

Daniel J. Ross, et ux
v.
Conoco, Inc., et al

cross reference: 15 of 22

Our File No.: 1395-0128

Phase I (formally Phase II)
Box 18

VC Resin Content 1975
VC Resin Content 1971 - 1974
VC Resins Dispersion, Solvent & Solution
VC Resins: Technical Data
VC Resins - Pechiney - St. Gobain
VC Resins Suspension
VC Resins Type 'O' (Suspension)
VC Resins (Vinyl) Competitive
VC Sakabe - Bone Lesion among PVC Worker
VC Shindell, et al - The Healthy Worker
VC Shintech PVC Plant - Freeport, Texas
VC Simonds - Handbook of Plastics - 1949
VC Smyth & Weil - Chronic Oral Toxicity Copolymer
VC Solvent Resins 1940 - 1957

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ORDER"

Need Labels
Do Not Know Title of Cases

UCC
038434

4/17/75 cc R.C. Anderson, 204912, N.J.
W.D. 1-22, 312

UNION CARBIDE CORPORATION

270 PARK AVENUE, NEW YORK, N.Y. 10017

LAW DEPARTMENT

RECEIVED

APR 02 1975

R. N. WHEELER, JR.

March 31, 1975

To: Messrs. A. W. Lutz
A. B. Steele
R. N. Wheeler
E. Bell
T. T. Szabo
D. L. Wiley
W. C. Quinby
A. Walker
A. S. Hart, Esq.
F. R. Lyon, Jr., Esq.
R. J. Hughes
R. T. Bradley
T. W. Carmody

C. U. Dernehl
R. W. Wesson
W. R. Neihaus
A. B. Smith
G. P. Bigelow
R. L. Levitan
A. R. Ryrholm
M. E. Eisehnauer

PRIVILEGED AND
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Re: Vinyl Chloride

Gentlemen:

I am enclosing a copy of a letter from Mr. Grover C. Wrenn, OSHA's Chief of Standards Development, in response to Mr. R. N. Wheeler's request of February 18, 1975 to OSHA for an interpretation as to whether or not certain Union Carbide resins, both solvent and dispersion, are to be considered "fabricated products" as that term is defined in OSHA's vinyl chloride standard, 29 CFR Section 1910.93 (q) (a) (6).

Mr. Wrenn's response is that the term fabricated products includes those resin products which are not to be subject to further processing, after their initial formulation, at temperatures and for times sufficient to cause mass melting resulting in the release of vinyl chloride monomer. Use of such products in the formulation of paints and coatings is a major example. There are other such uses to which interpretation of Mr. Wrenn's letter will apply. In all such instances, therefore, the vinyl chloride standard, which specifically states it does not apply to "the handling or use of fabricated products" (Section (a) (1)), will not extend to the resin products herein involved. Virtually all of Union Carbide Corporation's solvent and dispersion resins, whether or not they contain 1 part per million retained monomer, or more or less, are thus exempted (after initial formulation) from the vinyl chloride monomer standard and all regulation thereunder, where put to any use that does not involve mass melting and consequent release of vinyl chloride monomer. The burden of compliance with the standard is thus very substantially eased for Union Carbide Corporation shippers, warehouses and customers and even within Union Carbide

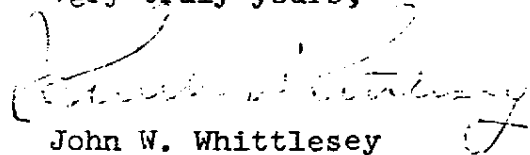
March 31, 1975

itself as to handling after manufacture has taken place. It was noted in the request to Mr. Wrenn that such resins lose virtually all of their monomer remaining after manufacture within the first 24 hours.

This ruling is particularly important in the light of the news we have received this morning that the industry petition for stay of the mandate of the Second Circuit has been denied. This means that the standard provisions will go into effect as earlier specified by the Second Circuit, at midnight, March 31, 1975. Our petition for a writ of certiorari has not yet been acted on but the stay denial does not auger well for it.

A further and general interpretation of OSHA's vinyl chloride monomer standard is to be issued shortly from Mr. Wrenn's office. The provisions are not yet detailed but will be made available as soon as received.

