Recent Federal Developments
August 15, 2006

TSCA/FIFRA/EPCRA/NTP

FY 2005 Pesticide Reregistration Performance Measures And Goals -- On June 23, 2006, the U.S. Environmental Protection Agency (EPA) announced its progress in meeting its performance measures and goals for pesticide reregistration during fiscal year (FY) 2005. 71 Fed. Reg. 36075. The notice provides the status of various regulatory activities associated with reregistration and tolerance reassessment, gives total numbers of chemicals and products reregistered, tolerances reassessed, Data Call-Ins issued, and products registered under the "fast-track" provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The notice also contains the schedule for completion of activities for specific chemicals during FYs **2006** through **2008**.

EPA Updates Pesticide Labels -- On July 17, 2006, EPA announced the availability of its Pesticide Product Label System, which includes updated EPA approved images, correspondence about the terms of registration, specifying any changes registrants were required to make to their labels, and other information for pesticide labels. The updated information is available at http://www.epa.gov/pesticides/pestlabels/index.htm.

National Academies' NRC Issues Biomonitoring Report -- On July 24, 2006, the National Academies' National Research Council issued a report providing an overview of biomonitoring activities in the United States and abroad. The report discusses both the ways biomonitoring data are used, and suggests ways to improve the interpretation of these data. The report, *Human Biomonitoring for Environmental Chemicals*, makes four findings: the panel found that "[t]here has not been a coordinated and consistent public-health-based strategy for selecting how chemicals are included in or excluded from biomonitoring studies. There is a need for a consistent rationale for selecting chemicals for study based on exposure and public health concerns." Second, the panel found, "[t]he ability to detect chemicals has outpaced the ability to interpret health risks. Epidemiologic, toxicologic, and exposure-assessment studies have not adequately incorporated biomonitoring data for interpretation of health risks at the individual, community, population levels." Third, the panel found that the "[e]ffective communication of results is among the biggest challenges to the future of biomonitoring." Fourth, the panel found biomonitoring research raises ethical issues involving informed consent and the interpretation of results. The report is available at http://www.nap.edu.

EPA Denies TSCA Section 21 Petition On Lead In Toys -- On July 27, 2006, EPA announced its decision to deny the Toxic Substances Control Act (TSCA) Section 21 petition submitted on April 21, 2006, by the Sierra Club. 71 Fed. Reg. 42640. The Sierra Club petitioned EPA to (1) require TSCA Section 8(d) health and safety data reporting; (2) submit a report to the Consumer Product Safety Commission (CPSC) under TSCA Section 9; (3) issue a significant new use rule (SNUR) pursuant to TSCA Section 5(a); and (4) issue quality control orders under TSCA Section 6(b). EPA denied the petition stating that it did not believe TSCA Section 6(b) was an

appropriate tool to address risks associated with lead in toys. Instead, EPA is "working in coordination with CPSC to understand the scope of the problem." EPA concluded that Section 8(d) was not appropriate as extensive information on lead already exists and thus use of this provision now would not prove helpful. Finally, EPA concluded that TSCA Sections 5(a) and 9 are not petitionable under TSCA Section 21.

State Coalition Petitions EPA To Require Disclosure Of Inert Ingredients -- On August 1, 2006, a coalition of 14 states and the U.S. Virgin Islands petitioned EPA to amend its rules governing the disclosure of inert ingredients on pesticide product labels. The petitioners want EPA to require the disclosure of 360 ingredients for which they claim federal determinations of hazard have already been made under the following legal authorities: FIFRA; Emergency Planning and Community Right-to-Know Act (EPCRA); TSCA; Resource Conservation and Recovery Act (RCRA); Clean Water Act (CWA); Clean Air Act (CAA); Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and Occupational Safety and Health Act (OSH Act). Petitioners argue that, because EPA or the Occupational Safety and Health Administration (OSHA) has identified the 360 inerts as hazardous under other statutory authorities, EPA should require that these inerts be disclosed on pesticide labels, consistent with the requirements EPA imposes on inerts determined to be of toxicological concern (List 1 inerts). If EPA does not issue a finding covering all 360 ingredients, then the petitioners ask that EPA either (a) assess as a group the chemicals identified as hazardous under each statutory authority and determine which groups of chemicals are sufficiently hazardous to require disclosure on products labels; or (b) assess individually each of the chemicals included under those authorities and determine specifically which individual hazardous chemicals are sufficiently hazardous to require disclosure on product labels. The petition is available on the Internet at http://www.oag.state.ny.us/press/2006/aug/ Petition.As%20Submitted.%208_1_06.pdf. The Northwest Coalition for Alternatives to Pesticides (NCAP) and 21 other environmental and public health organizations filed a similar petition with EPA on August 1, 2006.

