

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Bloomberg BNA
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Subject: [SPAM] May 26 -- Daily Environment Report - Afternoon Briefing



Daily Environment Report

Afternoon Briefing - Your Preview of Today's News

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EPA to Clear Backlog of New Chemical Approvals by July

Posted May 26, 2017, 12:19 P.M. ET

By [Pat Rizzuto](#)

The backlog of new chemicals being reviewed by the Environmental Protection Agency is expected to be cleared by July due to staffing, policy and procedural changes the agency has made.

Jeffery Morris, director of EPA's Office of Pollution Prevention and Toxics (OPPT), spoke with Bloomberg BNA about adjustments the agency has made that have cut the backlog of manufacturers' new chemicals requests. The backlog is of pre-manufacture notices (PMNs) the agency is reviewing that currently exceeds its normal volume of about 300 pending requests.

The backlog peaked at about 600 PMNs at the end of 2016 following the overhaul Congress made to the 1976 Toxic Substances Control Act (TSCA) last June, Morris said. The backlog is now less than 150, EPA said.

Getting new chemicals to market helps industry and consumers because the new molecules typically enhance the performance of the products the chemicals make, Morris said in his first interview about the agency's efforts to speed its new chemical reviews. New chemicals often have a better environmental footprint by cutting energy consumption, hazardous waste, water pollution or other environmental benefits when compared to the chemicals they replace, he said.

Critical Change

The biggest change that the EPA's new chemicals office had to adjust to, Morris said, was the amended law's requirement that the agency make a specific conclusion about the risk each new chemical could pose.

Original TSCA did not require the agency to make specific conclusions about a new chemical's risks. If the agency did nothing during the 90 days the statute gives it to complete new chemical reviews, the molecule could be made or imported for any TSCA-regulated use under the 1976

statute. The amended law retains the 90-day review period, but requires the agency to make “affirmative findings” for each chemical.

The new requirement improved the law, because it enhances public confidence in the government’s chemical oversight, Morris said.

The new procedures and policies the agency is implementing also should improve regulatory certainty, he said. An agency [website](#) lists possible conclusions the EPA can make including that a new chemical:

- Is “not likely to present an unreasonable risk” to the environment or people—including vulnerable or highly exposed populations;
- May pose an unreasonable risk that would be controlled before the chemical could be made or imported; or
- Has insufficient information to allow the agency to make “a reasoned evaluation” of its health and environmental effects.

Morris described the first six months after amended TSCA as a “real learning curve” as staff figured out how to make those determinations and explain them in ways diverse audiences could understand.

“It was a heavy lift,” he said. But, “I’m very happy to say we’re confident that by the end of July we will have eliminated the backlog.”

Industry Describes Problem

In early April, Cal Dooley, chief executive officer for the American Chemistry Council, described in an Insights article for Bloomberg BNA the problems the agency’s initial new chemical delays were causing. New chemical evaluations had “become mired in inefficiencies, causing significant delay for manufacturers,” Dooley, whose trade association represents companies including the BASF Corp., the Dow Chemical Co., and Honeywell, wrote.

Arkema Inc., which produces acrylic monomers, additives, hydrogen peroxide, coating compounds and other chemicals, is among the manufacturers that discussed its concerns about the new chemicals program as it met with Congressional lawmakers during the first quarter of 2017.

Arkema urged lawmakers to give the EPA sufficient resources for timely implementation of the amended TSCA’s changes, including the new chemical provisions, the company said in a statement provided to Bloomberg BNA.

Giving sufficient EPA resources “can help the agency to evaluate and process the approval of pre-manufacture notices, to allow companies like Arkema to innovate and bring to market new materials that better meet the needs of users and consumers, or that deliver benefits such as enhanced sustainability,” the company said.

EPA’s Staffing Solutions

The chemicals office tripled the amount of time its scientists focused on new chemicals, Morris said. About 70 scientists work in the program’s Risk Assessment Division, he said.

