

INTERNATIONAL CHLORINATED PARAFFINS

INDUSTRY ASSOCIATION

1250 Connecticut Avenue, N.W. • Suite 700 • Washington, D.C. 20036 • 202-419-1500

Dover Chemical Consent Decree on Chlorinated Paraffin Manufacture

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On February 7, 2012 the U.S. Environmental Protection Agency (EPA), in conjunction with the U.S. Department of Justice, announced a settlement with Dover Chemical Company regarding its manufacture of chlorinated paraffins (CPs). The resulting consent decree resolves penalty issues related to alleged violations of the Toxic Substances Control Act (TSCA). The consent decree also requires several specific actions, the most significant of which are:

- 1) Dover Chemical agreed to continue to refrain from manufacturing Short-Chain Chlorinated Paraffin (SCCP), which it had previously ceased manufacturing; and
- 2) Dover Chemical agreed to submit Pre-Manufacture Notices (PMNs) for the Medium-Chain Chlorinated Paraffin (MCCP) and Long-Chain Chlorinated Paraffin (LCCP) that it continues to manufacture.

Dover Chemical is the only current domestic manufacturer of CP products, though several foreign manufacturers import CP products into the United States. Before Dover became the only domestic manufacturer, CPs had been manufactured in the U.S. for over 50 years by several companies. MCCP and LCCP are high production volume chemicals that have important uses in a variety of industries, including automotive, aerospace, defense, mining, metalworking, and construction. CPs have been previously evaluated in the U.S. by the EPA and the National Toxicology Program (NTP), and internationally by the Organization for Economic Cooperation and Development (OECD), the United Nations, the European Union, Canada and others.

This most recent action by EPA stems from concerns that currently manufactured CPs are not appropriately covered by the existing Chemical Abstract Service (CAS) numbers for CPs on the TSCA Inventory. SCCP, MCCP and LCCP were already being manufactured in the 1970's when the TSCA Inventory was first created, and variety of substance descriptions and CAS numbers were added to the TSCA Inventory to cover these substances at that time. These original substance descriptions, however, were often not well defined and this problem apparently created confusion regarding the appropriate CAS number/substance descriptions to use in reporting CP manufacture. EPA is now seeking to resolve these issues by placing new substance descriptions on the TSCA Inventory through the PMN process.

The International Chlorinated Paraffins Industry Association (ICPIA) anticipates that this recent EPA activity will have little impact upon U.S. industrial users of CP products. SCCP is not currently manufactured in the U.S. The requirement to submit PMNs on existing MCCP and LCCP will result in the EPA re-evaluating these substances. However, there is significant environmental, health and safety information on these substances that is already in the possession of the EPA that supports their continued manufacture and use in the U.S. In addition, the consent decree allows for the continued manufacture of MCCP and LCCP so long as the PMNs are filed by Dover Chemical for these substances within 30 days of the effective date on the consent decree.

Chlorinated paraffins are among the most tested and intensely evaluated chemical substances in commerce. Here, are some of the most significant findings from the decades of research conducted on these substances:

- In the late 1970's and early 1980's the CP industry conducted a multi-million dollar testing program that included dozens of studies of the environmental and health effects of SCCP, MCCP, and LCCP. The data from these studies was extensively reviewed and used by the EPA, the OECD, and other regulatory agencies to set their health and safety policies.
- In the 1980's, the National Toxicology Program (NTP) conducted 2-year chronic bioassays and other studies on several CPs. Based on these studies and related testing, regulatory agencies and expert reviews have consistently concluded that CPs have only limited cancer risks. The recent 2009 OECD review of LCCP, which included EPA and regulatory agencies from dozens of countries, concluded that LCCP has "minimal carcinogenic potential."
- Recent studies conducted in Canada have shown that levels of CPs in the environment are low and have been decreasing during the past decade. In addition, the Canadian government recently determined that $>C_{20}$ chloroalkanes, which covers most LCCPs, are not considered to be toxic under CEPA (Canadian Environmental Protection Act) to human health or the environment.
- EU assessments of MCCP and LCCP conducted during 2010 under the REACH regulatory program have determined that neither are Persistent, Bioaccumulative, and Toxic (PBT) substances.
- Results of a series of new research studies on the environmental fate of MCCP are expected to be published in the near future and are expected to support the conclusion that MCCP is not a PBT substance.

Based on this extensive data and recent reviews, ICPIA is confident that there will be sufficient data for the EPA to determine that MCCP and LCCP are not PBT substances and do not require additional action under TSCA once the Inventory issues are addressed.

For general questions related to the CP industry, research programs, regulatory evaluations, etc., please contact Andrew Jaques of the IPCIA at ajques@regnet.com or 202-419-1500.