



Recent Federal Developments February 15, 2010

TSCA/FIFRA/NTP/

EPA Announces New Practice Regarding CBI: On January 21, 2010, the U.S. Environmental Protection Agency (EPA) announced a new practice concerning confidential business information (CBI) claims for substantial risk information submitted to EPA under Toxic Substances Control Act (TSCA) Section 8(e). 75 Fed. Reg. 3462. According to EPA's announcement, if a chemical substance is listed on the public portion of the TSCA Inventory, EPA expects a company submitting a health and safety study to EPA under TSCA Section 8(e) for that chemical substance will not claim the chemical identity as confidential. According to EPA, "[t]his action is part of a broader effort to increase transparency and provide more valuable information to the public by identifying programs where non-CBI may have been claimed and treated as CBI in the past." EPA also states that this Notice concerning EPA's new general practice is not a final Agency action, but instead, any determination letter issued by EPA for a specific TSCA Section 8(e) submission finding that the chemical identity is not entitled to confidential treatment would be. If EPA is correct, judicial review of the new policy cannot be sought until EPA denies a submitter's CBI claims. While EPA did not specifically solicit comments on its announcement, it opened docket number EPA-HQ-OPPT-2009-1013 for this matter (available at <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a80fe4>).

EPA Issues Final Rule Amending PMN Exemption For Polymers: On January 27, 2010, EPA promulgated a final rule amending the polymer exemption rule, which provides an exemption from the premanufacture notification (PMN) requirements of TSCA. 75 Fed. Reg. 4295. The amendment excludes from eligibility polymers containing as an integral part of their composition, except as impurities, certain perfluoroalkyl moieties consisting of a CF₃- or longer chain length. This exclusion includes polymers that contain any one or more of the following: perfluoroalkyl sulfonates (PFAS); perfluoroalkyl carboxylates (PFAC); fluorotelomers; or perfluoroalkyl moieties that are covalently bound to either a carbon or sulfur atom where the carbon or sulfur atom is an integral part of the polymer molecule (affected polymers). EPA states that, in general, any person who intends to manufacture (which is defined by TSCA to include import) any of these polymers not already on the TSCA Inventory must complete the TSCA PMN review process prior to commencing the manufacture or import of such polymers. Alternatively, manufacturers or importers may submit a request for a different exemption, such as the Low Volume Exemption (LVE) or Low Release and Exposure Exemption (LoREX), for affected polymers that they reasonably believe may qualify for such exemptions. Under the final rule, those persons who are currently manufacturing or importing affected polymers, or who have previously manufactured or imported them but are not doing so now, in full compliance with the 1995 polymer exemption rule, may continue manufacturing or importing them until **January 27, 2012**. After that date, manufacture of these polymers will no longer be authorized under the polymer exemption rule, and continued manufacture or import must be authorized under a different TSCA Section 5(h)(4) exemption or under a different TSCA Section 5



authority, such as TSCA Section 5(a)(1) or Section 5(e). EPA states that the amendment to the exemption is necessary “because, based on current information, EPA can no longer conclude that these polymers ‘will not present an unreasonable risk to human health or the environment’ under the terms of the polymer exemption rule, which is the determination necessary to support an exemption under TSCA section 5(h)(4).” EPA also states that it made two changes to its March 7, 2006, proposed rule. The first applies to the effective date of the final rule, which will be 30 days after date of publication in the *Federal Register* instead of 12 months, as was proposed. The second will allow persons who are currently manufacturing or importing affected polymers, or who have previously manufactured or imported them but are not doing so now, in full compliance with the 1995 polymer exemption rule, 24 months to complete the TSCA Section 5 review process instead of 12 months, as was proposed. EPA is also clarifying that manufacturers and importers of affected polymers may submit a request for a different TSCA Section 5(h)(4) exemption, such as a LVE or LoREX request, in lieu of a PMN, if they reasonably believe that the subject polymers may qualify for those exemptions. The final rule is effective **February 26, 2010**.

ITC Issues Report To EPA Administrator: On February 2, 2010, the TSCA Interagency Testing Committee (ITC) transmitted its *Sixty-Fifth Report* to the Administrator of EPA on December 3, 2009. 75 Fed. Reg. 5406. The ITC did not recommend any revisions to the TSCA Section 4(e) Priority Testing List. Comments must be received on or before **March 4, 2010**.

