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**REPORT**

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## HIGHLIGHTS

### **EPA Preparing to Propose Limit for Stationary Sources' Carbon Emissions**

EPA is close to approving a proposal to limit carbon dioxide emissions from stationary sources, according to environmental and industry sources. David Bookbinder, chief climate counsel for the Sierra Club, tells BNA that EPA plans to propose in September a rule that would apply limits to sources that emit more than 25,000 tons per year of carbon dioxide. A 25,000-ton threshold would be designed to prevent the application of strict carbon dioxide emissions limits and permitting requirements on a vast number of currently unregulated small emissions sources. The proposal would govern the application of prevention of significant deterioration provisions of the Clean Air Act to carbon dioxide. Like new source review, PSD requires new and modified major pollution sources to have modern pollution controls. The program is intended to prevent large emissions increases from facilities in areas that meet air quality standards. **A-9**

### **Science Advisers Doubt Schedule for Review of Nitrogen, Sulfur Standards**

EPA's Clean Air Scientific Advisory Committee says it is "very concerned" that the agency's review of secondary air quality standards for nitrogen dioxide and sulfur dioxide under a deadline set in a consent decree will not result in sufficiently protective standards. In a letter reviewing EPA's *Risk and Exposure Assessment to Support the Review of the Secondary National Ambient Air Quality Standard for Oxides of Nitrogen and Sulfur: Second Draft*, the committee raises concerns that EPA will not have the necessary time to evaluate and to propose new secondary air quality standards for oxides of sulfur and nitrogen sufficient to protect the environment. EPA must propose new secondary air quality standards for sulfur dioxide and nitrogen dioxide by February 2010 as part of a legal settlement with the Center for Biological Diversity. **A-1**

### **EPA Close to Completing Rule for Drinking Water Systems Aboard Aircraft**

The White House Office of Management and Budget approves a final rule EPA will issue to improve standards for drinking water systems aboard aircraft. The rule, proposed last year under the Safe Drinking Water Act, is intended to incorporate parts of several regulations, including the Total Coliform Rule, the Surface Water Treatment Regulations, and the Public Notification Rule, while tailoring them to on-board aircraft water systems. **A-3**

### **EPA Official Solicits Advice on Policy, Rules, Guidance in Waste Programs**

The head of EPA's hazardous waste cleanup programs is soliciting advice on how the office can make policymaking more open, develop better strategies to handle waste or clean up contaminated sites, and "bring about more community involvement at cleanup sites." Mathy Stanislaus, assistant EPA administrator for solid waste and emergency response, releases a letter that is being circulated online. "I believe that government works best when it listens carefully to the opinions and criticism of interested stakeholders," Stanislaus

## NANOTECHNOLOGY

**STATE REGULATORS:** State regulators ask the White House for a "seat at the table" with federal partners in discussions regarding the human health and ecological impacts of intentional and unintentional releases of engineered nanoparticles. A letter to the White House from the Environmental Council of the States suggests the council be permitted to join one or more of the Nanoscale Science, Engineering, and Technology Subcommittee Working Groups. **A-2**

## INTERNATIONAL NEWS

**HAZARDOUS WASTE:** Denmark reaches a provisional agreement with Greenland's Home Rule Authority to clear hazardous waste from a site close to the U.S. Air Force base at Thule in northern Greenland. The waste, which includes polychlorinated biphenyls and heavy metals, is mainly the result of dumping in the 1950s and 1960s before recycling policies were introduced. **A-4**

**LIGHT BULBS:** Taiyuan, capital of China's central Shanxi province, is implementing a national subsidy plan for energy-saving light bulbs. The program is part of a nationwide scheme to subsidize the purchase of up to 120 million compact fluorescent and other energy-saving light bulbs in 2009. **A-3**

**HIGHLIGHTS**

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writes. In the letter, Stanislaus emphasizes “greater transparency” in decisionmaking, “more accessibility to information, especially for vulnerable communities,” and a willingness to restructure programs in the agency’s Office of Solid Waste and Emergency Response to achieve these goals. **A-5**

### **Court Says Injunction No Longer Needed to Enforce Air Quality Standard**

The U.S. Court of Appeals for the Eighth Circuit rules that a federal injunction handed down in 1975 is no longer necessary to impose asbestos air quality standards on Northshore Mining Co., of Silver Bay, Minn., finding provisions in a state permit adequate to protect public health. The Eighth Circuit upholds a district court decision, rejecting appeals from the United States and Minnesota to keep the injunction in place. The appeals court also rejects an appeal from Northshore Mining for relief from the permit, which requires the company to keep airborne asbestos below the level of the “control city,” St. Paul, Minn. Because the control city requirement has been incorporated into a state air quality standard, the Eighth Circuit says an injunction imposing the standard is no longer required. **A-2**

### **U.S. District Court Says Poultry Litter Is Solid Waste Under Federal Law**

In pretrial orders in Oklahoma’s lawsuit against chicken processors in the Illinois River watershed, the U.S. District Court for the Northern District of Oklahoma rules that poultry litter is a solid waste under the Resource Conservation and Recovery Act. The court denies a motion by multiple defendants, including Tyson Foods Inc., for summary judgment on the plaintiff’s RCRA claim. The defendants argued that poultry litter did not meet the RCRA definition of solid waste. They cited productive uses of poultry litter, arguing that it did not qualify as garbage or discarded material. **A-8**

## **Daily Environment Report**

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**Documents Available**

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# News

## Air Pollution

### EPA's Science Advisers Question Timetable For Review of Nitrogen, Sulfur Air Standards

The Environmental Protection Agency's science advisers said Aug. 20 they are "very concerned" that the agency's review of secondary air quality standards for nitrogen dioxide and sulfur dioxide under a deadline set in a consent decree will not result in sufficiently protective standards.

In a letter reviewing EPA's *Risk and Exposure Assessment to Support the Review of the Secondary National Ambient Air Quality Standard for Oxides of Nitrogen and Sulfur: Second Draft*, the Clean Air Scientific Advisory Committee raised concerns that the agency would not have the time necessary to evaluate and propose new secondary air quality standards for oxides of sulfur and nitrogen that were sufficient to protect the environment because of the February 2010 deadline.

In its letter, CASAC said it is concerned about the proposed schedule's "implications on the policy options under consideration by the agency for the secondary standards."

EPA sets primary national ambient air quality standards (NAAQS) to protect public health. The secondary standard is intended to protect public welfare and the environment. The secondary air quality standard for nitrogen dioxide is currently 0.053 parts per million, averaged annually, the same as the primary standard. The secondary standard for sulfur dioxide is 0.5 ppm, averaged over a three-hour period.

Oxides of sulfur and nitrogen can cause acidification of soil and water, affecting plant and animal life, according to the second draft of EPA's second draft risk and exposure assessment.

EPA must propose new secondary air quality standards for sulfur dioxide and nitrogen dioxide by February 2010 as part of a consent decree with the Center for Biological Diversity (*Center for Biological Diversity v. Johnson*, D.D.C., No. 05-1814, consent decree 11/19/07).

The Center for Biological Diversity filed its lawsuit in 2005, alleging EPA had failed to perform its nondiscretionary duty to review the primary and secondary air quality standards for both nitrogen dioxide and sulfur dioxide.

**'Ample Evidence' That Standards Not Sufficient.** Facing the February 2010 deadline, EPA told CASAC's Secondary NAAQS Review Panel during a meeting July 22 and 23 that the agency is likely to propose retaining the current secondary standards; revising the secondary standards to make them identical to the existing primary standards; or revoking both of the secondary standards, according to the advisers' letter.

"None of those options represent a NAAQS . . . with the appropriate indicators, ambient levels, forms, and

averaging times to address secondary, welfare effects," according to CASAC's letter.

EPA's risk and exposure assessment report and other evaluations "provide ample evidence" that the current secondary standards for nitrogen dioxide and sulfur dioxide are not sufficient to protect public welfare and the environment, according to CASAC's letter.

CASAC recommended that EPA take the steps necessary to meet the consent decree deadlines but also begin a secondary rulemaking that would pursue more protective standards for oxides of sulfur and nitrogen. Building on the current body of research compiled during the current review, "EPA should complete the expedited analyses in not more than one or two years," according to CASAC's letter.

**Multipollutant Approach Praised.** CASAC's letter praised EPA for evaluating the risks posed by exposure to oxides of sulfur and nitrogen in conjunction.

EPA is evaluating the interaction of the pollutants in response to a 2004 recommendation from the National Research Council that the agency consider multipollutant approaches when drafting new air quality standards.

A Board of Scientific Counselors subcommittee made a similar recommendation in a July 27 draft report. The Subcommittee on Clean Air Research said in its report, *Review of the Office of Research and Development's Clean Air Research Program at the U.S. Environmental Protection Agency*, that there would be "many advantages" to a multi-pronged approach for addressing air pollutants, but it stressed EPA's Office of Research and Development should "proceed cautiously" (142 DEN A-3, 7/28/09).

The second draft of EPA's second draft risk and exposure assessment said "evidence suggests that the current standards do not provide appropriate protection from known or anticipated adverse public welfare effects" of oxides of sulfur and nitrogen in the environment and that "ecologically meaningful revisions to the current standards" should be considered.

**Primary Standards Being Reviewed.** As part of the consent decree, EPA has proposed revising the current primary standard for nitrogen dioxide, establishing the first hourly standard for the pollutant. The agency also suggested an hourly standard may be necessary for sulfur dioxide as well in a final report assessing the health risks of that pollutant.

CASAC's Oxides of Nitrogen Primary National Ambient Air Quality Standards Review Panel endorsed EPA's proposal to set the first hourly primary standard for nitrogen dioxide at a level between 0.080 part per million and 0.10 ppm in a letter approved Aug. 10 (152 DEN A-1, 8/11/09).

