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

Monday, March 18, 2013

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

Wednesday, March 25, 2009

AIR 3
Utah agency sees less money for pollution problems (*Associated Press*) This story also appeared: *Forbes* 3
Automakers Press Their Fight on Emissions (*New York Times*) 5
Greenhouse Gases Threaten Public Health (*RedOrbit*) 6
EPA Calls CO2 a Danger — At Last (*Time*) 7
Arkema Inc. to pay penalty to settle clean air violations (*Waste News*) 9
Steel Mills Craft New Language To Save Strict Agency Emissions Plan (*Inside EPA*) 9
CLIMATE CHANGE/GLOBAL WARMING 11
Environmentalists in a Clash of Goals (*New York Times*) 11
Greenhouse action on move in MD, DC (*Baltimore Sun*) 14
Gore plans sequel to global-warming book (*USA Today*) 15
EPA Fears Push For NOAA 'Climate Science' Could Divert Funding (*Inside EPA*) 16
Research challenges link between global warming, El Niño *(Greenwire)* 18
EARTH DAY 19
EPA launches video/photo project in celebration of Earth Month (*Saipan Tribune*) 19
EDITORIAL/COMMENTARY/OP ED/LETTERS 20
No more freebies at EPA (*Boston Globe*) 20
ENERGY 22
Environmentalists clash over climate, conservation *(Greenwire)* 22
HAZARDOUS WASTES 23
EPA vows action on coal ash dumps, but Iowa may be left unprotected (*Iowa Independent*) 23
Oily liquid found at Grandview dump site (*Seattle Times*) 26
Detroit hazmat team, EPA investigate leaking barrels (*Detroit Free Press*) 27

PESTICIDES 27
Border Patrol herbicide plan opposed (*Associated Press*) This story also appeared: *Los Angeles Times* 27
Border plants to be killed to reveal smugglers (*Houston Chronicle*) 28
Feds to poison plants along the border where criminals hide (*USA Today*) 30
U.S. tightens security at Mexico border (*USA Today*) 31
ILLEGAL IMMIGRATION (*Associated Press*) This story also appeared: *Dallas Morning News* 32
U.S. Border Patrol to spray plants that hide smugglers *(Greenwire)* 33
SUPERFUND 34
EPA: Superfund site by Columbus mostly cleaned up (*Associated Press*) This story also appeared: *KTVQ-TV* 34
TOXICS 34
EPA ranks NMI among lowest in nation for toxic releases (*Saipan Tribune*) 34
EPA: Texas outpaces rest of U.S. in cutting toxics (*Houston Chronicle*) 36
EPA Pushes For Limits On Greenhouse Gas Emissions (*AHN*) 38
Criminal probe into drywall opened (*Bradenton Herald*) 38
EPA Eyes TRI Program 'Enhancements' After Return To Stricter Rules (*Inside EPA*) 40
W.R. Grace knew of hazards since '70s, employee says *(Greenwire)* 41
Fla. investigating Chinese drywall sellers *(Greenwire)* 42
WATER 43
EPA to Scrutinize Permits for Mountaintop-Removal Mining (*Washington Post*) 43
EPA Acts to Block Mountaintop Mining Project (*Wall Street Journal*) 45
E.P.A. Plans Closer Review of Mountaintop Mining Permits (*New York Times*) 46
EPA to review coal-mining permits (*Associated Press*) This story also appeared: *Los Angeles Times* 47
EPA stops mining of mountain tops (*Fair Home*) 48
EPA to scan mountaintop coal mining permits sharply (*TopNews United States*) 50
Just when you thought it was safe… (*Honolulu Weekly*) 51
EPA Orders Tests of Anne Arundel Wells (*Associated Press*) This story also appeared: *Washington Post* 53
Golf course work brings $150,000 fine for Capital City Club (*Atlanta Journal-Constitution*) 53
Vilsack urges EPA to challenge ruling on water permits *(Greenwire)* 54
Fertilization experiment yields minimal climate benefit -- scientists *(Greenwire)* 56
Enviro groups sue Army Corps, EPA to prevent S.C. filling *(Greenwire)* 56
Obama officials reviewing mountaintop removal rules *(Greenwire)* 58

AIR

==========

Utah agency sees less money for pollution problems (*Associated Press*) This story also appeared: *Forbes*

By MIKE STARK , 03.24.09, 10:34 AM EDT

New York

As federal pressure mounts for Utah to curb urban pollution, the state agency in charge of air quality is facing deep budget cuts.

State lawmakers have trimmed 22 percent of the Department of Environmental Quality's budget over the current and upcoming fiscal years, according to Craig Silotti, director of the agency's support services.

The reductions will mean 19 DEQ positions are being eliminated and some new equipment also won't be purchased.

The cuts come as Utah - which on some winter days has some of the worst air in the country - confronts directives from the Environmental Protection Agency to reduce two kinds of pollution along the Wasatch Front associated with emissions from tail pipes, smoke stacks and other sources.

Bryce Bird, branch manager of the Division of Air Quality, said the state will focus on meeting those federal reductions but probably won't be able to monitor for air problems in other parts of the state.

"It limits our ability to do special studies like we've done in the past," Bird said.

That has included tracking wintertime pollution near Park City, checking for dangerous chemicals during the closure of an explosives business near Spanish Fork and monitoring potentially unhealthy air near several industrial gravel pits around the state.

The budget reductions are part of statewide belt-tightening because of the economic downturn and a decline in Utah's once-booming construction business.

The DEQ's budget gets about 25 percent of its money from the state's general fund. The state's portion of the current budget was trimmed by 4.1 percent in the fall and another 8.6 percent earlier this year. The budget for the upcoming year saw a 9.5 cut percent as lawmakers wrapped up the legislative session earlier this month, Silotti said.

Bill Sinclair, the agency's acting executive director, said in a statement the reductions, which total about $3 million, are the largest in the 29 years he's worked at the department.

Layoffs aren't expected but 19 vacant jobs are being eliminated and staff may be shuffled. Travel and other expenses are also being trimmed.

Aside from the DEQ's air quality division, the cuts will be affect divisions dealing with drinking water, solid and hazardous waste, contaminated sites and radiation control.

DEQ officials are hoping to see some of those losses reversed with federal money and increased fees.

Three of the 19 unfilled positions will likely be at the Division of Air Quality.

Bird said that will mean employees will have to focus on tasks that are required to meet federal standards.

The EPA has said certain parts of Utah don't meet new, stricter health standards for summertime ozone and certain particulate pollution.

In the coming years, the state will have to develop comprehensive plans for reducing those pollutants.

"That will be our priority," Bird said.

Continuing to violate federal pollution standards could lead to penalties down the road, including loss of federal highway funding.

Cherise Udell, founder of Utah Moms for Clean Air, said now isn't the time to be cutting money to monitor and clean up the state's air. Air quality is already bad in some places and the links between pollution and health problems have only gotten stronger, she said.

If anything, she said, Utah should be increasing funds for air quality.

"One of the primary roles of government is to protect public health. It doesn't make sense to me where we know lives are being shortened," Udell said.

With the reduced budget, state officials also won't be reinstating year-round air monitoring in the Uinta Basin, where energy development has increased dramatically in recent years.

The Division of Air Quality installed an air monitoring station in Vernal in December 2006, noting that natural gas production in the basin had ramped up.

The equipment picked up several instances where fine particulates - tiny flecks of airborne pollution - exceeded federal health standards. Those unhealthy spikes came only during winter weather inversions that trapped air in low-lying areas around Vernal.

The monitoring shut down in December 2007 as state officials focused funding and equipment on the Wasatch Front. Environmentalists asked that year-round monitoring continue.

Members of the oil and gas industry, though, are paying for a third-party study to model pollution in the basin, according to Kathleen Sgamma, government affairs director for the Denver-based Independent Petroleum Association of Mountain States.

The work, combined with air monitors in the area, will provide important details about emissions in the basins, she said. Some of the initial results are expected to be made public next month.

Automakers Press Their Fight on Emissions (*New York Times*)

By Jim Motavalli
March 25, 2009, *7:39 am*

Bernie Madoff had a bail hearing that same day, so it's not surprising that coverage was sparse for the oral arguments in the United States Second Circuit Court of Appeals case, pitting automakers against the state of Vermont, et al.

California, whose fuel economy standards are much tougher than the federal alternative, adopted rules to regulate greenhouse gas from tailpipes in 2005. Vermont is one of at least 13 states, representing about 40 percent of the car market, which opted to follow its lead. Angered automakers took the states to federal court in California, Vermont and Rhode Island. They have been repeatedly rebuffed in these legal proceedings; hence the appeals and the March 19 oral arguments in Manhattan.

Steve Hinchman is a lawyer at the Boston-based Conservation Law Foundation, one of four environmental intervenors in the case. "This is the first of three appellate cases automakers are trying to bring to block the state standards," Mr. Hinchman said. "It's a full-court press to try and stop states from using their long-established Clean Air Act authority to require cleaner cars."

Mr. Hinchman criticized "industry lawyers who are telling the courts that they can't afford to build cleaner, better cars. That's the exact opposite of what their lobbyists are telling Congress and the American public."

Kathleen M. Sullivan of Quinn Emanuel Urquhart Oliver & Hedges, attorney for the Alliance of Automobile Manufacturers, which represents 11 carmakers, declined to comment on the case, other than to confirm that oral arguments were heard before a three-judge federal panel last week.

But the automakers have made clear that they're trying to avoid being regulated by what they call a "patchwork" of laws. According to Charles Territo, a spokesman for the Alliance: "Our position has always been that the Energy Policy and Conservation Act prohibits states from

setting their own fuel economy standards. And because measuring fuel economy actually begins as grams of carbon dioxide per mile, whether or not California's regulations are tallied in grams per mile of carbon dioxide or miles per gallon, they are effectively fuel economy standards. And they should be preempted under federal law."

The Energy Policy and Conservation Act, signed into legislation in 1975, created the Corporate Average Fuel Economy law, which gave Congress the authority to regulate fuel economy. California, however, was granted a waiver because the state already had emissions standards in place.

The plaintiffs and defendants have widely varying interpretations of how much the greenhouse-gas standards would cost. When the Vermont case was heard in Burlington in 2007, the Burlington Free Press reported that California regulators estimated the cost at $1,000 a car, but automakers countered that it could top $6,000 a car.

California's greenhouse gas law would have been implemented this model year, but it was blocked by the Environmental Protection Agency, which refused to grant California the necessary waiver. Congress has given the E.P.A. until June 30 to make a decision on whether to reverse the Bush policy and grant California the waiver.

Greenhouse Gases Threaten Public Health (*RedOrbit*)

Posted on: Tuesday, 24 March 2009, 13:50 CDT

Texas

In a draft proposal sent to the White House on Friday, the United States Environmental Protection Agency said greenhouse gas emissions pose a significant threat to public health and welfare.

The proposal outlined what it calls an "Endangerment Finding for Greenhouse Gases under the Clean Air Act," which could shape the future regulation of greenhouse gas emissions.

"I think it's historic news," Frank O'Donnell of the environmental group Clean Air Watch told Reuters.

"It is going to set the stage for the first-ever national limits on global warming pollution."

"This finding will officially end the era of denial on global warming," said Rep Ed Markey in a statement.

"Instead of allowing political interference in scientific and legal decisions, as was the case in the previous administration, the Obama administration is letting the sun shine in on the dangerous realities of global warming."

John Walke, a senior attorney at the National Resources Defense Council, told AFP that "the language of the Clean Air Act that triggers the need to regulate emissions from vehicles."

"They make findings that greenhouse gas emissions not only endanger public welfare -- ecosystems, the environment and the planet at large -- but also make the important link between global warming emissions and how they will affect smog pollution, malaria and other public health problems," he said.

In April 2007, five of nine Supreme Court justices ruled that carbon dioxide was a pollutant under the Clean Air Act. However, the Bush administration refused to acknowledge the decision and no regulations were put into action.

The proposal could initiate a cap on carbon emissions by Congress, said Eileen Claussen of the Pew Center on Global Climate Change.

Congressional Democrats support a cap-and-trade plan to cut emissions.

"The Bush administration refused for eight years to take action over the greatest crisis of our time and manipulated and ignored science in order to pursue inaction at all costs," said Walke.

"Now, within the first three months of the Obama administration, you have this announcement that they will take global warming seriously and take action to reduce C02 emissions," he said.

EPA Calls CO2 a Danger — At Last (*Time*)

By Bryan Walsh
Monday, Mar. 23, 2009

It's been two years since the U.N. Intergovernmental Panel on Climate Change laid out the definitive case that human beings were causing global warming, and two decades since NASA scientist James Hansen first told Congress of the threat of rising CO2 emissions. So, why has it taken this long for the Environmental Protection Agency (EPA) to announce that greenhouse gases endanger human health? Change can be slow in Washington.

On March 20 the EPA sent what is called an "endangerment finding" to the White House, a proposal that means the agency found that there is a scientific case that man-made global

warming poses a threat to human welfare. (Reporters found out about the EPA decision the following Monday, after it was posted on a government website.) The finding is a response to an April 2007 Supreme Court decision ordering the EPA to figure out how CO2 from cars should be regulated under the Clean Air Act.

