

Manufacturing Chemists' Association, Inc.

(FOUNDED 1872)

1625 EYE STREET, N. W.
WASHINGTON 6, D. C.

PLAINTIFF'S
EXHIBIT
CMA-247

Meeting of
LABELS AND PRECAUTIONARY INFORMATION COMMITTEE
American Cyanamid Offices - Room 5810
Thursday, May 22, 1958
New York 20, N. Y.

The meeting came to order at 10:00 A. M. on Thursday, May 22, 1958.

MEMBERS PRESENT

J. B. Williamson (Chairman), American Cyanamid Company
N. M. Walker (Vice Chairman), Pennsalt Chemicals Corporation
John H. Foulger, M.D., E. I. du Pont de Nemours & Co., Inc.
Edward J. Hogan, Allied Chemical Corporation
Frank S. Low, Food Machinery and Chemical Corporation
H. H. McIntyre, The Dow Chemical Company
Thomas W. Nale, M.D., Union Carbide Corporation
John B. Tuttle, Esso Standard Oil Company
N. G. White (for George Brewer), Shell Chemical Corporation
James D. Kittelton (Secretary), Manufacturing Chemists' Association, Inc.

GUESTS

Manfred Bowditch, Lead Industries Association
Frank H. Carman, Manufacturing Chemists' Association, Inc.
A. G. Cranch, M.D., Celanese Corporation of America

MEMBERS ABSENT

Chester L. French, Mallinckrodt Chemical Works
J. T. Fuess, Distillation Products Industries
Sanford J. Hill, E. I. du Pont de Nemours & Co., Inc.
R. D. Minter, Monsanto Chemical Company
R. G. Troup, J. T. Baker Chemical Co.

1.3 ALLIED COMMITTEE ACTIVITIES

1.3.8 AMA Meeting

This meeting was held in Chicago on May 9th to consider the AMA Proposed Model Hazardous Substances Act. Dr. Cranch attended the AMA meeting in a personal capacity, and reported the discussion which took place.

AMA will hold a meeting with representatives of industry on Friday, July 25, 1958.

The Chairman designated Dr. Nale and Mr. Hill to attend this meeting.

2.1 FEDERAL LEGISLATION

Bureau of Explosives Definition of Flammable Solid and Corrosive Liquid

The principal objection which the Committee had is to the definition of corrosive liquid. This definition would classify as corrosive, mixtures containing more than 10% of mineral acid. The Committee felt that percentages should be omitted in any definition. Dr. Foulger agreed to prepare a memorandum concerning this definition and to send it to Mr. Mayhood. This letter appears as Appendix A.

The Revision Subcommittee should consider the definition of corrosive which now covers only physiological meaning.

2.3 CITY REGULATIONS

2.3.1 New York City

(a) Proposed New York City Sanitary Code, Article 211, Hazardous Substances

Article 211 of the Code would be handled in the same manner as the AMA bill. The Committee will make general recommendations to the subcommittee which will later meet with other interested associations.

211.01(a) -- Hazardous Substance

The Committee noted that in the definition of hazardous substance, the word substantial was omitted in the phrase "is likely to cause injury or illness to man." This would cover chemicals even if they only caused a slight headache, sneeze or dizziness.

After this discussion,

It was moved, seconded and voted

THAT, the word "substantial" be inserted in the definition of hazardous substance so that the phrase now reads: ". . . is likely to cause substantial injury or illness to man."

211.01(d) and (e) Flammable and Extremely Flammable

In these definitions, the Tagliabue Open Cup Test would also apply to flammable solids. In our letter to the New York City Health Department, it should be mentioned that this Tagliabue Test does not apply to solids.

211.01(g) Irritant

The Committee decided that the phrase "have been determined to" should be inserted in the second sentence of the definition. Thus, the sentence would read: "It includes strong sensitizing substances which on ordinary handling, have been determined to cause an inflammatory reaction in the living tissue of some persons on immediate, prolonged or repeated contact."

Dr. Nale read part of his paper given at the 1958 Industrial Health Conference in Atlantic City and the Committee thought that this portion of his talk relating to sensitizers might be included in our letter to the New York City Health Department. This appears on page 19 of the paper.

211.01(h) Poison

The LAPI definition of poison is not an over-all criterion in determining whether to label, but merely a limitation on highly hazardous substances. This is in addition to all other classifications of chemicals using signal words, such as "DANGER," "WARNING," or "CAUTION."

The Committee felt that the first part of the definition of poison was very indefinite and inconsistent. The statement mentions the amount of the poison which would have to be absorbed by mouth or applied to the skin or other surfaces of the body, while in the second part of the statement, 100 ppm is mentioned for inhalation purposes. The first part of the definition in mentioning other surfaces would also cover inhalation. One hundred parts per million would vary with the chemical depending upon its molecular weight. The first part of this definition is also inconsistent with the fourth part.

The Committee stated that Section 201.01(h)(2) is very vague and has little meaning and should be deleted. Only 4 or 5 chemicals would fall within this part of the definition and none of the chemicals are used in the home. Also, small amounts are not defined and there is no reference to a period of time.

