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ADMINISTRATOR JACKSON

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EPA vows 'unprecedented' effort in Chesapeake Bay cleanup (*Washington Post*)

By Ashley Halsey III
Washington Post Staff Writer
Thursday, May 13, 2010; B01

The Obama administration laid out an ambitious initiative Wednesday to purify 60 percent of the Chesapeake Bay's waters within 15 years, combining federal resources with a mandate that says states in the 64,000-square-mile watershed must develop the regulatory blueprint.

The announcement was made a day after the Environmental Protection Agency had settled a lawsuit brought by bay advocates in which the agency agreed to enforce tough new standards for the bay. And it comes a year after President Obama issued an executive order to revive faltering efforts to restore the polluted estuary.

"We plan to devote unprecedented resources to this," EPA Administrator Lisa P. Jackson said at an event Wednesday on the Anacostia River. "We are holding ourselves accountable for nothing short of real, measurable results."

Jackson was flanked by Ray Mabus, secretary of the Navy, and Tom Vilsack, secretary of the Agriculture Department.

Bay advocates reacted with a caution born of decades of state and federal commitments to restoring the Chesapeake that have yielded few tangible results.

"It's still a fairly high level of generality," University of Richmond law professor Carl Tobias said after reviewing the proposal. "That isn't to say it's not a good start, but plans have been around for 25 years."

Chesapeake Bay Foundation President William C. Baker called the administration's commitment "an impressive building block" but said that "we have had these before, and we have a healthy skepticism."

About 300 million pounds of pollution flow into the bay each day from farm fields and livestock, lawns and paved development, sewage plants and airborne pollutants. It has been estimated that reducing that flow to 175 million pounds would increase water clarity and stimulate growth of aquatic life.

The EPA is trying to determine how much reduction is necessary to meet the targets. Then, under the agreement it signed this week, it will require the six watershed states and the District to come up with pollutant reductions that bring them into compliance with those goals.

Each jurisdiction could propose its own regulations for developers, farmers, homeowners, sewage treatment plants and other polluters.

"Getting farm runoff commitment is the big step," said Beth McGee, a water quality scientist with the bay foundation.

Nitrogen from farm fertilizer and manure is the leading pollutant of the bay, and Vilsack said the USDA would commit $700 million to help farmers contain it.

"No group in this country cares more about improving the soil and maintaining clean water than farmers," Vilsack said.

Federal officials have calculated that if all of the planned restrictions are put into place within the next few years, 60 percent of the bay area would reach water-quality goals by 2025.

Back-to-back announcements of the EPA settlement and the Obama initiative buoyed environmentalists, but some said that congressional action would be needed to ensure that the efforts will endure.

Legislation sponsored by Sen. Benjamin L. Cardin (D-Md.) and Rep. Elijah E. Cummings (D-Md.) awaiting committee action would give the EPA more authority to punish states that fail to meet regulatory guidelines. It has been opposed by agricultural groups and developers worried about the impact the new regulations would have on them.

"I think we become more optimistic if that bill passes," Tobias said. "If the bill passes, it's less dependent on executive [branch] discretion, and administrations do come and go. If it passes, we will have more teeth and more force to move this forward."

With Obama, Regulations Are Back In Fashion (*New York Times*)

May 13, 2010 Thursday
Late Edition - Final
Section A; Column 0; National Desk; Pg. 15
By ERIC LIPTON; Reporting was contributed by John M. Broder, Jackie Calmes, Gardiner Harris, Robert Pear and Matthew L. Wald.
WASHINGTON -- In a burst of rule-making, federal agencies have toughened or proposed new standards to protect Americans from tainted eggs, safeguard construction workers from crane accidents, prevent injuries from baby walkers and even protect polar bears from extinction.

Over the last year, the Obama administration has pressed forward on hundreds of new mandates, while also stepping up enforcement of rules by increasing the ranks of inspectors and imposing higher fines for violations.

A new age of regulation is well under way in Washington, a fact somewhat obscured by the high-profile debates over the health care overhaul and financial oversight system and by fresh calls for greater federal vigilance spurred by the oil spill in the Gulf of Mexico and the deaths of coal miners in West Virginia.

The surge in rule-making has resulted from an unusual confluence of factors, from repeated outbreaks of food-borne illnesses to workplace disasters. Some industry groups, wanting foreign competitors to adhere to the same standards they must meet, have backed new federal mandates. The push for some of the measures began at the end of the Bush administration, a tacit acknowledgment that its deregulatory agenda had gone too far.

Still, the new aggressiveness reflects the new cops on the beat, and the contrast with the Bush administration is an intentionally sharp one. While the Bush administration mostly favored voluntary compliance by industry, senior Obama administration officials argue that carefully crafted regulation can be a positive force.

"We start from the perspective that we all want a cleaner environment, longer lives, improved safety," said Peter R. Orszag, director of the Office of Management and Budget, which reviews major regulations. "Smart regulation can make people's lives better off."

But complaints from industry leaders are intensifying. Manufacturers, home builders, toymakers and others say that Washington has been overzealous about imposing new requirements, and they warn of serious consequences for businesses and consumers.

"I am all for clean water, but this really isn't helping," said Bobby Bowling IV, president of the Tropicana Building Corporation in El Paso, who objects to rules adopted by the

Environmental Protection Agency last year requiring larger construction sites to prevent turbid storm-water runoff. "All this is one more obstacle to development," Mr. Bowling said.

The National Association of Manufacturers made a similar complaint about the cost of many of the new proposed mandates. "Dollars spent on compliance with cumbersome regulations are dollars not spent on hiring new employees," said Erin Streeter, a spokeswoman for the group.

Obama administration officials reject the criticism, saying that the benefits associated with the dozens of major rules adopted between President Obama's inauguration and the end of 2009 outweigh the costs by an estimated $3.1 billion, a savings they assert is greater than that attributed to new regulations in the first years of the Clinton and Bush administrations.

They arrived at that figure by factoring in upfront costs -- like the price of stronger brake systems being mandated in new tractor-trailers -- with the estimated long-term savings -- like reduced property damage and an estimated 227 fewer highway deaths each year.

"I don't want to put anyone out of business," said Inez Tenenbaum, chairwoman of the Consumer Product Safety Commission, who was appointed by Mr. Obama. "But if anything will help the marketplace, it is to make sure that people have confidence in the products that they buy."

The Environmental Protection Agency is perhaps the most aggressive advocate of the new regulatory philosophy in Washington. It has moved quickly to reverse or strengthen Bush administration policies on power plant pollution, lead paint and toxic chemical discharges.

Last month, along with the Transportation Department, the agency mandated that automakers significantly cut greenhouse-gas emissions while increasing fuel economy standards, an issue the Bush administration had put on hold, citing the industry's weakened financial condition. The car companies pronounced themselves happy with the result because it eliminated the possibility of even stricter regulation by California and about a dozen other states.

The agency's administrator, Lisa P. Jackson, has made clear that she would prefer to have Congress tackle climate change through broad legislation in what would be one of the largest regulatory actions in American history. But if Congress fails to pass a law, she has already started the process of mandating standards on her own.

The shift is also evident at major agencies charged with policing worker safety, health and consumer products. Many of the rules those agencies have adopted or are now pushing to impose -- including a requirement that farmers refrigerate eggs and kill rodents to combat salmonella contamination on eggshells, which sickens 79,000 people a year -- languished during previous administrations.

Now, a newly muscular Food and Drug Administration will have more authority, money and staff for greater scrutiny of products. Since bottoming out at 1,309 inspectors in the 2007 fiscal year, the agency now has 1,800 inspectors with 150 more on the way. Inspections rose 5 percent in 2009 after years of declines and are expected to increase steadily in coming years.

David Michaels, who became head of the Occupational Safety and Health Administration in December, has asked Congress to allow the agency to impose much larger fines and criminal penalties on employers that knowingly leave their workers at risk. The agency also is adding dozens of inspectors.

"Fourteen workers die every day in preventable events all across the country," Dr. Michaels said. "We have to turn up the volume to make it very clear that OSHA is on the job."

Dr. Michaels typifies the new breed of regulator installed by the Obama administration. Many are former academics, government officials, union leaders or consumer advocates, a contrast with the many former industry officials appointed by the Bush administration.

An epidemiologist, Dr. Michaels published a book in 2008 titled "Doubt Is Their Product: How Industry's Assault on Science Threatens Your Health." It argues that "corporate interest successfully infiltrated the federal government from top to bottom" during the Bush administration and concluded that federal regulatory agencies "are intimated and outgunned, and quiescent."

Some of the regulatory changes have drawn cheers from consumers, like a rule put into effect last month by the Department of Transportation that imposes fines of up to $27,500 per passenger on airlines for holding domestic flights on the tarmac for more than three hours.

But other recent proposals have provoked strong protests. For example, the F.D.A. announced in October that it intended to ban the sale of raw, untreated oysters harvested from the Gulf of Mexico in warm months. Fifteen deaths a year are attributed to eating oysters with a cholera-like bacteria.

Oyster farmers, restaurateurs and members of Congress campaigned to block the rule. Within a month, the F.D.A. announced that it was reconsidering, a move consumer advocates condemned. "This political victory for the Gulf Coast oyster industry is a health tragedy for their consumers," said David Plunkett, a senior staff attorney at the Center for Science in the Public Interest.

Executives at coal mining and offshore oil rig companies have also protested proposed expansions of federal regulations or a significant increase in fines -- although those complaints have become decidedly more muted after last month's catastrophes at a

West Virginia coal mine and on an oil rig in the Gulf of Mexico left dozens of workers dead.

Toymakers are also vigorously challenging rules imposed as part of a 2008 law that Mr. Obama helped push while he was still in the Senate that effectively bans lead in all children's products and then requires follow-up testing.

Anne M. Northup, a former Republican congresswoman from Kentucky whom Mr. Obama appointed to the Consumer Product Safety Commission, said an excessive number of new mandates was harming the toy market.

"Companies who put products on store shelves that consumers want should not be treated like the enemy," she said in a statement explaining her vote in March against new agency guidelines for imposing larger fines. "I want the agency to be perceived by consumers as protecting them and by industry as a fair cop -- not as a mindlessly punitive bureaucracy."

Other conservative critics have assailed the administration as creating a big-government nanny state that threatens the nation's global competitiveness. James L. Gattuso, an expert on regulatory policy at the Heritage Foundation, said the Obama administration was most likely inflating the cost savings and other benefits associated with many of its rule changes, disguising the negative impact they are having on the economy.

"The agencies that prepare these estimates are the same ones that proposed the new rules," said Mr. Gattuso, who released a report in 2008, "Red Tape Rising," on the rising cost of federal regulation.

Mr. Orszag defended the administration, saying if each new regulation is based on good science, and drafted to maximize the benefit while minimizing the costs, the country will be better off.

"If the assertion is that we are more willing to adopt policies that have benefits far in excess than cost, rather than being motivated by dogmatic opposition even when it generates huge benefits, then sure, guilty as charged," Mr. Orszag said.

Long-term effects on sea life unknown (*USA TODAY*)

May 13, 2010 Thursday
CHASE EDITION
NEWS; Pg. 2A
Long-term effects on sea life unknown;
Gulf spill poses new questions to scientists
BY: Rick Jervis
NEW ORLEANS -- Marine scientists warn that submerged oil and chemical dispersants in the widening Gulf of Mexico oil disaster could have long-lasting effects on the region's

sea life, from tiny plankton to giant squids.

Invisible to satellite imagery or aerial photography, the underwater plume of oil and chemicals is spreading from the damaged well nearly a mile below the surface where the Deepwater Horizon drilling rig exploded and sank last month. An estimated 210,000 gallons of oil a day is spewing from the well.

Federal scientists and marine biologists are scrambling to study what effect the oil and dispersants used to break it up are having on sea life between the seabed and the surface.

"The relatively new issue is what the long-term effect of that much oil ... could be and what that's going to mean over time," says **Lisa Jackson,** head of the **Environmental Protection Agency.** "The science isn't very clear on that yet because every spill is different. We've never had one quite like this before."

Questions of the spill's impact on the underwater ecosystem come as energy giant BP, which is leading cleanup efforts, increasingly focuses on the use of dispersants, chemical compounds that break the oil into smaller molecules and sprinkle them through the water between the seabed and the surface.

BP is faced with a choice: allow the oil to remain on the surface and potentially drift into fragile marshes or break it up underwater, where bacteria could gobble it up, says Robin Rorick, director of marine and security operations at the American Petroleum Institute.

"You'd rather have it break up (in the water) than wash up on shore and have animals -- birds, whales, porpoises -- swim through it," Rorick says.

Dispersants have never been used at such depths, and their effect on sea life is uncertain. Last week, the Mississippi-based National Institute for Undersea Science and Technology, in conjunction with the National Oceanic and Atmospheric Administration, dispatched a research ship to the spill to collect samples and analyze the toxicity of the water, says Vernon Asper, a marine science professor at the University of Southern Mississippi helping to lead the study.

Deepwater bacteria will naturally eat hydrocarbons such as oil, but not in such overwhelming quantities, Asper says.

"The bad news is there's a lot of oil out here," he says. "The dispersants are also worrying. Any time you put something that's unnatural into the environment you're asking for trouble."

The oil's most toxic elements burn off when they reach the surface, says Lisa Suatoni, a senior scientist for the Natural Resources Defense Council.

If dispersants keep the oil droplets suspended in the water, fish larvae and plankton, the

bottom rung of the food chain, could ingest them, potentially affecting entire fish populations, she says. Deepwater currents also could carry toxic matter to shallower water, affecting reef fish, crabs, oyster beds and other sea life, Suatoni says.

Contributing: Brian Winter in McLean, Va.

The Price and Who Pays: Updates From the Gulf (*New York Times*)

May 13, 2010 Thursday
Late Edition - Final
Section A; Column 0; National Desk; Pg. 18
By CLIFFORD KRAUSS and ELISABETH ROSENTHAL; Susan Saulny contributed reporting from New Orleans.

An explosion and fire on a drilling rig on April 20 left 11 workers missing and presumed dead. The rig sank two days later about 50 miles off the Louisiana coast. Since then, attempts to shut off the flow of oil streaming into the Gulf of Mexico have been unsuccessful and the search continues for a cause and for ways to prevent such blowouts in the future. Questions persist about who will be liable for damage from the spill and the risks to local wildlife. Following is an updated oil spill primer. A previous Q. and A. can be found at nytimes.com/national.

Q Who is liable for the cleanup costs and damage from the spill?

A Under a 1990 federal law, the primary leaseholder of the well, BP, is responsible for picking up the lion's share of the cleanup costs. Anadarko Petroleum and Matsui Oil Exploration together own 35 percent of the lease, and they would pay that share of expenses.

The law requires BP and the other leaseholders to pay an unlimited amount in direct cleanup costs. Their liability for other damage, such as ruined fisheries and lost tourist revenue, is legally capped at $75 million, although the company says it is willing to pay claims beyond that. Above the cap, the Oil Spill Liability Trust Fund, financed by a tax on oil companies, is supposed to pick up the tab, up to a total of $1 billion.

Craig Bennett, the director of the Coast Guard's National Pollution Funds Center, said that as of Wednesday morning, BP had received 6,414 claims, mostly from fishermen for lost wages and damage to their boats. He said the company had paid out $2.5 million so far, and "they have not denied any claims yet."

On Wednesday, President Obama proposed legislation to create a variety of emergency programs to advance money to people affected by the spill, bolster the trust fund through a higher tax on oil companies and raise the overall spending limit to $1.5 billion per accident. Separate legislation already introduced would raise a company's cap on

liability to $10 billion.

If it is found that BP was grossly negligent or broke federal safety regulations, there is no limit to what it must pay.

Insurance companies are likely to pay some costs, and BP's contractors could also face claims. Those contractors include Transocean, the rig's operator; Halliburton, the company responsible for cementing the well; and Cameron International, the maker of the blowout preventer, a device designed to shut off a well.

Q How much could all these costs add up to?

A Estimates vary greatly, especially because oil continues to gush from the well and most of it has not yet reached shore.

Morningstar, an investment research firm, has estimated that the environmental cleanup, payments to businesses like hotels that have suffered losses and other regulatory and legal liabilities could exceed $4 billion. According to the Insurance Information Institute, companies with exposure to liabilities are insured for losses totaling about $1.4 billion.

Q Will taxpayers end up paying the bill?

A BP says the leaseholders will pay cleanup costs and all legitimate damage claims.

The Obama administration says it is determined to make BP pay the entire cost of the accident. The company earns billions of dollars in profits every year, so even a multibillion-dollar tab would not cripple it.

"The U.S. government will seek to recoup every penny that it can from BP and its partners in the Deepwater Horizon project," predicted Robert Hartwig, president of the Insurance Information Institute. "There will be no tax dollars whatsoever that subsidize the payment insurers will make to parties involved in the Deepwater Horizon project."

Q A number of sea turtles and dolphins have been found dead along the gulf coast. Is this related to the spill or the use of chemical dispersants being used to clean up the area?

A So far, the deaths of 18 birds, 6 dolphins, and 87 sea turtles have been reported to the authorities as possibly related to the spill.

It is normal for a certain number of animals to wash up dead on beaches. This time of year, for example, dolphins can run into trouble when they come into shallower waters to have their calves.

In the case of sea turtles, Dave Westerholm of the National Oceanic and Atmospheric

Administration said that there was no external evidence of oil on the animals but that full autopsies had not yet been completed. As for the dolphins, Jane Lubchenco of NOAA said the government was still in "the discovery phase."

Q How much dispersant has been used so far?

A More than 400,000 gallons of dispersant have been applied to the spill, already far exceeding the volume of chemicals used to control other spills in the United States. "I think it's fair to say that when it comes to this volume, we're in uncharted waters," said Lisa P. Jackson, administrator of the **Environmental Protection Agency.**

MAY 12, 2010, 7:51 P.M. ET

BP Prepares to Lower 'Top Hat' on Oil Leak (*Wall Street Journal*)

By BRIAN BASKIN
BP PLC has lowered a new containment device to the floor of the Gulf of Mexico and will deploy it on a leaking oil well in the next two days, a company executive said Wednesday.
BP is still deciding whether first to attempt to lower the device, known as a top hat, onto the leak itself or to divert oil by inserting a tube into the broken pipe that once connected the well to the Deepwater Horizon rig, which caught fire on April 20 and sank two days later. In both cases, oil would then be funneled up to a rig on the surface.

Deployment could begin late Thursday or on Friday, said Doug Suttles, chief operating officer of BP exploration and production, speaking at a news conference in Robert, La. BP's attempt to cover the larger of two leaks with a much bigger device, known as a cofferdam, failed last week when ice-like crystals called natural-gas hydrates clogged the hole through which the oil was to be piped the surface.

BP is struggling to reduce the flow of oil from the well, which has leaked an estimated 5,000 barrels a day into the Gulf for three weeks. The spill has the potential to become the biggest ever in U.S. territory, surpassing the amount of oil released into Alaska's Prince William Sound by the Exxon Valdez tanker in 1989.

Most of the oil has remained offshore, though soft "tar balls" have washed ashore at the South Pass entry to the Mississippi River in Louisiana and on Alabama's Dauphin Island, according to Coast Guard Rear Admiral Mary Landry. Oil has washed ashore on Louisiana's Chandeleur Islands as well.

A total of 13,000 people are working on spill-recovery efforts. A large number of them are preparing for further landfall with clean-up and containment operations stretching from coastal Louisiana to St. Petersburg, Fla. The work ranges from clearing beaches of

debris so it doesn't become hazardous waste if oil washes onto it, to laying out containment boom to protect shoreline and inlets around the gulf.

More than 1.4 million feet of protective boom has been set up—the largest amount used for any U.S. oil spill. An additional 2.3 million feet is on order and "being delivered as we speak," Mr. Suttles said.

"The amount of boom that is out there is rather astronomical," Coast Guard Chief Warrant Officer Adam Wine said.

BP estimates the total cost of responding to the spill, including attempts to cap the deep-water well and compensate fisherman and others hurt economically, stands at $350 million to date.

Those fighting the spill have spread hundreds of thousands of gallons of chemicals that are supposed to break the oil into tiny particles that can then be digested by naturally occurring bacteria in the water.

The dispersant currently being applied in the largest quantity, Corexit 9500, is more toxic to certain organisms than some of the other dispersants approved for oil-spill use by the federal government, according to data from the Environmental Protection Agency. One reason officials have chosen to use Corexit is that large quantities were available immediately, EPA Administrator Lisa Jackson said at a news conference Wednesday. She said tests are being conducted on the dispersants' effects on the environment.

Executives at Nalco Co., the company that makes Corexit 9500, said the substance is far less toxic than oil.

Meanwhile, the Obama administration said Wednesday it would ask Congress for funds to help people affected by the spill, to boost the existing oil-spill cleanup tax by a penny a barrel and to raise the potential liability of companies responsible for spills.

The White House is seeking an increase of $118 million in discretionary spending for such things as additional social services and "one-stop" service centers for people to get benefits.

The Interior Department would get $29 million to increase oil-related inspections and to boost overall enforcement. The Food and Drug Administration would get $2 million to test and ensure seafood from the area is safe to eat.

—Jared A. Favole, Martin Vaughan and Jeffrey Ball contributed to this article.

Write to Brian Baskin at brian.baskin@dowjones.com

EPA, BP Eyeing Mega-Dispersant Operation (*Science Now*)

by Eli Kintisch on May 12, 2010 5:49
So far the government and BP have conducted several tests a mile deep in the ocean to deploy an oil spill cleanup technique that's never been attempted before: dispersing the oil with a chemical injected into the water at depth. Usually dispersant, which is a detergent that breaks up oil into tiny pieces, is used on the surface of spills. But this unprecedented crisis is calling for an unprecedented solution.

