



BNA, INC.

DAILY ENVIRONMENT



NUMBER 134

REPORT

THURSDAY, JULY 16, 2009

HIGHLIGHTS

Boxer Says Commerce, Finance Committees Likely to Mark Up Climate Bill
Senate Environment and Public Works Chairman Boxer says the Senate Finance Committee and Commerce Committee are likely to mark up provisions of climate legislation she will introduce in September, while the Foreign Relations and Agriculture committees will work out agreements without markups. Boxer tells BNA that Senate Commerce, Science, and Transportation Chairman Rockefeller and Finance Chairman Baucus are each “going to do their own piece” of the climate bill in their committees. She says Foreign Relations Chairman Kerry and Agriculture Chairman Harkin are “working with us” to have their concerns addressed directly in her bill. The Senate Energy and Natural Resources Committee already has agreed on energy provisions that are expected to be included in the bill. Boxer says she will introduce climate change legislation, which is expected to include mandatory caps on U.S. greenhouse gas emissions, shortly after the Senate returns from a monthlong recess the week of Sept. 8. **A-9**

Congress Considers Tax Support for Proposed Clean Water Trust Fund
Rep. Blumenauer defends his proposal for new excise and corporate taxes to finance water infrastructure by telling a congressional hearing that local water fees are threatening to expand greatly from levels that in some communities already are “crushing.” Blumenauer introduced the Water Protection and Reinvestment Act (H.R. 3202) to establish a clean water trust fund as a mechanism for increasing federal financial assistance for drinking water and wastewater infrastructure. Blumenauer’s bill has support from the National Association of Clean Water Agencies, some environmental groups, and some contractor associations that would do the work of upgrading infrastructure. But at the hearing before the House Transportation and Infrastructure Subcommittee on Water Resources and Environment, the bill draws skepticism from the National Association of Water Companies, the American Water Works Association, and the American Beverage Association. **A-10**

Sotomayor Declines Invitation to Criticize Supreme Court’s Rapanos Ruling
Judge Sonia Sotomayor, on the third day of her confirmation hearing, avoids an invitation to criticize current Supreme Court justices on their handling of the key issue of Clean Water Act jurisdiction over wetlands in *Rapanos v. United States*. At the nomination hearing before the Senate Judiciary Committee, Sen. Cardin says jurisdictional confusion stemming from *Rapanos* and *Solid Waste Agency v. U.S. Army Corps of Engineers* has “forced the EPA to drop more than 500 cases against alleged polluters.” Sotomayor declines the invitation to criticize the current court for its environmental rulings. **A-12**

Senate Committee Approves Nominations of Perciasepe, Hooks for EPA
The Senate Environment and Public Works Committee unanimously approves the nomination of Robert Perciasepe to be deputy administrator of EPA and Craig Hooks to be assistant EPA administrator for administration and re-

STATE NEWS

FLORIDA: Gov. Crist says state wildlife officials will take steps to control pythons in the Everglades and on other state lands. He says the spread of the Burmese python, a nonnative species classified in the state as a reptile of concern, into Everglades National Park and other areas is a threat. A day earlier, U.S. Sen. Nelson had said an estimated 100,000 or more pythons roam the Everglades and urged Interior Secretary Salazar “to kill as many of the menacing snakes as possible” in the Everglades park. **A-4**

OREGON: Gov. Kulongoski signs a bill to cap at \$180 million the cost to Oregon PacifiCorp ratepayers of removing four hydroelectric dams on the Klamath River. The removal project, which could cost an estimated \$450 million, is part of an effort to restore endangered Klamath coho salmon, which are listed as threatened under the Endangered Species Act. **A-9** . . . He also signs a bill to ban most open field burning next year with a few exceptions. **A-8**

AUDIOCONFERENCE

CLIMATE CHANGE: BNA will host an audioconference July 22 on climate change issues affecting water. Information is available at <http://ehsstore.bna.com/Pagemanager.aspx?pageId=8483>.

HIGHLIGHTS

Continued from previous page

sources management. The committee approves both nominations without any debate, despite earlier objections to the Perciasepe nomination by Sen. Voinovich, a committee member. He raises no objection to the committee's approval of the Perciasepe nomination. **A-2**

Pesticide Industry to Challenge Settlement in Endangered Species Case

Two pesticide industry groups—CropLife America and Responsible Industry for a Sound Environment (RISE)—object to a proposed settlement by EPA of an Endangered Species Act lawsuit that would include studying the impacts of 74 pesticides on 11 protected species in the San Francisco Bay area. “If accepted by the court the proposed settlement . . . would impose interim restrictions on the use of crop protection and specialty pesticide products in and adjacent to endangered species habitat in the San Francisco Bay Area,” CropLife America and RISE say. “These restrictions would be imposed prior to EPA effects determinations, even though no evidence of harm has been found from the use of these products to any of the species at issue.” **A-8**

U.S., China to Establish Center to Coordinate Research on Clean Energy

In Beijing, Energy Secretary Chu says the United States and China will develop a Clean Energy Research Center to facilitate cooperation on energy efficiency in buildings, clean energy vehicles, and clean coal technology, including carbon capture and storage. The countries pledge an initial investment of \$15 million, to be equally divided between the two. **A-1**

Court Blocks Lawsuit Over Pollution From Oil Wells Plugged Decades Ago

The U.S. Court of Appeals for the Fifth Circuit rules that under Louisiana law, an oil company's failure to clean up contamination from a well it plugged decades ago is not a continuing physical invasion, meaning a lawsuit is barred by a release the parties signed in 1973. While the unlawful invasion of another's property by hazardous waste can constitute continuing trespass under Louisiana law, the court says, it is necessary to distinguish between “acts of trespass that terminate and those that continue.” In this case, the court says, the only contamination on the plaintiff's property is “the continuing effect of prior conduct.” **A-7**

California Tank Farm Agrees to Pay \$2.5 Million for Filing False Reports

The U.S. District Court for the Northern District of California orders the owner and operator of a Selby, Calif., tank farm to pay \$2.5 million for submitting annual reports that falsely certified compliance with its Clean Air Act operating permit. At a sentencing hearing, Shore Terminals LLC admitted it had provided regulators with false emissions data, according to federal prosecutors. The company pleaded guilty to four felony counts of making false statements to government officials. The court orders Shore Terminals to pay a \$1.75 million fine and to spend another \$750,000 on air quality projects in Contra Costa and Alameda counties. **A-8**

Report Says State Policies Focus on Chemical Ingredients in Products

The focus of state chemical policies is increasingly changing from “end-of-the-pipe” waste concerns to product ingredient concerns, according to an analysis by the Lowell Center for Sustainable Production. It says public concern about chemicals in products, business concerns about the health effects of chemicals in the products they sell, and increased attention to chemicals in Europe, Canada, and other regions is spurring this transition. The center analyzes state and local legislation and executive branch policies that have been enacted or debated since 1990. **A-3**

Daily Environment Report

PRESIDENT AND CHIEF EXECUTIVE OFFICER:

PAUL N. WOJCIK

PUBLISHER AND EDITOR-IN-CHIEF:

GREGORY C. McCAFFERY

EXECUTIVE EDITOR: AUDREY C. HIPKINS

MANAGING EDITOR: Larry E. Evans

ASSISTANT MANAGING EDITORS: John Sullivan, Terence Hyland

COPY EDITORS: Michael C. Davis, Patricia Henry, Susan McNerney, James Stimson, Frank White III, Mark A. Williams

REPORTERS: Andrew Childers, Steven D. Cook, Leora Falk, Lynn Garner, Alan Kovski, Ari Natter, Bill Pritchard, Pat Rizzuto, Linda Roeder, Deal Scott, Charlotte Tucker, Janice Valverde

LEGAL EDITORS: John Stam, Robert C. Cook

EDITORIAL ASSISTANT: Gloria R. Onley

CONTRIBUTING EDITORS: Paul Albergo, Kevin Fetherston, Chuck Gibbons, Mary Ann Greena Manley, Rebecca Pearl McCracken, Steven Patrick, Gary Weinstein

CORRESPONDENTS: Paul Connolly, *Chief*; Michael Triplett, *Asst. Chief*; *Albany*, Gerald Silverman; *Atlanta*, Barney Tumey; *Austin*, Nancy Moore; *Boston*, Martha W. Kessler, Rick Valliere; *Chicago*, Michael J. Bologna; *Thomas D. Wilder*; *Cincinnati*, Bebe Raupe; *Denver*, Tripp Baltz; *Houston*, Susanne Pagano; *Lansing, Mich.*, Nora Macaluso; *Los Angeles*, Carolyn Whetzel; *New York*, John Herzfeld; *Philadelphia*, Lorraine McCarthy; *Phoenix*, William Carlile; *Portland, Ore.*, Tom Alkire; *Raleigh, N.C.*, Andrew Ballard; *Sacramento*, Laura Mahoney; *Seattle*, Nancy Netherton; *St. Louis*, Christopher Brown; *St. Paul, Minn.*, Mark Wolski; *Tampa, Fla.* Drew Douglas; *Beijing*, Jason Subler; *Brussels*, Stephen Garner; *London*, Ali Qassim; *Mexico City*, Ioan Grillo; *Geneva*, Daniel Pruzin; *Ottawa*, Peter Menyasz; *Rome*, Eric J. Lyman; *Tokyo*, Toshio Aritake

PRODUCTION: Ha Thien Nguyen

BNA

1801 South Bell Street

Arlington, VA 22202

Telephone: (703) 341-3000

Fax: (703) 341-1678

Correspondence concerning editorial content should be directed to the managing editor at the address above or by e-mail at environmentalnews@bna.com.

For customer service, call 800-372-1033, or e-mail customer-care@bna.com.

In This Issue

News / Page A-1

Calendar / Page C-1

Regulatory Agenda / Page D-1

NEWS

AIR POLLUTION EPA rule would require rural ozone monitoring A-13

Governor signs measure to restrict most open field burning in Oregon A-8

BUDGET House clears amendments to boost funding for fuel cell program in energy, water bill A-11

CLIMATE CHANGE Commerce, Finance committees likely to mark up Senate climate bill, Boxer says A-9

Developing countries must share target for emissions cut, Swedish leader says A-7

U.S., China agree to establish center to coordinate research on clean energy A-1

DRINKING WATER Congress considers federal tax support for proposed clean water trust fund A-10

ENDANGERED SPECIES Pesticide industry groups to challenge EPA proposed settlement for lawsuit A-8

ENERGY Governor signs bill to cap ratepayer costs for removal of four Klamath River dams A-9

ENFORCEMENT San Francisco area tank farm must pay \$2.5 million in settlement for false reports A-8

EPA Senate environment committee approves nominations of Perciasepe, Hooks for EPA A-2

EVERGLADES Florida to initiate bounty system to control pythons in Everglades, other state lands A-4

GENERAL POLICY Sotomayor sidesteps invitation to criticize current court on definition of wetlands A-12

HAZARDOUS WASTE Fifth Circuit says pollution from wells plugged decades ago is not a continuing tort A-7

INSURANCE Court finds no duty to defend absent showing of sudden, accidental release A-5

PESTICIDES Contempt hearing set for attorney accused of filing fraudulent exposure claims A-12

EU ministers back one pesticide, ban another, defer decisions on three more A-6

SUPERFUND River pollution claims against railroads survive narrower arranger liability rule A-4

TOXIC SUBSTANCES EU issues baseline study to help monitor how REACH legislation might reduce risks A-4

State chemical policies increasingly focused on chemicals in products, report says A-3

WATER POLLUTION Water temperature becomes key issue for FERC relicensing of Hells Canyon dam A-2

CALENDAR

CONGRESS Legislative Calendar..... C-1

PRESIDENT President’s Calendar C-9

REGULATORY AGENDA

COMMENT DEADLINES Due dates for comments on pending rules and other actions D-4

JULY 16 FEDERAL REGISTER Entries from today’s table of contents D-1

JULY 15 FEDERAL REGISTER Previous day’s entries with page citations D-2

TABLE OF CASES

Center for Biological Diversity v. EPA (N.D. Cal.) A-8

Employers Insurance of Wausau v. Neal Feay Co. (Cal. Ct. App.) A-5

Frontier Communications Corp. v. Barrett Paving Materials Inc. (D. Me.) A-4

Kling Realty Co. v. Chevron USA Inc. (5th Cir.) A-7

Mejia v. Dole Food Co. (Cal. Super. Ct.) A-12

Tellez v. Dole Food Co. (Cal. Ct. App.) A-12

United States v. Shore Terminals LLC (N.D. Cal.) A-8

Documents Available

Copies of documents referenced in this issue are available for a fee (\$27 for up to 200 pages) from BNA PLUS. To order, call 800 372-1033; fax 703 341-1643; or e-mail bnaplus@bna.com.

News

Climate Change

U.S., China Agree to Establish Center To Coordinate Research on Clean Energy

BEIJING—The United States and China will jointly develop a Clean Energy Research Center to facilitate cooperation on new technology, U.S. Energy Secretary Steven Chu said July 15.

In Beijing this week to discuss clean energy cooperation and efforts to combat climate change, Chu announced the plans after he and other U.S. Department of Energy officials met with Liu Yandong, president of the Chinese Academy of Sciences; Minister of Science and Technology Wan Gang; and Zhang Guobao, administrator of China's National Energy Administration (NEA).

"The U.S. and China are two great nations, and clean energy is one of the great opportunities of our time," said Chu. "Working together, we can accomplish more than acting alone."

The countries have pledged an initial total investment of \$15 million, to be equally divided between the two. The center will have headquarters in each country, though locations have yet to be determined. The center is expected to be formally launched by the end of the year, DOE officials said.

According to a DOE statement, teams of scientists from both countries would cooperate on research into energy efficiency in buildings, clean energy vehicles, and clean coal technology, including carbon capture and storage.

Shared Risks From Climate Change. Before striking the agreement with Chinese officials, Chu spoke to scientists, faculty, and students at Tsinghua University about growing global competition for natural resources, issues of long-term stability tied to sustainable energy use, and the risks of climate change for both developed and developing countries. Both of Chu's parents are Tsinghua graduates and an aunt taught chemistry there.

Chu mainly focused on threats both countries face from climate change such as rising sea levels, increased number of extreme heat waves, more violent weather, and loss of agricultural productivity.

Chu called on China to do more to address its carbon dioxide emissions. He said the Chinese government has made strides in reducing its energy intensity per unit of gross domestic product, putting in place "aggressive" fuel economy standards, and making greater commitments to renewable energy.

"What the U.S. and China do will determine the fate of the world," said Chu. Because the two countries together account for 42 percent of world greenhouse gas emissions, they have "an opportunity and obligation" to work together on technologies that address climate change, said Chu.

While the United States and the rest of the developed world have created the problem of carbon emissions, Chu said this does not give developing countries an excuse to shirk responsibility for future emissions.

"In the next 30 years, the amount of carbon dioxide emitted by China will be more than what the U.S. has emitted in its whole existence. Yes, the developed world did make it a problem, but the developing world will make it much worse," he said.

Chu told the audience that the United States and China should work together on energy efficiency in buildings and new technology that will create "smart buildings." He pointed out that China is expected to add about 300 billion square feet of building space in the next 15 years, or about the total amount currently in the United States.

Commerce Secretary Calls for Innovation. Accompanying Chu on the China visit, U.S. Commerce Secretary Gary Locke told members of the American Chamber of Commerce in Beijing that as a Chinese-American, he is proud of China's long history of innovation. That drive, he said, is needed now as the United States and China attempt to coordinate their strategies to limit climate change.

"There is so much to be proud of, and I believe that pride will ultimately guide China's decisions on climate change," Locke said. "Fifty years from now, it does not want the world community to lay blame for environmental catastrophe at the feet of China."

Locke noted that nearly 40 percent of China's economic stimulus spending is targeted at "green" projects.

