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ADMINISTRATOR JACKSON
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Alaska senator moves to strip EPA's authority (*CNN Politics*)

By the CNN Wire Staff
* Senate to vote Thursday on resolution
* Alaska senator seeks to cap EPA power on greenhouse gases
* EPA not in support of resolution

Washington (CNN) -- The Senate on Thursday is expected vote on a "resolution of disapproval" by an Alaskan senator that would prevent the Environmental Protection Agency from further regulating air pollution from vehicles and industrial facilities.

Alaska Sen. Lisa Murkowski, the author of the resolution, vowed Tuesday to strip the EPA of its authority to impose new limits on the emission of greenhouse gases.

Murkowski has the bipartisan support of 40 other senators, who may disagree with each other on the scientific impact of greenhouse gases, but who all agree that such regulations should be authorized by Congress, not an executive agency.

"The EPA intends to take control of climate policy, take it away from the Congress," Murkowski said at a press conference with 11 of her fellow Republican senators. "And I think those that are looking at this from the perspective of separate but equal branches of government look at this and say that this is absolutely unacceptable."

It is unclear whether there is enough support in the Senate to approve the measure, but its prospects in the House are slim.

The White House said it will issue a veto threat if the measure makes it to President Barack Obama's desk.

"(The Murkowski resolution) would undermine the Administration's efforts to reduce the negative impacts of pollution and the risks associated with environmental catastrophes, like the ongoing BP oil spill," said a White House policy statement.

At issue is a Supreme Court ruling from 2007 which determined that the EPA has the authority to regulate greenhouse gases under the rules of the Clean Air Act. In December 2009, the EPA concluded scientific findings and declared that carbon dioxide and five other gases constitute pollutants that should be further restricted. And the

agency announced in April new rules for vehicles: a mandatory increase in fuel efficiency coupled with reductions in gas emissions, starting with 2012 model years.

Lisa Jackson, the EPA Administrator, wrote a column Monday in the Huffington Post accusing Murkowski of siding with "big oil companies and their lobbyists" in an effort to "take away EPA's ability to protect the health and welfare of Americans from greenhouse gas pollution."

June 9, 2010

Rockefeller Backs Murkowski's EPA Resolution in Senate (*New York Times*)

By ROBIN BRAVENDER of ClimateWire
Sen. Jay Rockefeller (D-W.Va.) will vote for a resolution to hamstring U.S. EPA's authority to regulate greenhouse gases under the Clean Air Act, he said yesterday.

"I intend to vote for Senator Murkowski's Resolution of Disapproval because I believe we must send a strong message that the fate of West Virginia's economy, our manufacturing industries, and our workers should not be solely in the hands of EPA," Rockefeller said in a statement.

The Senate will vote tomorrow on a disapproval resolution (S.J.Res. 26 (pdf)) from Sen. Lisa Murkowski (R-Alaska) that would essentially veto EPA's "endangerment" finding, a scientific determination that greenhouse gases threaten public health and welfare. The finding is the basis for EPA's greenhouse gas regulations, which are set to take effect next year.

Rockefeller introduced a separate bill that would have more narrowly limited EPA's authority by imposing a two-year time-out on EPA climate rules for stationary sources, but he has said he had trouble advancing the measure. "I still believe that is a sound approach, and I will continue to press for action," he said.

Rockefeller's standalone bill would require 60 votes to break a likely filibuster; whereas Murkowski's resolution would need only 51 votes under the Congressional Review Act, which offers expedited procedures for undoing agency rules. Murkowski has 40 co-sponsors, including three Democrats.

The White House yesterday threatened to veto the Murkowski resolution if it reached the president's desk.

"It is not clear whether this resolution will pass, and the White House issued a statement on Tuesday threatening a veto if it does pass," Rockefeller said. "But my vote is squarely in favor of securing West Virginia's future."

Murkowski spokesman Robert Dillon said last night that Rockefeller's support is "to be expected," given that the White House has ignored concerns raised by the West Virginia Democrat and other critics of EPA climate rules.

Asked yesterday whether she thought she could muster the votes needed for passage, Murkowski said, "It really is dependent on many of our colleagues on the other side, who have said they agree that the EPA moving forward is the worst option. So now they've got an opportunity to really back that statement by supporting this resolution of disapproval."

Additional votes may be found among the four members who co-sponsored Rockefeller's bill. The four Democratic co-sponsors are North Dakota Sens. Byron Dorgan and Kent Conrad, South Dakota Sen. Tim Johnson and Missouri Sen. Claire McCaskill. "You have to wonder where they're going to come down," Dillon said.

Still, Senate Majority Leader Harry Reid (D-Nev.), predicted that the Senate would oppose the resolution. "It appears we're going to be OK, but you never know until the vote takes place," he said.

Michigan Democrats Carl Levin and Debbie Stabenow said yesterday that they plan to vote against the resolution.

Levin said he plans to oppose the measure in part because it goes against a scientific EPA finding that greenhouse gases threaten public health and welfare and also because it threatens the joint EPA and Transportation Department rule setting uniform national emission standards for automobiles.

"I'm opposing it," Stabenow said. "I think it's wrong to challenge a scientific finding about whether or not climate change exists. And that's what the resolution does. It just goes too far."

GOP steps up anti-EPA rhetoric as vote approaches

Senate Republicans stepped up their anti-EPA rhetoric yesterday, telling reporters repeatedly that the agency is overreaching and that "unelected bureaucrats" should not be allowed to dictate federal climate policies.

"The issue is whether an unelected group of bureaucrats or the U.S. Congress should decide what to do about carbon," said Lamar Alexander (R-Tenn.).

"The overreach that we see by the EPA is truly unprecedented in terms of overreach into the legislative branch by the executive," Murkowski said.

Sen. John Thune (R-S.D.) called EPA climate rules "a back-door energy tax that will kill jobs.

"It is another example of overreach by the Obama administration that will drive up costs for small businesses and families across the country," Thune added.

The Republicans' rallying cries came as the Obama administration intensified its attacks against the Murkowski resolution.

In addition to the White House veto threat, EPA chief Lisa Jackson continued to portray the resolution as a boon for Big Oil in the wake of the massive Gulf spill (E&ENews PM, June 8).

Jackson published an op-ed Monday in the Huffington Post blasting Murkowski for attempting to go "back to a failed approach and deepening our oil addiction at the very moment a massive spill -- the largest environmental disaster in American history -- is devastating families and businesses and destroying our precious wetlands" (E&ENews PM, June 7).

Her comments drew a sharp rebuke from Murkowski's spokesman. "Jackson's use of the tragedy in the Gulf to get a cheap political win is despicable," Dillon said.

"No other EPA administrator in history has been so singlehandedly responsible for misleading the public to advance her own political agenda as Lisa Jackson," Dillon added. "Administrator Jackson's mischaracterizations of Senator Murkowski's disapproval resolution offers a clear example of why unelected bureaucrats should not be allowed to set policy -- especially not policy that could have a devastating impact on America's economy."

Jackson reiterated concerns in a speech yesterday that the resolution would override EPA's scientific determination that greenhouse gases threaten human health and welfare and would upend the agency's first greenhouse gas standards for tailpipes, a rule that has been endorsed by automakers.

Bay Program director accepts new post at EPA Office of Water (*Chesapeake Bay Journal*)

By Staff and Wire Reports

The EPA in late April announced that Jeffrey Lape, director of the agency's Chesapeake Bay Program Office in Annapolis, has accepted a position as deputy director of the Office of Science and Technology in the EPA's Office of Water in Washington, D.C.

"EPA and our Bay partners have undertaken significant initiatives to restore the Bay, including following through on the president's Executive Order," said EPA Regional Administrator Shawn Garvin. "In leading our efforts, Jeff has shown unparalleled focus, energy and a sense of purpose."

Lape arrived at the Bay Program in 2007 while it was under numerous outside reviews, including ones by the EPA Office of Inspector General, the Congressional Governmental Accountability Office and others, many of which produced critical findings.

Under Lape, the Bay Program responded by developing a new Chesapeake Action Plan that better coordinated and prioritized restoration activities and, to implement the plan, he oversaw the first comprehensive reorganization of the Bay Program since its start in 1983.

Lape will now manage the EPA's efforts to develop national standards and guidelines under the Clean Water Act and Safe Drinking Water Act. The Office of Science and Technology also develops human health and ecological risk assessments and criteria.

James Edward, deputy director of the Bay Program, assumed the position of acting director when Lape began his new position May 23.

"I'm confident that Jim will vigorously continue the agency's and partners' efforts to restore the Bay," Garvin said.

Conversation On EPA National Drinking Water Strategy Begins At ACE10 (*Public Works.com)*

June 9, 2010
Denver, CO — The American Water Works Association (AWWA) today announced Cynthia Dougherty, director of the U.S. Environmental Protection Agency's Office of Ground Water and Drinking Water, will hold a listening session on EPA's new Drinking Water Strategy, June 22, at McCormick Place in Chicago, Illinois, as part of AWWA's Annual Conference & Exposition (ACE10).
This listening session, from 4-5:30 pm in Room W183B, marks the beginning of the USEPA's public outreach campaign to build a new drinking water strategy based on principles outlined by EPA Administrator Lisa Jackson. EPA's strategy will:
Address contaminants as groups rather than independently to cost-effectively achieve enhanced drinking water protection.
Foster development of new drinking water technologies to address health risks posed by a broad array of contaminants.
Use the authority of multiple statutes to protect drinking water.
Partner with states to share more complete public water monitoring data.
The strategy, first announced in March 2010, is envisioned as a new approach to protecting drinking water and public health. Dougherty's office is leading the agency's efforts to develop and implement the new strategy.
The listening session will include an overview of the strategy, an update on steps the agency is taking to implement the strategy, and an opportunity for stakeholder input.
For more information about the Drinking Water Listening Session at ACE10, visit http://www.awwa.org.

For more information about EPA's Drinking Water Strategy, visit http://www.epa.gov/safewater/sdwa/dwstrategy.html.
About AWWA
AWWA is the authoritative resource for knowledge, information, and advocacy to improve the quality and supply of water in North America and beyond. AWWA is the largest organization of water professionals in the world. AWWA advances public health, safety and welfare by uniting the efforts of the full spectrum of the entire water community. Through our collective strength we become better stewards of water for the greatest good of the people and the environment. www.awwa.org

Senate to vote on EPA role in greenhouse gas (Southeast Farm Press)

Jun 9, 2010 9:34 AM
The National Cotton Council is urging senators to vote “yes” on adoption of S. J. Res. 26, a resolution to disapprove the regulation of greenhouse gases by the Environmental Protection Agency under the Clean Air Act.

In a letter to senators, who are expected to consider the resolution on June 10, NCC President/CEO Mark Lange stated that without relief from Congress, EPA regulation of greenhouse gases under the Clean Air Act would impose a severe economic impact on the U.S. cotton industry including “increased costs of production, inability to generate offsets, increased processing costs for ginning and textile production, and market disadvantages with its international competitors in India, China, and Brazil who do not incur such regulatory burdens.”

Lange’s letter noted that Sen. Lisa Murkowski’s, R-Ark., resolution was filed in accordance with the Congressional Review Act of 1996, which provides Congress with an opportunity to veto rules and regulations developed by federal agencies. The letter stated that the resolution, which currently has 40 co-sponsors, has drawn strong support. In January, 138 agricultural organizations sent a letter to Sen. Murkowski in support of her resolution.

“While the EPA set out to regulate only mobile sources (motor vehicles), the overlapping triggers within the Clean Air Act will immediately extend the agency’s regulatory reach to stationary sources as well as giving it authority to regulate all greenhouse gas emissions,” Lange said in the letter.

“President Obama, (EPA) Administrator Jackson, and members on both sides of the aisle have said throughout the climate debate that the Clean Air Act is not the appropriate vehicle for regulating greenhouse gas emissions and that this issue should be decided by Congress. S.J. Res. 26 offers the clearest and most sensible approach to assure this occurs.”

EDITORIAL / OP-ED / COMMENTARY / LETTERS
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Why blocking EPA emissions regulations would be premature (*Washington Post*)

June 10, 2010 Thursday
Regional Edition
EDITORIAL COPY; Pg. A16
Maryland
Dodging climate action;
Why blocking EPA emissions regulations would be premature
SENATORS SEEM to have done all they can this year could to avoid acting on the issue of climate change. Until Thursday, perhaps, when Sen. Lisa Murkowski (R-Alaska) and 40 others will move to limit, by means of a rarely used "disapproval resolution," the Obama administration's authority to cut greenhouse gas emissions.

Ms. Murkowski wants to block the **Environmental Protection Agency** next year from enforcing carbon emissions rules, based on the agency's authority to regulate pollutants under the **Clean Air Act.** She and many of her colleagues worry that the **EPA** will command power plants and other "stationary sources" to adopt expensive carbon-reduction measures that government regulators favor. Businesses will face higher costs. So will consumers. Neither will get rebates or other assistance to ameliorate the sting of those costs. Ms. Murkowski says that she wants Congress to design a more efficient emissions-reduction policy.

We agree. And the next logical step is to insist that Congress pass a bill that establishes a price on carbon and rebates the proceeds to consumers, which would be cheaper and more predictable than **EPA** regulation alone. Instead, Ms. Murkowski favors eliminating Plan B -- **EPA** regulation -- before it's clear that Plan A -- passing a serious climate bill -- will proceed. Plan B isn't the best solution; that's why it's Plan B. But, if designed carefully, it would at least begin to scale back America's greenhouse-gas emissions, a job that it is critical to start as soon as possible. And it would keep pressure on lawmakers to pass climate legislation.

If Congress approves a real climate bill, there can and should be a legitimate debate about the role of **EPA** regulation in a broader carbon-cutting effort. Until then, attempting to strip the agency of its authority to regulate is premature.

EPA doesn't need this (*Philadelphia Inquirer*)

June 10, 2010 Thursday
CITY-C Edition
EDITORIAL; Inq Opinion & Editorial; Pg. A12
Editorial: EPA doesn't need this

It may be hard to believe that an attack on this country's environmental laws would be waged at the same time it is trying desperately to cope with one of the worst environmental disasters in U.S. history. But believe it.

In fact, a Senate vote Thursday on a backdoor legislative maneuver could cripple the federal government's fight against air pollution and global warming.

The retrograde proposal from Republican Sen. Lisa Murkowski of oil-rich Alaska to strip the Environmental Protection Agency of its power to regulate greenhouse gases that trigger global warming should be rejected at all costs.

If passed, the measure warrants the veto threatened by President Obama.

With 41 cosponsors - and only a majority vote required for passage - defeating Murkowski's proposal will hinge on the votes of senior senators like Arlen Specter (D., Pa.), who has spoken out in favor of the **EPA's** tougher **Clean Air Act** enforcement.

Murkowski is against expanding **EPA** oversight of polluting industrial facilities, notably, the coal-fired power plants that contribute so much to smog.

Based on recent scientific findings that greenhouse gases pose a public health risk, the agency next year will begin requiring more polluting industries to cut emissions, including refineries.

Murkowski and other opponents of the **EPA's** more aggressive stance argue that recession-plagued America can't afford to implement tougher, more expensive pollution standards, nor easily cut back on the use of oil and gas to power the nation.

But a recent report from the National Academy of Sciences offers compelling evidence that there's no time to waste in fighting **climate change,** which "poses significant risks for a broad range of human and natural systems." Delaying tougher clean-air standards will only raise the cost of staving off the environmental risks of **global warming**, including rising sea levels, drought, and disease.

Environment America also calculates that U.S. drivers would fork out millions in additional costs for gasoline if **EPA's** fuel economy standards for 2012-2016 are rescinded as a result of the Senate proposal. The tab for drivers in Pennsylvania, New Jersey, and Delaware alone would be nearly $90 million from driving cars that burn more fuel.

The Murkowski proposal would invoke a little-used law by which Congress can disapprove the **EPA's** "endangerment finding" on greenhouse gases. But that would be an end-run around the best scientific thinking on the real threat posed by **global warming**.

Approval of the Murkowski proposal would be the equivalent of sunbathing on a tarball-

covered beach along the Gulf Coast and trying to deny that there was any impact whatsoever from the massive BP oil leak. That's a delusion Americans can't afford.

Summertime and the breathing is ...(*Newsday*)

New York
June 10, 2010 Thursday
ALL EDITIONS
OPINION; Pg. A33
Summertime and the breathing is ...;
Well, it isn't easy. But there are things to do to improve hot-weather air quality
BYLINE: BY JUDITH ENCK. Judith Enck is regional administrator of the U.S. Environmental Protection Agency.

Summertime is right around the corner, so our thoughts are turning to sunny days at Long Island's beautiful beaches and spending more time outdoors. But summer also brings air pollution from the thousands of cars that clog our roads and from other sources of pollution.

With the traffic come smog alert days that can affect people's health - especially kids with asthma. Long Island doesn't meet national air quality health standards for particulate matter and ozone, commonly known as smog.

Smog is formed when chemical pollutants released by cars, power plants, industrial boilers, refineries and factories react in sunlight and become ground-level ozone. It's more likely to form during hot days, and it takes a toll on our health. Ground-level ozone shouldn't be confused with ozone in the ozone layer, 10 to 30 miles above the Earth, which protects us from the sun's ultraviolet rays. Ozone at ground level is a harmful air pollutant.

Poor air quality affects everyone, but some are particularly sensitive to ozone - including children and adults who are active outdoors, as well as people with respiratory diseases. About 23 million people nationwide, including 7 million children, have asthma. Smog is linked to thousands of deaths and illnesses each year in people with heart or lung disease.

Ozone irritates the respiratory system, decreases lung function and can inflame and damage the cells that line the lungs. Medical studies show that air pollution can trigger heart attacks, stroke and irregular heart rhythms. Roughly one out of every three people in the United States is at risk of experiencing ozone-related health effects. So when elevated ozone levels are expected, the Environmental Protection Agency recommends that people limit strenuous outdoor activity during the afternoon and early evening hours, when ozone levels are highest.

