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Daily Environment Report

Afternoon Briefing - Your Preview of Today's News

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Harm From Low Doses of Chemicals Could Be Overlooked: Academies

Posted July 18, 2017, 02:00 P.M. ET

By [Pat Rizzuto](#)

Potential health problems associated with low doses of hormonally-active chemicals could be missed unless the EPA specifically looks for them, according to a National Academies report [released](#) July 18.

Determining whether human and animal studies both find evidence that low doses of a chemical cause harm also would be easier if experimental animal studies routinely measured internal concentrations of the chemicals in the test animals, David Dorman, the chairman of the academies committee that prepared the report told Bloomberg BNA. Dorman teaches toxicology at North Carolina State University.

The Dow Chemical Co. already uses a toxicity testing protocol recommended in the report: it measures internal doses of chemicals given to animals during toxicity tests. The National Toxicology Program also routinely measures internal concentrations of chemicals in experimental animal studies. The Environmental Protection Agency takes similar measurements when conducting some of its own research.

The academies report on low-dose toxicity from hormonally-active, or “endocrine-active,” chemicals recommends the EPA use a three-pronged strategy to detect health problems that could result from the low doses to which people are exposed. The report defines low doses as meaning chemical concentrations found or estimated to be in people.

It appears the EPA should incorporate the report’s recommendations into its Endocrine Disruptor Screening Program, which examines whether pesticides and chemicals in drinking water affect the female or male reproductive hormones, estrogen and androgen, or the thyroid hormone, Nichelle Harriott, science and regulatory director for Beyond Pesticides told Bloomberg BNA based on BNA’s summary of the report’s key findings. The EPA’s current chemical testing protocols could miss health problems that occur at very low doses and during vulnerable stages of development, Harriott said.

Three-pronged Strategy

The academies recommended the EPA first survey scientific studies, work with scientific organizations, and, perhaps, track social media to identify possible health effects that may occur when people are exposed to low doses of chemicals that mimic, block or alter hormone function.

The EPA should also examine experimental animal and human data systematically to investigate whether low-doses of endocrine active chemicals are causing potential effects, the report said.

To help it understand whether such effects are actually occurring at exposure levels in the general public or certain subpopulations, the agency should consider updating chemical toxicity test designs, requiring new data, securing new toxicity or exposure prediction models, and other actions to make sure it is identifying health effects occurring at exposures the public endures, it said.

Plasticizers, Flame Retardants

The committee followed its own recommendations as it analyzed phthalates, a group of which are called plasticizers, because they make plastic soft, and polybrominated diphenyl ethers (PBDEs), a group of flame retardants.

Among its findings, the committee concluded fetal exposure to a plastic softener, diethylhexyl phthalate (DEHP), could cause a reproductive abnormality and decrease testosterone levels in males. Exposure to at least one of the PBDEs could decrease IQ, it said.

The report does not make any statement about the potential, or risks, of these harms occurring for two reasons.

First, it's difficult to compare the results of animal studies to epidemiological studies of people, because most animal studies report only the dose given to the animal whereas human studies use internal measurements of chemicals in serum or other body fluids or tissues, the report said.

Second, conclusions about whether harm was occurring would have necessitated a full risk assessment that examined exposures, which the committee did not undertake, it said.

Dow Measures Internal Doses

Dow began to routinely take internal measurements of new agricultural chemicals used in laboratory animal experiments at least five years ago, James Bus, who has retired from directing toxicology and environmental research at the company, told Bloomberg BNA. Bus is now a toxicological consultant with Exponent, Inc., an environmental and engineering consulting firm. Dow has continued that practice, a company spokesman confirmed July 18.

As a consultant Bus said he now recommends other companies take such internal measurements, because they can help determine whether the problem that's occurring in an animal occurs because the very high dose typically given an animal overwhelmed its ability to break down or eliminate the chemical, he said.

The internal experimental animal measurements also add valuable perspective showing how much lower—often 1,000s or 10,000s times lower—human exposures are, Bus said. He elaborates on these points and discusses their relevance to automated toxicity, or high throughput tests, in a newly

published perspectives [article](#) in Current Opinion in Toxicology.

Court Hands EPA Win in Fight Over Dow Pesticide

Posted July 18, 2017, 01:26 P.M. ET

By [Tiffany Stecker](#)

A federal appeals court July 18 backed the EPA's decision not to ban a widely used insecticide, saying the agency followed court orders when it denied a request from environmental groups to restrict chlorpyrifos.

The U.S. Court of Appeals for the Ninth Circuit's opinion is a victory for the Trump administration, whose decision not to revoke agricultural uses of chlorpyrifos marked a detour from the path the Obama administration took ([Pesticide Action Network N. Am. v. EPA](#), 9th Cir., No. 14-72794, 7/18/17).

The Natural Resources Defense Council and Pesticide Action Network North America demanded in a 2007 petition that the EPA prohibit spraying of chlorpyrifos on crops because the chemical, manufactured by Dow AgroSciences, has been linked to neurodevelopmental delays in population studies. Chlorpyrifos is used to control pests on corn, soybeans, broccoli, and other crops, as well as on golf courses and turf, according to the Environmental Protection Agency's [website](#).

The groups sued the EPA in 2014 to force the agency's hand on the issue. The EPA repeatedly sought to delay a decision on that petition, but was ultimately given a March 31 deadline by the court.