"China has already adopted the most aggressive energy efficiency program in the entire world, and they are on target to exceed many of their renewable energy adoption goals," he said.

"But as a sign of just how far we have to go, China and the United States still get about three-quarters of their energy from fossil fuels," among the major contributors to global warming.

Upon their arrival July 14, Chu and Locke met with Zhang Ping, chairman of the National Development and Reform Commission (NDRC), and Zhang Guobao from the NEA. They discussed carbon capture and storage technology, renewable energy, science education, and how developing clean energy could boost economic recovery in both countries, DOE officials said.

BY MICHAEL STANDAERT AND KATHLEEN McLAUGHLIN

EPA**Senate Environment Committee Approves Nominations of Perciasepe, Hooks for EPA**

The Senate Environment and Public Works Committee on July 15 unanimously approved the nomination of Robert Perciasepe to be deputy administrator of the Environmental Protection Agency and Craig Hooks to be assistant EPA administrator for administration and resources management.

The committee gave voice-vote approval to both nominations without any debate, despite a hold placed on the Perciasepe nomination by Sen. George Voinovich (R-Ohio), a committee member.

Voinovich raised no objection to the committee's approval of the Perciasepe nomination.

In a July 13 letter to EPA Administrator Lisa Jackson, Voinovich said he was placing the hold on the nomination because he wanted more information from EPA on the American Clean Energy and Security Act (H.R. 2454), passed by the House June 26. In the letter, he said the hold was not a reflection on Perciasepe's ability to perform the job of deputy administrator (132 DEN A-1, 7/14/09).

"He's a good nominee," Voinovich told BNA July 15. "I'm putting the hold on him until I get them to agree to give us the information that we need, and it's not unreasonable."

Any senator may place a hold on any nomination or any pending business of the Senate. That generally prevents the Senate from moving a measure forward for consideration on the floor; however, the Senate usually tries to work out the objections before it proceeds.

EPA said June 23 that its analysis shows the bill would cost the average household between \$80 and \$111 annually. Other analyses have predicted much higher costs.

Good Numbers Needed to Gauge Bill's Impact. In his letter to Jackson, Voinovich said EPA erred in failing to explore the cumulative effects of the House climate bill's cap-and-trade program, renewable energy mandate, and demand-reduction requirements. He said EPA excluded major portions of the bill from its analysis.

"The problem that you have is you've got one group saying it's going to cost a postage stamp. You've got the Heritage [Foundation] saying it's going to cost \$3,000 per person," Voinovich said July 15. "We've got to have good numbers so that you can figure out what impact this bill's going to have on ratepayers and on the economy of our country."

The Heritage Foundation has put out an analysis saying that the House bill would cost a family of four an average of \$2,979 annually from 2012 to 2035.

Voinovich said he has not gotten a response from EPA.

"We will review the letter and respond accordingly," EPA said in a statement. An EPA official said the agency is still waiting to learn from Voinovich precisely what information he wants.

In his letter, Voinovich said, "I will be working over the next few days to provide your agency a more detailed summary of my concerns and request for a refined analysis."

Perciasepe was nominated May 19 after Jonathan Z. Cannon withdrew his nomination in March. Perciasepe currently is chief operating officer of the Audubon Society. During the Clinton administration, he was assistant EPA administrator for water and then assistant administrator for air and radiation.

Hooks, who is acting assistant administrator for administration and resources management, has spent 21 years at EPA.

BY STEVEN D. COOK

Water Pollution**Water Temperature Becomes Key Issue For FERC Relicensing of Hells Canyon Dam**

PORTLAND, Ore.—Water temperature in the Snake River below the Hells Canyon Dam has become a key issue in Idaho Power Co.'s application for relicensing before the Federal Energy Regulatory Commission.

The states of Idaho and Oregon, along with the Environmental Protection Agency, are currently reviewing applications for Clean Water Act Section 401 certifications as part of the relicensing process, state and federal officials told BNA in mid-July. EPA, which usually does not deal with state Section 401 certifications, has been especially critical of Idaho Power's application on the water temperature issue.

The 50-year license for the three-dam Hells Canyon Hydroelectric Project on the Snake River expired in 2005, and the company is now operating on a one-year license. The Boise-based utility filed an application for a new, long-term license in 2003, and FERC adopted a final environmental impact statement on Aug. 31, 2007. Both states must approve Clean Water Act Section 401 certifications because the middle section of the Snake River is the boundary between the two states.

The water temperature standard is routinely violated below the Hells Canyon Dam in October, when salmon are spawning, said Paul DeVito, natural resources specialist at the Oregon Department of Environmental Quality.

Three populations of salmon and one population of steelhead are listed under the Endangered Species Act. Migrating anadromous fish are blocked at the base of the Hells Canyon Dam because the high dam does not allow any fish passage.

State Agreement on Temperature. Oregon and Idaho have a joint Total Maximum Daily Load agreement on the Snake River including a maximum water temperature standard of 13 degrees Celsius (55 degrees Fahrenheit), said Doug Conde, deputy Idaho attorney general, who is working on the Hells Canyon Dam relicensing.

Water in the large reservoirs at the Hells Canyon Dam heats up during the summer, and when it is released, the water temperature in the river often exceeds the standard, Conde told BNA on July 13.

In its Section 401 water certification application, Idaho Power has proposed a watershed approach whereby riparian improvements—such as shade trees—would help reduce temperatures in the upstream tributaries. Ostensibly, this cooler water would flow into the reservoirs, and the water released over Hells Canyon

Dam would be cooler, DeVito said July 13. It is unclear, however, how effective these watershed improvements would be, he said.

EPA Involved in 401 Certifications, Too. Ordinarily, EPA does not get involved in state Section 401 certifications, but in this case the federal agency is involved. Under the Clean Water Act, if water quality in one state is affected by another state, then EPA can monitor the pending certification on behalf of the interests of the downstream state, said John Palmer, senior policy adviser on endangered species and clean water issues at EPA's Region 10 headquarters in Seattle.

In this case, the Snake River crosses the Washington boundary some 90 miles downstream of Hells Canyon Dam. In the fall, the water that flows out of the dam can be warm all the way into Washington state, where there are four federal dams on the lower section of the river that have their own problems with water temperature, Palmer said July 14.

Idaho Power's Section 401 application supplement for temperature is far short of what is needed to lower water temperatures below Hells Canyon Dam, Palmer said in a recent letter to state regulators.

First, under the current proposal, Washington's temperature standard is likely to be violated during certain weeks in the early fall, according to the letter.

Second, the company's proposal "does not provide any modeling or technical analysis demonstrating that upstream mitigation measures . . . will result in any reduction in temperatures downstream" of the project, Palmer said in the seven-page letter.

Control Structure Suggested. Without any additional data on the watershed approach, the company may want to consider a temperature control structure some other dams operators have used that have proven to be effective in reducing the temperature of water coming out of the reservoirs, he said.

It is unclear what such a structure would cost, but it would probably be many times the cost of implementing a watershed approach, which is now estimated at \$3 million annually, according to state regulators.

Idaho Power plans to stick with its watershed approach to reduce water temperatures, Russ Jones, a corporate spokesman at the company, said. The company is not considering building a temperature control structure at this time, he said. The firm hopes that it will be able to get its Section 401 certification by May 2010. A decision by FERC on the relicensing would not be approved until at least 2011, he said.

The three dams were built between the mid-1950s and the late 1960s and generate 1,167 megawatts of power. The other two dams, Oxbox Dam and Brownlee Dam, are upstream of Hells Canyon Dam. The project supplies about 40 percent of the company's total annual generation.

BY TOM ALKIRE

Toxic Substances

State Chemical Policies Increasingly Focused On Chemicals in Products, Report Says

The focus of state chemical policies is increasingly changing from "end-of-the-pipe" waste concerns to product ingredient concerns, according to an analysis by the Lowell Center for Sustainable Production published July 14.

Public concern about chemicals in products, business concerns about the health effects of chemicals in the products they sell, and increased attention to chemicals in Europe, Canada, and other regions is spurring this transition, the analysis said.

The document, *State Leadership in Formulating and Reforming Chemicals Policy*, analyzes state and local legislation and executive branch policies that have been enacted or debated since 1990. The Lowell Center is part of the University of Massachusetts at Lowell.

The analysis examines state actions on chemicals in a variety of "policy categories." The categories include restrictions on single chemicals, data collection requirements, assessment of alternative chemicals, and environmentally preferable purchasing. States that already have enacted such policies and those that have proposed them are listed by category.

Bans, Restrictions Most Common Policies. State policies that ban or severely restrict specific chemicals are the most prominent type, the report said. Among the chemicals that have been banned or restricted by states are mercury, polybrominated diphenyl ethers (PBDEs), and bisphenol A.

Joel Tickner, who directs the Chemicals Policy Initiative at the Lowell Center, told BNA July 15 that as he helped write the report he was struck by the sheer number of chemical restrictions being proposed by states. The restrictions illustrate state frustration at the slow pace of federal chemical regulation, he said.

The increase in chemical bans or restrictions is increasing despite the economic downturn, he added.

The report said, however, that states are "moving from a reactive approach of restricting a few chemicals of concern without considering alternatives to one that stimulates application of safer alternatives to problem chemicals."

As they do so, Tickner said, states realize their resources are best combined on such efforts.

At least 10 states have endorsed or are discussing the concept of an interstate clearinghouse for chemical information to promote safer chemicals in consumer products, he said.

For example, in April 2008, Maine's Gov. John E. Baldacci (D) signed into law the Act to Protect Children's Health and the Environment from Toxic Chemicals in Toys (Public Law 643) that authorized the state to participate in such a clearinghouse (82 DEN A-8, 4/29/08).

Other states discussing a clearinghouse include Washington, Oregon, New York, and Massachusetts, Tickner said.

Despite the evidence that state chemical policies are changing, the study said states still have a long way to go.

One reason why, the report said, is "[t]raditional approaches to chemicals regulation involving restrictions

of a few single chemicals are generally easier from an administrative perspective.”

In addition, certain tasks such as toxicity testing and the development of tools and approaches to analyze chemicals that might substitute for those of concern may be more effective on a federal level, the report said.

The Lowell Center analysis was based on a database of state chemical policy actions that was launched in October 2008 (202 DEN A-7, 10/20/08).

BY PAT RIZZUTO

State Leadership in Formulating and Reforming Chemicals Policy is available at <http://www.chemicalspolicy.org/downloads/StateLeadership.pdf>.

Everglades

Florida to Initiate Bounty System to Control Pythons in Everglades, Other State Lands

TAMPA, Fla.—Florida Gov. Charlie Crist (R) July 15 said state wildlife officials would take steps to control pythons in the Everglades and on other state lands.

Crist said the spread of the Burmese python, a non-native species classified in the state as a reptile of concern, into Everglades National Park and other areas was a threat.

“It is important that we take action now to ensure a safe and healthy future for Florida’s native wildlife and habitats in the Everglades,” Crist said in a written statement.

Crist’s action came a day after U.S. Sen. Bill Nelson (D-Fla.) said an estimated 100,000 or more pythons roam the Everglades and urged Interior Secretary Ken Salazar to allow deputized agents and volunteers into the Everglades National Park “to kill as many of the menacing snakes as possible” in a special winter hunt.

Nelson’s call came after a pet python strangled a toddler in central Florida. In February, Nelson introduced S. 373, a bill that would amend the federal criminal code to add pythons as an injurious species prohibited from import into the United States.

Bounty System. Under the Florida plan, the state’s Fish and Wildlife Conservation Commission—in consultation with the South Florida Water Management District and federal officials in Everglades National Park and Big Cypress National Preserve—is to implement a permitting program July 17 that Crist said ultimately could lead to a bounty system on the large constrictors.

The program initially is to focus on state lands south of Lake Okeechobee, according to Crist’s statement.

The permitting program is to be carried out by volunteer herpetology experts, and captured Burmese pythons would be killed for the value of their meat and hides.

The program is to run through the winter, then reviewed for effectiveness, the statement said.

BY DREW DOUGLAS

More information on the bounty system to control pythons in the Everglades is available at http://www.myfwc.com/WILDLIFEHABITATS/Nonnative_BurmesePython.htm.

Toxic Substances

EU Issues Baseline Study to Help Monitor How REACH Legislation Might Reduce Risks

BRUSSELS—Eurostat, the European Union’s statistical service, published July 9 a “baseline survey” that it said would help in monitoring the effectiveness of REACH chemicals legislation.

According to Eurostat, REACH will greatly expand the pool of knowledge about the hazardous properties of substances, but because the effects on human health and the environment of the majority of existing chemicals are not sufficiently understood, it will be difficult to accurately measure the decrease in risks that REACH might bring about. REACH stands for the registration, evaluation, and authorization of chemicals.

The objective of the baseline study is to provide a “system of indicators” that will answer questions on how risks may change after implementation of REACH, and how exposure scenarios and information on the hazardous properties of substances can be qualified, Eurostat said.

According to the study, *The REACH Baseline Study: A Tool to Monitor the New EU Policy on Chemicals—REACH*, the impact of REACH can be best understood by tracking the effect of limited sets of substances on workers, consumers, and the environment, rather than by broad assessment of the “real risks of chemicals to humans and the environment.”

BY STEPHEN GARDNER

The Eurostat study, The REACH Baseline Study: A Tool to Monitor the New EU Policy on Chemicals—REACH, is available at http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-RA-09-003/EN/KS-RA-09-003-EN.PDF.

Superfund

River Pollution Claims Against Railroads Survive Narrower Arranger Liability Rule

The U.S. Supreme Court’s recent narrowing of superfund arranger liability does not shield a company from liability for arranging for the disposal of hazardous substances via the public sewer system, a federal district court held July 7 (*Frontier Communications Corp. v. Barrett Paving Materials Inc.*, D. Me., No. 07-113, 7/7/09).

Two railroad companies argued that they cannot be held liable for arranging for the disposal of tar, coal, and other waste into a Maine river because of the Supreme Court’s newly scaled-back definition of arranger liability.

But the U.S. District Court for the District of Maine held that the allegations against the companies go far beyond a party’s mere knowledge of spills and leaks of hazardous substances—the alleged acts of disposal for which the high court rejected the application of arranger liability in *Burlington Northern & Santa Fe Railway Co. v. United States*, 129 S. Ct. 1870, 68 ERC 1161 (2009); (84 DEN A-1, 5/5/09).

Instead, the federal district court held, in this instance the Frontier Communications Corp. alleged that

combined Guilford Transportation Industries Inc. and the Maine Central Railroad Co. operated a rail yard on the banks of a river for more than 100 years.

Frontier did alleged that numerous spills of tar and other contaminants contributed to the pollution of the Penobscot River's Dunnett's Cove. But it went much further, also alleging that during a good portion of the time the rail yard was in operation, up until the 1960s, a city-run sewer system was used to get rid of some of the hazardous substances-containing waste generated by the rail yard's activities.

The sewer system, Frontier alleged, drained directly and without treatment into the portion of the Penobscot River known as Dunnett's Cove.

Such allegations, the court held, are enough to survive a Rule 12(b)(6) dismissal motion related to arranger liability under 42 U.S.C. 9607(a)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act even post-*Burlington*.

"In this case, the allegations contained in the Complaint exceed the 'mere knowledge that spills and leaks continued to occur' (what the *Burlington* Court specifically found to be an insufficient basis for arranger liability)," the district court held. "Rather, in addition to alleging negligent disposal via spills, the Complaint also alleges disposal via sewer lines located on the property."

"To the extent that the sewer system, which discharged untreated sewage into Dunnett's Cove, was owned and operated by the City of Bangor, the Railroad's disposal of tar or other PAH-containing materials via the sewer would fall well within the confines of arranger liability—even after *Burlington*," the court found.

A Century of Rail Operations. In Frontier's complaint against Guilford and Maine Central, the company alleged that a rail yard operated between 1862 and 1981 by Maine Central and after 1981 by Guilford contributed to Dunnett's Cove's tar and polycyclic aromatic hydrocarbon (PAH) contamination.

