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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

FOR RELEASE ON DELIVERY
EXPECTED AT 9:30 A.M. EDT
JULY 29, 1983

STATEMENT OF
J. DEXTER PEACH, DIRECTOR
RESOURCES, COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION

BEFORE THE
SUBCOMMITTEE ON TOXIC SUBSTANCES AND ENVIRONMENTAL OVERSIGHT
OF THE
SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ON
GAO WORK RELATED TO THE TOXIC SUBSTANCES
CONTROL ACT AND THE FEDERAL INSECTICIDE,
FUNGICIDE, AND RODENTICIDE ACT

Mr. Chairman and members of the Subcommittee:

We are pleased to be here today to provide a brief overview of the work we have done on the Environmental Protection Agency's (EPA's) implementation of the Toxic Substances Control Act (TSCA) and the Federal Insecticide, Fungicide, and Rodenticide Act.

TOXIC SUBSTANCES CONTROL ACT

Since its enactment in 1976 we have issued four reports on certain aspects of TSCA. These reports have addressed EPA's efforts to implement the legislative requirements of the act, EPA's regulatory action on specific chemicals, and EPA's use of voluntary testing agreements. I will briefly summarize each of these reports.



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Status of TSCA implementation

Our initial work concerning TSCA resulted in the report we issued on October 28, 1980, entitled "EPA Is Slow To Carry Out Its Responsibility To Control Harmful Chemicals" (CED-81-1). The objective of that work was to determine the status of EPA's efforts to implement the Toxic Substances Control Act and to identify major issues confronting EPA in implementing the major program requirements concerning the screening of new chemicals, and information reporting, testing, and control of existing chemicals. The report concluded that because there was no clear sense of direction to guide the program and because of organizational and staffing problems, EPA had made limited progress in identifying and controlling existing chemicals and in developing a program to control new chemicals.

The recommendations in this report were directed toward the EPA program for screening new chemicals and called for EPA to (1) develop a strategy to obtain needed information on new chemicals using all TSCA authorities and (2) establish evaluation criteria for each decision point in the premanufacture notification review process. Since this report was issued, the premanufacture notification review process has been evolving and we are now conducting another review, which I will discuss later, of EPA's premanufacturing notification process.

Since this initial report, we have issued reports on EPA's efforts under TSCA to regulate two specific toxic substances-- polychlorinated biphenyls and asbestos.

Polychlorinated biphenyls

Section 6(e) of the act directed EPA to control the manufacture, processing, distribution, use, and disposal of polychlorinated biphenyls (PCBs). In our December 30, 1981, report entitled "EPA Slow In Controlling PCBs" (CED-82-21), we stated that (1) EPA has made limited progress in implementing the legislative mandate to control PCBs, (2) EPA has little assurance that industry is complying with its regulation, and (3) EPA's enforcement program lacked overall direction and did not encourage quick compliance.

The report recommended some specific actions by the EPA Administrator to provide for more effective use of the agency's limited enforcement resources and encourage greater compliance with PCB regulations. These included (1) issuing revised guidance to enforcement personnel, (2) developing an information system for PCB enforcement, (3) providing earlier notification of violations so that corrective actions can be speeded up, and (4) reviewing and revising EPA's PCB penalty policy and its application to better encourage compliance. EPA has made some changes and has indicated that it is in the process of making other changes in the PCB inspection and enforcement program and its penalty policy that will be consistent with the recommended actions.

Asbestos

On August 31, 1982, we reported on EPA's efforts to address the potential health risks associated with asbestos-containing materials that were sprayed on walls and ceilings to fireproof, insulate, soundproof, and decorate many schools that were built or renovated between 1946 and 1972.

Our report, "Asbestos in Schools: A Dilemma" (GAO/CED-82-114), stated that, by requiring all schools to be inspected for asbestos and parents and employees to be notified if asbestos is present without specifying when asbestos is hazardous enough to warrant abatement actions, EPA has created a serious dilemma for school officials.

When schools are inspected as required and found to contain asbestos, the school officials are faced with the decision of what to do about the asbestos. Our review found that the lack of definitive Federal criteria has resulted in States and localities using different criteria in arriving at their decisions. The report concluded that until EPA develops more specific criteria about when the asbestos poses a problem and what actions are most appropriate, school officials may continue to overreact and spend money needlessly or, more importantly, underreact and expose school occupants to hazardous asbestos conditions.

We did not make any recommendations in this report because EPA was doing research on this issue and expected to validate what it believed to be a promising quantitative measure for assessing asbestos exposure and to issue guidance based on this measure.

This measure has since undergone validation tests, and it has been shown to be an unreliable indicator of asbestos exposure. In March of this year, EPA published a document, "Guidance for Controlling Friable Asbestos-Containing Materials in Buildings," that provides information on asbestos used in buildings and describes in qualitative terms the types of

conditions under which the asbestos may pose a health risk and the kinds of actions, such as encapsulation or removal, that might be considered for reducing or eliminating such risks.

