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ADMINISTRATOR JACKSON
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Turning green: UCLA's James Liao wins EPA award for transforming CO2 into fuel (*UCLA Newsroom*)

By Nicole Durand **June 22, 2010**
James C. Liao accepts the 2010 Green Chemistry Challenge Award
We all want to leave smaller carbon footprints, the more we learn how harmful carbon dioxide, primarily in the form of exhaust from burning fossil fuels, can be to air quality. But imagine being able to personally claim credit for removing millions of tons of CO2 from the atmosphere.

That's exactly what James C. Liao, the Chancellor's Professor of Chemical and Biomolecular Engineering at the UCLA Henry Samueli School of Engineering and Applied Science, may soon be able to boast.

His technological breakthrough — turning CO2 into alternative fuel — was acknowledged June 21 in Washington, D.C., when he was presented with the 2010 Presidential Green Chemistry Challenge Award from the U.S. Environmental Protection Agency. The awards, launched 15 years ago, promote research on and development of technologies that reduce or eliminate hazardous waste in industrial production.

"It's a great honor to receive this award," Liao said after the ceremony, at which he and four other honorees were lauded by EPA chief Lisa Jackson, and by President Obama in a written congratulatory statement.

While minimizing hazardous waste and other harmful byproducts, alternative technologies like t Liao's also "often cost less, proving once again that what is good for the environment is also good for our economy," Jackson told the crowd of several hundred packed into the Ronald Reagan Building in downtown Washington.

The award winners "show green chemistry pays for our businesses, they show it pays for our health, they show it pays for our economy and they show it pays for our environment," she said.
Efforts to create alternative fuels from CO2 and other byproducts have long been hampered by an inability to produce fuels with high energy.

"Ethanol made by fermentation can be used as a fuel additive, but its use is limited by its low energy content," said Richard Engler of the EPA's Office of Pollution Prevention and Toxics. "Higher alcohols — those with more than two carbons in the molecule — have higher energy content, but naturally occurring microorganisms do not produce them.

"Dr. Liao and his colleagues have genetically engineered microorganisms to make higher alcohols from glucose or directly from carbon dioxide. His work makes renewable

higher alcohols available for use as chemical building blocks or as fuel," he said. (Listen to Engler's podcast about Liao's award.)

In particular, Liao has developed methods for the production of more efficient biofuels by genetically modifying E. coli bacteria and by modifying cyanobacterium to consume CO2 to produce the liquid fuel isobutanol — a reaction powered directly by energy from sunlight, through photosynthesis.

Put more simply, Liao said, he and his team have discovered how to "turn exhaust into fuel."
"The first practical application will probably be to hook up to power plants and recycle some of the CO2 and make it into fuel," Liao said. The technology has multiple uses but "the first goal is to use it as a gasoline replacement."

UCLA has licensed the technology to a private company to handle the actual production of such fuel, which is created through photosynthesis. Easel Biotechnologies, of which Liao is a co-founder, "has licensed several technologies developed at UCLA to produce green chemicals and fuels in a sustainable and cost-competitive manner," according to the company's website.

Liao added that it will likely be five to 10 years before the fruits of his labor can be found in the marketplace.

Several UCLA administrators were on hand to celebrate with Liao.

"This is a tremendous accomplishment," said Vice Chancellor for Research Roberto Peccei. "It shows we're contributing at a level that really makes a difference."

Vijay Dhir, dean of UCLA Engineering, said the award and the EPA's publicity shine a spotlight on the practical applications of UCLA's academic research.

"It gives recognition to the school as well as Dr. Liao and tells the technology community about the exciting research that is happening that is vital to our needs," he said.

Wendy Cleland-Hamnett, director of the EPA's Office of Pollution Prevention and Toxics, said the awards also serve another purpose — building interest in the field.

"We want to make more people aware and get people thinking about working on projects," she said.

The EPA receives scores of entrants for the Green Chemistry Challenge Award, meaning that recipients really are "the crème de la crème of the green chemistry world," she added.

The other 2010 winners of the award are LS9 Inc.; Down Chemical Co. and BASF; Merck & Co. Inc. and Codexis Inc.; and Clarke.

Liao began his career as a research scientist at the Eastman Kodak Co. and came to UCLA in 1997. A fellow of American Institute for Medical and Biological Engineering, he has received numerous honors, including a Young Investigator Award from the National Science Foundation; the Merck Award for Metabolic Engineering; the Food, Pharmaceutical and Bioengineering Division Award from the American Institute of Chemical Engineers; the Charles Thom Award from the Society for Industrial Microbiology; the Marvin Johnson Award from the American Chemical Society; and the James E. Bailey Award from the Society for Biological Engineering.

AIR

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EPA rule worries Oregon timber industry (*Daily Journal of Commerce*)

POSTED: Wednesday, June 23, 2010 at 01:02 PM PT
BY: Nathalie Weinstein
The Environmental Protection Agency has switched its stance on emissions from biomass facilities, a move that some say could end up hurting Oregon's forest products industry.

In the past, the EPA has excluded emissions from biomass facilities from regulation under the Clean Air Act. Now, under the EPA's recently finalized Prevention of Significant Discharge Tailoring Rule, emissions from biomass facilities could be regulated in the same manner as emissions from fossil fuels.

That doesn't sit well with R. Wade Mosby, senior vice president of The Collins Cos., a Portland-based wood products company. Most facilities that process forest products burn waste wood and convert that to electricity to offset energy costs, Mosby said. If those facilities are subject to new permits or required to purchase expensive emissions control equipment in the future, Mosby said job losses could result.

"We would have to spend a huge amount of money to meet the standards the EPA has set," Mosby said. "Paying for emissions control equipment can cost anywhere from 2 to 5 million dollars depending on the size of the biomass facility. If someone says, 'I can't afford to spend that,' and shuts down a facility, it will put people out of work."

Under the Prevention of Significant Discharge Tailoring Rule, which goes into effect in January 2011, facilities already subject to permitting under the Clean Air Act will be required to get permits that also address their greenhouse gas emissions. In July 2011, all facilities that produce more than 100,000 tons of carbon dioxide per year will have to obtain permits for their greenhouse gas emissions. If a company constructs a new

facility, or alters an existing facility after July 2011, it is expected to use the best technology available to minimize its emissions, which could require the purchase of expensive equipment, Mosby said.

According to Ann Forest Burns, vice president of the American Forest Resource Council, the wood products industry is already in a dangerous economic situation.

“The economic balance is precarious for mills right now,” Burns said. “Once these mills tip over, they aren’t coming back. In Eastern Oregon, these mills are the only industry in town. I think the effect of this rule will be fewer American-made building materials are available.”

The EPA hasn’t finalized its decision on biomass yet. According to the agency, it will seek further comment on how to address biomass emissions under the Prevention of Significant Discharge through a request for public comment.

A letter sent recently to EPA administrator Lisa Jackson requesting written explanation of the decision to reconsider the treatment of emissions from biomass, a review of that decision in consultation with the U.S. Department of Agriculture, and a delay in applying the new rule to biomass facilities pending the review was signed by 63 members of Congress, including Reps. Peter DeFazio, Greg Walden, Kurt Schrader and David Wu.

“The EPA rule as its stands would make development of new biomass facilities less desirable,” DeFazio said. “The biomass industry is very nascent at this point. This would kill it in its infancy.”

Uri Papish, the Oregon Department of Environmental Quality’s air quality program operations manager, said that the debate over biomass emissions is complex. One camp believes that biomass emissions are carbon neutral because wood found in the forest is part of a natural carbon cycle. The other says that carbon emissions are carbon emissions.

“The greenhouse gases are the same whether you burn wood or fossil fuels,” Papish said. “But if you have a sustainable forest management program with equal regrowth for any trees that are removed and burned for energy, the trees capture carbon dioxide as they regrow. You’re releasing carbon dioxide either way; it’s just how you account for the carbon’s life cycle that is different.”

Papish said there are several biomass facilities in Oregon that emit more than 100,000 tons of carbon per year. The Collins Cos. is working with alternative energy developer Iberdrola Renewables to construct a cogeneration biomass facility in Lakeview. Mosby said his company would be willing to pay for additional emissions control technology to keep facilities open, but he wasn’t certain that others would.

Environmental groups call on state to look at industrial sources for high ozone levels (*Fort Worth Star-Telegram*)

FORT WORTH -- Standing in front of a Chesapeake Energy drilling rig along the Trinity River on Wednesday morning, local environmentalists said the state needs to look at industrial polluters if Dallas-Fort Worth is ever going to meet federal ozone standards.

The event was held to draw attention to the Texas Commission on Environmental Quality stakeholder meeting at 7 tonight in Arlington City Hall, where the public can make recommendations about how to bring D-FW into compliance with the Clean Air Act.

Jim Schermbeck, head of the environmental group, Downwinders at Risk, said he believes that the area would have reached the 1997 federal ozone standard of 85 parts per billion if not for all of the Barnett Shale drilling.

"Nobody was taking this into account when they came up with the last plan," he said.

Before state officials consider more draconian restrictions on vehicle admissions to lower the ozone, Schermbeck said, they need to look at industrial polluters such as Barnett Shale drillers, the cement kilns in Midlothian and East Texas coal plants as culprits for the high ozone in Tarrant County.

"We've gone about as far we can on reducing emissions on cars," he said. "We need to be looking at the other sources if we want to come up into compliance."

Not rocket science

That sentiment was echoed by Cherelle Blazer of the Environmental Defense Fund, who said targeting industrial polluters "offers the biggest bang for the buck."

State Rep. Lon Burnam, D-Fort Worth, released a statement saying it "isn't rocket science. We know where we need to go, and we know how to get there. It's time to get it done."

The D-FW nonattainment area includes Tarrant, Dallas, Denton, Collin, Parker, Johnson, Ellis, Kaufman and Rockwall counties. The area's eight-hour ozone average for 2007, 2008 and 2009 was 86 parts per billion.

The Texas Commission on Environmental Quality's monitors near Keller and Eagle Mountain Lake consistently have the highest ozone readings in the area.

The EPA is reclassifying the D-FW nonattainment area from moderate to serious, which will happen by Dec. 15. The state must devise a new plan by the end of 2011, and the 85 parts per million level must be reached by June 15, 2013.

Local recommendations for meeting the plan must be sent to the state this fall, making it difficult to seek legislative solutions. The environmental groups said they are frustrated by the timing of the meeting so late in the process since the commission knew nearly a year ago that it wasn't going to meet the June 15 deadline.

New tougher standard

While regional officials must find a way to meet the existing standard, they must also plan for an even tougher one.

By the end of August, the EPA is expected to announce a new standard, which will be between 60 and 70 parts per billion.

But the deadlines for the 1997 rules will still apply, EPA officials have said.

Ultimately, if the state does not meet the deadlines for the 1997 rules, it could affect federal highway funding; but EPA officials downplayed that possibility last week.

"Yes, federal highway funding could be at risk," EPA spokesman David Bary said. "However, for that to occur it would be necessary for the state to do nothing to address air quality. Texas has worked closely with EPA as well as local officials over the years to address air quality concerns."

Staff writer Mike Lee contributed to this report.

Enviro Groups Circulate Memo to Attack Former GOP Climate Ally (*New York Times*)

After nearly a year of treating Sen. Lindsey Graham as perhaps their closest ally on the Republican side of the aisle, environmental groups are ready to turn their fire on the South Carolina lawmaker.

A three-page memo (pdf) acquired by E&E Daily that has been circulating around the environmental community indicates that advocacy groups are poised to launch an aggressive campaign against their one-time ally that will paint him as a "flip-flopper" on climate and energy policy.

"We've watched as Senator Lindsey Graham (R-S.C.) has gone from being a supporter of comprehensive climate and energy plan to vocal critic," states the memo. "Now Graham is working overtime with his Republican colleagues to kill any meaningful legislation.

"We are tired of Graham saying one thing and doing another," the memo adds. "It is imperative we hold his feet to the fire and showcase his many flip-flops to the media, Beltway pundits, congressional staffers, and our key allies working to pass a bill."

The memo outlines nine bullet-pointed "core messages" and several examples of Graham's contradictory statements on carbon pricing, offshore drilling, an "energy only" bill and immigration, among other issues.

"We encourage you to actively use and promote these points to go on the offensive and damage his credibility," the memo states.

"Senator Graham's two-faced commentary speaks volumes on the blatant hypocrisy of his new 'epiphany' on clean energy legislation and his lack of conviction on this vital issue," states one of the bullet points.

Another says, "In the wake of the worst environmental disaster in our nation's history and in light of Senator Graham's appalling apathy, it's clear that he's just another politician willing to say and do anything to please powerful polluters."

Frank O'Donnell, president of Clean Air Watch, said environmentalists have treated Graham with kid gloves. "I've seen a little bit of criticism ... but I don't think there has been any kind of a wholesale environmentalist negative commentary about the guy, and he probably deserves more than he's gotten," O'Donnell said.

Already one group -- the American Values Network, a faith-based organization -- has gone on the air with an ad campaign in the D.C. market that states that Graham has "flipped" on climate legislation, including on the question of whether climate change is the result of human activity (Greenwire, June 16).

A Graham spokesman said attacks against the senator's efforts are old hat.

"In spite of sustained criticism by environmental groups, Senator Graham remains steadfast in his belief that real America supports meaningful energy independence policy paired with good clean air policy," said spokesman Kevin Bishop. "Whether it's his support for the expansion of nuclear energy, domestic oil drilling, or pre-empting the EPA from issuing regulations on carbon emissions, we're used to taking their slings and arrows."

Graham has long been viewed as a potential fence-sitter on comprehensive climate legislation because of his long-standing friendship with Sen. John McCain (R-Ariz.). But Graham moved to the forefront of the climate change debate last fall when he and Sen. John Kerry (D-Mass.) penned a New York Times op-ed in which they outlined the principles of a potential bipartisan climate bill that included increased offshore drilling and carbon caps.