The rail yard, which comprised a 30-acre site along the river and near the cove, allegedly was used for the loading and unloading of cargo including oil, tar, coal, and wood and paper pulp. For many years, Frontier alleged, coal was stored in large tanks on the property and soil tests from the property showed the property was contaminated with tar and other PAH-containing materials.

In addition to alleging arranger liability, Frontier, who said it had spent money cleaning up Dunnett's Cove, also alleged that Guilford and Maine Central can be held liable as owners and operators of a facility that disposed of hazardous substances.

The court also rejected the two companies' argument that Frontier's claims related to owner and operator liability under 42 U.S.C. 9607(a)(2) should be dismissed at this early stage of the litigation.

Judge George Z. Singal wrote the opinion.

John S. Hahn with Mayer Brown in Washington, D.C., and others represented Frontier.

Eric L. Hirschhorn with Winston & Strawn in Washington, D.C., and others represented Guilford and Maine Central.

By STEVEN PATRICK

Insurance

Court Finds No Duty to Defend Absent Showing of Sudden, Accidental Release

An insurer has no duty to defend a policyholder from a pollution-related administrative claim or lawsuit when a policy contains a qualified pollution exclusion and the policyholder fails to show that a substantial cause of the pollution was a particular sudden and accidental pollutant release, a California appeals court held June 24 (*Employers Insurance of Wausau v. Neal Feay Co.*, Cal. Ct. App., 2d Civil No. B196754, 6/24/09).

A metal coating company argued that its insurer should be required to continue to defend it from an ongoing administrative action and counter claims in a lawsuit—both related to soil and groundwater contamination on the company's property—because the company's expert testified that it was at least possible that part of the contamination was the result of a "sudden and accidental" pollutant release.

The California Court of Appeal, Second Appellate District, rejected that argument, applying California law and holding in an unpublished opinion that under *State v. Allstate Insurance Co.*, 45 Cal. 4th 1008 [68 ERC 1440] (Cal. 2009), more is required than a mere "possibility" of coverage to continue to make an insurer defend a policyholder under a "sudden and accidental" exception to a pollution exclusion.

Instead, the appeals court said, a real "potential" for coverage, demonstrated by specific examples of past releases, must be demonstrated.

Holding that the Neal Feay Co. had not met that burden of proof, the California appeals court then agreed with a lower court that the company's insurer, the Employers Insurance of Wausau, no longer had to defend it from administrative proceedings initiated against the company by the California Regional Water Quality Control Board (RWQCB) and counter claims in a related lawsuit.

Rather than anything "sudden and accidental," the event that sparked the administrative action against Neal Feay was the company's dumping of hundreds of gallons of contaminated industrial wastewater into a public sewer system in 2002.

The appeals court also held that Employers Insurance of Wausau owed no indemnity duties to Neal Feay connected with either the RWQCB proceedings or the related lawsuit.

Wastewater Dumped in Sewer System. In 2002, employees of Neal Feay, a metal coating business located in Goleta, Calif., dumped about 400 gallons of wastewater contaminated with hexavalent chromium into the town's sewer system.

After the system backed up and flooded a neighboring property, a contractor of Neal Feay's contacted local officials, and the fire department responded by making the company investigate and clean up the resulting soil contamination.

While the company appealed the fire officials by removing 15 tons of contaminated soil, the incident was further referred to both the U.S. Attorney's Office and the RWQCB.

In 2003, Neal Feay pleaded guilty to both a felony and a misdemeanor criminal charge related to the wastewater dumping. The RWQCB also determined that the groundwater under Neal Feay's property was contaminated with various hazardous substances. The agency directed the company to further investigate the contamination and monitor area drinking wells.

In November 2003, Neal Feay asked Employers Insurance of Wausau, which issued primary policies to the company between 1979 and 1982 and an umbrella policy to it between 1981 and 1982, to defend it from RWQCB's administrative actions. The insurer at first refused but eventually, in June 2004, agreed to defend Neal Feay under a reservation of rights.

In 2004, Neal Feay filed suit against Applied Magnetics Corp. and other companies owning properties near Neal Feay's Goleta facility, alleging that those companies' operations had contributed to the contamination that was at the center of the RWQCB actions.

In counterclaims against Neal Feay, some of those companies said Neal Feay's 2002 wastewater dumping was the real source of the problem.

Trial Court Backs Insurance Company. In November 2004, Employers Insurance of Wausau filed a declaratory judgment action against Neal Feay, asking the court to declare it owed no defense or indemnity duties to the company related to either the RWQCB actions or the counterclaims in Neal Feay's lawsuit against its neighbors.

A trial court subsequently found in favor of Employers Insurance of Wausau, holding that because of pollution exclusions in the company's policies, the insurer owed no defense or indemnity duties to the company.

The court rejected the company's argument that "sudden and accidental" exceptions in the exclusions were triggered by, for example, its expert's testimony that small quantities of chemicals may have spilled over the years while chemicals were being moved from one part of the company's facility to another.

The lower court also discounted Neal Feay's testimony in regards to how such events as a fire in 1975 and an earthquake in 1978 might have caused some chemical releases.

Neal Feay appealed.

Mere Possibility Not Enough. Affirming the lower court, the appeals court held that the expert's testimony about a mere possibility of "sudden and accidental" releases was insufficient reason to continue to require Employers Insurance of Wausau to defend Neal Feay from the administrative action and the cross claims in the lawsuit.

"Although Neal Feay identified other occasions on which chemicals might have been released, there was no evidence that any specific release actually occurred during the policy period, or that such a release was sudden and accidental," the appeals court held.

Citing *Allstate*, the appeals court said, "Neal Feay had the burden to prove there was at least a potential that a sudden and accidental release occurred during the primary policy periods and was a substantial cause of the property damage at issue. . . . Neal Feay failed to carry that burden."

The appeals court also upheld the lower court's ruling that Employers Insurance of Wausau owed no indemnity duties to Neal Feay related to the administrative proceedings or the counter claims.

Judge Kenneth R. Yegan wrote the opinion.

Bret A. Stone with the Paladin Law Group in Santa Barbara, Calif., and others represented Employers Insurance of Wausau.

Bryan M. Barber with the Barber Law Group in San Francisco and others represented Neal Feay.

BY STEVEN PATRICK

Toxic Substances

EU Agriculture Ministers Back One Pesticide, Ban Another, Defer Decisions on Three More

BRUSSELS—EU agriculture ministers July 13 agreed that the fungicide tetraconazole could be included in a list of substances allowed as pesticides in the European Union under the terms of a 1991 directive on plant protection products (91/414/EEC).

Ministers backed the authorization of tetraconazole by a vote of 22-4. Denmark, Ireland, Italy, and the Netherlands voted against the authorization, while Sweden abstained.

However, ministers said that a second substance, metam, could not be included in the positive list. Ministers backed a scientific opinion that said metam should not be authorized because it releases the substance N,N'-dimethylthiourea into the environment, and not enough is known about the consequences of this.

Ministers said countries where metam is used should phase out the substance by Jan. 13, 2011.

The decision on metam was adopted by a vote of 22-4, with Denmark, Ireland, Romania, and Slovenia voting against the ban, and Belgium abstaining.

The ministers also considered scientific reports compiled by the European Food Safety Authority (EFSA) on three more substances used in plant protection products, bifenthrin, diphenylamine, and triazoxide.

EFSA had said these substances should not be authorized under Directive 91/414/EEC, and that any existing authorizations should be withdrawn. However, under EU qualified majority voting rules, the agriculture ministers were unable to reach a decision on whether to back the EFSA opinion.

In a procedure similar to EU rules on approving genetically modified crops, the dossiers on the three substances will be sent to the European Commission for adoption.

Commission spokeswoman Nina Papadoulaki told BNA that the Commission would most likely follow EFSA's scientific opinion and ban the substances.

Member states were given a chance to express an opinion on the substances and had not done so, and so the Commission would act on the basis of scientific advice, she said.

BY STEPHEN GARDNER

The EU agriculture ministers' conclusions on five plant protection products are available at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/agricult/109194.pdf (pages 16-17).

Climate Change

Developing Countries Must Share Target For Emissions Cut, Swedish Leader Says

BRUSSELS—Swedish Prime Minister Fredrik Reinfeldt said July 15 that global action to tackle climate change must be based on binding commitments by all countries, including emerging nations that have so far resisted targets for reducing greenhouse gas emissions.

Speaking in Strasbourg, France, at the inaugural session of the new European Parliament, following European elections in early June, Reinfeldt said “our world is suffering from a fever” and climate change is “in the long term the biggest challenge that we face.”

He added that if the 15th Conference of the Parties (COP-15) to the United Nations Framework Convention on Climate Change in Copenhagen in December is to result in a deal to succeed the Kyoto Protocol, all countries must be prepared to sign up for mandatory emission reductions.

A “coalition of volunteers” will not be enough, and “the responsibility of some [to cut emissions] must be transformed into responsibility shared by all,” Reinfeldt said.

Even if rich countries eradicated their emissions completely, “the developing countries’ rapidly increasing emissions would still bring us over the 2 degrees [Celsius] target,” Reinfeldt added, referring to the temperature rise over pre-industrial levels that has been adopted as a guideline by many nations.

Sweden Leading Negotiations. Sweden took over the rotating six-month presidency of the European Union on July 1, and is consequently responsible for finalizing the European Union’s position, and for conducting advance negotiations, in the run-up to the Copenhagen conference.

Reinfeldt said achieving a strong climate deal for the post-2012 period is one of the Swedish EU presidency’s top priorities, and that the deal should be based in part on a global “price tag for emissions.”

A price could be put on carbon dioxide and other gases through emissions trading or through carbon taxes, Reinfeldt said, adding that “swift technology transfer” is also essential to a global deal.

Although most rich countries have said they will accept some form of emissions cap or greenhouse gas reduction target, the main emerging economies have not accepted the idea of binding limits.

Most recently, at the Major Economies Forum on Energy and Climate, in L’Aquila, Italy, July 9, China and India blocked the adoption of a specific greenhouse gas emissions reduction target to be achieved by 2050 by the 17-member MEF group 130 DEN A-9, 7/10/09.

By STEPHEN GARDNER

The text of Swedish Prime Minister Fredrik Reinfeldt’s July 15 speech to the European Parliament is available at http://www.eu2009.se/en/meetings_news/2009/7/15/together_we_can_take_on_the_challenge.

Hazardous Waste

Pollution From Wells Plugged Decades Ago Is Not a Continuing Tort, Fifth Circuit Says

Under Louisiana law, an oil company’s failure to clean up contamination from a well it plugged decades ago is not a continuing physical invasion, meaning a lawsuit is barred by a release the parties signed in 1973, the U.S. Court of Appeals for the Fifth Circuit ruled July 10 (*Kling Realty Co. v. Chevron USA Inc.*, 5th Cir., No. 08-30043, 7/10/09).

While the unlawful invasion of another’s property by hazardous waste can constitute continuing trespass under Louisiana law, the court said, it is necessary to distinguish between “acts of trespass that terminate and those that continue.”

In this case, the court said, the only contamination on the plaintiff’s property is “the continuing effect of prior conduct.”

The court therefore found a lawsuit filed by Kling Realty Co. and Walet Planting Co. against Chevron USA Inc. time-barred under a three-year window contained in a release the parties signed in 1973.

Kling and Walet entered into an oil, gas, and mineral lease with a predecessor of Chevron for a property in Iberia Parish, La. Chevron drilled only one productive well on the property, which was plugged and abandoned in 1971.

After finding that they were having trouble growing crops on part of their property, Kling and Walet approached Chevron. As a result, the three parties entered into a release of claims related to the well in 1973, with Chevron paying \$4,000. Chevron’s lease terminated no later than 1974.

In June 2006, Kling and Walet filed suit against Chevron seeking compensatory and punitive damages for contamination of their property.

The court first found that the delay in filing suit was not reasonable given that Kling and Walet knew in the early 1970s of problems growing crops, yet they did not investigate or file claims until 2006.

Kling and Walet, however, argued that the suit is not time-barred under the Louisiana doctrine of prescription because there is a continuing tort.

“Specifically, Kling/Walet argue that the pollution of their land, like dumping foreign materials onto the property of another without authority, constitutes a continuing trespass or nuisance,” the court said.

The Fifth Circuit noted that under Louisiana law, prescription does not begin to run until the conduct causing the damage ceases.

However, the court said, citing *Crump v. Sabine River Authority*, 737 So. 2d 720 (La. 1999), while invasion of another’s property with hazardous waste can constitute a continuing trespass, a “continuing tort is occasioned by unlawful acts, not the continuation of the ill effects of an original, wrongful act.”

Judge Carl E. Stewart issued the opinion.

Kling was represented by Edward Paul Landry with Landry, Watkins, Repaske & Breaux in New Iberia, La.; J. Michael Veron, and Alonzo P. Wilson, with Bice Palermo & Veron in Lake Charles, La.

Chevron is represented by G. William Jarman, Alan James Berteau, Donna Vandever Yelverton, and Louis

Victor Gregoire Jr., with Kean, Miller, Hawthorne, D'Armond, McCowan & Jarman in Baton Rouge, La.

By PETER HAYES

Air Pollution

Governor Signs Measure to Restrict Most Open Field Burning in Oregon

PORTLAND, Ore.—Oregon Gov. Ted Kulongoski (D) July 14 signed a bill (S.B. 528b) that will ban most open field burning next year with a few exceptions.

The Legislature narrowly passed the bill on the final day of the biennial session on June 29 (124 DEN A-6, 7/1/09).

Under the bill, most open field burning in the Willamette Valley will be reduced from 40,000 acres to 20,000 acres for the current year and none in 2010 and beyond. On steep terrain or on land with a certain type of grass, the bill will allow open burning indefinitely on 15,000 acres annually, down from the current limit of 25,000 acres annually.

In addition, the bill will allow contained-propane burning or stack burning for up to 1,500 acres annually over the next four years. Then that type of burning will be prohibited. Finally, the bill will allow open field burning indefinitely for 2,000 acres annually in the case of extreme hardship for disease outbreaks or insect infestations.

Registration fees and burning fees will double under the bill. Currently, farmers pay a registration fee of \$2 per acre. When the farmers actually burn the fields they must pay an additional fee of \$8 per acre.

By TOM ALKIRE

More information on S.B. 528b is available at <http://www.leg.state.or.us/09reg/measpdf/sb0500.dir/sb0528.en.pdf>.

Enforcement

San Francisco Area Tank Farm Must Pay \$2.5 Million in Settlement for False Reports

LOS ANGELES—A federal court July 14 ordered the owner and operator of a Selby, Calif., tank farm to pay \$2.5 million for submitting annual reports that falsely certified compliance with its Clean Air Act operating permit (*United States v. Shore Terminals LLC*, N.D. Cal., No. CR 09-395 SI, 7/14/09).

At a sentencing hearing in San Francisco, Shore Terminals LLC admitted it had provided regulators with false emissions data, the U. S. Attorney for the Northern District of California said in a written statement.

The company pleaded guilty to four felony counts of making false statements to government officials—violations of Title 18, United States Code, Sections 1001(a)(3) & 2, prosecutors said.

In a plea agreement with prosecutors, the Delaware-based company admitted experiencing problems with the vapor recovery unit at the Selby facility, located in the San Francisco Bay Area, between 2003 and 2006. As

a result, workers had repeatedly shut down the equipment when loading petroleum products and ethanol onto fuel trucks, causing the release of volatile organic compounds in violation of its Clean Air Act Title V permit, prosecutors said in a news release.

A vapor recovery unit captures volatile organic compounds, which when released into the atmosphere contribute to the formation of ground-level ozone.

