



## Recent Federal Developments September 15, 2009

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### **TSCA/FIFRA/NTP/EPCRA**

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***Reporting Year 2008 Preliminary TRI Data Now Available Through The TRI Website*** – On August 19, 2009, the U.S. Environmental Protection Agency (EPA) Toxics Release Inventory (TRI) Program announced that EPA has released preliminary TRI data for reporting year 2008. EPA took the “unprecedented step” of releasing the raw data prior to its completing its data analysis. EPA states that it plans to analyze the data and publish the national analysis once it is completed. The preliminary data for 2008 can be accessed through the TRI website and through the early sharing website at <http://www.epa.gov/tri> or [http://www.epa.gov/tri/tridata/tri08/early\\_data/indexearlyhome.html](http://www.epa.gov/tri/tridata/tri08/early_data/indexearlyhome.html). Reporting year 2008 data can be downloaded through the basic and basic plus file. In addition, TRI is providing the facility locator tool that provides users the ability to view the facility-specific information.

***Steve Owens, Assistant Administrator, Office Of Prevention, Pesticides, And Toxic Substances (OPPTS) Issues Statement*** -- On August 25, 2009, OPPTS Assistant Administrator Owens issued a statement noting that EPA is committed to ensuring the health and safety of all Americans. Owens wrote that Administrator Jackson has made it a priority to examine how to manage and assess chemical risk, including pesticides, and that the Obama EPA will take a hard look at “atrazine and other substances.” The statement is available at <http://www.epa.gov/pesticides/regulating/statement-owens.html>.

***EPA Schedules National Advisory Committee Meeting For Acute Exposure Guideline Levels For Hazardous Substances*** -- On August 19, 2009, EPA announced that a meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) would be held on September 9-11, 2009, in Research Triangle Park, NC. The Committee addressed development of Acute Exposure Guideline Levels (AEGL) for the following chemicals: cadmium; carbofuran; carbon dioxide; dichlorvos; dicrotophos; dimethyl phosphate; fenamiphos; gasoline; hydrogen selenide; lead; methamidophos; methyl iodide; mevinphos; monocrotophos; nerve agent GB; phosgene; phosphamidon; red phosphorus; ricin; tetrachloroethylene; 1,1,1-trichloroethylene; and trimethylphosphite.

***EPA Proposed AEGLs For Hazardous Substances*** -- On August 19, 2009, the NAC/AEGL Committee announced that it is developing AEGLs on an ongoing basis to provide Federal,

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State, and local agencies with information on short-term exposures to hazardous substances. The notice provides a list of 19 proposed AEGLs that are available for public review and comment. Comments are welcome on both the proposed AEGLs and their Technical Support Documents placed in the docket. The substances are:

Chemical Name	CAS Number
1,2-Butylene oxide	106-88-7
Bromoacetone	598-31-2
Cyanogen	460-19-5
Ethylbenzene	100-41-4
Ethylisocyanate	109-90-0
Ethylphosphorodichloridate	1498-51-7
Germane	7782-65-2
Malathion	121-75-5
Methylisothiocyanate	556-61-6
Methylparathion	298-00-0
n-Butyl isocyanate	111-36-4
Nitrogen trifluoride	7783-54-2
Nitrogen tetroxide	10544-72-6
Parathion	56-38-2
Phenyl isocyanate	103-71-9
Phorate	298-02-2
t-Octyl mercaptan	141-59-3
Tear gas	2698-41-1
Trimethylacetyl chloride	3282-30-2

Comments must be received on or before **September 18, 2009**.

***EPA Issues Draft Toxicological Review Of Ethyl Tertiary Butyl Ether*** -- On August 20, 2009, EPA announced a public comment period for the external review draft document titled, "Toxicological Review of Ethyl Tertiary Butyl Ether: In Support of Summary Information on the Integrated Risk Information System (IRIS)." 74 Fed. Reg. 42069. The draft document and EPA's peer-review charge are available via the Internet on the National Center for Environmental Assessment's (NCEA) home page under the Recent Additions and the Data and Publications menus at <http://www.epa.gov/ncea>. EPA intends to consider comments and recommendations from the public and the expert panel meeting, which will be scheduled at a later date and separately announced. EPA notes that it is releasing the draft document solely for the purpose of pre-dissemination public review under applicable information quality guidelines.