EPA Announces Availability Of Draft Test Guidelines: On January 27, 2010, EPA announced the availability of four draft test guidelines for Product Performance of Public Health Uses of Antimicrobial Agents. 75 Fed. Reg. 4380. The draft guidelines are part of a series of test guidelines established by the Office of Prevention, Pesticides, and Toxic Substances (OPPTS) for use in testing pesticides and chemical substances to develop data for submission to EPA under TSCA, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and Section 408 of the Federal Food, Drug, and Cosmetic (FFDCA). EPA states that the OPPTS test guidelines serve as a compendium of accepted scientific methodologies and protocols that are intended to provide data to inform regulatory decisions under TSCA, FIFRA, and/or FFDCA. Comments on the draft guidelines are due **March 29, 2010**. The draft guidelines are available at <http://www.regulations.gov/search/Regs/home.html#docketDetail?R=EPA-HQ-OPP-2009-0681>. The four draft test guidelines part of Series 810-Product Performance Test Guidelines for Public Health Uses of Antimicrobial Agents:

- OPPTS 810.2000 -- General Considerations for Public Health Uses of Antimicrobial Agents;
- OPPTS 810.2100 -- Sterilants -- Efficacy Data Recommendations;



- OPPTS 810.2200 -- Disinfectants for Use on Hard Surfaces -- Efficacy Data Recommendations; and
- OPPTS 810.2300 -- Sanitizers for Use on Hard Surfaces -- Efficacy Data Recommendations.

The draft test guidelines address efficacy testing for antimicrobial agents intended to be used on hard, inanimate, environmental surfaces, and which bear label claims as sterilants, disinfectants, and/or sanitizers. According to the notice, EPA uses these data to support the labeling claims for public health-related antimicrobial agents. EPA last updated the product performance use guidelines for antimicrobial agents in 1982. Since then, EPA has presented several issues at two separate meetings of the FIFRA Scientific Advisory Panel (SAP) related to the conduct of studies for antimicrobial agents. The draft test guidelines include formatting changes to incorporate the guidelines into the OPPTS Guidelines Series 810, as well as sections that incorporate the recommendations from the two SAP meetings, new guidelines and clarifications from other guidance documents, and comments from the regulated industry. EPA notes that, in particular, it added a new section that describes the data to be submitted to support labeling claims against two spore forming bacteria, *Bacillus anthracis* and *Clostridium difficile*. According to EPA, the final revised guidelines will represent its current recommendations for conducting studies to support antimicrobial pesticide label claims.

EPA Announces Intent To Issue Cancellation Order For Spirotetramat: On January 26, 2010, EPA's Office of Pesticide Programs (OPP) announced that it intends to issue a cancellation order for the pesticide spirotetramat pursuant to Section 6(a)(1) of FIFRA. EPA states that, on December 23, 2009, the U.S. District Court for the Southern District of New York vacated all federal registrations for spirotetramat products. The court based its decision on EPA's failure to provide an opportunity for comment on the applications for those registrations before EPA granted them. The vacatur is currently stayed until **February 16, 2010**; when the stay is lifted, the spirotetramat registrations will cease to be valid under FIFRA. At that time, EPA intends to issue a cancellation order that will establish provisions governing the disposition of existing stocks of previously registered spirotetramat pesticide product already in the channels of trade. EPA is seeking comment on how EPA should treat the sale, distribution, and/or use of existing stocks of spirotetramat in the cancellation order. Comments were due February 8, 2010.

EPA states that, due to the short time before vacatur of the registrations will take effect, EPA is publishing this notice on its website rather than in the *Federal Register*. Because of the need to consider the comments quickly to issue a cancellation order as early as **February 16, 2010**, EPA requests that comments not include any material that must be treated as CBI. The court's decision and EPA's response to it could have implications for other registrations that may be alleged to be subject to similar procedural deficiencies. More information about the Notice of



Cancellation Order is available at <http://www.epa.gov/opprd001/factsheets/spirotetramat-canc-order.pdf>.

Endangerment Finding Challenged In Court: On February 10, 2010, 13 U.S. Representatives and 17 associations and companies filed a lawsuit in federal appeals court challenging EPA's finding that greenhouse gas (GHG) emissions endanger public health and welfare. *Linder v. EPA*, D.C. Cir. (Docket No. unavailable, 2/10/10). The lawsuit was filed in the U.S. Court of Appeals for the District of Columbia Circuit by the Southeastern Legal Foundation (SLF) on behalf of the members of Congress and the organizations, most of which are based in Georgia. According to a statement issued by the group, "SLF has filed this important court action to enforce the rule of law and prevent the unprecedented power grab by the EPA and this Administration." The scientific basis for the EPA Endangerment Finding is flawed, based on questionable and potentially fraudulent data, and certainly does not rise to the level of certainty necessary to upend the American economy, toss millions out of work, and which promises little or no climate change benefit over the next half-century. More information on the lawsuit challenging EPA's endangerment finding is available at <http://www.epalawsuit.com/first-court-action-media-relea/>.