Annual emissions data the company provided the Bay Area Air Quality Management District and the Environmental Protection Agency, however, showed the facility was in compliance with its permit requirements, prosecutors said.

The court ordered Shore Terminals to pay a \$1.75 million fine and spend another \$750,000 on air quality projects in Contra Costa and Alameda counties. Shore Terminals also must implement an environmental compliance plan at the bulk fuel terminal to prevent future violations of environmental laws, prosecutors said.

“To protect human health and the environment, the Clean Air Act and State of California require regulated industries to submit complete and accurate emissions data,” Nick Torres, a special agent who heads EPA’s criminal enforcement office in San Francisco, said.

The prosecution resulted from a three-year investigation by EPA and BAAQMD officials, prosecutors said.

By CAROLYN WHETZEL.

Endangered Species

Pesticide Industry Groups to Challenge EPA Proposed Settlement for Species Lawsuit

Two pesticide industry groups said July 15 that they will formally object to a proposed settlement by the Environmental Protection Agency for an Endangered Species Act lawsuit that would include studying the impacts of 74 pesticides on 11 protected species in the San Francisco Bay area (*Center for Biological Diversity v. EPA*, N.D. Cal., No. C 07-2794, *proposed agreement not yet filed*).

“If accepted by the court the proposed settlement . . . would impose interim restrictions on the use of crop protection and specialty pesticide products in and adjacent to endangered species habitat in the San Francisco Bay Area,” CropLife America and Responsible Industry for a Sound Environment (RISE) said.

“These restrictions would be imposed prior to EPA effects determinations, even though no evidence of harm has been found from the use of these products to any of the species at issue,” the groups said.

EPA has proposed evaluating the effects of pesticides including atrazine, acrolein, carbaryl, carbofuran, diazinon, disulfoton, endosulfan, metam sodium, methyl bromide, naled, potassium nitrate, trifluralin, and zinc phosphide over a five-year period, according to a notice EPA published in the July 1 *Federal Register* (74 Fed. Reg. 31,427).

Arty Williams, EPA’s contact for information on the proposed settlement, which is called a proposed “stipulated injunction,” said the agency is extending the comment deadline on the document from July 16 to Aug. 17.

Pesticides Permits Would Be Suspended. The proposed agreement also would set aside EPA permits to use the pesticides in and around certain habitat features associ-

ated with each of the 11 species. The species include the Alameda whipsnake, bay checkerspot butterfly, California clapper rail, and California freshwater shrimp in areas of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma counties.

The Center for Biological Diversity filed a lawsuit in May 2007 alleging EPA violated the Endangered Species Act when it registered the pesticides without first determining whether they would harm the protected species (125 DEN A-7, 7/2/09).

"We fully support EPA fulfilling its statutory obligations under ESA, however, we disagree with preemptively imposing product use restrictions on valuable and necessary crop protection products and specialty pesticides with no evidence of actual harm to any of the species in question," said Jay Vroom, CropLife America's president.

"Imposing restrictions before the formal consultation is completed, leaves homeowners living on or near the species habitat with fewer options for battling termites, weeds and other pests," said Allan James, president of RISE. "This hardly seems an equitable solution."

The U.S. District Court for the Northern District of California, which is hearing the case, granted the industry groups the right to intervene in March 2008. The procedure allowed the organizations standing to protect their interest in the subject matter of the lawsuit.

Comments on the proposed settlement should be identified by Docket No. EPA-HQ-OPP-2009-0481 and filed at <http://www.regulations.gov/>.

BY BILL PRITCHARD

For more information on Proposed Stipulated Injunction Involving Pesticides and Eleven Species Listed as Threatened or Endangered Under the Endangered Species Act, contact Arty Williams, Environmental Fate and Effects Division, Office of Pesticide Programs, at (703) 305-3695 or williams.arty@epa.gov by e-mail.

Energy

Governor Signs Bill to Cap Ratepayer Costs For Removal of Four Klamath River Dams

PORTLAND, Ore.—Oregon Gov. Ted Kulongoski (D) July 14 signed a bill (S.B. 76b) that would cap at \$180 million the cost to Oregon PacifiCorp ratepayers of removing four hydroelectric dams on the Klamath River.

Currently, the states of Oregon and California, PacifiCorp, and the Department of the Interior have reached a tentative agreement on the possible removal of four Klamath River dams that straddle the border of the two states (126 DEN A-5, 7/6/09).

The removal of the dams could cost an estimated \$450 million, according to several sources. The removal project is part of an effort to restore endangered Klamath coho salmon, which are listed as threatened under the Endangered Species Act.

Under the bill, Oregon PacifiCorp ratepayers would see a \$1.50 monthly increase for 10 years to build up a fund of \$180 million to be administered by the Oregon Public Utility Commission. The money would be used in case the dams are removed. If the dams are not re-

moved, the money could be used to help defray the cost of relicensing the dams.

The California Public Utility Commission is expected to consider a similar increase for a relatively small number of PacifiCorp ratepayers who live in California. That fund is expected to accumulate \$20 million, said Art Sasse, a spokesman at PacifiCorp's headquarters in Portland.

Three of the four Klamath River dams are located in California. Sasse told BNA July 15 the state of California should share commensurately in the cost of the dams' removal. The commensurate amount is expected to be \$250 million funded through future California voter-approved bonds.

The Interior Department and the other parties subject to the tentative agreement plan to make a final decision on dam removal by 2012. Actual removal would be completed by 2020.

BY TOM ALKIRE

The text of Oregon bill S.B. 76b is available at <http://www.leg.state.or.us/09reg/measpdf/sb0001.dir/sb0076.en.pdf>.

Climate Change

Commerce, Finance Committees Likely To Mark Up Senate Climate Bill, Boxer Says

The Senate Finance Committee and Commerce Committee are likely to mark up provisions of climate legislation to be introduced by Sen. Barbara Boxer (D-Calif.) in September, while the Foreign Relations and Agriculture committees will work out agreements without markups, Boxer said July 15.

Boxer, who chairs the Senate Environment and Public Works Committee, told BNA that Senate Commerce, Science, and Transportation Committee Chairman John Rockefeller (D-W.Va.) and Finance Committee Chairman Max Baucus (D-Mont.) are each "going to do their own piece" of the climate bill in their committees.

Senate Foreign Relations Committee Chairman John Kerry (D-Mass.) and Senate Agriculture, Nutrition, and Forestry Committee Chairman Tom Harkin (D-Iowa) are "working with us" to have their concerns addressed directly in her bill, she said. The Senate Energy and Natural Resources Committee has already agreed on energy provisions that are expected to be included in the bill.

Boxer said she will introduce her climate change legislation, which is expected to include mandatory caps on U.S. greenhouse gas emissions, shortly after the Senate returns from a monthlong recess the week of Sept. 8. "We're going to introduce the bill the week we get back," she said.

Senate Majority Leader Harry Reid (D-Nev.) earlier this month gave the six committees—Finance, Commerce, Agriculture, Foreign Relations, Energy and Natural Resources, and Boxer's environment panel—until Sept. 28 to mark up the portions of the climate legislation under their jurisdiction to set the stage for a vote on the Senate floor in the fall (130 DEN A-13, 7/10/09).

The Energy and Natural Resources Committee has already marked up what is likely to be the bulk of its con-

tribution to the climate bill, passing energy legislation in June that would require utilities in each state to get 15 percent of their energy from renewable sources and improved efficiency (115 DEN A-13, 6/18/09).

Once the committees have either marked up or relinquished jurisdiction over the bill, Reid “will put all the pieces together into one bill and get it rolling,” she said.

Boxer, Kerry Reaching Out to Senators. Senate Democrats, emboldened by House passage of climate and energy legislation (H.R. 2454) June 26 and hoping to capitalize on any momentum from that victory, face what many see as a difficult but not insurmountable task of nailing down the 60 votes they need on their climate bill to avert a Republican filibuster threat.

Boxer fell well short of the 60-vote margin in 2008, mustering only 48 votes to open a climate change bill to full debate and amendment on the floor. But Democrats, who then controlled the Senate with a razor-thin 51-49 majority, now have 60 seats, enough to overcome a filibuster if they can avoid defections.

Boxer and Kerry have been meeting informally with senators each Tuesday to solicit input and build support for the climate bill, and Boxer said she has been getting between 10 and 30 senators attending of late. This week’s meeting on July 15 focused on legislative strategy, she said.

“This week we are really talking about strategy and timing and the fact that we have some extra days” this summer to build support for the bill, she said.

McCain Support Unlikely Without Nuclear Provisions. Few Republicans are expected to vote for Boxer’s climate bill if it comes to the floor this fall. Of the 40 Republicans currently in the Senate, only three—Susan Collins (R-Maine), Olympia Snowe (R-Maine) and Mel Martinez (R-Fla.)—voted with Boxer on a procedural motion to open her 2008 climate bill to floor debate.

One possible Republican swing vote is Sen. John McCain (R-Ariz.), who along with Sen. Joseph Lieberman (I/D-Conn.) led Senate attempts to pass cap-and-trade legislation on the Senate floor in 2003 and 2005.

But McCain, who has criticized the Obama administration for giving too little support for nuclear power, told BNA July 15 that he would only vote for a Senate climate bill that makes nuclear power a key strategy for reducing U.S. greenhouse gas emissions.

“It has to deal with nuclear power, which this administration has completely done away with,” McCain said. “And it would have to be far different than what the House of Representatives passed.”

The Waxman-Markey bill lacked specific provisions to benefit the nuclear industry, and allows utilities in each state to count only new nuclear power, not existing plants, in meeting the bill’s requirement that 20 percent of electricity come from renewable power and efficiency improvements by 2020.

Some supporters of the House bill have said the cap-and-trade system that would be set up by the bill would boost nuclear power, along with solar and wind power.

In drafting the bill, Boxer said she is in “continual communications” with House Energy and Commerce Committee Chairman Henry Waxman (D-Calif.), who along with Rep. Edward Markey (D-Mass.) led the effort to get the House climate bill passed in June (122 DEN A-10, 6/29/09).

Boxer’s Environment and Public Works Committee staff are drawing up their initial draft legislation based

largely on the Waxman-Markey bill, which would cut U.S. greenhouse gas emissions 17 percent by 2020 from 2005 levels, establish more stringent energy efficiency standards, and set a renewable electricity standard.

BY DEAN SCOTT

Drinking Water

Congress Considers Federal Tax Support For Proposed Clean Water Trust Fund

Rep. Earl Blumenauer (D-Ore.) defended his proposal for new excise and corporate taxes to finance water infrastructure by telling a congressional hearing July 15 that local water fees are threatening to expand greatly from levels that in some communities already are “crushing.”

A day earlier, Blumenauer introduced the Water Protection and Reinvestment Act (H.R. 3202) to establish a clean water trust fund as a mechanism for increasing federal financial assistance for drinking water and wastewater infrastructure. Blumenauer lined up bipartisan cosponsorship, and the bill garnered support from the National Association of Clean Water Agencies, some environmental groups, and some contractor associations that would do the work of upgrading infrastructure.

But at the hearing of the House Transportation and Infrastructure Subcommittee on Water Resources and Environment, the bill drew skepticism from the National Association of Water Companies, the American Water Works Association, and the American Beverage Association, a group representing some of the bill’s tax targets.

The bill would create a tax of four cents per container for water-based beverages, including soft drinks but not milk, juice, alcoholic beverages, or pharmaceutical drinks. It would create a 3 percent tax on products disposed of in wastewater, such as toothpaste, cosmetics, toilet paper, and cooking oil. It would levy a tax of 0.5 percent on pharmaceutical products. It would boost corporate taxes by one-fifteenth of one percent on profits over \$4 million.

The unveiling of the bill followed by two weeks the release of a Government Accountability Office (GAO) report on options to be considered if the federal government were to try to raise \$10 billion annually for water infrastructure investment (123 DEN A-11, 6/30/09).

Financial Needs, Obstacles. Members of Congress and witnesses at the July 15 hearing emphasized the need for huge investments in water infrastructure, a subject studied by the Environmental Protection Agency, the Congressional Budget Office, and others. The latest EPA report, as Blumenauer and other witnesses noted at the hearing, estimated a \$534 billion funding gap between current investment levels and projected needs over the next 20 years.

According to a recent report by the U.S. Conference of Mayors, municipalities currently pay for about 95 percent of wastewater infrastructure and 99 percent of drinking water infrastructure.

Thomas K. Walsh, a water agency official from Massachusetts, in testimony prepared on behalf of the National Association of Clean Water Agencies, asked, “If

highways merit a trust fund with \$30 billion per year, and airports \$10 billion per year, why should we not have one for water?"

Environmental groups said a trust fund could make a significant contribution to protecting water quality. American Rivers, for example, issued a statement applauding Blumenauer's bill and saying the trust fund could make "investments in green solutions."

The obstacles to a clean water trust fund include, most importantly, the question of where to find the money, as Blumenauer acknowledged. Other problems were raised in another GAO report that was released for the hearing, *Clean Water Infrastructure: Design Issues and Funding Options for a Clean Water Trust Fund*.

The GAO said stakeholders identified three main design issues that would have to be addressed for a trust fund: how it should be administered—the most notable example being the existing EPA-state partnership for revolving loans; what type of financial assistance should be provided—grants, loans, or a combination of the two; and what activities should be eligible for assistance.

Differing Ideas on Funding. "It remains unclear how a trust fund would be funded," said Rep. John Boozman (R-Ark.), the ranking minority member of the Water Resources and Environment Subcommittee.

The American Water Works Association (AWWA), a professional society, encouraged expanded use of the existing state revolving funds for drinking water and wastewater infrastructure loans. It urged more use of private activity bonds for water projects, which currently are limited by volume caps. AWWA also recommended creation of a federal water infrastructure bank that could provide loans and could purchase or guarantee state revolving fund bonds.

But the basic responsibility for water infrastructure resides with local communities and their utilities, AWWA said. "AWWA supports the principle that water rates and other local fees should reflect the full cost of service," the association said.

A statement released by the National Association of Water Companies argued that the proposed mix of federal taxes for water projects would have the unfortunate side effect of discouraging responsible water use and conservation because it would subsidize existing behavior and mask the true cost and value of water service.

Boozman said the hearing was the first of several on how to finance water infrastructure. Blumenauer's bill (H.R. 3202) will have to run a committee gantlet, having been referred not only to the Transportation and Infrastructure Committee but to the Committees on Energy and Commerce, Ways and Means, and Science and Technology.

By ALAN KOVSKI

*Background information and a video recording of the July 15 subcommittee hearing are available at <http://transportation.house.gov/hearings/hearingDetail.aspx?NewsID=947>. The July 15 GAO report, *Clean Water Infrastructure*, is available at <http://www.gao.gov/new.items/d09893t.pdf>.*

The text of H.R. 3202 will be available soon at <http://thomas.loc.gov/cgi-bin/query/z?c111:H.R.3202>.

Budget

House Clears Amendments to Boost Funding For Fuel Cell Program in Energy, Water Bill

The House of Representatives July 15 began considering a fiscal year 2010 spending bill for energy and water programs, approving amendments that would increase funding for the Department of Energy's hydrogen fuel cell research program and for the Office of Energy Efficiency and Renewable Energy.

Work on the 2010 Energy and Water Development Appropriations Bill (H.R. 3183), which would provide \$26.9 billion to fund the Department of Energy, \$1.1 billion for the Department of Interior, and \$5.5 billion for the U.S. Army Corps of Engineers, is expected to resume on July 16.

Among the amendments cleared was a measure offered by Rep. Ed Pastor (D-Ariz.) that would prohibit money appropriated under the legislation from being used to purchase passenger vehicles not manufactured by Ford, General Motors, or Chrysler.

The amendment also would prohibit appropriated funds from being used to purchase light bulbs not qualified under the Energy Department's "Energy Star" program or those not approved by the Federal Energy Management Program, which helps federal agencies become more energy efficient.

