

# agenda

SI

## HEALTH, SAFETY AND ENVIRONMENT COMMITTEE

Marriott Castle Harbor  
Bermuda  
Salon D

Wednesday  
September 26, 1990  
8:00 a.m. - 2:00 p.m.

- I. OPENING OF MEETING
- II. APPROVAL OF MINUTES OF PREVIOUS MEETING
- III. ROUNDTABLE DISCUSSION ON GROUNDWATER ISSUES F. Borrelli  
/Group
- IV. TASK FORCE ACTIVITIES
  - A. Waste Minimization Task Force B. Brocka
  - B. Transportation
    - VCM Emergency Response Network
      - Survey M. Scheck
      - Legal Issues R. Luss
      - Next Step F. Borrelli
    - East Coast Response Effort F. Borrelli
  - C. Workshop on MSDS's & Labels F. Borrelli
    - Discussion on follow-up activities
- V. OLD BUSINESS
  - A. Vinyl Chloride Standard
  - B. Angiosarcoma Registry
  - C. Cercla - Definition of Federally-Permitted Releases
  - D. SARA 313 Date - 1989
  - E. "Third Third" FO 24 Waste
- VI. NEW BUSINESS Group
- VII. ENFORCEMENT UPDATE/REGULATORY AND LEGAL Group
- ~~VIII. UPDATE ON OTHER VI ACTIVITIES~~ M. Scheck
- IX. NEXT MEETING AND ADJOURNMENT

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## Antitrust Reminder

Group activities of competitors are inherently suspect under the antitrust laws. Many agreements among competitors, however, are both legal and beneficial to the industry. The best vehicle for enjoying the benefits of permitted agreements among competitors while avoiding the pitfalls of illegal agreements is by belonging to a trade association like SPI which takes its obligations in this regard very seriously.

All SPI staff members are well versed in antitrust matters and the association relies heavily on their judgment to see that topics which may give an appearance of an agreement that would violate the antitrust laws are not discussed at SPI meetings. The fact that an SPI staff member is present at a meeting, however, should not invite probing to determine how far a discussion can proceed before it becomes apparent that it is improper and is cut off. It is the responsibility of each member in the first instance to avoid raising improper subjects for discussion. This reminder has been prepared to assure that participants in SPI meetings are aware of this obligation.

The Dos and Don'ts presented below highlight only the most basic antitrust principles. Each participant in an SPI meeting should be thoroughly familiar with the SPI Bulletin, "The Antitrust Laws and You—A Guide and Introduction to an Understanding of the Federal Antitrust Laws," and should consult counsel in all cases involving specific situations, interpretations or advice.

### DON'T

1. Do not, in fact or appearance, discuss or exchange information regarding
  - (a) Individual company prices, price changes, price differentials, mark-ups, discounts, allowances, credit terms, etc., or data that bear on price, e.g., costs, production, capacity, inventories, sales, etc.
  - (b) Industry pricing policies, price levels, price changes, differentials, etc.
  - (c) Changes in industry production, capacity or inventories.
  - (d) Bids on contracts for particular products, procedures for responding to bid invitations.
  - (e) Plans of individual companies concerning the design, production, distribution or marketing of particular products, including proposed territories or customers.
  - (f) Matters relating to actual or potential individual suppliers that might have the effect of excluding them from any market or of influencing the business conduct of firms toward such suppliers or customers.
2. Do not discuss or exchange information regarding the above matters during social gatherings incidental to SPI-sponsored meetings, even if casual.
3. Do not meet without SPI staff or counsel present.

### DO

1. Adhere to prepared agendas for all SPI meetings. In respect any time meeting minutes do not accurately reflect the matters which transpire.
2. Understand the purposes and authority of each SPI group in which you participate.
3. Consult with the SPI General Counsel and your company counsel on all antitrust questions relating to SPI meetings.
4. Protest against any discussions or meeting activities which appear to violate the antitrust laws; disassociate yourself from any such discussions or activities and leave any meeting in which they continue.

JOINT MEETING  
LEGAL COMMITTEE AND  
HEALTH, SAFETY & ENVIRONMENT COMMITTEE

South Seas Plantation  
Captiva Island, Florida

Thursday  
May 10, 1990  
1:30 pm

ATTENDEES: See Attached List

## I OPENING OF MEETING AND SELF INTRODUCTIONS

Frank Borrelli, Chairman of the Health, Safety & Environment Committee convened the meeting at 1:30 pm and asked for self introductions. He noted that Mr. Luss, as chairman of the Legal Committee would be co-chairing the meeting.

## II TOXICITY CHARACTERISTIC LEACHING PROCEDURE

Mr. Ledvina gave a detailed presentation and responded to questions on the TCLP as promulgated on March 29, 1990. He reviewed its impact on the industry. Copies of Mr. Ledvina's overheads were agreed to be attached to the minutes of the meeting. Discussion focused on the Land Disposal Restrictions program.

