



## Recent Federal Developments January 15, 2010

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### TSCA/FIFRA/NTP/EPCRA

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***EPA Announces Peer Review Workshop On 1,1,2,2-Tetrachloroethane*** -- On December 17, 2009, the U.S. Environmental Protection Agency (EPA) announced the scheduling of an external scientific peer review workshop to review the external review draft document titled, "Toxicological Review of 1,1,2,2-Tetrachloroethane: In Support of Summary Information on the Integrated Risk Information System (IRIS)" (EPA/635/R-09/001). 74 Fed. Reg. 66963. The draft document was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development (ORD). The workshop is on **January 27, 2010**. Please consult the *Federal Register* for details.

***Debbie Edwards Retires From EPA*** -- On December 17, 2009, Debbie Edwards, Ph.D., Director of EPA's Office of Pesticide Programs (OPP), announced her retirement. "I have decided to retire from federal service to pursue other interests and to spend more time in Latin America," Edwards said. "I have worked in the EPA's OPP since November of 1985 and have enjoyed a very fulfilling career," Edwards said. "The work of OPP is challenging, always interesting and, in my view, of great importance to our society." Her retirement was effective January 14, 2010.

***NTP Recommends Formaldehyde Be Classified As A Known Human Carcinogen*** -- On December 21, 2009, the National Toxicology Program (NTP) requested comment on the recommendation from an expert panel on the listing status for formaldehyde in the 12<sup>th</sup> Report on Carcinogens (RoC) and the scientific justification for the recommendation. 74 Fed. Reg. 67883. The Formaldehyde Expert Panel identified epidemiological studies of workers exposed to formaldehyde that in its view suggested a causal relationship between exposure to formaldehyde and cancer in humans, according to a summary of the Panel's recommendations. The Panel considered evidence for head and neck, brain, respiratory, lymphatic, and stemcell cancers. It concluded that the evidence was strongest and most consistent for nose and throat cancer along with leukemia, a cancer of the blood or bone marrow. "Overall, the evidence from epidemiologic studies for each of these three sites is consistent with a causal relationship between formaldehyde and cancer in humans, and the panel believed that the patterns observed could not be explained by bias, confounding, or change," according to the summary. The RoC Center convened a ten-member Expert Panel of scientists, plus four technical scientific experts, on November 2-4, 2009, in Research Triangle Park, NC. The Panel was asked to apply the RoC listing criteria to the relevant scientific evidence and make a recommendation regarding listing status (*i.e.*, known to be a human carcinogen, reasonably anticipated to be a human carcinogen, or not to list) for formaldehyde in the 12<sup>th</sup> RoC and to provide the scientific justification for its recommendation. Comments on the Expert Panel Report for formaldehyde will be accepted until **February 8, 2010**.

***EPA Seeks To Disclose Pesticide Inert Ingredients*** -- On December 23, 2009, EPA requested comment on options for disclosing inert ingredients in pesticides. 74 Fed. Reg. 68215. EPA is



seeking ideas for greater disclosure of inert ingredient identities. Inert ingredients are part of the end-use product formulation and are not active ingredients. EPA is considering two general types of approaches to increasing public availability of inert ingredient identities. One would mandate disclosure only of potentially hazardous ingredients, and the other would promote or mandate public availability of most or all inert ingredient identities, regardless of hazard. Each approach has variations and issues associated with it, which the *Federal Register* notice outlines. On October 1, 2009, EPA responded to two petitions (one by Northwest Coalition for Alternatives to Pesticides, and a second by several state attorneys general), that designated more than 350 inert pesticide ingredients as hazardous. The petitioners asked EPA to require that these ingredients be identified on the labels of products that include them in their formulations. Comments are due by **February 22, 2010**.

***EPA Proposes Revisions To General Tolerance Regulations*** -- On January 6, 2010, EPA proposed revisions to its pesticide tolerance crop grouping regulations, which allow establishment of tolerances for multiple related crops, based on data from a representative set of crops. 75 Fed. Reg. 807. The revisions would create a new crop group for oilseeds, expand existing crop groups by adding new commodities, establish new crop subgroups, and revise the representative crops in some groups. EPA expects these revisions to promote greater use of crop groupings for tolerance-setting purposes and, in particular, will assist in making available lower risk pesticides for minor crops both domestically and in countries that export food to the United States. This is the second in a series of planned crop group updates expected to be proposed over the next several years. EPA is also proposing to delete 40 C.F.R. Section 180.1(h), which addresses when tolerances apply to post-harvest uses. Comments must be received on or before **March 8, 2010**.

