

vinyl chloride has been labeled incorrectly as a hazardous air pollutant because no evidence exists to demonstrate that ambient air doses of the chemical have resulted in human injury.

Connors said EPA should use cost-benefit analyses to set the standard rather than best available technology requirements. He said the cost for his firm to comply with the standard could amount to \$16 million, with more than half being spent to meet EPA requirements and the rest to meet Occupational Safety and Health Administration standards.

Barry Castleman, consultant for the Environmental Defense Fund, said that in the proposed standard EPA seems to have forgotten requirements of the Clean Air Act and instead seems to have listened to industry. He said evidence supports the need for more stringent vinyl chloride standards and even a zero-discharge standard for uses for which substitutes are available. For those uses that are socially acceptable and for which there are no substitutes, the proposed standards are satisfactory, he said.

Castleman questioned the definition of a "socially acceptable risk" saying risk increases with dosage. He said the definition does not take into account possible interaction of vinyl chloride with other substances in the body.

Castleman suggested holding hearings in areas where vinyl chloride emission sources exist to get the people who are exposed to it into the standard-setting process. He said requirements for installation of best available control technology would not be synonymous with establishment of a safety margin. He suggested a study of the situation one year after promulgation of the standard to see if any new technology or information has been developed.

Chemicals

EPA HIT FOR NOT USING AUTHORITY TO CONTROL PCBs WITH EXISTING LAWS

The Environmental Protection Agency came under fire during House Merchant Marine subcommittee hearings January 28-30 for purportedly not using its authority under existing laws to control the introduction of polychlorinated biphenyls (PCBs) into the environment.

Congressman Richard L. Ottinger (D-NY) said EPA was "miserably derelict" in use of its authority. He said Section 504 of the Federal Water Pollution Control Act, which gives the EPA administrator emergency powers, has been law for more than four years, but EPA "has never used it to force a polluter to stop discharging a dangerous chemical" into U.S. waterways. Nor has EPA suggested to Congress that Section 504 is unworkable, he said.

Ottinger said he would like to have resurrected a section of the 1899 Refuse Act that would allow citizen suits. "Only in that way can we have effective enforcement," he said. Ottinger said he saluted EPA's strong stand on proposed toxic substances legislation, but this does not excuse the EPA or other agencies from their "total failure to act under authorities available to them" to stop or control the introduction of toxic materials into waterways. He said attempts by EPA Administrator Russell E. Train to justify lack of action against PCBs on the grounds that the proposed legislation has not been passed "is misleading and deplorable," he said.

Train had testified on the first day of hearings that although EPA's authority to act and ability to develop some form of remedies have been improved, "we are fighting a

rear-guard action, all too often in a position only to cure and not to prevent."

Train said that no matter how EPA uses the Water Act, the problem will not be solved successfully. He said the PCB problem can be effectively dealt with only through authority EPA does not yet have.

Train also said it would be a mistake to legislate against PCBs alone, because "soon another chemical problem would arise. He said it would be better to deal with chemicals generically and use toxic substances legislation to fill gaps between EPA's pesticide authority and the authority of the Food and Drug Administration and the Occupational Safety and Health Administration.

Nathaniel Reed, assistant secretary of the Interior for fish and wildlife and parks, testified in support of a ban on all domestic and imported PCBs and recommended that PCB use in transformers and capacitors be reviewed in light of potential replacement products.

Train recommended against an immediate ban because it would be "tantamount to turning off all the electricity" in the U.S. He called for coordination among federal government agencies and with industry on PCB use and disposal.

Train said approximately one-tenth of 1 percent of current PCB discharge is from "direct identifiable points of discharge." He said guidelines could be developed for solid waste management in landfills and dumps, but they would be binding only on federal agencies and just guidelines for state and local governments.

Environmentalists' Position

J.G. Speth, of the Natural Resources Defense Council, said the Water Act contains "three tough provisions" to control hazards from toxic substances — Section 307(a) relating to industrial dischargers, Section 311 relating to spills and leaks, and Section 504, emergency powers provisions. "During the past three years EPA has failed to carry out these provisions," he said.

Speth said EPA never has had a "strong institutional commitment" to do something about toxic water pollutants. He said this reflects the "historic concerns of the sanitary engineering profession . . . which still dominate much of EPA's thinking." He also said EPA resources allocated to the toxic pollutant problem were "miniscule" compared with the need.

Speth blamed the Office of Management and Budget for keeping EPA in a "permanently underfunded state," and he scored the President's proposed fiscal 1977 budget for including "severe cuts" in EPA's water pollution program at a time when increased efforts should be directed to controlling toxic pollutants.

Joseph Highland, of the Environmental Defense Fund, agreed on the need for a new approach to toxic material control. He said there are many sections of existing laws that are not being used, adding that no action has yet been taken on PCBs under the Clean Air Act or the Drinking Water Act.

Robert Zener, EPA general counsel, countered these charges by saying that even if EPA's record had been perfect, the PCB problem would not be solved, because there are too many sources over which EPA does not have authority. He said EPA could regulate air and water discharges and still be doing an incomplete job. It is necessary to get to the producer, he said.

Zener said it is EPA's opinion that regulating point sources by the administrative or permit route is better than the judicial route of filing suits against each source. The permit route does have limitations, Zener said, but it is more expeditious and provides a better chance of solving problems.