

In This Issue:

- [Section One: European Union Developments](#)
- [Section Two: United States Developments](#)
- [Section Three: International Developments](#)

SECTION I: European Union Developments

▶ Commission Adopts Second Review Regulation on Biocides

On November 4, 2003 the Commission adopted the so-called "Second Review Regulation" (Ref.: [Regulation 2032/2003, O.J. \(2003\) L 307/1](#)) laying down the second phase of the 10-year review program applicable to "existing" active substances according to Directive 98/8/EC on biocidal products and Regulation 1896/2000 on the first phase of the review program. "Existing" active substances are defined as active substances in biocidal products already on the market on May 14, 2000. The Second Review Regulation entered into force on December 15, 2003. The substances covered by the second phase are listed in Annex II to the new Regulation. Only substances for which at least one notification has been accepted (for use in the biocidal product types covered by the accepted notifications) are reviewed within the 10-year review program and may continue to be marketed until a decision on their inclusion or non-inclusion in Annex I or IA to the Biocidal Products Directive is taken. The new Regulation also provides that all active substances listed in Annex III, as well the uses of Annex II substances in product types not validly notified, will be banned as of September 1, 2006, as a result of which they will no longer be considered as "existing" substances.

For additional information, please also see McKenna Long & Aldridge's *EU Environment Law Bulletin* at <http://www.mckennalong.com/attachment.html/articles/908/EU+Environmental+Bulletin+Jan+2004.pdf>.

[Koen Van Maldegem](#) Brussels

▶ Parliament Adopts Opinion on Coexistence of GMOs and Conventional Crops

On December 18, 2003, the European Parliament (EP) adopted an Opinion on the Commission's Recommendation on guidelines for the development of national strategies and best practices to ensure the coexistence of genetically modified organisms (GMOs) with conventional and organic farming (Ref. 2003/556/EC, O.J. (2003) L 189/36). The EP called for binding EU rules to be established on

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coexistence and did not support the Commission's desire to leave this subject to the Member States. The EP required a legislative proposal in the framework of which GMO producers would have civil liability for contamination of organic and conventional crops. Furthermore, the EP stated that Member States should have the choice to restrict GMO cultivation within certain geographic areas, if they wish. This position is contrary, however, to the Commission's September 2, 2003 decision rejecting Austria's request to create a GMO-free zone.

Ursula Schliessner
Brussels

▶ **Commission Adopts Proposal to Revise Batteries Directive**

On November 21, 2003, the Commission adopted a proposal for a Directive on batteries and accumulators and spent batteries and accumulators (Ref.: COM(2003) 723). If adopted, this Directive would revise the existing Directive 91/257 on batteries. The proposal requires the collection and recycling of all batteries and accumulators. Member States will set up the necessary schemes and monitor the quantities of NiCd batteries and accumulators disposed of in the municipal solid waste stream. The proposal also requires Member States to withdraw batteries not meeting the future Directive's requirements and to encourage producers to increase the overall environmental performance of their batteries, possibly through economic and fiscal incentives. Landfill and incineration of industrial batteries and accumulators will be banned. Producers will have the options to impose visible fees reflecting the recovery costs for their products and to set up either individual or collective collection schemes. For historical wastes, end users could also be made financially responsible.

Ruxandra Cana
Brussels

▶ **Packaging Waste Directive to be Revised**

On December 4, 2003, the Council and European Parliament reached an agreement in Conciliation (third stage of the Codecision Procedure (Ref.: COM(2001)729)) on the adoption of an amendment to Directive 94/62/EC on packaging and packaging waste. The purpose of this revision is to increase packaging recycling and recovery targets. In particular, the amended Directive sets several new material-specific targets. The Conciliation Committee set deadlines for transitional periods, defined the subject packaging, and proposed to support pilot projects on waste prevention. Following recent European Court case law on waste recovery, the Committee also confirmed that incineration with energy recovery in dedicated waste incinerators will continue to count toward prescribed recovery targets. The Council and European Parliament shall formally adopt a Joint Text within six weeks after finalization by jurist-linguists.