In addition, Pastor's amendment, which was approved by a vote of 261-172, would increase by \$45 million funding for the DOE's hydrogen, fuel cells, and infrastructure technologies program.

Amendments offered by Reps. Dan Boren (D-Okla.) and Candice Miller (R-Mich.) to increase the amount of funding for the department's Office of Energy Efficiency and Renewable Energy by \$5 million and \$10 million, respectively, were approved as well.

Work on several Republican amendments that would have trimmed the legislation's overall price tag by eliminating certain earmarks was either blocked or postponed.

Among them was an amendment offered by Rep. John Campbell (R-Calif.), that would have stopped funds from being used for a "Housatonic River Net-Zero Energy Building," and several amendments offered by Rep. Jeff Flake (R-Ariz.) that would have prohibited funds from being used for projects such as a "Consortium for Plant Biotechnology Research."

"We simply need to save money where we can when we are running close to a \$2 trillion deficit by the end of the year," Flake said on the House floor.

The legislation, which was approved by the House Appropriations Committee July 8, would fund the DOE at \$86 million above the amount the department was appropriated in 2009, \$1.5 million less for the agency than requested by President Obama (129 DEN A-8, 7/9/09).

The Senate Appropriations Committee approved a \$34.3 billion energy and water appropriations package July 9, but a committee spokesman told BNA that it remains unknown when the legislation (S. 1436) will go to the Senate floor (130 DEN A-11, 7/10/09).

By ARI NATTER

Pesticides

Contempt Hearing Date Set for Attorney Accused of Filing Fraudulent Exposure Claims

LOS ANGELES—A contempt hearing has been set for July 24 for Juan J. Dominguez, a Los Angeles attorney that a California court has accused of filing fraudulent pesticide exposure claims on behalf of Nicaraguan agricultural workers against Dole Food Co. and other firms (*Mejia v. Dole Food Co.*, Cal. Super. Ct., No. BC 340049, 6/17/09).

Earlier this year, Los Angeles Superior Court Judge Victoria L. Chaney dismissed two of the lawsuits after concluding that Dominguez and other attorneys in Los Angeles and Nicaragua recruited plaintiffs who never worked on banana plantations Dole once operated, fabricated employment records, and falsified health laboratory tests (80 DEN A-6, 4/29/09).

Chaney formalized the bench ruling in Findings of Fact and Conclusions of Law issued June 17.

The claims are among dozens of lawsuits that have been filed in California and elsewhere over the use of dibromochloropropane (DBCP). The plaintiff attorneys said exposure to the chemical left the male workers sterile.

In her findings, Chaney said evidence presented in the two cases she dismissed April 29 taint the jury trial she presided over last year. In that case, Chaney reduced the jury's \$3.3 million award in compensatory damages for six Nicaraguan plaintiffs to \$1.5 million and rejected \$2.5 million in punitive awards for five plaintiffs (*Tellez v. Dole Food Co.*, Cal. Super. Ct., No. BC 312852, 3/7/08; 51 DEN A-4, 3/17/08).

Dole and other defendants filed an appeal in the California Courts of Appeal.

Tellez Case Remanded to Chaney's Court. On July 7, the appeals court Second Appellate District remanded the case to Chaney's court, after concluding the defendants' petitions "made a prima facie showing" that the judgment may have been "procured in part by means of fraud" (*Tellez v. Dole Food Co.*, Cal. Ct. App., No. B216182, 7/7/09).

In a June 19 written statement, Michael Carter, Dole's executive vice president and general counsel, said Chaney's findings "exposed an industry existing in Nicaragua involving unscrupulous lawyers."

Chaney's findings also implicate Nicaraguan-based attorneys Hernandez Ordenana and Barnard Zavala.

On July 8, Dole filed a defamation lawsuit against the director and producer of the documentary "Bananas!," which tells the story of Dominguez's legal fight for 12 Nicaraguan banana plantation workers seeking damages for exposure to DBCP, which EPA banned in the 1970s (*Dole Food Co. v. Gertten*, Cal. Super. Ct., No. BC 417435, 7/8/09).

BY CAROLYN WHETZEL

General Policy

Sotomayor Sidesteps Invitation to Criticize Current Court on Definition of Wetlands

Judge Sonia Sotomayor, on the third day of her confirmation hearing July 15, avoided an invitation to criticize current Supreme Court justices on their handling of the key issue of Clean Water Act jurisdiction over wetlands in *Rapanos v. United States*, 547 U.S. 715, 62 ERC 1481 (2006).

In 2006, the Supreme Court issued a fragmented decision in *Rapanos*, which contained three separate opinions on whether wetlands constitute "waters of the United States" sufficient to come under the jurisdiction of the Clean Water Act.

Justice Antonin Scalia wrote the plurality opinion stating that there must be a relatively continuous flow and continuous surface connection to "navigable waters," which the act defines as waters of the United States.

In contrast, Justice Anthony Kennedy, in a concurring opinion, said there must be a "significant nexus" with a stream or other water body. Justice John Paul Stevens argued for the broadest possible interpretation of jurisdiction.

At the nomination hearing before the Senate Judiciary Committee, Sen. Benjamin L. Cardin (D-Md.), stated that jurisdictional confusion stemming from *Rapanos* and *Solid Waste Agency v. U.S. Army Corps of Engineers*, 531 U.S. 159, 51 ERC 1833 (2001) has "forced the EPA to drop more than 500 cases against alleged polluters."

Cardin accused the current Supreme Court justices of ignoring science and ignoring congressional intent.

Sotomayor Pledges Deference to Congress. Sotomayor declined the invitation to criticize the current court for its environmental rulings.

The nominee said that "my entire record shows that I look at the acts of Congress, as I think the Supreme Court does, with deference because that is the bedrock of our constitutional system," adding, "deference must be given to the rights of each branch in each situation that is exercising its powers."

In his lengthy question, Cardin said that recent environmental decisions by the court "may very well require the Congress to pass laws further clarifying what we meant to say so that we can try to get us back on track."

Sotomayor renewed her pledge that as an associate justice of the U.S. Supreme Court she would recognize the deference the court "owes to the elected branches in terms of setting policy and making law."

Responding to a question from Sen. Ted Kaufman (D-Del.) about judicial deference to regulatory agencies, she cited July 14 testimony concerning her opinion in *Riverkeeper v. EPA*, 475 F.3d 83, 63 ERC 1929 (2007), which was reversed by the U.S. Supreme Court in April in *Entergy Corp. v. Riverkeeper Inc.*, 129 S. Ct. 1498, 68 ERC 1001 (2009).

Sotomayor said the U.S. Supreme Court "came to a different view of—of what the words Congress used meant. But the point is that the rule of courts is not to substitute their own judgments; it's to apply the prin-

principles of law in accordance with the acts that agencies are doing.”

On April 1, the Supreme Court held in *Entergy Corp. v. Riverkeeper Inc.* that it is permissible for utility companies and regulators to apply a cost-benefit analysis under the Clean Water Act in deciding what technology is needed to protect fish from being killed by large industrial cooling water intake structures (133 DEN A-14, 7/15/09).

BY ROBERT C. COOK

Text of the U.S. Supreme Court's 2006 opinion in Rapanos v. United States is available at <http://www.supremecourtus.gov/opinions/05pdf/04-1034.pdf>.

In Brief

EPA Rule Would Require Rural Ozone Monitoring

The Environmental Protection Agency will publish a proposed rule in the *Federal Register* July 16 requiring

states to monitor ozone concentrations in rural areas for the first time, as well as expand the existing monitoring network in cities. EPA's proposal would amend 40 C.F.R. Part 58, updating minimum ozone-monitoring requirements to make them consistent with the new ozone standards set in 2008. EPA estimates the proposed rule would require an additional 379 ozone monitors in small and large urban areas, as well as require states to maintain three monitors in rural areas, one in a wilderness area, a second in a small town, and a third in an area of high ozone outside of a major urban center. EPA's proposal also would lengthen the air monitoring season in 29 states, while shortening Minnesota's ozone monitoring season by one month. EPA set both the new primary and secondary ozone standards of 0.075 part per million averaged over eight hours in 2008 (133 DEN A-7, 7/15/09).

Calendar

LEGISLATIVE CALENDAR

SENATE

Floor Action

July 16

To meet at 9:30 a.m.

To continue consideration of **S. 1390**, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year.

July 15

Met at 9:30 a.m.

Continued consideration of **S. 1390**, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year.

Pending is a Levin/McCain amendment (1469) to strike \$1,750,000,000 in procurement, Air Force funding for F-22A aircraft procurement, and to restore operation and maintenance, military personnel, and other funding in divisions A and B that was reduced in order to authorize such appropriation.

The majority leader appointed Franken to Health, Education, Labor, & Pensions.

July 14

Received the following nominations:

- Aaron S. Williams, of Virginia, to be director of the Peace Corps;
- Brenda Dann-Messier, of Rhode Island, to be assistant secretary of education for vocational and adult education;
- Dennis K. Burke, of Arizona, to be U.S. attorney for the District of Arizona for the term of four years;
- Steven M. Dettelbach, of Ohio, to be U.S. attorney for the Northern District of Ohio for the term of four years;
- Brendan V. Johnson, of South Dakota, to be U.S. attorney for the District of South Dakota for the term of four years;
- Karen Louise Loeffler, of Alaska, to be U.S. attorney for the District of Alaska for the term of four years;
- Florence T. Nakakuni, of Hawaii, to be U.S. attorney for the District of Hawaii for the term of four years;

- Carter M. Stewart, of Ohio, to be U.S. attorney for the Southern District of Ohio for the term of four years; and
- routine lists in the Air Force.

Reports Filed

July 14

NONE.

Bills & Resolutions Introduced

July 14

(HEALTH CARE) LAUTENBERG and others: S. 1445, to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth; to Health, Education, Labor, & Pensions.

(HEALTH CARE) GILLIBRAND: S. 1446, to amend title XIX of the Social Security Act to provide incentives for increased use of HIV screening tests under the Medicaid program; to Finance.

(COMMUNICATIONS) HUTCHISON: S. 1447, to expand broadband deployment, and for other purposes; to Finance.

(INDIAN AFFAIRS) MERKLEY and WYDEN: S. 1448, to amend the Act of Aug. 9, 1955, to authorize the Coquille Indian Tribe, the Confederated Tribes of Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to obtain 99-year lease authority for trust land; to Indian Affairs.

(GOVERNMENT OPERATIONS) NELSON (Fla.): S. 1449, to amend title 36, U.S. Code, to grant a federal charter to the Military Officers Association of America, and for other purposes; to Judiciary.

(VETERANS' BENEFITS) ENSIGN and BROWN: S. 1450, to enable state homes to furnish nursing home care to parents whose children died while serving in the U.S. Armed Forces; to Veterans' Affairs.

(AVIATION) ROCKEFELLER and others: S. 1451, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; to Commerce.

(VETERANS' BENEFITS) SCHUMER and others: S. 1452, to amend title 38, U.S. Code, to clarify the meaning of "combat with the enemy" for purposes of service-connection of disabilities; to Veterans' Affairs.

LEGISLATIVE CALENDAR

Continued from previous page

(FISHERIES) BINGAMAN and others: S. 1453, to amend Pub. L. No. 106-392 to maintain annual base funding for the Bureau of Reclamation for the Upper Colorado River and San Juan fish recovery programs through fiscal 2023; to Energy.

(AVIATION) McCASKILL: S. 1454, to provide for adequate oversight and inspection by the Federal Aviation

Administration of individuals who perform maintenance work on U.S. commercial aircraft and of foreign repair stations that perform such work, and for other purposes; to Commerce.

(VETERANS' AFFAIRS) NELSON (Fla.): S. 1455, to amend title 36, U.S. Code, to grant a federal charter to the Military Officers Association of America, and for other purposes; to Judiciary.

(INDIAN AFFAIRS) SCHUMER: S. 1456, to fully compensate local educational agencies and local governments for tax revenues lost when the federal govern-

TODAY'S CONGRESSIONAL MEETINGS**SENATE**

Meets at 9:30 a.m.

Continues on H.R. 1390, DOD authorization.

Committee Meetings Scheduled

ARMED SERVICES: START Treaty (closed), 9 a.m., SVC-217.

BANKING: Home foreclosures, 9:30 a.m., SD-538.

BUDGET: Budget outlook, 9 a.m., SD-608.

COMMERCE, Consumer Protection Subcommittee: Health care, 10 a.m., SR-253.

ENVIRONMENT: Clean energy, 9:30 a.m., SD-406.

FOREIGN RELATIONS, East Asian & Pacific Affairs: Oil, 9:30 a.m., SD-419;

Full committee: Pending nominations, 3 p.m., SD-419.

HEALTH, EDUCATION, LABOR, & PENSIONS: Employment Subcommittee: Workforce investment, 10 a.m., SD-430.

HOMELAND SECURITY & GOVERNMENTAL AFFAIRS: Pending nominations, 10 a.m., SD-342;

Contracting Oversight Subcommittee: Alaska natives, 2:30 p.m., SD-342.

JUDICIARY: Sotomayor nomination, 9:30 a.m., SH-216.

HOUSE

Meets at 10 a.m.

Continues on H.R. 3183, energy & water appropriations; H.R. 3170, financial services appropriations.

Committee Meetings Scheduled

AGRICULTURE: Food safety, 10 a.m., 1300 LHOB.

APPROPRIATIONS, Defense Subcommittee: FY 2010 appropriations (closed markup), 9 a.m., H-140.

ARMED SERVICES: War violations, 2 p.m., 2118 RHOB;

Defense Acquisition Reform Panel: Service contracts, 8 a.m., 2212 RHOB;

Seapower Subcommittee: EMALS oversight, 10 a.m., 2212 RHOB.

BUDGET: Nuclear waste, 10 a.m., 210 CHOB.

EDUCATION & LABOR: H.R. 3200, health care (markup), 10 a.m., 2175 RHOB.

ENERGY & COMMERCE: H.R. 3200, health care (markup), 2 p.m., 2123 RHOB.

FINANCIAL SERVICES: Regulatory reform, 10 a.m., 2128 RHOB;

Domestic Monetary Policy Subcommittee: Regulatory restructuring, 2 p.m., 2128 RHOB;

International Organizations Subcommittee: Uighur detainees, 10 a.m., 2172 RHOB.

HOMELAND SECURITY, Border Subcommittee: Border violence, 10 a.m., 311 CHOB.

OVERSIGHT & GOVERNMENT REFORM: Merrill Lynch (joint), 10 a.m., 2154 RHOB.

SCIENCE, Investigations Subcommittee: Aviation weather, 11 a.m., 2318 RHOB;

Space Subcommittee: Space relevance, 2 p.m., 2318 RHOB.

SMALL BUSINESS, Investigations Subcommittee: Highway bill, 10 a.m., 2360 RHOB.

TRANSPORTATION, Economic Development Subcommittee: Green buildings, 2 p.m., 2167 RHOB;

Highways Subcommittee: Surface transportation, 10 a.m., 2167 RHOB.

VETERANS' AFFAIRS, Disability Assistance Subcommittee: Women veterans (joint), 10 a.m., 334 CHOB;

Economic Opportunity Subcommittee: Approving agencies, 1 p.m., 340 CHOB.

WAYS & MEANS: H.R. 3200, health reform (markup), 9 a.m., 1100 LHOB.

ment takes land into trust for the benefit of a federally recognized Indian tribe or an individual Indian; to Energy.

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

July 15

BANKING, Securities Subcommittee held a hearing to examine the regulation of hedge funds and other private investment pools.

COMMERCE, full committee held a hearing to examine the public safety impact of contraband cell phones in correctional facilities;

Full committee held a hearing to examine the following nominations: Mignon L. Clyburn, of South Carolina, to be a member of the Federal Communications Commission; and Meredith Attwell Baker, of Virginia, to be a member of the Federal Communications Commission;

Consumer Protection Subcommittee announced a July 22 hearing on advertising trends and consumer protection; 10 a.m., SR-253; contact 224-1270;

Full committee announced a July 22 hearing on rethinking the children's television law for a digital media age; 2:30 p.m., SR-253; contact 224-0411.

