U.S. Response Spurs Fears Of Limits On EPA’s Role In Nuclear Accidents

Environmentalists are raising concerns that EPA appears to be taking a back seat to other federal agencies in the Obama administration’s early response to the nuclear crisis in Japan, underscoring their broader concern that the administration may also curtail the agency’s role in any future nuclear response efforts in the United States, undermining human health protections.

Among other things, environmentalists are concerned that EPA officials — who, according to the agency’s website, have long been responsible for monitoring whether radiation from nuclear incidents overseas is reaching U.S. soil and potentially harming American citizens — were absent from a March 14 White House press briefing on the crisis in Japan.

Instead, Greg Jaczko, chairman of the Nuclear Regulatory Commission (NRC), and Dan Poneman, deputy secretary for the Department of Energy (DOE), addressed whether the Japanese crisis could affect Americans and said the disaster was not deterring the president from pursuing nuclear power as part of his overall energy plan.

Jaczko told reporters there is “a very low probability that there’s any possibility of harmful radiation levels in the United States or in Hawaii, or in any other U.S. territories.” Jaczko said, “You just aren’t going to have any radiological material that by the time it traveled those large distances could present any risk to the American public.”

EPA is also not testifying to Congress on the issue. NRC’s Jaczko was the lone federal official who briefed the Senate environment committee during a March 16 hearing on “the ongoing crisis associated with nuclear power facilities in Japan, as well as the potential ramifications for the United States,” according to a committee statement.

Environmentalists, wary of the history of NRC, DOE and other agencies advocating for radiation standards less stringent than EPA’s, fear this tactic is part of a political maneuver meant to downplay threats to public health, thus allowing the Obama administration to maintain its support for domestic nuclear power expansion.

“It is very concerning,” one activist says of EPA’s apparently reduced role. “Any change at this critical time raises the question of whether the White House will get different results with NRC than with EPA, which has a significantly better track record with public disclosure.”

EPA’s role in nuclear response activities in the United States has been uncertain in recent years. As Inside EPA reported last year, EPA, NRC and the Federal Emergency Management Agency are struggling to determine which agency — and with what money and legal authority — would oversee cleanup in the event of a large-scale accident at a nuclear power plant that disperses radiation off the reactor site and into the surrounding area.

In the wake of the nuclear crisis in Japan, Rep. Ed Markey (D-MA) is urging the White House to clarify the agencies’ roles in light of the Inside EPA article. The “tragic events in Japan highlight the need for more intensive and specific nuclear disaster response plans,” Markey says in a March 13 letter to President Obama (see related story).

An EPA spokesman did not respond to multiple requests for comment, but EPA quietly posted a statement on its website March 15 saying that, as the NRC “has said, we do not expect to see radiation at harmful levels reaching the U.S. from damaged Japanese nuclear power plants.”

But a second activist calls the EPA endorsement of NRC’s position “outrageous” given that EPA’s “official position for decades [has been] that there is no safe level of radiation. In addition, the EPA statement does not make a distinction between short term harms, such as radiation sickness and deaths, and long term harms like latent cancers, the second activist notes.

“Are they misleading people by merely saying that no radiation at levels sufficient to produce acute radiation syndrome will reach here?” the second activist asks. “They know perfectly well the cloud of radiation is so intense that if it reaches the U.S. there will be cancers.”

According to the second activist, prevailing wind patterns in the Pacific have the potential to carry radiation from Japan to Alaska within four days of a nuclear incident, and to the West Coast of the continental U.S. approximately two days later.

And the source says it is disconcerting that Jaczko has said that NRC’s belief there is a low probability of harmful radiation reaching the United States is based strictly on available knowledge of “the type of reactor design and the nature of the accident in Japan,” rather than actual radiation monitoring conducted by EPA or other agencies. “No one seems to be able to get good data” on what is actually happening, the second activist says.

That EPA is quietly endorsing NRC’s position is, in the second activist’s view, worse than if EPA had made no statement at all, because it suggests a precedent under which EPA is willing during such nuclear incidents to defer to the NRC, which relies on significantly less stringent radiation standards than EPA.

The second activist notes that in a March 15 statement, NRC suggests that radiation dose limits as high as 1,000 millirem to the entire body and 5,000 millirem to the thyroid are acceptable. Such levels would “certainly not be acceptable in normal times,” the second activist says, noting that EPA, under its uranium fuel cycle rules, normally does...
not permit exposures from nuclear power plants above 25 millirem for the entire body and 75 millirem for the thyroid.

NRC and DOE taking the lead during the ongoing crisis and establishing the acceptable radiation levels underscores fears environmentalists have had in recent years about EPA’s authority being undermined by other agencies.

The second activist notes that DOE, along with other federal agencies, has clashed in recent years with EPA officials over guidelines for responding to and cleaning up after nuclear emergencies, arguing that EPA’s traditional Superfund standards are overly stringent. These disputes have resulted in the Department of Homeland Security publishing a protective action guidance (PAG) with standards less stringent than EPA’s in 2008. EPA has yet to finalize a similar document it drafted.

According to information long available on the agency’s website, EPA is meant to be “the Coordinating Federal Agency for the U.S. government’s response to foreign nuclear accidents.” In addition, the Department of Homeland Security’s Nuclear/Radiological Incident Annex to the National Response Framework says EPA is the lead agency in dealing with foreign nuclear incidents, except in “certain areas of the coastal zone” that would be handled by the Coast Guard.

