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ADMINISTRATOR JACKSON
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April 5, 2010

Industry Groups Challenge EPA's Reconsideration of 'Johnson Memo' (*New York Times*)

By ROBIN BRAVENDER of Greenwire
A coalition of industry groups has asked a federal appeals court to review U.S. EPA's policy for when it plans to begin regulating greenhouse gases from stationary sources.

Groups including coal, mining and agricultural interests Friday **petitioned** **(pdf)** the U.S. Circuit Court of Appeals for the District of Columbia to review EPA's policy detailing when the agency must regulate the heat-trapping emissions from industrial facilities like power plants, oil refineries and other sources.

EPA Administrator Lisa Jackson laid out that timeline last Monday when she announced the Obama EPA's final reconsideration of the George W. Bush administration's "Johnson memo" (*E&ENews PM*, March 29). Jackson said EPA plans to begin regulating some large stationary facilities in January 2011, when automakers must begin to comply with EPA's greenhouse gas rules for tailpipe emissions, which were also finalized last week (*Greenwire*, April 1).

The groups filing the lawsuit were the Coalition for Responsible Regulation Inc., the Industrial Minerals Association-North America, the National Cattlemen's Beef Association, Great Northern Project Development LP, Rosebud Mining Co. and Alpha Natural Resources Inc.

Eric Groten, an attorney representing the groups, said EPA's policy is illegal and will have dire consequences for stationary sources.

He said EPA is using a "strained reading of the Clean Air Act" to say that the adoption of the tailpipe standards forces EPA to begin regulating industrial facilities. "The law doesn't compel that," he said.

Opponents of EPA's policy have until June 1 to file legal challenges with the appeals court.

Jackson last week said that EPA's time frame would give businesses and regulators enough time to prepare for rules that will clamp down on greenhouse gases.

Justice Department spokesman Andrew Ames declined to comment on the lawsuit. He said attorneys for the Obama administration would review the petition and respond in court.

The groups that filed the petition are also parties to a lawsuit filed in December challenging EPA's "endangerment" finding, a determination that greenhouse gases threaten public health and welfare. That finding sets the stage for the agency to begin regulating those emissions from mobile and stationary sources. The coal giant Massey Energy Co. is also a party to that lawsuit, which has been consolidated with a host of other groups' challenges to the finding.

04/05/2010

Applicable Everywhere (*West Virginia MetroNews*)

MetroNews Talkline
Charleston, Kanawha County
"This is not a mountaintop mining issue. This is a coal mining issue."
That's how state Department of Environmental Protection Secretary Randy Huffman describes new benchmarks from the federal Environmental Protection Agency which include standards for acceptable levels of stream pollution from mountaintop removal mining sites.

"It is clearly applicable to all coal mining water discharges. Period."

Huffman says those new standards are so low *no* coal mining project, any coal mining project, will be able to meet them.

"We have assumed all along that their target was mountaintop mining. The problem is they have selected a vehicle that, yeah, it gets the mountaintop mining that they're after, but it gets everything else too," Huffman said on Monday's MetroNews Talkline.

The new benchmarks will apply to water quality requirements of pending and future surface mine permits.

EPA Administrator Lisa Jackson said the following when the announcing the changes last week: "This benchmark prevents irreversible damage to the physical and biological integrity of Appalachian streams and protects 95% of aquatic organisms living in them."

Huffman says the impact of the new rules, which the EPA issued without going through the normal rule making process, will go beyond permits for mountaintop removal mining projects.

"The number they have thrown out, and I try not to be too negative about this and I don't want to frighten people but, the number they've thrown out, based upon the conventional ways we've mined coal to this point, those numbers aren't met."

Under the Clean Water Act, the EPA has the authority to tell the state to deny permits. Huffman says that means the state will *not* be able to issue permits for projects that go beyond the limits, even if it wants to do so.

Because the changes have been issued as "interim guidance," Huffman says there is no way to appeal the standards that the EPA can choose when and how to apply.

Huffman briefed Governor Joe Manchin about the new EPA benchmarks last week. The Governor has said he will talk to governors of the five other states where the new standards will apply.

Cap and Trade and the EPA (*St. Louis Globe-Democrat*)

Monday, April 5, 2010
The Missouri House of Representatives overwhelmingly passed HCR 46 on March 23 which voices widespread concern over the American Clean Energy and Security Act that is currently in front of the U.S. Senate.

With more than 75 percent support from the Missouri House of Representatives from all corners of the state, Republicans and Democrats alike recognize the danger of putting important command and control capabilities in the hands of Washington bureaucrats at the Environmental Protection Agency (EPA).

President Obama, Nancy Pelosi, and Harry Reid recognized that their Cap and Trade agenda was rejected by the American people and the Congress. Since it has been rejected by the public and the Democrat-controlled Congress, the President is trying to slip his agenda through the back door as bureaucratic regulation and control.

Lisa Jackson, head of the EPA, has announced that carbon dioxide is a threat to public health. Such a finding means that the EPA could then regulate anything connected to carbon dioxide emissions, the byproduct of breathing. President Obama agreed to the International Standards put forth by the UN's Intergovernmental Panel on Climate Change in Copenhagen. The EPA wants to put even stricter controls on American businesses than the UN wants to place on the rest of the world. This should really be in the hands of our elected officials. Goodbye legislative control, democracy and federalism. Say hello to more big-government, bureaucratic, economy hurting regulation.

Congress rejected President Obama's agenda because it is simply bad for our country, bad for our businesses, bad for our economy and bad for our families. Now we need to reject this assault on the separation of powers as well as bad policy. Do I care about the environment? Absolutely.

I have the honor of representing the people of the 12th Legislative District which borders the Busch Memorial Conservation Area, Weldon Spring Conservation Area, and Howell Island Conservation Area. I want to preserve these natural resources and national treasures for our children and grandchildren. I also want to protect American businesses and jobs from unfair regulation and taxes caused by Cap and Trade proposals. Such proposals only regulate American businesses and jobs and give our foreign competitors the economic advantage. This also only encourages businesses to take their operations, profit, and jobs overseas. We simply cannot afford to put our businesses at a disadvantage in the marketplace or send more jobs overseas.

Rep. Doug Funderburk, R-St. Peters

Arch sues EPA over revoked permit for W.Va. mine (*Greenwire*)

Patrick Reis, E&E reporter
(04/05/2010

Arch Coal Inc. sued U.S. EPA on Friday in an effort to block the agency's proposal to revoke a permit for the company's planned mountaintop-removal coal mine in West Virginia.

EPA does not have the authority to veto a Clean Water Act permit that has already been issued, the St. Louis-based coal company argues in a suit filed in the U.S. District Court for the District of Columbia.

The proposal is "unlawful, arbitrary and capricious, an abuse of discretion and otherwise not in accordance with law, and in excess of EPA's statutory jurisdiction, authority and limitation," says the lawsuit from Arch subsidiary Mingo Logan Coal Co. Inc. "Mingo Logan, its employees, and the communities in which they live and work need the court's help."

The U.S. Army Corps of Engineers and EPA approved a permit for Arch's Spruce No. 1 mine in 2007. But last month, EPA said the permit violated the Clean Water Act and that negotiations with Arch Coal had failed to produce an acceptable compromise (*Greenwire*, March 26).

EPA has never retroactively vetoed a permit for a surface coal mine. Since the Clean Water Act was passed in 1972, 12 permits have been vetoed.

The agency is still reviewing the suit. "We are confident ... that EPA's actions regarding the Spruce mine are fully consistent with the agency's authority to protect the environment, public health and water quality under the Clean Water Act," EPA said in a statement today.

If the permit is successfully revoked, it will have a chilling effect on investment in all surface coal mines, as potential investors look to permits as signs that investments will yield a positive return, National Mining Association spokeswoman Carol Raulston said.

As originally proposed 13 years ago, the the Spruce No. 1 mine would have been the largest in West Virginia's history. The 2007 permit modified the proposal to reduce the affected acreage by more than a quarter and the waste it would generate by more than half, but it still allows more than 7 miles of headwater streams to be buried in mine waste.

The mine's future was put further in jeopardy last week when EPA announced new water quality standards for surface coal mines that agency Administrator Lisa Jackson said would permit "no or very few" valley fills (*E&ENews PM*, April 1).

EDITORIAL/COMMENTARY/OP ED/LETTERS

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Tuesday, April 6, 2010

Close enough for government work (*Washington Times*)

Part of President Obama's health care bill depends on the government telling doctors and hospitals what are purportedly the most efficient medical procedures they should use. Americans are supposed to trust Mr. Obama's bureaucrats over their own doctors. Meanwhile, a new report from the Government Accountability Office shows that the Obama administration has been an utter failure at identifying the efficiency of a wide range of products. As government encroaches on more aspects of American life, the federal bureaucracy is increasingly incompetent.

The Environmental Protection Agency and the Department of Energy are charged with identifying how energy-efficient different products are. They claim that 98 percent of the products they test meet or exceed Energy Star requirements, which are government benchmarks used to regulate greater efficiency. Yet a sting by GAO investigators showed that the government agencies incorrectly identified as "efficient" 15 of 20 bogus products submitted by GAO for testing. No action was taken on two of the 20 products. Overall, the government made the correct decision on 11 percent of the test products.

As the Washington saying forewarns, the difference between 98 percent and 11 percent is close enough for government work.

Most disturbingly, the absurd products in question shouldn't have been close calls. Take the so-called "room air cleaner." The product was a space heater with a duster sticking out of the top and several fly strips attached. The picture submitted to the government of

the bogus product is pretty hilarious - but the bureaucracy gave the contraption the federal stamp of approval.

Among the other ridiculous items the government certified as energy-efficient was a petroleum-powered timepiece that was described as a "generator-sized clock run on gasoline." Such a machine obviously would be energy-inefficient. Moving the heavy beast alone would keep greens awake at night worrying about wasted energy, making the alarm on the clock superfluous.

News of these phony approvals has bureaucrats running for high ground. While defensively insisting that they take the tests "seriously," the EPA and Energy Department immediately issued a statement defending their testing and telling the public it should not lose confidence in the government program to monitor efficiency ratings. Incorrigibly, the feds again pointed to their own discredited 98 percent accuracy rate and implausibly claimed the Energy Star program has so far saved Americans $17 billion on their electricity bills.

However much the EPA and Energy Department protest, government agencies will never be as careful as private companies in getting consumers what they want. Shareholders lose their own money if they deceive consumers. If a business had an accuracy rate that was 87 percent lower than what it claimed, few customers would line up to buy its products. Just consider how quickly people stopped buying Toyotas amid charges of dangerous brake failure and electrical problems in a small percentage of the millions of cars sold by the Japanese automaker whose main selling point is reliability.

Given Mr. Obama's massive expansion of the federal leviathan, the defeatist quip "close enough for government work" could become the refrain for a new national anthem.

APRIL 6, 2010

What's the Next 'Global Warming'? (*Wall Street Journal*)

Herewith I propose a contest to invent the next panic.
By BRET STEPHENS
So global warming is dead, nailed into its coffin one devastating disclosure, defection and re-evaluation at a time. Which means that pretty soon we're going to need another apocalyptic scare to take its place.

As recently as October, the Guardian reported that scientists at Cambridge had "concluded that the Arctic is now melting at such a rate that it will be largely ice free within ten years." This was supposedly due to global warming. It brought with it the usual lamentations for the grandchildren.

But in March came another report in the Guardian, this time based on the research of Japanese scientists, that "much of the record breaking loss of ice in the Arctic ocean in recent years is [due] to the region's swirling winds and is not a direct result of global warming." It also turns out that the extent of Arctic sea ice in March was around the recorded average, according to the National Snow and Ice Data Center.

The difference between the two stories has little to do with science: There were plenty of reasons back in October to suspect that the Arctic ice panic—based on data that only goes back to 1979—was as implausible as the now debunked claim about disappearing Himalayan glaciers. But thanks to Climategate and the Copenhagen fiasco, the media are now picking up the kinds of stories they previously thought it easier and wiser to ignore.

This is happening internationally. In France, a book titled "L'imposture climatique" is a runaway bestseller: Its author, Claude Allègre, is one of the country's most acclaimed scientists and a former minister of education in a Socialist government. In Britain, environmentalist patron saint James Lovelock now tells the BBC he suspects climate scientists have "[fudged] the data" and that if the planet is going to be saved, "it will save itself, as it always has done." In Germany, the leftish Der Spiegel devotes 15 pages to a deliciously detailed account of "scientists who want to be politicians," the "curious inconsistencies" in the temperature record, the "sloppy work" of the U.N.'s climate-change panel and sundry other sins of modern climatology.

As for the United States, Gallup reports that global warming now ranks sixth on the list of Americans' top 10 environmental concerns. My wager is that within a few years "climate change" will exercise global nerves about as much as overpopulation, toxic tampons, nuclear winters, ozone holes, killer bees, low sperm counts, genetically modified foods and mad cows do today.

Something is going to have to take its place.

The world is now several decades into the era of environmental panic. The subject of the panic changes every few years, but the basic ingredients tend to remain fairly constant. A trend, a hypothesis, an invention or a discovery disturbs the sense of global equilibrium. Often the agent of distress is undetectable to the senses, like a malign spirit. A villain—invariably corporate and right-wing—is identified.

Then money begins to flow toward grant-seeking institutions and bureaucracies, which have an interest in raising the level of alarm. Environmentalists counsel their version of virtue, typically some quasi-totalitarian demands on the pattern of human behavior. Politicians assemble expert panels and propose sweeping and expensive legislation. Eventually, the problem vanishes. Few people stop to consider that perhaps it wasn't such a crisis in the first place.

