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## Update on Regulatory Issues: Reduced Funding is Causing a Slowdown

**B**ill Sonntag's latest update shows progress for the surface finishing industry in some areas and delays in others, as efforts continue to provide businesses with better methods of achieving pollution prevention goals.

### Metal Products & Machinery (MP&M) Effluent Guideline

In mid-December 1995, EPA's Office of Water indicated that it planned to roll Phase I of the MP&M rule into Phase II, which was slated for initial development this year with a proposal schedule for 1997. Combining the two phases would probably delay Phase I for at least 12 months from the original promulgation schedule of fall 1996. Promulgation of the combined Phase I and II would probably occur in the fall of 1998 at the earliest.

The Association of Metropolitan Sewerage Agencies (AMSA) supports this approach, and Natural Resource Defense Council (NRDC) has indicated that it may not oppose the plan.

The metal finishing industry did not commit to support this move during the December Common Sense Initiative (CSI) meeting, nor in subsequent meetings with EPA. Industry's concern is that a rollover must include a change in the fundamentally flawed basis used by the agency for Phase I. Industry will be asking for a clear indication from EPA that it will not use the same data, technology or development methods in any combined Phase I and II rule development.

Industry also wants to insure that the data-gathering process is open and realistic. For example, the data submitted from industry facilities can

be subject to confidential business information (CBI) protection. If agreed to by all parties, industry might request that CBI information be deposited with a neutral third party, assuring appropriate access.

The EPA presentation at AESF Week in February indicated that final decisions regarding how to proceed on MP&M have not been made. EPA's representative did stress a willingness to work with industry on data collection activities. The questions concerning the next steps for MP&M are all a part of general uncertainty about EPA Office of Water priorities and activities for 1996. EPA is engaging in a re-examination of its activities in light of reduced funding levels caused by the on-going budget debate. Indications are that effluent guidelines, in general, will be given a lower overall priority for action in the coming months.

### OSHA Chromium PEL

The Occupational Safety and Health Administration (OSHA) was hit during the recent budget impasse, so it is anticipated that its schedule for proposing a drastic lowering of the chromium permissible exposure level (PEL) has slipped. Certainly, no stakeholder meetings have been scheduled, as was discussed during a meeting between industry (represented by the Chrome Coalition) and OSHA on December 5, 1995. Stakeholder meetings were contemplated for January or February 1996.

Government Relations has continued efforts to develop an early strategy on the PEL. The AESF, NAMF, OSHA Committees, and

MFSA Government Relations Committee received a draft request for proposal for work on technological and economic feasibility data development, identification of unique aspects of surface finishing industry chrome exposures, and unique industry processes, uses and risks of chromium. Responses will provide the industry with cost estimates for studies vital to our defense of chromium in the PEL rulemaking.

Additional actions have been taken to gather a group of proactive associations or companies willing to initiate an early preemptive contact strategy with the Clinton Administration on competitiveness and science risk issues.

Government Relations met with Robert Huggett, Assistant Administrator for EPA's Office of Research and Development, in early March. Along with the Chrome Coalition, the metal finishing industry has been attempting to gain access to data contained in what is purported to be a definitive study of occupational exposure to chromium done through a cooperative agreement with Johns Hopkins University. So far, only limited overview information has been released pending analysis by EPA and the university, prior to publication of the findings in a peer-reviewed industrial hygiene, epidemiological journal. Industry suspects that with proper analysis this data will moderate the very high cancer potency factor assigned to chromium based on prior studies. Mr. Huggett is attempting to reconcile the industry's need for this risk data, and the need to protect the information prior to publication.

## Clean Air Act Title V Deferral For Chrome Platers & Anodizers

The long-awaited deferral proposal was published on December 12, 1995. The industry's simple comments in support of this action have been submitted. Quick action is expected by EPA. There have been no reports of unexpected opposition to this action. A quick survey of state reactions to the deferral indicated that only a handful of states will not be implementing it based on the EPA proposed rule. The final rule should be published in March.

## Method Detection Limit Status

There was very little agency movement on this issue after the August 1995 meeting, at which the Inter-industry Analytical Group presented its methodology for addressing variation in test results below the level of analytical detection in Clean Water Act programs. The industry has been participating in this coalition effort since 1992. The coalition's primary goal has been to challenge the EPA's science and methodologies on various detection and test methods. Participants include the electric utilities, CMA, the American Forest Products Association, Westinghouse, the American Petroleum Institute, the American Automobile Manufacturers Association, and others. AESF Board member John Lindstedt represented the surface finishing industry at the August meeting with EPA.

In subsequent contacts, EPA requested that scientific experts in the matter be brought in to meet with their counterparts at EPA. This was tentatively scheduled for January 1996, however, as of this writing, no firm date has been set. Industry considers progress in this meeting to be critical. EPA has continued to use its proposed draft MDL methodology in selected rulemaking and guidance documents, regardless of the problems identified by industry and experts. This issue will be one of several raised by a variety of industry groups in the coming months, as attention is focused on EPA—particularly the Office of Water's problems with science-driven standards and methodologies.