One “of EPA’s primary roles during and after” incidents such as “domestic and foreign weapons tests, accidents and other radiological events” is “to monitor the surrounding environment for radiation and radionuclides,” the agency’s website says.

EPA in such situations would track radiation with “monitoring equipment brought to the scene of an incident by [its] Radiological Emergency Response Team (RERT),” which is “used to look for localized radiation,” or through “RadNet, EPA’s nationwide monitoring system, which monitors the environment on an on-going basis” and can be “used to monitor larger-scale releases of radioactive material,” its website says.

According to its March 15 statement, EPA is, “[a]s always,” using Radnet to continuously monitor U.S. air, water, milk and precipitation for environmental radiation. “As part of the federal government’s continuing effort to make our activities and science transparent and available to the public, [EPA] will continue to keep all RadNet data available in the current online database,” the statement says. “In addition, EPA plans to work with its federal partners to deploy additional monitoring capabilities to parts of the western U.S. and U.S. territories.”

EPA’s limited role in the Japanese crisis has been in contrast to its response to the Chernobyl disaster in 1986, when the Reagan White House “designated EPA to lead the U.S. response,” according to historical information available on the agency’s website. In this lead role, EPA “monitored radioactivity levels in the United States, established a group to provide advice on preventing contamination of the food supply and protecting public health, established an information center to gather and distribute facts and data about the accident” and “arranged daily press conferences to keep the public up-to-date and give EPA an opportunity to answer the public’s concerns.”

While EPA has made limited public statements about the crisis, NRC has been issuing frequent statements updating its efforts on the issue, which include sending several of its experts to Japan. — Douglas P. Guarino

NRC Warning On Japan Nuclear Accident Raise Doubts On EPA Guidelines

Nuclear Regulatory Commission (NRC) calls for Americans in Japan to take extra precautions to prevent radiation exposure are raising questions about EPA’s corresponding guidelines for domestic nuclear power plant disasters and are adding to existing concerns about the agency’s limited role in the Japanese crisis.

NRC on March 16 issued a statement urging Americans in Japan to evacuate if they were within 50 miles of the ailing Fukushima reactors.

But EPA’s manual of protective action guides (PAGs) for nuclear incidents — which the agency published in 1992 — call for only a 10-mile emergency planning zone if a similar nuclear power plant disaster occurred in the United States. Similarly, the NRC and the Federal Emergency Management Agency (FEMA) only require nuclear power plant operators to develop evacuation plans for a 10-mile area surrounding their plants.

NRC’s recommendation for a wider evacuation area for Americans in Japan is underscoring environmentalists’ long-standing argument that EPA’s PAGs and the domestic NRC requirements are inadequate, activists say. “NRC should not be making different statements for Americans abroad than for Americans at home,” Ed Lyman, of the activist group Union of Concerned Scientists, said during a March 17 conference call on the Japan crisis.

EPA in recent years has been trying to amend the PAGs, but a draft of the proposed changes obtained by Inside EPA in 2007 also recommended a 10-mile emergency planning zone. The draft created a firestorm amongst environmentalists and some EPA and state officials for other reasons, including that it suggested cleanup and drinking water guidelines dramatically less protective than the agency’s traditional regulations and guidelines.

In addition to concerns about the size of the evacuation area NRC is recommending, the fact that NRC is the federal agency making such announcements is adding to environmentalists’ concerns that NRC is fulfilling a role in the crisis that EPA should be handling (see related story).
EPA Assurances Over Radioactive Rain Prompt Renewed Rollback Fears

EPA says that levels of radioactive iodine detected in U.S. rainwater following the onset of the nuclear crisis in Japan are not a public health concern even though the detected levels exceed the agency’s enforceable drinking water standards, reigniting concerns among environmentalists that the agency is looking to relax its regulatory standards.

In information posted on its website March 27, EPA says iodine-131 has been detected in rainwater at levels that exceed its maximum contaminant level (MCL) of 3 picocuries per liter (pCi/L) for drinking water.

According to the Massachusetts Department of Public Health, iodine-131 has been detected in the state’s rainwater at concentrations of 79 picocuries per liter (pCi/L), which an environmentalist notes is about 26 times greater than EPA’s enforceable maximum contaminant level (MCL) of 3 pCi/L.

In New Hampshire, state public health officials reported iodine-131 concentrations of about 40 pCi/L in snow, according to press reports, about 13 times greater than the MCL.

But the detected levels of radioactive iodine “do not raise public health concerns” even though they exceed the agency’s regulations and guidelines, EPA claims, adding that “it is important to note that the corresponding MCL for iodine-131 was calculated based on long-term chronic exposures over the course of a lifetime,” or 70 years. “The levels seen in rainwater are expected to be relatively short in duration,” the agency says.

But EPA’s suggestion that exposure to radioactive iodine at levels above the MCL is permissible for a relatively short period of time is reigniting concerns among environmentalists that EPA officials are looking to relax the agency’s long-held standards.

EPA officials made similar arguments in defense of a controversial protective action guide (PAG) that the agency’s Office of Radiation & Indoor Air (ORIA) drafted during the Bush administration.