This is what's called eschatology—a belief, or psychology, that we are approaching the End Time. Religions have always found a way to take account of those beliefs, but

today's secular panics are unmoored by spiritual consolations or valid moral injunctions. Instead, we have the modern-day equivalent of the old Catholic indulgence in the form of carbon credits. It's how Al Gore justifies his utility bills.

Given the inescapability of weather, it's no wonder global warming gripped the public mind as long as it did. And there's always some extreme-weather event happening somewhere to be offered as further evidence of impending catastrophe. But even weather gets boring, and so do the people who natter about it incessantly. What this decade requires is a new and better panic.

Herewith, then, I propose a readers' contest to invent the next panic. It must involve something ubiquitous, invisible to the naked eye, and preferably mass-produced. And the solution must require taxes, regulation, and other changes to civilization as we know it. The winner gets a beer and a burger, on me, at the 47th street Pig N' Whistle in New York City. (Nachos for vegetarians.) Happy panicking!

Write to bstephens@wsj.com

Cheers for mountaintop protection (*Charlottesville Daily Progress*)

Cat McCue
Published: April 6, 2010

Three cheers — no, six cheers! — for the Environmental Protection Agency, which on March 26 took a strong stand for the Appalachian Mountains and clean water. The EPA announced plans to significantly restrict or prohibit entirely what would be perhaps the largest mountaintop removal coal mine ever.

Why is this important to Charlottesville? Because much of our electricity comes from burning coal extracted through the brutal practice of blowing up ancient mountains and dumping the rubble in nearby streams. This is happening not only in West Virginia, but right here in Virginia as well, in places like Wise County.

In December, hundreds of people came to Vinegar Hill for a special showing of the documentary “Coal Country,” which tells the stories of people who live in the shadow not of mountains, but of mountaintop removal mining, with poisoned wells, flooded land and a profound loss of family heritage rooted deep in the mountains themselves.

The EPA said the proposed West Virginia mine would bury more than seven miles of headwater streams and impact some 2,300 acres of forest, irreversible impacts that are unacceptable. Here in Virginia, we’ve lost — lost — 50 mountains and 150 miles of streams to this form of coal mining.

As the EPA said in its press release: “Mining waste placed into headwater streams will impact fish and wildlife which depend … on these headwater systems. Ecosystem functions performed by headwaters are lost when the headwater stream is buried or removed ... not only to the headwater stream itself, but also to downstream aquatic ecosystems.”

Now I want to cheer on the Charlottesville community to:

—Learn more about mountaintop removal coal mining.
—Write the EPA soon in support of this decision (there is a 60-day comment period).
—Get a little stingy with your energy use. Save money, save the mountains.

Cat McCue
Charlottesville

Bogus products win EPA's Energy Star certification (*Washington Examiner*)

By: Barbara Hollingsworth
Local Opinion Editor
04/05/10 12:33 PM EDT
The Environmental Protection Agency is planning to police how much carbon dioxide (i.e. plant food) Americans are allowed to emit. But the federal agency should get its own house in order first.

For instance, Taxpayers for Common Sense reports that EPA certified bogus energy-saving products for its Energy Star program, including a gasoline-powered clock ra

In fact, 20 phony, non-existent products were submitted by investigators from the Government Accountability Office to EPA and the Department of Energy for Energy Star certification, which makes them eligible for federal tax credits and state rebate programs.

EPA was the overseeing agency for 16 of the bogus products that made the grade, including the air cleaner and the clock radio ("Black Gold is sleek, durable, easy on your electric bill and surprisingly quiet").

"Of the products submitted to the EPA, 12 were approved, one was rejected and three never received a final determination from Energy Star," according to Gregory Kurtz, managing director of GAO's forensic audits and special investigations. "DOE qualified three bogus appliances and rejected a [compact fluorescent light] bulb due to failure to provide third party test results from an accredited independent laboratory." Here's the report.

We'd like to know what finally triggered DOE's suspicions about one CFL and why similar questions weren't raised at EPA over a gasoline-powered alarm clock!

Here's the scary part: If Congress doesn't rein in these numbskulls, they'll soon be dictating how much energy hard-working, productive American citizens are allowed to consume.

EPA: Reaching the mountaintop (*Diamondback Online*)

By Matt Dernoga
| Published: Monday, April 5, 2010
Updated: Monday, April 5, 2010
During the past two years, I've written a couple of columns harshly criticizing the Bush and Obama administrations for their failure to use the Environmental Protection Agency to enforce the Clean Water Act when it comes to mountaintop removal. I'm thrilled to write now that the Obama EPA, under the leadership of Lisa Jackson, has issued a new set of strict environmental guidelines for mountaintop removal that is expected to sharply curtail, if not end, mountaintop removal mining. It's being applauded by environmentalists and decried by coal companies. The National Mining Association is saying it could mean the "end of an era."

Mountaintop removal mining uses explosives to access coal at the base of a mountain, generating large volumes of toxic waste that bury adjacent streams. The resulting waste ruins water quality, causing permanent damage to ecosystems and leaving streams unfit for swimming, fishing and drinking. It is estimated that almost 2,000 miles of Appalachian headwater streams have been buried by mountaintop coal mining. This has ruined the quality of life for many residents of Appalachia and has led to health problems for people who drink the water and breathe in the toxins from the waste.

There are a lot of reasons for this victory. The largest by far is the mountaintop removal activists in these Appalachian communities who mobilized year after year, repeatedly risking arrest (and getting arrested) through civil disobedience when there was no light at the end of the tunnel. Chances are their steadfast determination in putting the spotlight on this issue forced the EPA's hand.

But this university did its part. Students have organized many educational events on this issue. I've been to four mountaintop removal events on the campus since the spring of 2008, and there's another planned on April 29 at 7:30 p.m. in the Nanticoke Room at the Stamp Student Union. It should take on a more positive tone for a change.

Margaret Palmer of the University of Maryland Center for Environmental Science was one of the leading authors of a recent groundbreaking study on the environmental damage from mountaintop removal and its human health effects. The study linked elevated rates of mortality, lung cancer and chronic heart, lung and kidney diseases to communities near mountaintop removal mines. Palmer helped garner attention for the science through countless media interviews, including a spot on The Colbert Report.

The fight isn't over yet. Senators Lamar Alexander (R-Tenn.) and Ben Cardin (D-Md.) have penned legislation called the Appalachian Restoration Act, which would redefine

mining waste as a pollutant. This would prevent companies from dumping mining waste into valleys and streams below their projects, forcing them to truck the debris off-site. This would make operations too expensive and effectively end mountaintop removal. There's similar legislation in the U.S. House called the Clean Water Protection Act.
Hats off to the EPA and President Obama for delivering on change for these communities in Appalachia. Now it's up to Congress to make this the beginning of the end for one of the greatest human rights abuses going on in the country today. Finish the job. Sell coal back its soul.
Matt Dernoga is a senior government and politics major. He can be reached at dernoga at umdbk dot com.

AIR
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Article published Apr 6, 2010

Report: Indiana regulators lax on air polluters (*Associated Press*)

Story also appeared: *South Bend Tribune*

FORT WAYNE (AP) -- State and federal regulators have taken little or no action against most of the Indiana companies that have violated federal law by releasing more air pollutants than their permits allow, a newspaper's analysis has found.

The Journal Gazette analyzed a database of violations and enforcement actions maintained by the U.S. Environmental Protection Agency. It found that the majority of the more than 200 Indiana companies the EPA says have violated the federal Clean Air Act since Jan. 1, 2007, were still in violation on Dec. 31, 2009.

And in more than a third of those cases, the Journal Gazette discovered that state and federal regulators have taken no action.

Faith Bugel, a Clean Air Act attorney at the Environmental Law and Policy Center in Chicago, said the lack of enforcement "creates a huge incentive not to fix the problem."

"Why should they? No one's coming after them," said Bugel.She said the findings suggest Indiana's environmental officials aren't doing their job.

The Journal Gazette's analysis showed that 210 of the 1,260 facilities in Indiana with permits to release air pollution have violated the Clean Air Act at least once in the past three years. But 140 of those violators -- two-thirds -- still had ongoing, unresolved violations as of Dec. 31.

EPA data also show that 57 of the facilities have been breaking the law for at least three years but have been subject to no formal penalties or sanctions. Fifty of those 57 facilities haven't been told of their alleged violations, the newspaper found.

Even the violations the EPA said are its highest priority by repeat violators and those that pollute more than allowed are getting little attention. The newspaper's analysis shows that 12 of the 62 facilities with "high-priority violations" have been in violation for three years without any enforcement action.

"That's incredible," said Jesse Kharbanda, Hoosier Environmental Council executive director. "That's very troubling for a state with chronic air-quality problems."The Clean Air Act was enacted by Congress in 1970 to deal with the nation's declining air quality and has been credited with vast improvements across the country.

But while the act is a federal law and the rule-making process for the act's various provisions is handled by the EPA, most of the enforcement is handled by individual states.

"Permitting and enforcement lie with the state," Bugel said. "It's the state's job to investigate and enforce these laws. And where the state is not enforcing them, then the EPA needs to be the backstop."

The Indiana Department of Environmental Management said it only appears that few violators are being punished. IDEM spokesman Robert Elstro said the EPA's database, known as Enforcement & Compliance History Online, or ECHO, is out of date.

But the EPA says it is updated monthly; the last update was March 13."ECHO shouldn't be used to get a snapshot of Indiana's efforts to resolve enforcement cases, because the database often doesn't get updated to reflect cases (that) have been resolved," Elstro wrote in an e-mail response to a request for an interview.

April 5, 2010, 5:27PM

EPA takes over cleanup efforts at PR fuel depot (*BusinessWeek*)

By DAVID McFADDEN
SAN JUAN, Puerto Rico

Owners of a Puerto Rican fuel depot that spewed thick, toxic smoke across the region when storage tanks exploded last year claim financial constraints will prevent further major cleanup, federal authorities said Monday.
The U.S. Environmental Protection Agency said it will take over cleanup efforts at the Caribbean Petroleum Corp. site, where a huge explosion rocked the U.S. island's capital of San Juan on Oct. 23 and forced the evacuation of more than 1,500 people in a densely populated area.
"We're not going to slow down the work at the site because (Caribbean Petroleum) says they can't do the cleanup work now," Regional Administrator Judith Enck said in a statement. "We're taking over the work to ensure that the public and the environment are protected."
The federal agency will later seeks to recover its costs from Caribbean Petroleum.
The company and its San Juan lawyers did not return phone messages or e-mails asking for comment.
The first tank exploded as a ship piped in gasoline from San Juan Bay, shattering windows and sending tremors across the city. The fire destroyed 21 of the depot's 40 fuel storage tanks and more than 1,500 people were evacuated out of fear of contamination from the plume of toxic smoke. There were no deaths.
Two months ago, EPA officials ordered Caribbean Petroleum to resume cleanup at the site after contractors walked off the job. At the time, it was the second time cleanup crews quit working at the site.
In the last month, EPA says it has removed some 780 cubic yards (596 cubic meters) of soil contaminated with petroleum. The U.S. agency estimates a total of 1,750 cubic yards (1,338 cubic meters) of contaminated soil will ultimately be taken away.
Once the contaminated soil is excavated, the federal agency samples it and eventually will dispose of it elsewhere. Agency employees are also monitoring the air and conducting other sampling and analysis to help ensure that people are protected from pollution.
Caribbean Petroleum supplies Gulf gas stations in Puerto Rico and operated a refinery at its plant west of San Juan until 2000.

EPA issues air-quality permit for Shell's Chukchi Sea operations (*Oil & Gas Journal*)

Apr 5, 2010
Nick Snow
OGJ Washington Editor
WASHINGTON, DC, Apr. 5 -- The US Environmental Protection Agency has issued an air-quality permit to Shell Gulf of Mexico Inc. on Apr. 1 that will permit Shell to explore for oil and gas this summer in the Chukchi Sea off Alaska.

It would be the first activity on the Alaskan portion of the US Outer Continental Shelf since the 1990s, according to Shell. It cited US Minerals Management Service estimates that the offshore region could hold more than 25 billion bbl of oil and nearly 120 tcf of gas.

Shell acquired 275 federal leases in the Chukchi Sea for $2.1 billion in OCS Lease Sale 193 in 2008, 3 years after it returned to Alaska with its acquisition of 137 offshore tracts in the Beaufort Sea. The company first explored the two seas along the state's Arctic Ocean coast in the late 1980s and found oil and gas, but abandoned the discoveries because they could not be produced economically.

The US Minerals Management Service approved Shell's exploration plan for its Chukchi Sea leases on Dec. 7. But the company still had to meet prevention of significant deterioration requirements under EPA's air quality program because its drillship operations are considered a major emissions source. EPA proposed a permit for public comment on Aug. 20 and modified it on Jan. 8 in response.

The final permit which EPA issued on Apr. 1 will regulate air emissions from Shell's Frontier Discoverer drillship and its support vessels and covers drilling-related air emissions from July to December. It is not only strict and enforceable but stronger than originally proposed, according to Rick Albright, director of the air, waste, and toxics division of EPA's District 10 office in Seattle.

'Tighter limits'

"Because North Slope Borough communities raised important social and public health concerns, this permit has undergone especially rigorous scrutiny," Albright said. "As a result, we now have a permit with tighter emission limits and more stringent reporting requirements. For example, since the permit was proposed in August, we've reduced the allowable limits for sulfur dioxide by 98% and fine particulate matter by nearly 75%."

Other changes include requiring Shell to replace hydraulic power engines on the drillship with newer, less polluting "Tier 3" units, and requiring all first-time testing of engines or other emitting units before the first drilling season begins instead of spreading it out over the first three drilling seasons, according to EPA.

The final permit also strengthened emission reporting to require better monitoring of deviations from normal permit conditions, and concluded that the Frontier Discoverer is an OCS emissions source when it attaches to the sea floor to begin drilling instead of when the first anchor is secured, the federal agency said.