EPA Proposes Second SNUR For Multi-Walled Carbon Nanotubes: On February 3, 2010, EPA published a proposed significant new use rule (SNUR) under Section 5(a)(2) of TSCA for multi-walled carbon nanotubes. 75 Fed. Reg. 5546. The proposed rule would require persons who intend to manufacture, import, or process the substance for an activity that is designated as a significant new use by the proposed rule to notify EPA at least 90 days before commencing that activity. EPA states that the required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs. Comments are due on **March 5, 2010**. The proposed rule provides the following basis for action:

The PMN states that the substance will be used as an additive/filler for polymer composites and support media for industrial catalysts. Based on test data on analogous respirable, poorly soluble particulates and on other carbon nanotubes (CNTs), EPA identified concerns for lung effects, immunotoxicity, and mutagenicity from exposure to the PMN substance. For the uses described in the PMN, worker inhalation and dermal exposures are minimal due to the use of adequate personal protective equipment. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without the use of gloves and protective clothing, where there is a potential for dermal exposure; use of the substance without a



National Institute for Occupational Safety and Health (NIOSH)-approved full-face respirator with an N100 cartridge, where there is a potential for inhalation exposure; or use other than as described in the PMN, may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at 721.170(b)(3)(ii).

The proposed SNUR would apply only to the multi-walled carbon nanotubes described in PMN P08-199. According to EPA, in the past, some stakeholders have asked whether these types of SNURs apply to all variants of carbon nanotubes. EPA states: "This is not the case." The chemical name listed in the proposed SNUR is "multi-walled carbon nanotubes (generic)," and the CAS Number is "not available." On November 6, 2009, EPA published a proposed SNUR for the multi-walled carbon nanotubes described in PMN P08-177. The November 6, 2009, proposed SNUR is available at <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a52a30>.

SFIREG Working Committee Schedules Meeting: On February 10, 2010, the Association of American Pesticide Control Officials and State FIFRA Issues Research and Evaluation Group (SFIREG) announced the scheduling of a two-day meeting on **March 29-30, 2010**. 75 Fed. Reg.6656. Among other topics, the Group will consider supplemental labeling, Section 24(c) updates, label quality initiatives, and soil fumigant label changes and compliance strategies. Please consult the *Federal Register* for details.

CAA/CWA

EPA Proposes To Revise NAAQS For Ozone: On January 19, 2010, EPA proposed revisions to the National Ambient Air Quality Standards (NAAQS) for ozone. 75 Fed. Reg. 2938. EPA proposed to strengthen the 8-hour "primary" ozone standard, to a level within the range of 0.060-0.070 parts per million (ppm). EPA also proposed to establish a distinct cumulative, seasonal "secondary" standard, intended to protect sensitive vegetation and ecosystems, including forests, parks, wildlife refuges, and wilderness areas. EPA proposed to set the level of the secondary standard within the range of 7-15 ppm-hours. These revisions result from a reconsideration of the primary and secondary ozone standards set in 2008 at 0.075 ppm. 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 are due **March 22, 2010**.



EPA Releases Draft Documents Related To Review Of NAAQS For Particulate Matter: On January 26, 2010, EPA's Office of Air Quality Planning and Standards (OAQPS) made available for public comment a draft assessment document titled, *Particulate Matter Urban-Focused Visibility Assessment -- Second External Review Draft*. According to the *Federal Register* notice, on or about January 29, 2010, OAQPS is making available for public comment a second draft assessment document titled, *Quantitative Health Risk Assessment for Particulate Matter -- Second External Review Draft*. 75 Fed. Reg. 4067. These two draft assessment documents describe the quantitative analyses that EPA is conducting as part of the review of the NAAQS for particulate matter (PM). In addition, on or about February 26, 2010, OAQPS intends to make available for public comment a third draft document titled, *Policy Assessment for the Review of the Particulate Matter National Ambient Air Quality Standards -- First External Review Draft*. Comments should be submitted on or before **March 15, 2010**, for the draft document titled, *Particulate Matter Urban-Focused Visibility Assessment -- Second External Review Draft and Quantitative Health Risk Assessment for Particulate Matter -- Second External Review Draft*. Comments should be submitted on or before **April 12, 2010**, for the draft document titled, *Policy Assessment for the Review of the Particulate Matter National Ambient Air Quality Standards -- First External Review Draft*.

