

Manufacturing Chemists' Association, Inc.

(FOUNDED 1872)

1825 CONNECTICUT AVENUE, N. W.
WASHINGTON, D. C. 20009

PLAINTIFF'S
EXHIBIT
CMA-179

L-563

MINUTES OF MEETING LABELS AND PRECAUTIONARY INFORMATION COMMITTEE

MCA Offices, Washington, D. C.

October 6-7, 1964

PRESENT

H. H. McIntyre, Chairman
C. B. Shaffer, Vice Chairman
L. W. Burnette
C. U. Dernehl, M.D.
R. H. Dewey
J. T. Fuess

J. T. Gormally
J. W. Hammond
E. J. Hogan
E. J. Masek
J. A. Mooney
J. F. Osterritter, M.D.
R. F. Philpitt
A. W. Sheldon
G. R. Sido
D. P. Smoot
F. D. Sparre
J. R. Stevens, MCA Board of
Directors' Liaison Representative
R. G. Troup
N. E. Wendt
N. G. White
F. G. Stephenson, Secretary

The Dow Chemical Company
American Cyanamid Company
General Aniline & Film Corporation
Union Carbide Corporation
Commercial Solvents Corporation
Distillation Products Industries,
Division of Eastman Kodak Company
Pennsalt Chemicals Corporation
Humble Oil & Refining Company
Allied Chemical Corporation
Diamond Alkali Company
FMC Corporation
Celanese Corporation of America
Olin Mathieson Chemical Corporation
M & T Chemicals, Inc.
Monsanto Company
Stauffer Chemical Company
E. I. du Pont de Nemours & Co.
J. T. Baker Chemical Company

J. T. Baker Chemical Company
American Potash & Chemical Company
Shell Chemical Company
Manufacturing Chemists' Association

ABSENT

C. L. French

Mallinckrodt Chemical Works

Dr. J. R. Stevens, MCA Board of Directors' liaison representative to the LAPI Committee was introduced and welcomed to the meeting.

Minutes of the May 5-6, 1964 meeting were approved as distributed.

1. GENERAL

1.1.1 Membership

It was unanimously resolved to recommend to the Board of Directors that Mr. A. W. Sheldon of M & T Chemicals Inc. be appointed a member of the committee.

1.1.3 Rules of Organization and Procedure

Mr. J. T. Fuess distributed copies of a draft of a proposed general statement of the scope and function of the committee. It was agreed that members should send written comments to Mr. Fuess from which a proposed final draft can be prepared and distributed to the committee for review and possible adoption at the next meeting.

1.1.5 Next meeting

The next meeting will be held at the offices of American Cyanamid Company in New York City on January 26 and 27, 1965

1.2 REPORTS OF STANDING SUBCOMMITTEES

1.2.6 Subcommittee on Court Cases

Mr. E. J. Masek discussed several court cases concerned with precautionary labeling. The chairman invited comments on this newly introduced item of the committee's agenda.

1.3 REPORTS OF AD HOC SUBCOMMITTEES

1.3.3 Sensitization

Dr. C. B. Shaffer stated that he is preparing a proposed definition of a "sensitizer" which will be circulated to the committee prior to the next meeting.

1.4 REPORTS OF LIAISON MEMBERS ON MCA COMMITTEES

1.4.1 Environmental Health Advisory Committee

Mr. J. T. Gormally reported that the committee has recommended organization of a "Pesticide fact-finding tour" for 40 or 50 high level representatives of Congress, Federal agencies, conservationists, and industry. The tour would include visits to a number of locations in the country to hear presentations and see work in progress by experts in the pesticides field. The "tour" concept has received the backing of the MCA Board of Directors and will be officially sponsored by the National Academy of Sciences.

1.4.21 Joint Committee on External Markings for Motor Vehicles

Mr. J. A. Mooney stated that he had no development to report in this matter.

1.4.22 Intercommittee Task Group on Pyroforic Materials

Mr. N. E. Wendt reported that LAPI interest in this Task group's activities is presumed to be primarily

1. The proposed definitions for Pyroforics
2. Any precautionary labels to be recommended for such materials.

At the last LAPI Committee meeting he had reported that the Task Group had decided that the ICC definition for flammable solids is adequate for present purposes, and no special definition for pyroforic solids is required. Subsequently it has been suggested that this definition be amended to include pyroforic metal powders and some definite proposals are being considered.

