



# Washington *Watch*

## FEDERAL LEGISLATIVE

### Senate Bill Would Extend Present Chemical Security Rules

Taking a dramatically different approach from the House, legislation has been introduced in the Senate that would generally extend the present chemical facility security standard until 2015. The current standards are scheduled to expire October 4, 2010.

Introduced by Sen. Susan Collins (R-ME), the ranking Republican on the Senate Homeland Security and Governmental Affairs Committee, the only difference from the current law would be the addition of two voluntary training programs. One would require the Department of Homeland Security (DHS) to establish a voluntary chemical security training program to help prevent and respond to threatened or actual acts of terrorism, natural or man-made disasters. The other would authorize DHS to develop a voluntary program to enable government emergency response personnel, private companies and others to conduct security exercises related to terrorism at chemical facilities.

The bill differs significantly from the comprehensive legislation (H.R. 2868) passed by the House in November. That legislation would

expand DHS's authority to regulate chemical facilities and expand security coverage to drinking water and wastewater treatment plants. In addition, it would require facilities handling chemicals to consider assessing feasible alternative processes or chemicals that could limit the consequences of a terrorist attack.

Hearings on the Senate bill and other possible alternatives are expected this spring.

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# REGULATORY

## EPA Lays Groundwork for TSCA Reform with Chemicals of Concern Reviews and CBI Changes

The anticipated effort by the Environmental Protection Agency (EPA) to take a more aggressive approach in its enforcement of the Toxic Substances Control Act (TSCA) did not take long to materialize in 2010. In a New Year's Eve announcement, the agency stated it was beginning a process that could lead to the reduction in four specific chemical groups that raise serious health or environmental concerns.

The agency also announced that, for the first time, it intends to establish a "Chemicals of Concern" list that may lead to regulations requiring significant reduction measures to an array of chemicals that have raised concerns over time. The EPA noted that these actions represent its determination to use its authority under the existing TSCA law to its fullest extent possible, recognizing that it is the agency's strong belief that the 1976 law is both outdated and in need of reform.

The four chemical groups the EPA is presently addressing include: short chained chlorinated paraffins; eight high production volume phthalates used as plasticizers in polyvinylchloride products; polybrominated diphenyl ethers (PBDEs); and perfluorinated chemicals (PFOA).

Later this year, the EPA plans to summarize available hazard exposure and use the information to outline the risks that each chemical

may present, and identify the specific steps the agency is taking to address those concerns. As rulemaking actions begin, there will be opportunities for public and stakeholder comment and involvement.

Three weeks later the agency followed up with a *Federal Register* notice announcement that it will take a tougher stance on confidentiality claims that allow companies to prevent the names of chemicals identified as potential health from risks being made available to the public.

Until the January 21 notice under TSCA section 8(e) chemical manufacturers and processors were required to immediately notify EPA if they learned that a chemical presented substantial risk of injury to health or the environment. While these reports would be posted on the EPA Website, TSCA exempted disclosure of any information if companies cited a Confidential Business Information (CBI) claim.

Under the new procedure, the name of the chemical will not be considered CBI under section 8(e) notices when the identity of the chemical is already publically available on the TSCA Chemical Substances Inventory. Industry will have no recourse to appeal the decision, except for judicial review.

## EPA Plans to Evaluate Imposing Superfund Financial Responsibility Requirements for Chemical Manufacturing

EPA published a notice of proposed rulemaking (ANPRM) on January 6 (75FR 816) announcing its intention to consider developing proposed regulations that would identify appropriate financial responsibility requirements under the Comprehensive Environmental Response, Compensation And Liability Act (CERCLA or Superfund) for additional classes of facilities for the Chemical Manufacturing Industry (NAICS 325).

While no specific formulation sectors were identified, adhesive and sealant manufacturers should remain vigilant for the upcoming proposed rule's particular focus.