***EPA Issues Final Rule Revising TSCA Section 5 Notification Regulations*** -- On January 6, 2010, EPA issued a final rule amending Toxic Substances Control Act (TSCA) Section 5 reporting regulations. 75 Fed. Reg. 773. The amendments establish electronic reporting requirements for TSCA Section 5 submissions. The rule is intended to streamline and reduce the administrative costs and burdens of TSCA Section 5 notifications for both industry and EPA by establishing standards and requirements for the use of EPA's Central Data Exchange (CDX) to electronically submit premanufacture notices (PMN) and other TSCA Section 5 notices and support documents to EPA. EPA is also amending TSCA Section 5 user fee regulations by adding a new User Fee Payment Identity Number field to the PMN form, to enable the Agency to match more easily a particular user fee with its notice submission. Lastly, EPA is amending the PMN form by removing the Agent signature block field, and thus the requirement for designated agents to sign the form. The final rule is effective **April 6, 2010**.

***EPA Announces External IRIS Peer Review Draft Of Methanol*** -- On January 12, 2010, EPA announced a public comment period and a public listening session for the external review draft document titled "Toxicological Review of Methanol: In Support of Summary Information on the



Integrated Risk Information System (IRIS)” (EPA/635/R-09/013). 75 Fed. Reg. 1617. The draft document was prepared by NCEA. The public comment period and the EPA Science Advisory Board (SAB) meeting, which will be scheduled at a later date, are separate processes that provide opportunities for interested parties to comment on the document. EPA is also announcing a listening session to be held on **February 23, 2010**, during the public comment period for this draft document. The public comment period ends **March 15, 2010**. Technical comments must be in writing and received by EPA by **March 15, 2010**.

***EPA Announces Approach To Using Toxicogenomic Data In Human Health Risk Assessments*** -- On January 13, 2010, EPA announced the availability of a final report titled, “An Approach to Using Toxicogenomic Data in U.S. EPA Human Health Risk Assessments: A Dibutyl Phthalate Case Study” (EPA/600/R-09/028F), prepared by NCEA. 75 Fed. Reg. 1770. Toxicogenomics is the application of genomic technologies to study effects of environmental chemicals on human health and the environment. EPA provides no guidance for evaluating and incorporating genomic data into risk assessment. The report describes an approach to evaluate toxicogenomic data for use in risk assessment and a case study for dibutyl phthalate (DBP). In this approach, the genomic data and the human outcome and/or toxicity data are considered to determine the relationship between genomic changes and toxicity or health outcomes and inform mechanisms and modes of toxicity. The DBP case study focuses on male reproductive developmental effects and the use of genomic data in qualitative aspects of the risk assessment because of the type of genomic data available for DBP. The document is available electronically through the NCEA website at [www.epa.gov/ncea](http://www.epa.gov/ncea).

### **CAA/CWA**

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***EPA Issues NESHAP For Chemical Preparations Industry*** -- On December 30, 2009, EPA issued National Emission Standards for Hazardous Air Pollutants (NESHAP) for the chemical preparations area source category. 74 Fed. Reg. 69194. The rule applies to area source chemical preparations facilities, which have one year to comply with the new standards. The rule requires facilities to control 95 percent of particulate emissions or meet an alternate emission standard of 0.03 grams per day standard cubic foot at the outlet of the emissions-control device. The rule was effective immediately.

***EPA Proposes Revisions To Lead Ambient Air Monitoring Requirements*** -- On December 30, 2009, EPA proposed revisions to the final National Ambient Air Quality Standards (NAAQS) for lead and associated monitoring requirements issued in November 2008. 74 Fed. Reg. 69050. The proposal is in response to petitions from various environmental and public health groups urging EPA to reconsider the lead emission rate at which monitoring is required, currently 1.0 ton per year. EPA granted the request as to the monitoring requirements portion of the November 2008 rule. EPA has proposed revisions to the requirements for both source-oriented and non-source-oriented monitoring for lead. Comments are due **February 16, 2010**.