This document has not been formally disseminated by EPA. Comments are due by **October 19, 2009**.

***EPA Launches Emerging Technology Website For Pesticide Testing*** -- On August 19, 2009, EPA launched a website on new technologies in molecular, cellular, and computational sciences used in pesticide toxicity testing and risk assessment, and other technologies expected to reduce the need for animal testing. The site is titled *Strategic Direction for New Pesticide Testing and Assessment Approaches*. It outlines EPA's Pesticide Program approach that is being used "to pursue new technologies that predict and characterize potential human health and environmental hazards and exposures from pesticides." The EPA website is available at <http://www.epa.gov/pesticides/science/testing-assessment.html#critical>.

***EPA Announces Availability Of External Peer Review Draft Of Recommended Toxicity Equivalency Factors (TEF) For Human Health Risk Assessments Of Dioxin And Dioxin-Like Compounds*** -- On September 2, 2009, EPA announced a 30-day public comment period for the external peer review draft of "Recommended Toxicity Equivalency Factors (TEFs) for Human Health Risk Assessments of Dioxin and Dioxin-Like Compounds," a draft guidance document. 74 Fed. Reg. 45437. An EPA contractor for external peer review will convene a panel of experts and will organize and conduct an independent expert external peer review meeting to review the draft document. All comments received by the closing date of **October 2, 2009**, will be shared with the external peer review panel for its consideration.

***EPA Updates List Of Chemicals Subject To Test Rules*** -- On September 3, 2009, EPA released an updated list of more than 200 chemicals that are or have been subject to Toxic Substances Control Act (TSCA) Section 4 test rules or enforceable consent agreements. The list includes the dates by which chemical manufacturers will need to report exports of those chemicals according to TSCA Section 12(b). EPA's announcement of the update, along with a link to a table listing all the chemicals, is available at <http://www.epa.gov/oppt/chemtest/pubs/sunset.html>.

***EPA Proposes TRI Articles Exemption Clarification*** -- On August 24, 2009, EPA proposed two actions relating to the articles exemption under the TRI program. 74 Fed. Reg. 42625. EPA proposed formally to remove a paragraph of guidance addressing releases due to natural weathering of products that appeared in the Reporting Forms and Instructions (RF&I) documents from 1988 to 2001. This guidance was absent from the Reporting Forms and Instructions after 2001, but formal notice of its removal was never issued. EPA is providing notice that this language has been removed and may not be relied on by reporting facilities. EPA also proposed an interpretation of how the articles exemption applies to treated wood that has completed the treatment process. EPA's interpretation of how the articles exemption applies to the Wood Treating Industry is as follow: "The Elkins guidance concerning 'natural weathering,' 'natural



deterioration,' or 'low-level migration' releases of chemicals does not apply to releases that occur due to processing or use even if those releases occur after processing or use has ended; . . . There is a rebuttable presumption that any release (*e.g.*, off-gassing or drippage) of toxic chemicals from treated items at the wood treatment facility are 'as a result of processing or use at the facility;' [and] . . . If a release of a toxic chemical occurs as a result of the processing or use of an item at the facility, that item does not meet the definition of article and the releases from the item are not exempt." EPA seeks comments on the interpretation, which are due by **October 23, 2009**.

***NTP Releases Background Document On Formaldehyde*** -- On September 3, 2009, the National Toxicology Program (NTP) released a background document analyzing cancer, respiratory irritations, and other health effects that some human and animal studies have found associated with formaldehyde. 74 Fed. Reg. 44845. The document is scheduled to be peer reviewed in November as part of the process of determining whether the chemical's current classification as a reasonably anticipated human carcinogen should be revised in the *Report on Carcinogens*. The background document on formaldehyde and related information are available at <http://ntp.niehs.nih.gov/?objectid=DF1E88F9-F1F6-975E-780699D9C6E40DDF>.

