

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES

Public Hearing to Review and Receive	)	
Public Comment Upon Proposed Adminis-	)	
trative Rules Relating to the Discharge	)	BRIEF ON BEHALF OF
of Polychlorinated Biphenyls (PCB's)	)	WISCONSIN PAPER COUNCIL
Into the Waters of the State	)	

INTRODUCTION.

This Brief is submitted on behalf of the Wisconsin Paper Council, the trade association for the pulp and paper industry within Wisconsin, for purposes of emphasizing certain testimony given at the hearings on August 28 and 29, 1975 held by the Department of Natural Resources relating to proposed rules on the discharge of polychlorinated biphenyls into Wisconsin waters. One proposed rule would ban all discharges entirely; the alternative proposed rule would limit discharges to 5 ppb above ambient water quality. For reasons specified during the hearings, and for reasons specified herein, both proposed rules--as they relate to the pulp and paper recycling industry--are unacceptable and would result in tremendous economic impact to the recycling industry while, at the same time, not accomplishing the goal of a total overall reduction of polychlorinated biphenyls in the environment.

PAPER RECYCLING INDUSTRY DOES NOT USE
POLYCHLORINATED BIPHENYLS.

Wastepaper recyclers do not manufacture PCBs nor do they use them in their manufacturing process (Bach, t. 41; Reinbacher, t. 43; Wand, t. 44; Dryer, t. 47; Schenck, t. 66). Of 49 pulp and paper mills within Wisconsin, 19 recycle

fibers to some extent (Bach, t. 39) with Bergstrom Paper Company being in the recycling business since 1904 (Wand, t. 44) and Consolidated Papers, Inc. since 1917 (Collett, t. 65).

PAPER RECYCLING IS NECESSARY.

The Governor's Recycling Task Force reported in February, 1972 that, in just 14 of Wisconsin's 72 counties, we are producing 202 tons of waste newsprint per day, 101 tons of waste magazines per day, 101 tons of waste corrugated paper per day and over 1,000 tons of mixed paper and other types of corrugated paper per day (Bach, t. 40). Wisconsin is the leading paper producing state in the country with one-fifth of its annual paper production deriving from recycled, post-consumer waste. Some of the products made from recycled paper and distributed within Wisconsin and throughout the world include paperboard, corrugated boxes, cones, folding cartons, industrial wrappers, solid fiber boxes, napkins, tray covers, roll stock, toweling, tissues, test liner, container chip board and a wide range of fine writing, printing, business and office paper (Bach, t. 39). Governor Lucey has encouraged the recycling of our natural resources and the Recycling Task Force appointed by him specifically called for "expanding the base of paper manufacture by using essentially recycled fibers" (Bach, t. 40). With the obvious intent to encourage the use and increased production of paper products made from recycled paper, even the Wisconsin Department of Natural Resources uses stationery that is made 100% from recycled paper (Bach, t. 42). During World War II, the United States was recycling approximately 40% of its wastepaper, whereas only about 22% is being recycled today (Bach, t. 39; Wand, t. 44).

Nationwide, recycled fibers also make up one-fifth of our total raw materials' need for paper fiber and represent the conservation of 200 million trees each year that can either be left in place or used for other purposes (Ness, t. 17).

THERE IS CONFUSION AS TO WHAT CONSTITUTE PCBs.

"Polychlorinated biphenyls" is really a term used to describe between 200 and 250 different chemicals (Papageorge, t. 26; Aspin, t. 38). Many of these chemicals have different properties--both chemical and physical (Papageorge, t. 26).

ALL PCBs ARE NOT THE SAME.

Monsanto, the only American producer of PCBs, uses the trade name "Aroclor" to market its products. Aroclor 1242 (indicating that by weight 42% of the product is chlorine) was the only PCB used in the production of carbonless paper (Bach, t. 41). Such use was stopped in 1971 (Papageorge, t. 27); however, between the years 1958 and 1971, less than 10% of Monsanto's total PCB production was used in the manufacture of carbonless paper (Bach, t. 41). It is only Aroclor 1242 that is associated with the paper recycling industry because it was only through the recycling of National Cash Register carbonless paper that PCBs were introduced into pulp and paper mill facilities that recycle wastepaper.

