

SECTION C - FLOOR BRIEFS
TOXIC SUBSTANCES CONTROL ACT OF 1976

HR 14032 H.Rpt. 94-1341

Floor Action: Scheduled for this Tuesday, August 10. Open rule with one hour of debate. *now 2 3rd*

Floor Managers: Reps. Murphy (D-N.Y.), Eckhardt (D-Tex.), and Broyhill (R-N.C.). Majority staff: Janie Kinney, x57790, and Martha Patterson, x54901. Minority staff: Nancy Nord, x52963.

Bill Summary: This bill would give the Environmental Protection Agency new authority to require chemical companies to provide pre-market notification of new chemicals and new uses of existing chemicals, to require the industry to test these chemicals for their effects on health and environment, and to control substances posing unreasonable risks.

HR 14032 is a compromise that has the support of key opponents of past toxic substances bills, including key Commerce Committee Republicans and the Manufacturing Chemists Association, the major industry trade group. The Administration, however, has come out against the compromise.

Environmental, labor, citizen, and health groups generally support the bill and will be backing a Dingell-Gude amendment to phase out polychlorinated biphenyls (PCBs).

EXPECTED FLOOR AMENDMENTS

Dingell-Gude: Reps. Dingell (D-Mich.) and Gude (R-Md.) will offer an amendment to phase out PCBs over the next two and a half years. The amendment includes exemptions for human health and safety reasons. Dingell contact: Libby Davis, x54071. Gude contacts: Bill Chandler and Ron Antipa, x54244.

Specifically, the amendment would:

- Call for EPA within six months to begin prescribing PCB disposal methods, as well as label warnings and instructions on processing, distribution, use and disposal.
- Provide a ban within one year on the manufacture, processing, and distribution of PCBs for "non-enclosed uses," such as in paints, soaps, and copying ink toners. EPA could grant exemptions where there is no unreasonable risk to health or environment.

- Prohibit within two years the manufacture of PCBs for "enclosed uses," such as in electrical capacitors and transformers, which account for most PCB usage. Exemptions could be granted to producers or users making good faith efforts to develop substitutes and when the use of PCBs is necessary for public health and safety. An example of such a necessary use would be for electrical equipment used in deep mines, where PCBs' flame-retardant properties may be essential to prevent explosions.

- Prohibit the processing and distribution of PCBs within two and a half years for these enclosed uses. The same exemption would apply here as above.

- Subject all imported PCBs to the same restrictions.

The Dingell-Gude amendment has wide support, including the Sierra Club, the leading environmental group on the issue, Congress Watch, the American Lung Association, and the United Steelworkers.

Arguments Pro: The bill has no mandatory implementation schedule which, in view of probable budget problems and political pressures, will lead to years of delay, according to Dingell and Gude. This weakness is particularly acute in the case of PCBs, they say.

This family of chemicals has been extensively studied and its detrimental effects to human health and the environment are well known and undisputed, they say. The human health effects associated with PCBs include cancer, reproductive problems, and chronic disorders. Among the adverse environmental and resulting economic effects of PCBs is contamination of fish, which in the Great Lakes alone, has threatened to shut down commercial fishing - a \$95 million industry - and the area's \$350 million sportfishing industry.

Despite existing laws to regulate hazardous substances and the decision of Monsanto Company, the only domestic manufacturer, to restrict production to enclosed uses, at least 10 million pounds of PCBs are known to be entering the environment each year through leaks, vaporization, and spills, and unknown quantities through direct disposal into waterways and sewage treatment systems and from imported products containing PCBs, according to the amendment's sponsors.

In short, they say the threats are so severe and the prospect of control so uncertain that it is necessary to confront the problem directly.

A phase-out also is feasible and can be accomplished with minimal economic impacts, Dingell and Gude say. Monsanto has not only restricted production for enclosed uses only, but does not oppose the proposed phase-out, sponsors add. In addition, there are adequate substitutes that are being almost exclusively used in Japan, because of an almost complete PCB ban there, and are already being increasingly used in the U.S. The costs of these substitutes are reasonable.