The EPA in 2015 proposed to revoke tolerances of the pesticide on food crops, which would have ended all agricultural uses of the pesticide, but didn't make a final decision before the end of the Obama administration. EPA Administrator Scott Pruitt denied the environmental advocates' request on March 29.

The NRDC and PANNA swiftly challenged that decision April 5, arguing that the denial was inadequate because it contained no new safety findings and made no final determination on whether the legal tolerances for chlorpyrifos on food crops must be revoked. At the time, the EPA said it would make a final decision on the re-registration of chlorpyrifos by Oct. 1, 2022.

Environmentalists Fight Decision

The three-judge panel disagreed with those arguments. The EPA complied with the court's orders when it issued a "final response" to the petition, they wrote.

"Although EPA dragged its heels for nearly a decade, it has now done what we ordered it to do," judges Diarmuid O'Scannlain, Wallace Tashima, and Margaret McKeown wrote in the [opinion](#).

The environmentalists said the EPA failed to act on the "substance" of the petition. The question before the court, however, was the timing of the decision, not the substance of the agency's regulation, the judges said.

Patti Goldman, an attorney for Earthjustice who represented NRDC and PANNA, said the organizations will shift their attention to fighting the merits of Pruitt's decision.

“We’re disappointed in the ruling because what they did is so blatantly illegal,” Goldman told Bloomberg BNA.

Goldman is representing the groups on the issue in a separate case being heard before the Ninth Circuit, as well as in administrative objections sent to the EPA. Five states and the District of Columbia have intervened on behalf of the environmentalists in the lawsuit challenging the decision.

According to EPA spokeswoman Amy Graham, “This victory affords EPA the necessary time to conduct a proper evaluation under the law of the science and the studies on chlorpyrifos and provide clarity about the pesticide’s safety to the American people.”

Dow AgroSciences was not immediately available to respond to the court ruling.

EPA Must Revisit Toxic Air Pollution Standards, Court Says

Posted July 18, 2017, 11:19 A.M. ET

By [Andrew Childers](#)

The EPA must provide further evidence that it has adequately regulated air emissions of three toxic pollutants, a federal appellate court ruled today in a victory for environmental advocates.

The U.S. Court of Appeals for the District of Columbia Circuit said that the Environmental Protection Agency must justify how emissions limits for other pollutants also control the three substances in question.

Under Section 112(c)(6) of the Clean Air Act, the EPA must identify sources that account for at least 90 percent of the emissions of seven different hazardous air pollutants and issue emissions standards that control those sources. The agency in 2015 issued a finding that it had met that obligation.

That finding is disputed by environmental advocacy organizations, who say the EPA retroactively claimed it had sufficiently regulated three toxic pollutants—polycyclic organic matter, hexachlorobenzene, and polychlorinated biphenyls—because they were controlled by emissions limits set for other substances. The D.C. Circuit didn’t rule on whether the EPA’s claims were valid, but found that the agency failed to explain its reliance on those other “surrogate” pollutants.

The advocacy organizations that filed the lawsuit include the American Lung Association and the Sierra Club. The Sierra Club has received funding from Bloomberg Philanthropies, the charitable organization founded by Michael Bloomberg, founder of Bloomberg L.P. Bloomberg BNA is an affiliate of Bloomberg L.P.

Liquefied Natural Gas Export Plans Face Years of Oversupply

Posted July 18, 2017, 7:01 A.M. ET

By [Alan Kovski](#)

Plans for exports of U.S. liquefied natural gas have multiplied as a global supply glut has developed, raising the prospect that some exporters may lose money for several years.

Analysts say the LNG surplus also increases the likelihood that some contracts could be renegotiated, some projects may be delayed long enough to get past the oversupply period, and some plans may never come to fruition at all.

Fast growth in worldwide LNG demand should eliminate the surplus in five or six years, so there can be good reason to delay projects and become part of a “second wave,” analysts told Bloomberg BNA. But until then, markets—rather than lawmakers, regulators or activists—will pose obstacles to profitable exports.

“There are certainly going to be regrets,” said Kenneth Grant, executive vice president of Compass Lexecon, a subsidiary of FTI Consulting Inc. “Margins are going to be squeezed for years.”

Companies in the competition for LNG exports range from Exxon Mobil Corp. and Royal Dutch Shell Plc to relatively small outfits founded over the last decade with private equity backing.

About 70 percent of global LNG is consumed in Asia, where contract prices typically are indexed to spot crude oil prices. Currently that indexing produces Asian spot LNG prices of about \$5.50 per million British thermal units (MMBtu). LNG from the U.S. for sale in Asia costs an estimated \$8 to \$9 per MMBtu, taking into account the costs of the gas, liquefaction, and transportation.

“Buying LNG at these prices is a guarantee of losing money,” Fereidun Fesharaki, chairman of consulting company FGE, said while speaking recently at the Center for Strategic and International Studies, a think tank in Washington.

Market Pressures Felt

U.S. LNG is being exported only from the Sabine Pass facility of Cheniere Energy Inc. in Louisiana. The buyers and sellers using the plant are struggling with global prices well below their estimated costs. GAIL (India) Ltd., one of the buyers, reportedly has been seeking to renegotiate its contract, although neither GAIL nor Cheniere has confirmed the reports.