EPA Updates IUR Website For Impending Reporting Period -- EPA has updated the part of its website dedicated to the TSCA Inventory Update Rule (IUR) with a variety of tools and guidance to assist the regulated community in meeting its upcoming reporting obligation (*see* http://www.epa.gov/opptintr/iur/). Under the IUR, manufacturers and importers of certain chemical substances at or above the 25,000 pounds threshold on a facility basis must report prescribed data to EPA periodically. The next reporting period is **August 25, 2006**, to **December 23, 2006**, for data from calendar year 2005.

Among the useful information and links on EPA's updated IUR website are the following:

- EPA's *Instructions for Reporting for the 2006 Partial Updating of the TSCA Chemical Inventory Database*, draft, June 2006;

- A revised draft version of a Questions and Answers Guidance Document, dated June 2006 (but only posted in August);
- A separate addendum to the revised draft Questions and Answers Guidance Document addressing IUR issues specifically for inorganic chemicals, dated June 2006;
- eIUR software that can be downloaded for electronic reporting, as well as a PDF version of Form U, for the 2006 IUR;
- Fact sheets about the new electronic IUR reporting tool and electronic submission of IUR data over the Internet through EPA's Central Data Exchange;
- Guidance on how to claim confidentiality for certain reported information, addressing among other things the new requirement of upfront substantiation for assertions of plant site confidentiality;
- Information about chemicals that may be partially exempt from reporting; and
- A summary of the regulatory changes between the 2002 and 2006 reporting cycles.

Additionally, according to the website, case studies will be made available through the website by **August 30, 2006**.

Finally, on the website EPA notes that there will be no additional training sessions before the 2006 reporting period, but a presentation given during the previously held workshops is posted.

EPA Publishes Pest Control Device Information -- On August 8, 2006, EPA announced the availability of pest control device information on its website. According to EPA, the information is intended to help manufacturers better understand the difference between a pest control device and a pesticide product. EPA states that the new web page "better elaborates on the distinctions between the two types of products to aid manufacturers in determining whether or not a certain product requires EPA registration." EPA cautions that the page provides only general clarification and suggests that manufacturers or applicants still consult EPA for a determination regarding the regulatory requirements for any product. The new page is available at http://www.epa.gov/pesticides/about/devices.htm.

EPA's web page provides the following examples illustrating the key differences between pest control devices, pesticide products, and certain combinations:

- A product is a *pesticide* if it incorporates a substance or mixture of substances designed to prevent, attract, repel, destroy, or mitigate a pest. A product is a *pest control device* if it uses only physical or mechanical means to trap, destroy, repel, or mitigate any pest and does not include any pesticidal substance or mixture of substances. For example, an ant trap would not be considered a pest control device because it contains a pesticide chemical substance intended to work in concert with the physical container. It is therefore subject to regulation under pesticide law.

- Pesticide application equipment that is sold separately from the pesticide itself is not considered to be a device or a pesticide. For example, a sprayer for a lawn herbicide that is sold separately from the herbicide is application equipment (it is neither a device nor a pesticide) and is not regulated by EPA.

- If a device and a pesticide product are packaged together, that combined product is a pesticide product subject to registration requirements. For example, 1-Octen-3-ol (octenol) is registered as a pesticide product intended to attract certain species of mosquitoes and biting flies. If octenol is distributed or sold in or packaged with a trap for that purpose, the combination product is a pesticide product that must be registered separately. If the trap is sold without the octenol, it is a device regulated by EPA.

The web page notes that while a device is not required to be registered with EPA, other requirements do apply. EPA provides additional examples and links that highlight different ways devices are regulated, not regulated, and associated information.

EPA Issues Final Registration Review Rule -- On August 9, 2006, EPA published the final rule establishing the procedural regulations for the pesticide registration review program mandated by FIFRA. 71 Fed. Reg. 45720. Using the procedures set forth in the final rule, EPA intends to meet the statutory goal of reviewing existing pesticide registrations every 15 years to determine whether they continue to meet the statutory standard for registration. EPA expects to begin the registration review program in **Fall 2006**. The final rule will be effective **October 10, 2006**.