Ursula Schliessner
Brussels

▶ **EU Proposes New Waste Shipment Regulation**

On November 19, 2003, the European Parliament (EP) adopted its First Reading Position on the proposal for a Regulation on shipment of waste. This proposal aims at simplifying the control procedures applicable to shipments of waste under

Regulation 259/93, as well as transposing the OECD Council's Decision C(2001)107 into Community law. The proposal merges the "amber-listed waste" (semi-hazardous) and the "red-listed waste" (hazardous) in a single Annex IV. Furthermore, shipments of all waste destined for disposal and shipment of hazardous waste destined for recovery would be subject to the requirement of prior written notification and consent and the tacit procedure would be abolished.

The EP amendments strengthened the Commission's proposal, notably in regards to the reporting obligation; they also extended the prior informed consent (PIC) procedure to municipal waste and allowed the competent authority of dispatch to invoke its national legislation to refuse waste shipment. Furthermore, the EP amendments clarified the terms "disposal" and "recovery" and excluded interim disposal or recovery, such as mixing, repackaging or storage, from the scope of the proposed Regulation. (Ref.: COM(2003)379)

Ruxandra Cana
Brussels

▶ **EU Parliament Adopts Second Reading of Environmental Liability Directive**

On December 17, 2003 the European Parliament (EP) adopted its "Second Reading" position on the Commission proposal for a new Directive on environmental liability, which lays down the Community legal system for the prevention and remedying of environmental damage (Ref.: COM(2002)17). The EP tightened the Council Common Position, notably in regards to harmonized mandatory financial guarantees, requiring incentives for the development of financial security instruments to cover operators' responsibilities. Among other amendments, the EP removed the possibility for operators to limit their liability under national legislation.

Following this opinion, the Council now has three months to decide whether to convene the Conciliation Committee (third phase of the codecision procedure), the necessary precondition for the proposal to become law, or to drop the proposal.

Claudio Mereu
Brussels

▶ **Plant Protection Product Update**

On November 21, 2003, Regulation (EC) 2003/2003 relating to fertilisers was published in the *Official Journal of the European Communities*. The Regulation gives comprehensive definitions of primary and secondary nutrients, and micronutrients, types of fertilisers, designation of fertilisers as 'EC Fertiliser' for inclusion on Annex I of the Regulation. The Regulation replaces Directives 76/116/EEC, 77/535/EEC, 80/876/EEC and 87/94/EEC, which will be repealed in individual Member States' legislation.

On November 17, 2003, Council Decision 2003/882 was published, noting that the Council has decided to formally submit an application for the European Community to become a full member of the Codex Alimentarius Commission. This body develops and harmonises world-wide health standards and issues guidelines and recommendations on agricultural and fishery products, foodstuffs, food additives and contaminants, feedstuffs, veterinary drugs, pesticides, including labelling, methods of analysis and sampling, codes of ethics and good agricultural practice and

guidelines of hygiene practice, in view of protecting consumers' health and ensuring fair practices in international trade. The Community will join the Codex alongside the individual Member States. The Decision includes the procedures by which the Community will respond to communications from Codex on behalf of, and instead of, the individual Member States.

On December 4, 2003, Commission Decision C(2003)4470 recognized in principle the completeness of dossiers on the active substance BAS 670H (submitted to France as RMS) and silver thiosulphate (submitted to the Netherlands) under the Plant Protection Products Directive 91/414/EEC. The respective Rapporteur Member States should make their recommendations (as to inclusion or non-inclusion in Annex I to the Directive) by December 9, 2004 at the latest.

Commission Directive 2003/119/EC recognized that the active substances mesosulfuron, propoxycarbazone (Bayer CropScience herbicides) and zoxamide (Dow Agro Sciences fungicide) fulfill the requirements for listing on Annex I of Directive 91/414/EEC.