***SRRD Is Renamed*** -- On September 11, 2009, the Office of Pesticide Programs (OPP) announced that the Special Review and Reregistration Division (SRRD) is changing its name to the Pesticide Re-Evaluation Division. The change becomes official on September 13, 2009. According to EPA, "[t]his new name more accurately describes the nature of the division's present and future work responsibilities." The Pesticide Program is closing out its special review and reregistration programs, EPA stated. "Only a few special reviews remain to be formally concluded," EPA stated, and all registration eligibility decisions are being implemented.

## **CAA/CWA**

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***EPA Proposes Effluent Limitation Guidelines: New Source Performance Standards For The Airport Deicing Category*** -- On August 28, 2009, EPA proposed technology-based effluent limitation guidelines (ELG) and new source performance standards (NSPS) under the Clean Water Act (CWA) for discharges from airport deicing operations. 74 Fed. Reg. 44676. The requirements generally would apply to wastewater associated with the deicing of aircraft and airfield pavement at primary commercial airports. The ELGs would be incorporated into the National Pollutant Discharge Elimination System (NPDES) permits issued by EPA, States, or tribes. EPA expects compliance with this regulation to reduce the discharge of deicing-related pollutants by at least 44.6 million pounds per year. EPA estimates the annual cost of the rule would be \$91.3 million. Comments are due by **December 28, 2009**.



***EPA Proposes Revisions To Test Method For Determining Stack Gas Velocity*** -- On August 25, 2009, EPA proposed to revise the voluntary test method for determining stack gas velocity taking into account the velocity decay near the stack or duct walls. 74 Fed. Reg. 42819. When Method 2H was originally developed, it addressed only sources where the flow measurements were made in locations with circular cross-sections. The proposed revised test method addresses flow measurement locations with both circular and rectangular cross-sections. The proposed revisions also include changes that increase the accuracy of the method and simplify its application. According to EPA, many sources use the new method and issuing a final rule revising the test method will eliminate the need for sources to file a petition seeking authority to use the new method. Comments must be received on or before **October 26, 2009**.

## **RCRA**

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***OSWER AA Seeks Public Advice*** -- On August 17, 2009, Mathy Stanislaus, Assistant Administrator for the Office of Solid Waste and Emergency Response (OSWER), sent an open letter seeking advice on how OSWER can make policymaking more open, develop better strategies for handling waste or cleaning up contaminated sites, and “bring about more community involvement at cleanup sites.” Stanislaus seeks more transparency on OSWER issues. The letter is available at <http://pub.bna.com/ptcj/OSWERAAPdf>.

## **REACH**

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***ECHA Responds To Publications On REACH Testing*** -- On August 28, 2009, the European Chemicals Agency (ECHA) issued a statement responding to two new publications claiming animal testing required under the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) is far higher than estimated. These publications are: C. Rovida & T. Hartung: *Re-evaluation of animal numbers and costs for in vivo tests to accomplish REACH legislation requirements for chemicals - a report by the Transatlantic Think Tank for Toxicology*. ALTEX 26, 1/09; and T. Hartung & C. Rovida: *Chemical regulators have overreached. Opinion in Nature*, Vol. 460, 27 August 2009. According to ECHA, it vigorously disagrees with the study’s claimed numbers of animal tests. It states that “the number of tests and laboratory animals required is overestimated by the two authors because of their overestimate of the number of substances likely to be registered and their misunderstanding of the information requirements and the possibilities for adapting the standard information requirements that have been built into the REACH Regulation. The previous estimates of the likely number of new tests required to fulfill the data requirements under REACH remains broadly correct and the number of laboratory animals required is around 9 million.” It was estimated during the negotiation of the REACH legislation that 9 million laboratory animals would be involved in the tests required and that the costs for conducting the tests would amount to 1.3 billion €. The study now published by

Costanza Rovida and Thomas Hartung suggests that the testing required would involve 54 million vertebrate animals and that the costs would amount to 9.5 billion €” The press release is available at [http://echa.europa.eu/doc/press/pr\\_09\\_11\\_animal\\_testing\\_20090828.pdf](http://echa.europa.eu/doc/press/pr_09_11_animal_testing_20090828.pdf).