EPA's proposal, published in the *Federal Register* July 15, would retain the existing annual primary standard for nitrogen dioxide of 0.053 ppm (74 Fed. Reg. 34,404; 123 DEN A-9, 6/30/09).

EPA's *Risk and Exposure Assessment to Support the Review of the SO<sub>2</sub> Primary National Ambient Air Quality Standard: Final Report*, announced July 29, found the current 24-hour standard for the pollutant fails to protect public health from spikes in sulfur dioxide concentrations of short duration, such as five or 10 minutes. The report suggested establishing an hourly standard 50 parts per billion and 75 ppb (74 Fed. Reg. 37,705; 150 DEN A-1, 8/7/09).

BY ANDREW CHILDERS

EPA's Risk and Exposure Assessment to Support the Review of the Secondary National Ambient Air Quality Standard for Oxides of Nitrogen and Sulfur: Second Draft is available at <http://www.epa.gov/ttn/naaqs/standards/no2so2sec/data/2nddraftNOxSOxREAJune2009MainContent.pdf>.

## Nanotechnology

### State Environment Officials Ask White House For Role in Work Groups on Nanoparticles

States are asking the White House for a "seat at the table" with federal partners in discussions regarding the human health and ecological impacts of intentional and unintentional releases of engineered nanoparticles, according to an Aug. 7 letter to the White House Office of Science and Technology Policy.

The letter from the Environmental Council of the States asks for a meeting with John P. Holdren, director of the office, and suggests that ECOS be permitted to join one or more of the Nanoscale Science, Engineering, and Technology (NSET) Subcommittee Working Groups. ECOS is a national nonprofit, nonpartisan association of state and territorial environmental agency leaders.

ECOS said it is interested in accelerating development of information on the risks posed by engineered nanoparticles, as well as improving coordination of and information-sharing about nanoparticle lifecycles and research.

"The states hope to provide input on strategic planning and receive timely information on impact assessments and pollution prevention techniques," the letter said.

ECOS lists a number of steps it would like to see taken to improve knowledge of engineered nanoparticles. It asks for more rigorous risk assessments, including federal policy in which federal dollars spent on researching engineered nanoparticle risks and risk management are commensurate with those spent on researching uses of the particles.

The group also supports approaches that evaluate complete product lifecycles, calling the DuPont-Environmental Defense Fund risk management protocol "an excellent first step" in assessing risks (7 DEN A-4, 1/13/09).

Finally, ECOS said it would like the federal government to identify locations where federal agencies and their contractors are involved in nanotechnology research and production. If states are given that information, they will be better able to understand the "realities of nanotech production and develop responsive risk communication strategies," the letter said.

BY CHARLOTTE E. TUCKER

The ECOS letter to the White House Office of Science and Technology Policy is available at: [http://www.ecos.org/files/3756\\_file\\_ECOS\\_Letter\\_on\\_Nano\\_to\\_White\\_House\\_OSTP\\_SENT.pdf](http://www.ecos.org/files/3756_file_ECOS_Letter_on_Nano_to_White_House_OSTP_SENT.pdf).

## Air Pollution

### Injunction No Longer Necessary for Limits 'Ingrained' in State Standards, Court Holds

A U.S. appeals court held Aug. 17 that a federal injunction handed down in 1975 is no longer necessary to impose asbestos air quality standards on Northshore Mining Co., of Silver Bay, Minn., ruling that state permit provisions are adequate to protect public health (*United States v. Northshore Mining Co.*, 8th Cir., No. 08-1423, 8/17/09).

The U.S. Court of Appeals for the Eighth Circuit upheld a 2007 district court decision to vacate the injunction as moot, rejecting appeals from the United States and Minnesota to keep the injunction in place. The appeals court also rejected an appeal from Northshore Mining for relief from the permit provisions, which require the company to keep airborne asbestos below the level of the "control city," St. Paul, Minn.

The appeals court held that because the control city requirement had been incorporated into a state air quality standard, a 1975 injunction imposing the standard under *Reserve Mining Co. v. EPA*, 514 F.2d 492 (8th Cir., 1975), is no longer required.

Judge Paul A. Magnuson of the U.S. District Court for the District of Minnesota vacated the injunction in 2007. He ruled that since 1975, the asbestos fiber limits for Northshore Mining have become part of the taconite processor's state air quality permit, and any relief from those limits can now only be addressed through the state permitting process (*United States v. Northshore Mining Co.*, D. Minn., No. CV-5-72-19, 12/21/07; 248 DEN A-3, 12/28/07).

Magnuson noted that the Minnesota Supreme Court had upheld the inclusion of the control city standard in the permit (*Reserve Mining Co. v. Minnesota Pollution Control Agency*, 267 N.W.2d 720 (Minn. 1978)).

Magnuson wrote that "the passage of time vitiates any claim Northshore may have that the 'control city' standard is not an independent state administrative standard," and "32 years after the Eighth Circuit first formulated the 'control city' standard, this standard is ingrained in the administrative process."

**Repeat Violation Unlikely.** "Minnesota and the MPCA have not shown any reasonable expectation that, in the absence of the injunction, Northshore is likely to repeat its violation," the appellate court wrote.

"On the contrary, the thirty-seven-year history of this litigation has demonstrated Minnesota and the MPCA's unwavering commitment to ensuring that the operations of Northshore's Silver Bay facility comply with Minnesota's air pollution control regulations," the opinion states.

The Eighth Circuit opinion was written by Judge Raymond W. Gruender and joined by Judges John R. Gibson and Kermit E. Bye.

Chuck Laszewski, communications director for the Minnesota Center for Environmental Advocacy, said

Aug. 18 that Northshore has done a “good job” under the “control city” approach. He said the federal injunction had always been viewed as an extra level of protection.

Northshore Mining is now part of Cliffs Natural Resources Inc., which is the largest producer of iron ore pellets in North America. Production in 2008 totaled 5.5 million tons of ore, mined near Babbitt, Minn., and processed at Silver Bay.

Northshore Mining was represented by Geoffrey K. Barnes, of Squire, Sanders & Dempsey, Cleveland, Ohio.

Minnesota and MPCA were represented by Carla J. Heyl, Minnesota Attorney General’s Office, St. Paul, Minn.

The Minnesota Center for Environmental Advocacy was represented by Kevin Reuther of St. Paul.

The United States was represented by Katherine Hazard, Department of Justice, Washington, D.C.

BY ROBERT C. COOK

*Text of the U.S. Court of Appeals for the Eighth Circuit’s United States v. Northshore Mining Co. decision is available at <http://www.ca8.uscourts.gov/opns/opFrame.html>.*

## Drinking Water

### **EPA Close to Completing Rule Tailored To Protect Water Systems Aboard Aircraft**

**T**he White House Office of Management and Budget gave a green light Aug. 17 to a final rule that the Environmental Protection Agency will issue to improve standards for drinking water systems aboard aircraft.

The rule, proposed in April 2008 under the Safe Drinking Water Act, is intended to incorporate parts of several regulations, including the Total Coliform Rule, the Surface Water Treatment Regulations, and the Public Notification Rule, while tailoring them to on-board aircraft water systems.

The proposed rule specified water sampling, actions to be taken in response to sampling results, operations and maintenance, and reporting and recordkeeping (68 DEN A-9, 4/9/08).

As proposed, the rule would require, among other things, routine disinfection and flushing of the aircraft water system and routine coliform monitoring.

The rule as proposed would apply to aircraft that convey passengers in interstate commerce, that take on finished drinking water, and that regularly serve an average of at least 25 people a day.

EPA said Aug. 19 it was working expeditiously to complete the rulemaking, but could not discuss what differences there may be between the proposed and final versions of the rule.

Aircraft drinking water is taken aboard through temporary connections at airports. The variety of sources—at foreign as well as domestic airports—and the on-board systems pose their own challenges that, according to EPA, necessitate a tailoring of the national primary drinking water regulations.

EPA said it also is supporting an international effort led by the World Health Organization to develop international guidelines for aircraft drinking water.

*More information on the proposed aircraft drinking water rule is available at <http://www.epa.gov/airlinewater/regs.html>.*

## Energy

### **China Offers Incentives for Efficient Bulbs, Hopes to Spur Sales of 120 Million in 2009**

**B**EIJING—Taiyuan, capital of China’s central Shanxi province, has begun implementing a national subsidy plan for energy-saving light bulbs, according to a written statement from the Taiyuan Municipal Government.

The program is part of a nationwide scheme to subsidize the purchase of up to 120 million compact fluorescent and other energy-saving light bulbs in 2009. The plan was announced in early July by the National Development and Reform Commission.

The Ministry of Finance allocated 600 million yuan (\$87.8 million) for the program, which is being implemented by provincial and local governments across China. The NDRC estimated that the program could save 6.2 billion kilowatt-hours of electricity and could reduce carbon dioxide emissions by 6.2 million metric tons.

In 2008, the central government subsidized the purchase of 62 million energy-saving bulbs nationwide.

**Discounts Up to 80 Percent.** In Taiyuan, more than 1 million energy-saving light bulbs covered under the subsidy plan became available at the beginning of August, with discounts of up to 80 percent off the retail price for residents and with the government covering about 50 percent of the purchase price for retailers. The Taiyuan government said it had received 15 million yuan (\$2.2 million) from the central government to cover its local plan.

Of the bulbs being subsidized in Taiyuan, 750,000 are compact fluorescent bulbs between 5 watts and 24 watts. Urban residents are encouraged to purchase up to 20 of the compact fluorescent lights. Another 350,000 larger fluorescent bulbs are being promoted to commercial enterprises in the provincial capital. High-pressure sodium lamps are also being used for lighting roadways in commercial areas, with the government covering half the cost.

**Beijing Implements Subsidy Program.** Beijing recently began its own plan for implementing the subsidy program. The city projects it will subsidize the purchase of 10 million energy-saving bulbs in the capital over the next year.

