

TSCA COMPLIANCE PROGRAM POLICY No. 6-PCB-6

Allocation of Enforcement Liability for Violations of the One-Year Disposal Deadline for PCB Articles or PCB Containers

TSCA Section: 6(e)

Issue:

How does EPA allocate enforcement liability among persons who violate the requirement that PCB articles and PCB containers be disposed of within one-year after being placed into storage.

Policy:

EPA will allocate enforcement liability for a failure to dispose of PCB waste within one year after it is placed into storage between the generator and the ultimate disposal facility based on the contribution by either party to the violation. A generator delivering PCB waste to a disposal facility later than 90 days before the end of the one-year disposal deadline will be held liable if the disposal facility can not dispose of the waste in time. A disposal facility receiving PCB waste later than 90 days before the end of the one-year deadline will not be held liable if the PCB waste is disposed of within 90 days.

Discussion:

Section 40 CFR 761.65(a) limits storage of PCBs designated for disposal to one year. This requirement also states that "any PCB Article or PCB Container stored for disposal before January 1, 1983, shall be removed from storage and disposed of...before January 1, 1984. Any PCB Article or PCB Container stored for disposal after January 1, 1983, shall be removed from storage and disposed of...within one year from the date it was first placed into storage."

The one-year time limit is intended to insure prompt disposal of PCBs removed from service. However, the requirement does not preclude some waste generators or intermediate waste handlers from storing the waste for long periods of time (up to 12 months) before releasing it for ultimate disposal. As a result, facilities which receive the waste for ultimate disposal may not have sufficient time to dispose of the waste within the one-year time limit.

EPA will allow facilities receiving waste a year after being put into storage by the generator an additional 90 days after receipt to dispose of the wastes without incurring enforcement liability. Because representatives of the two approved, landbased commercial incinerators have provided technical data showing that PCB waste is disposed of within 90 days after receipt by the facility, EPA

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has determined that ninety days is sufficient lead-time for the disposer to receive and dispose of PCB waste. Therefore, if a generator delivers waste to a disposal facility with ninety days or more remaining in the one-year deadline, the disposer is responsible for destroying the material before the deadline. The liability shifts to the generator if the material is delivered to the disposal facility with less than ninety days remaining in the one-year allowed for disposal after storage. The disposer, however, will share in the liability if he does not dispose of the waste within ninety days from the date it is received at the disposal facility.

EPA will utilize the scale below to allocate liability between the generator and disposer.

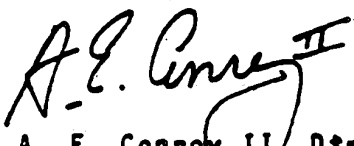
	<u>WHEN DELIVERED TO DISPOSER</u>	<u>WHEN DISPOSED</u>	<u>LIABILITY</u>	
			<u>GENERATOR</u>	<u>DISPOSER</u>
I	more than 90 days before 1 yr. deadline	after 1 yr. deadline	none	entire penalty
II	90 days before 1 yr.	within 1 yr.	none	none
III	60 days before 1 yr.	1 mo. late	1/3 penalty	none
IV	30 days before 1 yr.	60 days late	2/3 penalty	none
V	last day	3 mos. late	entire penalty	none
VI	after 1 yr.	within 90 days of receipt	entire penalty	none
VII	after 1 yr.	after 90 days of receipt	entire penalty	entire penalty

See Also: TSCA Compliance Program Policy 6-PCB-7.

References:

Key Words:

PCBs, ultimate disposal facility, disposal deadline.


A. E. Conroy II, Director
Compliance Monitoring Staff
Office of Pesticides and Toxic Substances

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Date

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