The EPA helps run the Air Quality Index, which tracks five major air pollutants - ozone, particle pollution, carbon monoxide, sulfur dioxide and nitrogen dioxide - and ranks them from good to hazardous. In 2009, Nassau and Suffolk counties had six alert days, which can be unhealthy for sensitive groups. In 2010, we've already had two here, on the Friday and Saturday of Memorial Day weekend.

People ask me for tips about what they can do to reduce air pollution. Sensible steps such as conserving energy, bicycling, carpooling, using public transportation, combining errands that require a car, and reducing engine idling all help reduce the strain that everyday activities put on air quality. So does using fans instead of air conditioning. During the summer months, avoid using starter fluid when barbecuing, and limit the use of gasoline-powered lawn mowers, leaf blowers or trimmers. There are now electric-powered lawn tools that do not pollute the air as much as gas items. Many of these steps will also save you money.

During very hot weather, it's also helpful to put gas in your car during early morning or late evening hours, when less fumes evaporate, and to avoid filling up on Ozone Action Days. And topping off your tank beyond the automatic shut-off point is a bad idea at any time, since that can cause spills and emit more toxic fumes in the air.

For our part, the EPA is also taking steps to reduce air pollution. In January 2010, EPA Administrator Lisa P. Jackson proposed the strictest air pollution standards in U.S. history. Last year, we announced tougher tailpipe emission standards for cars and light-duty trucks for model years 2012-2016, which will result in cleaner vehicles - ultimately requiring an average fuel economy standard of 35 mpg in 2016 across automakers' fleets. This will result in increased fuel economy of 5 percent every year, reduce greenhouse gas pollution by nearly 950 million metric tons and save the average car buyer more than $3,000 in fuel costs over the life of the vehicle.

While we all look forward to Long Island's beautiful summer days, we should always remember that hot weather can bring health problems. It is in everyone's interests to do what we can to reduce air pollution.

Move to curb EPA action on emissions is premature (*Washington Post*)

Thursday, June 10, 2010; A16

SENATORS SEEM to have done all they can this year could to avoid acting on the issue of climate change. Until Thursday, perhaps, when Sen. Lisa Murkowski (R-Alaska) and 40 others will move to limit, by means of a rarely used "disapproval resolution," the Obama administration's authority to cut greenhouse gas emissions.

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under the Clean Air Act. She and many of her colleagues worry that the EPA will command power plants and other "stationary sources" to adopt expensive carbon-reduction measures that government regulators favor. Businesses will face higher costs. So will consumers. Neither will get rebates or other assistance to ameliorate the sting of those costs. Ms. Murkowski says that she wants Congress to design a more efficient emissions-reduction policy.

We agree. And the next logical step is to insist that Congress pass a bill that establishes a price on carbon and rebates the proceeds to consumers, which would be cheaper and more predictable than EPA regulation alone. Instead, Ms. Murkowski favors eliminating Plan B -- EPA regulation -- before it's clear that Plan A -- passing a serious climate bill -- will proceed. Plan B isn't the best solution; that's why it's Plan B. But, if designed carefully, it would at least begin to scale back America's greenhouse-gas emissions, a job that it is critical to start as soon as possible. And it would keep pressure on lawmakers to pass climate legislation.

If Congress approves a real climate bill, there can and should be a legitimate debate about the role of EPA regulation in a broader carbon-cutting effort. Until then, attempting to strip the agency of its authority to regulate is premature.

Where's the Senate on This One? (*New York Times*)

June 10, 2010 Thursday
Late Edition - Final
Section A; Column 0; Editorial Desk; EDITORIAL; Pg. 30

As early as Thursday, Americans will learn whether their senators have been paying the slightest attention to the disaster in the Gulf of Mexico. The occasion will be a vote on a mischievous and potentially destructive resolution by Lisa Murkowski, an Alaska Republican. It seeks to overturn the Environmental Protection Agency's formal determination in 2009 that the buildup of greenhouse gases threatens public health and welfare.

That finding is the basis of **E.P.A**.'s authority to regulate carbon dioxide from vehicles and other sources. It is also one of the main underpinnings of the historic agreement in April to tighten fuel economy standards for the first time in more than 30 years. Repudiating the finding would cripple the **E.P.A**.'s ability to enforce that agreement as well as its authority to require stronger standards in the future. This is precisely the wrong thing to do in a country that needs to reduce its dependency on oil.

Ms. Murkowski's proposal is objectionable for many other reasons. It would repudiate years of work by America's most reputable scientists and public health experts. It would prevent the **E.P.A**. from regulating greenhouse gases from sources like refineries and power plants in the future. And it would send a discouraging message to a federal agency that appears to take its regulatory duties seriously, unlike the Minerals

Management Service, which failed to police the oil industry.

Ms. Murkowski says she worries about oil dependency and **global warming** and is shocked by the gulf oil spill. She also says she would prefer that Congress pass a broad energy bill rather than handing **E.P.A**. "top down" regulatory authority over the economy.

President Obama would prefer a legislative solution as well. So would the **E.P.A**. But neither wants to unilaterally disarm the agency before Congress does something significant, on its own, about oil dependency and **climate change.** So far it has not.

Fracking rules should benefit public, industry (*Casper Star Tribune*)

Star-Tribune Editorial Board | Posted: Thursday, June 10, 2010 12:00 am
A few months ago, it didn't seem likely that the oil and gas industry and environmentalists would ever agree about the need to regulate what's being pumped into the ground during the hydraulic fracturing process.

But thanks primarily to the efforts of Gov. Dave Freudenthal, a compromise was reached that both sides support.

During our recent assessments of the major Republican candidates for governor, we stressed Freudenthal's leadership since 2003 for good reason: He gets things done and can pull parties with opposing views toward a middle ground. The "fracking" issue is a prime example of the type of leadership that will need to be replaced since Freudenthal opted to not seek a third term.

The governor's insistence on a balanced approach between disclosure and protecting companies' proprietary information was based on a sound goal: persuading federal officials that the state should maintain regulatory control over fracking, not the U.S. Environmental Protection Agency.

Hydraulic fracturing involves pumping pressurized water, sand and chemicals underground to open up fissures and improve the flow of oil or gas. In recent years, the process -- along with horizontal drilling techniques -- has been credited with opening up about a century's worth of new domestic reserves.

In Wyoming, companies were not required to tell regulators the ingredients of their fracking chemical formulas. While there have been no documented cases of contamination due to fracking, many environmentalists and public health advocates have expressed concern about health hazards to groundwater. In March, the EPA launched a new research effort to investigate the issue. Some have called on Congress to put fracking under the EPA's regulatory authority.

Most oil and gas industry officials in Wyoming initially opposed state regulations, citing the need to protect trade secrets so they can remain competitive. But they apparently concluded that they'd rather disclose the fracking formulas to the state than the federal government, especially if they could get a few concessions built in to the process. It was a good choice.

Under the new rules approved Tuesday by the Wyoming Oil and Gas Conservation Commission, companies will be required to list what goes into their fracking chemicals and in what proportion. The rules would also require state regulators to not share certain information with the public if a company can prove it is proprietary. State regulators, however, will have the information so they can carry out the agency's charter to protect groundwater and drinking water supplies.

Both sides expressed support for the new rules. Environmentalists and health officials described it as a victory for public safety over corporate secrecy. Shell Oil Co., the U.S. arm of Royal Dutch Shell PLC, correctly noted that if there is a health issue, the public needs to be confident that the state has the necessary information to investigate.

"We started out with something that was pretty complex and we ended up with a regulation we're pretty sure we can live with," added Rick Robitaille of the Petroleum Association of Wyoming.

Thanks to the new rules under Freudenthal's leadership, those concerned that fracking might contaminate drinking water sources now have a state agency to go to that at least will have a better idea of what is being pumped into the ground. That should benefit both the public and industry by boosting public confidence in the safety of the practice.

Time to Stop the EPA's Assault on America (*Crosswalk.com*)

Jim Tonkowich
Cornwall Alliance on the Stewardship of Creation
June 9, 2010

In spite of fine sounding words to the contrary, Washington is planning a devastating blow to small businesses, hard-working families, and people living on fixed incomes. The Obama White House is teaming up with the nation's most powerful regulatory agency to impose far-reaching and absurdly expensive energy-use restrictions on the struggling U.S. economy.

When the highly unpopular "cap-and-trade" bill (an energy tax with a deceptive name) got hung up in Congress, the White House decided to do administratively what it can't do legislatively. Initiating an outrageous power grab that subverts the constitutionally prescribed separation of powers, the Environmental Protection Agency (EPA) issued an "endangerment finding" under the Clean Air Act alleging that emissions of manmade

greenhouse gases—particularly carbon dioxide (CO2)— pose a threat to the climate and public health.

The nearly 40-year-old Clean Air Act was designed to deal with traditional pollutants emitted from vehicles, manufacturing facilities, and the like. But the Clean Air Act is ill suited to deal with trace amounts of greenhouse gases, particularly carbon dioxide (CO2). As one Democratic senator put it, EPA is trying to "jam a square peg into a round hole."

Most CO2 in the atmosphere occurs naturally, and some is produced by the burning of fossil fuels (coal, oil, and natural gas), which provide 85 percent of our energy. CO2 is natural, beneficial, and essential to life on earth.

As the scientific evidence that manmade greenhouse gases are dangerously warming the climate crumbles and in spite of their own admission that regulating greenhouse gases will have a negligible impact on the climate, the EPA is plotting a draconian, made-in-Washington flood of intrusive energy-rationing regulations. If left unchecked, expect new government intrusions into our daily lives with the greatest harm to moderate- and low-income families.

Today, the average household spends 5 percent of its income on energy. For people living on fixed incomes and those near the bottom of the economic ladder, that figure rises to around 25 percent. The Brookings Institute estimates that, under a cap-and-trade system, families would see their heating, cooling, transportation, food, and clothing costs soar by $3,000 a year from 2012 to 2050. And EPA's scheme is far more drastic and costly than already prohibitively expensive cap-and-trade.

Under the endangerment finding, EPA wants to use the Clean Air Act to regulate all vehicles and millions of power plants, factories, farms, office and apartment buildings, hospitals, schools, small businesses, and churches.

With unemployment already hovering near 10 percent, EPA's plan will add to our economic problems, diminishing the quality of life for ordinary Americans without providing any measurable environmental benefits.

It will, however, succeed in giving Washington even more power over the lives of the American people.

But all is not lost. Within the next few days, Senator Lisa Murkowski (R-Alaska) will put before the Senate her "Resolution of Disapproval." This would put the Senate on record as rejecting the White House/EPA power grab.

Under the Congressional Review Act, only 51 votes are needed to approve her resolution, and more than 40 senators representing both parties already back it. Passage in the Senate would make it difficult for the House to avoid a similar measure and the signal to the White House would be unmistakable: The American people are

fed up with Washington's arrogance and want their country returned to fiscal sanity and the constitutional principles.

The consequences of putting hard-working families and small businesses at the mercy of unaccountable EPA bureaucrats cannot be understated. Climategate e-mails show that the so-called "consensus" on global warming is little more than collusion by taxpayer-funded researchers to suppress data and stifle scientific dissent. That makes the sacrifices demanded of us all the more deplorable. Our pain/bureaucracy's gain is no way to run a country.

This is yet another example of the political elite's apparent disdain for the good people who work hard, play by the rules, raise their children, and live within their means. Pushing back is a long-overdue step to restore order and accountability.

AIR

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A Clash in Texas Over Air Pollution (*New York Times*)

June 10, 2010 Thursday
The New York Times on the Web
Section ; Column 0; National Desk; Pg.
By JAMES C. McKINLEY Jr.
HOUSTON -- For 16 years, a showdown has been brewing between Texas and federal environmental officials over the state's unique way of regulating industrial air pollution, which many critics complain is lax and has led to some of the dirtiest air in the country.

Now, President Obama's new regional director of the **Environmental Protection Agency** in Dallas has forced the issue. The new environmental sheriff is Al Armendariz, a 40-year-old chemical engineer from El Paso, and two weeks ago, he took the unprecedented step of barring Texas from issuing an operating permit to a refinery in Corpus Christi.

The state's rules for granting permits have long violated the **Clean Air Act**, Mr. Armendariz said, and he made it clear that the agency would do the same thing in about 39 other cases, among them several major refineries, unless Texas changed its system.

"The State of Texas has to let me know if they can issue permits that are consistent with federal requirements, and if they can't, then we will," he said.

Since Mr. Armendariz's announcement, a political donnybrook as broken out.

Gov. Rick Perry, who has been in attack mode against all things Washington, warned

that jobs would be lost. At a warehouse in Deer Park, just a few blocks from the string of refineries along the Houston shipping canal, a line of blue-collar workers recently stood stiffly behind Mr. Perry, a Republican seeking his third full term, as he accused federal environmental regulators of persecuting Texas.

The governor suggested that the Obama administration must have political motives for cracking down on the state.

"Washington just isn't happy unless they have total control of everything," he said, playing a note that pleases his conservative constituents. "This administration seems to think it's their way or the highway."

But, the Democratic nominee for governor, the former mayor of Houston, Bill White, has accused Mr. Perry of mismanaging the state environmental agency and of losing control of a vital authority.

Environmentalists have also fired at the governor, charging that the Texas Commission on Environmental Quality has become a toothless lapdog of the industry it regulates.

But beyond the finger-pointing and partisan posturing is a dispute between Texas and Washington over air quality that stretches back through the Bush and Clinton administrations.

At issue is the state's practice of "flexible permitting." The **Clean Air Act** requires polluters to limit emissions for several key pollutants from each smokestack, or other source inside a plant or refinery. But since 1994, Texas has instead given about 140 plants -- among them the largest refineries in the state -- a general ceiling for pollution from all sources inside a plant.

Mr. Armendariz, in an interview, said the scheme made it extremely difficult for federal regulators to figure out if a plant was polluting or not. If they find one source of pollution at a refinery, for instance, they must balance it against hundreds of others. "It's an impossible situation," he said. "These permits are unenforceable."

The system has other advantages for industrial polluters, he said. Many have managed to expand their plants without including the controls required on new sources of pollution by getting the state to raise the cap for the whole complex.

There is also hard evidence that these plants produce more toxins for each barrel of oil or chemicals they process than similar refineries and factories in other states, he said.

Other critics say a flexible permit means a single stack can be spewing a toxic chemical at illegal levels as long as the overall pollution cap is met. And if that source is close to the edge of a refinery, for instance, it can have devastating effects on people living nearby.

Some environmentalists also argue that the overall pollutions limits in the permits are too high, making it easy for the industry to meet them and giving polluters room to exceed limits for certain pollutants on certain days without facing the consequences.

"They never exceed the limits," said Jen Powis, a lawyer with the Lonestar chapter of The Sierra Club. "The T.C.E.Q. really gave them this inflated bubble for the entire site."

No other state uses this system, which is beloved by many business leaders here, and the **E.P.A**. under three presidents has refused to sanction it. Even President George W. Bush's regional administrator, who was not known for being tough on the oil industry, challenged the permitting program in 2002, on similar grounds as Mr. Armendariz.

State officials, however, point out that under their regimen, Texas has seen steep drops in air pollution, larger than the national average. Ozone levels have dropped 22 percent since 2000, and nitrogen oxide levels are down 46 percent, they say.

"The proof is in the pudding," said Mark R. Vickery, the executive director of the environmental quality commission. "The air has gotten tremendously cleaner."

No one disputes that the situation has improved in recent years, but environmentalists say the gains have come in spite of the state's loose regulation of industry, not as a result of state pressure. They say lawsuits brought by the federal government and environmental groups account for most of the gains, along with the national trend toward cleaner fuels and more energy-efficient cars.

Besides, these critics argue, Texas started out with such high levels of pollution in the 1990s that it was not difficult to cut emissions significantly. "Better does not equal good," said Matthew Tejada, the executive director of Air Alliance Houston, an environmental group. "We still do not have clean air in Texas."

Elena M. Marks, a former director of health and environmental policy for the City of Houston, said the national emissions figures showed that the amount of carcinogens released into the air for each barrel of oil processed in Houston's refineries was higher than the average at refineries in other states, even within the same company.

Ms. Marks, who now works for Mr. White's campaign, said Houston became so disenchanted with the state's monitoring that it bought its own mobile laboratory to test for pollutants. Simply by publicizing the illegal levels of emissions it found, the city shamed oil and chemical companies into halving benzene and butadiene emissions over the last six years, she said.

Houston was not the only entity upset with the current system. Saying they needed more regulatory certainty, the Texas Oil and Gas Association sued the **E.P.A**. in 2008 in an effort to force the Bush administration to make a final decision on the flexible permits.

Now, however, Mr. Armendariz has made it clear he intends to force the state's hand this summer. "The time for delay and for partnership and for compromise is very quickly coming to an end," he said, "and we have to get the **Clean Air Act** implemented in the State of Texas."

Senator seeks probe of Erie Coke (*USA TODAY*)

June 10, 2010 Thursday
CHASE EDITION
NEWS; Pg. 3A
Senator seeks probe of Erie Coke;
Saysneighbors suffer variety of ailments

BYLINE: Blake Morrison and Brad Heath
A U.S. senator is urging federal regulators to investigate whether toxic emissions from a plant in Erie, Pa. -- located just blocks from a handful of schools -- may be responsible for serious health problems among residents.

In letters sent this week to federal health and environment officials, Sen. Robert Casey, D-Pa., wrote that Erie residents have complained of myriad ailments, "from headaches to cancer." Casey told the head of the Agency for **Toxic Substances** and Disease Registry that residents worry that emissions from the Erie Coke Corp. may be to blame.

"It's a matter of pushing an agency to take an action," Casey said Wednesday. Investigating the cause of any illnesses is "an important step in making sure we have the facts on the table. Sometimes those determinations are difficult to make."