The final rule provides for the establishment of pesticide cases for review, the scheduling of reviews, the initiation, completion, and documentation of reviews, and associated public participation procedures. According to the final rule, EPA intends the registration review

program "to ensure that all pesticide registrations are systematically reviewed in a manner that is based on sound science and provides for public participation, transparency and efficiency to protect public health and the environment."

For each pesticide, EPA will consider what has changed since the chemical's last assessment; the significance of the changes; and what value would be added from more data or a new risk assessment. EPA will require additional data and conduct new risk or risk/benefit assessments "whenever they are needed to determine whether a pesticide continues to meet the statutory standard." To meet the goal of reviewing each pesticide every 15 years, EPA states that it plans to make decisions on 45 or more registration review cases -- or about 70 pesticide active ingredients -- each year. EPA intends to issue a schedule for pesticide registration review within one month of publication of the final rule.

EPA Releases TRED For Ethylene Oxide -- On August 9, 2006, EPA announced the availability of the tolerance reassessment decision (TRED) for ethylene oxide. 71 Fed. Reg. 45548. According to the notice, risk mitigation measures include the voluntary cancellation of ethylene oxide use on basil and the mandatory requirement of a sterilization method that uses a single sterilization chamber to pre-condition and aerate with an alternating vacuum and aeration purging procedure, which reduces ethylene oxide and reaction product residues. The notice states that the TRED will be followed by a reregistration eligibility decision (RED), scheduled for **2007**. EPA will prepare the RED once the Office of Research and Development (ORD) completes its assessment of ethylene oxide's carcinogenicity. These results will be incorporated into the Office of Pesticide Programs' (OPP) risk assessment and a RED will be prepared. Comments on the TRED are due **October 10, 2006**.

EPA Announces RED For Organic Arsenical Herbicides -- On August 9, 2006, EPA announced the availability of the RED for the organic arsenical herbicides MSMA, DSMA, CAMA, and cacodylic acid. 71 Fed. Reg. 45554. According to the notice, EPA determined that all products containing MSMA, DSMA, CAMA, and cacodylic acid are not eligible for reregistration. The notice states that the organic arsenic herbicides "are used primarily on cotton and turf, including golf courses, home lawns, recreational areas such as school yards and athletic fields, and rights-of-way." According to the notice, EPA's primary concern "is the potential for applied organic arsenical products to transform to a more toxic inorganic form of arsenic in soil with subsequent transport to drinking water." Comments are due **October 10, 2006**.

EPA Releases Field Study Guidelines To Harmonize Testing Under NAFTA -- On August 11, 2006, EPA released final guidelines to harmonize the U.S. and Canadian systems for field studies of pesticides as required under the North American Free Trade Agreement. 71 Fed. Reg. 46226. EPA and the Canadian Pest Management Regulatory Agency (PMRA) agreed to harmonize the testing guidelines to ensure that the same tests can be used for the registration of pesticides in the United States, Canada, and Mexico. According to EPA, the guidelines are

intended to ensure that studies are conducted in a way that will provide risk assessors and risk managers with more confidence in the data generated and with a better understanding of the assumptions and limitations of the data and estimated half-lives of the pesticide. The guidance document is available at http://www.epa.gov/oppefed1/ecorisk_ders/terrestrial_field_dissipation_guidance.pdf.

NANOTECHNOLOGY

ABA SEER Releases Nanotechnology Briefing Papers -- On July 26, 2006, the American Bar Association (ABA) Section of Environment, Energy, and Resources (SEER) released detailed briefing documents regarding the applicability of each of the core federal environmental statutes to address issues arising from the use of nanotechnology. Lynn L. Bergeson is the former Chair of SEER, and this project was a key area of interest during her tenure. The documents are solely the product of the ABA SEER and do not represent the opinions of EPA. The briefing documents are available on SEER's website at http://www.abanet.org/environ/nanotech.

SEER prepared the papers as part of its offer last March to brief representatives of the EPA Office of General Counsel (OGC) and other pertinent EPA representatives on legal and regulatory issues arising in connection with the application of existing statutory and regulatory authorities to engineered nanoscale materials. SEER prepared detailed briefing documents on each of the six core environmental statutes and on innovative governance mechanisms. The documents identify the key legal and regulatory issues EPA can be expected to encounter as it considers how best to address issues likely to arise in connection with nanotechnology.

