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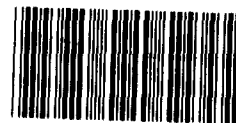
**Testimony**

For Release on  
Delivery  
Expected at  
9:30 a.m. EST  
Wednesday  
December 9, 1987

**Improvements Needed to Control the Disposal of  
PCBs**

Statement of  
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Before the  
Subcommittee on Transportation, Tourism, and  
Hazardous Materials  
Committee on Energy and Commerce  
House of Representatives



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Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to present our views on federal regulation of polychlorinated biphenyls (PCBs) under the Toxic Substances Control Act (TSCA). Specifically, we will discuss findings from our audit work on this subject and our observations on H.R. 3070, a bill to improve the regulation of PCBs.

In summary, Mr. Chairman, our work suggests that the federal government can do a better job of protecting the public and the environment from the release of these toxic chemicals resulting from electrical equipment failures, illegal dumping, and abandonment. We believe that H.R. 3070 will improve and strengthen the regulatory requirements for PCB disposal activities.

In 1984, EPA Administrator Lee Thomas acknowledged deficiencies in the agency's PCB regulations. EPA urged against a legislative solution and has been working on administrative remedies. Three years later, however, we are still waiting for EPA to act. Some deadlines for removing from service and disposing of certain electrical equipment are soon approaching. As a consequence, EPA's own estimates show that PCB disposal demand will peak over the next several years. Over 750 million pounds of PCBs currently contained in an estimated 110,000 transformers and 3 million capacitors will eventually require disposal. Prompt action is necessary to improve EPA's control efforts over the proper disposal of PCBs.

These continuing problems have been the subject of several GAO reports during the past 7 years.<sup>1</sup> In each, we concluded that EPA still has not established the controls necessary to ensure the safe handling and proper disposal of PCBs. In October 1980, we reported that EPA missed all but one of its legislative deadlines for

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<sup>1</sup>These reports are listed in attachment I.

issuing PCB regulations. We noted that most EPA regulations for implementing the statutory ban on PCBs were late, some as many as 18 months late. In December 1981, we reported that limited guidance and oversight by EPA headquarters hindered the development of an effective inspection program. We concluded that EPA had made only limited progress in regulating PCBs and cited lack of direction in its enforcement program.

In August 1986, the Chairman, Subcommittee on Environment, Energy, and Natural Resources, House Committee on Government Operations, asked us to determine how EPA was overseeing the operation of PCB companies in the Kansas City area (EPA Region VII). At hearings held in April 1987 before that Subcommittee, we discussed how several PCB disposal companies operated in this region for years despite repeated regulatory violations. We are now completing our review of EPA's Region VII enforcement of PCB regulations and will be reporting on that review in about 3 months.

Seven months ago, we issued a report entitled Abandonment of PCBs Demonstrates Need for Program Improvements (GAO/RCED-87-127, May 20, 1987). We found that EPA's actions substantiate the conclusions raised in our December 1981 report about inadequate controls over PCBs. In the May report, we examined the circumstances that led to the abandonment of approximately 7 million pounds of PCBs at sites located in North Carolina and Ohio, operated by SED, Inc., a PCB handling and disposal company.

The following were our principal findings and conclusions:

- EPA lacks nationwide criteria for its PCB disposal permits. In SED's case, we found that although SED's Greensboro facility had an EPA permit for its disposal activities, the permit did not require some basic conditions: a demonstration test to prove that the disposal process

worked, limits on inventory, or financial requirements to ensure the safe and proper closing of the operations.

- EPA also lacks adequate controls over intermediate operators--those "middlemen" companies that, for a fee, collect and store PCBs until they are delivered to a permitted disposer. These intermediate operations, like SED's Ohio storage operations, require neither notification to EPA nor EPA approval. EPA inspected SED's intermediate operations only after concerns were raised outside the agency about the facility.
  
- EPA enforcement actions in SED's case were limited and ineffective. Inspections were not frequent or forceful enough to keep the accumulation of PCBs from increasing to an unmanageable point. Furthermore, when inspections were made, the emphasis was apparently placed on assessing a penalty, and inadequate attention was directed toward correcting the problems that were found and/or suspected.

We recommended three specific actions aimed at improving EPA's PCB program:

- Establishing nationwide criteria for PCB permits.
  
- Extending EPA permit requirements to include all intermediate operators.
  
