

STATEMENT OF  
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PESTICIDES AND TOXIC SUBSTANCES  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE  
U.S. HOUSE OF REPRESENTATIVES  
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Good morning, Mr. Chairman and members of the Subcommittee. I am here today to discuss the Environmental Protection Agency's (EPA) implementation of section 6(e) of the Toxic Substances Control Act (TSCA). That section empowers EPA to regulate the manufacture, processing, distribution in commerce and unenclosed use of polychlorinated biphenyls (PCBs). In this context, my role as Assistant Administrator for Pesticides and Toxic Substances is to insure that the necessary regulations are promulgated and implemented to accomplish the requirements set forth in section 6(e). I am accompanied this morning by Richard Wilson, Deputy Assistant Administrator for General Enforcement. At the conclusion of my statement, Dick and I will attempt to answer any questions you may have. I want first to discuss our rulemaking activities and then to give you a brief summary of current developments regarding amendments to the rule related to disposal practices.

The Toxic Substances Control Act provides broad authority to control chemical substances and mixtures posing an unreasonable risk to human health and the environment. Of the more

than 50,000 chemical substances in commerce, Congress singled out PCBs alone for specific regulatory attention. Section 6(e) of the law directs the Administrator of EPA to establish regulations to control PCBs.

In 1976, when Congress enacted TSCA, there was general recognition and concern that PCBs pose a number of serious threats to human health and the environment. More specifically, PCBs, which were manufactured between 1929 and 1977 for various applications and processes, are known to cause or contribute to birth defects, miscarriages and stillbirths, as well as skin lesions, pigmentation of skin and nails, and eye malfunctions. Their chemical stability makes them extremely persistent, and consequently they are found throughout the environment. In a 1976 report by Versar, Inc., it was estimated that somewhere between 200 and 400 million pounds of PCB already had been released into the environment, and that there was little that could be done to control or eliminate them. Section 6(e) of TSCA was designed to stem this tide by controlling the further introduction of PCBs into the environment.

The first portion of section 6(e) directs EPA to issue final disposal and marking requirements by July 1, 1977. The second part of section 6(e) establishes a timeframe for banning the further manufacture, processing, distribution in commerce, and certain uses of PCBs. At the same time, this section allows certain activities to continue: those specifically authorized; those uses conducted in a "totally enclosed manner";

and those activities determined by EPA to be exempt from the ban. The Administrator may grant such exemptions for activities that "will not present an unreasonable risk of injury to health or the environment." It is important to note that no part of section 6(e) prohibits or requires exemption for the use of PCBs when they are used in a manner characterized as "totally enclosed." The statute defines totally enclosed manner as "any manner that will ensure that any exposure of human beings or the environment to PCBs will be insignificant". In EPA's May 31, 1979 ban rule insignificant human exposure was interpreted to mean "not measurable or detectable by any scientifically acceptable analytical method."

To implement the first requirements of section 6(e), EPA first proposed disposal and marking regulations in May of 1977. These rules, which became effective in April of 1978, originally applied to mixtures containing 500 parts per million (ppm) or greater PCB. Later, as more technical and economic information became available, this level was lowered to cover mixtures with 50 or higher ppm PCBs.

Subsequently, EPA promulgated rules to implement the second and third portions of section 6(e). On June 7, 1978, we published a proposed rule to prohibit the manufacturing, processing, distribution in commerce and unenclosed use of PCBs. This ban rule was published on May 31, 1979. In it, the regulated PCB concentration was lowered from 500 ppm to 50 ppm PCB and the marking and disposal regulations were amended to reflect these same levels.

We believe that the significance of this new level should not be overlooked, in that it permits EPA to regulate the disposal of hundreds of millions of pounds of electrical, hydraulic and other fluids that otherwise would not have been controlled. After careful analysis, EPA concluded that the new limit of 50 ppm was set as low as possible without encountering the background levels of PCBs that already exist. For example, human fat tissue may contain 2 to 3 ppm PCB while the sediments of many lakes and waterways may contain 10 to 30 ppm PCB. Thus, regulation at 50 ppm PCB and above would remain feasible and enforceable in terms of "real world considerations." In addition, we wanted to avoid overlap with our other statutory authorities which may also be used to regulate concentration of PCBs below 50 ppm.

