

Defunct Company's CEO Fined for PCB Violations

In a December 8, 1988 order, EPA's Chief Administrative Law Judge, Gerald Harwood, fined James B. Caldwell, the president and chief executive officer of a defunct corporation, \$35,000 for violating the polychlorinated biphenyl (PCB) provisions of TSCA. EPA had sought a penalty of \$2,270,000 against SED Inc., Caldwell and another major stockholder. The company's facility was in Greensboro, North Carolina.

SED Inc. had operated as an intermediate handler in the disposal of waste PCB materials. EPA charged the company and its two stockholders, Caldwell and John Olmsted, with improper storage of PCBs by not indicating the date the drums were placed in storage and improper disposal by abandonment. The defendants denied the charges and in 1985 said SED's assets had been seized by a bank. Judge Harwood ruled that Caldwell but not Olmsted was involved in the managing of the company's operation and that persons who leave PCB waste material where it has been stored with no intention of removing it have unlawfully disposed of the material. The judge said Olmsted was not "actively" involved in making the corporate decisions that gave rise to the violations and thus was not held liable. With respect to the penalty reduction, TSCA requires that EPA consider a number of factors in assessing civil penalties. Judge Harwood found that while the proposed penalties of \$1 million per illegal storage area "seemed reasonable" given the "reckless disregard" of the storage requirements, the corporation has no assets, so no penalty can be collected.

EPA Proposes SNUR For PMN Chemical

EPA is proposing a significant new use rule (SNUR) for a chemical substance that was the subject of premanufacturing notice (PMN) P-86-1322 and a TSCA section 5(e) consent order.

With the issuance of the SNUR [December 28, 1988 (53 FR 52443)] persons who intend to manufacture, import or process the substance identified in the PMN for a significant new use would be required to notify EPA at least 90 days before starting that activity. The required notice would provide EPA with the opportunity to evaluate the intended uses and if necessary prohibit or limit those activities before they occur.

EPA believes the substance in the PMN, which is a mixture of 1,3-benzenediamine, 2(or4)-methyl-4,6(or2,6)-bis-(methylthio) may be hazardous to human health and that the uses described in the proposed SNUR may result in significant human exposure. The substance is now listed in the TSCA Inventory.

The PMN submitter intends to manufacture the substance in P-86-1322 [August 12, 1986 (51 FR 28875)] as a chain extender for polyurethane cast molded elastomer production, polyurethane reaction injection molding elastomers, polyurethane foams, polyurethane coatings, adhesives, polyurethane sealants, polyurethane/epoxy copolymers, chemical intermediates, epoxy coatings, epoxy composite matrices or epoxy tooling resins.

On May 27, 1987, EPA issued a section 5(e) order, which applies only to the PMN submitter. The order required the use of appropriate protective equipment and disposal methods to reduce exposure and potential risks to human

health. The order was modified on December 16, 1988, to make it more consistent with the terms of the SNUR, to expand the uses allowed under the original order and to ease certain distribution restrictions.

For additional information on SNURs and section 5(e) orders, see page 8 of this Bulletin.

NESHAP Proposed Rule Would Affect AHERA

EPA has proposed to amend the asbestos National Emissions Standard for Hazardous Air Pollutants (NESHAP) [January 10, 1989 (54 FR 9120)]. The amendments would implement section 112 of the Clean Air Act (CAA).

The proposed NESHAP amendments would affect those sections of the Asbestos Hazard Emergency Response Act (AHERA) that pertain to the transportation and disposal of asbestos removed from school buildings. AHERA is a 1986 law that is administered by the Office of Toxic Substances. AHERA requires all public and private elementary and secondary schools to inspect for friable and nonfriable asbestos, develop and submit asbestos management plans to State designees for review and approval, and implement appropriate response actions. AHERA also establishes training and accreditation requirements for school employees and asbestos professionals (inspectors, abatement contractors, etc.) who will be involved in AHERA-related school activities.

With respect to AHERA, the NESHAP amendment modifies the existing notification requirement for asbestos removal work conducted during building demolition or renovation. The amendment also requires that more comprehensive records be kept of the disposal operation. These changes are designed to improve EPA enforcement of both asbestos removal and disposal operations. For example, the amendment requires that generators of asbestos-containing waste (the schools and their abatement contractors) prepare records of the removal activity. Copies of the records are then signed and transmitted by all parties handling the waste, up to and including the disposal site operators. Every six months the contractors and landfill operators must submit to EPA records of all waste shipments and disposals. Such chain-of-custody paperwork allows for better enforcement of NESHAP requirements.

For additional information concerning technical aspects of the proposed NESHAP amendments contact Bruce Moore of the EPA's Office of Air Quality Planning and Standards at (919) 541-5460. For information about AHERA call the TSCA Information Service at (202) 554-1404.

Test Rule for Oleylamine Issued

EPA has issued a final Phase II test rule for health effects testing of oleylamine under section 4(a) of TSCA, specifying the test standards and reporting requirements to be used by manufacturers and processors. The final Phase II rule for oleylamine was published on December 1, 1988.

Health effects testing requirements for oleylamine are developmental toxicity and two-tiered mutagenicity testing. A third tier mutagenicity test and an oncogenicity test may be required following a public program review of all relevant data.