

EH&S Legislative and Regulatory Outlook

Environmental Regulatory and Legislative Update

2010 International Telecommunications Safety
Conference
15 September 2010

Heidi Anderson
SAIC



(703) 676-5951
andersonhei@saic.com



President Obama's Environmental Priorities



2010

- Environmental Protection: "So this is going to be a top priority generally improving our environmental quality." (November 2009)
- Climate Change: EPA Administrator Lisa Jackson: "2009 saw historic progress in the fight against climate change. We must continue this critical effort and ensure compliance with the law. (EPA) will continue to develop common-sense solutions for reducing GHG emissions from large stationary sources like power plants and will continue to support passage of the climate bill in Congress." (January 2010)

President Obama's Environmental Priorities



2010

▪ Other Priorities

- Improving air quality
- Evaluating chemical safety
- Strengthening the Brownfields and Superfund cleanup programs
- Protecting water bodies and drinking water
- Protecting vulnerable populations
- Building strong state and tribal partnerships

111 Congress, 2nd Session



▪ Balance of Power

- Prediction for Mid-term Elections - House
 - Current make-up is 255 Democrats and 178 Republicans and 2 Vacancies
 - 205 Seats are Solid, Likely or Leaning Democratic
 - 181 Seats are Solid, Likely or Leaning Republican
 - 49 Seats are in the Toss up Column
 - Cook Report: Republican net gain of 40 seats (note: turnover of 39 seats would tip the majority status into Republican hands)

- Prediction for Mid-term Elections – Senate
 - Current make-up is 57 Democrats, 2 Independents (caucus with Democrats) and 41 Republicans
 - Cook Report: 7- 9 seat gain for Republicans

111 Congress, 2nd Session



■ Climate Change - House

- Waxman Bill passed in late June 2009
- H.R. 4572 – Legislation repealing EPA’s authority to regulate greenhouse gas emissions under the Clean Air Act. No action since Feb. 2010
- Endangerment Finding – February 2010 – House Republicans and a group of associations and companies filed a lawsuit challenging EPA’s finding that greenhouse gas emissions endanger public health and welfare.
- Senate has yet to take action on a bill.

111 Congress, 2nd Session



▪ Clean Energy

- Clean Energy Jobs and American Power Act
 - Passed Full Committee; Awaiting full Senate vote since February 2010
- American Clean Energy Leadership Act of 2009
 - Passed Full Committee; Awaiting full Senate vote since July 2009
- American Clean Energy and Security Act of 2009
 - Passed the House in June 2009

▪ Safe Chemicals Act

- The Safe Chemicals Act of 2010

▪ Superfund Legislation

- S. 3164 & S. 3125 – Polluter Pays Restoration Act
- EPA sent letter to Congress in support of this legislation.
- The Superfund tax expired in 1995.
- Excise and corporate environmental taxes would be reinstated for 10 years beginning in January 2011.

111 Congress, 2nd Session



▪ **Power Line Pole Bill (H.R. 5952)**

- Introduced July 2010
- To amend the Internal Revenue Code of 1986 to allow a credit for installation of composite, recyclable power line poles

▪ **Secondary Metal Theft Prevention Bill (S. 418)**

▪ **Telework Legislation (S. 707)**

- Teleworking for federal agencies
- Passed the full Senate in May 2010; awaiting consideration in House
- Several other telework bills were introduced in 2009; S. 707 was the only bill that has seen action.



Greenhouse Gas Emissions

▪ GGE Emissions Reporting

- October 2009 final rule
- Mandatory GGE reporting program for sources that exceed 25,000 tons per year
- Effective date: December 29, 2009
- Reporting requirements went into effect January 1, 2010
- First reports are due to EPA in March 2011
- Final rule contains exemption for emergency generators

▪ GGE Major Emissions

- Final Rule issued May 13, 2010
- New thresholds for GGEs that define when Clean Air Act (CAA) permits under New Source Review (NSR) and Title V operating permits would be required
- Focuses on facilities that emit over 25,000 tons of GGEs a year
- Majority of sources would be power plants and refineries



Greenhouse Gas Emissions

▪ Endangerment Finding

- December 2009 final rule
- Issued in response to Supreme Court ruling that GGEs endanger the public health and welfare.