Scientific staff in the George W. Bush–era EPA found that CO2 is a pollutant, but then administrator Stephen Johnson rejected the recommendation and delayed the process of regulating it, part of the Bush Administration's general obstructionism on climate change. When Lisa Jackson took over the EPA under the new President, however, she told Congress that one of her first acts would be to reevaluate her predecessor's decision, and she didn't drag her feet. "It's an exercise in leadership that takes the first step in regulating CO2 emissions from automobiles," says John Walke, the clean air director for the Natural Resources Defense Council.

By concluding that greenhouse gases pose a threat to human welfare, the EPA's finding could lay the groundwork for nationwide regulation of CO2 emissions — just as the EPA is require to regulate pollutants like smog-causing sulfur dioxide. But regulating CO2 will be immensely more complicated — the U.S. emitted over 6 billion metric tons of CO2 in 2007 from countless sources — and business groups have raised the specter of a meddlesome EPA using greenhouse gases as an excuse to regulate projects large and small.

While the EPA has so far been silent about how it might actually regulate CO2 — and the endangerment finding is only an early step in a process that could take a year or longer — environmentalists say it's difficult to imagine that the agency would attempt to control every possible source of greenhouse gas emissions. "People running the EPA have common sense," says Frank O'Donnell, head of the environmental group Clean Air Watch. "They're going to focus the efforts on the biggest sources" like the auto industry and the utility sector.

Of course, if the Obama Administration achieves its stated goal of passing carbon cap and trade legislation, EPA regulations might be superseded — and even deep greens generally prefer Congressional action to federal fiat. But with cap and trade looking like it may become a victim of the White House's need to prioritize amidst a sea of crises, the EPA's actions could provide a much-needed nudge to Congress. "This is a strong message," says O'Donnell. "Congress either has to face the reality that something has to be done, or the Obama Administration will just do it itself." What's one more item on the world's longest Presidential to-do list?

Arkema Inc. to pay penalty to settle clean air violations (*Waste News*)

March 24 -- Arkema Inc. will pay a $170,000 penalty to settle alleged clean air violations at its Riverview, Mich., chemical plant.

The company allegedly violated federal leak detection and repair regulations at the facility, according to the U.S. Environmental Protection Agency. The agency discovered the alleged violations during an inspection.

Minor leaks can lead to substantial emissions of hazardous air pollutants if undetected or not repaired.

Contact Waste & Recycling News reporter Joe Truini at 330-865-6166 or jtruini@crain.com

Steel Mills Craft New Language To Save Strict Agency Emissions Plan (*Inside EPA*)

Tuesday, March 24, 2009

Steel industry officials have crafted new regulatory language to clarify an industry-sought proposal that would have effectively strengthened emissions standards at some steel mills, which EPA recently withdrew after a long-time industry consultant criticized it.

Industry and EPA sources say the more stringent facility-wide standard the agency proposed late last year would be easier to maintain than the agency's 2007 rule which requires steel meltshops with electric arc furnaces (EAFs) to segregate and monitor emissions from various industrial processes in the same facility.

But Robert Geddis, a long-time industry permit negotiator who is arguing for broad relief from what he describes as ineffective permit programs, late last year objected to EPA's plan to set a single emissions standard for the facilities in a direct final rule, saying the single standard would have imposed a significantly stricter emissions limit on mills without adequate notice and comment.

Now industry sources say they have crafted compromise language EPA could include in any new plan that would allow mills to use either one of the two emissions standards currently contained in the agency's regulations.

At issue is EPA's National Emission Standards for Hazardous Air Pollutants (NESHAP) for Steel EAFs which are considered small or "area sources." The original rule gained significant attention when it was unveiled because it includes a novel plan to provide emissions credit for facilities that remove mercury switches from motor vehicles set for smelting as a way to prevent emissions of the neurotoxin.

The regulation set an opacity limit -- a measure of the particulate matter (PM) and other pollutants emitted, as determined by the darkness of the smoke released as a surrogate for a limit on specific metal hazardous air pollutants, including mercury and chromium. The rule provides so-called dual opacity limits, subjecting the EAF to a six-percent limit while the facility as a whole is generally subject to less-stringent limits governed by State Implementation Plans, which detail how states intend to come into compliance with federal air quality standards.

Expecting the action to be noncontroversial, EPA late last year issued a direct final rule to amend the regulation in order to, among other measures, "clarify applicability of the opacity limit." The agency action would have subjected facilities as a whole to the more-stringent six-percent limit that previously applied only to the EAF, since "fugitive emissions from other sources may be unavoidably commingled" with emissions from the EAF, according to the *Federal Register* notice.

Some industry sources had sought the change out of a preference to achieve the six-percent opacity limit at all times, rather than face potential permit requirements to segregate the various emission sources in the meltshop.

The amendment would also have updated testing requirements to be consistent with the New Source Performance Standard requirements, allowed operators to use Title V test data to demonstrate compliance, and revised the definition of "scrap provider" to include EAF steelmaking facilities with a scrap shredder.

But EPA Feb. 26 withdrew the direct final rule after Geddis said that the "dual" opacity limits are consistent with current regulations, and that the newer limit would pose a significant compliance burden to the facilities.

"In effect, EPA's 'noncontroversial' final action replaces the roof opacity limit (usually [20 percent]) that applies most of the time, with a [five percent] limit that would apply all of the time for all meltshop operations," writes Geddis in Dec. 30 comments to the amendment.

Now, industry sources say they may have worked out a compromise by drafting new regulatory langauage clarifying that operators may demonstrate NESHAP opacity limit compliance through either the commingled meltshop emissions or only the EAF emissions. "I think EPA will revise the rule so that shops now subject to a higher combined opacity limit will not be penalized," says one industry source.

This comes as Geddis is calling for broader permit program relief for the steel industry in an upcoming article in the April 2009 issue of the Association for Iron & Steel Technology's technical journal, saying that increasingly complicated permitting programs are ineffective at reducing air toxic emissions.

The article says that permits often contain operating restrictions that are not directly related to meeting emission limits, such as permitted limits on the rate of carbon or oxygen injection: "Unless some operating parameter could cause an exceedance of a mass emission limit, agency regulators should leave steelmaking to the steelmakers."

The author also says that permits frequently attempt to regulate emissions of pollutants that cannot currently be controlled, and that repetitive and unnecessarily exhaustive permits are a waste of regulators' resources.

In regard to mercury in particular, Geddis says that EPA's view of the public health impact of EAF mercury emissions are more speculative than science-based. "With its recent mercury rules, EPA seems to imply dose/health conclusions before being verified with hard evidence."

But the calls for permit deregulation are likely to face opposition in the agency, which touts the public health benefit of its voluntary National Mercury Switch Recovery Program. In a 2008 press release commemorating the millionth mercury switch removed, EPA said that air emissions from steelmaking facilities that use scrap vehicles with mercury switches intact "are considered a primary source of mercury that poses a risk to human health and the environment."

And new administrator Lisa Jackson's record as head of the New Jersey Department of Environmental Protection underscores that she supports quickly promulgating stringent, plant-specific limits on mercury, as well as strict rules for other facilities that emit a range of hazardous air pollutants (HAPs).

In May 13 testimony to the Senate Environment & Public Works Committee, for example, Jackson recommended that EPA set a stand-alone mercury emission standard for large iron and steel foundries, which are regulated under the Maxium Achievable Control Technology program, and criticized the agency's proposed MACT standard for including only emission limits of total metal HAPs.

"EPA's combined HAP limit will likely result in no control being added for mercury emissions and also fails to set a limit to measure the success of mercury in scrap removal efforts," Jackson said.

CLIMATE CHANGE/GLOBAL WARMING

==========

Environmentalists in a Clash of Goals (*New York Times*)

By FELICITY BARRINGER

March 24, 2009

WHITEWATER CANYON, Calif. — As David Myers scans the rocky slopes of this desert canyon, looking vainly past clumps of brittlebush for bighorn sheep, he imagines an enemy advancing across the crags.

That specter is of an army of mirrors, generators and transmission towers transforming Mojave Desert vistas like this one. While Whitewater Canyon is privately owned and protected, others that Mr. Myers, as head of the Wildlands Conservancy, has fought to preserve are not.

To his chagrin, some of Mr. Myers's fellow environmentalists are helping power companies pinpoint the best sites for solar-power technology. The goal of his former allies is to combat climate change by harnessing the desert's solar-rich terrain, reducing the region's reliance on carbon-emitting fuels.

Mr. Myers is indignant. "How can you say you're going to blade off hundreds of thousands of acres of earth to preserve the Earth?" he said.

As the Obama administration puts development of geothermal, wind and solar power on a fast track, the environmental movement finds itself torn between fighting climate change and a passion for saving special places.

The conflict began playing out almost a decade ago in places like Cape Cod, Mass., where a plan to place 130 wind turbines in Nantucket Sound has pitted energy-conscious environmentalists against local residents who fear harm to aquatic life and the view.

It has spread west to Mojave-area locales like flatland near the Ivanpah Valley, 130 miles northeast of here, where a proposal to install three clusters of 50,000 solar mirrors has prompted anxiety over the fate of endangered tortoises.

Terry Frewin, a local Sierra Club representative, said he had tough questions for state regulators. "Deserts don't need to be sacrificed so that people in L.A. can keep heating their swimming pools," Mr. Frewin said.

For traditional environmentalists, industrial intrusions have always been anathema. They have fought such encroachment since John Muir opposed the dam that inundated the Hetch Hetchy Valley next to Yosemite almost a century ago. Similar opposition governs today's campaign against drilling in parts of the Arctic National Wildlife Refuge.

At a national level, that strategy is meshing with support for new policies intended to change how electricity is generated, how cars are made and how people live. "It's not enough to say no to things anymore," said Carl Zichella, a Sierra Club expert on renewable power. "We have to say yes to the right thing."

So environmentalists like Mr. Zichella and Johanna Wald, a lawyer and longtime ecowarrior at the Natural Resources Defense Council, have joined an industry-dominated advisory group that

makes recommendations to California regulators on where renewable-energy zones should be created.

“We have to accept our responsibility that something that we have been advocating for decades is about to happen,” Ms. Wald said. “My job is to make sure that it happens in an environmentally responsible way.”

The nation’s new interior secretary, Ken Salazar, called this month for a task force to map potential energy sites. To counter those efforts, Mr. Myers has proposed that Congress put hundreds of thousands of acres of federal land in the Mojave Desert off limits as a national monument. The monument would stretch from Joshua Tree National Park to the National Park Service’s Mojave Preserve and would include the Sleeping Beauty Mountains.

The domain would encompass 960 square miles that the Wildlands Conservancy donated to the federal Bureau of Land Management for safekeeping plus a few hundred more.

Last week, Senator Dianne Feinstein, Democrat of California, also proposed a national monument to protect much of the same land.

“I’m a strong supporter of renewable energy and clean technology, but it is critical that these projects are built on suitable lands,” said Mrs. Feinstein, who heads a subcommittee that oversees the Interior Department budget.

There is particular urgency to the hunt for renewable-energy sites in California. A 2006 state law requires utilities to produce 20 percent of the California’s electricity from renewable sources by 2020.

The goal is already a stretch, experts say, but Gov. Arnold Schwarzenegger wants to increase it to 33 percent. Getting there will mean rapid construction of plants and power lines.

To balance that goal against guarding the habitat of endangered species like the desert tortoise, Mr. Zichella, Ms. Wald and other environmentalists have shuttled between Sacramento, San Francisco and desert communities to learn about the specifics of power grids, solar technologies and desert ecosystems.

They are not always greeted warmly.

“We’re environmentalists,” said Jim Harvey, whose Association for a Responsible Energy Policy represents a coalition of activists in the Mojave area. “These people, who are supposed to be sitting next to us, are sitting across from us.”

Mr. Harvey’s group says that rooftop solar panels could be vastly expanded in heavily populated areas around Los Angeles. With energy conservation that would make desert clusters of solar plants unnecessary, it says.

Mr. Zichella and others counter that a wide embrace of expensive rooftop panels will be slow in coming. “The most prudent course is not to put all our renewable eggs in one basket,” Mr. Zichella wrote recently.

A reconciliation between the two environmental camps seems likely. As national and state targets mandate more and more renewable-energy projects, many say, environmentalists will have an incentive to work jointly to broker solutions with politicians and the energy industry.
“We are learning and understanding the trade-offs between things, and they are hard,” said Pam Eaton, deputy vice president of the public lands campaign of the Wilderness Society, who has been working to bridge gaps between environmentalists.
“You’ve got the short-term impact of a project versus a long-term problem, which is climate change,” Ms Eaton said.
In the Mojave, the biggest fight centers on high-voltage lines that are needed to reach areas where energy will be produced. The likely spots are separated from customers by two large national park properties, several wilderness areas and military bases like the Twenty Nine Palms Marine Corps reservation.
Finding a route for a project called Green Path North, which traverses those installations, fragile ecosystems and angry communities, has been difficult. One path “goes right between my house and the mountains,” Mr. Harvey said.
That is the kind of strife that Mr. Zichella and Ms. Wald are trying to ease.
Aware that internal debate is unavoidable, Carl Pope, the executive director of the Sierra Club, suggests a greater effort to balance competing priorities.
“What you have to do,” Mr. Pope said, “is show that you’ve done the best job you can.”

Greenhouse action on move in MD, DC (*Baltimore Sun*)

Posted by Tim Wheeler on March 24, 2009 8:49 AM

Maryland

It's spring, and with the slowly warming temperatures, key moves are under way in Annapolis and Washington to combat climate change by regulating greenhouse gases.