Graham then spent several months working with both Kerry and Sen. Joe Lieberman (I-Conn.) on a bill that at one time appeared to be the central component of any Senate effort on climate and energy. The trio were even poised to unveil a draft version of the bill in late April when Graham backed out of the effort because of competing concerns

over immigration politics.

Eventually, Kerry and Lieberman introduced a bill last month without Graham's support or presence. Environmental groups, however, largely continued to say mostly positive things about the South Carolina Republican, believing that they could bring him back into the fold once immigration and other political issues were resolved.

Those views, however, have changed as Graham presented his ideas for a compromise bill that he believed could serve as the blueprint for bipartisan action in 2011 and has again and again said he could not support the Kerry-Lieberman effort. Graham also signed on as a backer of a competing bill by Sen. Richard Lugar (R-Ind.) that did not include a cap-and-trade system, saying that bill had the best chance of getting 60 votes this year.

Environmentalists saw the endorsement as a betrayal, pointing to comments from Graham slamming a "half-assed energy bill" approach that did not include a cap on greenhouse gas emission.

"This is well beyond the half-assed standard," Graham said earlier this month in defending his support for the Lugar bill. "Significant contributions are made to lower emissions. Significant gains are made in terms of jump-starting the alternative energy economy" (E&ENews PM, June 9).

Graham is scheduled to attend next week's energy bill meeting at the White House.

Earlier this month, Graham also suggested Congress should establish a new commission to study the nation's energy policy options, including the consequences of the oil spill, growing the highway account and the prospects for regulating carbon. "This could be another commission that goes into the history bins of commissions that didn't do anything. Or it could be some smart people giving us a road map for how to move forward," Graham said (E&E Daily, June 11).

Regardless of Graham's most recent comments, O'Donnell noted that climate bill advocates cannot afford to burn any bridges, especially with Republicans willing to cooperate with Democrats on the energy issue.

"I think folks accurately see that there are so few Republicans even willing to engage on any positive way on this issue that they can't afford to write anyone off," O'Donnell said.

Reporter Robin Bravender contributed.

EPA says air quality normal in Grand Isle (*WAFB.com*)

Posted: Jun 23, 2010 10:09 PM EDT Updated: Jun 24, 2010 1:47 AM EDT

By David Spunt - bio | email
GRAND ISLE, LA (WAFB) - A big question for the people spending their time on the coast is whether the air they are breathing is dangerous or possibly even toxic.

Oil can be smelled at least a little bit pretty much at all times.

The good news is the Environmental Protection Agency says the air is completely normal.

As oil makes its way onto the shores of Grand Isle there are machines fighting a side battle. The machines are there not to clean the water, but to make sure the air is safe to breathe for fishermen, workers, and anyone passing by.

"We're seeing extremely low numbers that people have to keep in mind," said the EPA on scene coordinator Randy Schademann.

The command center on Grand Isle is one of many across the Gulf Coast tracking any possible health threats.

"There have been a few real small threats but it's gonna be the same stuff as you see on Highway 1 or people with their lawnmowers," said Schademann.

Right now, EPA contractors have three machines set up in the area. There are two in Grand Isle and one in Port Fourchon collecting air samples from all different times, temperatures, and other conditions.

The EPA has seen elevated levels of benzine and hydrogen sulfide, but people should not panic. They say that is common this time of year with boat traffic and typical oil production in the area.

If you would like to check out the levels for different areas along the coast, the EPA has a very detailed website.

Wash. strikes deal with coal plant on mercury, NOx (*Greenwire*)

(06/23/2010)
Gabriel Nelson, E&E reporter
Washington state officials have struck a deal with the owner of a coal-fired power plant in Centralia, Wash., requiring reductions in emissions of mercury and smog-forming nitrogen oxide (NOx).
State negotiations with Calgary-based TransAlta Corp. were closely watched by environmentalists, who saw the deal as an opportunity to crack down on Washington's largest source of air pollution and one of the largest contributors to haze over the Pacific Northwest's national parks and wilderness areas. U.S. EPA has ordered states to make

significant progress on regional haze by 2064, prompting Washington to train its sights on the coal plant, which produces about 4 percent of the state's NOx emissions.

But when Washington's Department of Ecology revealed the terms of a month-old **agreement** Monday, conservation groups were left dissatisfied, feeling state officials should have struck a tougher bargain.

The deal was a "huge disappointment," said Janette Brimmer, an attorney at Earthjustice who had petitioned EPA to revoke the plant's air permit. It was "virtually unchanged" after a year and a half of wrangling, she said.

TransAlta agreed to voluntarily reduce mercury emissions at the 1,400 megawatt plant by 50 percent and to go beyond best available retrofit technology to reduce NOx emissions. In exchange, the state agency agreed not to consider any additional restrictions on the plant's NOx emissions when it crafts a state implementation plan in 2018.

The proposed settlement had also caught the eye of the U.S. Forest Service, which urged the state agency not to "limit itself from opportunities to reduce haze-causing emissions" over the next two decades. With state implementation plans (SIPs) due every decade, the deal could effectively prevent the state from tightening NOx standards at the plant until about 2028.

"I remain hopeful that EPA won't let this go forward," Brimmer said, referring to the state's regional haze plan. "It's not just TransAlta -- overall, Washington's SIP for haze doesn't do much."

In responses to public comments released this week, the state agency said the settlement was "quick and effective," preferable to picking a legal fight with the coal plant. Though the state agreed not to impose tougher NOx standards in the 2018 regional haze SIP, regulators could include requirements in the state's "long-term strategy" at that time, the agency said in its **response** to comments.

"The agreement achieves this reduction on the state's top source of airborne mercury faster than would be possible by enacting a regulation or waiting for the pending federal action to take effect," the state agency said in response to comments by environmental groups, which wanted to require the plant to reduce its mercury emissions by 70 to 90 percent.

Under the terms of the settlement, TransAlta must make the upgrades at its plant by the end of 2012. The company also recently signed a memorandum of understanding with Washington Gov. Christine Gregoire (D), agreeing to examine ways to cut carbon emissions in half by 2025 (*ClimateWire*, April 29).

According to computer modeling cited by the state agency, emissions in NOx reductions at the Centralia plant will improve visibility around Mount Rainier and as far away as the Three Sisters Wilderness in central Oregon.

Heed Calls For Stricter NOx, SO2 Limits Than Senate Bill (*Inside EPA*)

Posted: June 23, 2010
States and environmentalists are pushing for EPA's imminent proposal to cut nitrogen oxide (NOx), sulfur dioxide (SO2) and mercury emissions to mandate cuts stricter than those in a pending Senate multipollutant bill, though EPA appears likely to instead adopt the bill's limits and punt a decision on stricter controls out to at least 2011.
EPA is slated in July to release its proposed Clean Air Transport Rule, a replacement for the remanded Bush-era Clean Air Interstate Rule (CAIR) cap-and-trade program to cut NOx and SO2. Sens. Thomas Carper (D-DE) and Lamar Alexander (R-TN) have also introduced legislation to create a trading program for NOx and SO2, and impose strict limits on mercury emissions to replace the Bush EPA's vacated Clean Air Mercury Rule trading plan.

One American Lung Association (ALA) source says the group recently urged White House and EPA officials at a May 17 meeting to adopt pollution limits more stringent than the Senate legislation. The bill should be "a floor for action, not a ceiling" on the pollution limits the agency proposes in its pending rule, the source says.

Utility industry officials also held a May 17 meeting with the White House and EPA on the proposal, though it is unknown what pitch they made and sources familiar with the meeting did not return calls.

The ALA source says that prospects could be better for having EPA issue stricter NOx and SO2 limits than the Senate legislation, because any tightening of the Senate bill's existing pollution caps could cause senators to withdraw their support and complicate the measure's ability to pass. The bill is yet to receive an Environment & Public Works Committee markup, though Carper recently said he expects that to happen this month.

But an environmentalist says that EPA appears likely to issue a proposal closely mirroring the limits in Carper's bill, while punting a decision on stricter limits until 2011, after the agency issues its final revisions to the agency's ozone national ambient air quality standard (NAAQS). EPA would review the limits in its rule to take into account a possible tightening of the ozone standard and other updated pollutant limits, the source says.

Even though some states and environmentalists want the initial EPA proposal to be stricter than Carper's bill, the source says that EPA should not delay issuing the proposal even if the caps are the same as the bill.

Revised Rule

Further, the environmentalist says that a revision to the pending multipollutant rule will be all but inevitable given that modeling by the Ozone Transport Commission (OTC)

shows the Carper bill would not bring OTC states into compliance with the agency's existing 2008 ozone standard, let alone a proposed tighter standard.

However, the source expects that tighter NOx and SO2 limits may have to occur administratively, because it may be legislatively difficult to make the limits in the Carper bill more stringent without losing the votes of Southern and Midwestern supporters of the bill, including Alexander and Sen. Amy Klobuchar (D-MN).

OTC, which represents Mid-Atlantic and Northeastern air officials, has been pushing Carper to at least tighten the initial 2012-2014 NOx cap in his bill from 1.39 million tons to 900,000 tons during that period.

Carper's office appears receptive to the push and has already asked EPA for an additional analysis of the costs and benefits of a stricter NOx cap that could help make the case for altering the bill, S. 2995, according to state sources. But tighter caps could harm prospects for the bill's passage (*see related story*).

An EPA spokesman said the agency cannot comment on the transport rule ahead of its release.

Bid By Industry, Senators To Soften EPA Boiler Rule Spurs Activist Outcry (*Inside EPA*)

Posted: June 23, 2010
Industry and a bipartisan group of nine senators are urging EPA to soften its proposed strict air toxics rule for boilers by setting risk-based standards rather than stricter technology-based standards for certain pollutants, but the effort is sparking strong opposition from environmentalists who say the approach is not allowed under the Clean Air Act.
State air officials, meanwhile, are raising concerns with the legality of EPA's approach of "subcategorization" in the proposal, which sets varying baseline controls for 11 subcategories of boilers based on unit design.

EPA in a June 4 *Federal Register* notice proposed a maximum achievable control technology (MACT) standard for "major" source boilers. The proposal would limit mercury, hydrogen chloride (HCl) and other emissions from the units and require companies to install emissions controls. Major sources are those with the potential to emit 10 tons per year (tpy) or more of any hazardous air pollutant (HAP), or 25 tpy or more of any combinations of HAPs.

In the proposal, EPA discussed, but did not propose, the health-based threshold approach -- known by critics as risk-based "off-ramps" -- to set limits based on a facility-specific risk assessment. Section 112(d)(4) of the Clean Air Act gives EPA authority to set the health-based standards for pollutants that have a threshold under which no observable health effects occur.

EPA has set weaker health-based standards for other industries, including pulp and paper. But environmentalists oppose use of the risk-based off ramp, and the U.S. Court of Appeals for the District of Columbia vacated a Bush EPA boiler MACT issued in 2007, prompting EPA to abandon the risk-based approach.

Nevertheless, industry associations in recent testimony for hearings on EPA's proposal argue that the agency's final boiler rule should drop the technology-based approach and use the risk-based off-ramp. Comments are due on the proposal July 19, and EPA this month held three public hearings on the plan.

In testimony submitted for a June 15 hearing in Arlington, VA, the American Chemistry Council said that based on its own research and EPA's support for a risk-based off-ramp in the vacated Bush-era boiler MACT, the group "strongly recommends that the agency consider the fact that the proposed standards for HCl are far more stringent than needed to ensure the protection of public health within an ample margin of safety."

The American Forest & Paper Association and the Council of Industrial Boiler Owners also submitted testimony to the same hearing arguing that EPA should use its section 112(d)(4) discretion under the air act to set the softer health-based standard in its final rule.

In recent weeks, a bipartisan group of nine senators also tried to buoy efforts to have EPA set a health-based boiler rule. The senators -- five Republicans and four Democrats -- sent a March 25 letter to EPA Administrator Lisa Jackson urging her to to soften the boiler proposal to avoid its potential adverse economic impacts. They urged the agency to "balance economic and environmental interests" in setting its MACT for boilers.

Push For Health-Based Standards

Senators backing the push for health-based standards include Environment & Public Works Committee Republicans George Voinovich (OH), Lamar Alexander (TN) and Christopher Bond (MO), as well as Sens. Richard Lugar (R-IN), Sherrod Brown (D-OH), Evan Bayh (D-IN), Mark Warner (D-VA), Jim Webb (D-VA) and John Cornyn (R-TX). *Inside EPA* contacted all of the senator's offices for comment, but none responded at press time.

EPA in an April 12 response says it will consider the senators' concerns, but in the proposal published June 4 in the *Federal Register* says that the agency lacks the scientific basis to set the weaker health-based standards in this rule, which affects a "'large and diverse source category," but seeks comment on the measure.

Environmentalists, however, say the push for health-based standards in the proposal is unlikely to succeed, since the Senate letter was neither strongly worded nor specific and fails to provide solutions to the legal and scientific barriers that EPA cites in the proposal as preventing it from pursuing a risk-based off-ramp.

In the proposal, EPA discusses at length the potential for a health-based standard but declines to propose the less-stringent approach due to what it says are statutory limitations, gaps in emissions data, and a lack of scientific basis. "[W]e have concluded that we do not have sufficient information at this time to establish what the health-based emission standards would be for HCl or the other acid gases," according to EPA's June 4 notice.

Meanwhile, the National Association of Clean Air Agencies (NACAA) in its testimony submitted to the June 15 hearing warns that EPA's proposed subcategorization approach may violate the air act.

The air act requires EPA to regulate at least 90 percent of HAP emissions and gives EPA some discretion to list categories and subcategories of sources in order to reach that goal. Industry has long pushed EPA to create subcategories based on factors -- such as fuel or feedstock type -- that affect emissions levels, but environmentalists say that undermines the stringent MACT calculation methodology outlined under the air act.