GAIL, whose majority owner is the government of India, is not a small fish, but so far, Cheniere has indicated it has no intention of renegotiating anything.

The pressure for renegotiations may grow substantially, however, as top LNG traders like Shell see the growing risk of losses within their contract portfolios.

Fesharaki suggested some buyers, especially the national oil companies of some LNG-consuming countries, may walk away from contracts and trigger legal wrangling if they cannot renegotiate terms.

Cheniere, which started exporting in 2016, may be able to pass off most of its market risks to customers, but it has had its own financial strains, losing money in 2016. It turned a profit of \$172 million in the first quarter of 2017, but its long-term debt amounted to \$24 billion, a high level for such a specialized company with such a short track record in LNG.

Cheniere’s contractual customers include GAIL, Shell, Korea Gas Corp., Total S.A., Spanish company Gas Natural Fenosa, and British utility Centrica Plc. Typically the companies will buy the gas and market the LNG themselves, although Cheniere also is willing to sell LNG overseas through its own marketing affiliate, giving it at least some of the market risk that its six big contractual

customers take.

Challenge to Find Customers

Most companies planning to build U.S. LNG export plants need customers to sign 20-year contracts to give banks enough assurance of revenues to justify the loans for the projects. Projects currently under construction are proceeding because of 20-year contracts typically signed when LNG prices were much higher than they are now, before the slump in gas and oil prices that started in 2014.

The U.S. projects under construction are “tolling” arrangements, where the owner of the liquefaction plant provides the service but does not try to take an ownership stake in the LNG. Customers take the market risk.

Now, the challenge is to find customers willing to sign such contracts when everyone can see spot prices are not fully covering U.S. LNG costs. Big customers in Japan, South Korea, China and India have been the special prizes.

President Donald Trump has been talking of LNG sales as a way to improve the U.S. trade balances with China and South Korea and a way to provide Europeans with less reliance on Russian-pipelined natural gas. His remarks do not square with the market conditions, however.

Chinese companies are over-contracted, and Asian demand is so oversubscribed that the surplus has been going to Europe, Fesharaki said. LNG spot prices in Europe are lower than Asian prices, again raising the prospect of sales at a loss for the near term.

The glut shifts negotiating leverage to buyers, Grant at Compass Lexecon said. Buyers might ask for such things as shorter contract terms, fixed prices, and unlimited flexibility on shipping destinations, he said.

Looking farther ahead, Grant said LNG trading likely will shift as it matures to more flexibility in contracts and fewer tolling arrangements. “You can see where it’s going,” he said.

Much More Supply Soon

Six U.S. LNG export projects are under construction, with in-service target dates spread over 2017-2019, according to Energy Information Administration (EIA) data. The great majority of their capacity already is committed to 20-year contracts, typically take-or-pay contracts where the LNG buyer either takes the amount in the contract or pays an alternative fee to the owner of the liquefaction plant.

Global LNG trade has been running at 34.6 billion cubic feet a day (Bcfd) and growing at about 6 percent a year. The six U.S. projects under construction will add about 9.6 Bcfd of export capacity, said Victoria Zaretskaya, an EIA analyst.

That is a very large capacity addition during a period when Australia also will be expanding its exports, the projects helping to assure an expansion of the global market surplus, Zaretskaya said.

Fesharaki, looking at the global growth, said, “Between 2017 and 2020 we are increasing the global supply by 40 percent. [There is] no way we can increase the demand by 40 percent in three years.”

Qatar, the world’s largest LNG exporter, sent a tremor through the LNG market July 4 when it said it

would increase its LNG exports by 30 percent in five to seven years through an expansion of its North Field natural gas production. Qatar Petroleum, with majority stakes in the nation's LNG export operations, has some big partners in those operations, including Exxon Mobil Corp., Royal Dutch Shell, and Total S.A.

The cost of producing natural gas at Qatar's North Field and liquefying it is \$2 to \$2.50 per MMBtu under current market conditions, Zaretskaya said. Such low-price competition means lower utilization rates should be expected for U.S. export facilities once the extra capacity comes online, she said.

"It's very hard to compete with Qatar."

Looking at the indexing of Asian LNG prices to crude oil, EIA estimates oil prices would have to climb to the \$65-\$70 range per barrel for U.S. LNG to be competitive in Asian spot markets, Zaretskaya said. Current prices are below \$50 for the benchmark crudes West Texas Intermediate and Brent, though it is commonly expected that they will rise over time.

Prospects for Second Wave

Five U.S. LNG export projects have been approved by the Energy Department and the Federal Energy Regulatory Commission but are not yet at the construction stage, in part because they do not all have customers locked up. Other projects have been proposed but not yet approved.

The projects that have yet to see construction and win permits would form the second wave for U.S. LNG export facilities.

Magnolia LNG LLC, planned for the Lake Charles, La., area, is one of the projects approved but awaiting customer contracts and construction. It is a subsidiary of Liquefied Natural Gas Ltd.

The target for Magnolia LNG is to complete customer contract negotiations and reach a final investment decision by the end of 2018, Greg Vesey, CEO of the parent company and the subsidiary, told Bloomberg BNA.

