



A Division of The Society of The Plastics Industry, Inc.

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Orig. to WLM

Roy T. Gottesman
Executive Director

MAR 23 '88

FROM: _____

March 21, 1988

Copy: _____

TO: ~~ST~~ _____

FROM: ~~ST~~ STATES - CA

RE: VI

TO: The Vinyl Institute Legal Committee

RE: California Proposition 65 - Customer Assurance Statements

On January 8th, I provided you with a letter from Peter de la Cruz dated January 5, 1988 and attachments thereto for your use with customers.

I now enclose a letter dated March 14th from Peter which provides revised drafts which incorporate the guidance contained in the emergency regulations recently issued in California.

Roy

RTG/pmb

cc: P. de la Cruz w/o enclosure

VVV 000028590

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March 14, 1988

Roy T. Gottesman, Ph.D.
The Vinyl Institute
155 Route 46 West
Wayne, New Jersey 07470

Re: California Proposition 65

Dear Roy:

Suggested formats for responding to customer inquiries concerning the status of products under California Proposition 65 are enclosed. We previously forwarded similar letters some months ago which you circulated to the Vinyl Institute membership. Last month, the California Health and Welfare Agency issued emergency regulations shortly before the effective date of Proposition 65. The revised draft incorporates the guidance contained in California's emergency regulations.

Two letters are enclosed. One is intended for use with products that comply with the Federal Food, Drug, and Cosmetic Act. The second letter is intended for products not used in food contact applications.

If you have any comments or questions or if I can be of any further assistance, please feel free to call.

Cordially yours,

Peter
Peter L. de la Cruz

Enclosures

cc: Charles E. O'Connell
Lewis R. Freeman, Jr.
Robert W. Sherman

VVV 000028591

FORMAT #1

Suggested Format for Customer Assurance Letter
FDA Compliant Products

Dear _____:

You have requested certain information concerning the California Proposition 65 status of products we supply to your company. Responsive to your request, this is to assure you that our [product(s)], as supplied to you, are in full compliance with the Federal Food, Drug and Cosmetic Act and all applicable regulations adopted thereunder. Accordingly, pursuant to Article 7 Section 12713 of the California Health and Welfare Agency (HWA) emergency regulations, our [product(s)] pose no significant risk within the meaning of Proposition 65.

Section 12713 essentially confers "no significant risk" status on any exposure to a carcinogen which is the subject of a specific Food and Drug Administration (FDA) regulation or tolerance, or is generally recognized as safe (GRAS) or prior-sanctioned. As for substances not subject to a specific FDA regulation, the HWA regulations provide that exposures to such chemicals pose no significant risk under Proposition 65 provided they comply with "all applicable administrative standards," defined as all legal requirements that relate to

FORMAT #1
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safety by appropriate state and federal agencies. With respect to our [product(s)], the applicable "administrative standards" are the Federal Food, Drug and Cosmetic Act and the regulations promulgated thereunder.

We trust that this letter is responsive to your request. Should you have any questions or if we can be of any further assistance, please let us know.

FORMAT #2

Suggested Format for Customer Assurance Letter
Non-FDA Compliant Products

Dear Customer:

You have requested certain information concerning the California Proposition 65 status of products we supply to your company. According to our records, your company has purchased the following products:

We have evaluated the above products in light of the requirements of Proposition 65. Based on our present state of knowledge, chemicals listed by the Governor of California as "known to the state to cause cancer or reproductive toxicity" are not present in these products at levels which would be subject to the requirements of Proposition 65.

We trust that this letter is responsive to your request. Should you have any questions, or if we can be of any further assistance, please let us know.

minutes

SI

VINYL INSTITUTE HEALTH, SAFETY & ENVIRONMENT COMMITTEE

Hilton and Towers
Courtland & Harris Streets, NE
Atlanta, Georgia 30043
11:00a.m.-3:30p.m.

