PCB Panel
NEMA + AUG 08 1991
USWAG Eff 8/26/91

THE DOW CHEMICAL COMPANY

August 5, 1991

MIDLAND, MICHIGAN 48674

CMA - PCB SUBJECT FILE
Disposal Rule/ANPR 1991
Dow Comments

Timothy S. Hardy
Kirkland & Ellis
655 Fifteenth Street, NW
Washington, DC 20005

Re: Comments Regarding PCB Disposal ANPRM - PCB/Mixed Waste Dilemma

Dow believes that the CMA PCB Panel comments regarding the PCB Disposal ANPRM should address the issue of the disposal dilemma presented by wastes containing both PCBs and RCRA wastes. The dilemma is presented by the fact that very few facilities are licensed to accept both wastes. Dow has identified only four. Further, these facilities either refuse or strongly resist accepting certain RCRA wastes due to the overwhelming burden of the RCRA requirements.

Specifically, wastes containing PCBs and RCRA wastes characterized inclusive of F039 or F024 essentially can not be disposed of at these facilities. In the event a single waste must be characterized as PCB/F039 or PCB/F024, a generator has no alternative except to store the waste, perhaps indefinitely. However, TSCA requires disposal within one year from the date the waste is first placed into storage for disposal, with no provision for an extension.

The solution to this dilemma will be complicated. To properly resolve the situation, EPA will have to coordinate the TSCA and RCRA programs such that one program does not force the regulated community into an impossible situation. We believe the Panel Comments should not simply argue the situation is <u>difficult</u> or <u>expensive</u>. Rather, the comments should focus on the <u>impossibility</u> of the situation. The generator can not avoid the wastes, but is completely at the mercy of the permitted disposers.

To suggest that the RCRA characterization should preempt the PCB characterization would be counter productive. The RCRA requirements pose the problem. The affect, though, is a TSCA enforcement potential. The overall solution will probably require revision of the RCRA requirements such that commercial disposers will accept the wastes. In the short-term, however, EPA should be encouraged to manage the TSCA enforcement potential when a generator is forced to store these wastes beyond the one-year limit.

Actually, allowing the RCRA waste to be disposed of as PCB waste would be preferable to no disposal at all. While this would mean a more expensive disposal cost, the disposal cost would be less than the cost to store the waste indefinitely while risking hugh fines under TSCA.

Dow also suggests EPA should consider three other issues in the rulemaking:

1) Variance from the current requirements for reclassification of transformers - the 50°C. requirement specifically.
2) A clarification of whether diking around bulk storage of PCBs for disposal must meet the minimum containment requirements as for drum storage, and,
3) a clarification of SPCC requirements particularly in the instance of material which is a solid at room or ambient temperatures.

Dow encourages CMA to incorporate these thoughts into The PCB Panel Comments.

Sincerely,

Paul A. Wright

Paul A. Wright
Attorney
517/636-1853

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cc: E. Gormley, CMA, 2501 M Street, N.W., Washington, DC 20037