Besides the central government subsidy, the Beijing Municipal Government subsidizes 40 percent more off the price of the first five bulbs purchased by residents, with those bulbs selling for as little as 1 yuan (\$0.15) each.

In Heilongjiang province in China’s northeast, the central government is supporting subsidies to cover the sale of 2 million of the energy-saving light bulbs, the Heilongjiang government said on its website.

BY MICHAEL STANDAERT

## Hazardous Waste

### **Denmark, Greenland Agree on Draft Plan To Clean Up Waste From U.S. Thule Air Base**

**C**OPENHAGEN—Denmark has reached a provisional agreement with Greenland's Home Rule Authority to clear hazardous waste from a site close to the U.S. Air Force base at Thule in northern Greenland.

The waste, which includes polychlorinated biphenyls and heavy metals, is mainly the result of dumping in the 1950s and 1960s before recycling policies were introduced.

A written statement issued Aug. 17 by the Danish Environment Ministry confirmed that a draft agreement had been reached during Environment Minister Troels Lund Poulsen's trip to Greenland Aug. 11-14.

Under the agreement, a Greenland-led working group will formulate a cleanup plan by the end of the year. The effort will clear waste generated by both the U.S. base and a smaller Danish air traffic control facility.

Environment Ministry spokesman Per Nylkke said the waste in question was the result of the dumping of scrap metal, asbestos, batteries, refrigerators, vehicles, paint, and other materials. It is located on Greenland's Dundas peninsula, which the United States returned to Danish-Greenlandic control in 2003, Nylkke told BNA Aug. 19.

"The waste was burned in accordance with the standards of the day" and "then covered by gravel," Nylkke said. "Overall, it is estimated that around 6,400 cubic meters [226,000 cubic feet] of waste is deposited there."

**Denmark Accepted Land 'As Is.'** According to a February 2003 memorandum of understanding with the United States, Denmark and Greenland accepted the return of the territory "as is" and "assume[d] complete responsibility for any environmental remediation or other actions [they] may believe necessary."

A separate agreement reached between Denmark and Greenland's Home Rule Authority gave Denmark financial responsibility for any cleanup efforts. However, Denmark and Greenland have since encountered difficulty agreeing on the practical aspects of the operation.

The new agreement states that Greenland will provide proposals on how the operation can be implemented before the end of 2009. The Danish government will then assess the proposals.

"I feel that there is now a political will to find a common solution," Poulsen said in the ministry's written statement.

A 2002 study carried out by the Danish National Environmental Research Institute found that levels of PCBs, zinc, and copper were between two and 10 times higher near the waste disposal area than elsewhere. However, the study also showed that the impact was limited to an area within five to 10 kilometers (three to six miles) of the base.

Thule Air Force Base was the site of a 1968 crash of a U.S. B-52 bomber carrying nuclear weapons, which resulted in radioactive contamination.

By MARCUS HOY

Full text of the February 2003 memorandum of understanding between the United States and Denmark concerning the Dundas area is available at <http://denmark.usembassy.gov/policy/issuesinfocus/greenland/dundasmemorandum.htm>.

## Climate Change

### **Scientists Say Cutting Black Carbon, Ozone Would Bring Immediate Climate Benefits**

**L**OS ANGELES—A global effort to reduce emissions of black carbon and ozone-forming gases could offset the warming effects of 10 to 20 years worth of carbon dioxide emissions, according to an article in the latest issue of *Foreign Affairs* co-authored by Scripps Institute of Oceanography climate scientist Veerabhadran Ramanathan.

The article, "The Other Climate Changers," says aggressive efforts are needed to curb carbon dioxide emissions, but that adopting measures that cut black carbon and ground-level ozone would be "easier, cheaper, and more politically feasible" and would have "immediate climate benefits."

Black carbon, or soot, is created from the incomplete combustion of fossil fuels and biomass. The dark, light-absorbing carbon particles can settle on glaciers and arctic ice, accelerating melting of the ice.

Ground-level ozone is formed when emissions of nitrogen oxides, volatile organic compounds, and other air pollutants react in the presence of sunlight. Ground-level ozone is a greenhouse gas, but with only 20 percent of the warming effect as carbon dioxide.

Unlike carbon dioxide, which remains in the atmosphere for centuries, black carbon and ozone linger for only weeks to months.

Air pollution policies and technologies already target emissions of black carbon and ozone, but policymakers need to communicate the broader climate benefits of those measures, Ramanathan and his co-author, Jessica Seddon Wallack, wrote in the article.

Black carbon and ozone precursors are the "low-hanging fruit" in the battle to avert the damaging impacts of climate change, they wrote.

By CAROLYN WHETZEL

The article *The Other Climate Changers* is available at <http://www.foreignaffairs.com/articles/65271/jessica-seddon-wallack-and-veerabhadran-ramanathan/the-other-climate-changers>.

## Energy

### **Australian Law Requires 20 Percent of Total Energy to Come From Renewables by 2020**

**M**ELBOURNE, Australia—Australia's Parliament Aug. 20 passed legislation requiring 20 percent of Australia's electricity to come from renewable sources by 2020.

The votes in the Senate and House of Representatives came after the government reached agreement Aug. 19 with the opposition Liberal-National Party Coalition on

changes that will be incorporated through regulations under the main bill formally known as the Renewable Energy (Electricity) Amendment Bill 2009.

The new Renewable Energy Target (RET) will require 45,000 gigawatt-hours to be generated from renewable sources by 2020, equating to 20 percent of Australia's anticipated total generating capacity. The legislation amends a scheme introduced in 2000 that set a more modest target of generating 9,500 gigawatt-hours of renewable electricity by 2010.

Like its predecessor, the new RET allows renewable energy generators to create tradable certificates, each representing one megawatt-hour of electricity from renewable sources.

Wholesale buyers of electricity will need to meet annual targets for renewable energy purchases prescribed according to their share of the total electricity market. They will demonstrate that they have met these targets by annually providing to the scheme administrator sufficient certificates to match their obligation.

**Partial Exemptions to Be Granted.** Under the terms of the deal struck by the government and the opposition coalition, industries that are large emitters of greenhouse gases, nearly all of which are large energy users, will be partially exempted from the scheme.

The government originally had said it would not provide these industries with partial exemptions from the RET until Parliament passed its emissions trading legislation. Australia's lower house passed the package of bills providing for a Carbon Pollution Reduction Scheme June 4, but the Senate rejected the legislation Aug. 13 (156 DEN A-7, 8/17/09).

The ruling Labor Party is likely to resubmit the emissions trading measures to the Senate in November.

Under the agreement reached with the opposition coalition, existing projects that generate electricity from waste coal mine methane will be allowed to create and to sell renewable energy certificates until 2020. The RET target will be "topped up" so that these projects do not displace renewable energy projects.

Firms that are energy-intensive but not emissions-intensive also will be eligible for extra assistance if an independent review concludes they are seriously affected by the RET.

The House originally passed the RET legislation Aug. 18. The Senate made one minor technical amendment introduced by government senators and passed the measure Aug. 20, and the House adopted the amended version the same day.

BY MURRAY GRIFFIN

*Full text of the Renewable Energy (Electricity) Amendment Bill 2009 and related information is available at <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2F4142%22>.*

## Enforcement

### **Three New England Firms to Pay \$225,000 For Failure to Prepare, Maintain Spill Plans**

**B**OSTON—Three oil storage facilities in Connecticut and Massachusetts have agreed to pay more than \$225,000 in penalties for failing to take adequate precautions to prevent and contain oil spills, EPA Region One announced Aug. 20.

The three companies—DDLC Energy of New London, Conn.; Taylor Energy of Broad Book, Conn.; and Northeast Products of Fall River, Mass.—failed to adequately prepare and maintain spill prevention, control, and countermeasure plans and facility response plans, EPA alleged.

DDLC agreed to pay a \$75,000 penalty for deficiencies in its plans and for its inability to adequately respond to a simulated oil spill, according to the agency, which said the company subsequently corrected the shortcomings and passed a second drill.

Taylor Energy, which has the capacity to store 1.5 million gallons of oil, agreed to pay \$70,000 to address its failure to maintain and implement a spill prevention plan, failure to update its response plan, and failure to implement an adequate spill response training and drill program.

Northeast Products, which operates a bulk oil farm and a commercial warehouse used for processing and packaging lubrication oils, agreed to pay a \$81,132 penalty for failure to develop a response plan with evidence of approved means of ensuring availability of personnel and equipment in event of a spill.

Federal law requires that facilities with the potential for spills develop prevention plans if they have more than 1,320 gallons of aboveground oil storage capacity. They must take steps such as installing impervious secondary containment around storage tanks and transfer areas.

Spill prevention and response plans are required by the Clean Water Act as amended by the Oil Pollution Act.

BY RICK VALLIERE

## Superfund

### **EPA Official Solicits Stakeholder Advice On Policy, Rules, Guidance in Waste Programs**

**T**he head of the Environmental Protection Agency's hazardous waste cleanup programs is soliciting advice on how the office can make policymaking more open, develop better strategies for handling waste or cleaning up contaminated sites, and "bring about more community involvement at cleanup sites."

Mathy Stanislaus, assistant EPA administrator for solid waste and emergency response, released a letter Aug. 17 that is being circulated online. "I believe that government works best when it listens carefully to the opinions and criticism of interested stakeholders," Stanislaus wrote.

In the letter, Stanislaus emphasized "greater transparency" in decisionmaking, "more accessibility to

formation, especially for vulnerable communities,” and a willingness to restructure programs in the agency’s Office of Solid Waste and Emergency Response to achieve these goals.

“How should EPA’s process for developing and issuing policy, rules, or guidance be opened so that we can gain from your experience and insights?” the letter asked.

According to EPA spokeswoman Tisha Petteway, the letter was sent via e-mail to “individuals who signed up to receive information about OSWER programs,” estimated to be “in the thousands.”

Stanislaus also announced his intent to “expand interactions with the public” by hosting video town meetings to give “interested groups” a chance to speak directly with him and waste office experts.

