

Dioxin agreement needs tweaking

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Dow Chemical Co. and the state of Michigan are now operating under an agreement to deal with dioxin contamination in Midland and the Saginaw and Tittabawassee rivers. The arrangement has produced some positive results, but it also has failed to ensure that the cleanup will employ sound science and fully protect citizens and property owners.

Dioxin is a family of 210 chemical compounds that are byproducts of industrial and natural combustion, such as forest fires and volcanic activity. Emission controls in recent years have reduced industrial dioxin discharges dramatically, so the principal source of dioxin in Midland and its nearby rivers is believed to be incineration at Dow decades ago, before pollution control technology was required and before the potential health and environmental effects of dioxin were contemplated.

The agreement between Dow and the state of Michigan provides for a two-stage response to elevated dioxin levels in the soil. In the first stage, Dow is financing a series of measures to address immediately the dioxin contamination in neighborhoods adjacent to its plant in Midland and along the Tittabawassee River downstream from Midland, where flooding may have deposited soil containing dioxin.

These initial measures, which include covering exposed soils or removing contaminated dust from homes, will be taken in areas where the soil concentrations of dioxin meet or exceed the federal safety standard of 1,000 parts per trillion. Indeed, one positive result of the dioxin negotiations has been the Michigan Department of Environmental Quality's willingness to employ the federal standard for this interim response. If the department had insisted on the state's own, unjustifiably stringent standard of 90 parts per trillion, the time and money involved in the initial cleanup might have precluded a quick response.

The agreement's provisions for the second-stage response begin well. State law allows the department to deviate from the state's 90-parts-per-trillion standard if a "bioavailability" study is conducted to determine how the threat to human beings varies within the contaminated region. Under the agreement, Dow is permitted to commission such a study with an independent group



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(in addition to an ongoing University of Michigan study of dioxin levels in Midland residents). The new study's results would allow cleanup money to be spent where it is needed most, rather than in areas that pose no real threat to human health.

Unfortunately, the agreement does not require the department to base its cleanup requirements on the findings of the bioavailability study. Instead, the department could choose to insist on the state's generic, one-size-fits-all standard for cleanup. But this likely would diminish the focus on the properties posing the greatest threat, while exposing other property owners to undue inconvenience, alarm and loss of property value.

This concern is compounded by a second provision in the agreement involving a trust fund to which Dow can contribute money for outstanding cleanup needs following the second stage of the dioxin decontamination. While the ostensible purpose of the fund is the dioxin cleanup, the agreement allows the state to use the money for various ecological and recreational projects, such as the purchase of wetlands, not directly related to the dioxin contamination. This loophole presents the possibility that citizens and property owners in the affected areas will not receive all due priority when the state spends monies from the trust fund.

This leads to a third, related issue. Department officials have declared the entire Midland area a "facility," which is defined in Michigan law as a "site of contamination." This designation was assigned improperly because proper scientific testing was not performed in the area first. If this designation remains in place, private property owners could suffer the lower property values associated with "contaminated" sites, even though their property poses no threat (and perhaps never did).

As soon as possible, Dow and the state of Michigan should address the outstanding concerns in this agreement, ensuring that sound studies of bioavailability and human risk guide the cleanup efforts, and that the agreement focuses on preserving the health and property rights of people who may have been exposed to dioxin through no fault of their own. It would be unacceptable if Dow and the state of Michigan let these issues linger — or worse yet, settled on a course of action that fails to protect people from actual dioxin risks and serves other interests instead. ❖

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