
Cari Shiffman
set of guidelines for chemicals testing, an agreement on good laboratory practices, and an agreement on mutual acceptance of data that allows all nations to adopt these agreements.

This issue of Sustainable Development Law & Policy examines efforts to promote sound chemicals management at the domestic and global scale. Contributors to this issue discuss the next steps for chemicals regulation within the United States. Articles encourage assessing and tackling the new risk posed by nanotechnology. The establishment and implications of the Strategic Approach to International Chemicals Management is analyzed, and the status of the Basel Convention is explored. Chemical regulation in the European Union is examined, along with a proposal for an independent entity to manage global chemicals agreements and protocols.

As a whole, these articles address the broad range of issues and possible solutions in chemicals management. The concerns, ideas, and possible solutions identified in this issue highlight the obstacles that many individuals in the global community feel are of the utmost importance to protect environmental public health. In the end, it is important to remember that chemicals policies should be action-oriented and employ approaches that are sufficiently protective to provide assurances that we are acting cautiously to protect our children, future generations, and the environment.

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**THE UNCERTAIN FUTURE OF MTBE PRODUCTION:**
**EFFECTS OF THE U.S. ENERGY POLICY ACT OF 2005**

by Cari Shiffman*

Fuel industry analysts project that the production of methyl tertiary butyl ether (“MTBE”), an oxygenated fuel additive used to help reduce air pollution from automobiles, will decrease in the United States over the next two years, due in part to the government’s support of ethanol over MTBE in last year’s U.S. Energy Policy Act (“Energy Act”) and domestic concerns over groundwater contamination. In recent years, controversy has surrounded MTBE due to assertions that the additive contaminates groundwater when leaked from underground storage tanks. The U.S. Environmental Protection Agency and the World Health Organization labeled it as a possible carcinogen when consumed in high doses. Additionally, 26 states banned MTBE usage because of water contamination concerns.

The future of MTBE production in the United States is even more uncertain due to the exclusion of limited liability protection for MTBE producers in last year’s Energy Act. The House of Representatives (“House”) proposed to give limited liability protection to MTBE manufacturers in product defect suits filed after September 5, 2003, in exchange for MTBE producers’ contributions toward a trust fund for cleaning sites contaminated by MTBE. Domestic cleanup costs range from $2 billion to $25 billion. Following debates between the House and the Senate over limited liability protection for MTBE producers in the Energy Act, Congress redacted the limited liability provision from the Act. Additionally, Congress substituted the Clean Air Act’s oxygenated gasoline requirement with a renewable fuels plan that supports the gasoline additive ethanol over MTBE.

Valero, the second largest U.S. producer of MTBE, announced that it will stop MTBE production due to the elimination of limited liability protection in the Energy Act. If other producers follow suit, then the U.S. gas supply may face supply disruptions, resulting in a rise in gas prices. Domestic MTBE production is expected to further decline as ethanol is increasingly substituted for MTBE.

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**ENDNOTES:**

1. MTBE, CHEMICAL WK., Nov. 9, 2005, at 59.
3. MTBE, supra note 1.
6. MTBE, supra note 1.
9. ENSR International, a group supported by MTBE lobbyists, estimate cleanup costs to be only $2 billion, while the American Water Works Associations estimates cleanup costs to be closer to USD twenty-five billion. See Energy Bill, supra note 8, at 2381.
10. Sissell, supra note 7.
11. MTBE, supra note 1; Peck Hwee Sim, Valero to Quit MTBE Production, CHEMICAL WK., Aug. 10, 2005, at 12.
12. Sim, supra note 11.
14. MTBE, supra note 1.

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