the EPA relied on more than one source for its determination and that most research indicates people are contributing to global warming.

Besa accused Cuccinelli of trying to stall the Obama administration's efforts to cut greenhouse gases through emission permits for sources such as factories, power plants, cars, trucks and businesses, as well as through incentives for clean-energy development.

The EPA has said it is reviewing the petitions.

Business groups challenge EPA on greenhouse gases (*Associated Press*)

Story also appeared: *Washington Post*

February 17, 2010
WASHINGTON — Several prominent business groups have joined a growing list of organizations and states challenging the federal government's finding that climate-changing pollution from cars, power plants and factories is dangerous to people.

The Environmental Protection Agency said in December that carbon dioxide and other greenhouse gases endanger human health, setting the stage for future rules restricting such emissions.

At least three states — Texas, Virginia and Alabama — have challenged the EPA finding, claiming it is based on flawed science. The National Association of Manufacturers filed a challenge this week, joined by groups including the American Petroleum Institute, National Association of Home Builders and the Corn Refiners Association.

Texas: Dangers of Climate Change Are Questioned (*New York Times*)

February 17, 2010 Wednesday
Late Edition - Final
Section A; Column 0; National Desk; NATIONAL BRIEFING SOUTHWEST; Pg. 12
By THE ASSOCIATED PRESS
Gov. Rick Perry and other top Texas officials on Tuesday announced a legal challenge to the federal government's finding that carbon dioxide and other greenhouse gases are dangerous to people. They claim the ruling was based on flawed science and have asked a federal appeals court to review the endangerment finding by the Environmental Protection Agency, which set the stage for future limits on greenhouse gas emissions. Texas, with more oil refineries, chemical plants and coal-fired power plants than any other state, leads the nation in such emissions. Environmental advocates criticized the announcement as stemming from Mr. Perry's campaign supporters among heavy industry.

Environmentalists Cooling on Obama (*New York Times*)

February 18, 2010 Thursday
Late Edition - Final
Section A; Column 0; National Desk; Pg. 18
By JOHN M. BRODER
WASHINGTON
There has been no more reliable cheerleader for President Obama's energy and climate change policies than Daniel J. Weiss of the left-leaning Center for American Progress.

But Mr. Obama's recent enthusiasm for nuclear power, including his budget proposal to triple federal loan guarantees for new nuclear reactors to $54 billion, was too much for Mr. Weiss.

The president's embrace of nuclear power was disappointing, and the wrong way to go about winning Republican votes, he said, adding that Mr. Obama should not be endorsing such a costly and potentially catastrophic energy alternative "as bait just to

get talks started with pro-nuke senators."

The early optimism of environmental advocates that the policies of former President George W. Bush would be quickly swept away and replaced by a bright green future under Mr. Obama is for many environmentalists giving way to resignation, and in some cases, anger.

Mr. Obama moved quickly in his first months in office, producing a landmark deal on automobile emissions, an Environmental Protection Agency finding that greenhouse gases endanger public health and welfare, a virtual moratorium on oil drilling on public lands and House passage of a cap-and-trade bill.

Since then, in part because of the intense focus on the health care debate last year, action on environmental issues has slowed. The Senate has not yet begun debate on a comprehensive global warming bill, the Interior Department is writing new rules to open some public lands and waters to oil drilling and the E.P.A. is moving cautiously to apply the endangerment finding.

Environmental advocates largely remained silent late last year as Mr. Obama all but abandoned his quest for sweeping climate change legislation and began to reach out to Republicans to enact less ambitious clean energy measures.

But the grumbling of the greens has grown louder in recent weeks as Mr. Obama has embraced nuclear power, offshore oil drilling and "clean coal" as keystones of his energy policy. And some environmentalists have expressed concern that the president may be sacrificing too much to placate Republicans and the well-financed energy lobbies.

Erich Pica, president of Friends of the Earth, whose political arm endorsed Mr. Obama's candidacy for president, said that Mr. Obama's recent policy emphasis amounted to "unilateral disarmament."

"We were hopeful last year; he was saying all the right things," Mr. Pica said. "But now he has become a full-blown nuclear power proponent, a startling change over the last few months."

Mr. Obama said in his remarks on the nuclear project this week that he knew his policies were alienating some environmentalists.

"Now, there will be those that welcome this announcement, those who think it's been long overdue," Mr. Obama said of the new nuclear loan guarantee. "But there are also going to be those who strongly disagree with this announcement. The same has been true in other areas of our energy debate, from offshore drilling to putting a price on carbon pollution. But what I want to emphasize is this: Even when we have differences, we cannot allow those differences to prevent us from making progress."

Mr. Obama has long supported nuclear power, as a senator and as a candidate for president. Employees of the Exelon Corporation, the Chicago-based utility that is the largest operator of nuclear plants in the United States, have been among Mr. Obama's biggest campaign donors, giving more than $330,000 over his career, according to the Center for Responsive Politics.

In response to criticism of some of its energy policies, the White House points to its clean energy investments, including $80 billion in stimulus spending on energy-related projects, and its continuing support for comprehensive climate and energy legislation. But critics in the green movement say they wish the president would play a more active role in the climate debate.

"I think we all had higher hopes," said Bill Snape, senior counsel for the Center for Biological Diversity. "We expected a lot in the first year, and everyone agrees they didn't quite live up to it. But there is recognition that he and the whole administration will get another stab at it."

Mr. Snape said his group was particularly disappointed that the administration did not designate the polar bear as endangered by global warming and that it could not push a climate change bill through Congress.

"You can't get anything right," he said, "unless you get the polar bear right."

Frances Beinecke, president of the Natural Resources Defense Council, one of the administration's most stalwart supporters up to now, also expressed disappointment in the president's new focus on nuclear power and his mention in the State of the Union address of "clean coal technologies."

Mr. Obama was referring to the prospect of capturing and storing carbon dioxide emissions from coal-fired power plants, an as-yet-unproven technology. He was sending a signal to members of Congress from states that are dependent on mining coal or that burn it for electricity that any legislation he supported would accommodate their concerns.

"N.R.D.C. knows there is no such thing as 'clean coal,' " Ms. Beinecke wrote in a blog post after the State of the Union address. "Every single step in the coal power cycle is dirty, from the profoundly destructive mountaintop removal mining to the smokestack emissions, which are responsible for 24,000 deaths a year."

Eric Haxthausen, the United States climate policy director for the Nature Conservancy, has generally supported the administration's goals and actions on energy and environment, although he said they fell short of what was needed to address global warming.

He said that Mr. Obama's pledge at the United Nations conference in Copenhagen on climate change to reduce American emissions by 17 percent by 2020 compared with

2005 levels had raised the stakes. The United States government is now on record promising the world that it will take major steps to reduce greenhouse gas pollution, Mr. Haxthausen said.

"What's needed to give this process life is a binding agent," he said, "some force to bring these things together, and the White House has to be intimately involved. The reality is there's a bit of a bully pulpit role that's needed, and the question is, will the administration deliver."

3 Companies quit climate coalition (*Los Angeles Times*)

February 17, 2010 Wednesday
Home Edition
BUSINESS; Business Desk; Part B; Pg. 2
BUSINESS BRIEFING;
ENVIRONMENT;
3 companies quit climate coalition
Three large companies have left the U.S. Climate Action Partnership, a coalition of more than two dozen companies and environmental groups lobbying Congress to pass a bill combating climate change.

Oil companies ConocoPhillips and BP America and machine giant Caterpillar Inc. said they were not renewing their memberships in the group.

The defections were widely seen as a blow to congressional efforts to cap U.S. emissions of pollution-causing gases blamed for **global warming.**

ConocoPhillips Chairman Jim Mulva said Congress had unfairly penalized domestic oil refineries and ignored natural gas companies.

The climate coalition includes some of the country's biggest electric utilities and oil companies as well as five environmental groups.

States take sides on EPA greenhouse rules (*UPI*)

Published: Feb. 17, 2010 at 5:10 PM
WASHINGTON, Feb. 17 (UPI) -- The states of Texas, Virginia and Alabama and several business groups have filed legal challenges to federal regulation of greenhouse gases. A total of 16 petitions ask a federal appeals court to reverse the Environmental Protection Agency's finding that greenhouse gases endanger human health, The New York Times reported. The deadline was Tuesday.

Sixteen states and New York City have formed a coalition asking the court to allow its intervention on behalf of the EPA.

The EPA is scheduled to release regulations for automobiles and large sources of greenhouse gases next month. The lawsuits charge its "endangerment" finding is not warranted by scientific information and that it extends the agency's power too far.

"If EPA moves forward and begins regulating stationary sources, it will open the door for them to regulate everything from industrial facilities to farms to even American homes," John Engler, president of the National Association of Manufacturers, which leads a coalition that filed one of the suits, said in a statement.

Adora Andy, an EPA spokeswoman, called the litigants "defenders of the status quo" who are trying to "stall progress."

Cuccinelli says EPA climate change data flawed (*Richmond Times Dispatch*)

BOB BROWN/TIMES-DISPATCH
Attorney General Ken Cuccinelli filed a petition with the EPA asking the federal agency to reconsider its decision and look at new information.
By Rex Springston
Published: February 17, 2010
Updated: February 17, 2010
Virginia Attorney General Ken Cuccinelli said today that the Environmental Protection Agency relied on flawed data in determining that global warming poses a threat to people.

The December finding by the EPA opens the door for the federal agency to crack down on cars and other sources of heat-trapping gases.

“Every Virginian will take an economic beating if [the EPA decision] goes forward,“ Cuccinelli said at a news conference this afternoon.

Cuccinelli on Tuesday filed a petition with the EPA asking the federal agency to reconsider its decision and look at new information.

That new information includes recent e-mails from a British climate research office that, Cuccinelli said, show faulty data were used to support the notion of manmade global warming.

Cuccinelli also filed a challenge of the EPA's decision with the federal appeals court in Washington.

Glen Besa, director of the Virginia office of the Sierra Club, said a few British e-mails do not undermine decades of research showing that people are causing the planet to warm.

"To just cherry-pick data to dispute that climate change exists is really not appropriate," Besa said.

February 17, 2010

16 'Endangerment' Lawsuits Filed Against EPA Before Deadline (*New York Times*)

By ROBIN BRAVENDER of Greenwire
Industry groups, conservative think tanks, lawmakers and three states filed 16 court challenges to U.S. EPA's "endangerment" finding for greenhouse gases before yesterday's deadline, setting the stage for a legal battle over federal climate policies.
Filing petitions yesterday were the Ohio Coal Association, the Utility Air Regulatory Group, the Portland Cement Association, the state of Texas and the Competitive Enterprise Institute. Another was filed by a coalition that includes the National Association of Manufacturers (NAM), the American Petroleum Institute, the Corn Refiners Association, the National Association of Home Builders, the National Oilseed Processors Association, the National Petrochemical and Refiners Association, and the Western States Petroleum Association.
The lawsuits ask the U.S. Circuit Court of Appeals to review EPA's determination that greenhouse gases endanger human health and welfare. That finding -- released in December in response to a 2007 U.S. Supreme Court ruling -- allows the agency to regulate the heat-trapping emissions under the Clean Air Act. Observers expect the court to consolidate the petitions.
Many industry groups and states argue that forthcoming EPA regulations will have devastating economic consequences, while EPA and environmentalists say the agency is required by law to begin regulating greenhouse gas emissions. The agency is planning to finalize new greenhouse gas rules for automobiles and large stationary sources next month.
"If EPA moves forward and begins regulating stationary sources, it will open the door for them to regulate everything from industrial facilities to farms to even American homes," NAM President John Engler said in a statement. "Such a move would further complicate a permitting process that EPA is not equipped to handle, while increasing costs to the manufacturing sector. These costly burdens and uncertainty will stifle job creation and harm our competitiveness in a global economy."

Joe Mendelson, global warming policy director for the National Wildlife Federation, said the lawsuits represent "a continuation of the big polluters essentially trying to attack the science on climate change. They have consistently done that throughout this debate." Mendelson was the lead author on the original 1999 petition to EPA seeking regulations for greenhouse gases.
Ten other petitions have been filed by Alabama, Virginia, the American Iron and Steel Institute, Gerdau Ameristeel Corp., the American Farm Bureau Federation, the National Mining Association, Peabody Energy Co., the U.S. Chamber of Commerce, 13 House lawmakers and the Southeastern Legal Foundation, and the Coalition for Responsible Regulation (E&ENews PM, Feb. 16).
A coalition of 16 states and New York City has also asked to intervene on behalf of EPA in the endangerment case (Greenwire, Jan. 25).
EPA spokeswoman Adora Andy said the finding was made in response to the Supreme Court ruling and after an extensive review of scientific evidence.
"Even at the end of this exhaustive, transparent process, some special interests, and individuals who have made it their cause to deny the evidence before our own eyes, did not like EPA's answer," Andy said. "Instead of helping America become a leader in the new green economy, these defenders of the status quo are now turning to the courts in an attempt to stall progress."
Still, Andy added, "EPA is confident that the finding will withstand legal challenge and allow the agency to protect the American people from the significant dangers posed by greenhouse gases and carbon pollution."

February 17, 2010

EPA's Endangerment Finding Inflames Climate Change Debate (*FOXNews.Com*)

Molly Henneberg - FOXNews.com
The EPA's December findings that human activity increases levels of greenhouse gas pollution has intensified the debate over climate change.

Virginia Attorney General Ken Cuccinelli, says the Environmental Protection Agency needs to go back to the drawing board in assessing the cause of greenhouse gas pollution.

"Restart the process, and this time use rigorous, defensible science," Cuccinelli, a Republican, said.

He wants the EPA to rethink its December findings that human activity increases levels of greenhouse gas pollution and "that greenhouse gases in the atmosphere threaten the public health and welfare of current and future generations."

Cuccinelli says efforts by the EPA to cap such emissions would create a "staggering burden" for state residents and businesses.

"Every Virginian will take an economic beating if this goes forward," Cuccinelli said.

The EPA says a response is forthcoming. But others, who support the EPA's efforts to enact carbon caps on vehicle emissions say Cuccinelli is just playing politics.

"It's very clear this is coming from lawyers not scientists and there's really no new science that needs to be resolved," said Brendan Bell, Washington representative for the Union of Concerned Scientists, a leading nonprofit environmental group.

But the science that climatologists have been using has come under fire. Recently, some parts of the 2007 United Nations Panel Report on Climate Change was found to contain mistakes, including a claim that the Himalayan glaciers would melt away by 2035.