Vesey's timing might allow most of the glut to pass before his LNG export plant goes into operation. It can take four years to build an LNG export plant, he said. If the construction were to start late in 2018, the plant might be completed around the end of 2022. Analysts have been suggesting the glut will fade by about 2023-2024, although their forecasts preceded the Qatar expansion announcement.

Still, there are quite a few developers aiming for a similar window of opportunity.

"I accept that it is tough competition," Vesey said.

Private Equity Prominent

Magnolia LNG, like many of the projects, has private equity as part of its financial backing. Private equity managers have been diving into energy infrastructure projects throughout the U.S. oil and gas sector.

Stonepeak Infrastructure Partners, a private equity firm, is a partner of Magnolia LNG. Such investment managers look to energy infrastructure investments for their relative long-term stability,

Vesey said.

Long-term stability is especially valued by pension funds. IFM Investors Pty Ltd., an Australian investment group owned by pension funds, has invested in one of the projects under construction, Freeport LNG, in Texas. Global Infrastructure Partners, a private equity firm, also owns a piece of Freeport LNG.

Cheniere Energy's institutional investors include BlackRock Inc., The Vanguard Group Inc., The Goldman Sachs Group Inc., Carl Icahn, and hedge fund Baupost Group, among others. And Blackstone Group took a big ownership stake in Cheniere's Sabine Pass project through a Cheniere affiliate.

The developers with projects not yet approved will have trouble catching up because they will find that the Federal Energy Regulatory Commission does not hand out approvals easily even when the five-member commission has a quorum for making such decisions, which it does not now, Vesey said. It took almost three years to get Magnolia LNG through FERC.

West Coast Export Plan

Most of the U.S. export plans are for Gulf Coast sites, and two are for the East Coast. One prominent plan, still at an early stage of permitting at FERC, is for the West Coast—the Jordan Cove project that would ship to Asia from Coos Bay, Ore.

Jordan Cove Energy Project L.P., a subsidiary of Canadian energy infrastructure company Veresen Inc., would build the liquefaction plant and a 235-mile pipeline across Oregon from a gas pipeline hub. A basic selling point would be lower shipping costs and less time than sailing from the Gulf Coast through the Panama Canal to Asia.

FERC rejected the Jordan Cove plan in 2016 because the commission did not see customers solidly lined up to justify pipeline approval. Now the "pre-filing" stage of the permitting process at FERC has been restarted for the project because 50 percent the liquefaction plant capacity and 66 percent of the pipeline capacity have been contracted.

The biggest buyers for Jordan Cove are JERA Co. Inc. and the Japanese trading giant Itochu Corp. JERA represents two Japanese utilities and is the world's largest buyer of LNG. Australian financial company Macquarie Group Ltd. also has contracted for part of the pipeline capacity through its Macquarie Energy LLC energy trading unit.

Much farther north is a Pacific Coast LNG export plant sitting idle and up for sale. The Kenai LNG plant at Nikiski, Alaska, was idled in 2015 by owner ConocoPhillips Co. and has not shipped anything since, though it is available to do so. ConocoPhillips halted its operations because of "market conditions," it said in 2016, after competing sources of LNG from Australia, Indonesia and elsewhere had surged into the Asian market.

Lining Things Up for FERC

Jordan Cove is talking with other potential buyers and intends to have 100 percent of its capacity under contract within a time frame that should make the project acceptable to FERC, company spokesman Michael Hinrichs said.

"We prefer not to have any more curve balls thrown at us," Hinrichs said, alluding to the company executives' surprise when FERC rejected their plan in 2016.

Fesharaki, though skeptical about projects that are not in construction, said the Jordan Cove project “maybe is still doable.”

He was more definite about the Golden Pass project in Texas, with partners Exxon Mobil and Qatar Petroleum, a Qatari government-owned company. Golden Pass appears sure to go ahead because its partners have the money and appear determined to make it happen, Fesharaki said.

Grant at Compass Lexicon implied something similar, though he did not single out Golden Pass. He said the best bets would be the proposals that are well-capitalized and can make use of existing infrastructure. That would describe the Exxon Mobil and Qatar venture.

Canadian Projects in the Wings

There also has been a spate of proposals for LNG exports from Canada, but they have stalled in the face of the same problem of global oversupply.

LNG projects are not in construction in Canada now, although environmental cleanup as a first step in site preparation has begun at a British Columbia coastal site.

That is the location of the planned Woodfibre LNG project. It is owned by Pacific Oil & Gas Ltd., part of a Singapore-based group of companies. It is fully permitted, as are several other Canadian plans.

Woodfibre apparently would be the first Canadian LNG export project out of the gate, maybe with a startup as early as 2020, said Mark Pinney, manager of natural gas markets and transportation at the Canadian Association of Petroleum Producers. It would be an integrated operation, the gas bought and sold by Woodfibre-affiliated companies, not a tolling arrangement.

The biggest question is how robust LNG demand will be, Pinney said. The underlying demand growth has been tremendous, but there can be slowdowns, as happened in 2016 in Japan and South Korea, he said.

Like other analysts, Pinney agreed the glut should be over by 2024 or 2025. “Demand is going to catch up,” he said.

James Henderson, director of the Natural Gas Program at the Oxford Institute for Energy Studies, put it tartly in an analysis issued in 2016. “The somewhat simplistic assumption that Asian markets would always obligingly provide consistently high LNG demand growth has become questionable,” he said.