Commission Decision of December 19, 2003 allowed Member States to extend provisional authorizations granted for the new active substances thiacloprid, thiametoxam, quinoxifen, flazasulfuron, *Spodoptera exigua* nuclear polyhedrosis virus, spinosad, *Giocladium catenulatum*, *Pseudomonas chlororaphis*, and indoxacarb (notified under document number C(2003) 4851). Dossiers for these active substances were submitted under Directive 91/414/EEC, but the evaluation by the Member States is still in progress. Member States granted temporary (provisional) registrations after initial checking procedures. The time limit for the provisional registrations has been extended two years, to allow for completion of the review of the data.

Nick Leeming
TSGE Knaresborough, UK

▶ **UK Implements Fourth Stage of EU Pesticide Review Program**

The United Kingdom 's Pesticide Safety Directorate (PSD) has posted on its website (<http://www.pesticides.gov.uk/applicant/aahp/aahl0402.htm>) draft procedures for implementing the fourth and final stage of the EU's review program for existing pesticide products under Directive 91/414/EEC. PSD also has posted two draft documents regarding data requirements for pesticides derived from "plant extracts" and for pesticides that are "commodity chemicals."

The prior three stages of the EU review program were concerned with "conventional chemicals." The fourth and final stage is concerned with substances that do not fit neatly under this heading, including the following: plant extracts, animal products, substances authorized in human food or animal feed, commodity substances, substances for treating stored plants or plant products, attractants and repellents, pheromones and other semiochemicals, microorganisms, rodenticides, disinfectants, and substances on the market in one of the new member states but not approved in the existing Member States.

Since the foregoing substances often are used in relatively low volumes and marketed by small or medium-sized companies, because some could be viewed as intrinsically "low risk," and because some are important in organic or other low input farming systems, the regulations propose a generally lighter regime for this stage of

the review. Key elements in the proposal include requirements tailored to meet the characteristics of particular groups of substances, a modified system of review under which Member States are required to collaborate to review a particular group of substances, special arrangements for disinfectants which also are under review under the Biocides Directive, and special arrangements for substances that are on the market in a new Member State but are no longer on the market in an existing Member State.

[Michael Boucher](#)
Washington, DC

[↗ Back to top](#)

SECTION II: United States Developments

▶ Food and Drug Administration Nears Decision on Biotech Wheat

The United States Food and Drug Administration (FDA) announced in mid-December 2003 that it is close to completing its review of the safety of Monsanto's genetically engineered wheat for human and animal consumption. While genetically modified soybeans, corn and a few other crops have been in use for years, this would be the world's first biotech wheat variety, and the first true biotech food grain. FDA Commissioner Mark McClellan stated that the safety review would be complete "probably not within the next few weeks, but soon." Monsanto is also awaiting food safety review decisions of this herbicide-tolerant wheat hybrid from the US Department of Agriculture (USDA) and the Environmental Protection Agency (EPA). FDA, USDA and EPA share oversight of genetically-engineered crops. Regardless of U.S. government agency approval, Monsanto says that it will not commercialize biotech wheat until growers and consumers were ready.

[Sarah Lukie](#)
Washington, DC

▶ OSHA Withdraws Glycol Ethers Rulemaking

On December 30, 2003, the Occupational Safety and Health Administration ("OSHA") ended its rulemaking concerning four glycol ethers. In 1993, OSHA proposed a reduction in the permissible exposure limits for two ethylene glycol ethers (2-Methoxyethanol (2-ME) and 2-Ethoxyethanol (2-EE)) and their acetates (2-MEA, 2-EEA). These substances have been used in the automobile refinishing and semiconductor industries, as well as in construction paints, printing inks, and surface coatings. OSHA reopened the record concerning these substances in August 2002 to determine to what extent these substances continue to be used in the work place. According to OSHA Administrator John Henshaw, "The evidence that [OSHA] collected...indicates there is little future potential exposure to the four glycol ethers because their use has largely been phased out. Based on that evidence, [OSHA] concluded that the rule is no longer appropriate...."

