

WashingtonMemo

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October 30, 1987

Senate Subcommittee Approves Bill To Broadly Study Impacts Of Plastics Disposal And Ways To Reduce The Amount of Plastics Entering The Solid Waste Stream

The Senate Environmental Protection Subcommittee October 22 unanimously approved a significantly expanded version of pending legislation calling for the Environmental Protection Agency (EPA) to determine methods to reduce adverse effects of the improper disposal of plastic products on the environment. **The bill also requires EPA to evaluate the impact of plastics on the solid waste stream and methods that are available to reduce the amount of plastics entering the solid waste stream.** The Subcommittee approved a "committee print" that combined legislation previously introduced by Sens. Frank Lautenberg (D-NJ) and John Chafee (R-RI) and added provisions addressing solid waste issues including recycling and the development of a system of incentives to reduce the amount of plastics entering the solid waste stream. Further, the bill requires within six months EPA to compile a list of **specific plastics products of which the use, misuse, or improper disposal has caused significant harm to the environment.** In addition to death or injury to fish, wildlife or humans, harm includes significant contributions to aesthetic degradation or economic losses in

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Senate Committee Approves Stringent Clean Air Proposal; House Subcommittee Seeks Air Deadline Extension

The Senate Environment and Public Works Committee approved stringent clean air amendments October 22 to the Clean Air Act. The legislation includes requirements addressing ozone non-attainment areas, acid rain, mobile sources, ambient air quality, toxic and hazardous air pollutants and municipal incinerator emissions and ash disposal. The legislation sets out an ambitious program to control acid rain and toxic and hazardous air pollutants, while giving major cities more time to clean up smog. **SPI opposes the legislation and is particularly concerned with its provisions to regulate toxic air pollutants and municipal incinerator ash and emissions.** The legislation would subject sources emitting five tons or more of the toxic and hazardous substances regulated under the federal community right-to-know law to stringent technology-based emission control standards. Sources emitting less than five tons per year of these substances would be subject to national inventory emissions reduction requirements. In addition, facilities handling extremely hazardous substances above certain amounts would be required to conduct comprehensive hazard assessments and annual safety audits for each substance present at the facility. In

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*(Plastics Solid Waste
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waterfront areas. Within three years, the bill requires that all six-pack loop plastic carriers or similar devices be degradable. Also, EPA is required to assess the feasibility of making plastics products identified as causing harm from degradable plastic resins.

The provision in the bill calling for EPA to evaluate the feasibility of using mandatory recycling or a system of incentives to reduce the amount of plastics entering the solid wastestream is very specific and broad. It calls for: an analysis of public and private sector research and development regarding methods for recycling plastics, the development of products made from recycled plastics, and development of potential markets for these products; an analysis of facilitating recycling plastics by standardizing the types of plastics in common use, including requiring identifying marks on containers of differing compositions to aid in sorting such products; an analysis of requiring a deposit on plastic containers; recommendations including tax incentives to promote a balance of supply of plastic materials for recycling and the demand for recycled plastic products in the marketplace; recommendations regarding measures to encourage or require manufacturers of plastic products to consider re-use and recycling in product design; an analysis of the effect of existing tax laws on the manufacture and distribution of virgin materials and disposable products as compared with the manufacture and distribution of recycled materials and products; and a list of recycled plastic products which could be purchased by the Federal government to replace those currently purchased.

The Senate Environment Committee has scheduled a markup for November 10. SPI has significant concerns about the scope of the bill and has made numerous recommendations for changes. For a copy of the bill or additional information call (202) 371-5282.

*(Clean Air continued
from first page)*

addition, the committee approved an extensive, excessively stringent amendment offered by Environment Committee Chairman Quentin Burdick (D-ND) on municipal waste incinerators. The amendments would specify emission limitations for several substances and set forth guidelines for a solid waste management plan which "maximizes the conservation of material resources and protection of human health and the environment through solid waste reduction, source separation or control, recycling and other measures." The proposed legislation is extremely controversial. EPA has estimated that the measure would cost industry billions of dollars to implement. SPI is a member of an industry coalition opposing the legislation.

In a related matter, Rep. Henry Waxman (D-CA), Chairman of the House Energy and Commerce Subcommittee on Health and the Environment, is pushing for legislation to delay the possibility of limited construction bans in cities violating federal air quality standards on the basis that it would be virtually impossible to enact clean air amendments this year. Cities and counties around the country are required under the Clean Air Act to be in compliance with the National Ambient Air Quality Standard for Ozone by December 31, 1987. More than 60 areas are not expected to meet the deadline. EPA is required to impose sanctions which could include the loss of federal grants and a ban on construction or major modification of large industrial plants. Other members want to postpone any action until after the 1988 November elections. SPI will be supporting that effort.

**First Community
Right-To-Know
Suit Filed; Others
Waiting Outcome
of Court Decision**

A. L. Laboratories has filed suit with the U.S. District Court of Appeals against the Environmental Protection Agency under Section 302 of the Emergency Planning and Community Right-To-Know Law. A. L. Laboratories seeks to exempt from reporting the compound bacitracin, a Food and Drug Administration-approved prescription drug used for ear infections and as a farm animal feed additive, on the basis that it was included on the list of extremely hazardous substances as a clerical error. The Chemical Manufacturers Association has filed a motion to join the suit in a case that could affect up to 40 substances regulated under the law. CMA maintains that its members, like A.L. Laboratories, have suffered commercial harm by the listing of three substances: dibutyl phthalate, dioctyl phthalate and dimethyl phthalate, which are used to make flexible plastic articles. CMA has requested a hearing from the court and wants the three substances permanently deleted from the list. However, A.L. Laboratories is opposed to CMA's involvement, arguing that the CMA suit involves a different class of chemicals and that consolidation of the case would result in the delay of the A.L. Lab judgment. A.L. Laboratories has called for CMA's motion to be set aside until its motion for summary judgment has been decided.