In Annapolis, the House Economic Matters Committee gave its blessing yesterday to the Greenhouse Gas Emissions Reduction Act, which would commit Maryland to reducing climate-warming emissions 25 percent from 2006 levels by 2020. This is the same committee that killed similar legislation in the waning hours of last year's legislative session.

The measure, HB315, will go to the full House for a vote once it clears the Environmental Matters Committee, but that's considered likely. The Senate overwhelmingly passed the bill, 36 to 9, on March 2.

The bill has been watered down a bit from last year's Global Warming Solutions Act, which was derailed by opposition from labor unions and manufacturers. This less ambitiuously titled measure exempts manufacturers for now and requires the Maryland Department of the Environment to finalize regulations by 2012. That would give the General Assembly a chance to review and change the rules, or even pull the plug if it feared harm to the state's economy.

This is the third try for state climate legislation; a bill was introduced in 2007 but failed to come to a vote. This year's measure was introduced by Gov. Martin O'Malley along with Prince George's Sen. Paul Pinsky and House Majority Leader Kumar Barve of Montgomery County.

Advocates hope that Maryland's action, along with that of other states, will help put pressure on lawmakers in Washington to enact national legislation dealing with greenhouse gases.

The heat on Congress apparently is about to get turned up a notch by the Obama administration as well. The Washington Post and other news organizations report that the Environmental Protection Agency has submitted a finding that greenhous gases endanger the public health and the environment. The finding was sent to the White House Office of Management and Budget for review before it can be published.

Such a finding would set the stage for EPA to propose regulating carbon dioxide and other greenhouse gases under the Clean Air Act. The Bush administration EPA had refused to do that, arguing it had no legal authority to regulate greenhouse gases as air pollution. But the Supreme Court rejected the Bush claim in a ruling two years ago and said EPA did have authority to act under existing laws.

President Obama has said he wants Congress to curb greenhouse gases through "cap and trade" legislation. But there is opposition to that among Republicans and some other lawmakers concerned about the impacts on the economy. With EPA readying the ground for regulations, advocates hope that lights a fire on Capitol Hill.

Gore plans sequel to global-warming book (*USA Today*)

Posted by Eugene Kiely at 01:49 PM/ET, March 24, 2009

Former vice president Al Gore is set to release a sequel to his bestseller *An Inconvenient Truth* in November that focuses on solutions to global warming, officials announced today.

The book, titled *Our Choice*, lays out information gleaned from more than 30 "Solutions Summits" Gore attended with scientists, engineers and policy experts, as well as Gore's research. In the book, to be published Nov. 3, Gore also stresses that strategies combating global warming need to be paired with efforts to create jobs and stimulate the economy.

"Now that the need for urgent action is even clearer with the alarming new findings of the last three years, it is time for a comprehensive global plan that actually solves the climate crisis," Gore said in a statement. "*Our Choice* will answer that call."

White House officials are reviewing a proposed finding from the Environmental Protection Agency that says global warming threatens public health. Though details weren't made public yesterday, the finding could trigger more aggressive action on regulating carbon dioxide and other greenhouse gases.

Since his failed presidential run in 2000, Gore has emerged as a leading environmental activist following the publication of his 2006 book *An Inconvenient Truth* and the film of the same name, which won an Academy Award in 2007 for Best Documentary Feature.

Gore said all proceeds from the book will go to the Alliance for Climate Protection, a non-profit that raises awareness about climate change issues. The former vice president is the group's board chairman.

(Reported by USA TODAY intern Seung Min Kim)

EPA Fears Push For NOAA 'Climate Science' Could Divert Funding (*Inside EPA*)

Tuesday, March 24, 2009

Government advisors are recommending the creation of a new office to coordinate climate research and adaption efforts that would be housed within the National Oceanic & Atmospheric Administration (NOAA), prompting concerns that such an office could divert climate funding from EPA.

Talks of creating a “National Climate Service” come as EPA officials have vowed to make climate change adaptation a priority in the new administration, including promoting the use of funding from the economic stimulus bill for the efforts. At issue are attempts by federal, state and local authorities to brace for the coming impact of climate change, which experts say will still be substantial even with radical efforts to curb greenhouse gas (GHG) emissions.

A just-released National Academy of Sciences (NAS) study on climate change adaptation, *Informing Decisions in a Changing Climate*, urges the adoption of a single federal authority over climate change research and adaptation efforts and suggests NOAA could be the lead agency.

"[W]e believe a national climate service should be part of the decision support initiative we recommend and be linked closely to its research element," the March 12 study says.

Because NOAA is typically considered to conduct the most climate research of any federal agency, the sentence can reasonably be inferred to point to that agency, sources say. But the study also says the climate service should have "organizational links" to multiple federal agencies.

The NAS study, which EPA and NOAA requested, says the Obama administration already has the authority to create such an agency under the 1990 Global Change Research Act and would not need additional congressional approval.

The need for a centralized climate research office is also highlighted in a Feb. 26 report, *Options for Developing a National Climate Service*, by the Climate Working Group of the NOAA Science Advisory Board. "There is currently no single source of authoritative, credible and useful information that will allow society to span such important topics as the physical aspects of sea level rise, temperature and precipitation, the resource implications of failed crops, anticipating adverse human health outcomes, robust water resource supply, managing changes in ecosystems, or the social implications of migrations and resource competitions," the advisory board report says.

While focus on the creation of such an agency has centered on NOAA, in part because of the myriad climate research efforts that the agency is involved in, sources say EPA is fearful that housing a climate service at NOAA could preclude EPA from receiving adaptation funding.

One source following the issue closely says EPA has sought to keep the idea of a NOAA-housed climate service from taking off.

The NOAA report hints at such conflicts. "The greatest weaknesses of a lead agency or NOAA-led service are the competing agendas within agencies, potential problems in ensuring that NOAA is responsive to the needs of other agencies and/or ensuring other agencies provide needed contributions, and the lack of experience in dealing with the enormous breadth of potential users (and lack of internal expertise to work with this community)," the report says.

An EPA spokeswoman says, "As climate issues (both climate change and monitoring) are at the forefront of our mutual agendas, EPA and NOAA work closely together and will continue to do so as these programs and initiatives are defined."

The amount of funding needed to address climate change issues could be in the billions of dollars. In a paper recently submitted to *Environmental Health Perspectives*, academics and activists say the annual investment of federal health and environment agencies should be more than $200 million to adequately address current research needs into climate change and human health. The paper says the $3 million currently spent by the federal agencies, including EPA, is "inadequate to address the real risks that climate change poses."

"We have huge gaps because we're not funding research," says a source involved with the study, who also points out that much of the ongoing research is relevant to the health risks but not sufficient to deal with the issue.

States, for example, are scrambling to extrapolate climate change modeling to predict impacts on regional or even local ecosystems -- called downscaling -- while clamoring for increased research and support from federal agencies, sources say. While some argue the computer-driven climate models do not offer enough data to downscale, similar to the way blown-up digital pictures become pixelated, such limitations have not stopped many from trying.

The authors also propose establishing a standing NAS committee to coordinate research oversight and prioritization across the agencies.

Meanwhile, EPA is adapting its current programs to address climate change impacts. In EPA's water office, acting water chief Michael Shapiro said the agency's focus on climate change adaptation means it will be striving to understand how to implement its current programs to reflect the impacts of climate change.

Climate change "will have significant impacts on hydrologic cycles" and is "going to impact sources of water supply," Shapiro told *Inside EPA* in a March 11 interview. But he said he believes the agency's current authorities are sufficient to address the issue.

One example of adapting climate change to EPA's current responsibilities, in line with calls from wastewater industry representatives, will be considering the GHG impacts of strict discharge limits in terms of the energy use they require.

"It might not change our decision ultimately but one of the things we would look at is the energy intensity of the treatment technologies -- and the cost associated with that energy as well of course -- but the implications of that for [GHG] emissions," Shapiro said.

EPA is also urging states to use part of the $4 billion in clean water state revolving fund (SRF) money included in the economic stimulus "to get a head start on developing the tools and analysis they need to respond to climate change in their own state waters," Shapiro said.

Clean Water Act section 604(b) requires states to reserve 1 percent of SRF money to carry out planning activities related to water quality standards and implementation. The stimulus bill "created a unique one-time pot of money that greatly increases" funding available for planning activities and "one of the areas we're encouraging states to think about" for the planning funds is climate change adaptation.

Shapiro also noted that some of the planning funds will be directed to regional planning commissions which have already begun to work on adaptation issues.

Research challenges link between global warming, El Niño *(Greenwire)*

03/24/2009

New research showing an El Niño event in 1918 was far stronger than previously thought is challenging the theory that climate change is intensifying the weather pattern.

El Niño, an abnormal warming of the surface waters in the eastern Pacific Ocean off South America, causes global climate chaos such as floods and droughts. The phenomenon was strongest in the 20th century in 1982-83 and 1997-98, causing casualties and damaging crops and infrastructure.

But complex computer modeling showed the El Niño event of 1918 was almost as strong and occurred before widespread deforestation and the burning of fossil fuels caused much global warming, said Ben Giese, a scientist at Texas A&M University.

The research team ran a complex ocean computer model that for the first time used the results of a separate atmospheric model produced by the National Oceanic and Atmospheric Administration. The result was a simulation of temperatures, currents and other factors from 1908 to 1958 that showed El Niño was stronger in 1918 than ship-based measurements suggested that year.

Giese said the research reinforces that there was limited data about El Niños prior to the 1950s and the computer models are just one source of information.

"We cannot rely on what El Niño looks like today to try to understand what El Niño patterns looked like in the past," he said. "It makes it a challenge to talk about El Niño and global warming because we simply don't have a detailed record" (David Fogarty, Reuters, March 24). **--TL**

EARTH DAY

==========

EPA launches video/photo project in celebration of Earth Month (*Saipan Tribune*)

Thursday, March 26, 2009

In anticipation of Earth Day, the Environmental Protection Agency launched yesterday an interactive video and photo project asking the public to share the ways they enjoy and protect their environment.

These projects are part of EPA's multi-event celebration of Earth Month and of EPA's 39 year

history-which will highlight the agency's renewed commitment to protecting human health and the environment.

The EPA is asking filmmakers and photographers around the world to submit their own videos and photos documenting what steps they take to protect the water they drink, the air they breathe and the overall environmental health of their communities.

Participants can submit their video entries to the EPA's Earth Day Video Project group on YouTube. Photo entries should be submitted via Flickr.

Categories in the video project are:

* Reducing your carbon footprint

* Conserving and protecting water

* Protecting the environment

* Reduce, reuse, recycle

Categories in the photo project are:

* People and the environment

* The beauty of nature

* Wildlife

EPA officials will select videos and photos to feature on the website throughout April. The agency will accept videos and photos from today through the end of April. ***(EPA)***

EDITORIAL/COMMENTARY/OP ED/LETTERS

==========

No more freebies at EPA (*Boston Globe*)

By Derrick Z. Jackson | March 24, 2009

AFTER EIGHT years in which the EPA was the Environmental Pass Agency, new administrator Lisa Jackson last week sent a new signal that polluters cannot pass "Go." In a memorandum, she stopped the agency's nearly decade-old "Performance Track" program where corporations set voluntary environmental goals. It began late in the Clinton administration, on the notion that with "a growing number of environmental leaders in the public and private sectors practicing environmental stewardship, we hope more organizations and the people who run them will begin to see its advantages."

Corporations saw the "advantages" as an open chimney. In December, the Philadelphia Inquirer published an expose on the program, which grew in the Bush EPA to 547 members. The EPA signed up many of the nation's top polluters in a polluted public relations stunt. The companies said they were greening, even as the EPA made little or no effort to verify any progress. The Inquirer found that signatories could count on fewer inspections and expedited permits to expand.

In a memorandum, Jackson wrote to the Performance Track members that while they "have created a foundation of achievement, innovation, and progress," she was halting the program because it "was developed in a different era and may not speak to today's challenges." She elaborated in a telephone interview last week, "There's enough concerns about that program's effectiveness. My current belief is that it has raised awareness of stewardship. I can also say with some certainty that evidence of the effectiveness of Performance Track is not out there."

The degree to which Performance Track became Polluter Travesty is the fact that many of its members are in the 2008 Toxic 100 Index, as compiled by the Political Economy Research Institute at UMass-Amherst. DuPont and Dow are members despite being listed top and third in the nation, respectively, for their toxic releases into the air. In 2005 DuPont paid a $10.25 million fine and agreed to a $107 million settlement to people in Ohio and West Virginia for polluting drinking water.

The Inquirer found that a chlorine factory in Tennessee was a Performance Track member despite being the biggest mercury emitter in the state, with the state declaring the Hiwassee River abutted by the factory to be "impaired." The newspaper also found that Pfizer, also on the UMass institute's Toxic 100 list, is a Performance Track member despite having paid a nearly $1 million fine for hazardous chemical release and that Marathon Oil, in the Toxic 100 and a Performance Track member, received expedited permits in 2006 to expand its Louisiana refinery into the fourth largest in the nation.