Environmental Protection Agency (EPA) Administrator Lisa Jackson told reporters on a conference call that officials had conducted three tests with robots to determine whether the dispersant, known as Corexit 9500, would work effectively deep underwater. If it didn't, she said, "it doesn't make sense to introduce a new tool to the marine environment." The first two tests didn't work "because of logistics" she said, suggesting that scientists had been unable to get water samples from the right location, though she was vague about the problem. But the third test had been conducted successfully, with scientists at Louisiana State University now analyzing water samples. NOAA Administrator Jane Lubchenco said that the tests were being done to measure chemical makeup of the treated oil at depth.

Jackson said EPA determined that the chemical was between 1/10 and 1/100 "as toxic as oil" and that breaking up the oil in the water column was better than treating it on the surface.

There are several reasons for using dispersant at depth, she said. It works best on fresh oil before it has had a chance to change consistency through evaporation. And mixing dispersant with the oil at its source may allow the cleanup crews to use less of it than if they used it on the surface.

May 12, 2010, 5:02PM

EPA unveils Chesapeake Bay restoration strategy (*Associated Press*)

Story also appeared: *Bloomberg Businessweek, WTOP.com*

By ALEX DOMINGUEZ
WASHINGTON
Standing above a distressed river that feeds the Chesapeake Bay, the top federal enivornmental administrator detailed a restoration plan for the waterway on Wednesday that relies on heavier regulation of pollution from sources such as large animal farms and city storm drains.

Environmental Protection Agency head Linda Jackson said the strategy, mandated exactly a year earlier by a presidential order, will hold everyone to higher levels of accountability than ever before.

"Protecting the Chesapeake Bay is about protecting the lives and livelihoods of 17 million Americans who live in this region. It's about people who live and work here," the EPA administrator said.

Jackson noted she had just returned from the Gulf coast and that the massive oil spill residents are struggling with serves as a vivid illustration of the value of waterways and wetlands to the health, environment, economy and "also to the way of life of an entire community."

The president's order put the federal government at the head of a previously state-led effort that has been fraught with missed deadlines and lawsuits by conservation groups. On Tuesday, the Chesapeake Bay Foundation announced it had settled a lawsuit filed against the EPA over the slow pace of recovery.

Foundation president Will Baker said the organization will watch closely.

"Enforcement is critical. We have a healthy skepticism. We've had plenty of promises before, but with our legally binding document from yesterday and this today, we think we may finally be on the road to recovery," Baker said.

The announcement was made on a wooden terrace over the Anacostia River at Kingman Island near RFK Stadium, where a pair of native red-tailed hawks were on display, held by handlers wearing leather gloves. The river, which runs through some of the district's most distressed areas before emptying into the Potomac, a key bay tributary, is the subject of its own $1.7 billion cleanup plan.

Christophe Tulou, director of the Department of the Environment for the District of Columbia, said the city has a strict new stormwater permit which is being viewed as a model but will be difficult to implement. Green roofs and rain gardens to catch runoff as well as other technologies are going to be needed to meet the permit's requirements, he said.

"The permit is a tough one," he said. "People are really going to have to be creative."

Farmers and agriculture officials were eager to point out the gains they have made in restoration efforts.

Agriculture Secretary Tom Vilsack, who spoke after Jackson, said no one cares more about soil preservation and water quality improvement than farmers, noting bay watershed farms have cut their pollutant loads in half since 1985 while pollution elsewhere has increased.

Vilsack added that no other federal agency has contributed more dollars to bay restoration, $130 million alone in 2009, and his department is working to implement new conservation's practices on 4 million acres in the bay watershed.

Wilmer Stoneman III, associate director of governmental relations for the Virginia Farm Bureau, who did not attend, said after the announcement that farmers have done much through the years to reduce run-off. He expressed concern his group's 155,000 members will bear the brunt of cleanup requirements, noting two-thirds of Virginia is either farmland or forest.

"The only basis they have for identifying us as the largest culprit is because agriculture and forestry in this state is still the largest land user," Stoneman said.

Stoneman said the EPA has been slow to establish specific pollution targets.

"It's still more of the same: more threats and no followthrough on the information we need to comply," Stoneman said.

EPA Announces Coal Ash Plan (*Epoch Times*)

By Mary Silver
Epoch Times Staff
Created: May 12, 2010 Last Updated: May 12, 2010
For the first time, the Environmental Protection Agency (EPA) called for nationwide rules for the management and disposal of coal ash from coal fired power plants. If the ash is reused in solid materials it cannot spill or contaminate water with toxic heavy metals.

“The time has come for common sense national protections to ensure the safe disposal of coal ash,” said EPA Administrator Lisa P. Jackson.

“We’re proposing strong steps to address the serious risk of groundwater contamination, and threats to drinking water, and we’re also putting in place stronger safeguards against structural failures of coal ash impoundments. The health and the environment of all communities must be protected.”

In 2008 a coal ash impoundment at a power plant broke open and spilled into Kingston, Tennessee, west of Knoxville. People were displaced, land and water were contaminated and millions of dollars in damage resulted.

To prevent such accidents, the EPA is proposing two ways of regulating coal ash. One relies on EPA performance standards enforced by citizen lawsuits. The other calls for federally enforceable national regulations. Coal ash reused in solid materials would be

exempt from the regulations. The agency invites public comments for 90 days. To see the proposals please see http://www.epa.gov/coalashrule.

BP's Oil-Dispersant Use Veers Into Uncharted Science (*Bloomberg Businessweek*)

May 12, 2010, 9:10 AM EDT
By Jessica Resnick-Ault and Jim Polson
May 12 (Bloomberg) -- BP Plc's effort to curb damage from the Gulf of Mexico oil spill is venturing into uncharted scientific territory as the company sprays more dispersant than has ever been used in the U.S.

BP is using airplanes to spray the detergent-like chemicals on oil reaching the ocean's surface from its Macondo well after an April 20 blast aboard the Deepwater Horizon rig, which sank two days later. BP has also used dispersants almost a mile under the water close to the leak, a method not tried before.

"People are concerned about the dispersants, but it's important to understand that what we are trying to do is deal with a pretty large situation," Environmental Protection Agency Administrator Lisa Jackson said in an interview yesterday. The EPA is trying to assess whether applying the chemicals underwater makes "a bad situation better," she said.

Areas closed to fishing by the National Marine Fisheries Service because of oil expanded yesterday to include about 7 percent of the Gulf of Mexico. Louisiana added to territory where oyster harvesting is prohibited. The federal closure also was extended south of the spill site and eastward toward Florida.

"Due to the shifting currents and winds, rapid changes in the location and extent of the spill are occurring," the federal fisheries service said in a bulletin. Alterations in the no-fishing zone may be announced daily at noon New York time, it said.

74,000-Barrel Leak

The well has leaked at least 74,000 barrels of oil, or 3.1 million gallons, threatening the coast from Louisiana to Florida. The spill total is based on Joint Incident Command's initial leak-rate estimates of 1,000 barrels a day and the 5,000-barrel-a-day estimate since April 28.

The Gulf of Mexico is one of the country's largest fishing grounds. Louisiana provides almost a third of the seafood in the lower 48 states, with values exceeding $2.85 billion a year, according to Governor Bobby Jindal.

Jindal, a Republican, said the state has told the EPA it is concerned about the impact of subsea dispersants on fisheries.

The chemicals are an environmental tradeoff, James Jones, a deputy assistant administrator for chemical safety and pollution prevention in the EPA, told a Senate Environment and Public Works subcommittee in Washington yesterday.

Reviewing Results

The EPA and National Oceanographic and Atmospheric Administration will review results of London-based BP's third test of subsea dispersant applications, completed yesterday, to determine whether the practice can continue.

Senator Lisa Murkowski, a Republican from Alaska, asked why chemical dispersants used to break up oil as it flows from the well weren't tested prior to the incident.

"It stuns me to think we know we'll need to utilize dispersants in the event of a spill and yet we haven't put in place the testing necessary," Murkowski said at a Senate energy committee hearing yesterday. "We probably lost days here. It's more than just a little bit frustrating."

Senators examining the Deepwater Horizon rig explosion challenged Lamar McKay, chairman of BP America, on spill preparations and the performance of a blowout preventer, a valve assembly intended to stanch the flow of oil in an emergency. BP had assumed the device would close, an executive said this week.

'Flailing Around'

"What I see is a company not prepared to address the worst-case scenario but a company that is flailing around trying whatever they think of next," Senator Robert Menendez, a New Jersey Democrat, said at the hearing.

Executives from BP, rig owner Transocean Ltd., and well contractors Halliburton Co. and Cameron International Corp. were invited to testify at a House subcommittee hearing at 10 a.m. New York time today.

The U.S. Coast Guard and Minerals Management Service are also holding the second day of hearings in Louisiana on the rig explosion and subsequent oil spill.

The dispersant chemicals are described by their manufacturer, Nalco Holding Co., of Naperville, Illinois, as similar to household soaps and detergents. The chemicals scrub the oil from the water, breaking the crude into small clumps that microbes will eventually be able to digest.

The dispersant, known as Corexit, contains 2-butoxyethanol, according to a data sheet from the company. That's a clear, colorless liquid that smells like ether, and can cause

irritation of the nose and eyes, headaches, and vomiting, if inhaled in large volumes, according to the Centers for Disease Control.

‘No Choice’

The chemicals will cause environmental damage, said Senator Benjamin Cardin, a Maryland Democrat, speaking at the Senate subcommittee hearing. While using the dispersing agents may be less damaging than allowing the oil to go untreated, the public may not realize the tradeoff being made, he said.

“We have no choice,” Cardin said. “We’ve got to prevent the oil from coming to the surface and getting into the currents or getting onto the beaches and destroying wildlife.”

A trade organization representing shrimpers said the agents could be harmful.

“The widespread use of dispersants on the surface of the water and deep in the Gulf of Mexico near the spill is an unprecedented and risky response that may be more damaging than the oil itself,” John Williams, executive director of the Southern Shrimp Alliance, said in a May 10 statement.

Exxon Valdez

The open Gulf has fewer juvenile fish and shrimp vulnerable to oiling than do the coastal marshes, NOAA spill trajectory forecaster Charlie Henry said last week. Using dispersant in the open ocean also lowers the amount of oil that could foul whales, sea turtles, and sea birds, he said.

Teams responding to oil slicks have used dispersants in the past, including on Alaska’s Prince William Sound after the Exxon Valdez spill in 1989.

BP sprayed the most dispersant ever used on a single slick in the U.S. within a week of the Macondo leak beginning, Dagmar Schmidt Etkin, a Cortland, New York-based oil spill consultant who has worked for BP, said April 30. At the time, the company had applied about 98,000 gallons of the chemicals.

Since then, planes have dropped a further 274,000 gallons of dispersant, the Joint Information Center said yesterday.

“We’re basically shifting the oil when dispersants are being used to a short-term potential threat offshore, to protect against a long-term threat near shore that we think is much more important in the balance,” Henry at the NOAA said. “All we can do is minimize the impact to the environment.”

--With assistance from Jim Efstathiou Jr. and Jeff Plungis in Washington, Kim Chipman in New Orleans, Aaron Kuriloff in New York and Mark Chediak in Kenner, Louisiana. Editors: Tina Davis, Kim Jordan

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EPA unveils Chesapeake Bay restoration strategy (Associated Press)

Story also appeared: *York Daily Record*, *Virginia Pilot, WUSA 9*

By ALEX DOMINGUEZ Associated Press Writer
Updated: 05/12/2010 11:31:41 AM EDT

WASHINGTON—A year after President Barack Obama issued an executive order to restore the Chesapeake Bay, the Environmental Protection Agency released its strategy for the nation's largest estuary.

EPA Administrator Lisa Jackson said Wednesday that the Gulf Coast oil spill was a vivid illustration of how valuable local waterways are. She says the bay strategy will hold everyone to higher levels of accountability than ever before.

The president's order put the federal government at the head of a previously state-led effort that has been fraught with missed deadlines and lawsuits by conservation groups.

The EPA strategy includes expanded regulation of large-scale animal farms and municipal storm water runoff as well as a strict "pollution diet" for the bay.

Obama administration offers new bay cleanup plan: Plan calls for tougher regulations on developers and farmers (*Baltimore Sun*)

Story also appeared: *WaterWorld*

By Timothy B. Wheeler, The Baltimore Sun
May 13---- The Obama administration's beefed-up plan to revive the Chesapeake Bay would toughen regulations on developers and farmers, preserve 2 million more acres of the watershed and give the public hundreds of new places to gain access to the bay and its tributaries.

Federal officials said the plan, unveiled Wednesday, would jump-start the lagging cleanup effort and hold all levels of government accountable for bringing vitality back to "a national treasure."

It calls for stricter enforcement of pollution laws, taking aim at the bay's biggest source of pollution: runoff of fertilizer and animal manure. It also would increase efforts to restore fish and wildlife, including reintroducing native oysters to rivers that haven't harbored the bay's signature shellfish for decades.

"We are initiating one of the most comprehensive restorations in decades," Environmental Protection Agency Administrator Lisa P. Jackson said at a news conference on a deck over the Anacostia River, one of the bay's most degraded tributaries.

The 171-page document features a dozen numerical goals to be achieved by 2025, the latest deadline state and federal officials have set for restoring the Chesapeake after more than 26 years of trying and billions spent with only modest results. The goals include:

-- Imposing new or expanded pollution-control measures on 4 million acres of farmland in the six-state watershed.

-- Preserving 2 million more acres of land from development across the region, including nearly 700,000 acres of forests, to safeguard their roles as natural pollution filters and habitats for wildlife.

-- Adding 300 more spots around the bay and its tributaries where people can get to the water, a 40 percent increase, on the premise that increasing public access will strengthen political support for the cleanup.

-- Restoring oysters in 20 rivers as part of a broad effort to revive the bay's once-thriving population. The plan also would set a higher population target for blue crabs, restore pollution-sensitive brook trout in headwater streams and nearly triple the population of black ducks that winter on the bay.

The plan, prepared over the past year in response to an executive order by President Barack Obama, represents an "unprecedented" level of federal involvement in the multistate restoration effort -- and could guide efforts to reclaim other polluted waterways, said Nancy Sutley, chair of the White House Council on Environmental Quality.

Administration officials added the numerical targets to the plan over the last six months, in response to widespread public criticism that a draft released in November was vague.

But the focus of the bay cleanup plan remains essentially unchanged. Bound by a 1999 court-ordered consent decree, the EPA intends to impose a strict pollution "diet" by the

end of this year on the estuary, as well as its rivers and streams. State and local governments will be expected to comply by upgrading sewage treatment plants and curbing polluted runoff from farms and other land.

Mindful of criticism that the bay cleanup has set ambitious long-range goals before, only to miss them, administration officials said they would join the states in drawing up interim, two-year targets or "milestones," with annual progress reports. They also pledged to arrange for an independent evaluation of how they're sticking to the plan.

The pollution cleanup measures spelled out in the plan mirror an out-of-court settlement the EPA reached two days ago with the Chesapeake Bay Foundation and others who sued in January 2009 accusing the federal government of shirking its responsibility.

William C. Baker, the foundation president, praised the federal strategy but said in a statement that "a plan alone will not deliver ... safe, clean water to the Chesapeake Bay." The settlement binds the federal government to act by an agreed-upon timetable or face the prospect of renewed litigation, he contends.

"We are determined to meet and exceed these goals," said Sutley, the president's environmental adviser.

Administration officials said that in addition to new regulations, they are increasing federal funding to help restore the bay. Jackson said the EPA has doubled direct aid to bay states to $11.2 million this year, while Agriculture Secretary Tom Vilsack committed to providing $700 million over the next four years to help the region's farmers pay for installing needed runoff-control measures.

Rena Steinzor, president of the Washington-based Center for Progressive Reform and a University of Maryland law professor, said "there's a lot" in the bay federal strategy. But the key to its success, she added, depends on how firm the EPA is with bay states in demanding that they adopt needed pollution controls on time. States, which have failed in the past to meet self-imposed goals, are expected to spell out their plans by November for meeting the EPA's new clean-water limits.

"EPA has to be ready to crack down on these people if they don't meet these deadlines," Steinzor said. "Otherwise we're going to get on the carousel and ride around again."

Others were troubled that the plan remains vague about what the federal government will do if states fall short or miss deadlines. The document says states may lose federal funds or could have needed permits held up, but it does not specify when those sanctions might begin.

"It's the same thing we've seen before," said Piper Crowell of Environment America, a Washington-based activist group with branches in the bay states.

"This is a great public event, and the attention is much-needed on this issue," she added. "But the rubber hits the road when the states put together their plans and EPA reviews them."

The EPA's impending pollution "diet" for bay states and communities -- though mandated by a court-ordered consent decree -- could still be vulnerable to legal challenge by businesses, farmers or local officials who might object to the costs and question the agency's right to impose it. New Chesapeake legislation introduced in Congress last year by Sen. Benjamin L. Cardin and Rep. Elijah E. Cummings, both Maryland Democrats, would address that, activists said.

"It helps give a legal backing to some of the things that EPA would like to do and just reinforces their authority," said Ryan Ewing, spokesman for the Choose Clean Water coalition, representing more than 40 environmental groups in the bay region.

The bill also would authorize $1.5 billion in new federal aid for controlling polluted storm runoff from urban and suburban lands, a growing threat to water quality. And it would create "markets" for reducing pollution, where factories or wastewater plants seeking to avoid costly controls on their discharges could pay farmers to curb runoff from their fields instead.

"The big question for the Obama administration now is, What's their position on the Chesapeake Clean Water Act?" said Baker, the bay foundation's president. To date, administration officials have declined to say whether they support the legislation, which has yet to move in either chamber of Congress.

To read a summary or the full plan, go to http://executiveorder.chesapeakebay.net/

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EDITORIAL / OP-ED / COMMENTARY / LETTERS
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Cool the global-warming talk (*Washington Post*)

May 13, 2010 Thursday
Regional Edition
EDITORIAL COPY; Pg. A16
Maryland
Regarding the May 7 editorial "Mr. Cuccinelli's witch hunt":
The things we don't know about the climate far exceed the things we do. The admitted uncertainties and disclaimers in all climate science attest to the incredible complexity of our global climate. The complete absence of these disclaimers in the popular media and in the Intergovernmental Panel on Climate Change's political "Summary for

Policymakers" gives the false impression that the science is settled. When the uncertainties are projected 100 years into the future, the results are chaotic, and treating global warming as the greatest challenge of the century is irresponsible.

The inquiry of Virginia Attorney General Ken Cuccinelli II (R) is pushing the envelope, but our mad rush to save the world 100 years in the future is far worse.

Paul C. Quigg, Luray

Though wind power isn't free, benefits justify extra cost (*Boston Globe*)

May 13, 2010 Thursday
EDITORIAL OPINION; Editorial; Pg. 14
NO ONE EVER said the electricity from the turbines of Cape Wind would be cheap, and last week Massachusetts learned what the price tag would be - about $1.59 a month for an average household in the National Grid service area. That addition to the bill isn't negligible, but the benefits aren't just environmental. The extra nickel a day will also pay off in more predictable rates for consumers.

Cape Wind communities will be getting more than a green merit badge. The electricity produced by the project's 130 turbines involves no fuel cost and will provide a hedge against the steep price fluctuations of natural gas, which powers many of the region's generators. According to the state, rising costs of natural gas are to blame for a tripling of electricity bills in Massachusetts in the past decade. The state's data show that, because of gas price spikes in recent years, on some occasions consumers would have paid less if Cape Wind's turbine blades had been rotating out on Nantucket Sound.

Between the summer of 2008 and the beginning of this year, National Grid's average customer bill dropped $20 per month because of the fall in gas prices - but in the decade before that, gas prices pushed up average state bills by 11 percent a year. To help level the seesaw, National Grid has decided to buy half of Cape Wind's output for 15 years, which should help offset any future spikes in gas prices, while helping the wind developer get financing for the $1 billion project.

The long-term cost advantage of Cape Wind will be more pronounced if the United States puts a price on carbon dioxide emissions. The climate-change bill passed by the House last summer and the one pending in the Senate do just that by capping total emissions and pushing utilities to curb their use of fossil-fuel plants and seek out clean power sources. Even if the climate-change legislation does not pass, the Environmental Protection Agency is empowered to force reductions in carbon emissions, potentially increasing the cost of electricity from fossil fuels.

Nine European countries already have built 800 wind turbines off their coasts. Wind power causes no oil spills, deadly coal-mine disasters, or emissions of greenhouse

gases. Its price is currently a tick above the going rate for natural gas, but it is too valuable not to have in the region's electricity mix.

Ban Leaf Blowers (*Pittsburgh Post-Gazette*)

(Pennsylvania)
May 12, 2010 Wednesday
SOONER EDITION
EDITORIAL; Pg. B-5
BAN LEAF BLOWERS;
THEY SCREECH; THEY POLLUTE; THEY'VE GOT TO GO
By Marcia Barr/Janet Aronson
The loud, screaming leaf blower ... it's not just for leaves anymore.

Leaf blowers are now used to blow dirt and debris from one place to another, from driveways to sidewalks, from sidewalks to streets until the wind blows them back again. What's wrong with this picture?

Because they operate at such high velocities, leaf blowers send up swirling clouds of airborne mold, gas fumes and other allergens, including dried fertilizer, lawn herbicides and pesticides, dirt, dust, bugs, leaf parts and animal fecal matter. We are all inhaling these particles.

They're noisy, too. A normal decibel level, considered acceptable in residential areas, is about 60 decibels. Manufacturer-reported noise levels from leaf blowers range from 62 to 75 decibels at a distance of 50 feet. According to the U.S. **Environmental Protection Agency,** this level of noise degrades quality of life. It interferes with communication and sleep, and it increases stress, which can linger hours after exposure and compromise performance.

