Fresh winds are blowing through the hallways at EPA headquarters in Washington. Or are they?

During her first month on the job, the new head of U.S. Environmental Protection Agency, Carol Browner, has kept her staff busy defending controversial programs she inherited from the Reagan/Bush administrations. First she reportedly said she would ask Congress to relax the Delaney clause, a portion of U.S. law that prohibits government from approving the addition of cancer-causing chemicals to processed foods. (See RHWN #324.) The next day Ms. Browner released a list of 35 farm chemicals she says the Delaney clause will require her agency to ban, but in releasing the list she reportedly said EPA "does not believe the pesticides on the list pose an unreasonable risk to public health." And she reportedly said, EPA has "already banned those chemicals [pesticides] it considers a risk to humans."[1] The Delaney clause is a "scientific anachronism," she reportedly said, presumably meaning that she thinks it's based on outdated concepts.

Next Ms. Browner sent her scientists, publicists and lawyers to court in Arkansas, to defend a private company's right to continue burning dioxin-contaminated chemical warfare agents (chiefly herbicides from Vietnam) in an incinerator built in a residential neighborhood of Jacksonville, Ark., even though a recent study by the federal Centers for Disease Control, released earlier this month, shows that the past 12 months of burning in Jacksonville have left measurable residues of 2,4-D (a cancer-causing herbicide) and dioxin in the bodies of people living within a mile of the incinerator.[2] Under the Reagan/Bush administrations, EPA officials stated untruthfully on numerous occasions that the Jacksonville incinerator could destroy 99,9999% of the chemicals fed into it, as the law required. Ms. Browner's staff knows this argument will no longer withstand scientific or public scrutiny, so they turned it around in court, arguing that the law didn't require them to destroy 99,9999% of the dioxins or the 2,4-D in Jacksonville. They said the fine print of the law allowed them to measure other chemicals besides dioxin and 2,4-D and base their estimates of destruction-efficiency on those chemicals. (The judge didn't agree with Ms. Browner's staff, and he shut the incinerator down.)

Ms. Browner then sent a small cadre of scientists to court in Cleveland, Ohio, to serve as expert witnesses on behalf of Waste Technologies, Inc. (WTI). Because a memo to Ms. Browner from one of her staff was leaked to Greenpeace (a plaintiff in the lawsuit trying to shut down WTI), Ms. Browner's staff were forced to admit under oath that after Ms. Browner took office on January 20th, EPA conducted a secret risk assessment on the WTI incinerator. EPA's secret risk assessment revealed that the incinerator would destroy 1000 times more dangerous than EPA had estimated in the risk assessment they released to the public, but one of Ms. Browner's top staff--William Farland--took the witness stand to explain why these newly-revealed risks didn't violate any EPA standards. EPA only has standards for 70 years of exposure to dioxin, but the new risk assessment covered a one-year period, so the new risk assessment didn't violate any EPA standards because EPA doesn't have any relevant standards. Mr. Farland told the judge,[3] Why Ms. Browner's EPA withheld the new risk assessment from the public, Mr. Farland did not say.

Within a month of taking office, Ms. Browner appears to have adopted, or at least defended, the same odious behavior--lies, deceptions, and coverups--that characterized her predecessor. But perhaps this is unfair. Perhaps Ms. Browner has been sandbagged by Republican moles remaining inside her organization. Perhaps she plans to clean house but has been too busy. In the meantime, what could she do to restore her credibility?

The Supreme Court of the United States on Monday of this week let stand an appellate court's decision upholding the Delaney Clause. Therefore, it is now unmistakably the law of the land that EPA cannot approve ANY pesticide uses that will leave ANY cancer-causing residues in processed foods. The Delaney clause allows ZERO cancer-causing chemicals in processed foods. Therefore, EPA will be required by law to ban somewhere between 30 and 70 pesticides now in common use because their residues are measurable in processed foods. The only alternative proposed so far would require Congress to relax the Delaney clause and officially allow measurable quantities of pesticides in processed foods. Risk assessment would be used to establish tolerable residue limits and the goal of each risk assessment would be to kill only one out of every million citizens exposed to the maximum amount of each pesticide on each type of food. This, to EPA, is an "acceptable" risk.

Since risk assessment is already standard practice throughout EPA. Ms. Browner's predecessor worked tirelessly to embed risk assessment in every EPA decision, and he generally succeeded.

Risk assessment for pesticide residues is a four-step process: (1) Decide how toxic the chemical is; (2) Decide how much the public will be exposed to; (3) Decide what toxic effects will occur in exposed people. (4) Establish an amount that will kill no more than one-in-every-million persons exposed to the maximum level.

Furthermore, the effect of several chemicals taken together is never tested for. Yet people in the real world are exposed to many chemicals simultaneously. According to the National Research Council, we know that "most crops are treated with more than one pesticide; and, that fruit and vegetable crops are often treated with at least three--and sometimes eight or more--pesticides."[4] Risk assessment simply cannot consider cumulative effects, or interactions between chemicals.

Risk assessments are based on average exposures of average people. But, according to the U.S. Department of Agriculture, children ages 1 to 5 eat approximately 6 times as much fruit, five times as much milk, three and a half times as many grain products, and approximately twice as much meat and vegetables per pound of body weight as adult women aged 22-30. EPA itself admits that children ingest 5 to 14 times more pesticides (per pound of body weight) than adults do.[5] Yet risk assessments are based on "average" food consumption. People who don't fit the average, such as people who eat a lot of strawberries, or Native Americans in the Northwest, who may eat a lot of fish, are simply not covered by risk assessments based on average food consumption.

Ethically, risk assessment requires one small group of individuals (in this case, EPA bureaucrats) to decide what is an "acceptable" risk for a large group of other people, and even to decide how many of those other people it is "acceptable" to kill. We do not recognize this as a form of murder simply because the victims of this exercise are anonymous. Does the anonymity of a victim excuse a killing?

As University of Montana biologist Mary O'Brien has said, risk assessment is scientifically indefensible, ethically repugnant, and practically inefficient.[6] Faced with a fight over the Delaney Clause, Carol Browner now has an opportunity to repair her damaged reputation and make her own positive, distinctive mark.
on EPA. She could turn the agency away from risk assessment and establish a different basis for decision-making: ALTERNATIVES assessment.[7]

Instead of asking the question that risk assessment asks—"How much poison can we put in peoples' food and get away with it?"—we should be asking, "How little poison can we put in peoples' food and still provide nutritious, attractive, and affordable meals?" Asked this way, the question opens up a host of alternative agricultural and marketing techniques, many of which require no use of poisons at all, or minimal use of poisons.[8]

A modern approach to regulation of toxic materials, like pesticides, would require users of toxics every two years to complete an "alternatives audit," to systematically assess all alternative ways of accomplishing their stated goals. Instead of asking how much damage can the planet tolerate, an alternatives audit asks, how little damage can humans do?

--Peter Montague


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