▪ Inventory of GGEs

- April 15 latest Inventory of GGE Emissions released by EPA
- In 2008, overall GGEs decreased by 2.9 percent (attributed to decrease in fuel and electricity consumption).
- The US will submit to the United Nations Framework Convention on Climate Change.

EPA - 2010



Clean Air

- **National Ambient Air Quality Standards (NAAQS) for Nitrogen Oxide**
 - Final rule issued January 22, 2010.
 - Top three sources of NO₂ are on-road mobile sources, electricity generating units and non-road mobile sources.
 - Effective date: April 12, 2010
 - Telco Impact: Companies can reduce their NO₂ emission by investing in cleaner vehicles and telecommunications equipment. Areas that are classified as non-attainment could take local measures to reduce NO₂ emissions.

EPA - 2010



Clean Air

- **National Ambient Air Quality Standards (NAAQS) for Ozone**
 - Proposed rule issued January 19, 2010.
 - Top three sources of NO₂ are on-road mobile sources, electricity generating units and non-road mobile sources.
 - Comments were due by March 22, 2010.
 - Telco Impact: Companies can help reduce smog by continuing to invest in cleaner engines, more efficient vehicles and implementing telework and anti-idling policies.

EPA - 2010



Clean Air

- **National Emissions Standards for Hazardous Air Pollutants (NESHAP)**
 - Applies to existing stationary diesel engines.
 - Final Rule issued February 17, 2010.
 - Will reduce pollutants from existing diesel powered stationary reciprocating internal combustion engines (RICE).
 - Telco Impact: Change from the proposed rule! Not applicable to existing stationary emergency engines at area sources that are located at residential, commercial or industrial facilities.

EPA - 2010



Clean Air

- **National Emissions Standards for Hazardous Air Pollutants (NESHAP)**
 - Applies to Spark-Ignition Engines.
 - Proposed Rule issued March 2009.
 - Final rule sets emissions standards for spark ignition engines that are located at both major sources and area sources of toxic pollutants.
 - Final Rule issued August 10, 2010.
 - Telco Impact: Change from the proposed rule! Not applicable to existing stationary emergency engines at area sources that are located at residential, commercial or industrial facilities.

EPA - 2010



Clean Air

- **National Emissions Standards for Hazardous Air Pollutants (NESHAP)**
 - Applies to area source boilers.
 - Proposed rule issued June 4, 2010.
 - Will reduce pollutants from industrial boilers and commercial and institutional boilers.
 - Final rule should be issued December 2010.
 - Telco Impact: The majority of area source boilers are located at commercial and industrial facilities.

EPA - 2010



Clean Air

▪ National Source Performance Standards (NSPS)

- New Source Performance Standards (NSPS) for stationary compression ignition and spark ignition internal combustion engines.
- Proposed Rule issued June 8.
- Comments were due August 9 but extended 30 days.
- Standards most likely will not take effect until 2013.
- Telco Impact: Proposed revision to definition of emergency stationary internal combustion engine and revising the requirement to install non-resettable hour meters.

EPA - 2010



Clean Water

■ November 2009 Effluent Limitation Guidelines & New Source Performance Standards

- Control discharge of pollutants from construction sites.
- Owners and Operators must implement erosion and sediment control measures and pollution prevention practices.
- All construction sites required to meet the series of nonnumeric effluent limitations.
- Sites that disturb 10 or more acres will be required to monitor discharges from the site and comply with the numeric effluent limitations 4 years after effective date.
- Sites that disturb 20 or more acres must comply within 18 months of effective date.
- Effective Date: February 1, 2010.

EPA - 2010



Clean Water

- **November 2009 Effluent Limitation Guidelines & New Source Performance Standards – continued**
 - Telco Impact: Heavy and Civil Engineering Construction includes utility systems construction. Most of the time a utility would be considered a subcontractor, there are situations where a utility company installing service lines meets the definition of an operator and must obtain permit coverage.

