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SUBJECT : OCTOBER MONTHLY REPORT
REFERENCE :
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PCB SURVEILLANCE PROGRAM

EDF vs. EPA Lawsuit/New PCB Rules

Incidental Generation Process Exemptions - Rule II
"Closed and Controlled"

EPA issued the second new rule covering exemptions for incidental PCB's generated in "closed and controlled" processes October 13. This rule provides for voluntary application for exemptions from the PCB regulations for certain processes defined by EPA as "closed and controlled" manufacturing processes. The Agency has established various cut-off levels defined as the lowest practical detection limit of analytical quantitation for releases of PCB's into air, water, products and process waste. New definitions of PCB's levels will be: 10 micrograms per cubic meter per congener or "resolvable peak" form of PCB in air emissions (about 0.01 parts per million); 100 µg/l/ PCB form in water (about 0.1 ppm) and 2 µg/g/PCB form in products and wastes (about 2 ppm). The final rule also adds disposal mechanisms to the list of acceptable techniques for disposing of controlled wastes that contain PCB's in concentrations between the Agency's new lowest practical detection limits and 50 ppm.

In addition, certification by a Corporate officer is required to obtain the exemption.

Fate of processes not qualifying for these manufacturing exemptions will be controlled by the third and final rule in this series, expected in early 1985.

This exemption rule has been described by several Washington attorneys as a "non-event" in regulation. Few exemption requests are expected. CMA will file a petition with the Court to challenge this rule to preserve the rights of the chemical industry as intervenors in the case (a prophylactic challenge).

Rule III - "Uncontrolled" PCB's

EPA was required to report to the DC Circuit Court November 1 to detail plans for the third PCB rule covering "all other" PCB issues, including regulatory cut-off levels not covered in Rule II.

EPA plans in Rule III to regulate all incidentally generated PCB's as newly manufactured products, prohibited by the May, 1979, ban regulations. New regulatory cut-off levels will be established for air, water, product (categories), waste, spill, debris, etc.

CMA, along with other industry/trade associations and environmentalists - including EDF and NRDC, is still trying to negotiate an acceptable final rule with EPA.

EPA plans to ask the DC Circuit Court for a two-year extension of their mandate to develop the third rule, now expected early in 1985.

Industry/Environmental Activist Discussions

Discussion with EDF and NRDC representatives continue in an attempt to develop reasonable and effective PCB regulations. Attempts to have a joint meeting of the industry/environmentalist coalition with EPA have been unsuccessful to-date, although several attempts have been made.

EDF attorney Jackie Warren has recently made a direct appeal to Dr. John Todhunter of EPA for such a meeting; however, no direct response has been received yet.

Enforcement Actions

EPA continues to focus on PCB inspections in TSCA enforcement/compliance actions, levying significant fines in many cases. In 1981, EPA conducted over 1,500 TSCA inspections primarily looking at PCB problems; in 1982, they expect to increase the number of inspections to close to 2,000 while expanding beyond PCB's into other TSCA areas.

PCB TSCA inspections concentrate on storage, recordkeeping, labeling (primarily electrical equipment) and interim inspection requirements.

To-date, Monsanto plants have not received an inordinate amount of EPA attention in this area.

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Media Activities/North Carolina Roadside/Landfills

Removal of PCB contaminated dirt along North Carolina roadways was substantially completed with the dirt being deposited in a specially prepared, State and EPA approved landfill, despite significant local citizen opposition.

The printed and electronic media made a "circus" of this incident for several weeks; however, normalcy is returning. Monsanto managed to steer clear of this emotional/political issue, but did provide background and technical information to State officials.

Inquiries/Responses

PCB inquiries/responses numbered about 120 during October.



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