

March 8, 2010

EPA Administrator Jackson To Address Water Policy Conference

EPA Administrator Lisa Jackson will be the featured speaker on the opening day of AMWA's 2010 Water Policy Conference in Washington, D.C. Since her confirmation to the post on January 22, 2009, she has ramped up EPA's regulatory efforts to address high-priority issues such as climate change, toxic chemicals, and air and water quality using existing authorities.

Jackson's active agenda includes the agency's ruling in December that greenhouse gas emissions are a threat to public welfare, which paves the way for EPA to regulate carbon emissions linked to climate change under the Clean Air Act. In the area of water, she has promoted new approaches to enforcement, more open access to information on regulations, permits and compliance, and new initiatives on the Chesapeake Bay and Great Lakes.

The conference will be held March 21-24 at the Renaissance Washington, DC Dupont Circle Hotel. Information and online registration are available at www.amwa.net/cs/2010WPC. Today is the final day to make hotel reservations at the preferred rate for conference participants.

EPA, DHS Reiterate Administration Position On Water Sector "Security Gap"

Testifying last week before the Senate Homeland Security and Governmental Affairs Committee, EPA Assistant Administrator for Water Peter Silva and DHS National Protection and Programs Directorate Under Secretary Rand Beers reiterated the Obama Administration's position that current laws which exempt drinking water and wastewater facilities from federal chemical security regulations constitute a "security gap" that should be filled when Congress permanently reauthorizes the DHS Chemical Facility Anti-Terrorism Standards (CFATS) program. The Obama Administration originally announced its view of the "gap" last year.

In his testimony, Beers said the Obama Administration supports a permanent reauthorization of the CFATS program, but that it has not taken a position on the House-passed H.R. 2868, which would revamp CFATS to include a federal "inherently safer technology" (IST) mandate for chemical facilities. Instead, Beers said that the Administration would release its own draft CFATS reauthorization language within the next few months.

This Week In Congress

The Senate is expected to vote this week on a \$149 billion bill that will extend a series of expiring tax breaks, unemployment benefits and disaster aid for farmers. After that, the chamber will consider a small-scale jobs bill approved by the House last week.

In the House, Democratic leaders will continue to solicit votes for the health care overhaul that President Obama hopes to pass before the spring recess, which begins in three weeks.

Beers and Silva each testified that drinking water and wastewater facilities should be part of a federal chemical security program, but that EPA – not DHS – should have the lead on regulating security at water facilities, in part because of the “unique public health and environmental requirements” of water systems. They also said that a revised chemical security program should require all high-risk chemical and water facilities to assess “IST” options and should grant the “appropriate regulatory entity” the power to require facilities to implement “IST” when it is feasible.

As passed by the House of Representatives last fall, H.R. 2868 would require chemical facilities to adopt “IST” when DHS determines the switch is feasible. High-risk water and wastewater utilities would review “IST” options and decide on their own whether to make a change, although the utility’s primacy state agency could direct a switch after certifying its feasibility. A water system would have the right to appeal this determination.

Committee Members Skeptical Of Proposed “IST” Mandates

Last week’s chemical security hearing before the Senate Homeland Security and Governmental Affairs Committee provided several senators with an opportunity to question the efficacy of legislation that would allow the federal government to broadly dictate the use of “IST” to local chemical manufacturing and water treatment facilities.

Committee Ranking Member Susan Collins (R-Maine) said that the forced use of “IST” at one location could merely shift risks associated with chemicals to another place, resulting in no net security gain. Instead of moving forward with legislation to mandate “IST,” Collins recommended that the committee instead take up her legislation (S. 2996) that would extend the CFATS program in its current form for five years. The Collins proposal would have no bearing on the existing drinking water and wastewater utility exemption from CFATS.

Several committee members attending the hearing – including Sens. George Voinovich (R-Ohio), Mark Pryor (D-Ark.), Tom Carper (D-Del.) and Carl Levin (D-Mich.) – expressed varying degrees of concern with the idea of federal “IST” mandates on chemical and water facilities. For example, Pryor said that it would be difficult to mandate “IST” without a clear definition of what it includes, Carper said that the government should work with facilities on a case-by-case basis to strengthen security, and Levin questioned what authority would ultimately decide whether a particular “IST” is feasible for an individual facility. However, none of them said how they would vote on a bill that included “IST” mandates.

Committee Chairman Joe Lieberman (I-Conn.), who has previously supported federal “IST” mandates, said that he expects a healthy debate on the issue going forward but did not announce any legislative plans of his own. He did, however, suggest that one possible compromise could include requiring “IST” reviews at high-risk facilities while stopping short of giving the government the power to force implementation. Lieberman also spoke of the importance of closing the water and wastewater “security gap,” although he did not say publicly whether he believes oversight of the water sector should rest with EPA or DHS.

EPA, Interior Announce Climate Research Initiatives

Science to Achieve Results (STAR) grants amounting to nearly \$17 million in were awarded by EPA to universities across the country to study the consequences of climate change on air and water. In the area

of water resources the STAR-funded research will help assess the sensitivity of aquatic systems to possible climatic changes over the next several decades. Understanding these changes will be useful for developing regional adaptive strategies to reduce the risk of harmful impacts to water quality and aquatic ecosystems. Carbon sequestration grants will investigate safe and effective ways to store and sequester carbon. This research will help determine if injecting carbon dioxide deep into the ground threatens the environment and underground water resources. Information is online at www.epa.gov/ncer/climate.

Secretary of the Interior Ken Salazar announced last week that the University of Alaska in Anchorage will host the first of eight regional Climate Science Centers, part of an effort aimed at using climate change data to respond most effectively to the effects of climate change. The new centers expand on the existing “regional hubs” where universities, government agencies and nongovernmental organizations collaborate under the auspices of the U.S. Geological Survey's National Climate Change and Wildlife Science Center. Salazar also said the Department will seek out grant proposals for the next four centers, including ones in the Northwest, Southeast, Southwest and North Central regions of the country.

Comment Periods Extended

EPA said that it will extend the comment period for its proposed Florida nutrient standards to April 28 and announced three additional public meetings in Florida about the proposal. Additional information, including the proposal, is at www.epa.gov/waterscience/standards/rules/florida.

CEQ announced that it would extend the comment period on its “Draft Principles and Standards Sections” of the *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies*. The comment deadline is now April 5, and AMWA plans to submit comments.

April SAB Meeting To Review Arsenic Hazard Assessment

EPA’s Science Advisory Board (SAB) will meet April 6 from 1:00 to 5:30 p.m. EDT and April 7 from 8:30 a.m. to 2:00 p.m. at the St. Regis Hotel in Washington, D.C. to discuss the agency’s draft document, “Toxicological Review of Inorganic Arsenic: In Support of the Summary Information on the Integrated Risk Information System.” Additional information is available by clicking on SAB’s calendar for April: <http://tinyurl.com/SABmtgs>. Background information is at <http://tinyurl.com/EPAarsenic>.

New Name Announced For EPA Pesticides, Chemicals Office

Effective on Earth Day, April 22, EPA’s Office of Prevention, Pesticides and Toxic Substances will be renamed the Office of Chemical Safety and Pollution Prevention to better reflect the mission of the office, according to an agency announcement.