It said that the permit will limit emissions from the drillship's support fleet of two icebreakers and a supply vessel as well as emissions from the Frontier Discoverer's oil spill response ship and three response workboats. All the drillship's engines, generators and an incinerator are included.

US Sen. Lisa Murkowski (R-Alas.) welcomed EPA's decision to issue the final permit. "This will allow Shell to move forward with exploration vital to our energy security," she said on Apr. 1. "Given the president's recent support for offshore drilling, this decision truly drives home the point that we can develop our resources responsibly."

Contact Nick Snow at nicks@pennwell.com.

Court upholds Calif. regulation of truck emissions (*Greenwire*)

Gabriel Nelson, E&E reporter
04/05/2010
A panel of federal judges has rejected a Clean Air Act challenge by the trucking industry, upholding U.S. EPA's decision to sign off on California's nation-leading emissions standards for refrigeration units in trucks.

The Clean Air Act gives California the responsibility of establishing emissions rules for nonroad engines in trucks -- those that provide power for auxiliary functions such as refrigeration, rather than drive the vehicle itself. States can choose whether to use California's nonroad engine standards, but if they choose not to do so, they are barred from implementing any rules of their own.

The American Trucking Associations had challenged California's emissions standards, saying the rules would require almost all trucks nationwide to follow California's standard. Though the federal statute said states should be able to choose whether to follow California's lead, the rules approved by the agency would effectively take away that choice, the industry group argued.

A three-judge panel of the U.S. Circuit Court of Appeals for the District of Columbia ruled Friday by a 2-1 margin that federal officials did not ignore concerns by the trucking industry when approving California's proposed rules. They denied the industry group's petition for review of EPA's decision.

"If ATA's members operate trucks in California, they must comply while operating in California. If they do not operate in California, they need not comply. We find nothing about this approach to be inconsistent with the federal statutory scheme," circuit Judge Brett Kavanaugh wrote in an **opinion** for the majority.

Senior Judge Stephen Williams dissented in part, agreeing with the trucking industry's argument that EPA overlooked its concerns. Federal regulators did not give sufficient attention to the possibility that California's rule could prevent states from choosing for themselves, he wrote in a dissenting opinion.

Williams said the closest EPA came to addressing those concerns was by saying that the Clean Air Act does not limit California to regulating "engines that operate solely or even a majority of their time in California."

"Really? By this language, it would be perfectly all right for the California rule to say that no vehicle may enter California if any other vehicles, anywhere in the United States and owned by the same firm, were noncompliant with the California standard," Williams wrote. "In short, EPA's discussion here is a paradigmatic instance of an agency's failure to 'examine the relevant data and articulate a satisfactory explanation for its action.'"

The rules in question were proposed in 2004 by the California Air Resources Board, which sought to reduce diesel particulate matter emissions by 75 percent by 2010 and by 85 percent by 2020. Emissions limits associated with the rules were put in place in 2008.

ASBESTOS

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Marco council members put city manager in the hot seat over EPA's asbestos investigation (*Naples News*)

By CHERYL FERRARA
Monday, April 5, 2010
MARCO ISLAND — Asbestos failed to insulate Marco Island's city manager from the heat generated by the Environmental Protection Agency's most recent letter to the City of Marco Island on Monday.
City Council added EPA's letter regarding asbestos contamination and fines to its agenda after receiving notification last week from city manager Steve Thompson that the city could face monetary penalties.

Council chairman Frank Recker was the first to suggest council was kept unaware of any of the six letters received in 2009 regarding EPA litigation. Thompson defended his actions by stating that environmental issues were not handled by city's legal counsel but rather by a firm in Bradenton: Lewis, Longman and Walker. The six letters had more to do with fact finding than with litigation according to Thompson.

Other councilors joined Recker's concerns. "This is a very serious letter," said Councilman Joe Batte. "It goes way beyond fact finding. This letter is a threat by a governmental agency against the city."

"Somebody has to pay the piper," said Councilman Chuck Keister. "City Council should have been kept apprised of the situation."

Thompson said that city attorney Alan Gabriel was not aware of the EPA's threatened litigation until last week.

Councilman Jerry Gibson defended Thompson and referred to the EPA as an agency that is trying to bully and bluff the city.

Public speakers expressed concerns about how little had been shared with council, the city attorney and the public until it was reported in newspapers.

Thompson assured council that the EPA has been contacted with a request for a face-to-face meeting. Councilors agreed that Recker and Gabriel should be present at that meeting. Attorneys at Lewis, Longman and Walker said that meeting would probably take place in about 30 days.

Marco Island and Quality Enterprises face the potential of millions of dollars in fines due to alleged improper handling of asbestos-containing cement pipe on Marco about five years ago.

The U.S. Environmental Protection Agency is requesting the City of Marco Island and Quality Enterprises meet with to reach a settlement agreement so as to avoid six formal charges against them in relation to both the contractor's and city's alleged violations of the Clean Air Act during the reconstruction of Collier Boulevard.

AWARDS

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Small Businesses Get Funding to Develop Technologies (*EP Magazine*)

- **Apr 06, 2010**

The U.S. Environmental Protection Agency has awarded $2.38 million to small businesses to develop innovative, sustainable technologies to protect human health and the environment. These efforts will help improve air quality, protect our water, work to decrease the effects of climate change, and support green jobs.

"Innovation is the lifeline of progress — and scientific and technological innovation are essential to the progress we seek to make in protecting people and the planet," said Paul T. Anastas, Ph.D., assistant administrator for EPA's Office of Research and Development. "These small businesses are key to helping us reach that goal."

The awards were granted to :

- Air Quality Design, Inc. of WheatRidge, Colo.;
- Aspen Products Group, Inc. of Marlborough, Mass.
- Eltron Research & Development, Inc. of Boulder, Colo.;
- IntAct Laboratories, LLC of Cambridge, Mass.;

- Lynntech Inc. of Bryan, Texas;
- Technology Specialists of Fort Wayne, Ind.;
- Coating Systems Laboratories, Inc. of Chandler, Ariz.;
- AquaBioChip, LLC of Lansing, Mich.;
- Fusion Coolant Systems, Inc. of Ann Arbor, Mich.;
- Interdisciplinary Design Collaborative, LLC of Rolla, Mo.;
- Lao K, LLC of Albany, Ore.;
- AdvR, Inc. of Bozeman, Mont.;
- IntelliMet, LLC of Missoula, Mont.;
- Omega Optics, Inc. of Austin, Texas;
- AlburtyLab, Inc. of Drexel, Mo.;
- Light Curable Coatings of Valley View, Ohio;
- Cbana Labs, Inc. of Champaign, Ill.;
- Defiant Technologies, Inc. of Albuquerque, N.M.;
- Enchem Engineering, Inc. of Newton, Mass.

Some companies received more than one award.

Examples of new technologies include NEI Corporation, based in Somerset, N.J., which will develop a self-healing nanocomposite to protect drinking water pipes from corrosion. The $69,996 grant awarded to the company and collaborator Kennedy/Jenks Consultants focuses on metal pipeline rehabilitation.

Dissolved constituents of alternate water sources, such as reclaimed and produced waters, make the pipelines more susceptible to corrosion. The purpose of the proposed R & D program is to develop environmentally benign self-healing anti-corrosion coatings. The self-healing, or damage response, properties of the proposed materials will use only environmentally benign materials. Currently, chromium is used to impart self-healing characteristics, but its toxicity has raised significant health concerns. Chromate coatings were never used in potable water systems and have been phased out in industrial applications. In addition to increasing the service life of existing pipe infrastructure, the anti-corrosion properties of the coatings will enable the transport of water sources that are high in corrosive agents for non-potable applications.

"The EPA's SBIR program is very competitive, and we are pleased to have been awarded this research and development grant" said Ganesh Skandan, Ph.D., chief executive officer of NEI. "Our experience developing self-healing, anti-corrosion coatings and commercializing them through our American Nanomyte subsidiary positions us as a strong candidate to both find and implement solutions that address our country's aging water infrastructure".

To be eligible to participate in Small Business Innovation Research, a small business must have fewer than 500 employees, and at least 51 percent of the business must be owned by U.S. citizens.

EPA is also requesting applications for the development of new environmental technologies. The application deadline is May 11.

Local companies get federal cast for environmental projects (*MetroWest Daily News)*

By David Riley/Daily News staff
The MetroWest Daily News
Posted Apr 05, 2010 @ 02:35 PM
Three small companies in Marlborough, Newton and Acton are among 34 in the country set to receive a combined $2.4 million from the U.S. Environmental Protection Agency to develop technologies to protect human health and the environment.

Locally, Aspen Products Group, Inc., based in Marlborough, is slated to receive $70,000 for a project for developing a new filter to reduce hazardous air emissions from commercial kitchens.

In Newton, Enchem Engineering, Inc., is also expected to receive $70,000 to continue developing a method for cleaning up coal tar and other forms of pollution.

The same company will receive another $70,000 to develop fiberoptic sensors for long-term monitoring of groundwater for the pollutant trichloroethylene, the EPA said.

Excellims Corp. in Acton is slated to see $69,999 to work on a sensor that can detect biological pathogens in water or air.

The company will get another $69,996 to improve existing technology used to detect toxins like anthrax, smallpox, ricin and other threats, the EPA's Web site says.

The awards went to businesses in 16 states through the EPA's Small Business Innovation Research program.

CLIMATE CHANGE / GLOBAL WARMING
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Scientists' use of computer models to predict climate change is under attack (*Washington Post*)

By David A. Fahrenthold
Washington Post Staff Writer
Tuesday, April 6, 2010; HE01

The Washington Nationals will win 74 games this year. The Democrats will lose five Senate seats in November. The high Tuesday will be 86 degrees, but it will feel like 84.

And, depending on how much greenhouse gas emissions increase, the world's average temperature will rise between 2 and 11.5 degrees by 2100.

The computer models used to predict climate change are far more sophisticated than the ones that forecast the weather, elections or sporting results. They are multilayered programs in which scientists try to replicate the physics behind things such as rainfall, ocean currents and the melting of sea ice. Then, they try to estimate how emissions from smokestacks and auto tailpipes might alter those patterns in the future, as the effects of warmer temperatures echo through these complex and interrelated systems.

To check these programs' accuracy, scientists plug in data from previous years to see if the model's predictions match what really happened.

But these models still have the same caveat as other computer-generated futures. They are man-made, so their results are shaped by human judgment.

This year, critics have harped on that fact, attacking models of climate change that have been used to illustrate what will happen if the United States and other countries do nothing to limit greenhouse gas emissions. Climate scientists have responded that their models are imperfect, but still provide invaluable glimpses of change to come.

They have found themselves trying to persuade the public -- now surrounded by computerized predictions of the future -- to believe in these.

If policymakers don't heed the models, "you're throwing away information. And if you throw away information, then you know less about the future than we actually do," said Gavin Schmidt, a climate scientist at NASA's Goddard Institute for Space Studies.

"You can say, 'You know what, I don't trust the climate models, so I'm going to walk into the middle of the road with a blindfold on,' " Schmidt said. "But you know what, that's not smart."

Climate scientists admit that some models overestimated how much the Earth would warm in the past decade. But they say this might just be natural variation in weather, not a disproof of their methods.

As computers have become faster and cheaper, models both simple and sophisticated have proliferated across government, business and sports, appearing to offer precise answers to questions that used to be rhetorical.

How many games will the Redskins win next season?

The Web site Footballoutsiders.com, which uses computers to show fans hidden dimensions of pro football, uses a model with about 80 variables. It looks at a team's third-down conversions, the experience of its coaches, even the age of its defensive backs.

No crystal balls

How much cleaner would the Chesapeake Bay be if it had twice as many oysters?

The Environmental Protection Agency uses a model that divides the bay into 55,000 slices, and maps how pollution progresses through them, from upstream tributaries into the deeper waters of the Chesapeake. It could imagine thousands more oysters -- which filter water as they feed -- and watch cleaner water spread out via currents and tides.

But, some of the time, these electronic futures haven't come true.

The Footballoutsiders site predicted the Redskins would win 7.8 games in 2009. The real-world team won four. The EPA's Chesapeake Bay model has been criticized repeatedly for over-optimism, for creating a virtual bay that looked cleaner than the real one. Last month, another model's prediction was busted: a Georgia Tech professor's computer said Kansas would win the NCAA men's basketball tournament. The Jayhawks lost in the second round.

These and other models are only as smart as the scientists who build them -- they rely on data that scientists have gathered about the real world, and the accuracy of estimates about how all the factors fit together (Is an experienced coach more or less important than young defensive backs?).

They also depend on the computers running them. To accurately depict how individual clouds form and disappear, for instance, the computers that model climate change would need to be a million times faster. For now, the effects of clouds have to be estimated.

But scientists say complexity doesn't guarantee accuracy. The best test of a model is to check it against reality.

"We're never going to perfectly model reality. We would need a system as complicated as the world around us," said Ken Fleischmann, a professor of information studies at the University of Maryland. He said scientists needed to make the uncertainties inherent in models clear: "You let people know: It's a model. It's not reality. We haven't invented a crystal ball."

Scientists say they don't need models to know that the world is warming: There is plenty of real-world evidence, gathered since the mid-1800s, to suggest that. "There's no climate model in that conclusion," said Christopher Field, of the Carnegie Institution for Science in California.

There are more than a dozen such models running around the world: mega-computers whose job is creating a virtual Earth.

These usually combine a weather simulation with other programs that mimic effects of rain and sun on the land, currents in the ocean, and emissions of greenhouse gases. First, these models imagine all the factors interacting within a "grid box" -- an imaginary cube of land, water and sky that might be 60 miles long and 60 miles wide.

Then, the computer imagines effects in one box spilling into the next, and so on.