**ICC Votes To
Support Conrail's
Cancellation of
Joint Rates on
Plastics Movements**

The Interstate Commerce Commission voted 3-2 not to suspend and not to investigate Conrail's cancellation of joint rates and through routes October 9. The SPI Committee on Transportation and Distribution filed a protest with the Interstate Commerce Commission in August to oppose Conrail's action which would offer proportional rates on all plastics shipments sent by rail from Southwest origins to Northeast destinations. The reasons for the plastics industry's opposition to Conrail's action are numerous. Although Conrail has stated that it does not plan to increase its rates on the movements at issue for a one-year period, under the new rate structure Conrail seeks to implement, there would be no constraints preventing Conrail from increasing its rates in the future. There is no competition for the vast majority of the plastics movements at issue, since Conrail is the only railroad serving the Northeast segment of the movements. Conrail's action is estimated to cost the plastics industry \$55-82 million or more per year. The Commission did not give a reason for its decision. For further information call (202) 371-5219.

**Scientists Testify
Seasonal Antarctic
Ozone Depletion
Has Worsened**

This week two Senate subcommittees heard testimony on preliminary results of two scientific expeditions studying the cause of the seasonal thinning of the stratospheric ozone layer over the Antarctic. Scientists testified that initial findings indicate that the ozone depletion measured in August and September of 1987 was lower than any previous year at all latitudes south of 60 degrees. The scientists testified that initial findings support the theory that the cause of this "hole" is a combination of high chlorine levels with probable man-made sources (referring to chlorofluorocarbons (CFCs)) and climactic conditions specific to the antarctic region.

NASA scientist Robert Watson advised the panel that the next six months are necessary to carefully examine the data and to try to begin to determine if there is evidence whether the chlorine could destroy ozone at other latitudes. The scientists generally agreed that a cause and effect relationship between CFCs and seasonal Antarctic ozone thinning has been established. A key question to be resolved is whether the U.S. should take action to control CFCs beyond that recently agreed to

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in an international protocol, whether the meteorological conditions over Antarctica can exist anywhere else on the earth which would duplicate the seasonal effect. Dr. Mack McFarland, testifying on behalf of the fluorocarbon program panel of the Chemical Manufacturers Association, testified that the international protocol calling for a CFC production cutback of 50 percent over ten years provides a reassuring margin of safety. The House Science and Technology Committee held a hearing with many of the same witnesses on October 29. While some members of Congress such as Sen. Robert Stafford (R-VT) urged that his committee act on pending legislation to ban CFCs within 6-8 years, **most members seem to be amenable to waiting until the data recently collected is more thoroughly assessed.** For copies of the testimony please call (202) 371-5282.

Regulatory Update

EPA

EPA Schedules Public Meetings on the Federal Community Right-To-Know Law - The Environmental Protection Agency has scheduled five public meetings around the country to receive comment on the recently published proposal for implementing procedures for filing trade secret claims under the "Emergency Planning and Community Right-To-Know Act of 1986." The trade secret proposal was published October 15, 1987 (52 FR 38312). (See October 16 *Washington Memo*.) The meetings will be held on November 10 in Washington, D.C.; November 17 in Boston, Massachusetts; November 24 in San Francisco, California; December 1 in Chicago, Illinois; and December 8 in Dallas, Texas. For further information call 1-800-535-0202. Notice published October 26, 1987 (52 FR 39926).

EPA Proposes To Withdraw Test Rule For Butyl Benzyl Phthalate - The Environmental Protection Agency announced it is withdrawing its proposal under Section 4 of the Toxic Substances Control Act to require certain environmental fate and effects testing for butyl benzyl phthalate (BBP). **BBP is used as a plasticizer for cellulosic and vinyl resins.** EPA had proposed acute and chronic toxicity tests in freshwater and saltwater organisms and a test to determine the fate of BBP in undisturbed sediment. EPA is withdrawing the proposed test rule because these tests have been satisfactorily completed by industry. Notice published October 29, 1987 (52 FR 41593).

EPA's Science Advisory Board Schedules Meeting on Indoor Air Quality - The Environmental Protection Agency's Science Advisory Board has scheduled a meeting of its Subcommittee on Indoor Air Quality and Total Human Exposure for November 19-20, 1987 in Crystal City, Virginia. The purpose of the meeting is to provide a public forum for the Committee to obtain information and to discuss the ongoing and planned indoor air quality research effort. EPA's Indoor Air Quality Implementation Plan was submitted to Congress in June as required under the Superfund Amendments and Reauthorization Act of 1986 (SARA). Several substances listed as common indoor air pollutants are used in the plastics industry and include toluene, methylene chloride, styrene, polyvinyl chloride, vinyl chloride, carbon tetrachloride, trichloroethylene, phenol, cresol, formaldehyde, acrolein and acrylonitrile. Notice published October 30, 1987 (52 FR 41772).

The Society of the
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StateReporter

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AIR QUALITY

CT to Consider Tax on SARA Title III Emis-

Legislation has been drafted for introduction in Connecticut that would levy an "assessment" of \$2,000 per ton of chemicals released which are subject to reporting under section 313 of Congress' Emergency Planning and Community Right-To-Know Act (SARA Title III). The assessment would be paid quarterly on a calendar year basis, beginning October 1, 1990 to the Connecticut Commissioner of Revenue Services. Expenditures for the "construction, rebuilding, acquisition or expansion of facilities which reduce the amount of toxic chemicals released..." would be allowed as credits against amounts due.

No number has been assigned to the bill at present and it has not been officially introduced. The likely prime sponsor of the bill is Sen. Steven Spellman (D-18) who chairs the Senate Committee on Environment. The bill will probably be assigned to Spellman's committee.

Bill Introduced in CA to Allow SCAQMD Voters to Initiate Regs by Petition

A measure that is intended to provide some regulatory oversight concerning the actions of the California South Coast Air Quality Management District (SCAQMD) was recently introduced in the state Senate and is starting to create some controversy.

Introduced by Senator Bill Leonard (R-25) because of the overly

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independent and sometimes aloof nature of SCAQMD, the bill (SB 1776) would allow voters in the district to propose regulations by initiative petition or to petition for referendum on regulations of the district. The measure has been referred to the Senate Local Government Committee for review.

The SCAQMD is a regional agency charged with controlling air pollution in the area and bringing it into attainment with local health standards. Its twelve-member board is comprised of nine elected officials and three appointed members.

According to Senator Leonard's legislative aide, Alice Hayward, his office has received an average of five to six phone calls a day about the bill since it was introduced on January 11. Hayward said they will consider as many comments and concerns about the proposal as possible before requesting a hearing, which will likely be in March.