Casey's effort comes as a Pennsylvania administrative law judge contemplates whether to shut down the Erie facility, which turns coal into coke, a fuel used to melt iron ore for steel mills. Late last month, Pennsylvania's Department of Environmental Protection ordered the plant to close for repeatedly violating state environmental laws. Erie Coke appealed, and a judge is expected to rule by June 18, says Freda Tarbell, a spokeswoman for the state agency. Meantime, Erie Coke continues to operate.

In 2008, air quality monitoring by USA TODAY showed high levels of at least two dangerous chemicals in the air outside one of the nearby schools -- Wayne School, a few blocks from Erie Coke. The chemicals, benzene and naphthalene, are among those that Erie Coke emits, records show.

The federal government considers "coke oven emissions" to be carcinogenic. USA TODAY's tests, done as part of its investigation into air quality outside schools across the nation, found the two chemicals at concentrations that could increase the risk of cancer for those exposed for long periods of time.

Children are especially vulnerable to toxic chemicals. Their organs are still developing, and they breathe more air per pound than do adults. The USA TODAY investigation identified hundreds of schools across the nation where the air outside appeared to be rife with toxic chemicals.

In response, the U.S. **Environmental Protection Agency** launched a $2.25 million monitoring effort to examine air quality outside 65 schools in 22 states. The agency is likely to announce today that it has completed the first phase of the effort.

Regulators will analyze the results of about 22,500 air samples taken outside those schools to determine whether students face any significant long-term dangers. Final reports are expected later this year.

Preliminary findings outside some schools showed elevated levels of toxic chemicals, including manganese, a neurotoxicant that behaves like lead. Federal regulators did not monitor outside schools in Erie, but tests by the state in late 2008 and 2009 -- done while Erie Coke operated at 50% capacity -- indicated "no unsafe levels of air pollutants or metals."

Casey wants federal officials to investigate more thoroughly, asking them to "conduct a public health assessment to determine if emissions from Erie Coke's coke-making facility has or will cause harm to the health of people living near the facility."

EPA Vote Coming Down to the Wire (*American Spectator*)

By Iain Murray on 6.10.10 @ 6:08AM
Last year, the EPA announced an enormous power grab on global warming, far exceeding its constitutional authority by rewriting the Clean Air Act and essentially threatening Congress to legislate with the threat of blunt force trauma to the economy. This blatant move annoyed one of the more moderate Republican Senators, Lisa Murkowski of Alaska, so much that she announced a resolution to have the EPA's move disapproved by Congress. The vote is today, and it's going to be close. If Sen. Murkowski wins, it will send a clear signal to the Administration and its allies in the green movement that they can't get away with such shenanigans. It's essential that she does.
The EPA's move followed the quixotic decision of the Supreme Court in the case Massachusetts v. EPA to decide that the Clean Air Act, passed in 1970, was intended by Congress to deal with the problem of increasing concentrations of Carbon Dioxide as well as more traditionally regarded air pollutants. The ruling allowed the EPA to regulate fossil fuel emissions. President Obama's EPA jumped at this opportunity, but was faced with a problem.
The plain language of the Clean Air Act would apply the regulations to anyone who emits more than 250 tons of CO_2 in a year. That means fast food franchises, apartment buildings. and hospitals would be subject to regulations aimed at clamping down on

pollution from large industrial facilities. Even the EPA recognized the absurdity of this result. It took it upon itself to rewrite the law, saying that what the Clean Air Act meant in this case was 25,000 tons, not 250, and issued what it called a "tailoring rule" to this effect. This represents a significant assault on the principle of separation of powers.
The interesting thing is that everyone agrees that the EPA regulations are potentially disastrous. For example, Democratic Senator John D. Rockefeller (WV) has said that "EPA regulation will have an enormous impact on the economic security of West Virginia and our energy future." His colleague Mark Begich of Alaska seemed to agree, saying, "I believe that the EPA's enforcement of the endangerment finding would be clumsier and less targeted than if Congress were to act."
Yet Sen. Begich and many of his colleagues seem to think that the threat of EPA action is a good thing, with him continuing on to say, "We need a comprehensive energy plan and if this keeps the fire under these guys to get something major done, I'm all for it." In other words, he's all for the EPA usurping Congressional authority if it forces Congress to pass something he's in favor of, which leads one to wonder if he'd be so in favor of agency overreach in an area where he didn't approve of the action.
It was exactly this overreach that led Sen. Murkowski to propose her resolution to disapprove the finding on which the EPA based its power grab, a finding that greenhouse gases endanger public health and welfare. Such a ruling, made under the provisions of the Congressional Review Act, would simply overturn the "legal force and effect" of the finding, and not the reasoning or conclusions. There are plenty of Senators wholly convinced of the reality of man-made global warming who are preparing to vote for the resolution.
Sen. Rockefeller and several of his more realistic Democratic colleagues have said they will support the resolution, which only requires 51 votes to pass. President Obama has already said he will veto the resolution should it pass both Houses, but a vote in favor would still send a strong signal to the Administration -- and the Courts -- about Congressional intent in this area. The vote is on the knife-edge.
Who could be the hero that puts the vote tally over the top? Senator Byrd of West Virginia has often voted in favor of sensible energy policy in the past and could join his colleague Sen. Rockefeller in voting for his state against his President, for which he would be owed many thanks. Yet even his vote might not guarantee approval.
Step forward Senator Scott Brown (R-MA). He has been on the fence on the issue, probably because of his state's role in the underlying court case. But during his election campaign, he said the following:
"I just want to make sure if in fact… the earth is heating up, that we have accurate information, and it's unbiased by scientists with no agenda. Once that's done, then I think we can really move forward with a good plan."
The EPA made its decision before Climategate or any of the other recent scandals that have revealed how politicized climate science has become. If Sen. Brown wants the really good plan he said he did, he should vote for the motion so that neither the EPA nor Congress takes precipitate, job-destroying action based on shaky science.
Given the bipartisan support for the resolution, it would be appropriate for Sen. Brown, unapologetic truck driver that he is, to cast his vote in favor. If he does so, he will have saved the nation from EPA's regulatory anti-stimulus, and upheld an important constitutional principle to boot.

EPA Sees Cement Air Rules As Legal Test For Sector-Based Air Strategy (*Inside EPA*)

Posted: June 9, 2010
An expected lawsuit over EPA's pending final rules to cut air toxic and criteria pollutant emissions from cement manufacturing facilities will serve as a legal test for the agency's plans to issue similar multipollutant regulatory packages for power plants and other industrial sectors, according to a key EPA air official.

EPA will in the coming months issue its final new source performance standard (NSPS) and national emission standards for hazardous air pollutants (NESHAP) for the cement industry. The agency had been under a June 6 court-ordered deadline to issue the final rules as the result of lawsuits over the two standards, but EPA recently won approval to delay issuance of the rules until Aug. 6.

Brenda Shine of EPA's Office of Air Quality Planning & Standards told a recent Clean Air Act Advisory Committee (CAAAC) meeting in Washington, DC, that the package of two cement industry rules "is the test, really" of the agency's nascent push to address multiple pollutants through a coordinated regulatory plan. A lawsuit could resolve whether a challenge to one rule would stall a sector-specific regulatory package that includes other rules, she said.

"We won't get sued until it's promulgated, but that's the first one out of the box," Shine said of the precedent that the cement NSPS and NESHAP package will set for other multipollutant rulemakings.

EPA is pursuing similar multipollutant approaches for regulating other industrial sectors. For example, EPA last August asked the U.S. Court of Appeals for the District of Columbia Circuit to remand its challenged NSPS for power plants in order to reconsider the standard's limits in tandem with an upcoming power plant NESHAP proposal, expected to mandate significant cuts in power plants' mercury emissions.

Litigation over either the cement manufacturing NESHAP or NSPS will provide a key test in the D.C. Circuit for the question of whether a lawsuit over an individual rule -- for example the NESHAP or NSPS -- would stall the entire sector-based regulatory strategy, which has a goal of harmonizing compliance with multiple air rules.

Shine said at CAAAC that the regulated community has requested this harmonization in order to see the "full slate of responsibilities and make decisions about the way to achieve control requirements."

Under the Clean Air Act, EPA regulates criteria pollutants such as ozone and particulate matter under NSPS, which require facilities to install best demonstrated technology -- the best level of emissions controls demonstrated to work in an industry, considering cost and other factors. NESHAPs regulate air toxics, such as mercury, by requiring companies to install maximum achievable control technology (MACT) to cut emissions.

Lack Of Coordinated Process

States, industry and others have raised concerns that EPA has no coordinated process for issuing its various air rules, creating regulatory uncertainty. EPA air chief Regina McCarthy has vowed to promote multipollutant rules, for example simultaneously issuing several rules for the same sector, in order to address these concerns.

The cement manufacturing industry will be the first sector subject to such a sector-based multipollutant approach with the dual issuance of a NESHAP to cut the sector's air toxics emissions and an NSPS to reduce criteria pollutant emissions from the industry. EPA in June 2008 proposed to significantly strengthen the existing NSPS for cement kilns, and in May 2009 proposed a NESHAP to cut cement manufacturers' emissions of mercury, total hydrocarbons and hydrochloric acid for both new and existing kilns.

EPA's deadline to issue both rules is the result of litigation -- the NSPS challenged in the U.S. District Court for the Northern District of California case Sierra Club v. EPA and the NESHAP litigated in the D.C. Circuit case Portland Cement Association v. EPA, et al. While EPA originally faced a June 6 court-ordered deadline to issue the final rules, the agency recently won an extension to August 6, according to court documents.

The publication of the rules in the Federal Register will trigger a 60-day clock for opponents to seek judicial review of the regulations, and Shine indicated that EPA expects a lawsuit.

EPA official Keith Mason said at the meeting May 26 that one challenge in harmonizing air regulations is that they are often governed by strict court deadlines, as in the case of the cement manufacturing sector. But Mason said that one possible solution is to take early action on certain rules in order to release them simultaneously with another rule that would impact the same industrial sector but that faces a tight court deadline for issuance.

"If we want to align them, we might have to do something sooner than we want to, but it's doable," Mason said, adding that the agency would like CAAAC's input on how to align regulatory timelines.

Another major challenge to the sector-based strategy is the data-intensive nature of the rules, but officials outlined technological advancements that can help better characterize emissions on a sector-wide basis. For example, agency air official Matthew Witosky cited the Industrial Sectors Integrated Solutions Model, which the EPA website says

provides information on the optimal industry operation to meet the demand for its commodity as well as any emission reduction requirements, taking into account cost-effectiveness. "In order to look at the multipollutant strategy, you've got to develop the tools and the data to get it and be realistic about it," Witosky said. -- Molly Davis

Lobbying heats up as Murkowski resolution hits home stretch (*Greenwire*)

(06/09/2010)
Robin Bravender, E&E reporter
Industry and left-leaning advocacy groups are waging last-minute lobbying efforts as the Senate prepares to vote tomorrow on a measure aimed at blocking federal climate regulations.

A coalition of 24 industry groups sent a letter yesterday to members of the Senate urging them to support a resolution from Sen. Lisa Murkowski (R-Alaska) that would prevent U.S. EPA from regulating greenhouse gases under the Clean Air Act.

The groups include the U.S. Chamber of Commerce, American Petroleum Institute, National Mining Association, National Petrochemical & Refiners Association, National Association of Manufacturers and National Cattlemen's Beef Association, among others.

"While our organizations may differ on some subjects with respect to approaches toward climate change, we are united in opposition to unilateral EPA action to regulate [greenhouse gases] under the [Clean Air Act]," the letter says.

The letter also urges senators to oppose any measures to codify EPA regulation of greenhouse gases under the Clean Air Act by legislatively affirming EPA's "tailoring" rule or similar measures.

Sens. Tom Carper (D-Del.) and Bob Casey (D-Pa.) have discussed introducing a measure that would seek to exempt small stationary sources from greenhouse gas regulations while allowing the agency to regulate larger emitters. The proposal would be "very similar" to EPA's tailoring rule, which would phase in greenhouse gas permitting requirements starting with the biggest polluters, according to a Senate aide (E&E Daily, May 18).

Meanwhile, a liberal advocacy group is expanding a television campaign targeting Murkowski's supporters to include Massachusetts Sen. Scott Brown, one of the few Republicans who has not yet declared support for the resolution.

Americans United for Change -- a group formed in 2005 by Democratic officials and labor interests -- will launch a $40,000 television ad in Boston tomorrow targeting the Massachusetts senator after hearing that he is "leaning toward supporting it," said Jeremy Funk, the group's spokesman.

The 30-second ad, which features images of oil spewing from BP PLC's Deepwater Horizon rig, accuses Republicans of "working to gut the bipartisan Clean Air Act" and "giving Big Oil a bailout." Worst of all, the ad says, "Senator Brown is considering voting 'yes.'"

Brown and Maine's Olympia Snowe and Susan Collins are the three Republican senators who have not yet publicly staked out a position on the resolution. The remaining 38 GOP senators are co-sponsoring Murkowski's legislation.

Brown's office did not immediately respond to a request for comment.

Americans United for Change is running similar ads in Maine targeting Collins and a national ad running on Washington, D.C., cable channels during the run-up to tomorrow's vote (E&ENews PM, June 7).

Boiler rules 'virtually unattainable' -- industry group (*Greenwire*)

(06/09/2010)
Patrick Reis, E&E reporter
Development of renewable energy from biomass power plants would be crippled if U.S. EPA finalizes proposed rules aimed at cleaning up industrial boilers, industry advocates say.

Biomass power plants use boilers to burn timber industry byproducts, farming leftovers and organic municipal waste to generate electricity for commercial consumption. There are about 400 such boilers operating in the United States, according to EPA.

The agency in April proposed tighter limits on large biomass boilers' emissions of particulate matter, carbon monoxide, mercury and other toxins.

But the new standards are so tight that they will cause existing plants to shut down and prevent new ones from being built, Biomass Power Association President Bob Cleaves said yesterday.

"They're virtually unattainable," Cleaves said. "They're certainly unattainable if you apply any measure of economic rationality."

If biomass plants close, the waste material they once burned will instead be burned in the field without any filters, thereby hurting air quality, Cleaves said.

EPA is also proposing new air-quality regulations for the approximately 11,000 small-scale biomass boilers in the country. The small boilers are typically employed at paper mills and other facilities to generate heat and electricity for internal consumption. New,

smaller biomass boilers will be subject to limits only on particulate matter and carbon monoxide, and existing smaller boilers will have to meet only the carbon monoxide standard.

If finalized, the rules would prompt paper mills and power plants to turn to natural gas and coal for their energy, increasing carbon dioxide emissions, Cleaves said.

An EPA official involved in making the rule argued that the technology needed to meet the pollution controls is readily available, and that the economic benefits of the rule far outweigh the costs.

EPA's proposed rule on boilers burning biomass and other fuels, coupled with other proposed air quality measures, could prevent annually more than 1,000 premature deaths -- and more than 1 million trips to the hospital because of respiratory disorders, the official said.

The agency is under court order to finalize its boiler rule by Dec. 16. The proposed rule was released in April but officially published yesterday in the Federal Register, initiating a 45-day period for the public to comment.

Once the final rule is published, existing facilities will have three years to come into compliance, while new facilities will have to demonstrate they can meet the air-quality targets before coming online.

Jane Williams, chairwoman of the Sierra Club's National Air Toxics Task Force, accused the industry of exaggerating the boiler rule's potential effects.

The standards are set to bring the rest of the industry in line with the cleanest boilers, and if the biomass industry cannot meet that standard, that damages its claim of being a clean energy source, she said.

"What they're saying, apparently, is: 'We're just too dirty,'" Williams said. "'We can't meet the standards because we're too dirty.'"

Steel group sues over EPA greenhouse gas rule for automobiles (*Greenwire*)

(06/09/2010)
Robin Bravender, E&E reporter
The American Iron and Steel Institute is challenging U.S. EPA's greenhouse gas standards for automobiles in a federal appeals court.

The industry trade group filed a petition Monday asking the U.S. District Court of Appeals for the District of Columbia to review EPA's standard, marking the latest in a string of challenges to the agency's climate policies.

EPA and the Transportation Department issued joint rules in March imposing the first-ever federal greenhouse gas emissions standards on cars and trucks and raising the fuel economy of the nation's passenger fleet.

The rules -- which represent a White House-brokered compromise between carmakers and states that had pushed to create their own auto emissions standards -- will push the nation's corporate average fuel economy, or CAFE, to 35.5 miles per gallon by 2016 and will impose an average carbon dioxide limit of 250 grams per mile per vehicle in 2016 (Greenwire, March 1).

A host of other industry groups represented by the Coalition for Responsible Regulation Inc. and the Southeastern Legal Foundation have also filed court challenges against the auto standards. Carmakers, states and environmentalists have asked the court for permission to intervene on EPA's behalf (Greenwire, June 8).

The steel group is challenging several other EPA climate policies in the appeals court, including the agency's finding that greenhouse gases endanger public health and welfare -- which paves the way for EPA climate rules -- and EPA's policy detailing when the agency must regulate the heat-trapping emissions from industrial facilities.

The auto rules take effect on July 6, which means critics have until then to challenge EPA's portion of the rule in the U.S. Circuit Court of Appeals for the District of Columbia.

Data Gaps May Inhibit EPA Improvements To Air Pollution 'Hot Spot' Analyses (*Inside EPA*)

Posted: June 9, 2010
EPA's plan to mandate greater analyses of "hot spots" in air pollution from transportation projects is drawing cautious praise from observers who say it could help in assessing environmental justice impacts of spikes in pollution near equity areas, but others warn that the emissions model underlying the proposal has major data gaps that could hinder the effort.

The concern over the model, known as the Motor Vehicle Emission Simulator (MOVES), adds to fresh state complaints that it continues to prove complex and hard to operate.

EPA in a May 26 Federal Register notice released draft guidance on conducting quantitative analyses of fine particulate matter and coarse particulate matter in transportation conformity reviews. Transportation conformity requires that state transportation activities are consistent with state air quality plans. EPA is also working on separate draft guidance for conducting similar quantitative analyses for carbon monoxide pollution.