“We will do our best to publicize the meetings so as many stakeholders as possible can participate,” but no schedule has yet been set, according to Petteway.

**Former Official Calls Effort ‘Laudatory.’** Marianne Horinko, president of The Horinko Group, said it is “laudatory” that Stanislaus is “reaching out and saying ‘I need your good advice’ to stakeholders.” Horinko heads an environmental consulting and research firm, but was in charge of EPA’s solid waste office from 2001 to 2004.

Among other things, Horinko thinks the office should examine ways to streamline the Resource Conservation and Recovery Act corrective action program and find “a different measure of success” for superfund cleanups.

In addition, she said the office should consider expanding the use of “more progressive initiatives” in the brownfields program, for example, “parceling,” and also using licensed private consultants to oversee and certify cleanup projects, as New Jersey and Massachusetts are doing in an effort to expedite cleanups.

Parceling is dividing properties into smaller parcels, so that the “clean parts” can be redeveloped more quickly while the contaminated parts are being remediated, Horinko explained.

Horinko said the brownfields program is important right now, since it not only removes potential health and environmental hazards and frees land for redevelopment, but it also creates jobs in the process. “It really is an economic stimulus program, too,” she told BNA.

**‘Construction Complete’ Not Good Measure.** “Construction complete” has been EPA’s benchmark for completing cleanup of superfund sites. But according to Horinko, completing construction of the remediation systems at a site is not a particularly meaningful indicator of what has been accomplished.

Sites vary too much in size and complexity, she said. OSWER needs to develop more sophisticated measurement tools and terminology to measure progress and identify the status of site remediation, she suggested.

“It’s a very tough program to run,” Horinko said, but she predicted Stanislaus will do well with his “very thoughtful and deliberative” approach.

The letter was posted Aug. 17 and Aug. 18 on a daily listserv, *Brownfields-Platform for Discussing Brownfields and Environmental Justice Issues* (<http://lists.cpeo.org/listinfo.cgi/brownfields-cpeo.org>), maintained by the Center for Public Environmental Oversight. According to CPEO Executive Director Lenny Siegel, it has “a couple of thousand” subscribers, who include community activists, attorneys, environmental

and property due diligence professionals, real estate and land developers, and local, state, and federal government agency officials.

**‘Whole Lot of Frustration’ in Field.** Siegel said he expects Stanislaus “will receive a large number of messages, including some with voluminous attachments,” because there is a “whole lot of frustration out there.”

But frustration centers mostly on site-specific issues, not the policy and procedural issues highlighted in Stanislaus’ letter, according to Siegel.

Mary Zdanowicz, executive director of Association of State and Territorial Solid Waste Management Officials, said Stanislaus’s outreach effort is “definitely encouraging.”

As far as the association is concerned, Zdanowicz, said Stanislaus has already “opened the door.” She said he attended the association’s July board meeting.

Stanislaus’s office and the states “work hand in hand,” especially on superfund cleanups, according to Zdanowicz. They have a long-standing good working relationship, and she said she does not expect the status quo to change.

**Corporate Group Cites Financial Issues.** The superfund program “has some significant financial control issues” that can be addressed administratively, according to Michael Steinberg. An attorney with Morgan Lewis & Bockius, Steinberg since 1986 has represented the Superfund Settlements Project, a group of large corporations that have been responsible parties in numerous superfund settlements.

Steinberg told BNA that as much as one-fifth of superfund’s annual appropriation is diverted to other EPA offices that are not directly involved in site cleanups, such as the Office of the Inspector General and the Office of the General Counsel. “We would say that appropriations should be conserved for actual cleanup activities,” he said.

He added that new superfund sites are listed on the National Priorities List of most contaminated sites every year “without the kind of scrutiny that ought to go into those listings.”

Sites added to the NPL today “tend to be large complicated sites,” he said. Many are “mega sites” with cleanup price tags of \$50 million to \$100 million, Steinberg said.

The Superfund Settlements Project advocates “reinstating centralized management” over listing sites on the NPL, a function now carried out by the regions. Likewise, the project believes responsibility for determining records of decision, the prescriptions for remedial action at a site which are determined in the regions, also should be centralized for purposes of financial control, according to Steinberg.

By JANICE VALVERDE

*EPA Assistant Administrator Mathy Stanislaus’s letter to stakeholders is available at <http://pub.bna.com/ptcj/OSWERAA.pdf>.*

## Natural Resources

### USDA Extends Conservation Program Comment Period, Schedules Forums

The Department of Agriculture announced Aug. 20 that it is extending the public comment period for proposed changes to the Conservation Reserve Program called for by the 2008 Farm Bill.

USDA also will hold nine public meetings around the country to receive opinions on the program, which protects cropland vulnerable to soil erosion by offering farmers financial incentives and assistance to plant erosion-slowing vegetative cover such as trees or grasses.

According to the USDA announcement, the public meetings will touch on topics such as eligibility based on the land's past crop history, crop rotation practices, rules governing program enrollment, and the overall limits on enrolled land. The 2008 Farm Bill (Pub. L. No. 110-246) put a yearly acreage limit on how much land the program can incorporate. The program was allowed to enroll up to 39.2 million acres in fiscal years 2008-09 and up to 32 million acres in fiscal 2010-2012, when the five-year agriculture policy bill expires.

The voluntary program lets participants enroll land for 10-15 years in exchange for annual payments and other financial incentives from USDA's Commodity Credit Corporation. The program is run by the Farm Service Administration and technical assistance on conservation practices is provided by, among others, the Natural Resource Conservation Service.

USDA had asked for comments by Aug. 28 when it proposed the program changes in a June 29 notice (74 Fed. Reg. 30,907). The new comment deadline is Oct. 19.

In that notice, USDA said the program rules were being modified simply to reflect changes made in the 2008 Farm Bill, including a new program goal of "addressing issues raised by state, regional, and national conservation initiatives." The new law also made program changes to eligibility, payment limitations, and county acreage caps.

The nine meetings will be held Sept. 15 through Oct. 8 in Washington, Montana, Minnesota, Kansas, Illinois, Oklahoma, New Mexico, Georgia, and Pennsylvania.

By ADAM SNIDER

The June 29 Federal Register posting with the proposed changes is available at <http://frwebgate1.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=788563422150+0+2+0&WAIAction=retrieve>.

More information on the Conservation Reserve Program is available at <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=copr&topic=crp>.

## Fuel Efficiency

### DOT Tries to Process Clunkers Applications As Program's Aug. 24 Ending Approaches

The Cash for Clunkers rebate program will end Aug. 24 at 8 p.m., White House officials announced Aug. 20.

The program, formally known as the Consumer Assistance to Recycle and Save Cars Act of 2009 (CARS), was originally approved with \$1 billion in funding in June, and promised consumers rebates of up to \$4,500 if they traded in an older vehicle for a newer one with higher fuel efficiency.

The original funding ran out in six days, and Congress approved an additional \$2 billion before leaving for August recess (150 DEN A-14, 8/7/09).

The program was slated to run through November, but the second batch of funding is quickly dwindling, administration officials said.

To date, \$1.9 billion worth of sales has been logged into the Department of Transportation's computers, representing 457,000 dealer transactions. Calling a halt to the program four days in advance is designed to give a "soft landing," administration officials said. This will allow consumers to wrap up deals they're considering and give dealers time to enter information into the DOT's system.

**'Lifeline to Automobile Industry.'** "This program has been a lifeline to the automobile industry, jump starting a major sector of the economy and putting people back to work," Secretary of Transportation Ray LaHood said in a statement announcing the program's pending shutdown.

Both Ford and General Motors recently announced they were boosting production to meet demand from the program. General Motors planned to bring 1,350 idled workers back to work and provide overtime hours to 10,000 more.

Despite the positive sales numbers, some dealers have complained they have not been reimbursed for the rebates they have offered on behalf of the government.

During a conference call with reporters, a senior administration official said that of the \$1.9 billion in transactions in the system, only \$145 million has been paid out to dealers. Only about 40 percent of applications have been reviewed by DOT, and "a large number" have been rejected by the system because they are incomplete or have inaccurate information. The official said those applications could be resubmitted with the correct information, and will be honored even if they are not resubmitted before the deadline.

DOT has tripled the number of people at work handling the applications in an effort to get dealers reimbursed in a more timely fashion.

The National Automobile Dealers Association expressed some skepticism of the proposed "orderly" wind-down of the program. In a statement released Aug. 19, NADA urged dealers to make further deals at their own risk, and warned that they are not sure there is enough money left in the program to cover every deal that has been made.

"Given the popularity of the program and the rapid pace at which 'clunker' deals are being done, it is difficult, if not impossible, to accurately project the 'burn

rate' of available funds," the NADA statement warned dealers.

**Obama Defends Rate of Reimbursement.** During a question-and-answer session at the White House Aug. 20, President Obama defended the slow rate of dealer reimbursement, and said it was "actually a high-class problem to have—that we're selling too many cars too quickly and there's some backlog in the application process. It is getting fixed."

"They will get their money, but we've got to process it properly, because if we were careless about it, if we were just sending out checks where applications were incomplete ... we'd be breaking the law because there are statutes set up in terms of how this is supposed to go," Obama told the radio host who interviewed him. "And secondly, there'd probably be some story—you'd be asking me about scandals where there were a whole bunch of checks of taxpayer money being wasted, going out to people who hadn't actually bought cars."

BY RUSS CHOMA

### Water Pollution

#### **U.S. Judge Says Poultry Litter Is Solid Waste, Rejecting Industry Motion in Oklahoma Case**

**A**USTIN, Texas—Poultry litter is a solid waste under the Resource Conservation and Recovery Act, a federal judge held Aug. 14 and 18 in pretrial orders in Oklahoma's lawsuit against chicken processors in the Illinois River watershed (*Oklahoma v. Tyson Foods Inc.*, N.D. Okla., No. 05-cv-329, pretrial orders 8/14/09, 8/18/09).