MO Panel Holds Hearing on Bill to Limit Hazardous Air Emissions

Legislation recently (SB 658) introduced in the Missouri legislature by Senator Jeremiah Nixon (D-22) that would authorize the state Air Conservation Commission to establish maximum emissions for hazardous substances and to otherwise regulate processes in order to limit such emissions was the subject of a public hearing on January 23 before the Senate Energy & Environment Committee.

Of the six witnesses who presented testimony, four were in support of the measure: the Sierra Club, the Department of Natural Resources, the Audubon Society and the League of Women Voters. Testifying in opposition were the Associated Industries of Missouri and the Monsanto Company.

CHLOROFLUOROCARBONS

CA CFC Phaseout Bill Reintroduced

A bill vetoed last year by Governor Deukmejian to eliminate the use of CFCs in California has been reintroduced by Senator David Roberti (D-23) for consideration by the state Legislature during the second part of its two-year session, which began on January 3. The measure (SB 1764) provides for the establishment of an advisory committee to oversee the reduction and eventual phase out of CFCs. Initially, the bill will be assigned to the Senate Natural Resources & Wildlife Committee; the date is not yet known.

In his veto message rejecting the legislation, which contained numerous industry amendments, the Governor stated such a bill would establish a "cumbersome and largely unnecessary program." Senator Roberti is a strong advocate of eliminating CFCs in the environment and intends to work with the Governor's staff to develop a compromise proposal.

STATE REGISTER

*—A digest of state administrative developments and proposed rules
of interest to the plastics industry*

Vol. II, Issue 2, January 26, 1990

CALIFORNIA

On February 1, 1990, the Solvents Committee of the California Air Pollution Control Officers Association/California Air Resources Board (CAPCOA/ARB) Technical Review Group will conduct a public workshop to review and discuss a proposed Suggested Control Measure (SCM) for Polyester and Epoxy Resin Operations.

The Solvents Committee of the Technical Review Group consists of representatives of interested California Air Pollution Control Districts, the California Air Resources Board, and the U.S. Environmental Protection Agency. The Solvents Committee is responsible for the development of SCMs for miscellaneous categories of organic solvent emissions. The SCM process provides local districts with uniform regulations for their consideration as part of the overall strategy to attain air quality standards through control of emissions sources.

The meeting will begin at 10:00 a.m. at the California State Library, 914 Capitol Mall, Room 500, Sacramento, CA 96814.

If you are unable to attend the workshop but still wish to comment, please contact Joe Pattok or Richard LaLumondier at SPI offices in Washington.

● The Air Resources Board will conduct a public meeting to consider a report regarding proposed changes to the substance list used in the Toxic Air Contaminant Program. This meeting will take place at 9:30 a.m. on February 8, 1990 in the Lincoln Plaza Auditorium, 400 P St., Sacramento, CA.

This information will be considered at a two-day meeting of the Board. The meeting will start at 9:30 a.m. on Thursday, February 8, 1990 and will continue on Friday at 8:30 a.m., February 9, 1990. An agenda for the meeting will be available at least 10 days before the meeting. Please consult the agenda to determine when this item will be considered.

The report, titled, "Proposed Update to List of Substances: Toxic Air Contaminant Program, January 1990, presents the proposed revisions to the list of substances identified as toxic air contaminants and those being considered for review as toxic air contaminants and the basis for those revisions. The list is reviewed and updated annually to reflect the progress of information on substances in the Toxic Air Contaminant Program.

The following changes are proposed to the list in 1990: (1) move **methylene chloride** from Category II-A to Category I as a result of its July 1989 adoption by the Board as a toxic air contaminant; (2) move from Category II-B to Category II-A **acetaldehyde**, **benzo(a)pyrene** and **diesel exhaust** because these substances have entered the toxic air contaminant identification review process; (3) remove the footnote on **PAHs** because **benzo(a)pyrene** and **diesel exhaust** have entered the toxic air contaminant identification process; and (4) add **acrylamide**, **1,1-dimethylhydrazine** and **hydrazine** to Category II-B of the list due to the potential for exposure in California and the potential carcinogenicity of these compounds.

The ARB staff report, Proposed Update to List of Substances: Toxic Air Contaminant Program, January 1990, will be available for reference at the ARB Public Information Office, 1102 Q St., Sacramento, CA

95814. Copies of the document may be obtained at the Board's Public Information Offices in Sacramento or El Monte. Further inquiries regarding this matter should be directed to Mrs. Janette Brooks, Manager, Special Projects Section, Toxic Air Contaminant Identification Branch, Stationary Source Division, P.O. Box 2815, Sacramento, CA 95814, (916) 322-9148.

ILLINOIS

The Illinois Pollution Control Board (IPCB) has sent a list of 108 chemicals back to the Illinois Environmental Protection Agency with the recommendation that "economic considerations" be factored into the decision of whether they be regulated as "toxic air contaminants." Included among the list are: ARSENIC, ASBESTOS, BENZENE, ETHYLENE, STYRENE, TOLUENE, VINYL CHLORIDE and other substances and chemicals of interest to the plastics industry. No hearing has been scheduled. Contact Tina Kierzek at (202) 371-5333 for a copy of the proposal.

● The Illinois Department of Revenue has proposed to adopt rules creating a **Taxpayer Ombudsman** under the Taxpayers' Bill of Rights Act to serve as an advocate for taxpayers, including business. Contact Tina Kierzek at (202) 371-5333 for a copy of the rules. Comments are due by February 26, 1990.

IOWA

Pursuant to the authority of Iowa Code sections 421.14 and 422.68(1), the Iowa Department of Revenue and Finance has adopted amendments to Chapter 8, "Forms," Iowa Administrative Code.

These amendments are being made in order to allow the use of **computer diskettes as a means of filing information reports** with the Department of Revenue and Finance. The changes recognize widespread use of diskette data storage in business practice and should be particularly advantageous to smaller businesses with personal computer accounting systems.

MICHIGAN

The deadline for commenting on the proposed new rule on air toxics regulation in Michigan has been extended to February 2, 1990 to accommodate a rule review being done by a coalition of industries organized by the Michigan Manufacturers Association. The broad definitions in the rule guarantee that literally hundreds of substances and chemicals will be listed:

"Toxic air contaminant" (TAC) means any air contaminant for which there is no national ambient air quality standard. Particulate matter and volatile organic compounds are not toxic air contaminants as generic classes of substances, but individual substances within these classes are toxic air contaminants when present in the outdoor atmosphere in quantities and of a duration which are or may become harmful to public health or the environment."