If the phase-out poses any economic problems, according to sponsors, they can be handled by the amendment's exemption provisions.

The criticism leveled against the amendment for singling out one specific chemical ignores the fact that it is entirely proper for Congress to set priorities for action in any piece of legislation, according to Dingell and Gude. And in the case of PCBs, it is essential to set a priority.

Arguments Con: The bill's sponsors acknowledge the clear danger posed by PCBs, but will oppose the amendment on the grounds that singling out PCBs is unnecessary and unsound from a policy standpoint. They say the bill already provides adequate authority to deal quickly with such clearly dangerous chemicals and that EPA will certainly make PCBs one of its first priorities for action.

Ottinger: Rep. Ottinger (D-N.Y.) plans an amendment calling for EPA to give preference to non-animal tests in prescribing testing requirements. Ottinger contact: Bill Reinsch, x56506.

Ottinger contends that his proposal does not ban animal tests nor restrict EPA's authority in any way. It would simply call for EPA to give priority to non-animal tests when they are adequate and accurate. Ottinger, who feels that animals should not be unnecessarily used in laboratory tests, points out that there are now non-animal tests already being used that are cheaper, easier, and quicker, plus just as adequate and accurate as animal tests.

The bill's sponsors will oppose the amendment on the grounds that EPA should not be restricted in any way from prescribing animal tests. If animal tests yield the best data, then they should be used without restriction. Sponsors add that the proposed amendment seems to place animal health above human health.

Fuqua: Rep. Fuqua (D-Fla.) plans an amendment to amend the definition of exempt substances to include small quantities of chemicals sold for research purposes. Fuqua contact: Bill Rossi, x55235.

Argument Pro: Fuqua says his proposal would simply clarify the exemption provisions now in the bill for small quantities of research chemicals. This is aimed at making sure that the small companies who produce small amounts of research chemicals don't have to conduct expensive testing.

Arguments Con: The bill's sponsors are expected to oppose the amendment on the grounds that small amounts of research chemicals are already exempted from key requirements. The amendment would go even further and provide a blanket exemption, which would preclude any control even if these chemicals pose risks.

Florio: Rep. Florio (D-N.J.) plans an amendment to authorize \$3 million over 3 years in 75 percent federal grants to help states control toxic substances where EPA determines it cannot take needed action. Florio contact: Linda Katz, x51880.

Florio contends that this proposal would provide limited funding to help states when action is clearly needed, but when EPA can't help because of limited resources or other reasons.

The bill's sponsors had not taken a position on the amendment at press time.

Other Amendments: Sponsors of the bill expect a Congressional veto-power amendment and amendments to provide further exemptions for small businesses. They will strongly oppose these proposals.

Besides the constitutional problems, the legal questions raised by Congressional inaction, and the lack of a demonstrated need for Congressional veto-power, sponsors contend that the veto-power proposal would create uncertainty and delay the marketing of chemicals, which will only end up in increasing industry and consumer costs.

In opposition to small business exemption proposals, the bill's sponsors note that a number of specific exemptions and other provisions have already been put in the bill to insure that it doesn't hurt small businesses. For example, the pre-market notification requirements do not apply to mixtures, which are what most small chemical companies produce. Further, they are exempted from annual reporting requirements, and EPA has to take into consideration impacts on small businesses before promulgating regulations.

Interest Group Positions: This bill has the general support of a wide range of environmental, consumer and health groups, including the Sierra Club and Environmental Action, the leading environmental groups on the issue, Congress Watch, the Consumer Federation of America, the American Lung Association, the March of Dimes Foundation, Blue Cross Association, and the League of Women Voters. Sierra Club contact: Linda Billings, 547-1144. Environmental Action contact: Blake Early, 833-1845. CFA contact: Michael Podhorzer, 737-3732. Congress Watch contact: Joan Claybrook, 546-4996.