In the proposal, EPA calculates different MACT floors, or baselines for setting emission limits, for 11 subcategories of boilers based on their unit design. But NACAA, which represents state and local air officials, says this approach could violate the Clean Air Act.

EPA's approach would set a subcategory standard based on the burning of one fuel type. The senators in their March letter requested that the agency consider subcategorization based on boilers' size, type and class of sources. But NACAA says this approach does not reflect that boilers often burn a dynamic mixture of fuels.

'Designed To Combust'

NACAA in its testimony on the boiler MACT says that the agency's proposed approach to subcategorization "is to categorize sources according to fuels that they are 'designed to combust,' and allow sources to comply with what EPA apparently considers the 'least stringent' standard for any of the fuels that it may combust. . . . NACAA believes that this approach is likely to be unworkable for many sources and may not be legal."

NACAA says EPA could be liable for a lawsuit over the approach and warns it to "avoid options that carry a substantial risk of a lawsuit that delays implementation of these important public health protections."

And one environmentalist warns EPA against further subcategorization in the rule, saying "to subcategorize in a way that essentially allows sources to not clean up just because their emissions are worse is just a back-door way to inserting cost considerations into the floor determination, which is illegal" under the air act. -- *Molly Davis*

IG Exonerates EPA Official Over Role In Senate Bid To Delay GHG Rules (*Inside EPA*)

Posted: June 23, 2010
EPA's acting Inspector General (IG) has exonerated a top EPA official from any wrongdoing in response to a GOP senator's concerns that the official may have inappropriately lobbied industry to oppose the senator's efforts to bar EPA from regulating greenhouse gases (GHGs) under the Clean Air Act.
Sen. Lisa Murkowski (R-AK) asked acting IG Bill Roderick to investigate whether David McIntosh -- head of EPA's Office of Congressional & Intergovernmental Relations (OCIR) -- violated any laws, regulations, or policies by contacting Shell Oil Company and the Alliance of Automobile Manufacturers (AAM) last fall.

Roderick in a June 21 letter to the senator said his review of McIntosh's contacts with Shell and AAM "revealed no violations of grassroots lobbying prohibitions" and "no violations of law, regulation, or policy."

In response to the report's release, a Murkowski spokesman says the senator "remains concerned with EPA's actions" regardless of whether the agency "broke the law."

Murkowski had offered an amendment to EPA's appropriations bill Sept. 24 that would have imposed a one-year moratorium on EPA regulation of stationary sources of GHG emissions while seeking to allow the agency to move forward with its then-pending vehicle GHG rules. Democrats were able to defeat the amendment and went on to overwhelmingly pass EPA's budget bill.

Since then Murkowski sought to have the Senate undo EPA's finding that GHGs endanger human health and welfare, which in turn would have removed EPA's justification for pursuing air act climate rules including the now-final vehicle rule.

But that resolution, filed under the Congressional Review Act, was ultimately defeated June 10 in a 53-47 procedural vote preventing it from a Senate floor up-and-down vote.

The IG, reviewing EPA actions leading up to the appropriations vote, said that McIntosh received a draft of the amendment and contacted Shell to discuss the potential implications -- but not to lobby on the issue.

The IG found that McIntosh's actions were allowed because he contacted Shell and AAM to explain "unintended consequences" of the appropriations amendment: that the draft version would have prevented EPA from processing certain Clean Air Act permits, including those related to offshore drilling, and that the introduced version would have prevented EPA from finalizing its pending GHG vehicle rule, though that was not Murkowski's stated intention.

"Because the unintended consequences were not immediately apparent on the face of the draft, Mr. McIntosh was concerned about the possibility of unnecessary public confusion if government affairs staff in the affected industry did not recognize the issue," according to Roderick's letter.

In a Sept. 17, 2009, phone call with Shell, McIntosh described EPA's “interpretation of the potential effects of the draft amendment, indicating that [it] could impact offshore drilling,” and requested Shell lawyers to provide feedback if their interpretation differed from EPA's, the IG found.

The Murkowski amendment, as introduced later that month, eliminated the impact to offshore drilling but created a second EPA concern: that it would prevent the agency from finalizing its then-pending GHG vehicle rule, prompting McIntosh to then contact the AAM to inform that group of EPA's interpretation and similarly request feedback.

Murkowski asked the IG to investigate whether EPA violated the Anti-Lobbying Act and the agency's August 2007 guidance related to that statute in contacting the industry.

RFF Offers Roadmap For Achieving Obama Goals Of Reduced CO2, Oil Use (*Inside EPA*)

Posted: June 23, 2010

The environmental think tank Resources for the Future (RFF) has released a major new report that lays out various energy policy options for meeting President Obama's goals of simultaneously reducing oil use and carbon dioxide (CO2) emissions, while offering a blueprint for Senate leaders in trying to reach a compromise on energy and climate legislation.

The report makes a strong case for setting a price on carbon as the most cost-effective approach to reducing greenhouse gas emissions, but one of the report's authors acknowledges the political challenges for Congress to enact such a policy and suggests the establishment of a “clean energy standard” as a least-cost alternative.

RFF's “Toward a New National Energy Policy: Assessing the Options,” released June 23 as a 40-page executive summary, comes amid increased talk of the Senate trying to vote this summer on a pared-back approach to climate and energy legislation rather than a House-passed bill that would establish a nationwide cap-and-trade system. Some say a Senate-House conference to negotiate a final climate and energy bill might not happen until after the November elections. The complete, detailed version of the report is expected this fall.

Conducted over two years by RFF and the National Energy Policy Institute (NEPI), which researches cost-effective environmental policies, the analysis finds that no single policy would deliver both a reduction in oil use and CO2 emissions, but a combination of carbon pricing mechanisms -- such as an emissions cap or tax -- and other policies would be the most cost-effective to achieving both goals. The report stresses that policymakers have many tools to cut both oil consumption and CO2 emissions at a relatively modest costs to U.S. households, and thus do not have to rely on technological breakthroughs to make substantial headway.

The report could also provide some ammunition to would-be backers of a carbon cap focused on the utility sector, though it does not endorse such a policy. In that vein, the study finds that a clean energy standard -- similar but not identical to an approach floated by Sen Richard Lugar (R-IN) for encouraging diverse electricity generation -- would be 68 percent more expensive than a cap and trade program of comparable effectiveness restricted to the utility sector.

At the same time, study co-author and RFF Senior Fellow Alan Krupnick said on a June 22 conference call that the analysis shows a clean energy standard remains a relatively inexpensive policy option if Congress is politically unable to embrace a carbon price. A major difference between the clean energy standard analyzed in the study and the one in Lugar's plan is that the study's version allows natural gas generation to qualify as a clean energy source, Krupnick added.

In the report, RFF and NEPI analyzed the effectiveness and costs of 35 policies and policy combinations to reduce oil usage by four million barrels a day by 2030 (from 2007 levels) and to reduce CO2 emissions 12 gigatons below a business-as-usual scenario by 2030, according to the analysis.

'Pricing Mechanisms'

Despite “challenges” that would face policies such as an oil tax or cap-and-trade system, “no single regulatory substitute makes the same level of progress on all of this study’s key metrics.” So-called “pricing mechanisms,” such as a carbon tax, oil tax or cap and trade, “do well on costs because they provide incentives on all margins of behavior, including fuel substitution, energy efficiency, and conservation. They also spur industry and consumers to find the most cost-effective combination of these approaches,” the report says.

While stressing that a combination of policies would be the most effective, the report notes that the “largest oil reductions come from our aggressive scenario mandating penetration of heavy-duty trucks fueled by liquefied natural gas into the U.S. fleet,” gradually rising to 100 percent in 2020. Such a policy would deliver over a 2 million-barrel-per-day reduction in oil use in 2030, the report states. “Hybrid subsidies alone show no progress on reducing oil use,” the report concludes.

Critical to the analysis was the fact that researchers used a modified version of the widely employed Energy Information Administration's National Energy Modeling System (NEMS) – the NEMS-RFF – to score the 35 different policies in an “apples-to-apples” comparison of the CO2 emissions and oil usage reduction outcomes of various policies, and the cost of each policy, according to Krupnick.

Based on the NEMS-RFF modeling, the most effective policy for reducing energy-related CO2 emissions 12,400 million metric tons by 2030 – or 42 percent from a 2005 baseline – is a cap-and-trade system or a carbon tax, the report finds. A cap-and-trade system without offsets would be the most effective at reducing CO2 emissions, the report finds, but notes that allowing for 1 billion tons of offsets annually from 2010-2030

in a cap-and-trade system would reduce emitters' compliance costs by between $539 billion to $139 billion.

The report also finds that nuclear loan guarantees are a low-cost way to reduce CO2 emissions. “A loan guarantee that reduces the required return on equity (ROE) to potential investors to 14 percent has an average cost of just $0.40 per ton of CO2 reduced, while a policy that reduces the ROE to 11 percent has an average cost of $1.60 per ton,” according to the summary. The report adds, though, that such policies spur limited CO2 reductions.

Requiring that utilities produce a specified amount of energy from renewable sources alongside enacting a cap-and-trade system “is not particularly effective or cost-effective. In the presence of a cap on carbon, [a renewable portfolio standard] is redundant and increases costs,” the summary also notes.

BP SPILL

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June 23, 2010

On Obama's Cue, La. Senator Pushes Ambitious Gulf Coast Restoration Vision (*New York Times*)

By PAUL QUINLAN of Greenwire

Sen. Mary Landrieu wants to create a new government agency funded to the tune of as much as $1 billion annually to direct the long-term Gulf Coast environmental restoration that President Obama called for in his Oval Office address last week.

Some have compared the ambitious plan to the creation of a new Tennessee Valley Authority or Port Authority of New York & New Jersey -- government agencies charged with carrying out economic and environmental tasks within their regions.

Landrieu (D-La.) said overlapping responsibilities of the various state and federal agencies now involved have bogged down the decades-long effort to restore Louisiana's endangered coastal wetlands, considered essential nursing grounds for fish and shellfish and protection against hurricanes and storm surge.

Obama's speech and appointment of Navy Secretary Ray Mabus to oversee the restoration effort following the BP PLC oil spill has given new urgency to what could surpass the Everglades restoration, undertaken in 2000 and now estimated to cost upward of $12.5 billion, to become the world's largest environmental rehabilitation project.

"We need $500 million to $1 billion per year to get the job done," Landrieu said. "We need fast implementation because this can't wait."

Landrieu sent Mabus a letter yesterday inviting him to accompany her on a trip to Louisiana to tour the coastline and meet with scientists and stakeholders. The letter also

urged that oil and gas production revenue sharing with Gulf Coast states set to take effect in 2017 instead be implemented immediately to help fund restoration.
"To fulfill President Obama's promise to leave the Gulf Coast better than it was before the BP oil disaster, Gulf Coast states need a dedicated and robust stream of funding to restore and protect our coast for the long-term," Landrieu wrote. "In the short-term, these funds should be provided by a fair distribution of revenue from offshore oil and gas production similar to what interior states have received since 1920."
The Gulf Coast has lost more than 2,000 miles of wetlands, the remainder of which are now swimming in crude oil and eroding at the rate of a football field every 38 minutes. The loss stems from both the vast network of offshore oil and gas transmission pipelines that carve the coastline and the channelization of the Mississippi River, which has prevented currents from spreading wetland-replenishing sediments across the delta.
In a 13-page white paper (pdf) Landrieu prepared in April and sent to the White House last week, the senator calls for "a new governing authority" to coordinate and expedite completion of restoration plans already sitting on the books in various stages of analysis and completion.
The proposal amounts to a vast consolidation and overhaul of existing state and federal programs to restore the coastline, maintain shipping channels and protect against flooding, many of which are now overseen by the Army Corps of Engineers. The plan would transfer all these responsibilities to the new agency and assume control of virtually the entire civil works budget of the local Army Corps district, as well as programs now overseen by a myriad of other federal agencies, including the National Oceanic and Atmospheric Administration, Interior and Agriculture departments and others.
Paul Harrison, the Environmental Defense Fund's senior director of the Mississippi River, said a new agency -- as opposed to simply a task force -- is likely needed to carry what he expects to be a 50- to 100-year project to completion, as parties come in and out of power and presidential administrations change.
Everglades restoration, for example, which is overseen by a task force and carried out by pre-existing state and federal agencies, languished during the George W. Bush administration, only to be reinvigorated under President Obama, who campaigned on the promise to renew the federal government's stalled commitment.
"As with any government institution, when you're asking them to change things, the bureaucrats will look around and say, 'Do you really mean that?' Nobody in the government ever got in trouble for not doing anything," Harrison said. "That's why you create a TVA or a Port Authority of New York & New Jersey. You create purpose under the law. Then you don't rely on having the politicians putting their shoulder into it."
Landrieu has proposed that such an agency be led by state and federal co-chairmen and immediately begin drawing up a federal-state master plan for coastal protection and restoration based on existing plans. Membership would be presidentially appointed, with Louisiana representation being recommended by the governor. Jurisdiction would cover Louisiana's nine hydrologic basins along the coastline as well as the Mississippi River watershed.
Landrieu also calls for establishing an independent science and engineering program to guide decisionmaking and address technical challenges similar to Deltares, a Dutch-

based water institute that researches solutions for deltas, coastal areas and river basins.
The timing may never be better to push through such a plan, given the BP disaster and the president's call, as Landrieu said on NBC's "Meet the Press" on Sunday.
"What the Gulf Coast needs is a long-term restoration plan, and this is the first president that's used those words from the Oval Office," she said. "And that's music to the ears of people who are now up to their knees in oil."