***EPA Proposes To Revise The NAAQS For Ozone*** -- EPA is proposing to strengthen the NAAQS for ground-level ozone, the main component of smog. The proposed revisions are based on scientific evidence about ozone and its effects on people and the environment. EPA is proposing to strengthen the 8-hour “primary” ozone standard, designed to protect public health, to a level within the range of 0.060-0.070 parts per million (ppm). EPA is also proposing to establish a distinct cumulative, seasonal “secondary” standard, designed to protect sensitive vegetation and ecosystems, including forests, parks, wildlife refuges and wilderness areas. EPA is proposing to set the level of the secondary standard within the range of 7-15 ppm-hours. The proposed revisions result from a reconsideration of the identical primary and secondary ozone standards set at 0.075 ppm in 2008. EPA is reconsidering the ozone standards to ensure that two of the nation’s most important air quality standards are clearly grounded in science, protect public health with an adequate margin of safety, and protect the environment. The ozone standards set in 2008 were not as protective as recommended by EPA’s panel of science advisors, the Clean Air Scientific Advisory Committee (CASAC). The proposed standards are consistent with CASAC’s recommendations. The proposal to strengthen the primary standard places more weight on key scientific and technical information, including epidemiological studies, human clinical studies showing effects in healthy adults at 0.060 ppm, and results of EPA’s exposure and risk assessment. The proposal to set a distinct secondary standard places more weight on the importance of a biologically relevant standard by recognizing that cumulative, seasonal exposure to ozone harms sensitive vegetation. Comments will be due 60 days after the notice is published in the *Federal Register*. The pre-published *Federal Register* notice is available at <http://www.epa.gov/air/ozonepollution/pdfs/20100106fr.pdf>.

EPA also will hold public hearings on the proposal. Please consult the *Federal Register* for details. In a related notice issued on January 12, 2010, EPA announced concurrent public hearings on the proposed rule in Arlington, Virginia, and Houston, Texas, on **February 2, 2010**, and in Sacramento, California, on **February 4, 2010**. 75 Fed. Reg. 1566.

***EPA To Hold Public Listening Sessions On Potential Stormwater Rule*** -- On January 5, 2010, EPA announced that it would hold five listening sessions to provide information to the public about a potential rule to strengthen stormwater regulations and to establish a program to reduce stormwater from new development and redevelopment. EPA seeks input on several regulatory considerations: expand the area subject to federal stormwater regulations; establish specific requirements to control stormwater discharges from new development and redevelopment; develop a single set of consistent stormwater requirements for all municipal separate storm sewer systems; require those sewer systems to address stormwater discharges in areas of existing development through retrofitting the sewer system or drainage area with improved stormwater control measures; and explore specific stormwater provisions to protect sensitive areas. The public can register by going to the website below. EPA will accept written comments on the preliminary rulemaking considerations until **February 26, 2010**. More information on the dates



of listening sessions, the potential rule, and instructions for submitting written comments is available at <http://www.epa.gov/npdes/stormwater/rulemaking>.

***CBD Petitions EPA Over Endocrine Disruptors*** -- On January 11, 2010, the Center for Biological Diversity (CBD) petitioned EPA to develop water quality criteria under the Clean Water Act (CWA) for numerous chemicals the Center said could damage the endocrine system. In addition to atrazine, the Center urged EPA to establish criteria for desethyl atrazine, benfluralin, DCPA (dacthal), diuron, metolachlor, phenanthrene, prometon, simazine, and trifluralin. The petition called for the establishment of water quality criteria for certain pharmaceuticals and personal care products. The petition by the CBD is available at [http://www.biologicaldiversity.org/campaigns/pesticides\\_reduction/endocrine\\_disruptors/pdfs/EPA\\_304\\_EDC\\_petition.pdf](http://www.biologicaldiversity.org/campaigns/pesticides_reduction/endocrine_disruptors/pdfs/EPA_304_EDC_petition.pdf).

***EPA Seeks Comment On Incorporating Climate Change In Land Protection Planning*** -- On December 31, 2009, EPA requested comment on a document entitled "An Assessment of Decision-Making Processes: The Feasibility of Incorporating Climate Change Information into Land Protection Planning." 74 Fed. Reg. 69335. The document was prepared by NCEA and reviews the decision-making processes of selected land-protection programs to assess the feasibility of incorporating climate change impacts information into the evaluation of these programs. The assessment identifies several strategies that "might be useful for incorporating climate change information into decision making." Comments are due by **February 1, 2010**.

