

Testimony by Mark A. Mitchell M.D., MPH  
before the  
Subcommittee on Commerce, Trade, and Consumer Protection  
House Committee on Energy and Commerce  
in SUPPORT of H.R. 5820,  
The Toxic Chemicals Safety Act of 2010  
July 29, 2010

Good Morning Chairman Rush and members of the Subcommittee. My name is Dr. Mark Mitchell. I am a public health physician who became concerned about the link between environmental factors and poor health outcomes in communities of color and low income communities of all races. I was previously the Director of Health for the City of Hartford, CT and before that, the Deputy Director of the Kansas City, Mo Health Department. I am appearing before you as the founder and President of the Connecticut Coalition for Environmental Justice and a founding member of the National Work Group for Environmental Justice Policy, a group of over a dozen environmental justice organizations concerned about chemical policy on the national, state and local levels.

We define environmental justice (EJ) communities as low-income communities and communities of color that are disproportionately burdened with environmental hazards and suffer disproportionately from environmentally related diseases. Environmental justice strives to correct this imbalance while reducing hazards for everyone by changing environmental policies and practices.

Environmental justice communities are deeply impacted by national chemical policies. We have higher rates of environmentally related diseases such as asthma, diabetes, learning disabilities, cardiovascular disease and premature death. This is due to disproportionate chemical exposure during the production, distribution, use, and disposal of chemicals, as well as from legacy exposure to chemicals. H.R. 5820, The Toxic Chemicals Safety Act of 2010, goes a long way toward addressing environmental justice issues throughout the chemical lifecycle.

**Health protections are based on how people are actually exposed to toxic chemicals**

We are encouraged that the bill requires the Environmental Protection Agency (EPA) to set a standard for safety that takes into account aggregate exposure (exposure from all sources) as well as to consider the lifecycle of a chemical and cumulative exposure (exposure from chemicals that have similar health effects). This approach is critically important since the traditionally narrow use of risk assessment has often poorly served EJ communities. This is due to unpredicted exposures and false assumptions included in the assessments. A better approach is to use hazard assessment, which looks at toxicity of any chemical where there is human exposure and tries to reduce the hazard from the chemical rather than reduce the anticipated exposure to a toxic substance.

## **H.R. 5820 offers new hope for “Hot Spot” communities of high chemical exposure**

When one looks at the beginning of the chemical lifecycle, chemical production, we find that some environmental justice communities such as Mossville, Louisiana and West Louisville, Kentucky are surrounded by large numbers of chemical plants, including plastic manufacturers. These facilities have needlessly released exceptionally high amounts of toxic chemicals into the air. We refer to exceptionally exposed communities such as these as “hotspots”. These “hotspot” production communities have high rates of disease and premature deaths. Unlike Mossville, West Louisville residents have been able to get government to respond to their concerns and establish an area wide air toxic standards program, the Strategic Toxic Air Reduction (STAR) Program. This program has been able to get companies to reduce air toxics by more than 80% in some cases, through modernization and improved maintenance of the facilities.

I believe that these facilities would not have been allowed to perform so poorly in the first place if they were located in more affluent communities. I also believe that these facilities should be converted to producing the safer plastics that the public is demanding by using green chemistry. This would put them in the forefront of plastics production, help preserve jobs, spur economic development and improve public health in these communities.

In Connecticut, we also have a number of mostly small chemical production and formulation facilities. Public health officials are generally unaware of what is being produced at these facilities and what needs to be done to protect public health in the event of a chemical release.

The “Hot Spots” provisions in the new bill are strong and require EPA to name at least 20 communities in the first five years (with subsequent updates), and to develop “Action Plans” for EPA, state, tribal, and local governments to reduce specific chemical exposures from all sources by a date certain or report to Congress why it has failed to do so.

In addition to production, environmental justice communities are also at risk due to distribution and storage of chemicals. This is true not necessarily because of increased number of accidents on urban highways and chemicals stored on stationary trains in cities, but because of the large number of people in close proximity who may be harmed when there is an accident.

## **H.R. 5820 will reduce the unnecessary use of toxic chemicals in everyday products**

The next area of concern to EJ communities in the chemical life cycle is in use of chemicals. Although everyone is exposed to toxics during normal use of products containing toxic chemicals, urban low-income residents are more likely to be exposed to hazardous chemicals from these products. For instance, leaded wheel weights that are used to balance tires sometimes fall off the tires onto busy roadways where they are pulverized by other cars rolling over them. The lead dust gets into the air where it is

inhaled by local residents. This lead is in addition to lead from chipping and peeling paint in rental housing and the lead from lead containing toys that children may be exposed to. Last year, our organization conducted testing for lead in toys. We observed that toys from discount stores such as “dollar” stores were more likely to contain lead than toys from other stores.

