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Clients and Friends Memoranda

Timely Updates on Chemical, Pesticide, and Environmental Law and Policy Matters

Bergeson & Campbell, P.C.
1203 Nineteenth Street, NW
Suite 300
Washington, DC 20036-2401

tel 202.557.3800
fax 202.557.3836
web www.lawbc.com

info@lawbc.com

ABOUT THE FIRM

Bergeson & Campbell, P.C. is a Washington, D.C. law firm focusing on conventional and nanoscale industrial, agricultural, and specialty chemicals and medical device, product approval and regulation, product defense, and associated business issues. B&C receives the highest (AV) ranking by Martindale-Hubbell.

Bergeson & Campbell, P.C. provides a monthly newsletter summarizing recent federal developments in the chemical regulation, pesticide, environmental, occupational safety and health, and related areas.

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EP Approves RoHS Recast

On November 24, 2010, the European Parliament (EP) overwhelmingly approved the proposed recast of the Restriction of Hazardous Substances (RoHS) Directive, which restricts the use of certain hazardous substances in electronic and electrical equipment (EEE). The RoHS Directive currently lists six materials as being restricted: lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls, and polybrominated diphenylethers. The EP passed by a vote of 640 to 3, with 12 abstentions, legislation that would extend the Directive to most EEE, unless specifically excluded. Photovoltaic solar panels, fixed industrial machinery, and military equipment will remain outside the scope of RoHS, but, following an eight-year transition period, certain electronic toys and laboratory equipment will be covered by the Directive. The legislation calls for a review of the Directive after three years, at which time new substances may be added. Exemptions for banned substances would be allowed only if they are in the interest of consumer health and safety, and no alternatives are available. More information is available [online](#).

Proposed restrictions on additional substances, including nanosilver and long multi-walled carbon nanotubes, were not supported by the European Union (EU) Council, and are not included in the version of the legislation passed by both the EU Council and EP. The EP press release notes that "nanomaterials are cited as due for further scientific scrutiny" when RoHS is reviewed in three years.

The EU Council must formally adopt the legislation passed by the EP. Because the EP passed a version previously approved by the EU Council, the adoption process should be simple. The European Commission will then formally adopt the Directive, and publish it in the *Official Journal of the European Union*. The revised Directive will enter into force 20 days after its publication in the *Official Journal*, and member states will then have 18 months to transpose it into national law.

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