## **RCRA/CERCLA**

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***EPA Has Identified Additional Classes Of Facilities For Development Of Financial Responsibility Requirements Under CERCLA Section 108(B)*** -- On January 6, 2010, EPA issued an Advance Notice of Proposed Rulemaking (ANPR) that would identify additional classes of facilities for development of financial responsibility requirements under Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. 75 Fed. Reg. 816. The statutory language addresses the promulgation of regulations that require classes of facilities to establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances. In a July 28, 2009, notice, EPA identified classes of facilities within the Hardrock Mining industry as those for which EPA will first develop financial responsibility requirements under CERCLA Section 108(b). In that notice, EPA also stated its belief that additional classes of facilities -- that is, other than those in the Hardrock Mining industry -- also may warrant the development of financial responsibility requirements under CERCLA Section 108(b), and stated that EPA would identify additional classes of facilities it plans to evaluate regarding the development of financial responsibility requirements. EPA has identified the classes of facilities within three industries -- the Chemical Manufacturing industry (NAICS 325), the Petroleum and Coal Products



Manufacturing industry (NAICS 324), and the Electric Power Generation, Transmission, and Distribution industry (NAICS 2211) -- as those for which EPA plans to develop, as necessary, a proposed regulation identifying appropriate financial responsibility requirements under CERCLA Section 108(b). EPA will carefully examine specific activities, practices, and processes involving hazardous substances at these facilities, as well as federal and state authorities, policies, and practices to determine the risks posed by these classes of facilities and whether requirements under CERCLA Section 108(b) will effectively reduce these risks. Comments are due on or before **February 5, 2010**.

***EPA Announces Availability And Public Comment Period On Preliminary Remediation Goals For Dioxin*** -- On January 7, 2010, EPA announced a 50-day public comment period for draft recommended interim preliminary remediation goals (PRG) developed in the Draft Recommended Interim Preliminary Remediation Goals for Dioxin in Soil at Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Resource Conservation and Recovery Act (RCRA) Sites. 75 Fed. Reg. 984. EPA's Office of Solid Waste and Emergency Response (OSWER) has developed the draft recommended interim PRGs for dioxin in soil. These draft recommended interim PRGs were calculated using existing, peer-reviewed toxicity values and current EPA equations and default exposure assumptions. Comments may be submitted in writing by **February 26, 2010**.

***EPA Issues Final Revisions To Requirements For Export Of Spent Lead-Acid Batteries*** -- On January 8, 2010, EPA issued final amendments to certain existing regulations promulgated under the hazardous waste provisions of the Resource Conservation and Recovery Act (RCRA) regarding hazardous waste exports from and imports into the United States. 75 Fed. Reg. 1236. The amendments implement recent changes to the agreements concerning the transboundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development (OECD), establish notice and consent requirements for spent lead-acid batteries intended for reclamation in a foreign country, specify that all exception reports concerning hazardous waste exports be sent to the International Compliance and Assurance Division in the Office of Enforcement and Compliance Assurance's Office of Federal Activities in Washington, D.C., and require U.S. receiving facilities to match EPA-provided import consent documentation to incoming hazardous waste import shipments and to submit to EPA a copy of the matched import consent documentation and RCRA hazardous waste manifest for each import shipment. The final rule is effective **July 7, 2010**.

## **REACH**

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***ECHA Publishes Information On Safe Use Of Chemicals*** -- On December 18, 2009, the European Chemicals Agency (ECHA) published on its website hazard and safe-use information on chemical substances that have been registered. The database is intended to permit the public to make well informed decisions about the use of chemicals or articles containing chemicals they



purchase. The information was provided by companies who manufacture or import these substances. It will be updated each time additional information is received by ECHA. According to ECHA, public access to information on chemicals is a central element of the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) regulation and shall allow European Union (EU) citizens to make informed decisions about the use of chemicals to which they may be exposed. Also, workers will benefit from this by safer use of chemicals at the work place. In a dedicated section of the ECHA webpage, information is available on substances that companies manufacture or import in the EU, including their hazardous properties, classification and labeling information, and instruction on how to use them safely.

**EU Chemical Makers Issue Guidance On Data Use** -- On December, 21, 2009, the European Chemical Industry Council (Cefic) published guidance on the use of published data. The document is intended to assist chemical consortia prepare REACH dossiers or other documents for regulatory purposes. Cefic's "Legal Guidance on REACH & Intellectual Property: Use of Published Information" is available at <http://www.cefic.be/Files/Publications/Cefic-Legal-Guidance-REACH-IP-use-of-published-information-DEC-09.pdf>.

