FILE NAME: Kohler (KOH)

DATE: 1971-1979

DOC#: KOH022

DOCUMENT DESCRIPTION: Memos

CC for

T. P. Norris
J. W. Rawlings
King City - File ✓
Niagara Falls - File

UNION CARBIDE CORPORATION

P.O. Box 579 Niagara Falls, N.Y. 14302

By R. E. Byrne

END USE

Polyester

Date 9/23/71

Full Name Interplastics Address 2015 N.E. Broadway Minneapolis, Minn. Mfrs. of	Interviewed W. Sofko

PLAINTIFF'S EXHIBIT UC-632

OBJECTIVE

Determine results of introductory program for RG-244.

DISCUSSION

Bill Sofko told Tom Norris and me that most of the TL of RG-244 has been used and the resulting resin sampled to 5 or 6 customers whom they can watch carefully. To date, there have been no bad results. Interplastics especially likes the economic advantage of 244. They are learning how to mix it in their several different mixers including a Cowles (150 HP), Hockmeyer, and a Meyers. Each is different and none agrees with laboratory results. (Sofko admits they also went through this with silica.)

Interplastics uses "a pinch" of TiO_2 to mask the fact that RG-244 is being used. The customer, therefore, is not aware of a difference in their resin.

Sofko also confirmed that they use about 100 ppm hydroquinone inhibitor in all their resins. This stabilizes both the styrene monomer and the ethylenic unsaturation in the polyester resin (mainly the maleic acid portion). He claims that all manufacturers do likewise and that hydroquinone is about the best.

In general, Interplastics feels that their program is going well. They are not ready to order again, but so far they are encouraged. They are formulating a strategy for its use which will apparently involve a partial replacement of silica. RG-244 usage should increase as they gain confidence in its use.

Sofko asked about asbestos toxicology and seemed satisfied with the data we cited on TLV and respiratory protection.

Sofko also said Interplastics has a capacity of about 3MM lb. of polyester per month. They produce at this rate currently and are looking for ways to expand, probably through acquisition of a new plant. They sell in Florida, Texas, Colorado and on the East Coast as well as the mid-west.

FUTURE ACTION

T. Norris - Sleep with 'em!

Typed 9/28/71

CUSTOMER & LOCATION Interplastic Corp. Minneapolis, MN

INDUSTRY CLASSIFICATION Polyester

SALESMAN Edward J. Kleber REGION Midwest DATE OF CALL 8/29&31/78

ASBESTOS HEALTH & REGULATORY DOCUMENTS PROVIDED:

- ☐ MSDS
- ☐ Health & OSHA Information Blue Book
- ☐ Dust Count Report
- ☐ Other, specify below

PERSONS INTERVIEWED:

Howard Melin - Corporation Secretary
Terry McCabe - Technical Director
Sharon Fisk - Purchasing Agent

CALL OBJECTIVE:

Regular call.

RESULTS OF CALL:

I checked in with Howard primarily to find out whether or not Interplastic has had any more harassment from OSHA. Howard said that, "no, they have now been inspected in both plants by OSHA and have everything straightened out." He told me not to be concerned, we would be the first to know if he had any trouble from OSHA. Even though they did not get cited for needing medical exams, Howard says they have decided to administer them to the handlers of asbestos. I replied that this was probably a good idea and left it at that.

I spoke briefly with Sharon, strictly social, because as she points out RG-244 is not a commodity item with Interplastic so all she has to do is monitor the inventories.

As usual, Terry took time out from his busy schedule to remind me that the secrecy agreement we have with them regarding the silane-treated product is almost one year old and all he has seen so far is 40 grams of material. I told them that we did have a plant trial that was pretty much of a flop, and he would just have to be patient and wait. He mumbled something about whether or not there was a statute of limitations on secrecy agreements and we left the subject. Things continue along here as normal, with no great increases or decreases of business in sight. The big hope we have now for RG-244 is that with all the changes at Hatco/U.S. Steel, they will somehow mess up at Kohler and Interplastic will get the business. He admits that's not very likely. All in all, RG-244 continues to perform as advertised and Terry has no complaints.

FOLLOW-UP ACTION REQUIRED:

EJK - Continue normal calls.