“At any given time about half of those people are involved in some way or other in new chemicals,” Morris said. The rest of the time the risk assessors focus on existing chemicals and questions arising in the agency that call for their particular expertise.

The chemical’s office could boost risk assessors time on new chemicals, because it hadn’t fully ramped up to begin the risk analyses amended TSCA requires it to undertake for chemicals on the U.S. market, he said.

Having reduced the new chemicals backlog, those same scientists are now focused on developing the scope of risk assessments the agency will conduct for 10 existing chemicals, including solvents, flame retardants and one dye. The scoping documents will describe what health and environmental concerns, exposures and other issues the agency’s risk analyses will examine. Amended TSCA requires EPA to complete those scoping documents by June 19.

The agency also temporarily transferred to the new chemicals program about 15 individuals who manage each chemical’s review, Morris said. Those individuals work with the agency’s scientists, manufacturers and importers who’ve submitted new chemical requests. The managerial staff will shift back to other duties once the new chemicals backlog is cleared in July, Morris said.

First Major Policy Change

“We’ve made policy changes that not only reduce the backlog, but make sure a backlog doesn’t occur again,” he said.

A critical change the agency has made is to approve a new chemical for a particular use or uses its manufacturer or importer intended, along with reasonably foreseeable uses, he said.

If the agency has concerns because the new chemical could be made, used or released into the environment in ways other than what its original manufacturer intended, it will restrict those uses through significant new uses rules, called SNURs, Morris said.

Chemical manufacturers have urged the agency to use this mechanism, commonly called a “non-5(e) SNUR,” as it implements amended TSCA just as it had under the original law. That specific provision refers to the section of TSCA that gives EPA oversight of new chemicals and a type of regulation it can issue. The term also refers to the EPA’s conclusion that intended or reasonably foreseen uses of a new chemical would not likely present an unreasonable risk, but that other manufacturing methods or uses might, leaving the door open in case other firms employ them.

Initially, the EPA needed time to make sure it could make a legally supportable argument that the amended law allowed it to continue making such findings, Morris said.

“We determined it’s legally supportable,” provided needed restrictions would be in place before the new chemical was made or imported and that those restrictions protect human health and the environment, Morris said.

Being able to issue non-5(e) SNURs will allow a significant number of new chemicals that had been part of the backlog to get to market, he said.

Two Agency Actions Must Align

Before a new chemical could be made or imported, however, the EPA must align two coupled

activities.

First, the agency must work with each manufacturer or importer to determine the manufacturing methods for, environmental releases of, and uses of, the new chemical that would not be likely to pose an unreasonable risk. A consent order negotiated between the agency and the original manufacturer or importer then binds that specific company to the agreed upon manufacturing and use conditions.

Second, the conditions that the EPA concludes would result in the chemical being unlikely to pose an unreasonable risk must be applied to any subsequent manufacturer or importer that could make the chemicals, Morris said. The agency does that through SNURs.

The chemicals office is developing a strategy to align the two related actions: approving the original manufacturer's request to make a new chemical and issuing a rule that would require subsequent manufacturers to meet any restrictions the original company agreed to, he said.

The goal, Morris said, is to allow the original manufacturer to get a "not likely to pose an unreasonable risk" finding, while making sure restrictions are in place to prevent risks that might occur if other companies made or used the chemical in different ways.

Polymers

Similarly, the EPA is allowing certain polymers to get to market quicker than it did in the initial months after TSCA was amended when they are unlikely to cause health or environmental concerns due to their large size and other characteristics.

Under the original and amended TSCA, EPA has allowed such polymers to be made under what was called a "polymer exemption." That means the company could make the new polymer without filing a new chemicals notice provided the chemical met specified criteria. The EPA's rationale is that the polymer exemption encourages the manufacture of safer polymers by reducing industry's reporting burden for these types of chemicals. The reduced burden allows the EPA to concentrate its new chemical resources on substances that could pose higher risk, an EPA [website](#) explains.