And one of the lead scientists in the climate-gate scandal last year, Phil Jones, acknowledged that there has been no statistically significant global warming since 1995. But he also claims most of the climate warning since 1950 is "due to human activity."

Bell says the recent headlines in The Washington Post and the Wall Street Journal suggesting the climate change movement has had a setback miss the most important point.

"We had National Academy of Sciences and 18 of the major scientific institutions in the U.S. saying that humans causes the planet to warm," Bell said. "There's no debate here."

The New York Times editorial page agrees but on Wednesday it took the United Nations Climate Change panel to task for that 2007 report, saying the panel cannot "allow more missteps" and at the very least must tighten its procedures.

Lawsuits challenge EPA greenhouse gas stance (*Plastics News*)

By Mike Verespej | PLASTICS NEWS STAFF
Posted February 17, 2010
WASHINGTON (Feb. 17, 2:40 p.m. ET) -- Four separate lawsuits have been filed in federal court challenging the endangerment finding of the Environmental Protection Agency, which would give the agency the right to regulate greenhouse gases on stationary sources, such as manufacturing plants and power plants.

How Congress or EPA ultimately decides to regulate greenhouse gases could impact the price and availability of both feedstocks and fuel for chemical and plastic companies.

The lawsuits were filed Feb. 16 at the U.S. Court of Appeals for the District of Columbia Circuit. The state of Texas and a coalition that includes 17 associations and businesses — including the National Association of Manufacturers — and 12 Republican congressmen asked for a court review of the ruling.

The lawsuits came four days after the U.S. Chamber of Commerce petitioned EPA to review its endangerment finding.

In addition, several conservative think tanks, led by the Competitive Enterprise Institute, filed a petition with EPA to reconsider its action, as well as a lawsuit Feb. 16 with the appeals court.

“If EPA moves forward and begins regulating stationary sources, it will open the door for them to regulate everything from industrial facilities to farms to even American homes,” said NAM President John Engler, in a statement. “Such a move would further complicate a permitting process while increasing costs to the manufacturing sector. These costly burdens and uncertainty will stifle job creation and harm our competiveness in a global economy.”

Regulations stemming from EPA’s endangerment finding will trigger new permitting requirements on more than 6 million stationary sources, including 200,000 manufacturing facilities.

In filing its lawsuit, Texas Gov. Rick Perry said his state “is aggressively seeking its future in alternative energy through incentives and innovation, not mandates and overreaching regulation. The EPA’s misguided plan paints a big target on the backs of Texas agriculture and energy producers and the hundreds of thousands of Texans they employ.”

Texas also filed a petition with EPA for reconsideration.

The Chamber’s petition challenges the process EPA used to determine that greenhouse gases endanger human health, making them subject to regulations under the Clean Air Act.

“Our challenge focuses on the inadequacies of the process that EPA following in triggering the Clean Air Act regulation and not on scientific issues related to climate change,” said Steven Law, chief legal officer and general counsel of the Chamber in a statement.

The chamber said it supports Congressional action to reduce greenhouse gases. “The U.S. Chamber strongly supports efforts to reduce greenhouse gas emissions in the atmosphere. But we believe there is a right way and a wrong way to achieve that goal,” Law said.

Legislation to cap carbon dioxide emissions passed the House of Representatives last year, but stalled in the Senate.

The lawsuits will likely lead to a delay in EPA moving forward on its plans to regulation carbon dioxide emissions from stationary sources by the end of March.

In its endangerment finding on Dec. 7, EPA said six greenhouse gases threaten the public health and welfare of current and future generations, and concluded that the Clean Air Act gives it the authority to regulate any facility that emits more than 25,000 tons of carbon dioxide annually.

U.S. Sen. Lisa Murkowski, R-Alaska, the ranking Republican on the Senate Energy and Natural Resources Committee, has introduced legislation that would force EPA to withdraw its action.

EPA's endangerment finding gives the agency the authority to regulate emissions from 6 million workplaces whenever they undergo an expansion and requires them to use the best available technology for controlling emissions.

Texas, Virginia challenge EPA greenhouse gas finding (Christian Science Monitor)

Virginia, Texas, and interested groups are going to court to challenge the science behind the EPA's ruling that greenhouse gases are a danger to human heath and welfare.
By Mark Clayton Staff writer
posted February 17, 2010 at 2:31 pm EST
Texas and Virginia have joined business groups and others jostling on the courthouse steps in the run-up to a legal battle over whether the Environment Protection Agency erred in finding that greenhouse gases pose a danger to public health and welfare. Both states filed petitions attacking the EPA's "endangerment finding" by disputing its scientific underpinnings. Texas argued in its filings that the agency relied upon "tainted data" that cast doubt on the validity of science that shows the global climate is shifting and warming.

"This legal action is being taken to protect the Texas economy and the jobs that go with it, and [to] defend Texas' environmental successes against federal overreach," Gov. Rick Perry told reporters at a press conference Tuesday after the filing.

About a dozen other groups, including some connected to fossil fuel industry, are also opposing the EPA endangerment finding.

Essentially, the EPA concluded that science had shown that greenhouse gases pose a danger to human health and welfare. That conclusion legally required the agency to

regulate greenhouse emissions under the Clean Air Act, the US Supreme Court ruled in 2007.

"The EPA is making a decision here that it was directed to make by the highest court in the land," says Vicki Patton deputy general counsel of the Environmental Defense Fund, an advocacy group based in New York. "The EPA has made a rigorous decision based on a bedrock foundation of science and law."

At least 16 states and numerous environmental organizations are lining up to file briefs in defense of the EPA's position, Ms. Patton says.

The court cases come as Congress seems stymied over climate and energy legislation that would substitute market-based mechanisms to control greenhouse gas emissions rather than EPA regulation.

Legislation has emerged in both the House and Senate to remove EPA authority to regulate greenhouse gas emissions. But it currently enjoys little support and, even if passed, would face a potential veto by President Obama.

"These attacks show a growing realization by many of these groups that the action is going to be at EPA – not Congress – when it comes to climate strategy," says Frank O'Donnell, president of Clean Air Watch, an environmental group. "Corporations are turning their fire to EPA to sidetrack any effort to limit emissions. They apparently believe cap-and-trade [climate] legislation is, if not a dead duck, so wounded it may never fly in Congress."

But legal challengers to the EPA finding will have several formidable hurdles to overcome, legal experts say.

"It will be difficult for the petitioners to sustain their legal challenges, an uphill battle," says Kyle Danish, climate change and emissions trading practice coordinator and a partner at Van Ness Feldman, a Washington law firm.

For one thing, states and organizations will have to demonstrate that they have legal standing to bring the legal actions before the US Court of Appeals for the District of Columbia Circuit. That means they have to show they are being directly harmed by the endangerment finding now.

"One challenge [for] the petitioners is to show some injury or way they are directly affected," Mr. Danish says. "It's a question whether the endangerment finding itself has a direct impact on these parties."

States would have a somewhat easier time showing standing than individual groups, he says. But even doing that isn't all that's required. The groups would have to show that the EPA's finding was arbitrary and capricious, or that the agency didn't look at all the evidence or do a good job of evaluating it.

"The courts have set a high bar and tend to defer to scientific and technical findings by an agency within its expertise," he says.

Virginia's attorney general asks EPA for more time to challenge climate findings (*Examiner*)

February 17, 1:58 PM
Virginia Attorney General Ken Cuccinelli petitioned EPA for time to fight new climate regulations.
Office of the Virginia Attorney General
Today, Virginia's attorney general Kenneth T. Cuccinelli II, asked the EPA to delay final consideration of its finding last year that carbon dioxide (CO2) is a pollutant that endangers public health and welfare. Virginia now joins Texas and Alabama in fighting the EPA in its efforts to regulate CO2.

Carbon dioxide is a colorless gas created by human beings with every breath as a natural part of the carbon cycle. It is required for green plants to grow. It's also a natural by-product of burning fuels made from organic (carbon-based) sources, such as coal, oil and natural gas.

In making its finding, the EPA relied heavily on the United Nations' Intergovernmental Panel on Climate Change (IPCC) AR report of 2007. In this report, the IPCC declared that the earth is warming and that humans are responsible for most of that warming. The report also declared that CO2 emissions from human activities must be quickly cut, in order to prevent global catastrophes, including droughts, floods, hurricanes and famines.

Reducing CO2 emissions would require that the global economy, which is currently powered by fossil fuels, must be dramatically restructured within a very short time. To do this, governments would have to heavily subsidize "clean" energy sources, such as biofuels, solar, wind, and possibly nuclear power, in order to make them profitable, while taxing coal, oil and natural gas, which are still the cheapest sources of electricity and heat.

The result, says Christopher Horner, senior fellow at the Competitive Enterprise Institute, would be "the biggest regulatory intervention in history: the restricting of carbon emissions from all human activity." The CEI has filed two petitions in federal court to reconsider the endangerment finding, and has filed a lawsuit with the EPA.

In 2007, the Supreme Court declared that CO2 and other greenhouse gases are pollutants. This finding was heavily based on recommendations in the IPCC's 2007 report.

In April, 2009, President Obama's newly appointed administrator of the EPA, Lisa P.

Jackson, announced that the agency had determined the CO2 and other greenhouse gases are pollutants that endanger human health and welfare. Then on December 7, 2009, Jackson, announced that the EPA would move forward on regulating CO2 as a pollutant.

New information may contradict scientific"consensus"

According to the Associated Press, Attorney General Cuccinelli asked for time to review "newly available information" that might directly affect the EPA's decision.

Last November, thousands of emails and electronic documents were released from the Climate Research Unit (CRU) at East Anglia University in the U.K. These emails showed scientists who are an integral part of the IPCC reporting process may have conspired to prevent other scientists from obtaining climate data that might be used to disprove their conclusions.

They may also have improperly tried to block the publication of research that called into question the view that "the science is settled" on climate change.

Professor Phil Jones, a central figure in the CRU emails, and who was responsible for keeping the official climate data records used by the IPCC, has stepped aside pending the results of an inquiry into the scandal. Last week, Jones said in an interview with the BBC that scientists did not yet agree that current warming is greater than at anytime in the past. He also admitted that the datasets he controlled were in disarray, and that the rate of Earth's warming was not significantly higher in the past 15 years than it was at other times in history.

Problems with the IPCC report

In January, the IPCC was forced to admit an error in its report, which had predicted most of the ice in the 3-mile thick Himalayan glaciers would be melted by the year 2035. Such an early date would mean a primary water source for millions of people in Nepal, India and China would be dried up 25 years from now. That date was actually a typographical error, and should have read "2350."

The head of the IPCC, Rajendra Pachauri, insisted, up until last month, that the 2035 date was accurate. Several scientists, including reviewers on the IPCC panel, have stated publicly that they recognized the impossibility of the claim and let Pachauri know about the error months, and even years, earlier, but he refused to fix it.

The glacier error was soon joined by others, which seemed to exaggerate crop losses in Africa, sea ice losses in the Arctic, and loss of rain forests in the Amazon, as some began examining the thousands of pages in the IPCC report more closely. Many of the supporting documents for the report turned out to be articles written by non-scientists, or by those working for climate advocacy organizations such as the World Wildlife Federation.

Last week in the U.S. Congress, the Chairman of the House Agriculture Committee, Collin Peterson, introduced a bill that would prevent EPA from regulating greenhouse gases. According to a story by Reuters, Peterson said, “I have no confidence that the EPA can regulate greenhouse gases under the Clean Air Act without doing serious damage to our economy."

Texas challenges EPA ruling on greenhouse gas threat (*Dallas Morning News*)

12:00 AM CST on Wednesday, February 17, 2010
By JAMES DREW / The Dallas Morning News
jdrew@dallasnews.com
AUSTIN – The state accused the federal government in a lawsuit Tuesday of using "tainted data" to declare that heat-trapping gases are a threat to the public, warning that Texas' economy could suffer as a result.

The lawsuit seeks to set aside an Environmental Protection Agency ruling, announced in December, that sets the stage for new limits on emissions from power plants, oil refineries and vehicles, Gov. Rick Perry and Attorney General Greg Abbott said.

"This legal action is being taken to protect the Texas economy and the jobs that go with it and defend Texas' environmental successes against federal overreach," said Perry, who has made criticism of Washington the centerpiece of his re-election campaign.

Perry and Abbott, holding a Capitol news conference, argued that climate-change science has been called into question because of documents showing that researchers glossed over flaws in their work. The governor also said that Texas has reduced nitrous oxide, ozone and carbon dioxide emissions "without government mandates or extravagant fines."

Environmental advocates say the documents in question are overblown, and a high-ranking EPA official predicted the agency's ruling will survive the legal challenge.

"Texas officials have repeatedly expressed opposition to the EPA's common-sense approach to begin reducing harmful greenhouse gases," Al Armendariz, the EPA administrator for the region that includes Texas, said in a written statement. "Texas, which contributes up to 35 percent of the greenhouse gases emitted by industrial sources in the United States, should be leading the way in this effort."

Environmental groups denounced the state's filings with the EPA and the federal appeals court in the District of Columbia.

"Governor Perry should win an Olympic medal for taking the environment downhill," said Luke Metzger, director of Environment Texas. "We have the technology and resources

to be the world leader in clean energy, but instead the governor is putting the interests of the oil industry ahead of the welfare of Texas families."

The U.S. Supreme Court ruled in 2007 that the EPA has the authority to regulate heat-trapping gases, commonly referred to as greenhouses gases, in automobile emissions. The high court also said the agency could not avoid regulating those emissions unless it could cite a scientific basis for that refusal.

The state argues that the EPA's decision to declare carbon dioxide and other greenhouse gases public health threats can't be defended legally.

Abbott said federal regulators based their ruling in large part on research by the United Nations Intergovernmental Panel on Climate Change and the Climatic Research Unit at Great Britain's East Anglia University.

Abbott cited several examples in which he said climate scientists associated with the U.N. panel engaged in an "ongoing, orchestrated effort to violate freedom of information laws, exclude scientific research and manipulate temperature data."

The state's 38-page petition for review filed with the EPA and the federal appeals court cites several press reports about documents that climate-change doubters say show efforts to withhold data from the public and stifle dissenting views.

Defenders of the climate scientists maintain that the material has been taken out of context.

And most climate scientists say that the data in question are still valid and overwhelming evidence of man-made global warming.