BUDGET
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House Plan To Bypass Budget Resolution May Stall EPA FY11 Funding Cut (*Inside EPA*)

Posted: June 23, 2010
House Democrats' plans to bypass voting on a non-binding long-term budget resolution this year could delay a proposed fiscal year 2011 funding cut for EPA by creating confusion over the FY11 appropriations process and spurring lawmakers to instead pass a measure to fund the agency at its FY10 enacted budget level for at least part of FY11.
A decision to not vote on a budget resolution this year would create major uncertainties in the appropriations planning process that could prevent committee markups on specific spending bills for EPA and other federal agencies and departments, sources say. President Obama has proposed a slight cut in EPA's budget from $10.5 billion enacted in FY10 to $10 billion in FY11, and House lawmakers have suggested further cuts for EPA in FY11.

House Majority Leader Steny Hoyer (D-MD) gave a June 22 speech in Washington, DC, saying that Democrats would work to pass a shorter-term budget “enforcement” resolution that will advocate discretionary funding levels below President Obama's FY11 request. Hoyer said it “isn't possible to debate and pass a realistic, long-term budget” until lawmakers review the findings of a bipartisan deficit reduction task force, due in December.

One House GOP source says that Hoyer's remarks create “more questions than answers,” but says that without a budget resolution, it is possible that House leaders will not be able to tell subcommittees of the Appropriations Committee their allocations that determine how much money they can award to agencies in their FY11 bills.

The budget resolution provides a blueprint for total federal revenues and spending for the upcoming fiscal year and at least four subsequent fiscal years. While non-binding, it provides an indication of how lawmakers intend appropriators to allocated agencies' discretionary spending.

The Senate Budget Committee in April marked up its budget resolution that would open the door to a $400 million increase in EPA's FY11 budget, but that resolution is yet to pass the full Senate.

The House source is “optimistic” that staff on appropriations subcommittees will nevertheless be able to craft spending bills for their respective agencies, including the appropriations interior subcommittee's bill for EPA's FY11 budget. However, the source says that prospects for moving the legislation much further than subcommittee are dim, due to factors including a tight congressional calendar and partisan fighting in an election year.

“The assumption right now is that few, if any, of the subcommittee bills will get to full committee. That would be historic, but it would also be disappointing,” according to the source.

The lack of a budget resolution could also increase prospects that lawmakers will ultimately pass a continuing resolution later this year -- likely in September -- to ensure EPA and the rest of the federal government receive funds for a least a few months after the end of FY10 Oct. 1. The resolution would fund EPA into the early part of FY11 at its FY10 funding level.

That would allow the agency to initially avoid a slight spending cut that has been proposed for FY11. EPA's current funding stands at roughly $10.5 billion, but the president has requested $10 billion for EPA in FY11.

While Hoyer said the short-term budget enforcement resolution will advocate discretionary spending cuts below the president's requested amount for FY11, it is unlikely that demand will have any impact on EPA's budget if Congress fails to pass an agency FY11 appropriations bill and instead funds EPA at FY10 levels.

The White House has meanwhile has asked all agencies to assess ways to cut five percent in discretionary spending as they plan their pending FY12 budget requests (*see related story*). -- *Anthony Lacey*

CLIMATE CHANGE

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Global warming returns to ballot (*Washington Times*)

June 24, 2010 Thursday
A, POLITICS; Pg. 3
Global warming returns to ballot;
Industry-backed initiative to get vote in California
By Sam Bovard THE WASHINGTON TIMES
Global warming will be on the ballot this November after California state officials this

week cleared the way for a vote on an industry-backed initiative that could suspend the state's landmark 2006 climate change statute.

Republican Gov. Arnold Schwarzenegger vowed to fight to preserve the 2006 law, ensuring the Golden State will witness a major power struggle over the future of renewable energy that is likely to draw national and international attention.

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

Despite intense opposition from environmental groups, state officials announced Tuesday that the initiative had garnered enough signatures to gain a place on the November ballot.

With the Obama administration struggling to pass a national climate bill curbing greenhouse gas emissions through Congress, supporters of the "California Jobs Initiative" warn that the state cannot afford its own, even tougher **global warming** law on emissions, particularly at a time of high unemployment and mounting deficits in Sacramento.

The initiative, launched six months ago by Texas oil titans Valero Energy Corp. and Tesco Corp., would suspend California's **global warming** law until unemployment falls by more than half. Opponents say that the state has met the economic benchmarks outlined in the measure for only three brief periods in the past three decades.

While the oil giants sparked the initiative effort, the proposal has attracted local sponsors as well, with both the Howard Jarvis Taxpayers Association and the California Manufacturers and Technology Association pushing the initiative drive.

The **global warming** law, passed in 2006, limits greenhouse gas emissions from automobiles, oil refineries and other industry sources. Law sponsors say the measure has created a vast market in California for clean, alternative energy sources such as solar and wind power.

The law - formally known as Assembly Bill 32 - requires that 33 percent of the state's electricity come from renewable energy sources by the year 2020. This would be a significant increase; in 2007, 11.8 percent of all electricity came from renewable energy resources. AB 32 also sets the state's greenhouse gas emission levels in 1990 as the target to be achieved by 2020.

Citing multiple studies, backers of the oil industry's initiative claim that complying with the directives of the law will ravage the state's business community and have a detrimental effect on family budgets.

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

The initiative - according to Secretary of State Debra Bowen, the sixth proposition to qualify for the ballot - would postpone the enforcement of the **global warming** law until the state's unemployment sinks from its current rate of 12.4 percent to 5.5 percent, and stays at that level or lower for at least a year.

Critics say AB 32 will cost the state 1.1 million jobs and devastate budgets of California social service agencies through massive losses in tax revenue. They have gone so far as to dub the climate law as an "energy tax."

"Moving ahead with AB 32 at this point in time will do nothing to slow **global warming**, but it will cost Californians billions in higher taxes and more expensive energy at a time of record-high unemployment and a severe recession," said Mr. Coupal.

Specter of a submerged Florida not fazing politicians -- yet (*Miami Herald*)

June 24, 2010 Thursday
B; Pg. 1
By FRED GRIMM; fgrimm@MiamiHerald.com
June 23 2010
No summer horror movie offers anything more frightening than the real-life disaster portrayed by a PowerPoint slideshow at Miami-Dade County Hall Wednesday. But the timing was utterly out of sync with American politics.

The scary stuff came in maps showing giant swaths of South Florida inundated by rising seas or salt water leeching inland to poison the well fields. Charts and graphs plotted failing drainage canals and malfunctioning sewage systems and flooded homes and underwater roadways and devastated fisheries and disappearing wildlife and flooded neighborhoods and billions of dollars' worth of South Florida real estate gone wet and worthless, erased from the tax rolls.

``Washington, welcome to ground zero of **climate change,"** Miami-Dade Commissioner Katy Sorenson told a contingent of federal officials come to Miami to hear the grim assessment.

Robert Verchick of the **Environmental Protection Agency's** Office of Policy, Economics, and Innovation, reminded the gathered local, state and federal officials that a survey of the world's great cities with the most assets at risk from **climate change** ranked Miami the most vulnerable city in North America. Nothing in the discussion that followed cast any doubt on that ranking.

But this crisis, despite the horrors, comes with a timeline too far -- a three-to-five-foot rise in sea level by the end of the century. Not urgent enough, apparently, to alarm a civic leadership that can hardly see beyond the next election cycle.

``No politician wants to touch this,'' explained Dan Kipnis, a Miami Beach fishing captain and a member of the Miami-Dade **Climate Change** Advisory Task Force that has spent three years pondering this unhappy stuff. Kipnis said our political leaders just can't deal with the brutal triage surely coming to South Florida, saving some communities while leaving entire low-lying neighborhoods to the rising water. ``Telling people in Sweetwater that nothing can be done about saving their houses. . . . I can do it. But I'm not running for office.''

But much of what was discussed Wednesday was not about some vague high-water disaster coming long after everyone there had succumbed to old age. They were reminded that the past decade was the hottest on record. Just as the 1980s and '90s were before. Speakers form Miami Beach and Key West spoke of flooding events in those cities lately that had nothing to do with rainfall.

And just another inch or two added to a thermally expanded sea will undo the engineering of South Florida's network of drainage canals, which depend on gravity to push excess water out to sea. Broward County Commissioner Kristin Jacobs suggested that when South Florida's gravity-powered sewer systems are stymied by rising sea levels, ``we'll have a lot more believers in **climate change.''**

No one at the meeting Wednesday doubted that a free-flowing Everglades must be restored to keep the salt water from ruining South Florida's well fields and to save the disappearing wildlife habitat. Or that developers must be kept out of wetlands. Or that existing buildings and roads and canals and other infrastructure must be re-engineered.

But the brave politicians who must make the tough policy decisions necessary to mitigate the coming disaster were a scarce commodity Wednesday.

Climate change, apparently, leaves them cold.

ENERGY

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Detroit Diesel exceeds EPA challenge (*eTrucker*)

By eTrucker Staff

Detroit Diesel's Engine Manufacturing Center in Redford, Mich., is one of the first manufacturing plants to reduce energy use in a U.S. Environmental Protection Agency challenge, the diesel engine maker announced.

The engine maker met goals for reducing its so-called energy intensity by 17 percent, exceeding the federal agency's reduction goal by 7 percent. Tasks in the agency's Energy Star challenge include lowering and tracking energy use and verifying subsequent savings.

The Redford, Mich.-based manufacturer was also honored for outstanding achievement at a statewide professional engineering conference. The award recognizes the Michigan-based industrial company that has made the most contributions in the area of energy conservation, said a company spokeswoman.

ENFORCEMENT
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EPA delays enforcement of lead renovation, repair and painting rule (*Kitsap Peninsula Business Journal*)

June 23, 2010 @ 3:11pm | The KPBJ
It has just been announced that the Environmental Protection Agency (EPA) has decided to delay enforcement of the Lead Renovation, Repair and Painting Rule until Oct. 1.

Acknowledging the need for additional time to enable firms and contractors to become trained and certified in compliance with the April 22 rule, the Agency has agreed to delay any enforcement actions.

The EPA will not take any enforcement action for violations of the Rule's firm certification requirement until Oct. 1.

The EPA also will not take any enforcement action against individual renovation workers if the person has applied to enroll in, or has enrolled in, by no later than Sept. 30 a certified renovator class to train contractors in practices necessary for compliance with the final rules. The training must be completed by Dec. 31.

FUEL

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Feds assess threat from sunken Lake Champlain tug (*Associated Press*)

Story also appeared: *Washington Post*

By WILSON RING
The Associated Press
Thursday, June 24, 2010; 6:01 AM
ON LAKE CHAMPLAIN -- For almost 50 years a tugboat that once hauled barges between Vermont and New York on Lake Champlain has sat upright 160 feet underwater, hardly changed since the November night in 1963 when it ran aground on a reef and went down.

The paint on the William H. McAllister appears barely faded in recent video footage, and fire hoses remain coiled on the deckhouse walls. There's also a chance that the tug's fuel tanks still could be holding as much as 14,000 gallons of diesel fuel.

That has federal officials, environmentalists and residents who know about it concerned.

The threat of what could happen if those tanks were to fail and belch fuel into the 120-mile-long lake that separates Vermont and upstate New York drew an expedition last week of federal environmental officials and engineers to the lake. They sent a remotely operated vehicle onto the McAllister to try to determine if there's fuel that could leak out.

"It's in such good condition after all these years," said Don Dryden, a commercial diver who was there to provide technical expertise about the condition of the tugboat for McAllister Towing and Transportation of New York, the successor to the company that owned the tug in 1963.

The federal Environmental Protection Agency will analyze last week's findings and perhaps send divers into the tug later this summer to determine how much fuel is in the tanks. If necessary, the remaining fuel would be pumped out, said Paul Kahn, a coordinator for the EPA working at the scene.

Dryden isn't convinced there's still fuel in the tanks. "Oil being lighter than water, in all probability this thing was empty 30 or 40 years ago," he said.

Concern grew in 1997 after an oil sheen was discovered on the water above the McAllister.

There are numerous scenarios with bad outcomes, said Art Cohn, who heads the Lake Champlain Maritime Museum, which was hired to conduct the latest inquiry. An

experienced scuba diver could unscrew a fuel tank cap and unwittingly cause a catastrophic release of fuel, he said. Other unforeseen events or natural deterioration also could cause the tanks to fail, Cohn said.

The McAllister is a reminder of a time when Lake Champlain was a vital commercial waterway that for more than 150 years moved cargo to and from upstate New York and Vermont through canals and systems of locks. The McAllister is believed to be the last significant commercial vessel to sink on the lake.

The focus on the McAllister began before the Gulf of Mexico oil spill that followed an April 20 explosion and fire on a drilling rig. But the comparison between possible threats posed by the McAllister and what is happening in the gulf is on the minds of people looking at the sunken tug.

If, in a worst-case scenario, 14,000 gallons of diesel fuel were to be released all at once, it would cause the same problems and concerns as the gulf oil spill, said Mary Watzin, a University of Vermont professor who has studied the lake for 20 years.

"There would clearly be impacts for fish and wildlife that use the lake," Watzin said. "We would have the same kind of oiling problems with water birds that we've seen in the gulf."

There are similarities between the McAllister and a cargo ship that sank 80 miles west of Lake Champlain more than three decades ago.

In 1974, a freighter carrying iron ore ran aground in more than 200 feet of water off Massena, N.Y. People reported seeing an oil sheen on the water in 2003. The next year, the Coast Guard oversaw the successful removal of about 6,000 gallons of fuel oil from the ship.

"We do take these things very seriously," said Lt. Cmdr. Carl Kepper, supervisor of the Coast Guard's marine safety unit in Massena.

The wreckage of the McAllister was first discovered in 1988. Nine years later, experts recognized the threat of leaking fuel. But the EPA determined that the McAllister's tanks probably contained less than 1,000 gallons of diesel fuel when it went down, and that it had long since leaked out.

When the McAllister struck Schuyler Reef on Nov. 17, 1963, its eight-man crew scampered to safety on the barge it was hauling. No local newspaper accounts could be found mentioning large amounts of fuel washing ashore. At the time, the McAllister company considered raising the $250,000 vessel, but nothing came of the plan.

