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

Thursday, April 15, 2010

EDITORIAL/COMMENTRARY/OP ED/LETTERS 3
EPA Research Shows Abundance of Gas in West Virginia Coal (*State Journal*) 3
Could Obama's Supreme Court pick kill climate-change bill? (*Washington Post*) 5
AIR 6
EPA Staff Split Over Best Method For Defining Multipollutant Air Regulation (*Inside EPA*) 6
Lawmakers propose crackdown on Chicago's coal plants *(Greenwire)* 9
FDA orders phase-out of ozone-depleting inhalers *(Greenwire)* 9
CLIMATE CHANGE/GLOBAL WARMING 11
Academic experts clear scientists in 'climate-gate' (*Washington Post*) 11
EPA Wants to Expand Greenhouse Gas Reporting Rule (*State Journal*) 12
MORE info 13
Kerry-Graham-Lieberman Climate Bill Could Make Matters Worse (*DC Progressive*) 14
Senate climate bill would end EPA/state programs (*Reuters*) 15
Wis. lawmakers release new draft of emissions bill *(Greenwire)* 16
ENERGY 17
Govt tightens requirements for Energy Star program (*Associated Press*) This story also appeared: *Washington Post* 17
EnergyStar, harder to reach (*Washington Post*) 18
U.S. Tightens Requirements for Energy Star Certification (*New York Times*) 18
EPA honors Irvine-based Jamboree Housing Corp. (*OC Metro*) 20
Rep. Capito turns focus back on attacking EPA (*Charleston Gazette*) 21
FUEL 23
Big Change to the Nation's Gasoline Supply Awaits EPA Approval (*Best of Boating*) 23
Debate over ethanol's viability rages anew in Washington (*Associated Press*) This story also appeared: *Post-Star* 25

HAZARDOUS WASTES 27
Chemical weapons cleanup blast set to go in D.C. (*Washington Times*) 27
Wash. pushes to halt Yucca shutdown *(Greenwire)* 28
MINING 29
Capito Blasts EPA for Focus on the Environment (*The Washington Independent*) 29
PESTICIDES 30
USDA Reports on Contaminated Meat (*WBAY*) 31
RECYCLING 31
A Program to Certify Electronic Waste Recycling Rivals an Industry-U.S. Plan (*New York Times*) 31
TOXICS 34
New lead law goes into effect April 22 (*River Forest Leaves*) 34
Contractors fret lack of info, competitive impact of new lead law (*Marblehead Reporter*) 34
New rule on paint set for April 22 (*Today's News-Herald*) 38
EPA rule will make renovations more costly (*14WFIE.com*) 40
Senator plans release this week of bill overhauling toxics law *(Greenwire)* 41
Markey urges removal of antimicrobial from soaps, detergents *(Greenwire)* 42
WATER 43
Judge warns EPA of contempt in Everglades case (*Associated Press*) This story also appeared: *Los Angeles Times, Minneapolis Star Tribune, Washington Post* 43
More than 100 people turn out in Tampa for EPA hearing on water quality (*Tampabay.com*) 44
Md. sues Mirant, alleging pollution from Brandywine site (*The Gazette*) This story also appeared: *Washington Post* 46
EPA Proposing Taking Over Monitoring State Waterways (*WUSF 89.7 News*) 47
Judge warns EPA of contempt in Everglades case (*Associated Press*) This story also appeared: *MiamiHerald.com* 48
EPA Delays Florida Coastal Water Protection, Proceeds on Inland Water Rule (*Environment News Service*) 50
Wyo. regulators place stricter fracking rules on hold *(Greenwire)* 53
Oil from Great Barrier Reef crash shows up at nature sanctuary *(Greenwire)* 54

EDITORIAL/COMMENTRARY/OP ED/LETTERS

==========

EPA Research Shows Abundance of Gas in West Virginia Coal (*State Journal*)

Posted Thursday, April 15, 2010 ; 06:00 AM

The Upper Big Branch Mine has a history of having higher than normal levels of methane. The Upper Big Branch mine in Raleigh County had long been considered a risky one for methane. In 1998, the Environmental Protection Agency included the Massey Energy mine on a list of about 50 underground coal mines that had higher than normal levels of the explosive natural gas.

The EPA research report, called "Identifying Opportunities for Methane Recovery in U.S. Coal Mines," was first published online in 2003 and then last updated in 2008-09.

Its intent was not necessarily to prevent coal mine accidents or explosions, but rather to identify mines that were emitting large amounts of methane. This was strictly an exercise in global-warming research. Most scientists believe free methane has damaging effects to the Earth's atmosphere, far greater than any that could be attributed to carbon dioxide.

But this report accidentally swerved into a data set that lets us better understand the quantity of explosive gases present in a deep metallurgical coal mine.

The report states that the 50 mines, 15 in West Virginia, were responsible for 95 percent of all methane released by coal mines in the United States. Of those original 50 mines identified when the study began in 1999, 14 had gas wells or ventilation systems on site that drew off the excess natural gas for use or sale by 2003.

Nationwide, the report estimated mines like these throw off 127 billion cubic feet a year of gas. That's 10 percent of all the free methane released in the nation, according to the EPA's numbers.

Based on the 2003 survey, Upper Big Branch was seeping about 1.1 billion cubic feet of gas per year back then. However, the mine was removed from a similar list in the 2008 report. Reason? Diminished methane output levels.

As production shrank, levels at the UBB mine plummeted to somewhere below 300 million cubic feet per year. That was the level of the new 50th mine in the EPA 2008 report.

For sake of comparison, the Pinnacle Mine in southern West Virginia at the time spewed more than 3.5 billion cubic feet of gas per year in the 2006 survey. Patriot's Federal No. 2 mine, recently temporarily shuttered for methane buildups, turned out an estimated 2.5 billion cubic feet of methane in 2006.

Simply put, if one could capture or harness that methane, Federal No. 2 produced $10 million worth of the stuff, Pinnacle more than $16 million.

Some mines do. But the ways you go about removing the gas sometimes can make a dangerous situation underground more dangerous.

One of the prescriptions to get methane out of mines is through drilling fairly routine natural gas wells in and around the coal seams.

Thousands of gas wells are drilled in America every year. There's little dangerous about that process. Trouble is, you don't drill for gas adjacent to active mining, or at least nobody in the coal side of the business likes to do it.

In West Virginia, there is generally a 200-foot halo rule around underground drilling. You can't mine any closer than that without a cooperative agreement between miners and gas producers.

That's often the bigger problem. So many properties, especially in the Appalachian coal fields have split ownership of the coal and gas rights at the same location. Generally speaking, in West Virginia coal has had precedence legally over the once-worthless gas rights.

The coal industry doesn't want gas lines and drills operating through their active mines. Underground gas lines are bombs just waiting to be struck by mining machinery or broken open by any rock fall or minor earthquake.

Miners understand the slow seep of methane through a mine but can control it. A broken gas line or drilling that opens an active pocket of underground gas would be the equivalent of pouring a flammable fluid into a maze where miners can't escape it. Deadly.

And on the bottom line, these prior vertical gas wells drilled into coal seams cost money. In big round numbers, a 200-foot underground safety halo around a pipe and casing underground might contain $3 million in metallurgical coal tonnage that cannot be touched.

An expensive proposition when you learn that most gas wells drilled into coal bed methane seams are slow-producing, low-volume wells that might slobber methane out for 20 or more years.

That's the other problem; with so many fast-depleting deep wells being drilled in Appalachia outside coal seams, the drive to spend money on 30-year projects is light.

Could Obama's Supreme Court pick kill climate-change bill? (*Washington Post*)

By Stephen Stromberg | April 14, 2010; 3:13 PM ET

Sen. Lindsey Graham (R-S.C.) has a warning for President Obama -- pick your next Supreme Court nominee wisely, or else you might not get a climate-change bill this year.

Graham yesterday was asked whether the high court confirmation process would harm the effort to pass a climate bill this year. His answer: If Obama "picks somebody that is going to be controversial, yeah; if he picks somebody that is genuinely believed to be acceptable to a wide range of people, no." Sounds almost threatening.

I have to feel for Graham. He is uncomfortably in the middle of both the effort to pass a compromise climate and energy bill in the Senate and the brewing battle over Obama's next high court nominee, since he voted to confirm Sonia Sotomayor in the Judiciary Committee last year. And I don't think he was trying to threaten the president with his comments.

But for whatever reason Graham is probably overestimating the benefits -- in terms of minimizing the damage to the climate effort -- Obama would see if someone considered less "controversial" got the nod.

The White House is wisely preparing for a battle no matter whom it nominates. Even if it's the relatively moderate Merrick Garland, that'll mean at least a week of confirmation hearings and related cable-news obsession, which is a lot of time in legislative terms. And even then, in this election year the Mitch McConnells of the world have little incentive beyond the hinting of conscience to let Obama's nominee slide through without a fight. Either way it's probably a time sink -- and yet another problem for Graham and his partners in the climate-change effort, Sens. John Kerry (D-Mass.) and Joe Lieberman (I-Conn.).

Which is among the reasons it's a good idea to simply decouple the two issues: So that fence-sitting lawmakers aren't encouraged to apply any disappointment they might have over Obama's nominee to the energy debate.

AIR

==========

EPA Staff Split Over Best Method For Defining Multipollutant Air Regulation (*Inside EPA*)

Wednesday, April 14, 2010

EPA staff are split over the best method for defining a “multipollutant approach” to regulating emissions between one approach of focusing on emission sources and another that focuses on pollutant mixtures that produce adverse health outcomes, a crucial debate as EPA attempts to shift toward regulating emissions on a multipollutant basis.

Regina McCarthy, head of EPA’s Office of Air & Radiation (OAR), is a long-time proponent of multipollutant regulation, under which the agency develops rules that target several pollutants at once -- a strategy McCarthy pioneered at the state level as head of Connecticut’s environment department.

McCarthy, speaking at an April 3 Johns Hopkins University event in Washington, DC, said that she sees “tremendous opportunities in this clean air, clean energy agenda to basically do multi-pollutant strategies that look at to how you reduce greenhouse gases but also get something truly green. When someone tells me clean energy, I don’t think carbon alone I think lower criteria pollutants, lower toxics, cleaner air, and the ways in which we can be more creative is to think more multi-pollutant as we move forward,” she said.

McCarthy will further outline her vision for national multipollutant rules in a presentation at an April 26 Health Effects Institute (HEI) conference, an HEI source says.

But prior to McCarthy’s speech serious questions remained about exactly how EPA should develop multipollutant regulations. While EPA has previously regulated more than one pollutant at a time -- for example through vehicle tailpipe emission rules -- there is no common agency definition of a “multipollutant approach” to regulation.

On a recent Board of Scientific Counselors (BOSC) conference call April 1, Dan Costa of EPA’s Office of Air Quality Planning & Standards (OAQPS) told the agency’s science advisers that EPA will attempt to come up with such a common definition of multipollutant approach for research purposes in a policy document to be prepared for mid-2011.

There is already debate over whether multipollutant regulation should mean addressing all six criteria pollutants at once, or whether it should be broader and also cover some pollutants addressed by air toxics rules.

But an EPA source says a bigger, more fundamental issue that the agency must address is whether a multipollutant approach should focus on emissions at the source, or on the mixture of pollutants people inhale. Crafting multipollutant rules to reduce what people actually breathe would more directly address adverse health effects of air pollution, but would be much more difficult from a regulatory standpoint, the agency source says.

The source says that OAR is leaning toward source-based emissions regulation on a sector-wide basis, “but others are saying one should look at health outcomes with multi-pollutant contributors.” Therefore “we are trying to come up with a way of approaching these [multipollutant issues] from a rational” perspective, the source says.

Hard Choice

EPA has a hard choice to make over whether to focus its research on health effects of breathing ambient air, or on the composition of emissions from sources such as power stations or cars, an HEI source says. “That is the crux of the challenges we face,” the source says. EPA is therefore likely to adopt “much more of a source-based approach.”