[Scott Kauff](#)
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▶ OSHA Appeals Key Review Commission Decision

In a recent decision by the Occupation Safety and Health Review Commission

("Commission"), the Commission issued a ruling that could limit the Occupational Safety and Health Administration's ("OSHA's") ability to issue significant penalties under its "egregious" penalty policy. Under this policy, OSHA issues citations for separate violations and separate penalties for each exposed employee rather than a single citation regardless of the number of exposed employees. In a September 29, 2003 decision, the Commission held that Eric K. Ho, an employer who violated the respirator and training provisions of the asbestos standard with regard to 11 workers, committed only a single violation. OSHA had cited Ho for 11 violations, one violation for each worker he failed to protect. The Commission's decision effectively reduced the penalties for Ho's violations from \$858,000 to \$140,000. OSHA has appealed the Commission's decision to the United States Court of Appeals for the Fifth Circuit.

According to a December 8, 2003 statement released by OSHA Administrator John Henshaw, the egregious penalty policy "that we are defending in this case allows strong enforcement measures against particularly irresponsible employers, like Ho, who blatantly ignore their obligation to protect their workers, and knowingly subject the workers to serious hazards. In our appeal we will make clear that the Commission's decision would prevent us from providing the protection Congress intended to workers employed by this minority of irresponsible employers."

Scott Kauff
Washington, DC

▶ **TSCA Interagency Testing Committee (ITC) Issues 53rd Report**

In November 2003, the ITC published its 53rd Report. In this report, the ITC added 20 tungsten compounds to the Priority Testing List due to recent data that showed elevated tungsten body burdens in residents of Fallon, Nevada. Specifically, the ITC seeks voluntary submissions of production and importation volume data, environmental release information, environmental fate and transport data, ecological effects data, and human exposure data. The ITC also added three pyridinamines to the List: 2-pyridinamine (504-29-0), 3-pyridinamine (462-08-8) and 4-pyridinamine (504-24-5) due to the toxicity of these chemicals in animal and human studies. For the pyridinamine chemicals, the ITC seeks voluntary submissions of production and importation volumes, use information, human exposure information and health effects data. No chemicals were deleted from the Priority Testing List.

The Report also states that the ITC requests that the EPA add the 20 tungsten compounds and the 3 pyridinamines to a TSCA Section (8a) Preliminary Assessment Information Rule (PAIR) but not to a TSCA Section (8d) Health and Safety Data Rule (HSDR). The detailed information containing the rationales for the foregoing ITC decisions can be found at the following website: <http://tsca-itc.syrres.com/Reports/>.

Richard Jourdenais, PhD
TSG, Washington, DC

▶ **EPA Invites Additions to Inventory Update Rule List of Partially Exempt Chemicals**

In the January 7, 2003 *Federal Register*, the EPA published a final rule under TSCA Section 8(a) that significantly revised the Inventory Update Rule (IUR) reporting requirements for manufacturers and importers in 2006. The IUR amendments include higher reporting thresholds, the inclusion of inorganic chemicals and additional, comprehensive chemical use and exposure information, which had not

been previously required. The reporting thresholds in the amended rule are 25,000 and 300,000 pounds. The 300,000-pound threshold requires detailed worker and customer use and exposure information. However, the rule also contains a partial reporting exemption for the 300,000- pound threshold for chemicals that are of "low current interest" to the EPA.

Any person may petition to add or delete chemicals on this "low current interest" list. Petitions must be in writing to the OPPT Document Control Officer, (DCO), Mail Code 7407M, ATTN: Inventory Update Rule, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC, 20460. The petition must contain the chemical identity and CAS Number or PMN or Accession Number if the chemical identity is confidential. A number of petitions have already been submitted and TSG has successfully submitted a petition for one of its clients. The EPA will publish revisions to the "low current interest" chemicals list from petitions received in the 2004 Federal Register.

Richard Jourdenais, PhD
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▶ **EPA Establishes Pollution Prevention and Toxics Advisory Committee**

The EPA Office of Pollution Prevention and Toxics (OPPT) recently established the National Pollution Prevention and Toxics Advisory Committee (NPPTAC) to provide advice regarding the use of data collected in the High Production Volume (HPV) voluntary chemicals testing program, regulatory versus voluntary information collection actions, risk assessment approaches, effective Section 6 usage, approaches to national chemicals of concern (*e.g.*, lead, mercury), circumstances for non-governmental groups to participate in developing chemical risk assessments, enhancement of the New Chemicals Program, increasing the use of pollution prevention (PP2) solutions to manage the risks of chemicals, opportunities for states and tribes to increase their role in implementation of OPPT programs and future directions for OPPT's chemical management programs.