Flaboy
see last attachment
re: H. Safety
Schumacher
Tuesday
March 8, 1988

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MAR 21 '88

Attendees:

F. Borrelli, Georgia Gulf Corporation
S. Cole, Dow Chemical Company
P. de la Cruz, Keller and Heckman
W. C. Holbrook, BFGoodrich Company
J. C. Ledvina, Vista Chemical Company
J. W. Lewis, BFGoodrich Company
C. Lunn, Borden Chemicals and Plastics
M. N. Scheck, Vinyl Institute
P. J. Usinowicz, Air Products and Chemicals

Route: _____

Copy: _____

File: VI

REVIEW OF ENVIRONMENTAL RECOGNITION AND OSHA RECORDABLE AWARDS DATA

Mrs. Scheck reviewed all calendar year 1987 submissions for the VI Environmental Recognition Awards and the OSHA Recordable Incident Rate Awards. Mr. Ledvina moved that based on formulas previously discussed and approved by the committee, that the numbers should be calculated to two significant figures. The motion was seconded by Mr. Borrelli and approved by voice vote. Based on this motion, the data were clarified so that all input would reflect this motion. Mrs. Scheck noted the first and second place recipients in each category. Mr. Cole asked Mrs. Scheck to check the Dow figures with committee member Mr. Oubre, as Mr. Cole believed that the figures may have been transposed.

The committee had an in depth discussion of individual company practices that are reflected in the input used to make calculations for both awards including the definitions of "plant" and "employees". The committee discussed whether to change the formulas to take into account individual company practices. Based on the discussion, it was agreed that this item would be included on the agenda of the committee's next meeting.

Mr. Ledvina noted that he had previously suggested that the "second place" notation on the awards be changed to reflect "outstanding" performance. Following a brief discussion, it was agreed that this would be implemented beginning with the calendar year 1987 awards.

Mr. Holbrook requested Mrs. Scheck to examine improved framing as well as a mechanism for having the awards mailed directly from the Annual Meeting to the recipients following the presentations.

VVV 000028595

ANNUAL SAFETY AWARD

Mrs. Scheck disseminated the recommendation received for the Vinyl Institute Annual Safety Award and noted the previous recipients. Mr. Ledvina moved that the committee formally recommend to the Vinyl Institute Executive Board that the Annual Award be given to Dr. M.N. Johnson and Dr. J. Creech and to BFGoodrich Company for their work in the linkage of vinyl chloride and angiosarcoma of the liver.

The motion was seconded by Mr. Cole and approved unanimously (with Mr. Holbrook abstaining).

TCLP

Mr. Ledvina stated that it is his understanding that the TCLP is to be reproposeed during the first half of 1988 and that it will contain changes in procedure and in the organic toxicity characteristics. Mr. Ledvina further noted that he understands that there is some indication that EPA will address the residue issue, as they had not foreseen the regulatory impact. Mr. Ledvina further commented that he understands there will be a provision in the reproposal dealing with impoundments as well as an additional 48 chemicals added (Mr. Ledvina to forward information on this listing to Mrs. Scheck for dissemination with the minutes of this meeting).

EPA Proposed Revisions to Hazard Ranking System

Mr. Holbrook noted that it is expected that EPA is planning to publish during March 1988, proposed revisions to the Hazard Ranking System. He commented that the Science Advisory Board has already issued a report to EPA. He suggested that after the revisions are published, Mrs. Scheck contact the committee to determine the vinyl industry's interest in submitting comments. Mr. Holbrook offered the assistance of a BFGoodrich Company person to assist in formulating comments.

VINYL CHLORIDE TOXICOLOGICAL PROFILE

In the absence of task force chairman, Art Gellner, Mrs. Scheck noted that the comments on the draft profile must be submitted by the deadline of April 22, 1988. Messrs. Lunn and Borrelli requested Mrs. Scheck to forward copies to them. Mr. de la Cruz noted the significance of assuring that the "public health statement" in the introductory statement can stand alone and be accurate, as it will be extracted from the document and used by EPA as part of its overall communications program. In response to a question, Mrs. Scheck noted that the task force had not yet met nor scheduled a meeting, but noted that the draft is undergoing review by task force members. Mr. Holbrook stressed the extreme importance of the subject and the need for industry attention to this project.