"Had the diesel fuel leaked out there should have been an adverse impact, which would have been reported in the news," Kahn said.

The EPA is using money from a Coast Guard fund to pay for the investigation into whether the McAllister poses a threat, Kahn said. It paid the Maritime Museum $75,000 for last week's assessment. If the tanks need to be pumped out, McAllister Towing would be responsible for the cost, Kahn said.

McAllister Vice President Bucky McAllister said the ownership of the tug isn't clear-cut; the current company wasn't created until six years after the tug sank.

"We are certainly approaching this with an effort to be good corporate citizens," McAllister said.

"Right now we're not sure who owns the William McAllister. We have searched our own records and have not been able to find them. We are searching insurance records right now to get more facts."

SCENARIOS-Outlook for US ethanol market as EPA delays (*Reuters*)

Wed, Jun 23 2010
By Timothy Gardner
WASHINGTON, June 23 (Reuters) - U.S. environmental regulators have delayed decisions on whether to allow higher concentrations of ethanol in gasoline, a blow to ethanol producers who face a glut of supply but a relief to automakers who fear ethanol will harm engine parts.
Ethanol makers and farmers had expected the Environmental Protection Agency to decide in July whether to allow an increase in the blend rate of ethanol in gasoline to 15 percent from 10 percent for cars built after 2001.

Instead the EPA said last week it would not decide until late September whether to allow cars made after 2007 to burn the higher blend [ID:nN17261431] and that decisions on older cars -- the bulk of the U.S. auto fleet -- would come later.

Ethanol producers are worried about a developing glut in ethanol as U.S. laws require ethanol volumes rise to 15 billion gallons annually by 2015 from 10.5 billion now.

For their part, carmakers have lobbied against the higher blends, worrying the fuel could damage engines. And some environmentalists reject ethanol as a green fuel because farming is energy intensive and can pollute water running down the Mississippi River into the Gulf of Mexico.

U.S. ethanol makers say their fuel, made mostly from corn, is cleaner and safer than oil, a point they are emphasizing after BP's (BP.L: Quote, Profile, Research, Stock Buzz) massive spill in the Gulf of Mexico.

Here are possible outcomes for the future of the higher blend rates know as E15:

EPA APPROVES E15 FOR CARS BUILT AFTER 2007

The EPA has hinted tests show modern cars can burn E15 without difficulty. Results from tests on the blends so far "look good" it said. The EPA also got the process rolling last year on how filling stations would deal with labeling issues should higher blends be approved. So it would not be a stretch for the EPA to approve higher blends for late model cars.

An approval for late model cars could give a small boost to the ethanol industry that suffered widespread bankruptcies last year as prices spiked for corn Cc1, the main ingredient to make the fuel.

But it would only open the market to 40 million to 50 million cars of the U.S. fleet of about 250 million, so both farmers and ethanol makers would push for E15 to be allowed for more cars.

Ethanol producers include Archer Daniels Midland (ADM.N: Quote, Profile, Research, Stock Buzz), Valero Renewables, a unit of Valero (VLO.N: Quote, Profile, Research, Stock Buzz) and Green Plains Renewable Energy (GPRE.O: Quote, Profile, Research, Stock Buzz).

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Refiners and gasoline marketers fear they could be sued if owners of older cars mistakenly buy fuel not meant for their cars. Also, many filling stations do not want the costs of changing pumps or adding more of them.

If EPA does not approve E15 for older cars, it could mean the ethanol industry would have to convince more gasoline stations, especially in the eastern United States, to sell a fuel containing 85 percent ethanol, used by flex-fuel cars.

So far only about 2,000 stations, mainly in the Midwest and the South, sell the 85 percent blend.

It would also mean the growth rate in demand for U.S. corn, a third of which now goes to making ethanol, could stagnate.

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If U.S. tests eventually show the blends are safe for older cars it could create a bigger market for ethanol.

Growth Energy, an ethanol industry group, says this could expand the market for ethanol about 58 percent from current levels of 13 billion gallons per year.

That number assumes that gasoline marketers readily accept selling the higher blend, which is not certain, for the reasons listed above.

EPA APPROVES E12 AS A COMPROMISE

Archer Daniels Midland, a big ethanol maker, has asked the EPA to consider raising the blend level to 12 percent as a compromise. But the testing by the Department of Energy has centered on E15, not E12. So a quick decision on E12 is not a sure bet.

EPA OKS E15 FOR MOST CARS, BUT BIGGER MARKET ELUSIVE

Even if the EPA approved E15 for both new and older cars it's not clear that it would definitely lead to large increases in the amount of ethanol that would be blended into gasoline.

Mark McMinimy, an analyst with Concept Capital's Washington Research Group, said many in the oil industry are skeptical that approvals of E15 would be embraced by gasoline blenders, distributors and retailers. He said E15 could confuse motorists and industry could become the target of litigation.

If that happened it would again mean ethanol makers would have depend more on an expansion of E85.

(Reporting by Timothy Gardner; Editing by Lisa Shumaker)

Posted on Wed, Jun. 23, 2010

Rule Change Should Expand Market for Natural Gas Vehicles, According to NGV America (*Bradenton Herald*)

EPA's proposal to streamline the process for certifying natural gas vehicle aftermarket conversions is one of the most important steps government can take to expand the use of non-petroleum fuels, NGVAmerica told the agency today.
Natural gas vehicles can play an important role in increasing energy security, creating U.S. jobs, providing cleaner air and reducing greenhouse gas emissions—while generating economic benefits for consumers, said Jeff Clarke, General Counsel and Director of Regulatory Affairs for NGVAmerica.

"We commend EPA for recognizing that its regulations as currently written are not a good fit for aftermarket conversions," said Clarke in his oral statement made during today's hearing on the agency's proposed rule changes. "It has been a long time in coming and is welcomed."

Clarke told the agency that the industry continues to support certification requirements, but that the existing regulations are unduly restrictive.

“Until there are sufficient numbers of original equipment manufacturers’ products available in the marketplace, our industry will continue to need aftermarket conversions to help us grow, to help us justify the necessary investments in fueling stations, and to help us increase market penetration. Conversions fill a void unmet by original equipment manufacturers and demonstrate consumer demand for new applications.

“Conversions also provide a ready means of addressing the emissions and fuel consumption of medium and heavy duty vehicles that will continue to be in operation for many years to come.”

Under the proposed rulemaking, the agency would approve systems for use on vehicles older than two years, but would not require the more extensive and expensive Certificate of Conformity for these vehicles. In addition, the agency has also proposed three potential options for engines that have exceeded their regulatory useful life.

In supporting the proposed rule changes, Clarke provided the following specific recommendations:

- Warranty: EPA should unequivocally state that converting a vehicle does not void the original equipment manufacturers warranty. “The latest guidance gives the impression that the agency has backed away from this,” says Clarke.
- Certification fees: The EPA should allow aftermarket manufacturers to pay the certification fees at the end of each quarter or annually based on the total number of vehicles sold. Manufacturers now are required to pay the fees based on expected sales, which ties up capital.
- Vehicles two years or older: The agency should specifically state that manufacturers can seek both a Certificate of Conformity for the new vehicle and approval for converting this vehicle after two years.
- Bench testing for heavy-duty vehicles. The requirement to use bench testing for heavy-duty vehicles is too restrictive and manufacturers should be able to use chassis testing that has been approved by EPA. This would help lower the costs of complying with the regulations.

NGVAmerica is a national organization dedicated to the development of a growing, sustainable and profitable market for vehicles powered by natural gas or biomethane. NGVAmerica represents more than 100 companies interested in the promotion and use of natural gas and biomethane as transportation fuels, including: engine, vehicle and equipment manufacturers; fleet operators and service providers; natural gas companies; and environmental groups and government organizations. For more information about NGVAmerica, visit our website at www.ngvamerica.org

Read more: http://www.bradenton.com/2010/06/23/v-print/2385567/rule-change-should-expand-market.html#ixzz0rldx6CGZ

Texas fugitive sought for fuel tax evasion (*Greenwire*)

(06/23/2010)
U.S. EPA is hunting for a Texas fugitive who pleaded guilty to taking part in a conspiracy to dodge millions of dollars in federal excise taxes on diesel fuel. Yousef Abuteir of Houston did not appear in court for scheduled proceedings, the agency said yesterday. Two co-conspirators had allegedly bought kerosene and jet fuel with the stated intention of selling it for export to Mexico, then blended the fuel for sale as taxable diesel fuel in the United States, investigators determined after a Clean Air Act investigation.

The two co-defendants were Sidney Baldon II, owner of Mid-Coast International, and Tracey Dale Diamond, an officer at the Houston-area fuel distribution company. The pair purchased more than $10 million of jet fuel from Calcasieu Refining Co., EPA said, blending it at Abuteir's facilities and selling it near Houston.

"Those who are charged with violating the law must have their guilt or innocence determined in a court of law," said Cynthia Giles, the agency's assistant administrator for enforcement and compliance (United Press International, June 22). **-- GN**

SCENARIOS-

Feds assess threat from sunken Lake Champlain tug (*Associated Press*)

By WILSON RING (AP)

ON LAKE CHAMPLAIN — For almost 50 years a tugboat that once hauled barges between Vermont and New York on Lake Champlain has sat upright 160 feet underwater, hardly changed since the November night in 1963 when it ran aground on a reef and went down.

The paint on the William H. McAllister appears barely faded in recent video footage, and fire hoses remain coiled on the deckhouse walls. There's also a chance that the tug's fuel tanks still could be holding as much as 14,000 gallons of diesel fuel.

That has federal officials, environmentalists and residents who know about it concerned.

The threat of what could happen if those tanks were to fail and belch fuel into the 120-mile-long lake that separates Vermont and upstate New York drew an expedition last week of federal environmental officials and engineers to the lake. They sent a remotely operated vehicle onto the McAllister to try to determine if there's fuel that could leak out.

"It's in such good condition after all these years," said Don Dryden, a commercial diver who was there to provide technical expertise about the condition of the tugboat for McAllister Towing and Transportation of New York, the successor to the company that owned the tug in 1963.

The federal Environmental Protection Agency will analyze last week's findings and perhaps send divers into the tug later this summer to determine how much fuel is in the tanks. If necessary, the remaining fuel would be pumped out, said Paul Kahn, a coordinator for the EPA working at the scene.

Dryden isn't convinced there's still fuel in the tanks. "Oil being lighter than water, in all probability this thing was empty 30 or 40 years ago," he said.

Concern grew in 1997 after an oil sheen was discovered on the water above the McAllister.

There are numerous scenarios with bad outcomes, said Art Cohn, who heads the Lake Champlain Maritime Museum, which was hired to conduct the latest inquiry. An experienced scuba diver could unscrew a fuel tank cap and unwittingly cause a catastrophic release of fuel, he said. Other unforeseen events or natural deterioration also could cause the tanks to fail, Cohn said.

The McAllister is a reminder of a time when Lake Champlain was a vital commercial waterway that for more than 150 years moved cargo to and from upstate New York and Vermont through canals and systems of locks. The McAllister is believed to be the last significant commercial vessel to sink on the lake.

The focus on the McAllister began before the Gulf of Mexico oil spill that followed an April 20 explosion and fire on a drilling rig. But the comparison between possible threats posed by the McAllister and what is happening in the gulf is on the minds of people looking at the sunken tug.

If, in a worst-case scenario, 14,000 gallons of diesel fuel were to be released all at once, it would cause the same problems and concerns as the gulf oil spill, said Mary Watzin, a University of Vermont professor who has studied the lake for 20 years.

"There would clearly be impacts for fish and wildlife that use the lake," Watzin said. "We would have the same kind of oiling problems with water birds that we've seen in the gulf."

There are similarities between the McAllister and a cargo ship that sank 80 miles west of Lake Champlain more than three decades ago.

In 1974, a freighter carrying iron ore ran aground in more than 200 feet of water off Massena, N.Y. People reported seeing an oil sheen on the water in 2003. The next

year, the Coast Guard oversaw the successful removal of about 6,000 gallons of fuel oil from the ship.

"We do take these things very seriously," said Lt. Cmdr. Carl Kepper, supervisor of the Coast Guard's marine safety unit in Massena.

The wreckage of the McAllister was first discovered in 1988. Nine years later, experts recognized the threat of leaking fuel. But the EPA determined that the McAllister's tanks probably contained less than 1,000 gallons of diesel fuel when it went down, and that it had long since leaked out.

When the McAllister struck Schuyler Reef on Nov. 17, 1963, its eight-man crew scampered to safety on the barge it was hauling. No local newspaper accounts could be found mentioning large amounts of fuel washing ashore. At the time, the McAllister company considered raising the $250,000 vessel, but nothing came of the plan.

"Had the diesel fuel leaked out there should have been an adverse impact, which would have been reported in the news," Kahn said.

The EPA is using money from a Coast Guard fund to pay for the investigation into whether the McAllister poses a threat, Kahn said. It paid the Maritime Museum $75,000 for last week's assessment. If the tanks need to be pumped out, McAllister Towing would be responsible for the cost, Kahn said.

McAllister Vice President Bucky McAllister said the ownership of the tug isn't clear-cut; the current company wasn't created until six years after the tug sank.

"We are certainly approaching this with an effort to be good corporate citizens," McAllister said.

"Right now we're not sure who owns the William McAllister. We have searched our own records and have not been able to find them. We are searching insurance records right now to get more facts."

Outlook for US ethanol market as EPA delays (*Reuters*)

Wed Jun 23, 2010 11:21am EDT

WASHINGTON June 23 (Reuters) - U.S. environmental regulators have delayed decisions on whether to allow higher concentrations of ethanol in gasoline, a blow to ethanol producers who face a glut of supply but a relief to automakers who fear ethanol will harm engine parts.