The American Lung Association reports that leaf blowers in the San Francisco Bay area alone create 1.4 tons of smog-forming compounds and 15 tons of carbon monoxide in one day. A gasoline-powered leaf blower generates as much tailpipe emissions in one hour as an automobile does over 350 miles.

Exhaust emissions from gasoline-powered leaf blowers contain the following pollutants: hydrocarbons from both burned and unburned fuel, which combine with other gases in the atmosphere to form ozone; carbon monoxide; fine particulate matter; benzene, 1,3-butadiene, acetaldehyde and formaldehyde.

Emissions from all small-engine yard machines, including lawn mowers, weed trimmers and leaf blowers, contribute 5 percent of all air pollution annually. This percentage, while high compared to on-road mobile sources on a per engine basis, is a small part of the overall emission inventory. Nevertheless, any quantity of an easily avoided pollutant is too much.

Who is at risk? Do you have allergies? Are you a senior citizen? Do you have asthma or other respiratory problems, sore throats or headaches? Is your health compromised in any way? Do you or your child care provider take your infants or small children outside in strollers or wagons? Do you use a leaf blower? We are all at risk.

What's the point? Don't we have enough noise and pollution in our environment just standing on a corner, waiting for the bus or listening to the necessary sounds of ambulances, fire trucks and police cars? How badly do we need pristine driveways and sidewalks?

Many of us survived the era of black smoke and pollutants from steel mills and coke ovens in Pittsburgh. It's been a long time since the infamous Pittsburgh pollution blackened buildings and clothing. During the 20th century, we made vast air quality improvements. But clearly we still have a lot of work to do.

In 2009, the American Lung Association rated air in the Pittsburgh metropolitan area second worst in the nation for year-round particle pollution behind only Los Angeles. Leaf blowers in a congested city like Pittsburgh are adding to this pollution.

Let's get back to brooms and rakes. If you don't want to use a rake, try a leaf sweeper. It swoops up leaves into a handy collection bag as you roll it over your lawn or driveway.

Pick up a pen and write to government officials, too. Approximately 400 cities and towns have banned or controlled blowers nationwide.

Let's get wise and ban the use of leaf blowers in our wonderful city. We all deserve the right to breathe clean air, and we will live longer and healthier lives if we limit our exposure to pollution and environmental toxins.

NOTES: Marcia Barr (marcia.barr@gmail.com) is an environmental engineer who has worked in health care and industry for 12 years and Janet Aronson (jaronson@wisc.edu) is an activist who promotes healthy environmental practices in neighborhoods. They both live in Oakland./

AIR

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A Burning Issue: Heated debate - Does wood smoke health risk warrant regulation? (*Enterprise Record*)

By STEVE SCHOONOVER - City Editor
Posted: 05/13/2010 12:00:00 AM PDT

On the evening of Dec. 8 last year, Butte County residents hurried home from work, eager to reach the warmth of their homes. The area was in the grip of a cold snap, with highs in the mid-40s for several days and overnight temperatures in the low 20s.

As soon as they arrived home, in thousands of those dwellings fires were lit in fireplaces or wood-burning stoves to drive off the chill. Smoke began drifting out of numerous chimneys.

The smoke was mostly carbon monoxide, with some carbon dioxide, other gases and water vapor. Suspended in the mix were microscopic bits of ash and tar, residue from the burned wood.

And while warmth spread inside, pollution levels outside rose above federal health standards.

The gases and vapor from the smoke had dissipated quickly, but the microscopic particles took a while to drift to the ground. The tiniest ones would float for hours. And they were a form of pollution the Environmental Protection Agency has found to be dangerous.

For the rest of the night in Chico, with the county's largest and densest concentration of wood stoves, as much as 38 pounds of those tiny bits would hang in the air at the level where Chicoans were breathing it, based on readings at the California Air Resources Board's Chico pollution monitor. Roughly another 12 pounds of similar-sized bits from other sources also would be in the mix.

Dec. 8 turned out to be the winter's biggest violation, but the clean air stanwas violated an average of 33 days each winter. This year's improvement is attributed to an increase of rain, which washed the bits out of the air more quickly.

The violations were common enough that in December 2009, the EPA set a three-year deadline to clean it up. With the timing of pollution spikes and the chemical signature of the microscopic bits pointing to wood stoves as the main source of the problem, a bitter controversy has resulted, dividing residents, politicians and health professionals.

Many local residents don't see a problem. They enjoy the warmth, ambiance and economy of their wood fire, they say, without any dire health effects. They resent government intrusion into the sanctity of their homes, and fear having a crucial source of heat taken from them.

But for some other Chico residents — especially children, the elderly and those who suffer from breathing or heart issues — doctors and medical experts agree the particles in wood smoke pose a risk.

Dr. Norman McCann, a Chico allergist, said his patients with persistent asthma can have inflamed bronchial tubes, and that soot from wood smoke can make that

inflammation worse. He recalls seeing patients with asthma so severe that he advised them to switch to another form of heat.

Today's stoves are better sealed, so that people using them are less affected by the smoke, he said.

"But what's coming out of their chimneys affects other people," he said. "I think for the benefit of the health of society, it behooves them to regulate it."

The weight of federal law stands behind those who see wood smoke as a health problem.

The Clean Air Act charges EPA scientists with determining at what level a variety of pollutants become health risks. That finding becomes a limit all local air quality districts are required to stay within. In districts that exceed the standard, a plan has to be prepared to eliminate enough of the pollutant to get below the limit.

The EPA has set such standards for a number of pollutants, including the "small particulate" pollution linked to wood smoke.

In most districts that have faced wood smoke problems similar to Butte County's, part of the solution has been to legislate some form of mandatory wood-burning prohibition on bad air days. That's the case in Sacramento, the Bay Area, the San Joaquin Valley and 13 other of the state's 35 air districts. Reno, Nev., has had similar regulations since 1986.

The Butte County district has tried voluntary wood-burning advisories since the winter of 2005-06, using public service announcements and e-mail notifications asking people not to burn when bad air quality was expected. But even with that, there have been 113 violations in that past half-decade.

So last September, the Butte County Air Quality Management District staff presented a proposal to its governing board for a mandatory rule to reduce wood burning on days when bad air is forecast.

The measure failed to get the six votes necessary to pass.

"There's a limit on what we can do to keep people safe," Air Quality Board member and county Supervisor Bill Connelly of Oroville told the Enterprise-Record. "Common sense has left the process.

"Some of their figures are just pulled out of the air, and then they run with them ... If you don't go along, they call you anti-health of people," said Connelly.

"This air quality stuff is so invasive, intrusive on people's freedom," he continued. "It just doesn't seem that bad."

The Air Quality Board vote didn't stop the clock ticking toward the EPA's December 2012 deadline for completion of a plan.

After the measure's defeat, the city of Chico took up the issue of mandatory restrictions on bad-air days. The City Council in January directed its staff to prepare an ordinance based on the Air Quality District's rejected rule. Its proponents hope to pass the measure and have it in place by November.

Even if the city's effort were to fail, wood-burning restrictions eventually could still come to Chico, and even most of Butte County, because the EPA has declared a large swath of the county to be out of compliance with the Clean Air Act.

If the EPA isn't presented a cleanup plan it finds sufficient to solve the problem, it can impose its own. That action would also come with a cut-off of federal highway dollars.

But EPA officials say that's unlikely.

"The sanctions are so big we never get there. The state won't let it happen," said Kerry Drake, associate director of the Air Division in the EPA's Pacific Southwest Region, which includes California, Nevada, Arizona, Hawaii and the Pacific Island territories.

He explained there's a process to be followed that includes an inventory of pollution sources — already under way by the CARB — followed by development of measures to cut pollution from those sources.

Under state law, the local Air Quality District would prepare rules for stationary sources — like wood stoves — and send it on to the state. The state would add rules for cars and trucks and forward it to the EPA.

He said the EPA has a year after the state plan is presented to decide whether it's acceptable. If not, 18 months after that, one level of sanctions could be imposed, and six months later — which could be as late as 2015 — the agency could impose its own plan for Butte County and cut off highway funding.

Drake pointed out the schedule allows plenty of time to get a Butte County plan prepared, which is what he expects to happen.

"It's a healthy conversation to have that the Clean Air Act does allow sanctions," he said, "but we're not even close to being in a threatening posture with Butte County."

Is wood smoke really the source of Chico's particulate pollution? Skeptics point to cars and trucks, agricultural burning and burning of prunings and yard waste — still allowed outside the Chico city limits — as more likely sources.

Air quality officials agree all those sources do contribute to a base level of Chico's particulate pollution in winter.

From the chemical composition of the particles found in the Chico monitoring station, the CARB has determined that on an average day, the breakdown looks like this:

- "Mobile sources" — cars and trucks — are responsible for 8 percent of the particulates.
- "Managed burning" — agricultural and yard waste burning — adds another 14 percent.
- Industrial processes contribute 15 percent.
- Farm equipment operation and construction are responsible for another 5 percent.
- Road dust from paved and unpaved roads amounts to 8 percent.

But residential burning is pegged for 47 percent — almost half — of the particles on a daily basis. And that's on an average day, when the federal health standard isn't exceeded.

On days when Chico's air is determined to be unhealthy, the CARB monitors find virtually all the additional particles that put the city over the standard are organic carbon — the byproduct of wood combustion. On the days when the standard is exceeded, organic carbon rises as high as 75 percent of the total pollution.

That could be from agriculture or yard burning, except that it happens at night and first thing in the morning, when the only fires that are burning are warming homes.

Even before new regulations are enacted, some residents have already made changes — often reluctantly.

A wood stove is the only source of heat in Patty Betonte's old house in Butte Creek Canyon. Out of guilt, Betonte said, she and her husband bought a new EPA-approved stove last year.

"They make you feel guilty," she said. "A guy wrote in to the paper about how the smoke was killing him. It does make you feel guilty."

Betonte, 62, is retired after a career of working many different jobs. She was born in Chico and raised in Orland and comes from "a farm family."

She added she's not sure about reports that wood smoke hurts people's health. On the one hand, it seems many people use wood stoves and suffer no ill effects. But it may be that at some point conclusive evidence will be found that wood smoke is harmful, she said.

Betonte's quite sure of one thing, however.

"I want to be warm," she said. "I hate being cold."

Tomorrow: Health and wood smoke.

City Editor Steve Schoonover can be reached at 896-7750 or sschoonover@chicoer.com. Staff writer Larry Mitchell and Deborah Schoch of the Center for Health Reporting contributed to this report.

EPA seeks help to find man in Vegas smog test scam (*Associated Press*)

Story also appeared: *Las Vegas Sun*

Wednesday, May 12, 2010 | 11:17 a.m.

Environmental Protection Agency investigators are looking for a Nevada man accused of failing to surrender to federal authorities after his indictment in January in a smog testing scam.

The EPA on Tuesday said Joseph DeMatteo was one of 10 vehicle emission testers from Nevada accused by a federal grand jury of falsifying emissions test reports in Las Vegas between November 2007 and May 2009.

Falsifying test reports is a Clean Air Act violation carrying up to two years in prison and a $250,000 fine.

DeMatteo is accused of "clean scanning," smog tests using vehicles that pass emissions tests but entering the identification number of vehicles that would fail.

Emission testing is required in the Las Vegas area to reduce harmful levels of ozone and carbon monoxide in the air.

EPA resolution goes to Governor; Sens. Kerry, Lieberman announce new emission legislation (*Dodge City Daily Globe*)

By Katie Stockstill, managing editor
The McPherson Sentinel
Posted May 12, 2010 @ 06:04 PM
Topeka, Kan. —

With the Environmental Protection Agency threatening to take the reigns of climate control, Kansas lawmakers have made clear this disapproval of the EPA's December 2009 Clean Air Act.
A resolution passed by both the Kansas House and Senate and now awaiting the Governor's signature, will prohibit the state from encouraging the implementation of the EPA's endangerment finding" regarding greenhouse gases.
Senator Tim Huelskamp, R-Fowler, authored the legislation as a means of opposing the implementation of the EPA's Clean Air Act.

““I’m determined to do what is best for our Kansas economy, and that is to oppose the EPA implementation of their cap-and-trade regulatory scheme at every possible opportunity,” Huelskamp said in a release issued Tuesday.
The resolution has no legal authority but puts into writing the state’s objection to the EPA taking over implementation of the Clean Air Act.
Kansas Independent Oil and Gas Association President Ed Cross praised Huelskamp’s efforts noting that Kansas relies heavily on oil and gas production, both of which could be significantly impacted by EPA endangerment findings.
But the EPA may soon not be the only Washington agency looking to quell carbon emissions.
On Wednesday, Sens. John Kerry, D-Massachusetts, and Joe Lieberman, I-Connecticut, announced a new, broad-based approach at cutting greenhouse gas emissions while not harming the nation’s oil and gas industries.
“The American Power Act” will address a range of energy issues including expanding nuclear power production, incentives for more clean coal generation and funding for alternative energy.
The goals outlined in the plan are similar to those set by the Obama administration in the cap-and-trade legislation that passed the House last year but failed to gain Senate approval. By 2020, law makers want to see emissions reduced 17 percent from 2005 level, reduced 42 percent by 2030 and 83 percent of 2050.
The legislation does not immediately hit the industrial section but does include a tax on emission above allowable limits. It also provides for discounts and direct rebates for consumers as a means of helping Americans “who may be disproportionately affected by potential increases in energy prices.”
The plan does include expansions in offshore drilling but provisions were recently added to allow states a greater ability to keep drilling off their coasts.

N.J. DEP wants U.S. EPA to cut pollution at Portland Generating Station (*Lehighvalley Live*)

Thursday, May 13, 2010
By DOUGLAS B. BRILL
The Express-Times
In its latest attempt to stem coal pollution from neighboring Pennsylvania, the New Jersey Department of Environmental Protection has asked the U.S. Environmental Protection Agency to make the Portland Generating Station emit 95 percent less sulfur.

The DEP, in a petition filed Wednesday under the federal Clean Air Act, claims the 52-year-old coal-fired power plant is among the least efficient in the country, emitting more sulfur dioxide than seven of New Jersey's coal-fired plants combined.

The petition says the plant should install a scrubber that would catch 95 percent of sulfur dioxide before it leaves the plant's smokestacks. The plant, which is owned by

Houston-based RRI Energy, is in Upper Mount Bethel Township, across the Delaware River from Knowlton Township.

"New Jersey has some of the worst air quality in the nation already and plants like this make the problem worse," DEP Commissioner Bob Martin said in a statement. "Much of New Jersey's poor air quality is attributable to upwind, out-of-state pollution sources like the Portland plant."

A vice president for RRI Energy, formerly Reliant Energy, said the Portland Generating Station has met all regulations of an operating permit issued by the Pennsylvania Department of Environmental Protection.

"RRI Energy and the employees at the Portland plant take compliance with environmental regulations seriously," RRI Vice President of Environmental Safety and Health Ed Feith said in a statement.

"We are aware that expected future rules will be even more restrictive than today's permit standards and fully intend to take the necessary steps to comply with future rules as they are developed and become effective," he said.

RRI installed mercury scrubbers at Portland in 2008 after Pennsylvania tightened rules for mercury emissions.

The petition marks New Jersey's third complaint in three years about the Portland Generating Station.

In February 2007, then-New Jersey Attorney General Stuart Rabner claimed in a suit against the EPA that the EPA disregarded New Jersey's objections to a new operating permit for the Portland plant.

In 2008, New Jersey claimed in a Clean Air suit against RRI that the Portland plant emitted unlawful levels of sulfur dioxide, nitrogen oxides and fine particles.

Both cases are pending in U.S. District Court in Pennsylvania.

A complaint New Jersey made against Allentown-based PPL in 2003 led to the closure of two coal-fired power plants in Lower Mount Bethel Township.

PPL agreed to stop using coal at its Martins Creek facility after the New Jersey DEP intervened in PPL's proposal to expand the facility. New Jersey environmentalists billed that as the first time New Jersey was able to negotiate the shutdown of an out-of-state coal-fired power plant.

The company now uses oil and natural gas at its Martins Creek facility.

Reporter Douglas B. Brill can be reached at 610-258-7171 or dbrill@express-times.com. Talk about issues in your town at lehighvalleylive.com/forums.

Anchorage Assembly votes to end emissions testing (*Anchorage Daily News*)

(05/12/10 07:35:37)

The Anchorage Assembly voted unanimously Tuesday night to end the city's vehicle emissions testing program because it is no longer needed.

The Anchorage Daily News reports the testing began in 1985 to help meet federal clear air standards for carbon monoxide. Anchorage has not violated the standard since 1996.

City drivers are required to have cars and trucks tested every two years. Fees can cost up to $68.

Air Quality Program Manager Steve Morris says it will take until April to end testing because of of public notices required by the state and the Environmental Protection Agency.

Posted on Wed, May. 12, 2010

PACCAR MX Engine Earns EPA 2010 Certification (Bradenton Herald)

PACCAR (Nasdaq:PCAR) today announced that the Environmental Protection Agency (EPA) has certified the PACCAR MX 12.9-liter diesel engine to the 2010 emission standards. The PACCAR MX engine certification and compliance with EPA 2010 emission regulations allows the PACCAR MX engine to be installed in Kenworth and Peterbilt vehicles in North America, effective immediately.

“PACCAR customers have benefited from the superior performance of the PACCAR MX engine in DAF vehicles for years,” said Mark Pigott, PACCAR chairman and chief executive officer. “Kenworth and Peterbilt customers will now be able to enjoy the industry-leading reliability, fuel economy and resale value of world-class vehicles with PACCAR MX engines.”

“The EPA certification is an important milestone in establishing the PACCAR MX engine in North America,” said Jim Cardillo, PACCAR president. “The proven performance of the PACCAR MX engine will deliver outstanding reliability and durability, as well as excellent fuel efficiency and lower operating costs to our customers. Over 1,500 Kenworth and Peterbilt vehicles with MX engines have been ordered.”

The PACCAR MX engine is available with a horsepower range of 380 to 485 h.p. and torque up to 1,750 lb-ft. MX engine production in North America begins this summer at PACCAR's new engine facility in Columbus, Mississippi. The PACCAR MX engine has completed over 50 million miles in an extensive testing program. In addition, the MX engines have successfully completed evaluation in hot and cold temperature extremes, high altitudes and difficult vocational applications.

PACCAR previously announced the use of selective catalytic reduction (SCR) with its MX engines to meet the oxides-of-nitrogen (NOx) requirements for the 2010 EPA diesel engine emissions regulations. "The MX engine meets the stringent emission standards of 0.2 grams per brake horsepower hour of NOx and the 0.01 grams per brake horsepower hour of particulate matter," said Craig Brewster, PACCAR vice president. "The combination of SCR, a diesel particulate filter, and controlled exhaust gas recirculation (EGR) will provide PACCAR customers a highly efficient solution to the 2010 emission requirements."

PACCAR is a global technology leader in the design, manufacture and customer support of high-quality light-, medium- and heavy-duty trucks under the Kenworth, Peterbilt and DAF nameplates. PACCAR also designs and manufactures advanced diesel engines and provides financial services and information technology and distributes truck parts related to its principal business.

PACCAR shares are traded on the Nasdaq Global Select Market, symbol PCAR, and its homepage is www.paccar.com.

ASBESTOS

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EPA fines 3 Arizona charter school operators (*Associated Press*)

Story also appeared: *KOLD News 13*

May 12, 2010 6:34 PM ET
PHOENIX (AP) - The U.S. Environmental Protection Agency has fined three Arizona charter school operators for asbestos violations.

EPA officials say Career Success Schools was fined $12,580 for failure to conduct inspections at four schools and failure to develop an asbestos management plan at three schools - Main Campus, SAGE and Copper Square, all located in Phoenix.

They say Precision Academy System, Inc. was fined $9,700 for failing to develop an asbestos management plan for Precision Academy System Charter School in Phoenix. Vail Unified School District was fined $5,200 for failure to conduct inspections or develop asbestos management plans for Vail High School and Civano Charter School, both located in Tucson.

EPA discovered the violations in 2008 and say all three charter school operators now have asbestos management plans in place.

AWARDS

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EPA Awards Small Businesses Nearly $2.5M For Environmental Technologies (*Small Business Finance News*)

Written by Resources for Entrepreneurs Staff
Published: 5/12/2010
Eleven small businesses in various environmental fields have been awarded funding from the Environmental Protection Agency.
The U.S. Environmental Protection Agency has awarded 11 small businesses nearly $2.5 million to support their environmental work. This is significant news for entrepreneurs working in the eight areas recognized: air emissions, green buildings, biofuels, drinking water monitoring, water infrastructure, hazardous waste monitoring, nanotechnology, homeland security and innovation in manufacturing.

Funds announced this week are being given in addition to the "proof of concept" awards granted to the companies by the EPA last year. They will be used by the businesses to move technologies toward commercialization.

Dr. Paul T. Anastas, assistant administrator for the EPA's Office of Research and Development, said that "the health and prosperity of our nation is due to the strength and ingenuity of our small businesses." He explained that the awards would "spur innovation" from small businesses "so they can continue driving our economy and powering our environmental successes."

Last week, the EPA invited small businesses to nominate representatives for a Small Business Advocacy Review Panel. The panel will assist the administration as it creates fine particle emission limits for new residential wood heaters and other burning devices.

Guident to usher in EPA emergency management portal (*Washington Techonology*)

Two-year award is worth $8 million to Herndon, Va., company

- By David Hubler
- May 12, 2010

Guident will provide emergency management assistance to the Environmental Protection Agency under a two-year task order that could be worth as much as $8 million.

The work entails developing and integrating an Emergency Management Portal for EPA's Office of Emergency Management, which will rely on the portal as a single point of entry for the emergency management community.