***ECHA Publishes Classification And Labelling Guidance*** -- On August 28, 2009, ECHA announced publication of *Introductory Guidance on the CLP Regulation* and *Guidance on the Application of the CLP Criteria*. The guidance documents provide REACH guidance to companies having obligations. The guidance documents have been developed by the European Commission to support companies manufacturing or supplying chemicals, in particular small and medium enterprises (SME), to comply with their obligations under the CLP Regulation (Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures). The introductory guidance presents basic features of the CLP Regulation. This includes information on the CLP notification deadline of **January 3, 2011**. It also provides information in relation to the classification-based provisions of the REACH Regulation. The guidance on the application of the CLP criteria explains the general principles of classification and labelling and provides detailed guidance on how to classify and label substances and mixtures (physical, health and environmental hazards). The Guidance is available at [http://guidance.echa.europa.eu/docs/guidance\\_document/clp\\_en.pdf?vers=20\\_08\\_09](http://guidance.echa.europa.eu/docs/guidance_document/clp_en.pdf?vers=20_08_09).

***ECHA Begins Public Consultation On 15 Potential SVHCs*** -- On September 1, 2009, ECHA published Annex XV dossiers for the identification of 15 chemicals as substances of very high concern (SVHC) under REACH regulation. The substances were proposed by European Union member states and the European Commission, and are identified as carcinogenic, mutagenic, or toxic to reproduction (CMR), or persistent, bioaccumulative, and toxic (PBT). ECHA asks that comments on the dossiers “particularly focus on the hazardous properties that qualify the chemicals as SVHCs.” In addition, parties may provide further information on the uses, exposures, and availability of safer alternative substances or techniques, although ECHA notes that “these aspects will mainly be considered at the next stage of the process which includes a new round of public consultation.” Comments are due **October 15, 2009**. The Annex XV dossiers are available on the Internet at [http://echa.europa.eu/consultations/authorisation/svhc/svhc\\_cons\\_en.asp](http://echa.europa.eu/consultations/authorisation/svhc/svhc_cons_en.asp). The proposed SVHCs include:

Substance Identification			Authority	Reason for Proposing
Substance Name	CAS Number	EC Number		
2,4-Dinitrotoluene	121-14-2	204-450-0	Spain	CMR
Anthracene oil	90640-80-5	292-602-7	Germany	PBT

Substance Identification			Authority	Reason for Proposing
Substance Name	CAS Number	EC Number		
Anthracene oil, anthracene paste, distn. Lights	91995-17-4	295-278-5	Germany	PBT
Anthracene oil, anthracene paste, anthracene fraction	91995-15-2	295-275-9	Germany	PBT
Anthracene oil, anthracene-low	90640-82-7	292-604-8	Germany	PBT
Anthracene oil, anthracene paste	90640-81-6	292-603-2	Germany	PBT
Diisobutyl phthalate	84-69-5	201-553-2	Germany	CMR
Aluminosilicate, Refractory Ceramic Fibres	(650-017-00-8)		Germany	CMR
Zirconia Aluminosilicate, Refractory Ceramic Fibres	(650-017-00-8)		Germany	CMR
Lead chromate	7758-97-6	231-846-0	France	CMR
Lead chromate molybdate sulfate red (C.I. Pigment Red 104)	12656-85-8	235-759-9	France	CMR
Lead sulfochromate yellow (C.I. Pigment Yellow 34)	1344-37-2	215-693-7	France	CMR
Acrylamide	79-06-1	201-173-7	Netherlands	CMR
Tris(2-chloroethyl) phosphate	115-96-8	204-118-5	Austria	CMR
Coal tar pitch, high temperature	65996-93-2	266-028-2	European Commission	PBT/CMR

