

EPA ADVANCES VOLUNTARY NANOSCALE MATERIALS STEWARDSHIP PROGRAM

Lynn L. Bergeson

Over the past several months, the U.S. Environmental Protection Agency (EPA) has made significant progress advancing its Nanoscale Materials Stewardship Program (NMSP). In October, Office of Prevention, Pesticides, and Toxic Substances Assistant Administrator Jim Gulliford sent a letter to stakeholders inviting them to participate in the NMSP, which is a voluntary program that EPA's Office of Pollution Prevention and Toxics (OPPT) will manage under its Toxic Substances Control Act (TSCA) authority. According to the letter, EPA's goal is "to implement TSCA in a way that enables responsible development of nanotechnology and realizes its potential environmental benefits, while applying sound science to assess and, where appropriate, manage potential risks to human health and the environment presented by nanoscale materials." EPA states that developing a Stewardship Program will help EPA meet this goal "by generating information and providing a sound, scientific basis for risk assessment and risk management."

In the future, EPA will announce the following opportunities for public input, including:

- Public scientific peer consultations to discuss risk management practices and characterization for nanoscale materials (the first of which was convened in Washington, D.C. on Oct. 19-20, 2006);
- An overall framework document describing the TSCA program for nanoscale materials;
- A document on distinguishing the TSCA Inventory status of "new" versus "existing" chemical nanoscale materials;
- A concept paper describing EPA's thinking for the NMSP, as well as an Information Collection Request to collect data under the NMSP;
- Workshops examining the pollution prevention opportunities for nanoscale materials; and
- A public meeting to discuss these documents and NMSP elements.

As part of the process, EPA is creating an e-mail distribution list to notify interested stakeholders of all opportunities for public involvement. To subscribe to the list, stakeholders should go to www.epa.gov/oppt/nano/nano-contact.htm. EPA will also provide notification of public involvement opportunities through its Web site at www.epa.gov/oppt/nano, by letter, or the *Federal Register*, as appropriate.

The Section of Environment, Energy, and Resources, as you know, has played an important part in the responsible development of nanotechnology. Earlier this year, Section lawyers briefed then EPA General Counsel Ann Klee on how each of the core environmental statutes would address the potential risks nanotechnology may pose to human health and the environment. The eight briefing documents are an excellent resource for anyone wishing to understand better the scope of federal statutory authority over engineered nanoscale materials and the implications of nanotechnology applications. All briefing papers are available at www.abanet.org/environ/nanotech/.

Building on the success of these EPA briefings, the committee is also sponsoring, with other Section committees and organized co-sponsors, eight Quick Teleconferences (QT), one on each of the topics of the eight briefing papers. Thus far, two QTs have taken place, one on Oct. 26 (science basics) and another on Nov. 16 (law, regulation and policy of nanotechnology). The next QT is scheduled for Jan. 16, 2007, on nanotechnology and the Clean Air Act. See the remaining schedule in the "From the Chair" column.

If anyone wishes to engage on nanotech issues, please let me know at lbergeson@lawbc.com. The coming year will offer tremendous opportunities for Section members to get involved in this exciting and important topic.

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PROSPECTS FOR CHEMICAL MANAGEMENT REFORM IN 110TH CONGRESS

Malcolm D. Woolf

ABA SECTION OF ENVIRONMENT, ENERGY, AND RESOURCES

Calendar of Section Events

Litigation Teleconference Series: A Practitioner's Guide to Citizen Suit Litigation

Jan. 16, 2007

Nanotechnology Teleconference Series: The Clean Air Act and Nanotechnology

Jan. 16, 2007

Environmental Science Teleconference Series: Wetland Science and Assessment

Feb. 8, 2007

25th Annual Water Law Conference

Feb. 22-23, 2007

San Diego, California

36th Annual Conference on Environmental Law

March 8-11, 2007

Keystone, Colorado

15th Section Fall Meeting

Sept. 26-30, 2007

Pittsburgh, Pennsylvania

***For more information, see the
Section Web site at
www.abanet.org/envIRON or
contact the Section at 312/988-5724.***

Gerald Ford was president when U.S. chemical policy was last high on Congress' political agenda. That's about to change. A number of public health, economic and political developments are expected to converge during the next Congress to compel lawmakers to reevaluate the U.S. chemical management framework. While few predict that the 110th Congress will enact fundamental changes to the Toxic Substances Control Act (TSCA), the debate over how to modernize the U.S. chemical management laws likely will begin in earnest during the next Congress.

The first signs of this debate were evident in the 109th Congress. The Government Accountability Office (GAO) issued a report in June 2005 highlighting several significant deficiencies in TSCA. GAO found that "EPA has required testing of fewer than 200 of the 62,000 chemicals in commerce when EPA began reviewing chemicals under TSCA in 1979." The Environmental Protection Agency's (EPA's) new chemical program was found to be far more robust, yet GAO still concluded that "EPA lacks sufficient data to ensure that potential health and environmental risks of new chemicals are identified."

Responding to these concerns, lawmakers for the first time proposed legislation to modernize TSCA. S.1391, the "Kids Safe Chemicals" bill, was introduced in July 2005 by Sens. Lautenberg and Jeffords with the co-sponsorship of Sens. Boxer, Kerry, Corzine, Clinton and Kennedy. Congressman Waxman introduced companion legislation, HR 4308, in the House of Representatives. In addition, in July 2006, the U.S. Senate Environment and Public Works Committee held its first TSCA oversight hearing in a dozen years.

The forces prompting this congressional debate are likely to intensify during the next year because of the confluence of three factors. First, the European Union is widely expected to adopt a sweeping new chemical law in the next several months that will likely transform