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March 31, 1975

Mr John Stender
Occupational Safety & Health
Administration
Department of Labor
Washington, D C 20210

Re Standard for Exposure
to Vinyl Chloride Request
for Interpretation and
Other Relief

Dear Mr Stender

The purpose of this letter is to follow-up on a meeting held Thursday, March 20, of Messrs Flowers and McClure and Mrs Ryer of the Staff of the Occupational Safety and Health Administration and Messrs Thomas Smith, B F Goodrich Chemical Company Grant Arnold, Ethyl Corporation Philip Cupertino Stauffer Chemical Company, and the undersigned on behalf of the Committee on Distribution of the Society of the Plastics Industry, Inc. The subject of this meeting was the implementation of the OSHA Standard for Exposure to Vinyl Chloride 1/ with respect to labeling and other transportation related functions

As we are certain you are aware, the Society of the Plastics Industry (SPI) is the national trade association of the industry and represents approximately 99 percent of the production of vinyl chloride (VCM) and polyvinyl chloride (PVC) in this country. The Committee on Distribution is a service committee within SPI and is charged with the responsibility to study and work toward

1/ 29 C F R §1910 93g

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improvement of the function of physical distribution of materials and products. The Standard for Exposure to Vinyl Chloride is according of extreme importance to the Committee on Distribution due to its impact upon materials handling, transportation equipment, packaging and labeling.

LABELING

The Committee on Distribution has adopted a program for the labeling of transportation equipment and packaged materials relative to the requirements for container labeling of subsection (1) of the Standard. We respectfully request your concurrence with our interpretation that this program fulfills those requirements and we further request that OSHA field personnel be advised that the labeling program described herein satisfies compliance responsibilities of those employers whose employees may be handling VCM and PVC materials.

The industry believes that a uniform approach to marking and labeling is desirable in order, first, that transportation companies and carrier employees will become accustomed to recognizing the prescribed warnings irrespective of the company making shipment. In this regard, carriers are accustomed to standardization in hazardous materials regulations and a uniform industry approach would thereby facilitate not only industry but also common carrier compliance obligations. Secondly, a uniform approach would be effective in warning employees of the fabricator segment of the industry who will become accustomed to seeing the warnings in similar fashion and location irrespective of the producer or plant wherein the shipment originates. Finally, uniformity will enable OSHA inspectors to impartially judge compliance and effect uniform enforcement, thereby assuring that all producers are treated in a similar manner, and further assuring that the same standard of compliance will be applied to a shipment at origin by one inspector as at destination by another.

The provisions of subparagraph (1) of the Standard simply require that containers of vinyl chloride and polyvinyl chloride shall be 'legibly labeled' with the

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warning statements designated therein In formulating the program described below the Committee on Distribution has considered the intent of the Standard that employees handling vinyl chloride and polyvinyl chloride materials shall be reasonably apprised of the warnings prescribed by the Standard in view of the handling and exposure at all levels, e g , producer, fabricator, carrier and warehouseman and the Committee's deliberations further took into account the specific characteristics pertaining to each container for marking purposes

Vinyl Chloride

Vinyl chloride may be packaged for transportation in bulk in tank cars, in bulk in tank trucks, or in cylinders 2/ The practices and requirements of transportation for each mode mandate specific consideration With respect to tank car movements, the industry has elected to employ option (11) of subsection (1)(5) of the Standard to mark Cancer-Suspect Agent in conjunction with the DOT placard requirement Associated with this letter and identified as Exhibit A is a DOT placard utilized for VCM movements as amended to reflect the OSHA-prescribed warning Modification of the placard to accommodate the OSHA warning has been assented to by the Federal Railroad Administration of the Department of Transportation 3/ This approach presents all transportation safety information in one location, and railroad employees are accustomed to looking to the placard for such information Moreover, this approach appears to fulfill the intent of the Standard as described in the preamble, as follows

{ Since labeling or placarding that is in compliance with the U S Department of

2/ For waterborne movement, the carcinogenic hazard of VCM will be regulated by the Department of Transportation See, CGD 74-167, 39 Fed Reg 26752

3/ Letter dated November 21 1974, from Mr W F Hall for Mac E Rogers Associate Administrator Office of Safety Federal Railroad Administration of the Department of Transportation, addressed to Mr S Kuzma, Allied Chemical Corporation

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Transportation regulations (49 CFR Part 173, Subpart H) already warns of the fire hazard, only a statement concerning the carcinogenic hazard need be *added to* the Department of Transportation labels 4/