Evidence of the coziness between the polluters and EPA is a series of 2006 testimonials on the Performance Track website. The environmental manager for Nucor Steel, a Toxic 100 member, wrote, "The best thing about Performance Track is that it's truly a partnership between business and EPA." A representative from Marathon Oil hailed the "collaborative relationship with our regulators." An environmental resource representative from DuPont wrote "Instead of reinventing the wheel, we can have a dialogue."

The whole point of the "dialogue" was so polluters did not have to reinvent anything. Jackson knew this, which is why she added Performance Track to the many Bush policies she is reversing

or reviewing. The mere consideration by the Obama administration to regulate greenhouse gases has the US Chamber of Commerce screaming it would "completely shut the country down." Jackson said such fears are unfounded.

"We are not looking to run rampant and regulate every Dunkin' Donuts and every cow," Jackson said. "These are nightmare, worst-case scenarios put up by the Bush administration. We will move methodically as mandated by the Supreme Court. But the fact is, we don't have a very sound rationale on regulating mercury . . . there is quite a bit of uncertainty about how we regulate air pollutants. Decades after the Clean Air Act we're stalled on toxic waste sites. The Superfund pipeline has dried up . . . We've lost eight years on kids getting asthma."

Just to have an EPA administrator admit to all that gives hope that the days of the free pass are over.

Derrick Z. Jackson can be reached at jackson@globe.com. ■

ENERGY

==========

Environmentalists clash over climate, conservation *(Greenwire)*

03/24/2009

As the Obama administration pushes renewable energy to fight climate change, some environmentalists are chafing at the notion of converting some of the country's open spaces into solar stations and wind farms.

Pristine places hold some of the richest wind, solar and geothermal resources in the country, but they are also premier habitat to rare creatures and playgrounds for nature-lovers.

The struggle for balance has been going on for a decade in Cape Cod, Mass., where a plan for an offshore wind farm in Nantucket Sound has met stiff opposition from local residents who fear harm to aquatic life and the view.

The battle has spread to the Mojave desert, where some environmentalists are ambivalent about putting a solar farm amid endangered desert tortoise habitat. "Deserts don't need to be sacrificed so that people in L.A. can keep heating their swimming pools," said Terry Frewin, a local Sierra Club representative.

Others environmentalists see renewables in open spaces as inevitable and necessary. "It's not enough to say no to things anymore," said Carl Zichella, a Sierra Club expert on renewable power. "We have to say yes to the right thing."

Zichella and Johanna Wald, a lawyer and longtime environmental advocate at the Natural Resources Defense Council, have joined an industry-dominated advisory group that makes recommendations to California regulators on sites for renewable-energy facilities.

"We have to accept our responsibility that something that we have been advocating for decades is about to happen," Wald said. "My job is to make sure that it happens in an environmentally responsible way" (Felicity Barringer, *New York Times*, March 23). **-- PR**

HAZARDOUS WASTES

==========

EPA vows action on coal ash dumps, but Iowa may be left unprotected (*Iowa Independent*)

By Jason Hancock 3/24/09 9:53 AM
Iowa

For 30 years, environmentalists have pushed the U.S. Environmental Protection Agency (EPA) to regulate coal ash, the solid waste produced by coal-fired power plants.

The ash contains high levels of arsenic, lead, mercury and boron, each of which has been known to cause cancer, neurological and development problems, and other illnesses. Yet for three decades, rules governing coal ash have been left up to the states, creating a patchwork of differing regulations with questionable effectiveness.

As The Iowa Independent reported last week, environmentalists fear coal ash is polluting the groundwater around four unlined quarries and mines in Iowa where the material is used as fill. Advocates want the state to more strictly regulate these types of sites by requiring state-of-the-art liners and multiple monitors to safeguard human health and the environment.

But despite recent pledges from the EPA to address the issue, environmentalists worry that new federal regulations won’t go far enough or will fail to deal with the unsecured, unmonitored sites in the Hawkeye State.

“Right now we’re not sure what’s going on at the federal level or at the state level,” said Carrie La Seur, president and founder of Plains Justice, a Cedar Rapids-based public interest environmental law center.

What’s more, state officials said they’re delaying action on the issue in the hopes that the federal government will live up to its recent promises.

Chad Stobbe, an environmental specialist with the Iowa Department of Natural Resources (DNR) and the agency’s lead staffer on coal ash issues, said the DNR most likely won’t move forward with any rules until the EPA releases its own regulations.

“The concern is that the EPA requirements will trump anything we do at the state level,” Stobbe said. “Ultimately it will come down to the rules the EPA dictates.”

Sense of urgency

The Obama administration’s new EPA administrator, Lisa Jackson, recently said her agency will begin drafting new regulations for coal ash, likely to be released by the end of 2009.

Jackson cited the massive coal ash spill in Kingston, Tenn., last December. That incident, in which nearly a billion gallons of coal ash sludge flooded 300 acres of land, put the issue front and center.

“Environmental disasters like the one last December in Kingston should never happen anywhere in this country,” Jackson said.

But that type of disaster isn’t the biggest fear for environmentalists in Iowa. The danger facing the Hawkeye State, they said, is coal ash being disposed in abandoned quarries and mines.

Three of the four unlined disposal sites in Iowa — Wendling Quarry in Goose Lake, Basic Materials Quarry in Waterloo and the Linwood Mine in Buffalo — are located in the congressional district of Democrat Bruce Braley, who expressed concern about the health implications of Iowa’s coal ash dumps.

“I’m pleased that the EPA is committed to drafting a plan to regulate coal ash disposal, and I will be thoroughly examining their regulations when they are unveiled later this year,” he said.

But recent statements by EPA officials to the Iowa Independent suggest that the agency harbors lingering questions about whether coal ash dumps pose a threat to groundwater.

When asked specifically about the possibility of toxins leaching into groundwater supplies from coal ash stored in Iowa’s unlined, unmonitored disposal sites, EPA spokeswoman Tisha Petteway first pointed to six proven cases of damage associated with disposal in unlined quarries.

However, in a follow-up e-mail, Petteway backed off that statement, saying there is no consensus on the dangers of this method of disposal. “Use of coal ash in situations like its addition to

quarries or to fill abandoned mines is a very complex matter," she said. "If the neutralizing power of the coal ash is overcome by acidity, such as acid mine drainage, increased leaching of metals from the coal ash can occur."

Petteway said the EPA is researching cases of environmental damage resulting from the disposal of coal ash and will and use that data to draft an assessment for the management of the material.

"The agency recognizes the concern for public health and the environment associated with these materials and has made the management of these materials a priority," Petteway said. "Therefore, the agency is evaluating all of the available information and is moving expeditiously towards issuance of a proposed rule by the end of this year."

Industry says current regulations are working

Meanwhile, opponents of tougher regulations, including site owners and coal-burning industries, argue that coal ash disposal poses no threat to groundwater and proposed rule changes would needlessly increase the cost of doing business, an expense that will eventually be passed on to consumers.

Nicole Molt, director of government relations for the Iowa Association of Business and Industry (ABI), a trade group that counts among its members the disposal-site owners and industries that utilize them, said the cost of upgrading unlined, unmonitored sites to comply with stricter standards could cost anywhere from $250,000 to $500,000 an acre. That cost would eventually have to be passed on to taxpayers, since most users of quarries and mines for coal ash disposal are municipally owned utilities and the state's regent universities.

"We believe the current law is protecting Iowa's public health and environmental resources," Molt added. "Our private sector members are dedicated to protecting the public and dedicated to environmental compliance."

Molt said ABI requested documentation of any environmental damage caused by coal ash disposal in Iowa from the DNR back in September.

"We have not received any such documentation," she said.

Federal regulations are not necessary, Molt added, because the DNR already regulates coal ash disposal by testing the toxicity of the ash and the soil of disposal sites to help ensure leaching doesn't occur.

For her part, Plains Justice's La Seur said her organization would wait and see if the EPA stays on the schedule laid out for implementing new rule making this year.

If the EPA doesn't act, "we will re-evaluate our options to protect public health," La Seur said.

Oily liquid found at Grandview dump site (*Seattle Times*)

Tuesday, March 24, 2009 - Page updated at 01:05 PM

Investigators have found an oily, black liquid at an illegal dump site at a lower Yakima Valley farm.

The state departments of Agriculture and Ecology and the federal Environmental Protection Agency have been investigating the site north of Grandview since Wednesday, after complaints from witnesses about illegal dumping.

Since then, excavators have found about 150 containers of various sizes buried less than 8 feet deep, said Joye Redfield-Wilder, an Ecology spokeswoman. Most of the containers were broken or punctured.

They've also found buried furniture, computer equipment, car batteries, aerosol spray cans and a golf cart.

Investigators don't yet know how widespread the problem is, but they are concerned about possible groundwater contamination, Redfield-Wilder said. The water table in the area is about 6 to 8 feet deep.

"It is not good," she said. "It's definitely a shame."

Ecology officials have not issued a formal advisory for well testing, but recommend that all private well owners test their water periodically regardless of any specific threat.

Several messages left with the owners, who have not been charged with any wrongdoing, were not returned to the Yakima Herald-Republic.

Investigators have sent samples of the contaminants to a laboratory to be identified. They also are considering testing other areas on the 109-acre farm to see if the contamination has spread beyond the two-acre site under investigation.

Authorities suspect there may be more dump sites on the property, Redfield-Wilder said.

Those responsible for the illegal dumping could face fines of up to $10,000 per day per incident, as well as criminal charges.

Detroit hazmat team, EPA investigate leaking barrels (*Detroit Free Press*)

BY CECIL ANGEL
FREE PRESS STAFF WRITER

March 24, 2009

Michigan

Detroit Fire Department hazmat team and officials from the U.S. Environmental Protection Agency are at the vacant Detroit Marine Termninals, Inc building at Clark and Jefferson in Detroit this afternoon investigating leaking barrels found on the site, according to a fire dispatcher.

The hazmat teamed responded last night but were unable to work because the site was too dark, the dispatcher said.

PESTICIDES

==========

Border Patrol herbicide plan opposed (*Associated Press*) This story also appeared: *Los Angeles Times*

Some fear the effort to eradicate foliage where illegal immigrants and smugglers hide poses a threat to nearby populations in Laredo, Texas, and Nuevo Laredo, Mexico.

Associated Press

March 25, 2009

Houston — Critics are protesting a Border Patrol plan to poison vegetation along a 1.1-mile stretch of the Rio Grande riverbank to eliminate dense foliage used as hiding places by illegal immigrants and smugglers.

Some opponents of the action compare it to the Agent Orange chemical spraying program during

the Vietnam War.

The $2.1-million pilot project is due to begin this week. If successful, it could be expanded along as much as 130 miles of river in the patrol's Laredo Sector, as well as other parts of the U.S.-Mexico border.

Opponents are concerned that the spraying will occur near Laredo, Texas, and its counterpart across the border, Nuevo Laredo.

"We don't believe that is even moral," said Jay Johnson-Castro Sr., executive director of the Rio Grande International Study Center at Laredo Community College, adjacent to the planned test area. "It is unprecedented that they'd do it in a populated area."

The Border Patrol and Environmental Protection Agency officials say the herbicide planned for the test is safe for animals. The program is intended to keep Border Patrol agents safe and make their jobs easier, officials say.

Members of the Laredo City Council have raised concerns and called on Mexico President Felipe Calderon to intervene. Mexican officials are worried that the herbicide, imazapyr, could threaten the Nuevo Laredo water supply.

Imazapyr was registered in the U.S. in 1984. The EPA concluded after tests that "there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to imazapyr residues."

A U.S. government outline of the project indicates the Border Patrol is going to test three methods to rid the riverbank of carrizo cane, which has thick stalks. Trails through the cane can be all but invisible from higher up on the bank.

The cane is a nonnative plant introduced by Spanish explorers. Johnson-Castro said he had no issue with removing the cane, just the method.

Border plants to be killed to reveal smugglers (*Houston Chronicle*)

By DANE SCHILLER

March 24, 2009
Texas

The U.S. Border Patrol plans to poison the plant life along a 1.1-mile stretch of the Rio Grande riverbank as soon as Wednesday to get rid of the hiding places used by smugglers, robbers and illegal immigrants.

If successful, the $2.1 million pilot project could later be duplicated along as many as 130 miles of river in the patrol's Laredo Sector, as well as other parts of the U.S.-Mexico border.

Although Border Patrol and U.S. Environmental Protection Agency officials say the chemical is safe for animals, detractors say the experiment is reminiscent of the Vietnam War-era Agent Orange chemical program and raises questions about long-term effects.

"We don't believe that is even moral," said Jay Johnson-Castro Sr., executive director of the Rio Grande International Study Center, located at Laredo Community College, adjacent to the planned test area.

"It is unprecedented that they'd do it in a populated area," he said of spraying the edge of the Rio Grande as it weaves between the cities of Laredo and Nuevo Laredo, Mexico.

Border Patrol agent Roque Sarinana said the pilot project aims to find the most efficient way to keep agents safer and better protect the nation's border. "We are trying to improve our mobility and visibility up and down the river," Sarinana said.

Criminals have grown adept at using the dense foliage to elude capture, he said.

"They can come over almost undetected," he said.

Should the Border Patrol project prove efficient, cane removal could become part of its arsenal of tools that have been used along various parts of the U.S.-Mexico border, including walls, fencing and look-out towers.

Members of the Laredo City Council have raised concerns about the spraying program and called on Mexico President Felipe Calderon to intervene.

