

William & Mary Environmental Law and Policy Review

Volume 1 (1975-1976)
Issue 2 *Environmental Practice News*

Article 6

April 1976

A Quick and Current Look at the Kepone Tragedy

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A Quick and Current Look at the Kepone Tragedy, 1 Wm. & Mary Env'tl. L. & Pol'y Rev. 4 (1976),
<https://scholarship.law.wm.edu/wmelpr/vol1/iss2/6>

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The Occupational Safety and Health Administration (OSHA) issued four citations and fined the Life Science Company \$16,500 for noncompliance with federal work, health, and safety laws. The OSHA is an agency of the Department of Labor, and it has been severely criticized for not responding promptly to a 1974 complaint about hazards at the Life Science Company, which makes the pesticide and sells it to its sole customer, Allied Chemical Corporation. Allied Chemical, which holds the patent for Kepone, was not required to register the substance, because it was labeled as a pesticide ingredient. On last August 21st the EPA ordered Life Science to stop manufacture of the product, because it was not a registered pesticide product. The Company was allowed to ship remaining inventory to Allied Chemical, but notice of shipment dates was required to be given to the EPA. Failure to comply would result in one year in prison and up to \$25,000 in criminal penalties, and civil penalties up to \$500.

Studies at the Medical College of Virginia had revealed the potential danger of Kepone in the early 1960's. The information was submitted to the EPA when that agency was created in 1970, but the characterization of the chemical as a pesticide ingredient, and the use of the ingredient, precluded the EPA from asserting jurisdiction. Meanwhile the poison affected seventy-six of the workers and their families. Behavioral aberrations and other physical changes in the workers are now being linked to the poison. The closing of the plant in July will not arrest the possibility of the development of cancer, if there is a connection. It has been stated that the consequences of the poison caused irreversible damage while federal and State agencies were solving procedural difficulties in attacking the problem.

In Virginia, Governor Godwin has banned fishing in the James River. After the EPA announced tolerance levels for Kepone in marine life, the Governor lifted his ban for shad and for seed oysters. Sports fishing remains allowed if the fish are not to be eaten.

The extent of the Kepone poisoning may reach very far. Nine women in the southeastern part of the United States have been found to have Kepone in their milk. It has been speculated that the presence of the chemical may have come from the breakdown of Mirex, another Allied Chemical product. Studies are being made, and the public must keep abreast of the revelations made relating to this pesticide.

A QUICK AND CURRENT LOOK AT THE KEPONE TRAGEDY

The Kepone tragedy has aroused a national interest in the area of industries' protection of employees. The sad disclosures have further drawn attention to the administrative loopholes at State and federal levels in the monitoring of toxic substances. On January 22nd, Environmental Protection Agency (EPA) administrator Russell Train testified before a Senate Agriculture subcommittee that "legislative and procedural changes would not provide ultimate protection against the Kepone contamination." The contamination resulted not from the use of the ant pesticide under EPA regulations but from manufacture and disposal operations. Mr. Train explained that the EPA's authority extends only to pesticides which are "packaged, labeled, and released for shipment." However, the EPA did refer, to the United States Attorney for the eastern district of Virginia, a case of alleged Kepone poisoning in the area of Hopewell, Virginia.

The effect of the chemical has economic consequences also. Approximately 5,000 acres of oyster grounds may be unfit because of the contamination. Damages have been estimated at \$2,000 per acre. Allied Chemical has submitted a motion to dismiss a \$55.5 million suit against it, brought by thirty-two plaintiffs, mostly close family members of former employees of Life Science Company. Allied has disclaimed liability, on the theories of negligence of the employees and of unavoidable accident. The complaint against Allied Chemical alleges that it discharged Kepone waste into the sewage disposal system of Hopewell with

that city's permission, and that the waste then flowed into the James River. The city of Hopewell has now been added to the complaint, which originally included Life Science, Hooker Chemical and Plastics Corporation--the suppliers of the raw materials to formulate the pesticide--, and William Moore, the president of Life Science. Allied has admitted having emptied "treated" Kepone effluent into the James River from 1966 until 1974 and having supplied, along with Hooker Chemical, the raw materials to Life Science, according to a Richmond Times-Dispatch article of March 1, 1976. The grand jury's investigation should be concluded around the first week in May. The ramifications of this case should have wide-spread effects. Producers of toxic substances are under strict scrutiny, particularly in Virginia. The Virginia pesticide law, adopted on December 10, 1970, sets out specific rules for labeling, registration, and misbranding. It is unfortunate that the workers at the Life Science Company had to suffer such consequences before the general public became keenly aware of these laws and of the importance of their implementation.

The public is urged to follow the outcome of the Kepone cases. It may be some time before we see the culmination of the Kepone suits. Although Judge Mehrige has ruled that seventeen former Life Science Company employees may seek punitive damages from Allied Chemical Corporation, recovery in terms of financial compensation will not undo the irreversible harm caused to workers who relied on their employer to enforce adequate safety measures for everyone's protection.

(Acknowledgements: Richmond Times-Dispatch, March 1, 13, 16, and 19, 1976; Petersburg Progress-Index, March 13, 1976; B.N.A. Environment Reporter, December 19, 1976, and January 30, 1976.)

(See also "Another Way of Looking at the Kepone Issue" elsewhere in this news bulletin.)