Voluntary testing agreements

Our most recent report entitled "EPA Implementation of Selected Aspects of the Toxic Substances Control Act" (GAO/RCED-83-62) was issued on December 7, 1982, to the Chairman of the Senate Committee on Environment and Public Works. The chairman asked us to determine if EPA had the authority to use negotiated testing agreements with the chemical industry to obtain needed health and environmental effects tests for chemical substances in lieu of issuing administrative rules formally requiring such testing. The report presented our assessment that the Toxic Substances Control Act does provide EPA with the authority to obtain necessary testing through negotiated agreements instead of administrative rulemaking. The report did not assess the appropriateness of EPA's use of negotiated test agreements in specific instances but this is being addressed in our current work.

Work in progress

Currently we have two reviews underway dealing with TSCA. One is an assessment of EPA's new chemicals program and the other focuses on how EPA is using its various TSCA authorities to investigate and regulate existing chemicals.

Our work on EPA's new chemicals program addresses the major differences between the EPA program for assessing new chemicals and the program adopted by the European Economic Community, and the adequacy of EPA's efforts and approach to protect against

unreasonable risks to health and environment from new chemical substances. For example, EPA relies on structural activity relationship analysis to screen new chemicals whereas the European Community requires mandatory testing of new chemicals.

Our work on EPA's existing chemicals program addresses (1) how EPA is using its various authorities under TSCA to develop adequate data on the effect of existing chemical substances on health and environment and to regulate chemical substances that present an unreasonable risk of injury to health and the environment and (2) major obstacles to effective TSCA implementation and the range of actions that could be undertaken to overcome these obstacles. Two issues that will be addressed in this work are (1) priority setting for EPA work on existing chemicals and (2) the appropriateness of the manner in which EPA is using voluntary agreements with industry to test and/or control chemicals in lieu of requiring these actions through administrative rulemaking.

We hope to issue reports on the results of these two efforts by the end of January 1984.

Let me turn briefly to our work related to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

FEDERAL INSECTICIDE, FUNGICIDE,
AND RODENTICIDE ACT

Since the early 1970's we have issued 17 reports on FIFRA and EPA's efforts relative to it. For the most part, these reports have addressed one or more of the following.

--The registration, control, and use of individual pesticides.

--EPA's policies and procedures for registering and reregistering pesticides and their effectiveness in protecting public health and the environment from unreasonable risks associated with pesticides and their use.

--The effectiveness of EPA's efforts to enforce the requirement for pesticide registration and compliance with the conditions of individual pesticide registrations.

During the past two years, we have issued two reports on FIFRA--one on EPA's enforcement efforts and the other on pesticide applicator certification.

Enforcement

Our report "Stronger Enforcement Needed Against Misuse of Pesticides" (CED-82-5) was issued on October 15, 1981. It concluded that although enforcement of Federal pesticide laws is a key factor in ensuring that the public and the environment are not unnecessarily exposed to hazardous pesticides, EPA and the States do not always properly investigate cases and sometimes take questionable enforcement actions.

The report made a number of recommendations for improving the pesticide enforcement program, and EPA has taken actions to improve the enforcement program that are consistent with our major recommendations. These actions included

- providing improved guidance and training for enforcement personnel,
- implementing needed improvement in recordkeeping and reporting systems, and

--strengthening coordination with the Food and Drug Administration (FDA) and improving management controls over FDA referrals of suspected pesticide misuse.

The report also discussed the increases that were occurring in special registrations--that is registration of pesticides for special local needs for which there is no Federal registration--and questioned whether through special registration the requirement for Federal registration was being circumvented.

Applicator certification and training

Our most recent report, "Better Coordination Is Needed Between Pesticide Misuse Enforcement Programs and Programs for Certifying and Training Individuals To Apply Pesticides" (GAO/RCED-83-169), was issued on July 1 of this year. FIFRA provides that pesticides registered by EPA for restricted use can be applied only by individuals (pesticide applicators) who have been certified as competent to handle and apply these pesticides without harming the public, the environment, or themselves. Except for two States, the certification of pesticide applicators is carried out by State agencies. Under FIFRA States assume responsibility for applicator certification and training programs by submitting a program plan that is approved by EPA as conforming to EPA's established certification standards. EPA carries out the certification of applicators in the two States--Colorado and Nebraska--that do not have approved plans. The report states that the two States we visited (1) were not routinely and systematically developing the pesticide misuse data that is necessary to ensure that the certification and training

program was adequately addressing the major misuse problems being experienced by the State and (2) were using some certification tests for commercial applicators that were not adequate for assessing the individual's competency to safely handle and apply restricted-use pesticides. We recommended that guidance be developed for EPA regional offices to assess State efforts in these two areas. EPA agreed with our findings and recommendations and indicated that it would act on the recommendation.

Currently, we are not doing any FIFRA related work.

Mr. Chairman, this completes my prepared statement. We shall be glad to answer your questions.