On Aug. 14, Judge Gregory Frizzell of the U.S. District Court for the Northern District of Oklahoma denied a motion by multiple defendants, including Tyson Foods Inc., for summary judgment on the plaintiff's RCRA claim. The defendants argued that poultry litter did not meet the RCRA definition of solid waste. According to the defendants' motion, RCRA defines solid waste as: "any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations."

The defense motion detailed productive uses of poultry litter, arguing that it did not qualify as garbage or discarded material. The defendants asserted that Oklahoma cannot prove that poultry litter meets the definition of waste.

Frizzell denied the motion without issuing an opinion. In his Aug. 14 order, Frizzell also approved a settlement by the state with defendant Willow Brook Foods.

In his Aug. 18 ruling, Frizzell denied Oklahoma's request for reconsideration of his July 22 order dismissing all claims for monetary damages in the lawsuit. The state is still seeking injunctive and declaratory relief (140 DEN A-7, 7/24/09).

**State Filed Lawsuit in 2005.** Oklahoma sued Tyson Foods Inc. in 2005, alleging that it and other companies responsible for runoff from chicken waste that was affecting the Illinois River and its watershed.

The integrators remaining in the case include Cobb-Vantress Inc., Aviagen Inc., Cal-Maine Foods Inc., Cal-Maine Farms Inc., Cargill Inc., Cargill Turkey Production LLC, George's Inc., George's Farms Inc., Peterson Farms Inc., and Simmons Foods Inc.

The state brought claims for cost recovery and natural resource damage under the Comprehensive Environmental Response, Compensation, and Liability Act; for nuisance under both federal and state law; and for other state law violations, including trespass and pollution claims.

The case is set for trial Sept. 21.

Oklahoma is represented by Attorney General W.A. Drew Edmondson (D) and other attorneys in his office along with attorneys from the firm of Motley Rice in Mount Pleasant, S. C.; Bullock Bullock & Blakemore in Tulsa, Okla.; and Riggs, Abney, Neal, Turpen, Orbinson & Lewis, also in Tulsa.

Defense attorneys include the firms of Faegre & Benson in Minneapolis; Rhodes, Hieronymus, Jones, Tucker & Gable in Tulsa; Kutak Rock in Little Rock, Ark.; and Sidley Austin in Washington, D.C.

BY NANCY MOORE

### Air Pollution

#### **Sierra Club Sues Chevron Phillips, Alleges Permit Violations in Houston**

**A**USTIN, Texas—The Sierra Club and a Texas nonprofit group Aug. 19 filed a lawsuit against Chevron Phillips Chemical Co., alleging that its Baytown, Texas, plant violated its emission permit and contributed to local violations of federal air quality standards for ozone and air toxics (*Environment Texas Citizen Lobby Inc. v. Chevron Phillips Chemical Co.*, S.D. Tex., No. 4:09-cv-2662, 8/19/09).

Filed in the U.S. District Court for the Southern District of Texas, the lawsuit alleges that since 2003 Chevron Phillips has released more than 1 million pounds of air pollutants from its Cedar Bayou Plant—including volatile organic compounds (VOCs), carbon monoxide, nitrogen oxides, 1,3-butadiene, and benzene—in violation of operating permits during "emissions events."

A Chevron Phillips spokesman said the emissions were related to hurricanes and power outages that were beyond the company's control.

The Sierra Club and Environment Texas Citizen's Lobby also alleged that the Chevron Phillips plant violated new source performance standards, and national emission standards for hazardous air pollutants, and contributed to air quality violations for ozone.

The plaintiffs are requesting an injunction to prohibit the company from operating stationary sources at its Cedar Bayou Plant unless it complies with air quality standards under the Clean Air Act and the Texas state implementation plan.

They also asked the court to order the company to "remedy, mitigate, or offset the harm to public health and the environment caused by the violations," and called for civil penalties for each air violation beginning June 12, 2004. The Clean Air Act provides statutory penalties of up to \$32,500 per day the plant is in violation of the standards, an amount that increased to

\$37,500 per day on Jan. 12. The plaintiffs also request attorneys' fees.

The plaintiffs alleged that the company violated its permits by emitting VOCs, nitrogen oxides, and carbon monoxide above hourly and annual limits; violated new source performance standards by emitting excessive amounts of VOCs, nitrogen oxides, and carbon monoxide; violated the NESHAP requirements by using flares without a flame and otherwise emitting harmful pollutants; and violated its Title V operating permit.

The VOCs and nitrogen oxides emitting by the plan contribute to the formation of ground-level ozone, the plaintiffs said. In addition, nitrogen oxides contribute to acid rain, and benzene and 1,3-butadiene are carcinogens, they said.

**Emissions Events Linked to Hurricanes.** In an Aug. 20 e-mail from Chevron Phillips spokesman Brian Cain, the company said the events alleged in the complaint "include emissions occurring in connection with hurricanes Ike and Rita, as well as power outages outside of the company's control."

The company statement went on to say: "Chevron Phillips Chemical's Cedar Bayou Plant has made notable progress in advancing environmental performance. Since 2001, the Cedar Bayou Plant has reduced its total reportable emission events by more than 73 percent and its total annual emissions by 63 percent."

The plaintiffs are represented by Philip J. Hilder of Hilder & Associates in Houston; David A. Nicholas of Newton, Mass.; and Joshua R. Kratka of the National Environmental Law Center in Boston.

BY NANCY MOORE

## Climate Change

### **EPA Said to Be Nearing Proposal to Limit Stationary Sources' Carbon Dioxide Emissions**

**T**he Environmental Protection Agency is close to approving a proposal to limit carbon dioxide emissions from stationary sources, according to environmental and industry sources.

David Bookbinder, chief climate counsel for the Sierra Club, told BNA Aug. 19 that EPA plans to propose in September a rule that would apply limits to sources that emit more than 25,000 tons per year of carbon dioxide.

A 25,000-ton emissions threshold would be designed to prevent the application of strict carbon dioxide emissions limits and permitting requirements on a vast number of currently unregulated small emissions sources.

Richard Alonso, an attorney for Bracewell & Giuliani LLP, told BNA Aug. 20 that EPA could issue a rulemaking or a guidance.

The proposal would govern the application of prevention-of-significant-deterioration provisions of the Clean Air Act to carbon dioxide. Like new source review, PSD requires new and modified major pollution sources to have modern pollution controls. The program is intended to prevent large emissions increases from facilities in areas that meet air quality standards.

The proposal would not impose specific emissions limits for facilities. But by applying PSD to carbon dioxide, it would require companies to have best available

control technology to curb emissions of the most prominent greenhouse gas.

EPA did not immediately respond to a request for comment.

**Agency Position Reconsidered.** Currently, the official EPA position is codified in a memorandum issued Dec. 18, by former EPA Administrator Stephen Johnson. That memo said carbon dioxide is not a regulated pollutant under the Clean Air Act, and that PSD does not apply to it. Under the law, PSD applies only to pollutants regulated under other Clean Air Act programs.

Environmental groups maintain that carbon dioxide is a regulated pollutant and is subject to PSD requirements, but EPA under Johnson disagreed.

EPA Administrator Lisa Jackson informed Bookbinder Feb. 17 that the agency will reconsider the Johnson memo in response to a petition filed by the Sierra Club. Bookbinder said the forthcoming proposal would follow up on that reconsideration (30 DEN A-5, 2/18/09).

In addition, President Obama in May directed EPA to propose, in concert with the Department of Transportation, limits on emissions of carbon dioxide and other greenhouse gases from cars and light trucks for model years 2012 through 2016. To meet this goal, EPA will have to finalize regulations by April 2010 (95 DEN A-10, 5/20/09).

**Vehicle Emissions Rule to Affect PSD.** Once EPA finalizes these vehicle emissions limits, carbon dioxide will become a regulated pollutant, subject to PSD.

Bookbinder said a rule on applying PSD to carbon dioxide must be finalized by then to implement a 25,000-ton emissions threshold and to prevent a lower threshold from taking effect.

Under the Clean Air Act, PSD applies to major sources, which are defined as those that emit more than 250 tons per year of a regulated pollutant. For certain specified sources, the threshold is 100 tons per year. Unless EPA takes action, this would mean that PSD would apply to sources with these levels of emissions.

According to the U.S. Chamber of Commerce and other industry groups, this would apply PSD requirements to hundreds of thousands of new sources, including schools, hospitals, and small businesses, not just power plants, refineries, and other large sources. This is because carbon dioxide is emitted in far greater amounts than other air pollutants (119 DEN A-2, 6/24/09).

The Chamber of Commerce has released figures saying that applying PSD to carbon dioxide would expand the number of facilities subject to PSD from around 30,000 to 1.2 million.

A 25,000-ton emissions threshold for PSD would address this problem, but Alonso said EPA cannot just say it will not regulate emissions below 25,000 tons per year, when the Clean Air Act applies the requirements to emissions above 250 or 100 tons per year.

Alonso said EPA would have to get that interpretation past the U.S. Court of Appeals for the District of Columbia Circuit, which in recent rulings has overturned EPA interpretations of the Clean Air Act that it said were not justified by the text of the act.

EPA in 2008 suggested that it could raise the threshold for "significant" emissions under PSD to 25,000 tons per year, but Alonso said this would be a novel interpretation not supported by the Clean Air Act.

A 25,000-ton threshold “is the only sane thing they can do,” Bookbinder said.

Bookbinder has said previously that no environmental group would sue to challenge a 25,000 ton emissions threshold for PSD.

But Alonso said other parties could challenge the threshold as a means of stopping projects that they oppose for other reasons. Alonso used a hypothetical example of a labor union using PSD to challenge a construction project using non-union labor.

**‘They Will be Sued.’** “If someone thinks EPA is not going to get sued over this, they’re not living in the environmental world of the last 10 years,” Alonso said. “They will be sued.”