The portal will unite prevention, preparedness and response information to give EPA's emergency management community quick access to the information needed to respond to human health and environmental emergencies related to oil and hazardous substance release, according to a May 11 company announcement.

The task order was issued through Guident's agencywide blanket purchase agreement, and it brings the Herndon, Va., company's total support since early 2009 to 15 business intelligence and systems engineering-related projects at nine EPA offices.

Among Guident's recent awards was a four-year, $9.5 million contract to provide business intelligence support services to the Social Security Administration.

CLIMATE CHANGE / GLOBAL WARMING

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Senate Gets a Climate and Energy Bill, Modified by a Gulf Spill That Still Grows (*New York Times*)

May 13, 2010 Thursday
Late Edition - Final
Section A; Column 0; National Desk; Pg. 18
By JOHN M. BRODER
WASHINGTON -- The long delayed and much amended Senate plan to deal with global warming and energy was unveiled on Wednesday to considerable fanfare but uncertain prospects.

After nearly eight months of negotiations with lawmakers and interest groups, Senators John Kerry, Democrat of Massachusetts, and Joseph I. Lieberman, independent of Connecticut, produced a 987-page bill that tries to limit climate-altering emissions, reduce oil imports and create millions of new energy-related jobs.

The sponsors rewrote the section on offshore oil drilling in recent days to reflect mounting concern over the oil spill in the Gulf of Mexico, raising new hurdles for any future drilling off the Atlantic and Pacific coasts while allowing it to proceed off Louisiana, Texas and Alaska.

Mr. Kerry said the United States was crippled by a broken energy policy and falling behind in the global race for leadership in clean-energy technology.

"We're threatened by the impacts of a changing climate," he said in a packed Senate hearing room. "And right now, as one of the worst oil spills in our nation's history washes onto our shores, no one can doubt how urgently we need a new energy policy in this country. Now is the time to take action."

It may be difficult, however, for him to persuade the Senate to act. The country is nervously watching efforts to halt the gulf spill, the Senate is torn by deep partisan hostility and the public is uncertain whether the benefits of combating global warming are worth the costs. There is also no assurance that the bill will break through the crowded Senate calendar to reach the floor this year.

No Republicans have stepped forward to support the two senators' efforts.

President Obama endorsed the proposal.

"Americans know what's at stake by continuing our dependence on fossil fuels," Mr. Obama said Wednesday. "But the challenges we face -- underscored by the immense tragedy in the Gulf of Mexico -- are reason to redouble our efforts to reform our nation's energy policies. For too long, Washington has kicked this challenge to the next generation. This time, the status quo is no longer acceptable to Americans."

He called on the Senate to move ahead so that a final bill could be enacted this year.

One of the central elements of the Senate bill -- incentives to increase domestic offshore oil production -- was changed in the aftermath of the explosion and fire on the Deepwater Horizon drilling rig in the gulf on April 20, which left an undersea well leaking oil. Instead of providing for a broad expansion of offshore drilling, the measure would have the effect of sharply limiting oil operations off the Atlantic and Pacific coasts by giving states the right to veto any drilling plan that could cause environmental or economic harm.

The original oil drilling provision was drafted in part by Senator Lindsey Graham, Republican of South Carolina, a supporter of expanded drilling and an important envoy to other Republicans. Mr. Graham had been a partner in drawing up the climate legislation, but he dropped out of the effort last week over the problems raised by the gulf spill and an unrelated dispute with the Senate leadership over immigration.

Mr. Graham said Wednesday that while he agreed with many of the goals of his former partners, he did not think that the Senate was likely to act this year.

"The problems created by the historic oil spill in the gulf, along with the uncertainty of immigration politics, have made it extremely difficult for transformational legislation in

the area of energy and climate to garner bipartisan support at this time," he said.

The Kerry-Lieberman proposal would treat each major sector of the economy differently, while providing something for every major energy interest: loan guarantees for nuclear plant operators, incentives for use of natural gas in transportation, exemptions from emissions caps for heavy industry, generous pollution permits for utilities for years, modest carbon dioxide limits for oil refiners and substantial refunds for consumers.

The bill's overall goal is to reduce greenhouse-gas emissions by 17 percent (compared with 2005 levels) by 2020, and by 83 percent by 2050. The targets match those in a House bill passed last year and in the Obama administration's announced policy goal.

There is no economywide cap-and-trade system like that in the House measure, but electric utilities will face limits on their greenhouse-gas emissions and a market will be established to allow them to trade pollution permits. The leader of the main utility industry trade group, Thomas R. Kuhn of the Edison Electric Institute, stood with Mr. Kerry and Mr. Lieberman on Wednesday and endorsed their bill.

The oil industry will have to buy emissions permits, based loosely on the price set in the utility-trading markets. It is expected they will pass along added costs to consumers in the form of higher fuel prices. The American Petroleum Institute said it was withholding judgment until the measure's effects on the oil and gas industry could be analyzed. Some oil companies, however, including BP and ConocoPhillips, have indicated their support.

It cannot yet be known whether the concessions and compromises embodied in the bill will let it attract the 60 votes needed to thwart a filibuster.

Some environmental advocates were involved in drafting the bill and were highly supportive. But other environmentalists said the bill did not go far enough and offered too many concessions to win industry support.

The United States Chamber of Commerce, whose support was avidly courted, refused to endorse the measure, calling it a "work in progress" that may prove too costly to business.

Message barrage precedes release of long-awaited Senate bill (*Greenwire*)

(05/12/2010)
Darren Samuelsohn, E&E reporter
Senate climate bill supporters launched their campaign hours ahead of the measure's formal release today, declaring the measure an opening bid for negotiations on a must-pass solution that can help jump-start "the new energy economy" while giving states greater power to determine if they want offshore drilling in the wake of the massive Gulf Coast oil spill.

Sen. John Kerry (D-Mass.), one of the lead authors of the "American Power Act," made the rounds of this morning's television talk shows to promote the 987-page climate and energy bill he will introduce at a 1:30 p.m. EDT press conference with Sen. Joe Lieberman (I-Conn.).

Teasing key details, Kerry insisted the proposal to cap domestic greenhouse gas emissions across multiple sectors of the economy won't cause too much of a pinch on the nation's pocketbook. The proposal will have "very little if any cost increase to the American consumer," Kerry told FOX News, a reference to a provision that sends two-thirds of the revenue raised by the purchase of emission allowances back to the public and industrial interests through 2035.

After that transition period, Senate aides said, the amount of rebates goes up to nearly 100 percent.

Kerry also used his TV appearances to try and assuage environmentalists and some coastal-state Democrats concerned that the Gulf of Mexico oil spill should prompt an immediate halt to expanded offshore drilling. The Massachusetts Democrat insisted his bill won't lead to an expansion on domestic oil production.

Instead, the measure restricts President Obama's drilling plans, places a moratorium on new drilling while the Gulf Coast spill investigation continues, and allows states the right to decide whether to allow drilling in neighboring states.

"We have to take the steps we've been talking about for 30 years, far too long now," he said on FOX. "The important thing is to move to the new economy, the new energy economy where we're producing our energy at home, we're producing green energy, we're producing clean energy, energy that won't lead to the kind of problem we have in the Gulf."

But Kerry also acknowledged the bill won't halt current oil production. "We're not going to stop drilling," he said. "It's not going to disappear until we put our bill in place."

Senate aides provided a few other key details of the climate bill today ahead of the press conference in the Senate Foreign Relations Committee room.

For starters, the Kerry-Lieberman bill tries to respond to concerns from Senate Democrats representing Midwestern and Great Plains states who thought the House-passed climate bill wasn't friendly enough to coal-fired electric utilities. In their measure, Kerry and Lieberman will distribute allowances 75-25 between companies based on their historic emission levels and retail sales, a significant change from the 50-50 formula created by key members of the Edison Electric Institute (EEI).

The Senate staffers lacked firm numbers on how much they expect the legislation will cost, citing ongoing reviews at U.S. EPA and the Energy Information Administration that likely will take another month. But they did predict that the bill's provisions on

transportation fuels and efficiency would lead to at least a 40 percent reduction in oil savings by 2030.

Stronger role for Obama, Reid?

With 60 votes hanging over Kerry and Lieberman's heads as the ultimate goal, environmentalists urged both Obama and Senate Majority Leader Harry Reid (D-Nev.) to take a more prominent role in pushing the legislation forward.

"The millions of Americans we represent demand a Senate vote on comprehensive clean energy and climate legislation," wrote a coalition of 21 groups, including Alliance for Climate Protection, Audubon Society, Environmental Defense Fund, League of Conservation Voters, National Wildlife Federation, Natural Resources Defense Council, Oxfam America, Sierra Club and World Wildlife Fund. "President Obama and leaders of both parties in Congress must provide the leadership necessary to develop a clean energy and climate solution that becomes law this year."

So far, White House climate and energy adviser Carol Browner offered only a broad assessment of the proposal. "We applaud Senators Kerry and Lieberman for their tireless work on this legislation," she told reporters during a conference call on the administration's response to the Gulf Coast oil spill. "Comprehensive energy reform is crucial, including a cap on greenhouse gas emissions. We will be reviewing this legislation and look forward to working with Congress."

API, U.S. Chamber respond

Several major industry trade groups and companies, including EEI, the Nuclear Energy Institute, Duke Energy Corp. and FPL Group, will attend today's press conference to show support for the Senate bill. Meanwhile, some of the country's biggest industry associations that have opposed many other climate bills kept their responses limited.

"This broad proposal reflects the complex relationship between the U.S. energy system and greenhouse gas emissions which come from every car, home, factory and farm in America," said American Petroleum Institute President Jack Gerard in a statement. "We are reviewing the released text to assess the proposal's possible impact on jobs, energy production, and consumers of oil and natural gas. However, until full legislative language has been thoroughly analyzed, any assessment would be guess work at best. We need reliable data and estimates on how the draft legislation would affect energy production, energy prices, consumers' budgets and the broader economy, in order to judge it on its merits."

At the U.S. Chamber of Commerce, R. Bruce Josten, executive vice president of government affairs, thanked the senators "for their work to constructively engage the business community on these issues."

"The Kerry-Lieberman bill is a work in progress," Josten added. "Few in Congress or the business community have had a chance to review the entire bill. Once all the details of the bill are known, the Energy Information Administration (EIA) and the business community will need sufficient time to analyze the bill to ascertain its effects on the economy, jobs, the environment and energy markets.

"As we undertake our own analysis of the legislation, the chamber will work with our diverse membership to assess its impact on the business community. It will be critical to determine how this bill will impact a broad range of industries as well as America's energy security."

Enviro groups torn

Environmental groups are also torn on the legislation.

Sierra Club Executive Director Michael Brune, for example, issued his own statement apart from the one he joined with the other groups. "If the proposal introduced today by Senators Kerry and Lieberman stays true to its goals, it can serve as a foundation on which we can build an America free from oil dependence, with millions of new clean energy manufacturing, construction and service jobs here at home, less wasted energy, and less of the carbon pollution that is threatening our economy, our health and our climate.

"But this proposal will only serve as a solid foundation if the Senate both improves and completes it."

Brune welcomed the Senate bill's inclusion of new U.S. EPA performance standards for existing power plants, including coal. But he disagreed with changes to the Clean Air Act and subsidies for coal, oil and nuclear technology. And he called for a moratorium on offshore drilling. "We are hopeful that solutions to these problems can be found," he said.

Conservatives don't see the legislation going anywhere. Appearing moments after Kerry on FOX, Karl Rove, the former top political adviser to President George W. Bush, challenged the idea that the bill's refunds would be big enough.

"In that we're supposed to think that everybody makes out just fine and everybody is going to get exactly what they put in, no this is going to be a tax of hundreds of billions on the American people, and for no good reason," Rove said.

Rove also said he doubted the current political landscape -- with incumbent Democrats and Republicans in jeopardy of losing their seats -- made it ripe for a climate bill. "I think the likelihood of an energy tax passing before the November election is slim and none," he said.

And citing overseas greenhouse gas emissions, Rove added, "In the end, it's not going to affect global warming one twitter."

Reporter Mike Soraghan contributed.

ENERGY
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Senate energy bill faces job-creation doubts (*Washington Times)*

May 13, 2010 Thursday
A, PAGE ONE; Pg. 1
Senate energy bill faces job-creation doubts;
CBO study questions predictions of a boost to the economy
By Sean Lengell THE WASHINGTON TIMES
Long-awaited legislation designed to reduce fossil-fuel use, curb carbon emissions and impose tighter restrictions on offshore drilling was introduced in the Senate on Wednesday, although the bill faces scrutiny from Republicans and moderate Democrats concerned about its economic impact.

Promises that the bill - authored by Sens. John Kerry and Joe Lieberman - would add a significant number of energy-related jobs also has come under question, most notably by the independent Congressional Budget Office.

Mr. Kerry said the so-called "American Power Act" would convert the nation's energy policy "from a national weakness into a national strength."

"We can finally tell the world that America is ready to take back our role as the world's clean-energy leader," the Massachusetts Democrat said. "This is a bill for energy independence after a devastating oil spill."

The Senate bill, which had been months in the making and involved hundreds of meetings, aims to cut by 2020 carbon dioxide and other heat-trapping greenhouse gases by 17 percent below 2005 levels, and more than 80 percent by 2050. It also would set a price on carbon emissions for large polluters such as coal-fired power plants.

The bill calls for a single set of rules for achieving greenhouse-gas-emissions reductions instead of a patchwork of state and federal regulations. States wouldn't be allowed to operate their own "cap and trade" emissions-trading programs.

It would allow coastal states to opt out of federal drilling up to 75 miles from their shores - a concession to lawmakers worried about offshore drilling accidents in the wake of the

Gulf of Mexico oil spill.

States could veto drilling plans of neighboring states if the Interior Department determined that a leak could cause a significant economical and environmental negative impact.

Those states that go ahead with offshore drilling would retain 37.5 percent of the federal revenue generated. Currently, royalty revenue goes to the Treasury Department, with states getting nothing.

More than $6 billion annually would be dedicated for transportation-infrastructure improvements, a move designed to increase travel efficiency and decrease oil consumption. And billions of dollars in incentives would be available for alternative energy sources such as so called "clean coal" and nuclear power.

The measure is designed to help average Americans, with two-thirds of all revenues not specifically dedicated to reducing the deficit being rebated back to consumers through energy-related bill discounts and direct rebates.

Supporters say a fundamental difference between the bill and previous energy and climate proposals is the scope that it would create jobs and stimulate the economy, which Mr. Lieberman said "will strengthen our national security."

But a recent CBO study casts doubt on the measure's job-creating potential. The May 5 report, which analyzed how policies to reduce greenhouse-gas emissions could affect employment, concluded that total employment during the next few decades "would be slightly lower than would be the case in the absence of such policies."

The report, which didn't specifically take the Kerry-Lieberman bill into account, said job losses in industries that shrink would lower employment more than job gains in other industries that would increase employment, thereby raising the overall unemployment rate.

The CBO, however, did say that most workers who lost jobs would find new ones.

President Obama praised the bill, saying the massive oil spill in the Gulf of Mexico underlined the need for energy reform.

"For too long, Washington has kicked this challenge to the next generation," Mr. Obama said in a prepared statement. "This time, the status quo is no longer acceptable to Americans."

House Speaker Nancy Pelosi, whose chamber passed its own version of the bill last year, urged senators of both parties to pass the measure "so that we can work together to send finalized legislation to the president's desk."

But the bill faces significant opposition in the upper chamber, where approval from 60 of the Senate's 100 members will be needed.

Sen. Lindsey Graham, the South Carolina Republican who helped draft the bill with Mr. Kerry and Mr. Lieberman, Connecticut independent, walked away from negotiations last month over a disagreement on immigration reforms.

Sen. John Barrasso of Wyoming, the only Republican to serve on the Energy and Natural Resources Committee and Environment and Public Works Committee, said the bill was deeply flawed.

"Families in Wyoming and across America have made it clear: They want more jobs, cheaper energy and lower taxes. This bill doesn't reflect these important priorities, [and] in fact it does exactly the opposite," he said.

Senate Majority Leader Harry Reid, Nevada Democrat, applauded the bill but acknowledged that changes may be needed in order to woo enough support for passage.

"I welcome the ideas of my colleagues to strengthen this proposal," he said. "To be successful we will need significant bipartisan cooperation."

American Power Act Bill Contains Little Direct Support for Renewables (*Renewable Energy World. Com*)

Published: May 12, 2010
Washington, D.C., United States -- On Wednesday, Senators John Kerry (D-MA) and Joe Lieberman (I-CT) released the details of their energy and climate change legislation. The bill includes few provisions designed to directly support renewable energy. These provisions include a statement from Congress on the importance of large-scale deployment and accelerated progress in the areas of renewable energy and energy efficiency, direction for how the allowances distributed to states and Indian tribes should be used for the purposes of promoting renewable energy and energy efficiency programs, and a statement supporting voluntary renewable energy markets.

Noticably absent from the package was either a renewable portfolio standard, or renewable electricity standard, which the industry has been lobbying for over the course of the last year.

"The wind energy industry appreciates the efforts of Senators Kerry and Lieberman to address climate change in their proposal. We look forward to seeing provisions on renewable energy like a strong Renewable Electricity Standard as well as energy efficiency to create new clean energy jobs and avoid carbon in the near term in any package considered by the Senate. We urge Senate Leadership to move quickly on

strong legislation," said Denise Bode, CEO of the American Wind Energy Association.

This is in direct contrast to bills introduced over the last year. President Obama's proposal called for 25% renewable electricity by 2025, 100% new building efficiency by 2030, phase out traditional incandescents by 2014 while the Waxman/Markey bill mandated 15% renewable electricity + 5% efficiency by 2020, 75% new building efficiency by 2030, appliance and lighting efficiency standards.

Overall, however, the bill may indirectly benefit the industry through the reduction of emissions, the bill mandates that utilities, starting in 2013 and industry in 2016 must participate in a cap and trade system that places a price on carbon. The goal of these measures is to reduce economy-wide global warming pollution to 95.25 percent of 2005 levels by 2013, 83 percent by 2020, 58 percent by 2030, and 17 percent by 2050.

The proposal establishes an annual tonnage limit on greenhouse gas emissions from specified activities. Directs the EPA Administrator to establish allowances equal to the tonnage limit for each year (with one allowance representing the permission to emit one ton of greenhouse gases, measured in tons of carbon dioxide equivalent)

The bill calls for auctions to take place within the existing Regional Greenhouse Gas Initiative, the Western Climate Initiative and the Mid-West Governors Accord. It also sets a hard price collar for carbon, with an introductory floor set at $12. This would increase at a rate of 3% over inflation annually. The bill also sets a ceiling at $25, which would increase by 5 percent over inflation every year.

The utility industry worked closely with the authors of the bill and they were happy with the outcome.

"Senators Kerry and Lieberman's bill helps 'get our transition right' to clean modern energy in a manner that protects American families and protects American factories, both of which depend on affordable power," said Duke Energy Chairman, President and CEO Jim Rogers. "It also gives our electric industry the policy roadmap we need to invest tens of billions of private capital to retire and replace aging power plant fleets with modern, efficient and clean plants."

Manufacturing clean energy technologies, among other sectors that will be on a list drawn up by the EPA, would have some relief from the greenhouse gas reduction targets.

"We welcome the elements of the proposal which encourage further development of domestic renewable energy manufacturing and implementation while emphasizing the need to find a legislative solution to reduce carbon emissions, rather than forcing the EPA to regulate. It is essential that any smart energy legislation which seeks to reduce greenhouse gas emissions should not inadvertently discourage U.S. growth in the manufacturing and production of renewable energy sources," said Dow Corning Chairman, President and CEO Stephanie A. Burns.

The bioenergy sector will see lines more clearly drawn by the legislation. Under the proposal, the National Academies of Sciences would be called on to study how different sources of biomass can contribute to energy independence, protect the environment and reduce global warming pollution.

The EPA would review the study and would then submit recommendations to Congress on any adjustments on which biomass sources should be recognized as renewable. Another study, done in collaboration by EPA, DOI and USDA would look at the effects, both present and future, that using biomass for energy would have on food production and the environment. The group would then make recommendations to Congress based on the study.

FUEL
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Blowing Smoke (*Houston Press*)

Could Valero empty the coffers of Texas schools?
By Craig Malisow
published: May 13, 2010
Chris Curry

HCAD lawyer Bernardo Garcia says Valero's case could set a dangerous precedent.
In 2006, Valero Energy congratulated itself on becoming North America's No. 1 oil refiner.

In its financial report summary reflecting on 2005, the company painted a picture of a scrappy underdog that fought its way to the top in large part through a shrewd, counterintuitive business model: Buying cheap, low-grade crude oil (called "sour crude") when demand for higher-grade oil ("sweet crude") was going up. This higher supply of crude widened sweet/sour margins. More than 60 percent of Valero's input of raw materials consisted of sour crude. This, combined with what Valero described in its 2004 report as buying refineries for "pennies on the dollar of replacement cost, and then investing in them to make them significantly more profitable," would make for a bright future.

Valero was also smart and determined enough to seek every available tax break from the states where its 13 U.S. refineries were located, including Texas, where it has six. The company's stable of lawyers also routinely contested its refineries' county appraisal values; Valero had a habit of suing the Harris County Appraisal District nearly every

year. Apparently, the money spent on the lawyers was worth the potential overall savings.

In 2007, taxes were an especially important issue, because the company spent more than $1 billion to upgrade five Texas refineries to meet new U.S. Environmental Protection Agency standards for sulfur levels in diesel and gasoline. New and renovated equipment meant a higher appraised refinery value, meaning higher property taxes.