Hostage to hot air (*Gulf Times*)

Publish Date: Wednesday,17 February, 2010, at 10:40 PM Doha Time

By Isabel Hilton/London

In Delhi last week, Professor Jeffrey Sachs, the guru of sustainable development from Columbia University, delivered a sobering message about US climate politics. There was very little chance, he said, that the US would pass climate legislation this year, and almost no chance the Senate would ever adopt cap and trade, the system by which enterprises trade permits to emit within ever tighter limits. He himself, he added, was not sorry. He strongly preferred a carbon tax as a simpler and more effective mechanism. There are many who share his preference, but the chances of the US legislating such a tax seem equally remote. Besides, if the US turns away from carbon trading, the future of other carbon trading systems

seems perilous.
For the EU in particular, this is bad news. If Sachs is right, the chances that the Copenhagen accord, a vague statement of intent to limit the global average temperature rise to 2C, will be translated into a legally binding instrument with some chance of achieving that goal become very slim.
If the US cannot legislate, it cannot sign or comply with a new treaty. Without the US, China and India will not take on legally binding commitments. Without the world's biggest emitters, efforts to limit emissions will fail.
The Obama administration, according to Sachs, has not abandoned the battle. If it cannot fight a climate bill through the Senate, there are alternatives. One is to go for a simpler energy bill to mandate efficiencies and promote alternatives to fossil fuels, since even the most recalcitrant coal-state Senators might be persuaded that US dependence on "foreign oil" is a national security weakness.
And, in the absence of emissions legislation, the administration can use presidential powers and the Environmental Protection Agency to regulate the country's path to a cleaner, greener future.
Both are under active consideration. The EPA's "endangerment finding" in December last year, that CO2 and other greenhouse gases threaten human health and the environment, and that the EPA is therefore obliged to regulate, is a step along the way. (That finding, though, is now under attack: Lisa Murkowski, a Republican senator from Alaska, is working on having it overturned in the Senate.)
But nothing can disguise the fact that the over-arching framework of the Kyoto protocol, with its potential to unlock finance for clean development in the emerging economies, has no future in this scenario.
Given the condition of public finances in the developed world, there is little prospect of Western taxpayers stepping up with the sums required. Without private sector finance, the framework begins to crumble away.
Kyoto, it is worth remembering, was largely a US invention, the means by which the Clinton administration could discuss financing climate mitigation without mentioning tax. Other nations reluctantly accepted it in order that the US, then the world's biggest emitter of greenhouse gases, could be included in the global effort to curb them. But, though Clinton signed the treaty, Congress rejected it. Now the US wants to dismantle it, blaming Europe for its inefficiencies and modest achievements.
It is not just in Europe that cap and trade has supporters. At state level in the US, limited forms of it exist: nine north-eastern states have been trading emissions from power plants, and a coalition of seven US states and five Canadian provinces have been working towards building their own cap and trade system, due to begin trading in 2012.
That initiative, however, also faces trouble. In one member state, Utah, politicians have approved a resolution which implies climate change science is a "conspiracy". Another, Arizona, dropped out of cap and trade plans last week, citing recession as its excuse.
And California's impressive climate programme is under attack on similar grounds from Dan Logue, a Republican member of the state assembly. In addition, Governor Arnold Schwarzenegger is stepping down this year, and it is by no means clear a successor will continue his climate policies.
A year ago, it seemed so different: President Obama trumpeted an annual investment of $15bn in clean energy research and development. In the economic stimulus package that followed, billions were pledged to energy research, while the president's commitment to climate legislation seemed to promise the framework that would ensure such technologies were deployed. The US seemed determined to avoid following at national level the example of General Motors – a once mighty enterprise that went bankrupt through spending its time and treasure resisting the future instead of owning it.
Today, Obama's promising vision is faltering at best; the US risks turning its back on the chance to dominate the next technology revolution, and global efforts to accommodate the administration's efforts to

put more than a decade of US climate recalcitrance behind it have not met with a corresponding policy delivery from Washington.
US climate debates seem mired in the administration's political weakness and the Senate's departure from its mission to serve the public interest. This is not just a tragedy for the US. We are all hostage to its climate policy. - Guardian News and Media

16 'endangerment' lawsuits filed before deadline (*Greenwire*)

Robin Bravender, E&E reporter
02/17/2010
Industry groups, conservative think tanks, lawmakers and three states filed 16 court challenges to U.S. EPA's "endangerment" finding for greenhouse gases before yesterday's deadline, setting the stage for a legal battle over federal climate policies.

Filing petitions yesterday were the Ohio Coal Association, the Utility Air Regulatory Group, the Portland Cement Association, the state of Texas and the Competitive Enterprise Institute. Another was filed by a coalition that includes the National Association of Manufacturers (NAM), the American Petroleum Institute, the Corn Refiners Association, the National Association of Home Builders, the National Oilseed Processors Association, the National Petrochemical and Refiners Association, and the Western States Petroleum Association.

The lawsuits ask the U.S. Circuit Court of Appeals to review EPA's determination that greenhouse gases endanger human health and welfare. That finding -- released in December in response to a 2007 U.S. Supreme Court ruling -- allows the agency to regulate the heat-trapping emissions under the Clean Air Act. Observers expect the court to consolidate the petitions.

Many industry groups and states argue that forthcoming EPA regulations will have devastating economic consequences, while EPA and environmentalists say the agency is required by law to begin regulating greenhouse gas emissions. The agency is planning to finalize new greenhouse gas rules for automobiles and large stationary sources next month.

"If EPA moves forward and begins regulating stationary sources, it will open the door for them to regulate everything from industrial facilities to farms to even American homes," NAM President John Engler said in a statement. "Such a move would further complicate a permitting process that EPA is not equipped to handle, while increasing costs to the manufacturing sector. These costly burdens and uncertainty will stifle job creation and harm our competitiveness in a global economy."

Joe Mendelson, global warming policy director for the National Wildlife Federation, said the lawsuits represent "a continuation of the big polluters essentially trying to attack the

science on climate change. They have consistently done that throughout this debate." Mendelson was the lead author on the original 1999 petition to EPA seeking regulations for greenhouse gases.

Ten other petitions have been filed by Alabama, Virginia, the American Iron and Steel Institute, Gerdau Ameristeel Corp., the American Farm Bureau Federation, the National Mining Association, Peabody Energy Co., the U.S. Chamber of Commerce, 13 House lawmakers and the Southeastern Legal Foundation, and the Coalition for Responsible Regulation (*E&ENews PM*, Feb. 16).

A coalition of 16 states and New York City has also asked to intervene on behalf of EPA in the endangerment case (*Greenwire*, Jan. 25).

EPA spokeswoman Adora Andy said the finding was made in response to the Supreme Court ruling and after an extensive review of scientific evidence.

"Even at the end of this exhaustive, transparent process, some special interests, and individuals who have made it their cause to deny the evidence before our own eyes, did not like EPA's answer," Andy said. "Instead of helping America become a leader in the new green economy, these defenders of the status quo are now turning to the courts in an attempt to stall progress."

Still, Andy added, "EPA is confident that the finding will withstand legal challenge and allow the agency to protect the American people from the significant dangers posed by greenhouse gases and carbon pollution."

FEBRUARY 17, 2010

Controversies Create Opening for Critics (*Wall Street Journal*)

By GAUTAM NAIK And KEITH JOHNSON
The spate of recent controversies about climate research has given fresh voice to a group of scientists who question the mainstream view that human activity is warming the planet to dangerous levels.
Very few scientists disagree that the earth's climate has warmed since 1850. But some have long argued that there are too many uncertainties about man's role in the warming, and that other factors, such as solar activity and the greenhouse effect of clouds, could account for a large part of the observed warming trend. Among this group are researchers who have criticized the limitations of past temperature records and mathematical models used to forecast future effects.

Such views are getting a fresh airing on the heels of two recent controversies dogging climate researchers. A United Nations group, the Intergovernmental Panel on Climate Change, or IPCC, has been heavily criticized for publishing an unsubstantiated claim

that Himalayan glaciers would entirely melt away by 2035. A recent report also included several other claims later found to lack a scientific basis, including predictions of the impact of climate change on agriculture in Africa and the retreat of Amazonian rain forests, among others.

News of those discrepancies followed a scandal in Britain where the publication of hacked emails of climate scientists suggested they had declined to share their data with fellow researchers and tried to squelch dissenting views about climate change.

It's too soon to tell whether the critics' views will force the scientific community to revisit the prevailing view of man-made climate change. Many of their colleagues remain resolute in their stance that global warming is caused mainly by humankind. The IPCC in recent interviews has said its errors, while serious enough to make the organization re-examine its procedures, do not change the central point of its influential 2007 report, which concluded that evidence for the human role in global warming is "unequivocal."

"It's important to say that the scandals we've had don't change the fundamental point that global warming is man-made and we need to tackle it," says Bjorn Lomborg, a Danish academic and environmental writer.

The political fallout from the IPCC's mistakes was evident Tuesday when Texas authorities announced the state was taking legal action against the Environmental Protection Agency's efforts to curb greenhouse gases under the Clean Air Act. In its filing, the state argued that the information the EPA used to make its decision is based on data from the IPCC. Alfredo "Al" Armendariz, EPA regional administrator for Texas and other nearby states, said he expected the agency's efforts to withstand a court challenge.

Virginia's attorney general Kenneth T. Cuccinelli II said Tuesday he also asked the EPA to delay final consideration of that finding so "newly available information" can be reviewed, reported the Associated Press.

Among the most vocal of the cadre of scientists who have questioned some of the IPCC's recent work is John R. Christy, director of the Earth System Science Center at the University of Alabama-Huntsville and a former contributor to a big 2001 IPCC report. He, like several other of the critics, was repeatedly criticized in the hacked emails.

Dr. Christy spent years comparing temperature data from satellites with ground stations. He concluded that the reliance on a few well-known ground-based measuring stations may vastly overstate how much temperatures have risen. He suggests that surface temperatures are actually measuring an increase in human development—more and bigger cities, more asphalt, more air-conditioning—and not rising temperatures in the atmosphere. Most climate scientists, by contrast, ascribe rising temperatures largely to man's introduction of greenhouse gases into the atmosphere.

Some dissenters have focused on the complex effect of clouds. Richard Lindzen, a professor of meteorology at the Massachusetts Institute of Technology and a past contributor to an IPCC report, says that the role of clouds and water vapor—the main greenhouse agents in the atmosphere—is one of the least understood factors in climate science. It's a limitation that the IPCC acknowledges.

Prof. Lindzen says the key issue is "climate sensitivity"—how much will temperatures rise when carbon-dioxide levels double. He asserts that current climate models include a "positive feedback" effect whereby clouds and water vapor act to amplify CO_2's greenhouse effect. In response to a doubling of carbon-dioxide levels, the IPCC has found climate sensitivity to be between 1.5 degrees and five degrees Fahrenheit. Prof. Lindzen says those figures, derived from models, overstate the case.

Prof. Lindzen recently published a study based on radiation measurements taken from satellites—not models—and concluded that climate sensitivity as a result of clouds and water vapor was more likely in the 0.3 degrees to 1.2 degrees range, much lower than the figure accepted by most climate researchers. "The observational analysis implies that the models are exaggerating climate sensitivity," he concludes in a second, yet-to-be published paper on the same subject.

Dr. Willie Soon, a professor at Harvard University, believes that changing levels of solar radiation, especially the amount that hits the Arctic, are driving huge, slow changes in the earth's climate—much as they did in past centuries. The theory rests on the fact that the sun emits different amounts of energy at different times.

George Kukla, a retired professor at Columbia University, says even longer-term climate cycles explain the current warming trend. His work is based on the idea that ice ages and warmer interglacial periods are driven by periodic variations in earth's orbit around the sun, known as the Milankovich cycle after the scientist who studied them.

Shifting momentum in the climate debate

NOV. 17, 2009
Senate Democratic leaders announce they will put off debate on a big climate-change bill until spring, citing a desire to first address legislation on health care and financial regulation.

NOV. 19, 2009
Emails and documents hacked from the Climate Research Unit at East Anglia University in the U.K. are cited by global-warming skeptics who say they call into question the validity of U.N.-sponsored reports contending that the earth is heating up and that it's largely because of human activity.

DEC. 19, 2009
A summit on climate change in Copenhagen, Denmark ends with a final statement that calls on countries to "enhance our long-term cooperative action to combat climate

change," but doesn't legally obligate any country to meet a specific target for reducing emissions.

JAN. 18, 2010
U.N. body on climate change says it is studying how its landmark 2007 report came to include a statement that Himalayan glaciers would disappear by 2035.

FEB. 5, 2010
As a huge snowstorm bears down, the Virginia Republican Party releases an ad that mocks Democrats for supporting legislation to fight global warming.

APRIL 17, 2009
The administrator of the Environmental Protection Agency declares that emissions of carbon dioxide and other greenhouse gases threaten public health and welfare, the legal prerequisite for regulating such emissions under the Clean Air Act.

MAY 19, 2009
Flanked by representatives of the auto industry and environmental groups, President Obama announces that the EPA and the Department of Transportation will craft rules aimed at boosting the fuel economy of U.S. automobiles and reducing their emissions of greenhouse gases.

JUNE 26, 2009
The U.S. House of Representatives passes legislation by a 219-212 vote that calls for cutting U.S. industrial emissions of greenhouse gases by 17% from 2005 levels by 2020, including by requiring companies to buy permits for emissions.

NOV. 26, 2009
China announces it will aim to cut its 'carbon intensity'—or the amount of greenhouse gas it emits per unit of gross domestic product—by 40% to 45% below 2005 levels by 2020.

COLD

HOT

ENERGY
==========

EPA Chooses Omaha For Energy Efficiency Class (*KETV 7 Omaha*)

Class To Be Held At Metropolitan Community College
POSTED: 3:19 pm CST February 17, 2010
UPDATED: 5:40 pm CST February 17, 2010

OMAHA, Neb. -- The Environmental Protection Agency has chosen Omaha as the first city to host a class designed to teach companies how to make their buildings more energy efficient.
Right now, 31 commercial buildings in Nebraska are Energy Star rated. The project aims to increase that number.
The class, called Energy Star for Commercial Buildings, will be taught at Metropolitan Community College.
Most commercial buildings are probably using 20 to 40 percent more energy than they need to," said MCC's Coordinator of Sustainable Practices Daniel Lawse.
The college has partnered with Omaha Public Power District to offer the class.
Business can sign up and learn how to measure energy use in their buildings and identify places to save.
Lawse said businesses can, over time, reduce their utility costs and thus have lower overhead.
If the class is successful, it could be added at other community colleges around the nation, said OPPD's Judy Sunde.
"They decided to make this a pet project to see how it would work in our territory," Sunde said.
The class runs from March 11 through May 20. It's open to anyone who registers by March 8.
To sign up, call the college at 457-2451 or online at MCC's Web site.