Settling on a definition of multipollutant approach is seen as vital to moving EPA toward a multipollutant strategy designed to better regulate several air pollutants at once -- a move backed by states, industry, activists and others.

States and industry say the approach would reduce the administrative burden in having to meet a slew of EPA air rules. Public health advocates say that a multipollutant approach can better address the risks posed by real-world mixtures of pollutants, which can be greater than the risks posed by pollutants individually.

Costa on the BOSC teleconference noted that while EPA has a legal mandate under the Clean Air Act to set individual standards for the six “criteria” pollutants for which it sets national ambient air quality standards (NAAQS) -- sulfur oxide (SOx), nitrogen oxide (NOx), ozone, carbon monoxide, lead, and particulate matter (PM) -- the agency, public health experts and state regulators are looking to multipollutant regulation in the future.

In the past, clean air researchers have attempted to gauge the overall impact on health of multiple pollutants by looking at the effects of one, then adding the effects of another, and a third, creating so-called binary and tertiary analyses. These efforts fail to capture the true effect of a mixture of many different pollutants acting in concert, the source says, leading some researchers to favor the so-called “big mixture” approach.

While this “big mixture” approach can provide a better understanding of the health effects of breathing polluted air, it does not readily translate into practical regulation, the source says. EPA will, however, consider the “research to health outcomes” approach in its forthcoming research strategy, the source adds.

The HEI source explains that EPA would have tremendous difficulty identifying the origin of pollutants people actually breathe in order to limit harmful effects based on a multipollutant inhalation approach. Once emissions leave the source, it is difficult to determine their relative contribution to pollution levels in ambient air, especially because precursor pollutants react in the air to form other harmful chemicals such as ozone.

The HEI source says that conducting NAAQS reviews every five years for the criteria pollutants is very onerous for EPA, and also tough for state regulators and industry to implement. Some at EPA

are nervous about the complexity of multipollutant regulation, including the greatly increased complexity of scientific assessments to back new rules, but over time the approach should actually be more efficient, the source argues.

Multi-Pollutant Pilot

In a recent sign of EPA's efforts to move toward multipollutant regulation, Bill Harnett of OAQPS in a March 30 presentation to the Western States Air Resources Council's spring meeting described a first-time pilot project in Detroit, "investigating the application [of] our technical tools/methods in a multi-pollutant, risk-based approach to control strategy development."

In his presentation, Harnett outlines a multipollutant approach that aimed to get greater reductions in fine particulate matter (PM2.5), ozone and hazardous air pollutants than could be obtained by a traditional approach based on regulating pollutants individually in state implementation plans (SIPs). He says the benefits of the multipollutant, risk-based control strategy showed themselves for PM2.5 and ozone to be approximately twice those of the SIP-based approach. Multi-pollutant-based controls were also more cost-effective than the traditional approach, Harnett says.

EPA has regulated more than one pollutant at the same time in past rules, the HEI source says, including tailpipe rules to cut hydrocarbons, NOx and PM. The agency is also working on a Clean Air Transport Rule to regulate power plant emissions of SO2 and NOx, to replace its vacated Clean Air Interstate Rule.

Sens. Thomas Carper (D-DE) and Lamar Alexander (R-TN) are also sponsoring a multipollutant bill, S. 2995, which is designed to cut power plant emissions of NOx, SO2 and mercury (see related story).

But the HEI source says an agency shift to true multipollutant regulation will require a "major mindset shift," because EPA is used to addressing pollutants on an individual basis, such as setting NAAQS.

One state air regulator agrees that "multi-pollutant control by sector is indeed a hot topic and one that makes a lot of sense" for states and industry, compared to the approach of setting pollutant-specific rules.

The National Academy of Sciences (NAS) in pair of reports issued in 2004 on air quality management and PM outlined a need for EPA to pursue more research on multipollutant issues, the HEI source says.

The source says that the reports reached the conclusion that at the least, EPA needs to include the criteria pollutants plus a handful of the air toxics the public is most widely exposed to. These toxics should include "benzene, butadiene and the aldahydes" at a minimum, while the whole suite of pollutants covered by multipollutant strategy should not exceed "a dozen pollutants at the outside" to keep it manageable, the HEI source says.

One clean air activist warns, however, that limiting the pollutants covered by a new strategy for the sake of practicality may not be sufficient. "The law is very clear -- you have to deal with the criteria pollutants *and* the air toxics," the source says of the Clean Air Act. The source agrees, however, that a multipollutant approach focusing on health outcomes rather than sources' emissions would be harder to regulate.

A source with the American Lung Association also stresses EPA's obligation to consider the combined effects of all pollutants that could have a bearing on health. Pollutants can either amplify or negate the effects of others, and it is therefore necessary, if difficult, to better understand the interrelationships between them, the source says. "You have to study this at the molecular, the biological, and the health effects level," the source says.

Research into air pollutant interactions needs to become more "mechanistic," the source says, meaning that simply looking at health effects of polluted air is not enough. The source says there is a need for extensive new laboratory study work to determine how different combinations of pollutants impact health. This might even involve short-term human exposure studies, the source suggests. -- *Stuart Parker*

Lawmakers propose crackdown on Chicago's coal plants *(Greenwire)*

04/14/2010

Two power plants on Chicago's South Side would be required to cut particulate emissions by 90 percent as part of clean air regulations proposed by city lawmakers yesterday. The coal-burning Fish and Crawford plants produce thousands of tons of soot and millions of tons of harmful gases, advocates of the new regulations say.

Chicago is the only large city with two coal-powered plants within city limits. The plants released nearly 5 million metric tons of carbon dioxide in 2007, according to the Chicago Clean Power Coalition. They do not face tight restrictions because they were built before the Clean Air Act.

The proposed ordinance would impose some of the toughest restrictions in the nation. Lawmakers say it would put the city on track to meet the mayor's 2008 pledge to reduce emissions to 75 percent of 1990 levels by 2020.

The plants' owner, Midwest Generation LLC, said it has already cut emissions in the 10 years since buying the plants, including cutting nitrogen oxides by 60 percent. "The proposed ordinance is a solution in search of a problem," company spokesman Douglas McFarlan said in a statement (Michael Tarm, CBS2 Chicago, April 13). **-- JP**

FDA orders phase-out of ozone-depleting inhalers *(Greenwire)*

Sara Goodman, E&E reporter

04/14/2010

The Food and Drug Administration announced the phase-out yesterday of seven inhalers that use ozone-depleting chemicals.

At issue are chlorofluorocarbons, or CFCs, used as propellants to move the medicine from inhalers.

Four inhalers referenced by FDA are no longer manufactured. Companies that made them -- Tilade Inhaler by King Pharmaceuticals, Alupent Inhalation Aerosol by Boehringer Ingelheim Pharmaceuticals, Azmacort Inhalation Aerosol by Abbott Laboratories and Intal Inhaler by King Pharmaceuticals -- say they won't be sold after this year.

Three other inhalers will be phased out over the next three years, according to their manufacturers -- Aerobid Inhaler System by Forest Laboratories, Combivent Inhalation Aerosol by Boehringer Ingelheim Pharmaceuticals and Maxair Autohaler by Graceway Pharmaceuticals.

"During this transition, FDA wants to ensure that patients have access to safe and effective alternative medications to treat their asthma or COPD [chronic obstructive pulmonary disease]," Badrul Chowdhury, director of FDA's Division of Pulmonary, Allergy, and Rheumatology Products, said in a statement.

CFCs are known to damage the Earth's stratospheric ozone layer, and FDA has been working for years on the phase-out. The United States banned CFC production in 1996 except for certain limited uses, including metered-dose inhalers.

FDA struggled with eliminating the asthma inhalers and delayed a plan in 1998 to gradually replace CFC-inhalers with CFC-free alternatives given a lack of alternatives that were fully developed, widely available and affordable.

In 2007, the agency proposed to phase out the seven remaining products and made its final announcement after reviewing more than 4,000 public comments, according to the agency's Web site.

Norman Edelman, chief medical officer for the American Lung Association, pointed to the Montreal Protocol -- the international treaty for eliminating ozone-depleting chemicals -- as the impetus behind FDA's announcement. The treaty, ratified by the United States in 1987, established target phase-out dates for the manufacture and consumption of most ozone-depleting substances.

"This is the final step," Edelman said, "in something that's been ongoing for a long time."

CLIMATE CHANGE/GLOBAL WARMING

==========

Academic experts clear scientists in 'climate-gate' (*Washington Post*)

By Karla Adam and Juliet Eilperin
Washington Post Staff Writers
Thursday, April 15, 2010; A06

LONDON -- In the second of three investigations of the scandal known as "climate-gate," a panel of academic experts said Wednesday that several prominent climate scientists did not engage in deliberate malpractice but did not use the best statistical tools available to produce their findings.

The University of East Anglia's Climactic Research Unit has been under intense scrutiny since November, when hackers posted more than 1,000 pirated e-mails and a raft of other documents that highlight the scientists' hostility toward global warming skeptics. But the review -- which follows a British parliamentary review that defended the institution's research but faulted its tendency to withhold information -- did nothing to bridge the divide between many climate researchers and their critics.

After interviewing staff members and analyzing 11 peer-reviewed articles published between 1986 and 2008, the panel concluded: "We saw no evidence of any deliberate scientific malpractice in any of the work of the Climatic Research Unit and had it been there we believe that it is likely that we would have detected it."

They also said it was "very surprising" that the researchers did not work more closely with statisticians. But, they added, it was "not clear" that "better methods would have produced significantly different results."

Myron Ebell, director of energy and global warming policy at the D.C.-based Competitive Enterprise Institute, called it a "superficial investigation."

"They don't even make a minimal effort to rebut the obvious appearance of widespread data manipulation, suppression of dissenting research through improper means and intentional avoidance of complying with Freedom of Information requests," said Ebell, whose think tank accepts funding from energy interests.

Set up and funded by the University of East Anglia, the review panel was led by Ernest Oxburg -- a geologist and former academic who is the honorary president of the Carbon Capture and Storage Association and is involved with the wind-energy company Falck Renewables.

The other members were Huw Davies at ETH Zurich, Kerry Emanuel at the Massachusetts Institute of Technology, Lisa Graumlich at the University of Arizona, David Hand at Imperial College London, and Herbert Huppert and Michael Kelly at the University of Cambridge.

A third review, headed by Muir Russell, a former civil servant, is expected to report back shortly on allegations of malpractice.

Eilperin reported from Washington.

EPA Wants to Expand Greenhouse Gas Reporting Rule (*State Journal*)

Industries that release greenhouse gases were required to file collection and reporting methodologies this month.

Story by Pam Kasey

Posted Thursday, April 15, 2010 ; 06:00 AM

The oil and gas industry and those injecting carbon dioxide underground would face new reporting requirements under amendments the U.S. Environmental Protection Agency proposes to its mandatory greenhouse gas reporting rule.

The mandatory greenhouse gas reporting rule is aimed at identifying the sources of greenhouse gases, or GHGs, as a foundation for regulating them.

First effective on Dec. 29, the rule requires suppliers of fossil fuels and industrial greenhouse gases, manufacturers of vehicles and engines, and facilities that emit 25,000 metric tons or more per year of GHGs to submit annual reports to the EPA.

Measurement begins this year and major facilities in covered industries were required to file collection and reporting methodologies with the agency on April 1.

First reports are due in March 2011.

The EPA estimates the current rule covers about 10,000 sources in 31 categories, accounting for 85 to 90 percent of U.S. GHG emissions.

Some covered sources report their own emissions; others -- for example, suppliers of natural gas -- report the emissions that would result from the combustion of products delivered.

That results in a double counting that the agency notes was part of the mandate from Congress.

When the agency finalized the mandatory reporting rule last year, it left a few questions to be resolved at a later date. The proposed amendments address those questions by targeting methane and fluorinated gases, some of the most potent GHGs.

The amendments also cover the petroleum and natural gas sectors and facilities that geologically sequester carbon dioxide, all previously excluded from the reporting requirements.

