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## California Environmental Law Alert

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On February 10, 2012, the U.S. Environmental Protection Agency posted its final assessment of the human health effects of exposure to tetrachloroethylene – also known as perchloroethylene, or PCE. PCE is a chemical used as a dry cleaning and degreasing solvent as well as in the manufacture of some consumer products and other chemicals. PCE is frequently detected in the environment, including in air, soil, groundwater, and drinking water supplies, which has led to its ban in several states, including California. In its final assessment, PCE is designated as a “likely human carcinogen.” This represents an elevation of PCE’s cancer risk as previously PCE had been considered “intermediate between a probable and possible human carcinogen.” Current epidemiologic studies show the types of cancer most closely associated with PCE are bladder cancer, non-Hodgkin lymphoma and multiple myeloma. More limited data exists for possible associations between PCE and esophageal, kidney, lung, liver, cervical and breast cancers.

The impact of this health assessment is anticipated to have significant implications including: 1) establishing lower cleanup levels in soil vapor, soil and groundwater for PCE at state and federal sites, 2) determination of cleanup levels for indoor air contamination by vapor intrusion, and 3) evaluating whether additional limits on PCE emissions under the National Emission Standard for Hazardous Air Pollutants are necessary. Currently, EPA will continue to use its Maximum Contaminant Level for PCE of 5 ppb as the remediation goal for PCE-contaminated groundwater. In California, more stringent PCE standards have been established (the Environmental Screening Level in California for PCE is 0.7 ug/L, for commercial/industrial land where groundwater is a potential drinking water resource). However it is likely that EPA’s new health assessment will lower the allowable limits for PCE at both the state and federal levels, which will increase the cost of investigation, assessment and cleanup for those involved in contaminated sites. Further, tighter restrictions on emissions of PCE for entities that use PCE in their operations will typically require the installation of new equipment or technology.

Additionally, this elevation of PCE to “likely a human carcinogen” is anticipated to impact toxic tort litigation as this assessment may strengthen medical claims made by litigants arising out of PCE contamination issues. This determination may enable plaintiffs to establish general causation. In addition to being a likely cause of cancer, EPA’s assessment cited PCE’s non-cancer long-term health effects including harm to the nervous system, kidney, liver, immune and hematologic systems. EPA’s assessment also noted that chronic exposure to PCE causes developmental and reproductive toxicity and neurobehavioral, neurophysiological and developmental neurotoxicity effects.

While it is too soon to determine the extent of the effects of EPA’s final assessment of PCE, review of your business’s use of PCE and exposure to potential liability is recommended.

Additional information regarding the 2012 PCE assessment is available at:  
<http://www.epa.gov/iris/subst/0106.htm>.

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