

Chemical Manufacturers Association

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Minutes of Meeting

CHEMICAL REGULATIONS ADVISORY COMMITTEE

CMA Conference Room 404
1825 Connecticut Avenue, N. W.
Washington, DC 20009

Tuesday
December 18, 1979
9:00 AM - 4:00 PM

MEMBERS PRESENT

E. A. Agostini
F. E. Bently
Eugene Berman
C. E. Blades
J. B. Charm
Lory A. Crisorio
Donald Ellison
Dean E. Leib
C. W. Smith
M. F. Tietze
Carl W. Umland

Pfizer Inc.
Texaco Inc.
E. I. du Pont de Nemours & Company
Air Products and Chemicals Inc.
Allied Chemical Corporation
Union Carbide Corporation
Virginia Chemicals Inc.
Rohm and Haas Company
Shell Chemical Company
ICI Americas Inc.
Exxon Chemical Company USA

MEMBERS ABSENT

Etcyl H. Blair
Richard Fleming
A. B. Lindquist
L. Starr
Monte C. Throdahl

The Dow Chemical Company
Air Products and Chemicals Inc.
Stauffer Chemical Company
Celanese Corporation
Monsanto Company

CMA STAFF PRESENT

Dr. Geraldine Cox
Edmund B. Frost
James K. O'Connor
David G. Sarvadi
Gordon D. Strickland

(Part-time)
(Part-time)
(Part-time)
(Part-time)

ACTIONS:

- o Messrs. Charm, Berman and Tietze will provide Messrs. Strickland, Zoll and Sarvadi suggested information for use in drafting a letter to Ms. Marilyn Bracken's office (EPA). The letter will voice CMA's concern over EPA letters being received by industry which require reporting of trade name information and are being forwarded to chairmen of the boards of member companies
 - o Messrs. Sarvadi, Zoll and Strickland will prepare budget estimates for FY80 and 81 for review by CRAC at the January meeting.
 - o CRAC Task Group Chairmen will provide project/budget estimates to Mr. Strickland for FY81. The estimates must be received prior to January 4, 1980.
 - o Mr. Curtis Smith will draw up a proposed charter and objectives that include both Section 5 and 6 TSCA related activities. The charter will be presented at the January CRAC meeting.
1. Mr. Crisorio, the acting Chairman, called the meeting to order at 9:30 AM. The minutes of the meeting of November 14 were read and approved with the following changes:
- a. The minutes should reflect that Mr. Ingle requested CRAC's assistance in a cooperative effort with EPA's Mr. Bannerman (Office of Industry Assistance) in setting up an industry awareness program for OTS personnel. In supporting the program CRAC members would recommend persons to speak to OTS personnel on industry activities, structures, problems, etc.
 - b. Page 3, the second paragraph should read "Mr. Umland recounted events of the October 19, 1979, EPA Science Advisory Board's Toxic Substance Subcommittee meeting."
 - c. Page 4, Item 1 should read "the ITC has submitted its 5th list."

- d. Page 7, the 15th line from the bottom of the page should read "...decision of the Administrator will be final").

2. Section 4 Task Group Report

Mr. Umland briefed the committee as follows:

- a. On December 5 he met with Mr. Warren Muir to discuss amyolphosphate and chloromethane. During the meeting he reminded Mr. Muir that methylchloride was a poor choice to use for defining what purity of a chemical is to be tested.
- b. EPA has said nothing about our comments on the proposed Section 4 Testing Standards.
- c. Sara Shapley has prepared a list of twelve chemicals for which testing rules will be proposed. The list is not yet available for public release. He added that we should encourage Mr. Muir to publish the information.
- d. Mr. deKany stated during the EPA hearing on the PMN reproposal that the first testing rule will be published by March of next year.
- e. CMA comments on the IRLG draft guidelines for selected acute toxicity tests were filed during the first week of December. The task group is now working on the IRLG draft for subchronic and two-generation tests which will be filed the first week of January. He added that there will be several others that necessitate our comments.
- f. Only Allied, Dow, Shell and Union Carbide have responded to Mr. Umland's request for nominees to the Task Group. Toxicologists with backgrounds in plant, water, and environmental fate are needed.
- g. Mr. Umland closed by addressing the current budget problems, and by reminding the CRAC members that the testing area is and will continue to be both active and critical.