**ECHA Adds 14 Substances To REACH Candidate List Of Substances Of Very High Concern For Authorization** -- On January 13, 2010, ECHA added 14 chemical substances to the Candidate List of Substances of Very High Concern (SVHC) for authorization. Companies manufacturing or importing these substances need to check their potential obligations that result from the listing. The substances which ECHA added on the Candidate List are:

Substance Name	EC Number	CAS Number
Anthrance oil	292-602.7	90640-80-5
Anthrance oil, anthrance paste, distn. Lights	295-278-5	91995-17-4
Anthrance oil, anthrance paste, anthrance fraction	295-275-9	91995-15-2
Anthrance oil, anthrance-low	292-604-8	90640-82-7
Anthrance oil, anthrance paste	292-603-2	90640-81-6
Pitch, coal tar, high temp.	266-028-2	65996-93-2
Aluminosilicate Refractory Ceramic Fibres	-	-
Aluminosilicate Refractory Ceramic Fibres are fibres covered by index number 650-017-00-8 in Annex VI, part 3, table 3.2 of Regulation (EC)		



Substance Name	EC Number	CAS Number
<p>No 1272/2008, and fulfil the two following conditions:</p> <p>a) Al<sub>2</sub>O<sub>3</sub> and SiO<sub>2</sub> are present within the following concentration:</p> <ul style="list-style-type: none"> <li>• Al<sub>2</sub>O<sub>3</sub>: 43.5 – 47% w/w, and SiO<sub>2</sub>: 49.5 – 53.5% w/w,</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>• Al<sub>2</sub>O<sub>3</sub>: 45.5 – 50.5% w/w, and SiO<sub>2</sub>: 48.5 – 54% w/w.</li> </ul> <p>b) fibres have a length weighted geometric mean diameter less two standard geometric errors of 6 or less micrometers (µm).</p>		
<p>Zirconia Aluminosilicate, Refractory Ceramic Fibres</p> <p>Zirconia Aluminosilicate Refractory Ceramic Fibres are fibres covered by index number 650-017-00-8 in Annex VI, part 3, table 3.2 of Regulation (EC) No 1272/2008, and fulfil the two following conditions:</p> <p>a) Al<sub>2</sub>O<sub>3</sub>, SiO<sub>2</sub> and ZrO<sub>2</sub> are present within the following concentration ranges:</p> <ul style="list-style-type: none"> <li>• Al<sub>2</sub>O<sub>3</sub>: 35 – 36% w/w,</li> </ul> <p>And</p>	-	-



Substance Name	EC Number	CAS Number
<ul style="list-style-type: none"><li>• SiO<sub>2</sub>: 47.5 – 50 % w/w, and</li><li>• ZrO<sub>2</sub>: 15 - 17 % w/w, b) fibres have a length weighted geometric mean diameter less two standard geometric errors of 6 or less micrometers (µm)</li></ul>		
2,4-Dinitrotoluene	204-450-0	121-14-2
Diisobutyl phthalate	201-553-2	84-69-5
Lead chromate	231-846-0	7758-97-6
Lead chromate molybdate sulphate red (C.I. Pigment Red 104)	235-759-9	12656-85-8
Lead sulfochromate yellow (C.I. Pigment Yellow 34)	215-693-7	1344-37-2
tris(2-chloroethyl)phosphate	204-118-5	115-96-8

Decisions on whether the substances need to be subject to authorization will be made later. A summary of the obligations linked to the Candidate List is available at [http://echa.europa.eu/chem\\_data/authorisation\\_process/candidate\\_list\\_obligations\\_en.asp](http://echa.europa.eu/chem_data/authorisation_process/candidate_list_obligations_en.asp).

## **NANOTECHNOLOGY**

***EPA Reopens Comment Period On Carbon Nanotube SNUR*** -- On January 8, 2010, EPA reopened the comment period on the proposed significance new use rule (SNUR) for specific carbon nanotubes. 75 Fed. Reg. 1024. The request was submitted by the U.S. World Trade Organization (WTO) Technical Barriers to Trade (TBT) Inquiry Point at the National Institute of Standards and Technology (NIST) on behalf of the European Economic Community (EEC) WTO TBT Enquiry Point. Comments are now due **February 8, 2010**.