Currently EPA only requires that states conduct qualitative analyses of hot spots, or spikes in pollution, which involve more streamlined reviews of local factors such as monitoring data near a proposed project site. But according to the notice the agency will require more extensive quantitative analyses -- which incorporates modeling to estimate project-related emissions -- after it finalizes guidance on the issue and a two year "grace period" comes to an end, according to the agency's notice.

One county legal source praises the guidance, saying it will allow transportation planners to analyze the impacts of particulate matter hot spots on environmental justice communities, as well as communities that are vulnerable due to health conditions or age, and avoid litigation stemming from a lack of such analysis.

In the notice, EPA says that MOVES is the best model for conducting quantitative analyses for hot spots of pollution in transportation conformity projects. "MOVES estimates PM emissions to account for speed and temperature variations and models emissions at a high resolution," according to the draft guidance. "As a result, users can now incorporate a much wider array of vehicle activity data for each roadway link, as well as start and idle activity in transit or other terminal projects."

The draft provides instructions on using MOVES to estimate a project's impact and allows users to adapt the program based on the level of local information available. The model includes a default database for meteorology, fleet, activity, fuel and control program information, which is "not necessarily the most accurate or up-to-date information available at the local level for a particular project," according to the draft.

Using MOVES for the analyses requires data on both average speed and traffic volume for each link, or segment of the project area, and allows users to rely on default assumptions about vehicle activity, including how much time the fleet spends accelerating, decelerating, cruising or idling, but "EPA encourages the development of sufficient travel activity data to capture the expected ranges of traffic conditions for the build and no-build scenarios."

Vehicle Data

If agencies have data available for vehicle activity, vehicle age distribution, fuel types, or temporal variations in factors such as traffic volume and fleet mix, MOVES allows users to incorporate such data.

But sources say most state and local clean air agencies do not collect the extensive data required by MOVES, which means they are unable to calculate the true impact of transportation projects on low-income or minority communities near projects that may increase such communities' emissions burden.

"The states do collect this information, but the degree of information requests has gone up and we're a little bit challenged to get it now," says one Northeast air quality official,

referring to competing burdens on agencies to collect information used to determine compliance with the national ambient air quality standards.

One researcher source agrees that data gaps may hinder the ability of agencies to conduct such localized analyses, such as equity impacts, and says expertise with the new model may also be an issue.

"You would like for larger projects to be analyzed for their environmental impacts as precisely as you can, but that's going to require a level of expertise with the model that regulators just don't have right now," says the source. "Right now a lot of agencies are just at the level of 'Let's get the model in place in time for the next round of [state implementation plans] and the next round of [regional transportation plans.]'"

Meanwhile, at the June 3 annual meeting in Baltimore of the Ozone Transport Commission (OTC), a body representing Northeastern and Mid-Atlantic state air officials, regional air regulators said that the burden imposed by the new MOVES model will require more assistance from EPA. "We still need more tools to make it work," said one state official, who added that the system is "very resource and computer intensive."

Carbon Monoxide Risk Study May Prompt EPA To Eye Tougher Air Rules (*Inside EPA*)

Posted: June 9, 2010
EPA's final scientific review of the risks of carbon monoxide (CO) reiterates conclusions in an earlier draft that exposure to the pollutant can cause elevated risks in people with pre-existing heart conditions, a finding that may bolster the agency's consideration of a more health protective CO national ambient air quality standard (NAAQS).

The final Risk & Exposure Assessment (REA), published in the June 7 Federal Register, also does not include children as a special sub-population susceptible to CO. That approach was widely expected after EPA's Clean Air Science Advisory Committee (CASAC) retreated from earlier calls to expand the list of vulnerable sup-populations to include children, dropping that plan for the final REA citing thin scientific evidence of harm to children.

The REA is a key document informing the agency's ongoing review of its CO NAAQS, providing policy-relevant data on the health effects of CO but not offering any policy recommendations on how to change the standard. EPA already issued an Integrated Science Assessment reviewing the latest data on CO, and a draft policy paper outlining possible revisions to the CO standard.

In the draft policy paper released in March, EPA said it is considering dropping its existing 1-hour CO standard and replacing it with a more health protective 8-hour limit.

That plan prompted a muted response from environmentalists who say that both the 1-hour and 8-hour limits are vital to protect human health.

CO is seen as less harmful to human health than ozone, particulate matter and other criteria pollutants for which EPA sets a NAAQS. Sources say this is in part because nearly every area of the United States is attaining the existing CO standard of 9 parts per million (ppm) over eight hours and 35 ppm over one hour.

EPA is under a court-ordered deadline to propose new CO NAAQS by Oct. 28, and issue a final standard by May 13, 2011. Clean air activists charge that although CO is a lesser concern than other air pollutants such as ozone, EPA should still tighten the CO standard to better protect populations seen as particularly vulnerable to CO, especially those living close to busy roadways, as CO pollution is associated primarily with vehicle exhaust.

EPA says if it changes the standard it will adopt a more health-protective 8-hour limit only, in the range of 3-9 ppm, according to the draft policy assessment document issued in March. If EPA retains a 1-hour standard, it will be set in the range 5-15 ppm, according to the draft policy assessment.

CASAC in a draft April 16 report on the policy paper marked "Do Not Cite or Quote" says that evidence on CO's health effects supports a lower standard than the existing NAAQS.

Warning Of Elevated Risks

In the final REA, EPA warns of the elevated risks to people with pre-existing heart conditions from CO exposure, in addition to dangers to other vulnerable groups including those with diabetes and the elderly. The REA confirms the agency's earlier view, included in draft versions of the document, that the risks from CO exposure are greatest for those with coronary heart disease (CHD). Those with other heart problems are also at increased risk, EPA says.

"Cardiovascular effects are the category of health effects for which evidence is strongest and indicative of a likely causal relationship with relevant short-term CO exposures, particularly for people with CHD. Other endpoints for which the evidence is suggestive of causal relationships include effects on the central nervous system, reproduction and prenatal development, and the respiratory system," according to the REA.

The REA does not mention children as a susceptible sub-population, but does say that there are some data to suggest CO may have elevated impacts on the developing fetus and newborn infants. CASAC had suggested children and people exposed to secondhand smoke be identified as susceptible sub-populations but ultimately retreated from that position on the grounds that the scientific evidence of harm to these groups is too thin.

Some CASAC members meanwhile have questioned the credibility of the science behind the REA, noting that it is based on data from only two air quality monitors, one each in Los Angeles, and Denver.

The limited monitoring data is partly the product of a sharp contraction in the monitoring network which has occurred because almost the entire country is now meeting the NAAQS, and state and local regulators are allocating resources to tracking other pollutants, EPA and environmentalists have said.

US Senate to vote on Republican-led move to stop agency from regulating greenhouse gases (*Canadian Press*)

By Jim Abrams (CP)

WASHINGTON — The Senate is heading toward a much-watched vote on whether the Obama administration should charge ahead with regulations curtailing greenhouse gas emissions from power plants and other major polluters.

The Republican-led measure comes up for a vote late Thursday. It would stop the Environmental Protection Agency from carrying out rules to regulate carbon and other greenhouse gases under the Clean Air Act.

At least four Democrats have indicated their support for the legislation, and the vote is expected to be close. The measure will produce the most important vote this year on climate change and is seen as a test of where lawmaker sentiments lie.

White House officials say President Barack Obama would be advised to veto the bill if it reaches his desk.

News: June 11, 2010

EPA: Political Punching Bag or the New 'It' Agency? (*Austin Chronicle*)

By Katherine Gregor

The Environmental Protection Agency's May 25 action to begin taking federal control of the flawed air-permitting process in Texas – starting with Flint Hills Resources' East Corpus Christi refinery – has become political fodder in the race for Texas governor. Demo-crat Bill White blamed Gov. Rick Perry for EPA's action: "Because of Rick Perry's mismanagement of the state's environmental agency, our state is now losing our ability

to make our own decisions about air quality and the economy." Perry gave a June 2 speech defending the Texas Commission on Envi-ron-mental Quality and vowing to fight the federal takeover with "every breath." White responded that Perry has for years "played chicken with the EPA so he could create a controversy for the purposes of political theater and his career."

Perry frames the threat to take over Texas air permitting (which has been violating federal law) as both a partisan political move and a states' rights issue. He called on Presi-dent Obama "to rein in the EPA and instruct them to study our successful approach for recommended use elsewhere." White responded, "Other governors have been able to keep the authority to enforce the Clean Air Act."

The Environmental Defense Fund's Jim Marston commented in a May 26 blog post, "For too long, Gov. Perry and TCEQ have treated the EPA and the federal health-based Clean Air Act as a nuisance they can't be bothered with. Well, they're bothered now, and squealing like a stuck pig." State legislators and environmental groups gathered May 28 in Houston to urge TCEQ to bring the state's air permitting into federal compliance. "Since breathing clean air is not a partisan issue," said Houston state Sen. Rodney Ellis, "all of us have the same goal: cleaner air that protects Texas families from the health impacts of the worst air pollutants."

Meanwhile, Fort Worth officials have charged that the TCEQ has repeatedly provided inaccurate data on air quality and covered up its mistakes. Data indicates that levels of benzene, a carcinogen, may be two to three times what TCEQ allows.

The Sierra Club gave EPA some much-needed political cover, in a backhanded way – by threatening to sue EPA if it doesn't keep up the good work. On June 2, the nonprofit group filed a notice of intent to sue the agency over its failure to meet key deadlines (in 2005, October 2009, and this April) for improving air quality and for failing to reduce smog, soot, and the effects of Texas pollution on neighboring states. Earthjustice joined the Sierra Club in calling on EPA to enforce air quality laws in Texas.

"TCEQ is still issuing weak air permits for coal plants in the state," said the Sierra Club's Eva Hernandez. "We still are asking EPA to step in to stop the new coal plants. We have to keep the pressure on, to make sure TCEQ does its job."

ASBESTOS

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EPA Moves On Asbestos Cleanup Plans Despite Risk Assessment Concerns (*Inside EPA*)

Posted: June 9, 2010

EPA is moving forward with final cleanup plans for a portion of the infamous asbestos contamination in Libby, MT, over the objections of local officials and activists who believe the agency still lacks information about the health risks the contamination poses, in part by relying on flawed data, and is therefore unable to legally determine cleanup goals.

Some activists argue the cleanup plans, contained in two records of decision (RODs) EPA issued May 10, are exemplary of what they say is the agency's flawed approach to risk assessment at asbestos-contaminated sites throughout the country. The activists have called for such sites to be reassessed, but EPA has resisted such efforts.

In a response to comments on the RODs, EPA rejects the concerns from activists and local officials, saying the agency believes it is important to move forward with cleanup plans to reduce exposure, and that it is not necessary to have a complete understanding of the toxicity at the Libby site.

The cleanup plans contained in the Libby RODs, which address a portion of the site known as the "former Export Plant" and the "former screening plant and surrounding properties" aim to "eliminate the remaining exposure pathway to the Libby Asbestos (LA) contamination present" at the locations through a combination waste removal and in-place containment or capping. The widespread contamination is the result of the W.R. Grace & Company's former asbestos mining and processing operations in the town and has been blamed for respiratory illnesses and deaths of many residents.

But comments on the plan that the Dallas, TX-based law firm Lock, Lord, Bissel & Liddell filed on behalf of two Libby citizens groups -- Citizens for a Healthy Community and Environmental Justice, and the Libby Business and Homeowners Association -- say the two groups have "significant concerns" with the plans.

"As an overview, there is no valid risk assessment to support the Plans, making the Plans arbitrary and indefensible," the comments say. "Without appropriate toxicology, epidemiology, and exposure data, EPA and the public have no means to determine whether the [plans are] appropriate. As a result, the Plans must be rejected as premature and contrary to [EPA's National Contingency Plan (NCP) for Superfund] . . . The lack of defensible scientific support is contrary to law."

One issue the groups raise is that EPA has not determined a reference concentration at which non-cancer health affects would be expected to occur as the result of inhalation of Libby asbestos even though the agency believes "occurrence of non-cancer affects are a significant human health concern in the community." The groups say that "under the NCP, findings of such high risk with no quantitative assessment can only serve as justification for an emergency response or removal action at the Site, and is not appropriate for a final decision document."

But EPA in its response to comments in the final ROD rejects these concerns, saying the agency "believes that it's prudent to move forward taking remedial action to reduce

exposure and protect public health." Removing or capping contaminated soil will mitigate potential current and future human exposure pathways" and therefore "it is not necessary to have a complete understanding of the toxicity of LA," EPA says.

"However, EPA recognizes the importance of incorporating new information as our knowledge about the affects of LA grows through further study" and will "review the protectiveness of the remedy no less than every five years," the agency says. In addition, when the site-wide risk assessment is complete, the agency will re-valuate the remedy in accordance with the review requirements" of the Superfund law, EPA says.

BP SPILL

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Day 50: The Latest on the Oil Spill (*New York Times*)

June 10, 2010 Thursday
Late Edition - Final
Section A; Column 0; National Desk; Pg. 21
Center Sees Spike in Number of Oiled Birds

The United States Fish and Wildlife Service reported Wednesday that the wildlife rescue center in Fort Jackson, La., had received more than five times as many oiled birds in the past few days than in the previous six weeks combined. The agency said that more than 400 birds had arrived at the center since the spill began -- and that more than 350 of those had been reported since last Thursday.

Salazar Addresses Drilling Moratorium at Hearing

Interior Secretary Ken Salazar told a Senate hearing on Wednesday that he would ask BP to repay the salaries of any workers laid off as a result of the six-month moratorium on deepwater exploratory drilling imposed by the United States government after the spill. Mr. Salazar said he would consider lifting the moratorium early if he received recommendations from a presidential commission investigating the spill sooner than expected. Senator Mary L. Landrieu, Democrat of Louisiana, said the moratorium could wreak economic havoc in the gulf region that "exceeds the havoc from the spill itself."

Coast Guard Official Demands Transparency From BP

In a letter to BP, Adm. Thad W. Allen of the Coast Guard, who is leading the federal response, told company representatives that the government wanted to meet with them to ensure that they were meeting their commitment to restore the region after the devastation of the spill. "We're getting anecdotal reports, especially during the president's visits down to Grand Isle last week, that there might be some

inconsistencies in the claims process," he said. The government wants the company to turn over more records on claims. "They own the data," Admiral Allen said. "We need the data," he added, so the government can "move forward to correct any problems we might find."

EPA Lists Chemicals in Dispersants

The Environmental Protection Agency made public a list of the chemical ingredients of two controversial products being used to disperse the oil. But it did not give a precise recipe, and the information did little to alter competing views on whether this kind of petroleum-based product has done more harm than good by threatening ecosystems.

An interactive map tracking the spill, live video of the leak, a guide to online resources related to the spill and additional updates: nytimes.com/national

BP gears up to win over Washington and the rest of us (*Grist*)

by Randy Rieland
8 Jun 2010 11:30 AM

BP, Business, Climate & Energy, Gulf of Mexico oil spill, lobbying, news, oil, Politics, Tony Hayward

A BP trash bag -- not quite big enough to contain its mess.Photo: abrahamhyat via FlickrA little less than a month ago, back before he was madly tripping over his tongue, BP CEO Tony Hayward was sounding almost inspirational as he channeled Winston Churchill: "We are determined to fight this spill on all fronts, in the deep water of the Gulf, in the shallow waters, and, should it be necessary, on the shore."

But, alas, then was then and now is now. These days Hayward and BP are preparing for new battles: They are determined to fight in Congress, in the courts, and on Google.

As sloppy as BP has been with little things like safety and disaster prep out in the real world, the company is one plugged-in player in the land of power and perception.

Money can buy you love: Sure, just about every politician is playing whack-a-mole with BP in public now, but in the halls and restaurants of Capitol Hill, the oil giant has an A-Team in overdrive, reminding members of Congress and their staffs that BP still provides two things their constituents want and need: oil and jobs. It helps, as Laura Strickler notes at CBS News, that BP's top hired guns in D.C. are no less than Tony Podesta, a cleanup hitter in Lobbyland, and Ken Duberstein, Ronald Reagan's former chief of staff. Plus, at least 29 of the 43 lobbyists now supporting BP came from the federal government or congressional staffs -- including three who used to work for Sen. Mary Landrieu (D-La.). And a BP advisory council includes the likes of former Senate

Democratic leader Tom Daschle, former Republican Sen. Warren Rudman, and former New Jersey governor and EPA chief Christine Todd Whitman, as ABC News reports.

Check out this map from Muckety of BP's lobbying machine.

Let us help you help us: To cover its bases, BP and its employees have already kicked in more than $112,000 to candidates running this year, with 70 percent going to incumbents, Dave Gilson reports at Mother Jones.

First, we hire all the lawyers: Given the amount of time it will be spending in court in the years ahead, BP is not about to give short shrift to the third branch of government. As James Ridgeway points out at Mother Jones:

In addition to having their way with the executive and legislative branches of government, the oil companies have largely triumphed over the judicial system as well. Government policy plays into oil company interests not only by letting them do as they please, but also by limiting their liability when things inevitably go wrong ... [BP] has promised to pay for the cleanup. But you can just see the lawyers haggling in court over what constitutes a cleanup cost.

According to an AP investigation, more than half of the federal judges where most of the Gulf spill suits are pending have financial connections to the oil and gas industry. BP is pushing to have the pre-trial matters in all its federal lawsuits handled by a Houston judge who has taken travel money from and given speeches to oil-related groups, Mary Flood reports in the Houston Chronicle. BP also recently hired Jamie Gorelick, a former deputy attorney general in the Justice Department during the Clinton administration.