The definition for control technologies involved vests wide latitude in permit review conducted by the state:

"Best available control technology for toxics" (T-BACT) means the maximum degree of emission reduction which the commission determines is reasonably achievable for each process emitting toxic air contaminants, taking into account energy, environmental, and economic impacts, and other costs."

Individual comments may be sent to the Air Pollution Control Commission, Michigan Department of Natural Resources, P.O. Box 30028, Lansing, MI 48909.

Notice has hereby been given that a public hearing will be held by the Department of Natural Resources on behalf of the Michigan Water Resources Commission at 7:00 p.m., Tuesday, February 20, 1990 at the Law Building Auditorium, 525 W. Ottawa, Lansing at 7:00 p.m., Wednesday, February 21, 1990 at the Holiday Inn, 615 East Front Street, Traverse City; and at 7:00 p.m., Thursday, February 22, 1990 at the Don H. Bottom University Center, 504 W. Kaye Avenue, Northern Michigan University, Marquette; for the purpose of giving interested persons an opportunity to present evidence and views on proposed changes in administrative rules of the Commission entitled, Part 6 Rules, Water Quality Standards.

The proposed rules primarily address those changes necessary to bring Michigan's water quality standards (WQS) into compliance with the Federal Clean Water Act. Michigan is also involved in a joint effort by the U.S. Environmental Protection Agency and the other Great Lakes States to develop technically sound water quality guidance for the Great Lakes basin in which the states can use in revising their WQS. Michigan plans to rely heavily on the final product of this initiative to influence WQS changes during the next WQS triennial review.

The Commission is particularly interested in receiving public comment on incorporation of the current Rule 57(2) guidelines into proposed Rule 57 as Subrule 57(2), Subrule 57(3), Subrule 57(4), Subrule 57(5), Subrule 57(6), Subrule 57(7) and Subrule 57(10) and the issue of should the Commission consider the use of a bioconcentration factor (BCF) when deriving a terrestrial life-cycle concentration (TLC) for the protection of wildlife in Subrule 57(3).

The address to which requests for copies can be directed or written comments may be sent is Part 4, Water Quality Standards, c/o Michigan Department of Natural Resources, Surface Water Quality Division, P.O. Box 30028, Lansing, MI 48909. Written statements mailed by April 2, 1990 will be introduced into the hearing record.

NEW JERSEY

The New Jersey Department of Environmental Protection (Department), pursuant to its authority at N.J.S.A. 13:1E-6(a), will receive preliminary comments on contemplated changes to the Department's rules regarding the management of resource recovery facility combustion residual ash.

Interested parties may submit in writing data, draft rules, opinions, and other comments relevant to the pre-proposal on or before March 19, 1990 to: Catherine Torrey, Assistant Director, Division of Regulatory Affairs, New Jersey Department of Environmental Protection, CN 402, Trenton, NJ 08625.

OREGON

The Lane Air Pollution Authority has scheduled a January 30, 1990 hearing at 7:00 p.m. at City Council Chambers, Eugene City Hall, 777 Pearl Street, Eugene, OR to consider changes to the Eugene-Springfield Air Quality Maintenance Area to bring it into compliance with the state Clean Air Act SIP provision on particulate matter. Comments may be sent up until January 29, 1990 to Donald Arkell, Director, Lane Regional Air Pollution Authority, 225 North 5th, Suite 501, Springfield, OR 97477.

PENNSYLVANIA

Under section 502(d) of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. 4000.502(d)) Clarion, Crawford, Forest and Venango Counties have notified the Department of Environmental Resources that additional municipal waste processing and/or additional municipal waste disposal capacity will be required.

Sealed proposals will be accepted by the Council at the Venango County Commissioners Office located at the Venango County Courthouse, corner of 12th St. and Liberty St., Franklin, PA 16323 until 4:30 p.m. on Monday, February 5, 1990. All proposals will be publically opened at the regular meeting of the Council, on February 6, 1990 at 9:30 a.m.

Copies of the Request for Proposals may be obtained by contacting David Pack, Venango County Planning Director, County Building, 1283 Liberty St., P.O. Box 1130, Franklin, PA 16323.

SOUTH DAKOTA

The Governor has issued Executive Order 90-3 (January 11, 1990) which states that the solid waste policy established in SDCL 34A-6-1.2 identifies recycling and reuse as a solid waste management practice, that it is appropriate to offer incentives to communities interested in voluntarily engaging in recycling programs, that the Office of Energy Policy has experience in administration of a recycling project, and that promotion of development of recycling would be an appropriate use of oil overcharge funds in possession of the Office of Energy Policy. The executive order decrees that the Office of Energy Policy dedicate \$100,000 from the Petroleum Violation Escrow Fund to establish a grant program for governmental entities to develop recycling projects and requires the Office of Energy Policy to develop guidelines for grant eligibility and application evaluation by July 1, 1990.

VIRGINIA

A hearing will be held on February 12, 1990 on a proposed amendment to add new section, VR 680-21-01.15 (Dioxin for Surface Waters) to the Water Quality Standards. This new section would include a numerical limitation for 2,3,7,8-tetrachlorodibenzo-p-dioxin (dioxin) for protection of human health from the consumption of contaminated water and aquatic organisms, a description of stream flow on which effluent limits will be based, and provisions for a variance.

Hearings are scheduled as follows: February 12, 1990, 2 p.m., Public Hearing, Newport News City Council Chambers, City Hall, 2400 Washington Ave., Newport News, VA; February 26, 1990, 10:30 a.m., Public Hearing, Rockbridge Regional Library, 128 South Main St., Lexington, VA; March 19, 1990, 3 p.m., Formal Hearing, General Assembly Building, Capitol Square, Senate Room B, Richmond, VA.

Written comments may be submitted until March 5, 1990 to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, VA 23230.

Contact: Durwood Willis, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6714.