Mexican officials are raising concerns the herbicide could threaten the water supply for Nuevo Laredo.

A U.S. government outline of the project indicates the Border Patrol is going to test three methods to rid the 1.1-mile bank of river of carrizo cane, which has thick stalks that form tight, isolated trails that can be dark and all but invisible from higher up on the bank.

One method calls for the cane to be cut by hand and the stumps painted with the herbicide, Imazapyr.

Another involves using mechanical equipment to dig the cane out by the roots. It is unclear if herbicides would be necessary in this scenario.

The third and most controversial removal method calls for helicopters spraying Imazapyr directly on the cane — repeatedly — until all plant life in the area is poisoned.

The Border Patrol said that after using the herbicide, it plans to make the river's edges green again by planting native plants.

Johnson-Castro said he has no issue with removing the cane, a non-native plant brought by the Spaniards centuries ago. The challenge, he said, is how it is done.

"We are saying it is one hell of a big deal," he said.

Laredo Mayor Raul Salinas said he believes federal officials when they say testing shows the chemical is not dangerous, but that he also realizes opponents of the project have concerns to evaluate.

"It is a complicated situation because we have to think about protecting our border," said Salinas, a retired FBI agent. "But let's do it in a sensible, reasonable way to make sure humans won't be harmed, nor the vegetation, nor the animals, nor the environment."

dane.schiller@chron.com

Feds to poison plants along the border where criminals hide (*USA Today*)

Posted by Doug Stanglin at 08:54 AM/ET, March 24, 2009

The U.S. Border Patrol plans to start poisoning the plant life along a mile stretch of the Rio Grande to try to eliminate places were smugglers, robbers and illegal immigrants can hide, *The Houston Chronicle* reports.

The pilot program will test three methods for getting rid of carrizo cane, which has thick stalks in which people can easily evade detection.

Teams will try to cut the cane by hand, dig it out by the roots with mechanical equipment, or spray it with herbicide from helicopters.

If the pilot program in the Laredo area works, it could be used all along the U.S.-Mexico border, the paper says.

Although Border Patrol and U.S. Environmental Protection Agency officials say the chemical is safe for animals, critics question the possible long-term effects. They point to the U.S. military's

use of Agent Orange in Vietnam to try to strip foliage to make it easier to spot guerrillas along the Ho Chi Minh trail, *The Chronicle* says.

U.S. tightens security at Mexico border (*USA Today*)

By Thomas Frank, USA TODAY

2009-03-24

Local officials along the U.S.-Mexican border welcome a new federal crackdown against border violence despite concerns that it will create lines of idling cars through neighborhoods and deter crossover traffic.

The $184 million plan installs X-ray machines on the border to scan some Mexico-bound vehicles for drugs, weapons and cash, Homeland Security Secretary Janet Napolitano said at a White House briefing Tuesday. The department also will upgrade cameras that scan license plates of cars going to Mexico to find those that are stolen or linked to a crime. The initiative aims to dampen drug-related violence that killed 6,300 Mexicans last year and to keep that violence out of the USA.

"We're trying to identify vehicles that are carrying arms into Mexico that are being used in the drug war in Mexico," Napolitano said.

Trade advocates fear that searching Mexico-bound cars will slow the flow of workers and goods. People crossing the heavily secured U.S. border from Mexico are used to two-hour lines and vehicle searches but seldom face any wait or scrutiny walking or driving in the other direction.

The new plan "will be very detrimental," said Maria Luisa O'Connell, president of the Arizona-based Border Trade Alliance, which promotes trade with Mexico and Canada. "We depend a lot on the movement of people back and forth to Mexico."

The tiny border crossing in Yuma County, Ariz., has no room for an X-ray machine that scans cars driving under it, Sheriff Ralph Ogden said. An inspection station could be built in a park on the border, he said. "If the administration is serious about southbound trafficking, we're going to have to spend some funds and do it rapidly," Ogden said.

The technology is part of a plan to move 360 federal agents to the 1,930-mile U.S.-Mexican border. The agents will help local authorities and Mexican officials catch people smuggling guns, drugs and excessive cash into Mexico. Many agents will work with Mexican authorities to increase arrests and share intelligence.

Mexican Foreign Minister Patricia Espinosa said the U.S. effort will help President Felipe Calderón's fight against drug cartels. Calderón and Espinosa will meet today with U.S. Secretary of State Hillary Rodham Clinton in Mexico City.

In El Paso, next to violence-wracked Juarez, County Commissioner Veronique Escobar said many businesses in a thriving downtown area of discount shops are suffering because of bloodshed near the border. Escobar praised the new efforts to catch gun smugglers.

"We have to be part of the solution because we definitely bear a significant amount of responsibility when it comes to the drug war in Mexico," Escobar said. She worries, though, that if cars wait in line for an X-ray scanner, they will spew exhaust into neighborhoods near border crossings.

X-ray scanners have been used primarily to inspect vehicles entering the USA. Autos heading to Mexico also are searched, but typically by officers. Homeland Security has not determined how it will use X-rays on Mexico-bound cars.

Many police agencies in border states use their own license-plate readers to catch stolen cars. The readers are linked to a federal database of stolen and suspicious vehicles and send an alert to a police officer when a wanted car drives by.

Ogden, the Yuma sheriff, warns that by the time a scanner flags a wanted car, the driver might be in Mexico. If the machines are set up farther from the border, "you'll get stolen vehicles, but may not get someone going south," Odgen said.

Mayor Chad Foster of Eagle Pass, Texas, on the Mexican border said the new effort reflects a change in priorities from past attempts to stop illegal immigrants. "We've been trying to catch yardmen and housekeepers rather than stopping drug traffickers," Foster said.

Contributing: Chris Hawley in Mexico City

ILLEGAL IMMIGRATION (*Associated Press*) This story also appeared: *Dallas Morning News*

12:00 AM CDT on Wednesday, March 25, 2009
The Associated Press

Texas

HOUSTON – The U.S. Border Patrol is launching a controversial pilot project to poison plants along a 1.1-mile stretch of the Rio Grande to eliminate dense foliage used by illegal immigrants and criminals to hide.

For: The Border Patrol and U.S. Environmental Protection Agency say the chemical, Imazapyr, is safe for animals and humans. The program is designed to keep Border Patrol agents safe and help make their jobs easier.

Against: Critics say the action is similar to the Agent Orange chemical program during the Vietnam War and express concern that it could be harmful over the long term, especially near the cities of Laredo and Nuevo Laredo, Mexico.

What's next: The $2.1 million pilot project is scheduled to begin this week. If successful, it could be expanded along up to 130 miles of river in the patrol's Laredo sector, as well as other parts of the U.S.-Mexico border.

U.S. Border Patrol to spray plants that hide smugglers *(Greenwire)*

03/24/2009

The U.S. Border Patrol plans to poison plants running along a 1.1-mile portion of the Rio Grande riverbank in order to reveal hiding places used by smugglers, robbers and illegal immigrants.

The agency will begin a $2.1 million pilot to rid the border area of carrizo cane, which has thick stalks that form tight, isolated trails that are nearly invisible to border patrol agents.

The agency and U.S. EPA say the chemical is safe for animals, but critics say the experiment harkens back to Vietnam War-era Agent Orange and raises questions about long-term effects.

"We don't believe that is even moral," said Jay Johnson-Castro Sr., executive director of the Rio Grande International Study Center, adjacent to the planned test area. "It is unprecedented that they'd do it in a populated area."

In Mexico, officials are raising concerns the herbicide could threaten the water supply for Nuevo Laredo.

Border Patrol agents say the project aims to find the most efficient way to keep agents safe by improving mobility and visibility up and down the river. If successful, the pilot experiment could be expanded along as many as 130 miles of the river patrol's Laredo Sector, as well as other parts of the U.S.-Mexico border (Dane Schiller, *Houston Chronicle*, March 24). **-- PT**

SUPERFUND

==========

EPA: Superfund site by Columbus mostly cleaned up (*Associated Press*) This story also appeared: *KTVQ-TV*

Associated Press - March 24, 2009 1:04 PM ET

Montana

COLUMBUS, Mont. (AP) - The U.S. Environmental Protection Agency says soil contaminated by processing of chromium south of Columbus has been cleaned up, and the site largely should be removed from the federal Superfund list.

The EPA and the Montana Department of Environmental Quality say work remaining at the site focuses on groundwater, including checks for compliance with standards.

The 4.5 acres where Mouat Industries processed chromium from 1957-62 was listed under the federal Superfund program of environmental cleanup in 1986. Concerns included hexavalent chromium in soil and groundwater.

Notice that EPA plans the site's "partial deletion" from the Superfund list appeared in the Federal Register on Tuesday. The Mouat property is 1 of 15 Superfund sites in Montana. DEQ says there has never been a deletion.

TOXICS

==========

EPA ranks NMI among lowest in nation for toxic releases (*Saipan Tribune*)

Thursday, March 26, 2009

HONOLULU-Three facilities in the Commonwealth of the Northern Mariana Islands reported a total of 6,448 pounds of toxic chemicals released into the air, land and water in 2007, according to new data released by the U.S. Environmental Protection Agency. Overall, CNMI ranks among the lowest, 55 out of 56 states and territories, in total chemical releases.

In relation to data from the previous year, total releases have decreased about 5 percent.

“The Toxic Release Inventory program arms communities with powerful information,” said Laura Yoshii, acting EPA administrator for the Pacific Southwest region. “The inventory is a tremendous tool to help protect public health and the environment. Safe communities depend on well-informed citizens.”

CNMI facilities reporting 2007 release information to TRI:

* Hawaiian Rock Products Saipan

* Mobil Oil Mariana Islands Inc./Saipan Aviation Terminal

* Mobil Oil Mariana Islands Inc./Saipan Terminal

Data from 2007 in CNMI shows:

* CNMI companies did not report any releases to the water or to underground injection, and land releases increased less than one pound.

* Air Releases decreased 11 percent - by 576 pounds.

* Shell Marianas did not report to TRI this year, causing a decrease in releases.

* The data comes from the EPA's Toxics Release Inventory, commonly referred to as TRI. It's one of EPA's largest publicly available databases, arming communities with valuable information on more than 650 toxic chemicals released by various industries. The chemical information in the inventory is calculated by industrial facilities and reported to the EPA, as required by law.

* Total releases include toxic chemicals discharged by facilities to air, water, land, and underground, and the amount transferred off-site for disposal. Regulatory controls apply to many of the reported releases. Reporting facilities must comply with environmental standards set by local, state and federal agencies.

* Annual Toxic Release Inventory reporting began in 1987. The inventory provides information on annual toxic chemical releases reported by certain industrial and federal facilities. The TRI

does not include data on toxic emissions from cars and trucks, nor from the majority of non-industrial sources, such as agriculture. In 2000, it expanded to include persistent bioaccumulative and toxic chemicals, or PBTs, at ranges from 0.1 grams to 100 pounds. PBT pollutants are toxic chemicals that remain in the environment and food chain, posing risks to human health and ecosystems

Some findings of interest at the national level:

* There was a 5 percent decrease in total disposal or other releases into the environment nationwide from 2006 to 2007.

* PBTs make up 12 percent of total releases and have increased by 1 percentage point from 2006-2007. Lead drives overall PBT statistics with 98 percent of total releases for 2007. Lead showed a less than 1 percent increase (3.5 million pounds) from 2006-2007.

* Mercury releases increased by 38 percent (1.9 million pounds).

* On-site land releases are down 6 percent (113 million pounds) since 2006. ***(EPA)***

EPA: Texas outpaces rest of U.S. in cutting toxics (*Houston Chronicle*)

Despite emissions drop, Texas is still a big polluter, data show

By MATTHEW TRESAUGUE

March 24, 2009, 12:21AM

Texas

Texas industries released fewer toxic chemicals into the environment in 2007 than the year before, according to newly released federal data.

The U.S. Environmental Protection Agency's latest statistics show that the state's emissions dropped 7 percent, outpacing the reductions of the nation as a whole.

Still, Texas remained one of the biggest polluters among states, behind Alaska, Ohio and Indiana in the release of chemicals that cause cancer, neurological damage or other ills.

Harris County continued to lead Texas — and ranked No. 11 among counties nationwide — with the release of 39 million pounds of toxic chemicals. The county, home to 321 chemical plants, factories and refineries, reported a 4 percent reduction from 2006 to 2007.

Brazoria County ranked second in the state with 31 million pounds, and Jefferson County was third with 21 million pounds.

The EPA's annual Toxic Release Inventory tracks the emissions of 650 chemicals at 22,000 facilities nationwide. Although the inventory has become a widely used resource since it started in 1988, it has been criticized for relying on industry-reported estimates.

The inventory also doesn't include toxic chemicals in the exhausts from vehicles, construction equipment or airplanes, which can account for a big share of Houston's famously dirty air.

Nonetheless, state, local and industry experts said the latest data show that efforts to reduce harmful emissions are working.

Harris County, for example, saw a significant drop in emissions of 1,3 butadiene, a cancer-causing chemical used in the production of rubber and nylon.

Officials said one reason for the drop in 1,3 butadiene emissions is Texas Petrochemicals' 2005 agreement with the city to reduce emissions of the chemical by half. Since then, the East End plant has cut emissions from 136,433 pounds a year to 60,712 pounds in 2007, a 55 percent drop, EPA data show.