COPIES TO: JRL:TPN:WCT:JEW:KC-FILE:NF-FILE

NF PERMANENT FILE ☒

dal 9/8/78

CC for

T. P. Norris
J. W. Rawlings
King City - File
Niagara Falls - File

UNION CARBIDE CORPORATION

P.O. Box 579 Niagara Falls, N.Y. 14302

By R. E. Byrne

END USE

Polyester

Date 9/23/71

Full Name Interplastics Address 2015 N.E. Broadway Minneapolis, Minn. Mfrs. of	Interviewed W. Sofko

OBJECTIVE

Determine results of introductory program for RG-244.

DISCUSSION

Bill Sofko told Tom Norris and me that most of the TL of RG-244 has been used and the resulting resin sampled to 5 or 6 customers whom they can watch carefully. To date, there have been no bad results. Interplastics especially likes the economic advantage of 244. They are learning how to mix it in their several different mixers including a Cowles (150 HP), Hockmeyer, and a Meyers. Each is different and none agrees with laboratory results. (Sofko admits they also went through this with silica.)

Interplastics uses "a pinch" of TiO_2 to mask the fact that RG-244 is being used. The customer, therefore, is not aware of a difference in their resin.

Sofko also confirmed that they use about 100 ppm hydroquinone inhibitor in all their resins. This stabilizes both the styrene monomer and the ethylenic unsaturation in the polyester resin (mainly the maleic acid portion). He claims that all manufacturers do likewise and that hydroquinone is about the best.

In general, Interplastics feels that their program is going well. They are not ready to order again, but so far they are encouraged. They are formulating a strategy for its use which will apparently involve a partial replacement of silica. RG-244 usage should increase as they gain confidence in its use.

Sofko asked about asbestos toxicology and seemed satisfied with the data we cited on TLV and respiratory protection.

Sofko also said Interplastics has a capacity of about 3MM lb. of polyester per month. They produce at this rate currently and are looking for ways to expand, probably through acquisition of a new plant. They sell in Florida, Texas, Colorado and on the East Coast as well as the mid-west.

FUTURE ACTION

T. Norris - Sleep with 'em!

Typed 9/28/71
bsn

Calidria asbestos

cc: J. E. Lenahan
T. P. Norris
R. L. Schult
W. C. Thurber
J. E. Walsh
KC-File
NF-File
J. V. Murray

UNION CARBIDE CORPORATION
P.O. Box 579 Niagara Falls, N.Y. 14302

E. J. Kleber and
By H. B. Rhodes

Date 9/2 - 9/5/75

Full Name Interplastic Corp. Minneapolis, MN. Address Mfrs. of	Interviewed Howard Melin - Corp. Sec'y. Terry McCabe - Chief Chemist Doug Guenther - Technical Sup't Marvin Weiss - Plant Mgr. Mike Nyland - OSHA Industrial Hygenist

OBJECTIVES

Help Interplastic understand and, if necessary, fight their recent OSHA citations.

OBSERVATIONS

Interplastic has been cited for 3 violations:
1.) No initial fiber count
2.) Poor housekeeping
3.) No medical exams

Terry McCabe called on 9/2 and asked for help. He requested we come in and explain the regulations as we saw them, and also run a fiber count. We, of course, agreed to help in any way possible, and told him we'd be in on 9/5. On 9/3 Terry called back and said they had decided to invite Mike Nyland of OSHA to this meeting. We agreed that this was a good idea and decided to get together the evening of 9/4 to get a head start on the meeting and try to let Interplastic know how we stood on their citations.

9/4/75

A meeting was held with Howard Melin, Doug Guenther and Marvin Weiss.

We proceeded to go over the OSHA citation point-by-point, reflecting our opinions based largely on H.B. Rhodes conversations this week with J.V. Murray in UCC's law dept.

1.) No Fiber count - poppycock! We had conducted a test for them in October of 1972. This is irrefutable fact. Upon discussion with Interplastic, however, it was learned that a mix-up had occurred and they couldn't lay their hands on it when Nyland asked (they have since found it).

2.) Housekeeping - the sticky part of this violation is that the law reads "All external surfaces in any place of employment shall be maintained free of accumulations of asbestos fibers if, with their dispersion there would be an excessive concentration." No definition of excessive concentration is made and therein lies the rub. Our belief is that it should mean in excess of the limits.