Yet sometimes polymer manufacturers choose to submit new chemical notices. Or perhaps the molecule's characteristics show it could raise concerns if it were made in ways that produced smaller chemicals, called monomers, which could enter and interact with biological systems

The EPA has determined it can allow polymers, which could qualify for the exemption, into commerce with a proviso, Morris said. When the new polymer is added to the TSCA inventory—which lists chemicals that are or have been in U.S. commerce—it will have a flag saying the chemical must be made in ways so that it couldn't be biologically available, Morris said. The EPA announced its first such conditional approval on May 12.

Useful Data For EPA to Get

Another change Morris described has been requested by many chemical makers and the attorneys and trade associations that represent them.

The agency will publicize information manufacturers could submit with their pre-manufacture notices to speed the agency's reviews, he said.

Neither original nor amended TSCA requires manufacturers to submit specific toxicity, exposure or other data when they ask the agency to allow them to make a new chemical.

Faced with a lack of information about use conditions—such as the amount of a chemical that would be released to water, whether workers would be shielded from exposure because the new chemical would be made in a closed system, or whether workers would be required to wear protective gear—the agency makes assumptions. Those “default assumptions” are contained in software the agency uses, for example, to model how much of a chemical may be released in the workplace or what could happen to fish and the bugs they eat if the chemical got into water. To be protective, the agency assumes a new chemical would be released in greater quantities or that exposure is higher than it may be.

The consequence, Morris said, is that the EPA, manufacturers and importers spend time going back and forth working out more realistic use conditions. Depending on how confident a manufacturer is about its potential market for a new chemical, it may choose to pay to generate exposure or other data to prove to the agency that a chemical is less toxic or that exposure to it would be less than the agency assumes. Agency concerns and the cost of generating new data may also prompt a manufacturer to withdraw its new chemical notice rather than face potential controls.

Alerting firms about data needs means “we’ll have a much greater chance of receiving information that will allow us to run scientific analyses one time and get companies on the road to commercialization,” Morris said.

The EPA also is encouraging chemical makers to meet with agency staff before they submit a pre-manufacture notice, to spotlight data the agency needs before a new chemical’s review begins, Morris said.

EPA Seeks Input on Postponing Utility Wastewater Limits

Posted May 26, 2017, 9:52 A.M. ET

By [Amena H. Saiyid](#)

The EPA is moving ahead with its proposal to postpone compliance deadlines for a regulation governing wastewater discharges from steam-generating power plants, giving the power sector and the public 30 days to comment on the plan.

The Environmental Protection Agency said it wants to [postpone the compliance date](#) of Nov. 1, 2018, while it reconsiders parts of the rule in response to petitions filed by several power sector and business groups, including subsidiaries of Ameren Corp. and American Electric Power. The power industry said the EPA underestimated the time, cost and equipment needed to treat wastewater.

The move to delay the wastewater effluent rule has drawn the wrath of some environmental groups, which sued the agency May 3 for indefinitely postponing the compliance dates.

“The mere fact that EPA is now seeking comment on the illegal stay doesn’t make it any less illegal. Scott Pruitt lacks the authority to arbitrarily roll back public health protections with the stroke of a pen,” Earthjustice attorney Thomas Cmar told Bloomberg BNA in an email. Cmar is representing Clean Water Action, the Sierra Club and Waterkeeper Alliance in the lawsuit against the EPA.

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.

The 2015 effluent rule, which is currently stayed until Aug 12, would require about 1,080 power plants—more than half of which are fueled by coal—to use the best available technology that is economically achievable to regulate waste streams that are generated by the use of air pollution controls and coal gasification techniques. The EPA is proposing to postpone deadlines for fly ash transport water, bottom ash transport water, flue gas desulfurization wastewater, flue gas mercury control wastewater, and gasification wastewater.

