Environmental Agency in Crossfire Over Enforcement of Toxic Curbs

By RICHARD REVERO
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WASHINGTON — Nearly three years ago, Congress passed legislation that was supposed to enable the Environmental Protection Agency to regulate chemicals regarded as hazardous to humans and the environment.

But in the intervening period, the agency has granted exemptions for more than 80 percent of the PCB's, or polychlorinated biphenyls, used by American industry — chemicals linked to cancer, stillbirths and other serious health problems in humans and animals.

Moreover, the agency has been unable to decide which of the more than 40,000 chemicals already in use should be given priority for tests to determine if they present health hazards.

This agency is being criticized both by environmentalists, who say it is moving too slowly in implementing the Toxic Substances Control Act, and by the chemical industry, which says it is moving too fast.

E.P.A. Answers Criticism

The agency rejects the industry complaint and has told environmentalists that the delays have arisen from the amount of work required to establish ways of regulating toxic chemicals on a scale never before attempted in this country. But that explanation has satisfied nobody.

The Environmental Defense Fund, for instance, is most concerned about the the agency's record on PCB's. These chemicals have been widely used by American industry since their introduction in 1930, especially in such electrical equipment as capacitors and transformers, in which function their resistance to high temperatures is useful. For many years, PCB wastes were discharged directly into the environment; industrial engineers mistakenly thought they were harmless.

Until 1978, when the toxic substances Act was passed, some 750 million pounds of PCB's were in service and environmentalists hoped the Government would shift swiftly to remove as much of the compound as possible.

Ban on New PCB's

The Government has succeeded in banning the making of new PCB's for commercial use. But environmentalists continue to warn of hazards from the large amounts made before the ban, which will leach into the environment in coming decades if discarded machinery containing the chemicals is left to rust in junkyards.

According to the E.P.A.'s own documents, 6.4 million pounds of the chemicals — seven-tenths of 1 percent of the total — have been prohibited. The remainder has been granted exemptions on the ground of the economic hardship that industry would suffer if they were forced to use a substitute for PCB's.

"All of these exemptions have made a shambles out of the intent of Congress in passing the Toxic Substances Control Act in the first place," said Jacqueline M. Warren, an attorney for the Environmental Defense Fund.

"It would seem that the chemical industry has taken a caveat in the original Statute — in which Congress cautioned the E.P.A. against unduly impeding innovation — and is treating it as though it were the primary purpose of the law," she added.

Dr. Etcyl H. Blair, vice president for health and environmental sciences for the Dow Chemical Company and a spokesman for the Manufacturing Chemist's Association, an industry group, testified at an E.P.A. hearing in March that the legislative history of the law "demonstrates that Congress's primary concern was to maintain a high level of innovation within the chemical industry."

The agency is finding it difficult to walk a line between environmentalists, in Congress and outside, and the industry.

"I am disappointed that we have not made more progress toward our objective of identifying and controlling hazards to human health and the environment," said Steven D. Jellinek, an assistant administrator of the agency whose specialty is toxic substance regulation.

But he made no apologies for the PCB exemptions, saying that if the Government were to seize all such chemicals now in use, the lack of a universally accepted disposal method would present major problems.

Higher Electricity Costs

He also said he that if power companies were forced to find a substitute for PCB's in transformers, a "significant impact on the cost of generating electricity" could result.

Mr. Jellinek conceded that there appeared to be nothing the Government could do about the 180 million pounds of PCB's that are now in small appliances, such as television sets. These have escaped Government regulation and will be discarded in junkyards as they have been in the past.

Also eluding Government control are the PCB's that are produced as by-products in the manufacture of other chemical compounds, such as pigments and silicone. The agency's position is that these PCB's occur in concentrations below the maximum set by law.

The Government is also being criticized for lack of vigorous action on other chemical compounds.

Suit by Environmental Group

In New York, the Natural Resources Defense Council has filed a lawsuit in Federal District Court alleging that the E.P.A. has lagged in trying to decide which chemicals already in use should be placed on a high-priority list for testing as suspected cancer-causing agents.

In addition, a special committee of representatives of eight Government agencies has recommended that such priority be given to chemicals in 10 categories, including chlorinated naphthalenes, chlorinated benzenes, toluene and nitrobenzene. The E.P.A. has taken no action on their recommendations.

Warren Muir, a deputy assistant administrator at the agency, said that the committee's complaints will be moot within a year, after the E.P.A. has finished planning its approach to enforcement of the toxic substances law.

"We cannot accept that," said Ross Sandler, an Attorney for the Natural Resources Defense Council. "The E.P.A. lobbied for five years to get the Toxic Substances Control Act and now, three years after the passage of the act, they are saying they don't know what to do.

"We want an independent judiciary to set deadlines so that what Congress wanted finally gets done," he said. "Only then will the debris be cleared away."

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