The draft, a copy of which was obtained by Inside EPA, created a storm of controversy among EPA Superfund and drinking water officials — along with state regulators and environmentalists — in part because it suggested that the public need not switch to alternative sources of drinking water until their regular source became contaminated at levels thousands of times above the agency’s MCLs.

For iodine-131, the controversial draft PAG suggested the public need not switch to an alternate water source until levels of contamination reached 267,000 pCi/L, a level that is 89,000 times less stringent than the 3 pCi/L MCL. This draft PAG level was also 3,468 times higher than a removal action level (RAL) of 77 pCi/L that EPA used as a guideline for emergency situations at Superfund sites.

At the time, EPA defended the dramatically less stringent draft guidelines, saying they were meant to address relatively short-term radiological exposure anticipated immediately following a nuclear emergency. In contrast, MCLs are based on a lifetime of exposure, an EPA spokesman told Inside EPA in 2007.

This is the identical argument EPA is now making in defense of declaring that detected levels of iodine-131 above the MCL are not a public health concern, an environmentalist notes. While sources have said that EPA had been floating a more stringent draft PAG that defers to the agency’s MCLs in recent months, the agency’s public statements in recent
days are prompting renewed fears that the effort to circumvent the MCLs is still alive, the activist says.

Under EPA’s conventional drinking water regulations, MCLs are not allowed to be exceeded for any length of time, the activist argues.

The dispute over EPA’s characterization of the risks posed by transported radiation is the latest since the plant in Japan began its partial meltdown. Recently activists raised concerns about the adequacy of EPA’s monitoring efforts, prompting personal assurances from Administrator Lisa Jackson that her recent West Coast visit demonstrated the adequacy of EPA monitoring.

Jackson told the Environmental Council of the States on March 28 that addressing public fears about radiation is difficult but the agency is stepping up its efforts. “We’re very much aware of the fact that people are, let’s say, skeptical about information,” Jackson said.

She said EPA is seeking to coordinate its messaging with state officials, striving to release monitoring data online as soon as possible and is working with other federal agencies such as the Centers for Disease Control & Prevention to assess potential public health threats. The agency also has assembled what Jackson called a “science SWAT team” to assist states and other federal agencies in assessing the crisis.

Despite Jackson’s assurances, environmentalists say they remain concerned about the adequacy of EPA’s monitoring, with one activist noting that while EPA has vowed “accelerated” precipitation sampling given the crisis in Japan, it has not specified how frequently it will do such sampling. Normally, EPA does such sampling on a monthly basis.

In addition, activist’s fears regarding the MCL are being compounded by a reported statement by U.S. embassy officials in Tokyo suggesting “the science of radiation protection has advanced considerably since the EPA standard was published in 1974” and that if “one uses the latest science and makes the adjustments in the calculations underlying the EPA standard in order to make it applicable to the temporary exposure occurring in Japan, one obtains a figure practically identical the standard that the Japanese authorities are applying.”

This statement, which the New York Times attributed to U.S. officials at the embassy, is reminiscent of a 1991 EPA proposal to relax the MCLs by using a controversial calculation method known as effective dose equivalent (EDE), which downplays the significance of certain radiation-induced cancers by assuming that some people will survive the cancers, the activist notes.

While a federal court ultimately ruled that the 1991 MCL proposal violated anti-backsliding provisions in the Safe Drinking Water Act, environmentalists have continued to raise concerns about other federal agencies — such as the Nuclear Regulatory Commission — relying on EDE and fear that the PAGs provide EPA with a way to circumvent the court ruling.

In addition, EPA on March 28 released air monitoring data that shows iodine-131 levels in the United States have in some instances following the onset of the crisis in Japan exceeded the agency’s Superfund guidelines, the activist notes. For example, in Anaheim, CA, EPA reported one iodine-131 reading of 1.9 picocuries per meter cubed (pCi/m3), which the activist notes is about 20 times greater than EPA’s preliminary remediation goal (PRG) of about 0.1 pCi/m3.

“Yet EPA keeps saying everything they are seeing is ‘thousands of times below any conservative level of concern,’” an environmentalist says. “It really does look like a cover up.”

The data EPA released March 28 also underscores environmentalists’ concerns that some EPA radiation monitors are more effective at detecting iodine from a nuclear power plant incident than others, the activist says. Environmentalists have been concerned that many EPA monitors rely on paper filters that cannot detect iodine in a gaseous form, and the data the agency released March 28 is consistent with this, the activist says.

According to the March 28 data, monitors equipped with paper air filters in Anaheim reported iodine-131 readings ranging from 0.046 to 0.17 pCi/m3, while monitors equipped with carbon cartridges in the same area reported readings ranging from 0.45 to 1.9 pCi/m3, which the activist notes is about 20 times greater than the monitors with the paper filters found.

EPA has said these levels are not public health concerns, with an agency spokesman previously telling Inside EPA that the agency’s current PAGs call for shelter and evacuation in circumstances when people would be exposed to 37,000,000 pCi/m3 in one hour, 1,500,000 pCi/m3 in 24 hours or 385,000 pCi/m3 for 96 hours.

But environmentalists say they are concerned that EPA is relying on PAG levels, which they note are far less stringent than the agency’s conventional guidelines.

