

To: Mr. E. Bell
Mr. G. P. Bigelow
Mr. T. W. Carmody
Dr. C. P. Carpenter
Dr. C. U. Dernehl
Mr. M. E. Eisenhour
Mr. R. J. Hanna
Mr. A. W. Lutz
Dr. W. R. Manning
Mr. G. T. Scott
Mr. R. N. Wheeler
Mr. J. W. Whittlesey

Date: July 12, 1974

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R. N. WHEELER, JR.

Subject: Observations on the Public Hearing
Proposed Standard for Occupational
Exposure to Vinyl Chloride
Department of Labor Auditorium
Washington, D. C.

The second session of the Hearing, which opened on Monday, July 8th, under the administration of Gordon J. Myatt, completed the revised agenda in which some 37 testifiers presented information on the matter of the proposed permanent standard for occupational exposure to vinyl chloride monomer. Since each of you spent significant time at the first session of the Hearing and contributed significantly to the Carbide and industry position as put upon the record of the Hearing, you may find interest in some observations of mine arising from participation in both sessions.

1. At the outset of the Hearing, it was hoped that the testimony would be oriented toward accumulating a record of information on the total matter relating to the proposed permanent standard. The information gathering process would bring together factual information relative to all aspects of the Standard; from the most recent findings on the biological activity of VCM to the most remote economic impact of PVC on the retail price of shoes. However, the very limited evidence put on record by the testimony of representatives for OSHA, NIOSH and the Department of Labor and the inflammatory efforts of organized labor representatives to becloud the medical-technical-economic aspects of the issue contrasted unfavorably with the factual, documented responses of the SPI and the many individual industrial contributions. As the depth of evidence grew against the lack of substance to support the proposed standard, so grew the hostility of Solicitors Kline and Kuchenbacker toward the witnesses. Cross examination sharpened, particularly on presentations made by individuals representing small fabricating and compounding companies, users of PVC resins (General Cable, American Footwear Industries), and trade associations (Rubber Manufacturers Association). The Hearing turned toward adversary proceeding.

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2. The thrust of the questioning by Solicitors Kline and Kuchenbecker centered on the performance to date of the individual manufacturers under the regulation as defined by the Temporary Standard, with leading questions in such areas as level of exposure, monitoring, medical surveillance, records, engineering control and work practice programs until the testimony revealed an area of noncompliance with existing standard. This approach was used to discredit the witness or to bring a concession by the witness that the permanent standard of no detectable level could or would be met by October 5th.
3. The record of the testimony is defective in a major way. The recording service covering the record-making caused to be deleted large portions of the testimony, particularly in those segments that were unfavorable to the OSHA proposed standard - for example, the testimony of Mr. Hyatt who characterized air respirators as "devices of torture" was deleted from the record on the claim of a defective recording instrument. While Law Judge G. J. Myatt promised to attempt to have reconstructed much of the missing testimony, I sense that much of the missing input will remain forever lost and that which is reconstructed may be of questionable value as evidence.
4. Mr. Cefalo of International Association of Machinists and Aerospace Workers and Mr. Mazzocchi of Oil, Chemical and Atomic Workers International Union added nothing of substance to the record. Each supported, in total, the position of Mr. Bommarito that a "no detectable level" for VCM was required to protect workers in PVC plants; that any plant not able to achieve such operations by October 5th should file a variance with OSHA and then negotiate with OSHA and the appropriate union for permits to continue operation with fixed dates for full compliance. A Mr. Vernon Jensen of the OCAW local at Bound Brook (UCC) testified as to the grave need for including fabricating plants within the strict limits of the proposed Standard. He included complaint against UCC on reliability of its determination of VCM in the workplace air; on dust control facilities; and on slowness in initiating work practice changes in the face of known danger of VCM exposure.

Mr. Cefalo acknowledged exceptional treatment of Dr. Selikoff and his associates from Mount Sinai School of Medicine during their visitation at the South Charleston plant.
5. On the matter of metabolism of VCM, Dr. Rowe of Dow reported that preliminary data indicate VCM may metabolize by several routes; suggested the possibility that "swamping" or overloading of the primary metabolic pathway under high exposure conditions may lead to the formation of metabolites which are carcinogenic. Dow also recorded its view that the high death rate of mice at all levels of exposure at Industrial Bio-Test is likely due to the "swamping" of the pathways of mice, making mice not suited for VCM testing.
6. Dow, Firestone, Diamond, Air Products and Uniroyal joined Carbide with documentation that medical records indicate worker populations exposed to vinyl chloride over periods of ten to twenty-five years have a malignancy rate no different than that expected for the unexposed groups with

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which they were compared. The continued search of records show no evidence of deaths due to angiosarcoma other than those previously reported to OSHA. The conclusion must be drawn that exposure to significant concentrations of VCM for extended periods of time has no measurable adverse effect on worker health.

7. As the human experience record was formed from the testimony of SPI and the several individual companies, Dr. Lassiter became more insistent that animal studies are the only ethical way to measure dose response and to set limits; that the human experience data inadvertently accumulated in the VCM case but should not be used in setting the standard since similar data would not be available when OSHA would set standards on other materials suspect of inducing tumor formation. The logic of Lassiter's position was unclear.
8. Firestone made an impressive presentation with a most important documentation of the engineering feasibility issue. Firestone hired Dr. Higgins (Temple) and contracted with Catalytic Construction (engineering design consultants) to determine the equipment requirements and estimated costs of reaching various emission levels at the two Firestone plants - Pottstown and Perryville. The same study was put upon the Firestone Engineering Department separately. All three groups came to the conclusion: (1) that the "no detectable" level was not feasible based on known engineering design concept and on presently available equipment; (2) that none of the engineering studies supports the SPI proposal that limits of 25 ppm ceiling and 10 ppm TWA can be reached; (3) that engineering studies support the generalization that the greater the investment in additional facilities, the greater is the potential that VCM emissions will be reduced but that the levels that can be achieved can only be determined after the fact of installation of the equipment and the modification of operating conditions to achieve optimum advantage from its installation (there being no way before the fact to estimate the magnitude (if any) in lessening VCM emission to be achieved by bringing into operation any particular new facility).
9. Dr. Lassiter continued to make reference to OASH information that many plants manufacturing VCM and PVC had approached the proposed permanent Standard by reaching average TWA readings in the range of 5 ppm. The OSHA team refused to recognize that the language of the Standard was concerned with maximum levels of exposure rather than with averaged TWA values. Additionally, OSHA data are so limited as to badly underestimate the magnitude of the VCM emission problem in existing plants where continuous area monitoring is used to compile the data base.
10. The total Hearing testimony developed no documentation that there existed medical knowledge on which to assess the risk of human VCM exposure. OSHA insisted that all uncertainties must be resolved in favor

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of health safety by setting non-detectable limits on VCM; protect against the unknown by simply assuming that any exposure whatsoever presents a health hazard. The industry counter of documented human experience - favorable employee health records for workmen exposed to moderate to high concentrations of VCM over extended periods of time - provides direct evidence contrary to the OSHA "no risk" argument. Because the human experience data is a keystone, UCC and others are dedicated to improve the documentation of this data for later presentation as may be required in court.

A. B. Steele
A. B. STEELE

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