The movement of vinyl chloride by tank truck is currently very limited in scope, involving one VCM producer and a single motor carrier. It is the position of the Committee on Distribution, and of the parties particularly involved in this movement that option (1) of subparagraph (1)(5) is preferable. It is intended that the full warning statement 5/ will be applied by a label stencil or tag, as illustrated by Exhibit B to this letter, in the vicinity of all hatches and all outlets. The producer and customer personnel handling the material at both origin and destination will, of course, be familiar with and trained in the handling requirements of vinyl chloride. Additionally, a single driver is responsible for the truck during the entire transportation movement. Accordingly it is believed that this system of notification will serve to adequately warn all employees who may be anticipated to be within working distance of the vehicle during transportation of the health hazard involved 6/

4/ 39 Fed Reg 35890, 35895 (Emphasis added)

5/ It is understood that the shipper involved intends to petition for a variance to use the phraseology "Flammable Compressed Gas" in lieu of "Extremely Flammable Gas Under Pressure" in order to correlate to DOT hazardous materials terminology

6/ Exhibit 'B-1' hereto is a DOT placard used for truck movement of vinyl chloride. The nature of this placard and its failure to identify the material in the vehicle do not accommodate modification to include the OSHA-prescribed warning as readily as does the rail placard. This distinction, and also differences in the manner of handling tank cars and tank trucks has caused the Committee on Distribution to select the labeling of hatches and outlets so to give particular warning to those actually handling the product

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With respect to cylinders, which move comparatively infrequently in transportation it is intended to utilize the Cancer-Suspect Agent legend, in lettering one-half the size of the 'Flammable Gas lettering of the DOT required label near the DOT label on the cylinder. A sample DOT label is associated herewith as Exhibit 'C

Polyvinyl Chloride

Polyvinyl chloride may be in either powder, pellet or liquid form. PVC is moved in bulk in hopper cars, tank cars, hopper trucks and tank trucks and PVC is packaged in bags, bulk boxes and drums. With respect to bulk equipment whether rail or motor carrier the Committee on Distribution program calls for warning with the legend prescribed in subsection (1)(4) of the Standard by label, stencil or tag in the vicinity of all hatches and all outlets in the form of Exhibit D to this letter. Such a label will serve to give notice of the potential health hazard prior to handling the PVC material.

E, Exhibit E to this letter is a label to be utilized on packaged material. This label will be applied to bags on the sides or ends, to boxes on each side which bears the product identification, and to drums on the front, i.e., near the product identification. This application of the warning is intended to be visible when the packages particularly bags are palletized and so may be seen by warehouse personnel and also by employees or fabricators who may be called upon to remove the bags from the pallets for usage.

Waste Material Contaminated with Vinyl Chloride

Scrap It is intended to label waste materials contaminated with vinyl chloride, which move very occasionally in bulk in trucks, with the labeling prescribed by subsection (1)(3) of the Standard in similar fashion to the label identified as Exhibit D to this letter.

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It is respectfully submitted that the foregoing labeling program complies with the requirements and intent of the Standard insofar as the responsibility of all employers e g , producer fabricator, warehouseman and transportation company is concerned with respect to the movement of vinyl chloride and polyvinyl chloride materials and we request your concurrence in this interpretation

TRANSITION

As the direct result of the present state of the economy, many, if not all, PVC producers find themselves with substantial inventories of packaged materials As of December 31 1974 these inventories amounted to approximately 300 million pounds ^{7/} Such inventories are held at public as well as company warehouse facilities The provision of the Standard requiring that containers of polyvinyl chloride must be labeled effective April 1 apparently applies to existing inventories as well as to newly packaged materials however, whereas newly packaged PVC materials will be labeled in accordance with the program described above, the labeling of each individual package in inventory may be highly impractical

By and large, PVC materials are packaged in bags containing 40 or 50 pounds of material and it is common industry practice that such packages are palletized, 50 bags to a pallet Within each pallet the bags are glued or banded together to maintain stability and facilitate handling of the palletized unit In consideration of the unitized nature of packaged PVC materials or pallets, it is our interpretation that each palletized unit may be considered to be a container, and accordingly that the requirement of subsection (1) of the Standard may be satisfied by the labeling of each palletized unit itself

^{7/} Source SPI Committee on Resin Statistics, as compiled by Ernst & Ernst

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To otherwise interpret the Standard may require that each pallet load be broken down thereby resulting in a weakening of the individual packages as the outer ply of paper glued to the next package, tears as the bags are separated from one another so that labels may be individually applied

While the PVC producers do not have a single approach to the labeling of packages during this transition period, it is generally intended that labels will be placed on each palletized load in such fashion as to be conspicuous to warehouse and transportation employees who will be handling the material. Additionally the labels will be so located that the warning will be apparent to employees of fabricators as the bags are removed from the palletized load for use, until the last package has been severed from the pallet

It is respectfully submitted that the foregoing approach to labeling during the transition period, and until present inventories are depleted will serve to fulfill the requirement of subsection (1) of the Standard at all levels of handling and we further request your concurrence in this interpretation