For example, the PAGs recommend protective actions when radiation levels become large enough to create a 1,000 millirem dose to the entire human body, or 5,000 millirem to the thyroid, the activist notes. These levels are far less stringent than those the agency relies on under usual circumstances, the activist notes.

Typically, EPA does not permit radiation levels above those that are likely to cause more than one in a million people to develop cancer, but at the 1,000 millirem level, one in 1,000 people would be expected to develop cancer, the activist says.

An EPA spokeswoman did not respond to a request for comment. — Douglas P. Guarino
FDA Limit For Assessing Radiation Rejected By EPA Superfund Officials

The Food & Drug Administration (FDA) guidelines that EPA and other agencies have been relying on to declare that U.S. milk contaminated with radioactive iodine from the Japanese nuclear crisis is safe for public consumption have in the past been rejected by officials in EPA’s Superfund office as too lax, according to internal agency documents obtained by Inside EPA under the Freedom of Information Act (FOIA).

The FOIA information comes as environmentalists are raising concerns that EPA’s reliance on FDA’s advisory levels — which are also weaker than the agency’s drinking water regulations — is an indication that the agency is looking to relax its long held standards.

Since the Japanese nuclear incident began last month, EPA has detected levels of iodine-131 in milk, rainwater and other sources at levels above the agency’s enforceable drinking water standard.

In Hilo, HI, for example, EPA detected iodine-131 in milk at concentrations of 18 picocuries per liter (pCi/L), which is six times greater than the agency’s maximum contaminant level (MCL) for drinking water of 3 pCi/L. Similarly, EPA has also detected iodine-131 concentrations in milk of 8.9 pCi/L — about three times the MCL — in Little Rock, AR, and of 3.2 pCi/L in Phoenix, AZ.

But EPA and FDA officials have downplayed these findings, saying the detected levels were still below FDA’s derived intervention levels (DILs) — the levels at which FDA would suggest protective actions be taken.

The agencies suggested that exposure to iodine-131 at concentrations above the MCL is permissible for a short period of time. “These types of findings are to be expected in the coming days and are far below levels of public health concern, including for infants and children,” the agencies said in a joint statement March 30.

But EPA Superfund officials have in the past rejected use of FDA’s guidelines as an adequate protection against cancer risk. In internal comments on 2007 draft revisions to EPA’s protective action guide (PAG) for nuclear incidents, officials in EPA’s Office of Superfund Remediation and Technology Innovation (OSRTI) said that guidelines based on the FDA’s DILs should be removed from the draft document and replaced with benchmarks that would provide radiation protection comparable to that of EPA’s traditional emergency guidelines under Superfund.

According to the OSRTI comments, the DILs “allow the public to ingest food [contaminated] at concentrations 200 times greater than EPA’s guidance for drinking water during emergency” actions under Superfund. Relevant documents are available on InsideEPA.com. See page 2 for details.

The OSRTI comments note that, like the FDA guidelines, the food interdiction PAG that EPA’s Office of Radiation and Indoor Air (ORIA) included in the 2007 draft sets a radiation exposure threshold of 500 millirem per year (mrem/yr).

Such a threshold corresponds to a cancer risk to 1 in every 50 people during a 70-year period of exposure, which the OSRTI comments note is 200 times less stringent than EPA’s removal action levels (RALs) under Superfund, which are meant to prevent a cancer risk to more than 1 in 10,000 people during a 70-year period of exposure.

In the case of the 2007 draft revisions to the PAG, EPA had also suggested that the public need not switch to alternative sources of drinking water until their regular source became contaminated at levels thousands of times above the MCLs. At the time, agency officials defended the draft guidelines with the same argument that they are now using to defend their statements that iodine-131-tainted milk is safe to drink — by noting that the MCLs are based on a lifetime of exposure rather than a relatively short period of time.

The similarity of the two arguments has ignited fears amongst activists that EPA may be looking to revive the Bush-era PAG proposal, which has been on hold since the Obama administration took office in 2009.

And although EPA Administrator Lisa Jackson rejected this allegation in a recent interview with Inside EPA, activists say they are still concerned (see related story). The activists argue that public statements Jackson and other federal officials have made in recent weeks are, in effect, undermining the agency’s standards in the same way.

In an April 7 statement, Arjun Makhijani, of the Institute for Energy and Environmental Research, said it was “lamentable that the U.S. government is not speaking with a coherent, science-based voice on the risks of radiation.”

As an example, Makhijani pointed to a statement by the Nuclear Regulatory Commission (NRC) that claimed “a yearly dose of 620 millirem from all radiation sources has not been shown to cause humans any harm.”

While “NRC is saying that 620 millirem a year on average has not been shown to cause harm, the EPA is saying that about one-third of this total average annual dose is attributable to indoor radon, which is responsible for thousands of cancer deaths every year,” Makhijani noted, calling the NRC statement “an appalling misrepresentation of the science that underlies its own regulations as well as published statements on radon risks by the EPA.”

In a joint, April 1 statement with several activist groups, Robert Alvarez, former senior policy advisor to the Energy Secretary during the Clinton administration, blasted the joint EPA-FDA statement, especially language saying that radiation “is all around us in our daily lives, and [the EPA] findings are a miniscule amount compared to what people experience every day . . . For example, a person would be exposed to low levels of radiation on a round trip cross-
Alvarez blasted this comparison, saying that no “matter how small the dose might be, it is out of context to compare an exposure to a specific radioisotope that is released by a major nuclear accident with radiation exposures in everyday life.” EPA and FDA “should have informed the public that radioiodine provides a unique form of exposure in that it concentrates rapidly in dairy products and in the human thyroid,” Alvarez said.