The 30-day clock would start ticking once the Federal Register publishes the [notice](#), which the EPA administrator signed May 25.

Week Ahead: Lawmakers May Get Earful on Energy, Environment

Posted May 26, 2017, 04:11 P.M. ET

By [Chuck McCutcheon](#)

Members of Congress holding [town hall meetings](#) in their home districts during the week of May 29 are expected to hear about energy and environment concerns as part of the public's reaction to President Donald Trump's new budget proposal.

Severe cuts proposed in the Trump administration's budget blueprint for fiscal year 2018, released May 23, has led lawmakers of both parties to [predict](#) money will be restored to at least some programs, including those suggested for the Environmental Protection Agency and Department of Energy. The blueprint fleshed out earlier details on Trump's call to slash EPA's funding by 31 percent as well as a variety of Energy Department programs dealing with energy efficiency and renewable energy.

The Indivisible Project, a citizens' group formed to oppose Trump administration policies, [urged](#) its supporters to confront lawmakers about the budget at town hall meetings during the Memorial Day recess.

Indivisible spokeswoman Sarah Dohl said Trump's overall budget is one of the group's four main focuses at upcoming town halls, but not specifically its energy/environment components.

"That said, it's a critical issue that is raised at almost every town hall in questions from constituents (usually a climate change angle)," Dohl told Bloomberg BNA in an email.

The Trump administration has defended proposed cutbacks at EPA and other agencies, saying it seeks to spare taxpayers from footing the bill for programs that the administration deems unnecessary or wasteful.

As Bloomberg BNA's [Rachel Leven](#) has [reported](#), Republican members of Congress were booed during the April recess within and outside of district town hall meetings for questioning whether the climate is changing, for supporting the proposed EPA cuts, and for other related issues.

One new issue that could surface at town halls is the Trump budget proposal's call for boosting government revenues by allowing oil drilling in a portion of Alaska's Arctic National Wildlife Refuge.

The debate over drilling in ANWR has divided lawmakers and pitted environmental advocates against oil companies and Alaska officials for several decades.

Other groups also plan to discuss the budget proposal during the Memorial Day recess. The [Waterways Council](#), which advocates for upgrading inland waterways infrastructure, will hold a June 1 media briefing in Washington covering the budget blueprint, the U.S. Army Corps of Engineers' work plan for fiscal year 2017 and other issues. [Alan Kovski](#) will cover.

Also coming up the week of May 29:

Pruitt Goes Home: EPA Administrator Scott Pruitt—who [grew up](#) in Lexington, Ky., before becoming Oklahoma's attorney general—is scheduled to return to his hometown to [speak](#) May 31 at the Kentucky Association of Manufacturers' 2017 Conference and Trade Show.

Zinke Goes North: Interior Secretary Ryan Zinke is taking a weeklong trip around the Arctic Circle, joining Senate Energy and Natural Resources Committee Chairman Lisa Murkowski (R-Alaska) and other members of Congress for a trip to Norway, Greenland, and Alaska.

New Requirements for Nanoscale Materials under TSCA: Jim Alwood, a new chemicals program manager with EPA, will discuss during a June 1 webinar new Toxic Substances Control Act (TSCA) reporting and record-keeping requirements for nanoscale materials. Manufacturers, processors, and end-users of substances, chemicals, formulations, and mixtures that the rule defines as nanoscale materials by EPA are affected by the regulation, which is effective Aug. 17. SEMI, a trade association serving the micro- and nano-electronics industries manufacturing supply chain, [hosts](#) the free webinar. [Pat Rizzuto](#) will cover.

Air Pollution: An EPA advisory committee that examines air pollution from cars and other vehicles [meets](#) May 31. The committee will be discussing how new gasoline additives as well as new car-sharing options are affecting air pollution levels. [David Schultz](#) will monitor.

—With assistance from Rachel Leven, Alan Kovski, Pat Rizzuto and David Schultz.