The membership of NPPTAC includes representatives from the chemical industry, non-governmental organizations, States and Tribes, academia and other institutions and brings expertise in the fields of toxicology, risk assessment, risk management, risk communication, pollution prevention, environmental policy, public health policy, environmental justice and animal welfare. The first meeting of NPPTAC occurred on November 4-5, 2003 and the second meeting occurred on January 7-8, 2004.

Richard Jourdenais, PhD
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▶ **EPA Finds Acetone Low Risk to Children**

At a November 2003 meeting, the Voluntary Children's Chemical Evaluation Program (VCCEP) peer consultants reviewed the industry acetone risk assessment for children and prospective parents. It was determined that all Tier 1, Tier 2 and Tier 3 studies outlined in the VCCEP program had been conducted for acetone and its metabolic precursor, isopropanol. The industry acetone risk assessment concludes that expected exposures will not likely present significant health risks to children.

Acetone occurs in the body as a metabolic product and is also present in raw cow's milk, grapes, tomatoes and peas. Environmental exposures to acetone can arise

from air and water and consumer products. Acetone produced internally in children is the predominant source of exposure to children and women of childbearing age. The VCCEP peer panel concluded that no additional research in terms of hazard and exposure is needed due to the fact that extensive investigations have already been conducted.

Richard Jourdenais, PhD
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▶ **FDA Reviews New Food Contact Chemicals in Expedited Process**

The 1997 Food and Drug Administration Modernization Act provided for the establishment of a new process for the expedited review of chemicals used in food packaging and other forms of food contact. The amended law defined a food contact substance as "any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have a technical effect in such food." To date a total of 360 substances have been reviewed and included in the inventory of effective premarket notifications for food contact substances (<http://www.cfsan.fda.gov/~dms/opa-fcn.html>). The submissions are reviewed and become effective within 120 days of receipt by the US FDA. Toxicology and migration data may or may not be necessary depending upon the estimated levels of dietary exposure. This process has, in recent years, become an effective means of avoiding the time-consuming petition process.

Gary Burin, PhD
TSG, Washington, DC

▶ **EPA to Use Physiological Modeling for Cumulative Risk Assessment of Carbamates**

The U.S. EPA Office of Pesticide Programs (OPP) has begun their re-evaluation of the N-methyl carbamate pesticides as required by the Food Quality Protection Act of 1996 (FQPA). The FQPA requires EPA to evaluate the cumulative effects of pesticides that act by a common mechanism of toxicity. For the first time, OPP is developing a physiologically-based pharmacokinetic/pharmacodynamic (PBPK/PD) model to evaluate the cumulative effects of exposure to multiple pesticides. OPP presented a preliminary PBPK/PD model for carbamate pesticides to the FIFRA Scientific Advisory Panel on December 11, 2003. The EPA Office of Research and Development is developing the model and carbamate case study in collaboration with CIIT Centers for Health Research. An OPP spokesperson said that a preliminary cumulative risk assessment of the N-methyl-carbamate pesticides using PB-PK/PD modeling would be completed in 2005.

Beth Milesen, PhD
TSG, Washington, DC

▶ **International Trade in Hazardous Substances and Pesticides**

The Food and Agriculture Organization and the UN Environment Program jointly announced that the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade will enter into force on February 24, 2004. Armenia was the 50th country to ratify the Convention, triggering the 90-day countdown to the treaty's entry into force according to the joint press release. The Convention enables importing countries to decide which

potentially hazardous chemicals they want to receive and to exclude those they cannot manage safely. Most of the Parties to the Convention, so far, are developing countries. The Convention covers 22 hazardous pesticides, five additional pesticides added in the interim PIC procedure and five industrial chemicals. For further information on the Convention and the names of included chemicals see the PIC website at: <http://www.pic.int/index.html>.