3. Dr. Geraldine Cox stated that ASTM has established a committee on Environmental toxicology of nonaquatic systems. She said that ASTM has asked us to become more involved and that CRAC should consider how well we were represented.
4. Mr. Zoll was asked to comment on the NRDC vs. Costle suit. He stated that CMA had helped draft the government's submittal, but that the outcome of the suit was uncertain. An adverse decree that will burden EPA with compliance requirements is probable.
5. Section 5 Task Group Report

Mr. Curtis W. Smith provided the following comments:

a. Premanufacture Notification (PMN)

CMA comments on EPA's reproposal for PMN were filed on November 30. Besides EPA, these comments have been given to and discussed with Representative Broyhill and the OMB. The presentation to Broyhill was made by Chris Nolde, Tom Mooney, and Rob Polack. The presentation to Jim Tozzi and Mike O'Bannon of OMB was made by Gordon Strickland, Eugene Berman, Lory Crisorio, C. W. Umland, and C. W. Smith. This latter meeting seemed especially worthwhile. Mike O'Bannon had studied the reproposal thoroughly and understood many subtleties involved. Jim Tozzi has chemical engineering training and was familiar with the origin of TSCA. He understood and expressed sympathy with our concerns for: required supplemental reporting, substantiation of claims for confidentiality, and the blockflow diagram.

The comments have been reviewed with EPA in two meetings. The first was held November 28. Messrs. E. Berman, Jim O'Reilly, C. W. Umland, R. Polack, H. Hurst, M. Tietze and C. W. Smith supported by P. Hutt and R. Sussman met in a group of about 40 from 1:00 to 5:00 PM. On December 12, the second meeting was held at the HEW auditorium from 9:00 AM to 4:30 PM. EPA called that open meeting to review PMN comments and hold a discussion concerning them. CMA was represented by P. Hutt in the morning and R. Sussman in the afternoon. Support was given

by C. W. Umland, Jim O'Reilly, Rob Polack, Ham Hurst, and C. W. Smith. There were about 100 people present. EPA had studied the comments and did an objective job of reviewing them and inviting comment. Besides comments by representatives of Procter and Gamble and Standard of Indiana, one Natural Resource Defense Council and one AFL-CIO representative spoke. The AFL-CIO were interested in assuring that the Federal Register Notice included the names of manufacturers submitting PMN's. This would allow the AFL-CIO to notify the union local at the site of a new chemical manufacture. Blake Biles, EPA's major spokesman, asked for industry's reaction to listing a local union contact on the PMN. We pointed out this was not authorized by the ACT and would present confidentiality problems.

In objection to the required supplemental reporting, CMA reiterated its concern that this proposal would give EPA a blank check for obtaining information, and would provide industry no recourse to the courts. EPA stated that they plan to be reasonable, and that they only expect to request supplemental reporting on rare occasions. Our reaction was that EPA should trust industry and that industry response to requests for information should be voluntary. The Agency's 5(e) club provides sufficient incentive to obtain any necessary information. The Agency is obviously concerned that use of a 5(e) regulation will present EPA with significant limitations.

Concerning substantiation of confidentiality, CMA restated their position that it is well established in the courts that industry has the right to confidentiality for trade secrets and business information and that this right is not dependent on EPA review of generic information or responses to questions of uncertain relevance. We proposed that only the certifying signature is needed initially to substantiate the four basic considerations for confidentiality on the PMN form. If EPA needs further substantiation under FOIA request, TSCA provides a 30 day mechanism for obtaining it. EPA is considering possibilities other than those above. One would require a narrative substantiation for chemical identity and information other than manufacturer's identity, production volume,

being made to involve all other concerned chemical trade associations. Following that meeting a second draft will be prepared for review on January 10. The deadline for filing comments is January 17.