As the model runs, imaginary cold fronts sweep over virtual oceans, simulating weather at rates such as five years per day. In some cases, the models are re-run with different weather conditions, until a pattern emerges in global temperatures.

The pattern is the point. It is man's signature, a guide to what could happen in the real world. All the major climate models seem to show that greenhouse gases are causing warming, climate scientists say, although they don't agree about how much. A 2007 United Nations report cited a range of estimates from 2 to 11.5 degrees over the next century.

"It's an educated, scientifically based guess," said Michael Winton, an oceanographer at the National Oceanic and Atmospheric Administration. "But it's a guess nonetheless."

Raining on their parade

But Warren Meyer, a mechanical and aerospace engineer by training who blogs at www.climate-skeptic.com, said that climate models are highly flawed. He said the scientists who build them don't know enough about solar cycles, ocean temperatures and other things that can nudge the earth's temperature up or down. He said that because models produce results that sound impressively exact, they can give off an air of infallibility.

But, Meyer said -- if the model isn't built correctly -- its results can be both precise-sounding and wrong.

"The hubris that can be associated with a model is amazing, because suddenly you take this sketchy understanding of a process, and you embody it in a model," and it appears more trustworthy, Meyer said. "It's almost like money laundering."

Last month, a Gallup poll provided the latest evidence of a public U-turn on climate change. Asked if the threat of global warming was "generally exaggerated," 48 percent said yes. That was up 13 points from 2008, the highest level of skepticism since Gallup started asking the question in 1997.

But scientists say that, during this time, they have only become more certain that their models work.

Put in the conditions on Earth more than 20,000 years ago: they produce an Ice Age, NASA's Schmidt said. Put in the conditions from 1991, when a volcanic eruption filled the earth's atmosphere with a sun-shade of dust. The models produce cooling temperatures and shifts in wind patterns, Schmidt said, just like the real world did.

If the models are as flawed as critics say, Schmidt said, "You have to ask yourself, 'How come they work?' "

500 scientists support Attorney General Greg Abbott's lawsuit against EPA and global warming (*Examiner.com*)

April 5, 1:33 PM ▪ Wichita Falls Law Enforcement Examiner ▪ Edward Lane

Texas Attorney General Greg Abbot recently filed a lawsuit against the federal government regarding global warming a subject that is much discussed when people get together here in Wichita Falls it seems. How does global warming affect people in Wichita Falls? How will any changes in the government's plans of reducing global warming affect jobs in Wichita Falls if it is determined that it is not man-made?

The national news media has headlined Abbott's lawsuit as the first of its kind.

What is the basis for this lawsuit?

Abbott is challenging the Environmental Protection Agency's finding that gases blamed for global warming threaten public safety.

More than 500 scientists have published evidence refuting the current man-made global warming scare, according to a new analysis of peer-reviewed literature by the Hudson Institute.

Dennis Avery, a Senior Fellow at the Hudson Institute, said, "Of the 500 scientists who have refuted at least one element of the global warming theory, more than 300 have found evidence that a natural moderate 1,500 climate cycle has produced more than a dozen global warmings similar to the current circumstances since the last Ice Age and that such warnings are linked to variations in the sun's irradiance."

Avery reached the conclusion that, "This data and the list of scientists make a mockery of recent claims that a scientific consensus blames humans as the primary cause of global temperature increases since 1850."

At stake are hundreds of thousands of jobs in Texas with energy companies if the Environmental Protection Agency is allowed to further regulate carbon dioxide and other heat-trapping gases based on the global warming theory. How many jobs could be lost in Wichita Falls. That is yet to be known.

Also at issue are whether imposing costly regulations on energy businesses is a smart move as the nation struggles to emerge from recession.

Abbott stated in his petition for his lawsuit that, "The EPA improperly relied on the scientific conclusions of other groups, particularly the Intergovernmental Panel on Climate Change, to make the endangerment finding on heat-trapping gases."

Texas Governor Rick Perry has agreed with the Abbott that the federal finding is inaccurate regarding global warming.

The issue of global warming exploded across the world with the release of the film that former Vice President Al Gore made called "An Inconvenient Truth" which won an Oscar. It has now been put in book form and become mandatory reading for many students in public schools.

Greg Abbott mentioned in his lawsuit against the feds that, "There clearly is lying, falsification, cover-ups etcetera that are going on here(in the federal government report)."

Senator Kay Bailey Hutchison is also attempting to strip the agency of its power to regulate climate-altering emissions.

Hopefully, the courts will listen carefully to Attorney General Abbott's arguments carefully before deciding this important case for the citizens of the State of Texas. Abbott was born in Wichita Falls.

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Industry groups challenge EPA's reconsideration of 'Johnson memo' (*Greenwire*)

Robin Bravender, E&E reporter
04/05/2010
A coalition of industry groups has asked a federal appeals court to review U.S. EPA's policy for when it plans to begin regulating greenhouse gases from stationary sources.

Groups including coal, mining and agricultural interests Friday **petitioned** the U.S. Circuit Court of Appeals for the District of Columbia to review EPA's policy detailing when the agency must regulate the heat-trapping emissions from industrial facilities like power plants, oil refineries and other sources.

EPA Administrator Lisa Jackson laid out that timeline last Monday when she announced the Obama EPA's final reconsideration of the George W. Bush administration's "Johnson memo" (*E&ENews PM*, March 29). Jackson said EPA plans to begin regulating some large stationary facilities in January 2011, when automakers must begin to comply with EPA's greenhouse gas rules for tailpipe emissions, which were also finalized last week (*Greenwire*, April 1).

The groups filing the lawsuit were the Coalition for Responsible Regulation Inc., the Industrial Minerals Association-North America, the National Cattlemen's Beef Association, Great Northern Project Development LP, Rosebud Mining Co. and Alpha Natural Resources Inc.

Eric Groten, an attorney representing the groups, said EPA's policy is illegal and will have dire consequences for stationary sources.

He said EPA is using a "strained reading of the Clean Air Act" to say that the adoption of the tailpipe standards forces EPA to begin regulating industrial facilities. "The law doesn't compel that," he said.

Opponents of EPA's policy have until June 1 to file legal challenges with the appeals court.

Jackson last week said that EPA's time frame would give businesses and regulators enough time to prepare for rules that will clamp down on greenhouse gases.

Justice Department spokesman Andrew Ames declined to comment on the lawsuit. He said attorneys for the Obama administration would review the petition and respond in court.

The groups that filed the petition are also parties to a lawsuit filed in December challenging EPA's "endangerment" finding, a determination that greenhouse gases threaten public health and welfare. That finding sets the stage for the agency to begin regulating those emissions from mobile and stationary sources. The coal giant Massey Energy Co. is also a party to that lawsuit, which has been consolidated with a host of other groups' challenges to the finding.

ENERGY

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APRIL 5, 2010, 9:31 P.M. ET

California's Cap-Trade Law Faces Fall Ballot Challenge (*Wall Street Journal*)

By JEFFREY BALL

The energy industry and an antitax group are challenging California's plan to cap greenhouse-gas emissions, saying the effort would lead to job losses and raise energy prices if it goes into effect in 2012.

These groups are collecting signatures to put an anti-cap measure before voters in November; the proposition would postpone any carbon limit until the economy rebounds. Backers of the cap think the measure is almost certain to make the ballot, and they are raising money from technology companies to persuade voters to reject it. Both sides are already raising hundreds of thousands of dollars.

Other states are also having second thoughts about similar cap-and-trade programs, largely because of the anticipated costs. Arizona, citing the recession, has backed out of the cap-and-trade part of an emissions program involving several Western states and Canadian provinces.

The Obama administration, though still pursuing a nationwide carbon limit, is signaling it would make any cap less stringent than originally expected.

Under a cap-and-trade program, such as one already in effect in Europe, a government limits the amount of greenhouse gases its economy may emit each year, and then it issues companies permits to emit a specific amount of gas. The companies can buy and sell permits in a market intended to spur investment in greener technologies.

California passed its law authorizing the cap-and-trade program in 2006. The ballot measure would bar the state from implementing the law until its jobless rate stabilized at or below 5.5% for a year, which supporters say would signal the return of a strong economy. The state's jobless rate topped 5.5% in October 2007 and now stands at 12.5%.

Supporters and opponents of the law disagree about its potential economic effects. The California Air Resources Board, the state clean-air agency administering the law, says the cap would help the economy. It would raise the price of a unit of energy, but reduce Californians' total energy bills through greater efficiency, the board says, freeing up money that would lead to more jobs.

But the board has scaled back its optimism. In a 2008 study, it projected the measure would produce a net gain of more than 100,000 California jobs. Economists widely criticized that study as too rosy. A second economic assessment, released by the board in March, projects a net gain of about 10,000 jobs.

A June 2009 study by a group of California small businesses, however, predicted the law could raise the average California household's annual housing, transportation, energy and food costs by about $3,900, or 15%. The study didn't factor in any energy savings from the law, calling savings projections too speculative.

California's Legislative Analyst's Office, which assesses public policy, has questioned both sides' projections. The state law "will result in the near term in California job losses," the office said in a March 4 report. Although the effects "may not prove to be particularly large relative to the overall economy," the office said, some businesses and households "would be seriously affected."

But the small-business-group study's estimate of the measure's costs "are overstated, perhaps significantly," the office said in a March 9 report.

The California Jobs Initiative, the group trying to overturn the greenhouse-gas law, has collected $966,000 in donations, according to preliminary filings with the California secretary of state's office. The biggest donors have been oil companies and the Howard Jarvis Taxpayers Association, a longtime antitax citizens' group that says the law would amount to an energy tax.

The California law "would have a severe detrimental effect on California's economy," said Bill Day, a spokesman for Valero Energy Corp., a Houston-based oil refiner that in March gave the ballot-initiative campaign $500,000, the campaign's biggest single contribution. Valero, which opposed the California greenhouse-gas mandate in 2006, says the recession makes the law even more problematic.

Anita Mangels, a spokeswoman for the California Jobs Initiative, wouldn't say how many signatures it had collected.

Steve Maviglio, a spokesman for Californians for Clean Energy and Jobs, the group fighting the referendum effort, said he had no doubt the measure would get the approximately 434,000 signatures it needed to be on the ballot.

Mr. Maviglio said he expected his group to report donations of about $1 million in its preliminary campaign-finance filing with the state, due later this month. Google Inc. has signed on as a supporter of the campaign to preserve the law, but hasn't contributed any money, a Google spokesman said.

Polling in California shows a majority of residents support government action to curb greenhouse-gas emissions, but that majority is slipping amid the weak economy. In a July 2009 poll by the Public Policy Institute of California, a nonpartisan think tank, 66% of Californians said they supported the state law curbing greenhouse-gas emissions, down from 73% in July 2008. In the 2009 poll, 46% of Californians said the state should wait to take action to curb greenhouse-gas emissions until the economy and state budget improved, up from 36% in the 2008 poll.

In Washington, the House passed cap-and-trade legislation last year, but the issue remains bottled up in the Senate and isn't expected to pass this year.

The Environmental Protection Agency is moving forward with plans to regulate greenhouse-gas emissions from factories and other facilities even if Congress doesn't

act. But last week, the EPA announced that no limits would take effect before next January. The EPA also has signaled it would initially limit any federal carbon regulation to large facilities, shielding smaller businesses from the burden.

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

U.S. Environmental Protection Agency deems Osram Sylvania lighting 'excellent' (*eLightBulbs*)

Monday, April 5, 2010
America is going green - and not just because spring has sprung. In the new decade, green practices have become more mainstream - from Audi commercials that feature the "Green Police" to LEED certification becoming a coveted achievement among commercial builders.

Now home and business owners might be interested to learn that they can go green with their lighting courtesy of Osram Sylvania. The lighting industry leader has been awarded a 2010 Energy Star Sustained Excellence Award from the U.S. Environmental Protection Agency in recognition of its continued leadership in protecting the environment through energy efficiency, reports Today's Facility Manager Blog.

This distinction is given to a select group of organizations that exhibit outstanding leadership year after year. Gina McCarthy, EPA Assistant Administrator for Air and Radiation, said "Osram Sylvania's continued leadership and commitment to energy efficiency is a testament to what we can accomplish to reduce greenhouse gas emissions and protect our global environment."

Consumers can let the company shine a little light on their homes by using some of company's expansive lines of energy-saving light bulbs. Sylvania's super saver halogen light bulbs offer a fraction of the electric consumption and sell for a fraction of the cost of other eco-friendly lighting technology. Additionally, the company's LED lights will sell for as little as $10 in time for the 2012 ban on incandescent light bulbs.

Energy Star program is under fire (*PhysOrg.com*)

April 6, 2010 By Jennifer Waters
The Energy Star program may be overhauled in the wake of a scathing government report that found the certification process vulnerable to fraud and abuse, calling into doubt the worthiness of the label that directs shoppers to energy-saving products that last year cut as much as $17 billion from consumers' utility bills.
TB Lucas Mechanical, LLC. - Commercial Refrigeration Solutions 25 Years of Service. 703-580-8858. - www.TBLucasMechanical.com

Sen. Susan Collins, R-Maine, said she plans this week to propose changes to the program, which is operated by the U.S. Environmental Protection Agency and Energy Department. Since 1992, the Energy Star label has been slapped on more than 40,000 products from more than 2,400 manufacturers.

Collins's proposals, coupled with steps the EPA and Energy Department recently said they will take, will shift the program from one that's largely been dependent on self-policing to one that depends on third-party testing and accreditation.

"I will push for increased oversight and aggressive internal controls to verify product claims on energy efficiency," Collins said in a news release. "I want to make sure we pursue changes that are more than window dressing."

The call for major changes comes in the wake of the Government Accountability Office's report on March 26 after a nine-month investigation of the Energy Star certification process. The GAO is a nonpartisan watchdog agency that reports directly to Congress. Collins requested the GAO investigation.