Newly covered sources would begin collecting emissions data on Jan. 1, with the first annual reports submitted to the EPA on March 31, 2012.

Emissions still under review for possible future reporting requirements include those related to underground coal mines and suppliers of coal and to the production of ethanol.

It's worth noting that the agency already publishes an annual "Inventory of U.S. Greenhouse Gas Emissions and Sinks," currently in draft for emissions through 2008.

That inventory, according to an agency "Frequently Asked Questions" Web page, is a top-down estimate of aggregate national emissions required under the U.N. Framework Convention on Climate Change.

The new mandatory reporting, the FAQ says, will provide real, bottom-up geographic- and facility-level data that will help refine the national-level data but is required separately by a 2008 act of Congress.

MORE info

Information about the proposed rules may be found online at www.epa.gov/climatechange/emissions/proposedrule.html.

The U.S. Environmental Protection Agency has scheduled public hearings on the proposals for April 19 in Arlington, Va., and April 20 in Washington, D.C. Comments will be received until June 11, 2010.

Reference docket number EPA-HQ-OAR-2009-0926 and submit via the federal eRulemaking Portal at www.regulations.gov or mail to: EPA Docket Center, Attention Docket OAR-2009-0926, Mailcode 2822T, 1200 Pennsylvania Ave., N.W., Washington, D.C., 20460

Kerry-Graham-Lieberman Climate Bill Could Make Matters Worse (*DC Progressive*)

April 14, 2010...11:58 am

Months have passed since the Senate trio took up the task of cobbling together a climate bill that everyone *might* agree on. However, as details continue to be revealed about the draft legislation, many an eyebrow is being raised over certain provisions that could prove a step backward for environmental protection.

In wide-sweeping attempts to court business interests and Senate moderates, the legislation cuts back on the power of other regulatory entities – like the EPA and state governments. Lindsay Graham told Politico:

> "I wouldn't support EPA regulation on top of congressional action, and I couldn't support 50 states coming up with their own standards," he said. "That's one thing business legitimately needs."

Environmental activists have long been prepared for a disappointing, compromise-ridden bill – but the common wisdom has always been "something is better than nothing." The danger now is that this bill, as written, would actually do **more harm than good**.

Much to the chagrin of polluting companies, the **Environmental Protection Agency** has been extremely effective in cleaning up our air and water. Air quality has improved tremendously since the agency was established in 1970, as the American Enterprise Institute unwittingly pointed out.

Congress, on the other hand, has a long history of pandering to the oil and coal lobbies, among others. Considering that any bill that comes out of Congress is bound to be riddled with loopholes, the regulatory power of the EPA would probably be the only hope for making sure businesses truly cut down on their carbon emissions. A number of green groups, including 1Sky and Sierra Club, are pressuring lawmakers to uphold the regulatory authority of the EPA.

Another huge blow would be dealt by restricting **state and local governments** which, up to now, have been responsible for the most ambitious climate action this country has seen. More than 20 states currently participate in regional cap-and-trade programs, and many states have employed renewable energy standards to promote clean energy. Pending legislation would block these programs, likely forcing many states to accept far lower carbon caps.

This is what happens when you try to write a clean energy and climate bill and invite oil and gas companies to the table.

Senate climate bill would end EPA/state programs (*Reuters*)

Wed, Apr 14 2010
By Richard Cowan

WASHINGTON (Reuters) - Climate control legislation being developed in the U.S. Senate would prohibit the Environmental Protection Agency from regulating carbon dioxide emissions and end state and regional "cap and trade" programs, a Senate source told Reuters on Wednesday.

The compromise bill, which might be unveiled sometime next week, aims to reduce U.S. smokestack emissions of carbon and other greenhouse gases blamed for global warming by 17 percent by 2020, from 2005 levels.

It would set in place a national program for the carbon pollution reductions and replace state and regional programs, according to the source, who is familiar with the legislation being drafted.

The Obama administration has said it would go ahead with EPA regulation of carbon pollution under the Clean Air Act if Congress fails to legislate.

Some environmentalists and some Democrats in Congress want any future climate control law also to be backed up by EPA authority under the Clean Air Act.

The Senate source, who asked not to be identified, said the bill being written by Democratic Senator John Kerry, independent Senator Joseph Lieberman and Republican Senator Lindsey Graham would allow states to retain their ability to impose energy-efficiency standards and renewable energy standards.

But existing cap and trade programs, for example the one some New England states conduct, would have to be terminated, the source said.

CRUCIAL TO INTERNATIONAL EFFORTS

Under cap and trade, companies are required to buy pollution permits to cover every ton of carbon they emit and those permits are traded in a private market. The price of the permits is designed to encourage companies to move toward cleaner alternative fuels.

International efforts to make deep reductions in carbon pollution, which scientists fear will have devastating environmental impacts in coming decades, hinge in part on Washington undertaking firm steps.

Kerry, Lieberman and Graham are writing a bill that would establish a cap and trade program that would start in 2012 for electric power utilities. In 2016, the program would begin for manufacturers.

Reducing emissions in the transportation sector would be accomplished by another approach -- a fee on motor fuels that would be set after oil is refined and before it is delivered to retail outlets. That fee likely would be passed on to consumers.

Details were not available on the fee, although it would be linked to the price of carbon permits traded in the utility sector. Backers hope the fee encourages the development of more fuel-efficient, clean-energy vehicles.

According to the Senate source, the draft legislation also is likely to include incentives for heavy trucks to switch to cleaner-burning natural gas.

It would also allow domestic and international "offsets" to help companies achieve overall carbon-reduction goals, the source said. The offsets would allow for other environmentally friendly projects, such as new steps to save forests, and replace some emissions cuts. But details were not available.

The source said disagreements over whether nuclear power would be included in a renewable energy standard for electricity generators were still unresolved.

While the source said that states would get some of the revenues from expanded offshore oil drilling, specific details were not provided. Some liberal Senate Democrats are threatening to withhold their support of the climate bill because of the expanded drilling, which the Obama administration now supports.

The source also said there were fears that once the legislation is unveiled, various Senate committees might insist on time-consuming hearings that could result in changes to what is becoming a delicately crafted bill to snare the support of moderate Democrats and some Republicans. Such changes could unravel the bill, the source indicated.

(Editing by Peter Cooney)

Wis. lawmakers release new draft of emissions bill *(Greenwire)*

04/14/2010

Wisconsin lawmakers unveiled a new draft of a bill to control carbon emissions that would ramp up renewable energy and allow the possibility of nuclear reactors in the state.

The new bill is a scaled-back version of one discussed late last year that was criticized for being too broad and costly. Gov. Jim Doyle (D) called the revised bill "a good compromise that will bring down consumer costs."

The new version requires that 10 percent of the state's power come from in-state renewable sources by 2025 and relaxes a moratorium on building nuclear reactors in the state. It also creates an incentive program for consumers to use renewable energy products. Among the changes are the removal of a low-carbon fuel standard and greenhouse gas tailpipe emission standard.

Critics say the bill is still too expensive thanks to mandated use of wind, solar and hydro power. Republicans charged that compliance costs with the new regulations would exceed $15 billion for investor-owned utilities.

Some lawmakers are concerned there will not be sufficient time to review and debate the legislation before the end of the legislative session on April 22 (Content/Bergquist, Milwaukee *Journal-Sentinel*, April 13). **-- JP**

ENERGY

==========

Govt tightens requirements for Energy Star program (*Associated Press*) This story also appeared: *Washington Post*

The Associated Press
Wednesday, April 14, 2010; 3:50 PM

WASHINGTON -- The Obama administration is taking steps to strengthen the federal Energy Star program after a report found the government energy efficiency program vulnerable to fraud and abuse.

The Environmental Protection Agency says that to qualify their products for the energy-efficient label, new applicants will be required to submit complete lab reports and results for review. The agency is also ditching an automated approval process.

A report by last month by the General Accountability Office faulted the program for not verifying claims made by manufacturers. The GAO was able to get a bunch of phony products certified, including a gasoline-powered alarm clock.

The EPA and Energy Department will also require all manufacturers by the end of the year to submit test results from an approved, accredited lab.

EnergyStar, harder to reach (*Washington Post*)

Thursday, April 15, 2010

The Obama administration is moving to strengthen the federal EnergyStar program after a report found that the energy-efficiency certification was vulnerable to fraud and abuse.

The Environmental Protection Agency says that new applicants for the label will be required to submit complete lab reports. The agency is also ditching an automated approval process.

A report last month by the Government Accountability Office faulted the program for not verifying claims made by manufacturers. The GAO was able to get nonexistent products certified.

-- From news services

U.S. Tightens Requirements for Energy Star Certification (*New York Times*)

By MATTHEW L. WALD and LESLIE KAUFMAN

April 14, 2010

After critical audits, the federal government said Wednesday that it would substantially tighten the certification process for products bearing the Energy Star label, its stamp of approval for an energy-efficient product.

Over the last six months, the Government Accountability Office and the Energy Department's inspector general issued reports detailing significant failings with the process. The G.A.O. found, for example, that the Energy Star program had granted the label to nonexistent products, including a "gasoline-powered alarm clock," submitted by auditors posing as manufacturers.

The Energy Star program is jointly managed by the Environmental Protection Agency and the Energy Department. Under new rules issued by both agencies and effective immediately, the approval process for appliances will no longer be automated, and a staff member will review each application.

Manufacturers must submit complete lab test results of their products before applying for Energy Star certification. And companies will be unable to put the Energy Star logo on products that have not been specifically approved.

In a March 26 report, the accountability office said it had discovered that once a company registered as an Energy Star partner, it could download the logo from a government Web site and attach it to products for which it had not even requested approval.

By the end of the year, the government said, all tests submitted by manufacturers will have to be from independent certified labs. Until now, that had been the case for only some categories of products, including windows, doors and compact fluorescent lighting.

Neither the Energy Department nor the Environmental Protection Agency could say on Wednesday just how many of the 40,000 products already bearing the label had been tested by third parties and would have to be brought into compliance.

Consumers rely on the labels to determine whether they are choosing appliances that use less energy and thus save them money in the long term. And tax breaks are sometimes available for Energy Star products consumers buy as part of a broader government effort to encourage Americans to consume less fuel.

Under President Obama's federal stimulus package, for example, rebates totaling $300 million were available to consumers who bought Energy Star appliances.

Government officials predicted that the new requirements would bolster the Energy Star's credibility. "The safeguards we're putting into effect are essential for the millions of consumers who rely on Energy Star products to help save energy, money and the environment," Gina McCarthy, the E.P.A.'s assistant administrator for air and radiation, said in a news release.

Gregory H. Friedman, the Energy Department inspector general, who oversaw the recent audit, expressed guarded approval. “If executed as described in the press release, it looks like this is a significant change to the process, which appears to address many of the issues we’ve raised in the past,” he said, adding the issue was whether they would follow through.

EPA honors Irvine-based Jamboree Housing Corp. (*OC Metro*)

Nonprofit developer receives the Energy Star Regional Award for Excellence.

BY ASHLY MCGLONEPublished: April 14, 2010 09:19 AM

Irvine-based Jamboree Housing Corp. garnered the U.S. Environmental Protection Agency's Energy Star Regional Award for Excellence for its commitment to energy efficiency in the company's affordable residential projects.

Jamboree Housing, a nonprofit housing development firm, is the only affordable housing developer in California to receive this year’s award.

The company's newest community, Arbor at Woodbury in Irvine, features Energy Star appliances in all 90 apartments and the property's community room; appliances include energy-efficient lighting, low-flow showers and dual-flush toilets.

“The Arbor at Woodbury underscores our commitment to energy efficiency and sustainability,” says Laura Archuleta, president of the firm. “To be truly affordable, a home or apartment must be as energy efficient as possible to cut utility costs, and we are proud that the EPA has recognized our efforts to be an energy-conscious builder and corporate citizen.”