***OECD Issues Report On Information Gathering Efforts For Nanomaterials*** -- On December 9, 2009, OECD published a report analyzing similarities and differences in current and proposed information-gathering initiatives for manufactured nanomaterials, and offered recommendations for what these programs should address. The report, *Analysis of Information Gathering Initiatives on Manufactured Nanomaterials*, provides “a number of considerations and



recommendations” for countries considering voluntary or mandatory information-gathering schemes for manufactured nanomaterials. Among other things, the report urges that the following information elements be considered: use pattern, physical and chemical properties, life cycle information, fate, human health toxicity, ecotoxicity, and risk management measures. The report is available at [http://www.oalis.oecd.org/oalis/2009doc.nsf/LinkTo/NT00006F1E/\\$FILE/JT03274953.PDF](http://www.oalis.oecd.org/oalis/2009doc.nsf/LinkTo/NT00006F1E/$FILE/JT03274953.PDF).

***Bayer Sets Occupational Limit For Nanotubes*** -- On November 26, 2009, Bayer MaterialScience announced that it has established a product stewardship program and set a limit of 0.05 milligram per cubic meter of air as an occupational exposure limit for its Baytubes, on multi-wall carbon nanotubes. Bayer’s announcement of the occupational limit is available at [http://www.baytubes.com/news\\_and\\_services/news\\_091126\\_oel.html](http://www.baytubes.com/news_and_services/news_091126_oel.html).

***EU Commission Requests Comment On Research Needs*** -- On December 17, 2009, the European Commission’s Research Directorate requested comment on research needed to ensure that nanotechnologies are developed with emphasis on sustainable development, competitiveness, and health, safety, and environmental concerns. The consultation has questionnaires for different audiences, including the general public, research, and other organizations, and for public agencies. Additional information and links to related documents are available at [http://ec.europa.eu/research/consultations/snap/consultation\\_en.htm](http://ec.europa.eu/research/consultations/snap/consultation_en.htm). The comment period closes on **February 19, 2010**.

## **LEGISLATIVE DEVELOPMENTS**

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***President Obama Signs Military Site Cleanup Measure*** -- On December 21, 2009, President Obama signed into law the Department of Defense Appropriations Act for 2010. Of the more than \$635 billion appropriated, \$1.5 billion is designated for environmental cleanup and restoration at military sites. The monies are variously designated for cleanup by the Army, Navy, Air Force, defense sites, and defense-wide cleanup.

***Mining Of Copper Lode Moves Forward*** -- A Senate Committee cleared by voice vote late in December a bill that would permit work on a copper mine to tap a very large lode in Arizona beneath federal land under the jurisdiction of the United States Forest Service. The bill would sanction a land swap, with the joint venture of two large copper companies reimbursing the federal government if the land they provide in the exchange is not as valuable as the federal land involved. The companies also would have to protect certain scenic lands and fund recreational opportunities. The project is anticipated to spread over more than one-half century, with the first 16 years devoted to planning and development and 50 years devoted to actual mining. The mining companies project that they will be able to produce one-half million tons of copper each year. That amount represents roughly one-third of the country’s present annual production.



***House Of Representatives Takes Action To Restore Funds For Clean Energy*** -- On December 16, 2009, the House acted to restore \$2 billion to a clean energy loan guarantee program that had been a part of the Stimulus package but gave way to create funds for the “cash for clunkers” automobile program. The additional funds are also to be used to guarantee loans for energy efficiency projects. Senators Feinstein (D-CA) and Merkley (D-OR) introduced in the Senate on December 17, 2009, legislation that would extend until 2012 the right of renewable energy developers to get 30% up front payments for capital intensive projects instead of having to rely on filing for 30% tax credits. The present legislation will expire at the end of 2010, and the Senators stressed that the two-year extension is critical to fund solar and wind projects stalled by present economic circumstances.

***Bill To Allow Small Tree Cutting In Oregon Introduced*** -- Senator Ron Wyden (D-OR) introduced legislation on December 16, 2009, reflecting a compromise he brokered between the logging industry and environmental groups to permit the cutting of small trees in the forests of Central and Eastern Oregon. If enacted, the measure would help preserve the few remaining sawmills in those portions of the state, and it would clear land that would permit the growth of desired species in the forests.