That's not oil, it's patina: Maybe the only thing more toxic than BP's oil is its image, so the company is spending big to get us to hate it a little less. It hired Hillary Rosen, a former music industry lobbyist and Huffington Post editor, to head up its crisis-management team in Washington. It brought aboard Anne Womack Kolton, a onetime Dick Cheney spokesperson, to handle media relations. And it sought out Purple Strategies, a bipartisan (get it, purple?) corporate PR firm run by a former Bush strategist, Alex Castellanos, and onetime Howard Dean marketing guru Steve McMahon.

The camera doesn't lie: But even all those folks haven't been able to make Tony Hayward more loveable. About 75 percent of viewers surveyed about the recent TV spot in which the BP CEO told America that he was "deeply sorry" felt there wasn't enough lipstick in the world to dress up that pig, Suzanne Vranica reports in The Wall Street Journal.

A search for meaning: Finally, to ensure that no stone is left unturned in telling the BP Story, the company has purchased "oil spill" and other such phrases on Google so its own links show up at the top of search results.

Some legacy, eh?

June 9, 2010

Ingredients of Controversial Dispersants Used on Gulf Spill Are Secrets No More (*New York Times*)

By ELANA SCHOR of Greenwire

U.S. EPA has quietly released a full list of ingredients in the two controversial dispersants BP PLC is using to combat the Gulf of Mexico oil spill, following weeks of complaints from members of Congress and public health advocates that the dispersant manufacturer had kept its complete formula a secret from the public.

The mysterious appearance on EPA's website of the specific chemical components in Corexit 9500 and 9527 -- more than 1.1 million gallons of which have been sprayed in Gulf since the disaster began -- came as a surprise to environmental groups as well as to Nalco Holding Co., the producer of the dispersants. Nalco spokesman Charlie Pajor said the company was first informed about the full release of Corexit ingredients by Greenwire, not EPA.

Nalco's reaction to the lack of notification from the agency is "beside the point," Pajor added. "We did share the complete information with EPA and relevant government agencies. Clearly we didn't want to share this information with our competitors, but we certainly understand the need for information sharing."

Three ingredients of the two Corexit formulas were already available on material safety data sheets that outline the human health risks of using the dispersants in the workplace. Corexit 9527, used in lesser quantities during the earlier days of the spill response, is designated a chronic and acute health hazard by EPA. The 9527 formula contains 2-butoxyethanol, pinpointed as the cause of lingering health problems experienced by cleanup workers after the 1989 Exxon Valdez oil spill, and propylene glycol, a commonly used solvent.

Corexit 9500, described by Pajor as the "sole product" Nalco has manufactured for the Gulf since late April, contains propylene glycol and light petroleum distillates, a type of chemical refined from crude oil. Nalco had previously declined to identify the third hazardous substance in the 9500 formula, but EPA's website reveals it to be dioctyl sodium sulfosuccinate, a detergent and common ingredient in laxatives.

Several members of Congress had pressed for EPA to require the disclosure of all Corexit ingredients since Nalco first staked a proprietary claim to the information. One of

those lawmakers, Sen. Kirsten Gillibrand (D-N.Y.), released a statement to "commend the EPA" for its under-the-radar move.

"This is a step in the right direction, but we still have more work to do," Gillibrand said. "Independent researchers will now examine the short-term and long-term danger that these chemicals could pose to citizens, marine life, and the workers that are on the ground right now dealing with this catastrophe. In order to hold BP accountable and to protect our citizens, we must provide all the information to the public and independent researchers so that they can verify the unfolding situation and long-term impact."

David Andrews, a senior scientist at the nonprofit Environmental Working Group, said via e-mail that the release of Corexit ingredients "is important, but the effects of this disclosure on our response to this spill may be minimal due to the time necessary" to conduct new testing.

"Some information as to how it got [on EPA's website] would be interesting," he added in an interview.

EPA did not return several requests for comment on its decision to release the Corexit ingredients.

In a Friday letter to EPA Administrator Lisa Jackson, Gillibrand noted that the agency can use existing authority under the Toxic Substances Control Act to force the disclosure of product formulas for which companies have previously asserted confidentiality. EPA had previously advised BP to find less toxic dispersant alternatives to Corexit after reports that the Nalco formulas were ranked by the agency as more hazardous and less effective on southern Louisiana crude (Greenwire, May 13).

"EPA had the authority to act all along; its decision to now disclose the ingredients demonstrates this," Brian Turnbaugh, a policy analyst at the government watchdog group OMB Watch, said in a blog post on the release. "Yet it took a public outcry and weeks of complaints for the agency to act and place the public's interest ahead of corporate interests."

Wilma Subra, a trained Louisiana chemist who has provided technical assistance to environmental groups since the spill, said the lack of public knowledge of Corexit ingredients has stymied Gulf cleanup workers who seek later medical treatment for symptoms that could be attributable to dispersant exposure.

"They're taken to the doctor, and the doctor doesn't know what they've been exposed to," Subra said. "That's a huge issue for medical people, having to be responsive and not knowing what it is they're having to deal with."

Subra described a recent visit to an EPA monitoring van testing air samples near the spill site, during which the officials tested for specific chemicals but "couldn't tell us" the names of the substances.

In fact, one potentially significant detail for advocates seeking to perform independent dispersant tests was left out of the EPA's online disclosure: the proportions in which the chemical ingredients are mixed to produce Corexit. "Having the full ingredients out there is only part of the information that someone wanting to copy the product would need," said Pajor, of Nalco.

This afternoon Nalco added a release to its website that matched up the chemical components of Corexit with the common household substances that it had named last month as sharing common ingredients with the dispersant. According to Nalco, ioctyl sodium sulfosuccinate is also used as a "wetting agent in cosmetic products, gelatin, [and] beverages"; sorbitan, tri-(9Z)-9-octadecenoate, poly(oxy-1,2-ethanediyl) derivs is found in body and face lotion; sorbitan, mono-(9Z)-9-octadecenoate, poly(oxy-1,2-ethanediyl) derivs is used in mouthwash and baby bath products; and sorbitan, mono-(9Z)-9-octadecenoate is found in body shampoo and juice.

ENVIRONMENT:

After BP, a closer eye on shale drilling (*Rochester City Newspaper*)

By Jeremy Moule on June 9, 2010
As the BP oil spill saga enters its second month, the country continues to struggle with questions: how to stop the leak, how to contain the environmental damage, what can be done to make sure this doesn't happen again, and what, exactly, led to this unprecedented disaster?

In New York, where there's the prospect of a natural gas drilling boom, there's another question: what lessons from the spill can be applied to drilling in the Marcellus Shale? State environmental officials are reviewing new regulations that would apply to deep horizontal wells used in combination with hydraulic fracturing. The unconventional combination has never been used in New York.

(Hydraulic fracturing - hydrofracking, as it's commonly called - is an extraction method where a mix of water, sand, and chemicals is forced down a well at high pressure to break apart the rock and release the gas.)

The BP spill illustrates that it's cheaper and better for the environment to prevent pollution as opposed to cleaning up a disaster, says Dereth Glance, program director for Citizens Campaign for the Environment. And once pollution occurs, she says, there's no guarantee you can clean it up.

Detailed plans need to be prepared in anticipation of any problem that might arise, Glance says.

Sally Howard, a member of the Federation of Monroe County Environmentalists, says there should be safety measures and backup safety measures to protect fresh-water resources from contamination. Howard wasn't speaking on the group's behalf.

"Once chemicals escape into a lake, trout stream, or water table we can't just click ‘undo' to get it back," Howard wrote in an e-mail.

Energy companies already use horizontal wells and hydrofracking in Pennsylvania's part of the Marcellus. And there have been serious problems. Last week, a Marcellus well in the western Pennsylvania town of Lawrence ruptured and shot natural gas and fracking fluid 75 feet into the air. The well was capped 16 hours later.

In another incident, Pennsylvania state officials ordered Cabot Oil to stop drilling after it spilled thousands of gallons of fracking fluid, which contaminated a stream. The state's regulatory agencies were caught unprepared, Glance says. She says she's worried the same thing could happen in New York.

Environmental groups have criticized New York's draft shale hydrofracking guidelines, saying they aren't strict enough or easily enforceable. They also worry that DEC staffing levels aren't adequate to provide the kind of independent oversight that'll be necessary. The DEC's review could be finished later this year, with permits going out in 2011.

Katherine Nadeau is the water and natural resources program director for Environmental Advocates of New York. A lot of people are paying extra attention to what the Legislature and the state DEC do regarding shale drilling regulations, she says.

She says there are 28 different bills between the State Senate and Assembly dealing with different aspects of fracking. Last week, some of them started through the Assembly's committee process.

One bill would establish a drilling moratorium until the federal Environmental Protection Agency finishes a hydrofracking study. That bill is backed by at least some environmental groups.

The same forces drive offshore oil drilling and on-shore shale gas drilling. Over the years, easily-accessed domestic reservoirs of oil and gas have been depleted, but there's still high demand for both. Energy companies continue to make serious money off of the products, so they've started tapping non-conventional sources like deep-water oil deposits or natural gas trapped inside dense shale formations.

But these new sources come with problems of their own. They're more expensive to develop and they carry greater environmental risk. The BP oil spill is a perfect example: it's at least double the size of the Exxon Valdez spill and could be up to nine times as large, say some media reports. The oil that's spewed from a broken pipe has soiled

beaches, coated wildlife, and could spoil coastal marshes. BP has repeatedly failed to stop the leak.

The factors that allegedly led to the leak sound an awful lot like the concerns state residents have over Marcellus Shale drilling: human error, lax oversight, and inadequate environmental review.

Ingredients of controversial dispersants are secrets no more (*Greenwire*)

(06/09/2010)
Elana Schor, E&E reporter
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Democrats Criticize Nuclear Insurance Approach For Oil Spill Liability (*Inside EPA*)

Posted: June 9, 2010
Key Democrats are criticizing suggestions from a bipartisan group of senators to revise the oil spill liability system along the lines of the Price-Anderson insurance approach for the nuclear industry, which caps the industry's liability and pools the risk among all companies in the industry, leaving the Senate divided as they seek to devise a new system.

Senate environment committee Chairwoman Barbara Boxer (D-CA), who has long criticized the Price-Anderson approach, told a committee hearing June 9 that while she has asked her staff to review the bipartisan approach, she opposes capping industry's liability.

The federal government is still “on the hook” for the remaining damages, she said, arguing alongside several other Democratic senators that they favor an approach put forward by Sen. Robert Menendez (D-NJ) that sets no liability limit for the industry. “The reason I like Sen. Menendez' bill, which is broad . . . [is] because taxpayers will never have to bail out [the oil companies],” Boxer said.

The Democratic senators were responding to a proposal from Sen. Lamar Alexander (R-TN) and other lawmakers who are proposing a new approach for how to revise the oil spill liability system in the wake of the BP spill, suggesting an insurance approach for the industry modeled after the controversial Price-Anderson Nuclear Industry Indemnity Act, which establishes a $10 billion collective liability cap on the industry in the event of a nuclear accident and requires all nuclear reactor companies to contribute to a collective fund to pay damages up to that cap.

Alexander is arguing that the approach allows companies to pool their collective risk in order to protect small companies and creates industry-wide incentives to maximize risk-reduction strategies. “Every one of the 107 [nuclear] reactors we have shares in any problem that we have with one reactor, which creates an incentive for every single operator of a nuclear power plant to make sure that every other operator has the latest safety equipment, or [be forced to pay] if anything happens,” Alexander told Inside EPA June 8.

“And I think we should consider whether a similar sort of Price-Anderson scheme for oil drilling might make, say, Exxon just as worried about BP's cleanup as BP is. And Chevron as interested in sharing with BP it's technology just so it doesn't share in the cost of the cleanup,” he added.

Several other senators have also expressed support for the idea, including Sens. Lisa Murkowski (R-AK) and Mary Landrieu (D-LA).

Discussion of the approach comes as lawmakers are scrambling to reach agreement on a new liability system for the oil industry in the event of spills.

Before lawmakers left for their Memorial Day recess, anti-drilling lawmakers pushed legislation that would increase to $10 billion the $75 million economic damage cap and eliminate a $500 million cap on natural resource damage (NRD) claims imposed on oil companies under the Oil Pollution Act (OPA). Lawmakers scuttled those measures over concerns that they applied retroactively -- a legally tricky question -- and could make it difficult for smaller oil companies to afford insurance.

Now that lawmakers have returned, the worsening oil spill in the Gulf of Mexico is a top agenda item, with Democrats and Republicans agreeing on the need to revise the liability system but disagreeing on how to do it. There is “broad consensus” that the limits on economic and NRD claims against oil companies under the OPA needs to be increased, Alexander said June 8, although he did not say by how much.

Senate Majority Leader Harry Reid (D-NV) has asked committee chairs for spill-related provisions to be included in a broad climate and energy bill he hopes to bring to the floor in July, and lawmakers have highlighted the need for new laws in response to the spill with numerous introduced pieces of legislation and congressional hearings in a host of House and Senate committees that are expected to continue throughout the summer.

The Senate has already passed a supplemental appropriations bill that includes tens of millions of dollars in spill-related funding and the Senate is also considering a tax extenders package that would increase the per-barrel fee oil companies pay into a federal oil spill response trust fund. But neither of those bills is likely to include new liability provisions, which will instead likely be considered in the climate-energy bill.

Arguments For Price-Anderson

At the environment committee hearing June 9, Alexander reiterated his arguments in favor of the Price-Anderson insurance approach but drew stinging criticism from Democrats.

Sen. Amy Klobuchar (D-MN) told the hearing that capping the industry's liability violates free-market principles. “It is a pretty basic free-market idea, an American idea, that if you take the risk you should be the one to get the rewards, but also the one who incurs the costs,” she said.

She also argued that eliminating the cap could create a new incentive for the industry to adopt safer practices. “I truly believe that if we hadn't had that $75 million cap in place, perhaps different calculations would have been made. And I'm not saying for a minute that BP would have made the same decision had they known the disaster that was awaiting them, but point is all they knew at that time was there there was a $75 million cap in damages,” Klobuchar said.

Boxer echoed Klobuchar's suggestion that having a finite cap on liability as a general matter simply allows companies to consider their liabilities as limited and therefore perhaps shirk certain environmental protections in the interest of serving their bottom line. “If there is a situation like in Price-Anderson, where taxpayers are on the hook beyond a certain amount, then won't they do what Sen. Klobuchar said, which is to take into account what the rules are, and maybe they'll cut corners because they feel they can rely on taxpayer bailouts?” Boxer said.

JUNE 10, 2010

Berms Getting Built, but Doubts Persist (*Wall Street Journal*)

EPA Says the Sand Piles Probably Won't Protect Coast, but Louisiana Leaders Want Them and Government Signed Off

By JEFFREY BALL
[BERM] Associated Press

A bulldozer builds up a barrier on East Grand Terre Island, La. This weekend, dredging is likely to begin on a bigger project, constructing new sand berms in the Gulf of Mexico along the Louisiana coast.

Construction is about to begin on miles of sand piles designed to block oil in the Gulf of Mexico from hitting the Louisiana coast, but documents show the Obama administration approved the building of sand berms despite concerns from some of its own environmental experts.

The U.S. Army Corps of Engineers authorized the berms. Thad Allen, the Coast Guard admiral overseeing the spill response, ordered BP PLC to pay the hundreds of millions of dollars that officials estimate it will cost to build the structures.

In announcing his decision June 2, Adm. Allen said the berms would "effectively stem potential damage to these fragile shorelines."
Letter to BP's Hayward

See Coast Guard Adm. Thad Allen's letter to BP Chief Tony Hayward

But the Environmental Protection Agency has raised myriad concerns about the berm plan. The EPA has argued the berms probably won't keep most of the spilled oil away from the coast and could cause unintended ecological problems.

The administration approved the berm plan amid mounting pressure from Louisiana Republican Gov. Bobby Jindal, the state's congressional delegation and local leaders. Those officials say the berms—which would stand six feet above the Gulf's mean high-water mark and be 25 feet wide at their top—are the state's best hope to protect its fragile coastal marshes from an onslaught of oil.

The dispute shows the mounting pressure on politicians to be seen taking decisive action against the Gulf disaster in the short term—even if those actions raise potential long-term problems of their own.

"Nobody has good answers on a lot of fronts with this spill," said Ralph Portier, a professor of environmental sciences at Louisiana State University and one of several scientists advising Louisiana on building the berms in a way that minimizes ecological harm. "You've got to try and do something."

For years, Louisiana officials have proposed beefing up their eroded barrier islands as a way to protect their coastline from storms. The oil spill, which originated with an April 20 explosion on the Deepwater Horizon drilling rig, led them in early May to propose some 130 miles of berm to block incoming oil.

The EPA and other federal agencies raised concerns about building berms to block oil in written comments to the Corps of Engineers throughout May.
The Gulf Oil Spill

See graphics covering how the spill happened, what's being done to stop it, and the impact on the region.

View Interactive
Timeline

Follow key developments since the initial explosion.

View Interactive

* Live Video of Spill Stream
* Ban Crimps Drilling Outlook

Opinion

* Drilling Bits of Fiction

Among the problems cited by one or more of those agencies: that the emergency berms would take several months to build, by which time a lot of oil would have hit the coast; that dredging up the sand to build the berms could intensify coastal erosion and rip apart undersea oil-and-gas pipelines; and that the berms, by changing the flow of water, could alter the water's salinity, potentially hurting fish.

In response, Louisiana officials changed some of the areas where they proposed to dredge the sand for the emergency berms, nixing areas that federal officials called particularly ecologically sensitive.

Louisiana's congressional delegation was pushing hard for the plan. "We implore you to immediately approve" the plan, the delegation wrote Col. Al Lee, the head of the Corps' New Orleans office, and Adm. Allen, on May 20. They noted that "heavy oil is now coating our marshes."

In written comments May 26 to the Corps of Engineers, the EPA said the berms would be "unlikely to stop the majority of the oil from migrating inland," because they would leave many large water passes open.

Furthermore, the EPA said in its comments, the construction of the oil-blocking berms "could exacerbate the emergency situation in the Gulf," in part because it could move around sand on the sea floor that already had been contaminated with oil, newly endangering aquatic life.