To broaden representation on the intercommittee task group Mr. E. Frost, P. Hutt, D. Sarvadi and C. W. Smith will be meeting with them in the future.

A meeting was held on December 13 between Mr. Auerback (he reports to C. Kelly of EPA), CMA (represented by Mr. P. Hutt) and several other trade associations. EPA is now planning to limit label requirements to hazard warnings without concern for chemical identity. The Agency plans to follow the ANSI procedures closely. Acute hazards will be developed generically to cover any material that fits the criteria. Carcinogens will be individually listed, and will be selected from the IRC and NCI lists. There will be over 100 chemicals on the list. CMA pointed out the concern that if there is to be a generic standard there should be general exemptions. EPA recognized that there would need to be a lower limit of concentration below which labeling would not be required. CMA suggested the regulation development might better deal with acute and chronic hazards separately.

On December 13, Flo Ryer of OSHA reviewed OSHA's plans for regulation of labeling with the organization Resources Counselors. Mr. Bittenbender of the CMA intercommittee task group attended the meeting. OSHA plans to require identification of all chemicals in the workplace down to 0.1%. They expect to have a draft regulation early next year. Obviously OSHA is under strong political pressure from labor to publish that regulation. Mr. Bittenbender and David Zoll will meet with OSHA as soon as possible to gain more information. That information will be considered by the intercommittee task group when it meets on January 11 to consider both EPA and OSHA regulations for labeling. Other trade associations are being invited to join in this effort.

6. Mr. Joel Charm introduced and the committee discussed a fact sheet for the hazardous Substance Identification Standard that had been handed out by Flo Ryer. The fact sheet, now before Eula Bingham for her to resolve with Costle, addresses the following items:

a. Scope and Application

-The standard applies to all substances listed in the Toxic Substances Control Act Chemical Substance Inventory and the NIOSH Registry of Toxic Effects which are hazardous or toxic.

b. Substance Identification Lists

-Employers shall develop and maintain substance identification lists in each work area. The chemical and common names and the Chemical Abstracts Service (CAS) Registry Number are to be included for each substance, with cross-references to the other applicable names.

-Employers shall develop a workplace master list by compiling all work area lists.

-All lists are to be made available to employees. The lists are to be updated annually.

c. Labels

-Any container of a substance subject to the regulation is to be immediately labeled, tagged, placarded or marked with the chemical name and CAS Registry Number of the substance. Containers bearing DOT or EPA labels are considered to be in compliance with this requirement if the labels include the chemical name and CAS Number.

-Labels and placards shall include all regulated substances present in concentrations greater than 0.1 percent.

-Labels and placards are to be prominently displayed to allow easy identification.

-Labels are to remain affixed to containers of regulated substances which are sold, distributed or otherwise leave the employer's workplace.

d. Substance Data Sheets (SDS)

-Employers are to immediately obtain whatever substance data sheets are available for the regulated substances in their workplace. Manufacturers, suppliers, and industrial trade associations are potential sources of available SDS.

7. Reporting Task Group Report

Mr. Charm discussed current and future activities of the task group as follows:

a. Mr. H. Twaddle provided draft comments to be coordinated with CMA. The comments agree with EPA that company records that document chemical inventory reports need to be maintained no longer than January 1, 1983.

b. Numerous companies have received letters from Marilyn Bracken's office requesting information on trade name products. Those letters have been sent by certified mail to chairmen of the boards of many companies. The fact that EPA intended to mail requests for information of this type was addressed by CRAC in August; however, EPA's selection of recipients, and the wording of the letter which is reminiscent of wording in the PMN proposal now being rejected by CMA are disturbing. CRAC has previously insisted that much of the information now being requested must be protected as confidential. A CMA letter to Ms. Bracken will be drafted by Messrs. Charm, Tietz, Berman, Strickland, Sarvadi and Zoll. The letter will voice CMA's concerns for protection of confidential information, for requirements to substantiate claims of confidentiality, and for inappropriate routing of the letters.