***Movement To Strip EPA Of Authority Over Greenhouse Gases*** -- All of the Democratic members of the Senate Environment and Public Works Committee have announced that they intend to oppose a move by Senator Lisa Murkowski (R-AK) to strip EPA of its authority to regulate greenhouse gas emissions under the Clean Air Act (CAA). Senator Murkowski is likely to pursue one of two options to attempt to secure passage, an amendment to other legislation or a resolution of disapproval. According to her staff, the Senator has not decided yet when or how to proceed, although she may go forward on January 20, 2010, with an amendment. The resolution would not need to be filed until March. A large collection of environmental groups, including the National Resources Defense Council, has written a joint letter to all members of the Senate opposing the Murkowski move. In the House of Representatives, Congressman Earl Pomeroy (D-ND) has introduced similar legislation.

***Senate Confirms Two Key EPA Positions*** -- On December 24, 2009, the Senate Environment and Public Works Committee voted to confirm Robert Perciasepe to become EPA Deputy Administrator and Dr. Paul Anastas to become Assistant Administrator, ORD. Perciasepe was EPA’s Assistant Administrator for Water and then its Assistant Administrator for Air in the Clinton Administration. Since leaving the Clinton Administration, Perciasepe has worked for the Audubon Society, where he became chief operating officer. His nomination was held up by Senator George V. Voinovich (R-OH), who sought to pressure EPA for more thorough answers on questions about EPA’s economic analysis of climate change legislation. The nomination of Dr. Anastas was held up by Senator David Vitter (R-LA), who was using his hold on the nomination to urge EPA to allow an independent review of EPA’s Integrated Risk Information System (IRIS) assessment of health risks from formaldehyde. EPA agreed.



**MISCELLANEOUS**

*ATSDR Notice Of Availability Of Tox Profiles* -- On December 17, 2009, the Agency for Toxic Substances and Disease Registry (ATSDR) announced the 23rd set of toxicological profiles, which consists of three new and two updated drafts prepared by ATSDR for review and comment. The profiles are:

Toxicological Profile	CAS Number
1. Acrylamide	79-06-1
2. Carbon Monoxide	630-08-0
3. 1,3-Butadiene	106-99-0
4. Phosphate Ester Flame Retardants	78-51-3
	126-73-8
	126-71-6
	115-86-6
	13674-84-5
	13674-87-8
	115-96-8
5. Vanadium	7440-62-2

To be considered, comments on these draft toxicological profiles must be received on or before **February 26, 2010**.

*OEHHA Adds Substances To Prop 65 List* -- On December 18, 2009, California's Office of Environmental Health Hazard Assessment (OEHHA) announced the addition of four substances to the list of carcinogens and reproductive toxicants it maintains under Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986. Wood dust and zidovudine, an antiviral drug also called AZT, are the two new carcinogens on the list. The new reproductive toxicants are tert-amyl methyl ether (TAME) and ethyl-ter-butyl ether (ETBE), chemicals used to oxygenate fuels to reduce air pollution. The International Agency for Research on Cancer (IARC) and NTP have linked wood dust to cancer in humans, according to state documents. Zidovudine is an antiviral drug that IARC linked to cancer in 2000. Zidovudine was the first drug approved to treat the acquired immune deficiency syndrome. Studies in mice and rats linked TAME to developmental problems and ETBE to male reproductive problems, OEHHA said. The agency based the two listings on information from the American Conference of Governmental Industrial Hygienists. Information on the California listing decision is available at [http://www.oehha.ca.gov/prop65/prop65\\_list/121809list.html](http://www.oehha.ca.gov/prop65/prop65_list/121809list.html).



***EPA Releases Annual Enforcement Results And Mapping Tool*** -- On December 23, 2009, EPA released enforcement results for fiscal year 2009, and announced that it has developed a new web-based tool and interactive map that allows the public to obtain detailed information by location about the enforcement actions taken at approximately 4,600 facilities. In FY2009, EPA concluded enforcement actions requiring polluters to invest more than \$5 billion on pollution controls, cleanup, and environmental projects. Civil and criminal defendants committed to install controls and take other measures to reduce pollution by approximately 580 million pounds annually once all required controls are fully implemented. The new mapping tool allows the public to view the locations of facilities that were the subject of those enforcement actions on interactive maps of the U.S. and territories. The maps show facilities where civil enforcement actions were taken for environmental laws for air, water, and land pollution, and a separate map shows criminal enforcement actions. More information is available at <http://www.epa.gov/compliance/resources/reports/endofyear/eoy2009/index.html>.