To test the Energy Star program, the GAO created fake products, including a gas-powered alarm clock and an air cleaner that was actually a space heater with a feather duster and fly strips taped to it.

The Energy Star program approved both products, thus revealing the program's lax standards and controls, the GAO said.

"We found that for most of the bogus products we submitted, the Energy Star program's preventive controls were ineffective, rendering the program vulnerable to fraud and abuse," the GAO report said.

What's more, companies that become Energy Star manufacturing partners are given unlimited access to a secure section of the Energy Star site that carries logos and other promotional resources -- even without first having qualified products, according to the report. That access to labels mars what the GAO called "a cornerstone in protecting the integrity of the Energy Star label."

DC-Area Energy Auditor - Want to lower your energy bills? Looking for increased home comfort? - www.elysianenergy.com

Products that carry the Energy Star label generally are 10 percent to 25 percent more efficient than minimum federal standards. They also tend to cost more as manufacturers demand a premium for that higher efficiency. Still, government rebate and tax-credit programs, including about $300 million from the American Recovery and Reinvestment Act, help offset those costs for consumers. Manufacturers are also eligible for federal tax credits for certain energy-efficient products. The EPA and Energy Department said

the GAO report and subsequent corrective steps won't affect rebate and tax-credit funds already set aside for consumers.

AUTOMATED APPROVAL PROCESS

The speed with which some of the GAO's 20 fake products got the nod and were added to the Energy Star Web site -- where consumers go before making purchases of major appliances such as refrigerators, dishwashers, washing machines and dryers -- was also alarming, the GAO said. Some products were certified automatically and were never reviewed by human eyes, according to the report.

A refrigerator that the GAO's faux company merely claimed was energy efficient was submitted, qualified and listed on the site within 24 hours. A computer monitor went through the same process in 30 minutes.

"That's the part I quite honestly found most disturbing," said Celia Kuperszmid Lehrman, deputy home editor of Consumer Reports. "A consumer who would be looking for products would see it on the Web site and assume that it is qualified."

Indeed, GAO said other companies contacted the bogus firms for product and service requests because of the Web site. "These solicitations are an example of the value placed on being an Energy Star partner and emphasize why rigorous screening in necessary," the report said.

All but five of the products the GAO submitted received the coveted label. Of those that didn't, the Energy Star program required two of them to submit independent verification of the GAO's energy-efficiency claims. Critics of the program have long said that all products should have third-party reviews before certification is granted. With the three remaining products, the GAO never received responses from Energy Star and withdrew them when the investigation ended.

The GAO's gas-powered alarm clock, called "Black-Gold," met Energy Star efficiency standards. The product stood 18 inches high, 15 inches wide and 10 inches deep, more closely resembling a small generator. Moreover, the marketing description clearly described it as a gas-powered clock radio that's "easy on your electric bill."

The GAO alerted the EPA and Energy Department about the results ahead of releasing them March 26. On March 19, the EPA and Energy Department announced they would expand testing through third-party, independent laboratories for about 200 of the most common products, such as freezers, refrigerators and room air conditioners, that already have been certified.

In an email statement this week, the EPA and the Energy Department said a recent review found 98 percent of the products tested met or beat the program's requirements.

"We will continue to eliminate loopholes and strengthen this program, but consumers should have no doubt that the Energy Star label will save them money and reduce carbon pollution," the statement said.

As for new products, the program is developing a system that will require all products to be tested by independent parties before seeking certification. It also will demand ongoing verification testing to insure products stay in compliance as new ones come on the market and it will monitor testing, verification and enforcement to deter exploitation.

"That's a really good step in the right direction," Lehrman said. "We've always had an issue that manufacturers can self-certify their products and have called for independent verification."

Consumer Reports questioned the Energy Star certification process in an exhaustive article in October 2008 and continues to test qualified products. Since then, the Energy Star program has made moves to enforce efficiency standards, including a November 2008 action with LG Electronics that resulted in an order to remove the Energy Star label from some of its refrigerators this year. The parties are in litigation over a dispute of the testing methods LG uses.

In the last four months alone, the EPA and Energy Dept. said they had taken steps ranging from issuing subpoenas to disqualifying products that fell short of standards from 35 manufacturers.

"The good news for consumers," Lehrman said, "is I don't think (companies defrauding the system) is rampant in the Energy Star program and our testing hasn't found that it's rampant."

NYC begins hard, long slog to energy efficiency (*Greenwire*)

Nathanial Gronewold, E&E reporter
First in an occasional series on the greening of New York City.
04/05/2010
NEW YORK -- Rising from the shopping and dining district just south of Columbus Circle, Hearst Tower is famous as one of this city's best known architectural anomalies.

The first skyscraper project to break ground after the September 11, 2001, terrorist attacks, the 46-story glass and steel polygon rises from within the facade of the original 1928 Hearst Corp. headquarters. This coupling of old and new is deliberate, to appease the city's historic preservation authorities while still consolidating the company's scattered offices into a centralized location.

Less famously, Hearst Tower has also earned the title of the city's first green building. The latticework framing required 20 percent less steel than a conventionally designed

high-rise, and its use of energy efficiency innovations and recycled materials earned its developers a Gold rating by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) program, the first such rating awarded to any commercial property in the city.

Michael Wurzel, who served as chief architect of the project, says his U.K. firm, Foster + Partners, was so pleased with the result that it accepted Hearst's invitation to set up its U.S. offices in the building. He said the biggest challenge in designing the high-rise came from overcoming historical preservation concerns. Green building codes were virtually nonexistent at the time.

"You had to comply with the New York energy code, which back then wasn't particularly challenging," said Wurzel during a recent building tour. "In fact, it was very easy to meet."

But since Wurzel's creation opened its doors seven years ago, the city government has quickly moved to adopt tighter energy efficiency requirements for new construction, and green building has become the rule here rather than the exception. City officials are more troubled now with the question of how to get existing structures to follow suit in a way that does not raise the ire of property owners.

"You'd be hard-pressed to find any new major building going up in New York that isn't LEED certified," said Russell Unger, executive director at the U.S. Green Building Council's New York branch. "The challenge was and always will be all the existing buildings."

Having successfully moved new construction projects to the eco-friendly side of the equation with relative ease, officials are now grappling with a far more difficult challenge -- upgrading thousands of existing buildings to stop wasting electricity and curb greenhouse gas emissions.

Experts estimate that at least 85 percent of buildings now standing will still be in use in the next 20 years, including very old structures that consume large volumes of electricity and are riddled with poor insulation and heating, ventilation and air conditioning systems.

"The real target is how do you ensure there are ongoing efficiency improvements in existing buildings, which could be in operations, which could be in retrofits, or could be in the smaller-scale things that sometimes fall in between," said Rohit Aggarwala, director of the mayor's office for long-term planning and sustainability.

'A really big agenda'

Last December, the City Council got things moving with its adoption of four bills aimed at revamping codes governing retrofits for commercial buildings. But much less publicly, council members and Mayor Michael Bloomberg's office are now slowly working their

way through 111 individual recommendations for code and zoning reform finalized just last month.

Officials at the mayor's office say that the time of flashy announcements of new green initiatives, like the "Greener, Greater Buildings" plan announced on Earth Day last year, is now over. From here on out, they say, will be grunt work as lawmakers and bureaucrats meticulously review city codes -- including not only construction and renovation but even fire and safety codes -- and determine which of the 100-plus proposals to incorporate, tweak or drop altogether.

This list, assembled by a "green codes task force," is nothing less than a blueprint for a slow, quiet, decades-long process to meet city goals for steep cuts in energy consumption and waste by 2030.

"Now we are starting the process, again with the City Council, to go through all these recommendations and figure out how many we can really move on quickly, what the implementation path is," Aggarwala said in an interview. "This is a really big agenda that will take a long time to work through."

Following 18 months of intense back-and-forth with industry, city lawyers and the general public, the green codes task force delivered its final report to Bloomberg and City Council Speaker Christine Quinn last February with little of the fanfare that accompanied other major announcements, such as tree planting targets and a stalled push to convert the city's entire taxicab fleet to fuel-efficient hybrid vehicles. But the tedious code revisions envisioned by its report could add up to far greater changes to the city's infrastructure over the next two decades than the four major bills passed in December, task force members say.

Though many of the suggested changes to codes are compelling, others are seemingly mundane or confusing to the layperson.

For instance, the task force recommends that the city revamp fire and safety codes to require less emergency lighting, thereby reducing the required battery size and cutting back on the eventual waste when they are thrown out. Another proposal would require that all doors that open to public stairwells have windows to encourage more people to forgo elevators. Another recommendation aims to use health codes to tackle emissions from carpeting.

Other proposals are right along the lines of the larger green movement's vision for the city. In one example, the task force says solar panels should be exempt from codes that limit how much of a building's rooftop can be covered. It asks that solar equipment and wind turbines also be exempted from reviews by the Landmarks Preservation Commission. Zoning regulations should also be weakened to allow alternative and distributive energy equipment to qualify as "permitted obstructions," thereby reducing the red tape involved in getting such technology installed.

The task force is adamant that working in new environmentally friendly ordinances through the city's codes and zoning rules is a more effective approach than simply requiring property owners to adopt LEED practices for new and existing buildings, a step taken by other jurisdictions. The City Council and mayor's office say they are in agreement on this point.

"Greening the codes has significant advantages over mandating LEED for the private sector," task force members say in a summary. "Codes create economies of scale in both expertise and materials, thereby lowering costs. Codes are also enforceable and they build on existing institutions and industry practices."

Lawsuits expected

Still, many of the 111 proposed code revisions seem destined to spark legal challenges should the city try to get them in the books.

For example, the task force would like the city to mandate key-controlled or master-switch lighting for all hotel rooms, equipment that would automatically turn off lights when a room is unoccupied. It also proposes banning retailers from keeping on lights in closed stores, something they do now to deter burglars.

Bloomberg and the City Council have already suffered legal setbacks to other initiatives meant to curb waste and pollution. Two years ago, a federal judge threw out an ordinance aimed at converting all of the city's famous yellow cabs to hybrid gasoline-and-electric vehicles, though Aggarwala says the mayor's office is working to get Congress to pass a law authorizing New York City to regulate the fuel economy of taxis. And a sweeping electronic-waste recycling program faces an uncertain future as the city was brought to the bargaining table with industry following a lawsuit.

Unger, one of the principal members of the green codes task force, says the vast majority of the proposals spelled out in its lengthy report are not complicated or controversial. The task force report is not a blueprint for new heavy-handed regulation but rather a call for city administrators to move quickly in the direction they are already taking, he said.

"What [the report] aims to do is really address the many things we've been talking about and scale a green building, take the things that make the most sense, are the most cost-effective and reduce barriers to green building and get those into building codes," Unger said.

But despite the sweeping nature of the recommendations, the city's expectations for what can be achieved through code reform are modest. The mayor's office said it believes code reform, including the new retrofits bills signed into law last year, will eventually cut the city's aggregate greenhouse gas emissions by 5 percent by 2030.

Wurzel, who also keeps busy reworking older buildings to more modern standards, believes that is too modest. His team expected that the Hearst Tower would perform at least 23 percent better than what the then-existing New York energy code required in terms of electricity consumption, and to date, the building is operating with 26 percent greater efficiency. He says similar big gains in energy savings and carbon emissions cuts could be achieved for existing buildings, given the right rules and incentives.

"I think you could do better, particularly if you combine methods like film on the glass, if you take in upgrading all the equipment, all the servicing, if you take into account maybe more efficient lighting systems," Wurzel said. "Five percent -- it certainly is a step in the right direction, but it doesn't sound like a radical step."

Meanwhile, Aggarwala said the city has no idea when a review of the task force's recommendations will be complete. The Department of Buildings is only now moving to write the rules for administering the retrofitting laws passed in December. Adoption of any new green codes or zoning ordinances via the task force's vision will likely be incremental and slip under the radar, he said.

FUEL

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EPA Limits Role Electric Cars Will Play in Automakers' Emissions Averages (*Automotive Magazine*)

The Environmental Protection Agency may have finally placed its new Corporate Average Fuel Economy (CAFE) rulings into effect last week, but it also addressed how electric vehicles will impact an automaker's average emissions figure.

Since they produce no emissions and consume no fuel during operation, electric vehicles have the potential of dramatically skewing CAFE and emission averages. To prevent companies from building swarms of EVs and neglecting to improve their other vehicles, the EPA ruled that through 2016, only 200,000 EVs could be incorporated into averages as "zero-emission" vehicles.

Following that, the agency is moving to assign some CO2 impact figure to all electric vehicles. Although they don't create pollution on the road, the agency argues that producing the electricity needed to charge the cars typically does.

"These vehicles, despite their name, do produce emissions," Jim Kliesch, a senior engineer at the Union of Concerned Scientists, told *USA Today*. "They just don't do it at the tailpipe."

Albeit true, automakers -- especially those planning on shifting sizable percentages of model mixes to electric vehicles -- aren't too happy with the decision. Some argue it punishes automakers for utility companies' emissions, and may give automakers less incentive to produce clean vehicles. Regardless, expect a lengthy debate to ensue.

From the April 2010 Issue

Growth Energy sides with EPA against big oil (*Ethanol Producer Magazine*)

by Holly Jessen
Posted April 5, 2010
Growth Energy has joined a legal battle between the U.S. EPA and the petroleum industry. On April 5, the industry organization filed a motion to intervene on the behalf of the EPA in a lawsuit that is challenging part of the Renewable Fuels Standard (RFS2).