D.C.'s Wipes Law: Flush it or Flaunt It?

Posted July 18, 2017, 7:31 A.M. ET

By [Amena H. Saiyid](#)

A battle in the District of Columbia over what kinds of disposable wipes can be flushed down the toilet has pitted the city government and municipal wastewater utilities against manufacturers, such as Kimberly-Clark Corp. and Procter & Gamble.

And at least one member of Congress has injected himself into the debate: Rep. Andy Harris (R-

Md.) recently charged that a new District of Columbia law amounted to a ban on flushable wipes, echoing a claim made by manufacturers. Kimberly-Clark, which markets flushable wipes under its Cottonelle, Scott Naturals, and Pull-Ups Big Kid brand names, told Bloomberg BNA in a statement that the “poorly conceived” law could actually worsen the district’s sewer problems by limiting consumer choice and increasing reliance on non-flushable products.

However, backers of the city ordinance, which include the region’s water and wastewater authority, DC Water, say the the law doesn’t impose any ban.

Rather, it directs the D.C. Department of Energy and Environment to write standards for “flushable” wipes, making sure they degrade in sewers in what the law calls a “low period of time” and aren’t made of plastic. These standards would take effect Jan. 1, 2018.

“This legislation has nothing to do with banning. It’s a piece of legislation that requires companies to be truthful in advertising, and to not say products are flushable when they are not,” D.C. Councilwoman Mary Cheh (D-Ward 3) told Bloomberg BNA in a telephone interview.

D.C.’s success in enacting its bill may pave the way for other jurisdictions to do so as well, Cynthia Finley, regulatory affairs director for the National Association of Clean Water Agencies, told Bloomberg BNA.

Gum Up Sewers

Consumers are largely unaware that most varieties of disposable wipes, such as those used to remove makeup and clean babies’ bottoms, aren’t meant for flushing because they can gum up sewers, leading to blockages that can cost DC Water as much as \$50,000 each year to unclog.

Many consumers may not even notice the tiny “do not flush” logo printed at the bottom of most such packages that display a figure dropping a piece of paper in toilet with a slash across it. And they may even be unaware of the existence of wipes that can be flushed, or so some manufacturers claim.

DC Water spokesman Vincent Morris told Bloomberg BNA that the D.C. law merely requires clear, consistent, and prominent labeling for consumers.

“If you examine a packet of wipes, the consumer guidance isn’t clear,” Morris said. “We want it prominently displayed that either it is safe to flush or not to flush.”

To that end, the D.C. law also requires manufacturers to clearly label the non-flushable varieties, including wipes for babies, feminine hygiene, and skincare, which are major culprits in clogging sewer systems.

First of Its Kind

The Nonwoven Disposal Products Act of 2016, the formal name of the D.C. wipes ordinance, is the first of its kind in the nation. Proponents say the law has garnered national attention because it could encourage other cities and states to adopt similar restrictions, creating a patchwork of regulations, which could prove costly for industry.

Other states—California, Maine, Minnesota, and New Jersey—have tried to pass flushable-wipes laws but were unsuccessful, according to the National Association of Clean Water Agencies, which

represents municipal wastewater utilities and backs the D.C. law.

NACWA's goal in backing mandatory standards is to "level the playing field" for all companies, ensuring all wipes labeled "flushable" were actually safe for sewer systems, and those labeled non-flushable wipes are done consistently. "It doesn't make sense for Kimberly-Clark to oppose mandatory labeling if they are following voluntary guidelines, but wipes imported from China and other countries are not," Finley said, adding "legislation will not only protect sewer systems, but it will level the playing field for all wipe brands."

Meanwhile, D.C. is working on draft regulations that it hopes to release for comment as early as this fall and have them in place by the time the law takes effect, Morris said.

Public Education Versus Legislation

Opponents say the law is the wrong approach.

"Public awareness and education, not legislation, is the most effective best way to address these issues," Tonia Elrod, spokeswoman for the Association of the Nonwoven Fabrics Industry (INDA), which includes members such as Kimberly-Clark and Procter & Gamble.

The association, which is part of a coalition called the Responsible Flushing Alliance, advocates voluntary measures that focus on educating the public about the dangers of non-flushable wipes over the mandatory guidelines that municipal wastewater utilities seek to impose.

A month ago, INDA updated its code of labeling practices to ensure manufacturers make clear which products are not flushable, she said.

Harris, during a July 13 markup of a fiscal year 2018 appropriations bill, warned his colleagues on a House Appropriations panel that "everybody's going to flush nonflushable wipes" unless the city council works with the committee to find a workable definition for "flushable." Harris introduced, then withdrew, an amendment to block the D.C. wipes law during that meeting.

Elrod raised the same argument. Companies "may not continue to sell flushable wipes if the definition of flushables is not achievable, or if it is not a viable business for our members," Elrod said.

Consumers then would have no choice but to use non-flushable wipes that they would continue to discard down the toilet, exacerbating the clogging problem, she added.

Opposition to D.C. Law

Procter & Gamble told Bloomberg BNA July 12 that it would defer to INDA, which has consistently advocated for changing public behavior through education and voluntary industry compliance.

Kimberly-Clark Corp. made no bones about its position on the D.C. wipes law in a statement to Bloomberg BNA.

