CMA TASK GROUP ON PCB'S -- CURRENT STATUS, FUTURE NEEDS

Background

A CMA Special Program Advisory Group (SPAG) on PCB's was organized more than a year ago to assist the U.S. EPA in gathering data for use in writing new PCB regulations.

These regulations were called for in 1980 by the U.S. District Court in Washington, DC, in response to a lawsuit brought against EPA's PCB control efforts by the Environmental Defense Fund. The Court found that EPA did not present adequate evidence to support its determination of "totally enclosed" uses or its decision not to regulate PCB's at levels below 50 ppm. The Court ordered EPA to rewrite these rules and gave it 18 months to do so. The approximate dates for EPA's PCB rulemaking are:

April 19 - Issuance of proposed rule on the "totally enclosed" issue.

May 1 - Issuance of proposed rule on the "closed, manufacturing process" and "controlled waste" issue.

August 19 - Final rules on "totally enclosed" uses

October 13 - Final rules on "closed" and "controlled" processes.

November 1 - EPA advises the Court on final plans for completing rulemaking on "uncontrolled PCB's."

December 1 - End of stay on "uncontrolled PCB's."

Work To-Date

The CMA Advisory Group (SPAG) on PCB's has completed the first phase of its work. It has compiled an impressive array of data and studies and submitted them to EPA for consideration in writing future PCB rules. Specifically, the group's accomplishments are:

1. Summary of the health effects of PCB's based upon published literature during 1966 to 1981,
2. Survey of CMA membership on the nature and environmental fate of PCB's incidentally generated in concentrations below 50 ppm,
3. Comments in response to two ANPR's relating to the manufacture of PCB's below 50 ppm,
4. Survey of CMA membership on the type of equipment containing PCB's and the associated volume and concentration,
5. Comments in response to the ANPR on the totally enclosed issue,
6. "Round robin" on the analysis of incidentally generated PCB's, and
7. Analytical narrative on the problems and costs associated with analyzing low concentration PCB's.

Funding for this work was budgeted at $174,000, which was cooperatively contributed as follows: $30,000 from the CMA CRAC committee; $12,000 each from ARCO, duPont,

Dow, Monsanto, Olin, PPG, Union Carbide, Tennessee Eastman, Kaiser Aluminum; $6,000 each from Diamond Shamrock, Exxon, General Electric, Hooker, Stauffer, Vulcan. These funds have been totally expended.

The industry has carefully documented its case on the current risks and benefits of PCB's to the EPA. In addition, we have compiled an extensive body of PCB information potentially useful in many other situations, including litigation, if necessary, to challenge poorly conceived, burdensome regulations.

Future Needs

The CMA SPAG group has recommended immediate continuation of its activities to ensure that future EPA regulations are reasonable and do not pose unnecessary and excessive economic penalties on the chemical industry (Phase II). Now is the time to act. EPA is moving from the stage of gathering information for rules to the stage of actually proposing and finalizing them. For example, final comments on the recently proposed rules for "totally enclosed" uses are due within 30 days (May 24).

Phase II of SPAG's work would include retaining outside legal counsel to monitor and respond to upcoming PCB rules and to assemble comments and data for an adequate public record in the event a legal challenge to the rules

becomes necessary. The estimated cost for this Phase II activity would amount to $150,000 (up to litigation of final rules).

The SPAG group has made recommendations to both the CMA Special Projects Advisory Committee and the CMA CRAC committee requesting broad-based CMA support and funding for Phase II.

To-date (April 30), three companies (Monsanto, Olin and PPG) have given written notice of intent to participate in and fund Phase II. In addition, another four firms (Stauffer, Dow, duPont and General Electric) have verbally indicated their intent to fund and participate. The total committed funding from these organizations amounts to $84,000.

However, several of the original SPAG participants have indicated that they may not participate or fund further activities; reasons cited are the state of the economy, the belief that several larger companies will "carry the ball" along, and the perception that the new PCB rule may not broadly impact the total industry or them.

In fact, PCB regulation remains a critical issue to the entire industry. Future rules will affect any facility using electrical equipment containing PCB's, and most industries and offices use PCB-containing transformers

and capacitors. In addition, the "incidental generation" issue will impact any manufacturing process and resulting product wherein an organic chlorination reaction, organic solvent or any other potential chlorine donor source (e.g., Friedelcrafts alkylation catalyst, $AlCl_3$ used in refining crude oil) is used. The financial impact and burden on the chemical industry could be substantial.