Ethanol makers and farmers had expected the Environmental Protection Agency to decide in July whether to allow an increase in the blend rate of ethanol in gasoline to 15 percent from 10 percent for cars built after 2001.

Instead the EPA said last week it would not decide until late September whether to allow cars made after 2007 to burn the higher blend [ID:nN17261431] and that decisions on older cars -- the bulk of the U.S. auto fleet -- would come later.

Ethanol producers are worried about a developing glut in ethanol as U.S. laws require ethanol volumes rise to 15 billion gallons annually by 2015 from 10.5 billion now.

For their part, carmakers have lobbied against the higher blends, worrying the fuel could damage engines. And some environmentalists reject ethanol as a green fuel because farming is energy intensive and can pollute water running down the Mississippi River into the Gulf of Mexico.

U.S. ethanol makers say their fuel, made mostly from corn, is cleaner and safer than oil, a point they are emphasizing after BP's (BP.L) massive spill in the Gulf of Mexico.

Here are possible outcomes for the future of the higher blend rates know as E15:

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(Reporting by Timothy Gardner; Editing by Lisa Shumaker)

EPA Proposal to Ease Alt Fuel Vehicle, Engine Conversions Gains Support (*School Transportation News*)

Written by Ryan Gray
Wednesday, 23 June 2010 12:27
Natural gas advocate NGVAmerica told the EPA today that federal efforts to streamline the process for certifying natural gas vehicle aftermarket conversions could help expand the use of non-petroleum fuels.

Currently, the Clean Air Act prohibits altering a vehicle or engine from its certified configuration, which also precludes up fitting an alternative fuel conversion system. In May, the EPA proposed to amend its regulations for these aftermarket conversions by adding flexibility for alternative fuel converters and engine manufacturers as long as they prove the alterations satisfy emissions standards. Testing and compliance procedures would differ based on the age category of the vehicle or engine that is being converted, those being new and nearly new, intermediate age or outside useful life.

EPA said a new rule is expected to offer a streamlined approach that would result in a cost savings for many converters.

Jeff Clarke, NGVAmerica's general counsel and director of regulatory affairs, said today during a hearing in Ann Arbor, Mich., on the agency’s proposed rule changes that the alternative fuel industry supports certification requirements for new vehicles and engines, but that the proposal for aftermarket solutions "has been a long time in coming and is welcomed."

But he also offered a few recommendations. For bench testing of heavy-duty vehicles, Clarke said manufacturers should use EPA-approved chassis testing that would lower the cost of complying with regulations. He also said EPA should state that converting a vehicle to an alternative fuel does not void the OEM warranty. Additionally, he recommended that EPA should allow aftermarket manufacturers to pay annual or quarterly certification fees instead of paying fees based on expected sales and that manufacturers can seek both a Certificate of Conformity for the new vehicle and approval for converting this vehicle after two years.

"Until there are sufficient numbers of original equipment manufacturers’ products available in the marketplace, our industry will continue to need aftermarket conversions to help us grow, to help us justify the necessary investments in fueling stations, and to

help us increase market penetration," he added. "Conversions fill a void unmet by original equipment manufacturers and demonstrate consumer demand for new applications.

"Conversions also provide a ready means of addressing the emissions and fuel consumption of medium and heavy duty vehicles that will continue to be in operation for many years to come."

GENERAL
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Big job looms for new consumer protection agency (*USA TODAY*)

Updated 28m ago
By Paul Wiseman, Jayne O'Donnell and Christine
Dugas, USA TODAY

When he took charge of the new Environmental Protection Agency in December 1970, William
Ruckelshaus wasted no time flexing his muscle and clobbering polluters.

Nine days after the EPA opened its doors, the Republican official ordered the mayors of Cleveland, Detroit and Atlanta to improve their cities' water quality — or face his lawyers in court.

"We did come out pretty fast," recalls Ruckelshaus, who earned the nickname Mr. Clean during his tenure as EPA administrator. "There were a lot of handy targets around. And I felt we needed to show the public that we were serious." Soon, the EPA was telling Detroit automakers what kind of engines they could install in their cars.

Congress is about to loose another new regulatory agency on the business world: The Consumer
Financial Protection Bureau, being created as part of a massive legislative response to the financial meltdown of 2008, will police the market for money on behalf of savers and borrowers.
Consumer advocates hope — and bankers and other opponents fear — that the new financial watchdog will get off to as fast and bold a start as Ruckelshaus' EPA.

"It's exciting to think about building an agency that could make a real contribution, a real difference in the lives of millions of families," says Elizabeth Warren, a Harvard University law professor who proposed the consumer financial regulator in 2007 and is

considered a top candidate to be the agency's first director. "The market for consumer credit is broken. Credit card agreements, mortgages, bank overdraft agreements and other products are loaded with tricks and traps."

ELIZABETH WARREN: On a campaign to protect hardworking families But critics warn that the new regulator, which will oversee everything from mortgages and credit cards to payday loans and gift cards, will run amok. "No corner of the American economy will be spared from
this monster," says Michael Oxley, former Republican chairman of the House Financial Services Committee and a lobbyist for the securities and investment industry.

"It ought to be called the Office of Credit Contraction and Job Loss," warns Rep. Jeb Hensarling, R-Texas. "The very credit cards you carry in your wallet can be determined by the federal government. In the land of the free, if I want to take out a certain mortgage that's right for me and my family, why should a federal bureaucrat tell me I can't?"

The consumer watchdog likely to emerge this week from talks between House and Senate negotiators on what will be in Congress' final bill is a compromised version of the one the Obama administration proposed last year as part of a sweeping overhaul of federal financial regulation.

It won't, for example, be a stand-alone agency. Instead, it will be a bureau inside the Federal
Reserve, which was lambasted for its failure to protect consumers from predatory mortgage lending and other abuses before the financial crisis. And the new bureau's rules can be vetoed by the two-thirds vote of a council of bank regulators who traditionally have been more concerned about the financial soundness of banks than with the way they treat their customers.

Moreover, Congress is still debating whether to exempt auto dealers from the new agency's
jurisdiction, even though, the Cambridge Winter Center for Financial Institutions Policy reports, they originate nearly 80% of auto loans. And nearly 99% of the nation's 7,932 banks and thrifts — those with less than $10 billion in assets — won't be examined by the new agency's staff. Instead, traditional bank regulators would enforce the bureau's rules at those banks.

Financial industry lobbyists have fought the new agency through every step of the legislative
process. And they aren't likely to give up once it is up and running. "The lobbyists will pick at
everything that the agency does," Warren says. "They will create some story about how the agency doesn't work — anything to undercut its effectiveness and its public support. ... If anything, the big banks may just hire more lobbyists."

Congress did take some steps to shield the agency from political pressure. It will be led by an
independent director appointed to a five-year term by the president. And it will be guaranteed a
percentage of the Federal Reserve's operating expenses, so it won't risk being starved of funding
by Congress if the political winds shift against it. The formula is expected to give the agency an initial annual budget of up to $450 million; the legislation is also likely to let the bureau request as much as another $200 million a year from Congress.

Fears of overreaching

Republican critics say the legislation gives the agency's director too much power.

"This one person can have an incredible impact on our financial system," says Sen. Bob Corker, R-Tenn.

"We're setting up something unique," Senate Banking Committee Chairman Chris Dodd, D-Conn., conceded this week. "We don't know how well it's going to work until we see it function."

Getting a new agency off the ground is difficult work, according to people who've run regulatory
agencies and to academics who study them. "We didn't find any quick reference books to pull off the shelf," says Charles Niemeier, a founding member of the Public Company Accounting Oversight Board, created by Congress in 2002 to police auditors after the Enron and WorldCom accounting scandals.

"Expectations have to be managed," says former National Highway Traffic Safety Administration chief Jeffrey Runge. "Just because there is a consumer protection agency does not mean consumers are going to be protected from every bad thing that can happen."

"If you have the will, you can make sure your agency does not languish," says Ann Brown, who chaired the Consumer Product Safety Commission during the Clinton administration. "These financial instruments are in need of reform and in need of regulation. Even when things get better, there's no reason to think this agency wouldn't fill an imperative need."

Keys to a new agency's success, according to the experts:

•Hiring motivated career staffers with diverse talents who will outlast the political appointees at the top of the organization. Ruckelshaus was lucky: The EPA received 200,000 applications for a couple of thousand jobs when it got started. Recruiting "wasn't much of a task," he says. "They were already pumped up and excited" about protecting the environment.

Similarly, the public company accounting board found plenty of idealistic lawyers who wanted to clean up the way U.S. corporations report their earnings and balance sheets. "A lot of people go to law school because they want to change the world. They could actually make a difference (at PCAOB). We had a blank slate to work with," Niemeier says.

"The accounting side was more difficult. Accountants are more practical. They were interested in whether we had a health plan. They were concerned that we had no history. They wanted to know how they would fit into the hierarchy." Even so, "There were publicly minded people (in accounting)," he says. "They wanted to change the profession. They wanted to make it better."

Staffing the consumer financial protection bureau could be tricky. The new watchdog will likely inherit consumer specialists from the banking regulatory agencies that botched consumer protection in the first place.

But Warren says the regulatory failures occurred at the top of the agencies, not at the rank-and-file level. "It will be easy to find good people," Warren says. "There's a difference between the people at existing agencies who were in a position to set policy — especially the ones who aimed all those policies toward helping the banks — and all the staffers that did the hard work of gathering data and collecting information about what was going on. The latter could make important contributions to the new agency."

The new agency will also have to compete with banks that are hiring regulatory specialists.

"There could be an exodus," says Mark Olson, a former Federal Reserve Board governor and past chairman of the Public Company Accounting Oversight Board.

The political appointees who run government agencies tend to generate the headlines. But it's the career staffers toiling year after year out of public view who can determine whether an agency succeeds: "What really lasts are the careerists," says Harvard University government professor Daniel Carpenter. "That's where you have to hire competent and dedicated people who aren't going to say, 'OK, I'm going to work three years and then run off to work for the companies I used to regulate.' "

The Food and Drug Administration, for example, was transformed into a regulatory powerhouse by a group of career staffers who went to work there after World War II, says Carpenter, author of the FDAhistory Reputation and Power.

New agencies "tend to attract a lot of bright, energetic, gung-ho people who (believe in the)
institutional mission and esprit de corps," says William Galston, senior fellow in governance
studies at the Brookings Institution think tank. "If they make a mistake, it will more likely be on the side of excess. They will go too far and get their knuckles rapped, but I don't expect them to be asleep at the switch like the (BP regulator Minerals Management Service) was."

•Avoiding turf wars within the agency and with other government departments. "Try to structure the staff in such a way that you don't have silos," advises Daniel Goelzer, acting chairman and
founding member of the public company accounting board. "In the early days, we could all meet in one room, so it wasn't too much of a problem to share information with one another." But as agencies grow, different departments can hoard information.

"Washington is a place where turf matters," Niemeier says. "Whenever a new organization is created, you are invariably going to be stepping into areas that someone else thought was their jurisdiction."

Ruckelshaus, for instance, says he had to fend off gung-ho EPA staffers who wanted to invade other agencies' turf. To avoid bureaucratic warfare, lawmakers working on the new financial consumer watchdog labored to make sure it didn't collide with another agency on a similar mission, the Federal Trade Commission.

•Making a big splash early on to establish your credibility. The EPA's fast start under Ruckelshaus is a model for new agencies, says Robert Durant, professor of public administration at American University. He advises the consumer bureau's first director "to do some quick things fast. Early decisions will resonate for a long time."

Goelzer agrees, "Do something early on that will show the public you are accomplishing your
mission." That's why the accounting oversight board made a point of conducting limited inspections of the four biggest accounting firms during its first year of operation.

Expect full days

Whoever winds up running the new consumer watchdog should expect to put in endless days,
tackling tasks that range from the mundane to the mind-boggling. Goelzer remembers tramping a
round Washington with fellow board member Bill Gradison and a real estate agent looking for office space. "We would have loved to delegate," he says, "but there was nobody to delegate to." (They wound up taking over an office previously occupied by the accounting firm Arthur Andersen, which was put out of business by the Enron scandal.)

Ruckelshaus had his own headaches. He had to integrate parts of 15 different agencies into the EPA. "We inherited a pesticide office from (the former Department of Health, Education and Welfare) that was regulating pesticides" along with a Department of Agriculture office that was promoting use of the same pesticides. The solution: "We put them in one office and let them duke it out," he says.

His advice for the consumer watchdog's first director: "Get plenty of sleep before you start, because you're not going to get much once you get going."

MINING

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W.Va. Environment Chief Sees Court Clash With EPA (*Associated Press*)

Story also appeared: *Washington Examiner, Free Lance-Star*

VICKI SMITH, Associated Press Writer
Published: June 23, 2010
Updated: June 23, 2010
MORGANTOWN, W.Va. (AP) West Virginia's top environmental official says surface-mine permitting in his state is getting tougher federal scrutiny than in any of the other five states the Environmental Protection Agency has targeted, and the continuing conflict over new standards will likely end up in litigation.

"We are either going to be a plaintiff, a defendant or an intervener," Department of Environmental Protection Secretary Randy Huffman told The Associated Press. "I can't predict right now which one we'll be."

Several DEP employees are attending a meeting with EPA staff in Pittsburgh on Wednesday and Thursday over new water-quality standards imposed April 1 on six states: West Virginia, Kentucky, Pennsylvania, Ohio, Virginia and Tennessee. Huffman argues the standards are not only unattainable, but also being unfairly enforced.

"They are wrong on a lot of levels," Huffman said of federal regulators. "... If what EPA is doing is illegal, they will pay the price."

Huffman said his staff will "do more listening and asking questions than talking" to EPA officials. "I can promise you, there will be much that will be said in this two-day meeting that will be held against them later."