"Kimberly-Clark agrees with INDA and other manufacturers of flushable moist wipes that the DC legislation is poorly conceived since it will not address the District's sewer system problems and will only serve to worsen the situation and harm consumers in the District, since it may leave them no choice but to turn to using, and flushing, more non-flushable items," the company said.

Elrod and Kimberly-Clark cited studies characterizing wastewater samples, saying flushable wipes comprised between 2 percent and 8 percent of the total waste found in New York and Maine sewers, respectively.

The bulk of the products found in the sewer drains were paper towels, baby wipes, skincare wipes, facial tissues, feminine hygiene products, Elrod said, adding “none of these products are meant to be flushed.”

The industry won't get any argument on that front from DC Water, which also is engaged with area wastewater utilities in a Metropolitan Washington Council of Governments' "protect your pipes" campaign to educate the public about the dangers of flushing medications, wipes, fats and oil grease down the drains.

“All wipes are a problem if they aren't disposed properly,” Morris said.

Cheh said the industry is presenting a “false dichotomy” by making consumers choose between education and legislation. “This is not a zero-sum game. We can do both,” she said, noting that the district is already involved in a campaign to educate its consumers about what not to flush.

The association rued the city's “inappropriate” emphasis on flushable wipes.

‘Workable’ Definition

Harris said the city still has time to come up with a workable definition.

Elrod acknowledged that the language in the D.C. law is compatible with efforts the industry is already taking, which include clear labeling of non-flushable items and a guarantee that flushable items be made from 100 percent plant-based cellulose that biodegrades.

“The real solution is to help us all understand what we can flush and what we should not flush,” INDA spokeswoman Elrod told Bloomberg BNA a day before the July 13 debate.

Kimberly-Clark pointed to its Cottonelle wipes, saying their products meet widely accepted industry standards for flushability.

“Our products are engineered to lose strength as they move through properly maintained plumbing, sewage or septic systems,” the company said, defending its advertising claims.

However, Kimberly-Clark and Procter Gamble are facing class action lawsuits in federal district courts from New York residents who alleged the flushable wipes didn't degrade, but instead caused basement backups and septic system failures.

Cheh said it is up to the companies to make a product that degrades and doesn't clog up pipes.

“Otherwise, they are making products that are clogging up the system and mislabeling them, and our taxpayers are having to pay to clean up the mess that they have created,” Cheh said.

Trump to Nominate Toxicologist to Head EPA Chemicals Office

Posted July 18, 2017, 10:37 A.M. ET

By [Tiffany Stecker](#)

President Donald Trump intends to nominate a longtime EPA official and risk assessor with ties to the chemical and tobacco industries to head the agency's chemical safety and pesticides office, the White House said.

Michael Dourson, a professor of environmental health at the University of Cincinnati and founder of the Risk Science Center, spent 15 years at the Environmental Protection Agency's offices in Cincinnati, Washington, D.C., and Region 5 headquarters in Chicago, under Presidents Ronald Reagan, George H.W. Bush, and Bill Clinton.

After leaving the agency in 1995, he founded Toxicology Excellence for Risk Assessment (TERA), a regulatory analysis firm that became the Risk Science Center when it joined with the University of Cincinnati in 2015.

Dourson was considered in 2014 to lead the EPA's Integrated Risk Information System, which identifies and characterizes chemicals' health hazards. The job went instead to Vincent Cogliano, then acting director of IRIS and currently an employee at the EPA.

In 2014, the Center for Public Integrity and InsideClimate News [published](#) an investigation of TERA, suggesting it worked closely with the chemical and tobacco industries to fast-track chemical risk assessments. Dourson said in response that the criticism didn't bother him: "We get criticized by everyone. But that doesn't change the fact that TERA is neutral."

The American Chemistry Council praised the decision to nominate Dourson.

"His knowledge, experience and leadership will strengthen EPA's processes for evaluating and incorporating high quality science into regulatory decision making," spokesman Jon Corley said. "The Senate should act on Dr. Dourson's nomination without delay as it comes during a crucial point in the implementation of the Lautenberg Chemical Safety Act."

The Environmental Defense Fund opposed the move.

"We are deeply concerned over the nomination of Michael Dourson to head the toxics office at EPA," Richard Denison, senior scientist with the organization, said in a [blog post](#). "Unfortunately, this nomination fits the clear pattern of the Trump administration in appointing individuals to positions for which they have significant conflicts of interest."

Clean Energy Is Trouncing Oil, Gas and Coal in Trump Era

Posted July 18, 2017, 9:22 A.M. ET

By [Joe Ryan](#), [Christopher Martin](#) and [Brian Eckhouse](#)

President Donald Trump took office vowing to revive the coal industry's fortunes. So far, the smart money has been on clean energy.

An index of 40 publicly-traded solar companies, wind-turbine component makers and others that benefit from reduced fossil fuel consumption is up 20 percent this year. That's more than double the S&P 500's 9.8 percent gain. And better than the 8.3 percent rise by an index of leading coal

companies.

The eco-friendly stock rally—which comes as oil and natural gas-focused shares have dipped—stems from a constellation of factors, including a Nevada law to boost rooftop solar, China’s mass-transit policy and optimism that Elon Musk’s Tesla Inc. might deliver its Model 3 sedan on time. In short, Trump’s pro-fossil fuel agenda hasn’t damaged investor support for clean energy.