EXPOSURE DATE

Mr. de la Cruz reviewed the meeting held several months ago with OSHA that gave rise to the request for exposure data. He noted that he has received some data and asked attendees to forward any additional data.

He noted that the OSHA field offices have interpreted current policy to require labeling under the Hazard Communication Standard on the theory that all PVC resin must have some RVCM level.

SPI v. EPA UPDATE

Mr. de la Cruz stated that he anticipates having a final settlement agreement within 2-3 weeks. Mr. de la Cruz reviewed the items of disagreement. He stated that the office within EPA has indicated their preliminary approval and noted that the staff counsel had recommended signature. The proposal needs final approval from the EPA compliance officer, then the EPA Office of General Counsel and Justice Department.

In response to a question regarding the procedures following final settlement noted that the Agency is required to publish the new language in the Federal Register with appropriate comment period. He stated that the final disposition of the court case would be held pending this process.

NRDC v. EPA

Mr. de la Cruz reviewed the findings of the Court of Appeals in NRDC v. EPA, the remand to the Agency to make certain that the standard is health based.

He noted that it is EPA's intention to first address the benzene and radionuclides issues (Mr. de la Cruz noted that the Agency policymakers have been briefed on options available under the air toxics initiatives), but that any rulemaking could be a year away.

Mr. Holbrook suggested that it may be useful to schedule the next meeting so as to be briefed by EPA on air toxic initiatives. Mr. Ledvina suggested that this proposal be discussed at the next committee meeting and that the committee develop a potential agenda.

TITLE III - SECTION 313 - EMISSIONS REPORTING

Mr. Holbrook reviewed the provisions of Section 313 and asked for a company-by-company discussion of background material and data available for use in complying with these provisions. The committee also reviewed the types of public relations activities being considered, including the tiered approach discussed by the CMA.

LABELING: OSHA

Mr. de la Cruz reviewed the February 19, 1988 citation by OSHA's Baton Rouge office of Occidental/Addis, Louisiana for failure to carry the OSHA citation on bags of resin. Mr. de la Cruz noted that it is his understanding that the company intends to fight this citation on the grounds that the material was above the action level.

Mrs. Scheck distributed two charts reflecting company practices on labeling - one was the chart reflecting input received at and since the committee's September 30, 1987 meeting, and the second represents the results of the survey conducted for the Vinyl Institute Executive Board.

SAFETY

Mr. Cole reviewed the Dow Safety Program - its inception, revisions/refinements, employee participation mechanism and its impact on performance, and responded to specific questions from committee members. Mr. Cole distributed a sampling of documents used by Dow at the Plaquemine facility as part of its safety program.

Following a lengthy discussion, it was the consensus of the group that the committee should place a high priority on safety issues and develop a mechanism to help one another. In this regard, Frank Borrelli agreed to develop a plan. Mrs. Scheck agreed to re-canvas the committee members regarding individuals and for suggestions on activities/programs in this area, with the goal being an in depth discussion at the next committee meeting.

NEW BUSINESS

1. Delaware Study - Mr. Borrelli stated that a study on VCM emissions from landfills is being conducted by Weston for the Delaware State Solid Waste Authority. Sites with/without PVC wastes are being studied. Borrelli commented that this issue was discussed at the AICHE Meeting earlier in the week and noted that Weston is seeking technical expertise on analytical techniques being used.
2. See item above "Safety".

ADJOURNMENT AND FUTURE MEETINGS

There being no other business, the meeting adjourned at 3:00 p.m.. The next meeting following the May meeting in conjunction with the Vinyl Institute Annual Meeting was tentatively scheduled for July 26th.

Respectfully submitted,

Meredith N. Scheck

Meredith N. Scheck