One important exception to the 50 ppm cut off is a prohibition against the use of waste oil containing any detectable level of PCBs as a sealant, coating, or dust control agent. Our purpose in prohibiting this use was to prevent the possibility of direct entry of PCBs into the environment from activities such as road oiling.

In the final ban rule, EPA concluded that intact, non-leaking electrical transformers (except railroad transformers), capacitors, and electromagnets constitute totally enclosed uses of PCBs. EPA also authorized other uses and activities that do not present an unreasonable risk to human health or the environment, subject to specific terms and conditions. These activities are: (1) routine servicing of transformers (until July 1, 1984); (2) use and servicing of railroad transformers (until July 1, 1984); and (3) use in mining equipment (until January 1, 1982); (4) and (5) use in heat transfer

and hydraulic systems (until July 1, 1984, but heat transfer systems with greater than 50 ppm PCB may not be used in the manufacture or processing of any food, drug or cosmetic after November 1, 1979; this date was not extended); (6) use of carbonless copy paper; (7) use of certain PCB contaminated pigments (until January 1, 1982); (8) servicing of electromagnets (until July 1, 1984); (9) use of natural gas pipeline compressors (until May 1, 1980; this date will not be extended); (10) processing, distribution in commerce, and use of small quantities of PCB solely for research and development purposes (until July 1, 1984); and (11) processing, distribution in commerce, and use of PCBs as microscopy mounting media (until July 1, 1984). These authorizations were made only after carefully balancing the relative risks that may be associated with the continued use of PCBs with the adverse social, economic and other consequences that an immediate ban on these uses of PCBs would have.

- EPA is well aware and very concerned about the quantity of PCBs remaining in use. However, the overwhelming majority of these are in transformers and capacitors that remain in service. And as previously noted, the Agency has determined that intact, non-leaking transformers and capacitors constitute totally enclosed systems and therefore do not present an unreasonable risk to human health or the environment. Hundreds of millions of pounds of PCBs remain in safe use today in non-leaking transformers and capacitors as a result of this determination. Our regulations, of course, do not permit continued use of any unit that has developed a leak. Failure to repair such a unit or to remove it from service and either store

it or dispose of it in an appropriate manner can result in a substantial fine. To require the removal of all "in-service" PCBs from the environment, however, would be extremely disruptive to our telecommunications, energy, electrical, and other vital systems. We estimate it would cost the electric utility industry alone--and ultimately the consumer--some five billion dollars. Furthermore, we believe that such a requirement is unnecessary in order to protect public health and the environment from the hazards of PCBs. We believe PCBs are being adequately controlled under the provisions of EPA's regulations.

I would like to turn now to a discussion of the PCB incident at Pierce Packing Company in Billings, Montana. As you know, PCBs leaked from an unlabelled, improperly stored transformer into the company's sewer, resulting in significant and widespread contamination of poultry, pork and egg products. EPA has been concerned and involved in this matter for many months and has been cooperating with the U.S. Department of Agriculture (USDA) and the U.S. Food and Drug Administration (FDA) to investigate the use of PCBs in food and feed handling establishments. We are anxious to insure against the possibility of the recurrence of such an incident. As a first step, we have published a brochure to alert food and feed facilities of the problems and dangers associated with PCBs. With your permission, Mr. Chairman, I would like to submit a copy of this brochure for the record. Incidentally, we have published 200,000 copies of this booklet and they are now being distributed by the three agencies and by the various trade associations.

The three Agencies (EPA, FDA, USDA) are currently analyzing economic information while simultaneously working on draft regulations designed to insure that food and feed establishments conduct their operations in such a way as to avoid PCB contamination of their products in the future. I will keep the Subcommittee informed of our progress in this matter.