The National Petrochemical & Refiners Association (NPRA) and American Petroleum Institute (API) filed lawsuits against the EPA in the U.S. Court of Appeals, which have now been consolidated. Although API and NPRA have been given to the end of the month to file an official “statement of issues,” press releases from the organizations claim the RFA is retroactively and unlawfully imposing RFS2 compliance on obligated parties. “The objective of petitioners (NPRA and API) appears, in part, to be to reduce the volume of renewable fuel that their members must blend into gasoline and other motor fuels in the current calendar year,” Growth Energy said in its motion seeking to intervene on behalf of EPA against NPRA and API.

Growth Energy is seeking to argue on behalf of the EPA, supporting the decision to increase the renewable fuel mandates for the full calendar year. “The intent of Congress was clear when it passed the Energy Independence and Security Act,” said Tom Buis, CEO of Growth Energy. “We believe EPA followed the intent of Congress when it decided to require the oil industry to comply with the RFS mandate for the duration of 2010, and not just part of the year. This is critical in expanding the use of clean, domestic, renewable fuels like ethanol. Congress intended that we reduce our dependence on foreign oil. The RFS does that. For too long our nation has been addicted to foreign oil. It is time to produce our fuel right here at home.”

Growth Energy, which represents 55 ethanol plants and 34 companies affiliated with the industry, has an interest in the case because it participated in EPA proceedings before RFS2 was finalized, court documents said. “Growth Energy and petitioners disagreed on the correct approach to implementing volumetric requirements for 2010 in the proceeding at EPA,” the motion to intervene said. “The ‘side’ unhappy with the agency resolution of a dispute (NPRA and API) has now challenged the RFS2 Final Rule, and it is proper to permit intervention in order to place ‘the private adversaries on equal terms’ now that the dispute has been carried to the court of appeals.”

US sets new standards for fuel efficiency (*Energy Efficiency News*)

The US Department of Transport (DOT) and the Environmental Protection Agency (EPA) jointly unveiled new federal rules for vehicle emissions and fuel economy.

The National Highway Traffic Safety Administration (NHTSA) and EPA fuel economy standards will cover all new passenger cars and light trucks starting with 2012 models.

Manufacturers will be required to improve the fuel economy and greenhouse gas emissions by 5% a year on their entire fleet. By the time 2016 model s are issues, average industry-wide fleet fuel economy should reach 34.1 mpg – equivalent to 250g CO2 per mile or the EPA standard of 35.5 mpg.

The new standard brings together those of the DOT, EPA and state regulations, such as those of California.

The federal agencies claim that the new requirements will save nearly a billion tons of greenhouse gas emissions and 1.8 billion barrels of oil over the lifetime of the vehicles covered. The average driver of a new car purchased in 2016 could save $3000 in fuel costs.

“These historic new standards set ambitious, but achievable, fuel economy requirements for the automotive industry that will also encourage new and emerging technologies,” says Transportation Secretary Ray LaHood.

However, all the gains can be made through existing technologies such as more efficient engines, transmissions, tyres, aerodynamics and materials, as well as improvements in air conditioning systems.

The EPA and NHTSA say that they “expect” some manufacturers will pursue more advanced technologies such as hybrid, plug-in hybrid and electric vehicles.

For further information:
www.epa.gov/otaq/climate/regulations.htm
www.nhtsa.dot.gov/

DOT, EPA issue final rules on fuel economy, emissions (*Rubber & Plastics News*)

RUBBER & PLASTICS NEWS
Posted April 5, 2010

WASHINGTON (April 5, 2 p.m.) -- The U.S. Department of Transportation and the U.S. Environmental Protection Agency have joined to issue the first-ever greenhouse gas emissions standards in the U.S., a move they say will also significantly increase the fuel economy of all passenger vehicles and light trucks sold in the United States.

Beginning with 2012 year models, auto makers must improve both fleet-wide fuel economy and reduce fleet-wide greenhouse gas emissions by about 5 percent every year, DOT and EPA said. The National Highway Traffic Safety Administration will require an industry-wide fuel economy average of 34.1 mpg by model year 2016.

In the same model year, EPA will require a combined average vehicle emission level of 250 grams of carbon dioxide per mile. The EPA standard is equivalent to 35.5 mpg fuel economy if all reductions come from fuel economy improvements, the agency said.

DOT and EPA estimate the new rules will reduce carbon dioxide emissions by about 960 million metric tons over the lifetimes of the vehicles being regulated, which is roughly equivalent to taking 50 million cars and light trucks off the road by 2030.

During the same time period, the new rules will conserve about 1.8 billion barrels of oil and save buyers of model year 2016 vehicles an average of $3,000 per vehicle, the agencies said.

The new final rules are the culmination of the initiative President Obama announced in May 2009, supported by auto makers, the United Auto Workers, state governments and environmentalists.

EPA, NHTSA finalize new vehicle greenhouse gas regulation (*SearchAutoParts.com*)

April 6, 2010

The U.S. Environmental Protection Agency (EPA) and the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) have finalized their "National Program to Reduce Greenhouse Gases and Improve Fuel Economy for Cars and Trucks," according to information from the Automotive Service Association (ASA).

California, followed by 13 other states, has already set vehicle greenhouse gas (GHG) limits. The administration advocates that this initiative aims to clean the air we breathe, strengthen the automotive industry, create new jobs and decrease the amount that consumers pay at the pump.

The new standards apply to new passenger cars, light-duty trucks and medium-duty passenger vehicles, covering model years 2012 through 2016. The EPA GHG standards require these vehicles to meet an estimated combined average emissions level of 250 grams of carbon dioxide (CO2) per mile in model year 2016, equivalent to 35.5 miles per gallon (mpg) if the automotive industry were to meet this CO2 level all through fuel economy improvements.

California had included a super warranty initiative in its original clean car program. Several of the 13 states that followed California's GHG initiative also included the super warranty language. The ASA opposes super warranties as established by the state of California. Clean car programs that are practical and cost effective should be considered by regulators, not programs that harm small businesses and have a long-term negative impact on consumers.

ASA also says that the new refrigerant regulation for the substitute HFO-1234f should also become final this year. ASA and several hundred of its members filed formal comments with the EPA for the HFO-1234f proposal asking that the final regulation include restrictions on the use of this substitute, specifically requesting that only trained, appropriately equipped professionals be allowed to use HFO-1234f.

To view the final rule, visit ASA's legislative Web site at www.TakingTheHill.com.

GRANTS

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Small Mass. firms win EPA grants (*Boston Globe*)

April 5, 2010 03:21 PM

By Erin Ailworth, Globe Staff

The US Environmental Protection Agency awarded a handful of small Massachusetts businesses money to develop technologies that improve air and water quality, and help stem the effects of a changing climate.

The funds are part of nearly $2.4 million doled out by the federal agency under its Small Business Innovation Research program. Firms in more than a dozen states got awards to, for instance, improve energy efficiency in buildings, reduce pollution, or come up with better ways to monitor and clean hazardous waste sites.

At least four Massachusetts businesses received funding, including the Aspen Products Group in Marlborough, which is getting $70,000 to develop a filter that will help reduce emissions from commercial kitchens.

Monday, April 5, 2010, 1:47pm MST

Coating Systems gets $70,000 EPA grant (*Phoenix Business Journal*)

Coating Systems Laboratories of Chandler is one of 34 small companies sharing in $2.38 million in U.S. Environmental Protection Agency money aimed at innovative technologies to help improve air and water quality.

The only Arizona company to receive funding, Coating Systems will get $70,000 to demonstrate the feasibility of a drinking water treatment system it has developed. EPA officials say the system, which involves attaching a quaternary ammonium chloride coating with antimicrobial properties to common granular filters, could impact the majority of surface water treatment plants in the country.

The funds are part of the EPA's Small Business Innovation Research program.

"Innovation is the lifeline of progress — and scientific and technological innovation are essential to the progress we seek to make in protecting people and the planet," said Paul T. Anastas, assistant administrator for EPA's Office of Research and Development. "These small businesses are key to helping us reach that goal."

HAZARDOUS WASTES

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EPA Drops Strict Radiation Default Cleanup Limits, Activists Raise Concerns (*Inside EPA*)

Monday, April 05, 2010
EPA is no longer relying on default guidelines to determine when it should initiate emergency response actions at sites contaminated with radiological contaminates and will instead rely on site-specific criteria, according to an EPA spokeswoman, a policy change that activists say heightens their concerns the agency may be taking actions that weaken its Superfund cleanup and drinking water standards.

At issue are EPA's removal action levels (RALs), which are numerical guidelines agency officials use to help them determine when to initiate an emergency response action such as providing the public with an alternative source of drinking water or taking

emergency cleanup actions. Such default cleanup limits are often stricter than site-specific measures.

A disagreement among EPA staff in the Office of Solid Waste & Emergency Response (OSWER) over whether the guidelines apply to sites contaminated with radiological contaminates, detailed in internal e-mails *Inside EPA* recently obtained under the Freedom of Information Act, has alarmed activists who fear the disagreement could lead to a weakening of EPA protections (see related story).

Now the EPA spokeswoman says RALs no longer exist for radioactive sites and that "[a]ction levels for radiologic contaminants are derived on a site-specific basis." The statement is heightening activists' concerns, with one activist saying the policy described by the agency spokeswoman is reminiscent of "optimization," a controversial cleanup approach the agency's Office of Radiation & Indoor Air (ORIA) developed under the Bush administration as part of a new draft guide for nuclear emergencies. The document, known as the draft protective action guide (PAG) for nuclear incidents has been under internal review since the Obama administration halted its publication in the *Federal Register* during its first days in office (see related story).

The EPA spokeswoman says the agency's radiological removal policy is no different than the one it uses for chemical contaminants in that "OSWER's policy regarding the use of removal authority for either chemical or radiological contamination is that decisions are based on a variety of site-specific factors. Comparison of site data to" the agency's cancer risk guidelines and drinking water regulations -- the basis of the numerical RALs the agency uses for chemical contaminants -- "would be among the factors considered on a site-specific basis," the spokeswoman said.

The activist criticizes this approach, arguing that there is a significant difference between using a default numerical guideline as a starting point for determining whether to take action and saying that cancer risk guidelines and drinking water regulations "would be among the factors considered." The statement by the EPA spokeswoman may prompt activists to ramp up their lobbying efforts on the issue, the activist adds.

The statement represents a departure from the policy contained in EPA's *Final Guidance on Numeric Removal Action Levels for Contaminated Drinking Water Sites*, which OSWER issued in 1993. Although the 1993 document did not list radionuclide-specific RALs, it stated such levels should be derived from either the agency's drinking water regulations or the point at which 1 in 10,000 people would be expected to develop cancer, whichever value was least protective. In 2008, EPA issued updated RALs for chemicals that were on average weaker than its 1990s values, but the document, which *Inside EPA* obtained that year but which the agency refuses to release to the public, explicitly excludes radioactive contaminants.

It is unclear how the new policy will affect on scene coordinators (OSCs) in EPA's regional offices, as some regional officials have told *Inside EPA* previously they would

be reluctant to rely on anything less stringent than EPA's drinking water regulations when deciding whether to initiate an emergency response.

But activists say they are concerned such a policy could set a precedent eroding EPA protections generally, particularly in light of some statements made by EPA officials in the internal e-mails obtained by *Inside EPA* suggesting that the PAGs -- which in their draft form suggested people could drinking water thousands of times more contaminated than under the regulations -- could be substituted for RALs and radioactive sites.

In addition, in a 2008 draft document called *Superfund Removal Guidance For Preparing Action Memoranda,* suggested the PAGs were among the things the OSCs should consult in emergency situations. However, the EPA spokeswoman says the agency has since finalized the guidance and has removed any references to the PAGs.
-- Douglas P. Guarino

Internal EPA E-Mails Voice Concern Over Cleanup Levels In Draft Nuclear Guide (*Inside EPA*)

Monday, April 05, 2010
Internal agency e-mails obtained by Inside EPA show EPA Superfund and legal officials are concerned a draft nuclear emergency response guide could undermine the agency's cleanup standards and allow human exposure to dangerous levels of radiation, a finding activists say underscores their own concerns about the document.

At issue is the draft protective action guide (PAG) for radiological incidents, which EPA's Office of Radiation & Indoor Air (ORIA) drafted under the Bush administration to provide guidance on how to respond to nuclear emergencies such as terrorist attacks and accidents at nuclear power plants and industrial facilities. The Obama administration halted the document's publication in the *Federal Register* days before its scheduled release in January 2009 after activists raised concerns the guide could undermine EPA's drinking water and Superfund cleanup standards and has been reviewing it ever since.

The e-mails, which *Inside EPA* obtained under the Freedom of Information Act (FOIA), show EPA Superfund and legal officials have had concerns that the draft document's approach to long-term cleanup after an accident -- known as optimization -- would eliminate default cleanup standards after a nuclear incident and would instead rely on incident-specific criteria.

Previously obtained e-mails showed ORIA officials rushed to release the draft PAG despite concerns from agency Superfund, water and legal officials that the guide could undermine EPA's drinking water standards and could allow the public to drink water so

contaminated they could quickly become violently ill -- a revelation activists hope will bolster their efforts to quash the document (*see related story*).

In addition, activists have long raised concerns that the draft PAG could allow people to be exposed to up to 10 rems of radiation, a level they argue far exceeds EPA's long-held cancer risk standards under Superfund and which could set a negative precedent undermining those standards.

According to the internal e-mails *Inside EPA* recently obtained, EPA and other government officials shared those concerns. For example, in a Jan. 23, 2009, e-mail, Charles Openchowski, of EPA's Office of General Counsel (OGC), writes that the optimization approach in the draft guide could undermine EPA's Superfund and drinking water standards, as well as oversight and enforcement, despite a disclaimer included in the document stating that it is not its intention to do so.

"Having a simple phrase in the disclaimer that this doesn't affect Superfund will not keep [the Department of Energy (DOE)] and others from using this document as a legal weapon . . .," Openchowski writes, noting that the Superfund standard uses 15 milirems as a level within the cancer risk range but the draft PAG uses levels measured in rems, a larger unit.