Jamboree’s housing community Granite Court, recently completed, is located in the Irvine Business Complex. In addition to Energy Star appliances throughout the 70-apartment complex, the development offers sustainable interior fixtures and furnishings designed for healthier indoor air quality.

“We believe these two communities represent the future of affordable housing design and development,” Archuleta says. “When it comes to sustainability and wise use of our valuable resources, we want to be leaders.”

Energy Star began as a U.S. government program in 1992, but today is an international standard

for energy-efficient consumer products.

Carriers of the label, from computer products to kitchen appliances and buildings, generally use 20 to 30 percent less energy than required by federal standards. In 2009, Energy Star helped Americans save nearly $17 billion on their utility bills.

Approximately 3 billion branded appliances have been sold worldwide.

Jamboree Housing Corp., founded 20 years ago, develops, acquires, renovates and manages permanently affordable rental and ownership housing for lower-income families and seniors throughout the state.

Jamboree's portfolio includes development or ownership interest in more than 6,500 affordable homes and apartments in more than 50 California communities.

Rep. Capito turns focus back on attacking EPA (*Charleston Gazette*)

April 14, 2010 by Ken Ward Jr.

This statement just came in from the office of Rep. Shelley Moore Capito, R-W.Va.:

WASHINGTON—Rep. Shelley Moore Capito, R-W.Va., made the following opening statement at today's Select Committee on Energy Independence and Global Warming's hearing titled, "The Role of Coal in the New Energy Age":

"Mr. Chairman, thank you for hosting today's important hearing.

"Even though today's hearing focuses on the role of the coal industry in the new age, I think it is important for us to recognize the sacrifice miners make to provide the energy and power so many of us take for granted.

"Last week's mine disaster at Montcoal, WV that killed 29 miners was the worst in the U.S. coal industry in 40 years.

"Just four years ago, 12 people were killed at the Sago Mine disaster in my district. With the investigation underway and as further details are available on the cause of the accident, we must continue our commitment to keep our miners safe.

"The Upper Big Branch Mine disaster only furthers people's poor image of mining and has led many to discuss the future of coal.

"Coal is a prime energy source throughout the world. Fast-growing countries such as China and India rely on the low-cost fuel to meet their electricity demand.

"Here in the United States, coal is our nation's most abundant domestic energy resource with recoverable reserves sufficient to last 250 years. Coal currently fuels more than 50% of all electricity generation in the United States.

"In my home state of West Virginia, 98% of our electricity comes from coal.

"It provides 125,000 direct high-paying jobs for U.S. coal miners and supports hundreds of thousands of additional jobs throughout the supply chain.

"When considering the future of coal in the global warming debate, the first thing that we need to remember is that climate change and energy policies are inextricably connected with economic, environmental and social issues.

"Last year, the House passed the American Clean Energy and Security Act. I did not support the legislation because I believe it stood to push energy prices upward and threaten an economy that is already in trouble.

"A tax increase on carbon dioxide emissions will come directly out of customers' pockets in the form of higher electric rates.

"Manufacturing output would also fall considerably. Manufacturing firms who have traditionally relied on low and stable electric rates in our states will be subject to massive cost increases, likely forcing them out-of-business or to relocate their operations overseas.

"Instead, we need to do much more accelerate the development of advanced clean coal technologies, including and most importantly, carbon capture and storage technologies (CCS). Carbon capture is important to West Virginians and ensuring our national energy independence. Without it, we deprive ourselves of the most effective tool for addressing CO2 emissions from coal.

"We need to provide sufficient funding and incentives to accelerate the development, demonstration and broad commercial deployment of CCS technologies.

"The American Electric Power Mountaineer Plant located in New Haven, WV represents an important milestone in our efforts to bring CCS online. The facility began operations last fall and captures and stores approximately 100,000 metric tons of carbon dioxide per year. The Mountaineer Plant is the first demonstration of CCS from an existing coal-fueled power plant.

"The implementation of CCS technology will not only benefit a state like mine with jobs and revenue, it will also benefit our nation by making clean coal a reality.

"In addition to climate change, coal has been the subject of continued federal scrutiny for its impact on water quality.

"Recent action by the Obama Administration and the EPA to further scrutinize mining permits only confirms their anti-coal agenda.

"The Minority Staff of the Senate Committee on Environment and Public Works initiated an investigation into EPA's handling of Clean Water Act Section 404 permits for coal mining in Appalachia and found that in 2009, EPA froze 235 coal mining 404 Permits, claiming that additional time was needed to assess the environmental impacts of mining operations.

"Since the initiation of the investigation, EPA issued 45 of the 235 permits. To date, there are 190 permits that EPA continues to hold for operations including surface, underground and refuse operations.

"Furthermore, decisions being made by federal environmental regulators are not focused enough on the importance of coal to the economy. In my conversations with Lisa Jackson, the head of the U.S. Environmental Protection Agency, she said that she explicitly omits economic considerations from her decision-making process.

"I find this particularly troubling. The EPA's delays in handling these permits will jeopardize jobs in Appalachia and weaken energy security for the nation.

"Even more disturbing, on March 26, the EPA announced their intent to veto the existing Spruce Mine permit. The Spruce permit is the most scrutinized and fully considered permit in West Virginia's history. The 13-year permitting process included the preparation of a full environmental impact statement.

"In the course of the permit's review, EPA had ample opportunity to review and comment on the mine's decision. The EPA also had the chance to use its veto authority at the time the permit was issued instead of waiting until production had started.

"The decision by the EPA to veto the Spruce permit brings into question the reliability of the entire permitting process and shows their complete disregard for the impacts it will have on West Virginia's economy.

FUEL

==========

Big Change to the Nation's Gasoline Supply Awaits EPA Approval (*Best of Boating*)

April 14, 2010

ALEXANDRIA, Va. - This summer, the Environmental Protection Agency will decide on whether to allow a 50% increase in the amount of ethanol in the nation's gasoline supply, from the current E10 (or containing 10% ethanol) up to E15 (containing 15% ethanol). However, with testing data on the new "mid-level" ethanol formulation to be completed on only a small group of 2001 and newer model vehicles by this time frame, consumers with older cars, boats, non-road vehicles or gas-engine powered equipment may find that the fuel is not compatible or safe for use.

BoatUS, the nation's largest boat owners group, is concerned. "Some of our members have advised us of performance, compatibility and possible safety issues with the current E10 blend," said BoatUS Vice President of Government Affairs Margaret Podlich. "To add 50% more ethanol to every gallon of gas without first knowing what it will do to the older vehicles and other gasoline engines we currently own, is simply irresponsible," she added.

The US Coast Guard Office of Boating Safety has also raised concerns about higher levels of ethanol and the lack of independent testing. Ethanol, a strong solvent, can accelerate the deterioration of fuel system components such as fuel lines, causing them to fail and increasing the level of risk for fire or explosions.

Last year Growth Energy, the lobbying group for the ethanol industry, petitioned the EPA to allow the sale of "mid-level" ethanol blends beyond the current 10% (E10) up to the 15% level (E15). In a November 30, 2009 response , the EPA advised Growth Energy that, "Although all of the studies have not been completed, our engineering assessment to date indicates that the robust fuel, engine, and emissions control systems on newer vehicles (likely 2001 and newer model years) will likely be able to accommodate higher ethanol blends, such as E15."

However, the nonpartisan Congressional Research Service (CRS), whose mission is to support an "informed national legislature," reports in a January 28, 2010 Report for Congress that the EPA's November response letter "Made no comment on the status of testing for older vehicles or for non-road engines". The CRS report also says, "Currently, no automaker warranties its vehicles to use gasoline higher than 10% ethanol," and "small engine manufacturers similarly limit the allowable level of ethanol."

The CRS report also says it's unclear if the current fuel distribution systems — the pumps, tanks, delivery vehicles and underground gas lines — can tolerate blends higher than E10. "Even if the fuel is approved by EPA for use in motor vehicles, presumably fuel suppliers could be unwilling to sell the fuel unless they are confident that it will not damage their existing systems or lead to liability issues in the future," the CRS reports.

The report adds a comment by the independent certification and testing company Underwriters Laboratories saying, "Under normal business conditions E10 at the dispenser (fuel pump) can

vary from about seven to 13 percent ethanol. Assuming a similar variance would exist for E15, it likely under normal conditions ethanol concentrations would exceed the 15% limit."

"We recognize that alternative fuels must be brought to market in the US," said Podlich. "However, there is also a growing awareness among consumers that corn-based ethanol is not the environmental panacea it was thought to be several years ago. Increased food costs, changes in land use, and the energy required to produce ethanol are now giving many Americans second thoughts."

Debate over ethanol's viability rages anew in Washington (*Associated Press*) This story also appeared: *Post-Star*

By MARY CLARE JALONICK, Associated Press | Posted: Wednesday, April 14, 2010 7:00 pm

WASHINGTON -- Is corn-based ethanol fuel the wave of the future, creating domestic jobs and vital to the nation's energy supply? Or is it a taxpayer boondoggle responsible for higher food prices?

For some in Washington, the answers to those questions have changed.

For years, ethanol fuel derived from corn was almost politically untouchable, thanks to powerful advocates on Capitol Hill. The ethanol industry has consequently exploded over the last decade, thanks to government subsidies and incentives.

But skepticism about ethanol is rising, prompted by fluctuating food prices and an organized campaign by anti-ethanol advocates to discredit the industry.

"The old saying is that if you aren't at the table, you're on the menu," says Tom Buis, lobbyist and CEO of Growth Energy, a new ethanol industry group formed in 2008 as some ethanol companies grew worried that their political clout was waning. The organization's largest member is Poet LLC, one of the country's top two ethanol producers.

At stake are billions of dollars in tax credits for ethanol companies that expire at the end of the year and a pending action at the Environmental Protection Agency that could raise the amount of ethanol in every driver's fuel tank.

Once a slam dunk, Buis says the industry now has to work harder to convince an increasingly skeptical public and Congress that ethanol continues to deserve government money. A series of television ads launched this week are part of the group's efforts.

There's evidence that Congress is weary of giving money to an industry that critics say should be able to stand on its own after getting its start in the early 1980s with powerful congressional advocates like Sens. Bob Dole of Kansas and Tom Daschle of South Dakota.

"It is our view that after 30 years we should declare success," says Scott Faber, a lobbyist for the Grocery Manufacturers Association, which represents food companies that say they have seen their prices rise because of the high use of corn for ethanol.

GMA is part of a growing patchwork of food companies, livestock producers, environmental groups and oil companies that have spent millions of dollars in the last few years framing ethanol's success as "food vs. fuel." They argue that the increase in production of corn and its diversion for ethanol is making animal feed more expensive, raising prices at the grocery store and tearing up the land.

The diversion of corn has been particularly tough on the meat industry, which uses corn for animal feed. But the ethanol industry disputes that the fuel has a substantial effect on food prices, saying corn prices only affect a small portion of each dollar overall spent at the grocery store.

Ethanol's opponents galvanized in 2008 as food prices skyrocketed and lawmakers debated whether ethanol was to blame. On Capitol Hill, money that may have once been used to boost the ethanol industry began to be diverted to what are called "advanced" biofuels, or other non-food plant materials that could be used to make fuel. That industry is still in its infancy, but lawmakers, along with President Obama, often say they are the way of the future.

As ethanol's political stock began to drop, Growth Energy hired some of the top farm lobbyists in town. Buis, a former Daschle aide, left his post as the president of the powerful National Farmers Union to work for the group, and Growth Energy signed on Retired Army general and former presidential candidate Wesley Clark as a co-chairman. They have petitioned the EPA to increase the concentration of ethanol in gasoline and this week are launching the $2.5 million television ad campaign aimed at changing people's perception of the fuel.

The series of short ads the group is launching have no dialogue - just simple phrases on a green background and pointed digs at the oil industry. One ad says, "No beaches have been closed due to ethanol spills," while another displays the phrase, "No wars have ever been fought over ethanol." Another makes the point that "Ethanol has contributed $0 to the governments of Iran, Saudi Arabia and Venezuela."

