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JUL 27 1979

R. W. LASHER
PVC SAFETY GROUP

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(AD HOC MEETING OF REGION 2 PRODUCERS)

Sheraton Russell Hotel
New York, NEW YORK

Tuesday, July 17, 1979
1:00 P.M.

SUMMARY:

- (1) There was a general review of EPA's enforcement activities relative to the VCM Standard in Region 2.
- (2) Various options on actions were considered.
- (3) Companies with operations in Region 2 will be surveyed in late July to determine what actions might be taken on behalf of the PVC Safety Group.

ATTENDEES:

Scott W. Bowen - Beveridge, Fairbanks & Diamond, 1333 New Hampshire Avenue, N.W.
Washington, D.C. 20036
Harold F. Dubec, Jr., - Hooker Chemical Company, P. O. Box 456, Burlington, NJ 08016
Barbara Eisenberg - Pantasote Company, 10 Valley Drive, Greenwich, Ct. 06830
J. E. Ertel - Pantasote Inc. - 26 Jefferson Street, Passaic, New Jersey 07055
James D. Fannin - B. F. Goodrich Chemical Company, 6100 Oak Tree Blvd. Cleveland, OH
George S. Flint - Tenneco Chemicals - Park 80 Plaza W. Saddle Brook, NJ 07662
Don H. Francis - Goodyear Tire & Rubber Company, 1144 E. Market St. Akron, Oh 44315
Joseph E. Hadley, Jr., - Keller & Heckman, 1150 17th Street, N.W. Washington, D.C. 20036
Takashi (Wally) Ito - Goodyear Tire & Rubber Company, 1144 E. Market St. Akron, Oh 44316
John R. Lawrence - SPI, 355 Lexington Avenue, New York, NY 10017
Harvey A. Rosenweig - Borden Inc. 180 E. Broad St., Columbus, OH 43260
William Rupp - Tenneco Chemicals, Turner Place, Box 365, Piscataway, NJ 08854

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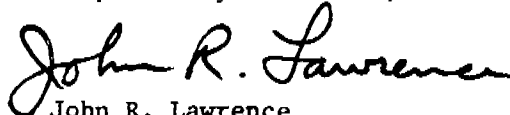
- 1 - Mr. Hadley reviewed the recent activities within EPA's Region 2 with respect to enforcement actions on the vinyl chloride standard. He noted that the several companies having plants using VCM within Region 2 have received letters relating to vinyl chloride releases occurring in the past. (See attachment A). The meeting agenda and various support documents were distributed.
- 2 - Mr. Bowen reviewed the background in the VCM regulation relative to emergency relief discharges. In addition, he reviewed the various interpretations made by EPA in documents issued in the period from February 1978 through April 1979.

(Agenda Item C-2, Attachment B)

He also reviewed the various industry activities relative to emergency relief discharges in the period from July 1978 through December 1978. (Agenda items D & E).

- 3 - Mr. Hadley reviewed the data his office has been accumulating on emergency releases. He indicated that this record is not as complete as it should be as some companies have not been reporting to his office.
- 4 - Mr. Bowen discussed the possible actions which might be taken including the seeking of administrative relief, seeking judicial review or review of the administrative orders, the current DSSE enforcement position and/or the substance of relief valve discharge provisions.
- 5 - It was agreed that the companies with operations in Region 2 would review the various options outlined in today's meeting and be prepared to respond to a survey to be conducted later in July. The survey will be conducted from the Keller & Heckman office to determine what the consensus is with respect to the actions that might be taken on behalf of the PVC Safety Group.
- 6 - It was further agreed that all member companies of the PVC Safety Group should be informed on the content of this meeting by receipt of copies of these minutes.
- 7 - The meeting adjourned at 3:30 p.m.