He had also reported the Task Group's proposed definition for pyroforic liquids, and LAPI Committee comments were requested. Comments received from 8 LAPI members were discussed with Task Group members and as an outcome of these discussions, Mr. Wendt wished to point out that:

- (a) The Task Group has confined itself to a definition which is intended to be for use in transportation, in line with its assignment for recommendations to ICC. It may not be applicable or acceptable elsewhere, just as the ICC definition for a flammable liquid is not accepted under the New York City Fire Code.

It should be noted the definition is built upon, or supported by, a definite test method for determining a pyroforic liquid.

- (b) Pyroforic liquids are flammable liquids as referred to in the Regulations 73.115(a). The word "flammable" was put in the definition for a purpose. The definition is intended to include those liquids which would be flammable under paragraph (a) but which, because of their "pyroforicity" cannot be tested by the Tag method. In addition, the words "flammable liquid" serve to exclude such materials as acids and oxidants.

At an informal meeting September 11, of representatives of members on the Task Group, it was decided to retain the definition. It is being recommended to the two parent committees (Chemical Packaging; and Committee on Tank Cars, Tank Trucks, and Portable Tanks) at their meetings now or shortly being held. The recommended definition is: "A pyroforic liquid is a flammable liquid (See Sec. 73.115(a) of the ICC Regulations governing the transportation of hazardous commodities) that become self-igniting when exposed to normal atmospheric conditions incident to transportation."

The Task Group has also studied and approved the Bureau of Explosives' apparatus for determining pyroforicity. Tests on various materials have been made in it. A private laboratory using different material quantities and a different test method, has been able to check the Bureau's results. Several commercial testing laboratories are reported building equipment to perform pyroforicity of flammable liquids tests. A write-up of the test method, with accompanying print of the apparatus used, has been prepared. It will be available after final approval of the parent committees.

Some time ago the Task Group agreed that the "Red Label" required by ICC Regulations for flammable liquids would be adequate for pyroforic liquids and no compulsory special label need be recommended for inclusion in the Regulations. Despite this action, people from several companies have expressed their feeling to Mr. Wendt that it is desirable for a short concise "label", warning against the special hazards of pyroforic liquids, to be made a part of the Regulations. They propose this label, placard or tag be placed near the outlet of the container (tank car, tank truck, cargo cylinder, etc.). This would be in addition to the ICC Red Label. Mr. Wendt asked if the Committee (1) approves and/or recommends use of such a label on pyroforic liquids and (2) if it is thought it should be a compulsory label required by the Regulations. If the Committee decides affirmatively, the following wording might be satisfactory:

(Name of Material)
 DANGER, PYROFORIC LIQUID
 EXTREMELY FLAMMABLE
 May ignite spontaneously when exposed to air
 May react dangerously with water or other liquids
 (Other precautionary statements, applicable to the
 specific material, would need be added by shipper).

At the meeting in September the Task Group requested LAPI Committee to prepare an illustrative pyroforic liquid label, such as for triethylaluminum. Applicable data will be obtained and a label drafted for committee approval.

Mr. Wendt invited members to give serious consideration to the proposals and to send him written comments.

1.5 REPORTS OF TRADE ASSOCIATION LIAISON MEMBERS

1.5.2 CSMA

Mr. Sparre reported:

New Jersey Bill A670 requiring labeling of bleaches to warn against mixing with other household chemicals has not been signed. CSMA have been advised that they may submit viewpoints before any final action is taken by the State governor.

The CSMA Labeling Committee is considering

- (a) a labeling manual for aerosols
- (b) preparation of model regulations designed to bring State pesticides acts more in line with FIFRA
- (c) a recommendation regarding the declaration of arsenic content of glycol base antifreezes.

1.5.3 API

Mr. J. W. Hammond reported that the API committee on precautionary labeling is studying the hazards of certain metal sulfonates particularly from a viewpoint of eye exposure.

1.5.4 NPV&L

Mr. Sparre reported that the NPV&L label committee, at the request of the California Industrial Safety Committee, is studying the hazards of epoxies from a precautionary labeling viewpoint. This study includes the problem of sensitization.

1.5.5 ACGIH

Mr. J. W. Hammond distributed copies of a document he had prepared entitled "Observations on Threshold Limit Values, Maximum Allowable Concentrations, and Labeling Relationship."

In 1964 the Threshold Limit Value Committee of ACGIH published TLV's for 11 new materials and revised TLV's for 12 other materials.