ECHA's Member State Committee will review comments received during the consultation period as it decides whether it agrees with the proposed identification of the substances as SVHCs. If the Committee unanimously agrees to the proposals, ECHA will place the substances



on the Candidate List, which already contains 15 substances. Candidate List substances may eventually be included on the list of substances subject to authorization under REACH. In this case, after a transition period, they can only be used if a specific authorization is granted. Information requirements for suppliers of substances, preparations, and articles containing these substances will also follow from the inclusion of the substances in the Candidate List.

***ECHA Announces Public Consultation On Harmonized Classification And Labelling Of Three Chemical Substances*** -- On September 2, 2009, ECHA published on its website a public consultation on the proposal to harmonize the classification and labelling of three chemical substances. Comments are welcome on the proposal within the next 45 days. All comments will be taken into account in the subsequent decision-making process. The substances in this consultation, submitted by Ireland, France, and the Netherlands, are: tris[2-chloro-1-(chloromethyl)ethyl] phosphate (TDCP) (Ireland), tetrahydrofuran (France), and abamectin (a combination of Avermectin B1a and Avermectin B1b) (Netherlands). The proposal for harmonization is submitted to ECHA along with a dossier which outlines the scientific reasons for making the request. ECHA receives these proposals and, together with its Committee for Risk Assessment, ensures that the dossier is complete and consistent. It then organizes a public consultation. Details of all the current proposals for consultation can be found on ECHA's website. The consultation period lasts for 45 days, and, at the end of it, ECHA forwards all comments received to the Member State or industry who had submitted the proposal, so that they can provide their responses. Comments are due **October 16, 2009**.

## **NANOTECHNOLOGY**

***Study Claims Link Between Occupational Lung Disease And Nanoparticle Exposure*** -- The September 2009 issue of the *European Respiratory Journal* will contain a study entitled "Exposure to nanoparticles is related to pleural effusion, pulmonary fibrosis and granuloma." The study examines the relationship between a group of workers presenting with "mysterious" symptomatic findings and their nanoparticle exposure. The authors conducted surveys of the workplace, made clinical observations, and examined the patients -- seven young female workers (aged 18 to 47 years), exposed to nanoparticles for five to 13 months, all with shortness of breath and pleural effusions. According to the study abstract, polyacrylate, consisting of nanoparticles, was confirmed in the workplace. Using transmission electron microscopy, nanoparticles were observed to lodge in the cytoplasm and caryoplasm of pulmonary epithelial and mesothelial cells, but are also located in the chest fluid. The authors state that these cases "arouse concern that long-term exposure to some nanoparticles without protective measures may be related to serious damage to human lungs." The abstract is available on the *European Respiratory Journal* website at <http://erj.ersjournals.com/cgi/content/abstract/34/3/559>.



To help place the study in context, Dr. Andrew Maynard, Chief Science Advisor to the Woodrow Wilson International Center for Scholars Project on Emerging Nanotechnologies (PEN), has posted a blog item entitled “New study seeks to link seven cases of occupational lung disease with nanoparticles and nanotechnology,” available on the Internet at [http://community.safenano.org/blogs/andrew\\_maynard/archive/2009/08/18/new-study-seeks-to-link-seven-cases-of-occupational-lung-disease-with-nanoparticles-and-nanotechnology.aspx](http://community.safenano.org/blogs/andrew_maynard/archive/2009/08/18/new-study-seeks-to-link-seven-cases-of-occupational-lung-disease-with-nanoparticles-and-nanotechnology.aspx), on the SAFENANO and 2020 Science websites. Maynard notes that the seven women were all working for some months, in an enclosed space with little natural ventilation, in a facility spraying a polyacrylic ester paste onto a polystyrene substrate that was subsequently heat-cured. Five months before the lung disease was identified, the local exhaust ventilation in the facility broke down, and apparently was never mended. Maynard states that the issues discussed in the paper and the *Journal's* press release, including nanoparticle safety, worker deaths, and parallels with asbestos, will attract attention.