● Consistent with recent federal OSHA action the state is granting a petition for reconsideration of the Short Term Exposure Limit (STEL) for acetone of 1000 ppm for the cellulose acetate fiber industry and it is not in effect for that industry. The STEL remains in effect for all other industries except the cellulose acetate fiber industry. The Time Weighted Average (TWA) of 750 ppm for acetone is stayed until September 1, 1990, for one operation in the cellulose acetate fiber industry.

Since this amendment was adopted without public comment in accordance with the Code of Virginia, the Department of Labor and Industry, 205 North Fourth St., Richmond, VA will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

NOTE: For further information on any of these items or for assistance in contacting the appropriate state agency involved, contact the State Government Affairs Department of SPI at 202-371-5333.

Legislation to Limit CFCs Introduced in IN, NH, & OH

An Indiana packaging ban bill (**HB 1410**) that contains a provision to prohibit the sale of products packaged in or made of CFC-produced polystyrene foam has been derailed for the time being. The House Environmental Affairs Committee failed to release the measure before the reporting deadline on January 19. However, it is not known at this time whether the sponsor of **HB 1410**, Rep. Mark Palmer (D-64), will attempt to attach some or all its provisions to a more viable proposal.

A measure has been introduced in the New Hampshire legislature that would establish a committee to examine methods to reduce or eliminate CFC emissions through regulation of the use and sale of various products or equipment that contain CFCs. The bill (**HB 1085**) is pending before the Environment and Agriculture Committee, which held a hearing on the proposal January 10 but has not reported it.

A similar bill (**HB 731**) is awaiting review by the Ohio House Energy & Environment Committee. The measure would create a task force within the state Environmental Protection Agency to study ways of reducing the use and release of ozone-depleting compounds. The committee has not yet scheduled a hearing for the bill.

HAZARDOUS WASTE & TOXIC SUBSTANCES

Toxics Use Reduction Legislation Anticipated in MN

A toxics use reduction bill is expected to be introduced soon in the Minnesota Legislature, which begins the second half of its two-year session on February 12. Major provisions of the draft bill, to be known as the "Toxic Emissions and Deposition Act of 1990," would require the state pollution control agency to monitor toxic emissions, develop a list of "persistent" toxic substances, and adopt standards and a plan to regulate the release, concentration and disposal of these substances. The proposal is scheduled for a hearing before the House Environment & Natural Resources Committee on February 1.

Bills Introduced in NJ to Allow Citizen/ Private Inspections of Facilities

Legislation (**SB 2058**) to establish a comprehensive program that would permit local community organizations and facility-based groups in New Jersey to inspect industrial facilities for environmental and public health hazards has been introduced in the Senate and referred to the Environmental Quality Committee.

The initial draft of the 46-page "New Jersey Hazard Elimination Through Local Participation Act" (HELP), sponsored by Senator Gabriel Ambrosio (D-36), provided for the establishment of three citizen groups—local emergency planning committees, qualified community organizations, and hazard prevention committees—to inspect and monitor facilities. One group would be authorized, under certain circumstances, to order a facility owner to temporarily "cease or abate" a condition or process until the

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activity has been evaluated by a representative of the appropriate government agency. The bill would also impose new fees on facility owners to fund inspections by certain committees.

Incoming Governor James Florio has included this legislation among his top priorities.

We expect to receive shortly a revised copy of the bill as it was introduced. A detailed analysis of the measure should be available in the next few weeks.

A similar bill (SB 751), introduced by Senator Joseph Bubba (R-34), would establish a comprehensive inspection and reporting program for industrial facilities that would be conducted by the private sector. The measure requires such facilities to retain certified professional auditors to perform the review and compile the reports. The measure is pending consideration by the Senate Environmental Quality Committee, which has not yet scheduled a hearing for the proposal.

Hazardous Waste Reduction Bills Pending in GA, NJ

A bill (SB 519) sponsored by Senator Arthur Edge (R-28) that would require hazardous waste generators in Georgia to develop waste reduction plans and provide annual progress reports on reduction efforts is awaiting markup by the Senate Industry & Labor Committee. The bill was the subject of a public hearing on January 24, at which witnesses offered numerous amendments.

In New Jersey, Senator Louis Bassano (R-21) has introduced a bill (SB 1409) that would set up a hazardous waste minimization technical advisory program at Rutgers University to assist businesses in implementing waste minimization technologies and procedures. It is pending review by the Senate Environmental Quality Committee.

MISCELLANEOUS

Non-CFC Provisions of CA Initiative Analyzed

StateReporter

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The ballot proposal drafted by California Assemblyman Tom Hayden and promoted by California Attorney General John Van de Kamp and several environmental groups has provisions that could impact SPI members beyond simply the use of chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs), according to the Technical Affairs Department of SPI. In addition to mandatory recycling of many CFCs in 1993 and bans for some CFCs and some HCFCs beginning in 1992, the global warming and clean water provisions of the bill could prove costly.

In addition to additional restrictions on CFCs and HCFCs because of their global warming potential, other chemicals with high global warming potentials used in the plastic industry such as hydrochlorofluorocarbons could be added. Efforts to cut carbon dioxide emissions could also lead to higher electricity costs, and expensive water pollution audits would be required.

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Senate Committee Reports Clean Air Legislation with CFC, Incinerator Provisions; Floor Action Planned in January

After more than eight hours of debate on pending legislation and over forty amendments, the Senate Environment and Public Works Committee on November 16 reported a package of bills, now labeled S.1630, to reauthorize and amend the Clean Air Act. The package consists of several bills and amendments dealing with toxic air emissions (S.816), ozone and carbon monoxide non-attainment areas and motor vehicle pollution (S.1630), acid rain (an unnumbered committee print), a ban on CFCs (committee discussion draft), stationary source permitting (portions of the President's proposal), and air emissions and ash from municipal waste incinerators (similar to S.196 which was introduced in the last session of Congress).

The Committee adopted an amendment offered by Sen. John Chafee (R-RI) that would ban CFCs by 2000 and mandate new recapture and recycling programs and other restrictions, including some on foam, for CFCs. The Chafee amendment also provides for the regulation of HCFCs, the CFC chemical

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Congress Approves \$4.3 Billion CFC Tax Including Major Exception for Foam Insulation

As Congress rushed to adjournment late November 21, it approved a huge CFC excise tax with a major exception for rigid foam insulation applications, aggressively lobbied for by SPI and affected companies. The base tax rate, approved as part of the deficit reduction legislation, is as follows: 1990 and 1991 - \$ 1.37 per pound; 1992 - \$ 1.67 per pound; 1993 and 1994 - \$ 2.65 per pound. The rates are not adjusted for future inflation. Rates in the early years are higher than those previously approved by the House or Senate because conferees determined that additional revenues were needed in the early years. The previously approved rigid foam insulation exception remained intact.