3.) Medical exams - as we all know this is an extremely gray area that is only going to be solved by a revision of the standard. The hang-up obviously is the definition of the word "exposed." Interplastic is probably wide open on that one.

We discussed these points at some length and left with the impression that Interplastic was not about to be railroaded into paying fines, etc. unless they were absolutely sure they violated the law.

9/5/75

We met with Messrs. Melin, Guenther, Weiss and Terry McCabe from Interplastic plus Mike Nyland from OSHA.

Nyland comes across as a reasonable guy who has been given the job of enforcing standards which are, by his own admission, darn near impossible to understand. It is an unenviable position to be in and he deserves high marks for coming into the "lion's den" and explaining his thoughts. Unfortunately his thoughts are as vague as the standard. For example, he said that Interplastic probably wouldn't have been cited had they shown him their fiber count and their asbestos handling program. We never did find out what an asbestos handling program is. He also admitted that both the housekeeping and medical exam citations were based on his personal feelings rather than any hard and fast rules (it is important to note here that OSHA has never collected air samples at Interplastic). Terry McCabe made the comment that it is difficult enough to look into a crystal ball and predict how a particular inspector is going to interpret the law, let alone anticipate something that the standard doesn't call for. Nyland more or less agreed, but still wouldn't change his opinion.

A number of other points were covered such as: definitions of exposure and excessive concentration, sampling times, housekeeping guidelines, etc. None of these questions were satisfactorily answered.

Nyland departed leaving everyone as confused as ever. Based on what went on in that meeting it was decided to have an informal discussion with the OSHA regional director ASAP.

A fiber count was run and the results showed that Interplastic was significantly below any levels that OSHA has set up (Ceiling concentration sample = 1.0 fibers/cc).

Interplastic Corp.
Minneapolis, MN.

RECOMMENDED ACTION

E. J. Kleber - Interplastic is willing to pursue these citations and it certainly is in our best interest to give them as much support as possible. During all our discussions, they have never mentioned any possibility of dropping the use of RG-244, and we need to make sure that it doesn't happen.

ADDED NOTES:

For those who haven't had the opportunity to see one, a copy of the citation is attached.

We have a meeting set up with the Regional Director of OSHA on 9/11/75. E. J. Kleber and J. L. Myers will attend with Interplastic personnel.

Typed 9/12/75
ejp

Attachment

Room 437 Federal Courts Building
110 South Fourth Street
Minneapolis, Minnesota 55401

AREA	REGION
4760	5

TO:
2.
Interplastic Corporation
2015 N.E. Broadway
Minneapolis, Minnesota 55413

Subject: Citation(s) for Alleged Occupational Safety and Health Violation(s)

An inspection of a place of employment has revealed conditions which we believe do not comply with the provision of the Occupational Safety and Health Act of 1970, (29 U.S.C. 651 *et seq.*). The nature of such alleged violation(s) is described in the enclosed citation(s) with references to applicable standards, rules, regulations and provisions of the said Act. These conditions must be corrected on or before the date shown to the right of each alleged violation therein.

The Act requires that a copy of the enclosed citation(s) be prominently posted "in a conspicuous place upon receipt at or near each place a violation referred to in the citation occurred. It must remain posted until all violations cited therein are corrected, or for 3 working days*, whichever period is longer. A sufficient number of copies of the attached citation(s) should be prepared to permit posting in accordance with the requirements of the Act. The Act provides for penalties for violation of the posting requirements.

You are hereby notified, or will soon be notified, whether or not penalty(ies) will be proposed as a result of the citation violation(s). You have the right to contest any or all parts of either the citation(s) or the proposed penalty(ies) before the Occupational Safety and Health Review Commission. The Review Commission is an independent agency with authority to issue decisions regarding citation(s) and proposed penalty(ies). If you do contest, you should submit a letter to the Area Director at the address shown above within 15 working days* after receipt of the certified mail notice regarding proposed penalty(ies). If you fail to contest within the 15 working day period, the citation(s) and the penalty(ies) as proposed, shall be deemed to be a final order of the Review Commission and not subject to review by any court or agency.