During AESF Week, the Board of Directors approved a substantial project to validate the industry-proposed Alternative Minimum Level (AML) methodology by

sampling and analyzing effluent taken from metal finishing operations.

## TRI Phase III Materials Accounting

EPA is in the process of developing a rule to expand the Toxic Release Inventory to include chemical use and throughput information (materials accounting). While EPA staff working on the project predicts that no proposal could be completed before late 1996, President Clinton has asked political appointees to be ready to act when he signals. Clinton had threatened to veto the EPA appropriations bill that contains non-binding language to prohibit EPA from requiring chemical use reporting. The temporary spending bill, however, that Clinton signed on January 6 to fund EPA through January 26, did not contain any such prohibition.

While legislative efforts through the budget continue, industry groups are rapidly building coalitions and developing strategies to defeat the materials accounting concept before it becomes a rulemaking. A broad-based group of about 90 organizations has formed with the help of the U.S. Chamber of Commerce. The industry is participating on the steering committee of that *ad hoc* group.

## Hazardous Waste Identification Rule

EPA received and finally acted on a request that the comment period for this important RCRA rulemaking be extended. The agency granted an extra 60 days for comments in the middle of February. Government Relations is working with the U.S. Chamber of Commerce Business Recycling Coalition (BRC), to draft a detailed response. This industry focused on RCRA hazardous waste designation exit criteria for metals, effects on recycling operations, and other issues in its comments developed by the AESF and NAMF RCRA Committees, and MFSA's Government Relations Committee, with significant technical and legal help from the BRC comments.

One significant new policy in the HWIR proposal is the first use of a risk-based analysis for RCRA treatment of hazardous wastes. Prior treatment standards and methods have all been based on technological treatment activities (BDAT) to "minimize threat." In this proposal,

EPA used a new analysis method known as the "multi-pathway analysis" for potential exposures. This method goes way beyond the current focus on groundwater contamination, including vegetative uptake, downstream effects, airborne pathways, etc. EPA suffered a major setback in March when its own Science Advisory Board released a report that was highly critical of the methodology and science used to develop the multi-pathway analysis. In addition, major trade and industry groups have dedicated significant funding for review and analysis of this approach and will be providing extensive comments.

## Common Sense Initiative

The surface finishing industry subcommittee managed to hold its December meeting just before the government shutdown. The meeting moved the CSI process forward at its usual glacial pace. Significantly, Administrator Carol Browner attended the FACA portion of the meeting and reiterated her commitment to the process. In response to industry comments, she suggested that efforts would be made to ensure that information or demonstrations from the numerous pilot or regional projects now underway would be translated into national policy. Industry noted that the actions of the CSI oversight council and EPA's unwillingness to make hard decisions in the CSI process has resulted in a diminished focus on tough national policy issues.

Nevertheless, the metal finishing CSI did make progress on a variety of projects. The chrome MACT demonstration project is moving forward and should yield some good data on both costs and technologies for compliance for hard chrome plating. Progress was made on creation of a comprehensive compliance manual. The membership received a pre-publication, subscription solicitation early this month, and the response has been good. The purpose of the solicitation was to gauge demand for the manual in order to have a sense that any funds expended for production and distribution by the three industry partners would be recouped.

The recycling and pollution prevention project proposal provided by AESF's Milwaukee Branch has continued to receive consideration as

the site of activities regarding F006 and recycling regulations, generally. EPA has committed to having this well-organized AESF Branch involved with pilot projects that will assist in developing data on the links between F006 recycling and pollution prevention activities.

A great deal of attention was focused on the CSI during AESF Week 1996 in February. All told, the EPA's presentations by Assistant Administrator David Gardiner, Robert Bensen and others indicated a continued commitment to seeing CSI reach real results in environmental policy. Industry has continued to exert good-faith efforts to make the process a success, but industry members are increasingly looking for early, real results that will make a difference in the day-to-day compliance and environmental protection efforts of all metal finishing operations.

### **National Metal Finishing Resource Center**

The NMFRC project is continuing. Additional demonstrations of the Internet Website and its capabilities occurred during AESF Week for both MFSA and AESF members. NAMF, MFSA and AESF have signed cooperative research agreements with NCMS. Time now spent by industry members and staff on the project is being counted towards the industry's in-kind match. The Industry Advisory Council, the primary operations oversight group for the project, is under development. AESF, MFSA and NAMF recommendations for participants should be finalized soon.

The project team is working on development of a presentation outline package for use by AESF Branches, NAMF affiliates, and MFSA firms as an educational and/or a customer service activity, respectively. This

package will include appropriate handouts as well as information and presentation materials. The package will focus on using the Internet, including hardware and service requirements, and the substance of the information that will be available on the NMFRC Website. *P&SF*

#### **NAMF Management Seminar II— (Session P at SUR/FIN® '96) Wednesday, June 12—8 a.m.**

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