Permit Should Cover Stormwater Pollutants, Not Flow, Builders Say

Posted May 26, 2017, 04:04 P.M. ET

By [Amena H. Saiyid](#)

A new EPA permit for storm runoff in New Hampshire goes too far and actually regulates stormwater flow as opposed to the pollutants found in it, homebuilders' groups say in a lawsuit.

The National Association of Home Builders and the New Hampshire Home Builders Association sued the Environmental Protection Agency May 25 in the U.S. Court of Appeals for the District of Columbia Circuit over a Clean Water Act permit for small municipal separate storm sewers, or MS4s ([Nat'l. Ass'n of Home Builders v. EPA](#), D.C. Cir., No. 17-1138, 5/25/17).

A year ago, the homebuilders filed a similar suit over an identical National Pollutant Discharge Elimination System permit issued for stormwater systems in Massachusetts, Jeffrey Longworth, a Barnes & Thornburg LLP attorney who is representing the association, told Bloomberg BNA May 26.

The groups say the EPA is trying to regulate impervious surface and mandate stormwater retention

standards based on volume and flow. Neither are considered pollutants under the Clean Water Act, Longworth added.

Unpublished Permit

The agency's regional office in Boston issued a revised general permit for New Hampshire's municipal separate storm sewer systems on Jan. 18, but it was never published because of the hold that the incoming Trump administration placed on all notices for publication pending a review. The [permit](#) takes effect July 1, 2018, but became available for legal challenges on Feb. 1.

The revised permit establishes notice of intent requirements for the small municipal systems that include prohibitions and more stringent management practices for stormwater discharges, according to Longworth.

Aside from the homebuilders, the Center for Regulatory Reasonableness filed its own challenge against the New Hampshire permit in the D.C. Circuit, while the Conservation Law Foundation sued in the First Circuit [Conservation Law Found. v. EPA](#), 1st Cir., No. 17-1130, 2/2/17; Ctr. for Regulatory Reasonableness v. EPA, D.C. Cir., No. 17-01060, 2/22/17).

The EPA asked the First Circuit in March to transfer the foundation's challenge to the D.C. Circuit and consolidate it with the one filed by the center.

The D.C. Circuit already is hearing the challenges to the Massachusetts permit, and has stayed the proceedings until the First Circuit decides to approve or reject EPA's motion to transfer and consolidate the New Hampshire permit lawsuits that revolve around the same issues.

Six to One Against Trump on Climate in 'Honest' Exchange at G-7

Posted May 26, 2017, 03:58 P.M. ET

By [Arne Delfs](#) and [Margaret Talev](#)

German Chancellor Angela Merkel said Donald Trump was isolated on climate change at the Group of Seven, as the president said he's in no rush to decide whether to scrap U.S. involvement in the Paris Agreement.

A closed-door session on the first day of the G-7 summit in Sicily found unity on stepping up efforts to combat terrorism, but entered stormier waters on trade and on climate, Merkel said. At that stage it was six against one as leaders pressed Trump to hold to U.S. agreements made under the landmark Paris climate accord.

"We made it clear that we want the U.S. to stick to its commitments," Merkel told reporters after the meeting on May 26. "There were very different arguments from us all urging the president to hold to the climate accord." She said the discussion was conducted in a very "honest" atmosphere, leading to a "very intense exchange."

After deriding climate change as a hoax and pledging to pull out of the Paris deal during his election campaign, Trump has sidestepped the issue and passed up a number of opportunities to outline his international stance toward global warming. Members of his administration are deadlocked about whether the U.S. should uphold the pact.

Merkel said that the U.S. side made clear that it hasn't yet taken a decision on whether to scrap Paris "and won't make a decision here" at the G-7.

Taking Time

In the meeting, G-7 leaders asked Trump his timeframe for making a decision, according to a briefing by his top economic adviser, Gary Cohn. Trump said, "I'd rather take my time" and get to the right decision, Cohn told reporters traveling with Trump in Sicily.