The formation of Growth Energy means the industry has now doubled its efforts in Washington.

Together with a rival trade group, the Renewable Fuels Association, the industry spent more than $1.5 million on lobbying last year.

It's still unclear whether the increased efforts will pay off. After Growth Energy filed its petition last year to increase the amount of ethanol in gasoline from 10 to 15 percent, the EPA said in December it needed more tests to determine if car engines could handle it. A decision is expected later this year.

With that decision and congressional debate over the tax credits approaching, Growth Energy is positioning the ethanol industry as the underdog.

"We have to step up our game," says Buis. "A lot of people don't want to see us succeed."

Ethanol's rivals aren't backing down.

"We have every intention of staying in this fight," says Craig Cox, of the Environmental Working Group, a member of the anti-ethanol coalition.

HAZARDOUS WASTES

==========

Chemical weapons cleanup blast set to go in D.C. (*Washington Times*)

Thursday, April 15, 2010

Deborah Simmons

The U.S. Army Corps of Engineers' plan to detonate some World War I-era chemical weapons in the Spring Valley neighborhood remained Wednesday in place as the city dashed to have a public-safety plan ready to go.

The detonation remains scheduled for Thursday, as has been the case for weeks. However, residents pushed their better-safe-than-sorry approach to lawmakers, and city officials agreed to come up with a safety plan though it was still being devised late Wednesday afternoon.

The corps plans to denote 24 chemical munitions found on federal property in Spring Valley — home to the embassies of Qatar and South Korea, Sibley Memorial Hospital, the Dalecarlia Water Treatment Plant and pumping station, Wesley Theological Seminary and American University.

The Army conducted research and chemical-weapons testing there during the war. Unexploded military ordnance were found during new construction in the area in 1993, and remediation and cleanup have been ongoing since then.

The disposal process, which the corps calls the Explosive Destruction System, calls for enclosing the weapons in a sealed steel chamber that allows for safe detonation. The Army has used the process accident-free on more than 1,700 occasions, including in 2003 to destroy chemical rounds in Spring Valley. However, destroying arsine, which contains blistering agents, in a residential area would be a first — and that's what sparked D.C. residents' concerns.

The Army has never destroyed explosive-configured arsine shells in or adjacent to a residential community, a reservoir or a hospital, Advisory Neighborhood Commissioner Tom Smith, who lives in the area, told The Washington Times.

Todd Beckwith, the corps' project manager for munitions destruction, nevertheless tried to assure D.C. Council members Mary M. Cheh and Phil Mendelson at a March 29 hearing that the corps' No. 1 priorities are "to protect human health and the environment" during detonations.

But he said the corps had no safety plans or measures for the general area.

"We were not planning on taking additional safety measures beyond federal property," Mr. Beckwith said.

Mr. Beckwith's testimony followed that of Mr. Smith and two other commissioners, who urged lawmakers to devise a backup safety plan that would notify residents of the corps' plan and alert them if something went awry.

Notices would come via e-mail, text and televised messages. Contingency plans, such as whether people should shelter in place, would be included. Residents also said use of an emergency siren should be considered.

The D.C. Homeland Security and Emergency Management Agency began devising the plan after consulting with the D.C. Department of the Environment, one of the lead agencies, along with the U.S. Environmental Protection Agency, that partners with the corps to clean up the former munitions site.

Residents are as concerned about potential airborne problems as they are water contamination at Dalecarlia reservoir, which is the primary drinking-water source in the nation's capital.

"As most residents have said to me," Mr. Smith said, "this is a foolhardy idea — these weapons should either be sent outside the community and stored at a military weapons facility that is built just for this purpose or destroyed at such a facility. There is no reason why D.C. residents should face even the slightest — even if improbable — risk from such an event. … Only in Washington would something so clear get so muddled."

Wash. pushes to halt Yucca shutdown *(Greenwire)*

04/14/2010

Washington state yesterday pushed back against the Department of Energy's authority to shut down the Yucca Mountain nuclear waste project, filing a motion that asks federal judges to block any efforts to terminate the project -- including laying off or transferring the dozens of remaining employees at the Nevada site.

The injunction request comes as DOE is expected to terminate the contract of the site's management and operations firm, USA-Repository Services on Friday, according to legal documents filed by Washington state.

If the U.S. Circuit Court of Appeals for the District of Columbia grants the request, it would be the strongest reaction yet against the DOE's dismantling plans.

The appeals court, in a move that may indicate the judges are preparing to act swiftly one way or the other, directed DOE to respond to the injunction motion by tomorrow.

Washington state also is bringing suit against DOE, questioning its legal authority to end the Yucca Mountain project without permission from Congress. The state of South Carolina, Aiken County, S.C., and three businessmen who live near the Hanford nuclear reservation where millions of gallons of radioactive waste are awaiting disposal have also filed similar suits. Rob McKenna, Washington state's Republican attorney general, has asked that the Washington suit be consolidated with the other three.

DOE spokeswoman Stephanie Mueller said in response to the latest lawsuit from Washington state, "We are confident we have the legal authority to withdraw the application for the Yucca Mountain repository" (Steve Tetreault, *Las Vegas Journal-Review*, April 13). **– DFM**

MINING

==========

Capito Blasts EPA for Focus on the Environment (*The Washington Independent*)

By Mike Lillis 4/14/10 5:05 PM

Even as the White House is on the hot seat over claims that it's been too lax on mining safety, one coal-country lawmaker has already shifted focus, ripping into federal regulators for being too strict on environmental protection.

Rep. Shelley Moore Capito, the lone Republican representing West Virginia on Capitol Hill, blasted the Obama administration Wednesday over recent actions by the Environmental Protection Agency to rein in mountaintop coal mining for the sake of protecting local streams. That move, Capito said, "only confirms their anti-coal agenda."

"Decisions being made by federal environmental regulators are not focused enough on the importance of coal to the economy," Capito said during a House hearing examining coal's future in U.S. energy policy. "In my conversations with Lisa Jackson, the head of the U.S. Environmental Protection Agency, she said that she explicitly omits economic considerations from her decision-making process."

For the EPA to focus only on environmental protection, Capito says, is "particularly troubling."

Earlier this month, the EPA announced that it would apply a new, stricter set of standards to proposed mining projects in Appalachia. Before EPA will approve new mining permits in that region, the agency announced, companies will have to show that they won't raise the toxin levels in nearby streams above a certain level. The move largely targets the technique known as mountaintop removal, in which companies literally lop the peaks off of mountains to access the seams of coal inside. The process is popular with the industry because it's cheap. But it also ravages neighboring communities, poisons headwater streams, causes flooding and contaminates the air.

The new standards will apply to all future Appalachian mine proposals, as well as the nearly 80 pending permits that the EPA announced last year it would scrutinize more closely.

The delays haven't made Capito happy, who said Wednesday that they would "jeopardize jobs in Appalachia and weaken energy security for the nation."

Mining safety officials only wish they were being criticized for being too strict.

PESTICIDES

==========

USDA Reports on Contaminated Meat (*WBAY*)

Updated: Apr 14, 2010 6:07 PM EDT

A new report in the U.S. may have you thinking twice about what's for dinner.

The report by the U.S. Department of Agriculture's inspector-general finds federal standards on contaminated beef are too relaxed and need some work.

It says government agencies are not doing enough to monitor the levels of residual veterinary drugs, pesticides, and heavy metals in beef.

The USDA says it cannot set standards on contaminants and drug-residue without involvement from the Environmental Protection Agency and the Food and Drug Administration.

RECYCLING

==========

A Program to Certify Electronic Waste Recycling Rivals an Industry-U.S. Plan (*New York Times*)

By TOM ZELLER Jr.

April 14, 2010

The Basel Action Network, an American watchdog group that has sought to curb the export of toxic electronic waste from the United States, plans to begin a new certification and auditing program on Thursday for both recyclers and companies that generate electronic refuse.

In addition to outlining safe domestic handling and disposal practices for old televisions, computers and other electronic devices, the system would effectively bar participating recyclers from exporting toxic, nonfunctional electronic waste to developing nations. The program will compete directly with a less stringent standard recently developed by industry and the federal government that companies and recyclers say makes more economic sense.

“The U.S. has been asleep at the switch,” said Jim Puckett, the executive director of the Basel Action Network, which takes its name from the Basel Convention, an international agreement governing the handling and trade of hazardous waste, including discarded electronics. More than 165 countries have ratified the convention, but the United States has not.

Much of the debate over the handling of electronic refuse arises from the metals like lead and mercury that are used to make electronic devices. Most discarded equipment is either ported to landfills or sold into a murky global market, where it often ends up in vast and unregulated harvesting and smelting operations in poor corners of Africa and Asia. In either case, the disposal poses significant environmental and health risks.

Some 53 million tons of electronic waste was generated worldwide in 2009, according to ABI Research, a technology market research firm. Only about 13 percent of it was recycled. Global revenues for e-waste recovery were roughly $5.7 billion last year, according to ABI, and are expected to grow to $14.6 billion by 2014.

The Basel network has long administered a program in which participating recyclers promised to abide by a set of rules for responsibly handling electronic waste.

Beginning Thursday, the group’s certification, called e-Stewards, will be based on standards set out by the International Organization for Standardization, and compliance will be independently audited.

Recyclers will pay a fee to the auditor and a licensing fee to BAN — roughly $15,000 for a midsize company, Mr. Puckett said — which will earn them the right to use the e-Steward logo.

Electronic waste generators, including corporate buyers of technology and gadget makers, would earn an e-Steward Enterprise designation in return for a smaller licensing fee and a commitment, subject to continuing monitoring by BAN, to make a “best effort” to use e-Steward certified recyclers.

Just how many recyclers or waste producers will participate in the program remains an open question. A similar program, developed over the last three years by a coalition of manufacturers and recyclers in cooperation with the Environmental Protection Agency, is already in place.

That program, called R2, for Responsible Recycling, also certifies participating recyclers and provides guidelines for the handling and disposal of electronic waste. R2 permits the export of

discarded equipment so long as it does not violate the laws of the receiving country and the facilities handling the material abroad meet basic environmental and health standards.

Groups like BAN and the Electronics TakeBack Coalition, which had originally participated in the R2 negotiations, said the R2 program was too lax. “It’s full of loopholes,” Mr. Puckett said. For example, the BAN program forbids the use of prison labor for electronics recycling. No such provision is in the R2 standard.

Eric Harris, the director of governmental and international affairs for the Institute of Scrap Recycling Industries, a trade group, said BAN and other environmental groups simply wanted too much.

“The responsible way to address irresponsible recycling is to help educate and encourage good practice, not to ban all the trade,” Mr. Harris said.

“The bottom line for I.S.R.I. is that we’re about making real change, not making headlines,” Mr. Harris added in a follow-up e-mail message. “Our members want to recycle the right way, whether in Chicago or China.”

Both the R2 and e-Steward programs are just getting under way. Since R2 began in January, eight facilities operated by six recycling companies have been certified. Meanwhile, BAN’s e-Steward program begins with five facilities operated by three companies already approved and about a dozen others in line for certification.

On the manufacturing side, Samsung, which by some measures is the largest technology company in the world, has signed on to BAN’s e-Steward Enterprise program, Mr. Puckett said. Three major financial institutions — Bank of America, Wells Fargo and Capital One Financial — have also joined.

Some companies, like Hewlett-Packard, the largest maker of personal computers, have made independent pledges not to export e-waste to developing nations.

Robert Houghton, the chief executive of the Ohio-based electronics recovery firm Redemtech, which is among the three e-Steward certified firms, said his customers were demanding a higher standard from recyclers.

“I’d like to say that I am doing this for purely environmental and altruistic reasons,” he said. “But really, in my opinion, it’s the corporate marketplace that is asking for more accountability and transparency.”

TOXICS

==========

New lead law goes into effect April 22 (*River Forest Leaves*)

April 15, 2010

The U.S. Environmental Protection Agency's new renovation, repair and painting law goes into effect April 22. The new law requires contractors, property managers and others paid to replace windows or renovate residential houses, apartments and child occupied facilities built before 1978 to be certified by the U.S. EPA.