If an employer contests the citation, the abatement period specified therein does not begin to run until the date of the Commission's final order in the case *PROVIDED* the employer initiated his contest in good faith and not solely for delay or avoidance of penalties.

You have a right to request a discussion with the Area Director concerning any results of the inspection (abatement dates, citations, penalties, etc.). Please direct correspondence to, or call, the Area Director at the address shown at the top of this letter. A request for an informal discussion cannot extend the 15 working day period allowed for filing a notice of contest. Therefore, a request for an informal discussion should be brought to the attention of the Area Director prior to the end of the 15 working days allowed for filing a notice of contest, preferably as soon as possible.

An employee or representative of employees may file a notice (letter) to contest the reasonableness of the time stated in the citation for the abatement of the alleged violation(s).

Alleged violations that are not contested shall be corrected within the abatement period specified in the citation. A followup inspection may be made for the purpose of ascertaining that the employer has posted the citation(s) as required by the Act and corrected the alleged violations. Failure to correct an alleged violation within the abatement period may result in further proposed penalties for each day the alleged violation has not been corrected. Timely correction of an alleged violation does not affect the initial proposed penalty.

Correction of alleged violations which have an abatement period of 30 days or less should be reported in writing to the Area Director promptly upon correction. Reports of corrections should show specific corrective action on each such alleged violation and the date of such action. On alleged violations having an abatement date of more than 30 days, a written progress report should be submitted each 30 days. The progress report should detail what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, the Area Director should be so advised.

The Act provides that whoever knowingly gives false information is subject to a fine up to $10,000, imprisonment up to 6 months, or both.

If you wish additional information, you may direct such request to the undersigned at the address shown above.

*Under the Occupational Safety and Health Act, the term "Working Day" means Mondays through Fridays but does not include Saturdays, Sundays, or Federal Holidays.

3. Citation(s) Enclosed

Quantity		Pages
1	Nonserious	1
	Serious	
	Willful and/or Repeated	

4. Notification of Proposed Penalty enclosed
☒ Yes ☐ No

U.S. Department of Labor
by Area Director Vernon P. Fern

5. _____

Date August 29, 19 75

OSHA-2C
Rev. Sept. 1972

CITATION

Room 437 Federal Courts Building
110 South Fourth Street
Minneapolis, Minnesota 55401

4760 | 5

TO: 2.

Interplastic Corporation
2015 N.E. Broadway
Minneapolis, Minnesota 55413

3. Citation Number 1

4. Page 1 of 5. 1

6. TYPE OF ALLEGED VIOLATION(S):

7. An inspection was made on August 27, 1975 of a place of employment located at:

8. 2015 N.E. Broadway, Minneapolis, MN 55413 and described as follows:

9. Manufacturer of polyester resins.

On the basis of the inspection it is alleged that you have violated the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.*, in the following respects:

10. Item number	11. Standard, regulation or section of the Act allegedly violated	12. Description of alleged violation	13. Date by which alleged violation must be corrected
	All References are from Title 29 CFR Part 1910:		
1.	1910.93a(f)(1)	Employees exposure to asbestos has not been monitored in order to determine whether the exposure to asbestos fibers is below the limits perscribed in 1910.93a(b).	Oct. 29, 1975
2.	1910.93a(h)(1)	External surfaces have not been maintained free of accumulations of asbestos fibers. For example: Areas in which the asbestos is stored was observed to have significant amounts of free asbestos on the floor, on the bags of asbestos and on the asbestos skids.	Sept. 12, 1975
3.	1910.93a(j)(1)	Medical examinations as required by 1910.93a(j)(2), (3) & (4) have not been provided to employees exposed to asbestos.	Nov. 28, 1975

The law requires that a copy of this citation shall be prominently posted in a conspicuous place at or near each place that an alleged violation referred to in the citation occurred. The citation must remain posted until all alleged violations cited therein are corrected, or for 3 working days*, whichever period is longer.

RIGHTS OF EMPLOYEES

Any employee or representative of employees who believes that any period of time fixed in this citation for the correction of a violation is unreasonable has the right to contest such time for correction by submitting a letter to the U.S. Department of Labor at the address shown above within 15 working days* of the issuance of this citation.

"No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act." Sec. 11(c)(1) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, 660(c)(1).