Dr. C. U. Dernehl said that the MCA Medical Advisory Committee has recently decided to write to the chairman of the ACGIH committee offering the cooperation of MCA in establishing or revising TLV's.

1.5.7 NFPA

Mr. H. H. McInture reviewed activities of certain NFPA committees in areas affecting precautionary labeling, particularly NFPA #30, #49 and #325. NFPA activities could lead to significant changes in current precautionary labeling principles and therefore participation in these NFPA activities by chemical industry labeling representatives is desirable.

1.6 INTERNATIONAL ACTIVITIES

1.6.2 ILO

Possible methods of establishing closer contact with the ILO in matters of precautionary labeling were discussed and the secretary was requested to see what can be done in this matter.

2. REGULATORY ACTIVITIES

2.1.2 FIFRA

Mr. Sparre reported that a new revision of Interpretation 18 of FIFRA is being developed. Industry has not been consulted to date and nothing can be done until a draft is circulated.

A notice dated September 15, 1964 from the U.S. Department of Agriculture to registrants of economic poisons regarding changes in labeling requirements was made available for duplication and distribution to the committee. A copy is attached to these minutes.

2.1.8 Weights and Measures

Mr. F. D. Sparre reported that the MCA inter-committee group on Weights and Measures had prepared a commentary on the "Model" law developed by the National Conference on Weights and Measures, sponsored by the National Bureau of Standards. This commentary has been distributed to MCA membership via the MCA General Bulletin No. 909 of October 5, 1964.

2.2 STATE

2.2.5 California

Mr. F. D. Sparre reported that in a letter dated August 13, 1964 MCA wrote to the Director of the California State Department of Agriculture recommending that "industrial type" packages be exempted from the requirements dealing with type sizes and location of the principal panel as indicated in the State's proposed Standards of Weights and Measures to be included in the California Administrative Code.

Mr. H. H. McIntyre stated that this law substantially follows the weights and measures model law except that the requirement that "price: and "statement of contents" shall be "closely and conspicuously associated" shall not apply to products for agricultural or horticultural use where the custom is to state the number of objects or amount of area which can be treated per package unit and the number or area is so stated.

2.3 COUNTY AND MUNICIPAL2.3.2 New York City Fire Code

Mr. F. D. Sparre reported that CSMA has filed an appeal with the Board of Standards and Appeals from the rejection by the Fire Department of the request to exempt glycol antifreezes from the combustible labeling requirements of the Fire Department Code.

3. PRECAUTIONARY LABELING3.1 MANUAL L-1

Members were requested to write to Dr. C. B. Shaffer and express opinions as to the need to issue another revision of "Guide to Precautionary Labeling of Hazardous Chemicals."

3.2 SAFETY DATA SHEETS

Acrylonitrile (3.2.31) The following label was approved:

ACRYLONITRILE

DANGER: VAPOR HAZARDOUS
FLAMMABLE

Liquid penetrates leather shoes causing delayed burns. Wear rubber boots in spill area.

Do not breathe vapor.

Do not get in eyes, on skin, on clothing.

Use only with adequate ventilation.

Keep away from heat, sparks, and open flame.

Keep container closed.

In case of contact, immediately remove all contaminated clothing, including shoes, and flush skin or eyes with plenty of water for at least 15 minutes; for eyes get medical attention. Wash clothing before re-use. Discard contaminated leather shoes.

☒ POISON ☒

First Aid

(In addition, INCLUDE the same First Aid and Antidote as recommended for CYANIDES, INORGANIC.)

Perchloric Acid and Trichloroethane

Copies of final drafts for these sheets together with proposed labels will be circulated to committee members.

Warning label study sheets

Warning label study sheets should be obtained whenever possible. Mr. H. H. McIntyre undertook to provide study sheets for trichloroethane.

3.3 TRANSPORTATION EMERGENCY GUIDES (MCA CHEM-CARDS)

Dr. C. B. Shaffer reviewed the history of the program to date; the publication of the first 14 chem-cards by the Technical Committee on Rocket Propellant Safety; the recommendation by the National Tank Truck Carriers Inc. that the program be developed to cover other hazardous chemical materials moved in bulk; the formation of an inter-committee task group to develop the "second phase" of the program; the preparation of a "Guide for the Preparation of MCA Chem-Cards"; and development of drafts for 29 additional chem-cards. The overall program, he said, is based on an individual's "need to know."