Wednesday, February 17, 2010

Prometheus Real Estate Group Expands and Enhances Walnut Creek Civic Executive Center (*Fox Business*)

WALNUT CREEK, Calif., Feb 17, 2010 (BUSINESS WIRE) ------Earns ENERGY STAR Certification from U.S. Environmental Protection Agency

Despite a weak leasing environment, Prometheus Real Estate Group Inc. (Prometheus), the largest private owner of multi-family properties in the San Francisco Bay Area, recently executed more than 75,000-square-feet of lease transactions at its Civic Executive Center in Walnut Creek, Calif. Located at 201 North Civic Drive, the building is now 96 percent occupied, a notable accomplishment in a market with a greater than 20 percent vacancy rate. Additionally, following extensive renovations, the Walnut Creek complex earned an ENERGY STAR certification from the U.S. Environmental Protection Agency (EPA), which recognizes top performing buildings as energy efficient.

The most significant lease was the 56,168-square-foot, 10 year renewal of Brown & Caldwell, a leading environmental engineering and consulting firm.

"We are proud of the relationship we have formed with Brown & Caldwell and are thrilled to have them as a long term tenant in our building. We look forward to

developing similar partnerships with the new companies we are welcoming to the project while continuing to serve the needs of our existing tenants," said Brett Miles, commercial asset manager for Prometheus.

NOTEWORTHY TENANT TRANSACTIONS AT CIVIC EXECUTIVE CENTER:

-- Donnelly, Nelson, Depolo & Murray LLP: A regional law firm specializing in medical malpractice defense and employment litigation has signed a 7,087-square-foot lease within the Civic Executive Center.

-- HF&H Consultants LLC: An environmental consulting firm specializing in recycling and solid waste management consulting has signed a 5,113-square-foot lease.

-- Liberty Mutual: One of the leading property and casualty insurance companies in the United States has renewed a 3,328-squarefoot lease.

-- Alamo Capital has signed a 3,381-square-foot expansion lease.

Ed Del Beccaro and Jeff Weil of Colliers International represented the tenants in the transactions. "We are thankful for the recent business with Colliers and appreciate the quality of service that Cornish & Carey has consistently delivered as our listing broker. In this difficult market it will be crucial to work closely with the brokerage community to get things done and we are excited about that opportunity," said Miles.

EARNING THE ENERGY STAR CERTIFICATION:

ENERGY STAR is a joint program of the EPA and the U.S. Department of Energy. According to the EPA, the ENERGY STAR certification recognizes businesses that score in the top 25 percent based on the EPA's National Energy Performance Rating System. To determine the performance of a facility, EPA compares energy use among other, similar types of facilities on a scale of one to 100; buildings that achieve a score of 75 or higher may be eligible for the ENERGY STAR.

"Prometheus is committed to encouraging environmental responsibility among all of our communities," said Jackie Safier, principal for Prometheus. "We are honored to receive the EPA's ENERGY STAR certification and to be able to provide local businesses with an energy efficient workspace alternative."

The Civic Executive Center was originally built in 1982 and renovated by Prometheus in 2009. The three-story Center is clad in aluminum and glass and earned an American Institute of Architect's Award of Excellence for its architecture in 2009. For more information on the Civic Executive Center, visit http://www.prometheusreg.com/commercial/cecDesc01.html.

About Prometheus

Prometheus Real Estate Group is the largest private owner of multi-family properties in the San Francisco Bay Area with a growing portfolio of more than 18,000 metropolitan-area apartments in the Bay Area, Seattle, Portland, Ore., and Los Angeles communities. Since its inception in 1965, Prometheus has specialized in the acquisition, development and management of high quality residential and commercial properties throughout the Western United States. Prometheus has a long history of award-winning approaches to development, management and general excellence. Recognition in 2009 includes six prestigious awards: two National Association of Home Builders (NAHB) awards, one Action for Beauty Award, one Best in California Landscapes Award and one Bay Area Green Business Award. For more information, visit http://prometheusreg.com.

Sen. Graham promotes nuclear power, 'clean coal' in draft renewables bill (*Greenwire*)

Darren Samuelsohn and Katherine Ling, E&E reporters
02/17/2010
A key Senate Republican is floating legislation that would give a big boost to nuclear power and coal as part of a nationwide standard for renewable energy, according to a draft bill obtained by E&E.

South Carolina's Lindsey Graham wrote the **measure** requiring the country to generate a certain percentage of "clean energy" over the next 15 years: 13 percent by 2014, 20 percent by 2020, and 25 percent by 2025.

Power sources that would fit into the program include new nuclear capacity built after the bill became law, as well as coal-fired plants that capture and permanently sequester 65 percent of the greenhouse gases produced by the facility.

Traditional renewables like wind and solar power qualify, as well as certain types of biomass and hydropower. Also eligible: retired fossil-fuel plants that had produced more than 2,500 pounds of carbon dioxide per megawatt-hour of generation.

Graham spokesman Kevin Bishop said yesterday that the senator started working on the proposal before teaming up last fall with Democrat John Kerry of Massachusetts and independent Joe Lieberman of Connecticut on a more sweeping energy and climate bill. Both Kerry and Lieberman have reviewed Graham's draft bill, Bishop said, but they have not agreed to include it in the comprehensive package -- details of which are expected to remain under wraps until at least next month.

Several sources said General Electric Co. helped Graham in crafting the legislative language. GE has the world's largest gas turbine manufacturing plant, in Greenville, S.C., and the company also is leading development of new nuclear reactors and a

"clean coal" technology known as integrated gasification combined cycle, which has the capacity to capture and permanently sequester carbon emissions.

On nuclear power, Graham's approach goes beyond the renewable energy standard included in legislation (**S. 1462**) passed last June by the Senate Energy and Natural Resources Committee. That legislation requires utilities to provide 15 percent of their power from renewable sources like wind and solar power by 2021, while allowing up to a quarter of the requirement to be met with energy-saving measures instead.

Unlike Graham's bill, the committee's legislation did not let new nuclear plants be counted toward the renewable standard. But it did allow capacity added through increased efficiency at existing reactors to be excluded from the power baseline used to set renewable targets. In other words, a utility that improves a nuclear plant's efficiency could provide less energy from renewable sources to meet the standard (*Greenwire*, June 4, 2009).

Many of the ideas in Graham's proposal reflect amendments offered unsuccessfully by Republicans during the Senate energy committee markup. Graham told reporters last month he could not support the committee-approved bill "because nuclear power doesn't have the standing as wind and solar, and we can't meet the targets in the Southeast."

Graham's proposal also includes placeholder language for a nuclear loan guarantee provision "sufficient to build 60 additional nuclear reactors." A similar idea made it into a much larger **draft** nuclear title written last year by Lieberman and more than a dozen other Democratic and GOP senators.

The Lieberman-led nuclear bill included a $100 billion boost for the federal loan guarantee program, as well as additional regulatory risk insurance, accelerated depreciation for nuclear plants, investment tax credits similar to renewable energy and language to expedite the Nuclear Regulatory Commission's licensing process.

House-passed climate legislation (**H.R. 2454**) also sets up a nationwide renewable energy standard. The bill approved narrowly on the floor last June requires utilities to supply 15 percent of their power sales from qualified renewable sources of electricity by 2020, though state governors also have the option of lowering the renewables requirement if they meet other efficiency mandates.

Qualified renewable energy sources in the House bill: wind, solar, geothermal, biomass, biogas, biofuels, increased hydropower capacity since 1988, waste-to-energy, landfill gas, wastewater treatment gas, coal mine methane used to create power at or near the mine mouth, and marine renewables such as wave and tidal power.

The House bill also excludes new nuclear generation, existing hydropower, and fossil generation with carbon capture and storage from the power sales baseline.

In a prepared statement, GE said it is in talks with its customers, trade associations, nongovernment organizations and members of Congress "about the merits of a clean energy standard."

The company also praised Graham's efforts on the broader climate and energy bill. "Without his bipartisan leadership and collaboration in the Senate, the U.S. will lose its leadership role in one of the most promising sectors of our economy that could stimulate job creation, technology investments and American exports," it said.

But an environmentalist tracking the debate took issue with two components of the draft Graham proposal: the loan guarantees for the new nuclear power plants and the addition of carbon capture and storage facilities. The former, he said, could create a "wide open slush fund for loan guarantees" that pushes other renewables below their business as usual projections -- even if coupled with a mandatory cap on greenhouse gases.

"This means no new jobs created," the environmentalist said, a point that undercuts one of President Obama's signature reasons for advancing an energy and climate bill.

An environmentalist tracking the debate took issue with two components of the draft Graham proposal: the loan guarantees for the new nuclear power plants and the addition of carbon capture and storage facilities. The former, he said, could create a "wide open slush fund for loan guarantees" that pushes other renewables below their business-as-usual projections -- even if coupled with a mandatory cap on greenhouse gases.

"This means no new jobs created," the environmentalist said, a point that undercuts one of President Obama's signature reasons for advancing an energy and climate bill.

FUEL

==========

EPA Official Explains RFS2 at Ethanol Conference (*Domestic Fuel*)

Posted by Cindy Zimmerman – February 17th, 2010
2010 National Ethanol Conference Photo Album
The new rule for the expanded Renewable Fuel Standard, fresh out of the box just two weeks ago, was the main topic of discussion at the Renewable Fuels Association's 15th National Ethanol Conference in Orlando. Sarah Dunham, Transportation and Regional Programs Division Director with the U.S. Environmental Protection Agency, boiled down the guts of the new RFS2 in a 45 minute presentation that highlighted changes made in lifecycle analysis determinations from the rule as originally proposed.

“I can safely say that this is the area we got more comment than any other area in the rule,” Dunham said, calling it very constructive and helpful to get real data and science to apply to the rule. This led to “significant” decreases in estimates of international indirect land use change related to biofuels production, “more than 50-60-70 percent in some cases,” she added. Using corn ethanol as an example, she noted that the final rule factored in both increasing yields and the value of co-products, which had not been in the original model

Dunham also talked about how EPA addressed “uncertainty” in their analysis. “There is inherent uncertainty in these assessments,” she said. “And we thought it was important to try to formally recognize that uncertainty” and incorporate it into the analysis. The assessments will be updated over the next two years as more information becomes known.

The regulations for RFS2 are scheduled to go into effect on July 1 and between now and then EPA will be working with the Renewable Fuels Association and the biofuels industry in general to conduct workshops to help inform producers about the new rule and what it means to them.

If you are in the industry, it is worth listening to Sarah’s presentation, including answers to questions at the end asked by moderator Charles Knauss with Bingham McCutchen LLP. Listen to the audio in the player below and you can see screen shots of some of the slides she references in the NEC conference photo album.

GENERAL

==========

EPA recognizes senior campus idea in HMB (*Half Moon Bay Review*)

From staff reports
Published/Last Modified on Wednesday, February 17, 2010 4:41 PM PST

The federal Environmental Protection Agency has recognized a plan to create a downtown senior campus in Half Moon Bay. The EPA has given the local project one of four Building Healthy Communities for Active Aging awards.

The senior campus – a cooperative project that involves private and public enterprise – was honored with a “Commitment Award,” given to a project that begins to integrate smart growth and active aging, according to the EPA Web site. The senior campus is planned near the intersection of Main Street and Arnold Way and would incorporate Lesley Gardens, 250 new housing units and a to-be-constructed senior center. Recently, the city and county governments negotiated a land swap to help make the center a reality.

“The plan’s success is largely attributable to a strong sense of collaboration and community involvement,” according to the Web site. The EPA reports that plans include raised pavement where pedestrian paths cross streets so that pedestrians are more easily seen by motorists.

EPA Celebrates Healthy Communities for Active Aging (*Tonic*)

By David Bois | Wednesday, February 17, 2010 4:06 PM ET
EPA recognizes four communities that do right by our aging population with public space planning efforts.
Across the nation, cities and towns are giving more thought to what the way in which we plan our public spaces says about our communities, and to the impact that the very layout of streets, walkways, and parks has upon our quality of life.

Sure, people need to get from Point A to Point B, and often this requires the use of a car. But in looking at how our communities are currently laid out, it's often the case that public design with the automobile in mind has come at a price: more streets and the increased traffic on them lead to a host of air and water quality problems, and can turn our communities into isolated, disconnected chunks of space inhospitable to getting out and about on foot and to interacting with our neighbors.

The EPA announces the recognition of US communities that insist upon doing things a little better regarding the design of public space, in particular for their regard to our aging population and the benefits of people-friendly public space design. The Building Healthy Communities for Active Aging award is sponsored jointly by the EPA along with the President’s Council for Fitness and Sports, the Centers for Disease Control and Prevention, the National Council on Aging, the National Blueprint, and Active for Life. The award is given out annually to recognize cities and towns that successfully explore the linkage between community growth and planning with life quality of older citizens.

The 2009 recipients, two awards for each of the achievement and commitment categories have just been announced, and the winners reflect an inspiring dedication to what our spaces say about ourselves.

Achievement honors were awarded to Cary, N.C. and to The Martinsville-Henry County Coalition for Health and Wellness in Va. for success in space preservation, public access improvement, and improved public space access integrated with physical activity programs for older citizens.

Commitment award winners for this past year are Gaithersburg, Md. and the Half Moon Bay Senior Campus Plan in Calif. Gaithersburg has adopted revisions to the city's master plan that will call for new environmental design improvements as well as location of senior housing to permit easier access to public transportation. At Half Moon Bay, a

senior housing plan will result in more integrated affordable housing for the elderly with safer pedestrian access and reduced automobile traffic.

Congratulations to the winning communities for the inspiring examples they are setting in designing public spaces with the health, safety, and enjoyment of their citizens so clearly in mind.

HAZARDOUS WASTES

==========

Manchin argues against coal ash regulation (*Associated Press*)

Story also appeared: *Washington Post*

By TIM HUBER
The Associated Press
Wednesday, February 17, 2010; 12:58 PM

CHARLESTON, W.Va. -- West Virginia Gov. Joe Manchin is urging the U.S. Environmental Protection Agency to drop plans to regulate coal ash from power plants as hazardous waste.

The EPA has been mulling the idea since a dam holding fly ash slurry at a Tennessee power plant failed in December 2008. In December, the agency put off proposing regulations while it makes changes. An EPA spokeswoman declined comment, saying there is nothing new to report publicly since the delay was announced.

The coal industry, electricity producers and coal-producing states such as West Virginia are bracing for a decision in the near future.