NNI Supplement To The President's 2007 Budget -- The National Nanotechnology Initiative (NNI) released a report recently entitled *The National Nanotechnology Initiative: Research and Development Leading to a Revolution in Technology and Industry -- Supplement to the President's FY 2007 Budget.* The report provides details of the NNI budget for the current FY and the proposed budget for FY **2007**. The report also includes information on spending for the development and acquisition of research facilities and instrumentation, a discussion of external reviews of the NNI and how recommendations are being addressed, a description of how the NNI participating agencies are implementing the NNI Strategic Plan, and a summary of nanotechnology research and development (R&D) funding through the Small Business Innovation Research and Small Business Technology Transfer Programs. The report is available on the Internet at http://www.nano.gov/NNI_07Budget.pdf.

PEN Releases Nanotechnology Research Strategy For Identifying Risk -- On July 19, 2006, the Project on Emerging Nanotechnologies (PEN) at the Woodrow Wilson International Center for Scholars released a report entitled *Nanotechnology: A Research Strategy for Addressing Risk* (Strategy). The Strategy offers a framework for "systematically exploring the potential risks of nanotechnology," identifies critical research gaps, and develops a framework for effective risk-

based research. According to the Strategy, two major changes are necessary: (1) a federal agency that has "a clear mandate for oversight and for research of environment, safety and health issues," such as the National Institute for Occupational Safety and Health (NIOSH) or EPA, should lead the research efforts; and (2) a minimum of $100 million in federal funds should be spent over the next two years on "highly relevant, targeted risk-based research," which would require a $40 million annual increase in funds currently spent. The report is available on the Internet at http://www.nanotechproject.org/file_download/77. The Strategy includes the following recommendations: changes need to be made in risk research responsibility within the federal government; adequate funding must be provided for highly relevant risk research; short-term research priorities; mechanisms are needed for joint government-industry research funding; international coordination is essential; a new interagency oversight group is needed; and long-term research needs and strategies should be assessed on a rolling basis.

FDA Announces Formation Of Internal Nanotechnology Task Force -- The Food and Drug Administration (FDA) announced August 9, 2006, that it was forming an internal FDA Nanotechnology Task Force (Task Force) to determine "regulatory approaches that encourage the continued development of innovative, safe and effective FDA-regulated products that use nanotechnology materials." According to the announcement, a primary mission of the Task Force will be to "address any knowledge or policy gaps that exist so as to better enable the agency to evaluate possible adverse health effects" from products using nanotechnology materials. This activity will go forward as FDA continues to process individual applications for approval, etc., submitted to its various Centers.

The public debut of the Task Force will likely come when it chairs the public meeting FDA has announced for **October 10, 2006**. That meeting is intended to further FDA's understanding of nanotechnology developments and their impact on both beneficial and adverse effects from the use of nanotechnology materials. The Task Force will also evaluate the effectiveness of FDA's regulatory approaches and authorities to meet any unique challenges presented by nanotechnology. The Task Force is to submit its initial findings and recommendations to Acting Commissioner Andrew C. von Eschenbach, M.D., by **July 10, 2007**.

Although the announcement is silent on the subject, the Task Force will undoubtedly be involved in the response FDA makes to the Citizen's Petition filed by The International Center for Technology Assessment and other petitioners on May 16, 2006. The petitioners have called for a number of far-reaching actions by FDA to assess the risk of nanotechnology, and have made specific requests regarding the use of nanotechnology materials in sunscreen products. More information is available at http://www.fda.gov/bbs/topics/NEWS/2006/NEW01426.html.

AIR/WATER

EPA Issues Final Rule On Perchloroethylene -- On July 27, 2006, EPA issued a final rule revising standards to limit emissions of perchloroethylene (PERC), and phasing out the use of PERC in dry cleaning facilities located in apartment buildings and other residential locations. 71 Fed. Reg. 42724. According to EPA, the ban will take full effect in 2020, and is intended to eliminate cancer risk from approximately 1,300 small dry cleaning facilities. EPA's benchmark for an acceptable cancer risk from exposure to a pollutant is one in one million. PERC is classified as a possible-to-probable human carcinogen. The final rule would require small residents of dry cleaners to replace machines using PERC with non-PERC technology. All PERC machines must be removed by December 21, 2020. Information on EPA's dry cleaner proposed rule is available at http://www.epa.gov/air/drycleaningrule/regulatory.html. The rule was immediately effective.