CFCs used for rigid foam insulation are completely exempt from the tax in 1990, and during years 1991-1993 are subject to only approximately 25 cents per pound tax. As currently structured, CFCs used for rigid foam insulation will be subject to the full tax during 1994 and

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DOT Criticized for Past Track Record on HAZMAT During Two Day Hearing

In two days of hearings conducted by Rep. Tom Luken's (D-OH) Subcommittee on Transportation and Hazardous Materials, the Department of Transportation (DOT) was lambasted for its past track record in overseeing the safe transport of dangerous substances. While the hearing focused on Luken's bill, HR 3520, which amends the Hazardous Materials Transportation Act, much of the six-hour hearing held November 7 was devoted to a discussion of the issues raised in a General Accounting Office (GAO) report on the Federal Railroad Administration (FRA) and its programs for ensuring safe rail transport of hazardous materials. The report was requested by Rep. John Dingell (D-MI), Chairman of the House Energy and Commerce Committee. GAO severely criticized the FRA and DOT's Research and Special Programs Administration for poor safety inspection processes and insufficiencies in recordkeeping, focusing on FRA's "inefficient" inspection and enforcement procedures and lack of staff to conduct thorough safety inspections for the estimated 1.1 million carloads of hazardous materials carried by train each year.

In addition, Luken's bill calls for a national registration system for shippers and carriers of hazardous materials. This provision is opposed by RSPA, the AAR, and the Hazardous Materials Advisory Council (HMAC) of which SPI is a member. Registering an estimated 300,000 persons would burden RSPA, which would have to develop and maintain the large data base, according to Paul Rankin, President of HMAC, who called the effects "highly onerous." He added that "it would be confusing and debilitating to shippers who only occasionally or irregularly ship hazardous materials." SPI will submit comments for the record. The GAO report is available from the Federal Government Affairs Office at (202) 371-5204.

Restrictions Proposed by EPA on 'Third - Third' Wastes

Restrictions on the land disposal of nearly 350 hazardous wastes, including a controversial requirement to treat some of those wastes beyond what the law requires, were proposed November 13 by the Environmental Protection Agency (EPA). Final restrictions must be in place by May 8, 1990, ending decades of disposing of untreated wastes in landfills. The proposed "third-third" rule is the third of three rule-makings to set treatment standards for some 450 wastes listed under the Resource Conservation and Recovery Act (RCRA). This proposal affects 24 million tons of a wide variety of hazardous wastes listed under RCRA, and it is estimated to cost industry over \$300 million annually.

"This is the most ambitious of the 'thirds' rule," according to an EPA source, and is far more complex than two related rules - the first and second 'thirds' - because it addresses "characteristic wastes" - those wastes that have at least one of four characteristics: ignitability, corrosivity, reactivity, or capability of leaching toxic materials into groundwater. EPA is proposing that "characteristic wastes" be treated to achieve concentration levels "based on the lowest achievable levels," even if those

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substitutes under development. This section of the amendment was left blank or "reserved" pending ongoing discussions with regard to an "appropriate" level of regulation. Sen. Chafee said he would provide specific details when the legislation is debated on the Senate floor which will be late January, according to Senate Majority Leader George Mitchell (D-ME).

The Committee also adopted an amendment offered by Sen. Dave Durenberger (R-MN) that would establish air emission standards, ash management requirements and a 25% recycling target as part of a municipal solid waste incinerator permit.

The air toxics provisions would substantially amend the "hazardous air pollutants," section 112 of the Act to require stringent new emissions standards, "Maximum Achievable Control Technology," for over 200 toxic pollutants. The legislation specifies a list of chemicals including a number found in the plastics industry such as styrene, methylene chloride, DEHP, TDI, MDI, phenol and vinyl chloride. Additional amendments to the air toxics section are expected on the Senate floor.

One of the more critical elements of the ongoing debate is whether there should be a statutory permissible risk level. As approved, residual emissions would be those remaining after technological controls have been installed on sources. EPA would be required to study the risks posed by those control emissions and impose more stringent health-based emission requirements to reduce the risks if they were determined to be significant. Some members of Congress want to incorporate into the legislation a goal of no more than one excess cancer death for one million persons and an absolute limit of one death per ten thousand persons. These risk numbers were used by EPA to develop the benzene standards it issued August 31 and radionuclide standards it issued October 31.

Other provisions of the package would; cut sulfur dioxide emissions by ten million tons by 2000; tighten automobile exhaust standards once in the early 1990's and then make them twice as strict in 2003; and allow utilities to purchase emission allowances from one another to accommodate regional growth after a cap on emissions goes into effect in 2000. The Senate Committee also adopted an amendment stating a "sense of the Senate" to discourage the addition of national cost-sharing mechanisms to the bill on the Senate floor.

When Congress returns in late January, the focus will be on the Senate because the Majority Leader has announced that the air legislation will be the first order of business. The air legislation (HR 3030) approved by the House Energy and Commerce Subcommittee on Health and the Environment October 11, which is similar in structure to the Senate's S.1630 but generally less stringent, has been stalled by mid-Westerners who want a cost-sharing plan included to offset the price of acid rain controls. At the end of the session, the legislation remained in the Energy and Power Subcommittee chaired by Rep. Phil Sharp (D-IN) who was holding out to

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**House Passes Hotel and
Motel Fire Safety Act**

By voice vote November 17, the House passed HR 91, the Hotel and Motel Fire Safety Act of 1993. This action followed behind the scenes negotiations with the House Government Operations Committee to accommodate their concerns that the potential deleterious affects the bill could have on federal enterprises. SPI sent a letter to the full House urging Members' support. "SPI has a long history of supporting increased use of detection and suppression systems, and we wholeheartedly support this bill because it would further such use." In addition, SPI urged members of the Coordinating Committee on Fire Safety to contact their Congressman, asking them to support this legislation. The bill will be sent to the Senate Governmental Affairs Committee for consideration.

