Monsanto

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TO :R. S. Nelson - A2SA

PCB SURVEILLANCE PROGRAM

EDF vs. EPA Lawsuit/New PCB Rules

Electrical Rule

August 19 EPA issued the first final rule of three new PCB regulations. This rule, dealing with "totally enclosed" electrical equipment, becomes effective September 24, 1982.

The rule in essence allows use of non-leaking transformers for the remainder of their useful lives and allows use of capacitors located in restricted-access (fenced) electrical substations, or in contained and restricted-access indoor installations for the remainder of their useful lives.

Based upon preliminary legal interpretations by the CMA PCB Special Projects Committee outside counsel, we believe this rule will not have significant additional impact upon the chemical industry in general and Monsanto particularly.

The major Monsanto impact will be in the area of transformers and capacitors that may pose risk to food and feed facilities (previously addressed by FDA and USDA). However, Monsanto plants are on a course to comply with previous regulations in place and/or proposed covering use of PCB electrical equipment in food/feed facilities. (This includes a planned phaseout of such equipment as required by the new rule.)

EDF has "informally" announced that there is greater than a 60 percent chance they will challenge the new electrical rule.

Incidental Generation Rule

The second rule dealing with incidental generation of PCB's is scheduled for final proposal October 19. Mixed signals have been received from EPA staff on the status of this rule leaving CMA and Monsanto staff confused about EPA plans.

Don Clay and the EPA Office of General Counsel indicate the rule is on schedule and will be issued on October 19. However, calls have been received by CMA from EPA staff

asking for help in getting EDF and the D.C. Circuit Court to stop and delay the second rule and ultimately combine the second and third rules.

Significant technical problems still exist with the proposed incidental generation rule, particularly in the definition of non-quantifiable amounts and the analytical protocols used for such a definition.

A CMA request for cross-examination of EPA analytical experts at a hearing of "Disputed Facts" was denied by the Agency as having no basis.

General

Industry and trade associations meetings and negotiations with EDF staff including Ms. Jackie Warren have continued and appear fruitful. Excellent communications have been established with EDF. A major problem at this time is communications between CMA and other industry groups and EPA, and also between EDF and EPA.

The industry/trade association and EDF group would like to negotiate a final PCB rule resolving all remaining PCB issues to the mutual satisfaction of all parties and preventing the need for further challenge and litigation.

EPA has not yet indicated an interest nor an ability under the current court mandate to participate in such discussions.

Monsanto Exemption Petitions

On August 9 the only Monsanto exemption petition for manufacturing a product containing PCB's using a raw material containing greater than 50 ppm PCB's was dismissed at the mutual consent of all parties.

This petition, filed in 1979, covered use of phthalocyanine pigments in resins used by MP & R. Levels of PCB's in such pigments are now significantly below 50 ppm, thus not requiring an exemption petition.

PCB Activities in Europe

PCB activity in Europe appears to be increasing in anticipation of review of PCB rules in ECC. British Broadcasting Company is considering presenting a dramatization of PCB health effects on animals from contaminated feed and the effects as it moves up the food chain.

Other PCB issues are beginning to surface in the United Kingdom including the cleanup of old plant sites where PCB's were previously used.

Inquiries/Responses

Despite extensive travel and vacation during August, PCB inquiries/responses continued at a high rate. Approximately 125 inquiries were handled this month.

J. H. Craddock

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