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## Hope at the Inaugural, but Deficits, Regulations Ahead in 2009

*This month's update, devoted to the inauguration, kicks off a series of articles on broad policy developments and specific decisions in Washington and across the globe that impact U.S. surface finishing.*

In last month's edition of the *Washington Update* we reviewed some of the challenges faced by incoming President Obama, gave an indication of what his early cabinet picks reveal about his policy preferences, and offered an abbreviated "starter list" of industry-specific issues on

which finishers and suppliers will have to engage in 2009.

Since we published our "starter list," at least two developments we predicted for this year were already unfolding in significant ways, the 111<sup>th</sup> Congress convened and incoming President Obama took the oath of office before a record-shattering crowd in Washington.

### *The inauguration and the economy*

On Capitol Hill, the first order of business for Democratic leaders and their

expanded majorities in the House and Senate has been to lay the groundwork for quick action on a massive economic stimulus package to address the nation's economic woes. President Obama in his inaugural address called for passage of a well-crafted recovery plan and staked out a commitment to make government work in a sobering message that reflected the current economic turmoil and uncertainty ahead. "The state of the economy calls for action, bold and swift, and we will act - not only to create new jobs, but to lay a new



(AP Photo/Susan Walsh)

foundation for growth," Obama said.

As for recognizing the central contribution of entrepreneurship to the success of the nation, Obama's remarks were a welcome signal:

"In reaffirming the greatness of our nation, we understand that greatness is never a given. It must be earned. Our journey has never been one of shortcuts or settling for less. It has not been the path for the faint-hearted - for those who prefer leisure over work, or seek only the pleasures of riches and fame. Rather, it has been the risk-takers, the doers, the makers of things - some celebrated but more often men and women obscure in their labor, who have carried us up the long, rugged path toward prosperity and freedom."

If some of the main elements of the President's address are matched by his policy commitments, there will be some room to work on practical matters with the new administration on competitiveness and the small manufacturing agenda. The debate will ensue shortly over whether a more protectionist approach is more palatable now given the economic climate.

#### *Legislative debate on the stimulus package*

Congressional leaders have made early passage of an economic stimulus package containing spending and tax cuts their highest priority. However, they don't necessarily want to follow Obama's blueprint, based on the discussions on Capitol Hill during the weeks prior to the inauguration. All told, the major bill under consideration by several major committees in the House contains spending on a wide array of old and new programs that exceeds \$800 billion.

Republicans and moderate "Blue Dog" Democrats are questioning the logic of much of the spending that's not connected to infrastructure investment or more direct job creation. The House Republican leadership delivered a letter to the White House saying so, urging the President to push Congress for a recovery package to "create real, long-term jobs and encourage entrepreneurs."

Meanwhile, Obama has invited the Republicans to the White House for a "Republicans-only" discussion of their mutual interests and priorities for fixing the economy. As for the Senate, key committee chairs are readying their package, but could potentially take a different tack on major provisions compared to the House.

#### *Deficits and the outlook for small business*

The realists on Capitol Hill are pointing to the latest official estimate of the fed-

eral deficit. The new numbers from the Congressional Budget Office indicate that the 2009 budget shortfall exceeds \$1.2 trillion - and that's *before* any passage of a major economic recovery plan. This figure factors in the TARP financial rescue package from last fall, but it's also before action on other promised items this year, such as tax cuts, health care reform, defense spending for Afghanistan and Iraq, and a large scale cap and trade program or carbon tax to address climate change.

These facts led Senate Budget Committee Chairman Kent Conrad (D-ND) to note in his mid-January hearing on the long term credit-worthiness of the U.S. that even while a stimulus package was necessary, "the buildup of federal debt is the single biggest threat to our nation's long-term economic security."

He noted to several witnesses he'd invited to testify that we could easily see the national debt nearly double in just the next decade to over \$21 trillion by 2019, equaling about 95% of the nation's total economic output. "I believe we have a five to 10-year window of opportunity to demonstrate to our foreign lenders that we're going to get serious about this. Five to 10 years, and it's closing," said Conrad.

While the package may end up containing a menu of direct provisions or assistance for small and medium-sized businesses and manufacturing, the coming weeks will signal the extent to which Democratic leaders on Capitol Hill are willing to use the recovery package to expand small business investment, job creation and competitiveness across the board.

#### **The Administration on Regulation: Recent Indicators**

We wrote last time on where the new administration was signaling it would take regulatory policy for manufacturing. The President's early picks to run the key regulatory agencies and steer policy from the White House on environment, energy, OSHA and workplace issues are smart, strong leaders. Concerns continue to be raised about whether environmental regulations and union-backed workplace policies will aggressively trump commitments to a viable manufacturing sector.

#### *White House regulatory review Director*

In one potentially promising development, the President in early January made his pick for one of least visible but most important jobs in the federal government. Nested in the White House within the Office of Management and Budget is the Office of Information and



Regulatory Affairs (OIRA). Among the responsibilities of the OIRA chief is reviewing regulations proposed by agencies across the Executive Branch.