***OSHA Schedules Public Hearing On HCS*** -- On December 29, 2009, the Occupational Safety and Health Administration (OSHA) scheduled informal public hearings on its proposal to revise the Hazard Communication Standard (HCS). OSHA anticipates receiving several hearing requests, and the *Federal Register* notice describes the procedures the public must use to participate in the hearings. The hearings will begin at 9:30 a.m., local time, on the following dates: **March 2, 2010, in Washington, D.C.; March 31, 2010, in Pittsburgh, PA; and April 13, 2010, in Los Angeles, CA.** Please consult the *Federal Register* for details.

***Canada Issues 12<sup>th</sup> Batch Of High-Priority Substances*** -- On December 26, 2009, Health Canada and Environment Canada issued the 12<sup>th</sup> batch of substances, consisting of 16 substances, being reviewed for toxicity under the Challenge to Industry process. Most of the substances are suspected of being persistent, bioaccumulative, and inherently toxic to nonhuman organisms. The substances are: Batch 12 substances identified as persistent, bioaccumulative, and inherently toxic and believed to be in commercial use in Canada are mitotane; chlorhexidine diacetate; a form of trisiloxane commonly known as MDM; musk moskene; sclareol; a form of trisiloxane commonly known as M4Q; a form of benzenamine commonly known as BMBPB; Disperse Yellow Brown; a form of ethanamine commonly known as HMSSA; a form of silanamine commonly known as OMSSA; and a form of pyridine commonly known as CPPP. The notice on the 12<sup>th</sup> batch of substances being reviewed for toxicity under Canada's Challenge to Industry process is available at <http://www.gazette.gc.ca/rp-pr/p1/2009/2009-12-26/html/notice-avis-eng.html#d101>.

***EPA Seeks Comment On Enforcement/Compliance National Priorities*** -- On January 4, 2010, EPA announced that it is soliciting comment and recommendations on enforcement and compliance national priorities to be addressed for fiscal years 2011-2013. EPA selects these priority areas every three years in order to focus federal resources on the most important environmental problems where noncompliance is a significant contributing factor. EPA Office



of Enforcement and Compliance Assurance is collecting external comment on the preliminary set of national priority candidates for FY 2011-2013 listed on its website at <http://www.epa.gov/compliance/data/planning/priorities/index.html>. Comments must be received on or before **January 19, 2010**.

***CRS Issues Report On Noncompliance With Congressional Review Act*** -- On December 29, 2009, the Congressional Research Service (CRS) issued an analysis concluding that federal agencies have failed to meet statutory requirements to provide notice to Congress and the Government Accountability Office (GAO) for more than 1,000 final regulations issued since 1999, casting some doubt on whether the regulations are legally in effect. In a report, CRS examined the failure by federal agencies over a 10-year period to comply with a provision of the Congressional Review Act that requires agencies to submit final rules to both houses of Congress and GAO before the rules can take effect. The report cited 22 major rules reviewed by the White House Office of Management and Budget from October 2008 to June 2009 that had not been sent to GAO. A copy of the report is available at <http://op.bna.com/hl.nsf/r?Open=sfak-7zdttd>.

***EPA Administrator Lisa P. Jackson Releases Memorandum To EPA Employees*** -- On January 12, 2010, Administrator Jackson issued a memorandum reiterating EPA's priorities. These include: climate change, improving air quality, chemical safety, cleaning up superfund sites, water protection, environmental justice, and enhancing tribal partnership.

***EPA Issues QSAR Application Toolbox*** -- On January 7, 2010, OECD released an updated set of computer tools to assist governments, the chemical industry, and others save money and spare animals by extrapolating toxicity and eco-toxicity data for chemicals rather than conducting new toxicity tests. The new version 1.1 of the OECD QSAR application toolbox -- employing Quantitative Structure-activity Relationship (QSAR) computer modeling techniques -- systematically groups chemicals into categories to evaluate them for common mechanisms or action modes, toxicological behavior, or consistent trends among results related to regulatory endpoints. The OECD toolbox is available at [http://www.oecd.org/document/54/0,3343,en\\_2649\\_34379\\_42923638\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/54/0,3343,en_2649_34379_42923638_1_1_1_1,00.html).

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