

Thursday, June 18, 2009

Base chemical rules on science, not fear

Howard Mains, *Financial Post*

When Prime Minister Stephen Harper launched the Chemicals Management Plan (CMP) in December, 2006, its objectives were, and remain, clear, noble and right. Canada would lead the world “in assessing and regulating chemicals that are used in thousands of industrial and consumer products.”

Environment Canada, with Health Canada, is leading this process guided by the legislative framework of the Canadian Environmental Protection Act (CEPA).

Based on my experience, industry fully supports the responsibility of Canadian governments to establish effective regulations to protect the health and safety of Canadians and our environment. This support is based on the premise that regulations will be rooted in sound science.

However, after two-and-a-half years, the evidence-based decision making that should be driving CMP decisions is not being applied consistently. Moreover, the integrity of the CMP process — both for domestic stakeholders and our global partners — is at risk due to poor communications from government, provincial regulatory creep and an over-reliance on computer modelling as opposed to tried-and-true field science. Computer modelling has a role, but it was not designed to be a substitute for actual environmental measurements, nor was it intended to be used for regulatory purposes in isolation of field data.

To be fair, communicating the findings of science and the concept of an “acceptable risk to human health” is challenging for government. Sadly, some governments have used this

complex policy area for short-term political gain at the expense of companies that consistently strive to provide Canadians with safe and beneficial products.

The experience around Bisphenol A during the past 18 months provides instructive lessons from which we can all learn.

To start, it is axiomatic that a few activists and crusading writers (masquerading as journalists) drove this file. But government must always legislate and regulate for the broadest public interest, not the narrowest special interest.

Second, ongoing selective and, at times, inaccurate media coverage of Health Canada research studies on Bisphenol A only serves to undermine public trust in the government's ability to protect human health. Health Canada must engage more proactively with the media and better explain the implications of its research.

The handling of this file was noticed by France's Minister of Health who stated, in response to a question on the Bisphenol A ban in Canadian baby bottles, that "Canadian authorities banned Bisphenol A under public pressure and without any serious scientific study. The precautionary principle is a principle of reason, and under no circumstances a principle of emotion."

As for provincial regulatory creep, Ontario has emerged as the leader in decision-based evidence making; a.k.a., politics first, sound science, maybe. Its Toxics Use Reduction legislation (announced on April 7) and the ban on the use of pesticides for "cosmetic purposes" (in effect on April 22) are two cases in point.

Ontario thumbed its nose at existing federal regulatory roles supported by hundreds of scientists that consider the widest body of relevant scientific evidence. It's ironic that the 525 public servants employed at Health Canada's Pest Management Regulatory Agency — with a statutory mandate to protect human health — actually work right in Dalton McGuinty's riding.

Federal-provincial co-operation, not competition, must be the norm. Failure to align these competing processes will render the CMP inert and diminish Canada's global reputation when it comes to environmental decisions.

As for the actual management of the CMP, the conduct of federal officials is governed by guidelines, policies and legislation as well as directives from Cabinet and Treasury Board. The overriding theme throughout all this guidance is the role of science and the weight-of-evidence approach to decision making.

For example, the Cabinet Directive on Streamlining Regulation, and similar documents, note that the federal government will “make decisions based on evidence and the best available knowledge and science in Canada and worldwide, while recognizing that the application of precaution may be necessary when there is an absence of full scientific certainty and a risk of serious or irreversible harm.”

Environment Canada has consistently told industry and other stakeholders that the department prefers to base its decisions on experimental and field data over computer-modelled data, when experimental data is available. And, in presentations by the department to stakeholders, they have stated that risk assessments and decisions may be informed by emerging science.

Yet in some cases, the government is poised to designate compounds as “toxic” under CEPA when emerging science is still not complete. Meanwhile, other jurisdictions, such as the European Union under its reach program, are waiting on the science before making any determinations, so as to avoid any undue public angst or irreparable economic harm.

Canada must wait as well. In fact, Environment Canada’s own science plan dictates this course of action.

“Environment Canada must produce the highest-quality, leading-edge and unbiased environmental science relevant to support sound policies, effective regulations and informed decision making Above all, we must demonstrate transparency and openness in how we conduct our scientific activities, adhering to scientific principles and continuing to use proven quality assurance methods such as international standards, peer review and expert advice.”

Canada has a well-earned international reputation due to our history of grounding decisions in the best scientific processes and evidence. However, poor communications, federal-provincial one-upmanship and rushed decisions to meet arbitrary timelines now

place this reputation in serious jeopardy, with the integrity of the CMP hanging in the balance.

hmains@tactix.ca - Howard Mains, is Co-President of Tactix Government Consulting Inc.

© 2009 The National Post Company. All rights reserved. Unauthorized distribution, transmission or republication strictly prohibited.