Manchin contends in an opinion piece being circulated by his office that the EPA would do more harm than good. Currently, about 45 percent of coal ash is recycled, ending up in everything from high-strength concrete to wallboard.

"Coal ash recycling is a multibillion dollar industry that provides thousands of truly green jobs across our country," Manchin said. "Hastily raising its status to 'hazardous' could actually cause more environmental harm and place undue financial burden on countless thousands of Americans."

Manchin also suggests the regulation would force coal-fired electric power plants to switch to other fuels, hurting West Virginia's mining industry. West Virginia is the nation's No. 2 coal producing state.

Spokesman Matt Turner said Manchin is speaking up to make sure the EPA separates concerns about the safety of coal ash and the safety of dams designed to contain it.

"The governor was very concerned about the safety issue," Turner said. "I think the concern was that we have some industries in the state and also some very beneficial uses of the coal ash here."

Maine Study May Spur Tougher Disposal Requirements For Pharmaceuticals (*Inside EPA*)

Wednesday, February 17, 2010
A new study detecting common prescription drugs in the leachate from municipal waste landfills in Maine could aid efforts by supporters of state legislation to create industry-funded drug takeback programs, with proponents in Maine already citing the results to bolster their claims that existing approaches to drug disposal put the environment at risk.

Maine's study appears to be the first to show significant levels of pharmaceuticals in landfill leachate -- the liquid that seeps to the bottom of landfills and is commonly sent to municipal wastewater treatment plants. Traditional wastewater treatment methods do not remove all chemicals in pharmaceuticals and personal care products, and supporters of drug takeback programs say having drug manufacturers collect excess pharmaceuticals and incinerate them as hazardous waste would help reduce threats to surface and groundwater contamination.

The study could boost efforts in Maine, Washington, Minnesota and other states to pass product stewardship legislation that would require drug manufacturers to be responsible for the costs of collecting excess pharmaceuticals and disposing of them as hazardous waste, as is done in Europe and several Canadian provinces. Federal legislation to make it easier for states to establish drug takeback programs remains stalled in Congress.

The leachate samples in the Maine study contained more than 40 pharmaceutical and personal care product (PPCP) compounds or their breakdown products, and 20 compounds were found in all three leachate samples, according to a summary of the results by the Maine Department of Environmental Protection (DEP).

"The detected PPCP concentrations, although seemingly low, can translate to the potential discharge of hundreds of pounds of PPCPs per year considering that landfills typically discharge millions of gallons of leachate annually," the DEP summary says. "It is important to recognize that while this data represents a preliminary characterization, because the laboratory filtered the samples before analysis, the reported concentrations underestimate the total mass of PPCPs leached from landfills."

Pharmaceutical Contaminants

The medications detected included 604 nanograms per liter (ng/L) of the asthma drug Albuterol, 195 ng/L of the blood pressure medication Atenolol and 391 ng/L of the anticonvulscent and mood stabilizing drug Carbamazepine in the leachate of a landfill in Augusta, ME. The drugs were also present, although in lower concentrations, in the leachate of landfills in Brunswick and Bath, ME. DEP chose those landfills for study because they take in a lot of household waste but have not historically taken sludge from wastewater treatment plants, which DEP felt could skew the test results, according to a DEP statement. Antibiotics, steroids and hormone replacement and pain medications were also detected.

“These test results back up what we believed to be true and that is that left over prescription drugs that people throw away really don’t ever go away,” Mark Hyland, director of DEP’s Bureau of Remediation & Waste Management, said in a Jan. 14 statement. “This is one reason we want pharmaceutical companies to do their part in taking back medication that people are not longer using and dispose of it properly.”

EPA and other studies have previously indicated that very little pharmaceutical components end up in leachate. And the pharmaceutical industry has long argued that landfilling drugs is a safe and cost-effective disposal method, raising concerns that drug takeback programs could create a greater potential for drug diversion through theft or misappropriation of collected medicines. Because over 90 percent of the pharmaceuticals in water comes from patient use and excretion of medicines, takeback programs would have a minimal impact on water quality, according to a Jan. 26 statement from Ken Johnson, senior vice president of the Pharmaceutical Research and Manufacturers of America (PhRMA).

A 2008 peer-reviewed study conducted by the pharmaceutical industry found that the landfill disposal pathway to surface water accounts for an average of 0.01 percent to 0.03 percent of the estimated aggregate annual surface water releases of pharmaceuticals. “Based on EPA reports on the integrity of modern [municipal solid waste] landfill liners, the landfill-leachate-ground water release pathway is negligible and no estimates of such releases are practical,” the study says.

A source with PhRMA says the organization is still reviewing the Maine study in order to compare its methodologies with industry and other research.

Push For State Legislation

Maine officials are pointing to the new study to back their push for pharmaceutical product stewardship legislation. The state bill, LD 821, passed out of committee Jan. 20 and is expected to go to the state House and Senate floors for a vote in the coming weeks, according to sources following the issue.

State Rep. Anne Perry (D) noted the DEP study in a Jan. 20 statement about the bill moving out of committee, saying, “Now is the time to take action.” The legislation would allow pharmaceutical manufacturers who distribute drugs in Maine to determine the best method for collecting unwanted drugs in urban and rural areas, but manufacturers would be responsible for the costs of the program and would not be allowed to pass them on to consumers, Perry said.

Maine’s DEP, Department of Health & Human Services, Drug Enforcement Agency and attorney general’s office all support the legislation. “The agencies felt the legislation would save money by reducing health care, public safety and environmental costs,” the state said in the Jan. 14 statement announcing the landfill test results.

In a letter to Maine lawmakers last year backing LD 821, Product Stewardship Initiative (PSI) Executive Director Scott Cassel said product stewardship approaches, like those in the Maine legislation, “save money for local governments by relieving them of the financial responsibility to pay for and manage the collection and safe disposal of unwanted pharmaceuticals.” This is because “requiring manufacturers to internalize the cost of disposing of their products . . . provides a direct financial incentive for them to reduce the amount of the product that becomes waste,” he said in the April 13, 2009, letter.

In addition to Maine’s efforts, legislation is also moving in Washington state and Minnesota, according to sources tracking the issue. A House floor vote is expected soon for the Washington legislation, HB 1165, and a hearing is scheduled for Feb. 9 for the Minnesota bill, HF 1217, the sources say. Legislation introduced in Oregon and Florida last year died in committee, but a PSI source says it is possible the bills will be reintroduced this year.

At the national level, legislation introduced last year by Rep. Jay Inslee (D-WA), H.R. 1191, remains stalled in committee. The bill, which has 32 primarily Democratic co-sponsors, would amend the Controlled Substances Act to make it easier for states to establish drug takeback programs. Sen. Patty Murray (D-WA) is the sponsor of the companion Senate legislation, S. 1336, which has no cosponsors. -- *Lara Beaven*

Landowners push back against claims of shale hazards (*Calgary Herald*)

By Edith Honan, ReutersFebruary 17, 2010 3:19 PM
BINGHAMTON, N.Y. - New York landowners whose properties sit on the gas-rich Marcellus Shale are pushing back against calls for greater environmental regulation, saying it has halted the U.S. gas drilling boom at the New York border.

Their concerns have opened a new front in the gas drilling wars, in which environmentalists and neighbours opposed to seeing gas wells in their back yards have put a drag on the exponential growth of onshore U.S. natural gas production.

A group of landowners who stand to earn a windfall from leasing their property to companies such as Chesapeake Energy gathered in the town of Binghamton recently to push back against claims that drilling could pose health hazards.

“This is a very depressed area and this is something that will turn this whole community around,” said Dan Fitzsimmons, 54, a leader of the Joint Landowners Coalition, which includes 17,500 families.

“If people are educated with the facts and not with environmental scare rhetoric, I think this thing will move along very quickly,” he said.

Development of the massive Marcellus Shale that covers much of several Northeastern states holds the promise of providing the United States with an abundant, relatively clean domestic energy source, but environmental concerns that drilling could contaminate drinking water have created regulatory risk.

New York City, for example, has urged a ban on drilling in its upstate watershed, an unfiltered system that serves nine million people and accounts for six per cent of the Marcellus Shale area in New York state.

Critics point to a rural Pennsylvania town where residents recently sued Cabot Oil & Gas Corp., claiming the company’s natural gas drilling has contaminated their water wells with toxic chemicals and reduced their property values.

New York landowners see a flurry of drilling activity just over the border in Pennsylvania and wonder why it cannot happen in New York, where the state is trying to close an $8.2-billion US budget deficit.

Industry sources privately express their exasperation with New York, saying they have all but given up on the state.

One to two years of drilling in New York could generate $1.4 billion of economic activity, including $108 million in payments to landowners and the creation of hundreds of jobs, according to the Independent Oil & Gas Association of New York.

At issue is a process known as hydraulic fracturing, in which 13.25 million litres of water per well plus sand and diluted chemicals are pumped into shale formations at high pressures, cracking the rock and freeing the gas.

“New York state, because of its great environmental laws, has a tremendous opportunity to be a national leader in how this process evolves,” said James Simpson, a staff attorney at environmental group Riverkeeper.

“There’s no question that hydraulic fracturing is here to stay throughout the country and New York state is positioned uniquely to do it right,” he said.

In 2008, Gov. David Paterson ordered the Department of Environmental Conservation to study the impact of high-volume horizontal hydraulic fracturing, a process that enables drilling in multiple directions from a single drilling pad.

Chesapeake, the second-largest producer of U.S. natural gas, has leased the mineral rights for 405,000 hectares in New York state. The Oklahoma-based energy company says the process is already heavily regulated and there has never been a documented case of groundwater contamination because of hydraulic fracturing.

“There has been a lot of non-factual information shared with the public,” David Spigelmyer, Chesapeake Energy’s vice-president for government relations, told Reuters.

The company has fought new federal regulation including the proposed Frac Act, which would give the U.S. Environmental Protection Agency more oversight over natural gas drilling.

“We believe the states are much more ideally positioned to . . . regulate this industry,” Spigelmyer said.

Environmentalists — including many who promote natural gas as a cleaner alternative to oil and coal — say the industry has been unwilling to meet them halfway.

“As long as the natural gas industry continues to insist that these concerns, these environmental, economic, public health, landowner concerns, are not real . . . the more powerful this movement will grow,” said Albert Appleton, who headed the New York City Department of Environmental Protection in the 1990s.

Earlier this month, the Onondaga County legislature — which includes the city of Syracuse — voted to ban hydraulic fracturing on county-owned land until impacts are studied.

Attitudes are different in Binghamton, a city of fewer than 50,000 people, where advocates of drilling point to boarded-up storefronts on Main Street.

“We stand on the edge of something here, when done correctly, that can change our area,” said Bryant La Tourette, 47, a landowner who heads the Oxford Land Group. “I don’t see right now any other business that can come here and make this much of an economic impact.”

MINING

==========

GAO finds gaps in mountaintop-removal cleanup rules (*Greenwire*)

02/17/2010
Environmental damage from mountaintop-removal mining continues long after sites have been deemed sufficiently reclaimed, according to a government audit.

The U.S. Government Accountability Office found the mining practice degrades water quality and that mine operators often fail to comply with reclamation requirements. Reforestation efforts also need improvement, the report says.

GAO said federal and state regulators could improve efforts to limit damage and ensure mine operators are held financially responsible for cleaning up their pollution.

The report focused on a part of the mine permitting system in which companies post reclamation bonds to guarantee mine sites are cleaned up. While regulators are supposed to keep the bonds until sites are fully cleaned, GAO said damage often continues long after they release the bonds.

Mining regulators are not required to monitor sites after the bonds are released, and some argued against doing so. The West Virginia Department of Environmental Protection, for example, said GAO was implying the state should have "never-ending jurisdiction" over mined lands (Ken Ward Jr., *Charleston* [W.Va.] *Gazette*, Feb. 16). **-- TL**

RECYCLING

==========

Ameren announces CFL bulb recycling (*KFVS*)

ST. LOUIS (AP) - AmerenUE is making it easier for customers to safely recycle compact fluorescent light bulbs.

The St. Louis-based utility has announced a free program for disposing used CFL bulbs.

Ameren says its customers may bring used bulbs - even broken ones if they're in sealed plastic bags - to 1 of more than 50 authorized locations in its territory. Those include Ace Hardware stores and the City of St. Peters. More sites will be added.

The Environmental Protection Agency says that CFL bulbs use less energy and last far longer than incandescent bulbs. But they contain mercury, which makes disposing of them complicated.

SUPERFUND

==========

Updated 02/17/2010 11:05 PM

EPA addresses vapor intrusion concerns (*News 10 Now*)

By: Web Staff
CHEMUNG COUNTY, N.Y. -- The EPA addressed the concerns of those in the Elmira Heights area whose houses may need to be tested for vapor intrusion.

Officials informed dozens of people about their recent testing for TCE, an industrial solvent, in homes near the Facet Enterprises Superfund Site. They say the company improperly disposed of waste decades ago, causing the TCE to enter the soil and groundwater.

Already, 130 homes have been tested and 27 mitigation systems have been installed to correct the potentially hazardous problem. EPA officials will perform more testing the week of March 22nd and they say it's crucial for people to let them in their homes and businesses.

"It is important that they allow us, give us access because that's the only way we can sample their houses," said EPA Project Manager Isabel Rodrigues.

"There is a concern about its potential for carcinogen and to cause cancer. But most of the studies that they've looked at have been at far higher concentrations than what we're seeing here," said EPA Senior Health Risk Assessor Marian Olsen.

If your home does require a mitigation system, the installation is provided free of charge. The only cost would be for the electricity to run it.

TOXICS

==========

PCBs Found In Caulking At Three Technical High Schools (*Hartford Courant*)

By GRACE E. MERRITT|
The Hartford Courant
February 18, 2010
PCBs, a probable human carcinogen, have been found in caulking around windows and doors at three state technical high schools, prompting state education officials to send a letter to school superintendents statewide alerting them to the issue.

State education officials said tests found the chemical compounds known as PCBs, or polychlorinated biphenyls, at H.C. Wilcox Technical High School in Meriden, Eli Whitney Tech in Hamden and Windham Tech. An environmental firm is now conducting air-quality tests at the schools to determine the next step. No PCBs were found at a fourth school — H.H. Ellis Tech in the Danielson section of Killingly, said state Department of Education spokesman Tom Murphy. Another eight technical schools will be tested in the coming weeks.