EPA in 2008 also suggested that it could address the 250-ton threshold by issuing general permits, under which small sources would not have to go through the often-arduous PSD permitting process.

Alonso said stormwater permits under the Clean Water Act are often issued after an entity sends in a postcard saying it is in compliance with generic requirements issued by EPA.

Similar requirements could apply to small sources under a general PSD permit, Alonso said, with more stringent requirements applying to sources above 25,000 tons. A general permit could impose “broad-based” requirements, such as energy-efficient appliances, he said.

Some have suggested that once EPA applies PSD to greenhouse gases, the program will be so stringent and costly that industry will prefer an emissions cap-and-trade system, such as the system that would be imposed under H.R. 2454, which passed the House June 26 (122 DEN A-10, 6/29/09).

Alonso said, however, that technology to reduce carbon dioxide emissions significantly, other than to improve energy efficiency, does not exist, so EPA would not be able to impose costly requirements under PSD for at least 10 years. In the short term, he said, industry may prefer PSD to a cap-and-trade system.

BY STEVEN D. COOK

## Emergency Response

### **Agencies Seek Comment on Draft Guidance For Recovery Following Biological Incidents**

**T**he Department of Homeland Security, the Environmental Protection Agency, and the White House Office of Science and Technology Policy issued a draft guidance document Aug. 17, *Planning Guidance for Recovery Following Biological Incidents*, as part of a series of legally mandated preparedness documents (74 Fed. Reg. 41,431).

The agencies are seeking comment on the draft through Nov. 16, according to a notice in the *Federal Register*.

The draft document is designed to help emergency responders and decisionmakers at the federal, state, tribal, and local levels “in planning and executing activities required for response and recovery from a biological incident in a domestic, civilian setting.”

The guidance covers a range of locations including enclosed areas, outdoor areas, and drinking water sources. The document recognizes the specific details of a recovery would vary depending on the incident, and therefore aims to “balance achievable and practical results.”

The draft guidance covers the unique characteristics and hazards of biological agents and provides a risk management framework for responding to a biological incident. It also discusses implications for various remediation activities. In addition, the document provides a process for making timely and effective decisions “despite incomplete data and uncertainties associated with potential risks posed by biological agents.”

The framework proposed for decisionmaking is split into four components: risk management, role specification for responding agencies, response phases, and a “decision tree that defines key decision points and actions for decision-makers.”

The response phases outlined in the guidance are notification of the proper authorities, first response; risk characterization; decontamination; and site restoration.

For further information on the draft guidance, contact Brendan Doyle, Senior Policy Advisor, National Homeland Security Research Center, Office of Research and Development, Environmental Protection Agency (MC: 8801R), 1200 Pennsylvania Ave. N.W., Washington, D.C. 20460; tel. (202) 564-4584; or e-mail at [doyle.brendan@epa.gov](mailto:doyle.brendan@epa.gov).

BY LEORA FALK

Planning Guidance for Recovery Following Biological Incidents is available at <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a03c20>.

### **CORRECTION**

An article in the July 28 report on a North Carolina law prohibiting discharge into coastal waters should have said the measure is limited to coastal waters designated as a “no discharge zone” by the federal Environmental Protection Agency or in a county or city that has adopted a resolution petitioning the agency for such a designation. Currently, the law applies only to New Hanover County. The online version has been corrected (142 DEN A-3, 7/28/09).

# Calendar

## LEGISLATIVE CALENDAR

### SENATE

#### Floor Action

##### Aug. 20

Did not meet.

To reconvene Sept. 8 at 2 p.m.

#### Reports Filed

##### Aug. 19

NONE.

#### Bills & Resolutions Introduced

##### Aug. 19

NONE.

#### Committee Action

Area code for all telephone numbers is 202 unless otherwise stated.

##### Location Key:

(Times and locations are subject to change.)

S—Senate side of U.S. Capitol Building  
 SC—Senate side of U.S. Capitol Building  
 SD—Senate Dirksen Office Building  
 SH—Senate Hart Office Building  
 SR—Senate Russell Office Building  
 SVC—Senate side of Capitol Visitor Center

##### Aug. 20

NONE.

#### Committee Meetings Scheduled

##### Aug. 21

NONE.

### HOUSE

#### Floor Action

##### Aug. 20

Did not meet.

To reconvene Sept. 8 at 2 p.m. to consider legislation under suspension of the rules.

The Government Accountability Office released the following presentations by the acting comptroller general: *Ensuring Accountability in a Time of Financial and Fiscal Stress* (GAO-09-930CG), presentation of Gene L. Dodaro, acting comptroller general; and *Ensuring Accountability in a Time of Financial and Fiscal Stress* (GAO-09-952CG), presentation of Gene L. Dodaro, acting comptroller general.

GAO products are available at <http://www.gao.gov>.

#### Reports Filed

##### Aug. 19

NONE.

#### Bills & Resolutions Introduced

##### Aug. 19

NONE.

#### Committee Action

Area code for all telephone numbers is 202 unless otherwise stated.

##### Location Key:

(Times and locations are subject to change.)

H—House side of U.S. Capitol Building  
 HC—House side of U.S. Capitol Building  
 HT—House Terrace  
 H2—Ford House Office Building  
 HVC—House side of Capitol Visitor Center  
 RHOB—Rayburn House Office Building  
 LHOB—Longworth House Office Building  
 CHOB—Cannon House Office Building

##### Aug. 20

NONE.

#### Committee Meetings Scheduled

##### Aug. 21

NONE.

### JOINT/CONFERENCE COMMITTEES

#### Committee Action

##### Aug. 20

NONE.

#### Committee Meetings Scheduled

##### Aug. 21

NONE.

**PRESIDENT'S CALENDAR**

**White House Announcements**

**Aug. 20:**

None.

**The President's Appointments**

**Aug. 20:**

President Obama appeared on Michael Smerconish's radio program

The president held a health care reform forum with Organizing for America supporters at Democratic National Committee Headquarters in Washington, D.C.

# Regulatory Agenda

## AUGUST 21 FEDERAL REGISTER

The following entries are summaries from the Aug. 21, 2009, Federal Register (Vol. 74, No. 160). Full text of all of the identified Federal Register items is available from BNA PLUS.

## Environmental Protection Agency

### AIR QUALITY

#### California/Outer Continental Shelf Air Regulations

Final rule of the EPA amends outer continental shelf regulations under 40 CFR 55.14 and Appendix A to maintain consistency with requirements of the corresponding onshore areas in the Santa Barbara County Air Pollution Control District in California, as mandated by Section 328(a)(1) of the Clean Air Act. The rule incorporates by reference recently adopted state regulations. The rule is effective Sept. 21, 2009. Contact: Cynthia Allen; EPA Region IX, Air Division; (415-947-4120)

### HAZARDOUS WASTE (CERCLA)

#### New York/Mercury Refining Site

Notice of the EPA announces a proposed administrative settlement pursuant to CERCLA Section 122(g) with 291 de minimis settling parties for recovery of cleanup costs concerning the Mercury Refining superfund site in the towns of Guilderland and Colonie, New York. The settlement would require settling parties to make specified individual payments into the special account for the site, for a combined total of approximately \$3.74 million. The settlement also would include a covenant not to sue and protection from contribution actions or claims. Comments are due Sept. 21, 2009. Contact: Sharon Kivowitz; EPA Region II, Office of Regional Counsel; (212-637-3183)

### HAZARDOUS WASTE (CERCLA)

#### Texas/Jones Road Ground Water Plume Site

Notice of the EPA announces a proposed administrative settlement under CERCLA Section 122(h)(1) for recovery of response costs concerning the Jones Road Ground Water Plume superfund site in Houston. The settlement would require the settling party, Henry T.T. Lucky Inc., to pay \$160,000 for past response costs. Comments are due Sept. 21, 2009. Contact: George Malone; EPA Region VI; (214-665-8030)

### TOXIC SUBSTANCES

Information Collection/TSCA Section 8(e) Requirements

Notice of the EPA announces the submittal of a continuing information collection request to the OMB, as required under the Paperwork Reduction Act, regarding

notification of substantial risk of injury to health and the environment under TSCA Section 8(e). Comments are due Sept. 21, 2009. Contact: Barbara Cunningham; EPA, Office of Pollution Prevention and Toxics; (202-554-1404)

### TOXIC SUBSTANCES

#### Significant New Use Rules for Chemical Substances

Final rule of the EPA repeals regulations under 40 CFR 721.10155 and 721.10156 to withdraw a portion of a June 24, 2009, direct final rule (74 FR 29982) that established significant new use rules (SNURs) under TSCA Section 5(a)(2) for 23 chemical substances that were the subject of EPA premanufacture notices and TSCA Section 5(e) consent orders. The withdrawal, which affects the SNURs for the chemical substances multi-walled carbon nanotubes (PMN P08177) and single-walled carbon nanotubes (PMN P08328), is due to the receipt of adverse comments. The rule is effective Aug. 21, 2009. Contact: Karen Chu; EPA, Office of Pollution Prevention and Toxics; (202-564-8773)

### TOXIC SUBSTANCES

#### EPA System of Records/Federal Lead-Based Paint Program

Notice announces the intention of the EPA to amend an existing Privacy Act system of records by changing the title of the "Lead-Based Paint System of Records" to the "Federal Lead-Based Paint Program System of Records" (EPA-54). The new system of records will contain information on individuals who have applied for certification to conduct lead-based paint and renovation activities, who are students taking classes in lead-based paint and renovation activities, or who have been identified to provide training in such activities. The system of records also will include information about individuals who are certified inspectors, supervisors, risk assessors, project designers, abatement workers, renovators, and dust-sampling technicians. Comments are due Sept. 30, 2009. Contact: Robert Wright; EPA, Office of Pollution Prevention and Toxics; (202-566-1975)