Nonetheless, on May 27, Col. Lee announced he was authorizing the construction of about 40 miles of berm. "There were still some concerns," Col. Lee said Wednesday, "but overall I believed that those potential environmental impacts could be mitigated" by conditions he attached to the narrowed plan.

Also on May 27, Adm. Allen said he was ordering BP to pay for a small portion of the plan authorized by Col. Lee. Then, on June 1, Adm. Allen convened a meeting of officials to discuss the proposal, and on June 2 he announced BP would have to pay to build all of the roughly 40 miles of berm.

Tony Russell, a spokesman for Adm. Allen, said the admiral changed his mind following the meeting in part because attempts to try to stanch the flow of oil from the leaking well

didn't appear to be working. "As with everything with this oil spill, we are continually adapting as time goes on," Mr. Russell said. "All along, the issue has been a consideration of tradeoffs."

An EPA official said Wednesday that some of the agency's concerns have been addressed by the conditions Col. Lee imposed. Still, the EPA will monitor construction closely to try to reduce any harm to wildlife and water quality, the official said.

Dredging of sand to build the berms is likely to begin this weekend, said P.J. Hahn, an official with Plaquemines Parish, La., where pools of gooey oil have being washing into the marshes. "The alternative," he said, "is much worse than doing it."

Write to Jeffrey Ball at jeffrey.ball@wsj.com

CLIMATE CHANGE
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Survey finds more who doubt warming; CLIMATE CHANGE (*San Francisco Chronicle*)

California
June 10, 2010 Thursday
FINAL Edition
Metro; Pg. C2
BY: David Perlman, Chronicle Science Editor
Although the vast majority of Americans believe the Earth is gradually warming because of greenhouse gases and want the government to regulate them, a small but growing number of people doubt that global warming is real, according to a new poll.

The Stanford University survey, released on Wednesday, found that 74 percent of those polled believe the world's temperature has been gradually rising over the past century, compared with 85 percent who believed it in 2006.

Of those who believe the problem is real, 86 percent think the government should limit air pollution and 76 percent favor strict government curbs on greenhouse gas emissions by industry.

The poll was conducted by telephone from June 1 to 7 with 1,000 randomly selected adults across the country and had a margin of error of plus or minus 4.4 percentage points, said survey organizer Jon Krosnick, a Stanford professor of political science and senior fellow at the university's Woods Institute for the Environment.

Krosnick is a nationally known expert on public opinion surveys and political polling. He has been conducting the poll on climate change annually for four years.

He wrote the survey's questions and commissioned GfK Roper, a professional opinion survey firm, to conduct the poll. He will be organizing two more polls on climate issues this year, he said, armed with a $300,000 grant to Stanford from the National Science Foundation.

The survey conflicts with several recent opinion polls on global warming. A Gallup poll in March, for example, reported that 48 percent of Americans believe that "from what is said in the news, the seriousness of global warming is generally exaggerated."

Krosnick, however, noted that polls like the Gallup survey ask people specifically about their opinions based on media reports rather than on what people believe independently.

Despite the modest drop in the percentage of people who think global warming is real, it is clear that "the overwhelming majority of Americans continue to believe the climate is warming and that government should do something about it," Krosnick said.

The decline in the number of people who think global warming is real, he said, is probably caused by the fact that 2008 was the coldest year since 2000. So Americans already doubtful about the reality of climate change would have had their skepticism strengthened by what was merely a scientifically insignificant one-year drop in a 100-year warming trend, he said.

Krosnick will hold a briefing in the nation's capital on his survey's findings today, the same day the Senate has scheduled seven hours of debate and a vote on a resolution by Sen. Lisa Murkowski, R-Alaska, to stop the Environmental Protection Agency from regulating greenhouse gas emissions under the Clean Air Act.
Krosnick is being sponsored in Washington by the Environment and Energy Study Institute, an advocacy group.

Will the EPA score the true costs AND benefits of the climate bill? (*Grist)*

Default badge avatar for Michael A. Livermore
by Michael A. Livermore
9 Jun 2010 4:00 PM

This afternoon, the EPA is said to be sending its economic analysis of the climate bill proposed by Kerry and Lieberman to the Senators' offices. It's a scoring of how the legislation would affect the American economy.

Hopefully that analysis will include the benefits, not just the costs of the measure.

The agency has not incorporated benefits into its past economic analysis of climate legislation. Usually it looks exclusively at the price tag, giving legislators nervously

poised to vote on the controversial proposal a clear view of the downsides but none of the upshots.

It's like telling someone in the market for a home to pay $200,000 without telling them the property is a mansion on Fifth Avenue or a mountain ranch in Colorado.

The legislation to curb our dangerous carbon emissions might come at some cost, but you know what costs more? Not curbing them. To know how to address the problem of climate change, our representatives must have a clear understanding of the pros and the cons. A rational decision cannot be made without both sets of information.

And, of course, with millions of gallons of crude gushing into the sea, now might be a good time to examine what we gain by curbing our carbon emissions. But even without accounting for a catastrophe like the one in the Gulf, an analysis of the economic upshot of Kerry-Lieberman is likely to prove it to be worthwhile.

In an analysis last fall, Policy Integrity conducted a benefits analysis and found that the Waxman-Markey bill would generate between $750 billion and $1 trillion in benefits between 2012 and 2050, dwarfing the costs of the bill.

Using what's known as the social cost of carbon -- a calculation of what society pays every time a ton of greenhouse gas is released into the atmosphere -- we were able to estimate what would be saved if carbon emissions are reined in. It includes everything from food that will be more expensive, insurance policies that will cost more, to, eventually, the drastic measures that would be needed to adapt to the worst effects of climate change.

Even though the estimate we used was the conservative number the EPA prefers, the bill delivered massive benefits in excess of costs. Wouldn't it be good for legislators to know that's the return on their investment before they cast their vote?

Though it is hard to know if the net benefits of Kerry-Lieberman will match Waxman-Markey, they are likely very significant. And whatever it the numbers are, they are certainly worth noting.

Hopefully the EPA agrees and has included the benefits in its analysis of the legislation.

ENERGY

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Can your data center earn an EPA Energy Star? (*NetworkWorld.com*)

By Layer 8

Created Jun 9 2010 - 12:26pm

energy starThink your data center is so power efficient it could earn an Environmental Protection Agency Energy Star [1] label? The EPA [2] this week said that any stand alone data centers in the top 25 % of their peers in energy efficiency [3] according to EPA's energy performance scale can now earn such an accolade.

10 hot energy projects that could electrify the world [4]

The EPA said it uses a commonly [5] accepted measure for energy efficiency, the Power Usage Effectiveness metric, to determine whether a data center qualifies for the Energy Star label. Specifically efficiency levels will be determined by using what's known as the power usage effectiveness (PUE) metric, which measures the total power supplied to a data center, divided by the amount that reaches the gear.

Before being awarded the Energy Star, a licensed professional must independently verify the energy performance of these buildings and sign and seal the application document that is sent to EPA for review and approval, the agency stated.

In its 2007 Report to Congress on Server and Data Center Energy Efficiency Opportunities , the EPA estimated that the nation's servers and data centers consumed about 61 billion kilowatt-hours (kWh) in 2006 (1.5% of total U.S. electricity consumption) for a total electricity cost of about $4.5 billion. As one of the fastest growing sectors, national energy consumption by servers and data centers could nearly double by 2011 to more than 100 billion kWh, representing a $7.4 billion annual electricity cost.

The EPA stated that improving the energy efficiency of America's data centers by just 10 percent would save more than 6 billion kilowatt-hours each year, enough to power more than 350,000 homes and save more than $450 million annually.

The EPA states that its Energy Star program offers a proven energy management strategy and free tools for public and private organizations to save energy and money through increased energy efficiency. Data centers can improve energy efficiency in many ways, such as purchasing Energy Star qualified servers and ensuring that all HVAC equipment functions properly, the agency stated.

There are a number of hoops [6] your data center [7] staff needs to jump through to get the EPA rating. For example you must have a all inclusive way of IT energy metering and in order to earn a rating, a Data Center space using estimates for IT energy cannot be more than 10% of the buildings floor area, the EPA states. Customers need to use the EPA's Portfolio Manager [8], an online tool which assigns an efficiency score between 1 and 100.

Follow Michael Cooney on Twitter: nwwlayer8 [9]

FUEL
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'Poor man's T. Boone Pickens' promotes propane for cars (*Greenwire*)

(06/09/2010)
Jason Plautz, E&E reporter
A new alliance that jokingly bills itself as "the poor man's T. Boone Pickens plan" is seeking to give a unified voice to the fragmented propane industry and make the fuel a viable alternative for vehicles.

Speaking at a National Propane Gas Association meeting yesterday in Washington, D.C., officials from the propane industry officially launched Autogas for America, a group hoping to give propane its day in the sun. Chairman Stuart Weidie said the group's initial goal is to build a stakeholder network with a "common voice, common data and a common language."

"We don't want anybody that's interested in the market to get isolated," Weidie said, noting that there were some 5,000 propane companies across the country. Weidie is the president and CEO of the Blossman Cos., the country's 10th-largest propane dealer.

While there are 14 million autogas vehicles around the world, there are fewer than 200,000 in the United States, according to the group. The fuel, also known as liquid petroleum gas (the group prefers autogas because it is the term used in other countries), is frequently seen as a runner-up to electric, hybrid and natural gas cars, but the organization says the benefits are clear.

The gas is cleaner than petroleum, the group says, and a U.S. EPA study found that it could have "potentially lower" carbon dioxide, carbon monoxide and nitrogen oxide emissions. According to data from the Department of Energy, replacing 500,000 conventional vehicles with autogas ones would eliminate more than 2.64 million tons of greenhouse gases and CO2 equivalent. About 90 percent of the world's supply is produced domestically and Weidie said fueling infrastructure could be built in a matter of days.

Autogas for America wants to see 500,000 autogas vehicles in the United States by 2013, starting with fleet vehicles such as state troopers, delivery vehicles and taxis. To that end, the group is pushing for a renewal of the 50-cent-per-gallon tax credit for alternative fuels in a bill that passed the House and is set to come up in the Senate this week (Greenwire, June 8). Besides getting inclusion in upcoming energy bills, the group also wants EPA to streamline its certification process to make it easier for consumers to

own and drive an autogas vehicle (currently the certification needs to be renewed every year).

But first, the group is focusing on getting the entire industry aligned behind one message. The group's website lists 22 businesses and industry alliances as members, as well as 17 clean cities groups. Weidie said it was important for the industry to unite behind one face and invited several "friendly competitors" on stage with him during the launch.

"The CNG [compressed natural gas] lobby is huge," said Tucker Perkins, president of CleanFuel USA. "This is a safe place where we can all go."

Weidie said he recognized that propane would likely not be the ultimate end in vehicle technology. But he said it was cheaper than natural gas, cleaner than petroleum, more effective than electric and more proven than hydrogen.

"At a minimum, we're a great transition fuel to 20 years from today. ... We need to have some transition fuels before we find that magic bullet," Weidie said. "We're right here; we're right now."

GRANTS

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EPA picks 28 Ohio finalists for Great Lakes restoration grants (*News Messenger*)

Submitted story • June 9, 2010

COLUMBUS -- Ohio Gov. Ted Strickland has announced that 28 Ohio restoration projects,
totaling $17 million in investment, were chosen as finalists by the U.S. Environmental Protection Agency for its Great Lakes Restoration Initiative. The Ohio projects were among 270 finalists nationwide.

Among the project finalists are: Ohio Department of Natural Resources, Division of Parks and Recreation, North Bass Island habitat restoration, $125,000; Ohio Department of Health, sanitary surveys to reduce pollution at Lake Erie beaches, $249,511; Ohio Department of Health, improving communication about beach water quality, $100,000; and ODNR, Division of Parks and Recreation, reforestation of Maumee Bay and Mary Jane Thurston (Henry County) state parks, $168,000.

"Lake Erie is among Ohio's greatest assets, and we have made the protection of these waters a top priority," Strickland said.

Finalists must submit formal applications before receiving funding. Awards are granted as projects begin. Some projects may begin as early as this summer.

A total of $161.4 million is available under this competitive grant. U.S. EPA received more than
1,000 project proposals.

HAZARDOUS WASTE
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Watchdog 'fails' on waste (*The Age*)

ADAM MORTON
June 10, 2010
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VICTORIANS have been warned they cannot be confident they are being protected from hazardous waste after an investigation uncovered widespread failures by the state's Environment Protection Authority.

A scathing report by the Victorian Auditor-General found that the environmental watchdog inadequately regulated management of hazardous waste - including potentially explosive, toxic, radioactive and infectious material - at about 10,000 sites across the state.

Among the key findings, it said that in 2008-09, the EPA made 46 per cent fewer inspections of sites licensed to deal with hazardous waste than four years earlier, in part because it had adopted a policy of "greater self-regulation" by business.

The EPA said this was part of a decision to "redirect effort to focus on other priorities". But the Auditor-General's Office found that the agency could not name the new priorities, nor explain why they were more important than monitoring compliance with the law.

Acting Auditor-General Peter Frost said the EPA's monitoring and inspection lacked "coherence, purpose and co-ordination". He found its records were unreliable, with information on hazardous waste spread across nine databases, some of them incomplete. "As a consequence, there is little assurance that hazardous waste is stored and disposed of appropriately," Dr Frost said in the report.

Other findings included:

■ While the EPA once inspected all vehicles carrying hazardous waste, it now approved 95 per cent of permit applications based on basic paperwork.

■ Recycled waste was not monitored, prompting fears it may be stockpiled or dumped.

■ Hazardous waste licence holders were not required to guarantee they could pay to clean up potential breaches, exposing the state to significant financial risk.

Industrial generators of hazardous waste include car repair workshops, dry cleaners, fast-food chains, paint and plastics plants, and hospitals.

EPA chief executive John Merritt accepted the Auditor-General's nine recommendations and said seven were already being implemented.

"We will be a stronger, more energetic, more active environmental regulator for Victoria," he said. Mr Merritt said the amount of hazardous waste going into landfill had been cut by two-thirds over five years.

Opposition Leader Ted Baillieu accused the government of stripping the EPA of its powers, leaving it a "totally and absolutely ineffective" organisation that put Victorians at risk. "It is not a toothless tiger, it is barely a toothless pussy cat," he said.

Mr Merritt said there was no evidence the EPA's powers had been reduced.

Premier John Brumby said the EPA had more resources and a bigger budget than at any time in its history and was allocating an extra 15 staff to "front-line enforcement and compliance".

He said the report was a desktop audit, not an investigation of whether industry complied with regulations. "The community can be confident in the EPA's on-the-ground management of hazardous waste."

Community groups concerned about a controversial landfill site at Tullamarine said the report supported their claims of mismanagement.

PESTICIDES

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EPA banning pesticide that threatens farm workers (*Associated Press*)

(AP)

WASHINGTON — The Environmental Protection Agency says it is ending use of the pesticide endosulfan in the United States.

The chemical is used on some fruits and vegetables as well as cotton. The federal agency said Wednesday that endosulfan can cause nerve damage in farm workers and is also a hazard to wildlife.

Endosulfan is not approved for home use and is not considered a threat to consumers.

The use of endosulfan was limited starting in 2002. The EPA says that further study indicates that it can still be a danger for agricultural workers. The agency is working with the manufacturer to phase out production.

One of several groups that sued to get the chemical banned, Earthjustice, says it welcomes the action.

Pesticide banned as health hazard (*Los Angeles Times*)

June 10, 2010 Thursday
Home Edition
MAIN NEWS; National Desk; Part A; Pg. 19
NATIONAL BRIEFING / WASHINGTON, D.C.;
By Times Wire Reports
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June 10, 2010
Jennifer Sass
Jennifer Sass
Senior Scientist in NRDC's Health and Environment Program
Posted: June 9, 2010 04:23 PM

EPA cancelling toxic pesticide, endosulfan (*Huffington Post*)

Today, after years of pushing by NRDC and others, EPA announced that it is cancelling all - ALL- uses of the pesticide endosulfan. Yay! Endosulfan is a toxic, long-lasting pesticide that travels through the atmosphere and ends up in the Arctic, in human breast milk, human fetal placenta, and the body fat of animals in the Arctic. It is already banned in over 60 countries including the European Union.

In EPA's own words:

"The U.S. Environmental Protection Agency (EPA) is taking action to end all uses of the insecticide endosulfan in the United States. Endosulfan, which is used on vegetables, fruits, and cotton, can pose unacceptable neurological and reproductive risks to farmworkers and wildlife and can persist in the environment."

NRDC had petitioned EPA and filed a lawsuit to cancel this hazardous pesticide in 2008. These efforts supported a coalition of scientists, Arctic tribal governments, Arctic indigenous peoples, and worker protection groups globally calling for endosulfan to be banned.

Endosulfan's registration was being defended vigorously by Makhteshim Agan of North America, the manufacturer of endosulfan, even after other companies, including Bayer, had voluntarily stopped making or selling the chemical.

Although this may be the closing chapter for endosulfan in the U.S., activists in other countries, including India where the chemical has been associated with severe birth defects among farmworker children, are facing jail and persecution in their efforts to rid themselves of this toxic curse.

This post originally appeared on NRDC's Switchboard blog.

TOXICS

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JUNE 8, 2010

Documents Shift Attention to Manufacturer in Drywall Case (*Wall Street Journal*)

By ROBBIE WHELAN

Documents released late last week in ongoing litigation related to defective Chinese drywall is shifting more attention to the role played by one Chinese manufacturer, Knauf Plasterboard Tianjin Co., and its German affiliate.