EPA - 2010



Clean Water

■ Construction General Permit (CGP)

- Permit covers any site one acre and above.
- Construction sites in EPA Region 4 are covered by a separate construction permit.
- October 2009 Notice of Proposal for 2010 permit.
- Expiration date of 2010 permit was June 30, 2010.
- Proposed to extend current expiration from June 30, 2010 to June 30, 2011.

EPA - 2010



Clean Water

▪ Spill Prevention Control and Countermeasure Rule (SPCC)

- November 2009 revisions to the rule.
- Tier I qualified facilities have the option to complete a self-certified SPCC Plan template in lieu of a full SPCC plan.
- Tier I facility are facilities that meet the current qualified facilities' eligibility criteria and that have no oil storage containers with an individual aboveground storage capacity greater than 5,000 gallons.
- Rule effective date: January 14, 2010.

- July 28, 2010 proposal to extend compliance deadline from November 10, 2010 to November 10, 2011.
- Comments were due August 18.

EPA - 2010



Clean Water

▪ Stormwater Rulemaking

- Public hearings were held in January 2010.
- Purpose to establish a national program to reduce stormwater discharges from new development and redevelopment.
- Telecommunications manhole project was referenced in the National Resource Council (NRC) study on the issue “Urban Stormwater Management.”
- Comments were due February 26, 2010.
- Proposed Rule is expected late 2011 and final rule in late 2012.
- Telco Impact: Manholes?

EPA - 2010



Clean Water

▪ Stormwater Questionnaire

- A Notice was released May 10 announcing EPA's intent to distribute mandatory questionnaires.
- The questionnaires will be sent to owners and developers of newly and redeveloped sites in August/September 2010.
- EPA is interested in obtaining information on controls and Best Management Practices (BMPs) that promote on-site stormwater retention.
- Telco Impact: Changes to stormwater regulations could impact construction and/or pumping of water from manholes/utility vaults.

EPA - 2010



Other

▪ Disposal of Contaminated Wipes

- Notice of Data Availability published October 2009.
- Deadline for comments was February 26, 2010.
- Telco Impact: Companies using solvent-contaminated industrial wipes need to review 40 CFR 261.31 and 261.33 to review U and P listed wastes.

▪ Hazardous Waste Manifest System

- Technical Revisions released on March 18, 2010.
- Changes effective June 16, 2010.
- Telco Impact: Hazardous Waste Manifest has changed! Make sure your company is using the latest version. Ensure that your company complies with state RCRA manifest requirements as well.

EPA - 2010



Other

- **Emergency Planning and Community Right-to-Know Act (EPCRA)**
 - Guidance and Interpretation issued on July 13, 2010.
 - Information provided on various reporting options that states and agencies may choose in implementing Sections 311 and 312 of EPCRA.
 - New interpretations and revisions to existing information included.
 - Telco Impact: For multi-state companies, the current system is confusing and burdensome. EPA suggests that state and local agencies streamline their reporting requirements. This could affect reporting deadlines (earlier).

EPA - 2010



Other

▪ Underground Storage Tanks

- Question regarding whether grant guidelines for operator training refer to the use of a third-party contractor as a designated operator.
- Response from Timothy Smith, EPA Office of USTs: “EPA’s grant guidelines require that the Class C Operator only be an “employee” (traditionally employed by the facility). Class A and Class B operators may be contractors (although that is not spelled out). However, some states have also required that one or both of these classes of operators (Class A and Class B) also are an employee. Please check the state-specific requirements to be sure.”

EPA - 2010



Voluntary Programs

■ Climate Leaders

- On December 8, 2009, EPA recognized 8 companies for achieving significant goals to reduce GGEs.
- Collectively, member companies reduce GGEs by approximately 50 million metric tons per year.
- SPRINT is the only telecommunications company in the program.

■ Energy Star

- December 2009 was the 10 year anniversary of the Energy Star program.
- There are over 90,000 buildings in the program representing over 12 billion square feet of commercial and industrial space.
- Facilities that are in the top 25 percent of energy efficiency can win the Energy Star award.
- Telecommunications companies in the program include: AT&T, QWEST, Sprint and Verizon.