The city is seeking similar reductions of benzene, a petroleum byproduct known to cause cancer. The latest data showed more emissions of the chemical in Harris County in 2007 than the year before. State regulators said that's because a Deer Park company that handles hazardous waste incorrectly reported the amount of benzene it injected into underground wells.

The company, Texas Molecular, has submitted a revised number, lowering its emissions from 2.3 million pounds to 36,487 pounds, said Terry Clawson, a spokesman for the regulatory Texas Commission on Environmental Quality.

The mistake raises doubts about the accuracy of industry's estimates and reinforces the need for more measurements, said Matthew Tejada, executive director of the Galveston-Houston Association for Smog Prevention.

"This imperfect tool is just that — imperfect," Tejada said of the federal inventory. "We won't really make our next step with the measuring and reporting of toxic emissions until we start doing the first step — measuring — before attempting the second step — reporting."

matthew.tresaugue@chron.com

EPA Pushes For Limits On Greenhouse Gas Emissions (*AHN*)

March 24, 2009 11:48 a.m. EST

AHN Staff

Washington, D.C. (AHN) - Despite findings by the U.S. Environmental Protection Agency that there was an overall drop in toxic released in 2007 by five percent, the agency is determined to place a limit on greenhouse gas emissions.

The catalyst for the White House to consider placing a limit is the EPA's Toxic Release Inventory, which found out that pollutants released to the air went down seven percent and released to water dipped by five percent.

However, there was an overall one percent rise in discharges of persistent, bioaccumulative and toxic chemicals such as lead, dioxin, mercury and PCBs emitted mostly by factories.

The EPA study covered 650 chemical discharges from 22,000 plants.

The EPA proposal to place a limit on toxic discharges was hailed by environmental protection groups, by businesses are alarmed by its effect on the U.S.' economic recovery.

As early as September last year, in a testimony before a Senate committee, U.S. Chamber of Commerce vice president of Environment, Technology and Regulatory Affairs warned small and large businesses would carry the burden of the EPA's proposal to widen the Clean Air Act's coverage. "It's the little guys: the hotel you stayed at this weekend, the bakery where you bought your donuts, the office building you work in, even the church you take your family to on Sunday," Kovacs told the Senate.

Criminal probe into drywall opened (*Bradenton Herald*)

By DUANE MARSTELLER
dmarsteller@bradenton.com

Tuesday, Mar 24, 2009

Florida

MANATEE — The Florida Attorney General's office has launched a criminal investigation into potentially tainted Chinese drywall, it confirmed Monday.

The state's top prosecutor is investigating whether two companies at the center of the controversy — Knauf Plasterboard Tianjian and L&W Supply Corp. — committed any deceptive sales or marketing practices.

A spokesman for Knauf, a German company whose Chinese drywall subsidiary has been an early focus, said the company "is cooperating fully" in the investigation. A spokeswoman for USG Corp., L&W Supply's parent company, did not immediately return a voice message.

The attorney general's office declined further comment, but a state health official said during a teleconference call with reporters that he has been consulting with its Bureau of Economic Crimes.

State toxicologist Dr. David Krause also said limited laboratory testing hasn't yet shown whether sulfuric-gas emissions or metal corrosion linked to some brands of Chinese-made drywall is a health threat.

"We have not yet identified any concerns that chemicals in the drywall are at a level that would pose a significant health risk," he said. "That's not to say we're saying it's safe."

He also cast doubt on the findings of an environmental consultant hired by Lennar, one of the builders that used suspected defective drywall, that said it posed no threat to indoor-air quality. That study was limited, and a broader study is needed, Krause said.

He also urged anyone who thinks he or she may be experiencing health issues possibly caused by drywall to talk to their primary doctors.

Krause's employer, the Florida Department of Health, is among several local, state and federal agencies investigating complaints from more than 150 homeowners in Manatee County and elsewhere. Those homeowners say Chinese drywall in their homes smells like sulfur, has corroded metal air-conditioning parts and jewelry, and caused headaches, difficulty breathing and other health problems.

Other agencies investigating include federal and state environmental agencies, the U.S. Consumer Product Safety Commission and the Florida Department of Agriculture and Consumer Services. The Florida Department of Environmental Protection is testing the drywall to see if it can be safely disposed in landfills.

Limited testing on Chinese and American drywall samples from Florida homes found the Chinese ones had higher levels of sulfuric compounds, and contained between 5 and 15 percent organic material while the U.S.-made sample had less than 1 percent. The Chinese drywall also emitted sulfuric gasses when subjected to heat and moisture, according to the lab that conducted the testing on behalf of state health officials.

That's probably why the issue first surfaced in South and Southwest Florida, where heat and humidity are higher, Krause said. He also said the lab's findings contradict a theory, put forth by a law firm representing homeowners who are suing Knauf and/or their builders, that the Chinese drywall contained waste ash from coal-fired plants.

The health agency plans to collect more samples of drywall and corroded metal air-conditioning parts for more in-depth testing, Krause said.

“It has not been determined yet which ones we’ll go to next,” he said, adding the decision likely will be made in the next 30 days.

That testing should allow officials to calculate an emission rate of sulfuric gasses from the drywall and determine levels of indoor-air contamination, he said.

There’s no timetable for determining if the drywall poses a health risk.

“This won’t happen overnight,” Krause said. “Gypsum drywall is not a simple product. It’s like unbaking a cake.”

Knauf issued a statement saying it is cooperating with health officials’ investigation, but that it was too early to draw any conclusions from the lab’s findings. The company also noted it imported 20 percent of Chinese drywall in 2006, and that other Chinese manufacturers also are being investigated.

EPA Eyes TRI Program ‘Enhancements’ After Return To Stricter Rules (*Inside EPA*)

Tuesday, March 24, 2009

The Obama EPA is considering “enhancements” to its Toxics Release Inventory (TRI) program that could add new chemicals to the list of those companies must report after the recently enacted fiscal year 2009 omnibus law scrapped Bush EPA changes to the program that critics say weakened reporting requirements.

The move comes as the agency unveiled data from 2007 TRI reports -- the first since the Bush administration’s rules took effect -- which show a decline in most reported releases.

Mike Flynn, acting deputy assistant administrator in EPA’s Office of Environmental Information, said in a March 19 interview with *Inside EPA* that agency Administrator Lisa Jackson is “very supportive of this program; she thinks it’s a key to information and transparency.” Agency officials are now looking at ways to “enhance” the TRI program through potential regulatory changes, Flynn said.

Potential options for regulatory changes to TRI -- which requires companies to annually report data on releases of certain toxic chemicals from their facilities -- could include “bringing in potentially other chemicals,” Flynn said, though the agency is yet to decide on any changes to the program.

Flynn said an upcoming joint EPA-Environmental Council of the States (ECOS) TRI conference later this month is the “perfect venue” to discuss possible changes to reporting requirements, and agency staff will use the event to discuss “how to provide more information” under the program. “We’ll be seeking input and will be talking to folks [at the conference] about ideas” for TRI, Flynn added.

The March 30-April 2 annual conference is organized under a five-year agreement between EPA and ECOS “geared toward expanding partnerships with non-federal stakeholders to improve TRI programs,” according to the Web site for ECOS, which represents state environmental officials.

The agenda includes a keynote presentation by Sean Moulton of the watchdog group OMB Watch, which favors expanded reporting, on “Ideas for the Obama Administration.” The group strongly opposed the Bush EPA’s changes to the TRI program, implemented in 2006, which raised the threshold for reporting chemical releases to TRI from 500 pounds to 2,000 pounds and set a first-time threshold of 500 pounds for reporting persistent bioaccumulative toxins. Environmentalists say the rule weakened reporting requirements and undermined data sets for 2006 to 2008 and are trying to hasten the reversal of the rule, as delays could lead to additional years of missing data.

EPA’s review of the TRI program and the upcoming conference come as the agency March 19 unveiled the program’s 2007 TRI data which shows an overall decrease of five percent in reported releases since 2006. Releases to air decreased seven percent and releases to water decreased five percent. But the data shows increases in the releases of some persistent, bioaccumulative toxic chemicals like lead, dioxin and mercury.

Polychlorinated biphenyl (PCB) releases increased 40 percent, though EPA banned their production in 1979. In the interview, Flynn said the releases represent “cleanup activities of PCB transformers into hazardous waste disposal.” An agency press releases says that disposing of PCBs safely to permitted, hazardous waste landfills is the “final important step” in removing the chemicals from use.

Activist group Earthworks said in a March 19 press release that the data highlights the need to regulate the metal mining industry, saying that of 4.09 billion pounds of toxics reported, 1.15 billion pounds were released by mining. However, Earthworks says that oil and gas producers do not need to report under the Emergency Planning & Community Right-to-Know Act, the law authorizing TRI.

Meanwhile, in the interview Flynn also said that the Bush rule changes -- which allowed companies to use shorter, less-detailed reporting forms -- did not have a major impact on overall reporting. In 2005, prior to the Bush changes, 12 percent of the forms submitted used the shorter forms, compared to 14 percent for 2007 following the changes. “Looking at those numbers there’s a couple of percent difference, but we don’t think there was a significant effect on the total numbers” for reporting to the TRI, Flynn said.

The fiscal year 2009 omnibus spending law included language that mandated EPA return to using the reporting requirements that were in place prior to the Bush administration changes. Flynn said the prior thresholds and requirements are back in place and effective for reports due July 1 for the 2008 data set. “The only thing we can say at this point is given the rule change [back to the prior-Bush EPA requirements] we may see a decrease in the number of shorter forms” submitted, he added. -- *Anthony Lacey*

W.R. Grace knew of hazards since '70s, employee says *(Greenwire)*

03/24/2009

A former W.R. Grace & Co. employee testified yesterday that he warned supervisors about toxins in vermiculite mined in Libby, Mont., as far back as 1976, after tests revealed the products were releasing dangerous levels of asbestos fibers.

Robert Locke, a longtime Grace employee who was fired by the company in 1998, has been named an "unindicted co-conspirator" in the environmental crimes case against the company and could still face federal charges based on his trial testimony. He has long been embroiled in civil litigation with the construction products giant for undisclosed reasons.

W.R. Grace & Co. and five former managers are standing trial over allegations that the company and executives knowingly exposed Libby to a particularly lethal form of asbestos (*Greenwire*, Feb. 23).

Locke began working for the company in 1974, and said he was assigned to various "fiber-reduction" programs when government agencies began toughening asbestos regulations. He began collecting air samples from Grace's asbestos-containing products, like spray-on fireproofing and attic insulation, because company officials were worried about product liability, he said.

The aim was to comply with the new standards, Locke said, but studies showed that even products containing low concentrations of asbestos proved extremely hazardous, because high levels of asbestos fibers became airborne when consumers handled the products.

The company began experimenting with the product to make it safer, but the measures were ineffective, he said.

Lawyers for Grace and the five individual defendants said Locke's depiction of the asbestos dangers as a "big secret" was ludicrous, and that U.S. EPA knew about the toxin in Libby vermiculite since the product's inception (Tristan Scott, *Missoulian*, March 24). **-- TL**

Fla. investigating Chinese drywall sellers *(Greenwire)*

03/24/2009

The Florida attorney general's office is probing two Chinese companies that sold potentially toxic drywall.

The state is investigating whether Knauf Plasterboard Tianjian and L&W Supply Corp. committed any deceptive sales or marketing practices.

Meanwhile, the state is investigating whether the sulfuric-gas emissions or metal corrosion linked to some brands of Chinese-made drywall is a health threat.

"We have not yet identified any concerns that chemicals in the drywall are at a level that would pose a significant health risk," said state toxicologist David Krause. "That's not to say we're saying it's safe."

The Florida Department of Health is among several local, state and federal agencies investigating complaints from more than 150 homeowners who say the Chinese drywall in their homes smells like sulfur, has corroded metal air-conditioning parts and jewelry, and caused health problems such as headaches and difficulty breathing (Duane Marsteller, *Bradenton* [Fla.] *Herald*, March 24). **-- PR**

WATER

==========

EPA to Scrutinize Permits for Mountaintop-Removal Mining (*Washington Post*)

By Juliet Eilperin
Washington Post Staff Writer
Wednesday, March 25, 2009; A13

The Environmental Protection Agency put hundreds of mountaintop mining operations on notice that they would be the focus of closer scrutiny yesterday, saying it needs to review their impact on local streams and wetlands before they can move forward.

The announcement, which outraged mining interests and cheered environmentalists, challenged a Bush administration policy and blocked the effect of a federal court decision that had made it easier for mine operators to dispose of the rubble and sludge created when companies blow off the tops of mountains to get to the coal buried underneath.

Late last night, the EPA issued an unusual statement saying that the agency "is not halting, holding or placing a moratorium on any of the mining permit applications." But the statement indicated that the EPA would "take a close look" at applications that had been the focus of recent litigation.

EPA Administrator Lisa P. Jackson also sent letters to the Army Corps of Engineers objecting to proposed operations in West Virginia and Kentucky, saying the two projects pose a serious threat to "aquatic resources of national importance" and should be halted.

"The two letters reflect EPA's considerable concern regarding the environmental impact these projects would have on fragile habitats and streams," Jackson said in a statement. "I have directed the agency to review other mining permit requests. EPA will use the best science and follow the letter of the law in ensuring we are protecting our environment."