- Emphasizing periodic inspections of all PCB handlers, especially focusing on the correction of PCB regulatory deficiencies as soon after inspection as possible.

Our second recommended action directly relates and supports a critical feature in H.R. 3070--requiring EPA permits for PCB intermediates. We agree that only permitted companies should

handle PCBs taken out of service. Thus, EPA's requirements should state that generators/owners of PCBs taken out of service should not let any intermediate company pick up PCBs unless the firm has an EPA permit. Because no permit is currently required for intermediates--nor is any notification required--EPA does not know how many of these companies are currently in operation; however, EPA officials estimate that over 100 companies provide some type of intermediate service involving the handling and storage of PCB wastes. In our opinion, it is possible that facilities involved in intermediate operations may never come to EPA's attention or may come to its attention only as problem facilities, like SED's Ohio operation.

Requiring permitting of intermediate handlers of PCBs would provide EPA with the proper requirements to better guide its PCB enforcement and compliance programs. This feature of the legislation should improve EPA's identification of and control over the safe disposal of PCBs.

This bill also takes an important step in developing nationwide criteria that would improve and strengthen the regulatory requirements for PCB companies. Specifically, it would give EPA new legislative authority to develop the regulations necessary to establish new manifest (tracking) procedures for those who handle PCBs. It would also require financial responsibility of those handling the waste to finance closure of the facility and clean up accidental occurrences, such as leaks or spills. It would accomplish these objectives by requiring compliance with the manifest and financial responsibility requirements of the Resource Conservation and Recovery Act (RCRA), an amendment to the Solid Waste Disposal Act.

We support these features of H.R. 3070. We believe that tracking PCB materials from cradle to grave will help assist EPA in monitoring the quantities and ownership of PCBs being transported

from the point of generation to the point of ultimate treatment, storage, or final disposal. For example, we found that EPA regions had found it difficult to identify the original owners who generated the PCBs when SED abandoned the two sites. Tracking procedures will help EPA in such cases to more quickly identify those potentially responsible parties, the original owners of the PCBs, who might be liable for cleanup and disposal costs when similar problems occur.

We also support imposing financial responsibility requirements on all handlers of PCBs. In our May report, we recommended that EPA establish specific, nationwide criteria for PCB permits, which would include a closure plan that includes a statement of the company's financial responsibility, an escrow account for closure, the names of responsible personnel, and a plan for final disposal of wastes and equipment. Our review of SED noted the problems EPA and the public face when PCB materials are abandoned, as well as the problems and delays that occur when the original owners must pay again for disposal that never occurred.

We have also recommended in a February 1986 report<sup>2</sup> that EPA closely monitor and periodically reevaluate the viability of the financial responsibility test and/or trust funds to ensure that they provide adequate financial assurance that funds will be available. We found that financial assurance requirements may not always provide the intended assurance that owners/operators--rather than the public--pay all costs of facility closure and postclosure costs. If the financial strength of these facilities declines rapidly, adequate funds may not be available. We believe, as does EPA, that the careful monitoring of financial assurance requirements is important.

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<sup>2</sup>Hazardous Waste: Environmental Safeguards Jeopardized When Facilities Cease Operating (GAO/RCED-86-77, Feb. 11, 1986).

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In summary, Mr. Chairman, we believe that H.R. 3070, and actions on the recommendations in our reports, are needed to improve the federal government's regulation of PCBs. This legislation should provide the vehicle for getting improvements made expeditiously. We believe that these increased controls will provide EPA with the proper tools to protect human health and the environment. This concludes my prepared statement, and we would be pleased to respond to any questions you might have at this time.

GAO REPORTS UPON  
WHICH THIS TESTIMONY  
IS BASED

<u>Report Number</u>	<u>Issuance Date</u>	<u>Title</u>
CED-81-1	October 28, 1980	<u>EPA Is Slow to</u> <u>Carry Out Its</u> <u>Responsibility to</u> <u>Control Harmful</u> <u>Chemicals</u>
CED-82-21	December 30, 1981	<u>EPA Slow In</u> <u>Controlling PCBs</u>
GAO/RCED-87-127	May 20, 1987	<u>Toxic Substances:</u> <u>Abandonment of PCBs</u> <u>Demonstrates Need</u> <u>for Program</u> <u>Improvements</u>

Note: GAO is completing its review of EPA's Region VII enforcement of PCB regulations and will be reporting on that review in about 3 months.