EPA spokeswoman Terri White said the guidance was intended to provide a consistent review framework for the regional offices and to prevent "significant and irreversible damage to Appalachian watersheds at risk from mining."

EPA ensures the new standards are applied "fairly and consistently" across the six states by holding weekly conference calls between headquarters and staff in regional offices, she said.

White said this week's meeting, which grew out of an annual meeting of state program managers in May, will include representatives from environmental agencies in West Virginia, Virginia, Maryland and Pennsylvania, as well as officials with the U.S. Fish and Wildlife Service, the Office of Surface Mining and the Army Corps of Engineers.

The EPA's new policy, which is open for public comment through Dec. 1, could curtail mountaintop removal mining, a highly efficient and destructive form of strip mining that blasts apart mountaintops to expose multiple seams of coal. The resulting waste is dumped into valleys, covering intermittent streams.

EPA says burying streams increases salt levels in waterways downstream, hurting fish and other aquatic life. It says its new standards would protect 95 percent of aquatic life.

The industry argues the new standards would effectively shut down strip mining, devastating coal companies and communities that depend on the jobs. The National Mining Association says the six targeted states produced more than 150 million tons of coal and employed nearly 20,500 people in 2008.

Huffman said the rules have essentially brought permitting in West Virginia to a halt. Bruce Scott, commissioner of Kentucky's Department for Environmental Protection, said his state is feeling it, too.

More than a dozen Kentucky projects are in limbo, and operators lined up behind them for permit approvals are also forced to wait.

"The practical result is, it's slowed things down considerably," he said.

Kentucky has many more mines than West Virginia, but most are considerably smaller, Scott said. Many have already been forced to shut down and lay off workers.

Kentucky adopted new stream-monitoring requirements in anticipation of new EPA policies, and its system focuses on testing for contaminants after the fact. It gives the Kentucky DEP the ability to revisit permits if testing shows effluent is likely to harm water quality or aquatic life.

"The difference, then, is that EPA's approach presumes an impact," Scott said. "The Kentucky approach says, 'Let's determine whether there's an impact, then go back and assess what to do.'"

Kentucky considers its approach reasonable, but the likelihood of litigation over the federal approach "depends on what EPA's ultimate line in the sand is," Scott said. "One of the avenues ahead for everybody is litigation."

If West Virginia isn't the first state to sue, Huffman said it will quickly follow whoever does whether it be another state, an industry association or an individual operator affected by the new rules.

While DEP agrees with much of what EPA has to say, Huffman said, "they have taken it to such an extreme that it makes it an impossible standard for the industry to meet.

"The disagreement is not about the big picture," he said. "It's about details."

SUPERFUND

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Okla. approves settlement over Tar Creek cleanup (*Greenwire*)

(06/23/2010)
Oklahoma lawmakers and Gov. Brad Henry (D) have given the go-ahead to a deal with two companies that claimed to have been stiffed for demolition and cleanup work at U.S. EPA's Tar Creek Superfund site.
The Tar Creek area along the Oklahoma-Kansas border is contaminated by waste from former lead and zinc mines. Hundreds of residents of Treece, Kan., and nearby Picher, Okla., have been relocated.
The companies, Vision Construction and Project Management Inc. and CWF Enterprises Inc., claimed the Lead-Impacted Communities Relocation Assistance Trust had not paid them for work at 37 properties. Because the state-run trust can only approve payments of $250,000 or less, their claim of $366,282 went before the Contingency Review Board.
Henry and state lawmakers approved the deal after a meeting that lasted less than 10 minutes.
"We would have lost," said Assistant Attorney General Scott Boughton, who serves as the trust's legal adviser. "They did the work" (Michael McNutt, Oklahoma City Oklahoman, June 23). -- GN

Union Pacific asks judge to order EPA to stop destroying records related to Omaha lead cleanup (*Hartford Courant*)

June 23
OMAHA, Neb. (AP) — Union Pacific Corp. asked a federal judge Wednesday to order the Environmental Protection Agency to stop destroying records the railroad requested about lead contamination in Omaha.

The EPA and Union Pacific have been trying for years to settle who should pay more than $200 million to clean up 5,600 lead-contaminated properties in the railroad's home city because they disagree about the source of the contamination.

U.S. District Judge Laurie Smith Camp issued a temporary restraining order Wednesday ordering the EPA not to destroy any records the railroad requested while the lawsuit moves forward.

[Sample Our Free Connecticut Business Midday Newsletter]

In Union Pacific's lawsuit, the railroad quotes from several e-mails where an EPA supervisor encourages employees to delete messages so they won't be subject to release as public records under the Freedom of Information Act.

In one e-mail the lawsuit references, the EPA supervisor overseeing the Omaha lead site, Robert Feild, wrote: "It will be critical that every i is dotted and t crossed since we are under a microscope. please delete this message after reading — we receive regular FOIA requests from Union Pacific for our e-mails. thanks, Bob F."

EPA spokesman Dale Kemery said the agency doesn't typically comment on pending litigation.

Union Pacific said in its lawsuit that the document destruction appears to go back at least to 2004. Railroad officials want the court to help determine what has been destroyed and force the EPA to produce the records.

Union Pacific said the EPA has been slow to respond to the records requests it submitted in 2002, 2003, 2004 and 2009. The railroad said it found the e-mails about destroying documents buried in more than 1.1 million pages of records the EPA did provide, but UP is still not sure whether the agency provided everything requested.

Much of eastern Omaha has been designated a superfund site by the EPA because of the extent of the contamination.

Excessive lead is thought to be present in thousands of Omaha yards. The lead can endanger children's health, causing decreased intelligence, slow growth and behavior problems. The EPA has been working to clean up the site for several years because of the health problems high levels of lead can cause.

The EPA has already removed and replaced the soil at nearly 6,000 properties in Omaha, and the agency wants to spend roughly $237 million replacing the soil at 10,000 more yards. The total cost of the EPA cleanup is likely to exceed $400 million, according to agency estimates.

Union Pacific has said it shouldn't be held responsible for the lead contamination, because it only leased property to a smelting company, Asarco, and that ended in 1946

when Asarco bought the land and continued operating a smelter there until its closure in 1997.

Union Pacific also argues that lead-based house paint caused the contamination because nearly 80 percent of the homes in the area were built before 1950, when lead paint was common.

Union Pacific spokeswoman Donna Kush said the railroad believes the e-mails it is requesting would help resolve the dispute over the cause of contamination.

"The documents we're requesting would show what EPA knows about the true cause of lead in Omaha soils and whether the hundreds of millions of dollars EPA is spending will solve the problem," Kush said.

In another e-mail cited in the lawsuit, Feild asked another EPA official whether samples collected before August 2004 were biased because of the presence of lead paint.

Asarco agreed last year to pay nearly $1.8 billion to help clean up contamination at more than 80 sites in 19 states. Those settlements included $776 million that went to the federal government to help pay for cleanup at 35 different sites, including Omaha.

Online:

EPA Superfund: http://www.epa.gov/superfund

Union Pacific Corp. lead cleanup site: http://www.uprr.com/newsinfo/media_kit/epa

TOXICS
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June 24, 2010

EPA delays enforcement of new lead paint rules (*Eagle Tribune*)

Story also appeared: *Bloomberg Businessweek*

By Doug Ireland direland@eagletribune.com
Contractors struggling to receive the lead paint certification they need to work on older homes can breathe a sigh of relief.

The Environmental Protection Agency has announced contractors, including the hundreds who work in the Merrimack Valley and Southern New Hampshire, will be given an extra eight months to get the training they need.

"I'm not upset that they are extending it," said Anthony Ward of New England Painting in Windham.

While Ward said he has received his certification, extending the April 22 deadline to Dec. 31 will be beneficial to the industry.

Granting an extension also means contractors who are not certified and are working on buildings constructed before 1978 will avoid fines of up to $37,500 a day for not complying with the regulations — at least until Oct. 1.

"That would just put us out of business," Haverhill painting contractor Helen Lambropoulos said of the fines.

Although her business was certified in May, Lambropoulos was just one of many frustrated contractors in Massachusetts and New Hampshire who could not meet the April mandate because there weren't enough trainers or classes.

"I couldn't get into a class by the deadline," Lambropoulos said.

That meant they had to pass up work at homes, schools and day care centers more than 32 years old because they would risk being fined for violating federal law.

The new law requires contractors to take special precautions — what some say are burdensome and expensive — to make sure lead dust or chips from old paint don't spread during renovations, posing a health threat.

The special equipment and time-consuming procedures required add thousands of dollars to project costs, local contractors said. Work areas of more than 6 square feet must be properly sealed to prevent lead contamination.

Cynthia Giles, an assistant administrator for the EPA, announced the delay in a memorandum posted on the federal agency's website.

Kendall Buck, executive vice president of the Home Builders and Remodelers Association of New Hampshire, has said the EPA failed to give contractors enough time to comply with the regulations. His organization has offered numerous training courses since November and they continue to be booked through July, he said.

"When we were first made aware of the new rule, there were only 65 approved instructors in the country for literally hundreds of thousands of contractors across the country that needed the course," Buck said in a statement Tuesday.

A firestorm of opposition came from contractors, trade organizations and politicians nationwide. Contractors must now register for training by Sept. 30 and complete the one-day course by year's end.

"Many contractors obtained their certification by the April 22 deadline this year, but there are still many in the state that need the program in order to do work safely and legally," Buck said. "One of the bigger concerns right now is untrained contractors putting families and children at risk by bidding lower prices on projects that need to be handled by certified professionals."

Larry Kady, president of the North East Builders Association of Massachusetts, said many Bay State contractors remain untrained and classes are booked through July. He said it's no surprise the EPA is delaying enforcement.

"It was kind of an inevitable thing because there were states that don't even have trainers," Kady said. "They didn't have a choice."

He said some contractors he has spoken to were bothered by the delay because they worked hard to comply with the new law.

"I said, 'You're ahead of the curve,'" Kady said. "You still have to get it done."

The threat of a $37,500-per-day fine forced many contractors to comply, he said.

"Overall, I think it was a help," Kady said. "If nothing else, it was in the public eye."

Despite the enforcement delay, some contractors think it's an example of big government hurting small-business owners.

"They just slow things down," said Kosta John Kritikos of P.K. Painting in Haverhill.

Kritikos said even though the EPA is trying to protect the public, its regulations can be counterproductive.

"Never slow down the progress of good work," he said.

JUNE 22, 2010

EPA to Delay Enforcing Lead-Paint Regulation (*Wall Street Journal*)

By STEPHEN POWER
WASHINGTON—The Environmental Protection Agency has decided to delay enforcing a new lead-paint regulation following pressure from home builders and members of Congress.
The rule would require contractors who work in older homes to become certified by a government-approved trainer and follow a series of safety precautions.

The delay follows an outcry from businesses and trade groups, including the National Association of Home Builders, Home Depot Inc. and Lowe's Cos., as well as lawmakers in both parties. Industry groups charged the regulation would drive up costs and expose contractors to fines and litigation. Some also contended the regulation could derail Washington's efforts to promote energy efficiency because EPA has not approved enough instructors for the required training programs.

The regulation took effect in April and covers tens of millions of homes built decades ago. It aims to reduce the amount of lead dust created during home renovation and repair. Some of the precautions for contractors include covering floors with plastic sheeting and dressing workers in protective clothing. The regulation would also have driven up costs for homeowners, though the amounts have been a point of dispute between the industry and the EPA.

A soft, bluish metallic element, lead was often used as an ingredient by paint manufacturers decades ago. The EPA says lead-based paint was used in more than 38 million homes until the government banned it from housing in 1978.

The average concentration of lead in the blood of young children has fallen sharply since then, but EPA officials say too many are still being poisoned by lead-based paint in their homes. The agency says that from 1999 through 2004, about 285,000 children between the ages of one and five years were estimated to have elevated lead levels in their blood each year.

In a memorandum to EPA regional offices on Friday, Cynthia Giles, the EPA's assistant administrator for enforcement, said the agency will not take enforcement action against renovation and repair firms for violations of the rule's certification requirement until October. For individual renovation workers, the agency will not take enforcement action as long as those workers have applied for, or enrolled in, training classes by Sept. 30.

Ms. Giles said the agency continues to believe "a disturbing number of America's children are...poisoned by lead-based paint in their homes," resulting in learning and behavioral disorders. But she acknowledged concerns raised by home-repair firms about a shortage of government-approved trainers, as well as "numerous disaster declarations" in some areas that have heightened demand for home repairs. Industry groups and some lawmakers calling for a relaxation of the rule said it threatened to slow recovery from Tennessee floods in May.

In a statement Monday, the National Association of Home Builders welcomed the EPA's move, saying the agency "listened to our concerns and did the right thing."

The EPA has also come under fire from Congress. Last month, the Senate voted 60 to 37 to bar the EPA from fining companies or individuals found to have violated the rule, a rare instance of Republicans and Democrats supporting legislation to limit the EPA's power.

In a statement, one of the co-sponsors of that legislation, Sen. James Inhofe (R., Okla.) said he was "pleased that the EPA listened to the clear bipartisan message sent by the Senate that the implementation of the lead-based paint rule was a disaster."

The rule's supporters expressed dismay Monday about the EPA's decision to delay enforcement.

"Industry voices have apparently drowned out those of our nation's children who bear the long-term ramifications of lead exposure," said Rebecca Morley, executive director of the nonprofit National Center for Healthy Housing.

Ms. Morley said she was relieved, however, the EPA will continue to enforce certain work-practice rules, such as those requiring the use of special equipment filters during renovations and repairs.

Write to Stephen Power at stephen.power@wsj.com

Union Pacific says EPA destroyed records it wanted (*Associated Press*)

Story also appeared: *Action 3 News*

By JOSH FUNK (AP)
OMAHA, Neb. — Union Pacific Corp. asked a federal judge Wednesday to order the Environmental Protection Agency to stop destroying records the railroad requested about lead contamination in Omaha.