Companies had been hoping to get Corps of Engineers permits for dozens of new and ongoing mountaintop mining operations after a three-judge appeals panel in Richmond ruled last month that the Corps did not have to conduct extensive reviews before issuing the permits. Just before leaving office, the Bush administration finalized rules that eased a 25-year-old prohibition on dumping mine waste within 100 feet of any intermittent or permanent stream, allowing such dumping if it was unavoidable and as long as harm was minimized "to the extent practicable" and was compensated for somewhere else.

Corps spokesman Doug Garman said the agency "will be working with EPA to address any concerns they have related to mountaintop mining permits."

National Mining Association spokeswoman Carol Raulston said some mining companies had been waiting "months, years in some cases" to move ahead and now face the prospect of further delay.

"These are lawful permits," Raulston said. "They meet the requirements of the law and have been affirmed by the courts."

Mining companies and environmental groups have fought over how to interpret the Clean Water Act, which prohibits dumping of mining waste that damages water quality. Courts have issued conflicting opinions, and federal officials estimate that since the mid-1980s 1,600 miles of streams in Appalachia have been wiped out by such "valley fills."

Chuck Nelson, who worked as a coal miner in West Virginia for three decades and is now a community organizer for the Ohio Valley Environmental Coalition, said the EPA's decision came "just in time." Mountaintop mining requires fewer workers than traditional mining, he said, and its environmental degradation leaves communities with few economic options.

"We're losing our way of life and our culture," Nelson said. "We're paying the price for mountaintop removal. It's big profits for the industry."

But William B. Raney, president of the West Virginia Coal Association, questioned why the new administration would potentially put hundreds of jobs on hold when other land-clearing activities in Appalachia also affect the environment.

"It's absolutely puzzling to me why you would want to dismantle a state's economy," Raney said. "Does this mean in the steep terrain of eastern America, we're not going to have roads, we're not going to have economic development, we're not going to have Wal-Marts?"

The EPA's action was the latest step reviewing environmental decisions made under President George W. Bush. On Monday, the Fish and Wildlife Service filed a document in U.S. District

Court saying it will reconsider a 2006 decision not to protect the Gunnison sage grouse under the Endangered Species Act. Conservationists have sought to win federal protection for it, and the Interior Department's inspector general concluded in December that Bush's appointees ignored federal biologists' advice in not adding the bird and other species to the protected list.

EPA Acts to Block Mountaintop Mining Project (*Wall Street Journal*)

By SIOBHAN HUGHES and MARK PETERS

MARCH 25, 2009

WASHINGTON -- The Obama administration moved to block a mountaintop coal-mining project and said it will scrutinize more than a hundred mining permits to review concerns about waste dumped into rivers and streams.

The U.S. Environmental Protection Agency's action is the latest sign that the Obama administration is recalibrating the balance between environmental concerns and mining and oil-drilling interests in favor of environmental protection. Environmentalists praised the EPA's move, saying it will protect rivers and streams. The coal industry said the decision would hurt the economy in the Appalachian region.

"It not only potentially affects thousands of jobs in the region; it also affects coal production, which is responsible for half of all U.S. electricity," said Carol Raulston, a spokeswoman for the National Mining Association.

The mining practice known as mountaintop removal has been controversial for years. In mountaintop removal, companies shear off the tops of mountains and dump the rubble into valleys to gain access to seams of coal. Producers often see mountaintop removal as a safer, cheaper alternative to traditional underground mining. Environmental groups decry the practice, saying it increases levels of dangerous heavy metals in the water and damages plant and animal life.

The EPA said Tuesday that it had recommended that the U.S. Army Corps of Engineers deny a permit to a Highland Mining Co. project in West Virginia that had proposed dumping mining debris into streams. The EPA said that another project, to extract millions of tons of coal in Kentucky, potentially could go forward if more steps were taken to protect streams.

The EPA's review comes after a U.S. federal appeals court handed a victory to the coal-mining industry by confirming the Corps of Engineers' authority to issue permits and approve any environmental safeguards associated with them.

The litigation had resulted in a backlog of 150 to 200 applications with the U.S. Army Corps of Engineers. EPA spokeswoman Adora Andy said the agency would review those permits.

Write to Siobhan Hughes at siobhan.hughes@dowjones.com and Mark Peters at mark.peters@dowjones.com

E.P.A. Plans Closer Review of Mountaintop Mining Permits (*New York Times*)

By MIREYA NAVARRO
March 25, 2009

In a sharp reversal of Bush administration policies, the head of the Environmental Protection Agency said Tuesday that the agency planned an aggressive review of permit requests for mountaintop coal mining, citing serious concerns about potential harm to water quality.

The administrator, Lisa P. Jackson, said her agency had sent two letters to the Army Corps of Engineers on Monday in which it expressed concern about two proposed mining operations in West Virginia and Kentucky involving mountaintop removal, a form of strip mining that blasts the tops off mountains and dumps leftover rock in valleys, burying streams.

The letters recommended that the corps deny the West Virginia permit application and that the Kentucky application be revised to ensure the protection of streams.

“The two letters reflect E.P.A.’s considerable concern regarding the environmental impact these projects would have on fragile habitats and streams,” Ms. Jackson said in a statement. “I have directed the agency to review other mining permit requests. E.P.A. will use the best science and follow the letter of the law in ensuring we are protecting the environment.”

Officials of the National Mining Association, an industry group, said the action amounted to a moratorium on the 200 pending mining permits throughout Appalachia — a view the agency categorically denied — and jeopardized thousands of mining jobs. The group says that mountaintop mining in the region produces about 10 percent of all coal mined in the United States.

“E.P.A.’s announcement is especially troublesome from an administration that with one hand proposes enormous fiscal stimulus to put Americans back to work and with the other hand takes their jobs away,” Hal Quinn, president and chief executive of the group, said in a statement.
But Jennifer Chavez, a lawyer with EarthJustice, a law firm that has sued to stop mountaintop mining, said the E.P.A. was only reversing a practice of issuing permits “like hotcakes” under the Bush administration.
“We see this as a very good sign,” Ms. Chavez said, adding that the action indicated that the agency planned to “take a serious look” at issues her firm had sought to draw attention to for some time.
Environmentalists suffered a setback last month when a federal appeals court panel in Richmond, Va., overturned a 2007 district court decision that the corps had improperly issued permits for mountaintop removal. That decision created a backlog of permits awaiting review.

EPA to review coal-mining permits (*Associated Press*) This story also appeared: *Los Angeles Times*

The agency puts hundreds of mountaintop mining requests on hold so it can study impacts of dumping debris into waterways.

Associated Press
March 25, 2009

Washington -- The Environmental Protection Agency put hundreds of mountaintop coal-mining permits on hold Tuesday to evaluate the projects' impact on streams and wetlands.

The decision by EPA Administrator Lisa Jackson targets a controversial practice that allows coal mining companies to dump waste from mountaintop mining into streams and wetlands.

Between 150 and 200 applications for new or expanded surface coal mines, many of them mountaintop removal operations, are pending before the federal government. EPA spokeswoman Adora Andy said the agency did not expect problems with the overwhelming majority of permits.

The permits are issued by the Army Corps of Engineers, which has been criticized by environmental groups and has been sued on allegations of failing to thoroughly evaluate the environmental impact of mountaintop removal.

Under the Clean Water Act, companies cannot discharge rock, dirt and other debris into streams unless they can show that it will not cause permanent damage to waterways or the fish and other wildlife that live in them.

Last month, a three-judge appeals panel in Richmond, Va., overturned a lower court's ruling that would have required the corps to conduct more extensive reviews. That decision cleared the way for a backlog of permits that had been delayed until the lawsuit was resolved.

The EPA's action Tuesday could leave those permit requests in limbo a little longer.

Ginger Mullins, regulatory branch chief for a corps district covering portions of Kentucky, Ohio, West Virginia, Virginia and North Carolina, said the EPA reviews would delay approval of projects.

The EPA said in a statement that it would be actively involved in the review of the long list of permits awaiting approval by the corps. The EPA has the authority to review and veto any permit issued by the army Corps of Engineers, but under the Bush administration it rarely did so.

"There are permits that will bury 200 miles of streams pending before the corps," said Joe Lovett, executive director for the Appalachian Center for the Economy and the Environment.

The EPA action stunned the coal industry, which had been breathing easily since the mid-February ruling by the U.S. 4th Circuit Court of Appeals.

EPA stops mining of mountain tops (*Fair Home*)

by Alan Harten
March 25, 2009

Lisa Jackson, the administrator of the US Environmental Protection Agency (EPA), said on Tuesday that a large number of permits for coal mining from mountain tops are now suspended pending a review of how marshlands and streams are affected by the mining.

The suspension is aimed at a contentious procedure carried out by mining companies who remove entire mountain peaks with explosives and deposit waste into wetlands and rivulets.

It only covers applications for new permits, which are believed to be almost 200.

The EPA said it has legal authority under the Clean Water Act to disallow permits issued by the U.S. Army Corps of Engineers for mines that make an everlasting deterioration in the quality of water by polluting valley rivulets.

This could make an impact on hundreds of mines where permits have been applied for or already given.

The EPA sent two relevant letters to the Corps of Engineers, which gives permits for such devastating mining on the understanding that the mine companies reconstruct the streams.

The EPA commented that it would play an active role in examining the long list of permits awaiting Corps approval.

The EPA very rarely reviewed and denied permits issued by the Corps, during the Bush administration.

Clearly, the EPA will use its powers under the Obama administration.

Joe Lovett, the executive director of the Appalachian Center for the Economy and the Environment said that if the EPA did not intervene now, all those permits waiting for Corps approval will be granted and about 200 miles of streams will be filled in.

The coal industry says almost 130 million tons of coal is mined from mountaintop sites in Appalachia.

This coal provides electricity to 24.7 million customers.

The mines employ around 14,000 people across Kentucky, West Virginia, Tennessee and Virginia.

Permits have been dramatically reduced since March 2007, when District Judge Chambers ordered the Corps to withdraw some permits.

However, Chambers' judgement was reversed by the Court of Appeal last month.

The coal companies have reduced output, layed off staff and shut down mines because of lower demand, especially for utility coal abroad and coke for steel mill furnaces.

Almost 1,310 jobs have been lost in Appalachian mines recently.

Carol Raulston, of the National Mining Association, said more postponement in the permits will mean the loss of well paid employment in the area.

It will not be easy to replace the type of coal produced from the mines.

The industry has always said that stopping the mining of mountaintops means increased imports from countries with insufficient environmental protection.

EPA to scan mountaintop coal mining permits sharply (*TopNews United States*)

Submitted by Medha Sood on Wed, 03/25/2009 - 09:26

Arkansas

The US Environmental Protection Agency (EPA or USEPA) on Tuesday stated that it will aggressively scan more than hundred permits for mountaintop coal mining, over the concerns about the waste being thrown into rivers and streams, which is potential threat to the quality of water.

Lisa P. Jackson, the Administrator of the Environmental Protection Agency, stated that the agency mailed two letters to the Army Corps of Engineers on Monday to notify them about two mining operations in West Virginia and Kentucky. She reported that the mining operations, involving mountaintop removal, which is a kind of strip mining that blasts the mountain tops, are dumping the leftover rock in valleys, which is consequently burying streams. She said that in the two letters, the agency has urged the Army Corps of Engineers to deny the West Virginia permit application and to review the Kentucky application to ensure the safety of streams.

In a statement, Ms. Jackson said, “The two letters reflect E.P.A.’s considerable concern regarding the environmental impact these projects would have on fragile habitats and streams. I have directed the agency to review other mining permit requests. E.P.A. will use the best science and follow the letter of the law in ensuring we are protecting the environment.”

It is the first time in at least eight years, the EPA has come forward to stop a mountaintop coal-mining project to protect rivers and streams. The coal industry, on the contrary, is criticizing the EPA’s move. The coal industry is complaining that the EPA’s move will cost thousands of high-paying jobs. The National Mining Association, an industry group, said the EPA’s action has

jeopardized thousands of mining jobs. According to the group, the mountaintop mining in the region produces about 10 percent of all coal mined in the United States.

In a statement, Hal Quinn, president and chief executive of the group, said, "E.P.A.'s announcement is especially troublesome from an administration that with one hand proposes enormous fiscal stimulus to put Americans back to work and with the other hand takes their jobs away."

Just when you thought it was safe… (*Honolulu Weekly*)

Why is the Legislature weakening water quality standards?

Ragnar Carlson
Mar 25, 2009
Hawaii

At first glance, House Bill 834 seems harmless enough. Positive, even. The text of the bill seeks to align Hawai'i water quality standards with federal ones. It's the kind of administrative rule-changing that happens every legislative session, driven by the need for research and technical data to be brought up to date. And predictably, this bill, and its sister effort, Senate Bill 1008, have received next to no attention from the press or the public.

It turns out, however, that federal water quality standards in the United States are dramatically weaker than our own in most significant areas. In fact, Hawai'i has some of the toughest regulations for near-shore waters of any state, which isn't surprising in a state with a population that more or less lives in the ocean.

Using federal water quality regulations may sound good on paper, but in almost every meaningful case, observers say, they are weaker than those currently in place. While the proposals do offer some regulations of pollutants that now lack oversight, the net effect of these bills, according to environmentalists and scientists, would be a five-fold increase in the amount of key toxins allowed in near-shore waters.