THERE IS A DIFFERENCE BETWEEN AROCLORS.

Aroclor 1242 has significantly different structural constituent characteristics, whereby its stability and persistence are less and its degradability appears to be significantly higher than its comparatively more highly chlorinated Aroclor

relatives (Bach, t. 41). At least 1500 reports in scientific literature have been written relating to PCBs and, whereas most of these deal with only the question of reporting the presence of PCBs in the environment, invariably these reports describe and relate to Aroclors 1254 and 1260--the more highly chlorinated PCBs produced by Monsanto (Papageorge, t. 26). In fact, Papageorge testified that it was his opinion that "if we could just turn the clock back" and have produced only Aroclors 1221, 1232 and 1242 and no others, "we probably wouldn't be sitting in this room today" (Papageorge, t. 26). Kleinert testified that the principal Aroclors being found in Wisconsin fish are Aroclor 1254 (Mississippi River) and Aroclor 1248 (lower Green Bay) (Kleinert, t. 8). Predominantly it is Aroclor 1254 that is found in the environment (Papageorge, t. 28; Veith, t. 59). In terms of degradation and degradeability, there is a definite difference between Aroclors 1242 and 1254 (Papageorge, t. 30).

Kleinert also testified that it is the more highly chlorinated Aroclors that are commonly found in Wisconsin fish--Aroclors 1254 and 1248--although he is finding "a lot of" Aroclor 1242 in the ambient waters (Kleinert, t. 59). Veith, who testified on behalf of the Environmental Protection Agency on the issue of bioconcentration, testified that Aroclor 1242 bioaccumulates on the order of 8 times less than the more highly chlorinated Aroclors (Veith, t. 57, 58). Further, Mr. Early, who likewise testified on behalf of the Environmental Protection Agency on the subject of pollution abatement systems, provided excellent testimony on the deinking process in recycling mills as a result of which PCBs are removed from wastepaper

and become a part of the recycling system (Early, t. 62). Of particular importance, however, is his testimony that "although PCB discharges from the deinking mills mills now tend to be rather high, we can look forward to significant reductions in discharge concentrations as the program and projected treatment systems required by the NPDES program become effectively operational" (Early, t. 62). In response to a question by Kleinert, Early repeated his opinion that the removal of suspended solids will tend to effectively remove "a portion" of PCBs although he could not specify exactly how much (Early, t. 63). Between 1953 and 1972, Wisconsin paper mills reduced discharges of suspended solids from 92 pounds per ton of paper and paper products produced to 39 pounds per ton with the ultimate amounts declining even further in the future (Bach, t. 40). This is particularly remarkable since between 1953 and 1972 production increased from 2.8 million tons to 4 million tons annually (Ibid.). By 1980, the Wisconsin paper industry will have spent \$280 million for water pollution abatement equipment (Ibid.). If what Early testifies to is true, the continuation of the reduction in suspended solids and the increased investment in water pollution abatement facilities--to meet both 1977 and 1983 water effluent limitations--will lead by themselves to reduced discharges of Aroclor 1242 from recycling facilities.

In regard to the tests conducted by Dr. Allen (t. 24-26), it should be noted that the tests involved only Aroclors 1248 and 1254--the more persistent and less degradable products produced by Monsanto. Given the fact that Aroclors 1248 and 1254 are the predominant Aroclors being found in Wisconsin waters,

(Papageorge, t. 28; Veith, t. 59), and given the fact that they are the principal Aroclors being found in Wisconsin fish (Kleinert, t. 8), there seems little merit in overreacting to the studies of Dr. Allen by penalizing paper recycling facilities which do not discharge these Aroclors.

NEITHER PROPOSED RULE IS ACHIEVABLE.