Very truly yours,


John W. Whittlesey

Enc.
JWW:me

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U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration
WASHINGTON, D.C. 20210



MAR 25 1975

Mr. R. N. Wheeler, Jr.
Union Carbide Corporation
Chemicals and Plastics
P.O. Box 8004
South Charleston, West Virginia 25303

RECEIVED

MAR 31 1975

J. W. WHITTLESEY

Dear Mr. Wheeler:

Your letter dated February 14 suggests that certain of Union Carbide Corporation's vinyl coating resins from its dispersion and solution vinyl resin processes should be considered "fabricated products." In support of that position, you state that the particular resins described are "fabricated" for use and application via coating technology; and further that the dispersion and solution vinyl resins contain less than one part per million by weight of residual vinyl chloride monomer which effectively precludes the possibility of employee exposures in excess of the action level in the subsequent transportation, handling or use of these resins.

The Occupational Safety and Health Administration standard for vinyl chloride defines a fabricated product as a "product made wholly or partly from polyvinyl chloride, which does not require further processing at temperatures, and for times sufficient to cause mass melting of the polyvinyl chloride resulting in the release of vinyl chloride." In reviewing the materials which you submitted, it is agreed that the term "fabricated products" includes those solution and dispersion polyvinyl chloride resins described as having application in the formulation of paints and coatings which do not undergo further processing involving mass melting.

It should be noted that the vinyl chloride standard would apply in all respects during the manufacturing of the solution and dispersion resins within Union Carbide Corporation facilities. Additionally, employers who used these resins in applications which would require further processing at temperatures sufficient to cause mass melting of the polyvinyl chloride, would be subject to the provisions of the standard.

Sincerely,

Grover C. Wrenn
Chief, Division of Health
Standards Development

cc: Mr. John W. Whittlesey

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X

UNION CARBIDE CORPORATION
270 PARK AVENUE, NEW YORK, N.Y. 10017
LAW DEPARTMENT

REC'D
MAR 14 1975
R. N. WHEELER, JR.

March 12, 1975

R.N. Wheeler
Chemicals & Plastics Division
South Charleston, West Virginia

Dear Mr. Wheeler:

You raised with me this morning the question of what our procedure should be with respect to the labeling of shipments of solvent and dispersion vinyl chloride resins to customers where the retained monomer content of those resins is less than 1 ppm by weight. The problem is occasioned by the fact that the VCM standard goes into effect on April 1, 1975; we have not received a stay of mandate pending our petition for certiorari with the Supreme Court and we are faced with the problem of our shippers meeting the so-called action level of the Standard at 1/2 ppm with the consequences involved and which in turn may lead to some refusals to accept some shipments.

We have submitted to the OSHA Office of Standards on February 18th, 1975, through a Mr. Grover Wrenn, a request to declare as a matter of interpretation of the OSHA Standard on VCM that the solvent and dispersion resins involved herein are not resins but fabricated products and thus not subject to the Standard at all because they require no further mass melting which would release vinyl chloride monomer into the atmosphere. We have had discussions with Mr. Wrenn and he has given us indications that a favorable reply will be forthcoming. However, he has been delayed in the issuance of such reply in part because of the pressure of other business and in part because of the illness of the attorney in the Labor Department Solicitor's Office with whom he must clear this matter. Recent discussions with Mr. Wrenn indicate that the prognostications are still favorable for an affirmative answer to our request.

Accordingly, it is my opinion that we should not under these circumstances, proceed to any labeling of resin shipments of the above described type pending the arrival of Mr. Wrenn's response. This, of course, is not to say that if we desire for our own convenience to label such shipments, as in the situation of the railroad hopper cars which cannot be segregated from suspension resin shipments, as Mr. Donaldson discussed with me this morning, that we should not proceed; but such labeling of the solvent and dispersion shipments is not at present necessary and thus the prospects of an exemption

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R.N. Wheeler

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March 12, 1975

of them from the Standard entirely are such at this point that we should not proceed to any advance labeling of such resins unless Mr. Wrenn replies unfavorably to our request. This, as already indicated, does not appear to be the likely outcome.

Please feel free to call on me at any time in connection with this matter.

Sincerely,

John W. Whittlesey
John W. Whittlesey

JWW:hm

cc: Dr. T.T. Szabo - 32 fl
A.B. Steele - 28 fl
E. Bell - Bound Brook
A. Donaldson - Bound Brook
D. Engel - Texas City
A.R. Ryrholm - South Charleston

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