EPA Issues Final Rule Exempting Federal Government From Fine Particulate Matter Standard -- On July 17, 2006, EPA issued a final rule exempting from regulation any action by the federal government that results in emissions of 100 tons per year or less of fine particulate matter (PM) from the general conformity requirements under the CAA to minimize emissions. 71 Fed. Reg. 40420. The final rule sets a *de minimis* level for PM particles, defined to include those less than 2.5 microns in diameter, at 100 tons per year to determine whether the conformity rules apply to federal agencies. Activities in a major air pollutant at or below *de minimis* levels are not required to comply with the general conformity rules. A direct final rule was to be in place in June. EPA received adverse comment, however, and had to withdraw the direct final rule. According to EPA, the comments that were received on a parallel proposed rule reported that the *de minimis* level should be 20 to 50 tons per year in areas that are likely to achieve attainment of the fine particle standard within five years, and 10 to 25 tons in areas that are likely to take longer than five years to achieve attainment. Under the final rule, EPA set the 100 tons *de minimis* standard using the same methodology it has used for other pollutants, which, according to EPA, is consistent with CAA. The *de minimis* standard will be added to the general conformity rules and codified at 40 C.F.R. Sections 51 and 93.

EPA Issues Final Rule On CRT Recycling -- On July 28, 2006, EPA issued a final rule designed to encourage the recycling of cathode ray tubes (CRT) and glass used in computer monitors and televisions. 71 Fed. Reg. 42928. The final rule is intended to streamline management requirements for recycling of used CRTs and glass removed from them. The amendments exclude the materials from the RCRA definition of solid waste provided certain conditions are met. Under the final rule, broken CRTs are not regulated as hazardous waste provided: the CRT containers are labeled regarding the contents of the containers; the CRTs are transported safely in containers designed to minimize releases; CRTs are stored in a building or container designed to minimize releases; and CRTs are stored on-site less than one year before being recycled. To remain unregulated, CRTs undergoing glass processing are required to

follow the same requirements, except they must be processed inside a building and at temperatures not high enough to volatilize lead from the glass. Exporters shipping broken or unbroken CRTs to another country for recycling must advise EPA and receive written consent from the receiving country through EPA before shipments can be made. According to EPA, this requirement is similar to the requirements applicable to exporters of hazardous waste found at 40 C.F.R. Part 262. Exporters shipping used, unbroken CRTs for reuse as computers to another country must submit a one-time notification to EPA. The rule is effective on **January 29, 2007**.

Court Finds EPA "Grossly Delinquent" In Meeting Deadlines For Issuing HAP Emission Standards For Area Sources -- In an August 2, 2006, opinion, the U.S. District Court for the District of Columbia explained the reasoning underlying its March 31, 2006, Order "declaring that defendant Steven L. Johnson's failure to take certain regulatory actions constituted 'a failure of the Administrator to perform any act or duty under this chapter that is not discretionary with the Administrator'" within the meaning of CAA Section 304(a)(2). *Sierra Club v. Johnson*, No. 01-1537. The court's March 31, 2006, Order denied defendant's motion for summary judgment; granted plaintiff's motion for summary judgment; and ordered EPA to fulfill its statutory duties under CAA Sections 112(c)(3), 112(k)(3)(B), 112(c)(6), and 183(e) on a prescribed schedule. The court also denied plaintiff's motion to strike the declaration of Steve Page filed by defendant in support of its motion for summary judgment. Area sources are those that emit less than 10 tons per year of one hazardous air pollutant (HAP) or 25 tons of a combination of HAPs. Under the CAA, EPA was required to issue standards for area sources by November 15, 2000. In the court's March 31, 2006, order, the court required EPA to issue emissions standards for the first four area source categories by **December 15, 2006**; another six by **June 15, 2007**; and ten more every six months until **June 15, 2009**, when it must issue the remaining 15. The Sierra Club filed a motion in 2005 seeking summary judgment from the court's order to EPA to complete the area source standards by **2008**. In response, the Department of Justice asked the court to give EPA until **2012**. In its August 2, 2006, opinion, the court rejected EPA's argument that it needs more time because it is involved in a wide range of rulemakings and cannot devote sufficient resources to meeting the deadlines advocated by the Sierra Club. According to the court, EPA has been spending too much time on discretionary rulemakings instead of devoting resources to fulfilling mandatory requirements. The court's opinion is available at http://www.dcd.uscourts.gov/opinions/2006/Friedman/2001-CV-1537~15:11:23~8-2-2006-a.pdf.