Within the office, scores of professional economists, scientists and policy analysts evaluate questions like whether the benefits of a new EPA air emissions rule outweigh the costs, or whether OSHA has accurately estimated how many workers may face a cancer risk from a workplace health hazard. Under past administrations, NASF Government Relations has engaged decision makers at OIRA ensure that EPA, OSHA or other agencies are "getting it right" on science, economics and their approach in addressing potential risks posed by the finishing industry.

In picking Harvard law professor and academic superstar Cass Sunstein to head OIRA, the incoming President struck an impressive balancing act that hasn't played entirely well with prominent environmental interest groups. Sunstein is left of center on some issues, but has also supported conservative court appointees and has argued for the importance of balancing costs and benefits in regulating environmental and health risks.

#### *Secretary of Labor*

Labor and workplace health and safety issues may be another matter. The Senate panel overseeing the U.S. Department of Labor will have no trouble confirming Congresswoman Hilda Solis (D-CA), Obama's nominee to head that agency. She was greeted a week before the inauguration at her confirmation hearing by Chairman Ted Kennedy as well as Republicans with praise for her accomplishments and background as the daughter of hard-working immigrants. She laid out four priorities she'll pursue as Secretary of Labor: (1) expanding job training and creating "green jobs"; (2) enforcing OSHA laws; (3) ensuring security for retirees and (4) eliminating discrimination.

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However, the philosophical divide between Republicans and some of the top union-backed priorities of the incoming Administration was made explicit by Sen. Orrin Hatch (R-UT) and Republican ranking member Mike Enzi (R-WY). They confirmed their strong disagreement with her commitment to the so-called Employee Free Choice Act (EFCA) or "card check" legislation, which would eliminate the secret ballot in union organizing campaigns and make it easier to unions to influence employees in the workplace. Joined by Sen. Johnny Isakson (R-GA), they urged Solis, who has not been a friend of industry, to maintain balance and find "common ground" during her tenure as Labor Secretary. Obama's selection of Solis has been lauded by organized labor.

#### *California influence on environment and energy*

Obama's pick to run the White House Council on Environmental Quality will help expand California's influence over federal environmental legislation and regulatory policy. His nominee, Los Angeles Deputy Mayor Nancy Sutley, has held key senior EPA and state posts in California on water, energy and environment issues.

As an advisor to former California Gov. Gray Davis, she was credited with helping clean up the Enron mess during California's power crisis even while Davis was defeated by Arnold Schwarzenegger. Sutley's pick, along with Obama's selection of Dr. Steven Chu from San Francisco to head the Department of Energy, gives California even greater credentials when lined up with House Speaker Nancy Pelosi, and Rep. Henry Waxman and Sen. Barbara Boxer, two California Democrats who head the environment committees in the House and Senate.

#### **"Predictions" for 2009 – New Developments for Finishing**

In the next *Washington Update*, we will have the latest briefings on at least four issues:

• **New Lawsuit from the Sierra Club on Chromium Plating/Anodizing and Other EPA Air Standards** -A lawsuit in mid-January was just filed by a coalition of environmental groups will spur EPA to revisit current technology-based air emission standards for chromium electroplating and anodizing operations.

• **EPA Issues New Health Advisory for PFOS and PFOA Compounds** - EPA has issued a provisional health advisory and announced it is investigating problems with certain perfluorinated chemicals found in wastewater treatment sludge. The agency suspects the compounds may be originating from certain industrial sources. We are discussing with the agency whether fume suppressant usage at surface finishing operations is involved, in light of EPA's and Minnesota's continued investigation of plating operations using fume suppressants containing perfluorinated compounds.

• **Pentagon Nearing Release of Chromium Memorandum** - Pentagon officials announced in December they would soon release a formal policy memo to restrict or ban hexavalent chromium for a range of uses, unless senior ranking officers rule otherwise. We have been working closely with Pentagon officials, and this decision would be a milestone, as it accelerates the push for alternative coatings and gives more teeth to efforts to revise military specs and the coatings supply chain. Some officials acknowledge that qualified functional replacements for Cr<sup>+6</sup> coatings for applications across the board don't exist. We're informed the memo is under internal review and should be released shortly. One of its aims is to get the defense depots off the dime and prompt them to overcome past inertia and adopt substitutes. Expect this to attract attention from the incoming administration and serve as a basis for future policy.

• **European Union Nickel Labeling & REACH Requirements** - New developments and new questions abound from North America on the direction of new requirements now in place and on the horizon for nickel compounds and other chemicals and metals in the supply chain. We are developing additional guidance on these issues to be published for NASF members and discussed at the NASF Washington Forum on April 28-30, 2009 at the L'Enfant Plaza Hotel. Please contact NASF to register at (202) 257-0250, or (202) 257-3756.