## III TRANSPORTATION - EAST COAST RAIL SAFETY

Mr. Borrelli summarized the activity of several companies that have been meeting to review transportation issues, including a February 15, 1990 meeting with Conrail and their contractor. He reported on recent activities in the mutual aid response area and noted that a survey had been disseminated by VI staff at his request to determine interest in formalizing a mutual aid response network. Mrs. Scheck reported on the results of the survey. Mr. Schiffer noted that the VI may be the proper place for a discussion on the issue in general, but that engineering related issues may effect the viability of such a program and that the Chemical Manufacturers' Association may be the appropriate focus for that discussion. Mr. Borrelli suggested a follow up meeting to discuss the issue and noted that he would work with VI staff to set up such a session and that it would include an appropriate CMA staff person.

## IV EDC

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OSHA/EDC Seminar: Mr. Graybill reviewed the results of a Committee survey done at his request to explore the interest in holding a special meeting to share member company experience in methods used to achieve lowered exposure levels as they relate to EDC. He noted positive feedback in holding such a meeting and reviewed possible potential sites/dates. Following a brief discussion, Mr. Graybill noted that he would work out

the details for such a meeting, but that he would not be the person within PPG who would assist in putting the meeting together, as his job responsibilities are scheduled to change in the near term.

OSHA/EDC Litigation Update: Mr. de la Cruz noted that he had distributed May 3 a copy of the final brief filed April 30 in the SPI (VI) appeal of the ethylene dichloride provisions of the air contaminants rule issued by OSHA. Mr. de la Cruz reviewed the extended briefing schedule established by the U.S. Court of Appeals for the Eleventh Circuit. Mr. de la Cruz also noted that should the Court schedule oral arguments, that that process would not begin until early 1991.

#### V. LITIGATION UPDATE

A. California Proposition 65: Mr. de la Cruz updated the group on the status of the implementation of Prop 65 and noted that the exclusion for FDA governed products stands at this time.

B. Fire Litigation: Mr. Luss noted that the trial in the Dupont Plaze Hotel fire in Puerto Rico is ongoing and reviewed the fire investigations undertaken by the industry. Mr. Luss also reviewed the HappyLand Social Club fire in New York City. He commented that a fire investigation team had been sent to New York immediately after the fire due to New York State's marketshare liability statutes and, therefore, the potential involvement of the vinyl industry is likely to be seen in the litigation.

C. Other: Mr. Luss noted an increased amount of activity in the environmental area as it related to criminal charges developing over the next several years. He suggested that companies review their own policies and procedures in the regulatory compliance and reporting areas.

#### VI LEGISLATIVE UPDATE

Mrs. Scheck updated the group on the status of the reauthorization of the Clean Air Act. She asked members to notify her of any potential provisions that could have a unique impact on the vinyl industry, should VI/SPI legislative involvement be needed.

#### VII OLD BUSINESS

- Vinyl Chloride Rule: Mr. de la Cruz noted that it is his understanding that the vinyl chloride rule had been sent May 10 to the Office of Management and Budget and that no problems are seen that would deter its final publication. When it is published, the elements of the settlement agreement reached in 1988 will be implemented.

- New Jersey Labeling: Mr. Ledvina updated the group on the labeling requirements in effect in New Jersey. Mr. Goodman commented that he had done a recent presentation internal at OxxChem that he would be glad to make available to those who are interested.

- Ontario Level I Study: As follow up to a special HSE meeting with companies working on the Level One studies in Canada, Mr. Holbrook stated that the contractor's report has not yet been submitted to the Ministry of the Environment by either Radian (retained by BFGoodrich) or by O'Connor Associates (retained by ESSO). He summarized the proposed emission levels contained in the Radian report as they relate to process emissions (10 ppm/3 hour average); reactor openings (15 lbs/1 million pounds produced); RVCN levels in suspension and dispersion process; equipment leaks. He noted that the leaks proposed would not be considered maximum allowable control technology (MACT) in the U.S. Mrs. Russotto commented that ECVM has been working on a model plant and that she would keep the VI apprised on this activity.
- FO 24 Wastestream Survey: Mrs. Scheck noted that following a January 23 meeting a survey had been conducted on wastestream classification procedures and practices. Mr. de la Cruz noted that comments had been filed January 8 with EPA on the Agency's Proposed Rule for Third Third scheduled wastes incorporating information on FO 24. Mr. Ledvina noted that the 900 page rule was released May 8 and that it should be in the Federal Register within the next several weeks.
- Catalytic Oxychlorination Process of Aliphatic Hydrocarbon as New Sources of Dioxins: Following a discussion of this item at the previous meeting, Mrs. Scheck noted that she had provided committee members a copy of the more detailed report.
- Wastewater Effluent - Messrs. Holbrook and Graybill noted that their companies have both reviewed this issue since the report from Europe and noted no conforming findings. Mrs. Russotto updated the committee on pertinent studies underway within the European Council of Vinyl Manufacturers addressing the degradation of vinyl chloride in water as well as a European Commission study on volatile organic compounds. She offered to share both reports with VI members when completed.
- SARA 313: Mrs. Scheck noted that Medline now has available for computer access all data collected under SARA for 1988 and that 1989 data will be inputted as forwarded to the Government. She inquired whether as a result of the computer availability of the data there was any further need for the VI to collect this information. It was agreed that at least for 1989 data, collection should take place if Medline access is not up to data.
- Material Safety Data Sheets: Mr. Luss suggested that during the summer months a meeting be held in the Atlanta area to review current company practices related to labeling and MSDS use and related issues. There being general agreement that there was interest in proceeding, Mr. Luss and Mrs. Scheck will work together on the details for such a meeting.