“Nothing dreadful has happened, and these companies continue to execute,” said Jenny Chase, Bloomberg New Energy Finance’s lead solar analyst.

As clean-energy stocks climb, investors have pumped more money into wind and solar. U.S. investments totaled \$14.7 billion during April, May and June, up 51 percent from the previous quarter to mark the highest level since 2015, according to Bloomberg New Energy Finance. European investments rose 10 percent, to \$8.8 billion.

“We are seeing catalysts for these markets driven by the fact that people increasingly realize clean energy is more profitable than conventional energy,” said David Richardson, an executive director at Impax Asset Management, which focuses on sustainability and has about \$8.7 billion under management, up 32 percent this year.

Solar stocks are performing especially well under Trump. Sunrun Inc., the largest independent U.S. rooftop panel installer, is up 32 percent, closing July 17 at \$7.01. That rally has been fueled in part by a Nevada law passed in June to make solar more affordable for the state’s homeowners. Nevada gets more sunshine than almost anywhere in the nation, but it’s been a dead-zone for solar since regulators slashed rooftop panel subsidies in 2015. The new legislation largely restored those credits.

Solar manufacturers are rallying, too. First Solar Inc., the largest American panel maker, has gained 33 percent, to \$42.72. Average panel prices, which plunged 35 percent last year, have begun to stabilize, falling just 8 percent since December, to 33 cents per watt. The market shift stems from solar developers aggressively stocking up on panels, fearing that a pending federal trade case could lead to tariffs on imported equipment.

“It created some tailwind for the manufacturers,” said Sophie Karp, an analyst at Guggenheim Securities.

Some of the biggest clean-energy gainers include fuel cell manufacturers, which use liquid hydrogen to generate electricity through a chemical process that emits only water. While hydrogen-powered engines have been slow to catch on in cars—largely because of a lack of fueling stations—China has been pushing to use the technology in buses.

As Beijing has beefed up investments this year, fuel cell maker Hydrogenics Corp. has nearly doubled, to \$8.70. Ballard Power Systems Inc. is up 73 percent, to \$2.86.

Electric car maker Tesla is up 50 percent this year as the company has begun limited production of its Model 3 sedan, its cheapest vehicle yet. [Musk says](#) he expects production to reach 20,000 cars a month by December.

In the end, some of the clean-energy gains may be fleeting. The trade case that’s driving up solar panel prices may ultimately lead to tariffs that analysts warn could slow overall demand. Fuel cell companies have a long history of ephemeral rallies. And Tesla’s stock has been slipping since its

June 23 peak after a troubling quarterly sales report and ongoing concern about its ability to mass produce. It closed down 2.5 percent July 17, at \$319.57.

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Fewer Nuclear Licenses to Force Layoffs at Nuclear Regulator

Posted July 18, 2017, 9:03 A.M. ET

By [Rebecca Kern](#)

Up to 20 administrative support workers at the Nuclear Regulatory Commission may lose their jobs as the agency seeks to cut its workforce to help make up for a funding shortfall resulting from fewer licensing applications, an NRC spokesman told Bloomberg BNA July 18.

The agency, which oversees the safety of U.S. nuclear reactors, has provided 120-day notices of a reduction-in-force to select employees in the Office of Administration, the Office of the Chief Human Capital Officer and the Office of Small Business and Civil Rights, according to a staff-wide email sent by NRC Executive Director of Operations Victor McCree July 12.

The agency is trying to reduce the number of employees that would be laid off to less than 20 by Nov. 6 through other measures such as attrition, the spokesman told Bloomberg BNA.

Funded in part by licensing fees, the agency has received fewer applications from companies to build nuclear reactors, which can cost more than \$11 billion. They are struggling to compete in the wholesale energy markets against facilities fueled by low-cost natural gas.

The NRC also has limited its external hiring, offered three rounds of buy-outs to employees and has reassigned employees with potentially affected positions to higher priority work, McCree said in the email.

“Despite these actions, the estimated rate of voluntary attrition through the remainder of FY 2017 will not enable us to meet our FY 2018 workload needs,” McCree wrote.

The agency worked with the National Treasury Employees Union ahead of the notifications to avoid the involuntary measures, McCree said in the email.

The NRC is also requesting further staff reductions in its fiscal 2018 budget proposal, which would cut 311 full-time-equivalent employees.

For the past several years, Congress has directed the NRC to reduce its budget and workforce due to fewer nuclear operators planning to build new reactors. NRC’s budget has been under scrutiny since it increased staff in 2010 due to an expected influx of new reactor applications, which the agency didn’t receive because applicants withdrew them for market reasons.

California Extends Carbon Trading Program Through 2030

Posted July 18, 2017, 8:48 A.M. ET

By [Carolyn Whetzel](#)

Legislation extending California's carbon trading program through 2030, squeaked by both state houses late July 17, secured in part by concessions to industry such as banning local agencies from regulating carbon emissions in certain business sectors.

The thin, super-majority votes to pass A.B. 398—28-12 in the Senate and 55-21 in the Assembly—also required passage of a separate bill, A.B. 617, to tackle localized emissions of harmful pollutants. In the end, eight Republicans and several moderate, business-friendly Democrats supported A.B. 398.