Labor groups generally supporting the bill include the AFL-CIO and the United Steelworkers, the Oil, Chemical, and Atomic Workers, the United Auto Workers, and the United Mine Workers. AFL contact: Howard McGugan, 637-5088. United Steelworkers contact: Bob Hayden, 638-6929.

The Manufacturing Chemists Association, the major chemical industry trade group, has endorsed the bill. However, Dow Chemical and many smaller companies are still opposed to the measure. MCA contacts: Tex Williams, 483-6126 and Jerry Kenney, 872-8555. Dow contact: Jim Hansen, 457-1700.

Administration Position: According to an OMB statement August 6: "The Administration opposes this bill. It objects to the requirement for pre-market notification of all new chemical substances, reporting requirements on substances prior to manufacture, and the bill's unnecessarily broad definition for requiring testing of chemical substances."

Committee Action: The Commerce Committee reported the bill by voice vote June 9. In supplemental views, Reps. Moss (D-Calif.), Dingell (D-Mich.), Metcalfe (D-Ill.), Brodhead (D-Mich.), Moffett (D-Conn.), and Maguire (D-N.J.) say the compromise contains several serious deficiencies. Dingell has separate supplemental views

on the PCB amendment. In the only minority views, Reps. Devine (R-Ohio) and Collins (R-Tex.) express strong opposition to the bill generally and to many of its major provisions.

Senate Action: The Senate passed a similar bill (S 3149) 60-13 on March 26, after adopting a Nelson (D-Wis.) PCB phase-out amendment by a voice vote.

FEA CONFERENCE REPORT

ENERGY CONSERVATION AND PRODUCTION ACT

HR 12169 H.Rpt. 94-1392

Floor Action: Vote on passage scheduled for this Tuesday, August 10. Floor managers will ask the Rules Committee Monday for a waiver on all points of order to prevent separate votes on non-germane Senate amendments added in conference.

Floor Managers: Dingell (D-Mich.) and Brown (R-Ohio). Majority staff: Frank Potter and Peter Hunt, x51030. Minority: Jan Vlcek, x53641.

Summary: This conference report extends the life of the Federal Energy Administration for 18 months, until the end of 1977, as specified in the House bill. The report authorizes \$235.9 million for the operation of FEA, \$20.0 million more than the House bill.

In addition to the FEA extension, conferees added \$570 million over three years for new energy conservation programs, similar to those in the Senate version. The House bill had no such conservation provisions, having provided only a \$19.9 million conservation budget barely adequate to enable FEA to continue its existing programs in that area. The report includes \$15 million for electric utility rate reform, \$2 million more than the House version. The extra \$2 million would go to represent consumers in utility rate cases. Some Administration-supported proposals to deregulate oil prices were also added in conference.

Conservation Programs

House conferees accepted the package of conservation proposals included in the Senate bill, with scaled-down authorizations for some programs and operational changes in others. Although the House FEA bill had no conservation measures, the House Omnibus Energy Conservation Act (HR 14205), cosponsored by more than 70 House members, has many of the same conservation programs included in the Senate FEA bill. House conferees included several original sponsors of the omnibus bill.

Energy Conservation Standards for New Buildings (Title III): This provision gives HUD authority to establish building standards to improve energy conservation within three years of the bill's enactment. The authorization of \$5 million for this program is the same amount proposed in both the Senate's FEA bill and the House-passed building energy conservation bill (HR 8650).

The conferees accepted the Senate bill's federal sanctions on state and local governments not adopting HUD performance standards for new residential and commercial buildings. If a state does not come up with equivalent standards within one year, no federal financial assistance would be available for new commercial or residential construction in that state. The sanctions, which were not in HR 8650, could not go into effect without Congressional approval.

Conservation Programs (Title IV): Conferees agreed to authorize \$200 million