I would like to turn now to a discussion of current issues involving disposal of PCBs. As I have pointed out, PCBs are among the most stable chemicals known and must be incinerated at high temperatures to insure destruction. At the time the regulation was developed and written, incineration was the only method demonstrated to be truly effective in totally destroying PCBs. We are aware of new chemical processes being developed that may also result in the destruction of PCB. But because these new processes are still in the developmental stage, incineration remains the most effective, efficient, and safe method of PCB disposal available today.

The PCB ban rule prescribes that all PCB liquids at a concentration of greater than 500 ppm must be incinerated. Further, the rule specifies technical criteria that incinerators must meet before they can be approved for handling PCB wastes. At the time the regulations were published, EPA believed that the private sector would promptly respond to the market demand for incineration facilities created by EPA's regulations. Unfortunately, this response has been much slower than anticipated.

Moreover, there have been many logistical, institutional, and practical problems associated with the establishment of incineration facilities. EPA's efforts to approve incinerators for general use in El Dorado, Arkansas; Deer Park, Texas; and Bridgeport, New Jersey, illustrate these difficulties.

The problems associated with the establishment of incineration facilities may be briefly summarized as follows:

1. Minimal response from the private sector to create incineration facilities;
2. Strong public resistance to test burns and/or the location of incineration facilities.  
(This resistance has taken the form of written petitions, pickets, and various local ordinances prohibiting the burning of PCB waste. In addition, in response to public opposition to PCB incineration in New Jersey, EPA Region II has volunteered to perform a full environmental assessment before granting permission for a trial test burn to totally reassure the community that the incineration facility at Bridgeport, New Jersey is safe for PCB disposal.); and
3. Technical problems associated with equipping an incinerator facility.

I assure this Subcommittee that EPA fully understands and sympathizes with the reasons why members of the public are reluctant to have PCB incinerators located in or near their

communities. In large part, I believe that much of this resistance stems from the public's suspicion about the safety of the technology involved in these facilities. Therefore, one of the great challenges before EPA today is to convince people that (1) safe technology does in fact exist, and (2) that the Agency would not approve any facility unless it was absolutely convinced that it would pose no hazard to those living nearby.

Certainly, the fact that no incinerators for general use have been approved is a drawback to our program for controlling PCBs, and it is a problem that we are working to overcome. I would like to note, however, here that two "on-site" incinerators have been approved by EPA. One is located at a General Electric facility in Waterford, New York and the other is located at a Tennessee Eastman facility in Kingsport, Tennessee. While both are approved to burn site-generated PCB waste, they have demonstrated safe and efficient PCB destruction capability in trial test burns.

We have recently proposed an amendment to the PCB ban rule which would allow the continued disposal of certain PCB capacitors in chemical waste landfills. One of the problems we have encountered is the buildup of PCB waste in the form of capacitors and transformers that have been removed from service and are being stored for subsequent incineration. The PCB regulations allowed disposal of certain PCB capacitors in EPA-approved chemical waste landfills. There are eight such approved landfills in the country, but the ban rule prohibited landfill disposal of these capacitors after

January 1, 1980. At the time the regulation was written, we expected that several incinerators would be approved by that date. As previously stated, this has not occurred. To ease the problems and potential hazards associated with the buildup of PCB waste, we have proposed an amendment to the rule that would allow the continued disposal of large PCB capacitors in carefully designed and controlled chemical waste landfills until such time as incinerators are approved and in operation. We believe that allowing this continued disposal is safer, in the interim, than a subsequent increase in the amount of PCB waste in storage.

The major problems of PCBs being disbursed throughout the environment are not those associated with the PCBs in service, but rather, with PCBs removed from service that either are improperly stored or disposed of illegally. Certainly, the fact that no incinerators are available makes compliance with the regulation difficult, but not impossible. PCB waste at concentrations greater than 500 ppm must be stored until incineration units are ready. EPA will do its part to approve these units as rapidly as possible.

Mr. Chairman, that concludes my prepared statement. Dick Wilson and I will be glad to entertain any questions you may have.