The intent of the law is to protect children from lead dust that may result from disturbing lead based paint. Common activities like sanding, cutting and demolition can create lead hazards that can be harmful to children and adults.

Due to this new law, no building permits will be issued unless the contractor provides proof of certification by the U.S. EPA or Illinois EPA approved training course providers.

As a homeowner hiring a contractor, be sure that the contractor is RRP (Renovation, Repair and Painting) certified before a renovation job is performed in your home.

For more information, contact the Cook County Department of Public Health at (708) 492-2076, or log onto www.epa.gov/lead/pubs/renovation.htm.

Contractors fret lack of info, competitive impact of new lead law (*Marblehead Reporter*)

By Nikki Gamer / ngamer@cnc.com

Marblehead Reporter

Posted Apr 15, 2010 @ 05:00 AM
Marblehead —

Some area contractors say that the existence of lead-based paint in homes has, until now, mostly been a “don’t ask, don’t tell” kind of thing.

When going into a home to do work, historically the topic has been mostly avoided, they say.

But all that is about to change under a new Environmental Protection Agency mandate.

On April 22, the day the mandate goes into effect, those performing renovation, repair and painting projects that disturb lead-based paint in homes, childcare facilities and schools (or any place children spend time) built before 1978 must be EPA-certified in lead-safe work practices.

Under the new regulation, workers must also follow extra precautions to prevent lead contamination, as well as educate their clients about the existence of lead.

According to the EPA, lead-based paint was used in more than 38 million homes before it was banned for residential use in 1978. In children, high levels of lead can cause brain damage or behavioral problems, while in adults, it can cause reproductive problems, nerve disorders and high blood pressure.

The regulation addresses longstanding concerns about the hazardous lead dust and chips that common renovation activities like sanding, cutting and demolition can disturb.

Steve Owens, assistant administrator of the Office of Prevention, Pesticides and Toxic Substances at the U.S. Environmental Protection Agency, said in a press release that there is a simple reason for the new rule: protecting people’s health, especially that of children.

“Childhood lead poisoning is a preventable disease, and our goal is to eliminate it,” Owens stated.

According to the state’s Childhood Lead Poisoning Prevention Program, the most frequent cause of lead poisoning in children is lead dust.

In Marblehead, a town comprised of homes that date back centuries, the ruling will most likely affect many a homeowner, along with many who do work in town, from painters to contractors to electricians.

However, not all are happy with the way the ruling has been rolled out.

While Christian Tosi, owner of Marblehead-based Regatta Construction Inc., thinks that overall the law is a good thing, he says he is not happy with the publicizing of it (or lack thereof) on the EPA's part.

Tosi said he didn't hear about the law until January, when he was picking up wood at a lumberyard. He's since had to hurry to get certified (which requires taking an eight-hour class and passing a test) and ensure that his six employees are trained as well.

Meanwhile, like many thousands of contractors around the country, he is scrambling to get his business up to date in time for the law to take effect.

"We're really just stuck between a rock and a hard place," Tosi explained. "The intent is good, but right after it's in effect, boy, don't we have a mess on our hands."

Tosi is also critical of the size of the fine for violating the rule: $37,500 for one infraction.

Meanwhile, Tosi has since had to spend hundreds if not thousands of dollars in purchasing new equipment to comply with the law, including vacuums that can handle small dust particles. He said that as a result of the law, most work sites will be like hazmat sites, requiring many more tarps and containment efforts, including tarping off a work zones up to 20 feet.

Like Tosi, Dan Sherwood, owner of Salem-based Sherwood Painting Services, Inc., said the lack of advertisement on the EPA's part is a concern. He explained that contractors don't have much in the way of colleague interaction, so word of mouth spreads slowly.

Meanwhile, Shaun Clark, owner of Salem-based Waters & Brown Paint, has taken things somewhat into his own hands by organizing regional training classes.

All three have said they think that enforcement of the law is a problem, explaining that many workers will continue to go about business as usual.

"The new law, as far as I'm concerned, doesn't have many teeth right now in terms of enforcement," Sherwood said. "There are a lot of guys who float around under the radar who aren't going to be doing these practices."

That becomes a competitive problem when contractors who do comply are faced with increased costs for both materials and labor, which they will then get passed on to clients.

The EPA estimates that it will cost contractors an additional $167 per job at most, with the exception of those exterior jobs, where "vertical containment" of dust would be required.

However, the contractors interviewed for this report say the actual costs are much higher. And at a time when the economy is just starting to rebound, contractors are still vulnerable to costs, some explained.

“There is a lot of extra labor added onto the job for containment,” Sherwood added.

The National Association of Home Builders has since petitioned the EPA to delay the enactment of the regulation, citing a need for more trainers and a faster certification process, inaccurate test kits, and a lack of preparedness on the part of the EPA.

“It’s incredibly frustrating and despite our diligence, remodelers will be penalized after April 22 because of the EPA’s failure to plan,” stated NAHB Remodelers Chairman Donna Shirley in a press release.

According to an EPA official, the regulation is still planned for enactment on April 22. The ruling was made public in 2008.

In the meantime, Sherwood is hoping that homeowners will “do the right thing” and work with contractors who are following the rules.

“The biggest problem is that there is no consumer knowledge on this,” Sherwood said. “To me, it boils down to the homeowner making the right decision, knowing these rules are in place.”

However all the contractors interviewed for this report emphasized that they believe spreading awareness about the existence of lead-based paint in homes is important, and that following safer work practices, in general, is not a bad thing.

Tosi called it “a step in the right direction” toward protecting people from harmful dust particles, and thinks that it’s long overdue.

“I’m in complete support,” Tosi said. “We’re smart Americans, we’re smart manufacturers, we’re going to come up with things to make the rule a lot easier for us to adhere to. This is change; this is progress. It’s never easy, and it’s going to cost more.”

Clark added that overall, people are not as conscious of lead paint as they need to be.

“We truly don’t respect the danger it represents. As a culture, we’re not conscious about how unconscious we are about this stuff,” Clark said.

New rule on paint set for April 22 (*Today's News-Herald*)

By JACKIE LEATHERMAN

Today's News-Herald
Published Wednesday, April 14, 2010 10:51 PM MST

A new federal rule that carries heavy fines regarding lead-based paint is scheduled to go into effect one week from today, leaving local members of the building industry either scrambling for certification or questioning if they even need it.

The U.S. Environmental Protection Agency passed the “Renovation, Repair and Painting” rule in 2008 to take effect starting April 22.

The rule requires any home renovation companies — including window replacement contractors, plumbers, electricians, painters and landlords who perform maintenance — to gain additional certification to work on homes built before 1978 that contain lead-based paint.

The certification is additional training to help further prevent lead contamination.

The rule excludes homeowners who conduct self-repairs and studio apartments.

The rule also applies to any renovations or repairs to childcare facilities built prior to 1978.

Children 6 years old and younger, including unborn children, are most at risk for lead poisoning by breathing paint that contains lead or eating paint chips, according to the EPA. Lead in paint is most commonly found in homes built before 1978, according to the EPA. The effects of lead absorption could include brain and nervous system damage and slowed growth.

The current rule allows home renovators to still work on the pre-1978 homes if the homeowner “opts out” by signing a statement stating that no child younger than 6 years old resides there or no pregnant women live there. But the EPA is currently seeking to remove the “opt out” provision.

Home renovation and repair workers caught working on the earlier homes without the certification or “opt out” provision could face up to $37,500 in fines for each violation, according to the EPA.

Dale Kemery, an EPA press officer, stated in an e-mail to the Today’s News-Herald that the EPA “will enforce the rule by responding to tips and complaints and making sure firms are certified.”

Danny Bartlett, owner of Lake Havasu City’s Bartlett Painting, said he heard of the upcoming

rule toward the end of last year and he doesn't know yet if he'll get the certification.

"I think it's just going to hurt people," he said. "(With Lake Havasu City) being such a new community, it just doesn't seem worth it. It's just going to affect those homeowners … they won't have (the) work done."

Repair and renovation workers do not have to obtain the additional lead-based certification, but they just won't be able to work on projects on those buildings constructed before 1978 that contain lead, Bartlett said.

"It seems kind of stupid to me," he said.

Lisa Theophilous, officer manager for the Colorado River Building Industry Association in Lake Havasu City, said she has heard that several building industry members have had to travel to Tucson or Las Vegas to earn their certification, but that not everyone has received it.

"I think a lot of our guys are scrambling," she said. "The fine if you get caught working around lead paint, it's $37,000. That will put you right out of business."

Theophilous agreed with Bartlett that the new rule might not impact local workers too much because of the infancy of the community.

"We just don't have that many (homes built here before 1978)," she said.

Don Klostermeier, manager of the locally based McAtlin Electrical Corp., said he hadn't heard of the rule when contacted by Today's News-Herald Tuesday.

"I'll definitely look it up," he said, chiming in that there weren't that many homes here built that long ago.

"We don't have tons," he said.

Kingman-based Aspire Educational Institute and Conference Centre is holding at least two eight-hour classes for the certification. The company currently primarily provides cleaning and restoration training, but contracted with an instructor for the EPA rule.

Carol Costa, a partner with Aspire, said the April 22 class filled up two days after it hit the Kingman paper.

And the May 4 class is about one-third full, she said.

The May 4 class is $199 and will be at Castle Rock Village clubhouse at 3772 Cassidy Ann Lane in Kingman. The class is limited to 25 participants. For more information or to register, call 866-774-9111.

You may contact the reporter at jleatherman@havasunews.com

EPA rule will make renovations more costly (*14WFIE.com*)

Posted: Apr 14, 2010 9:48 AM EDT Updated: Apr 14, 2010 9:48 AM EDT

Posted by Rachel Folz - email

(NBC) - A new federal rule will change the way you do home renovations, requiring contractors to become lead-safe certified.

And it will likely cost you more.

Amy Davies is having her bathroom renovated. She says she wasn't aware when she bought it that it had lead paint.

Her home was built in 1936, so it falls under a new rule issued by the Environmental Protection Agency.

Starting April 22, any home or child care facility built before 1978 will require a contractor to be EPA lead safe certified before starting renovations, because older homes contain lead paint.

"Lead base paint is now the number one cause of childhood lead poisoning in the country," Wendy Hamnett from the EPA said. "We have evidence that renovations have not been done correctly have resulted in children having elevated blood lead levels."

The problem for many homeowners lies beneath many layers of safe paint.

The class for contractors takes eight hours and teaches them how to dispose of the lead dust safely.

Once demolition is under way at a home, a machine will exhaust air to the outside through a cleansing filter.

Another difference you will notice during your renovation project is that workers will have to suit up.

The remodeling industry is making sure its members are properly trained but they are asking consumers to have their contractors show them their lead safety certificate.

It will have the EPA seal and certification number.

With the proper certification, consumers can expect renovations to take longer and cost more.

The EPA expects more than 100,000 contractors to become lead-safe certified by the April 22nd deadline.

Senator plans release this week of bill overhauling toxics law *(Greenwire)*

Sara Goodman, E&E reporter

04/14/2010

New Jersey Democrat Frank Lautenberg is expected to introduce Senate legislation this week for overhauling the Toxic Substances Control Act, or TSCA, the 1976 law that governs chemical regulations.

Asked about the timing of the bill's release, a Lautenberg spokeswoman said today, "They're saying this week, and there are not many days left."

Previous efforts to reform the law have failed, largely because of industry opposition. But last year, for the first time, the American Chemistry Council supported updating the law to reflect the scientific advances in the assessment of chemical risks.

"I think we have DuPont supporting us, we have Dow supporting us -- two of the largest manufacturers of chemicals -- and we have got to get on with it," Lautenberg said yesterday. "I think that the public demand, the public interest, is very intense and I think we will be able to get something done."