Respectfully submitted,



John R. Lawrence
Technical Director

Attachments
July 18, 1979



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II
26 FEDERAL PLAZA
NEW YORK, NEW YORK 10007

Attachment A

J. E. ERTEL

JUL 9 1979

JUL 2 1979

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

Mr. John Ertel
Vice President
Pantasote Company of New York
26 Jefferson Street
Passaic, New Jersey 07055

Dear Mr. Ertel:

Enclosed please find an Order issued this date by the United States Environmental Protection Agency ("EPA") to the Pantasote Company of New York ("Pantasote") pursuant to Section 113(a)(3) of the Clean Air Act, as amended, 42 U.S.C. §7413(a)(3) ("the Act"), for violations of EPA emission limitations for vinyl chloride at your Passaic, New Jersey facility. Specifically, the Order finds that Pantasote is in violation of 40 CFR §61.65(a), a regulation which provides in part:

Except for an emergency relief discharge, there is to be no discharge to the atmosphere from any relief valve on any equipment in vinyl chloride service. An emergency relief discharge means a discharge which could not have been avoided by taking measures to prevent the discharge.

Although your obligations under 40 CFR §61.65(a) are clear from the language of the rule, I wish to leave no doubt that all discharges, except for unpreventable emergency ones, are prohibited.

EPA construes the exception for emergency relief discharges narrowly. In order for a discharge to be considered an emergency, a source must demonstrate that it could not reasonably have been expected to anticipate the discharge and then to prevent it or contain it. As a minimum, the source must demonstrate that the discharge could not have been prevented by implementing any of the following procedures:

- 1) employee training programs including instruction on emergency procedures;

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- 2) proper inspection and maintenance programs (including replacement of relief valve seals on a sufficiently frequent basis in order to prevent their rupture);
- 3) proper design and operation of process and control equipment; and
- 4) installation and operation of all control equipment needed to comply with the vinyl chloride standard.

If a source has previously experienced one or more discharges, some or all of which were caused by the same factor, the source is expected to have taken corrective measures designed to prevent or contain future discharges.

The preamble to the proposed vinyl chloride standard lists several measures a source can reasonably be expected to take to prevent relief valve discharges. See 40 Federal Register 59539 (December 24, 1975). These measures include, but are not limited to, venting vinyl chloride discharges to a gas holder during upset conditions and ultimately to a recovery system.

Please be advised that a violation of the enclosed Order will subject Pantasote to a civil action for an injunction and penalties of up to \$25,000 per day of violation pursuant to Section 113(b) of the Act. In addition, a knowing violation may subject Pantasote to criminal liability pursuant to Section 113(c) of the Act.

If you have any questions on this matter, you should call Samuel P. Moulthrop, Attorney, General Enforcement Branch, Enforcement Division, at 212-264-5695.

Sincerely yours,

STEPHEN A. DWORKIN
Acting Director
Enforcement Division

Samuel P. Moulthrop
Meyer Scolnick
Director
Enforcement Division

Enclosure

cc: Herbert Wortreich, Chief
New Jersey Department of Environmental
Protection

Edward Londres, Assistant Chief
New Jersey Department of Environmental
Protection

cc: Mr. James Hardwick
Manager of Engineering
Pantasote Company of New York

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

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In the Matter of	:	<u>ORDER</u>
	:	
	:	
PANTASOTE COMPANY OF NEW YORK	:	Index No. 90145
(Passaic, New Jersey)	:	
	:	
_____	X	

FINDINGS

1. The Pantasote Company of New York ("Pantasote") owns and operates a facility at 26 Jefferson Street, Passaic, New Jersey, which produces polyvinyl chloride. Said facility is subject to the requirements of Section 112 of the Clean Air Act, as amended, 42 U.S.C. §7412 ("the Act") and the regulatory provisions codified at 40 CFR Part 61, which comprise the National Emissions Standards for Hazardous Air Pollutants ("NESHAPS").

2. NESHAPS regulations for vinyl chloride were promulgated on October 21, 1976 and are codified at 40 CFR §61.60 et seq. Pantasote processes vinyl chloride at its Passaic, New Jersey facility and is therefore, subject to 40 CFR §61.60 et seq.