EXPORT

Members of SPI's Committee on Distribution have been advised that materials bearing the 'Cancer-Suspect Agent' label will not be accepted for handling by certain stevedoring companies. Moreover, some foreign customers have indicated that they will not accept products bearing this label since they can purchase PVC materials from producers in other countries which are not labeled in this fashion

SPI's statistics show that the export of PVC, amounting to approximately 300 million pounds in 1974, accounts for 21% of all plastic materials exported 8/

8/ Source SPI Committee on Resin Statistics, as compiled by Ernst & Ernst

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SPI is aware that the B F Goodrich Chemical Company has filed a request for an interpretation concerning this matter. Considering that (1) the warning is primarily intended for the benefit of employees actually working with the PVC material in the fabrication process and that foreign employees are not within the purview of the OSH Act (2) that producer and transportation employees will be trained in the handling of PVC materials, and (3) that longshoremen and other dock personnel have only occasional and limited exposure in an open air environment to packages of PVC material, the SPI Committee on Distribution supports the B F Goodrich Chemical Company request that the Standard be interpreted as not requiring the labeling of PVC materials in export movement.

SAMPLES

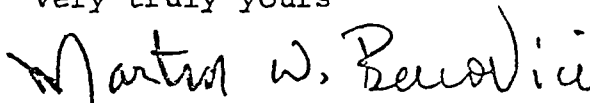
It is common practice within the industry for PVC producers to ship samples of materials to customers, such samples ranging in amount from 5 pounds to one bag consisting of 40 or 50 pounds of product. Such samples may be sent by United Parcel Service, parcel post or air freight and are appropriately packaged in outer containers sufficient to withstand the rigors of handling. As presently constituted the provisions of the Standard, most particularly the monitoring, training labeling and record retention requirements, would apply to the handling of these shipments in equal force as they do to the transportation of a 40,000 pound consignment. Obviously, the burdens of compliance with the Standard would make the handling of such sample shipments economically infeasible for the postal system, UPS or the airlines. In view of the negligible exposure and health hazard presented by the handling of such sample shipments, it is respectfully requested that the Secretary either interpret the Standard so to exclude such transportation from the scope of subsection (a)(3) or alternatively that the Secretary amend the Standard to exempt from its scope the transportation of PVC in quantities not exceeding 50 pounds. Should such an amendment be required, it is submitted that it would constitute a minor amendment within the context of Section 1911.5 of

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the Regulations

Your attention to the foregoing request is very much appreciated. Should there be any questions concerning the foregoing matters or should any further information be desired please feel free to communicate with the undersigned

Very truly yours


Assistant General Counsel To
THE SOCIETY OF THE PLASTICS
INDUSTRY, INC

Enclosures

cc Mr Barry White
Mr Grover Wrenn
Mr Charles Ray McClure

OCC 014264

**VINYL CHLORIDE
FLAMMABLE COMPRESSED GAS
CANCER - SUSPECT AGENT**

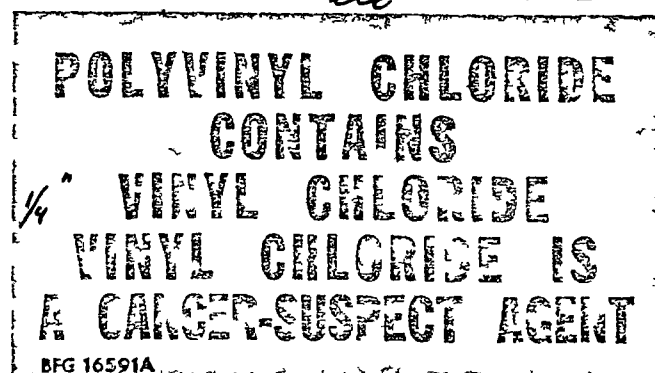
TC 455

EXHIBIT "B" (COPY)



EXHIBIT "C" (COPY)

Drums bags etc EXHIBIT "E"



POLYVINYL CHLORIDE

contains

VINYL CHLORIDE

VINYL CHLORIDE IS

A CANCER-SUSPECT AGENT

EXHIBIT "D"

Scrap



LP 32 - 4/73/GK

OCC 014265

VINYL CHLORIDE TANK CAR PLACARDS*

(DOUBLED FACED 10/ X 10/ INCHES ACTUAL SIZE)

DANGEROUS PLACARD

KEEP
LIGHTS
AND
FIRES AWAY!

DANGEROUS
VINYL CHLORIDE
CANCER-SUSPECT AGENT

HANDLE CAREFULLY

This car must not be next to a car containing
Explosives

Avoid contact with leaking acid or
corrosive liquid

Beware of fumes or
vapors!

WHEN LABELING IS REMOVED
THIS PLACARD MUST
BE MOVED
OR REVERSED

(FRONT SIDE)

TO COMPLY WITH OSHA AND DOT REGULATIONS

(OVER)

OCC 014266

DANGEROUS EMPTY PLACARD

A



(REVERSE SIDE)