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September 2, 1987

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Roy T. Gottesman
Executive Director
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Re: OSHA Labeling of Vinyl Chloride Polymers and
Copolymers

Dear Roy:

This letter summarizes the meeting we held on August 24, 1987 with officials of the Occupational Safety and Health Administration (OSHA) concerning labeling requirements for vinyl chloride polymers and copolymers (PVC) as well as the follow-up activity we should take in light of the meeting. The most significant follow-up activity is to provide OSHA with evidence that there is no significant downstream exposure to vinyl chloride at PVC fabrication facilities.

A. Meeting With OSHA

On August 24, 1987 you, Tom Grumbles of Vista and I met with three OSHA officials: Frank White, Deputy Assistant Secretary for Occupational Health; Tom Shepich, Director of the Office of Compliance Programs, a new Director within OSHA; and Dave Smith, Assistant Directorate of the Office of Compliance

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Programs. The starting point for discussion was the May 12, 1987 letter from Frank White to us containing OSHA's position that PVC which has only undergone intermediate mass melting for processing into pellets must bear the carcinogen warning label specified in the vinyl chloride standard. 29 C.F.R. § 1910.1017.

Since OSHA sent this letter, the International Agency for Research on Cancer (IARC) informed the Registry for Toxic Effects of Chemical Substances (RTECS) that IARC did not consider PVC to be a carcinogen. Actually, this simply confirmed the information we previously provided to both OSHA and RTECS. In any event, based on the IARC response in June 1987, RTECS informed us that they revised the listing for PVC so that it now shows animal and human data on PVC's carcinogenicity to be inadequate. We consider the RTECS and IARC's action to be significant because, contrary to OSHA's May 1987 letter, PVC should not be deemed inherently carcinogenic. In addition, the IARC and RTECS correspondence is pertinent to an analysis of PVC products under OSHA's hazard communication standard (HCS). 29 C.F.R. § 1910.1200.

After you reviewed the IARC and RTECS action for OSHA, Tom Grumbles discussed recent OSHA enforcement activity. In particular, Tom discussed a citation issued against a customer of Vista Chemicals for alleged violations for both the vinyl chloride and hazard communications standards. (This citation previously was forwarded under my cover letter of June 24, 1987.) Although a number of the alleged violations were resolved, the labeling requirement issues have not been favorably settled. Because the citation was issued against a customer, Vista was not in a position to directly challenge OSHA and has agreed, at the customer's request, to label Vista's PVC products as containing a cancer suspect agent. Although the HCS is generally recognized to exclude materials containing less than 0.1% of a carcinogen and that are not anticipated to cause exposure above any applicable permissible exposure level (PEL) or to pose any significant health threat, the OSHA field office maintained that if a manufacturer is aware of the presence of any amount of a carcinogen which has the potential to be released, the material is hazardous and must carry a cancer hazard warning on the label and material safety data sheet (MSDS).

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Mr. Grumbles also discussed a letter that Borden Chemical received from OSHA alleging that the labels on Borden PVC homopolymer were deficient because they "did not give a proper hazard warning to include the following: respiratory irritation, eye irritation which is the target organ and effect." OSHA letter from Kenneth Yotz to Borden (July 8, 1987) (copy attached). Although Borden requested the basis upon which OSHA made this observation, the agency has yet to respond to Borden.

After reviewing these elements with OSHA, we engaged in an open discussion concerning both the vinyl chloride standard and the hazard communication standards. Although the discussion combined both standards, for purposes of clarity, they are addressed separately in this letter.

Hazard Communication Standard -- Everyone agreed that manufacturers have an obligation to perform a hazard analysis of their products under the Hazard Communication Standard. Simply put, we took the position that PVC is not hazardous and that OSHA appeared to be making a hazard determination, overriding that of individual manufacturers. Based on the discussion, it seems clear that the OSHA's headquarters staff has not made any such determination, although there may be some field offices improperly taking this position. In this regard, Mr. White suggested that we collect evidence on the downstream exposure at fabrication and compounding facilities of workers potentially exposed to vinyl chloride.

If the data is deemed adequate, OSHA would consider informing its field offices that PVC was not automatically a hazardous substance under the hazard communication standard due to the assumed presence of residual vinyl chloride monomer. Short of a formal letter to the field offices, there was an implicit assurance that, if OSHA headquarters was satisfied with our data submission, company disputes with OSHA field offices on this matter could be promptly and reasonably resolved.

Vinyl Chloride Standard -- Although we did not agree with OSHA's characterization, Mr. White restated the Agency's position that vinyl chloride polymers and copolymers which had not been formed into a fabricated product must bear the cancer warning label. While none of the OSHA officials disagreed with our characterization of the current scientific data showing

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that compounding or processing of PVC presented no health risk, they viewed these as "equity" arguments and were unwilling to take any immediate action to change the position espoused in the agency's letter of May 12, 1987. During this discussion, we referred to a scope and application section in OSHA's ethylene oxide standard because it exemplified the treatment we are seeking for vinyl chloride. See 29 C.F.R. § 1910.1047.

We suggested that it would be appropriate to amend the vinyl chloride standard to make it consistent with current scientific observation and advances over the last decade. Based on the ethylene oxide standard, possible language for a new section in the vinyl chloride standard limiting its application follows (§ 1910.1017(a)(2)(ii)):

This section does not apply to the processing, use, or handling of vinyl chloride polymer or copolymer products where objective data are reasonably relied upon and demonstrate that the vinyl chloride polymer or copolymer is not capable of releasing vinyl chloride in airborne concentrations at or above the action level under the expected conditions of processing, use, or handling that will cause the greatest possible release.

In response to our suggestion, Mr. White indicated that it had a "full-plate" and was not interested in undertaking another rulemaking. Nonetheless, if the data we collect to satisfy OSHA's hazard communication standard questions is solid, that same data should also support a change to the vinyl chloride standard. Thus, regardless of OSHA's desire to undertake the project, there appears to be little if any risk in filing a petition to amend the vinyl chloride standard other than the effort that may be involved and the potential of prompting adverse comments from uninformed groups.

B. Follow-up Activity

In summary, OSHA indicated that the vinyl chloride and hazard communication standards were not linked, that PVC was not automatically considered a hazardous substance by the Agency under the HCS, and that PVC resin should carry a cancer

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warning label. Based on the meeting, I recommend that we ask member companies to provide us with industrial hygiene, worker exposure or other pertinent sampling data to indicate the absence of any significant exposure to vinyl chloride for compounding and fabricating workers. Modeling data and other supportive information should also be provided. In reviewing this data, we will obviously need to correlate the potential for downstream exposure with residual vinyl chloride monomer (RVCM) levels and provide information on typical RVCM levels in commercial products.

The Health Safety and Environment Committee is the most likely source of expertise on these issues. Perhaps they can address this issue at their next meeting in September.

I trust that this will provide an adequate summary of our meeting and our recommendations for appropriate action. We look forward to assembling the supporting data and continuing our efforts to change the Agency's current interpretation of the standard.

Cordially yours,



Peter L. de la Cruz

Enclosures

cc: Robert D. Luss, Esq.
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