ENERGY, National Parks Subcommittee held a hearing to examine the following legislation: S. 227, to establish the Harriet Tubman National Historical Park in Auburn, N.Y., and the Harriet Tubman Underground Railroad National Historical Park in Caroline, Dorchester, and Talbot counties in Maryland; S. 625, to authorize the secretary of the interior to establish the Waco Mammoth National Monument in Texas; S. 853, to designate additional segments and tributaries of White Clay Creek, in Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System; S. 1053, to amend the National Law Enforcement Museum Act to extend the termination date; S. 1117, to authorize the secretary of the interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of New Hampshire and Vermont; S. 1168 and H.R. 1694, to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under the American Battlefield Protection Program; and H.R. 714, to authorize the secretary of the interior to lease certain lands in the Virgin Islands National Park.

ENVIRONMENT, full committee ordered reported legislation to extend the Safe, Accountable, Flexible, Efficient Transportation Equity Act; and ordered favorably reported the following nominations: Robert Perciasepe, of New York, to be deputy administrator of the Environmental Protection Agency; and Craig E. Hooks, of Kan-

sas, to be an assistant administrator of the Environmental Protection Agency;

Full committee announced a July 16 hearing to examine moving toward a clean energy economy; 9:30 a.m., SD-406; contact 224-8832.

FOREIGN RELATIONS, full committee held a hearing to examine the following nominations: Vilma S. Martinez, of California, to be ambassador to Argentina; Nicole A. Avant, of California, to be ambassador to the Commonwealth of The Bahamas; Vinai K. Thummala-pally, of Colorado, to be ambassador to Belize; and John R. Nay, of Michigan, to be ambassador to the Republic of Suriname;

East Asian & Pacific Affairs Subcommittee held a hearing to examine maritime disputes and sovereignty issues in East Asia.

HEALTH, EDUCATION, LABOR, & PENSIONS, full committee ordered reported the Affordable Health Choices Act.

HOMELAND SECURITY & GOVERNMENTAL AFFAIRS, full committee held a hearing to examine the REAL ID Act.

JUDICIARY, full committee continued a hearing to examine the nomination of Sonia Sotomayor, of New York, to be an associate justice of the U.S. Supreme Court.

RULES, full committee postponed the markup of S. 1415, to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure that absent uniformed services voters and overseas voters are aware of their voting rights and have a genuine opportunity to register to vote and have their absentee ballots cast and counted.

SELECT INTELLIGENCE, full committee held a closed markup of an original bill authorizing funds for fiscal 2010 for the intelligence community.

Committee Meetings Scheduled

July 16

ARMED SERVICES, full committee to hold a closed meeting to receive a briefing to examine the START Treaty follow-on agreement; 9 a.m., SVC-217; contact 224-3871.

BANKING, full committee to hold a hearing to examine how to prevent home foreclosures; 9:30 a.m., SD-538; contact 224-7391.

BUDGET, full committee to hold a hearing to examine the long-term budget outlook; 9 a.m., SD-608; contact 224-0642.

COMMERCE, Consumer Protection Subcommittee to hold a hearing to examine competition in the health care marketplace; 10 a.m., SR-253; contact 224-1270.

ENVIRONMENT, full committee to hold a hearing to examine moving toward a clean energy economy; 9:30 a.m., SD-406; contact 224-8832.

FOREIGN RELATIONS, East Asian & Pacific Affairs to hold a hearing to examine instability, terrorism, and

LEGISLATIVE CALENDAR

Continued from previous page

economic disruption in relation to oil; 9:30 a.m., SD-419; contact 224-4651;

Full committee to hold a hearing to examine the following nominations: Anne Elizabeth Derse, of Maryland, to be ambassador to the Republic of Lithuania; Donald Sternoff Beyer Jr., of Virginia, to be ambassador to Switzerland, and to serve concurrently and without additional compensation as ambassador to the Principality of Liechtenstein; Howard W. Gutman, of Maryland, to be ambassador to Belgium; and David H. Thorne, of Massachusetts, to be ambassador to the Italian Republic, and to serve concurrently and without additional compensation as ambassador to the Republic of San Marino; 3 p.m., SD-419; contact 224-4651.

HEALTH, EDUCATION, LABOR, & PENSIONS, Employment Subcommittee to hold a hearing to examine the Workforce Investment Act of 1998; 10 a.m., SD-430; contact 224-5375.

HOMELAND SECURITY & GOVERNMENTAL AFFAIRS, full committee to hold a hearing to examine the following nominations: Christine M. Griffin, of Massachusetts, to be deputy director of the Office of Personnel Management; and Stuart Gordon Nash, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia; 10 a.m., SD-342; contact 224-2627;

Contracting Oversight Subcommittee to hold a hearing to examine contracting for Alaska native corporations; 2:30 p.m., SD-342; contact 224-2627.

JUDICIARY, full committee to continue a hearing to examine the nomination of Sonia Sotomayor, of New York, to be an associate justice of the U.S. Supreme Court; 9:30 a.m., SH-216; contact 224-7703.

HOUSE

Floor Action

July 16

To meet at 10 a.m.

To continue consideration of **H.R. 3183**, making fiscal 2010 appropriations for energy and water development and related agencies; and to begin consideration of **H.R. 3170**, making fiscal 2010 appropriations for financial services and general government.

July 15

Met at 10 a.m.

Rejected, by a vote of 23-361, a Gingrey (Ga.) motion to adjourn.

Began consideration of **H.R. 3183**, making fiscal 2010 appropriations for energy and water development and related agencies.

During consideration, adopted the following:

- by a vote of 261-172, a Pastor (Ariz.) amendment that seeks to reduce the appropriation for the Corps of Engineers expenses by \$9 million; add \$1.8 million to the regulatory account for the Army Corps of Engineers to help address the chronic backlog of project applications, which would be offset by cutting the Corps of Engineers expenses; add \$45 million for the Hydrogen, Fuel Cells, and Infrastructure Technologies Program, which would be offset by a \$30 million reduction for departmental administration in the Department of Energy and a \$15 million reduction for electricity delivery and energy reliability; increase funding for the Northern Border Regional Commission by \$2.5 million, which would be offset by a \$2.5 million reduction to Other Defense Activities account; prohibit funds in the bill from being used to purchase light bulbs unless they have the "Energy Star" or "Federal Energy Management Program" designation; and prohibit any funds in the bill from being used to purchase passenger motor vehicles unless they are purchased from Ford, General Motors, or Chrysler;

- by a vote of 362-69, a Connolly (Va.) amendment that seeks to provide \$7 million for the Chesapeake Bay Oyster Restoration program run by the U.S. Army Corps of Engineers to enhance water quality and fisheries productivity in the bay, which would be offset by a reduction in funding for Army Corps of Engineers expenses;

- a Wamp amendment that seeks to transfer \$14 million from Corps of Engineers expenses to Corps of Engineers construction;

- by a vote of 432-0, a Hastings (Wash.) amendment that seeks to make available \$5 million from the Bureau of Reclamation Water and Related Resources account to begin installing hydroelectric facilities identified in a report authorized under the Energy and Policy Act of 2005 at Bureau of Reclamation dams;

- a Costa amendment that seeks to increase funding for the California Bay-Delta Restoration Program by \$10 million and decrease funding for the Bureau of Reclamation Office of the Commissioner by \$10 million;

- a Cardoza amendment that seeks to facilitate water transfers within the Central Valley Project and also transfers from outside the Central Valley Project;

- by a vote of 429-4, a Boren amendment that seeks to increase by \$5 million funding for the Energy Efficiency and Renewable Energy account to be utilized in the EERE Vehicles Technologies, Fuels Technology Program for natural gas vehicle research development and demonstration, which would be offset by a reduction in funds for the DOE's departmental administration account for general expenses; and

- by a vote of 431-1, a Miller (Mich.) amendment that seeks to increase the Water Power Program in Energy and Efficiency and Renewable Energy by \$10 million, its fiscal 2009 enacted level, which would be offset by a reduction in funds to the DOE's departmental administration by the same amount.

Pending are the following:

- a Heinrich amendment that seeks to allow national security laboratories to dedicate an additional 1 percent (total of 7 percent) of each lab's annual budget to Laboratory Directed Research and Development (LDRD), which allows laboratories to pursue high-risk, high-reward research and develop innovative technologies to support energy and homeland security priorities;

- a Cao amendment that seeks to reduce the time between preparation of reports and submissions to Congress from 90 days to 60 days;

- a Blackburn amendment that seeks to make an across-the-board cut of 5 percent to all funding accounts in the bill;

- a Campbell amendment that seeks to strike the \$1,000,000 earmark for the Housatonic River Net-Zero Energy Building and reduce the overall cost of the bill by \$1,000,000;

- a Flake amendment that seeks to strike \$1.5 million in funding for the “Maret Center” and reduce the overall cost of the bill;

- a Flake amendment that seeks to strike \$1 million in funding for the “Consortium for Plant Biotechnology Research” and reduce the overall cost of the bill by a commensurate amount;

- a Flake amendment that seeks to strike \$500,000 in funding for “Ethanol from Agriculture” program and reduce the overall cost of the bill by a commensurate amount;

- a Flake amendment that seeks to strike \$2 million in funding for the “Fort Mason Center Pier 2 Project” and reduce the overall cost of the bill by a commensurate amount;

- a Flake amendment that seeks to strike \$300,000 in funding for “Whitworth University Stem Equipment” and reduce the overall cost of the bill by a commensurate amount;

- a Flake amendment that seeks to strike \$1.6 million in funding for “The Boston Architectural College’s Urban Sustainable Initiative” and reduce the overall cost of the bill by a commensurate amount;

- a Hensarling amendment that seeks to strike \$500,000 for the Energy Conservation and Efficiency Upgrade of HVAC project in New York and reduce the overall cost of the bill;

- a Hensarling amendment that seeks to strike \$6.22 million for the Pier 36 removal project in California and reduce the overall cost of the bill by a commensurate amount; and

- a Hensarling amendment that seeks to strike \$500,000 for the Automated Remote Electric and Water Meters in South River project and reduce the overall cost of the bill by a commensurate amount.

Earlier, by a vote of 238-185, agreed to **H. Res. 645**, the rule providing for consideration of the bill.

Prior to that, by a vote of 237-177, agreed to order the previous question on the rule.

Agreed to a question of consideration on the resolution.

By a vote of 415-3, two-thirds of those members duly chosen and sworn having voted in the affirmative, adopted a motion to suspend the rules and agree to **H.R. 1044**, to provide for the administration of Port Chicago Naval Magazine National Memorial as a unit of the National Park System.

By a vote of 416-0, two-thirds of those members duly chosen and sworn having voted in the affirmative, adopted a motion to suspend the rules and agree to **H.R. 934**, to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands.

By a vote of 413-0, two-thirds of those members duly chosen and sworn having voted in the affirmative, adopted a motion to suspend the rules and agree to **H.R. 762**, to validate final patent number 27-2005-0081.

The Government Accountability Office released the following reports: *Grants Management: Grants.gov Has Systemic Weaknesses That Require Attention* (GAO-09-589); and *State Department: Key Transformation Practices Could Have Helped in Restructuring Arms Control and Nonproliferation Bureaus* (GAO-09-738).

GAO released the following correspondence: *Coast Guard Retiree Health Care: Coast Guard Contributions to and Payments from the DOD Medicare-Eligible Retiree Health Care Fund (MERHCF)* (GAO-09-857R).

GAO released the following testimony: *Federal Real Property: An Update on High Risk Issues* (GAO-09-801T), statement of Mark L. Goldstein, director for physical infrastructure issues.

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

Reports Filed

July 14

H.R. 1622, to provide for a program of research, development, and demonstration on natural gas vehicles, with an amendment (H. Rept. No. 111-206).

H.R. 2729, to authorize the designation of National Environmental Research Parks by the secretary of energy, with an amendment (H. Rept. No. 111-207).

H. Res. 644, providing for consideration of H.R. 3170, making fiscal 2010 appropriations for financial services and general government (H. Rept. No. 111-208).

H. Res. 645, providing for consideration of H.R. 3183, making fiscal 2010 appropriations for energy and water development and related agencies (H. Rept. No. 111-209).

Bills & Resolutions Introduced

July 14

(MORTGAGES) TURNER and MILLER (N.C.): H.R. 3195, to create a national home mortgage and loan performance registry to maintain an inventory of the supply and performance of home mortgage loans in the United States to show market trends and dynamics in the mortgage lending industry and provide detailed information on national mortgage foreclosure rates; to Financial Services.

(INTERNATIONAL FINANCE) TURNER: H.R. 3196, to impose limitations on investment and certain operations by foreign entities in the United States; jointly to Financial Services; Foreign Affairs; and Energy & Commerce.

(EDUCATION) McMORRIS RODGERS: H.R. 3197, to direct the secretary of education to provide grants to local educational agencies to conduct demonstration projects to screen the blood pressure of children in kindergarten through grade 6; to Education & Labor.

(ENVIRONMENT) YOUNG (Alaska): H.R. 3198, to authorize the secretary of the interior to provide interna-

tional wildlife management and conservation programs through the Wildlife Without Borders Program in the U.S. Fish and Wildlife Service, and for other purposes; to Natural Resources.

(HEALTH CARE) HARMAN and others: H.R. 3199, to amend the Public Health Service Act to provide grants to state emergency medical service departments to provide for the expedited training and licensing of veterans with prior medical training, and for other purposes; to Energy & Commerce.

(HEALTH CARE) DINGELL and others: H.R. 3200, to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes; jointly to Energy & Commerce; Ways & Means; Education & Labor; Oversight & Government Reform; and Budget.

(MINING) LAMBORN and BISHOP (Utah): H.R. 3201, to amend the General Mining Law of 1872 to provide for a fair return to the public, security of tenure to holders of mining claims and mill sites, and cleanup of abandoned mine lands, and for other purposes; to Natural Resources.

(INFRASTRUCTURE) BLUMENAUER and others: H.R. 3202, to establish a water protection and reinvestment fund to support investments in clean water and drinking water infrastructure, and for other purposes; jointly to Transportation; Energy & Commerce; Ways & Means; and Science.

(MINING) LAMBORN and BISHOP (Utah): H.R. 3203, to promote remediation of inactive and abandoned mines, and for other purposes; jointly to Energy & Commerce; Transportation; and Natural Resources.

(HOUSING) TURNER: H.R. 3204, to authorize states and localities receiving assistance under the Neighborhood Stabilization Program of the Department of Housing and Urban Development to use such amounts for renovating owner-occupied housing of low-income families; to Financial Services.

(TAX DEDUCTIONS) LIPINSKI: H.R. 3205, to amend the Internal Revenue Code of 1986 to deny any deduction for advertising health insurance; to Ways & Means.

(ENVIRONMENT) SPEIER and others: H.R. 3206, to amend the Safe Drinking Water Act to require a national primary drinking water regulation for perchlorate; to Energy & Commerce.

(TAX POLICY) ABERCROMBIE and HIRONO: H.R. 3207, to amend the Internal Revenue Code of 1986 to exclude from gross income gain on the sale of certain residential leased-fee interests to holders of the leasehold rights; to Ways & Means.

(INDIAN AFFAIRS) ARCURI and McHUGH: H.R. 3208, to fully compensate local educational agencies and local governments for tax revenues lost when the federal government takes land into trust for the benefit of a federally recognized Indian tribe or an individual Indian; to Natural Resources.

(JUDICIARY) GERLACH: H.R. 3209, to amend title 18, U.S. Code, to make the killing of a law enforcement officer, firefighter, or other first responder an aggravating

factor for the imposition of the death penalty; to Judiciary.