EPA Delays Nonattainment Designations: On January 19, 2010, EPA extended by one year the deadline for designating areas that fail to attain the 2008 air quality standards for ozone. 75 Fed. Reg. 2936. EPA will now make the nonattainment designations by **March 12, 2011**.

EPA Issues Final NAAQS For Nitrogen Oxide: On February 9, 2010, EPA issued final revisions to the primary NAAQS for oxides of nitrogen as measured by nitrogen dioxide (NO₂), EPA is making revisions to the primary NO₂ NAAQS to provide requisite protection of public health. 75 Fed. Reg. 6474. Specifically, EPA is establishing a new 1-hour standard at a level of 100 ppb, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations, to supplement the existing annual standard. EPA is also establishing requirements for an NO₂ monitoring network that will include monitors at locations where maximum NO₂ concentrations are expected to occur, including within 50 meters of major roadways, as well as monitors sited to measure the area-wide NO₂ concentrations that occur more broadly across communities. The final rule is effective on **April 12, 2010**.

EPA Proposes NSR Review For PM: On February 11, 2010, EPA proposed to repeal the "grandfathering" provision for PM_{2.5} contained in the federal prevention of significant deterioration (PSD) program, and to end early the PM₁₀ Surrogate Policy applicable in states that have an approved PSD program in their State Implementation Plan ("SIP-approved States"). 75 Fed. Reg. 6827. EPA's actions would end EPA's 1997 policy that allows sources and permitting authorities to use a demonstration of compliance with the PSD requirements for particulate matter less than 10 micrometers (PM₁₀) as a surrogate for meeting the PSD requirements for



particulate matter less than 2.5 micrometers (PM_{2.5}). Comments must be received on or before **March 15, 2010**.

REACH

ECHA Committee For Risk Assessment Issues Opinions On Harmonised Classification For Three Chemical Substances: On January 28, 2010, the Committee for Risk Assessment (RAC) of the European Chemicals Agency (ECHA) adopted opinions on the proposals for classification and labeling across Europe of three chemical substances as carcinogen, mutagen, or toxic for reproduction. The substances are:

- ***Indium phosphide:*** The classification is currently not harmonized at the European Union (EU) level. RAC agreed with the proposal from France that the classification of the substance should be harmonized as a carcinogen and toxic for reproduction. RAC also proposed a classification for repeated dose toxicity from inhalation exposure. Indium phosphide is, for example, used as a semiconductor in the electronics industry.
- ***Di-tert-butyl peroxide -- DTBP:*** DTBP is currently classified at the EU level for certain physico-chemical hazards. RAC agreed with the proposal from France to also classify it as a mutagen. DTBP is typically used by industry as an additive in polymerization reactions.
- ***Trixylyl phosphate:*** The classification is currently not harmonized at the EU level. RAC agreed with the proposal from the Netherlands for a harmonized classification of toxic for reproduction. Trixylyl phosphate is mainly used as a fire resistant hydraulic fluid, for example in industrial power generators. Please note that a detailed explanation and description of the categories (carcinogenic, mutagenic, or toxic to reproduction) will be given in the RAC's opinions, which will be published shortly on ECHA's website.

ECHA Issues Warning To Registrants Using IUCLID 5.0/5.1: On February 4, 2010, ECHA issued a notice advising registrants using IUCLID 5.0 or 5.1 that they have until **March 2010** to submit their dossiers. After that date, all registrants will need to use IUCLID 5.2, which will be available from February 15, 2010. The new IUCLID 5.2, which will be launched on February 15, will enable registrants to record classification and labelling details which comply with the Classification, Labeling, and Packaging (CLP) regulation that has been in force since early 2009. In addition, Sections 3.5 and 3.6 on use description have been adapted as described in the updated *Guidance on information requirements and chemical safety assessment*. Other technical changes have been made to further facilitate the automation of dossier processing by REACH-IT.



