

RECONSIDERING CHEMICALS POLICY: The European Challenge

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SUMMARY

- ✍ The European Union is proposing a bold restructuring of its entire chemicals policy called REACH
- ✍ The US is several years behind Europe in addressing chemicals in products and management in general.
- ✍ The US is advanced in right to know, new chemicals management and pollution prevention.



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Defining Chemicals Policy

- ✍ Regulatory and voluntary policies designed to achieve long-term, integrated and prevention-oriented sustainable use of chemicals in production systems and products
- ✍ Focus is on industrial chemicals but could also include pesticides, cosmetics, etc.



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The Problem (1)

- ✍ Increasing public concerns about types of chemicals (persistent and bioaccumulative and endocrine disruptors) and impacts on health and ecosystems (marine)
- ✍ Continued use of dangerous chemicals
- ✍ Policy failures and lack of public confidence
- ✍ Market pressures for safer chemicals



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The Problem (2)

- ✍ Lack of regulatory programs to address chemical lifecycle risks
- ✍ Lack of integrated and comprehensive approach to chemicals management
- ✍ Lack of information on existing chemicals
- ✍ Concern about chemicals in products
- ✍ Slow risk assessment process, burden on government



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US Chemicals Policy

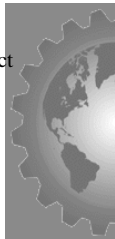
- ✍ There is no one "US" system of chemicals management
- ✍ The federal government took an early lead internationally in precautionary chemicals policy
- ✍ National policy innovation basically stalled after 1980
- ✍ Since 1980, new, more limited, policy initiatives have appeared at the state and local levels.



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Federal Chemicals Legislation in the US

- ✍ 1960 Hazardous Substances Act
- ✍ 1970 Occupational Safety and Health Act
- ✍ 1970 Clean Air Act
- ✍ 1972 Clean Water Act
- ✍ 1972 Consumer Product Safety Act
- ✍ 1976 Resource Conservation and Recovery Act
- ✍ 1976 Toxic Substances Control Act
- ✍ 1990 Pollution Prevention Act



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Toxics Substances Control Act of 1976

- ✍ Regulatory power to require testing
- ✍ Responsibility on industry to provide data on risks
- ✍ Regulatory power to restrict chemicals in commerce
- ✍ Requirement for pre-manufacture notification for New Chemicals
- ✍ National Inventory update
- ✍ Deference to other legislation – RCRA, OSHA, CAA, CWA



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Right to Know - An Important Driver for Prevention

- ✍ Toxics Release Inventory and chemical storage and accident scenario data.
- ✍ Demonstrated inefficiencies in chemicals management
- ✍ Useful information for workers and communities to promote prevention
- ✍ Links to hazard/risk data – ie www.scorecard.org



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Pollution Prevention-Indirect Chemicals Policy

- ✍ Most state programs are voluntary and poorly funded
- ✍ A few states (Massachusetts, New Jersey, Maine) have mandatory planning programs, with materials accounting and planning requirements
- ✍ EPA Sector-based initiatives
- ✍ EPA 33/50, Design for Environment, Green Chemistry



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Considering US Chemicals Policy

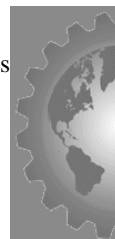
- ✍ Fragmented and outdated federal policies
- ✍ Reasonably effective Right to Know and New Chemicals programs
- ✍ Scant information or regulation on Existing Chemicals
- ✍ States policies fragmented among differing agencies
- ✍ No coordinated system for risk prioritization or risk reduction
- ✍ Ill prepared to consider chemicals in products, life cycle risks or cumulative risks



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European Chemicals Policy

- ✍ Nations use an array of tools ranging from regulations, economics, and taxes to education
- ✍ Nordic States: Regulatory
- ✍ Netherlands: Cooperative
- ✍ United Kingdom and Germany: Voluntary
- ✍ Other nations are less innovative



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The REACH Proposal

✍ In February of 2001, the European Commission issued a White Paper on the Future of Chemicals that proposed a major new policy called REACH

✍ REACH:

- ✍ Registration
- ✍ Evaluation
- ✍ Authorization of
- ✍ Chemicals



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The REACH Proposal

- ✍ A duty of care on chemical producers, users, and importers for studying risks and safety
- ✍ A European-wide approach to chemicals policy – protect internal market
- ✍ Substitution of chemicals of very high concern - innovation in safer chemicals
- ✍ Bridge knowledge gap between new and existing chemicals – develop information on all chemicals.
- ✍ Reduction in animal testing
- ✍ Promotion of a non-toxic environment – the “generational goal”



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Registration

- ✍ Essentially a notification process
- ✍ All producers and importers of substances produced over 1m ton/year (about 30,000 substances)
- ✍ Phased in over 3 yrs, 6 yrs, and 11 yrs
- ✍ Pre-registration, consortia establishment
- ✍ Exemptions for R&D, intermediates, polymers, others
- ✍ Current New Chemicals are considered registered
- ✍ Requirement to submit new data



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Evaluation

- ✍ Essentially a risk screening process
- ✍ Applies to 3000 substances
- ✍ Two types: standard and priority
 - ✍ Standard: minimize duplicative testing for high production volume substances
 - ✍ Priority: review of registration to identify additional information needs (focus on high volume/high concern and randomly selected substances)
- ✍ Accelerated risk management for chemicals of high concern



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Authorization

- ✍ Essentially a use restriction process
- ✍ Applies to chemicals of very high concern – CMRs 1&2, PBTs, VPVBs, and other high concern substances (1400 substances)
- ✍ Requirement to request authorization for chemicals of high concern – timelines (includes use and incorporation into articles)
- ✍ Consideration of socio-economic benefits, alternatives, controls in place
- ✍ Can be subject to conditions and time limits



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Role of new chemicals agency

- ✍ Manage database on chemicals under registration/ authorization
- ✍ Conduct check of registration dossiers
- ✍ Prepare risk assessment/socio-economic analysis for Community authorizations
- ✍ Prepare risk and socio-economic analysis for restrictions
- ✍ Forum for information on enforcement
- ✍ Technical expertise to remain in the Member States



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EU Legislative Process

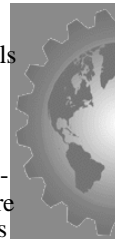
- ⌘ White Paper (February, 2001)
- ⌘ Draft legislation (May, 2003)
- ⌘ Comment Period
- ⌘ Final Commission proposal (October, 2003)
- ⌘ First and Second Reading Council/Parliament (time limited) with Commission debate (2004)
- ⌘ Conciliation (2006)



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Lessons for the United States

- ⌘ The problems that have driven the Europeans to promote a new chemicals policy persist in the US as well
- ⌘ The REACH Directive will affect the global market for chemicals
- ⌘ It is time for the US to launch a broad-based discussion on developing a more integrated, preventive and precautionary policy on chemicals throughout their lifecycle



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Chemicals Policy Initiative Website

⌘ www.chemicalspolicy.org



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