(HOUSING) HINOJOSA and others: H.R. 3210, to authorize appropriations for the rural housing and economic development program of the Department of Housing and Urban Development; to Financial Services.

(SOCIAL SECURITY) KAGEN: H.R. 3211, to amend title II of the Social Security Act to provide that the percentage increase applied to benefits each year as a cost-of-living increase under such title shall in no case be less than the percentage increase in compensation of members of Congress specified for such year under section 31 of title 2, U.S. Code; to Ways & Means.

(HEALTH CARE) PALLONE: H.R. 3212, to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth; to Energy & Commerce.

(TAX DEDUCTIONS) PAUL: H.R. 3213, to amend the Internal Revenue Code of 1986 to expand and make permanent the standard deduction for real property taxes; to Ways & Means.

(CONSUMER CREDIT) ROONEY: H.R. 3214, to provide for credit rating reforms, and for other purposes; to Financial Services.

(PUBLIC LANDS) ROONEY: H.R. 3215, to authorize the secretary of the interior, acting through the National Park Service superintendent of the Everglades National Park, to allow individuals to hunt and kill Burmese pythons within the boundaries of that park; to Natural Resources.

(COMMUNICATIONS) ROSS and others: H.R. 3216, to amend the Communications Act of 1934 to permit the retransmission of signals of local television broadcast stations in an adjacent underserved county, and for other purposes; jointly to Judiciary and Energy & Commerce.

(HEALTH CARE) SHADEGG and others: H.R. 3217, to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; to Energy & Commerce.

(HEALTH CARE) SHADEGG and others: H.R. 3218, to provide a refundable tax credit for medical costs, to expand access to health insurance coverage through individual membership associations (IMAs), and to assist in the establishment of high risk pools; jointly to Energy & Commerce and Ways & Means.

(CONGRESS) PENCE: H. Res. 640, electing a minority member to a standing committee; considered and agreed to.

(INTERNATIONAL AFFAIRS) ROS-LEHTINEN and others: H. Res. 641, recognizing the 60th anniversary of the founding of Radio Free Europe/Radio Liberty; to Foreign Affairs.

(HEALTH CARE) GRIFFITH: H. Res. 642, expressing the sense of the House with respect to legislation relating to changes in our nation's health care system; to House Administration.

(HEALTH CARE) GRIFFITH: H. Res. 643, expressing the sense of the House that any major health care reform bill considered on the floor should be available for viewing; to Rules.

(GOVERNMENT OPERATIONS) BRADY (Pa.) and others: H. Res. 646, honoring the memory and lasting legacy of Sally Crowe; to House Administration.

(PENSIONS) SCHWARTZ and SAM JOHNSON (Texas): H. Res. 647, supporting the goals and ideals of "National Save for Retirement Week," including raising public awareness of the various tax-preferred retirement vehicles and increasing personal financial literacy; to Financial Services.

(HEALTH CARE) WATSON and others: H. Res. 648, expressing the need for enhanced public awareness of potential health affects posed by mercury; to Energy & Commerce.

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

July 15

ARMED SERVICES, full committee held a hearing on addressing a new generation of threats from weapons of mass destruction, focusing on the Department of Energy's nonproliferation programs and the Department of Defense's cooperative threat reduction program;

Oversight & Investigations Subcommittee held a hearing on beyond service core competency, focusing on whether our junior officers are prepared for today's security environment.

EDUCATION & LABOR, full committee began the markup of H.R. 3200, to provide affordable, quality health care for all Americans, and reduce the growth in health care spending.

ENERGY & COMMERCE, full committee announced the following meetings:

- July 16—full committee to begin the markup of H.R. 3200, to provide affordable, quality health care for all Americans, and reduce the growth in health care spending; 2 p.m., 2123 RHOB; contact 225-2927;

- July 17—full committee to continue the markup of H.R. 3200, to provide affordable, quality health care for all Americans, and reduce the growth in health care spending; 10 a.m., 2123 RHOB; contact 225-2927;

- July 20—full committee to continue the markup of H.R. 3200, to provide affordable, quality health care for all Americans, and reduce the growth in health care spending; noon, 2123 RHOB; contact 225-2927;

- July 21—full committee to continue the markup of H.R. 3200, to provide affordable, quality health care for

all Americans, and reduce the growth in health care spending; 10 a.m., 2123 RHOB; contact 225-2927;

- July 22—full committee to continue the markup of H.R. 3200, to provide affordable, quality health care for all Americans, and reduce the growth in health care spending; 10 a.m., 2123 RHOB; contact 225-2927.

FINANCIAL SERVICES, full committee held a hearing on banking industry perspectives on the Obama administration's financial regulatory reform proposals;

Housing Subcommittee continued a hearing on legislative options for preserving federally- and state-assisted affordable housing and preventing displacement of low-income, elderly, and disabled tenants;

full committee announced the following meetings:

- July 17—full committee to mark up the following legislation: H.R. 3045, to reform the housing choice voucher program under section 8 of the U.S. Housing Act of 1937; and H. Res. 591, requesting that the president transmit to the House all information in his possession relating to certain specific communications with and financial assistance provided to General Motors Corporation and Chrysler LLC; 9:30 a.m., 2128 RHOB; contact 225-4247;

- July 21—full committee to hold a hearing on the Federal Reserve's semiannual report to Congress on monetary policy and the state of the economy; 10 a.m., 2128 RHOB; contact 225-4247;

- July 21—full committee to hold a hearing on systemic risk, focusing on whether some institutions are too large to fail; 2 p.m., 2128 RHOB; contact 225-4247.

HOMELAND SECURITY, Transportation Security Subcommittee held a hearing on assessing risks and the road ahead for general aviation security.

HOUSE ADMINISTRATION, Elections Subcommittee held a hearing on examining uniformity in election standards.

JUDICIARY, Crime Subcommittee held a hearing on H.R. 1064, to provide for evidence-based and promising practices related to juvenile delinquency and criminal street gang activity prevention and intervention to help build individual, family, and community strength and resiliency to ensure that youth lead productive, safe, healthy, gang-free, and law-abiding lives.

NATURAL RESOURCES, full committee held a hearing on the following bills: H.R. 2678, to extend federal recognition to the Duwamish Tribe; H.R. 1358, to reaffirm and clarify the federal relationship of the Burt Lake Band as a distinct federally-recognized Indian tribe; H.R. 3084, to restore federal recognition to the Chinook Nation; and H.R. 3120, to extend the federal relationship to the Little Shell Tribe of Chippewa Indians of Montana as a distinct federally recognized Indian tribe.

SCIENCE, Technology Subcommittee favorably reported to the full committee H.R. 2569, to authorize surface transportation research, development, and technology transfer activities.

SMALL BUSINESS, full committee held a hearing on economic recovery, focusing on tax stimulus items that benefitted small business with a look ahead;

Investigations Subcommittee announced a July 16 hearing on the upcoming highway bill and ensuring that it

meets the needs of small businesses; 10 a.m., 2360 RHOB; contact 225-4038.

TRANSPORTATION, Economic Development Subcommittee held a hearing on evaluating the General Service Administration's first experience with national broker contracts;

Water Resources Subcommittee held a hearing on opportunities and challenges in the creation of a clean water trust fund.

VETERANS' AFFAIRS, full committee ordered reported the following bills: H.R. 2770, to amend title 38, U.S. Code, to provide for the establishment of a compensation fund to make payments to qualified World War II veterans on the basis of certain qualifying service; H.R. 1293, to amend title 38, U.S. Code, to provide for an increase in the amount payable by the secretary of veterans affairs to veterans for improvements and structural alterations furnished as part of home health services; H.R. 3155, to provide certain caregivers of veterans with training, support, and medical care; and H.R. 3219, to make certain improvements in the laws administered by the secretary of veterans affairs relating to insurance and health care.

PERMANENT SELECT INTELLIGENCE, Terrorism Subcommittee held a closed meeting to receive a briefing on hot spots.

July 14

RULES, full committee granted rules for floor debate of the following legislation: a structured rule for the consideration of H.R. 3170, making fiscal 2010 appropriations for financial services and general government; and a structured rule for the consideration of H.R. 3183, making fiscal 2010 appropriations for energy and water development and related agencies.

Committee Meetings Scheduled

July 16

AGRICULTURE, full committee to hold a hearing to review current issues in food safety; 10 a.m., 1300 LHOB; contact 225-2171.

APPROPRIATIONS, Defense Subcommittee to hold a closed mark up fiscal 2010 appropriations under its jurisdiction; 9 a.m., H-140; contact 225-2847.

ARMED SERVICES, full committee to hold a hearing on prosecuting law of war violations, focusing on reforming the Military Commissions Act of 2006; 2 p.m., 2118 RHOB; contact 225-4151;

Defense Acquisition Reform Panel to hold a hearing on managing service contracts, focusing on what works and what does not; 8 a.m., 2212 RHOB; contact 225-4151;

Seapower Subcommittee to hold an oversight hearing on the Electromagnetic Aircraft Launch Systems (EMALS); 10 a.m., 2212 RHOB; contact 226-2211.

BUDGET, full committee to hold a hearing on budgeting for nuclear waste management; 10 a.m., 210 CHOB; contact 226-7200.

EDUCATION & LABOR, full committee to continue the markup of H.R. 3200, to provide affordable, quality health care for all Americans, and reduce the growth in health care spending; 10 a.m., 2175 RHOB; contact 225-3725.

ENERGY & COMMERCE, full committee to mark up H.R. 3200, to provide affordable, quality health care for all Americans, and reduce the growth in health care spending; 2 p.m., 2123 RHOB; contact 225-2927.

FINANCIAL SERVICES, full committee to hold a hearing on community and consumer advocates; perspectives on the president's regulatory reform proposals; 10 a.m., 2128 RHOB; contact 225-4247;

Domestic Monetary Policy Subcommittee to hold a hearing on regulatory restructuring, focusing on safeguarding consumer protection and the role of the Federal Reserve; 2 p.m., 2128 RHOB; contact 225-4247;

International Organizations Subcommittee to hold a hearing on the Uighurs being held at the detention facility at Guantanamo Bay, Cuba; 10 a.m., 2172 RHOB; contact 225-4247.

HOMELAND SECURITY, Border Subcommittee to hold a hearing on the role of interagency coordination in investigating and combating border violence; 10 a.m., 311 CHOB; contact 226-2616.

OVERSIGHT & GOVERNMENT REFORM, full committee to continue a joint hearing with the Domestic Policy Subcommittee on Bank of America and Merrill Lynch, focusing on how a private deal turn into a federal bailout; 10 a.m., 2154 RHOB; contact 225-5051.

SCIENCE, Investigations Subcommittee to hold a hearing on providing aviation weather services to the Federal Aviation Administration; 11 a.m., 2318 RHOB; contact 225-8772;

Space Subcommittee to hold a hearing on enhancing the relevance of space to address national needs; 2 p.m., 2318 RHOB; contact 225-7858.

SMALL BUSINESS, Investigations Subcommittee to hold a hearing on the upcoming highway bill and ensuring that it meets the needs of small businesses; 10 a.m., 2360 RHOB; contact 225-4038.

TRANSPORTATION, Economic Development Subcommittee to hold a hearing on whether green buildings offer multiple benefits, focusing on cost savings, clean environment, and jobs; 2 p.m., 2167 RHOB; contact 225-9961;

Highways Subcommittee to hold a hearing on the importance of a long-term surface transportation authorization in sustaining economic recovery; 10 a.m., 2167 RHOB; contact 225-9989.

VETERANS' AFFAIRS, Disability Assistance Subcommittee to hold a joint hearing with the Health subcommittee on eliminating the gaps in regards to issues confronting women veterans; 10 a.m., 334 CHOB; contact 225-9164;

Economic Opportunity Subcommittee to hold a hearing on state approving agencies; 1 p.m., 340 CHOB; contact 226-5491.

WAYS & MEANS, full committee to mark up H.R. 3200, to provide affordable, quality health care for all Americans, and reduce the growth in health care spending; 9 a.m., 1100 LHOB; contact 225-3625.

JOINT/CONFERENCE COMMITTEES

Committee Action

July 15

NONE.

Committee Meetings Scheduled

July 16

NONE.

PRESIDENT'S CALENDAR

White House Announcements

July 15:

The White House released a presidential statement on the health care reform legislation passed by the Senate HELP Committee.

The White House released a presidential statement on the reelection of Indonesian President Yudhoyono.

The White House released a presidential statement on Chairman Miller's education reform bill.

President Obama sent a letter on Cuba to the chairman and ranking member of the House Foreign Affairs Committee, the chairmen and ranking members of the House and Senate Appropriations Committees, and the chairman and ranking member of the Senate Foreign Relations Committee.

President Obama sent the following nomination to the Senate:

Richard Serino, of Massachusetts, to be deputy administrator and chief operating officer at the Federal Emergency Management Agency, vice Harvey E. Johnson, Jr.

The President's Appointments

July 15:

President Obama delivered remarks on health care reform at the White House.

The president took part in an interview on health care policy with MSNBC's Dr. Nancy Snyderman, to air July 15 and July 16.

The president called Representative-elect Judy Chu (D-Calif.) to congratulate her on her victory in the special election in California.

Regulatory Agenda

JULY 16 FEDERAL REGISTER

The following entries are summaries from the July 16, 2009, Federal Register (Vol. 74, No. 135). Full text of all of the identified Federal Register items is available from BNA PLUS.

Environmental Protection Agency

AIR QUALITY

Texas SIP

Direct final rule of the EPA amends regulations under 40 CFR 52.2270 to approve portions of a revision to the Texas SIP. The revision affects general air quality standards and the mass emissions cap and trade program. The rule is effective Sept. 14, 2009, if no adverse comments are received by Aug. 17, 2009. Contact: Adina Wiley; EPA Region VI, Air Permits Section; (214-665-2115)

AIR QUALITY

Texas SIP

Proposed rule of the EPA would amend regulations under 40 CFR 52.2270 to approve portions of a revision to the Texas SIP. The revision affects general air quality standards and the mass emissions cap and trade program. A direct final rule adopting the revision has been issued concurrently. Comments are due Aug. 17, 2009. Contact: Adina Wiley; EPA Region VI, Air Permits Section; (214-665-2115)

AIR QUALITY

NAAQS for Ozone/Ambient Ozone Monitoring Requirements

Proposed rule of the EPA would 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). The proposal would modify the minimum monitoring requirements in urban areas, add new minimum monitoring requirements in nonurban areas, and extend the length of the required ozone monitoring season in some states. Comments are due Sept. 14, 2009. Contact: Lewis Weinstock; EPA, Office of Air Quality Planning and Standards; (919-541-3661)

AIR QUALITY

Clean Air Scientific Advisory Committee Review Panel Meeting

Notice of the EPA Science Advisory Board announces a teleconference meeting of the Clean Air Scientific Advisory Committee's Oxides of Nitrogen Primary NAAQS

Review Panel. The panel will review EPA's proposed revisions to the NAAQS for nitrogen dioxide. The teleconference is scheduled for Aug. 10, 2009. Comments are due Aug. 5, 2009. Contact: Scott Jenkins; EPA, Office of Air and Radiation; (919-541-1167)

HAZARDOUS WASTE

Colorado/Evening Star Mine Site

Notice of the EPA announces a proposed administrative settlement under CERCLA Section 122(h) for recovery of response costs concerning the Evening Star Mine site in Boulder County, Colo. The settlement would require the settling party, Boulder County, to perform work at the site, including removing an access road, adding rip-rap material below waste rock impoundments, securing the site, maintaining a soil cover and vegetation of the regraded waste rock areas, and taking over operations and maintenance of the site. The settlement also would require the settling party to pay \$193,573 for past response costs. In addition, the settlement would include a covenant not to sue. Comments are due Aug. 17, 2009. Contact: Michael Rudy; EPA Region VIII; (303-312-6332)