PCBs, an oily liquid that was once mixed into caulk to make it flexible and spreadable, has been shown to cause cancer in animals and is a probable human carcinogen, according to the U.S. Environmental Protection Agency. The EPA also says that PCBs have been found to affect animals' immune, endocrine, reproductive and nervous systems. The manufacture of PCBs was banned in the U.S. in 1979 but the material is still often found in buildings constructed or renovated before the ban.

Public health officials cautioned that just because PCBs are present doesn't mean they're dangerous.

"Just because it is in the caulk doesn't mean it's a health threat to the staff or students," said Gary Ginsberg, a toxicologist with the state Department of Public Health.

Over time, PCBs can migrate from the caulk into air, dust, surrounding building materials, soil and, in some cases, could expose building occupants to potentially harmful effects, according to the EPA.

Public health officials have advised keeping the affected schools open while more testing is done and urged schools to clean and dust more frequently and keep interior air moving, Ginsberg said.

Health concerns about old caulk are a relatively new issue. The EPA recently issued advisories to check school buildings built from the 1950s to 1978, when PCBs could have been used in the caulk, Ginsberg said.

State Education Commissioner Mark K. McQuillan recently sent a letter to school superintendents telling them about the testing at the technical schools and suggesting that they find out more about caulk in older school buildings at http://www.epa.gov/pcbsincaulk/caulkschoolkit.htm.

The education department, which runs the state's 16 technical high schools and a technical education center, decided to test the 12 older schools, which have never been renovated.

Murphy, of the state Department of Education, said that parents and students shouldn't be alarmed about the discovery of PCBs at the schools.

"This is so new, the EPA doesn't even have anything but preliminary guidance on this. They haven't established standards as to what is dangerous or whether we should remove it, contain it or leave it alone. This is really early in the game and people shouldn't be nervous about this because we are taking steps," Murphy said.

But news of the PCBs rankled state Sen. Thomas Gaffey, D-Meriden, who has complained for years about poor conditions at most of the technical schools. Gaffey, co-chairman of the legislature's education committee, recently held a hearing to consider complaints that the technical schools are plagued by leaking roofs and run-down buses and are so strapped for cash that they have run out of paper and other basic supplies. Requests for bond money to renovate the aging buildings have been ignored for years, he said.

After hearing about the PCBs, Gaffey, together with Senate President Pro Tem Donald E. Williams Jr., D-Brooklyn, sent a letter to Gov. M. Jodi Rell urging her to release the bond funds for renovations and new construction at the schools.

Gaffey noted that the caulking problem would have been addressed long ago if the schools had been renovated.

"These are public schools. They are supposed to be treated like every other school," he said. "It's going to cost state taxpayers a lot more money in the long run."

Wis. lawmakers approve BPA limits; Ore. Senate rejects them (*Greenwire*)

02/17/2010

One bill proposing limits on the use of the chemical bisphenol A, or BPA, in baby bottles was overwhelmingly passed by the Wisconsin Assembly yesterday while a similar bill was rejected in a split 15-15 vote by the Oregon Senate.

BPA has become the target of legislation in several states since the U.S. Food and Drug Administration's announcement last month that it had concerns about the chemical's effects on fetuses, infants and young children. The agency had previously ruled the chemical safe for all use (*E&ENews PM*, Jan. 15).

The Wisconsin bill, passed by a 95-2 vote, would ban the sale of baby bottles and cups containing BPA and require all baby bottles and cups made without the chemical to bear a label saying so. The bill now heads to Gov. Jim Doyle (D), who is expected to sign it (Meg Kissinger, Milwaukee *Journal Sentinel*, Feb. 16).

A similar bill in Oregon was unanimously opposed by Republicans, who argued that the market had solved the problem because about 90 percent of baby bottles and cups offered in the state do not contain BPA. Three Democrats crossed the aisle to vote with the Republicans, defeating the bill.

Lawmakers opposing the bill also expressed concerns that a ban could lead to legislation banning the use of BPA in metal cans. Companies using the cans say there is no cost-effective alternative to plastic liners containing BPA (Scott Learn, Portland *Oregonian*, Feb. 16). **-- GN**

Researchers find C8 in wide range of foods (*Greenwire*)

02/17/2010
New research has found low levels of the toxic chemical C8 in a wide range of foods, from hamburgers and tilapia to peanut butter and olive oil.
Researchers detected the chemical in 17 of 31 types of food bought from five Dallas-area grocery stores, according to a paper published last week in the journal Environmental Health Perspectives. The food was tested by researchers at the University of Texas and several other institutions.

C8, or perfluorooctanoic acid (PFOA), has been used in coatings for nonstick surfaces and food packages, as well as stain-resistant fabrics. Evidence is mounting that the chemical could be dangerous to humans, even at very low levels of exposure.

The United States currently does not set limits or recommend guidelines for C8 levels in food. But the C8 levels detected by the researchers did not exceed those considered safe based on animal study data.

Nevertheless, the study authors said it is "worth considering possible increased effects that may result from ingesting mixtures of these chemicals" (Ken Ward Jr., *Charleston [W.Va] Gazette*, Feb. 16). **-- TL**

WATER

==========

Conflicts on PCBs' removal (*Albany Times Union*)

General Electric, federal EPA offer views on future of Hudson River dredging
By **BRIAN NEARING**, Staff writer
Click byline for more stories by writer.
First published: Thursday, February 18, 2010
SARATOGA SPRINGS -- General Electric Co. and the U.S. Environmental Protection Agency offered different lessons Wednesday on the first year of PCB Hudson River dredging -- starting with how much PCBs were removed.

The disagreement, presented to a panel of independent experts who will recommend possible changes to the massive cleanup, carried over into the topic of how work ought to be done for five more years when the nation's largest Superfund project resumes as expected in 2011.

EPA claims that 20,000 tons of toxic PCBs were dredged out last year near Fort Edward, while GE puts the figure significantly lower, at about 16,300 tons. It wasn't clear why the figures were so different.

Both GE and EPA agreed that more PCBs escaped into the river than had been expected, but disagreed why.

EPA Project Administrator Dave King said PCB levels were driven by periods of fast river currents, but presented no threat to the river or human health.

GE Project Manager John Haggard said dredging moved more PCBs downriver compared to doing nothing. If allowed to continue unchanged, the current process would leave a swath of stirred up PCBs that would negate any benefits from the expensive project.

GE plants in Fort Edward and neighboring Hudson Falls discharged PCBs into the river for decades before the lubricant and coolant was banned by EPA in 1977. PCBs, or polychlorinated biphenyls, are considered probable carcinogens.

On Wednesday, GE consulting engineer John Connolly said that PCB levels in the river near the dredging exceeded federal drinking water safety standard ten times. EPA said that there were only three such cases.

King said that difference remained "unresolved" by EPA.

Both sides also offered different versions of what caused the problems. EPA believes there are nearly twice as many PCBs that extend deeper in the river bottom than initially estimated. The agency wants future dredging to go deeper so fewer passes are needed, while GE picks up the pace of dredging.

Last year, some pockets of PCB oil was so concentrated that sheens appeared the surface of the river before gradually settled back into the depths. "These sheens were extensive, and a big surprise," King said.

But GE argued that neither sheens nor fast river currents were the problem, and that repeated, time-consuming dredging in pursuit of small amounts of PCBs was to blame.

The company's solution is to triple the limit of PCBs that could be left undredged at the river bottom, and either cover up areas with fill or a hardened "cap" to seal off any future leaks, said John Connolly, who called it the only "practical solution."

Members of the seven-member expert panel -- whose members were picked by EPA and GE -- mostly listened to the competing presentations, and asked technical questions from time to time.

Panelist Timothy Thompson, a scientist with a Seattle environmental remediation firm, said that EPA's description of the PCBs left in the river "were from Mars, and GE's figures were from Venus."

Members of the panel -- who are barred from talking privately with GE, EPA or any member of the public -- have until May 28 to submit a draft report on how the project should be changed.

GE is conducting dredging under a 2002 agreement with EPA. The company has never revealed its budget, but it has been reported by EPA to be at least $460 million.

A clause in the agreement allows GE to withdraw from the project if the company determines that the project design is not practical and effective. Should that happen, it would be up to the EPA to continue work at its own expense, or possibly seek legal redress against GE for reimbursement.

Brian Nearing can be reached at 454-5094 or bnearing@timesunion.com.

Cleanup project

What: Expert panel considers Hudson PCB cleanup changes.

Why: General Electric Co. and the U.S. Environmental Protection Agency look to reduce PCB exposure when dredging resumes in 2011.

What's next: The panel will review technical reports from EPA and GE, and hold a public meeting the week of May 3-7. The group will issue its draft recommendations by May 28 and a final report by June 25.

EPA Seeks Cleaner Waterways (*WESH 2 News*)

Public Hearing Draws Large Crowd
POSTED: 3:05 pm EST February 17, 2010
UPDATED: 3:15 pm EST February 17, 2010
ORLANDO, Fla. -- The Environmental Protection Agency is proposing new guidelines that will limit the amount of nitrogen and phosphorous runoff into canals, lakes, streams and rivers.
Concern is mounting with the amount of unhealthy algae growth in many of Florida's waters. It is not healthy for creatures which live in water and if it gets into the aquifer it can impact the health of our water supply.
People against the rules said the state is doing enough and the extra layer of rules will be a huge tax burden.

A standing-room only crowd is in Orlando for a public hearing Wednesday afternoon. Their input will be considered before the EPA finalizes its rules and guidelines by the mid-October deadline.

Report on Marines' water omitted cancer chemical (*Associated Press*)

By KEVIN MAURER (AP)

WILMINGTON, N.C. — An environmental contractor dramatically underreported the level of a cancer-causing chemical found in tap water at Camp Lejeune, then omitted it altogether as the Marine base prepared for a federal health review, an Associated Press review has found.

The Marine Corps had been warned nearly a decade earlier about the dangerously high levels of benzene, which was traced to massive leaks from fuel tanks at the base on the North Carolina coast, according to recently disclosed studies.

For years, Marines who served at Camp Lejeune have blamed their families' cancers and other ailments on tap water tainted by dry cleaning solvents, and many accuse the military of covering it up. The benzene was discovered as part of a broader, ongoing probe into that contamination.

When water was sampled in July 1984, scientists found benzene in a well near the base's Hadnot Point Fuel Farm at levels of 380 parts per billion, according to a water tests done by a contractor. A year later, in a report summarizing the 1984 sampling, the same contractor pointed out the benzene concentration "far exceeds" the safety limit set by federal regulators at 5 parts per billion.

The Marines were still studying the water contamination in 1991 when another contractor again warned the Navy of the health hazards posed by such levels of benzene.

By 1992, the federal Agency for Toxic Substances and Disease, an arm of the Department of Health and Human Services, showed up at the base to begin a health risk assessment. That's when a third contractor, the Michael Baker Corp., released a draft report on the feasibility of fixing the overall problem.

In it, the 1984 level on the well of 380 parts per billion had changed to 38 parts per billion. The company's final report on the well, issued in 1994, made no mention of the benzene.

Not only hasn't the benzene disappeared from the now-closed wells, it's gotten much worse over time. One sample from a series of tests conducted from June 2007 to August 2009 registered 3,490 parts per billion, according to a report from a fourth contractor.

Kyla Bennett, who spent 10 years as an enforcement officer for the Environmental Protection Agency before becoming an ecologist and environmental attorney, reviewed the different reports and said it was difficult to conclude innocent mistakes were made in the Baker Corp. documents.

"It is weird that it went from 380 to 38 and then it disappeared entirely," she said. "It does support the contention that they did do it deliberately."

News of Baker Corp.'s handling of the benzene levels has ex-Lejeune residents questioning anew the honesty of a military they accuse of endangering their lives.

"It is a shame that an institution founded on honor and integrity would resort to open deceit in order to protect their reputation at the cost of the health, safety and welfare of its service men, women and their families," said Mike Partain, a 42-year-old who lives in Tallahassee, Fla., but was born at Lejeune and diagnosed with breast cancer in 2007.

Capt. Brian Block, a Marine Corps spokesman, took exception to characterizing the conflicting information in the reports as anything but inadvertent.

"It was probably just a mistake on the part of the contractor, but I can't tell you for certain why that happened," he said.

David Higie, a spokesman for Baker Corp., declined to discuss the company's reports or why its employees might have revised the benzene levels. He referred questions to the military.

Block said Camp Lejeune held a news conference to alert residents of problems with the water system in 1985 and has spent millions of dollars in outreach and studies. "The Marine Corps has never tried to hide any of this information," he said.

The discrepancies in the reports were tucked inside thousands of documents the Marines released last year to the Agency for Toxic Substances as part of the Marines' long-running review of water supplied to Camp Lejeune's main family housing areas. That water was contaminated by fuel and cleaning solvents from the 1950s through the 1980s, and health officials believe as many as 1 million people may have been exposed to the toxins before the wells that supplied the tainted water were closed two decades ago.

The newly discovered records, first reported Sunday by McClatchy News Service, show that a water well contaminated by leaking fuel was left functioning for at least five months after a sampling discovered it was tainted with benzene in 1984.

Benzene, a carcinogen, is a natural part of crude oil and gasoline. Drinking water containing high levels of it can cause vomiting, dizziness, sleepiness, convulsions, and death and long-term exposure damages bone marrow, lowers red blood cells and can cause anemia and leukemia, according to the EPA.

Camp Lejeune environmental engineer Robert Alexander was quoted in 1985 as saying no one "had been directly exposed" to contaminants, including benzene. In December, Alexander told the AP he didn't recall anything about the well contaminated with the benzene or the ensuing studies that failed to account for its toxicity, but said that the methods at the time were still being perfected, and that he and the other base officials did the best they could.

The records indicate the military knew a lot of specifics.

For years the Marine Corps knew the fuel farm, built in 1941, was leaking 1,500 gallons a month and did nothing to stop it, according to a 1988 memo from a Camp Lejeune lawyer to the base's assistant facilities manager. "It's an indefensible waste of money and a continuing potential threat to human health and the environment," wrote Staff Judge Advocate A.P. Tokarz.

Minutes of a 1996 meeting with Moon Township, Pa.-based Baker Corp., the third contractor, indicate the fuel farm had lost 800,000 gallons of fuel, of which 500,000 gallons had been recovered. Benzene was "in the deeper portion of the aquifer" and the "fuel farm is definitely the source," the minutes quote a Michael Baker employee as saying.

The Coast Guard categorizes any coastal oil spill larger than 100,000 gallons as major.