What gives? A stealth push to free the hands of pollutant-happy golf course developers?

As is so often the case, it turns out that nothing about HB834 is what it seems. The bills, which were sponsored by House Speaker Calvin Say at the request of the City, are part of an attempt to provide the City and County of Honolulu with some breathing room following the Environmental Protection Agency's decision to end a waiver it granted to the City and begin imposing fines until Honolulu converts to what is known as secondary wastewater treatment.

In January, the EPA concluded that effluence from Honolulu's two main sewage treatment facilities, at Honouliuli and Sand Island, was too high in bacteria and violated the Clean Water Act. As a result, the agency ordered the City to change the way it treats wastewater. Honolulu is currently one of that last major municipalities in the country that does not employ secondary treatment, which involves the introduction of microorganisms to break down already-treated sewage. The City estimates that the conversion would cost upwards of $1 billion.

Enter the two bills now gliding through the legislature. Though City officials did not return repeated calls for comment, Capitol observers say the bills, by increasing the allowable amount of bacteria in sewage plant effluence, would allow the City to return to the EPA and, without having changed its treatment process in any way, nevertheless argue that it is coming much closer to meeting state standards. According to the Clean Water Act, local and state governments are held to both federal minimums and to state standards—by lowering the state's bar for bacteria, the City could effectively clean up its act without cleaning up its sewage at Honouliuli and Sand Island.

According to some scientists and environmental professionals, however, the proposal to permanently adjust standards for all Hawaiian waters is something like opening a Pandora's Box while standing on a slippery slope.

Sierra Club, Hawai'i Chapter director Robert Harris is concerned that what should be a scientific process driven by the Department of Health has become a political one. "There is political pressure on the Legislature to move these bills because they don't want to be blamed for increased sewer fees in Honolulu...but legislators are not toxicologists. We need more testing."

Hawai'i regulates *enterococcus*, a key indicator bacteria, up to 300 meters away from the shore line at 7 clumps per milliliter. The new limit would be 35 clumps per milliliter, measured 500 meters from shore. "That isn't that alarming, necessarily," said Harris. "What is alarming is that everything beyond 500 meters will be classified as 'infrequently used coastal waters.' It allows them to assess everything beyond that point at the lowest pollution standards."

"For the Legislature to make a finding that waters beyond 500 meters are infrequently used is just blatantly false," Harris said. "Look at Kailua, there are windsurfers farther out. We have lots of people using the waters beyond 500 meters. On the east side, we have surf breaks farther out than that."

William Aila, harbormaster at Wai'anae, says "This is all about the outfall from the sewage plants," both of which are located roughly 2,700 meters from the shore. "This is a sad case of reducing the safety bar so as not to spend money. What kinds of things happen beyond 500 meters? Just think about it: Windsurfing, kayaking, paddling, skin diving, scuba diving, fishing."

Bob Richmond, professor of marine biology and principal investigator at the University of Hawai'i's Kewalo Marine Laboratory, says the Legislature needs to slow down.

"The way it's written, I'm very uncomfortable with," Richmond said. "There's no scientific basis for 500 meters other than Hononulili and Sand Island outfalls. If the Legislature feels this is the overriding issue to address those two areas right now, then just include those two sites, and don't allow a five-fold increase in bacteria allowability statewide."

No one suggests that the City will produce higher levels of bacteria if the standards are changed. The problem, observers say, is the precedent. Harris worries about "every polluter in Hawai'i approaching the

Legislature and cherry-picking pollutants." Standards for fertilizers and other toxins would also be loosened by the bills.

Richmond says the bigger worry lies in removing the pressure brought by the EPA to address the issues that lay ahead. "We're getting into an area that causes me to be very concerned about where we're going now and for the future. It's really opening a Pandora's Box...it's almost as though people believe you can will pollution to disappear by changing the law."

"Federal standards were established primarily for contintental landmasses quite different from Hawai'i," says Richmond. "They don't have coral reefs, marine economies, they don't place the same cultural importance on the ocean, which is part of the the fabric of culture, economy and society in Hawai'i. When you don't take adequate care of it, bad things can happen."

EPA Orders Tests of Anne Arundel Wells (*Associated Press*) This story also appeared: *Washington Post*

The Associated Press
Tuesday, March 24, 2009; 9:35 AM

Officials at Fort Meade say groundwater samples near a base landfill have shown elevated levels of toxic chemicals and the Army plans to test nearby wells.

The military hopes to test all wells within one mile of a pair of monitoring wells near the Odenton MARC station. Tests have shown contaminants at up to 10 times levels considered safe to drink in those wells.

The Environmental Protection Agency ordered the testing, saying the chemicals are "an unacceptable risk to human health" if consumed in drinking water.

Anne Arundel County Health Department spokeswoman Elin Jones says the chemicals were not found at an unsafe level in the eight drinking-water wells tested last year.

Golf course work brings $150,000 fine for Capital City Club (*Atlanta Journal-Constitution*)

By STACY SHELTON

Tuesday, March 24, 2009

Georgia

Atlanta's Capital City Club will pay the state $150,000 for violating clean water rules while reconstructing its Brookhaven golf course.

Large amounts of mud poured off the 115-acre construction site last year, drawing a rare triumvirate of regulatory redress — from the city of Atlanta, state Environmental Protection Division and the U.S. Environmental Protection Agency.

EPD's fine is one of the largest ever meted out by the state for violations of erosion regulations designed to keep mud and silt out of rivers, streams and lakes.

The city already had fined the private club $3,000. The EPA still is negotiating with the club.

Club General Manager and Chief Operating Officer Matt McKinney said the intent was to improve water quality on the 18-hole golf course, which is scheduled to reopen this spring or early summer. Several streams, which were piped decades ago, have been uncovered and restored. Water now leaving the course is cleaner than when it entered, McKinney said.

EPD's Mountain District Manager Bert Langley praised club officials for being responsive but also said they should have known better.

Spilling mud into streams is even worse than spilling raw sewage because it's avoidable and has long-term impact, Langley said. When silt covers rocks and gravel on the stream bottom, most of its biological activity is destroyed along with the insects, he said.

Vilsack urges EPA to challenge ruling on water permits *(Greenwire)*

Sara Goodman, E&E reporter

03/24/2009

Agriculture Secretary Tom Vilsack is urging U.S. EPA to challenge a court ruling that would subject registered pesticides to Clean Water Act permitting.

At issue is a 6th U.S. Circuit Court of Appeals panel ruling that pesticide residuals and biological pesticides are pollutants regulated under the Clean Water Act. The Cincinnati court's January ruling struck down a 2007 EPA exemption for those who apply pesticides in accordance with the Federal Insecticide, Fungicide and Rodenticide Act, or FIFRA (*Greenwire*, Jan. 8).

In a recent **letter** to EPA Administrator Lisa Jackson, Vilsack argued that the court broadened the scope of the Clean Water Act to include virtually all pesticide applications. This, he wrote, could impair farmers trying to protect crops quickly in the face of new infestations.

"Failure to obtain a timely permit for pesticide application could cripple American farmers' emergency pest management efforts and hamper their ability to respond quickly to new pest infestations or threats of infestations, thus increasing the risk of crop losses," Vilsack wrote.

In addition, the court's decision will affect USDA agencies, including the Forest Service and the Animal and Plant Health Inspection Service, he said. The ruling forces both to obtain permits before aerial and ground applications.

Furthermore, he said, permitting won't lead to significant environmental benefits. Instead, he said, it will duplicate efforts under FIFRA to monitor and register pesticides.

Vilsack wants Jackson to seek review of the court's decision. EPA did not respond to requests for comment on the letter.

CropLife America, an industry trade group, has echoed Vilsack's call to review the court's decision. The group says pesticides should not be classified as pollutants under the Clean Water Act because they serve an "intended, beneficial purpose."

On the other side, environmental groups applauded the ruling, saying that by requiring permitting for virtually all commercial pesticide applications around waterways, the court will foster greater accountability and oversight, and allow for public input. In addition, they say federal agencies will have a better way of tracking cumulative pesticide use to determine how much is entering aquatic systems.

Joe Mann, a staff attorney for the National Environmental Law Center, said he was surprised by Vilsack's letter, calling it a "sky is falling concern that there is going to be widespread disruption of practices."

Instead, he said most agricultural pesticide applications will continue to be exempt from the permitting requirements. The only agricultural applications that will change are for terrestrial pesticides being sprayed directly into water or near water, which Mann said are not permitted under FIFRA since the application does not follow intended use.

EPA has until next month to determine whether it will petition for a rehearing of the case before the full circuit court.

Click here to read Vilsack's letter.

Fertilization experiment yields minimal climate benefit -- scientists *(Greenwire)*

03/24/2009

Indian and German scientists have announced that their controversial ocean fertilization experiment has "dampened hopes" that the tactic could be effective in combating climate change.

The scientists had hoped dumping tons of dissolved iron into oceans would spur a bloom of phytoplankton, tiny plants that sequester carbon dioxide emissions driving climate change.

Instead, the phytoplankton bloom was followed by an unforeseen boom in the population of tiny crustacean zooplankton, which ate much of the phytoplankton.

While a disappointing climate result, the zooplankton bloom could be good for blue whales, which eat about four tons daily of the crustaceans -- namely tiny shrimp called krill. Some are suggesting that by fertilizing blue whale feeding grounds, scientists could boost survival rates among the endangered whales. Others say issues such as marine pollution and habitat destruction should be addressed before ocean fertilization is considered (Jeremy van Loon, Bloomberg, March 24).

"The cooperative project ... has yielded new insights on how ocean ecosystems function," Germany's Alfred Wegener Institute said in a statement yesterday. "But it has dampened hopes on the potential of the Southern Ocean to sequester significant amounts of carbon dioxide and thus mitigate global warming."

Some environmentalists had decried the study as reckless because of its potential consequences for the ocean ecosystem and uncertain benefits to the climate (Agence France-Presse, March 24).
-- PR

Enviro groups sue Army Corps, EPA to prevent S.C. filling *(Greenwire)*

Katherine Boyle, E&E reporter

03/24/2009

A coalition of environmental groups today sued the Army Corps of Engineers, U.S. EPA and the developer Spectre LLC in federal court over plans to fill wetlands near Murrells Inlet, S.C.

The Southern Environmental Law Center is representing four groups -- the South Carolina Coastal Conservation League, the South Carolina Wildlife Federation, the National Wildlife Federation and Waccamaw Riverkeeper -- in the lawsuit, which was filed in federal district court in South Carolina.

At issue is the Army Corps' decision to declare the Horry County wetland isolated and not subject to federal protections after Spectre proposed filling it. The groups filing the lawsuit say the wetland qualifies for federal protection because it is connected with the Waccamaw River.

The environmental organizations also are attempting to force Spectre to obtain a state permit before moving forward on the plan.

Chris DeScherer, an attorney with the Southern Environmental Law Center, said the case highlights confusion springing from the Supreme Court's muddled 2006 *Rapanos-Carabell* decision.

DeScherer said the South Carolina wetland passes *Rapanos*' multiple tests to qualify for federal protections, describing the Army Corps' determination as a "simply erroneous decision."

Nevertheless, he said the situation showcases the need for Congress to pass the Clean Water Restoration Act this session.

That legislation is sponsored by congressional Democrats who say that prior to the *Rapanos* decision and the *2001 Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* decision, the phrase "navigable waters" -- used in the Clean Water Act to define what is subject to federal regulatory oversight -- had been broadly defined as "waters of the United States, including the territorial seas."

Democrats, including House Transportation and Infrastructure Chairman James Oberstar (D-Minn.) and Sen. Russ Feingold (D-Wis.), have indicated that they plan to reintroduce legislation aimed at restoring the broader definition this year.

"It would greatly aid everybody, including developers, agencies and the public, by giving clarity to this area," DeScherer said. "Right now, you have a South Carolina decision that's created a lot of confusion, a lot of bad decisions being made, and the Clean Water Restoration Act resolves those issues."

Neither EPA nor the Army Corps could be reached for comment.

The Horry County wetland also is the subject of a pending appeal by the South Carolina Environmental Law Project before the South Carolina Supreme Court.

Obama officials reviewing mountaintop removal rules *(Greenwire)*

03/24/2009

Obama administration officials are considering changes to regulations for mountaintop removal coal mining, a government lawyer told a federal judge yesterday.

"We are in a state of transition," said Cynthia Morris, a Department of Justice lawyer representing the U.S. Army Corps of Engineers, but added she had "nothing significant to report" yet about what was being considered. Morris made the statements during a district court hearing on the status of pending mountaintop removal litigation.

A three-judge panel from the 4th U.S. Circuit Court of Appeals last month overturned a 2007 district court decision that required more detailed reviews by the corps before it approved Clean Water Act authorizations for coal operators to bury streams. A district court injunction remains in effect until the circuit court decides on a request by environmental groups that the full appeals court hear the case.

Environmental groups have been pressuring the Obama administration and U.S. EPA to block a long list of pending permits the corps is poised to issue following the 4th Circuit decision. Activists and lawyers for the groups were disappointed by the lack of detail revealed yesterday about where the administration is heading on the issue, but hope a review will lead to tougher regulations (Ken Ward Jr., *Charleston [W.Va.] Gazette*, March 23). **– TL**

****

E-Clips contain copyrighted materials and are made available to designated recipients. Neither the E-Clips nor any individual article within may be further distributed.

****