Simply put, the promulgation of either alternative proposed rule would, for all practical purposes, mean the end of the wastepaper recycling industry in Wisconsin--all elements of it, including collectors, distributors and paper mills which use wastepaper as a significant portion of their raw material (Shade, t. 15; Ness, t. 18; Bach, t. 41; Reinbacher, t. 43; Wand, t. 44; Dryer, t. 47; Schenck, t. 66; Collett, t. 65). There is, in addition, no current practical method by which to separate out of the wastepaper mass that portion of paper that contains PCBs--particularly since PCBs have been recycled into other paper products other than carbonless paper (Reinbacher, t. 43; Wand, t. 45; Dryer, t. 47, 65; Lorman, t. 67). PCBs cannot be legislated out of the recycled paper system. The whole concept of recycling wastepaper is at stake in considering the promulgation of these regulations (Reinbacher, t. 43) particularly at a time when, as a national industry, the pulp and paper industry is expanding its paper making capacity at a much faster rate than it is expanding its ability to produce pulp (Dryer, t. 47).

It should further be noted that the same disastrous impact will be felt by the recently created Wisconsin Recycling Authority. Paper products constitute

40%, at a minimum, of the nation's solid wastes (Bach, t. 39). Is the recycling authority only to recycle glass, metal and other miscellaneous items constituting only about half of the solid waste generated in this state? In creating the Wisconsin Solid Waste Recycling Authority, the Legislature clearly indicated that it wanted to deviate from the current prevailing solid waste disposal practices of landfilling and burning. The promulgation of either of the proposed rules would not only be disastrous to the recycling element of the pulp and paper industry, but would also seriously undercut the economic basis of the Wisconsin Solid Waste Recycling Authority and lead to the harvesting of tens of millions of additional trees per year as well as the burning or landfilling of hundreds of thousands of tons of wastepaper products.

ARE BURNING AND LANDFILLING LEGITIMATE ALTERNATIVES?

Paper products containing PCBs must be burned at temperatures in excess of 2,000° F. and in extremely efficient incinerators in order for the PCBs not to be emitted into the atmosphere (Bach, t. 42). Facilities for the proper incineration of PCB containing materials are not available on a commercial basis (Papageorge, t. 29). Monsanto itself runs an incinerator to dispose of certain PCB wastes returned to it by its customers (Papageorge, t. 27). Likewise, there exists one additional facility in the state of New York capable of handling PCB contaminated combustibles (Papageorge, t. 32). Kleinert testified that "a major source of PCBs in atmospheric fallout is the incineration of papers and other material which contain PCBs" (Kleinert, t. 7). Landfilling wastepaper containing PCBs likewise

is unacceptable because those PCBs will still end up in the water table (Lorman, t. 67). Although the point is obvious, it should be repeated that the promulgation of either of the suggested rules would not result in the elimination of any PCBs from the environment (Shade, t. 16; Bach, t. 40-41)--the PCBs would simply be put into the air or buried in the land as a result of either of which they would remain in the environment.

ENVIRONMENTAL PROTECTION AGENCY TO TAKE ACTION.

Glenn Schweitzer testified at greath length about the studies conducted by the Environmental Protection Agency to date and those that are currently underway (Schweitzer, t. 50-55). He also testified as to water quality related standards that he feels the Environmental Protection Agency will attempt to promulgate in February, 1976 although he did not suggest any effluent limitations (Schweitzer, t. 55). He further testified that "it is important to clarify the portion of the PCB contamination problem which can be attributed to specific discharges and the practical feasibility of reducing the discharges" (Schweitzer, t. 53) thereby impliedly recognizing that there is a difference in terms of environmental acceptance of various forms of PCBs and that this should be taken into account when dealing with any proposed regulations. It would be unwise and foolhardy for the Department of Natural Resources, when the Environmental Protection Agency has studied this problem so thoroughly and is about to promulgate water quality standards and, perhaps, effluent limitations on discharges of PCBs, to attempt to proceed ahead on its own without the data base on which to base its actions. In fact, numerous witnesses

testified that PCB levels in the environment will progressively decline in the future (Kleinert, t. 7; Shade, t. 16; Ness, t. 18; Dryer, t. 47; Early, t. 62, 63; Schenck, t. 66, 67). This is particularly true with Aroclor 1242 as a result of the fact that its use in carbonless paper was ceased in 1971. In fact, the total production of all types of PCBs has been reduced by 50% and thus 40 million pounds of PCBs are not being produced each year that would otherwise be entering the environment of this country whether in a closed system or for some other use (Papageorge, t. 28).