Environmental and industry groups have since outlined their respective recommendations for legislation. In principle, the two sides agreed on a number of issues, but they diverge on details of how to achieve broader goals (*Greenwire*, March 30).

"What we like about this approach is it sets a very strict safety standard for children, looking at all routes of exposure, and it does it in a way that industry can tolerate," said Richard Wiles, senior vice president for policy and communications for the Environmental Working Group.

"Those are the core provisions in the bill -- it completely turns the current situation on its head and it takes this law ... and turns it into what could be the toughest federal environmental statute on the books if it's passed as introduced."

Wiles said Reps. Henry Waxman (D-Calif.) and Bobby Rush (D-Ill.) are expected to release a discussion draft on TSCA reform tomorrow. The congressmen's offices did not immediately respond to requests for comment.

California Democrat Barbara Boxer, chairwoman of the Senate Environment and Public Works Committee, said yesterday that the Senate plans to take action on the bill this year.

"We are having some meetings," Boxer said. "We do plan to move forward with it."

Reporter Katherine Ling contributed.

Markey urges removal of antimicrobial from soaps, detergents *(Greenwire)*

Sara Goodman, E&E reporter

04/14/2010

The chairman of the House Energy and Environment Subcommittee is urging 13 companies to remove triclosan from antimicrobial soaps and other products.

In letters send to the companies yesterday, Rep. Ed Markey (D-Mass.) cited recent concerns raised by the Food and Drug Administration and U.S. EPA regarding triclosan's effectiveness at killing germs and potential adverse health effects.

"There are simply too many troubling questions about triclosan's effectiveness and potentially harmful effects, for these products to remain in everyday use," Markey said in a statement. "I hope that these companies will exercise good corporate citizenship and agree to remove this potentially dangerous chemical from their products."

FDA said Monday that studies have raised "valid concerns" about repeated exposure to antiseptic ingredients like triclosan, although the agency is not recommending that people switch products.

"Triclosan is not currently known to be hazardous to humans," FDA said on its Web site. "But several scientific studies have come out since the last time FDA reviewed this ingredient that merit further review."

Recent animal studies suggest triclosan alters hormone regulation, FDA said, while others indicate the chemical could be making bacteria resistant to antibiotics. Furthermore, the agency said there is little evidence to suggest the chemical is more beneficial than regular soap and water.

U.S. EPA also acknowledged this week there have been concerns raised about triclosan's effects on the thyroid and estrogen levels, but that it will not review the chemical until 2013.

Companies that received Markey's letters: Rubbermaid, Colgate-Palmolive Co., Procter & Gamble Co., Unilever, Henkel America, Limited Brands Inc., Reckitt Benckiser Inc., Meyer Corp., Infantino LLC, Highel, Acme United Corp. and Victorinox.

Lauren Spahr, a spokeswoman for Rubbermaid, said in an e-mail that the only products produced by Rubbermaid containing triclosan are Microban sinkware and certain coolers, neither of which are intended to come into direct contact with food.

A spokeswoman for Procter & Gamble referred media requests to the Soap and Detergent Association, which released a statement affirming the chemical's safety and effectiveness.

"These ingredients are known quantities," the group said. "They have been safely and effectively used for decades. Extensive research shared with authorities in the U.S. and abroad shows wide margins of safety when it comes to human, aquatic or animal exposure."

WATER

==========

Judge warns EPA of contempt in Everglades case (*Associated Press*) This story also appeared: *Los Angeles Times, Minneapolis Star Tribune, Washington Post*

The federal agency is accused of ignoring Clean Water Act requirements.

Associated Press

April 15, 2010

West Palm Beach, Fla.

A federal judge threatened the U.S. Environmental Protection Agency with contempt of court in a ruling Wednesday that accuses the agency of ignoring Clean Water Act requirements in Florida's Everglades.

U.S. District Judge Alan S. Gold ruled in 2008 that the EPA had turned a "blind eye" to Florida's Everglades cleanup efforts, while the state continued to violate its commitment to restore the vast ecosystem. He ordered the EPA to review water pollution standards and timelines set for cleanup.

Gold wrote Wednesday that the EPA and Florida have ignored his previous order. "I express in the strongest possible terms my frustration and disappointment," he wrote.

The Miccosukee Indians, who live in the Everglades, and Friends of the Everglades sued the EPA over phosphorous pollution in 2004.

They claimed the agency was allowing Florida to delay Everglades restoration while failing to meet pollution requirements in the Clean Water Act.

The state and federal governments have been entrenched in a decades-long effort to fix the problem, but they have been stymied by funding shortfalls, political bickering and lawsuits.

Gold ordered the EPA's administrator to appear at an Oct. 7 hearing to report on compliance with his latest ruling.

The EPA had no comment Wednesday.

More than 100 people turn out in Tampa for EPA hearing on water quality (*Tampabay.com*)

By Chandra Broadwater, Times Staff Writer
In Print: Thursday, April 15, 2010

TAMPA — Gus Muench routinely pulls pieces of plastic from his crab traps on the Little Manatee River. It's the kind farmers use to grow crops.

But it's what he doesn't see that makes him wonder, the Ruskin resident told U.S. Environmental Protection Agency officials Wednesday.

"It's the things we don't see that turn the water green," he said.

Muench was among more than 100 people who spoke at one of two public hearings held by the EPA on proposed changes aimed at improving water quality in the state.

The EPA issued proposed standards in January after reaching a settlement with environmental groups who sued the federal government in 2008 for lax water regulations.

Many who spoke supported the stricter measures, which cap the amount of phosphorus and nitrogen levels in Florida's lakes, rivers, streams, springs and canals.

By limiting what are known as "nutrients," the federal rules would replace vague state guidelines governing waste and fertilizer runoff. The top five sources of nutrient pollution identified by the EPA are stormwater runoff, discharges from wastewater treatment, vehicle exhaust, livestock production and fertilizers used for row crop production.

Nutrient pollution is considered the most prevalent water pollution problem in the state. It causes algae blooms that kill fish, creates public health hazards and affects property values and tourism.

According to the EPA, more than 500 state waters are polluted by nutrients. That includes about 1,000 miles of rivers and streams, 350,000 acres of lakes and 900 square miles of estuaries.

As evidence, officials showed photos of waterways throughout Florida covered in bright green growths. Correcting such problems could cost polluters $1.2 billion to $1.5 billion.

Farmers who came to the meeting Wednesday said they feel like targets of increased regulations that make it difficult to stay in business. Sarasota rancher Todd Underhill said that stricter rules, such as the ones proposed by the EPA, squeeze family operations like his. "The temptation of do you stop farming or sell your land to a farming corporation or developer is always there," Underhill said. "This kind of pressure is causing shifts away from what we want."

It's easy to blame an industry rather than individuals in a subdivision who also are contributing to pollution, he said.

The agency will take written comments through April 28, and expects to complete new regulations by October.

Chandra Broadwater can be reached at cbroadwater@sptimes.com, or (813) 661-2454

Md. sues Mirant, alleging pollution from Brandywine site (*The Gazette*) This story also appeared: *Washington Post*

By Zoe Tillman
The Gazette
Thursday, April 15, 2010; PG19

Alleging that a Brandywine landfill is discharging toxic pollutants into local waterways, the Maryland Department of the Environment filed suit against the site's operator April 2 in federal court.

The suit alleges that Atlanta-based regional power company, Mirant Mid-Atlantic LLC, which has offices in Washington, D.C., and Landover, violated the federal Clean Water Act by failing to prevent the discharge of pollutants from its Brandywine Coal Combustion Waste Landfill.

The landfill stores the waste byproducts of coal combustion from Mirant's Chalk Point Generating Plant in Aquasco.

The suit was filed in the U.S. District Court for the District of Maryland. Mirant has 30 days to respond to the suit, at which time the court will set a trial date.

Local environmentalists and MDE officials say more testing is needed to determine whether the alleged pollution has harmed local wildlife, but MDE spokeswoman Dawn Stoltzfus said residents are not in any danger as long as they do not drink from water wells.

"We are alleging . . . that there has been pollution and that there is a potential for harm," Stoltzfus said. "One of the things we are seeking is a comprehensive site assessment."

Mirant spokeswoman Misty Allen declined to comment on the lawsuit or on the company's response, citing company policy on pending legal matters.

"Mirant continues to work with the Department of the Environment to address MDE's concerns regarding existing coal ash disposal facilities," she said. "The company is and has been in compliance with all of the permits for the existing ash facilities."

Residents and environmental groups have praised the MDE for taking action against Mirant, but say they plan to remain vigilant and might join the MDE as parties in the suit, a move Stoltzfus said prosecutors would welcome. Several organizations filed a notice that they intended to sue Mirant on Nov. 19, but stepped aside to let the state agency handle the case.

"We'll be watchful. If I were Mirant, I'd be concerned about how much longer I can use this location," said Fred Tutman of Patuxent Riverkeeper, an Upper Marlboro-based nonprofit that

advocates for protection of the Patuxent River region and one of the parties that originally threatened legal action against the company.

Coal combustion waste byproducts have been stored at the landfill since 1970; Mirant purchased the landfill from another regional power company, Pepco, in December 2000.

The landfill features four disposal sites for waste byproducts; three were constructed before Mirant bought the site and do not have special liners to prevent pollutants from seeping into groundwater, according to the suit. The fourth disposal site is the only one still in use and does have the protective liner.

MDE alleges in the suit that groundwater samples show toxic pollutants such as arsenic, cadmium and lead are seeping out of the three unlined pits and into local groundwater, which discharges into the Mataponi Creek. The creek flows into the Merkle Wildlife Sanctuary before flowing into the Patuxent River.

Although Mirant has discharge permits, the permits do not allow for the discharge of pollutants into groundwater, according to the suit.

The MDE is calling on Mirant to stop the alleged discharge of pollutants, treat any existing contamination and submit reports that detail the extent of contamination, among other things.

If the court rules against Mirant, the company could face a penalty of as much as $122 million for federal violations and $21 million for state violations, based on a set daily rate for each violation, Stoltzfus said. She added that MDE might not ask for the maximum penalty.

Allen said Mirant is seeking new ways to dispose of waste byproducts, although there are no plans to close the Brandywine landfill. One proposed alternative would be to build a recycling plant that treats a common type of waste byproduct, known as fly ash, for use in concrete and cement, she said.

EPA Proposing Taking Over Monitoring State Waterways (*WUSF 89.7 News*)

Posted Wed, Apr 14, 2010 at 05:04 pm

By Steve Newborn (Send E-Mail)
TAMPA (2010-4-14) -

The federal Environmental Protection Agency is proposing to take over monitoring the quality of the state's waters from Tallahassee. The public got a chance to weigh in today during a hearing held in Tampa.

The quality of Florida's waterways has become so poor that the federal government has determined the state is in violation of the Clean Water Act. The decision stems from a lawsuit filed two yeas ago by the Florida Wildlife Federation.

EPA officials already held three public hearings, but there was such an outpouring of emotions that three more are being held this week. Several hundred people filled a hall at a Tampa hotel - and at this hearing, most of the speakers supported the EPA's move. Sarasota marine biologist John Taylor supports the proposed limits on nutrients in waterways.

"I've also been saddened by irreprerable destruction and widespread deterioration of a very large percentage of Florida's estuaries, tidal tributaries and inland waterways and wetlands," says Taylor. "Consequently, I'm delighted to see some forward movement.

Robert McCoy is with the Florida Carpenter's Regional Council. He says not enough consideration has been taken into the economic impact of new regulations.

"When we hear the federal government say $100 million, we hear $500 million," says McCoy. "We want to know this is going to be paid, who's going to pay for it, how much it's going to cost, and what effect its going to have on industry. Our livelihoods are at stake here."

The EPA estimates implementing the new regulations would cost as much as $140 million a year, with a total cost of nearly $1.5 billion.

Judge warns EPA of contempt in Everglades case (*Associated Press*) This story also appeared: *MiamiHerald.com*

By BRIAN SKOLOFF

Associated Press Writer

Posted on Wednesday, 04.14.10

WEST PALM BEACH, Fla. -- A federal judge in Miami on Wednesday threatened the U.S. Environmental Protection Agency with contempt of court in a ruling that accuses the agency of ignoring federal Clean Water Act requirements in Florida's Everglades.

