

LEGAL COMMITTEE

Princess Resort Hotel
Salon IV
Scottsdale, Arizona

Thursday
May 12, 1988
9:00 a.m.

- I. SELF-INTRODUCTIONS
- II. APPROVAL OF MINUTES OF DECEMBER 10, 1987 COMMITTEE MEETING
- III. REGULATORY AGENCY MATTERS
 - A. EPA

Settlement Agreement SPI v. EPA (See P. de la Cruz letter to Richard Roos-Collins of February 10, 1988.) P. de la Cruz
 - B. OSHA
 - 1. Status PVC labeling - MSDS's; Hazard Communication Standard. P. de la Cruz
 - 2. OSHA Carcinogen Warning Requirements; Response to Occidental Chemical Citation. R. D. Luss
 - C. FDA

Status Report - Status of Review Requested of EPA; Other Activity to Expedite FDA Decision. P. de la Cruz
R. D. Luss
- IV. LITIGATION MATTERS
 - A. Dupont Plaza - Puerto Rico Hotel Fire R. D. Luss
 - B. Cathedral Hill Hotel Inc. v. Shelby Williams - Document Production R. Gottesman
 - C. Personal Injury Lawsuit - Letter from Fuller and Henry to P. de la Cruz (3/1/88) P. de la Cruz

- V. NEW BUSINESS
- A. Chicago Plastic pipe Suit - Garibaldi R. D. Luss
 Square Associates v. City of Chicago /R. Gottesman
- B. Development of VI Recommended Policy on R. D. Luss
 Labeling
- C. New York Toxicity Data Bank - Need for R. D. Luss
 Stronger Caveat Re: Flawed Test Method
- VI. VINYL INSTITUTE STRATEGIC PLAN R. Gottesman
- VII. LEGAL BUDGET FOR FISCAL YEAR 1988-1989 R. Gottesman
- VIII. NEXT MEETING DATE Group
- IX. ADJOURNMENT

R&S 140961

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May 11, 1981

* OHIO BAR ONLY

Mr. John R. Lawrence
 The Society of the Plastics
 Industry, Inc.
 355 Lexington Avenue
 New York, New York 10017

Re: Employee Training Under OSHA Vinyl Chloride
 Standard

Dear John:

The purpose of this letter is to inform you of the recent completion of a case involving the employee training provisions of the Occupational Safety and Health Administration (OSHA) vinyl chloride standard. As you may recall, in September, 1978, an OSHA inspector issued a citation to Hooker Chemical Corporation. The citation noted Hooker's alleged failure to provide training on vinyl chloride for employees who worked in the calendering, compounding and warehouse areas.

Hooker contested the citation for its Burlington, New Jersey facility on the basis that employees working in these areas were not required to be trained on the hazards of vinyl chloride. Both Hooker and OSHA's monitoring of vinyl chloride in the calender and compound facilities indicated concentrations significantly below the 0.5 parts per million (ppm) action level.

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In May, 1979, the administrative law judge issued a decision that adopted Hooker's position and vacated the OSHA citation. The judge held that the training provisions of the standard do not apply to areas where the vinyl chloride level in the ambient air is below the action level of 0.5 ppm.

Although not requested to do so by any party, a commissioner on the Occupational Safety and Health Review Commission directed that the case be reviewed. In responding to the review proceedings, OSHA changed its position and filed a letter stating that the judge's decision should be affirmed. Significantly, OSHA stated that the training requirements were not applicable in this case because Hooker's compounding and calendaring operations simply were not processes that could result in hazardous exposure to vinyl chloride.

Because no party sought review by the Commission, and the Commission did not consider the issue one of compelling public interest, it chose not to review the case. Thus, under the Commission's order of March 31, 1981, the judge's decision remains intact.

While the case has limited precedential value, it does clarify what is a regulated area and when training requirements must be met. In addition, the proceedings indicate that OSHA is unlikely to issue citations in circumstances similar to that which existed at Hooker's Burlington facility.

Because the conclusion of this litigation may be of general interest, you may wish to further distribute this letter to the PVC Safety Group. As always, if you have any comments or questions, please feel free to contact me.

Cordially yours,



Peter L. de la Cruz

cc: Mr. Jerome P. Carroll
Ms. Fran Lichtenberg
Mr. Thomas R. McGrath

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