During the lengthy discussions which followed, a series of objections were raised to the program as it now exists. Some of these objections were as follows:

- I. Chem-card recommendations in many cases exceed those of precautionary labels. Will a manufacturer who simply uses the LAPI precautionary label on his drums be deemed negligent because he has not included the more extensive precautionary statements appearing in the chem-cards?
- II. Assuming that the obligation to supply chem-cards will fall on the shipper (manufacturer); if a manufacturer does not provide a chem-card for a hazardous product will he be deemed negligent for not doing so?
- III. Chem-cards are being written for a number of products. Does this not commit manufacturers to write chem-cards for all hazardous products which they ship by tank trucks?

After extremely lengthy debate, a motion was duly made and seconded and it was unanimously resolved:

"That the LAPI Committee is of the opinion that there may be in the chem-card program, as present-

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ly constituted, legal consequences to MCA, to member companies and to non-member users, of sufficient magnitude to warrant submission to legal counsel for opinion and the Board of Directors for approval before the program is further released for use."

Minutes subject to approval.

FGS:cm
10/16/64

Attachment: Appendix A

UNITED STATES DEPARTMENT OF AGRICULTURE
 AGRICULTURAL RESEARCH SERVICE
 PESTICIDES REGULATION DIVISION
 WASHINGTON 25, D.C.

September 15, 1964

NOTICE TO REGISTRANTS OF ECONOMIC POISONS

Changes in Labeling Requirements

Attached is a copy of the Regulations for the enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act as revised on August 29, 1964. Changes in economic poison labeling requirements brought about by this revision and the amendment to the Act on May 12, 1964 are as follows:

- (1) All labels must bear the statement "Keep out of reach of children", a signal word such as "DANGER", "WARNING", or "CAUTION" as prescribed in interpretation 18, revision 2, and other required warning statements or some reference to other warnings such as "See other warnings on back panel", on the front panel or that part of the label displayed under customary conditions of purchase.

The signal word and the statement "Keep out of reach of children" must be of a size bearing a reasonable relationship to the other type on the front part of the label and to the size of the container. The signal word shall not be less than 18 point type and the statement "Keep out of reach of children" shall not be less than 12 point type, unless the label space on the container is too small to accommodate such type sizes. The following table will serve as a guide for the type size requirements on various sized labels.

Size of Label on Front Panel <u>In Square Inches</u>	Signal Word as Required Minimum Type Size All Capitals	"Keep out of reach of children" as required
5 and under	6 point	6 point
above 5 to 10	10 point	6 point
above 10 to 15	12 point	8 point
above 15 to 30	14 point	10 point
over 30	18 point	12 point

(over)

In addition to the above, the front panel of labels for economic poisons which are highly toxic to man must bear the signal word "DANGER", the skull and crossbones in immediate proximity to the word "POISON" in red on a contrasting background, and an antidote statement and other required warning statements or some reference to an antidote statement and other warnings such as "See antidote and other warnings on back panel".

[Sections 362.6 (g) and 362.9]

- (2) All labels must bear the registration number assigned to the product at the time of registration. It must be preceded by the phrase "USDA Registration No." or the phrase "USDA Reg. No." and may be placed anywhere on the label. However, it must not appear in a manner which would make it misleading to the public.

[Sections 362.6 (a) & (f); 362.10 (d)]

- (3) Labeling of economic poisons must not bear any unwarranted claims as to the safety of the product or its ingredients including a statement such as "SAFE", "NONPOISONOUS", "NONINJURIOUS", or "HARMLESS" with or without such a qualified phrase as "When used as directed".

A truthful statement such as "Nontoxic to humans and pets" may be permitted on those products which are determined by the Pesticides Regulation Division to be nontoxic to humans and pets.

[Section 362.14 (a) (5)]

Requirement No. 1 is presently effective for all labeling submitted for registration or re-registration. It will become effective on January 1, 1965 for labeling which was accepted for registration prior to the original effective date.

Requirements No. 2 and 3 will become effective on November 1, 1964 for labeling accepted for registration or re-registration on or after that date. They will become effective on July 1, 1965 for labeling accepted for registration prior to November 1, 1964.

Duplicate copies of revised labeling should be submitted to the Registration Section, Pesticides Regulation Division, Agricultural Research Service, United States Department of Agriculture, Washington, D. C. 20250.

Justin Ward