

**Interoffice
Communication**

TO: Distribution

FROM: Tom Grumbles; Dr. Drumwright

DATE: March 28, 1985

SUBJ: MEMO FROM ELIZABETH O'CONNOR

VISTA

The enclosed memo from Elizabeth O'Connor should have been attached to her "Proposed Respirator Policy" which we sent to you yesterday. Please do so now.

If you have any further questions on this matter, don't hesitate to call.

cc: Debs Gamblin
M. A. Fisher
Jim Carter

Distribution:

Plant Safety Directors

Plant Managers

Plant Employee Relation Directors

VVV 000015826

JJH: JCL: TGG: RF
XF: _____

TO: Dave Kuhn
FROM: Tom Grumbles
DATE: March 28, 1985

SUBJ: CONGRESSMAN FLORIO'S H.R. 963 AND H.R. 965 PROPOSALS

Interoffice
Communication

VISTA

You had asked why the Florio's proposals were ominous. Based on a review of the summary (attached), below are comments on some of the potential problem areas.

HR 963 - Worker Right-to-Know

This bill basically would prevent preemption of state laws by the Federal HAZARD Communication Standard. This issue has been debated at length and is now "in the courts" in relation to the OSHA HAZARD Communication Standard. The general concern is a company operating in seven states would have seven different laws to comply with. The New Jersey Courts recently decided that the OSHA Regulation did preempt the state law in the areas affected by both (manufacturers). This proposed regulation would potentially void any such decisions.

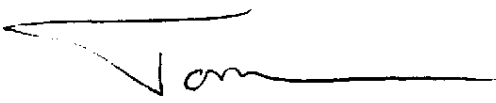
HR 965 - Community Right-to-Know

This proposed bill would create several administrative burdens in addition to those already required for compliance with workplace regulations. In particular, the HAZARDOUS Substance Status Reports which includes: the total inventory of hazardous substances kept at a facility; total emissions into the air, water and ground of such substances; and waste disposal methods, would require additional work.

The emissions data may be costly to obtain, and the volume data may be confidential in some cases.

Section B. - Emergency Evacuation Plans and Labeling, would require labeling of pipes, among other things. This requirement was deleted from the OSHA Hazard Communication Standard and has not been in any State RTK Regulations to date. This requirement would be difficult to comply with. Specifics of the problems are detailed in the hearing records and preamble to the OSHA HAZARD Communication Standard.

As mentioned, the items above are based on review of a summary of the bill. Detailed review of the bill would probably reveal other potential problems.



Thomas G. Grumbles

cc: Peg Donahue
Bill McClain

VVV 000015827

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TO: Dave Kuhn

FROM: Tom Grumbles

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Thomas G. Grumbles

VVV 000015828

cc: Peg Donahue
Bill McClain

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F E D E R A L U P D A T E

MAR 27 85

CHEMICAL MANUFACTURING SAFETY ACT OF 1985

Router: _____

On February 6, 1985, Congressman James Florio (D, NJ), chairman of the Energy and Commerce subcommittee on Commerce, Transportation & Tourism, introduced a package of bills "designed to lessen the potential for a Bhopal-type chemical accident in the United States."

File: _____

In Congressman Florio's Congressional Record statement, he pointed out that this package of bills is "designed to prevent chemical accidents and to redress the injuries caused when such tragedies unavoidably occur." Furthermore, Congressman Florio observed that "from Bhopal, India to Institute, WV, to Linden, NJ, we have seen repeated incidents of chemical releases that threaten people's lives."

"In the past 11 weeks," Florio emphasized, "13 separate spill and emission incidents at Linden chemical plants have sent hundreds of New Jersey and New York residents to the hospital and kept thousands of others shut in their homes." "At the same time," Florio noted "we have learned that the accident which killed thousands in India could have happened in West Virginia."

Major components of this legislation, known as the "Chemical Manufacturing Safety Act of 1985," according to Congressman Florio, include:

(1) H.R. 963 -- WORKER RIGHT-TO-KNOW

The legislation would prohibit federal preemption of any state worker right-to-know law which is more protective of worker safety and health than applicable Occupational Safety and Health Administration standards. Federal standards would therefore become the floor, and not the ceiling, for state efforts in this area.

(2) H.R. 965 -- COMMUNITY RIGHT-TO-KNOW

A. Basic Notification Requirements -- The legislation requires all covered "manufacturers, users, distributors and transporters" of any covered "hazardous substance" to provide full information to communities around their factories or warehouses concerning the risks posed by the potentially dangerous chemicals they handle. Required disclosures include:

1. Hazardous Substance Fact Sheets -- A fact sheet for any covered hazardous substance must be filed once with local police, fire and health officials (and updated as appropriate). Members of the public must be notified through local newspaper advertisements that the fact sheets are available for their review both at local police, fire and health departments and at the factory or other facility where the chemicals are kept.