### PESTICIDES

#### Pesticide Tolerance Petitions/Correction

Notice of the EPA announces a correction to a June 10, 2009, notice (74 Fed. Reg. 27,538) regarding the initial filing of six pesticide petitions to amend regulations under 40 CFR 180 to establish or modify tolerances for residues of pesticide chemicals in or on various commodities. The correction adds papaya to the list of commodities under PP 9F7537. Comments are due July 10, 2009. Contact: Rita Kumar; EPA, Office of Pesticide Programs; (703-308-8291)

### MISCELLANEOUS

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*Continued from previous page*

**Product Noise Labeling/Hearing Protection Devices**

Notice of the EPA announces the rescheduling of a hearing on and an extension of the comment period for an Aug. 5, 2009, proposed rule (74 Fed. Reg. 39,150) that would amend regulations under 40 CFR 211, Subpart B, to revise the product noise labeling standards for hearing protection devices. The proposal would reflect technical advances in the hearing protection product industry, specify new and revised test methods, and provide for electronic labeling so that certain manufacturers can sell their hearing protectors exclusively via the Internet. The hearing now is scheduled for Oct. 7, 2009, in Washington, D.C. Comments are due Nov. 4, 2009. Contact: Catrice Jefferson; EPA, Office of Air and Radiation; (202-564-1668)

**MISCELLANEOUS****Environmental Impact Statements**

Notice of the EPA announces the availability of environmental impact statements filed Aug. 10-14, 2009, pursuant to 40 CFR 1506.9. Contact: EPA, Office of Federal Activities; (202-564-1399)

**MISCELLANEOUS****Environmental Review Process**

Notice announces the availability of EPA comments prepared pursuant to the environmental review process under CAA Section 309 and NEPA Section 102(2)(c). Contact: EPA, Office of Federal Activities; (202-564-7146)

**MISCELLANEOUS****EPA Science Advisory Board Meetings**

Notice of the EPA Science Advisory Board announces two teleconference meetings of the chartered board to conduct quality reviews of the draft SAB report on reactive nitrogen in the United States and on the draft Radiation Advisory Committee report on radiogenic cancer risk. The teleconferences are scheduled for Sept. 23 and 24, 2009. Comments are due Sept. 15, 2009. Contact: Thomas Miller; EPA Science Advisory Board; (202-343-9982)

**Justice Department****WATER QUALITY****New Hampshire/CWA Consent Decree**

Notice of the Department of Justice announces a proposed consent decree in *United States v. City of Portsmouth, New Hampshire* (Civil Action No. 1:09-cv-283), lodged on Aug. 17, 2009, with the U.S. District Court for the District of New Hampshire. The consent decree addresses a claim for injunctive relief under the Clean Water Act in connection with discharges by the city of Portsmouth, N.H., from its combined sewer overflows (CSOs) and wastewater treatment facility, in violation of its NPDES permit. The consent decree would require the defendant to control discharges from the CSO out-

falls, to propose a schedule for construction of a secondary wastewater treatment facility for approval by the EPA, and to comply with the construction schedule after inclusion in the consent decree. Comments are due Sept. 21, 2009. Contact: DOJ Consent Decree Library; (202-514-1547)

**HAZARDOUS WASTE (CERCLA)****New York/Consolidated Iron and Metal Co. Site**

Notice of the Department of Justice announces a proposed modification to a consent decree in *United States v. City of Newburgh* (Civil Action No. 08 Civ. 7378 SCR), lodged on Aug. 17, 2009, with the U.S. District Court for the Southern District of New York. The proposed modification would add 58 potentially responsible parties to a prior consent decree regarding the Consolidated Iron and Metal Co. superfund site in Newburgh, N.Y. The modification would provide for payment of \$426,220 on behalf of the 58 parties in return for a covenant not to sue and contribution protection under CERCLA. Comments are due Sept. 21, 2009. Contact: DOJ Consent Decree Library; (202-514-1547)

**HAZARDOUS WASTE (CERCLA)****Wisconsin/Watertown Tire Fire Site**

Notice of the Department of Justice announces a proposed consent decree in *United States v. Waste Management of Wisconsin Inc.* (Case No. 09-cv-0135), lodged on Aug. 17, 2009, with the U.S. District Court for the Eastern District of Wisconsin. The consent decree would resolve claims under CERCLA for response costs in connection with the Watertown Tire Fire site in Watertown, Wis. The consent decree would require the settling defendants to pay \$1,000 and to pursue insurance proceeds in ongoing state litigation to reimburse costs incurred by EPA at the site. Comments are due Sept. 21, 2009. Contact: DOJ Consent Decree Library; (202-514-1547)

**Department of Energy****MISCELLANEOUS****Environmental Management Advisory Board/Oak Ridge**

Notice of the Department of Energy announces a meeting of the Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation. The board makes recommendations to the department in the areas of environmental restoration, waste management, and related activities. The meeting is scheduled for Sept. 9, 2009, in Oak Ridge, Tenn. Contact: Pat Halsey; DOE, Oak Ridge Operations Office; (865-576-4025)

**Department of Agriculture****AIR QUALITY****Agricultural Air Quality Task Force Meeting**

Notice of the Department of Agriculture, Natural Resources Conservation Service, announces a meeting of the Agricultural Air Quality Task Force to address Iowa air quality issues, greenhouse gases, engine emissions and regulations, and reactive nitrogen. The meeting is scheduled for Sept. 16-18, 2009, in Des Moines, Iowa.

Contact: Michele Laur; USDA, Natural Resources Conservation Service; (202-720-1858)

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## Environmental Protection Agency

### AIR QUALITY (74 Fed. Reg. 42,038)

#### Maryland SIP/Clean Air Interstate Rule

Proposed rule of the EPA would amend regulations under 40 CFR 52 to approve revisions to the Maryland SIP that implement requirements of the Clean Air Interstate Rule (CAIR). The revisions require certain electric generating units in the state to participate in the EPA-administered state CAIR cap-and-trade programs for SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season emissions. The proposal would approve the full SIP revisions, except for the 2009 NO<sub>x</sub> ozone season and NO<sub>x</sub> annual allocations, the 2009 set-aside allocations, and the Compliance Supplement Pool allocations. Comments are due Sept. 21, 2009. Contact: Marilyn Powers; EPA Region III; (215-814-2308)

### WATER QUALITY (74 Fed. Reg. 42,069)

#### Arizona Section 303(d) List

Notice of the EPA announces the availability of decisions identifying water quality limited segments and associated pollutants to be included on Arizona's 2006-2008 list of waters under Section 303(d) of the Clean Water Act. The notice specifies that the agency approved the state's listing of 54 waterbodies, associated pollutants, and associated priority rankings and disapproved the state's decisions not to list 23 water quality limited segments and associated pollutants and additional pollutants for five waterbodies already listed by the state. The notice requests comments on EPA's identification of these additional waters and associated pollutants and additional pollutants for waters already listed by the state for inclusion on Arizona's 2006-2008 Section 303(d) list. Comments are due Sept. 21, 2009. Contact: Susan Kydel; EPA Region IX, Water Division; (415-972-3106)

### WATER QUALITY (75 Fed. Reg. 42,073)

#### Gulf of Mexico Program Citizens Advisory Committee

Notice of the EPA announces a request for nominations of candidates for appointment to the Gulf of Mexico Program Citizens Advisory Committee. The committee, which provides guidance, advice, and support for the Gulf of Mexico Program, is composed of 25 members representing the areas of environment, business and industry, agriculture, fishing, and tourism in the five Gulf Coast states. The agency currently is seeking nominations of individuals from all sectors to represent the state of Alabama in the areas of agriculture and fisheries; Florida in the areas of fisheries and business/industry; Louisiana in the areas of agriculture and fisheries; and Mississippi in the areas of agriculture, fisheries, and tourism. Vacancies are expected to be filled by the end of calendar year 2009; a deadline for submitting

nominations is not specified. Contact: Gloria Car; EPA, Gulf of Mexico Program Office; (228-688-2421)

### WATER QUALITY (74 Fed. Reg. 42,068)

#### Louisiana/Total Maximum Daily Loads

Notice of the EPA announces the availability of the administrative record files for 12 total maximum daily loads (TMDLs) and their calculations prepared by EPA Region VI for waters listed in the Atchafalaya River and Mississippi River basins of Louisiana, under Section 303(d) of the Clean Water Act. The TMDLs were completed in response to a court order in *Sierra Club v. Clifford* (No. 96-0527, E.D. La.). Comments are due Sept. 21, 2009. Contact: Diane Smith; EPA Region VI; (214-665-2145)

### WATER QUALITY (74 Fed. Reg. 42,070)

#### Virginia/Marine Vessel Sewage Discharges

Notice of the EPA announces a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the navigable waters of the Broad Creek, Jackson Creek, and Fishing Bay watersheds in Middlesex County, Va. The notice also specifies that Virginia will completely prohibit the discharge of sewage, whether treated or not, from vessels in these watersheds. Contact: Michael Hoffmann; EPA Region III, Office of State and Watershed Partnerships; (215-814-2716)

### TOXIC SUBSTANCES (74 Fed. Reg. 42,069)

#### Toxicological Review of Ethyl Tertiary Butyl Ether

Notice of the EPA announces the availability of an external review draft document titled "Toxicological Review of Ethyl Tertiary Butyl Ether: In Support of Summary Information in the Integrated Risk Information System (IRIS)." The document addresses potential adverse human health effects that may result from chronic exposure to this chemical in the environment. Comments are due Oct. 19, 2009. Contact: Andrew Rooney; EPA, National Center for Environmental Assessment; (919-541-1492)

