

Legal Lookout: REACHing the Montebello Agreement

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A look at the recent agreement on industrial chemical controls, and what it could mean for industry.

In August, EPA, Canada and Mexico announced in Montebello, Quebec, new efforts to ensure the safe manufacture and use of industrial chemicals by entering into a regional partnership for assessing and managing potential chemical risks. As part of what is now referred to as the "Montebello Agreement" made at the Security and Prosperity Partnership (SPP) of North America Leaders' Summit, these countries agreed to coordinate efforts to assess approximately 9,000 industrial chemicals that are produced or imported in volumes above 25,000 pounds per year.

The agreement

Under the agreement, the countries agreed to certain milestones. By 2012, the United States is to complete risk characterizations and initiate needed action on the more than 9,000 existing chemicals produced in the country in quantities above 25,000 pounds per year. The Moderate Production Volume (MPV) Program, as it has come to be called, is patterned after the HPV Challenge Program, and will build upon the success of that program and the CCMP. Canada is to complete assessments and take regulatory action on the Canadian highest priority substances and initiate assessments of medium priority substances. Mexico is to develop an information system for dangerous materials. All three countries are to enhance appropriate coordination in areas including testing, research, information gathering, assessment and risk management actions.

By 2020, the agreement commits all parties to develop and/or update inventories of chemicals in commerce. Mexico is to have enhanced its capacity to assess and manage chemicals. All three countries are to achieve the sound chemical management in North America consistent with the World Summit on Sustainable Development Johannesburg Plan of Implementation, and reinforced under the Strategic Approach to International Chemicals Management.

Data generated under the agreement are intended to be used in jurisdictions outside of North America. For example, data generated in the HPV and MPV programs are expected to be useful in meeting REACH registration requirements.

Implications

The Montebello Agreement is thought by some as the North American response to REACH, the European Union's Registration, Evaluation, Authorization and Restriction of Chemicals program. In a briefing paper dated Oct. 30, 2007, the National Petrochemical & Refiners Association stated, "The Montebello Agreement provides a unique opportunity to affect the future of chemicals management policy both here and abroad. It is the only regional model that is truly tiered, targeted and risk-based ... It is in the best interest of U.S. industry to support the Montebello Agreement and work with authorities in North America to ensure its success."

But environmental groups believe that REACH is the appropriate model on which to base domestic chemical management policy, not voluntary efforts such as those contemplated under the agreement, the HPV Challenge Program, or similar chemical initiatives.

Chemical manufacturers and users are urged to be mindful of the agreement, support its goals and monitor chemical management policies in the U.S. as they evolve. With elections fast approaching, it is unclear whether the REACH model, the approach envisioned in the Montebello Agreement, or some other approach ultimately will prevail as the model of choice for domestic decision-makers in chemical management policy. PE

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