In my neighborhood, there are many small bodegas selling food. These stores do not sell fresh fruits or vegetables so residents are more exposed to Bisphenol A and other chemicals commonly found in canned and processed foods. Again, this is in addition to the BPA exposure that occurs from contact with polycarbonate plastics found in everyday use.

### **H.R. 5820 will help detoxify waste disposal impacts by encouraging cleaner products**

Another area of environmental justice concern is the disposal of products containing toxic chemicals. The report, *Toxic Waste and Race at Twenty*, released in 2007, documented that EJ communities are still more likely to be located near hazardous waste disposal sites twenty years after the original report. In Connecticut, we burn a larger percentage of municipal solid waste than any other state in the nation. The two largest waste-to-energy facilities in the state, which are the fifth and eleventh largest incinerators in the country, are located in our two largest and poorest cities, Bridgeport and Hartford. The Hartford incinerator burns trash from 69 other communities brought to our city by 300 trucks per day. We believe that the toxic emissions from these facilities are responsible for the 20% asthma rates as well as high rates of diabetes and cancer in the city. Our organization has been involved in educating consumers to use less toxic alternatives in order to reduce our exposure to toxic chemicals.

### **H.R. 5820 will assess safety across the entire chemical life cycle from all sources**

The final area of concern in the chemical life cycle that I would like point out is that of legacy chemicals. These chemicals are no longer in use, but are still accessible and poisoning people in environmental justice communities. These include persistent, bioaccumulative, and toxic chemicals (PBTs), such as mercury and lead, as mentioned before, as well as other toxics that are commonly found in contaminated Brownfield properties, such as trichloroethylene (TCE), hexavalent chromium, and polychlorinated biphenyls (PCBs). New Bedford, Massachusetts has two schools built on an old dump contaminated with PCBs. In addition there are about one dozen other sites in the city contaminated with PCBs decades after the chemical was virtually banned under TSCA. Yet public housing residents still complain that their children get rashes after playing in the dirt, which is likely contaminated with PCBs.

Persistent chemicals travel long distances on wind and ocean currents from lower latitudes and accumulate in the bodies of animals and peoples of the Arctic. Some Arctic Indigenous peoples have shown levels of chemicals such as PCBs in blood and breast milk at levels among the highest of any people on Earth. Arctic communities have high levels of PCBs and dioxins in their bodies, partially because of direct exposure from contaminated military and

industrial sites, but mostly because of bioaccumulation of these toxics in their traditional diets of fish, seal, whale and walrus fat carried into the north from hundreds and thousands of miles away-.Levels measured in the traditional foods on St. Lawrence Island, Alaska are exceptionally high. People on St. Lawrence Island are concerned about the high rates of cancer, thyroid disease, and reproductive health problems.

### **H.R. 5820 properly prioritizes action on the worst of the worst toxic chemicals**

In H.R. 5820, chemicals of environmental justice concern are handled in two groups. Persistent, bioaccumulative and toxic chemicals (PBTs), such as lead and mercury are required to be reduced to the “greatest extent practical”, and then to determine if further steps should be taken to reduce exposure. Other non-PBT chemicals of EJ concern, such as TCE, formaldehyde, and Chromium VI are among the 19 named chemicals on the priority list for EPA to determine their safety and required restrictions. The naming of these chemicals is very important to EJ organizations. Other priority chemicals are BPA, vinyl chloride, phthalates, and perchlorate.

Chemical standards must protect the public and vulnerable populations to a “reasonable certainty of no harm,” which is a sufficiently protective standard. The definition of vulnerable population includes disproportionately exposed or potential for disproportionate adverse effects from exposure. It includes infants, children, adolescents, pregnant women and their fetuses, elderly, those with preexisting medical conditions, and others identified by the administrator based on socioeconomic status, race, ethnicity, culturally influenced dietary or other practices. Biomonitoring studies of the public must be done by the federal Centers for Disease Control and Prevention (CDC) or of workers, by NIOSH rather than by the chemical company.

### **Conclusion**

In summary, H.R. 5820, if adopted in its current state, will go far in addressing environmental justice issues with chemical policy. We would like to see the bill advance out of committee this year. Thank you for this opportunity to speak, Mr. Chairman. I am available to answer any questions that the committee may have.