## Justice Department

### MISCELLANEOUS (74 Fed. Reg. 42,111)

#### Kansas and Nebraska/CWA and CERCLA Consent Decree

Notice of the Department of Justice announces a proposed consent decree in *United States v. Magellan Ammonia Pipeline* (Civil Action No. 02:09-cv-2425), lodged on Aug. 14, 2009, with the U.S. District Court for the District of Kansas. The consent decree concerns a settlement of claims under Clean Water Act Sections 301 and 311 and CERCLA Section 103 in connection with alleged discharges in Kansas and Nebraska of anhydrous ammonia from an ammonia pipeline owned and operated by the defendants. The complaint also alleged that the defendants failed to report the discharges in a timely fashion to the National Response Center. The consent decree would require the defendants to pay \$3.65 million for the discharges and reporting inadequacies, to perform injunctive measures, and to im-

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prove discharge detection and response. Comments are due Sept. 21, 2009. Contact: DOJ Consent Decree Library; (202-514-1547)

**Comment Deadlines on Major Regulations & Other Actions**

Toxic Substances	Department of Energy notice on the extension of the comment period for a July 2, 2009, notice regarding the environmental impact statement (EIS) for the long-term management and storage of elemental mercury generated within the United States, pursuant to the Mercury Export Ban Act (74 Fed. Reg. 31,723, 74 Fed. Reg. 36,684)	Aug. 24, 2009	Contact David Levenstein in the DOE Office of Regulatory Compliance at (301) 903-6500
Air Pollution	EPA proposed rule to adopt regulations under a new Subpart DDDDDDD to 40 CFR 63 to establish a NESHAP for prepared feeds manufacturing facilities (74 Fed. Reg. 36,980)	Aug. 26, 2009	Contact Jan King in EPA's Office of Air Quality Planning and Standards at (919) 541-5665
Air Pollution	EPA notice on the NESHAP for the wood building products surface coating industry (40 CFR 63, Subpart QQQQ)(74 Fed. Reg. 37,032)	Aug. 26, 2009	Contact John Shaefer in EPA's Office of Air Quality Planning and Standards at (919) 541-0296
Hazardous Waste	EPA notice on cooperative agreements and superfund state contracts for superfund response actions (74 Fed. Reg. 28,693)	Aug. 30, 2009	Contact David Yogi in EPA's Office of Solid Waste and Emergency Response at (703) 347-8835
Air Pollution	EPA notice on an extension of the comment period for a May 6, 2009, proposed rule that would amend regulations under 40 CFR 60, Appendices B and F, and 40 CFR 63, Subpart LLL, to revise the NESHAP for the portland cement manufacturing industry (74 Fed. Reg. 21,136, 47 Fed. Reg. 27,265)	Sept. 4, 2009	Contact Keith Barnett in EPA's Office of Air Quality Planning and Standards at (919) 541-5450
Air Pollution	EPA proposed rule to adopt regulations under a new Subpart BBBB BBB to 40 CFR 63 to establish a NESHAP for the chemical preparations area source category (74 Fed. Reg. 39,013)	Sept. 4, 2009	Contact Warren Johnson in EPA's Office of Air Quality Planning and Standards at (919) 541-5124
Toxic Substances	EPA notice on TSCA Section 12(b) requirements for notification of chemical exports (40 CFR 707, Subpart D) (74 Fed. Reg. 39,072)	Sept. 4, 2009	Contact Barbara Cunningham in EPA's Office of Pollution Prevention and Toxics at (202) 554-1404
Air Pollution	EPA notice on the NESHAP for mercury (40 CFR 61, Subpart E) (74 Fed. Reg. 39,696)	Sept. 8, 2009	Contact Learia Williams in EPA's Office of Compliance at (202) 564-4113
Air Pollution	EPA proposed rule to amend regulations under 40 CFR 58.10 and Appendix D to revise monitoring network design requirements for ozone to implement changes to the primary and secondary NAAQS for ozone set forth in a March 27, 2008, final rule (73 Fed. Reg. 16,436, 74 Fed. Reg. 34,525)	Sept. 14, 2009	Contact Lewis Weinstock in EPA's Office of Air Quality Planning and Standards at (919) 541-3661
Air Pollution	EPA proposed rule to amend regulations under 40 CFR 58.10 and Appendix D to revise monitoring network design requirements for ozone to implement changes to the primary and secondary NAAQS for ozone set forth in a March 27, 2008, final rule (73 Fed. Reg. 16,436, 74 Fed. Reg. 34,525)	Sept. 14, 2009	Contact Lewis Weinstock in EPA's Office of Air Quality Planning and Standards at (919) 541-3661
Drinking Water	EPA notice on a supplemental request for comments on additional approaches to analyzing data related to the Oct. 10, 2008, preliminary regulatory determination for the contaminant perchlorate (73 Fed. Reg. 60,262, 74 Fed. Reg. 41,883)	Sept. 18, 2009	Contact Eric Burneson in EPA's Office of Ground Water and Drinking Water at (202) 564-5250

### Comment Deadlines on Major Regulations & Other Actions – Continued

Energy	EPA proposed rule to adopt regulations under 40 CFR 1200 to set forth criteria for including major industrial and large commercial sources or sites in a Registry of Recoverable Waste Energy Sources, as required by the Energy Independence and Security Act (74 Fed. Reg. 36,430)	Sept. 21, 2009	Contact Katrina Pielli in EPA's Office of Atmospheric Programs at (202) 343-9610
Air Pollution	EPA notice on emission guidelines for large municipal waste combustors constructed on or before Sept. 20, 1994 (40 CFR 60, Subpart Cb) (74 Fed. Reg. 36,696)	Sept. 22, 2009	Contact Walt Stevenson in EPA's Office of Air Quality Planning and Standards at (919) 541-5264
Air Pollution	EPA notice on an extension of the comment period for a May 26, 2009, proposed rule to amend regulations under 40 CFR 80 to implement changes to the Renewable Fuel Standard Program for 2010 and beyond as required by the Energy Independence and Security Act (EISA) (74 Fed. Reg. 24,904, 74 Fed. Reg. 32,091)	Sept. 25, 2009	Contact Julia MacAllister in EPA's Office of Transportation and Air Quality at (734) 214-4131
Toxic Substances	Department of Health and Human Services, National Toxicology Program notice on the recommendations from an expert panel regarding the listing status for glass wool fibers in the Report on Carcinogens (RoC), Twelfth Edition (74 Fed. Reg. 40,598)	Sept. 28, 2009	Contact Ruth Lunn at DHHS, National Institute of Environmental Health Sciences, at (919) 316-4637
Water Pollution	EPA notice on approval of state coastal nonpoint pollution control programs (74 Fed. Reg. 38,182)	Sept. 29, 2009	Contact Don Waye in EPA's Office of Wetlands, Oceans, and Watersheds at (202) 566-1170
Radioactive Waste	Nuclear Regulatory Commission proposed rule to amend environmental protection regulations under 10 CFR 51.14, 51.53, 51.71, 51.95, and Appendix B, Table B-1, to update the commission's 1996 findings on environmental impacts related to the renewal of a nuclear power plant's operating license (74 Fed. Reg. 38,117)	Oct. 14, 2009	Contact Jason Lising in NRC's Office of Nuclear Reactor Regulation at (301) 415-3220
Endangered Species	U.S. Fish and Wildlife Service notice of a 90-day finding on 38 species from a petition to amend regulations under 50 CFR 17 to list 206 species in the U.S. mountain-prairie region as threatened or endangered under the Endangered Species Act (74 Fed. Reg. 41,649)	Oct. 19, 2009	Contact Ann Carlson in the USFWS Mountain-Prairie Regional Ecological Services Office at (303) 236-4264





BNA

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# Electronic Resources

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## INTERNET SOURCES

Listed below are the addresses of World Wide Web sites consulted by editors of BNA's Daily Environment Report and also WWW sites for official government information.

### Environmental Protection Agency

<http://www.epa.gov>

### Environmental Appeals Board

<http://www.epa.gov/boarddec/>

### Department of Agriculture

<http://www.usda.gov>

### Department of Energy

<http://www.doe.gov/>

### Department of the Interior

<http://www.doi.gov>

### Department of Justice

<http://www.usdoj.gov>

### Minerals Management Service

<http://www.mms.gov>

### Office of Surface Mining

<http://www.osmre.gov/osm.htm>

### U.S. Geological Survey

<http://www.usgs.gov>

### U.S. Army Corps of Engineers

<http://www.usace.army.mil>

### Congressional Record

[http://www.access.gpo.gov/su\\_docs/aces/aces150.html](http://www.access.gpo.gov/su_docs/aces/aces150.html)

### Federal Register

[http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html)

### Federal Register Table of Contents

[http://www.access.gpo.gov/su\\_docs/aces/fr-cont002.shtml](http://www.access.gpo.gov/su_docs/aces/fr-cont002.shtml)

### Code of Federal Regulations

<http://www.access.gpo.gov/nara/cfr/index.html>

### GPO Access Databases

<http://www.gpoaccess.gov/databases.html>

### GPO Access Searching Tips

<http://www.ll.georgetown.edu/wtaylor/gposrch.html>

### The Federal Web Locator

<http://www.lib.auburn.edu/madd/docs/fedloc.html>

### University of Michigan Documents Center Federal Government Resources on the Web

<http://www.lib.umich.edu/libhome/Documents.center/federal.html>

### White House

<http://www.whitehouse.gov/WH/Welcome.html>

### Thomas

<http://thomas.loc.gov>

### U.S. House of Representatives

<http://www.house.gov>

### U.S. Senate

<http://www.senate.gov>

### U.S. Code

<http://law.house.gov/usc.htm>

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BNA publishes other information products for professionals in a variety of electronic formats including the titles listed below.

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<http://www.bna.com/products/ens/chem.htm>

### Environment Reporter

<http://www.bna.com/products/ens/ercr.htm>

### International Environment Reporter

<http://www.bna.com/products/ens/iner.htm>

### Occupational Safety & Health Reporter

<http://www.bna.com/products/ens/oshr.htm>

### Toxics Law Reporter

<http://www.bna.com/products/lit/txlr.htm>

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