Damon Moglen, of Friends of the Earth, called the EPA-FDA statement “an apples-to-oranges comparison that lacks integrity. There is a big difference between ingesting radioactive material that accumulates in the thyroid and sitting on an airplane,” Moglen said. “You can’t drink a TV or eat an airplane.”

In addition to raising concerns about the confusion over federal radiation policy in the face of the Japanese crisis, environmentalists also continue to raise concerns about the adequacy of government monitoring of fallout reaching the U.S. Makhijani noted that while EPA detected iodine-131 concentrations 80 times greater than the MCL in Boise, ID, “[w]e don’t have any data on iodine-131 levels in milk samples taken from the same areas where the polluted rain fell.” Makhijani said that such “information is important for making reliable estimates of radiation dose and risk.”

Federal officials should be “advising those who might be using rainwater for drinking purposes by publication of rainout maps with iodine-131 data” and developing “contingency plans for advising farmers in case high milk contamination levels are anticipated,” Makhijani said. — Douglas P. Guarino

**GOP Downplays Need For Uranium, Power Plant Vigilance After Japan Crisis**

Senate Republicans are downplaying the need to tighten regulation of industries associated with nuclear power in the wake of the crisis in Japan, including those that mine and process uranium under EPA rules.

Reacting to an Inside EPA article from earlier this month that described environmentalists’ efforts to tighten EPA uranium mining and processing rules, Sen. John Barrasso (R-WY), said during an April 12 hearing that using the crisis at the Japanese power plant as as justification for strengthening such rules was inappropriate. “How [the crisis in Japan] is tied to uranium mining is beyond me,” Barrasso said.

Beginning in late March, the activist group Global Green USA began hosting a series of roundtable discussions titled “Energy Futures: Nuclear Power, Global Warming, and Nonproliferation, to address “the full-cycle of nuclear energy,” according to a statement by the group.

The statement highlighted “the vulnerability of the entire nuclear fuel cycle — from uranium mining to nuclear enrichment to commercial nuclear power to spent fuel storage, transportation, and ... reprocessing,” arguing that all “of these stages are vulnerable to theft, diversion, proliferation, terrorist attack and accidents, both natural and man-made.

“While watching the events in Japan unfold, it is important to remember that although redundant safety measures have improved greatly at nuclear power plants since the Chernobyl accident in 1986, the strength of a natural disaster can easily overcome such measures.”

The environmental impacts of uranium mining was the subject of the group’s first discussion in the series, and during the session environmentalists argued that EPA should, among other things, expand its pending Superfund financial responsibility rules for hardrock mines to also cover in-situ leach (ISL) operations that are used to extract uranium and other minerals.

But Barrasso during the April 12 hearing argued tougher uranium mining rules were unnecessary and pressed EPA Administrator Lisa Jackson on the issue. Barrasso asked if there was a connection between the crisis in Japan and an alleged need to “add red tape on uranium mining.”

Jackson responded by saying there was “no direct connection.”

Barrasso’s concern about uranium mining was one of several instances of Republicans rejecting the need to increase oversight over industries associated with nuclear power during the April 12 hearing.

Sen. James Inhofe (R-OK), the committee’s ranking member, said that “we can’t allow ourselves to be paralyzed by fear” and that “harnessing any energy source carries some measure of risk that must be safely managed for our nation to prosper.”

Inhofe said he was “surprised to learn” that Nuclear Regulatory Commission (NRC) Chairman Greg Jaczko invoked emergency authority that transfers “Commission functions to himself in the wake of the earthquake in Japan.”

“The law confers emergency authority on the Chairman in the wake of an emergency at a particular facility or materials regulated by the NRC,” Inhofe said. “At present, I’m not aware that an emergency condition exists at any U.S. facility.”

Similarly, Barrasso stressed that “the tsunami occurred in Japan, not in the U.S.” Barrasso said that “some people want to believe the disaster occurred hear in the U.S.” and railed against “activists driving up the cost of energy.”

But Sen. Barbara Boxer (D-CA), the committee chairwoman, took exception to Barrasso’s suggestion that a similar disaster could not occur in the United States. She cited a study by the U.S. Geological Survey that she said showed that
EPA Resumes ‘Routine’ Radiation Monitoring Amid Testing Delay Concerns

EPA is halting the extra radiation monitoring it initiated following the onset of the nuclear crisis in Japan and is returning to “routine” monitoring despite the fact that the agency has continued to detect radiation levels above its own regulatory limits and evidence suggesting that samples collected under routine monitoring may not be tested for up to a year — long after it would be possible to warn the public of potential dangers.

The agency on May 3 quietly announced on its website that it was returning “to the routine [radiation] sampling analysis process for precipitation, drinking water and milk.” This means “EPA will be analyzing milk and drinking water samples on a quarterly basis and precipitation samples as part of a monthly composite” and that the “next round of milk and drinking water sampling will take place in approximately three months,” according to the May 3 statement.