Former Marines and Camp Lejeune residents continue to fight for a compensation program and to fund a mortality study that would determine if Marines and sailors who were exposed to these contaminants suffer from a higher death rate. The Senate passed legislation in September backed by Sens. Richard Burr, R-N.C., and Kay Hagan, D-N.C., preventing the military from dismissing claims related to water contamination pending completion of the several studies, including the mortality study.

"These people knowingly exposed us to these high levels of contaminants and now they don't want to know if their negligence caused harm to the people they say they care so much about?" said Jerry Ensminger, a retired master sergeant who lived at the base and lost his 9-year-old daughter to leukemia. "There is definitely something wrong with this picture."

Novel EPA Stormwater Permit May Be Model For Post-Construction Limits (*Inside EPA*)

Wednesday, February 17, 2010
EPA Region I is crafting a series of general permits for regulating stormwater runoff in parts of the Northeast that include first-time measures requiring public- and private-sector sources to limit runoff from parking lots and other impervious surfaces after construction is complete -- measures that could be a model for permits in other areas but which critics are challenging in some cases as beyond EPA's authority.

The region Feb. 4 published a notice in the *Federal Register* seeking comment on a draft general permit for small municipal separate storm sewer systems (MS4) in parts of Massachusetts that requires "the hydrology resulting from new development to mirror the pre-development hydrology of the site or to improve the hydrology of a redeveloped site and reduce the discharge of stormwater."

To limit post-construction runoff, the permit includes several measures to encourage low impact development and green infrastructure techniques. It also requires dischargers to monitor stormwater, which environmentalists have long said is needed to prove the effectiveness of the programs. The draft general permit also includes other measures intended to limit polluted runoff, including establishing stormwater management programs and phosphorus management plans that meet water quality standards.

While the permit covers MS4s -- municipal conveyances that carry stormwater -- it also regulates the runoff private-sector entities, such as big box stores, shopping malls and industrial facilities with large impervious surfaces equal to or greater than two acres, that are not usually regulated by such permits.

EPA expanded the scope of the permits after environmentalists succeeded in pressuring the agency to exercise its little-used water act authority -- known as residual designation authority (RDA) -- to designate the sources as contributing to water quality impairment and requiring them to seek coverage under the permit.

Required Regulatory Actions

Under the RDA provisions of the water act, EPA or state regulators are required to seek permits if stormwater runoff is contributing to water quality impairment, violates water quality standards, or is a significant contributor of pollutants. Regulators rarely, if ever, exercised the authority until environmentalists in 2008 succeeded in forcing Vermont officials to issue permits for stormwater runoff from these sites -- and then pressured other regulators in the region.

Region I's actions will "set the stage for how this plays out in the nation," says a source with the Conservation Law Foundation, the group that won stormwater controls in Vermont and has pushed for similar action elsewhere in New England.

Winning the RDA fight was the first step in activists' efforts to clamp down on polluted stormwater runoff. They have also long sought to require limits on post-construction runoff as a way to prevent continued impairments for many waterbodies after construction or development is complete. But industry says post-construction requirements are costly, do not necessarily ensure compliance with permit requirements and are beyond EPA's authority.

"Make no mistake, the MS4 General Permit will impose significant changes on municipalities and those changes will absolutely trickle down to the regulated entities," Seth Jaffee of the law firm Foley Hoag said in a recent blog posting.

While the Region I draft permit focuses on urban areas in the Charles River watershed, the agency says it has issued a similar permit for urban areas in New Hampshire and plans similar permits for other regional watersheds, including in the southeast coastal area of Massachusetts, the greater Merrimack River watershed, and in watersheds contributing to Long Island Sound and Narragansett Bay.

Model For Other Regions

The draft permits could be a model for other regions, such as the Chesapeake Bay, where EPA is weighing whether to tighten MS4 permit limits and conditions as a way to limit nutrient runoff. Environmentalists are also pushing EPA to use an upcoming MS4

permit in Washington, DC, as a model for stringent new regulations for stormwater for the six Bay states (*see related story*).

EPA has also crafted guidance requiring federal facilities to limit their post-construction runoff as required by provisions in the 2007 energy law, a document that provides agencies with significant flexibilities in meeting the runoff requirements.

And the agency is also weighing a new rule governing stormwater runoff from general development and redevelopment which the agency says could “help make [MS4 and other stormwater] permitting more consistent and robust nationally.” Among the options EPA is considering are specific requirements for stormwater discharges from new development and redevelopment; expanding the area defined as MS4s to include rapidly developing areas; and establishing a single set of consistent regulations for all MS4s (*see related story*).

But some state stormwater officials and industry critics say the agency lacks authority to require such limits and amounts to land use control, not the control of discharges of pollutants.

“EPA does not have the legal authority to regulate stormwater discharges from new development as set forth in [a proposal for its new rule] without a major revision of the [CWA],” Eric Livingston, program administrator of Florida’s stormwater agency, told the agency in comments late last year.

Critics say EPA’s authority to regulate stormwater is limited to industrial sites and municipal stormwater systems, and that “post-construction” discharges do not fall into either category.

Expanded Definitions

And an industry coalition added that EPA’s proposal to expand the definition of municipal stormwater systems requiring permits to include “rapidly developing areas” would violate a key finding in a 2005 ruling from the U.S. Court of Appeals for the 2nd Circuit, which held that EPA could not require permits for facilities that only have the potential to discharge.

One attorney following the issue says that EPA may be able to include post-construction requirements in an MS4 permit but not in the agency’s recently issued effluent limitations guideline for the construction and development sector -- which environmentalists had sought.

The effluent guideline was for construction and development activity, which the source says cannot include post-construction activity. “Where do you see your authority to regulate runoff after that?” the source asks. “The ability to issue an effluent guideline is different than the ability to address the issue in an MS4 permit.”

Nevertheless, the source says, “I’m not sure those aren’t two separate issues.”

Last year, Massachusetts Department of Environmental Protection (MassDEP) raised concerns over EPA Region I’s plans for the MS4 general permit, arguing that the proposed actions were premature given state efforts to develop a stormwater permit program under state law.

Nevertheless, the state still has not promulgated rules, and a spokesman now says they are working with the agency to make sure the stormwater programs blend together well. MassDEP is “reviewing the comments [on the stormwater rule] to determine how we can adjust…. [and] expect to be coming out with another proposal a little later this year,” a spokesman says. They are “working with EPA though, to make sure that our program will be complimentary to EPA’s MS4 stormwater program.”

EPA is taking public comment on the draft general permit until March 31 and will hold a public meeting March 18 in Boston. “Following consideration of public comments, a final permit should be available later in 2010,” an EPA statement says.

TVA says ash cleanup in Emory River 70% complete (*Greenwire*)

02/17/2010
More than 70 percent of the coal ash that seeped into the Emory River in eastern Tennessee from the massive Tennessee Valley Authority spill in December 2008 has been removed, a state environment official told lawmakers yesterday.

Officials say the river is the key area where ash needs to be cleared to protect the environment.

The remaining ash in the waterway should be dredged out by May, said Steve McCracken, TVA's general manager of the cleanup, who spoke at a joint meeting of state House and Senate environment committees yesterday. The ash removed from the river is being taken to a solid waste landfill in Alabama, he said.

Air and water monitoring in the area shows no threat to humans, U.S. EPA and TVA officials told the lawmakers.

TVA plans to remove the more than 2 million cubic yards of ash that lie just west of the river

New search for Asian carp begins in Chicago area (*Greenwire*)

02/17/2010

Starting today, Illinois biologists will spend the next two to three weeks searching for Asian carp in Chicago-area waterways as Great Lakes states prepare for a court battle over the invasive fish.
The lawsuit, filed in December by Michigan Attorney General Mike Cox (R), was based on an experimental technique allowing scientists to detect Asian carp DNA in the water. While a positive environmental DNA test result suggests Asian carp have recently been swimming near the testing site, it cannot provide confirmation.

Officials have discovered one dead Asian carp in a canal leading to Lake Michigan but have not yet found a living fish in the lake or beyond electrified barriers intended to keep them out.

The environmental DNA tests have detected traces of the fish's DNA in Lake Michigan, but even if some fish have breached the barriers to the lake, they might not have sufficient numbers to establish a population.

Commercial nets and electrofishing will be used during the search. The fishing will primarily take place in patches of warm water where fish typically congregate during the winter (AP/*Chicago Tribune*, Feb. 17). **-- GN**

EPA gets an earful on proposed water rules (*OCALA. Com*)

By Fred Hiers
Staff writer
Published: Wednesday, February 17, 2010 at 5:44 p.m.
TALLAHASSEE — Critics of the federal plan to impose water regulations on Florida are speaking loud and clear this week, telling visiting officials from the U.S. Environmental Protection Agency that the proposed rules will hurt businesses and utility customers.

EPA announced last year that it was imposing its own rules because the Florida Department of Environmental Protection had failed to establish numerical standards for nutrient pollutants in the state's lakes, canals, rivers, estuaries and springs.

The federal agency is holding three public meetings this week to gather reaction. During the first hearing, held here Tuesday, officials heard from farmers and cattlemen who said the proposed standards will likely put them out of business; and from Florida utility officials, who warned that customers' bills would probably double to cover the cost of upgrading wastewater treatment plants.

EPA's proposal is to limit nitrogen and phosphorous levels in Florida's water bodies. About a third of the bodies — including many in Marion and Alachua counties — would not pass the federal standards today.

Too much nitrogen and phosphorous causes harmful algae blooms and overgrowth of other vegetation and as a result changes water chemistry and biology. High nitrogen in drinking water can also cause blue baby syndrome, affecting infants' nervous systems.

Water industry lobbyists, lawyers and agricultural representatives told the Washington officials that the EPA proposals were flawed, based on bad science, and would wreak financial havoc on a state that already faces its worst recession of the past 70 years.

"I can't get where the EPA wants me to be from here," said Paul Lackemacher, a Bay County utility assistant director.

"Where's the money supposed to come from…to do what they want? Are they going to come back from Washington with suitcases of money?" Lackemacher asked during a break in the meeting.

Bay County's case is representative. The new EPA standard would require the Panhandle community to reduce its plant's nitrogen effluent from 3.5 milligrams of nitrogen per liter of the water it releases into its bay to 0.824 mg/l.

The additional equipment Lackemacher would need would cost as much as $90 million, he said.

Utility officials estimated that, statewide, it would cost about $50 billion to upgrade Florida's 2,100 utility wastewater facilities to meet EPA standards.

EPA said it would cost no more than about $160 million annually.

MORE COMPLAINTS

For many of the several hundred people who came to the meeting, one of the worst parts of EPA's proposal was the unknown.

That's because Florida and EPA scientists have yet to determine where exactly most of the nitrogen and phosphorus contaminating specific Florida's waters comes from, although most believe that in general fertilizers create the bulk of the problem, followed by animal and human wastes and water runoff.

Cattleman Clifford White, vice president of the Washington County Cattlemen's Association, said he and many of his fellow farmers already follow Florida's Best Management Practices on their farms to control manure and fertilizer.

And that, he said, should be enough.

"I don't know what the impact of EPA's proposals is going to be on me," he said. "Are they going to say you have to do more to get your manure under control ... or are they going to say you can only have 50 cows?" Florida's cattle business is already in enough

economic trouble, he said. “If the cattle industry doesn’t improve as it is in the next two or three years, I’m already going to be out of business.

“And if I can’t meet these standards it’ll send me to the poor house,” he said. “If that happens I’ll quit farming here and move to Alabama or Georgia.”

NO SURPRISE

Though distressing to many, EPA’s proposals hardly took anyone by surprise.

The standards are rooted in a 1998 EPA decision when the federal agency urged states to create numeric standards for nitrogen and phosphorus.

As a result, 18 states now have some kind of standards, said Ephraim King, EPA Office of Science and Technology director, who attended the meeting.

FDEP doesn’t have nutrient limits for its waters. Instead, it determines the health of its waters by examining the health of biological systems associated with its water bodies.

What got EPA to start wielding it regulatory hammer over Florida’s head was a lawsuit filed by the Florida Wildlife federation against the federal agency in 2008. The lawsuit sought to require the EPA to establish measurable, quantitative standards for Florida waters.

The environmental group argued that the EPA wasn’t enforcing the U.S. Clean Water Act when it allowed Florida to go without numeric standards for nutrient pollutants.

In a settlement between the EPA and the environmental group, EPA agreed to create standards for Florida’s waters. EPA is scheduled to make a final decision on its proposed standards in October after hearing testimony from Florida interested parties, such as those Tuesday. The other hearings were held in Orlando and Palm Beach County, and written comments also will be accepted.

King said although FDEP’s current mechanism to determine water quality is a good, it doesn’t allow the state to determine and enforce limits quickly.

During a break in the meeting, King said that many of the concerns expressed by people at the meeting were premature and that he felt confident the EPA and FDEP would reach a compromise.

A YEARS-LONG PROCESS

David Guest, one of the lawyers who brought the suit against EPA, said FDEP had allowed the polluters of Florida’s waters to politically sideline any plans of fixing the problem.

In reality, if EPA imposes its nutrient standards, they won't be in effect for many years.

King said that first the FDEP would have to determine the condition of its water bodies. That work alone would be daunting, since Florida has nearly 8,000 lakes, 50,000 miles of rivers and streams, 700 freshwater springs and 4,000 square miles of estuaries.

King said the next step would be to determine who was polluting specific water bodies and by how much. Then the agency would have to develop plans as to how to clean contaminated waters.

EPA would review those clean-up plans and likely allow FDEP to implement interim standards before reaching EPA's goals, King said. The interim standards could remain in place for decades.

Drew Bartlett, FDEP's deputy director for environmental assessment and restoration, said EPA's approach didn't take into account that Florida's water bodies were unique and a handful of standards were appropriate.

He said EPA used only the best Florida water bodies as a starting point in determining its proposed standards. FDEP, on the other hand, uses healthy and minimally impacted waters as a comparative base. Although the difference between the two strategies appears negligible, the result was that 35 percent of FDEP's "pristine" surface waters were determined to be impaired by EPA's standards.

Bartlett also said EPA failed to show a specific connection between nutrient pollutant levels and adverse responses by fish and other biological systems.

But for the most part, conceded Bartlett, despite the differences in approaches, standards FDEP were working on before EPA stepped in, were similar to those EPA is now proposing.

Neil Armingeon, founder of the environmental group St. Johns Riverkeeper, said FDEP's complaint that EPA just beat them to proposing standards is laughable.

"They had a 12-year head start and they're saying 'they beat us?'" Armingeon said. "These guys are the masters of delays."

Fred Hiers can be reached at fred.hiers@starbanner.com and 352-867-4157.