**Senate Committee Reports
Clean Air Legislation
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an acceptable plan before marking up the legislation. The Senate action will, however, increase pressure on the House to expedite its clean air activity.

SPI is particularly concerned with the permitting and enforcement sections of the legislation as well as certain provisions of the air section. SPI soon will be contacting companies to urge their communication of concerns to Congress.

**Congress Approves \$4.3
Billion CFC Tax
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beyond. After 1994, the base tax rate on all CFCs will be increased by 45 cents per pound. House-Senate conferees agreed to permit purchasers of CFCs for use in rigid foam insulation to apply for credit against their quarterly estimated corporate income tax. During the first five years, Congress expects the tax to generate \$4.3 billion.

Generally, the legislation approved by Congress assesses an excise tax on the sale or use by a producer, manufacturer, or importer of certain ozone-depleting chemicals. The amount of tax is determined by multiplying the base tax amount by an "ozone-depleting factor." The legislation states that the ozone-depleting factors for the chemicals subject to the tax are those specified in the Montreal Protocol. CFCs -11 and -12 both have an ODP of one. The specific chemicals subject to the tax are CFC-11, -12, -113, -114, -115, halons -1201, -1301, and -2402. (Originally, the legislation would have imposed a tax on the HCFCs as well.) The legislation requires the Secretary of the Treasury to notify the Congress of any changes made to the Montreal Protocol or any other international agreement on ozone-depleting chemicals to which the United States is signatory.

The legislation also provides exemptions for feedstock chemicals, recycled chemicals, and chemicals exported subject to Environmental Protection Agency regulations. Further, the bill applies the tax to any ozone-depleting chemical which is imported into the United States and to

any product or substance imported into the United States in which a taxable ozone-depleting chemical was used in the manufacture or production.

The tax is effective for ozone-depleting chemicals sold or used after December 31, 1989. In addition, a floor stocks tax is imposed on ozone-depleting chemicals held by a person other than the manufacturer or importer on January 1, 1990. A floor stocks tax is also imposed on each subsequent change in the tax rate for any taxable chemical. The initial deposit of taxes due need not be made until April 1, 1990. The Internal Revenue Service will be issuing implementing regulations; the IRS individual responsible for the task will be making comments and answering questions at the December 4 SPI CFC Steering Committee Meeting.

In a related matter, SPI issued a press release November 14 voicing its support of European colleagues urging governments to set reasonable achievable goals for the elimination of CFCs. In action coinciding with discussions in Geneva related to amending the Montreal Protocol, the European Isocyanate Producers Association (ISOPA) issued a communication projecting phase-out plans and warned that "any attempts to incorporate restrictions in the use of HCFCs in the revision of the Montreal Protocol would be counterproductive." In recent comments to U.S. government representatives to the Protocol meeting, SPI recommended that no changes in the schedule of interim reductions be made without due regard to the development and availability of new chemicals, principally HCFCs.

Hill/White House Move on ICC Nominees

By voice vote November 18, the Senate approved the nomination of Edward M. Emmett to serve on the Interstate Commerce Commission (ICC). This action followed Emmett's pro forma confirmation hearing before the Senate Commerce, Science and Transportation Committee on November 16. This abbreviated hearing was due to the Committee's scheduling constraints and the Senate's efforts to adjourn by Thanksgiving.

In a related matter, the White House has announced its nomination of Edward J. Philbin to fill the last vacancy at the ICC. Philbin is currently a lame duck Commissioner at the Federal Maritime Commission, nominated by former President Reagan. Philbin's background is primarily in the field of defense and national security having served as Deputy Assistant Secretary of Defense in the early eighties. No confirmation hearing date has been set.

*Restrictions Proposed by EPA
on 'Third-Third' Wastes
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levels are much more stringent than the "characteristic levels" which define when such wastes are hazardous. The agency notes that significant technical problems will make it difficult to develop treatment standards that "minimize threats below characteristic levels."

In addition to proposing more stringent treatment for "characteristic wastes," EPA's proposal states that if such wastes are to be land disposed, they cannot be "diluted" to remove the regulated "characteristic." Dilution involves mixing prohibited wastes with other wastes to meet treatment standards without actually having to treat the wastes. The agency further states that "there must be some actual reduction in the toxicity" of prohibited wastes, not just dilution. Some forms of treatment, however, require dilution, and those will be permissible under the proposal.

On the complex issue of standards for "leachate," EPA proposes establishing a new treatment standard that recognizes leachate as a distinct waste category. That proposal could require hazardous waste disposal permits to be reopened to include the new standard. Comments are due January 8, 1990. (54 FR 48372)

Climate-Change Research Measure Wins Subcommittee OK

On November 16, legislation (HR 2984) that would expand the authority of the administration's Committee on Earth Sciences (CES) and coordinate government research on climate and environmental change was approved by the House Natural Resources and the International Scientific Cooperation Subcommittees. HR 2984 proposes to transfer legislative authority from the National Climate Program Office to the CES, which had been operating without statutory authority, to ensure an effective coordinated global research effort. No dates have been set for full committee action.

EPA Announces Solicitation For Small Business Innovative Research Programs

The Office of Research and Development at the Environmental Protection Agency (EPA) issued November 9 its "Program Solicitation: Small Business Innovative Research (SBIR) Program Solicitation" for the 1990 fiscal year program. Research proposals are invited, and will be considered if received by January 16, 1990. EPA's SBIR program is concerned with national pollution control in solid, liquid, and gaseous media. Innovative emission reduction/control processes are sought which concern but are not limited to, industrial, municipal drinking water, hazardous material and energy production sources. Performance and cost effective approaches featuring conservation, reuse, recycle, and increased efficiencies are of special interest. Additional information can be obtained by contacting Mrs. Dana G. Lloyd at EPA's Research Triangle Park, (919) 541-3113.

**Rep. Wolpe Introduces
Pollution Prevention
Research Bill**

On November 16 Rep. Howard Wolpe (D-MI) introduced, along with Claudine Schneider (R-RI) and other cosponsors, the "Pollution Prevention Advancement Act of 1989," which would provide \$125 million over a 5-year period for research, demonstrations, evaluations, and technology transfer for pollution prevention. The bill, HR 3693, would establish an office at the Environmental Protection Agency to research and test the impact of products and packaging on pollution; innovative recycling techniques; and economic, institutional and regulatory barriers to pollution prevention.