EPA claims it made the decision to switch back to routine monitoring after “a thorough data review showing declining radiation levels related to the Japanese nuclear incident.” The agency says it “is important to note that all of the radiation levels detected by [EPA] monitors and sampling have been very low, are well below any level of public health concern, and continue to decrease over time.”

But on the same day it announced that it was no longer necessary to conduct additional monitoring, EPA also released data indicating that it was continuing to detect radioactive iodine in U.S. rainwater above its own maximum contaminant level (MCL) for drinking water. According to the data it released May 3, EPA detected concentrations of iodine-131 in Boston, MA, rainwater at concentrations of 7.2 picocuries per liter (pCi/L), which is more than double the agency’s MCL of 3 pCi/L for iodine-131 in drinking water.

Taken together, the two EPA announcements are prompting renewed criticism from environmentalists, who have raised numerous concerns about the agency’s handling of the Japanese crisis.

One activist takes issue with EPA’s claim that the levels of detected radiation have been declining significantly. “I can’t see that from looking at the data — there’s no clear pattern” the activist says, adding that Japanese officials have predicted that the ailing Fukushima reactor will likely not be stabilized for another nine months.

EPA’s decision to end extra monitoring despite continuing to detect radiation above the MCL is also underscoring environmentalists’ fears that the agency’s actions during the Fukushima crisis are undermining the MCLs.

In public statements, EPA has claimed that radiation above the MCLs is not a public health threat, arguing that the MCLs are based on a lifetime of exposure rather than a relatively short period of time. This argument is similar to the one the Bush EPA made in defense of including dramatically relaxed drinking water standards in draft revisions to the agency’s protective action guide (PAG) for nuclear incidents, prompting concerns from activists that the agency could be looking to revive the proposal.

EPA Administrator Lisa Jackson denied in a recent interview with Inside EPA that the agency is looking to relax guidelines in the PAG, but activists argue that the public statements Jackson and other federal officials have made in recent weeks are, in effect, undermining the agency’s standards in the same way.

In addition, information in EPA’s public database suggests that, under routine circumstances, the agency can take up to a year to test some of the samples it collects for the presence of some of the most dangerous radionuclides, creating what environmentalists say is even more reason to be concerned that the agency is now planning on going back to routine monitoring even though the Fukushima crisis is still ongoing.

For example, according to EPA’s “EnviroFacts” database, the agency collected samples of milk in July 2010. But for the radionuclides strontium-89 and strontium-90, these samples do not have listed “run start” dates until January 2011, suggesting that the agency did not test the milk samples for these radionuclides until six months after they were collected.

Milk samples collected during the summer of 2009 do not have listed “run start” dates for strontium-89 and strontium-90 until the summer of 2010, suggesting that in some instances it can take the agency up to a year to test such samples. Testing for iodine-131 in milk samples can be delayed more than a month, the database suggests.

“None of that is going to do you any good,” the activist says, arguing that the purpose of doing such testing is so that EPA can warn the public not to consume the milk if it is contaminated beyond safe levels. Such information is moot after that much time has passed, which would be of a particular concern given that the Fukushima reactor could still leak radiation for several months, the activist says.

As it was, environmentalists were already critical of the amount of testing of milk for strontium that EPA was conducting as part of the extra monitoring it had been doing in the weeks following the onset of the crisis.

According to public statements by EPA, the agency had only been testing for the presence of strontium in milk in instances where it had already detected radioactive cesium, meaning that since the nuclear crisis began in March, EPA would have conducted only three tests for strontium in milk for the entire country. This is because according to publicly available data, the agency has only detected cesium in milk samples in Hilo, HI, Oakland, CA, and Montpelier, VT,
Radiation even though other radionuclides have been detected at much greater levels in milk, air and rainwater in other cities throughout the country (Superfund Report, May 2).

Activists are in particular concerned about a lack of adequate strontium testing because it is considered to be one of the most dangerous radionuclides released during nuclear incidents due to its ability to accumulate in human bone. Like cesium, some forms of strontium also have a long half life, meaning the contamination will remain in the environment for decades.

EPA spokeswomen did not respond to requests for comment. — Douglas P. Guarino

Congress

In New Hill Push, Backers Narrow Bid To Bolster EPA’s Brownfields Funds

Brownfields redevelopment supporters — who are launching a new push to reauthorize EPA’s program — plan to urge Congress to reauthorize EPA’s brownfields grants program at an initial funding level of $330 million, an amount lower than previous attempts to fund the program at an initial level of $350 million, a source familiar with brownfields issues says.

The source says that while the National Brownfields Coalition is backing an initial funding level of $330 million for fiscal year 2012, the coalition wants that figure to increase in line with inflation so the funding level would “continue to rise modestly up to 2016.

Authorization for brownfields funding expired in 2006, but previous efforts to reauthorize the program and increase funding levels have faltered, in part because Congress has appropriated brownfields funds at less than the authorized level. Despite authorized funding of $250 million in FY10, EPA only requested $100 million, for instance.

The brownfields coalition announced last year that it planned a renewed push in the 112th Congress to reauthorize the brownfields program (Superfund Report, Sept. 20). In the 111th Congress, the coalition backed H.R. 5310, which would have increased funding levels to $350 million in the first year and the provided additional increases up to $600 million.

