

PESTS IN CONGRESS

by Brian Doherty

ON AUGUST 2, the Environmental Protection Agency announced new restrictions and bans on the use of methyl parathion and azinphos methyl, two pesticides used widely and safely on fruits and certain vegetables. The next day, representatives of the American Crop Protection Association, the American Farm Bureau Federation, and other organizations with an interest in the use of pesticides, appeared before a House Agriculture subcommittee to testify that the EPA's new bans and restrictions would be disastrous.

August 2 was also the third anniversary of the Food Quality Protection Act, which gave the EPA the authority to review all pesticides in use and enact new restrictions. In 1996, the American Crop Protection Association and many other trade associations supported the passage of the Food Quality Protection Act. But they are not alone in their newfound contempt. Many politicians, too, who supported the Food Quality Protection Act, which faced no opposition when it was passed three years ago, are now shocked that the EPA, having been given the authority to reexamine pesticides and ban them, is doing so.

The witnesses at the hearing were clearly caught off guard by the EPA's far-reaching restrictions. But not everyone was surprised. Several free-market policy analysts warned years ago that the Food Quality Protection Act would hit pesticide use hard and be no real improvement on the existing restrictions set up by the Delaney Clause, a '50s-era anti-pesticide measure. Albert Meyerhoff of the National Resources Defense Council pointed out, in a 1996 letter to the *Wall Street Journal*, that it would indeed lead to bans on the use of various pesticides: "The overall goal of this reform is to slowly but sure-

ly reduce reliance by American agriculture on pesticides." Obviously, groups like the American Crop Protection Association weren't listening.

Environmentalists, however, were. Many, along with Rep. Henry Waxman of California, now insist the EPA hasn't gone far enough in restricting pesticides. The sad thing is, legally, they are probably right. The even sadder thing is, empirically, they are wrong. The Food Quality Protection Act was passed as a save-the-children measure, protected from scrutiny by the now-discredited claim that pesticides are "endocrine disrupters." Adults, this argument held, could safely consume the minuscule, and often undetectable, amounts of pesticide residue found on food, but kids, with their tender nervous systems and growing bodies, could not.

Before the Food Quality Protection Act became law, the EPA already had measures for how much pesticide can be safely consumed. They started with the smallest possible amount of a pesticide that might, judging from animal tests, cause health problems. The EPA then divided that amount by 10, guided by the

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hypothetical assumption that humans are 10 times more sensitive than any lab animal; and then, they divided the new safe amount by 10 again, guided by another unfounded assumption, that some humans might for whatever reason be 10 times more sensitive than that. Divide that number by 10 again, and we have the amount of pesticide residue the EPA, under the Food Quality Protection Act, now concludes kids can safely consume. That level of residue is a thousandfold less than the minimum that could cause possible harm. According to a Harvard Center for Risk Analysis study, the actual amount of pesticide that we are exposed to has been overestimated "by factors of 99,000 to 463,000."

Other aspects of the Food Quality Protection Act—the law itself, not just its implementation—almost guarantee more future pesticide restrictions. First, the law's "reasonable certainty of no harm" standard can be interpreted to mean that so long as it is theoretically conceivable that any level of pesticide, however microscopic, might cause harm, it must be judged harmful. Second, the law requires the EPA take into consideration not only pesticides found on food, but pesticides found on non-food sources to calculate safe levels of exposure, thus holding food providers responsible for other sources of pesticide. Third, the Food Quality Protection Act limits the EPA from taking into account any benefits that result from using pesticides, such as more abundant and cheaper fruits and vegetables.

The truth of the matter is: There is no evidence at all that anyone anywhere gets ill because of pesticides in their food. Certainly, ingesting pesticides straight can sicken or kill you. But the idea that anyone, kid or adult, is actually harmed by the tiny amounts found in their food is pure fantasy. Carol Browner, the head of the EPA, admitted as much when announcing the new restrictions, saying that though we enjoy "the safest, most abundant food supply in the world—foods can be made even safer." Never mind, as neither Congress nor environmental activists do, that food naturally contains pesticides, some of them potentially cancer-causing, in greater amounts than humans add. The EPA operates on the simplistic assumption that whatever's organic is good and whatever's man-made is bad.

Now, the radical logic of the Food Quality Protection Act has made it the object of litigation. The National Resources Defense Council along with the

Breast Cancer Fund, the California Public Interest Research Group, the United Farm Workers of America, and others are suing the EPA for not carrying out the legislation as required. The EPA has not, according to the plaintiffs, finished reviewing the permitted tolerance levels for the worst of the commonly used pesticides.

From the opposite direction, the American Farm Bureau Federation and the American Crop Protection Association have also filed a suit, claiming the EPA is using too little real-world data about the dangers of pesticide exposure. Once again, carelessly crafted legislation leads to massive litigation, and the final decision about a law's actual real-world effects is bounced from Congress to the courts. Rep. Richard Pombo of California has crafted a bill with over 160 co-sponsors that would require the EPA to use more real data to

analyze the effect its restrictions might have on farmers, but no one is close to admitting that the legislation was a mistake.

How did the the Food Quality Protection Act ever become law, let alone be celebrated? Its great virtue was that it did away with the hated Delaney Clause, which prohibited any detectable level of cancer-causing agents in processed foods. New technologies make it possible to detect cancer-causing agents at infinitesimally smaller levels than when Delaney was enacted. The Food Quality Protection Act, by comparison, applies one "reasonable

certainty of no harm" approach to all foods, and thus does not tether the EPA's judgments on acceptable pesticide levels to any empirical standard. This allows bureaucrats to conceive of, and work toward, some never-never land where pesticide use has disappeared.

But blaming bureaucrats for bad lawmaking absolves both Congress and interest groups from facing up to their own complicity in the rushed passage of the Food Quality Protection Act, which took less than two weeks to make it from subcommittee to the White House. Obviously, many of the congressmen who are now eager to amend the law didn't really understand its significance when they voted for it in 1996. At least one interested party, a farm industry lobbyist, is willing to admit that he dropped the ball. "We were brain-dead that day," he says. "It was a great blunder."

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BLAMING BUREAUCRATS AT THE EPA FOR BAD LAWMAKING ABSOLVES BOTH CONGRESS AND INTEREST GROUPS FROM FACING UP TO THEIR OWN COMPLICITY.