TOXIC SUBSTANCES

Premanufacture/Test Marketing Exemption Notices

Notice of the EPA announces the availability of receipt and status information regarding 41 premanufacture notices, one test marketing exemption notice, and 14 notices of commencement to manufacture new chemicals received by the agency from May 26-June 12, 2009. The agency is required to publish such information under TSCA Section 5. Comments are due Aug. 17, 2009. Contact: Colby Lintner; EPA, Office of Pollution Prevention and Toxics; (202-554-1404)

TOXIC SUBSTANCES

Premanufacture/Test Marketing Exemption Notices

Notice of the EPA announces the availability of receipt and status information regarding 44 premanufacture notices, two test marketing exemption notices, and two notices of commencement to manufacture new chemicals received by the agency from June 15-July 3, 2009. The agency is required to publish such information under TSCA Section 5. Comments are due Aug. 17, 2009. Contact: Colby Lintner; EPA, Office of Pollution Prevention and Toxics; (202-554-1404)

U.S. Fish and Wildlife Service

ENDANGERED SPECIES

Idaho/Utah Valvata Snail Delisting Petition

Proposed rule of the U.S. Fish and Wildlife Service would amend regulations under 50 CFR 17.11 to remove the Utah (desert) valvata snail from the list of en-

JULY 16 FEDERAL REGISTER

Continued from previous page

dangered and threatened wildlife under the Endangered Species Act. The proposal also announces the availability of the agency's 12-month finding on the petition to remove the species from the list. The agency has found, after review of the available scientific and commercial data, that the Utah valvata snail is more widespread and occurs in a greater variety of habitats in the Snake River in Idaho than was known at the time of listing in 1992. The agency therefore has determined that the species does not meet the definition of a threatened or endangered species under ESA and proposes to remove it from the list. Hearing requests are due Aug. 31, 2009. Comments are due Sept. 14, 2009. Contact: Jeffery Foss; USFWS, Idaho Fish and Wildlife Office; (208-378-5243)

JULY 15 FEDERAL REGISTER**Environmental Protection Agency****AIR QUALITY** (74 Fed. Reg. 34,404)

National Ambient Air Quality Standard for Nitrogen Dioxide

Proposed rule of the EPA would amend regulations under 40 CFR 50 and 58 to revise the primary national ambient air quality standard (NAAQS) for nitrogen dioxide (NO₂). The proposal would supplement the current annual standard by establishing a new short-term NO₂ standard based on the three-year average of the 99th percentile, or fourth highest, of one-hour daily maximum concentrations. The proposal would set the level of the new standard within the range of 80 to 100 parts per billion; the agency also requests comment on standard levels as low as 65 ppb and as high as 150 ppb. In addition, the proposal would establish requirements for a NO₂ monitoring network to include monitors within 50 meters of major roadways. The agency requests comment on an alternative approach to setting the standard and revising the monitoring network. Hearings on the proposal are announced in a concurrent notice. Comments are due Sept. 14, 2009. Comments on the information collection provisions are due Aug. 14, 2009. Contact: Scott Jenkins; EPA, Office of Air Planning and Standards; (919-541-1167)

AIR QUALITY (74 Fed. Reg. 34,290)

National Ambient Air Quality Standard for Nitrogen Dioxide

Notice of the EPA announces hearings on a concurrent proposed rule that would amend regulations under 40 CFR 50 and 58 to revise the primary national ambient air quality standard (NAAQS) for nitrogen dioxide (NO₂). The hearings are scheduled for Aug. 3 and 6, 2009, in Arlington, Va., and Los Angeles, respectively. Contact: Scott Jenkins; EPA, Office of Air Planning and Standards; (919-541-1167)

WATER QUALITY (74 Fed. Reg. 34,340)

Maine/Marine Sanitation Determination

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 coastal waters of Southern Mount Desert Island off Maine. Contact: Ann Rodney; EPA New England; (617-918-1538)

HAZARDOUS WASTE (74 Fed. Reg. 34,349)

California/Casmalia Disposal Site

Notice of the EPA announces a proposed administrative de minimis settlement concerning the Casmalia Disposal site in Santa Barbara County, Calif. The settlement would resolve the liabilities of 142 settling parties under CERCLA Sections 106 and 107 and RCRA Section 7003 for response costs and potential natural resource damages claims by EPA and specified state regulatory entities. Of the 142 settling parties, 100 have elected to resolve their liability with EPA and the state regulatory entities, 42 have elected to resolve their liabilities only with the state regulatory entities, and 23 have previously settled with EPA. The settlement would require those parties settling with EPA and the state regulatory entities to pay over \$1.7 million to EPA. The settlement also would require those parties and the additional 42 parties settling only with the state regulatory entities and state trustee to pay a total of \$675,000 to the state regulatory entities and state trustee. Meeting requests are due July 30, 2009. Comments are due Aug. 14, 2009. Contact: Karen Goldberg; EPA Region IX, Office of Regional Counsel; (415-972-3951)

TOXIC SUBSTANCES (74 Fed. Reg. 34,341)

TSCA Section 21 Petition/Lead Wheel-Balancing Weights

Notice of the EPA announces the receipt of a petition under TSCA Section 21 requesting that the agency establish regulations to prohibit the manufacture, processing, and distribution in commerce of lead wheel-balancing weights. The petition was submitted by the Ecology Center, of Ann Arbor, Mich., and the Sierra Club. Comments are due July 30, 2009. Contact: Mark Henshall; EPA, Office of Pollution Prevention and Toxics; (202-566-0523)

PESTICIDES (74 Fed. Reg. 34,337)

Pesticide	Registration	Cancellation/
Pentachloronitrobenzene		

Notice of the EPA announces a cancellation order granting requests from registrants to voluntarily amend their pesticide registrations to terminate uses of certain products containing the fungicide pentachloronitrobenzene (PCNB), pursuant to FIFRA Section 6(f)(1). The order terminates PCNB use on golf course roughs, residential sites, grounds at day care facilities, school yards, parks, playgrounds, and athletic fields. The requests were submitted by Chemtura Corp., of Middlebury, Conn., and Amvac Chemical Co., of Newport Beach, Calif. The cancellations are effective July 15, 2009. Contact: Jill Bloom; EPA, Office of Pesticide Programs; (703-308-8019)

PESTICIDES (74 Fed. Reg. 34,345)

Pesticide Registration Cancellations/Malathion

Notice of the EPA announces a cancellation order granting requests from registrants to voluntarily cancel or amend pesticide product registrations for certain products containing the pesticide malathion, pursuant to FIFRA Section 6(f)(1). The cancellations are effective July 15, 2009. Contact: Eric Miederhoff; EPA, Office of Pesticide Programs; (703-347-8028)

PESTICIDES (74 Fed. Reg. 34,341)

Probabilistic Human Health Exposure Assessments Policy

Notice of the EPA announces the withdrawal of the pesticide science policy document titled "Guidance for Submission of Probabilistic Human Health Exposure Assessments." The document has been superseded by the agency's guidance documents titled "Guidance on Cumulative Risk Assessment of Pesticide Chemicals That Have A Common Mechanism of Toxicity" and "Guidance for Performing Aggregate Exposure and Risk Assessment." Contact: David Miller; EPA, Office of Pesticide Programs; (703-305-5352)

PESTICIDES (74 Fed. Reg. 34,252)

Pesticide Tolerances/Fenamidone

Final rule of the EPA amends regulations under 40 CFR 180.579 to establish tolerances for residues and combined residues of the fungicide fenamidone and its metabolite RPA 717879 in or on various agricultural commodities. The rule also deletes certain time-limited tolerances that are superseded by new permanent tolerances. In addition, the rule specifies that the new tolerance on grapes will be a tolerance with regional registration (east of the Rocky Mountains) to replace the current tolerance that is restricted to imported grapes. The rule is issued in response to petitions from the Interregional Research Project No. 4, of Princeton, N.J., and Bayer CropScience, of Research Triangle Park, N.C. The rule is effective July 15, 2009. Objections and hearing requests are due Sept. 14, 2009. Contact: Susan Stanton; EPA, Office of Pesticide Programs; (703-305-5218)

TOXIC SUBSTANCES (74 Fed. Reg. 34,257)

Lead-Based Paint/Renovation, Repair, and Painting Program

Final rule of the EPA amends regulations under 40 CFR 745.225 to revise an April 22, 2008, final rule (73 FR 21692) that addressed lead-based paint hazards from renovation, repair, and painting activities that disturb lead-based paint in "target housing" and child-occupied facilities. The rule requires accredited providers of renovator or dust sampling technician training to submit to EPA post-course notifications, including digital photographs of each successful trainee. The rule also removes the requirement for accredited providers of lead-based paint activities training to submit a digital photograph of each successful trainee along with their post-course notifications. The rule is effective July 15, 2009. Contact: Cindy Wheeler; EPA, Office of Pollution Prevention and Toxics; (202-566-0484)

MISCELLANEOUS (74 Fed. Reg. 34,348)

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 EPA's economic analysis guidelines update and on the draft SAB panel report concerning the agency's "Expert Elicitation Task Force White Paper." The teleconferences are scheduled for Aug. 6 and 28, 2009. Comments are due July 31 and Aug. 20, 2009, respectively. Contact: Thomas Miller; EPA Science Advisory Board; (202-343-9982)

MISCELLANEOUS (74 Fed. Reg. 34,349)

Farm, Ranch, and Rural Communities Committee Meeting

Notice of the EPA announces a meeting of the Farm, Ranch, and Rural Communities Committee. The meeting will include discussion of the impacts of agency agriculture-related programs, policies, and regulations regarding climate change and renewable energy; identification and development of a comprehensive environmental strategy for livestock operations; and development of a constructive approach or framework to address areas of common interest between sustainable agriculture and protection of the environment. The meeting is scheduled for Aug. 25 and 27, 2009, in Sacramento, Calif. Contact: Alicia Kaiser; EPA, Office of the Administrator; (202-564-7273)

MISCELLANEOUS (74 Fed. Reg. 34,339)

Indiana/Electronic Reporting EPA-Approved Programs

Notice of the EPA announces the approval under the cross-media electronic reporting regulations of a request from the state of Indiana to revise certain EPA-authorized programs to allow electronic reporting. The action affects the state's authorized programs under 40 CFR 51, 60 through 63, 70, 122 through 124, 141, 262, 264 through 266, 268, 270, and 280. Hearing requests are due Aug. 14, 2009. The approval is effective July 15, 2009, except for the state's program under 40 CFR 142, which is effective, Aug. 14, 2009. Contact: Evi Huffer; EPA, Office of Environmental Information; (202-566-1697)

U.S. Army Corps of Engineers**WATER QUALITY** (74 Fed. Reg. 34,311)

Corps of Engineers Nationwide Permit 21/Surface Coal Mining

Notice of the U.S. Army Corps of Engineers announces the proposed suspension and modification of its Nationwide Permit (NWP) 21, which authorizes discharges of dredged or fill material into waters of the United States for surface coal mining activities. The proposal would modify NWP 21 to prohibit its use to authorize discharges of dredged or fill materials into U.S. waters for surface coal mining activities in the Appalachian region of the states of Kentucky, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia until the permit expires on March 18, 2012. The proposal would require surface coal mining projects in the affected region to obtain individual permit coverage under the Clean Water Act.

JULY 15 FEDERAL REGISTER

Continued from previous page

The proposal also would suspend NWP 21 pending its decision on the proposed modification of the permit to prohibit such discharges in the Appalachian region of the affected states. Comments and hearing requests are due Aug. 14, 2009. Contact: Desiree Hann; USACE; (202-761-4560)

Pipeline and Hazardous Materials Safety Administration

HAZARDOUS MATERIALS TRANSPORTATION (74 Fed. Reg. 34,389)

Applications for Modification of Special Permits

Notice of the Pipeline and Hazardous Materials Safety Administration announces the availability of a list of 14

applications for modification of special permits from the DOT's hazardous materials transportation regulations under 49 CFR 107, Subpart B. Comments are due July 30, 2009. Contact: PHMSA, Office of Hazardous Materials Special Permits and Approvals; (202-366-4535)

Office of Surface Mining Reclamation and Enforcement

MINING (74 Fed. Reg. 34,490)

Surface Mining/Civil Monetary Penalties

Final rule of the Office of Surface Mining Reclamation and Enforcement amends regulations under 30 CFR 723, 724, 845, and 846 to adjust the agency's civil monetary penalties authorized by the Surface Mining Control and Reclamation Act to reflect inflation. The rule is effective Nov. 28, 2009. Contact: Andy DeVito; OSMRE; (202-208-2701)

Comment Deadlines on Major Regulations & Other Actions

Climate Change	EPA and National Highway Traffic Safety Administration notice on the intention to issue a joint proposed rulemaking to establish a coordinated national program of federal greenhouse gas emissions and fuel economy standards for passenger cars, light-duty trucks, and medium-duty passenger vehicles built in model years 2012 through 2016 (74 Fed. Reg. 24,007)	no date given	Contact Christopher Lieske in EPA's Office of Transportation and Air Quality at (734) 214-4584
Air Pollution	EPA proposed rule to amend regulations under 40 CFR 51, 60, 61, and 63 to reorganize the stationary source audit program (74 Fed. Reg. 28,451)	July 16, 2009	Contact Candace Sorrell in EPA's Office of Air Quality Planning and Standards at (919) 541-1064
Air Pollution	EPA notice of a draft document, "Risk and Exposure Assessment to Support the Review of the Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Oxides of Sulfur: Second Draft" (74 Fed. Reg. 28,698)	July 17, 2009	Contact Anne Rea in EPA's Office of Air Quality Planning and Standards at (919) 541-0053
Radioactive Waste	Nuclear Regulatory Commission proposed rule to amend regulations under 10 CFR 110 regarding the export and import of nuclear equipment and material (74 Fed. Reg. 29,614)	July 23, 2009	Contact Brooke Smith in the NRC Office of International Programs at (301-415-2347)
Endangered Species	U.S. Fish and Wildlife Service and the National Marine Fisheries Service final rule amends regulations under 50 CFR 402.02, 402.03, 402.13, and 402.14 regarding interagency consultation under the Endangered Species Act (73 Fed. Reg. 76,272, 74 Fed. Reg. 20,421)	Aug. 3, 2009	Contact USFWS, Office of the Secretary for Fish and Wildlife and Parks, at (202) 208-3928
Chemical Security	Chemical Safety and Hazard Investigation Board advance notice of proposed rulemaking to amend regulations under 40 CFR, Chapter VI, to require reporting of accidental chemical releases to the board or to the National Response Center (74 Fed. Reg. 30,259)	Aug. 4, 2009	Contact Christopher Kirkpatrick, Chemical Safety and Hazard Investigation Board, at (202) 261-7600
Water Pollution	EPA notice on the second cycle of unregulated contaminant monitoring in public water systems (74 Fed. Reg. 27,311)	Aug. 10, 2009	Contact David Munch in EPA's Office of Ground Water and Drinking Water at (513) 569-7843
Water Pollution	EPA notice on critical public information needs during drinking water emergencies (74 Fed. Reg. 28,695)	Aug. 17, 2009	Contact Scott Minamy at EPA at (513) 569-7175
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

Comment Deadlines on Major Regulations & Other Actions – Continued

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 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



Electronic Resources

NUMBER 134

THURSDAY, JULY 16, 2009

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

Federal Register

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

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>

BNA PRODUCTS

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

Daily Report for Executives

<http://www.bna.com/products/corplaw/der.htm>

Chemical Regulation Reporter

<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>

BNA CONTACTS

BNA's World Wide Web Home Page

<http://www.bna.com>

BNA Customer Relations, e-mail

customercare@bna.com

BNA PLUS, e-mail

BNAPLUS@bna.com

BNA CD-ROM and Notes/Newsstand technical support

BNAPLUS@bna.com