Aside from modifying their request for increased funding authorization, supporters plan to advance many of the same revisions to the program they have pushed in the past, the source says. Those include: creating multi-purpose grants that would make sites eligible for more than one funding source; making nonprofits eligible for more types of grants; creating a program of sustainable development pilots; and reforming liability exposure.

Of the program changes, the source says multi-purpose grants would have the greatest impact. Those would allow entities that acquire sites easier access to more funding streams.

Winning approval of changes to liability exposure might be more difficult, the source says, although its a frequent concern of municipalities. Local governments can be reluctant to acquire contaminated properties “because of the concern related to Superfund liability,” the source says.

But while coalition supporters believe reducing liability for developers is important, “it’s not a fall on the sword type of issue for us because I don’t want it to prevent progress on other issues,” the source says.

Coalition supporters are discussing their efforts with various congressional offices, working to find sponsors for the legislation, the source says. “I can tell you that the offices that we are talking to in both the House and the Senate about lead sponsor roles, that those offices are very well placed in terms of the congressional committee structure and that they are bipartisan,” the source says.

House Bill Restricting Use Of Eminent Domain Would Exempt Brownfields

House legislation aimed at curtailing local governments’ use of property takings by eminent domain for economic development contains an exemption for brownfields redevelopment in recognition of the fact that it can be difficult for private parties to develop brownfields without it, a House source says.

The legislation, H.R. 1433, sponsored by Rep. James Sensenbrenner (R-WI) is a response to the controversial 2005 Supreme Court ruling in Kelo v. City of New London, which bolstered a Connecticut city’s bid to take property for economic development purposes. If passed, it would add to scores of state-level eminent domain restrictions that were passed in the immediate wake of Kelo. The bill is available on InsideEPA.com. See page 2 for details. (Doc ID:2363910)

The legislation would bar state and local governments that receive federal economic development funds from using eminent domain over property used for economic development within seven years of that action. If a court finds a state or local government has violated the law, they won’t be eligible for economic development funding for two fiscal years.

But the bill includes a clear exemption for brownfields properties. “The bill would allow a government to take a brownfield from one private party and give it to another because under the bill’s terms that would not be considered an
Industry Pushing LUST Tax Reauthorization Despite GOP Anti-Tax Stance

Petroleum marketers are preparing to urge Congress to reinstate an expiring tax on motor fuels to fund cleanups of leaking underground storage tanks (LUSTs), saying they are confident lawmakers will be receptive to their push despite a strong anti-tax mood, especially among House Republicans.

Industry also wants the LUST trust fund tax reauthorization to include new flexibility to states in setting tank inspection schedules, but an industry source says Petroleum Marketers Association of America (PMAA) will push lawmakers to reauthorize the tax regardless of whether it can win inspection flexibility.

An industry source is unsure how receptive Congress will be to arguments for easing the 2005 Energy Policy Act requirement that EPA or states inspect a tank at least once every three years, but says that it is a “possibility” that the provision could be attached to the tax authorization.

“Congress is going to get it done,” the source says of the tax reauthorization. And even though Tea Party-backed Republicans are pushing an anti-tax agenda, “I don’t think it will have a big effect on the re-authorization of the tax,” the source says.

The 1/10 of a cent per gallon tax on motor fuels that funds the LUST trust fund is set to expire Sept. 30, according to a PMAA press release. While the 2005 energy law authorized Congress to pay $200 million per year through 2009 from the fund to the states, it has not done so, despite the expectation that the increased funding would come with the new UST requirements.

Petroleum marketers annually pay $190 million in LUST taxes, according to the release, and the appropriations shortfall is leading to marketers paying more UST fees to states.

Petroleum marketers want states to have inspection flexibility in light of Congress not fully funding the LUST trust fund, a second industry source says.

“With inadequate UST funding to state agencies to conduct more inspections,” the source says, “states are forced to raise fees on marketers to do the inspections. Hence, marketers are doubly billed. They pay $.001 at the rack and then pay again when states raise administrative fees.”

The first source says the industry backers of the tax will be setting up meetings with staff on the House Ways & Means and Senate Finance committees to push for reauthorizing the tax. At the moment debt issues are occupying Congress, the source says.

“Once that gets done, that’s when Congress will start looking at some energy actions,” the source says.

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EPA Emails Fuel Activist Fears Of Confusion On Nuclear Emergency Policy

Internal EPA emails from the weeks immediately following the onset of the nuclear crisis in Japan show that the agency’s failure to finalize its own guidelines for how to respond to such incidents is creating confusion within the agency and undermining its own regulatory standards, say environmentalists who are urging the agency to finalize the guidelines.

At issue is EPA's draft protective action guide (PAG) for nuclear incidents, which has been on hold since the Obama administration took office in January 2009. The Obama administration halted publication of the guide in its first days in office following concerns from environmentalists and some EPA and state officials that the version drafted under the Bush administration contained recommendations dramatically weaker than the agency’s Superfund and drinking water standards and that the document would undermine those standards.

The Obama EPA has since decided to revise the draft document so that it defers to the agency’s traditional drinking water standards, known as maximum contaminant levels (MCLs), agency officials acknowledge in the emails. But the agency has yet to formally propose this change, and environmentalists say the lack of clarity on the issue is undermining the MCLs, even though the Bush era version of the document was never published.