The Committee next discussed the third part of the poison definition. Dr. Nale said that of the 1,572 chemicals which Union Carbide had tested, 58.4 per cent of them would require a poison label under this part of the New York City definition of poison. Mr. McIntyre said that of the 1,250 chemicals which The Dow Chemical Company had tested, over 80 per cent would fall within this definition of poison.

In urging the deletion of this part of the definition of poison, it should be emphasized that the definition would also cover salt and baking soda.

211.03 Transfer of Hazardous Substances; Reuse of Food, Drug and Cosmetic Containers

A manufacturer of a chemical might not be able to continue using the closures he is now using, since some of them are the same as those used in the food, drug and cosmetic industry.

It was suggested that the wording of the AMA bill be used for this section:

"A re-use of food, drug or cosmetic containers still bearing original labels or identifiable as such by characteristic shape, impression or closures as containers for hazardous substances is prohibited."

211.05 Labeling

Section 211.05(b)(2), specifies "the chemical, common or recognized generic name, not trade name only, of the hazardous substance or of each hazardous component." The Committee felt that the phrase "which contributes substantially to its hazard" should be added to the end of this statement.

The Committee was also critical of the last part of this subsection, (b)(2), dealing with the power of the Health Department to exempt certain labeling requirements. The Committee felt that the Health Department would have this power without trying to spell it out by weight percentages.

211.05(b)(4) of the regulations is similar to that appearing in the AMA model bill. It would spell out a method for selecting which of the three signal words, "DANGER," "WARNING," or "CAUTION," should be used to indicate the degree of hazard.

The same arguments against this particular provision apply as stated in the MCA letter to Representative Curtis on a similar AMA provision.

211.05(b)(7) of the regulation now reads as follows:

"Instructions for first aid treatment and in the case of poisons, for an antidote, if available."

The Committee considered this objectionable and prefers the wording in the CSMA model bill. This wording is as follows:

"Instructions, when necessary, for the first aid treatment in case of contact or exposure, if the substance is hazardous through contact or exposure."

211.05(e) reads:

"Subsection (b) of this section shall not apply to a substance still in the development stage when it is used solely for experimental purposes and when it is known that no specific hazard exists but the potential hazard is not identified"

The Committee said this was meaningless. It decided the wording should be:

"Subsection (b) of this section shall not apply to a substance still in the development stage when it is used solely for experimental purposes and when no specific hazard is known to exist"

211.05(g)(1) would require that the precautionary information appear on the front label of this retail package of the hazardous substance. The Committee felt that this provision was unrealistic, since not all information is placed on the front panel. Furthermore, it is questionable whether a round container would be covered.

211.05(g)(2) would require that the precautionary information appear on "each package liner which contains any written, printed or graphic matter." This is undesirable since a simple statement such as "Made in the U.S.A.," etc., would require that precautionary labeling information appear on the liner.

211.05(g)(3) would require that the precautionary information appear on the label on each place where there are directions for use. This is unworkable since directions for use might be on many sides of the container. This would mean that the precautionary information would have to be repeated wherever there were directions for use.

The Committee concluded that 211.05(g)(1), (2), and (3) were unrealistic and unworkable and that the wording of the Bush bill be used.



James D. Kittelton
Secretary
Labels and Precautionary
Information Committee

Minutes Subject to Approval
June 9, 1958

JDK/jmb

ATTACHMENT

COPY

"APPENDIX A"

E. I. DU PONT DE NEMOURS & COMPANY
INCORPORATED
Wilmington, Delaware

Employee Relations Department

Mr. Charles H. Mayhood, Secretary
Chemical Packaging Committee
Manufacturing Chemists' Association, Inc.
1625 Eye Street, N. W.
Washington 6, D. C.

Dear Charlie:

BUREAU OF EXPLOSIVES PROPOSALS (Letter 2/17/58) FOR AMENDMENT
OF ICC REGULATIONS DEFINITIONS

At the meeting of the LAPI Committee in New York on May 22, the above subject was discussed and I was asked to write to you giving the conclusions of the LAPI Committee.

In the opinion of the committee, the proposed change in the wording of Section 73.240 would only cause confusion. In the past, as you may remember, there has been considerable confusion between the classification of a material as corrosive because of its action on living tissue and its corrosiveness on materials used for packaging.

In the opinion of the committee, the two fields of corrosiveness should be carefully distinguished. For this reason, the definition of corrosive (physiological) on page 7 of the current Manual L-1 should be retained. This reads "Corrosive (physiological)" "an agent which in contact with living tissue would cause more or less severe destruction of tissue by chemical action." This is virtually the wording in paragraph 73.240 on page 68 of Agent Campbell's Tarriff No. 10, effective June 18, 1957.

In the opinion of the LAPI Committee, the classification of corrosiveness on the basis of percentage concentration of acids, or alkali, or other materials is fallacious when applied to human tissue. Certain compounds such as hydrofluoric acid or bromine, and some of the alkyl mercury salts, can be corrosive to human tissue at much lower concentrations even than one per cent.

It was the opinion of the committee that corrosiveness to metals or other materials (that is to inanimate objects) should be covered by a second definition. The wording of this definition, of course, lies within the field of the packaging committee and not in that of LAPI.

Yours sincerely,

/s/ John H. Foulger, M.D.
Director of Medical Research

JHF/cmb