Edwin L. Johnson
TSG, Washington, DC

▶ **UN Protocol on Persistent Organic Pollutants in Force**

The UN Economic Commission for Europe (ECE) announced that the Protocol to Control Persistent Organics entered into force on October 23, 2003. The Protocol, signed by 35 countries and the European Union at its adoption in Aarhus, Denmark in 1998, is the sixth protocol to take effect under the Convention on Long-range Transboundary Air Pollution of the UN ECE. While the production and use of some products are banned outright, others are scheduled for elimination at a later stage, while a few are subject to severe restriction. Information about the treat is posted at <http://www.unece.org>. The entry into force of this Protocol and the Rotterdam Convention (see separate article) has reportedly spurred renewed calls for the U.S. Congress to take actions that would allow the United States to ratify the treaties.

Edwin L. Johnson
TSG, Washington, DC

▶ **Report on Use of Genetically Modified Crops**

The Nuffield Council on Bioethics located in London, England released on December 28, 2003 a report entitled "The Use of Genetically Modified Crops in Developing Countries". In releasing the report the Council noted that "...There is an ethical obligation to explore the benefits that genetically modified (GM) crops could offer people in developing countries..." It went on to say "It is essential to focus on the specific situation in a particular country, and to compare all possible options. This comparison should include not only other approaches in agricultural research and practice, but also the potential cost of doing nothing." The report also emphasized the impact of European regulations on GM crops, concluding that the freedom of choice of farmers in developing countries is being severely challenged by EU agricultural policy. Many developing countries do not have the necessary infrastructure to meet strict EU requirements for labeling and traceability of GM crops. The report is posted at: <http://www.nuffieldbioethics.org/gmcrops>.

Edwin L. Johnson
TSG, Washington, DC

▶ **Two-year Delay Predicted for Validation of Preliminary Endocrine Tests**

According to BNA Chemical Regulation Reporter (12/15/2003), a senior EPA official said it may take two years longer than anticipated to complete validation of a battery of quick, preliminary tests designed to determine whether a chemical may mimic, alter or interfere with normal hormonal activity. According to a consultant, chemical and pesticide manufacturers could pay between \$80,225 and \$103,480 to test a single compound in the preliminary tests EPA is developing.

Edwin L. Johnson
TSG, Washington, DC

▶ EPA Encourages Electronic Submission of New Active Ingredient Applications

EPA has announced that it wants applicants for registration of new active ingredients to consider filing electronic applications using the OECD format. The Agency believes there will be efficiencies in the review process from electronic submissions, especially for large studies. EPA has participated with other OECD countries to standardize data requirements and study formats to facilitate assembling submissions by applicants and for reviewing application by regulators. Guidance on preparation of electronic submissions and formatting under the OECD framework can be found on EPA's website.

Robert R. Stewart, PhD
TSG, Washington, DC

▶ New Reports on Biotech Food

The Food and Agriculture Organization (FAO) of the United Nations (UN) has recently issued new reports on bioengineered foods, as follows:

1. The UN FAO has issued six working papers from a joint FAO/World Health Organization Expert Consultation on the "Safety Assessment of Foods Derived from Genetically Modified Animals, Including Fish," held on November 17-21, 2003 in Rome, Italy. Details are posted at http://www.fao.org/es/ESN/food/risk_biotech_animal_en.stm. Questions may be directed to food-quality@fao.org.
2. On December 14, 2003, the UN FAO announced the availability of a publication, "Genetically Modified Organisms and Aquaculture," by J.A. Beardmore and J.S. Porte. The document reviews the nature of genetically modified organisms (GMOs), the range of aquatic species in which GMOs have been produced, the methods and target genes employed, the benefits to aquaculture, the problems attached to use of GMOs, and the regulatory and other social frameworks surrounding them and concludes with a set of recommendations aimed at best practice. A copy is posted at <ftp://ftp.fao.org/docrep/fao/006/y4955e/Y4955E00.pdf>. Questions may be directed to Devin.Bartley@FAO.org.