The internal agency emails from the weeks following the onset of the Japanese crisis, which Inside EPA obtained under the Freedom of Information Act, illustrate this point, the environmentalists say. The emails, which consist of discussions between EPA officials following a White House request for information on radiation in drinking water, show the agency’s lack of a clear policy on what its emergency guidelines are, enabling agency officials to suggest a wide array of options, some of which the activists argue are inappropriate and dramatically less protective than the MCLs.

For example, in one March 23 email, EPA Health Physicist John Cardarelli says, “EPA does not have an intermediate protective action level but [the Department of Homeland Security (DHS)] does.” Cardarelli notes that “DHS guidance provides for . . . intermediate drinking water levels . . . based on a dose of 500” milirem per
year (mrem/yr) of radiation.

If federal officials chose to rely on the DHS guidance, they could permit drinking water to be contaminated with concentrations of radioactive iodine-131 as high as 333 picocuries per liter (pCi/L) or concentrations of radioactive cesium-137 as high as 925 pCi/L, Cardarelli suggests. Relevant documents are available on InsideEPA.com. See page 2 for details. (Doc ID: 2368208)

But such guidelines are significantly less stringent than the MCLs, one activist notes. The MCL for iodine-131 is 3 pCi/L, more than 100 times more stringent than what Cardarelli suggests. The MCL for cesium-137 is 200 pCi/L, nearly five times more stringent than what Cardarelli suggests.

Cardarelli notes in his email that the DHS 500 mrem/yr guideline is “half” of the 1,000 mrem/yr International Atomic Energy Agency (IAEA) guidelines that Japanese officials were relying on, but the activist says this should offer little reassurance given how dramatically less stringent the IAEA guide is compared to EPA Superfund standards.

Radiation exposures of 1,000 mrem/yr are thought to carry a cancer risk to one in 1,000 people, while EPA’s worst-case scenario Superfund limit is one in 10,000, the activist says.

In addition, the DHS document, called the “Planning Guidance for Protection and Recovery Following Radiological Dispersal Device (RDD) and Improvised Nuclear Device (IND)” only addresses attacks using so-called “dirty bombs” and other nuclear weapons and is not applicable to nuclear power plant incidents such as the one in Japan, the activist notes. Power plant incidents are meant to be addressed in the forthcoming EPA guidance, which the agency has yet to issue, the activist adds.

“What does two and half years of delay [in issuing the guide] mean?” the activist asks. “It means you have confusion in an emergency.”

Environmentalists had long been concerned that the DHS dirty bomb guidance would ultimately be used to undermine EPA standards for a wider array of situations, and the content of the internal emails “shows that the dark forces within EPA have not gotten the message” that doing so is not acceptable because “their superiors are not addressing it in a very strong way,” the activist says.

The activist calls Cardarelli’s email “very misleading” in part because it suggests the DHS guide is applicable to power plant emergencies and in part because it does not acknowledge that EPA has emergency response guidelines under Superfund, called removal action levels, which are heavily based on the MCLs. “In other words, EPA does have an intermediate water standard, the activist says.

The internal suggestions that guidelines other than the MCLs can be used in a nuclear power plant emergency are consistent with public statements EPA officials made in the weeks following the onset of the crisis in Japan, the activist adds. In public statements, EPA claimed that radiation levels in U.S. milk and rainwater above the MCLs was not a public health threat, arguing that the MCLs are based on a lifetime of exposure rather than a relatively short period of time (Superfund Report, May 6).

Environmentalists at the time of the statements noted that this argument was similar to the one the Bush EPA made in defense of including dramatically relaxed drinking water standards in its draft version of the PAG. EPA Administrator Lisa Jackson, in an interview with Inside EPA, denied the agency would revive that proposal, but activists argued that the public statements, in effect, undermined the agency’s standards in the same way.

An EPA spokeswoman could not be reached for comment. — Douglas P. Guarino

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**Cell Phone Radiation Study Prompts Calls For EPA Action To Limit Cancer**

A World Health Organization (WHO) study labeling electromagnetic radiation from mobile phones and other wireless devices as possibly carcinogenic to humans is prompting activists to renew their calls for Congress to force EPA and other federal agencies to develop regulations for the radiation form, also known as non-ionizing radiation.

According to a summary of the study released May 31, the “WHO/International Agency for Research on Cancer (IARC) has classified radiofrequency electromagnetic fields as possibly carcinogenic to humans based on an increased risk for glioma, a malignant type of brain cancer, associated with wireless phone use.”

The study was led by Jonathan Samet, a University of Southern California scientist who also serves as the chairman of EPA’s Clean Air Scientific Advisory Committee. In the summary of the study, Samet says that its “conclusion means that there could be some risk, and therefore we need to keep a close watch for a link between cell phones and cancer risk.” Relevant documents are available on InsideEPA.com. See page 2 for details. (Doc ID: 2368188)

Samet, however, declined to comment on whether the findings suggest that EPA and other federal agencies should pursue regulation of non-ionizing radiation, which is different from the ionizing radiation created by nuclear power plants and weapons. Regulation of non-ionizing radiation could also apply to so-called “smart” electricity meters, a government-backed technology that utilities are spending billions of dollars to install across the country (Superfund Report, Feb. 18).

Under the Federal Radiation Council Authority transferred to EPA in 1970, the agency has the responsibility to...