But Valero argued that these upgrades, in the form of equipment called hydrotreaters, qualified for a provision in the state tax code that granted businesses property tax exemptions on equipment installed solely to meet pollution-control regulations. The idea is essentially to not double-tax a business that has to incur great expense for equipment that meets a mandate but doesn't contribute to its bottom line.

After implementing the provision, generally known as Proposition 2, in 1993, the Legislature left the decision on whether a piece of equipment qualifies for the exemption up to the Texas Commission on Environmental Quality. In 2001, the commission's advisory board came up with a way to best deliver consistent rulings: The equipment in question needed to manage pollution "at the site" — language not included in the statute, but language the commission thought was fitting.

The advisory board even came up with a handy flowchart to illustrate the decision-making process: a rudimentary map of boxed text and arrows meant to cut through the crap and make the whole thing easy enough for a 12-year-old to understand. The commission's staff, executive director and three commissioners have relied largely on this chart to deliver consistent rulings for nine years.

Valero first applied for a tax exemption on its hydrotreaters in 2007. Using its handy-dandy flowchart, the office of TCEQ's executive director denied the application. Never one to give up easily, Valero appealed. The commissioners postponed hearing the argument until last January, when they did something that made county appraisers and school district administrators in Harris, Galveston, Jefferson, Moore and Nueces counties nearly pass out: Commission Chairman Bryan Shaw and Commissioner Buddy Garcia seemingly ignored the almighty flowchart and, instead of upholding the negative ruling, kicked Valero's application back to the executive director's office.

Shaw and Garcia seemed to buy Valero's argument that "at the site" should be interpreted broadly — that pollution abatement should be considered beyond just a property's fence line.

With that, according to county, city and school district officials, this relatively obscure appeal suddenly became a test case for all refineries across the state: If the "at the site" provision was interpreted in Valero's favor, it would open the floodgates for businesses to argue that they're reducing pollution *somewhere* and get a big break on property taxes.

It would set a dangerous precedent allowing billions of dollars to drop off tax rolls throughout Texas, they say. And officials in the taxing districts surrounding the refineries where Valero installed hydrotreaters say they would actually have to refund three years' worth of property taxes — an enormous lump sum that would drastically alter tax burdens.

Regular folks who didn't happen to have hydrotreaters sitting in their backyards would have to pay Valero's share of taxes, otherwise school buildings would fall into disrepair and have to be replaced with dirt-floor shacks. Cities would have to cut services; garbage would pile high on cracked sidewalks, open-air drug markets would sprout up because of the lack of police and there'd be no firefighters left to get cats out of trees.

Or at least that's how officials are making it sound. Valero says it only wants what state law already allows. You and your wallet are in the middle. Which is probably where the truth is.

Like a high school yearbook, every Valero report summary has a theme, and in 2006 (the year the 2005 summary was released) it was of course playing off its new position as No. 1: A hand, with index finger proudly extended toward the heavens, graced the cover. But looking inside, from a 2010 perspective, makes for some cringe-inducing moments, and not just for the cheesy hand-related puns ("a real *hand up* on the competition!").

One such moment had to do with stricter requirements for low-sulfur diesel and gas the U.S. Environmental Protection Agency rolled out in 2000. Under these "Tier II" standards, sulfur in gasoline would have to drop from 300 parts per million to 30 ppm by 2004. Diesel sulfur limits would need to be slashed from 500 ppm to 15 ppm by 2006.

For the last three years, Valero lawyers have told the Texas Commission on Environmental Quality that the company only bought hydrotreaters to meet the Tier II standards.

As Valero spokesman Bill Day says, "Those are expensive pieces of equipment that Valero would not have purchased if it was not required to under this EPA requirement...It makes it actually more expensive to make the fuel — it adds to our costs."

Which, if true, means Valero meets one of the tax-exemption requirements. The thing is, the company historically told its shareholders something different.

While news of stricter sulfur standards may have caused many refiners to cross their arms and pout, Valero was nothing but stoked. Or at least that's the way it was spun in the 2005 summary: "To meet the new low-sulfur specifications for fuel, many refiners are relying on sweet crudes, which has further widened the sweet/sour price differential." At the same time, because of "limited refining capacity of upgrading"

medium and heavier sour crude, those supplies were high. For a company that depended largely on cheap sour crude, the field was wide open. Or, as Valero put it: "These bullish fundamentals have *played right into Valero's hands*!"

The language in its full financial report filed with the U.S. Securities and Exchange Commission may not have contained as many side-splitting puns, but it reflected a nonchalant attitude toward the expenditures required to meet Tier II. "Valero expects that most of the required capital improvements or changes in operating parameters will be consistent with many of Valero's existing or forecasted strategic capital projects or emission reduction projects already planned for the next several years."

And in its 2007 financial report summary, Valero touted the $1.2 billion it spent on refinery equipment for low-sulfur product in Texas, Louisiana and California: "Reflecting the significant projected growth in U.S. and global demand for diesel, as well as the move towards cleaner-burning fuels, Valero marked 2007 with the completion of major projects focused on increasing production of ultra-low-sulfur diesel."

The summary used words like "strategy" to describe these expensive improvements, as in: "Together with its planned future investments, are examples of the company's strategy to convert low-cost feedstocks into premium, cleaner-burning fuels, particularly [ultra-low-sulfur diesel]."

While Valero may have imagined a bright future overflowing with rivers of sour crude that other refiners turned up their noses at, it, like every other company in 2006, had no way of knowing the good times would come to a crashing halt. By April 2010, the refiner reported its fourth consecutive quarterly loss.

At the same time, the counties where its refineries were located were experiencing the strains of recession. Although Texas was faring better than the rest of the country, cities and school districts still suffered budget shortfalls.

Day suggests it's only because of the recession that taxing districts have brought exaggerated claims to the attention of the media.

To which Bernardo Garcia of the Harris County Appraisal District half-jokes, "Thank God for the recession."

A big, energetic man with an inexplicable passion for tax law, Garcia is HCAD's general counsel and de facto mouthpiece when it comes to Valero. He says Day might be right, in a way — if the economy were chugging along and taxing districts didn't have to look under couch cushions for every extra penny, HCAD might not have ever noticed that Valero was gunning for such a big tax break. Garcia says that, if Valero gets the exemptions, state law would force taxing districts to refund the three years' worth of disputed taxes. He estimates this to be about $11 million for the Houston Independent School District and about $5 million for the county and city. (Because Valero originally

submitted its request in 2007, it might technically be eligible for a three-year refund — but it's the only refinery in that position. While other refineries can apply for 2010 and subsequent years, they are not entitled to retroactive exemptions. According to TCEQ, there are eight pending refinery applications and another 12 are expected to file.)

Garcia is flabbergasted that two TCEQ commissioners even entertained Valero's "at the site" argument, which is this: Everyone gets the concept of a scrubber on a smokestack reducing levels of emissions a refinery belches into the air. That is clearly a site-specific environmental benefit.

Same with extracting sulfur from diesel and gas: The process itself obviously occurs *in* the refinery, and the low-sulfur product is sold to drivers who live around the refineries. Thus, everyone gets to drive through a low-sulfur life, thanks to Valero. (This, despite the fact that the hydrotreating process actually increases air pollution at the site.)

Whether or not Garcia buys gas from Valero stations, he definitely doesn't buy the company's argument. No one living in Harris County benefits environmentally from what goes on in Valero's refineries.

But if the TCEQ winds up buying it, he says, "the floodgates will open because now this new rule will apply to any pollution control device that controls pollution anywhere, not just in Harris County."

He elaborates: "What about catalytic converters? Catalytic converters are no different than low-sulfur gas because they control pollution at the tailpipe. They don't control pollution where the catalytic converter is manufactured." Same for a company that manufactures air or water filters, he says.

Besides the "at the site" issue, Garcia and other officials argue, buying the hydrotreaters was purely a business decision, not an environmental one — an argument that appears to be supported by the self-congratulatory language in Valero's earlier financial report summaries.

And arguing before the TCEQ commissioners last January, officials were trying to prove just that. Tony Brown, a lawyer representing the Galveston County Appraisal District, said bluntly of the hydrotreaters, "It is a business decision to put it in." Marathon Oil's Texas City refinery, he pointed out, does not have desulfurization equipment, opting instead to sell its product as an intermediate inside the Marathon system, as well as externally.

Amy Keith, a lawyer for the Jefferson County Appraisal District, suggested that Valero could have instead chosen to purchase crude that doesn't have such high sulfur levels to begin with. (To this, Bill Day says, "That's 100 percent false. And I question her expertise in refining.")

Siding with those lawyers, as well as with TCEQ's executive director, that hydrotreaters were purely an investment and not a burden, were the Texas Conference of Urban Counties, Harris County Commissioners Court and the Office of the Public Interest Counsel.

At the same meeting, Valero representative Jim Greenwood offered the counterpoint: Valero employs more than 10,000 Texans, and last year paid $174 million in taxes, $130 million of which were property taxes. Because Valero is not a drilling and exploration company, it buys crude at world market prices, making for an "extremely competitive business with razor-thin margins."

So, as Day points out, for a company like Valero, hydrotreaters are not simply an investment. "It was a cost that we had to bear in order to stay in business. And the alternative would not have been doing something cheaper. The alternative would have been — in very likely terms — shutting a refinery or two down and putting people out of work."

But while Day also says the company has never asked for a three-year refund, Garcia says taxing districts "have to issue a refund whether they like it or not. If Valero or any other company wants to give up that refund, they have to literally take that check and re-endorse it back to the jurisdiction. However, they can't just say, 'Oh, don't issue us a refund.'"

Moreover, he adds, "Is that bait?...Are they trying to say, 'Look, we'll give you $25 million today, but we're going to end up making $100 million down the road in the future'? That's how jurisdictions are looking at it."

Of course, it's somewhat difficult to tell completely what jurisdictions are looking at, since there exists a giant question mark in the debate, namely: How much is a hydrotreater even worth?

The three approaches to appraisal are cost, income or market value. Unlike houses, which can be reasonably appraised using market values, complex technical equipment without a huge market is harder to appraise. In the absence of any other data, officials in the various taxing districts have relied on the cost Valero stated on its TCEQ applications. In the Houston refinery, for example, Valero listed its diesel hydrotreater at $238 million and its gas counterpart at $66 million, so *presto*, the Harris County Appraisal District says $304 million will drop off the tax roll.

The problem is, using those values yields some weird, seemingly improbable results — depending on whom you talk to. The Harris County Appraisal District appraised Valero's entire Houston refinery at roughly $305 million for 2009, suggesting the refinery was worth $1 million before the hydrotreaters. In 2007, the refinery was valued at $227 million, meaning the entire refinery was worth less than the diesel hydrotreater alone.

As Day says, "It defies logic to think that one piece of equipment in a refinery would have that type of appraised value." He says that appraisal districts have never accounted for depreciation. Moreover, he predicts the districts may be singing an entirely different tune if Valero gets the exemption and appraisers have to officially enter a value into the tax roll.

"It's impossible for anybody to say what the appraised value of this particular unit will be until Valero gets this exemption and then the appraisal districts take that hydrotreater off of the tax roll, and I guarantee you the value that they give it at that time [when] they take it off the tax roll will not bear any relation whatsoever to the things they're saying today..."

Yet one refinery appraiser told the *Houston Press* that, as illogical as these ratios may appear, they can still be accurate.

Asking that we not use his name, he explained that "A refinery may, if you look at the cost of the equipment in the refinery...easily top $1 billion. But if you...value that refinery based upon the income it produces, the value of the property may be substantially less than the cost of the individual components in the refinery."

Ultimately, Garcia says, Valero has never provided any documentation on how it arrived at the costs it listed on its applications, and that has kept all the appraisers in the dark.

"Valero has never submitted anything, either to TCEQ or to the appraisal district, to substantiate how they came up with that value. Zero. Zilcho. Zippo."

As difficult and mysterious as it may seem right now, finding a real value for the hydrotreaters is likely possible. What's more enigmatic is why TCEQ Commissioners Bryan Shaw and Buddy Garcia punted the appeal back to the executive director's office.

Shaw and Garcia approved the "at the site" provision and its attendant flowchart in 2008, and have always issued decisions accordingly. So what's different about Valero? Why would two commissioners not trust the judgment of the agency's staff and executive director?

Apparently, the public does not deserve an answer to that question. We left messages for the commissioners with the TCEQ's communications office and never heard back. Of course, we weren't too surprised after what happened to KHOU reporter Jeremy Rogalski in March. When Rogalski tried to get into a public TCEQ hearing, security closed the door in his face. And according to Rogalski's report, "And when we later approached Chairman Shaw during a recess in the hearing, we were blocked again. Andrea Morrow, TCEQ spokesperson, grabbed this reporter's arm while Chairman Shaw slipped out a side door."

Shaw, an associate professor in Texas A&M's Biological & Agricultural Engineering Department, has an impressive résumé: He's a member of the EPA's Science Advisory Board and the U.S. Department of Agriculture's Agricultural Air Quality Task Force. Shaw, a global warming skeptic, is well aware of critics who accuse him, and the commissioners in general, of having a pro-industry bias. Shaw didn't miss out on a chance to launch the first volley when Southern Methodist University professor and environmental activist Al Armendariz took over the regional EPA office overseeing Texas. Shaw issued a statement congratulating Armendariz while at the same time saying, "I hope Dr. Armendariz recognizes that this position is too important to be used as a podium for environmental activism. I urge Dr. Armendariz to use sound science in his decisions."

To be sure, Shaw is all for exercising regulatory restraint. Governor Rick Perry not only appointed Shaw to the TCEQ in 2007, but to the Texas Environmental Flows Advisory Group. And in November 2008, he created something called the Texas Advisory Panel on Federal Environmental Regulations, appointed Shaw and told them to issue a report that same month on the "potential impacts to Texas of [the EPA's] proposed framework for regulating greenhouse gas emissions through the Federal Clean Air Act."

To the surprise of exactly no one, the panel concluded that such regulations would cause "extreme economic hardships" for Texas. And to the surprise of exactly no one, Perry approved the findings.

Meanwhile, TCEQ Commissioner Buddy Garcia, who also voted to remand the Valero tax exemption issue back to the executive director, found himself in the midst of a lawsuit filed by state Senator Eliot Shapleigh. The El Paso Democrat accused Garcia and senior TCEQ members of meeting secretly with a Baker Botts lobbyist working on behalf of a company seeking TCEQ approval to renew an air permit for its copper smelter. After Shapleigh raised suspicions, he obtained documents showing that, after the meetings, the lobbyist reported to Baker Botts attorney Pam Giblin, who was representing the copper smelting company. (The permit was ultimately renewed.)

Giblin, a former TCEQ employee, also represents Valero in the property tax exemption issue. According to Shapleigh, she and fellow Baker Botts attorneys co-hosted a reception for Shaw on the occasion of his appointment. Representatives of Baker Botts and TCEQ have denied any accusations of collusion.

Meanwhile, as TCEQ commissioners busy themselves by not explaining to the public why there might be a big property tax hike, TCEQ staff is waiting for Valero to submit more documents explaining its case; there's always the possibility that the staff could grant a partial exemption.

Bernardo Garcia would still see that as a dangerous precedent — especially for small districts that depend in large part on refinery ad valorem taxes. And he says it would be a real affront for people living in the immediate vicinity of any refinery that would be granted such a break.

"I see my tax bill getting bigger," he says, "but I'm not breathing any better air or drinking cleaner water."

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GRANTS
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EPA tests contamination in Santa Susana mtns (*ABC 7 News*)

Wednesday, May 12, 2010
West Hills, Calif. (KABC) -- A new study is underway to answer questions about a long-running health controversy in Simi Valley. The controversy is over the former Rocketdyne Laboratory in the Santa Susana mountains. The EPA will be using a $38 million grant to look for contamination.

The EPA will study one of the most controversial and, depending on who you talk to, most contaminated pieces of real estate in southern California. It's called Area IV of Boeing's Santa Susana field lab.

Boeing and the Department of Energy, which oversees the lab, have tried for years to convince the public that any contamination has been cleaned up. But many residents of the area don't believe them. John Luker of West Hills says he helped find a pile of asbestos from the lab dumped in Sage Ranch Park.

"They kept repeating that nothing was going offsite into the general community and we proved them wrong. Now because of that, it was obvious there was about 30 years of just blatant lying," said Luker.

Even with his doubts, Luker and other critics praise the EPA for undertaking the new study.

"Time for talking's over. We need to do something and I'm so happy that things are starting to go," said Joanne Yuanek-Garb, West Hills neighborhood council.

Area IV was the hub of the lab's nuclear research. From the early 50s until the late 80s, 10 small reactors operated here and an accident in one of them in 1959 contaminated scientists working at the lab and a portion of Area IV. The new study is designed to show how much soil and water might still be contaminated.

"We're going to be doing our radiation scanning of the ground surface here and we've got some equipment behind me that is part of that and then we'll be doing soil sampling

after that and we've got some water sampling to do," said Gregg Dempsey, Senior EPA Assistant.

The EPA will use high-tech detection devices to probe the ground and subsurface water and several low-tech mules to carry some of the equipment. Sarah and Katie have appeared in movies and the Rose parade and apparently have the perfect temperament to do the job.

"They seem to be pretty good. As long as you have the confidence and don't get excited operating them they will feed off of your lack of excitement and just say, 'Oh we got a job to do,'" said Robert Lappin, mule handler.

Once the study is completed in about a year and a half the cleanup will begin if sufficient contamination is found. The Department of Energy's representative, Thomas Johnson, told Eyewitness News however that he doesn't think they'll find very much.

HAZARDOUS WASTE

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City Reviews Park PCB Claims (*Wall Street Journal*)

May 13, 2010

Thc city said it is going to probe whether a popular park in Red Hook is heavily contaminated with chemicals.

New York state claims in court filings that Red Hook Park was polluted with 110 times the amount of polychlorinated biphenyls, or PCBs, that is considered safe by state environmental agencies.

The state has been battling plastics-additive maker Chemtura Corp., which owns a closed plant that the state says is at the root of the contamination.

The plant is next to both Red Hook Park and the Gowanus Canal, which is on the U.S. Environmental Protection Agency's list of significantly hazardous waste sites.

The city, newly aware of the fight, said Wednesday that the Parks Department would measure pollutants in the park. The 58.5-acre space is home to scores of youth soccer tournaments, adult softball leagues, playgrounds and the popular Latin American food vendors, who operate during soccer games.

The Health Department said it plans to analyze soil samples from the area closest to the shuttered plant.

"We will rely on the Health Department's evaluation of test results to determine whether further action is warranted," said Parks Department spokeswoman Vickie Karp.

PCBs, which were banned by the Environmental Protection Agency in 1979, are chemicals that have been associated with a range of health problems including cancer in animals, and that don't readily break down.

PCBs were used in the manufacture of plastics, cable insulation, floor finish and oil-based paint, among other products.

Also on Wednesday, the City Council passed a bill creating a committee to ensure that the city's neighborhood playgrounds and playing fields are safe. The proposed bill was in response to concerns over a field in East Harlem that was found to have elevated levels of lead.

The Department of Environmental Conservation has mandated since 2002 that owners of the Brooklyn plant clean the contamination there. Chemtura agreed to follow the order, but said it would cease those efforts shortly after it filed for Chapter 11 bankruptcy protection last year.

The state attorney general's office argued in a legal motion that Chemtura should be forced to resume the cleanup despite the filing, as there is major potential for harm to the public that uses the park.

A spokesman for Chemtura, which makes plastic additives, declined to comment, citing pending litigation. The Red Hook plant was closed in 1999.

The Department of Environmental Conservation first found hazardous-waste violations at the site during the 1990s, according to an affidavit from Paul Patel, senior environmental engineer for the DEC's division of solid and hazardous materials.

The affidavit, filed March 30 as part of the bankruptcy proceeding, said the DEC has known about the PCB contamination levels since at least May 2001.

The Parks Department on Wednesday said it "only now learned of these alleged levels of chemicals from news accounts" and previously hadn't had any formal contact from Department of Environmental Conservation or the attorney general's office regarding the matter.

Bloomberg News first reported on the affidavits and contamination levels last week.

"It's frustrating," said John McGettrick, co-chair of the Red Hook Civic Association. "Why didn't they say anything? If this was property adjacent to Central Park, would people be dealing with this in such a cavalier fashion?"

Yancey Roy, a DEC spokesman, said, "The agency followed the necessary outreach protocols, but in retrospect we could have done more."

He said a key reason the DEC is legally challenging Chemtura is "to protect the neighborhood and taxpayers."

The DEC says the contamination is strongest close to the plant, which is cordoned off by a 12-foot solid wall.

The agency says contamination was found behind the wall and in groundwater both in the surface and off-site. It contends that contaminated groundwater is not affecting public water supplies.

Write to Chris Herring at Chris.Herring@wsj.com

NYC probing whether park is contaminated (*Associated Press*)

Story also appeared: *Albany Times Union*

Last updated: 7:15 a.m., Thursday, May 13, 2010

NEW YORK -- New York City will analyze soil samples at a popular Brooklyn park to determine whether it is contaminated with high levels of PCBs.

Red Hook Park is located near the Chemtura Corp. plant, a plastics-additive manufacturer that closed in 1999.

PCBS, or polychlorinated biphenyls, were banned by the Environmental Protection Agency in 1979. They have been linked to a range of health problems.

The city said it learned of the alleged contamination on Wednesday.

The company ceased to clean up the site after filing for Chapter 11 bankruptcy protection last year.

The state attorney general's office argues in a legal motion that Chemtura should be forced to resume the cleanup. Chemtura declined to comment, citing pending litigation.

PESTICIDES

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Weed spray worries residents in Columbus Park area (*Kansas City Star*)

May 13, 2010 Thursday
A; Pg. 1
BY: KAREN DILLON; The Kansas City Star
This spring, Kansas City Housing Authority workers sprayed weed-killer on nine acres east of the River Market, where neighbors say they picnic, walk dogs and watch children play.