Further, pursuant to Wis. Stat. 147. 021, the Department of Natural Resources has no authority to promulgate effluent limitations that exceed such regulations promulgated by the Environmental Protection Agency. In light of the significant and long-term research already conducted by the Environmental Protection Agency and the impending promulgation of regulations by it, any action by the Department of Natural Resources, particularly in light of the provisions of Wis. Stat. 147.021, are questionable.

CONCLUSIONS.

The testimony and evidence clearly demonstrate that only a small portion of total PCBs domestically produced (10%) were utilized for purposes of manufacturing carbonless paper and, as to those particular PCBs (Aroclor 1242), they are relatively less stable and persistent, are more degradable and are less susceptible to bioaccumulation in fish than are their related, more highly chlorinated Aroclors. This is not to say that the Wisconsin Paper Council does not recognize that there

is a potential problem with the introduction of PCBs into the environment. However, the paper industry has not created this problem, the paper industry does not use PCBs in its processes and the paper industry finds itself caught in the middle of this controversy merely because of its recycling efforts which would be halted by the adoption of either of the proposed alternative rules. The proposed regulations place a tremendous burden on the paper industry, requiring removal of PCBs to levels 1000 times smaller than the Food and Drug Administration's temporary tolerances as applied to food board. The Wisconsin Paper Council does strongly support strict controls on the manufacture, distribution and use of PCBs and favors a national ban on their importation into the United States. Indiscriminate discharges of Aroclors 1248 and 1254 should be controlled. Further, pre-existing levels of PCBs should be reduced on a national level as soon as it is technically possible to do so including the ability to safely dispose of existing stocks of carbonless paper in the archives of both government and business. It is not currently known what the background level of PCBs is in Wisconsin waters; nor what Aroclors constitute these background levels. It appears as if the fish being tested in Lake Michigan, Lake Superior and Lake Pepin are not showing signs of Aroclor 1242 intoxication even though Aroclor 1242 is found in some of those waters. In light of all of the above, the most appropriate current action that could be taken by the Department of Natural Resources would be to promulgate neither alternative proposed rule and to wait for the Environmental Protection Agency to promulgate its regulations.

Respectfully submitted to the Department of Natural Resources this _____
day of _____, 1975 on behalf of the Wisconsin Paper Council.

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APPENDIX

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Collett, Groff	General Manager, Paper Board Products, Consolidated Papers Inc. (Wisconsin Rapids).
Dryer, William	Director of Research and Development, Flambeau Paper Company (Park Falls).
Early, Francis	Physical Scientist, Process Control Branch, National Enforcement Investigation Center, Environmental Protection Agency.
Kleinert, Stanton	Chief, Surveillance Section, Bureau of Water Quality, Wisconsin Department of Natural Resources.
Lorman, Milton	President, Lorman Iron & Metal Company (Fort Atkinson).
Ness, Howard	National Association of Recycling Industries, Inc.
Papageorge, William	Manager, Product Acceptability, Monsanto Company.
Reinbacher, George	Director of Manufacturing, Absorbent Products Division, Brown Company (Eau Claire).
Schenck, Allen	Vice President, Menasha Corporation (Neenah).
Schweitzer, Glenn	Director, Office of Toxic Substances, Environmental Protection Agency.
Shade, Robert	President, Shade Information System, Inc. (Green Bay).
Veith, Gilman	Research Chemist, Environmental Protection Agency (National Water Quality Laboratory, Duluth).
Wand, Richard	Administrative Vice President, Bergstrom Paper Company (Neenah).