"I express in the strongest possible terms my frustration and disappointment," U.S. District Judge Alan S. Gold wrote in his ruling.

Gold ruled in 2008 that the EPA had turned a "blind eye" to Florida's Everglades cleanup efforts, while the state continued to violate its own commitment to restore the vast ecosystem.

He ordered the EPA to review water pollution standards and timelines set by the state.

Gold wrote Wednesday that the EPA and Florida have ignored his previous order.

"The defendants are hereby placed on notice that failure to comply with the terms of this order will not be tolerated," Gold wrote.

Gold also ordered EPA's administrator to appear in his courtroom for an Oct. 7 hearing to report on compliance with his latest ruling.

A telephone message left for the EPA was not immediately returned Wednesday. The Florida Department of Environmental Protection was not immediately prepared to comment.

The Miccosukee Indians, who live in the Everglades, and Friends of the Everglades sued the EPA in 2004. They claimed the agency violated the Clean Water Act by allowing Florida to change its water pollution requirements for the Everglades and delay its pollution compliance deadlines.

In his 2008 ruling, Gold noted that the Florida Legislature "violated its fundamental commitment and promise to protect the Everglades."

The case centered on a 2003 amendment to the state's 1994 Everglades Forever Act.

Florida was originally supposed to meet lower phosphorous levels in the Everglades by 2002. The 1994 act pushed that deadline to 2006.

The amendment changed the timeline again, making it more ambiguous by setting a date of 2016 at the earliest.

Gold wrote Wednesday that the changes were "so complex as to be incomprehensible to lay persons."

"None of the government agencies involved directly told the public the hard truth: We have not solved the problem, we don't know for sure when the problem will be solved, and we do not know if the Everglades will survive," Gold noted.

Gold said in 2008 the EPA failed to abide by federal law when it did nothing to stop Florida from amending its statute that put off its timeline for cleaning up the Everglades.

The phosphorous pollution comes largely from fertilizer runoff from farms and development. The nutrient has long suffocated life in the Everglades, driving out native species and poisoning the water.

The entire wetlands once covered more than 6,250 square miles, but have shrunk by half, replaced with homes and farms and a 2,000-mile grid of drainage canals. The Everglades has since lost 90 percent of its wading birds, and 68 threatened or endangered species face extreme peril.

The restoration effort is the largest of its kind in the world.

"The hard reality is that ongoing destruction ... continues to this day at an alarming rate," Gold wrote.

Gold also questioned how the state's plan to spend $536 million for 73,000 acres of U.S. Sugar Corp. farmland in the Everglades would help with restoration efforts. The deal has already faced numerous obstacles and has been lambasted by critics as a waste of taxpayer money that will only further delay Everglades restoration. The state Supreme Court is set to rule soon on whether Florida can move forward with the deal.

"No scientific analysis has been conducted to determine if such a purchase, and related postponement of construction projects to finance it, would either further or hinder achievement of the now mandatory phosphorous criteria," Gold wrote.

EPA Delays Florida Coastal Water Protection, Proceeds on Inland Water Rule (*Environment News Service*)

TALLAHASSEE, Florida, April 14, 2010 (ENS) - Federal standards to keep excess nutrients from tainting Florida's coastal waters will not be ready this year, according to a letter released today by Public Employees for Environmental Responsibility, PEER.

Instead, the U.S. Environmental Protection Agency will proceed with standards for springs, lakes and streams this year but standards for estuaries and coastal waters will undergo a new "third party review of the scientific basis," a process that will last until 2011.

Nutrients are phosphorus and nitrogen that enter waterways from stormwater runoff, municipal wastewater treatment, fertilization of crops and livestock manure.

The March 17 letter from Peter Silva, EPA assistant administrator for water programs, to Michael Sole, secretary of the Florida Department of Environmental Protection indicates that the

federal agency has split off rulemaking on standards for coastal waters from the standards for inland waters.

The letter states, "First, the Agency has decided to delay finalizing promulgation of the 'downstream protection value,' or DPVs with respect to downstream estuary protection and to address this issue in the 2011 estuary and coastal rulemaking ..."

The letter also states, "Second, EPA will seek additional third party review of the scientific basis for water quality standards to protect downstream estuarine and coastal waters. We commit to consult with FDEP on the scope of third party review and will announce in early April the specific plans for that review."

"This appears to be more foot dragging by EPA, which has spent years avoiding doing its job for Florida's waters," said Florida PEER Director Jerry Phillips, a former water enforcement attorney with the Florida Department of Environmental Protection.

The correspondence was released as the EPA is holding a series of public hearings across Florida on the new rule to set numeric limits on the amount of phosphorus and nitrogen allowed in Florida waters.

The proposed rule would replace state narrative water quality criteria, which have been criticized as ineffective, and would apply only in the state of Florida.

The rulemaking to establish new nutrient limits is the result of a 2008 lawsuit brought by Florida Wildlife Federation, Sierra Club, St. John's Riverkeeper, and the Conservancy of Southwest Florida, represented by the law firm Earthjustice.

In August 2009, the EPA entered into a consent decree with the plaintiff environmental groups, committing to propose numeric nutrient standards for lakes and flowing waters in Florida by January 2010, and for Florida's estuarine and coastal waters by January 2011.

"These dates are consistent with those outlined in EPA's January 14, 2009 determination under the Clean Water Act that numeric nutrient standards are needed in Florida. EPA also agreed to establish final standards by October 2010 for lakes and flowing waters and by October 2011 for estuarine and coastal waters," the agency said in a statement January 15.

But on the new schedule outlined in Silva's letter, the EPA will propose new standards for estuaries and coastal waters in 2011, beginning a public comment and rulemaking process that could extend into 2012, a presidential election year.

At the first public hearing Tuesday in Fort Myers, about 150 environmentalists, business people and sports enthusiasts packed the meeting room at the Harborside Event Center to support the proposed standards to curb excess nutrient pollution in Florida waters.

Many attendees argued in favor of limits on the sewage, fertilizer and manure pollution in public waterways. They recounted stories from bygone times when the water was cleaner, seagrass beds were healthier and birds and fish flourished.

In recent years, the Caloosahatchee River and the coastal waters around Sanibel Island have suffered outbreaks of toxic algae and red tide that cause fish kills, close beaches, foul drinking water supplies, and destroy the tourism-dependent economy.

Representatives of agriculture and business groups told the hearing that the new standards would be too costly and are unscientific.

In his testimony on behalf of the Southwest Florida Chamber of Commerce, Dr. Richard Lewis, co-owner of HSA Scientists and Engineers, said the impact of this new regulation is anticipated to cost business, counties and cities, utilities and families billions of dollars each year.

"It is the consensus that our chamber members support the development of numeric nutrient criteria, but we believe the criteria should be based on sound science, ensure adequate time for development, and address our diverse water resources and the many restoration activities currently under way," Lewis said.

Lewis encouraged the EPA to "slow down the process long enough to develop a better understanding of the economic impacts and feasibility of the new rules."

"We are concerned that the cost of implementing systems to address numeric nutrient criteria may be cost-prohibitive for local municipalities considering that it affects how they treat their wastewater, reuse water, storm water and canal systems," Lewis said. "Some estimates predict as much as $50 billion in capital improvements will be required to address the new criteria."

In his March 17 letter, the EPA's Silva indicates the federal agency will address these concerns by seeking additional review of the scientific basis for water quality standards for downstream estuarine and coastal waters.

"We will work together with Florida DEP to ensure we have the best science and analyses to support developing water quality standards to protect downstream estuarine and coastal waters," Silva wrote.

The EPA says excess nitrogen and phosphorus, "can damage drinking water sources; increase exposure to harmful algal blooms, which are made of toxic microbes that can cause damage to the nervous system or even death; and form byproducts in drinking water from disinfection chemicals, some of which have been linked with serious human illnesses like bladder cancer."

The EPA is holding two more public hearings this week on the proposed nutrient standards:

- April 14, 2010: Tampa
  Hilton Tampa Airport
  2225 North Lois Avenue, Tampa
  12 pm to 4 pm
  6 pm to 9 pm
  and

- April 15, 2010: Jacksonville
  Clarion Hotel Airport Conference Center
  2101 Dixie Clipper Drive, Jacksonville
  1 pm to 5 pm
  7 pm to 10 pm

Wyo. regulators place stricter fracking rules on hold *(Greenwire)*

04/14/2010

State regulators in Wyoming have decided to take more time to examine stricter reporting requirements for oil and gas companies that use chemicals for hydraulic fracturing.

The commission will likely make a decision on the proposed rules in June.

"I think we could continue this process for months and months trying to make this thing perfect, and I don't think it would serve us well because we'd have people come in and try to do this for us," said Bruce Williams, who sits on the state's Oil and Gas Conservation Commission.

Drilling companies use hydraulic fracturing, or "fracking," to break underground rock formations and release oil and gas inside. The technology requires drillers to pump mixtures of fluids underground, prompting concerns about harmful substances being used. U.S. EPA announced last month it will examine potential problems caused by hydraulic fracturing, such as drinking water contamination.

Members of the state commission, which includes Gov. Dave Freudenthal (D), say they do not want to impose an unreasonable burden on businesses, but industry is unlikely to avoid stricter requirements for drilling. State regulators do not currently gather enough information to tell

federal regulators what substances are being used in hydraulic fracturing, he said during a hearing yesterday.

"I know you're here to stiff-arm us," Freudenthal told an industry attorney during the hearing. "But I'm not sure what we have is sufficient enough to look [EPA] in the eyes and say, 'We're doing it right'" (Dustin Bleizeffer, *Casper* [Wyo.] *Star-Tribune*, April 14). **-- GN**

Oil from Great Barrier Reef crash shows up at nature sanctuary *(Greenwire)*

04/14/2010

Oil leaks from the Chinese coal carrier that ran aground on the Great Barrier Reef earlier this month have washed up at a well-known nature sanctuary, fueling concerns for the hundreds of thousands of seabirds and turtles that breed at the site, officials said today.

After small clumps of oil were found on a beach at the North West Island, cleanup crews and environmental experts were flown to the site to assess the damage.

"It hasn't come ashore in large globules or carpets," said Patrick Quirk, general manager of Maritime Safety Queensland. "Our advice from the rangers on the island is that it's at the top of the tide line in patches, and that gives us some comfort."

Experts surveying the area from the air said there is only a "very small amount" of oil, and the contamination appeared to be isolated.

But even small amounts of oil can negatively affect wildlife, said Darren Kindleysides, director of the Australian Marine Conservation Society.

"We're not talking about a supertanker going aground and releasing tons and tons and tons of oil," he said. "But we are talking about oil reaching a coral cay which is globally important for seabird breeding and the nesting of green and loggerhead turtles," he added, noting that this is the time of year, turtle hatchlings are traveling down the beach.

The 755-foot *Shen Neng 1* leaked about two tons of oil after straying outside legal shipping lanes and crashing full-speed into the reef on April 3 (Talek Harris, Yahoo News, April 14).

Meanwhile, Australian police today arrested two senior crew members of the *Shen Neng 1*, charging that they damaged the reef by failing to stay on the correct course.

"Investigations showed that the *Shen Neng 1* failed to turn at a waypoint required by the intended course of the ship. A waypoint is a location at which a ship is to alter course," the federal police said in a statement.

The two arrested Chinese men, the ship's master and chief officer-on-watch, will appear in court in Queensland state tomorrow.

The 44-year-old crewman who is in charge of the watch faces a maximum of three years in jail and a $205,000 fine. The 47-year-old master, if convicted, could face a fine of $51,200.

Shenzhen Energy Group Co. Ltd., the company that owns the ship, could face fines and costs of up to $21.3 million over the incident, according to international maritime law experts (Reuters, April 14). **-- DFM**

****

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.

****