c. Comments on Section 8(c) and 8(d) will be prepared when final rules are published. The 8(d) rule is expected to raise some major issues.

d. The proposed 8(a) rule is now being reviewed by the task group. Definition problems and the number of chemi-

cals it will cover are still concerns to be further resolved. The form is, however, consistent with that recommended by CRAC.

e. Comments on the TRIS/PBB proposal have been forwarded to EPA. Comments on the Asbestos rule will be delayed since EPA has expanded its proposal and moved the comment due date to February 18, 1980. Issues raised under 8(a)(2) will be closely coordinated with Mr. C. W. Smith's task group.

8. Oversight Task Group Report

Mr. Berman reported the following major points:

a. Members of his task group will develop papers on their assigned issues for presentation to CRAC for its action. A standard format will be used. Normally the top ten issues will be worked while lower priority issues will be held in abeyance.

b. Task group members will be contacting other task group chairmen to ask them to identify issues which may be appropriate for presentation at the March 1980 TSCA reauthorization hearings. Those issues will be distributed to all Oversight task group members by January 11, 1980.

c. The task group has held one joint meeting with members of the Environmental Management Committee, the Occupational Safety and Health Committee, and the American Industrial Health Council (AIHC). The joint decision was made that continued development of an industry position will require a broader involvement from other organizations. The desirability of forming an Ad Hoc group to develop such a position will be further reviewed within CMA and AIHC. Another joint meeting will be held in two weeks to formalize plans. The plan may include consultant help to get the program moving. Mr. Umland commented that industries' resources are scattered and that consolidating them effectively is no small problem.

9. Economics Task Group Report

Mr. Ellison, in Mr. Starr's absence, summarized the status of the Economic Impact Study.

-He described the events of the briefing recently held at the Sheraton National Hotel, and explained that participants are reluctant to formally agree to participate in the study.

-Only 18 companies have agreed to participate in the economic impact study. He expressed a concern that most companies seem to be waiting to see if others will sign up.

Members of the committee discussed the causes for the reluctance in detail. Mr. Sarvadi solicited the cooperation of CRAC in encouraging participation.

10. Budget Task Group Report

Mr. Bently provided to CRAC members detailed accounts of FY80 current and projected expenditures, and stressed the importance of budgetary awareness. He pointed out that the estimates made last year were well below actual needs, and he made apparent the necessity for accurate forecasting. At the request of the members Mr. O'Conner recapped current and forecasted expenditures for the Economic impact study. Mr. Ellison reminded the members that even if the NERA contract was terminated, many of the parts of the contract effort would still need to be funded as separate projects.

Mr. Tietze discussed methods for economizing task group operations. Mr. Umland summarized the methods available for maintaining a balanced budget. Dr. Cox and Mr. Frost provided details of the CMA budgetary process and the logic for maintaining research and consultation budgets separate from legal counsel budgets. The discussions concluded with the following resolutions:

a. CRAC budget projections will be made on a project basis and will include legal and technical estimates of necessary resources.

- b. Projects and associated resources will be reprioritized quarterly.
 - c. Methods for economizing task group activities will be routinely considered.
 - d. Task group chairmen will submit budget requirements for FY81 to Mr. Bently and Mr. Strickland by December 31.
 - e. Mr. Bently will meet with CMA staff and Mr. Blair in early January to finalize the budget, and a formal presentation will be made during the January CRAC meeting.
11. Mr. Sarvadi explained that he and Messrs. Blair, Throdahl and Smith have elected to expand the Section 5 Task Group charter to include Section 6 issues. Mr. Smith will prepare a charter and objectives that reflect the changes, and will recommend it to the committee during the January meeting.

The meeting was adjourned at 4:20 PM.

Gordon D. Strickland
Gordon D. Strickland
Staff Executive
Chemical Regulations
Advisory Committee

GDS:mjm