The documents came to light during the pre-trial phase of a class action suit brought by 152 Florida homeowners against builders, installers and suppliers of Chinese-made drywall. KPT is one of several companies in China that exported millions of square feet

of drywall to the U.S. during the housing boom, and have since been flooded with complaints that the drywall emits sulfurous odors, corrodes electrical wiring and causes respiratory problems.
Read More

* Letters from the disclosed case
* Developments: Chinese Drywall Issues Known in 2006

Although KPT isn't specifically named as a defendant in the suit, one of its suppliers, Banner Supply Co., is named. On Friday, a Miami-Dade circuit court judge unsealed a 2007 confidential settlement agreement where KPT agreed to pay Banner $557,000 to replace defective drywall with the condition that Banner "not make statements regarding any perceived or actual smell or health risks relating to Knauf Tianjin plasterboard," to any firm, person, or news media outlet.

Attorney Victor Diaz, who represents the 153 Florida homeowners, says the disclosure shows that KPT was aware of the problem and concerned about the potential fallout. "We can demonstrate a concerted effort to conceal knowledge of this defect from the general public," he said.

Donald J. Hayden, a partner with Baker & McKenzie LLC, a firm that represents KPT, declined to comment about the agreement except to say "the document speaks for itself, and we have not objected to its release."

Other documents released earlier in the week appear to establish a closer link between KPT and its German affiliate than the two companies have contended. In a series of 17 email messages from 2006, released by Mr. Diaz, an employee at Knauf Gips KG in Germany, KPT in China and several U.S.-based customers discuss the mounting complaints about the drywall.

In one email, a KPT employee in China worries that "the situation … is out of [the distributor's] control, it will be a big problem not only in Miami but all over the USA market, maybe cover thousand [sic] of houses."

In response, Hans-Ulrich Hummel, head of research and development for Knauf in Germany, writes to an employee at Banner Supply, "Of course I am aware of big problems with Knauf boards from China," and describes measures he has taken to investigate the reports of odors being emitted by KPT boards using gas chromatography.

The emails are important because KPT and Knauf Gips have long maintained that they are independent companies and therefore Knauf Germany couldn't be held legally liable for defective products made by the Chinese company. But if the German company controls the Chinese company, as plaintiffs lawyers argue, that could make it easier for plaintiffs to collect on a judgment against the drywall maker.

Alan M. Dunn, an international trade lawyer and former Assistant Secretary of Commerce, said it would be difficult for U.S. homeowners to win compensation in a Chinese court. "But it's conceivable that aggrieved parties, aggrieved by the manufacturers of the Chinese drywall, might find it to be the best route to go after the German parent," Mr. Dunn said.

The U.S. Consumer Product Safety Commission has received nearly 3,300 complaints about defective Chinese drywall. So far, studies produced by state and federal agencies have found no link between the drywall and serious health problems.

Nonetheless, KPT has faced a raft of lawsuits in Florida and Louisiana from homeowners and builders seeking damages to cover removing and replacing the Chinese wallboards—which are used to build ceilings and interior walls.

One federal lawsuit in the Eastern District of Louisiana includes more than 7,000 claims from homeowners and builders, and on the other side of it are more than 800 defendants, including KPT. The scope of the replacement of drywall is also at issue in the federal court. Drywall manufacturers have argued that minimal replacements are necessary, while a judge ordered the homes be gutted, and all the drywall replaced.

Last month, KPT reached a small cash settlement with builder Beazer Homes USA over a handful of homes with tainted drywall in Florida.

Wyo. becomes first state to require disclosure of fracking chemicals (*Greenwire*)

(06/09/2010)
Katie Howell, E&E reporter
Wyoming regulators approved rules yesterday requiring oil and gas drillers to disclose chemicals used in a controversial production technique.

The Oil and Gas Conservation Commission unanimously agreed to force reporting on chemicals used in hydraulic fracturing, the first such requirement in the nation.

Hydraulic fracturing, or fracking, is a decades-old production technique used to break apart compact rock and release trapped hydrocarbons. The process involves blasting sand, water and chemicals into a wellbore at high pressure.

While industry says the technique is safe, environmentalists have raised concerns and offered anecdotal evidence that it could contaminate water supplies. Both sides are hailing the Wyoming rule.

"One look at the Gulf of Mexico is proof that things don't always turn out the way drilling companies expect," said Dan Heilig, an attorney for Western Resource Advocates, in a statement. "People should be able to find out what chemicals they may have come in

contact with, and emergency room doctors need this information in order to treat their patients and protect their staff."

Industry likes that the regulations require state regulators collecting the information to keep it from the public as a response to industry concerns about giving away proprietary information.

John Robitaille, vice president of the Petroleum Association of Wyoming, said his group is not opposed to the rule, which does require regulators to shield information they collect on fracking chemicals from the public.

"I think that in the long run," Robitaille said, "this will prove that, at least in Wyoming, we have not had any of the issues we've been accused of related to hydraulic fracturing."

Congressional Democrats have proposed legislation -- (H.R. 2766 and S. 1215) -- that would use the federal Safe Drinking Water Act to force fracking companies to disclose the chemicals they use. Both bills are stalled in committee as U.S. EPA conducts a two-year, congressionally mandated study into fracturing's effect on drinking water.

But industry groups have fiercely opposed federal fracking regulation.

"What we're seeing at the federal level is more onerous than what's required in Wyoming," Robitaille said. "All that's required here is to submit what chemicals you're going to use, and after you finish, you submit what you did. Essentially [the information] will stay with the commission until such time there is some question about something being contaminated."

Gov. Dave Freudenthal (D) directed the agency to draft the rules as a way to assure federal regulators that Wyoming is adequately regulating hydraulic fracturing.

Senator seeks probe of Erie Coke (*USA TODAY*)

Saysneighbors suffer variety of ailments
By Blake Morrison and Brad Heath
A U.S. senator is urging federal regulators to investigate whether toxic emissions from a plant in Erie, Pa. -- located just blocks from a handful of schools -- may be responsible for serious health problems among residents.

In letters sent this week to federal health and environment officials, Sen. Robert Casey, D-Pa., wrote that Erie residents have complained of myriad ailments, "from headaches to cancer." Casey told the head of the Agency for Toxic Substances and Disease Registry that residents worry that emissions from the Erie Coke Corp. may be to blame.

"It's a matter of pushing an agency to take an action," Casey said Wednesday.

Investigating the cause of any illnesses is "an important step in making sure we have the facts on the table. Sometimes those determinations are difficult to make."

Casey's effort comes as a Pennsylvania administrative law judge contemplates whether to shut down the Erie facility, which turns coal into coke, a fuel used to melt iron ore for steel mills. Late last month, Pennsylvania's Department of Environmental Protection ordered the plant to close for repeatedly violating state environmental laws. Erie Coke appealed, and a judge is expected to rule by June 18, says Freda Tarbell, a spokeswoman for the state agency. Meantime, Erie Coke continues to operate.

In 2008, air quality monitoring by USA TODAY showed high levels of at least two dangerous chemicals in the air outside one of the nearby schools -- Wayne School, a few blocks from Erie Coke. The chemicals, benzene and naphthalene, are among those that Erie Coke emits, records show.

The federal government considers "coke oven emissions" to be carcinogenic. USA TODAY's tests, done as part of its investigation into air quality outside schools across the nation, found the two chemicals at concentrations that could increase the risk of cancer for those exposed for long periods of time.

Children are especially vulnerable to toxic chemicals. Their organs are still developing, and they breathe more air per pound than do adults. The USA TODAY investigation identified hundreds of schools across the nation where the air outside appeared to be rife with toxic chemicals.

In response, the U.S. Environmental Protection Agency launched a $2.25 million monitoring effort to examine air quality outside 65 schools in 22 states. The agency is likely to announce today that it has completed the first phase of the effort.

Regulators will analyze the results of about 22,500 air samples taken outside those schools to determine whether students face any significant long-term dangers. Final reports are expected later this year.

Preliminary findings outside some schools showed elevated levels of toxic chemicals, including manganese, a neurotoxicant that behaves like lead. Federal regulators did not monitor outside schools in Erie, but tests by the state in late 2008 and 2009 -- done while Erie Coke operated at 50% capacity -- indicated "no unsafe levels of air pollutants or metals."

Casey wants federal officials to investigate more thoroughly, asking them to "conduct a public health assessment to determine if emissions from Erie Coke's coke-making facility has or will cause harm to the health of people living near the facility."

WATER

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Amish Farming Draws Rare Government Scrutiny (*OCLA.com*)

SINDYA N. BHANOO
Published: Wednesday, June 9, 2010 at 6:30 a.m.
LANCASTER, Pa. — With simplicity as their credo, Amish farmers consume so little that some might consider them model environmental citizens.
"We are supposed to be stewards of the land," said Matthew Stoltzfus, a 34-year-old dairy farmer and father of seven whose family, like many other Amish, shuns cars in favor of horse and buggy and lives without electricity. "It is our Christian duty."
But farmers like Mr. Stoltzfus are facing growing scrutiny for agricultural practices that the federal government sees as environmentally destructive. Their cows generate heaps of manure that easily washes into streams and flows onward into the Chesapeake Bay.
And the Environmental Protection Agency, charged by President Obama with restoring the bay to health, is determined to crack down. The farmers have a choice: change the way they farm or face stiff penalties.
"There's much, much work that needs to be done, and I don't think the full community understands," said David McGuigan, the E.P.A. official leading an effort by the agency to change farming practices here in Lancaster County.
Runoff from manure and synthetic fertilizers has polluted the Chesapeake Bay for years, reducing oxygen rates, killing fish and creating a dead zone that has persisted since the 1970s despite off-and-on cleanup efforts. But of the dozens of counties that contribute to the deadly runoff of nitrogen and phosphorus, Lancaster ranks at the top. According to E.P.A. data from 2007, the most recent available, the county generates more than 61 million pounds of manure a year. That is 20 million pounds more than the next highest county on the list of bay polluters, and more than six times that of most other counties.
The challenge for the environmental agency is to steer the farmers toward new practices without stirring resentment that might cause a backlash. The so-called plain-sect families — Amish and Old Order Mennonites, descended from persecuted Anabaptists who fled Germany and Switzerland in the 1700s — are notoriously wary of outsiders and of the government in particular.
"They are very resistant to government interference, and they object to government subsidies," said Donald Kraybill, a professor at Elizabethtown College who studies the Amish. "They feel they should take care of their own."
But the focus on the plain-sect dairy farmers is unavoidable: they own more than 50 percent of Lancaster County's 5,000-plus farms.
"It's been an issue over the last 30 years," Dr. Kraybill said. "We have too many animals here per square acre — too many cows for too few acres."
For now, the environmental agency's strategy is to approach each farmer individually in collaboration with state and local conservation officials and suggest improvements like fences to prevent livestock from drifting toward streams, buffers that reduce runoff and pits to keep manure stored safely.
"These are real people with their own histories and their own needs and their own culture," said John Hanger, the secretary of environmental protection in Pennsylvania.

“It’s about treating people right, and in order to treat people right, you’ve got to be able to start where they are at.”
But if that does not work, the government will have to resort to fines and penalties.
Last September, Mr. McGuigan and his colleagues visited 24 farms in a pocket of Lancaster County known as Watson’s Run to assess their practices. Twenty-three of the farms were plain sect; 17 were found to be managing their manure inadequately.
The abundance of manure was also affecting water quality. Six of the 19 wells sampled contained E. coli bacteria, and 16 had nitrate levels exceeding those allowed by the E.P.A.
Persuading plain-sect farmers to install fences and buffers underwritten by federal grants has been challenging because of their tendency to shy from government programs, including subsidies. Members neither pay Social Security nor receive its benefits, for example.
Word of the E.P.A.’s farm visits last September traveled rapidly through Amish country, Mr. Stoltzfus said, even though most plain-sect farmers do not have their own phones.
The farmers whom the agency visited declined to be interviewed. But Mr. Stoltzfus, whose brother-in-law was among them, said that as the news circulated, some farmers decided on their own to make changes in anticipation of intervention by the agency.
“I had never heard of the E.P.A. coming out to do inspections,” he said. “I think these practices are going to be required more.”
With help from the Lancaster County Conservation District, Mr. Stoltzfus applied for a government grant to help finance construction of a heifer barn with a manure pit. He expects the grant to cover about 70 percent of the cost.
But some Amish farmers were angered by the agency’s intrusion and its requirements.
“It’s certainly generated controversy,” said Sam Riehl, a farmer in the area. “We wonder whether we are being told what to do, and whether the E.P.A. will make it so that we can’t even maintain our farms.”
Mr. Riehl said he had vowed never to accept a government grant. He does have a manure management plan and a manure pit, he said, although several of his neighbors do not.
Last year the federal Fish and Wildlife Service awarded $500,000 to the Chesapeake Bay Foundation to work with the farmers on switching to barnyard runoff controls, streamside forest buffers, no-till farming and cover crops. The money has been lucrative for local agricultural companies like Red Barn Consulting, which has used some of it to hold milk-and-doughnut sessions in barns for Amish farmers and drop off fliers door to door.
The firm’s owner, Peter Hughes, and his employees instruct the farmers on manure management and do free walkthroughs to offer suggestions. In the last six months, Mr. Hughes said, his plain-sect clientele has soared from several dozen farmers to about 200.
Working with the plain sect presents challenges, Mr. Hughes said. For one thing, the group is deeply averse to salesmanship. Then there is the technological communication problem: most of the farmers share a phone booth along a road with several neighbors.
“I had one client who would call me at 5:15 every morning,” he said. “That was his allotted time to use the phone, and that was the only way for us to talk.”

Most days Mr. Hughes is on the road in his pickup visiting farmers. As he drives, he said, he is often struck by the dichotomy between a would-be pastoral ideal and the environmental reality.
“You see those cows and the fields, and it’s beautiful,” he said. “But then there’s that big pile of manure sitting back there.”
Mr. Stoltzfus hopes he is ahead of the game. By adopting new practices and building the manure pit, he thinks he can both help the environment and steer clear of E.P.A. interference.
At midday, Mr. Stoltzfus was placing a bowl of cut fruit into a propane-powered cooler in his backyard, one of the family’s few concessions to technology. Hand-washed black pants and plain cotton dresses fluttered on a clothesline behind him. He offered a taciturn reflection on how quickly things had changed — his willingness to accept the grant, for example.
“A while back, Old Order Amish would not participate in programs like this,” he said, “but farming is getting expensive.”
And then he ended the conversation.
“Is that all?” he said politely but coolly. “I have work to do.”
It was milking time.

Insurance firms found liable for part of Wis. river cleanup (*Greenwire*)

(06/09/2010)
Two companies that formerly insured Appleton Papers Inc. must pay $10 million toward the cleanup of polychlorinated biphenyls (PCBs) in Wisconsin's Fox River, the Wisconsin Court of Appeals ruled yesterday.

A split three-judge panel found Munich Re AG and Westport Insurance Corp. liable for $5 million apiece under decades-old insurance policies, requiring them to contribute to the $600 million to $700 million cleanup. Several other insurance companies have reached settlements to pay their share of the cleanup, said Madison, Wis., attorney Ron Ragatz, who is representing Appleton Papers.

"We're very pleased with the decision," Ragatz said.

Judge Ralph Adam Fine, who dissented from the two-judge majority's decision, said the insurers should have been allowed to make their argument that Appleton Papers forfeited its right to insurance claims by reaching a 1998 settlement with its corporate predecessor, the National Cash Register Co. The company had dumped PCBs into the river from 1954 and 1971.

The cleanup of the 13-mile Fox River Superfund site, overseen by U.S. EPA, started last year and is expected to last until 2018, said Scott Stein of the Fox River Cleanup Group. About 270,000 people live along the river, which flows into Lake Michigan.

Appleton Papers describes itself as the world's largest producer of carbonless paper, used in forms such as invoices and purchase orders. The industrial chemicals were banned in 1979 after studies showed they caused cancer in animals and were likely to have similar effects on humans (Ryan Foley, AP/San Francisco Chronicle, June 8). -- GN

Sewer Overflow Settlement May Be Model For Green Infrastructure Use (*Inside EPA*)

Posted: June 9, 2010
EPA and Justice Department (DOJ) officials are touting a novel proposed settlement between EPA and Kansas City, MO, that prioritizes the use of so-called green infrastructure techniques to reduce sewer overflows as a potential model for future efforts to expand the practices, while also highlighting its environmental justice benefits because it was developed with community input and will especially benefit urban neighborhoods.

State officials also are pointing to the agreement as evidence of EPA's stepped-up interest in pushing costly upgrades to stormwater infrastructure as they pursue their own efforts to encourage novel uses of green infrastructure.

During the past few years, EPA has been encouraging municipalities to use green roofs, rain gardens, permeable pavement and other techniques that mimic natural processes to control stormwater runoff, and last year began to include them as supplemental projects in Clean Water Act (CWA) enforcement settlements.

In addition, EPA earlier this year issued guidance to permit writers on how to include such requirements in CWA discharge permits, incorporating approaches for stormwater control contained in congressionally mandated guidance for federal facilities.

But EPA officials say the Kansas City consent decree, announced May 18, is "one of the first" to include green infrastructure in the main part of the settlement and will serve as a model for the incorporation of green infrastructure and technology toward solving overflow issues.

"This agreement charts a course for the largest infrastructure project in the city's history, and what we believe to be one of the largest municipal green infrastructure projects undertaken anywhere in the nation," EPA Region VII Administrator Karl Brooks said in a May 18 statement.

Under the agreement, which is awaiting final approval from the U.S. District Court for the Western District of Missouri, Kansas City will make major improvements to both its separate and combined sewer systems at an estimated cost of more than $2.5 billion.

The improvements are intended to eliminate unauthorized overflows of untreated sewage and to reduce pollution levels in urban stormwater, according to EPA and DOJ.

Illegal Sewer Overflows

Since 2002, Kansas City has experienced approximately 1,294 illegal sewer overflows, including at least 138 unpermitted combined sewer overflows, 390 sanitary sewer overflows, and 766 backups in buildings and private properties, EPA says.

The agreement prioritizes sewer rehabilitation projects in the urban core to reduce basement and other sewer backups, Ignacia Moreno, assistant attorney general for DOJ's Environment & Natural Resources Division, said May 18. Moreno's deputy, John Cruden, noted during a May 25 American Bar Association teleconference that the agreement "has environmental justice overtones."