EPA Proposes Control Technique Guidelines To Cut VOC Emissions -- On August 4, 2006, EPA issued a notice of proposed determination and announced the availability of draft control techniques guidelines (CTG) for five product categories: lithographic printing materials; letterpress printing materials; flexible packaging printing materials; flat wood paneling coatings; and industrial cleaning solvents. 71 Fed. Reg. 44522. EPA proposes to determine that CTGs "will be substantially as effective as national regulations" in reducing emissions of volatile organic compounds (VOC) in ozone national ambient air quality standard (NAAQS) nonattainment areas for the five product categories. According to the notice, based on this

determination, EPA may issue CTGs in lieu of national regulations for these product categories. EPA prepared draft CTGs for the control of VOC emissions from each of the product categories covered by the proposed determination. Once issued in final, "these CTGs will provide guidance to the States concerning EPA's recommendations for reasonably available control technology (RACT)-level controls for these product categories." EPA also proposes to take final action to list the five Group II consumer and commercial product categories addressed in the notice pursuant to CAA Section 183(e). Written comments on the proposed determination and on the draft CTGs are due **September 5, 2006**, unless a public hearing was requested by August 11, 2006. If a hearing is requested on the proposed determination, the notice states it will be held August 14, 2006, and written comments are due **September 13, 2006**. More information is available on the Internet at http://www.epa.gov/ttn/oarpg/new.html.

LEGISLATIVE DEVELOPMENTS

Senate Passes Offshore Drilling Bill, Though Filibuster Looms -- The Senate passed a bill on August 1, 2006, that proponents hailed as "the first step" in repealing 25 years of offshore drilling bans, but both sides noted that the legislation's future depends on what is expected to be a difficult House-Senate conference in September 2006. The Senate voted 71-25 to approve S. 3711, the Gulf of Mexico Energy Security Act. Senate Republicans persuaded almost half the Democrats to vote for a bill to expand drilling in the eastern Gulf of Mexico, after Senate Majority Leader Bill Frist (R-TN) said he would not accept a conference agreement that would endanger Florida's Gulf Coast beaches. Senate Minority Leader Harry Reid (D-NV) has indicated Democrats will filibuster the final product unless the House agrees to accept the Senate version and abandon its more sweeping bill (H.R. 4761). The Senate bill would open up 8.3 million acres in the eastern Gulf to drilling, including most of Lease Sale 181, which reportedly has large natural gas reserves. Exploration would be banned 235 miles off Florida's west coast and 125 miles from the state's Panhandle. The bill does not address the Pacific and Atlantic coasts. The House passed a bill (H.R. 4761) June 29, 2006, that gives all coastal states the authority to decide whether or not to allow energy exploration off their coasts.

Committee Approves Chemical Plant Bill, Including Inherently Safer Technology -- The House Homeland Security Committee approved on July 28, 2006, a bill that would regulate chemical plant security by requiring chemical facilities at high risk for terrorist attacks to use inherently safer technology. The Committee approved the Chemical Facility Anti-Terrorism Act (H.R. 5695) by voice vote after debating for hours behind closed doors to reach a compromise on safer technology just prior to adjourning for the August recess. The provision on inherently safer technology would apply only to high-risk chemical plants and only if the Department of Homeland Security determines it will significantly reduce the consequences of terrorist actions, can feasibly be incorporated into the facility's operation, and would not significantly impair the ability of the owner to continue in business. Under the legislation the Committee adopted, inherently safer technology can be achieved through various means, such as using smaller

quantities of hazardous chemicals or less hazardous substances or by improving inventory control and using chemicals more efficiently.