Please consult the list of modifications, which is available on the IUCLID website (<http://iuclid.eu>). Companies will have an opportunity automatically to transfer all their data stored in their IUCLID database from IUCLID 5.0 or 5.1 format into the new IUCLID 5.2 format when installing the new IUCLID 5.2 version. Your attention is drawn to the fact that the next version of REACH-IT will only accept dossiers prepared in IUCLID 5.2 formats. The new version of REACH-IT, which is scheduled to be launched on **March 1, 2010**, includes new features such as the submission of Classification and Labelling (C&L) notifications, bulk C&L notifications, Legal Entity changes, and cease manufacture declarations.

NANOTECHNOLOGY

The Nanotechnology Safety Act: On January 21, Senator Mark Pryor (D-AR.) introduced for himself and Senator Ben Cardin (D-MD) the Nanotechnology Safety Act of 2010 (Act). The bill, now numbered S. 2942, would amend the FFDCFA to establish a program of scientific investigation of nanotechnology by the Food and Drug Administration (FDA). FDA would be charged with investigating nanoscale materials included or intended for inclusion in FDA regulated products. The Agency is directed in the legislation to focus on the potential toxicology of nanoscale materials, the effects of those materials on biological systems, and the interaction of nanoscale materials with biological systems. S. 2942 spells out nine purposes of the Act. The first is to assess the scientific literature and data on both general nanoscale materials and specific materials of concern to FDA. Then the information is to be organized in databases that will form the basis for generalized principles for the behavior of the materials with biological systems. FDA is also to promote and participate in collaborative efforts to further understand the science of novel properties that might contribute to toxicity at the nanoscale level. Other major efforts detailed are the collection, synthesis, interpretation and dissemination of scientific information and data relating to nanoscale material interaction with biological systems, and the building of scientific expertise within FDA. The FDA effort would be headed by a program manager who would develop a plan for short and long term technical goals, develop intramural programs, integrate the FDA efforts with the National Nanoscale Initiative, and make reports to Congress in 2012 and 2014 on progress in reaching the goals set out in the legislation. The sum of \$25,000,000.00 per year for fiscal 2011 through 2015 would fund the work of the FDA in fulfilling the mandate of the Act. The legislation responds to the first of the scientific issues regarding FDA's involvement with nanotechnology that was identified in the Nanotechnology Task Force Report of 2007, the need to understand the interaction of nanoscale materials with biological systems. It is not as clear whether the legislation responds directly to the other major scientific issue presented in the task force report, the adequacy of testing approaches for assessing the safety and quality of products containing nanoscale materials. That will depend in part on what the assessment of literature and data reveals. The legislation seems to assume that the answers for the regulation of nanoscale materials in products are available, and simply must be collected and analyzed to formulate the necessary testing approaches. Commentators have maintained, however, that rigorous study is needed of the interaction, and that the research to



date has not been organized and directed specifically to that goal. The bill does not seem to provide for any such basic research, although the drafters have stated that FDA is given the authority to study safety scientifically and effectively. The discussion of the bill in hearings and elsewhere will have to flesh out what the study should encompass. The drafters noted that FDA has already undertaken research at two facilities, the National Center for Toxicological Research (NCTR) in Jefferson, Arkansas, and the facilities at the new consolidated headquarters of FDA in White Oak, Maryland.

LEGISLATIVE DEVELOPMENTS

Budget Speaks To Limit On GHG Emissions: The budget for fiscal 2011 indicates that the Obama Administration will continue to push for some form of trading emissions, intended to result in a reduction, from 2005 levels, of about 17% by 2020, and greater than 80% by 2050. There is language in the budget proposal stating that the emissions trading would not be expected to increase the deficit, since proceeds from the sale of a portion of the credits would go to provide funds for “vulnerable” families, businesses, and communities as the emphasis moved to a so-called clean energy economy. Action on climate change is presently stalled in the Senate, as members study the implications of the recent election of Republican Scott Brown of Massachusetts and the effect that might have on a possible Republican filibuster threat on both climate control and health care legislation.

Sanders And Solar Energy: Senator Bernard Sanders of Vermont has indicated that he will introduce legislation shortly to provide one to three billion dollars per year for ten years for the installation of solar panels and solar powered water heaters in and on the rooftops of houses and businesses by the year 2019. The measure is billed as a job creation bill, and one that will cut down on the initial installation cost of energy efficient solar apparatus.

