

Program Targets Toxic "Hot Spots"

Chemical Processing, April 2009

By Lynn L. Bergeson

EPA rolls out school monitoring air initiative.

An initiative intended to measure levels of air pollution near schools was announced on March 2 by the U.S. Environmental Protection Agency (EPA). The Schools Air Toxics Monitoring Initiative is being undertaken in partnership with state, local, and tribal governments and has implications manufacturing facilities need to know.

EPA Commitment to Schools

During her confirmation hearing before the Senate Environment and Public Works Committee, Chairwoman Sen. Barbara Boxer (D-CA) pressed EPA Administrator Lisa Jackson for a commitment to address high levels of air pollution near schools to ensure that levels capable of compromising children's health could be identified and addressed. While levels of air pollution have decreased dramatically -- 41% from 1990 to 2005, according to EPA -- it's widely recognized that air pollution levels vary greatly from region to region.

Sen. Boxer's interest in school area pollution may have been prompted by a December 2008 article in USA Today that ranked air quality in the vicinity of the nation's 127,800 public and independent schools. The ranking was based on a variety of factors selected by the newspaper. Many schools are located in toxic hot spots as a consequence of their proximity to manufacturing facilities, highways, or both, according to the article.

Elements of the Initiative

EPA's Schools Air Toxics Monitoring Initiative focuses on reducing toxics from all sources, including manufacturing facilities, cars, trucks and other mobile sources. According to EPA, school selection takes into account a variety of factors, including the USA Today study results. EPA on March 31, announced that it will monitor 62 schools in 22 states that are located near "large industrial facilities or in urban areas. "The list of schools and the pollutants to be monitored that are part of the initiative is available at <http://www.epa.gov/schoolair>.

EPA's selection of pollutants to monitor will vary by location. EPA will select the pollutants using its screening tools about emissions and potential risk, and consult with state, local, and tribal officials. Initially, according to EPA, the focus will be on chemicals that are believed to have the potential to cause cancer or significant respiratory or neurological problems. The program will cost approximately \$2.25 million to purchase monitors and deploy them at targeted schools. All results will be made public.

If a problem is discovered, EPA notes that it will "work quickly with our state and local partners to mitigate risks. Where enforcement is needed, EPA enforcement will be on the case." In

response to a question about whether indoor air will be monitored, EPA's response was unclear. After noting that indoor air pollutants can be two to five times higher than ambient air concentrations, EPA emphasized that outdoor air is the focus of the initiative, and that other EPA tools are available to schools to address indoor air pollution.

What Does This Initiative Mean?

EPA Administrator Jackson has been given her marching orders -- air pollution in the vicinity of schools is a top EPA priority and EPA will be monitoring ambient air to identify potential hot spots and address them. EPA has the funding, momentum, and commitment to get started immediately.

For manufacturing facilities that are located near schools, the initiative means that readers may wish to work with EPA, particularly if their sites are close to any of the initial 62 schools ; if so, be prepared to address the outcome of the monitoring. Depending upon the results, facility owners and operators could be looking at enforcement actions, new regulatory/legislative initiatives, and/or adverse media attention. Even if EPA and/or a state may be disinclined to respond adversely to the monitoring results, because all results will be made publicly available, third party "citizen suits" and related activist activity can be expected. In short, be engaged early, and be prepared to respond promptly to the monitoring results.

Lynn L. Bergeson is managing director of Bergeson & Campbell, P.C., a Washington, D.C.-based law firm that concentrates on chemical industry issues. The views expressed herein are solely those of the author. This column is not intended to provide, nor should be construed as, legal advice.