State Legislative & Regulatory Update



■ Climate Change

- State and local government are drafting their own regulations.
- This will be difficult for companies with multi-state facilities having to comply to various regulations.
- Washington state - Mandatory reporting for fuel suppliers and facilities that emit more than 10,000 metric tons of carbon dioxide annually. Comments due October 14.
- Colorado is proposing definitions for “carbon dioxide equivalent” (CO₂e) and “greenhouse gas” (GHG).

State Legislative & Regulatory Update



▪ Plastic Bags – Ban & Recycling:

- **California** – Legislation AB 1998 was defeated in the Senate (8/31/10). This legislation sought to ban single-use plastic bags in stores.
- **California** – Multiple cities in California have already banned plastic bags at a local level, including San Francisco, Oakland and Palo Alto.
- **Four states** – California, New York, Rhode Island and Delaware; five cities – Tucson, Chicago, New York City, San Juan Capistrano, Calif. and Red Bank, N.J.; and five counties in New York – Albany, Nassau, Rockland, Suffolk and Westchester, have enacted mandatory plastic bag recycling.
- **Massachusetts** – Public/Private Partnership “Sack the Bag” has reduced use of paper and plastic bags by 25 percent.

State Legislative & Regulatory Update



▪ Other

- **Louisiana** –Utility Pole Location Reporting System
- **Louisiana** – SPCC Final Rule The rule increases the minimum container volume for applicability of the spill prevention provisions from 660 gallons to 1,320 gallons and establishes a de minimus container size for aggregate container applicability that excludes containers smaller than 55 gallons of oil from consideration. The rule also increases the interval between operators' required reviews of their spill prevention plans from three years to five years.
- **Massachusetts** – Vehicle Length Bill recently enacted into law that increases the length of vehicles used to transport utility poles or single units of lumber or metal.

State Legislative & Regulatory Update



▪ Other

- **Minnesota** – Bill banning pentachlorophenol in Minneapolis has been introduced.
- **Mississippi, New Hampshire, Washington, Wyoming & Virginia** – One-Call/Excavation legislation enacted into law.
- **Pennsylvania** – Above-Ground Storage Tanks (ASTs) – The DEP recently issued a new document “Above-Ground Storage Tanks Associated with Emergency Generators – Regulated or Not?”
- **Utah** – New Fugitive Dust regulation could impact telecommunications work in the state. The owner or operator of any land area greater than one-quarter acre in size that has been cleared or excavated shall take measures to prevent fugitive dust.
- **Virginia** – Clean Air/Emergency Generators – DEQ is drafting regulations for emergency generators.

State Legislative & Regulatory Update



- **UST Regulations – States are busy implementing the federal guidelines from the Energy Act. All states receiving Subtitle I funding must:**
 - Develop state-specific operator training requirements consistent with EPA's guidelines by August 8, 2009. State-specific operator training requirements must:
 - Be developed in cooperation with tank owners and operators;
 - Take into consideration training programs implemented by tank owners and tank operators; and
 - Be appropriately communicated to tank owners and operators.
 - Establish guidelines for three classes of operators identified as Class A, Class B, and Class C.



State Legislative & Regulatory Update



- **UST Regulations – States are busy implementing the federal guidelines from the Energy Act.**
- **Other** - States that have implemented operator training guidelines include: Alabama, Arkansas, Arizona, California, Colorado, Delaware, the District of Columbia, Georgia, Idaho, Kansas, Louisiana, Maryland, Massachusetts, Minnesota, Montana, New Hampshire, New Mexico, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Utah, Vermont, West Virginia, Wisconsin, and Wyoming