Edwin L. Johnson
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[▶ Back to top](#)

SECTION III: International Developments

▶ Mexico Rejects Proposed Chemicals Tax

In economic legislation submitted to Mexico's Congress in November 2003, the administration of Mexican President Vicente Fox proposed new taxes on the "production, sale, import, use, transportation, storage, and possession" of illegal toxic substances at a rate of 3,000 pesos (about \$267) per kilogram, and of legal

toxic substances, including pesticides and (toxic) industrial chemicals, at a rate of 15 percent (15%) of market value. Prohibited toxic substances covered by the tax proposal included "persistent, bioaccumulative, and toxic" (PBT) chemicals listed in the Stockholm Convention on Persistent Organic Pollutants, such as aldrin, dieldrin, endrin, mirex, DDT, clordane, hexachlorobenzene, toxaphene, and heptachlor. Revenues from the proposed tax would have funded research on PBT chemicals by Mexico's Agriculture and Environment Ministries. Because the tax proposal would have taxed activities with chemicals that are prohibited in Mexico, including but not limited to importing and using illegal chemicals, the proposal also would have implicitly supported such illegal activities. For this reason, the Finance Committee in Mexico's Chamber of Deputies (lower house) rejected the proposed chemicals tax legislation. Other "green" taxes designed to improve the environment in Mexico, such as taxes on gasoline, remain a possibility in the future.

Michael Boucher
Washington, DC

▶ **Voluntary Labeling of Biotech Foods in Canada**

Canadians may start seeing "biotech-free" labels on food products as early as April of 2004. The Canadian General Standards Board (CGSB), a standards-development certification and registration organization, has developed a voluntary standard covering the labeling of foods obtained through biotechnology. The standard also applies to foods that have not been genetically modified - both voluntary positive statements on food labels indicating that a product or its ingredients were obtained through biotechnology, and voluntary negative statements indicating that a product or its ingredients were not obtained through biotechnology, are included in the standard. The proposed labeling standard is currently under review by the Standards Council of Canada. It will go into effect once it is approved and published as a National Standard of Canada.

Sarah Lukie
Washington, DC

▶ **Mexico Encourages New Hazardous Waste Containment Facilities**

There is one hazardous waste containment facility presently operating in Mexico, and no new sites or facilities have been authorized in the last 15 years. Mexico's Environment Ministry (SEMARNAT) projects that Mexico will need an additional seven (7) new waste containment sites in the country within the next three years, to satisfy unmet needs. Accordingly, starting in 2004, SEMARNAT will be making a concerted effort to authorize additional hazardous waste containment sites in Mexico. To date, political resistance to locating hazardous waste containment sites near any populated areas has been very strong. Mexico has a significant hazardous waste problem arising out of a wide variety of current and former industrial activities. According to SEMARNAT, the shortage of hazardous waste containment facilities in Mexico is putting the health and safety of Mexican citizens at significant, ongoing risk. The alternative to domestic containment is export, which is prohibitively expensive for many Mexican companies. Thus, the lack of affordable, local containment centers also significantly increases the likelihood of illegal disposal of hazardous wastes within Mexico.

Michael Boucher
Washington, DC

▶ Ontario Court Upholds Toronto Ban on Lawn and Garden Pesticides

On December 8, 2003, an Ontario court upheld a by-law of the city of Toronto that bans the use of lawn and garden pesticides within the city limits. Toronto based its ban on the so-called precautionary principle, which presumes a danger from lawn and garden pesticides without a formal determination of actual or likely risk from their use. In 2001, the Supreme Court of Canada upheld a similar local ordinance in Hudson, Quebec banning lawn and garden pesticides, and the Ontario court's ruling follows the reasoning of the Supreme Court's earlier decision. In short, the Ontario court ruled that Toronto was not prohibited from enacting its by-law by the province's Municipal Act or by any other provincial legislation, and that the by-law did not conflict with the federal pesticides statute (the *Pest Control Products Act*), which governs the manufacture, licensing, packaging, and use of pesticides at the national level in Canada. CropLife Canada brought the action challenging Toronto's by-law and is expected to appeal the Ontario court's decision.

Michael Boucher
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[▶ Back to top](#)

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