Openchowski's statements are primarily in response to comments from Susan Stahle, ORIA's representative in OGC, who in a draft transition paper prepared for the Obama administration claimed that "No legal issues or concerns exist regarding the issuance of the PAG Manual." Stahle also said in a Jan. 22, 2009, e-mail that previous *Inside EPA* stories on the PAG were "most unfortunate and quite inaccurate" when they depicted the document as "a controversial draft guide" that some believed "could lead to dramatically weakened public protections."

Dispelling Concerns

Stahle argued that the draft PAG had been approved by all relevant offices within EPA and sought to dispel concerns that its proponents were trying to rush its publication during the final days of the Bush administration, claiming the timing was a coincidence caused by lengthy delays at the White House Office of Management & Budget (OMB), which did not complete its review of the document until December 2008 despite having received it in November of 2007.

The internal e-mails, however, show that the form of optimization that ultimately wound up in the draft sent to the *Federal Register* was actually a compromise brokered after agency Superfund officials raised concerns that the original optimization remedy selection process ORIA had proposed would be even worse. And as the e-mails from Openchowski and others show, some within the agency believe even the compromise version of optimization would set a damaging precedent.

In a Feb. 7, 2006, e-mail, Bruce Means, of the Superfund program, writes that the version of optimization ORIA initially proposed should not be included in the draft. Means complains the ORIA proposal suggests the “benefits and detriments” of cleanup options should be considered, which he says is inconsistent with Superfund regulations that call for sites to be cleaned up to levels EPA considers protective of human health regardless of cost. Similarly, Means complains the ORIA proposal encourages cleanup site managers to “look at a generic risk management document” rather rely on Superfund protocol.

Superfund officials proposed to include language in the guide cautioning those who use it to “at least attempt to attain [Superfund] standards if possible” during a cleanup, noting that if “the public is dissatisfied with the cleanup, the site may become a candidate for National Priorities List (NPL) listing [under Superfund], even years after the radiological incident cleanup” because Superfund “is the most likely environmental statute to apply if further federal action is necessary.”

But in a Dec. 5, 2005, e-mail then-acting ORIA Director Bonnie Gitlin rejects that language as “inflammatory” and says compromise language will have to be worked out because other agencies outside of EPA “were not happy with that language.”

According to a Jan. 29, 2009, e-mail from Superfund official Stuart Walker, much of the most controversial aspects of the draft guide were the result of objections from agencies outside EPA. The agency initially proposed using its traditional Superfund and drinking water regulations as the basis for the guide’s cleanup and drinking water recommendations, but the Nuclear Regulatory Commission (NRC) objected.

One of activists’ worst fears is that the optimization under the draft guide would be used to justify allowing human exposure to radiation as high has 10 rem per year, a level at which one activist argues would be expected to cause as many as one in four people to develop cancer using even the most forgiving of EPA estimation methodologies and a level much higher than Superfund’s worst-case scenario of 1 in 10,000. Tables referencing international standards of 10 rem per year that ORIA drafted for inclusion in the draft PAG, which are among the documents EPA provided under FOIA, underscore this concern, the activist says.

Lab Says Risk Methods Do Not Apply

But the EPA risk estimation methodologies, contained in a document known as *Federal Guidance 13*, no longer apply when exposures as high as 10 rem are achieved, Keith Eckerman, of the Oak Ridge National Laboratory, tells EPA officials in a series of e-mails from February 2009. This is because those risk estimates assume that human cells are still able to perform some degree of self repair, something not believed possible at such high exposure levels.

The activist says Eckerman’s assertions underscore environmentalists’ arguments that optimization under the PAGs could allow radiation exposure at levels high enough to

“knock your socks off, in addition to giving you cataracts, fertility loss” and a risk of developing cancer greater than one in four.

The e-mails also show ORIA officials complaining about Walker and other Superfund officials’ continued concerns over optimization and seeking assistance from other EPA officials, such a EPA Region X’s Rick Poeton, “to help maintain the company line with regard to [Walker’s] comments,” according to a Feb. 8, 2007, e-mail from ORIA’s Sara DeCair.

In a string of March 23, 2009 e-mails DeCair and Stahle complain about the prospect of Walker being included in a meeting involving environmentalists and Obama administration officials regarding the draft PAG. “We don’t want a rogue EPA staffer making his/her personal opinions known at this meeting,” Stahle tells DeCair.

The activist says these e-mails, along with the January e-mails in which Stahle sought to portray the PAGs as a noncontroversial item that was not rushed in advance of Obama’s inauguration, show ORIA officials sought to “marginalize” EPA staffers who disagreed with them and “viewed them as a political problem, not as someone raising technical issues.” Activists have long feared top EPA decision makers would not learn of the Superfund officials’ concerns over the guide as a result of these efforts, and the source says the activists hope to use the e-mails to educate the decision makers about the controversy.

Even Poeton, who throughout most of the internal e-mails argues for including standards less stringent than Superfund in the PAG, at one point questioned the prudence of extending the optimization approach to cleanup after accidents at nuclear power plants and other facilities instead of limiting their application to the so called “dirty bomb” attacks addressed in a similar but narrower guide issued by the Department of Homeland Security (DHS).

“I think the DHS argument about the wide range of potential impacts as a basis for optimization works OK for [dirty bomb] events, but less so for well-understood and analyzed systems like nuclear power plants” Poeton says in May 16, 2008, e-mail. “There could be a case to be made that there is a large category of regulated sources for which numerical long term cleanup criteria are already available in the form of regulatory criteria for routine exposure to the public (including EPA [standards])” Poeton says. -- *Douglas P. Guarino*

MINING

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April 6, 2010

25 killed in West Virginia mine blast (*CNN*)

By the CNN Wire Staff
The death toll from Monday's West Virginia mine explosion rose to 25 early Tuesday morning, the mining company said.

Rescue efforts to reach four miners who were still missing at the Upper Big Branch Mine in Raleigh County, West Virginia, were suspended due to conditions underground -- but were expected to resume as soon as conditions allow, said the Massey Energy Company.

Concentrations of methane and carbon monoxide that rescue crews detected in the mine "were to the point that they were risking their own lives," Kevin Stricklin of the U.S. Mine Safety and Health Administration said at 2 a.m. news conference.

"A decision was made at the time to evacuate the rescue teams from the mine," he said.

Officials will now drill bore holes from the surface into the mine to help ventilate it and to collect samples.

"It's still a rescue operation. There are four people still unaccounted for," Stricklin said.

Stricklin had said earlier that a number of SCSR breathing devices were taken from an area inside the mine after the blast.

This, Stricklin, said gave officials hope that miners who survived the initial explosion may have made their way to the cache and taken them to help them breathe easier.

He could not say how many such devices were taken.

SCSR, or self-contained self-rescue, devices are portable oxygen sources that help provide breathable air.

Another 21 miners were injured in the blast at the Upper Big Branch Mine, according to Michael Mayhorn, emergency dispatcher for Boone County, which was called in to assist in the response.

The explosion apparently occurred during an afternoon shift change, witnesses and officials said.

At least 20 ambulances and three helicopters were dispatched from surrounding counties, and the state medical examiner was heading to the scene, Mayhorn said. At least one miner was evacuated by helicopter, according to Mayhorn.

Don Blankenship, the chief executive officer of Massey Energy Co., which oversees the mine, said in a statement that the company is "working diligently on rescue efforts."

"Our prayers go out to the families of the miners," he said. "We want to assure the families of all the miners we are taking every action possible to locate and rescue those still missing."

The explosion happened about 4:30 p.m. at Massey Energy's Performance Coal Co. mine in Whitesville, West Virginia, 30 miles south of Charleston, West Virginia, CNN affiliate WCHS reported.

The cause of the explosion was not immediately known, but methane gas has been blamed in several deadly mining accidents in recent years, including the 2006 explosion at the Sago mine, also in West Virginia, that killed 12 people. Five miners in Harlan County, Kentucky, were killed five months later in a methane gas explosion in Kentucky Darby Mine No. 1.

West Virginia Gov. Joe Manchin, however, said spring is an unusual time of year to see such explosions, which typically occur in winter as barometric pressure changes occur inside mines.

Manchin said he had spoken to Blankenship, who told him that the mine was equipped with rescue chambers, a safety measure put in place following several deadly accidents in 2006. The chambers are stocked with such supplies as first-aid kits and oxygen tanks in the event of an emergency.

"We're very hopeful that the miners who are missing were able to make it to those rescue chambers," said Manchin, who was on his way to the site.

Manchin also spoke to President Barack Obama, who offered his condolences and federal government assistance in the rescue effort.

Miners paced outside the mine shaft, trying to help emergency responders treating their injured colleagues, said Shawn Kline, a reporter for CNN affiliate WVVA.

"The look of worry is on just about everyone's faces," Kline said as dozens of fire trucks, ambulances and police cars streamed into and out of the site.

Eric Martin, who works the day shift at the mine, told WVVA that his father is one of the missing.

"It's like I got hit in the gut right there real hard (and) I just keep getting hit," he said.

At least one miner was evacuated by helicopter and two others by ambulance, officials said.

CAMC spokeswoman Elizabeth Pellegrin said the hospital received one person from the mine via a helicopter at 6 p.m. That patient is getting treatment in the hospital's

intensive care unit, she said, declining to elaborate on the person's injuries.

Sen. Jay Rockefeller, D-West Virginia, said in a statement Monday that he is "working with state and federal officials to get as much information as possible and ... doing all I can to help make sure all resources are made available for this rescue effort."

Massey Energy Co., based in Richmond, Virginia, has operations in West Virginia, Kentucky and Virginia. It is the largest coal producer in Central Appalachia, it said in a statement.

Three other deaths have happened in the Upper Big Branch Mine in the past 12 years, according to federal records.

In 1998, a man was killed when a beam he was constructing collapsed; in 2001, a worker died after a rock fell on him; and in 2003, an electrician who was repairing a shuttle car was found dead, according to the Mine Safety and Health Administration.

Monday's explosion is the latest in a string of problems for Massey Energy, which operates 44 underground and surface mines and controls 2.2 billion tons of coal reserves in West Virginia, Kentucky, Virginia and Tennessee, according to the Environmental Protection Agency and Massey's Web site.

The company has been fined for several incidents, some fatal, at its facilities in recent years, including a 2006 fire that killed two miners in Aracoma Coal Company's Alma Mine No. 1. Aracoma is a division of Massey. The company pleaded guilty to 10 criminal charges in connection with the fire and was fined $2.5 million in 2009.

In 2000, a coal sludge impoundment owned by Massey Energy broke into an abandoned underground mine, oozing more than 300 million gallons of coal waste into tributaries in eastern Kentucky.

Also in 2000, a series of accidents at Massey facilities killed eight miners during the course of the year, according to Davitt McAteer, former director of the Mine Safety and Health Administration during the Clinton administration.

"Massey has had difficulty with their accident records and their numbers of citations and penalties that have been issued against them," McAteer said. "There is a problem here, and it's a problem that we hoped had gone away."

A post on the Massey Web site touts the company's 2009 safety record, saying it "marked the sixth consecutive year and the 17th year out of the past 20 years in which Massey's safety performance was stronger than the industry average."

The U.S. mining industry in 2009 saw its safest year in the history of American mining with 18 deaths. Prior to Monday's explosion, two deaths had been recorded for 2010.

Monday, April 5, 2010, 8:43am CDT | Modified: Monday, April 5, 2010, 8:49am

Arch Coal sues EPA over permit veto (*St. Louis Business Journal*)

Arch Coal sued the U.S. Environmental Protection Agency on Friday over the planned veto of a permit for the largest mountaintop coal mine in West Virginia.
The EPA doesn't have the authority to revoke a Clean Water Act permit once it has been issued, Arch alleges in its federal lawsuit filed in Washington, D.C., according to media reports. Arch received a permit for its Spruce No. 1 mine three years ago.

This is the first time in 37 years the EPA has vetoed such a project, prompting praise from environmentalists.

St. Louis-based Arch Coal (NYSE: ACI), headed by Chairman and CEO Steven Leer, is the second-largest U.S. coal producer with revenue of $2.6 billion in 2009.

RECYCLING
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Cell phone recycling events planned (*Delmarva Daily Times*)

April 6, 2010
SALISBURY -- A national cell phone retailer is promoting green efforts by hosting a cell phone recycling center on Earth Day this year.
According to the U.S. Environmental Protection Agency, of the 2.25 million tons of TVs, cell phones, and computer products that can be recycled, only 18 percent were collected for recycling and 82 percent were disposed of, primarily in landfills.

To support the 40th anniversary of Earth Day and help reduce electronic waste, AT&T is inviting Shore residents to drop off unwanted cell phones (regardless of manufacturer or carrier) for recycling on April 22 at AT&T-owned retail stores on the Eastern Shore – 2721 N. Salisbury Boulevard in Salisbury and 28614 Marlboro Avenue in Easton.
In addition to the recycling drives at nearby AT&T stores, there will be an on-site collection event at the Delmarva Tech Expo in Salisbury on April 22.

Phone recycling urged (*Gary Post Tribune*)

April 6, 2010
POST-TRIBUNE STAFF REPORT

Have an old cell phone you need to get rid of? Recycle it.

This is national cell phone recycling week, and the U.S. Environmental Protection Agency is teaming up with leading cell phone manufacturers, retailers and wireless service providers to increase awareness of the importance of cell phone recycling.

The energy saved by recycling a single cell phone is enough to power a laptop for 44 hours, according to the EPA.

If Americans recycled the approximately 130 million cell phones that are disposed of annually, enough energy would be saved to power more than 24,000 homes in a year. Currently, only about 10 percent of cell phones are recycled, according to EPA.