Trump also expressed concerns that other countries that had tried to dial back their climate emissions like China and India had seen job growth suffer—and made clear he was not prepared to live with that trade-off, Cohn said.

Trump told the leaders, "he didn't want to be in second place," Cohn said, especially because he ran on a platform of job creation and improving working-and middle-class opportunities and is committed to keeping that promise, Cohn said.

Italian Prime Minister Paolo Gentiloni, the summit's host, said separately that there was "no agreement" on the Paris accord.

"President Trump will take time to reflect on it, and the other countries are taking note of that," Gentiloni said.

"His views are evolving," Cohn said, but Trump's decision will be based on what's best for the United States. The president "is thinking about what his options are." Trump "feels much more knowledgeable on the topic now," said Cohn.

—With assistance from Flavia Krause-Jackson.

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Shell Sees Solution to Energy-System Gaps in 'Hydrogen Grid'

Posted May 26, 2017, 8:57 A.M. ET

By Anna Hirtenstein and [Rakteem Katakey](#)

Royal Dutch Shell Plc is looking to build a hydrogen empire in a bid to fix the biggest problem the energy transition faces: the question of how to store power in the long term.

"Hydrogen can sit there as a storage medium, similar to batteries," said John Abbott, downstream director at Shell. "I can see a world where there's even a hydrogen grid. You use it for your car, you heat your home, your electricity, through that network."

Shell has begun to use the lightest element at its retail stations, starting with Germany and the U.K. It entered a [joint venture](#) with partners such as Daimler AG to dispense hydrogen from its filling stations in Germany, aiming to roll this out at 400 locations by the early 2020s. The first station in the U.K. was introduced in February on the outskirts of London. Shell is aiming to add another 10 before the end of the year.

Hydrogen can be derived from natural gas or from water by splitting the molecules, a process which

uses energy. The supply chain has been criticized for being overly energy-intensive. However, if the energy that is used to make the gas is renewable, it can be seen as a form of green power storage. Technically, it can be stored almost indefinitely.

“Hydrogen has the potential to be a form of long-term seasonal energy storage. It can store power from days to months at a time, compared to batteries which are typically limited to a few hours,” said Logan Goldie-Scot, energy-storage analyst at Bloomberg New Energy Finance. “Globally, current markets neither incentivize the use of hydrogen nor highly value the long-duration flexibility that it offers.”

Long-term Storage

Storage of different lengths will be needed to wean the energy system off fossil fuels. Plugging the short-term gaps between wind and solar generation may be able to be covered by batteries, but the peaks between seasons requires huge amounts of energy to be stored for months at a time.

Shell has previously said that it sees hydrogen as a solution for shipping, aviation and trucks -- heavier machinery that's unlikely to be powered by batteries, which still face questions on energy density. Now Abbott expands the vision to include heating houses, providing electricity to the grid and storing power.

Shell's views contrast with those of BP Plc. The British oil major doesn't believe that the gas will play a major role for fueling passenger vehicles or trucks, according to chief economist Spencer Dale. The company expects that natural gas in the form of LNG will instead be used for long-distance trucking and shipping instead of diesel and bunker fuel.

It's adding charging points for electric vehicles at some of its retail units. It has sold some hydrogen at a station outside London, but volumes are not high.

“It's a question of the chicken and egg, what's coming first,” said Istvan Kapitany, executive vice president of Shell Retail. “Right now the number of fuel-cell cars is very low, but we need to be putting down the facilities to have a chance for the customers buy a fuel cell car, so when they buy it they can drive it properly.”

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Trump 'Leaning' to Understand Europe View on Climate, Cohn Says

Posted May 26, 2017, 8:37 A.M. ET

By [Margaret Talev](#)

Donald Trump is working to understand the European view on climate change, his chief economic adviser said, suggesting the U.S. president is sensitive to the diplomatic backlash he'd face in scrapping the Paris Agreement on global warming.