3. Pantasote is in violation of 40 CFR §61.65(a) and Section 112 of the Act. Specifically, Pantasote discharged the following quantities of vinyl chloride through relief valves at the above-mentioned facility under non-emergency conditions on the following dates in contravention of 40 CFR §61.65(a):

<u>Vinyl Chloride Emissions (lbs.)</u>	<u>Date</u>
1,325	10-29-77
725	8-30-78
1,200	11-13-78
1,100	3-22-79

ORDER

Based upon the foregoing and pursuant to Section 113(a)(3) of the Act,
IT IS HEREBY ORDERED THAT:

1. The Pantasote Company of New York shall immediately take such steps as are necessary to prevent further violations of CFR §61.65(a).
2. The Pantasote Company of New York shall immediately and at all times hereafter comply with the requirements of 40 CFR §61.65(a).

SO ORDERED, EFFECTIVE IMMEDIATELY.

Dated: New York, New York

July 2

, 1979

Eckardt C. Beck

ECKARDT C. BECK
Regional Administrator
U.S. Environmental Protection Agency
Region II
26 Federal Plaza
New York, New York 10007

AGENDA

Ad Hoc Task Group
PVC Safety Group, SPI

New York City

July 17, 1979

I. Background

- A. Memorandum on Enforcement of the Vinyl Chloride Standard Against Owners or Operators with Relief Valve Discharges, October 14, 1978
- B. Memorandum on Possible Actions Contesting Relief Valve Regulation and Interpretation, December 6, 1978.
- C. EPA Enforcement Memoranda
 - 1. Enforcement Options and Policy
 - a. September 18, 1978, DSSE to regions
 - 2. Relief Valve Discharges
 - a. February 23, 1978, DSSE to Region II
 - b. February 28, 1978, DSSE to regions
 - c. May 18, 1978, DSSE to regions
 - d. October 26, 1978, DSSE to regions
 - e. April 24, 1979, DSSE to regions
- D. PVC Safety Group
 - 1. July 7, 1978 letter
 - 2. Steering Committee, October 18, 1978
 - 3. Manufacturing Technology Committee, December 5, 1978
 - 4. Lawyers Committee, December 7, 1978

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July 17, 1979

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5. December 14, 1978 letter

E. Discussions with EPA

1. October 18, 1978, DSSE
2. November 17, 1978, ESED (RTP)
3. December 6, 1978, ESED (RTP)
4. December 11, 1978, ESED (RTP)
5. February 15, 1979, letter to ESED (RTP)

F. EPA Enforcement Actions

1. Region VI letters, June 16, 1978
2. Region I letter, Fall 1978
3. Region III letters, November 7, 1978
4. Other

G. Comments on Relief Valve Discharge Provisions,
1975-76.

II. Relief Valve Discharge Data

- A. Numbers of Releases
- B. Causes

III. Region II Letters and Administrative Orders, July 2, 1979

A. EPA Authority--Clean Air Act, Section 113

1. Administrative Order
 - a. Nature of violation
 - b. Reasonable time for compliance,
taking into account seriousness
of violation and good faith efforts
to comply
 - c. Effective date

- d. Possible opportunity to confer with Administrator
- 2. Civil Action and/or Criminal Prosecution
 - a. Violation of Standard
 - b. Violation of Order
- B. Circumstances
 - 1. Discharges
 - a. Numbers
 - b. Causes
 - c. Reports
 - 2. Measures Taken to Avoid Discharges
 - 3. Discussions with EPA
 - a. Pre-order
 - b. Post-order

IV. Strategy and Timing

- A. Do Nothing
 - 1. Wait for Further EPA Enforcement Action
 - a. Court Action
 - b. Noncompliance Penalties
- B. Seek Judicial Review
 - 1. Prepare Legal Memoranda and Draft Pleadings

V. Legal Options

- A. Administrative Relief
- B. Review of Administrative Orders
- C. Review of Current DSSE Enforcement Position

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D. Review of Substance of Relief Valve Discharge
Provision

VI. Conclusions

- A. Factual Information
- B. Legal Options