The green infrastructure projects will begin as a 100-acre pilot in a part of a city served by combined sewer systems, where sewage and stormwater are carried in the same pipe. If, after a year, the pilot has reduced sewer overflows, the city will expand its use of green infrastructure, EPA Deputy Assistant Administrator for Water Nancy Stoner said on the May 25 teleconference. If, however, the sewer overflows are not reduced, Kansas City will then use traditional "gray" infrastructure to increase its stormwater capacity, she said.

According to the consent decree, Kansas City's report to EPA on the effectiveness of the pilot will include an evaluation of the effectiveness, implementability and cost of the green infrastructure technologies included in the pilot project, as well as describing any barriers to implementation, community reaction to and support for green infrastructure and evaluation of the socioeconomic benefits from use of green infrastructure in the pilot.

If the pilot is successful, green infrastructure will then be used across the 744-acre Marlborough neighborhood and potentially throughout the whole area served by the combined sewer system, the consent decree says.

Stoner said regulators used to think that separate storm sewer systems were better than older combined ones, and that combined systems should be converted to separate ones. But that thinking has changed, she said, because when flows in combined systems are under capacity, the stormwater is carried along with the sewage to the wastewater treatment plant. Stormwater in separate sewer systems is usually discharged to receiving water without treatment, meaning that pollutants picked up by the runoff are transported to waterbodies.

The current focus is on limiting stormwater volume in the sewer system, either by constructing structures to store the stormwater until it can be treated or by using green infrastructure to use natural processes to divert and treat the stormwater, she said.

During a May 21 conference at Columbia Law School in New York on key environmental issues in Region II, state officials noted EPA's growing push to control stormwater, citing the Kansas City agreement as an example of the high costs of doing so.

James Tierney, assistant commissioner for water resources at the New York State Department of Environmental Conservation, said 200 cities in New York are under long-term consent orders for clean water infrastructure, and "a lot of them [are] very expensive. EPA is getting involved in this in a big way."

But he added that there is a big interest in using green infrastructure to meet the requirements in the consent orders. "You have to spend the money . . . why not spend it in a way that's beautiful and serves the local community," Tierney said, adding, "We're doing a lot of that with innovative orders right now."

Frontier to pay $900,000 for refinery pond dumping (*BusinessWeek*)

MEAD GRUVER
CHEYENNE, Wyo.

Frontier Oil Corp. has agreed to pay a $900,000 penalty for allegedly dumping toxic waste into a stormwater retention pond at its refinery in Cheyenne.

The U.S. Environmental Protection Agency says the refinery collected sludge in the pond for years. Last fall, the EPA sought a $6.8 million penalty against the Houston-based company.

Negotiations resulting in a settlement announced Tuesday will require Frontier to pay a smaller penalty while cleaning up the pond and rerouting the waste pipe.

Frontier officials say they are committed to complying with environmental regulations and are spending $1 million to finish maintaining the pond.

Frontier already has spent more than $14 million to improve the refinery's wastewater treatment plant, company spokeswoman Kristine Boyd said in a statement.

"Although Frontier refuted these EPA allegations, we have agreed to enter into a settlement with the EPA to resolve the matter," the statement said.

The settlement requires Frontier to submit a plan by June 30 for closing the pond, said Michael Risner, director of legal enforcement for the EPA regional office in Denver.

Risner questioned Frontier's claim that the company had refuted the allegations.

"They can certainly say that, but they are going to end up doing what we ordered them to do," he said Wednesday.

The penalty results from a nationwide EPA effort to improve compliance at refinery wastewater ponds, Risner said.

He said the Wyoming Department of Environmental Quality also has been investigating ponds at the refinery.

EPA cites Sioux, Mills county feedlots for run-off (*Sioux City Journal*)

Posted: Wednesday, June 9, 2010 4:50 pm

KANSAS CITY, Kans. -- The Environmental Protection Agency Region 7 office has taken a series of civil enforcement actions against three Iowa beef feedlot operations for environmental violations of the Clean Water Act.

The actions are part of EPA operations aimed at ending harmful discharges of pollutants from concentrated animal feeding operations, or CAFOs, into the region's rivers and streams. Two of the operations cited are in Sioux County and the other is in Mills County, near Council Bluffs:

Groeneweg Farm, Rock Valley: must apply for a National Pollution Discharge Elimination System permit, or NPDES permit, and complete wastewater controls at its facilities by Oct 31, 2011 to end unauthorized discharges of pollutants into an unnamed tributary of the Rock River in Sioux County.

Gradert/Cla-Don/Winterfeld Feedlot, Ireton, must meet the same requirements by the same date, in order to prevent its unauthorized discharges from entering Six Mile Creek in Sioux County.

Those two enforcement actions involve mid-size feedlots that contain between 300 and 999 cattle.

Bruce Feedlot, Hastings, has agreed to pay a $31,573 civil penalty for its unauthorized discharges of pollutants into Indian Creek and its tributaries in Mills County. The settlement is subject to a 40-day public comment period before becoming final.

Run-off from CAFOs may contain such pollutants as pathogens and sediment as well as nutrients such as nitrogen and phosphorus, all of which can harm aquatic life and impact

EPA Regional Administrator Karl Brooks said harmful bacteria such as E.coli is found in the wastewater discharged by feedlots at levels exponentially higher than the levels of treated water that municipal wastewater systems are allowed to discharge.

Plan set to clean fishing vessel tainted by mustard gas (*Boston Globe*)

June 9, 2010 04:04 PM
By Shana Wickett, Globe Correspondent
A plan has been set in motion to decontaminate a clamming vessel that dredged up World War I-era munition shells from the ocean off Long Island, exposing crew members to mustard gas, according to the Coast Guard.

No details were immediately available about the plan, which was developed by the Unified Command, which includes the Coast Guard, the US Environmental Protection Agency, and state and local government agencies, a statement from the Coast Guard said.

Keeping the public safe from exposure to the mustard gas is a priority, the Coast Guard said. Mustard gas can cause large, raised blisters on the skin, and even death if inhaled.

Four crew members aboard the ESS Pursuit fell ill this week after the boat dredged up the shells, one of which broke open. The two remaining crew members, who have reported no symptoms, will also be decontaminated as a precaution, the Coast Guard said.

After decontamination, the vessel will be re-tested to ensure it is no longer contaminated, the Coast Guard said.

More Regulations for Livestock Farms? (*Bacon's Rebellion)*

By Gary Baise • Jun 9th, 2010

Environmental groups, including the Natural Resources Defense Council, Sierra Club, and Robert F. Kennedy Jr.'s Waterkeeper Alliance reached a Settlement Agreement with EPA in 2009 which required EPA, by May 28, 2010, to develop a guidance document "…designed to assist permitting authorities in implementing NPDES permit regulations and Effluent Limitations Guidelines and Standards for concentrated feeding operations (CAFOs)…".

This cozy arrangement negotiated between EPA and its environmental friends also requires EPA to ensure all owners or operators of CAFOs, regardless of whether they discharge or propose to discharge, to submit required information to EPA.

The 8-page Consent Decree sets forth information that will be required to be submitted to EPA every five years. In other words, more expense for CAFO operators.

EPA lost a major case involving CAFOs (Waterkeeper Alliance v EPA, 2005) where a court declared if there is no discharge from a CAFO; no NPDES (National Pollutant Discharge Elimination System) permit is required.

EPA, nor the environmental groups, cannot get over this defeat.

As a result, CAFO operators will soon be required to report substantial new, detailed, and expensive information to EPA pursuant to section 308 of the Clean Water Act (CWA).

End run

The requirements set forth in the Settlement Agreement appear to go beyond the scope of the CWA. It is also clear EPA is attempting, in every way possible, to get around the agricultural stormwater runoff exemption set forth in the CWA and approved by the courts!

The Settlement Agreement requires approximately 15 pieces of substantial data, such as “quantity of manure, process wastewater and litter generated annually by the CAFO.” EPA wants to know the exact longitude and latitude location of a CAFO operation, whether manure is transferred off-site, type and capacity of manure storage and whether the CAFO has applied for an NPDES permit.

Of course, this information will be made public.

In addition, EPA published on May 28, 2010 a document entitled “Implementation Guidance on CAFO Regulations – CAFOs That Discharge or Are Proposing to Discharge” (EPA-833-R-10-006). This document claims to be a guidance document and for all those reading this column, I would suggest it is mandatory reading.

Not legally enforceable

A guidance document, as EPA clearly points out, is not legally enforceable and does not confer any legal rights or impose any legal obligations on any CAFO operation. The 18-page guidance document also makes it clear that discharges of manure from a land application area will not qualify as agricultural stormwater runoff unless it is applied on the site using practices that guarantee appropriate agricultural utilization of nutrients. (The last time I checked, the CWA statute did not include that language.)

What EPA is attempting to do is to avoid the requirements of the Waterkeeper case, which clearly states if you have no discharge to a water of the United States; an NPDES permit is not required.

In a blatant attempt to undermine the Waterkeeper case, EPA now tells a CAFO operator that if an “objective assessment” suggests a possible discharge, an NPDES permit should be sought.

EPA wants the CAFO to examine through an objective assessment climatic, hydrologic, topographic, and other characteristics which may be beyond the operator’s control. The guidance also wants the CAFO to consider the design construction operation or maintenance of the CAFO.

EPA then claims “An objective assessment provides a common basis for both the CAFO and the permitting authority to determine whether the CAFO discharges or proposes to discharge.”

What EPA is attempting to do is return to its 2003 rule, which categorically required any CAFO with a potential to discharge to have an NPDES permit. The court in Waterkeeper overturned this rule.

EPA is continuing its effort to regulate as many aspects of production agriculture as possible. The guidance is merely a precursor to more lawsuits against livestock production in the United States.

It may be called a Guidance Document, but my bet is it will be applied as a regulation – which will set up yet another court challenge.

EPA cites pharma for contaminated wastewater (*FiercePharma Manufacturing*)

By George Miller
Created Jun 9 2010 - 3:10pm

The United States Environmental Protection Agency is working with the New York State Department of Environmental Conservation to address two pharma facilities and their associated public wastewater treatment plants fingered by the U.S. Geological Survey as the source of drugs in the environment.

The New York environmental officials are taking steps with one of the drugmakers by starting discussions with corporate officials regarding pretreatment of pharmaceutical waste streams, according to an EPA spokesperson via email. The state agency asked the unnamed company for a commitment to work with USGS on pre-treating wastes prior to discharge to the sewer system. State officials have visited the site and plan to speak with company officials, the spokesperson says.

The state agency also is modifying the wastewater treatment plant's permit to impose toxicity testing. EPA says it will continue to work with New York officials and is prepared to impose monitoring requirements for the pharma waste streams if necessary.

Meanwhile, the FDA says it is "carefully evaluating" the USGS data. "We are in communication with USGS and EPA to provide our perspective," says an FDA spokesperson via email. "We don't believe these low levels of pharmaceuticals pose any risk to human health."

The findings are not directly relevant to the FDA's regulation of drugs, but environmental effects of manufacturing are a consideration in all drug approvals, the spokesperson says.

The EPA, in conjunction with the states, is the primary regulator of discharge from manufacturing facilities.

USGS researchers stumbled on the connection between pharma manufacturing facilities and the traces of drugs found in the wastewater [1] discharged after processing by treatment plants. Researchers were checking processed wastewater as part of a survey, and examining the surroundings for contamination sources (eg, landfills) that may find pathways to the environment.

Lab analysis of the wastewater processed at the two New York plants showed chromatographic peaks that researchers didn't expect to see, and that didn't show up in the analysis of output from wastewater treatment plants having no connection with pharma plants. "It was in trying to explain why the peaks were there that got us to the pharma plants," says Herb Buxton, manager of USGS toxic substances hydrology program, in a phone interview.

"We were surprised by these findings," he says, because of the "common belief that good manufacturing practices and the inherent value of the product would limit the loss of pharmaceuticals" from drug plants.

Buxton adds that the USGS has not tested for the presence of these pharmaceuticals in finished drinking water. Now that we know that these pharmaceuticals are found in the environment, we will include them in future drinking water studies.

Iowa battery maker fined for pollution (*Associated Press*)

Story also appeared: *Chicago Tribune*

1:31 PM CDT, June 9, 2010
KANSAS CITY, Kan.

The U.S. Environmental Protection Agency has settled a dispute with an Iowa battery maker that allegedly failed to properly monitor and report discharges of industrial wastewater.

In the settlement, filed Wednesday in Kansas City, Kan., East Penn LLC of Corydon, Ia. agreed to pay a $53,547 fine for alleged violations of the Clean Water Act.

According to the EPA, agency inspectors determined in July that East Penn's facility was discharging industrial process wastewater. The violation was discovered during an inspection of Corydon's wastewater treatment system.

The EPA reports that at the time, East Penn never applied for a water pretreatment permit from the Iowa Department of Natural Resource.

East Penn has since filed an application for a pretreatment permit, and is conducting the required monitoring to ensure its wastewater will not adversely impact Corydon's treatment system

`She saw things the rest of us did not' (*Boston Globe*)

June 10, 2010 Thursday
REGIONAL; West; Pg. 1
`She saw things the rest of us did not'
By John Dyer, Globe Correspondent
Americans feeling distraught as they watch thousands of gallons of oil pour into the Gulf of Mexico every day might take heart from Groton resident Marion Stoddart.

In the early 1960s, Stoddart felt frustrated about the noxious dyes that colored the Nashua River near her home red, yellow, or blue, depending on what paper the Fitchburg mills were producing that day. Now a team of Massachusetts filmmakers is celebrating her refusal to believe she couldn't clean up the mess.

After three years of production, the premiere of ``Marion Stoddart: The Work of 1000'' is scheduled for 7 p.m. Saturday at Lawrence Academy's Richardson-Mees Performing Arts Center in Groton, with a fund-raising reception after the free screening. The film tells how a suburban housewife changed national perceptions about fouled waterways that many viewed as unredeemable.

``We can apply Marion's methods and the lessons she learned to now,'' said the film's producer, Pepperell resident Susan Edwards, referring to the oil spill off Louisiana. ``How do you engage to change things? How do you mobilize?''

Stoddart's campaign, including forming an activist group that eventually became the Nashua River Watershed Association, is widely credited with persuading Beacon Hill to

adopt the 1966 Massachusetts **Clean Water Act**, the first in the United States and a blueprint for federal reforms in the early 1970s, including the **Clean Water Act** and the creation of the **Environmental Protection Agency.**

Until that time, most Americans accepted the industrial runoff that had been polluting US waterways since Colonial times. Chemical-laden rivers catching fire, fish kills, and raw sewage were often tolerated as necessary evils associated with good manufacturing jobs. Using interviews with Stoddart, now 82, and her family, environmentalists, and politicians, as well as period films and photos, the 30-minute documentary explains how she overcame those perceptions.

In one scene, Stoddart brings a jar of disgusting Nashua River water to then-Governor John Volpe to persuade him to support proposed clean water legislation. Soon after her visit, Volpe signs the measure, and Stoddart launches a lobbying effort to persuade reluctant municipalities to build water-treatment plants to meet the new rule's standards.

``Going to a city council back then and asking for a $30 million bond issue to clean up a river, that's pretty hard to sell,'' former Fitchburg mayor Bill Flynn says in the film.

Fitchburg built the treatment plant, but Stoddart didn't stop there. She also wanted land set aside on either side of the river for pedestrians and cyclists, a greenway that is now being developed but which seemed overly ambitious at the time.

``She always wanted more, and I would say to her sometimes, `Marion, you're pushing too hard on this one,' '' Flynn says. ``As I look back on it, she saw things the rest of us did not.''

Moving from her native Nevada to Groton in 1962, when her nuclear physicist husband was conducting research at MIT, Stoddart embraced environmental activism as an alternative to the boredom of housekeeping and to fulfill her intense Protestant work ethic.

``I was thinking, `Why am I here on this earth,' '' she says in the film. `` `What is it that I am supposed to be doing?' The best thing I can do is create the greatest challenge for myself. I've always been bound by guilt. That's always provided a lot of motivation in my life.''

The name of the film derives from a minor event that occurred when Stoddart was particularly depressed about her perceived lack of purpose. ``There was one Sunday I had the radio turned on,'' Stoddart says. ``There was this program, an inspirational program. And the person speaking said one person can do the work of a thousand, and I thought `Wow.' ''

The film also discusses the human side of Stoddart's achievement. Unlike most mothers in the early 1960s, she worked as an activist and didn't devote herself entirely to her family. It's common now, but at the time her children occasionally felt neglected.

``She was on the telephone a lot when we needed her,'' says Stoddart's daughter, Heather Barros. ``Our house was filled with paperwork and a little mimeograph machine with stacks of notes and petitions and telephone numbers. Once I had a friend over to the house and my friend looked at all the papers and said, `Is your mother the mailman?' ''

Edwards said the film cost around $150,000 to produce. Most of the money came from individual donations, but the Massachusetts Foundation for the Humanities and the Massachusetts Cultural Council also provided help. Watertown-based nonprofit Documentary Educational Resources sponsored the project, and will help Edwards and the film's director, Somerville resident Dorie Clark, distribute the film to festivals and schools around the world.

Edwards and her colleagues said they were relieved to finish the movie, their job isn't done. The need to challenge social and economic norms - like putting up with dirty rivers or America's dependence on fossil fuels - is a key lesson of the documentary, they said, and they hope to show how Stoddart's activism was difficult but worth the struggle.

``It's kind of an homage'' to Stoddart, said video editor Peter Rhodes, a consultant on ``The Work of 1000'' who has also edited for WGBH's ``Frontline'' series.

``She ushered in this golden age of people being really aware and being strict about how we should look at the environment. People of a newer generation don't even know how filthy those rivers were.''

More information on the film, and details on tickets to Saturday's premiere and related events, can be found at www.workof1000.com, or by calling 617-834-7315.

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