Review of the study yields important factors to consider. Importantly, the facility lacked even the most basic industrial hygiene and worker protection safeguards. Dr. Maynard cautions that it is important to understand specific limitations of the study: (1) it was a clinical study rather than a toxicology study; (2) it is not possible to draw any general conclusions on the safe use of nanotechnologies from it; (3) interpretation of the study is hampered by a lack of exposure data; (4) there are no electron microscope images of the nanoparticles found in the workplace; (5) there is no chemical analysis of the particles found in the workplace or biological samples; (6) there is no assessment of other plausible causes of the symptoms seen; and (7) in discussing the relevance of the study, the authors make no distinction between different types of nanomaterials and their potential impacts.

***EPA Withdraws Final SNURS For CNTs*** -- On August 21, 2009, EPA withdrew the June 24, 2009, final significant new use rules (SNUR) for multi- and single-walled carbon nanotubes (CNT). 74 Fed. Reg. 42177. EPA states that it published the final SNURS using direct final rulemaking procedures. Because EPA received a notice of intent to submit adverse comments on the rules, it is withdrawing the SNURS for CNTs. The *Federal Register* notice does not identify the commenter. The docket for the rulemaking includes a July 22, 2009, letter from WilmerHale stating that it intends to submit adverse comments on behalf of one or more clients. According to the notice, EPA “intends to publish in the *Federal Register*, under separate notice and comment rulemaking procedures, proposed SNURS for these two chemical substances.” The withdrawal is effective **August 21, 2009**.

***PEN Consumer Product Inventory Includes Over 1,000 Items*** -- On August 25, 2009, PEN announced that its inventory of nanotechnology-enabled consumer products includes over 1,000 items. When PEN began the inventory in March 2006, it included 212 products. According to PEN, health and fitness items represent 60 percent of the products listed. More products are



based on nanoscale silver than any other nanomaterial, with 259 products (26 percent of the inventory) using silver nanoparticles. The inventory includes products from over 24 countries, including the U.S., China, Canada, and Germany. The inventory includes products that have been identified by their manufacturer or a credible source as being nanotechnology-based. PEN states that this update identifies products that were previously sold, but which may no longer be available. The inventory is available at <http://www.nanotechproject.org/inventories/consumer/>. PEN encourages users to submit new and updated information to [nano@wilsoncenter.org](mailto:nano@wilsoncenter.org).

***Chatham House Releases Conference Report*** -- On September 10, 2009, researchers from the London School of Economics and Political Science, Chatham House, the Environmental Law Institute, and PEN released their report, *Securing the Promise of Nanotechnologies: Toward Transatlantic Regulatory Cooperation*. The report seeks to contribute to the ongoing debate on how best to address the risks posed by nanotechnologies and how to promote coordination and convergent approaches in the European Union and U.S. The report is available at <http://www.chathamhouse.org.uk/nanotechnology>.

## **LEGISLATIVE DEVELOPMENTS**

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**Note: The United States Senate and the House of Representatives adjourned for the balance of the month of August. Both houses reconvened on September 8, 2009.**

***Public Transportation*** -- During the Labor Day recess, members of the Senate Environment and Public Works Committee discussed making provision for use of 10% of the allowances in the emissions cap-and-trade system portion of the recently passed Climate Bill in a fund to support public transportation. Such use would be consistent with the purpose of the Climate Bill to reduce emissions. The 10% figure represents a substantial increase over the 1% of allowances provided in the Climate Bill as passed June 26.