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## VIII NEW BUSINESS

### A. Waste Minimization

Mr. Ledvina reviewed previous Committee discussions on the issue of waste minimization and noted the reasons that the issue of recycling of catalyst containers had been specifically discussed. Following a discussion on U.S. Department of Transportation regulations governing container reuse and current limitations on bulk shipments, Mr. Stromberg suggested that while an obvious solution is not apparent, it would be useful to identify the packaging experts within member companies and convene a meeting to further explore the issue. Mr. Gellner offered to chair a task force to pursue the issue. Companies who expressed an interest in participation on the Task Force included VISTA, BFGoodrich, OxyChem, Georgia Gulf, CertainTeed, Akzo and Atochem.

### B. Groundwater

Individual member company representatives were to discuss activity related to this issue. It was agreed that this would be discussed at the next regularly scheduled meeting.

C. Company Practices - Reporting: Following a discussion on current company practices regarding the reporting of spills and releases, it was agreed that this was an area in which more information may be needed to talk realistically about how practices compare. Mr. Kachtick agreed to develop a questionnaire at the appropriate time and to gather additional information.

## XI ENFORCEMENT UPDATE

Mr. Luss updated the group on Occidental's NESHAP settlement at its Pennsylvania facility as noted in the April 25 Federal Register. He noted that all companies should carefully review existing NESHAPS requirements and their required use by pilot plants.

## X NEXT MEETING

There being no other business, the meeting was adjourned. The next regularly scheduled meeting will be held from 8 am - 2 pm on September 26, immediately preceding the Vinyl Chloride Safety Association meeting at the Marriott in Bermuda.

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MEETING ATTENDEES:

Doug Niewoehner, Air Products & Chemicals  
Nancy Russotto, European Council of Vinyl Manufacturers  
R.T. Kelly, CertainTeed Corp.  
C.A. Gellner, CertainTeed Corp.  
E.S. Schiffer, Georgia Gulf  
Doug Sherly, Air Products & Chemicals  
Frank Borrelli, Georgia Gulf  
Meredith Scheck, Vinyl Institute  
W.C. Holbrook, BFGoodrich  
Cris Lunn, Borden Chemicals and Plastics  
Erv Schroeder, Shintech  
Don Goodman, OxyChem  
Sanford Stromberg, Atochem  
Jim Kachtick, OxyChem  
Larry Burmeier, Dow  
Sherry Carr, CertainTeed  
John Krokosky, Dow Chemical  
Don Pearson, PPG Industries  
Clark Graybill, PPG Industries  
Tom Goeke, Klockner Pentaplast  
Bob Leeks, Akzo Chemicals  
Peter de la Cruz, Keller & Heckman  
Joe Ledvina, Vista

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## **TOXICITY CHARACTERISTIC**

- PROMULGATED MARCH 29, 1990
- REPLACES EP TOX AS A CHARACTERISTIC OF HAZARDOUS WASTE
- USES DILUTE ACIDIC SOLUTION TO EXTRACT A SOLID WASTE (TCLP)
- WASTEWATERS ARE ANALYZED DIRECTLY WITHOUT EXTRACTION

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## TC CHEMICALS FINAL RULE

- INCLUDES 25 NEW ORGANICS PLUS THE 14 EP MATERIALS
- VCM REGULATORY LEVEL 200 PPB; EDC 500 PPB
- THE TCLP BECOMES THE NEW TEST
- TC WASTES BECOME HAZARDOUS SUBSTANCES UNDER SECTION 101(14) OF CERCLA (RQ ADDED AT 40 CFR 302)