*Under the Occupational Safety and Health Act, the term "Working Day" means Mondays through Fridays but does not include Saturdays, Sundays, or Federal Holidays.

Area Director's Signature [signature] Issuance Date August 29, 19 75

Room 437 Federal Courts Building
110 South Fourth Street
Minneapolis, Minnesota 55401

Area	Region
4760	5

TO:
2.
Interplastic Corporation
2015 N.E. Broadway
Minneapolis, Minnesota 55413

3.
Date August 29, 1975
THERE IS NO REQUIREMENT THAT THIS NOTIFICATION BE POSTED.

NOTIFICATION OF PROPOSED PENALTY

This notification and the penalty(ies) proposed by the Secretary of Labor shall be deemed to be the final order of the Occupational Safety and Health Review Commission *[an independent agency with authority to issue decisions respecting citations and proposed penalties]* and not subject to review by any court or agency unless, within 15 working days from the date of receipt of this notification, you submit a letter of contest. The letter of contest should be mailed or otherwise delivered to the Area Director named below at the address shown at the top of this notification. If no notice of contest is filed within the 15 working day period the proposed penalty(ies) becomes final and is immediately payable.

Payment of all penalties shown is to be made by check or money order payable to the order of "Occupational Safety and Health-Labor". Payment of penalties should be remitted to the Area Director at the address shown above.

Section 17(1) of the Act states: "Civil penalties owed under this Act shall be paid into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the employer has its principal office."

4.
On the 29th day of August, 1975, a citation(s) was issued to you in accordance with the provisions of Section 9(a) of the Occupational Safety and Health Act of 1970 (84 Stat. 1601; 29 U.S.C. 651, et seq.) hereinafter referred to as the Act. You were thus notified of certain alleged violations of the Act, as specified in that citation(s).

YOU ARE HEREBY NOTIFIED that pursuant to the provisions of Section 10(a) of the Act, the penalty(ies) set forth below is/ are being proposed, based on the citation(s).

5. NONSERIOUS VIOLATIONS

5A. Citation No.	5B. Item No.	5C. Proposed Penalty
1	1	$ 150.00
	2	90.00
	3	90.00

6. VIOLATIONS

6A. Citation No.	6B. Item No.	6C. Proposed Penalty

7. Total Proposed Penalty for All Alleged Violations $ 330.00

8. Area Director [signature] Date August 29, 1975

The proposed penalty for Nonserious Violations of safety and health standards reflects a 50 percent adjustment factor for corrective action to be taken within the period prescribed in the citation. If a particular alleged violation is not corrected within this period, the 10 percent adjustment will be added to such other penalty as may subsequently be proposed for failure to correct a violation within the abatement period. No abatement credit is allowed for violations of recordkeeping or posting requirements.

OPO 838-035

OSHA-3

Calidria ASBESTOS

1

C: J. E. Lenahan
T. P. Norris
R. L. Schult
W. C. Thurber
J. E. Walsh
KC-File
NF-File
J. V. Murray

UNION CARBIDE CORPORATION
P.O. Box 579 Niagara Falls, N.Y. 14302

By E. J. Kleber

Date 9/17/75

Full Name Interplastic Corporation Minneapolis, MN Address Mfrs. of	Interviewed Doug Guenther (TELECON)

OBJECTIVES

Find out what OSHA decided regarding Interplastic's citations as described in ROC's of 9/2 and 9/11.

OBSERVATIONS

OSHA has withdrawn the citations for no fiber count and medical exams! This leaves Interplastic with a $90 fine for poor housekeeping. Doug admitted that the warehouse looked crummy the day the inspection took place (incidentally, the inspector took pictures), and has decided to pay the fine. They have written a letter to OSHA promising better housekeeping and enclosed their check.

All things considered, Interplastic seems to have come out of this smelling like a rose. At our last meeting, we had all felt that OSHA would probably nail them for medicals. Doug thinks that the housekeeping violation is more of a face-saving devise than anything. He is probably right.

RECOMMENDED ACTION

EJK Conduct fiber count at their Pryor, OK plant to insure that Interplastic is covered for any surprises there.

Continue normal sales follow-up.

ADDED NOTE:

They continue to praise us for our help and my guess is that we are very high on their "Friends" list. This should help us as they look at new formulations.

Typed 9/17/75
cjb