House Panel Approves FIFRA Amendment To Allow Ratification Of International Chemical Treaties -- The House Agriculture Committee on July 27, 2006, unanimously approved legislation to amend FIFRA to allow for U.S. ratification of three treaties that ban or limit pesticides and hazardous chemicals. The three treaties are: (1) the Stockholm Convention on Persistent Organic Pollutants (POPs); (2) the POPs Protocol to the Convention on Long Range Transboundary Air Pollution (LRTAP); and (3) the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. The Committee approved the measure, H.R. 3849, by voice vote. The bill, introduced in September 2005 by Representative Frank Lucas (R-OK), would give EPA new authority to implement the three chemical treaties. The House and Senate also must pass a separate bill (H.R. 4591) to amend TSCA to clear the way for ratification of the chemical treaties. The House Energy and Commerce Committee approved the TSCA-related legislation on July 12, 2006. The FIFRA-related measure the Committee approved July 27 would direct EPA to launch a series of public notifications whenever a chemical has been nominated for listing in the treaties. Legislators on the House agriculture panel have urged quick passage of the FIFRA-related bill arguing that the legislation is needed to ensure U.S. negotiators have a voice on key decisions at a series of meetings scheduled over the next year on the treaties at issue. Those meetings are: (1) the third Conference of the Parties (COP) for the Rotterdam Convention, to meet October 9-13, 2006, in Geneva; (2) the second meeting of the Stockholm Convention's POP Review Committee, to meet November 6-10, 2006, in Geneva to make recommendations about chemicals and pesticides nominated for inclusion in that treaty; (3) the 24th meeting of the LRTAP Executive Body, scheduled to meet December 11-15, 2006, to consider in part whether new POPs should be added to the LRTAP POPs Protocol; (4) the second meeting of an ad hoc working group discussing ways to address noncompliance with the Stockholm Convention, slated to meet April 25-27, 2007, in Senegal; and (5) the third COP for the Stockholm Convention, scheduled for April 30-May 4, 2007, also in Senegal. Senate Committees have yet to take any action on the FIFRA-related legislation needed to implement the three treaties and move them toward ratification. Senate legislation to amend TSCA to implement the treaties has not been introduced during this Congress.

House Committee Authorizes EPA Authority To Extend Exemptions From PCB Import Ban -- The House Energy and Commerce Committee approved legislation on July 26, 2006, that would grant EPA limited authority to extend exemptions from TSCA that allow the import of polychlorinated biphenyls (PCBs). Committee Chair Joe Barton (R-TX) and ranking member John Dingell (D-MI) introduced the measure (H.R. 5863), approved by voice vote, July 24, 2006. TSCA prohibits the import of PCBs, but allows petitioners to seek a one-year exemption from the ban if there are no available chemical substitutes and the exemption would not result in harm to the environment. H.R. 5863 would provide the EPA Administrator discretionary authority to

grant a single, 30-day emergency extension for PCB shipments that already have received a one-year exemption.

Committee Approves Reauthorization Of Brownfields Program -- The House Transportation and Infrastructure Committee approved by voice vote on July 19, 2006, legislation that would reauthorize the federal brownfields program through the year 2012. The legislation (H.R. 5810), introduced on July 17, 2006, by Committee Chair Don Young (R-AK), would amend CERCLA to authorize $200 million annually for assessment grants and cleanup grants. The 2002 Brownfields Revitalization and Environmental Restoration Act (Pub. L. No. 107-118) currently authorizes $250 million annually for assessment and cleanup grants, but the program has not been fully funded. Authorization for brownfields grants under this law expires September 30, 2006. H.R. 5810 also would require EPA to report to Congress every four years on brownfields program management and on funding allocations.

GAO Report Finds EPA Chronically Late In Regulating Air Toxics -- The Government Accountability Office (GAO) issued a report on July 26, 2006, that concludes EPA has been chronically late in issuing regulations to control emissions of HAPs and lacks a comprehensive strategy for improving its performance and meeting its obligations under the CAA. EPA has failed to complete nearly 30 percent of the emission standards and certain reports required under the Act, leaving many pollution sources uncontrolled, according to the report, *EPA Should Improve the Management of Its Air Toxics Program*. EPA has been late in meeting CAA requirements for HAPs 67 percent of the time and completed other requirements by their deadlines only 4 percent of the time, the report says. The report is available at http://www.gao.gov/docsearch/abstract.php?rptno=GAO-06-669.