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## **EFFECTIVE DATE**

- ALL GENERATORS OF MORE THAN 100 AND LESS THAN 1,000 KG/MONTH MUST COME INTO COMPLIANCE WITH SUBTITLE FOR MANAGEMENT OF THEIR TC WASTES WITHIN ONE YEAR OF PUBLICATION. (3/29/91)
- ALL GENERATORS OF 1,000 KG/MONTH OR MORE MUST COMPLY WITHIN 6 MONTHS OF THE DAY OF PUBLICATION. (9/25/90)

## **LAND DISPOSAL RESTRICTIONS (LDR)**

- TC WASTES NOT IMMEDIATELY SUBJECT TO THE LDR PROGRAM
- NEWLY IDENTIFIED WASTE WILL BE SUBJECT TO A SIX MONTH DEADLINE FOR LDR DETERMINATION WITH NO HAMMER TO TAKE EFFECT.
- OWNER OR OPERATOR OF A NEWLY-REGULATED SURFACE IMPOUNDMENT MUST RETROFIT 4 YEARS FROM THE DATE OF PROMULGATION OF THE ADDITIONAL CHARACTERISTIC.
- WASTEWATER SURFACE IMPOUNDMENTS COULD BE REQUIRED TO RETROFIT SOONER ONCE THE LDR IS PROMULGATED.

TABLE 1 - EP TOXICITY REGULATORY LEVELS

| EPA HW<br>Number | CONTAMINANT       | REGULATORY<br>Level (mg/l) |
|------------------|-------------------|----------------------------|
| D004             | Arsenic           | 5.0                        |
| D005             | Barium            | 100.0                      |
| D006             | Cadmium           | 1.0                        |
| D007             | Chromium          | 5.0                        |
| D016             | 2,4-D             | 10.0                       |
| D012             | Endrin            | 0.02                       |
| D008             | Lead              | 5.0                        |
| D013             | Lindane           | 0.4                        |
| D009             | Mercury           | 0.2                        |
| D014             | Methoxychlor      | 10.0                       |
| D010             | Selenium          | 1.0                        |
| D011             | Silver            | 5.0                        |
| D015             | Toxaphene         | 0.5                        |
| D017             | 2,4,5-TP (Silvex) | 1.0                        |

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TABLE 2 - TC REGULATORY LEVELS

| EPA HW<br>Number | CONTAMINANT           | REGULATORY<br>Level (mg/l) |
|------------------|-----------------------|----------------------------|
| D004             | Arsenic(*)            | 5.0                        |
| D005             | Barium(*)             | 100.0                      |
| D018             | Benzene               | 0.5                        |
| D006             | Cadmium(*)            | 1.0                        |
| D019             | Carbon Tetrachloride  | 0.5                        |
| D020             | Chlordane             | 0.03                       |
| D021             | Chlorobenzene         | 100.0                      |
| D022             | Chloroform            | 6.0                        |
| D007             | Chromium(*)           | 5.0                        |
| D023             | o-Cresol              | 200.0                      |
| D024             | m-Cresol              | 200.0                      |
| D025             | p-Cresol              | 200.0                      |
| D026             | Cresol                | 200.0                      |
| D016             | 2,4-D(*)              | 10.0                       |
| D027             | 1,4-Dichlorobenzene   | 7.5                        |
| D028             | 1,2-Dichloroethane    | 0.5                        |
| D029             | 1,1-Dichloroethylene  | 0.7                        |
| D030             | 2,4-Dinitrotoluene    | 0.13                       |
| D012             | Endrin(*)             | 0.02                       |
| D031             | Heptachlor            | 0.008                      |
| D032             | Hexachlorobenzene     | 0.13                       |
| D033             | Hexachlorobutadiene   | 0.5                        |
| D034             | Hexachloroethane      | 3.0                        |
| D008             | Lead(*)               | 5.0                        |
| D013             | Lindane(*)            | 0.4                        |
| D009             | Mercury(*)            | 0.2                        |
| D014             | Methoxychlor(*)       | 10.0                       |
| D035             | Methyl ethyl ketone   | 200.0                      |
| D036             | Nitrobenzene          | 2.0                        |
| D037             | Pentachlorophenol     | 100.0                      |
| D038             | Pyridine              | 5.0                        |
| D010             | Selenium(*)           | 1.0                        |
| D011             | Silver(*)             | 5.0                        |
| D039             | Tetrachloroethylene   | 0.7                        |
| D015             | Toxaphene(*)          | 0.5                        |
| D040             | Trichloroethylene     | 0.5                        |
| D041             | 2,4,5-Trichlorophenol | 400.0                      |
| D042             | 2,4,6-Trichlorophenol | 2.0                        |
| D017             | 2,4,5-TP (Silvex)(*)  | 1.0                        |
| D043             | Vinyl chloride        | 0.2                        |

(\*) On the EP Toxicity constituent list

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