The potent Krovar performed as it was supposed to, leaving the affected area mostly barren of vegetation.

But the herbicide apparently wasn't applied as it was supposed to be. Its label recommends use in industrial sites, rights of way and uncultivated agricultural areas. In addition, the label said: "Krovar I DF is not to be used in any recreational areas or around homes."

Now neighbors living next to the affected area are asking if the powerful chemical could be compromising their health. The Missouri Department of Agriculture is investigating, and the **Environmental Protection Agency** is monitoring the case.

Edwin Lowndes, Housing Authority executive director, says his workers did nothing wrong.

The property, Lowndes said, was a bed of tall-growing unsightly weeds that often needed mowing, and a retailer recommended the product.

His workers didn't know the land was being used recreationally, which he said was trespassing. He said the authority is planning to post "no trespassing" signs there.

"It is not a recreational area," Lowndes said. "It is a vacant field. It is not a picnic ground area. There were no picnic tables. It was an area we had to maintain as a vacant lot."

Dan Wayne, a professional photographer who lives in an adjoining building he rehabbed for lofts, said the area was largely grassy and has served as an impromptu park for years. Local children often play there, and a group of dog walkers congregate in the lot mornings and evenings. Photographers used the green and leafy area to shoot weddings, graduations and family portraits.

"I take families back there all the time," said Christy Lonergan. "I've had babies back there on the grass."

Not only was the natural setting for her shoots ruined, but Lonergan is concerned about the effects of the spray.

"I was out there the workers were just right there spraying, and they never said anything

to us, what they were spraying or that we might not want to be there because of the poison. There were no warnings, and I never saw any signs posted," she said.

March 30 was a gusty day, with winds up to 40 miles per hour, when Wayne said he saw a worker spraying, according to a complaint filed with the state agriculture department.

Wayne called Lowndes and left a voicemail, asking that the spraying stop. He got no response.

About a week and a half later, when workers returned, Wayne asked what was being applied and was told it was Krovar. Wayne took an empty Kovar bag home to research it.

The bag label lays out where the compounds should be used according to federal law, such as along highways and railroads, fence rows, farmyards, fuel storage areas, lumberyards and industrial parks.

For sure, the Columbus Industrial Park is nearby. But Guinotte Manor, warehouse lofts and apartments are closer. Lowndes said the workers kept the spray at least 30 to 50 feet from the residences.

Asked about the spray being carried by windy conditions, Lowndes said it was difficult to determine if the spraying days were actually windy at the site. Just because the National Weather Service said it was windy at Pleasant Hill does not mean it was in Kansas City.

Workers using Krovar should wear protective clothing and respirators. Wayne said the men he saw were in short sleeves and had no masks. Lowndes responded that the worker to whom he talked said they were attired correctly.

Not following chemical labels is violating the law, said Rich Hood, spokesman for **EPA** Region 7.

Misti Preston, a spokesperson for the agriculture department, said the investigation should be concluded soon.

The area has been residential since the 1800s. Last century, public housing was erected there and eventually demolished. The property is slated to be developed as Guinotte Manor III someday.

Wayne said the first time the workers sprayed, they did not post warning signs. The second time they posted a handful of 8-inch wire-stem flags around the acreage warning to stay off the grass.

"Unless you walked on the grass, bent over and unfurled the flag, you wouldn't be able to see the writing," Wayne said.

When Wayne got little response about his concerns, he sent out an e-mail blast May 6 to top officials in the city, **EPA** and Missouri Department of Natural Resources explaining what had happened.

Within minutes of the e-mail, he was called by Angel Contreras, who is in charge of maintenance at the housing authority.

Contreras wanted the empty chemical bag and sent a worker to Wayne's residence to retrieve it.

"I admit I stole the bag," Wayne said. "If I hadn't taken it, I would never have known."

Contreras had no comment. "I can't talk publicly," he told The Star. "Me and (Wayne) know the story."

Lowndes said the agency had not used the chemical on any other property and had decided not to use it anymore at the Guinotte Manor property.

Lowndes said he was considering reseeding the area, but the label says it could be two years before vegetation grows again.

"Almost everything is dead," Wayne said. "Everything has turned to dirt. It sucks."

To reach Karen Dillon, call 816-234-4430 or send email to kdillon@kcstar.com

SUPERFUND

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EPA introduces mules for testing Santa Susana site (*Los Angeles Daily News*)

By Susan Abram, Staff Writer
Posted: 05/12/2010 08:51:21 PM PDT
Updated: 05/12/2010 08:58:09 PM PDT
One of the world's oldest and simplest forms of transportation will soon carry the latest technology deep into the canyons around the Santa Susana Field Laboratory as part of a long-awaited federal radiological survey of contaminated land.

Two mules, Sarah and Little Kate, were introduced Wednesday by the U.S. Environmental Protection Agency. The animals will play an integral role in an 18-month $41 million project by toting around the equipment that scientists hope will help determine just how contaminated the land is. The project is set to kick off next month.

"Over the years, this has been an understandable concern," said Jane Diamond, Superfund division director for the EPA's western states division.

Last year, the Department of Energy announced that $38.3 million under the American Recovery and Reinvestment Act and another $3 million from the DOE would be provided for the soil sampling.

The EPA has set up offices on the land now occupied by Boeing, Co., and plan to analyze all the data.

"We're here to get the survey completed," Diamond said.

Sarah and Little Kate will together carry a gamma scanner weighing more than 200 pounds, equipped with sodium iodide crystals that will register gamma energy emitted by radioactive material such as uranium.

Scientists also developed a giant Enhanced Radiological Ground Scanning System or ERGS that will carry four large sodium crystals that will pass over the flat surfaces.

The radiological survey will be conducted on 500 square acres within and around what's known as Area IV, once used primarily for nuclear reactor experiments. The EPA will determine where contamination exists and how much of it remains.

Located on 2,900 acres at the top of the Simi Hills in Ventura County, the Santa Susana Field Lab was founded in the mid-1940s at what was then a remote location. The lab developed and tested nearly a dozen nuclear reactors for the U.S. Atomic Energy Commission, which later became the Department of Energy.

Kept secret from the public was the partial meltdown of one reactor in 1959, releasing radiation into the air. Five decades later, the full scope of the release and its impact on workers and residents remains unknown.

In May 1989, Department of Energy surveys revealed that radioactive and toxic contamination from decades of nuclear experiments and rocket tests had leaked into soil, groundwater and bedrock at the hilltop site.

Rocketdyne oversaw some radiological surveys in the mid-1990s, but EPA inspector Gregg Dempsey said at the time that the testing was inadequate.

"There was a lot of criticism then," said Dempsey, who was on site Wednesday and will once again consult the EPA on its project.

Residents who live below the site and who became community activists as a result of the 1989 report hesitated in calling the start of the radiological survey a win, given how long it has taken to get this far.

"There's no victory," said Marie Mason, an activist and resident of the Knolls, a neighborhood in east Simi Valley.

"This has been like boarding a train that we can never get off."

STATE LINES: Calif., Mont., Nev. and N.Y. (*Greenwire*)

(05/12/2010)
(All cites May 11.)

CALIFORNIA: A federal grand jury indicted seven people for illegally smuggling an endangered species of fish into the United States. The charges result from a 2005 undercover sting. The Asian arowana, or dragon fish, is considered lucky in Asia, and full-grown adults can sell for as much as $20,000 (Raquel Maria Dillon, AP/*San Francisco Chronicle*).

MONTANA: U.S. EPA officials will excavate contaminated soil and cap other contamination at a Superfund site in Libby to prevent asbestos still in the ground from reaching the air. The combination will "break soil exposure pathways and prepare these important properties for reuse," according to an EPA statement. The city hopes the former vermiculite processing areas can be used again (AP/*Flathead Beacon*).

NEVADA: The federal Bureau of Land Management garnered nearly $3 million in bids at an annual geothermal lease sale. Bids were placed on 84 of the 114 offered parcels of federal land to be used for geothermal exploration. The state receives half of the revenues generated through the leases, with the rest going to the U.S. Treasury and a reclamation fund (Jason Hidalgo, *Reno Gazette-Journal*).

NEW YORK: A study from Baruch College found that the 150-block area around Brooklyn's Gowanus Canal could support more than 3,000 units of new housing when the water pollution is cleaned up. The canal, which was once called "Lavender Lake" because chemicals had turned it purple, was added to the EPA's National Priorities List, which lists sites for Superfund cleanup, dealing a blow to plans for new construction. City officials are hoping that once the canal is cleaned up, housing developers will come back to the site (Rich Calder, *New York Post*). **-- JP**

PCB levels haven't changed in St. Clair canals (*Greenwire*)

(05/12/2010)
Despite some $11 million worth of cleanup efforts, two eastern Michigan canals in St. Clair Shores may be no cleaner than when the environmental contamination was discovered in 2001.

"There is as much PCB contamination in the canals now from my calculation as there was when the canals were first cleaned in 2003," said Ed van Hees, a geologist at Wayne State University. The chemical compound has been shown to cause health problems in humans and cancer in animals.

In the past nine years, high levels of polychlorinated biphenyls, or PCBs, were detected in the waters of the canals. New sediment tests conducted in mid-February and again six weeks later found PCB levels in the canals still range from 125 to 1,700 parts per million. A PCB level of less than 1 part per million is considered safe for human contact.

Two months ago, U.S. EPA recommended the site, known as 10 Mile Drain Area, for Superfund status (*E&ENews PM*, March 2). Such a designation would mean more federal funding for cleanup operations and perhaps more help pinpointing the source of the contamination.

EPA officials said yesterday that they were aware the canals had been recontaminated and made their recommendation for Superfund status with that in mind (Jim Lynch, *Detroit News*, May 12). **-- DFM**

TOXICS

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13 Investigates: Lead in Your Dishes (*WTHR 13 Indianapolis*)

Posted: May 11, 2010 5:15 PM EDT Updated: May 12, 2010 8:45 AM EDT
Bob Segall/13 Investigates
Indianapolis - Lead is considered toxic and it's a key ingredient in millions of dinner plates, cereal bowls and other dishes we use every day. Federal regulators say, in most dishes, the lead poses no health risk, but some local health officials say the high amount of lead found in many dishes is "too risky" and shouldn't be permitted. When it comes to lead in your dishes, how much is too much – and how can you tell whether your plates contain dangerous levels of lead?

In one hand, Daniel Fries holds a colorful fruit bowl. In the other, a $30,000 XRF analyzer that will tell him how much lead is inside the dish.

He gently presses the analyzer against the bowl, pulls the trigger and, a few seconds later, the test is complete.

"Wow, that's a lot," said Fries, an environmental health specialist at the Marion County Health Department. "The inside of the bowl came back at ten percent lead. It's a shock to think there's that much lead in this, and it's something I wouldn't use anymore if it was mine."

Linda Hullett did stop using her favorite dinner plates after testing showed both the dishes and her daughter had high levels of lead.

"How can you get lead poisoning? Never crossed my mind it was dishes," Hullett said. "It's something you never think about."

Hullett's daughter, Paige, was having trouble concentrating in school. Upon the recommendation of a doctor, Paige was tested for heavy metals, and results showed the teenager had elevated levels of lead. The family then searched their home for a cause.

"We had our water tested and that was OK, and we have a newer home so we knew the paint wasn't a problem," Hullett said. "Then someone suggested we test our plates."

That's when the Hulletts went to the Marion County Health Department and learned their dinner plates contained 27,600 parts per million of lead, prompting both concern and confusion.

Why it's in there

Small amounts of lead are found naturally in the environment, but because lead is a toxic substance that builds up in the body, health experts recommend avoiding it whenever possible.

The United States Environmental Protection Agency says exposure to lead can result in learning disabilities; attention deficit disorder; decreased intelligence; speech, language and behavior problems; poor muscle coordination; constipation; sleeping disorders; high blood pressure; muscle and joint pain; birth defects; and damage to the nervous system and kidneys. Government regulators say exposure to even low levels of lead can have a lifelong impact on a young child.

Despite the health risks associated with lead, the dinnerware industry has long used it as a key ingredient in the paint and glaze added to many ceramic dishes.

"It makes it durable, it makes it hard, and it's the best material there is for that purpose," explained Sandy Spence, spokeswoman for the Society of Glass and Ceramic Decorated Products (SGCDPro).

Most products that contain lead are regulated by the United States Consumer Product Safety Commission. Prompted by massive recalls involving lead-tainted toys imported from China, the CPSC recently began enforcing a more stringent lead standard. Toys and other children's products are allowed to contain up to 300 parts per million of lead; items containing more lead are illegal for sale in the United States.

The XRF, which analyzes a product's total lead content by using x-rays that penetrate the surface, is commonly used by government agencies to conduct lead tests on toys and ceramic dinnerware. 13 Investigates obtained an Innov-X Systems XRF analyzer (and training on how to use it) and then tested hundreds of dishes.

Test results top 100,000

The testing included new dishes purchased from popular local retailers, as well as older dishes borrowed from the cupboards of WTHR staff members. Of the 315 plates, bowls and mugs analyzed, 113 (36%) exceeded the CPSC lead limit of 300 ppm used as a benchmark for children's products. One out of ten dishes contained more than 10,000 ppm of lead, and several of them topped 100,000 ppm.

"I wouldn't use a plate or a bowl that had that much lead in it," said Karla Johnson, director of the Marion County Health Department's Lead Safe and Healthy Homes Program. "I just wouldn't. There's no need."

WTHR found no common characteristic among the plates that yielded high lead content. Some featured bright colors and bold patters while others were plain white. Some of the plates came from China, England and Germany and others were produced in Italy, Japan and the United States. Some of the dishes were brand new and some are antiques.

"That's the dilemma for many families because you don't know by looking at it if it's got a lot of lead. It's just a guessing game, and that's unfortunate," Johnson said.

"Just not dangerous"

Despite high levels of lead found by WTHR and the Marion County Health Department, Spence says there's no reason for consumers to worry. She believes the lead in most plates is harmless.

"It's just not dangerous," Spence said. "What matters is not whether there's lead in it, but whether the lead comes out in a manner that it gets into your food so it gets into your body."

The federal government agrees with her.

Unlike toys and most other consumer products, dishes are regulated by the United States Food and Drug Administration. The FDA doesn't care how much lead is in a plate; it wants to know how much lead leaches out – something an XRF cannot detect. For that, there is a special leach test that can only be done in a laboratory. 13 Investigates hired two labs to conduct leach testing on 18 separate dishes that contain high levels of lead.

On several of the dishes, lead did leach during the test. A bowl leached 15 ppm of lead, which is far above the FDA's safe allowable leaching limit of 2 ppm. Another bowl exceeded California's much tougher lead limit of .100 ppm. (California and Massachusetts currently have stricter lead limits for ceramic tableware than the federal limits that apply to Indiana and other states.)

But most of the plates sent to a lab for leach testing by Eyewitness News – including all of the plates recently purchased from local retailers – leached only tiny amounts of lead, well below the FDA standard.

"It's fairly rare that we find anything high [during the leaching test] anymore," said Dick Goldblatt, director of Chicago Spectro Service Laboratory, which tests ceramic

tableware for dish manufacturers, retailers and importers. "I think they recognized the problem years ago, and over the years it's gotten better."

SGCDPro says its members have taken steps to reduce the amount of lead that can leach out of ceramic dishes since the issue was first identified almost 40 years ago.

"Since the 1970's, there's been regulations and there's been testing, so if you buy tableware in this country from a reputable retailer, there should be no problem whatsoever," she said.

"Not going to risk it"

But the Marion County Health Department is not convinced. Johnson says if a plate contains lots of lead, she doesn't care if it's leaching out or not.

"I would not feed my family out of it. I already know lead is harmful to children. It causes permanent damage. I'm just not going to risk it," Johnson explained.

And some consumers are skeptical, too.

Two years ago, doctors in Utah diagnosed Chloe McBride with lead poisoning that was later linked to her family's dinner plates.

Chloe's mother, Jen, sought medical attention because the infant was severely constipated and would go days without being able to go to the bathroom.

An environmental health specialist at the Weber-Morgan Health Department tested every room in McBride's home before zeroing in on the dishes, which contained a high level of lead.

"Because we ate off the plates, we were ingesting the lead and then passing it to her through my breast milk," McBride explained.

After Hullett learned her daughter and dishes also had high levels of lead, she told the rest of her family. Her sisters, Erin and Angie, took their dishes to the Marion County Health Department for XRF testing and discovered their plates contained lots of lead, too.

"We've all got lead in our dinnerware sitting in our cupboards, and we use it every day and raised our babies on it," said Erin Baker, whose dinner plates contain 174,000 ppm of lead. "I'm very frustrated."

"It was unbelievable to me that we were eating off those plates that had such high lead levels," said Angie Kiley. "Those plates may be fine for a couple of years, but then when you're cutting things on them, day in and day out, heating them up in the microwave and it's breaking down that glaze, then what happens?

Even industry insiders admit, that's still a question.

Beware of "old, cracked & chipped"

"If you have something that's old, if you have something that has little crackles in it, if you have something that's chipped, that could be a problem," Spence said. "Also, if you use a steak knife and you cut through the [plate's] surface, there could be something that comes through that little scratch. That's why it's better to use things that are not marked up. Let me put it this way ... if it's chipped, I wouldn't use it. If it's old and you found it in your grandma's attic, I might stay away from it."

Johnson believes consumers shouldn't have to wonder whether their dishes might be leaching lead.

"Why do I need it there? If lead is harmful, lead causes permanent damage, and there's no good need for lead in my food or my body, then why is it on something I eat out of?" she asked. "There's just no need for that when I think there are products out there that are lead-free that are just as beautiful."

Wednesday night on Eyewitness News at 11:00

WTHR will show you how to find out if your dishes are leaching dangerous levels of lead, including a simple test you can do at home. And if you'd like to have your plates tested for free, 13 Investigates will tell you about a special testing day set up by WTHR and the Marion County Health Department.

The investigation also shifts to Washington, DC, to show you why the government allows any lead in your dishes and to show you which ceramic dishes pose the biggest safety threat. You'll also see why lead isn't the only concern. During our testing, 13 Investigates found a cancer-causing substance leaching out of a plate meant for children! WTHR's investigation continues Wednesday night at 11:00.

WATER

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WEDNESDAY, MAY 12, 2010

Controls To Meet EPA Ship Air Rules May Increase Wastewater Discharges (*Inside EPA*)

EPA emission control requirements that some ships must begin meeting this summer could increase the vessels' wastewater discharges, raising compliance concerns as the increased discharges could violate varying state water quality standards and put pressure on EPA to resolve the issue with a federal vessel discharge program, say industry and other sources.

EPA April 30 finalized a two-phase rule to cut sulfur oxide (SOx) and nitrogen oxide (NOx) emissions for new marine compression-ignition engines at or above 30 liters per

cylinder. The first phase of the rule beginning in 2011 requires greater use of current engine emission reduction technologies, and the second phase beginning in 2016 will require the use of high efficiency emission control technology on new engines to cut NOx.

The rule will also require that ships generally use fuel that has a sulfur content no greater than 1,000 parts per million. Ships could only use fuels above that limit if they achieve “equivalent emissions reductions” through means other than fuel-switching, such as the installation of air pollution “scrubbers.”

But shipping industry officials and other sources say companies are now struggling to determine whether to pursue technology-based or fuel-based options for complying with EPA’s program, because whatever option they choose could increase ship wastewaster discharges that could then violate national or state water quality standards.

It is also unclear whether there are sufficient on-shore facilities to process residue, known as sludge, that the new emission controls will produce. International shipping guidelines prohibit dumping of that sludge in water, but industry argues there is a pressing need for more on-shore facilities to handle the residue.

EPA’s final rule says that any discharges from ships into American waters may be subject to the Clean Water Act or the Act to Prevent Pollution for Ships, and notes in particular that any wastewater discharge from air pollution control technology will require a permit under the National Pollutant Discharge Elimination System permit program, which already lays out conditions for exhaust gas scrubber “washwater” discharges.

One shipping industry source says that the potential violation of state-by-state water standards caused by installation of air scrubbers that increase wastewater discharges is a compliance problem for ships subject to the agency’s emissions rule. Commercial ships over 79 feet in length are subject to an EPA Clean Water Act general discharge permit, but are also subject to varying state discharge limits that can be stricter than EPA’s limit.

Need For Consistency

The industry source says there is a need for a “strong” consistent federal vessel discharge program that preempts states, so that ships have a nationally consistent wastewater discharge requirement.

Pollutants discharged as effluent from ships as a result of control technologies are “the kind of pollutants that would definitely be covered by state water quality standards,” says one environmentalist. The source also supports a strong federal plan, saying otherwise a ship would have to take steps, for example, to meet New York’s discharge standard when in New York waters and a Michigan standard when in that state’s waters.

Industry observers disagree over whether the issue impacts the viability of scrubbers as an alternative to fuel-switching, with one source noting that the issue of trade-offs between different environmental media is a common problem but others saying that the water and waste issues, among other design complications, eliminate the possibility of using on ships the type of scrubber technology that is commonly employed on stationary sources.

“Whether it’s air, whether it’s water, any examples have the potential to reduce one problem” but create a new problem, says the first industry source, while an industry legal source says that none of his shipping clients plan to use scrubbers. “A lot of them, as I understand it, are trying to focus on fuels as opposed to technologies,” the industry legal source said.

Former EPA official Bryan Wood-Thomas, now with the World Shipping Council, told a May 4 Clean Air Act Compliance Advisory Committee mobile sources panel meeting that for many companies, the viability of scrubbers is still an open question. “The real issue is ‘Is the effluent going to be accepted?’” under federal and state water standards, he said at the meeting in Arlington, VA. “And that is a very difficult political question, and very few people are going to be installing these systems without that question being resolved.”