Area bodies of water wouldn't meet limits (*OCALA.com*)

By Fred Hiers
Staff writer

Published: Thursday, February 18, 2010 at 6:30 a.m.
Last Modified: Thursday, February 18, 2010 at 12:08 a.m.
Pollutant levels in the Silver and Rainbow springs are three times what would be allowed under proposed federal limits. Lake Weir also has routinely failed to meet the proposed total nitrogen standard, with levels sometimes reaching double what would be permissible.

Marion County's rivers don't fare much better. The Ocklawaha, Withlacoochee and Rainbow consistently surpass the Environmental Protection Agency's proposed river standards.

The story is similar throughout Florida. Under the EPA's proposed regulations (see related story, 1A), at least a third of Florida's waters would fail to meet standards.

If the EPA goes through with plans to impose tough water standards on the state, the implications will be harsh. Likely taking the first hard hit would be municipal utilities. Most, if not all, currently fail to meet the EPA's proposed standards for allowable amounts of nitrogen and phosphorous released in effluent.

These nutrient pollutants cause massive algae blooms, change water chemistry, and hurt fish and vegetation.

It's still uncertain which of EPA's proposed standards Ocala's three wastewater treatment plants would have to meet. But even under the best scenario, none of the plants meets EPA's proposed guidelines, said the city's water and sewer director, Jeff Halcomb.

Each of the three facilities has about 10 milligrams of nitrogen per liter in its effluent. The most lenient EPA standard for which Ocala might qualify is 1.205 mg/L.

Halcomb said the cost to improve the city's treatment plants in hopes of meeting EPA standards could be between $90 million and $150 million. The water and wastewater department's annual revenue is about $16 million.

"If you have to come up with $90 or a $150 million, how are you going to do it?" he asked. "What EPA is not understanding is that even if the cities of Florida could afford to modify ... their treatment plants, can [EPA] prove it would reduce [nutrient levels] in waters?"

In most cases, scientists haven't been able to pinpoint sources of pollutants when polluted bodies of water were studied. But most believe that fertilizers, animal stock, septic tanks and water runoff are the main sources.

Even if the costly improvements were made to Ocala's facilities, Halcomb doubts he would be consistently able to meet EPA goals.

Local governments will also have their hands full in trying to curb pollutants entering their rivers and lakes. And although Marion County recently passed modest rules limiting fertilization and septic tanks near its springs, it would likely have to do far more if EPA goes through with its standards threat.

How did Florida's waters, including those in Marion, get so bad?

"You have 18 million people in Florida," said Gainesville-based environmental consultant Bob Knight, who designs wastewater systems. The problem is that Florida's strategy in dealing with treated wastewater was to send it back onto the ground.

"And they totally overlooked the relationship between ground and surface waters," Knight said.

As a result, Knight estimates that a third of Florida's groundwater is above EPA's limit for nitrates.

Knight said it would be possible to start turning the pollution tide, but it would take a lot of money.

Septic tank owners would have to hook up to municipal sewer systems much sooner than now is planned, he said. If that wasn't possible, only advanced septic systems, far better than traditional tanks, should be allowed.

Those two measures alone could reduce nitrogen infiltration from those sources by as much as 75 percent.

He also recommends a stop to lawn fertilizing and a significant change in how farms use fertilizers and the kinds of fertilizers they use.

But even if EPA makes good on its new standards, Knight estimates it could take decades before Florida makes a dent in significantly improving its waters.

"We've created a monster in our groundwater, he said. "It's tragic. I don't think people want to face up to what the problem is."

New grease pit too costly; Mama Lacona's to close after 53 years (*DesMoines Register*)

By Tom Barton
February 18, 2010

Tougher grease rules will cause a family-owned Italian restaurant in Urbandale to close this month after 53 years of business.

Jim Lacona, owner of Mama Lacona's, 2743 86th St., on Wednesday said the business will likely close at the end of business Feb. 28, in part because of a $60,000 to $80,000 renovation required to meet increasingly stringent federal environmental rules.

Government regulators told the restaurant it must install up to three 3,000-gallon underground tanks to collect fats and oils discarded during food preparation and cleanup. Lacona said the restaurant does not have the money for the renovation and will be forced to close.

The recession, he said, has created a poor business environment for restaurants, and banks have tightened their lending, making it nearly impossible for the restaurant to raise the money needed. Lacona, who rents the property, said he could not secure a loan to make the renovations.

He also said his landlord, Brad Johnson Investments of Urbandale, could not afford to get a loan on the property. "I've exhausted all of my possibilities," he said.
Lacona had until Feb. 28 to make renovations. Without the grease traps, the Des Moines Metropolitan Wastewater Reclamation Authority has said it will sever the sewer line to the restaurant, forcing him to close.

The situation reflects the tension between environmental requirements that protect the public and businesses' need to control costs to keep their doors open.

Last June, a sewer overflow caused by a grease blockage occurred directly downstream from Mama Lacona's, which triggered a fine and the requirement that a new grease collection system be installed, public records from the wastewater authority show.
Larry Hare, regulatory compliance team leader with the authority, said the restaurant signed a compliance plan in January 2009 to voluntarily install the grease interceptors after it had several smaller violations dating to June 2007. Hare said the authority also gave the restaurant two extensions to find financial assistance.

"Unfortunately, they couldn't find the financial assistance to make the renovations," Hare said. "For the most part, restaurants in the area have been very compliant."
The authority serves more than 2,000 restaurants. About 25 percent have large underground interceptors. Another 60 percent have small, interior grease traps.

"You will likely see more of these," Hare said.

The tightening rules stem from a nearly 30-year-old federal law, enforced by the U.S. Environmental Protection Agency, that prohibits sewer overflows into waterways. The federal government's intensifying emphasis on the law in recent years has pushed cities and states to adopt stricter grease regulations, Hare said.

The Wastewater Reclamation Authority, the sewage-treatment agency serving the Des Moines area, set its rules in July 2006.

Lacona's late father and mother, Charles and Mary Lacona, opened the business in Beaverdale in 1957. Over the decades, the couple established the restaurant as a cozy spot to share a meal. The restaurant moved to its current location in a strip mall just east of 86th Street in Urbandale about 10 years ago.

"I wish my dad was here so I could ask him, 'What the heck?' " Lacona said. "I have 30 people, where their livelihood is working here. It's a sad day for Des Moines."

Posted on Thu, Feb. 18, 2010

Alaska's Red Dog Mine is uncertain of new permit over water pollution (*McClatchy Washington Bureau*)

Elizabeth Bluemink | The Anchorage Daily News
last updated: February 18, 2010 06:43:29 AM
Environmental groups and Northwest Arctic village residents are contesting a key federal permit needed for the state's largest mine to continue operating.

The Red Dog Mine operator said it might have to suspend production later this year if the permitting dispute — involving water pollution discharges at the mine — isn't resolved this spring.

Stopping production at the zinc, lead and silver mine near Kotzebue would have implications for Native firms, local governments and employees relying on Red Dog dollars. The mine is running out of ore in its main pit and needs federal permission to begin excavating a second pit that could keep the mine going for another 20 years.

Red Dog has struggled with its water discharges ever since starting up two decades ago. The mine has routinely violated some criteria within its federal water pollution discharge permit, resulting in fines and lawsuits. The new permit would legalize the discharges that have been problematic.

Federal and state regulators say it's OK to relax the older permit because the mine's pollution discharges are not harmful and fish populations downstream of Red Dog have actually increased because the discharges contain a smaller percentage of harmful pollutants than the natural flow of water before the mine was built. The new permit would not increase the amount of pollution from the mine, they say.

But the groups appealing the U.S. Environmental Protection Agency permit contend that recent research shows the mine's discharges could harm spawning grayling. And, they say, it's illegal for the EPA to relax the mine's previous permit.

Officials looking to improve dredging process (*Troy Record*)

Thursday, February 18, 2010
Paul Post
Speical to The Record
SARATOGA SPRINGS — The U.S. Environmental Protection Agency should step back and evaluate procedures before moving ahead with Hudson River PCB dredging, a county official says.

General Electric Co. says current practices are undermining project's goal by releasing higher-than expected PCB levels into the water, some of it heading downstream in unacceptable amounts.

But EPA, which ordered the cleanup, disputes those findings. Both sides presented their cases before an independent panel of reviewers at the Gideon Putnam Hotel on Wednesday, where more testimony will be heard today followed by a public comment session.

"The model they (EPA) used was based on assumptions that were wrong," said George Hodgson Jr., Saratoga County Environmental Management Council director. "Let's re-examine, remodel it."

GE released PCBs into the water from its Hudson Falls and Fort Edward plants from 1944 to 1977. Following years of debate, dredging was ordered in 2002 and began last year. Nearly 300,000 cubic yards of contaminated sediment was removed from the river from May 15 to Oct. 27. Concentrations at some places, such as Rogers Island in Fort Edward, were higher than expected.

Both GE and EPA issued reports in late January assessing last year's Phase I efforts. After today's testimony, independent reviewers will examine both sides' findings and hold a second hearing in May. In June, the panel is expected to make recommendations for the next phase of dredging, from 2011 to 2016. However, the group's suggestions aren't binding.

There will be no dredging this year as plans are drawn up for Phase II. Spokesman Mark Behan said GE has already spent $629 million on all aspects of the project, the largest environmental cleanup of its kind in U.S. history.

"We're going to send more PCBs to the lower Hudson than we think is reasonable," said Dr. John Connolly of Anchor QEA, a GE consultant. "We don't think we can handle this with suspension controls."

PCB suspension is largely dependent on the speed dredging is done and river flow. Slowing the pace of work would extend the project's time line and cost, which GE opposes, and preventive steps such as screens are ineffective, he said.

Instead, Behan said dredging should be limited to PCBs most accessible to fish and wildlife. Those buried deep in sediment should be left alone, he said.

"As more PCBs are dredged to meet the productivity standard (5-year goal), the higher the resuspension will be," Behan said. "The first phase increased the level of PCBs in air, water, fish and sediment. That eliminates the benefit of the project."

He said this year's dredging resulted in PCB levels exceeding both federal air and water quality standards. Hard caps should be established that prohibit this, and unacceptable levels of PCBs from heading downstream, he said.

The only way to achieve this is reducing the amount of PCBs dredged, Behan said.

But EPA Project Coordinator David King said, "We don't agree with their (GE) numbers. We have areas where we disagree. That's not unusual given the complexity of the project."

However, changes in operations, such as the way buckets remove sediment could be improved to reduce the amount of PCBs released into the river, he said.

Article published Feb 18, 2010

Mousam Lake lauded in national EPA report (*Foster's Daily Democrat*)

ACTON/SHAPLEIGH — The Environmental Protection Agency (EPA) has highlighted the restoration of Mousam Lake in Shapleigh in its National Lakes Assessment report.

Twelve years ago, this York County lake was placed on the list of impaired waters of the state of Maine. Today, the 863-acre water body in the towns of Acton and Shapleigh has made a comeback due to the local advocacy and grassroots efforts by residents, including Pat Baldwin. Baldwin was the sparkplug who advocated for increased town involvement and citizen stewardship.

The National Lakes Assessment set a baseline of lake conditions and found that 30 percent of lakes have poor shoreline habitat conditions and 20 percent have high levels of phosphorus and nitrogen due to development. A highlight in the report, "Think Globally — Act Locally Restoring Mousam Lake," is EPA's example of how a community can take action to restore its lake. EPA's website — http://www.epa.gov/nps/success/ — documents water bodies that have been removed from the impaired list.

With its sandy shores and cold and warm water trout fisheries, Mousam Lake is popular for boaters and vacationers. A Waterboro angler recently pulled a record-setting nine-pound brook trout from its waters.

The lake suffered from the switch of forested land to driveways and parking lots. Its shoreline is heavily developed with more than 700 seasonal and year-round homes and a heavily used boat ramp. For several decades, Mousam Lake has endured increased soil erosion and pollution from storm-water runoff from home construction, lawns, roads, and failing septic systems. Higher levels of phosphorus led to increased algal growth, decreased water clarity and lower levels of dissolved oxygen.

"Every lake should have an advocate or 'voice' that speaks for it, especially when its water quality is threatened," according to Maine Department of Environmental Protection's (DEP) Wendy Garland. "In this case, Pat was Mousam Lake's voice. With over 50,000 lakes in the U.S., it is critical that local communities take action to protect and restore their lakes."

Since 1997, the DEP has awarded $280,000 in grants to Mousam Lake and the local match is now well over $500,000. The towns and Mousam Lake Region Association have funded a summer Youth Conservation Corps for the past decade. Local YCC crew members are hired each summer to fix erosion problems and plant trees and shrubs around the watershed. Their work has added up to more than 150 projects around the lake and hundreds of technical assistance visits to landowners.

While the title of "voice of the lake" seems a little lofty to Baldwin, both she and Garland agree that local grassroots efforts are a testament to being able to turn a lake around when it comes to water quality.

Go to http://www.epa.gov/ne/ra/ema/2008recipients.html#lifetime to view Pat Baldwin's 2008 Lifetime Achievement Award from EPA.

EPA Seeks Input on Black Mesa Mine Wastewater Permit (*EP Magazine*)

Feb 18, 2010
The U.S. Environmental Protection Agency will hold public hearings on Feb. 23 and 24 to allow additional public participation and comment on the proposed wastewater permit renewal for the Peabody Western Coal Company Black Mesa / Kayenta Complex. Both hearings will be held from 6-9 p.m. On Feb. 23 the hearings will be held in Kayenta, Ariz., at the Kayenta Chapter House on Highway 163 and on Feb. 24 in Kykotsmovi at the Veterans Memorial Center.

EPA initially took comment on the proposed permit in February 2009 but decided to withdraw the permit renewal in order to ensure that community members had adequate

opportunities to comment on the permit decision. In the interim, the mine continues to operate under a previously issued National Pollutant Discharge Elimination System permit. Comments on the proposed permit renewal will be accepted through March 31.

The renewed permit will establish runoff limits and standards based on national guidelines and will ensure that water quality standards for both the Navajo Nation and the Hopi Tribe are met. In addition, the renewed permit will incorporate new regulatory requirements for reclaimed mine areas and will require the implementation of plans to control sediment and seepage from stormwater ponds.

The Clean Water Act requires that all industrial dischargers of wastewater obtain a permit. The Black Mesa Mine has been operating under a wastewater discharge permit for over 20 years for the release of treated stormwater related to mining activities.

****

E-Clips contain copyrighted materials and are made available to designated recipients. Neither the E-Clips nor any individual article within may be further distributed.

****