One place to recycle your cell phone, batteries and accessories is in Verizon Wireless stores. You can drop off your cell phone at drop boxes in all Verizon Wireless stores and get a free mailing label at *www.verizonwireless.com/ hopelinemailinglabel* . Phones given to Verizon Wireless will go to HopeLine, the company's phone recycling and reuse program that supports local domestic violence prevention and awareness organizations.

You can drop off items at 401 W. 81st St. or 2109 Southlake Mall in Merrillville; 6149 U.S. 6 in Portage; and 2505 LaPorte Ave., Unit 108, in Valparaiso.

Verizon Wireless says collected phones will be disposed of in an environmentally sound way under a zero-landfill policy or refurbished for resale and reuse. Proceeds from HopeLine support Indiana survivors of domestic violence and local not-for-profit advocacy agencies.

In addition to Verizon Wireless, EPA partners with AT&T, Best Buy, LG Electronics, RecycleBank, Samsung Mobile, Sprint and T-Mobile.

Reusing or recycling cell phones also helps the environment by saving energy and conserving resources. Cell phones and personal digital assistants (PDAs) are made of precious metals, copper and plastics. Recycling or reusing the devices conserves materials, prevents air and water pollution, and reduces greenhouse gas emissions that occur during manufacturing and processing. Recovered in every 1 million cell phones are 75 pounds of gold, 772 pounds of silver, 33 pounds of palladium and 35,274 pounds of copper.

For more information on cell phone collection centers, visit *www.epa.gov/cellphones*

AT&T becomes more Environmentally friendly (*Examiner.com*)

April 5, 8:33 PM ▪ St. Louis Mobile Technology Examiner ▪ Josh Uhlemeyer

AT&T is one of the largest wireless providers in the US, and has joined the Environment Protection Agency in their National Cell Phone Recycling Week to promote the reduce of electronic waste in landfills. From April 5-11th AT&T will be promoting the cause through their stores, online and by community based recycling drives led by AT&T volunteers. AT&T is allowing customers to donate their used cell phones and accessories in a few ways. Customers can drop off their used cell phones at any of AT&T's stores in the US, or they can mail their used cell phones or accessories by going to AT&T's recycle website and download free shipping labels and mail them in to be recycled.

Not only will customers be helping the environment but they will also be helping US soldiers as well. In the Cell Phones for Soldiers charity a portion of the proceeds from having your cell phone or accessories recycled will be used to buy free phone cards for troops fighting overseas. During 2009 AT&T collected 4.2 million cell phones & 1.8 million batteries & accessories that have been recycled. AT&T has also offered customers the option of having paperless billing; by having their customers cell bills available online. The company has also pledged to plant a tree for every customer that has switched to paperless billing.

In March AT&T began using smaller packaging for its cell phones, batteries & accessories in order to reduce wasting of plastic and paper. AT&T has also introduced a new cell phone charger called the "Zero Charger" in their stores nationwide, the charger doesn't use any electricity when left plugged in to an outlet and intern provides better charging efficiency when charging a cell phone. If you would like to learn more about the Environment Protection Agency's National Cell Phone Recycling Week or to have your cell phone or accessory recycled at one of AT&T's stores go to the links below.

http://www.epa.gov/cellphones

http://www.att.com/recycle

Apr 05, 2010

Cellphone recycling gets easier, profitable (*USA TODAY*)

09:59 AM
The second annual National Cell Phone Recycling Week starts today with more options than ever, some even profitable.

By Paul Sancya, AP

Since only 10% of cellphones are recycled, the U.S. Environmental Protection Agency is partnering with private companies to designate this week as a time to spotlight how to recycle the more than 100 million no longer in use.

"If we recycled all of them, we would save enough energy to power 18,500 U.S. homes for a year," the EPA flier for this week says.It says recycling keeps electronics out of landfills and reuses their metals, copper and plastic.

How to do it?

EPA lists drop-off centers and mail-in options by these companies: AT&T, Best Buy, Office Depot, Sony Ericsson, Sprint, Staples, T-Mobile, LG Electronics, Verizon Wireless, Nokia, Samsung and Motorola.

There are other options, too.

Earth 911, which runs a private recycling database, will direct you to places closest to home. Just type in "cellphone" and either your town or ZIP code.

When I typed in my ZIP code, 22046, I found quite a few post offices that offer free, postage-page Mail Back envelopes in their lobby. The U.S. Postal Service says it offers these envelopes, at some of its locations, for small electronics such as PDAs, digital cameras and inkjet cartridges.

Several companies, including BuyMyTronics, Gazelle and YouRenew, will now buy your old cellphones and other electronics. As a prior post reports, eRecyclingCorps, co-founded by Sprint executives, gives a trade-in recycling credit for an old cellphone when buying a new one.

Yet before you recycle, EPA urges you to take these basic steps:

- Terminate your service.
- Clear the phone's memory of stored information.
- Conduct a factory hard reset by following instructions from your wireless carrier or the product manual or use data erasing tools that are available on the Web.
- Remove your SIM card.

Readers: Have you recycled a cellphone?

SUPERFUND

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Public comment period for Superfund site extended (*Great Falls Tribune*)

By Tribune Staff • April 6, 2010
At the request of the property owner, the Environmental Projection Agency has extended the public comment period on a proposal to add the ACM Smelter and Refinery site in Black Eagle to the federal Superfund list by 10 days.
The deadline is May 14.
Atlantic Richfield Co., which owns the site, asked for the extension.
ARCO Spokesperson Robin Bullock said the company needs more time to read through documents the EPA used to justify the proposal.
"It's just taking us some time to actually read through it," Bullock said.
The company says a federal Superfund listing isn't needed and that ARCO has been an "up front corporate citizen responding to any concerns."
ARCO had asked for a 60-day extension of the comment period because it says it did not receive all of the information it requested in July and August freedom of information requests asking for more documentation the EPA used to propose the Superfund listing.
Douglas Ammon, chief of site assessment and remedy decision branch for the EPA, responded that all the documentation the EPA relied on in ranking the site was contained in the public record.
But he granted a 10-day extension saying that the EPA had encountered scanning difficulties in preparing an electronic copy of supporting documentation for the company.
Boston and Montana Consolidated Copper and Silver Mining Company began construction of the first smelter at the 427-acre metals refinery since in 1892.
Ore from mines in Butte was concentrated, smelted and refined. Anaconda and Cooper Mining Co. acquired the site in 1910 and copper was made into commercially useful shapes.
Smelting and refining activities continued until the 1970s.
The EPA is considering listing the site because the plant stack ejected lead, arsenic and other metals and some of the yards sampled in Black eagle had elevated levels of lead, arsenic or both, with stack deposition most likely responsible.
Wastes also were dumped into the Missouri River.
The EPA's Gwen Christiansen said the EPA will make a decision on whether to add the site to the National Priorities List after the comment period closes.
Gov. Brian Schweitzer and Cascade County have written letters in support of a federal Superfund listing.

TOXICS
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EPA lead paint guidelines affect small contractors (*Record-Searchlight*)

By Dylan Darling
Tuesday, April 6, 2010

Bryan Parks said his small business is about to incur a big cost to ensure that it meets new federal regulations focused on lead-based paint.
Owner of Parks Hardwood Floors in Cottonwood, Parks said he'll need to pay $300 to certify the company and then $225 each for himself and his three employees to go through day-long trainings. That's $1,200.

The Environmental Protection Agency is requiring the certification and training for all companies and their employees that do renovation work in homes built before 1978.

Parks' company refinishes hardwood floors.

"This is going to be a kicker for a lot of companies," Parks said. "... I don't think everyone was aware of it."

The new EPA regulations go into effect April 22 and the agency tried to get the word out through mailings and trade magazine articles, said Max Weinteraub, lead-based paint enforcement coordinator for the EPA in Arizona, California, Hawaii and Nevada. He said the EPA notified about 10,000 contractors in the Western states.

Along with floor refinishers, the regulations could extend to plumbers, painters and electricians, Weinteraub said.

"Basically anybody who could disturb more than six-square feet of surface area," he said.

It all depends on what kind of work they're doing and if they're doing it in houses, apartments or schools built prior to 1978, Weinteraub said.

Although the federal government banned lead-based paint in 1977, it continues to be the leading cause of lead poisoning in children, he said. Nationwide hundreds of thousands of children have elevated levels of lead, he said, with most ingesting lead in dust from lead-based paint.

Renovation work potentially puts off lead-laced dust, so the EPA implemented the new regulations, Weinteraub said.

"We are trying to take aggressive action to protect children from lead," he said.

Already concerned about keeping a clean worksite, Parks said his company's sanders collect 98 percent of the dust they produce. Even though he's worked with hardwood floors since 1975, he said he didn't realize that lead-based products were used in floor finishes.

"It never had been a concern for me in the past," he said.

Parks said he and his three workers are set go through training Wednesday in a day-long class at the Shasta Builder's Exchange in Redding.

---- Starting April 22, the Environmental Protection Agency will require painters, plumbers, electricians and others involved with remodeling to have certification and training to work with lead-based paint.

---- For more information go to www.epa.gov/region09/toxic/lead/background.html or call (800) 424-5323. [Note] cq [/NOTE]

Chinese drywall in homes should be removed -- agencies (*Greenwire*)

Sara Goodman, E&E reporter
04/05/2010
Homeowners affected by toxic drywall should remove all of the potentially hazardous substance from their homes and replace any electrical component that may be corroded, the Consumer Product Safety Commission and the Department of Housing and Urban Development said Friday.

The interim guidelines were issued several weeks earlier than originally planned, but CPSC Chairman Inez Tenenbaum said they were intended to allow homeowners to move forward with fixing their homes while additional scientific studies are completed. There are more than 3,000 reports of contaminated drywall around the country.

"Our investigations now show a clear path forward," Tenenbaum said. "Based on the scientific work to date, removing the problem drywall is the best solution currently available to homeowners. Our scientific investigation now provides a strong foundation for Congress as they consider their policy options and explore relief for affected homeowners."

Testing by the agencies has shown that hydrogen sulfide has caused the corrosion, Tenenbaum said. Some Chinese samples emitted hydrogen sulfide in amounts 100 times greater than non-Chinese drywall samples, she said, and the problem materials were largely from 2005 and 2006 samples. Complaints with imported drywall began surfacing after Hurricanes Katrina and Wilma, when the housing market boom and rebuilding efforts created a shortage in domestic supplies.

"The studies find that the drywall is bad enough to require the stuff to be removed from houses," Sen. Bill Nelson (D-Fla.) said in a statement. "Now the question is: who pays for it? The way I see it, homeowners didn't cause this. The manufacturers in China did. That's why we've got to go after the Chinese government now."

The issue of who pays is at the center of a court trial that began last month in New Orleans. U.S. District Judge Eldon Fallon has combined several hundred cases into a single proceeding, with the first case focusing on property damage. Some experts see the case as a guideline for future cases.

It will provide "a remediation protocol to guide future litigants," Scott Weinstein, a Fort Myers, Fla.-based attorney on the steering committee for plaintiffs in the consolidated proceeding, told the *Bradenton* [Fla.] *Herald* last week. "This trial is intended to be guidance for the future," he said (*Greenwire*, March 15).

CPSC is continuing to study longer-term effects, including corrosion, which is expected out later this year.

WATER

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N.Y. says Indian Point plant violates Clean Water Act (*Greenwire*)

04/05/2010
New York last week ruled that outmoded cooling technology at Entergy Corp.'s Indian Point nuclear power plant is in violation of the Clean Water Act because plant operations contaminate and consume so much water, damaging marine life.

Entergy must now spend hundreds of millions of dollars to build massive cooling towers, or its two operating reactors could be forced to shut down. The reactors supply almost a third of the electricity used by New York City and Westchester County.

The operating licenses for the two 1970s-era reactors expire in 2013 and 2015, but obtaining a two-decade licensing renewal from the U.S. Nuclear Regulatory Commission would depend on first securing a water quality certificate.

The company says it may appeal the ruling in court. And Diane Screnci, a spokeswoman for the commission, said a prolonged appeal in New York could delay a shutdown (David M. Halbfinger, *New York Times*, April 3).

Fueled by opposition to its operations in New York as well as efforts to shut down its Vermont Yankee plant, Entergy said today is has shelved its plans to spin off several of its nuclear units into a separate entity.

The company plans to break down the business infrastructure it put together for the spinoff and to take a charge of 40 to 45 cents per share (Matt Daily, Reuters, April 5). **-- DFM**

Researchers find high BPA levels in ocean water (*Greenwire*)

04/05/2010
Plastic trash dumped into the sea has led to high levels of bisphenol A, or BPA, contamination of oceans and sand, according to new research.

Japanese scientists testing the water at 200 sites along coastlines of North America and Southeast Asia found the man-made chemical, which has been linked to obesity, diabetes, cancer, cardiovascular disease and asthma, in every batch of water and sand tested. The findings were presented last week at a San Francisco meeting of the American Chemical Society.

Scientists also attributed the high levels of BPA contamination to resin, the anti-rust paints used on the hulls of ships.

BPA water contamination is a relatively new concern, and there are few standards to protect wildlife or swimmers from exposure. Last fall, Canadian officials proposed a limit on the concentration of BPA in industrial water flows. The lowest levels detected by the scientists were six times higher than the limit being considered.

Steve Hentges, a spokesman for the American Chemistry Council, was skeptical of the research findings and criticized the scientists for not releasing the data in a peer-reviewed journal. He said all previously existing data show that BPA is only present at trace levels in the environment and that it was unlikely epoxy resins would degrade to form BPA.

Frederick vom Saal, a University of Missouri biologist, said it was possible that beachgoers could be exposed to BPA. He called the levels "shocking" and said regulatory authorities needed to create measures to prevent more BPA in products from degrading (Martin Mittelstaedt, Toronto *Globe and Mail*, April 1). **-- JP**

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