***Potential Downsides To The Climate Bill*** -- Several parties are expressing concern regarding the impact of the Climate Bill. The National Association of Manufacturers (NAM) in an August analysis indicated that the measure would lead to job losses and slower economic growth due in part to the amounts of nuclear energy, wind power, and green house gas restrictions available. If the amounts of alternative sources are not readily available, energy costs will go up, and layoffs could occur, according to the analysis. On another front, the American Petroleum Institute released a report on August 24, 2009, stating that the Climate Bill would cause an increase in the expenses involved in refining gasoline, and that in turn would lead to the importation of product from countries that do not limit greenhouse emissions. The dependence on foreign product could lead to at least a 10% increase in consumption of said foreign product. The report expresses concern about the effect that might have on United States economic and energy security.



Finally, ten Democrats in the Senate wrote President Obama early in August, saying that their support for the Climate Bill would be contingent on protections in the bill for domestic industries and the jobs of workers from losses due to being undercut by foreign countries that do not take action to reduce the Global warming threat.

***Senate Climate Bill Stalled*** -- According to Senators Barbara Boxer (D-CA) and John Kerry (D-MA), the Senate version of the Climate Bill will not be introduced until the end of September. At that time, the several Committees with jurisdiction over portions of the legislation will hold hearings and the Bill will be marked up, likely in October. One of the concerns is that the measure must be considered by the Senate Finance Committee. That group is presently involved in consideration of health care legislation.

***Harmful Algal Bloom Addressed By Senate Committee*** -- The Senate Commerce, Science and Transportation Committee approved by voice vote a reauthorization of the Harmful Algal Bloom Hypoxia Research and Control Act. That Act charges the National Oceanic and Atmospheric Administration to organize and implement a national program to control and reduce such harmful algae, including assistance to local communities to reduce freshwater and marine hypoxic events.

***Senate May Act Soon On EPA Appropriation*** -- Press reports citing unnamed Senate staffers indicate that the Senate may act on the appropriations bill for the EPA sometime after September 14. That bill would appropriate funds for the fiscal year beginning October 1, 2009. The House of Representatives passed a \$10.5 billion appropriations measure for EPA on June 26. The Senate Appropriations Committee approved a \$10.19 billion package on July 9. If the difference between the two amounts persists after a Senate floor vote, the two houses will conference to resolve the difference.

## **MISCELLANEOUS**

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***EPA Launches Online Discussion*** -- On August 31, 2009, EPA launched an online discussion forum to receive public input on the future priorities for EPA's national enforcement program. The public will be able to provide feedback through the EPA website until December 1, 2009, giving the public a forum to submit ideas for EPA to consider for new areas of enforcement focus. All ideas will be evaluated and considered for recommendation to the EPA Administrator about the future direction of EPA's national enforcement and compliance priorities. The current enforcement priorities through 2010 focus on significant environmental problems, including pollution from stormwater runoff, air toxics, concentrated animal feeding operations, and mineral processing. The website for submitting suggestions for potential priorities is available at



<http://blog.epa.gov/enforcementnationalpriority/>. Information on the enforcement priorities is available at <http://www.epa.gov/compliance/data/planning/priorities/index.html>.