The Democrats Job Bill: The members of the Democratic party in the Senate are expected to unveil soon a jobs bill that will have provisions intended to stimulate energy efficiency and other “clean” efforts, to the tune of \$82.5 billion . Perhaps as much as \$11 billion will be devoted to encouraging energy efficiency by providing rebates for insulation of walls and attics, replacement of windows, and the purchase of rated appliances.

Hazards At Military Bases: The Veterans Affairs Committee of the Senate has unanimously adopted a proposal by Senator Daniel Akaka (D-HI) to mandate study of environmental hazards at military bases and provide care for individuals at two such bases where harm from such hazards has been identified. Care would go to individuals at Camp Lejeune who have been exposed to a variety of degreasing solvents in groundwater and well water. Individuals exposed to airborne contaminants at an incinerator near Atsugi Naval Air Facility in Japan would also be entitled to care.



Representatives Barton And Walden Take On SEC: Representatives Joe Barton (R-TX) and Greg Walden (R-OR) sent a letter dated January 26, 2010, to Chair Mary Schapiro of the U.S. Securities and Exchange Commission (SEC) vehemently protesting what they called the SEC's turning its investigative attention to global warming instead of investor protection. At issue is SEC action to consider a recommendation to publish an interpretive release providing guidance to public companies regarding the Commission's disclosure requirements concerning matters relating to climate change. The Representatives chided the Commission for engaging in action that was transparently political and a breathtaking waste of the SEC's resources, especially after having failed to uncover the actions of Mr. Madoff and the harm he caused to many, including several enumerated in the letter. Messrs Barton and Walden asked the SEC to provide the statutory basis for shifting priorities to accommodate social action agenda, and the statutory authority for assembling an interpretive release on global warming.

Legislation To Regulate Power Plant Emissions: Senators Tom Carper (D-DE) and Lamar Alexander (R-TN) have announced that they intend to introduce a bill to further reduce the emissions of three air pollutants from power plants. The three pollutants addressed in the legislation are sulfur dioxide, nitrogen oxides, and mercury.

EPA GHG Authority Questioned: A bill was introduced February 2, 2010, by Representatives Ike Skelton (D-MO), Colin Peterson (D-MN), and Jo Ann Emerson (R-MO) that would take away any jurisdiction EPA might have to regulate GHG emissions from vehicles and stationary sources under the CAA. The measure results in part from EPA issuing a finding that such GHGs endanger public health and welfare. The finding issued constitutes the first step in proposing regulations, and with the Senate presently stalled in terms of the passage of climate control legislation, the Congressmen indicated they did not want EPA to step into the void and issue regulations. They felt that the regulation of GHGs was a matter that should be handled by elected representatives, not agency personnel.

Challenge To EPA Authority Moves On: Senator Lisa Mulkowski (R-AK) has indicated that she may be close to having the votes to petition the Senate Environment and Public Works Committee to release her petition to keep EPA from regulating GHG emissions under the provisions of the CAA. According to some reports, Senator Mulkowski is either trying to get her petition passed, or at least intending to send a message to EPA and the Administration that Congress, and not the Administration, should regulate GHG emissions.

Senator Collins Introduces Chemical Security Measure: Senator Susan Collins (R-ME) introduced legislation to extend chemical security facility standards until 2015. Those standards are presently scheduled to expire this coming October. The measure was referred to the Committee on Homeland Security and Governmental Affairs on February 4. The Collins bill is similar to the present law, and less expansive than the chemical facility measure passed by the House of Representatives.



MISCELLANEOUS

SEC Convenes Meeting On Climate Risk Disclosure: The SEC is considering an interpretation of disclosure rules that would require businesses to disclose climate-related risks to the public. The SEC convened an open meeting to solicit input on the interpretation on January 27, 2010. In November 2009, investors representing about \$1 trillion in assets filed a supplement to a 2007 petition, updating information about the risks of climate change and asking the SEC to require disclosure of climate-related risks. The SEC's announcement of the meeting is available at <http://www.sec.gov/news/openmeetings/2010/ssamtg012710.htm>.

SEC Approves Guidance On Disclosing Climate Change-Related Risks: On February 8, 2010, SEC announced its "interpretative release" providing guidance on how existing risk disclosure rules apply to disclosures of climate change-related risks. 75 Fed. Reg. 6290. The guidance focuses on areas where climate change is expected to affect businesses in ways that could affect shareholder and investment decisions. The effects of existing or pending legislation and regulations that address GHG emissions, the effects of international accords and treaties on climate change, physical risk caused by changing weather patterns, and indirect consequences of regulation and business trends are addressed in the guidance.

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