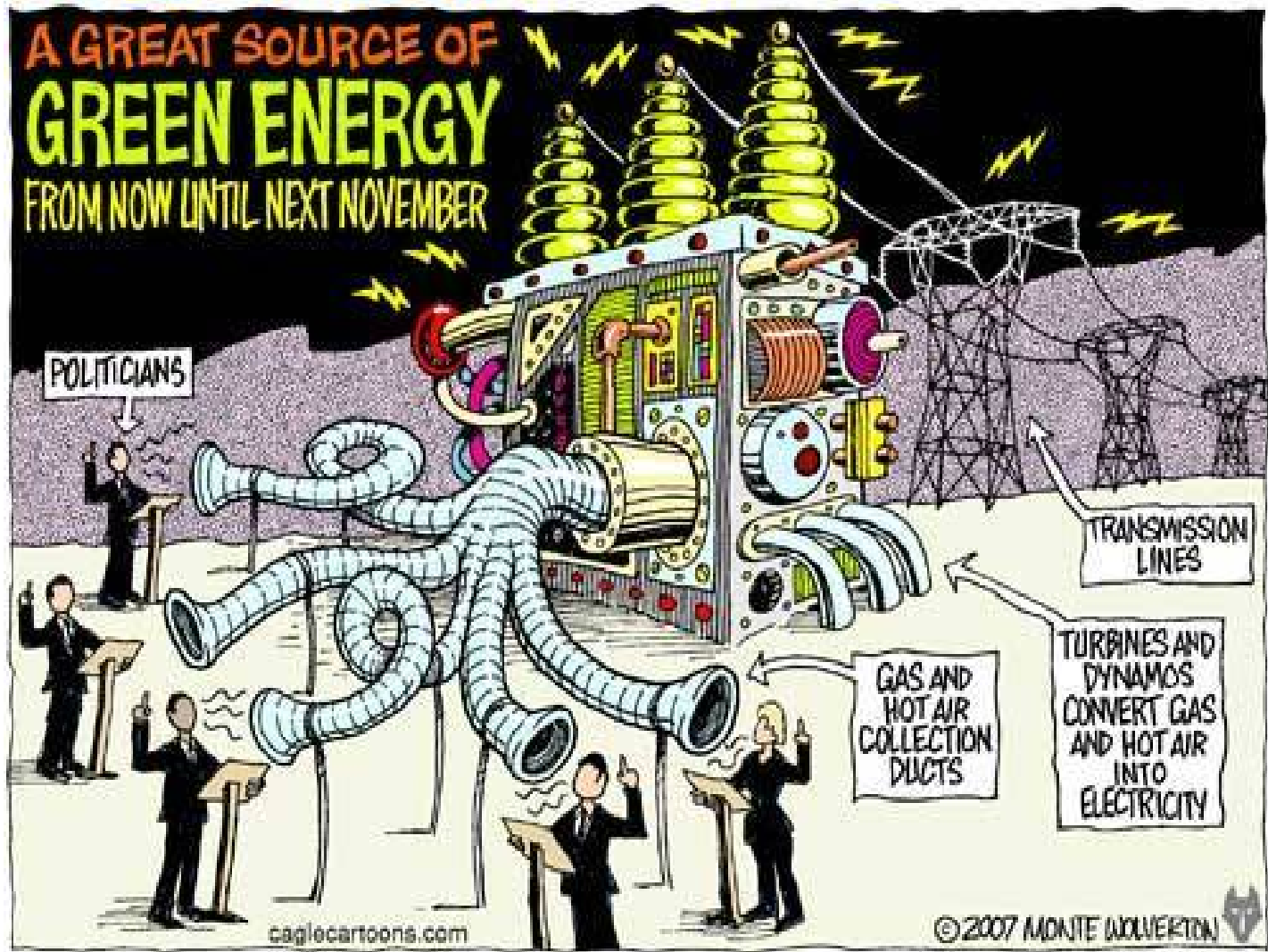
State Legislative & Regulatory Update



- **UST Regulations – States are busy implementing the federal guidelines from the Energy Act.**
 - **North Carolina** – Operator Training legislation was signed by the Governor July 22. Contains language regarding tanks used for emergency power generators.
 - **New Hampshire** – Operator Training legislation was enacted May 27.



A GREAT SOURCE OF GREEN ENERGY FROM NOW UNTIL NEXT NOVEMBER



POLITICIANS

TRANSMISSION LINES

GAS AND HOT AIR COLLECTION DUCTS

TURBINES AND DYNAMOS CONVERT GAS AND HOT AIR INTO ELECTRICITY