***Secretary Sebelius Announces New Director Of CDC's National Institute For Occupational Safety And Health*** -- Department of Health and Human Services (HHS) Secretary Kathleen Sebelius announced the selection of John Howard, M.D., as the new director of the U.S. Centers for Disease Control and Prevention's (CDC) National Institute for Occupational Safety and Health (NIOSH), effective immediately. Dr. Howard will assume a dual role. In addition to being the director of NIOSH, he will also serve as the World Trade Center Programs coordinator for HHS. Dr. Howard, who is currently a distinguished consultant at the CDC, served as NIOSH Director from 2002 through 2008. He also served as coordinator of HHS' World Trade Center Health Programs from 2006 to 2008. "Dr. Howard brings a wealth of administrative experience from his service in both state and federal governments and a long history of personal dedication and professional achievement to the field of occupational health and safety," Secretary Sebelius said. "His leadership will serve NIOSH well in a time of unprecedented challenges and opportunities." In 2002, HHS began to administer \$125 million that Congress set aside for screening and monitoring of more than 50,000 World Trade Center responders, recovery workers, and volunteers, and recently expanded the program to include residents, students, and other non-emergency responders impacted by the 9/11 disaster. Howard was instrumental in the allocation and release of more than \$390 million dedicated to treatment and in working with the medical and scientific communities to develop a plan to help those who are or became ill from 9/11. "All workers should be protected against all known job and workplace hazards," said Dr. Thomas Frieden, CDC Director. "Dr. John Howard is one of the nation's leaders in occupational health and worker safety. He's worked with the scientists, medical professionals, and workers to effectively lead investigations into new and potential health hazards, and to address workplace health and safety concerns. Importantly, he brings to this position the dedication and passion needed to achieve the safest workplaces possible." Dr. Howard is board-certified in internal medicine, legal medicine, and occupational medicine. He is also admitted to the practice of medicine and law in the state of California and in the District of Columbia, and he is a member of the U.S. Supreme Court bar. He has written numerous articles on occupational health, law, and policy, and serves as a professorial lecturer in environmental and occupational health in the School of Public Health and Health Services at The George Washington University.

***HSE Proposes Changes To Biocidal Product Regulations*** -- On September 1, 2009, the United Kingdom Health and Safety Executive (HSE) announced proposed revisions to the Biocidal Product Regulations 2001, which implement the European Union's Biocidal Products Directive 98/8/EC concerning the harmonization of the European market for biocidal products. The revisions would keep biocides on the market after **May 14, 2010**; update references in the 2001 regulations; and adjust the 2001 regulations. According to HSE, the proposed revisions do not



change any legal duties or procedures established by the 2001 regulations, and the revisions would affect only those already subject to the existing biocides regime. HSE is requesting comments via an online questionnaire. Comments are due **November 23, 2009**. More information is available at <http://www.hse.gov.uk/press/2009/e09072.htm>, and the online questionnaire is available at <http://www.hse.gov.uk/consult/condocs/biocidesletter.htm>. HSE states that the European Commission has confirmed that it will not complete its review of existing active substances within the ten-year deadline, which ends **May 14, 2010**. The proposed revision would extend the transitional period by four years, during which existing active substances will be reviewed and considered for inclusion in Annex I of the Biocides Directive, and to extend data protection periods by the same period for information submitted under the Biocides Directive. The proposed revisions would also update references within the regulations to various pieces of legislation that are relevant to the scope or operation of the biocides regime. Finally, the proposed revisions would redefine the reference to “placing on the market” to clarify that it includes the following: (1) any act of supply; (2) any act of storage other than storage followed by consignment out of the customs territory of the European Community or by disposal; and (3) importation into Great Britain.

***OECD Announces Adoption Of New And Updated Test Guidelines For Health Effects*** -- On September 7, 2009, the Organization for Economic Cooperation and Development (OECD) Council adopted ten new test guidelines for chemicals and six updated guidelines. Two of the test guidelines for determining whether eyes can be severely irritated or corroded by exposure to a chemical were announced by NTP on September 10, 2009. OECD also adopted two new test guidelines to determine when chemicals disrupt hormonal function. These assays are among the battery of tests EPA plans to use as part of its Endocrine Disruptor Screening Program. A new test guideline to assess high, short-term airborne exposures to chemicals and a new guideline on how to conduct crop tests of pesticides were adopted by the Council. New test guidelines also were adopted to determine the effects chemicals could have on fish, on amphibians, and on the reproduction of a type of flea (collembolan) in soils. Finally, OECD adopted updates to six test guidelines, evaluating potential health effects, including toxicity caused by the inhalation of a chemical, toxicity caused by chronic exposure to a chemical, and carcinogenicity. A list of the new and updated test guidelines is available at [http://www.oecd.org/document/22/0,3343,en\\_2649\\_34377\\_43680406\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/22/0,3343,en_2649_34377_43680406_1_1_1_1,00.html).

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