The EPA and Union Pacific have been trying for years to settle who should pay more than $200 million to clean up 5,600 lead-contaminated properties in the railroad's home city because they disagree about the source of the contamination.

In Union Pacific's lawsuit, the railroad quotes from several e-mails where an EPA supervisor encourages employees to delete messages so they won't be subject to release as public records under the Freedom of Information Act.

In one e-mail the lawsuit references, the EPA supervisor overseeing the Omaha lead site, Robert Feild, wrote: "It will be critical that every i is dotted and t crossed since we are under a microscope. please delete this message after reading — we receive regular FOIA requests from Union Pacific for our e-mails. thanks, Bob F."

EPA spokesman Dale Kemery said the agency doesn't typically comment on pending litigation.

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Online:

EPA Superfund: http://www.epa.gov/superfund

Union Pacific Corp. lead cleanup site: http://www.uprr.com/newsinfo/media_kit/epa

EPA testers being shut out of some residences (*North Jersey.com*)

Thursday, June 24, 2010
Last updated: Thursday June 24, 2010, 1:26 AM
BY ERIN PATRICIA GRIFFITHS
Community News (Garfield Edition)
STAFF WRITER
Chromium testing and clean-up continues in the City of Garfield, but officials are reporting that some property tenants or owners are not allowing testers with the Environmental Protection Agency (EPA) to come onto their property.

"You should know that there are a number of properties that people have not been allowed access to," said City Manager Tom Duch at the June 15 meeting of the mayor and council.

Duch said he will be sending notice to the landlords and "to the extent possible, if I can notify the tenants as well, I will do that."

The EPA has asked for assistance from the city in reaching out to residents and landlords to try to gain access to properties that necessitate testing or require remediation.

The State Department of Health and Senior Services determined that 16 out of 160 homes tested in Garfield for toxic levels of hexavalent chromium have contaminated dust in the basements. Duch announced the public health risk at the city council's May 18 meeting. All 16 affected property owners received notification of the hexavalent chromium contamination prior to Duch's public announcement.

The Department of Health and Senior Services held a special community meeting in the city on May 20 for those residents in affected areas as well as any additional residents with concerns about the findings. Approximately 80 residents attended the meeting held in Garfield City Hall.

According to a press release issued by the State Department of Health, the EPA has been testing homes and properties within the city and requested a health consultation after conducting an investigation into groundwater infiltration. More than 250 homes within Garfield have been tested and inspected to date.

The homes tested are in the area around the E.C. Electroplating Company in the city. The company, located on Clark Street, had an incident in 1983 in which more than 3,600 gallons of chromium plating solution was discharged from a storage tank and contaminated the groundwater in the surrounding neighborhood.

Duch said he is contacting the landlords to notify them that the EPA needs to get on to the property "in an effort to protect the people who are living in those premises."

Mayor Frank Calandriello asked if there was anything that could be attached to the deed on the property concerning that there was notice given that the home needed to be tested and access was not permitted.

"Basically, every property owner can say we are not letting you in and take the risk and the exposure of maybe, potentially, someday getting sued," said Calandriello.

City Attorney Joseph Rotolo said that if a subsequent owner, after the home or property was sold, were to have a related health issue or problem, the previous owner will still be held responsible.

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EPA levies $14,500 fine on Specialty Products in Lakewood (*News Tribune*)

Staff report
Last updated: June 23rd, 2010 06:39 AM (PDT)

Coatings manufacturer Specialty Products Inc. recently agreed to pay a $14,500 fine for violating the federal Emergency Planning and Community Right-to-Know Act at its Lakewood plant.

The company did not report its use of toxic diisocyanates in 2006, 2007 or 2008, the Environmental Protection Agency said. After the EPA told the company about the problem, the company provided the information to both the federal agency and the State of Washington, the EPA said.

Specialty Products has hired a consulting company to make sure all regulatory reports are filed in a timely manner, Cliff Haskins, the company’s vice president of marketing, said in a statement. Haskins pointed out that the fine did not involve any safety or environmental concerns.

Specialty Products employs 20 people.

Staff report

Read more: http://www.thenewstribune.com/2010/06/23/v-printerfriendly/1237658/epa-levies-fine-on-specialty-products.html#ixzz0rlErlVu2

EPA Delays Rule Targeting Lead Paint in Homes (*OMB Watch*)

Responding to political pressure, the U.S. Environmental Protection Agency (EPA) will push back enforcement of a new rule intended to protect homeowners and occupants from exposure to lead paint.

In a June 18 memo, EPA enforcement chief Cynthia Giles instructed EPA regional offices to wait until October to begin enforcing the rule, instead of April 22 as originally planned.

The rule requires contractors to be certified in lead-safe renovation practices and take special precautions when renovating homes built before 1978, the year lead paint was banned. Both businesses and individual workers must be certified.

Contractors, the construction industry, and their allies in Congress have been complaining that too few certifying bodies are available, making it difficult for contractors to receive training in compliance with the rule. EPA can fine those who are not in compliance.

Sen. James Inhofe (R-OK), no friend of the environment, has been leading the charge in opposition of the rule. He has been lobbying EPA and the White House Office of Information and Regulatory Affairs (OIRA) to delay the rule's implementation. He applauded the delayed schedule outlined in Giles' memo.

Public health advocates are not so happy. "Industry voices have apparently drowned out those of our nation's children who bear the long-term ramifications of lead exposure," Rebecca Morley, executive director of the National Center for Healthy Housing, told the *Wall Street Journal*.

According to Giles' memo, "EPA issued the […] rule because a disturbing number of America's children are still poisoned by lead-based paint in their homes – leading to learning and behavioral disorders."

Under EPA's new implementation schedule, businesses must be certified by Oct. 1. Workers must be enrolled in training classes by Sept. 30, and must finish training by the end of 2010. However, EPA will continue to enforce provisions of the rule that require contractors to take precautions such as the clean-up of construction dust at worksites.

(Matthew Madia 06/23/10)

Science Advisers Set Back EPA Proposal For Assessing Risks Of PAHs (*Inside EPA*)

Posted: June 23, 2010
EPA's science advisers are strongly criticizing the agency's planned approach for assessing the cancer risks of polycyclic aromatic hydrocarbons (PAHs) -- the ubiquitous class of chemicals found in crude oil, asphalt, vehicle emissions and other sources -- charging that the agency's approach is inadequate for assessing such a wide range of chemicals and calling for significant revisions.
At a June 21-23 meeting, a special panel of EPA's Science Advisory Board (SAB) recommended that the agency overhaul its approach for assessing the chemicals' risks in the near time while working on a complex methodology for assessing the risks posed by mixtures of PAHs in the longer term.

EPA's draft plan, issued by the agency's National Center for Environmental Assessment (NCEA) earlier this year, cites data that challenges its own assertions about the activity of chemicals in mixtures, and "discusses a number of other uncertainties, some of which cannot currently be validated or dismissed, that further undermine the logical and scientific basis for the assumptions on which [EPA's proposed method] is based," the SAB panel said in a preliminary draft analysis of the agency's methodology.

The panel also reiterated industry demands that EPA update its 1994 cancer risk assessment of one key PAH before it proceeds with its methodology -- a demand to which agency officials have agreed.

Lynn Flowers, NCEA's acting associate director for health, defended the agency's approach by explaining that data to support an alternative method, "just wasn't there" and EPA needed a relatively expedient way of assessing human health risks for the widespread chemicals so regulators could set regulatory levels. "In a regulatory setting, it's difficult to step back and say 'Oh, I have to go do a bioassay,'" Flowers said.

The panel's recommendations represent a major victory for key industry groups, including oil, electricity and road-building sectors, who had blasted EPA's proposed methodology as a flawed scientific approach for measuring risks of complex mixtures and one that relied on outdated cancer data.

Earlier this year, NCEA proposed a method for calculating the toxicity of PAHs -- an effort that is crucial to regulators who will use the new formula to calculate regulatory limits for a range of media exposures, including water contamination from runoff from roads, railroads and other sources of the chemicals.

In the Feb. 26 draft document, *Development of a Relative Potency Factor Approach for PAH Mixtures*, the agency proposed a relative potency factor (RPF) approach that assigns PAHs a potency relative to one index chemical, benzo(a)pyrene (BaP), as a way to assess the toxicity of mixtures of PAHs.

Industry Questions RPF Method

But industry groups charged that the RPF method is flawed because relying on the toxicity of a single chemical does not accurately predict the toxicity of multiple PAHs in mixtures. In addition, the industry groups called on EPA to delay finalizing the RPF document until after the agency had updated its 1994 cancer assessment of the risks posed by BaP (*see related story*).

At their June 21-23 meeting, SAB panelists echoed industry concerns, saying that NCEA's draft document failed to demonstrate an adequate scientific basis for choosing an RPF approach to assess PAH risks over other available methods. Joshua Hamilton, senior scientist at the Bay Paul Center for Comparative Molecular Biology and Evolution and the lead discussant on the issue on the advisory panel, expressed concern that the RPF method's reliance on one index chemical is a "two-edged sword" that may cause regulators to focus on for other compounds that look or behave similarly to BaP, thus possibly excluding other PAHs that may contribute to carcinogenicity but in ways that do not resemble BaP's metabolic response.

"I think that's something that we need to give serious consideration to when we're understanding cancer risk of really complex mixtures," Hamilton said. "The carcinogenicity from coal tar may be significantly different than a pure agent chemical, supporting the argument that the RPF approach is not the best method," Hamilton said.

After lengthy debate, the panelists agreed that though far from ideal, the RPF method is the most pragmatic short-term approach to calculating risks for PAHs, but that EPA should only continue to use it in the interim while working toward a complex mixtures-driven approach -- and even then only with significant revisions.

The panel advised EPA to make a number of adjustments to the document, including increasing the number of compounds used in the study, extending a "daisy chain" of other PAHs with good RPF values, including more recent bioassay data, and revising the way RPF values are calculated in the studies.

The panel agreed that EPA should, even while revising its existing RPF approach, work to test a portfolio of perhaps 12-15 different mixtures, using *in vivo* tumor studies, to represent the most common of the mixtures EPA encounters in substances including coal tar, gasoline exhaust, diesel exhaust, coke oven emissions and use these for comparison purposes. "It is recommended that the agency should set this goal as a strategic initiative, with a specific timeline and benchmarks, and that lays the foundation for an underlying concerted research program to achieve this goal," the panel's preliminary report said, adding a 5-10 year time frame for when they would like to see the task completed.

In addition, the panel discussed a recommendation that would involve developing a suite of short-term assays and biomarkers that reflect the carcinogenic potential of an in vivo exposure to these mixtures for use in both animal and human epidemiological studies. "This might produce a very accurate risk assessment model," Hamilton said.

Panel members also called for a partial overhaul of the way RPF values are calculated for the PAH chemicals, saying more cancer bioassay data was needed to validate the

RPF approach. “Cancer related endpoint data alone was not considered adequately justified,” panel member John DiGiovanni, of University of Texas at Austin, said. The panel also felt strongly that EPA needed to develop some kind of weighting system for measuring the data from individual studies used to generate the RPF values. The RPF values were calculated by averaging together the results of the studies.

“Some type of sample weighting scheme needs to be introduced based on quantity and quality of existing data,” said panelist David Gaylor, of Gaylor and Associates.

Panel members agreed that BaP was the most logical choice to serve as an index or reference chemical because EPA has the most data on it, but validated industry concerns that cancer risk data for BaP was 15 years old, stipulating that EPA must finish updating a 1994 Integrated Risk Information System assessment of BaP before finalizing their RPF approach.

The panel seemed unable to reach consensus on several issues involving how to advise EPA to revise the RPF calculations, including whether RPF values based on a single dose study should be completely exlcluded from the formula until more bioassay data becomes available. -- *Bridget DiCosmo*

WATER

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Fed report confirms underwater oil cloud near well (*Associated Press*)

Story also appeared: *Washington Post*

By JOHN FLESHER
The Associated Press
Wednesday, June 23, 2010; 7:42 PM

NEW ORLEANS -- A federal report confirms what independent scientists have been saying for weeks about the Gulf oil spill: Undersea oil plumes extend for miles from the ruptured well.

The report may help measure the effectiveness of spreading chemicals to break up the oil.

Government researchers released a summary Wednesday of water sampling conducted last month near the site of the leaking well.

It describes a cloud of oil starting around 3,300 feet deep up to 4,600 feet deep and stretching up to 6 miles from the well. Levels of oil and gas within the cloud are significantly higher than concentrations closer to the surface.

The Environmental Protection Agency says there's been no significant harm to sea life, but marine scientist Vernon Asper of the University of Southern Mississippi says the levels are enough to kill fish.

DNR board approves phosphorus regulations (*WKOW News*)

Madison, WI
Posted: Jun 23, 2010 6:46 PM EDT Wednesday, June 23, 2010 6:46 PM EST
FITCHBURG (WKOW) -- The Department of Natural Resources board has approved sweeping new regulations to cut back on phosphorus pollution in Wisconsin lakes, rivers and ponds.
The new rules apply to a variety of sources, such as farm fields, wastewater plants and developers. The package also limits farm run-off for the first time and raises discharge standards for wastewater treatment plants.
The Legislature can still review the regulations, and the national Environmental Protection Agency (EPA) must approve part of the package.
Many biologists believe phosphorus can cause algae blooms that kill water creatures and cause health problems. Phosphorus is often found in fertilizer and manure.
"These rules will reduce pollution that contributes to the algae blooms and excessive weeds that foul our beaches and our waters," said Matt Frank, DNR secretary.
"Restoring healthy watersheds means cleaner beaches, more swimmable lakes, improved public health, healthier fisheries and wildlife habitat. Wisconsin's beautiful lakes and streams support our economy, our recreation and our great quality of life."

Fed report confirms underwater oil cloud near well (*Associated Press*)

By JOHN FLESHER (AP)

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