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ELI Recommends Research Action Plan for Nanotech Governance

The Environmental Law Institute (ELI) recommends that the U.S. Environmental Protection Agency (EPA) implement a research action plan for developing an effective environmental, health, and safety governance structure for nanotechnologies. In comments on EPA's Draft Nanotechnology White Paper filed January 31, ELI states that the Paper fails to address governance issues in any depth, and that analysis of what options the Agency has for oversight of emerging technologies should proceed in tandem with development of scientific data defining health and environmental risks. ELI's Comments outline the themes that should guide EPA in developing a nanotechnology governance structure and provide recommendations for specific areas of research and policy analyses necessary to ensure that an effective governance structure is developed in a timely manner.

Specifically, ELI calls for research on EPA's existing statutory and regulatory authorities to determine: how these authorities can be used as a basis for a nanotechnology governance structure; whether current regulations and guidance should be modified; and whether new statutory authorities are needed. This analysis should be used to develop an integrated, multi-statute regulatory blueprint designed to incorporate into the governance structure a full life cycle perspective that includes basic research and development, manufacturing, and product use and disposal.

Further, ELI's research action plan emphasizes the need to examine whether regulatory programs should be tailored to small and medium-sized companies. In looking at alternative governance approaches that do not rely on traditional regulation, ELI's plan encourages EPA to consider developing user-friendly publicly-accessible environmental, health, and safety databases and consideration of the role of tort liability and insurance products. The plan also recommends that EPA consider the viability of facility-based disclosure programs. ELI's Comments also highlight the need for a long range action plan for involving stakeholders in the development of a governance structure and for communicating with the public about nanotech environmental, health, and safety issues.

ELI's Comments call on the Agency to coordinate and collaborate with other countries not only to generate needed scientific data and methods, but also to consider a harmonized framework for governmental oversight. ELI will hold a symposium in Spring 2006 on the development of governance structures in the U.S., Europe, and Asia and the implications for corporate environmental management if disparate governance structures emerge. The Symposium will examine whether harmonization is feasible and desirable.

ELI's Comments are available at: <http://www2.eli.org/research/nanotech.htm>.

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