

Monsanto

(FROM, NAME & LOCATION) E. Greene - St. Louis

DATE January 14, 1972

SUBJECT

REFERENCE

TO : J. P. Berndt-St. Louis
P. A. Klingsporn-St. Louis
A. D. Laphorne-Melbourne

cc W. R. Corey-St. Louis
J. Culver-Hong Kong
J. R. Durland-Tokyo
R. B. Giles/K. Witcombe-MAL
T. L. Gossage-St. Louis
R. K. Louis-Manila
Cumming Paton-St. Louis
O. W. Sperberg-St. Louis
J. E. Tucker/F. Camargo-St. L.

It will come as no surprise to any of you that the Monsanto Board has approved NICC's discontinuance of sales of polychlorinated biphenyls and terphenyls for certain end uses in the domestic market. Their implementation program is described in two attachments. (W. R. Corey memo of 12/27/71 and Paton/Clark memo 12/17/71). As you see, International has been instructed to implement a program overseas which is consistent with the U.S. policy but which recognizes some essential differences in the problems involved.

1. Please notify all your heat transfer customers promptly -- certainly before January 31 -- by mail.

Use your own letterhead and translate if you feel local law or practice would require. We are enclosing a list of Therminol FR* customers since 1969, as shown on our records. It may not be complete and in many cases may not show customers to whom you have resold material. You must be responsible for complete coverage.

*Material out of MCL may have been sold as Santotherm FR.

2. Maintain a complete file of this correspondence. We want the record to show we have complied fully with the Board's directive. Also, send us a copy of the form letter you use and a list of customers to whom it was sent.
3. Use the wording of the attached form letter. It was carefully composed and cleared by the Law Department. Avoid modifications except as may be necessary in translations; certainly avoid committing us to any action or expense without first clearing with the product group.

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4. While the letter of notification must be standard, each customer's conversion and disposal problem must be handled on a case-by-case basis. He is naturally going to feel that he is being put to a lot of expense and trouble by our decision. In your personal contacts, you must convince him that we sold him material in good faith, and that only the most compelling reasons have forced us to this decision. But ultimately conversion and disposal are his problems. You should be helpful but avoid accepting any direct responsibility for successful conversion and safe disposal. The stakes are simply too high for us to accept any such risks.
5. While provision is made in Wink Corey's memo for handling hardship cases, (Section I,B,2), you should know that MICC management has taken a very firm position against selling additional quantities for heat transfer applications, even if the customer is willing to sign a hold harmless letter.
6. We, obviously, cannot offer overseas the personalized conversion counselling of Cumming Paton's team of engineers. They have agreed, however, to handle mail inquiries as promptly and as fully as possible.
7. We also cannot offer overseas the disposal services offered in the U.S., and it is doubtful that the kind of high temperature incineration (2000° F) facilities necessary are available in your areas. The business group has agreed to prepare a description of suitable disposal techniques for the guidance of your customers as far as this may be possible. We certainly cannot accept responsibility for supervising each customer's disposal, but we will try to tell him methods to avoid, at least.

Obviously, he should avoid sewerage, any possibility of contaminating water supplies, feeding areas for wildlife open dumps where scavengers might have access to the fluids or materials or containers which have had contact with the fluids.

In many of the countries where you have been selling PCB/PCT's, you will probably find there are some carefully selected and properly supervised covered landfills for

the disposal of toxic chemicals. Also, your customer would find himself in the most secure legal position if he seeks out and follows the advice of local authorities.

8. We do not yet know whether Bayer, Prodelec and other competitors will follow our lead and if so, when, and some of your costumers may choose to go to them for continuing supplies.

We are prepared to lose this business, but would like to be fully informed of competitive developments at significant accounts.

9. As the product literature points out, Therminol 55 and 66 can be used in some of the same heat transfer applications as the FR series. However, the former are not fire resistant and require different gaskets and fittings so do not recommend 55 and 66 as direct substitutes.

Further, recommending another Monsanto fluid simultaneously with the withdrawal of the FR series might make the whole exercise look like a sales gimmick and dilute the sense of urgency we wish to convey to our customers.

10. The ban on further sales of heat transfer fluids applies to local stocks as well as to indent sales from U.S., U.K. and MMK. We expect you to honor the spirit as well as the letter of these instructions. Let us know what materials you have in stock, and how you would propose disposing of it and the product group will give the necessary instructions.

We will be writing you soon on a procedure for dielectric customers. Meanwhile, in countries where you have such customers, please check with local legal counsel to make sure "hold harmless" agreements (sample attached) are enforceable and would effectively protect us in case of subsequent litigation. If not, what if any changes would local law require?

One addition that will probably have to be made is wording to insure that both the local selling company and the manufacturer

(MC, MCL and/or MMK) was held harmless. Where your customers subsidiaries of U.S. customers, please let us know and we shall try to keep you informed of the actions of these parents. G.E. and Westinghouse, for example, have indicated they would sign some form of hold harmless agreement.

A parent company's agreement would not necessarily be binding on a sub or enforceable in the sub's country, hence our request for local counsel.

As you know, we discontinued the sale of PCB-containing plasticizers over a year and a half ago. Will Clark is writing you separately about the program to discontinue sales of PCT-containing plasticizers.

Lists of your plasticizer and dielectric customers are being prepared and will be sent you, but again our records may be incomplete. You must be responsible for complete coverage of your area customers.


Edmund Greene

EG/rh
Attachments