The International Maritime Organization -- which sets global standards and of which the United States is a member -- has established guidelines for the use of scrubber technology, including recommendations for monitoring pH, polyaromatic hydrocarbons and turbidity; discharging effluents at open sea and in ports, harbors and estuaries; and delivering sludge ashore to adequate reception facilities rather than discharging at sea or burning on board.

The first industry source says another key issue is whether there are problems with fuel-switching. The source notes that California state laws already require the use of low-sulfur fuels within a certain proximity to shore, which has led to isolated occurrences of ships losing power at sea, due to the low speed required during the switch.

Advisory Meeting

Meanwhile, at the clean air advisory meeting Marge Oge of EPA’s Office of Transportation & Air Quality touted the benefits of the agency’s final rule. EPA has previously said the rule will reduce annual emissions of NOx in the United States by about 1.2 million tons and PM emissions by about 143,000 tons.

The rule -- which will have operational costs of $3.11 billion by 2030 -- will be “highly, highly beneficial,” even for areas located far from the coasts. “We are seeing larger [emission] reductions in the Dakotas from this program than from” reducing rail emissions in the same region, according to Oge.

The costs of meeting the air rule “will be significant but uniform across competitors,” said Wood-Thomas, adding that the rules are part of a broader shift in the shipping industry to seek more-stringent global rules in order to obviate the need for local authorities to set their own standards. -- *Molly Davis*

CBF, feds settle cleanup lawsuit (*Annapolis Capital*)

Bay group's Baker: 'This agreement is game-changer'
By PAMELA WOOD, Staff Writer
Published 05/12/10
The Chesapeake Bay Foundation and the Environmental Protection Agency settled a long-standing lawsuit yesterday, but it remains unclear how much of a difference the agreement will make in restoring the health of the polluted bay.
Pamela Wood — Staff Writer Bob Perciasepe, right, of the Environmental Protection Agency, explains why the federal government agreed to settle a lawsuit with the Chesapeake Bay Foundation. The bay foundation’s president, Will Baker, listens and holds a copy of the settlement at left.
In the agreement unveiled at a news conference at CBF headquarters in Bay Ridge, the bay foundation and the EPA agreed on a series of cleanup steps the federal government must take.

While most of the steps are actions that the EPA already has promised to complete, bay foundation officials stressed that putting the actions into an enforceable, legal document was a victory.

"This agreement is a game-changer," bay foundation President Will Baker said yesterday morning as he announced the settlement. "This agreement is going to lead to pollution reductions in the Chesapeake Bay, and if it doesn't, the Chesapeake Bay Foundation will be back in court."

Howard Ernst, a Naval Academy political science professor and author of two books on the bay, was not impressed with the deal.

"Call me a skeptic, but this really seems familiar," Ernst said. "The fact is, we already have a binding agreement that requires the Environmental Protection Agency to reduce pollution across the watershed - it is called the Clean Water Act and it was passed in 1972."

Ernst said the settlement simply "restates" the federal government's existing responsibilities under the Clean Water Act.

The bay foundation had alleged in its January 2009 federal lawsuit that the EPA was missing in action when it came to improving the bay's health. By failing to take significant steps to assist in the cleanup effort, the EPA was violating the federal Clean Water Act, the lawsuit charged.

The bay foundation and the EPA had been in settlement talks over the course of the past year and were facing a June 30 deadline imposed by the judge in the case.

The settlement requires the EPA to:

Complete its baywide "pollution budget" by the end of this year.

Make sure states have plans for complying with the pollution budget by late 2011.

Withhold federal funding or deny construction permits as a consequence if statesdon't comply with the pollution budget.

Adopt rules governing polluted runoff from stormwater and large animal farms in the next few years.

Require new pollution sources to be offset by pollution reductions elsewhere.

Develop a tracking system so the public can see progress in reducing pollution discharges.

Include air pollution in the pollution budget as one of the sources of nitrogen that harms the Chesapeake.

Most of those steps already have been promised by the federal government.

Baker said that before the settlement, there would have been no legal recourse if the government didn't fulfill its promises. Now, he said, the bay foundation can go back to court if the EPA drops the ball.

Baker noted that all of the past agreements to clean up the bay drafted over the years had no means of enforcement.

"1983, 1987, 2000 - good words on paper, but they were all voluntary. This is a legal document. … We've had promises before, but never a legal document," Baker said.

Baker said the bay foundation did seek more concessions from the government, but weren't able to get them in the settlement. "We didn't get everything, but we felt we got enough to come to a settlement," Baker said.

The EPA, for its part, appeared relieved to have reached a settlement.

Bob Perciasepe, the EPA's deputy administrator, joined Baker and others at the press conference at the bay foundation's waterfront headquarters in Bay Ridge.

"We want to get on to doing this work, as opposed to continually discussing how we should do it," said Perciasepe, who served as Maryland's secretary of the environment earlier in his career.

Many of EPA actions covered in the settlement are already in the works. They were prompted by an executive order issued by President Barack Obama last May that prodded federal agencies to improve their bay-saving actions.

The agencies' final responses to the executive order were expected to be discussed this morning at an event in Washington, D.C.

Legendary bay champion Bernie Fowler, who was a co-plaintiff with the bay foundation, was thrilled.

"I'm beginning to see the light at the end of the tunnel and that makes me happy," said Fowler, a former state senator from Calvert County who has worked on the bay for decades.

In addition to the bay foundation and Fowler, the plaintiffs in the lawsuit included the Maryland Watermen's Association, the Virginia State Waterman's Association, the Maryland Saltwater Sportfishermen's Association, former Washington, D.C., mayor Anthony A. Williams, former Maryland governor Harry R. Hughes and former Virginia natural resources secretary W. Tayloe Murphy Jr.

EPA Releases Plan To Reduce Columbia River Chemicals (*OPB News*)

BY ROB MANNING
Portland, OR May 12, 2010 8:51 a.m.
The Environmental Protection Agency published a draft plan this week to reduce the biggest chemical threats to the Columbia River.
EPA’s plan focuses on three toxics that have been problems for a long time: mercury, DDT, and PCBs.

It also names the more recent threat of flame retardants known as PBDEs.

Pesticides and other contaminants are targets as well.

EPA's project manager, Mary Lou Soscia is optimistic the river can be cleaned up in spite of years of problems. She's encouraged by the improvement in smaller basins.

Mary Lou Soscia: "In May of 2009, there was a DDT fish advisory in the Yakima Basin, which had been there for years and years, and that was lifted. In the Walla Walla basin, just recently, they dramatically reduced, 70 percent reduced, organophosphate pesticides."

The draft Columbia River Action Plan includes five strategies, including a public education campaign, and intensive monitoring, research, and data-sharing.

EPA also wants to take limits currently in use for pesticides, and apply them to other toxics.

EPA, conservationists reach accord on Bay cleanup (*Washington Examiner*)

By: Bill Myers
Examiner Staff Writer
May 12, 2010
The Environmental Protection Agency says it's going to clean up its act in the Chesapeake Bay, settling a lawsuit with conservationists that will require the agency to take an aggressive stance on pollution in the region.

The Chesapeake Bay Foundation sued the agency during the Bush years, claiming that officials were ignoring cleanup and anti-pollution laws. The Obama administration promised to change tack and will announce new policies to rescue the United States' biggest estuary on Wednesday.

"We believe this is a major development," foundation spokesman John Surrick told the *Washington Examiner*. "It's a binding agreement that we can go back into court and ask a judge to enforce." The foundation agreed to put the suit on hold while the new administration crafted regulations. The suit was filed just days before Obama took office. Shortly after his inauguration, Obama issued an executive order, calling the Bay "a national treasure" and directing the EPA to lead a restoration and anti-pollution crackdown. The foundation had worked out agreements with federal officials in 1983, 1987 and 2000, but this one requires the EPA to set rigid pollution and cleanup standards and require states to enforce them. Since Obama took office, the agency has

been more aggressive in tackling polluters. The agency now says it wants to put the area on "a pollution diet." Last month, EPA officials announced a $1 million pollution settlement with New Jersey-based home giant Hovnanian. The suit alleged that the company routinely ignored anti-runoff laws that led to extensive pollution in the Chesapeake region. Environmentalists say the Chesapeake once teemed with fish and wildlife but pollution and overfishing have damaged the area's economy and ecology. "The Bay is in critical condition," Surrick said. Last year, the government declared the Bay a federal disaster and set aside millions to relieve hard-pressed watermen, whose blue crab stocks plummeted, before rebounding this year. U.S. Sen. Ben Cardin, D-Md., hailed the announced settlement and said he would soon introduce about $2 billion in legislation to aid in cleanup and enforcement. "We can restore the Bay, but we need a strong commitment and strong leadership," he said in a statement.

bmyers@washingtonexaminer.com

Read more at the Washington Examiner:
http://www.washingtonexaminer.com/local/EPA_-conservationists-reach-accord-on-Bay-cleanup-93461474.html#ixzz0njhe2KGp

White House proposes bill to lift caps on spill liability (*Greenwire*)

(05/12/2010)
Mike Soraghan, E&E reporters
President Obama put his weight today behind legislative efforts to lift liability caps for oil spills.

The administration is sending a wide-ranging spill-response package to Capitol Hill that includes raising the $75 million cap on economic damages. It would also seek to accelerate assistance to people left unemployed by the spill, expand eligibility for food stamps and raise an 8-cent-per-barrel oil tax by 1 cent.

The cap on natural resource damages would be raised from $500 million to $750 million. Some lawmakers have said the cap on economic damages, such as lost wages or canceled hotel bookings, should be raised to $10 billion. But the administration did not offer its recommendation as to what the cap should be.

"We will work with Congress on the final number for that liability cap," White House energy and climate adviser Carol Browner said in a conference call with reporters today.

The bill would apply to future spills, but White House officials say they also want the legislation to impose measures retroactively on BP PLC, the oil company whose well has been belching crude into the Gulf of Mexico since an April 20 rig explosion. Such a maneuver will not run into constitutional *ex post facto* problems, they say, because the bill updates existing legislation and applies broadly to any oil company that spills.

White House officials said existing laws dealing with oil spills were written 20 years ago, when offshore drilling was a smaller part of the nation's oil and gas production.

Browner said the administration is taking BP at its word that it will pay all damages, but wants additional authority in case it or future polluters fail to pay claims "quickly and fairly."

The administration has talked to both Republicans and Democrats about the legislation, though officials wouldn't detail their legislative strategy. Still, they said they hope to have the legislation done in the "next few weeks."

The penny-per-barrel (42 gallons) oil tax increase would be paid into the Oil Spill Liability Trust Fund, an account established to ensure that there are sufficient resources available to clean up spills and pay damages. The per-incident spending cap from the fund would be raised from $1 billion to $1.5 billion.

The administration also wants more inspections, enforcement and study of potential spills, and the bill would provide $29 million to the Interior Department to start that process. It would also give the Interior Department's Minerals Management Service more time to do environmental reviews of oil exploration plans.

Officials also want to expand unemployment insurance in new ways for oil spills and disasters, such as helping fishermen who are self-employed.

The legislation would authorize $118 million in new, one-time discretionary spending, expanding access to food stamp programs and creating "one-stop shopping" sites for assistance that officials hope will prevent bureaucratic delays. But Browner and others repeatedly said they expect BP to pick up the tab.

Also included in the bill:

- $15 million to guarantee that out-of-work fishermen will be compensated for lost earnings.

- $2 million to the Food and Drug Administration to monitor the spill's impact on seafood caught in the Gulf of Mexico. That could include deploying technology to speed the analysis of seafood samples for contamination.

- $2 million to U.S. EPA and $5 million to the National Oceanic and Atmospheric Administration for environmental studies to aid in responding to the spill.

- Permission for the Department of Agriculture to provide food directly to Gulf Coast states to distribute to those who are in need.

- $5 million for grants from the Economic Development Administration's Economic Adjustment Assistance program for strategic planning and technical assistance.

Other legislation

The administration's proposal comes on top of numerous other bills related to the Gulf spill already introduced by lawmakers. Among them:

- S. 3337, by Sen. Mary Landrieu (D-La.), which would amend the Public Works and Economic Development Administration Act of 1965 to establish a program to provide technical assistance grants for use by organizations in assisting individuals and businesses affected by the Deepwater Horizon oil spill in the Gulf of Mexico. The Environment and Public Works Committee is handling the measure.

- H.R. 5267, by Rep. Anh "Joseph" Cao (R-La.), which would amend the Gulf of Mexico Energy Security Act of 2006 to accelerate the increase in the amount of Gulf of Mexico oil and gas lease revenues that is shared with states. The bill was sent to the House Natural Resources Committee.

- S. 3343, by Sen. Frank Lautenberg (D-N.J.), which would direct the Interior secretary to establish an annual fee on federal offshore areas that are subject to a lease for production of oil or natural gas and to establish a fund to reduce pollution and the dependence of the United States on oil. The bill is being handled by the Energy Committee.

- S. 3344, by Sens. Sheldon Whitehouse (D-R.I.), Robert Menendez (D-N.J.) and Barbara Boxer (D-Calif.), which would establish an independent, nonpartisan commission to investigate the causes and impact of, and evaluate and improve the response to, the April 20 explosion, fire and loss of life on the Deepwater Horizon. The energy panel is handling the bill.

- S. 3345., by Whitehouse, Menendez and Sen. Patrick Leahy (D-Vt.), which would amend Title 46, U.S. Code, to remove the cap on punitive damages established by the Supreme Court in *Exxon Shipping Co. v. Baker*. The bill is in the Commerce Committee.

- S. 3346 by Whitehouse and Menendez, which would increase the limits on liability under the Outer Continental Shelf Lands Act. The Energy Committee is handling the measure.

Reporter Robin Bravender contributed.

U.S. NEWS
MAY 11, 2010, 2:59 P.M. ET

Chesapeake Bay Foundation Settles Suit Against EPA (*Associated Press*)

Story also appeared: *Washington Times*, *Wall Street Journal*

ANNAPOLIS, Md.—The Chesapeake Bay Foundation on Tuesday announced the settlement of its lawsuit against the Environmental Protection Agency, a day before the federal agency is to announce a major cleanup strategy mandated by a presidential executive order.
Foundation President Will Baker predicted the settlement would lead to pollution reductions in the nation's largest estuary "and if it doesn't, the Chesapeake Bay Foundation will be back in court."

An EPA official attending the environmental group's announcement in Annapolis said the agency shared the foundation's goals and commitment to bay restoration. "That's the key point, moving on to getting this work done," EPA Deputy Administrator Bob Perciasepe said.

The foundation had sued the federal agency over what it called the slow pace of cleanup efforts. But it said it put the suit on hold while the EPA developed a restoration strategy.

The foundation said that unlike previous agreements, the settlement is a legally enforceable commitment that requires the EPA to take specific actions to cut bay pollution.

Retired Maryland Sen. Bernie Fowler, who has worked for decades on bay restoration efforts, said the settlement was a firm agreement that would be difficult to renege on.

West Virginia, Pennsylvania, Delaware and New York are all at least partly in the bay's watershed, along with Maryland and Virginia. Pollution that flows into many of their rivers and streams makes its way to the Chesapeake and two top problems are nitrogen and phosphorous that fuel oxygen-robbing algae blooms, along with sediment runoff that kills vital underwater grasses.

Much effort has been focused on reducing nutrient runoff from farms and animal-feeding operations, and EPA officials have said the only source still growing is suburban and urban runoff from lawns, roads, rooftops and other surfaces.

Experts also say yearly weather affects how much pollution washes into the bay.

President Barack Obama's executive order last year put the federal government at the helm of efforts previously led by the states, establishing an EPA-supervised Federal

Leadership Committee to oversee restoration programs. He also ordered the EPA to research its authority under the Clean Water Act to restore the estuary.

The strategy mandated by the executive order is to be released Wednesday in Washington, a year to the day after the order was issued. The EPA has said it will put the bay on a "pollution diet" that will require limits in specific areas.

EPA agrees to fulfill role as enforcer of bay cleanup (*Washington Post*)

May 12, 2010 Wednesday
Suburban Edition
A-SECTION; Pg. A01
Maryland
By: Ashley Halsey III
The Environmental Protection Agency will be legally bound to clean the soiled waters of the Chesapeake Bay after reaching an agreement Tuesday to enforce tough new standards for pollution reduction.

The settlement reached to end a lawsuit brought by bay advocates has potentially far-reaching consequences for the bay's watershed, a huge sweep of territory from Upstate New York to the Shenandoah Valley.

The pollution reductions could affect how lawns and farm fields are fertilized; how livestock is managed; what sewage treatment costs taxpayers; where housing developments, office complexes and shopping centers can be built; and other aspects of life with the potential to taint the water that flows into the 200-mile-long bay.

Tuesday's agreement is the latest in a series of landmarks that so far have not survived the test of time. They began with the Clean Water Act in 1972, which was followed by Chesapeake Bay agreements in 1983, 1987 and 2000. Those efforts all faltered, with much finger-pointing, as federal overseers sought to manage a coalition of states whose enthusiasm and commitment often were fractured by parochial issues.

This time, there are several differences, foremost among them that the **EPA** is legally obligated to achieve the goals established in the settlement. The agency has agreed to force states to do what has not been done voluntarily in the past. In addition, the Obama administration has demonstrated the political will to tackle bay pollution, beginning a year ago with an executive order empowering the **EPA** to set more stringent standards and penalize states that failed to meet them.

"For the first time in bay history, the **EPA** has said in a legally enforceable document that 'We are responsible for bay restoration,' " said Jon A. Mueller, a lawyer for the Chesapeake Bay Foundation, one of the lead groups in the lawsuit filed last year.

Mueller said advocates would return to court if the **EPA** misses targets.

"We share the goals," said **EPA** Deputy Administrator Bob Perciasepe, a former secretary of the environment in Maryland. "**EPA** will be there and will be living up to these commitments. We want the states to take the leadership here, but we are going to be developing a stronger federal backstop than ever existed before."

Under the agreement, the **EPA** will mandate that states limit their nitrogen, phosphorus and sediment flow into the bay in compliance with an overall daily maximum being formulated by the federal agency.

Calculating the maximum volume of pollution that can be absorbed by a healthy bay that draws from a 64,000-square-mile watershed is a monumental challenge. Each of the six states and the District must develop a plan to comply with the limits. States that violate the limits could be denied federal funds or construction permits for major developments.

Nitrogen, primarily from farm fertilizer but from lawn use as well, is the single leading cause of pollution in the bay. Farm runoff is also blamed for half of the phosphorus entering the bay.

The **EPA** has also agreed to formulate regulations to control barnyard pollution. With advancements in sewage treatment plants, manure has surpassed human waste as a bay pollutant.

"This agreement is a game changer," said William C. Baker, bay foundation president. "In 1983, 1987 and 2000, those were good words on paper, but this is a legal document. We've had promises before but never a legal document."

Despite the optimism, Baker said his group harbors a "healthy skepticism" and will scrutinize the **EPA's** compliance.

The lawsuit, in which the foundation joined with watermen, fishermen and several public officials, was filed after state governments and the **EPA** admitted three years ago that they would fall far short of meeting bay cleanup goals set under the 2000 agreement.

Despite spending almost $6 billion over a quarter-century to try to restore the bay, it still had just as many heavily polluted "dead zones" as it did at the outset. Over the course of those decades, the **EPA** presented overly rosy progress reports, officials later conceded, for fear that more truthful accounts would jeopardize annual funding that hovered around $20 million in the 1990s.

As indicators of distress abounded -- oysters virtually disappeared, critical underwater grasses died and the crab population that breeds in that grass declined -- and the population in the bay watershed mushroomed to 17 million, the charade continued until the 2007 admission that goals set for 2010 weren't remotely close to being realized.

Bernie Fowler, a former waterman and Maryland state senator from Calvert County, was among the lawsuit plaintiffs who expressed satisfaction with Tuesday's settlement.

"After 40 years of personal involvement," said Fowler, 86, "I'm beginning to see a little light at the end of the tunnel."

Tougher measures to control runoff (*Lancaster Online*)

Intelligencer Journal
Lancaster New Era
May 12, 2010 13:43 EST
Lancaster
The federal government today announced an "unprecedented" and "historic" strategy for cleaning up the Chesapeake Bay which includes tougher controls for farmers, residents and municipalities in Lancaster County and Pennsylvania.
Small farms in Lancaster County, not just concentrated livestock operations, will have to file and abide by plans to keep manure and soil from running off their land.
Lancaster City, boroughs and developed townships will have to better control stormwater runoff entering streams.
Sewage treatment plants may have to spend more to retrofit facilities to remove even more nutrients than they've been required to date.
The U.S. Environmental Protection Agency said it would be providing funds and technical help to ease the pain of the coming changes.

Port Charlotte Beach advisory remains in effect (*Sarasota Herald Tribune*)

Staff report
Published: Wednesday, May 12, 2010 at 1:41 p.m.
A beach advisory at Port Charlotte Beach Park remains in effect because of higher than acceptable levels of bacteria in the water.

The Charlotte County Health Department is testing water samples daily, said environmental supervisor Scott Schermerhorn. He said Tuesday's results showed bacteria levels above the maximum limits of the water-quality standards of the Environmental Protection Agency. The number of bacteria should be no more than 104 units per 100 milliliters, and the sample showed 232.

Schermerhorn said the advisory will be posted until water samples are clear. The beach area should be considered a potential health risk to bathers, and swimming is not recommended. If high concentrations of these bacteria are ingested or enter through an open cut or sore, they may cause disease or infection. The most common symptoms include rashes, diarrhea, nausea and vomiting.

Schermerhorn said that fecal coliform bacteria also were found in the samples, but the levels were within acceptable limits.