The legislation was referred to the House Science Committee. The Congressman considers the new proposal a companion to the "Waste Reduction Act," HR 1457, introduced earlier this year. The latter proposal, designed to encourage industry to reduce the amount of hazardous waste it produces, is pending before the House Energy and Commerce Committee. It has almost 200 cosponsors in the House.

**DOE Issues Appliance
Energy Efficiency
Standards**

A final rule containing new energy efficiency standards for refrigerators, refrigerator-freezers and freezers as well as small gas furnaces was issued November 17 by the Energy Department (DOE). It marks the first final rule DOE will issue following the signing into law of the Energy Policy and Conservation Act (EPCA) of 1975, which set new efficiency standards for major household appliances.

The final rule covering refrigerators, refrigerator-freezers, freezers and gas furnaces will specify energy efficiency ratings for these devices will have to meet that are manufactured after January 1, 1993. Under EPCA, DOE has to review the standards set out in the law and then revise them as long as the revisions were no less stringent than the law allowed. (54 FR 47916)

**Renewable Bill Awaits
President's Signature**

On November 17, both the House and Senate approved a bill, S.488, that would improve the commercialization and competitiveness of energy efficiency and renewable energy technologies. Under the bill the secretary of energy would be required to conduct a competitive solicitation of industry proposals and provide financial assistance to five joint research and development ventures to assist in the commercialization of energy efficiency and renewable energy technologies.

In addition, the measure would authorize \$13.8 million for ventures in each of years 1991-1993. The bill further specifies areas in which the joint ventures should be established: photovoltaics, wind energy, solar thermal energy, factory-made housing and advanced district cooling. The bill is awaiting the President's signature.

Regulatory Updates

EPA

EPA Maintains 10,000 Pound Reporting Threshold for Title III 1990 Reporting. On October 12, EPA extended, for an additional year, the 10,000 pound threshold for manufacturing facilities required to report under sections 311 (submission of MSDS's) and 312 (Tier I/Tier II reports) of Title III. This reversed EPA's initial decision to reduce this threshold to zero in the third year of reporting (1990). During the upcoming year EPA will continue to review the concept of a permanent reporting threshold. (54 FR 41904)

EPA Corrects Reportable Quantity (RQ) for Hydrogen Chloride. In the final rule of SARA Title III the RQ was inadvertently listed as one pound for Hydrogen Chloride (gas only). This rule sets it at its correct value of 5,000 pounds. (54 FR 43164)

FDA

FDA Publishes Final Rule Providing for the Safe Use of 3a, 4, 7, 7a-Tetrahydromethyl-4, 7-Methanoisobenzofuran-1, 2-Dione Grafted onto Ethylene Polymers. On October 2, FDA amended the food additive regulations to provide for the safe use of these chemicals. In doing so, EPA stated that they had carefully considered the potential environmental effects of this action and had concluded that the action would not have a significant impact on the human environment, and that an environmental impact statement was not required. (54 FR 40383)

NTP

The National Toxicology Program (NTP) Reviews Seven Chemicals for Toxicological Studies. Chemicals on this list of possible interest to the plastics industry include Methanol and Monochloroacetone. Of the two, only Methanol was recommended for testing. (54 FR 43623)

National Toxicology Program Announces the Availability of the Fifth Annual Report on Carcinogens. This report contains "a list of 162 substances which either are known to be carcinogens or which may reasonably be anticipated to be carcinogens and to which a significant number of persons residing in the United States are exposed." The report can be obtained from the Public Information Office, National Toxicology Program, [MD B2-04], P.O. Box 12233, Research Triangle Park, NC 27709. (54 FR 42570)

ATSDR

The Agency for Toxic Substance and Disease Registry (ATSDR) Announces Availability of 30 Toxicological Draft Profiles and a List of 25 New Chemicals Subject To Profiles. SARA requires ATSDR to prepare Toxicological profiles on certain hazardous substances. To fulfill this requirement in part, on October 17, the ATSDR announced the availability of 30 draft toxicological documents profiling 48 listed hazardous substances. Profiles of interest to the plastics industry include Acrolein, Acrylonitrile, Ammonia, Chlorobenzene, cis-Dichloroethylene, Dichloroethylene, Ethylenebenzene, Ethylene Oxide. (54 FR 42568) In addi-

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tion, on October 26, EPA published a list of 25 hazardous substances that will be the subject of future toxicological profiles. Of interest to the plastics industry include the chemicals Isopropanol, Methyl Acetate, Butadiene, M-Cresol/Cresol, Titanium. (54 FR 43615)

The Agency for Toxic Substance and Disease Registry (ATSDR) Solicits Unpublished Data. SARA requires ATSDR to fill in data gaps for chemicals it decides to conduct toxicological profiles for. On October 17 the Agency announced that it was soliciting unpublished data on its "Priority Group One Toxicological Profiles." Chemicals of interest to the industry included Benzene, Cadmium, Chromium, N-nitrosodiphenylamine, 1, 4-Dichlorobenzene, Methylene Chloride, Tetrachloroethene, Trichloroethylene, and Vinyl Chloride. (54 FR 42992)

OSHA

OSHA Extends Effective Date of the Lockout/Tagout Procedure. On November 6 OSHA announced that it would extend the effective compliance date for the Lockout/Tagout procedure from October 31, 1989 to January 2, 1990. The compliance date is being extended to give employers "additional time to develop and utilize an energy control program, document procedures and provide employees with training in the implementation of energy control measures." SPI had submitted comments to OSHA requesting this delay. (54 FR 46610)

OSHA Issues Spanish Versions of Two Booklets on Hazard Communication. "Informacion Sobre Los Riesgos de Los Productos Quimicos" (OSHA 3117) provides a summary of hazard communication requirements that apply to all industries, including hazard evaluation, written hazard communication programs, labeling, and material safety data sheets, as well as lists of hazardous chemicals. "Informacion Sobre las Normas de Cumplimiento" (OSHA 3111) outlines requirements for the standard. The booklet provides suggestions to employers for developing and implementing a hazard communication program. Both booklets are available to interested persons who may obtain them from the nearest OSHA regional or area office or from OSHA, Room N-3101, 200 Constitution Avenue, NW, Washington, DC 20541.