Bill Proposes Decade-By-Decade Cuts To Greenhouse Gas Emissions -- The United States would be required to cut gradually its emissions of carbon dioxide and other greenhouse gases to reach a total reduction of 80 percent from 1990 levels by 2050, under a bill Senator James Jeffords (I-VT) introduced on July 20, 2006. The Global Warming Pollution Reduction Act (S. 3698) calls for a decade-by-decade reduction in greenhouse gas emissions beginning in 2010, using 1990-level emissions as a baseline.

House Bill Approves Infrastructure Funds For Ethanol Fueling At Gasoline Stations -- The House voted 355-9 on July 24, 2006, to pass a bill (H.R. 5534) that would use the fines collected from violators of corporate average fuel economy (CAFE) standards to fund the placement of ethanol fueling pumps at gasoline stations. Reportedly, automakers pay about $20 million in fines annually for failing to meet CAFE standards. The bill would provide grants between $30,000 and $60,000 to gas stations to install alternative fuel pumps. The grants would be available only to independently operated stations, not to those owned by large oil companies.

Senate Approves Water Resources Act -- The Senate passed by voice vote on July 19, 2006, a bill that would provide about $11.5 billion for water resources projects, including navigation, flood control, coastal restoration, and lock and dam projects. The measure (S. 728) would provide about $1.9 billion for projects to restore fresh water and barrier islands damaged by Hurricane Katrina in September 2005. S. 728 would reauthorize the Water Resources Development Act, which was last reauthorized in 2000.

Mileage Standards Would Increase Under Proposed Legislation -- Automobile manufacturers would have to achieve higher fuel economy standards beginning in 2008 under a bill a coalition of Republican and Democratic Senators introduced on July 19, 2006. The Fuel Economy Reform Act of 2006 (S. 3694) directs the National Highway Traffic Safety Administration to increase gas mileage standards about 4 percent, or about 1 mile per gallon, each model year for passenger cars and light trucks based on information including vehicle dimensions and weight.

Legislation Would Extend And Modify Energy-Efficient Buildings Tax Incentives -- Senator Olympia Snowe (R-ME) introduced a bill (S. 3628) on June 29, 2006, that would extend and modify the incentives for energy-efficient buildings enacted in 2005. The bill would extend the tax incentives for energy-efficient buildings for four years, with some additional time for projects with particularly long lead times, such as commercial buildings. It would also address non-commercial buildings.

Bill Would Address ESA Compliance Costs -- The House Resources Committee approved legislation on July 19, 2006, that would require the federal government's four power administrations to disclose Endangered Species Act (ESA) compliance costs to electricity ratepayers. Approved 17-10, the bill (H.R. 4857) would require the Bonneville Power Administration, the Western Area Power Administration, the Southwestern Power Administration, and the Southeastern Power Administration to include a list of direct and indirect costs associated with complying with the ESA in monthly bills to customers. The bill's chief sponsor, Representative Cathy McMorris (R-WA), introduced the bill in response to rising salmon recovery costs at the Bonneville Power Administration, which provides 40 percent of the electricity to the Pacific Northwest.

Bill Would Require Green Federal Buildings -- New federal buildings would have to use the latest green building technology under a bill Representatives Michael Doyle (D-PA) and Mary Bono (R-CA) introduced. The High Performance Green Building Act (H.R. 5931) would also authorize $50 million over five years to encourage the development and use of energy-efficient green buildings. The legislation would expand existing federal research on green building technology and set up a clearinghouse for information on the latest research in the area. Senator Jim Jeffords (I-VT) introduced a companion bill (S. 3591) in the Senate in June 2006.

Proposed Revision To Abandoned Mine Land Program Stalls -- A House-passed legislative provision that would reauthorize the abandoned mine land program stalled in the Senate on August 3, 2006, after Republican leaders failed to gain enough votes to move it forward. The mining measure is part of legislation (H.R. 5970) that would have reduced estate taxes, raised the minimum wage, and extended a number of tax breaks. The Senate voted 56-42 on a cloture motion to limit debate on the bill, falling four votes shy of the required 60 votes. The abandoned mine land program charges coal mining companies a per-ton fee and uses the money to pay for the cleanup of sites that were abandoned or inadequately restored before environmental standards were established under the 1977 Surface Mining Control and Reclamation Act (SMCRA). Reauthorization of the program has been stalled in Congress since 2004. The proposed mining provision would have reduced fees the coal mining companies pay into the abandoned mine land program and would have reworked its allocation formula to ensure that more money goes toward high-priority cleanup projects, which are mostly in eastern states.