“I think he's leaning to understand the European position,” Gary Cohn, director of the National Economic Council, said on the sidelines of a Group of Seven summit in Sicily, Italy.

Climate is one of the most contentious issues facing leaders at the two-day G-7 meeting in the resort town of Taormina, where Angela Merkel of Germany and France's Emmanuel Macron are

among those advocating a commitment to the landmark Paris accord. Trump has derided climate change as a hoax, and members of his administration are deadlocked about whether the U.S. should uphold the pact, brokered by nearly 200 nations in 2015.

“Look as you know from the U.S., there’s very strong views on both sides,” said Cohn. “Both sides are running ads. So he knows that in the U.S. there’s very strong opinions on both sides but he also knows that Paris has important meaning to many of the European leaders. And he wants to clearly hear what the European leaders have to say.”

--With assistance from Reed Landberg.

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Bosch Tied to Diesel-Cheating Claims Against Fourth Carmaker

Posted May 26, 2017, 8:28 A.M. ET

By [Ryan Beene](#) and [Kartikay Mehrotra](#)

Robert Bosch GmbH, the world’s largest auto-parts supplier, was linked to emissions-cheating allegations against a fourth automaker on May 25, raising questions about the German company’s role in the scandal gripping the car industry.

Bosch and General Motors Co. are co-defendants in a lawsuit filed May 25 by owners of diesel-powered pickups who accused the automaker of using illegal software, known as a defeat device, to pass U.S. emissions tests. Bosch “participated not just in the development of the defeat device, but in the scheme to prevent U.S. regulators from uncovering the device’s true functionality,” according to the lawsuit filed in Detroit federal court.

“We believe Bosch was the enabler,” said attorney Steve Berman, a managing partner at Hagens Berman who’s represented vehicle owners in lawsuits against all four carmakers and Bosch over diesel cheating. “They provided the software in a format where manufacturers and Bosch could work together to calibrate their engines to cheat emissions tests.”

The technology was so sophisticated that it could recognize when a car was being tested in a lab or smog station to feign clean emissions and compliance with pollution standards, according to U.S. regulators.

“Bosch takes the allegations of manipulation of the diesel software very seriously,” the Stuttgart-based parts supplier said in an emailed statement. “Bosch is cooperating with the continuing investigations in various jurisdictions, and is defending its interests in the litigation.

It’s the fourth time in less than two years that automakers using Bosch’s diesel engine software have been accused in court by regulators or vehicle owners of cheating on emissions tests. On May 23, the U.S. Justice Department accused Fiat Chrysler Automobiles NV -- which also uses Bosch engine software -- of rigging its cars to pass emissions tests.

GM spokesman Pat Morrissey said the May 25th suit is “baseless” and its vehicles comply with environmental standards. Fiat Chrysler said on May 23 that it “intends to defend itself” in the Justice Department lawsuit and denied any willful wrongdoing.

Another Bosch user, Volkswagen AG, admitted in 2015 to flouting pollution rules and has committed to spending more than \$24.5 billion paying fines and penalties, including buybacks, across North America. Car owners also alleged in a 2016 lawsuit that Daimler AG's Mercedes-Benz used defeat devices. That lawsuit was thrown out but then amended and re-filed in December, adding Bosch as a defendant.

Mercedes-Benz has denied any wrongdoing, but earlier this year suspended seeking certification for 2017 diesel vehicles citing the "significant increase in effort" needed to win approval from the U.S. Environmental Protection Agency.

In each case, the vehicles used Bosch's EDC-17 control unit, a computer used to regulate the diesel engine's operation and control emissions, according to the GM lawsuit. That chip is "a good enabler for manufacturers to employ defeat devices as it enables the software to detect conditions when emissions controls can be detected," according to the lawsuit.