The fact sheets must include the name of the hazardous substance; its physical properties and hazards; its health hazards; possible routes of exposure to the substance and the symptoms of such exposure to the substance and the symptoms of such exposure; and

the appropriate emergency procedures to follow in the event of a spill, fire or explosion involving the substance.

2. Hazardous Substance Status Reports -- A status report must be filed for any covered hazardous substance on an annual basis with local police, fire and health officials. Members of the public must be informed of their right to review such status reports under the same circumstances as they review hazardous substance fact sheets.

The status reports shall describe the amount and method of storage for the total inventory of a hazardous substance kept at a facility; the total emissions into the air, water and ground of such substances; and the quantity and method of disposal for any waste containing such substances.

3. Emergency Bulletins -- In the event of any release of a covered hazardous substance that may pose an imminent and substantial endangerment to human health and the environment, the manufacturer, user, distributor or importer of the substance must file an emergency bulletin with local police, fire and health officials immediately. Members of the public inquiring about the emergency release must be given full access to such bulletins.

An emergency bulletin must contain a full description of the event so that appropriate health and safety precautions can be taken. At a minimum, the bulletin shall include the chemical name or identity of the substance involved; the amount released; the time and duration of the release; and the actions taken to respond to the release.

Covered manufacturers, users, distributors, or importers include any such business in the United States which employs more than ten people or handles more than 1000 kilograms of a hazardous substance each month. Research laboratories and hospitals are exempt from the reporting requirements.

Covered hazardous substances include approximately 2,300 hazardous or toxic chemicals which have been listed by the federal government or private research agencies. Government sources for the listed substances include the National Toxicology Program of the United States Public Health Service; the Occupational Safety and Health Administration; and the Environmental Protection Agency.

Private sources of listed substances include the American Conference of Government Industrial Hygienists; the National Fire Protection Association; the International Agency for Research on Cancer; and the National Cancer Institute.

Exemptions from the definition of hazardous substances are given for consumer products (including foods, drugs and cosmetics regulated by the Food and Drug Administration), products sold for industrial use in the same form as consumer products, and any substance in solid form (e.g. copper or lead pipes) when expo-

sure to it cannot harm health.

Trade secret protection is given for a chemical's name or identity (but not for the hazard and other information required to be disclosed), except in cases of an emergency or where the chemical is a known carcinogen. Businesses claiming such protection must stand ready to substantiate it on demand and can be sued for keeping confidential information which is not a trade secret.

B. Emergency Evacuation Plans and Labeling -- Any "major" manufacturer, user, distributor, or importer of a hazardous substance, who is designated by the Environmental Protection Agency as capable of experiencing a serious chemical accident, must prepare an emergency response and evacuation plan for its manufacturing or storage facilities. Such plans shall include plans for notifying the public, diverting traffic, providing adequate medical attention, and containing the release.

Local "site committees" appointed by the Governor of each state and consisting of police, fire and health officials, hospital personnel, community representatives, and industry representatives shall review such plans and modify or consolidate them as appropriate.

Finally, EPA shall issue a rule requiring the appropriate labeling of pipes, tanks and other machinery holding hazardous substances so that firefighters and the police can respond quickly and effectively in the event of an emergency.

(3) H.R. 965 -- REGULATORY PREVENTION PROGRAMS

A. Coverage of Pesticide Manufacturing Processes -- The legislation would authorize EPA to review the potential for major damage to human health and the environment caused by accidents involving chemicals used to manufacture pesticides under the Toxic Substances Control Act (TSCA).

TSCA currently exempts pesticide products; the legislation would make it clear that the manufacture of a pesticide is covered by the Act even though the commercial distribution of a finished pesticide product is covered by other federal environmental laws.

B. Leaking Underground Storage Tank Regulations -- The legislation would ensure that new underground storage tank regulations required under the Hazardous and Solid Waste Amendments of 1984 must prevent releases into air from such tanks. The law currently specifies only that releases into the ground or water must be prevented.

The legislation would also shorten the deadline for the promulgation of regulations concerning underground tanks used to store hazardous substances from 36 to 18 months.

(4) H.R. 965 -- FEDERAL CAUSE OF ACTION

The legislation would create a federal cause of action for people injured by accidents or abnormal releases of hazardous substances. The liability of manufacturers or processors of such substances would be strict, joint and several. This standard is the same as the standard which applies to Superfund