The health department issued the advisory May 5 after a broken utility line spilled more than 10,000 gallons of raw sewage into the Fordham waterway off Conway Boulevard. The main has been repaired.

Higher levels of PCBs found in canals (*C and G News.com*)

By Julie Snyder
C & G Staff Writer

ST. CLAIR SHORES — Recent tests have confirmed that there are higher levels of PCBs in the sediment of some St. Clair Shores canals than when the contaminants were first discovered nine years ago.

During a May 11 meeting with the Macomb County Water Quality Board, Ed van Hees, assistant professor of geology at Wayne State University, revealed that sludge samples taken from the Lange and Revere canals in February, March and April show that PCB levels now range from 126 ppm (parts per million) to 1,700 ppm.

He said while the numbers are well below the 820,000 ppm that the U.S. Environmental Protection Agency found late last year, they are nevertheless above the unsafe range of 50 ppm.

Doug Martz of the Macomb County Water Quality Board said he couldn't help but notice the levels appear to be increasing.

"The numbers in the (Lange/Revere) canal are higher than when this thing started," he said.

High levels of PCBs, or polychlorinated biphenyls, were first discovered in 2001 in the 10 Mile/Lange/Revere canals at Lake St. Clair.

Since then, the EPA, St. Clair Shores city officials, Macomb County and the Michigan Department of Environmental Quality (MDEQ) have tracked the contamination back to the 10 Mile Drain storm sewer, which captures storm water from the area generally bordered by Jefferson, Harper, Bon Brae, and 10 Mile.

In a subsequent $10 million cleanup effort in 2002 and 2003, the EPA removed 24,000 tons of contaminated sediment from the storm drains and canals.

Post-cleanup monitoring revealed that PCBs continued to enter the storm drains and canals. Soil sampling results further indicated that the utility corridor that houses the 10

Mile Drain, and several residential properties, were also contaminated with the cancer-causing chemicals.

In 2006, the EPA and MDEQ removed surface soils that exceeded the state's direct contact criterion and lined the drain to prevent further migration of the PCBs into the drain and canals.

In 2007, the city, county and MDEQ began monitoring the effectiveness of the liner and conducting interim remedial measures to address the contamination within the drain located 15 feet below ground.

To date, a source of the pollutants remains unknown, and van Hees recommends no further cleanups be done until a determination is made whether or not the 10 Mile Drain area will be named as a Superfund site.

Superfund designation could come in September 2010. It is reserved for the most toxic sites and would come with federal funding for cleanup.

Lifelong Revere Street resident David Consiglio said he's not surprised by the recent results.

"When you don't find a source, you'd expect the numbers to rise," he said. "And in five years, it will probably double."

Consiglio said the results show that none of the past plans to contain or rid the area of PCBs have worked, and it's time for the next big step.

"Us who live in the 10 Mile, Lange and Revere area, we're tired of this," he said. "We've been living with this for too many years. The whole thing all the way around isn't working. It's pretty bad."

During a town hall meeting in St. Clair Shores on Dec. 10, Annette DeMaria, a project manager for Environmental Consulting and Technology, the company hired to contain the PCB contamination, said PCBs continue to migrate into the 10 Mile Drain, either from one source or from multiple sources.

Van Hees has studied the sediment in the contaminated canals for years. Some of his findings have shown that levels of PCBs spiked in 1983, the same year an F3 tornado tore through the city destroying homes and uprooting trees along its path from Lake St. Clair westward.

He said the May 2 storm that year destroyed at least 16 transformers, possibly as many as 30, which could have resulted in between one and six barrels filled with PCB oils leaking into the ground and into the drain over time. This would coincide with DiMaria's theory that the chemical was spilled into the ground, and did not come from a source below the surface.

Van Hees said warning signs should be posted along the canals, advising people not to eat fish caught in the water because they could be contaminated.

Tests on local fish are still being conducted.

City Manager Benjamin Hughes said another meeting will be held at City Hall sometime in July or August. The meeting will be attended by officials from the EPA, MDEQ, ETC, and other experts closely associated with the issue as well as local political figures.

You can reach Staff Writer Julie Snyder at jsnyder@candgnews.com or at (586) 498-1039.

Officials say pollution sampling shows little dangerous impact; environmentalists skeptical (*Nola.com*)

By Bob Marshall, The Times-Picayune
May 12, 2010, 6:07PM
Coast Guard photoWorkers clean up oil along a beach at South Pass, where the Mississippi River meets the Gulf of Mexico, on Tuesday.
In 24 days the Deepwater Horizon blowout has poured almost 5 million gallons of crude oil into the Gulf of Mexico, forcing closure of huge fishing areas and prompting reports of oil odors in the air from Venice to metro New Orleans. But government environmental monitors so far have reported no contaminants in human air, water or food supplies.

Environmental advocates, however, say residents should be cautious in reading those results.

"The problem is (the EPA) only has a few stations in a very large area," said Anne Rolfes of the Louisiana Bucket Brigade. "What they can tell people with any certainty is the readings were OK where they were taken. They can't say that means the air is safe everywhere. It's like a cop standing at the foot of Canal Street and saying there is no speeding anywhere in the city.

"This is a daunting challenge, I'll give them that. But they should admit they don't have the resources to really protect the public."

Not that those involved in the monitoring are claiming the coast is clear.

"So far nothing of significance - but remember we've had no significant oiling inshore yet," said Jeff Dauzat, an environmental scientists with the state Department of Environmental Quality.

The only alarm sounded so far came Tuesday when the Louisiana Environmental Action Network pointed to a hydrogen sulfide measurement on the Environmental Protection

Agency's Web site that showed a reading of 1,192 parts per billion at Venice on May 9. The state's safety standard is 237 ppb average over an 8-hour period, the DEQ said. But LEAN said research shows a reading of 100 ppb could be harmful to humans.

However, a state official said the reading was a mistake because it was taken by a mobile EPA testing unit near a wastewater treatment facility. Readings before and after that one were around 30 ppb.

The EPA did not answer requests for more information on the number of its stations and their locations.

State and federal agencies said they have been monitoring environmental conditions since shortly after the blowout April 20.

Samples of water, fish and seafood in local estuaries are being collected and tested by the departments of Health and Hospitals, and Wildlife and Fisheries. Air quality is being tested by the state DEQ and the EPA, while the EPA is also doing water testing inshore and the National Oceanic and Atmospheric Administration is testing water offshore, officials said.

Several components of oil threaten human health. Aromatic volatile organic compounds are loaded with known carcinogens such as benzene. These evaporate into the air and, at high enough dozes, can cause serious health problems. But they can also be absorbed by some seafood species, posing dangers if consumed in large enough quantities.

Officials with the agencies said testing began immediately after the spill to establish a baseline for healthy conditions.

"We'll know if conditions change, how things are being impacted, or not," said DHH Secretary Alan Levine. "Just as importantly, after this crisis is over, we'll use that baseline to be able to tell when things have returned to normal."

Continuous samples of oysters, shrimp, crabs and fish are sent to labs to test for various toxic chemicals associated with oil spills, but so far no contamination has been found even in areas that have been closed to fishing. However, Levine said closures are necessary to protect the public and the seafood industry because the lab work takes about five days.

"If we wait until we find something harmful to close an area, it might already be in the market place," Levine said. "The industry knows this better than anyone. They have been extremely supportive and helpful."

Air samples are being continuously taken by the EPA, DEQ and private contractors hired by BP daily from stations across southeast Louisiana, with the government agencies monitoring the contractors' work, Dauzat said. Most of the samples are from

stationary gauges set at about five feet above the ground, but the EPA also has mobile units cruising the region.

While many residents across the region have reported smelling oil in the air, the officials said that did not indicate there was a harmful amount of pollutants in the atmosphere.

"Your nose can smell things in the parts-per-billions, which is far, far, far below any threat to human health," Dauzat said.

"That's not to say it isn't uncomfortable or not a problem for any individual. People can still have unpleasant effects - nausea, headaches, burning eyes or noses - even though other people are fine."

Levine said anyone experiencing those symptoms should go indoors, turn on the air conditioner and remain there until the smell dissipates.

Water sampling is being conducted by DHH in its seafood monitoring, but also by the EPA at hundreds of stations along the Gulf, including southeast Louisiana. Intakes for public water supplies along the lower Mississippi River are also being sampled.

And even though some beaches have been fouled with oil and slicks have been reported inside the beach line, no hazardous levels of contaminants had been detected yet, officials said.

"Not even close so far," said Levine. "But obviously that could change."

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Atlanta's sewer woes frustrate Georgians (*Atlanta Journal-Constitution*)

May 13, 2010 Thursday
Main Edition
NEWS; Pg. 1A
By Eric Stirgus; Staff
Rob Hunter is an engineer by trade, but the man in charge of Atlanta's water and sewer system has a major sales job in front of him next week.

Atlanta's Watershed Management commissioner and a team of attorneys will try to persuade a federal judge on Wednesday to give the city more time --- another 15 years past the current 2014 deadline --- to complete a $4 billion overhaul of its sewer system.

Some South Georgia leaders, who've seen their share of pollution in their waters, courtesy of Atlanta, say no way to an extension.

"In 15 years, they'll be asking for another extension," LaGrange Mayor Jeff Lukken said. "Atlanta needs to step up and do the right thing."

Early this decade, Atlanta embarked on an aggressive and expensive effort to straighten out its antiquated sewer system and improve water quality. Residents took the unique step of voting for a sales tax to help pay for the work. Sewers became as sexy a subject as sewers can become. City officials boast that Atlanta added $17 billion of new development in the past decade, much of which they say wouldn't have happened if the city hadn't improved its water infrastructure. Some worry an extension will slow that momentum.

Hunter argues an extension is necessary because the city is receiving less money to pay for the work. Noting that Atlanta already has some of the highest water and sewer rates in the nation, Hunter says the city doesn't want to charge homeowners even more. One-quarter of Atlantans live below the poverty level.

"It's a high financial burden," Hunter said in an interview with The Atlanta Journal-Constitution.

Atlanta wants to focus on finishing some major projects, such as completing the South River Tunnel. Some sewer rehabilitation work would take longer to complete, the commissioner has said.

The city's watershed department is at a watershed moment financially. Officials project revenue will fall $52.1 million below what they anticipated in the 12-month period ending June 30. And the department is spending slightly more than $200 million a year --- about 40 percent of its general budget --- to pay off its debts.

Its bond ratings, which are used to determine loan interest rates, are just above junk status. One bond agency, Fitch, told the city in October it is worried about the department's rising debt levels and would monitor its progress closely. Hunter's staff, then-Mayor Shirley Franklin and others first began detailed discussions last year about requesting an extension. The paperwork was filed last week.

Lukken and others say they are sensitive to Atlanta's plight, but there are limits to their empathy. Atlanta has done a better job of stopping pollution from flowing to West Point Lake, they say, but the mayor said his city still sees hypodermic needles, road signs and other trash that he says flows from the Chattahoochee River.

LaGrange, the mayor said, spent around $40 million about two decades ago to improve its own sewer system and to stop polluting waterways farther south. The city, he said, is still paying off the bond debt.

"It was a ton of money for our small community to do," said Lukken, whose city has a population of about 28,000. "We expect no less from everyone upstream from us."

Atlanta's century-old sewer system was designed to carry a mixture of raw sewage, rainwater and polluted streams through pipes buried underground. It's a system designed like other big cities.

Until the mid-1980s, any amount of rain would send untreated wastewater, along with toilet paper and other materials, into streams and eventually to the Chattahoochee and South rivers.

While many other cities began fixing dilapidated systems in the 1970s, Atlanta did not react until it was sued in 1995 by the Upper Chattahoochee Riverkeeper group, along with a coalition of downstream counties and cities.

At one point in the 1990s, the city was paying as much as $7 million a year in pollution fines. In recent years, the annual fine total has typically been below $100,000.

In 2002, Franklin, then in her first year as mayor, pushed for a 1 percent sales tax, significant rate increases on its customers and more financial help from federal and state officials to fund an overhaul of the sewer system and improve water quality. Proudly, Franklin became known as "the sewer mayor."

Atlanta, the former mayor wrote in an e-mail to The Atlanta Journal-Constitution, became known "as a city committed to improving its infrastructure and making the hard decisions required to meet current federal standards."

City leaders hope they have earned the benefit of the doubt for the extension by underscoring the generally good reviews Atlanta has received from Thomas Thrash, the judge monitoring the consent decree.

"I trust the last seven years of performance by [Watershed Management], the commissioner, the commitment of [the City Council], my administration and the public will add advantage in the city's appeal to the court," Franklin wrote.

EPA officials said most consent decrees in similarly sized Southern cities cover 10 to 15 years. An EPA spokeswoman said the agency has worked with cities when they've had trouble financing the costs to meet the decree guidelines.

Federal and state environmental protection officials agree the work has generally been done on time. They say they need more time to review the city's detailed 125-page extension request before responding to the request.

Joe Maltese, who works on water resource issues for LaGrange and other neighboring communities, said he's concerned about the extension request. Fifteen years past the current deadline seems to be too much time, he said.

"We don't want to see harm to Atlanta, but gee whiz," Maltese said.

Sally Bethea, executive director of the Upper Chattahoochee Riverkeeper, said she has spoken with city officials in recent months about the extension request. She wants to make sure the major work is done before 2014. "We just want to make sure the job gets done and there's some relief for rate payers," she said.

Key players

Shirley Franklin

The mayor from 2002 through 2009. When she took office, Franklin vowed to become "the sewer mayor" and get the city's massive water/sewer repairs on track. She did.

Bill Campbell

Two-term mayor before Franklin. Campbell chose to pay fines rather than repair the system, but he was hardly the only city leader who failed to resolve the sewer mess.

Rob Hunter

Commissioner of the city Watershed Management Department. Hunter moved into the department's top job in 2004. He was deputy commissioner for engineering before that.

Sally Bethea

Founding director of Upper Chattahoochee Riverkeeper, which filed suit against the city in 1995 over violations of the Clean Water Act at the city's sewage treatment plants.

Thomas Thrash

The U.S. District Court judge in Atlanta ruled in 1997 that Atlanta's sewer overflow treatment plants have failed to meet federal clean water standards. He's overseen the consent decree. Kasim

Kasim Reed

Atlanta's new mayor has said he wants to reduce "debt financing" at City Hall. Bond rating agencies are worried about how much the city is spending to pay off the debt to conduct the sewer work.

A system flush with problems

Atlanta's average residential water/sewer bill grew from $49.60 per month in 2003 to $120 this year. It will increase to $152 in 2012. Here's how the city got to where it is.

1995

Environmentalists sue the city in federal court, charging that it is violating the federal Clean Water Act and that the state is incapable of stopping it.

1998

The city agrees to fix its sewers and stop polluting its rivers. To date, it has paid $19 million in fines.

1999

Agreement is amended to require a massive upgrade of sewer pipes and plants by 2014.

2000

Atlanta announces a $2 billion program to repair its sewer system. Fines now total $23.1 million. 2004

Voters overwhelmingly approve a 1 percent sales tax to help pay for water/sewer improvements.

Water/sewer rates go up 74 percent.

City officials say the watershed management department's records show as much as $50 million in uncollected water and sewer bills.

2008

The city finishes a giant overflow sewer tunnel that enables the system to treat all raw sewage before sending it back to the Chattahoochee.Thomas

2009

The water and sewer department still has uncollected bills of $50 million or more.

Water/sewer rates go up 12.5 percent, days after City Council voted to raise property taxes.

The sewer project is now priced at $4 billion.

May 10, 2010

The city says it can't finish the system by 2014 because it doesn't have the money. It will ask the court for a 15-year extension, to 2029.

May 11, 2010

A stormwater fee is proposed that will cost homeowners between $64 and $120 a year.

As oil spill spreads, a rush to stop the gush (*Miami Herald*)

May 13, 2010 Thursday
A; Pg. 12
DANIEL CHANG AND JENNIFER LEBOVICH; dchang@MiamiHerald.com
May 13 2010
BP engineers will put to the test as early as Thursday an experimental plan to capture crude oil gushing from a ruptured well a mile below the surface of the Gulf of Mexico -- either in the form of a ``top hat'' containment dome or a pipe placed in the leak.

One plan calls for a concrete and steel dome -- four feet in diameter and five feet tall -- now on the seabed near the broken well, awaiting a drill pipe attachment before it is placed over the main leak. The other is a pipe that would be inserted into the leak, sealed with a rubber flap, and then attached to a ship above.

Meanwhile, on the shore, Coast Guard Rear Adm. Mary Landry said authorities found tar balls at South Pass, La., at the end of the Mississippi River, and on the southern end of the Chandeleur Islands, east of New Orleans. Louisiana officials also said tar balls were found on Whiskey Island off the coast of Louisiana, the farthest point west oil has been seen so far.

The next likely move will include a so-called ``junk shot,'' by which engineers would shoot shredded tires, golf balls and knotted rope into the well at high pressure to clog it and stop the flow. But that effort would not be ready until next week.

These latest attempts are crucial if BP hopes to cap the well soon and contain the massive oil spill in the Gulf. Failure means that the oil could spew into the Gulf for months.

Oceanographers with the National Oceanic and Atmospheric Administration estimate that the ruptured well is gushing about 210,000 gallons of oil a day. So far, an estimated four million gallons are believed to be in the Gulf.

During a briefing Wednesday, BP Chief Operating Officer Doug Suttles said the strategy with the dome and pipe would be reviewed over the next 24 hours.

TWO LEAKS

The first method would fit a containment dome over the leak, while the second would insert a tube into the leaking pipe or riser.

Both options should be ready for deployment ``as early as late [Thursday] or early Friday,'' Suttles said.

BP must tackle two leaks in the pipeline -- one above the blowout preventer and the second in the same piping that is resting on the seafloor.

If the ``junk shot'' is successful in reducing or shutting off the flow of oil from the blowout preventer, that would address the two other leaks in the pipe.

The ``top hat'' strategy to address the leak on the seabed is similar to last week's failed effort to place a 78-ton dome over the leak.

BP engineers said the mix coming from the broken well nearly a mile below the surface of the Gulf apparently contained more gas than expected, causing icy crystals to form quickly and plug the opening before a pipe could be attached to the top.

The crystals, called hydrates, also made the dome buoyant, making a watertight seal impossible.

To help avoid the formation of the slush-like hydrates that thwarted the earlier cofferdam, BP engineers will attach a drill pipe to the ``top hat'' before lowering it over the leak.

They also will inject into the dome hot water and methanol, a solvent whose use underwater required **EPA** approval. Additionally, the ``top hat'' dome's smaller size is designed to limit the formation of hydrates.

``It's too soon to tell about hydrates,'' Proegler said Wednesday of the new dome. ``We won't know that until we're over the leak itself.''

Strategies to stop the leak and contain the spill have originated with scientists and engineers from government and private industry huddled at the BP Command Center in Houston.

On Wednesday, members of the team met with two Obama administration Cabinet members -- Interior Secretary Ken Salazar and Energy Secretary Steven Chu, who are charged with overseeing the oil spill.

`LOOKING UP'

The two secretaries recruited a team of high-level experts to inject what Chu described as outside ``intellectual firepower'' into the mission.

``Things are looking up,'' he said, adding that ``this is a complicated affair.''

Among the other ideas to emerge from the Houston team are a ``hot tap,'' by which engineers would tap into a section of the damaged pipe, called a riser, and siphon the oil before it reaches the larger rupture.

Another idea is to install ``a new blowout prevention device on top of the existing one,'' Proegler said.

The idea with the best chance of stopping the oil leak long term, however, is a relief well that would intersect the leaking well about 18,000 below the surface of the Gulf.

Once the relief well reaches its point, engineers would then inject cement to seal the leaking well.

However, the effort will take about 90 days to complete while the oil spill grows larger.

As many ideas for stopping the leak as BP has received from the Houston team of experts and from the public, Proegler said the company is not willing to try just anything.

``An overriding principle,'' he said, ``is not to make the situation worse.''

Oil Spill Dispersant Information Updated (*Environmental Protection Magazine*)

May 13, 2010
Environmental groups have expressed concern about the chemical dispersants being used in the management of the Deepwater Horizon oil flowing into the Gulf of Mexico. On Monday, the U.S. Environmental Protection Agency posted information on BP's use of dispersants to its oil spill response website. The here.
Information on the broader response from the U.S. Coast Guard and other responding agencies is available at www.deepwaterhorizonresponse.com.

Pennsylvania must comply with Chesapeake Bay strategy (*Scranton Times Tribune)*

Published: May 13, 2010
Pennsylvania must comply with strategy
The strategy announced Wednesday, and the terms of a legally binding settlement the Environmental Protection Agency announced with the Chesapeake Bay Foundation, both require Pennsylvania to join the other bay states to reduce the damaging nutrients and sediment that get into the region's streams.

Those plans will likely not affect the relatively successful efforts of sanitary sewer systems in the state to meet nutrient limits, often through costly improvement projects,

said Harry Campbell, a senior scientist with the Chesapeake Bay Foundation's Pennsylvania office.

Pennsylvania Department of Environmental Protection spokesman Mark Carmon said Wednesday that sewer authorities in the Northeast region are all "pretty much moving forward with their nutrient-reduction plans."

But the strategy will demand improvements by urban and suburban communities to limit stormwater runoff, which is the only pollution source that has grown in the bay watershed.

Stormwater washes away "litter, cigarette butts, anti-skid material, that mixes with pet waste from people that walk Fido and don't have a doggy bag, and also picks up nutrients from lawn fertilizer," Lackawanna River Corridor Association Director Bernie McGurl said. "That carries a lot of nutrients into the river."

Improvements to municipal stormwater programs may need to include everything from better street sweeping and catch basin cleaning to new zoning requirements for housing developments and large parking lots.

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