"Although this case is not about Volkswagen, Bosch's history with Volkswagen provides background and support for its participation" in the racketeering "of which Bosch and GM were participants," the GM truck owners claimed.

In the VW case, vehicle owners accused Bosch of being "an active participant in a massive, decade-long conspiracy with VW," according to court filings. Bosch didn't admit wrongdoing but agreed to pay \$327.5 million to end the class-action in February.

"After diligently balancing all aspects, we decided to settle in this case," Bosch Chief Executive Volkmar Denner said at the time in a statement. "Bosch is in the middle of the biggest transformation of the company's history. We want to devote all our attention and resources to that change."

Bosch faces an investigation by the U.S. Justice Department into possible criminal charges, people familiar with the matter said in September. German prosecutors are looking into whether Bosch employees helped VW rig software. Stuttgart prosecutors said May 26 that they're also investigating Bosch in relation to a probe of Daimler, which was the subject of police raids across Germany earlier this week, and a spokesman at the supplier said the company is cooperating.

In the Fiat Chrysler lawsuit, now before a San Francisco federal court, Bosch and the carmaker are alleged to have installed software to manipulate the emissions control systems when the car was in testing.

"Rather than finding a way to improve performance while maintaining the emissions control system," the companies conspired to hide the actual level of pollutants, according to one of the 20 pending complaints against Fiat Chrysler, many of which also name Bosch as a defendant.

Fiat Chrysler has proposed a software update to the EPA which attorneys say is capable of resolving the dispute "in a matter of weeks." It would minimize or eliminate any need for payment of monetary damages to plaintiffs, the company said. Bosch has yet to issue a written reply to the claims, but supported the carmaker's efforts to produce a fix.

--With assistance from Tom Schoenberg, Gabrielle Coppola, David Welch, Dalia Fahmy and Christoph Rauwald.

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Energy-Generating Kites Backed by Shell Set for Test in Scotland

Posted May 26, 2017, 01:13 P.M. ET

By [Anna Hirtenstein](#)

Power-generating kites backed by Royal Dutch Shell Plc, Schlumberger Ltd. and EON SE will start tests in the U.K. this summer, with the aim of developing a technology that could eventually replace offshore wind turbines.

Kite Power Systems, known as KPS, is working on a 17-meter device that flies on air currents high above the ground and generates power by pulling at a cable. It raised 5 million pounds (\$6.4 million) from the three energy giants [last December](#).

“The reason we are interested in something like this is that it has potential to reduce the cost of offshore wind in the future,” said Geert van de Wouw, managing director of Shell Technology Ventures BV. “Fundamentally, looking at the science, flying the kite at high altitudes so there’s lots of wind, and the cost of materials is quite a lot lower than a normal offshore wind turbine.”

Alternatives to traditional wind turbines are in the works at multiple start-ups, some backed by corporations in energy and tech such as [Alphabet Inc.](#) German utility EON has also invested in a test site in Ireland for drones that are designed to fly at high altitudes and generate energy.

The kites work by sending aloft a wing to fly in a circular looping path much like the tip of a wind turbine blade. The machines harness aerodynamic lift from the wind exerted against the tether linked to the ground. Tension in that tether causes the line to rapidly spool out from a drum, which is connected to a generator.

Kite Power Systems will start testing its machines in July or August at a site in Scotland. Offshore wind farms could someday be re-powered with the technology, according to David Ainsworth, interim chief executive officer.

“There’s 3 gigawatts of offshore wind coming to the end of life in the 2020s,” Ainsworth said. “It’ll have to be decommissioned, but you’ll still have the infrastructure there, the grid. There’s an opportunity to re-power with kites.”

Kite Power Systems believes that its system could generate electricity between 55 and 58 percent of the time, a capacity factor that’s higher than a conventional wind farm. It has made a 500-kilowatt kite and is working on a 3-megawatt version. Ainsworth expects that the company’s technology could eventually reach as much as 6 megawatts from each machine.

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