In addition to prohibiting local air agencies from regulating the carbon emissions of oil refineries, power plants, cement producers, and other entities in the program, the bill also provides allowance price caps and an exemption of sales and use taxes for electricity producers on certain new equipment and some construction related expenses. A.B. 398 also suspends a fire prevention fee on rural property owners long opposed by Republicans.

State law enacted last year requires California to reduce greenhouse gas emissions 40 percent below 1990 levels by 2030.

Hard-Fought Victory

Passage of A.B. 398 was a hard fought and important victory for Gov. Jerry Brown (D) who pressed lawmakers to preserve the five-year-old program set to expire in 2020.

"Tonight, California stood tall and once again, boldly confronted the existential threat of our time," Brown said in emailed statement. "Republicans and Democrats set aside their differences, came together and took courageous action. That's what good government looks like."

Brown, industry and business groups, and others believe the trading program is a critical, cost-effective tool in achieving the state's ambitious climate goals and maintaining California's role as a global climate leader.

The governor sought the two-thirds votes on A.B. 398 to help insulate the program from future legal challenges.

A.B. 398 continues the basic framework of the existing program, which sets a statewide annual limit on greenhouse gas emissions and requires the largest stationary sources of carbon emissions to meet declining annual limits. To comply, covered entities must either install emissions controls to reduce emissions or purchase allowances, or permits.

However, the bill means covered entities must make do with fewer carbon offsets—credits for planting trees and reducing methane emissions. The number of available free allowances under the program will shrink overtime.

The companion air quality bill, A.B. 617, required only a simple majority for passage. Clearing the Senate on a 27-13 vote and Assembly 50-24, A.B. 617, boosts maximum penalties for air quality violations, requires state regulators to update the air toxics program, implementation of community plans to reduce emissions of ozone forming emissions and particulate pollution, and best available retrofit control technology at industrial facilities.

The California Business Roundtable, California Chamber of Commerce, California Manufacturers and Technology Association and dozens of other business and industry groups and labor organizations supported A.B. 398 and A.B. 617.

Large environmental groups including the Environmental Defense Fund and Natural Resources Defense Council supported the bills, but environmental justice and community groups lobbied against the bills, saying the concessions, like allowing the continued use of carbon offsets and free allowances, were unacceptable.

Listing Triggers Northwest Territories Protection Plan for Bison

Posted July 18, 2017, 8:47 A.M. ET

By [Jeremy Hainsworth](#)

Canada's Northwest Territories is ratcheting up a recovery strategy for wood bison after the species was moved to the territory's List of Species at Risk as a threatened animal.

While the listing adds no protections for North America's largest land mammal or its habitat, it does trigger a requirement to implement a recovery strategy within two years, territorial Ministry of Environment and Natural Resources spokeswoman Dawn Curtis told Bloomberg BNA July 17.

An estimated 2,500 wood bison roam the Northwest Territories. They are vulnerable to threats such as naturally occurring anthrax and introduced bovine tuberculosis and brucellosis.

The listing was made under direction of the NWT Conference of Management Authorities (CMA) and the Species at Risk Committee under the Species at Risk Act.

The committee determined the population could be endangered if nothing is done to reverse declining population trends. "It could disappear from the NWT in our children's lifetimes," the CMA said in its [report](#).

The territorial government, the Tlicho aboriginal government, and the Wek'ezhi Renewable Resources Board share wood bison management authority.

Brazil President Pushes Amazon Deforestation Bill

Posted July 18, 2017, 8:35 A.M. ET

By [Simone Iglesias](#)

Brazil's President Michel Temer is ignoring pleas from both supermodel Gisele Bundchen and the Norwegian Prime Minister by submitting a bill to Congress that would reduce protections of a large national forest in the Amazon, just weeks after vetoing similar legislation.

The new bill would downgrade the legal protections governing around 27 percent, or close to 350,000 hectares, of the Jamanxim national forest in the northern state of Para. The original proposal, vetoed last month on the eve of the president's trip to Norway, would have reduced the area under preservation by nearly 600,000 hectares, according to [World Wildlife Fund](#). During Temer's visit, Norway announced plans to cut its funding of Amazonian conservation projects due to Brazil's failure to prevent a rise in illegal deforestation.

Changes to the status of the region will permit land there to be sold, cleared of forest, used for agriculture and livestock as well as for mining activities, according to the state news agency Agencia

Brasil. Legislators from the country's agriculture caucus, a key part of Temer's base, lobbied for the downgrade. The president had vetoed the original bill not because disagreed with the spirit of the proposal but because lawmakers inflated the area to be downgraded, according to two aides who were not authorized to speak on record. Temer needs all the support he can muster at present as he battles to secure enough votes to avoid trial at the Supreme Court.

Environmental organizations, including the WWF, argued that the earlier bill would put biodiversity and water resources at risk. The rate of deforestation in the Amazon rose 29 percent in July 2016, compared with August 2015, according to the National Institute for Space Research, or INPE. Para was the Brazilian state with the highest rate of deforestation.

In June, Temer confirmed his decision to veto the original proposal in a tweet to Bundchen, who is also an environmental campaigner. It was not enough, however, to mitigate the concerns of the Norwegians, who announced their decision to cut their Amazon Fund contribution on June 23.

—With assistance from Samy Adghimi.

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