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April 1, 1975

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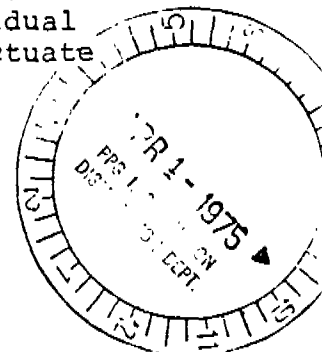
Re: Labeling and Transportation
of VCM and PVC Under the
OSHA Standard

Dear Tom:

We are certain you are aware by now that the Supreme Court acted on Monday, March 31, to deny the request for stay of the OSHA Standard. Accordingly, the OSHA Standard becomes effective as of this date.

Following-up on our meeting of March 20 with members of OSHA's staff concerning the labeling and other transportation issues relating to the Standard for Exposure to Vinyl Chloride, as reported in our letter of March 21, we have submitted a formal request for interpretation to the Occupational Safety and Health Administration. A copy of that request, without the two placard exhibits, is associated with this letter. As you will note, in addition to requesting interpretation with respect to the labeling program adopted by the Ad Hoc Committee and the application of the labeling requirement to existing inventories, we have also requested an interpretation to exempt export shipments from labeling and also an interpretation or rule change to facilitate the movement of samples. We will, of course, be following up on this request and keeping you advised of all pertinent developments.

In our letter of March 21, we discussed the issue of whether PVC materials having a low residual monomer content must be labeled and otherwise actuate



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the monitoring and training requirements of the Standard, or whether such materials may be classified as fabricated products and so excluded from the scope of the Standard. In further discussions with the OSHA staff, we are advised that this issue is still under consideration.

This issue arises in light of the definition in the Standard of fabricated product as that

made wholly or partly from polyvinyl chloride, and 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.

We were advised that OSHA interpreted that PVC materials which are not subject to mass melting during processing, and *which do not otherwise release VCM to create an exposure above the action level without the application of engineering or work practice controls*, may be classified as fabricated products. OSHA is looking to apply the same reasoning to PVC materials which, although mass melted, contain such a low amount of residual monomer they do not release the monomer either in mass melting or *otherwise*, again without the necessity for engineering or work practice controls. Inasmuch as the Standard is intended to safeguard against exposure to vinyl chloride, the philosophy of interpretation and enforcement is that regulation is not required where there is no risk of an exposure above the action level. Be cautioned, however, that this approach is still unofficial.

Julie Cahn has reported in her memo of March 26 concerning the hearing before the National Classification Board with respect to the proposal for vapor proof packaging of PVC. It appeared during that hearing that the ATA staff, as distinguished from the carriers handling PVC materials themselves, were reacting without knowledge of the regulatory or practical aspects of the regulation. It was admitted they did not realize that the Standard

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applied to the movement of packaged materials until very recently and further that their primary concern related to restricting employee exposure so to avoid the medical surveillance requirements of the Standard. Furthermore, the Classification Board was looking to adopt a rule of general application to all OSHA-classified carcinogens in order to avoid the necessity of case-by-case consideration. As of the date of the Classification Board hearings, none of the ATA groups representing the packaged goods carriers had taken any action with respect to facilitating carrier compliance with the OSHA Standard.

As indicated in Mrs. Cahn's memorandum, it was finally agreed that we would meet with the Hazardous Materials Subcommittee of the Council of Safety Supervisors of the ATA on Thursday, March 27, to discuss procedures for implementation of the Standard. That meeting was attended by Ed Begnaud, of B. F. Goodrich, Phil Cupertino of Stauffer Chemical and the undersigned. As a result of that meeting, the ATA Safety Department will prepare an informational bulletin to advise the ATA members of the Standard and to recommend handling procedures to minimize exposure to residual monomer. In the meantime, the Classification Board will hold the proposed packaging rule in abeyance.

In conjunction with our discussion with the Hazardous Materials Subcommittee of the Council of Safety Supervisors the issue was raised of identification of PVC materials from the standpoint of notice to the carriers. We had previously been advised that the Chairman of that Subcommittee is considering issuance of a Classification proposal to establish a description for polyvinyl chloride distinct from that of plastic materials. During that meeting, it was indicated that some shippers were intending to identify the presence of PVC materials on the bill of lading. Several producers who intend to employ this practice have advised me that identification of PVC will be contained within the description of plastic materials and not as a separate entry on the shipping papers. The adoption of such a practice on a voluntary basis, limited of course to those PVC materials which are subject to the Standard and not those which may be classi-

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fied for OSHA purposes as "fabricated products", should serve to forestall any effort to change the Classification and the problems which would attend that action.

For your information, I have been advised this date that the AAR intends to file an objection with the FRA concerning the approved modification of the DOT placard to include the OSHA-prescribed cancer-suspect agent warning. The AAR attorney advised me that they consider the FRA approval to constitute a rule amendment which is unlawful due to the fact that it was adopted without notice and appropriate rule making procedures.

Finally, please be advised that the Coast Guard intends to publish its regulation relating to carriage requirements of vinyl chloride moving by tank barge and tank ship within the next several days. The Coast Guard has withheld action until now pending a determination of the status of the OSHA Standard. With the denial by the Supreme Court of the request for stay, the Coast Guard is moving forward with its regulation. Upon issuance, we will be back in contact with you and those who have been specifically participating in that proceeding with further details.

Should there be any questions or desire to discuss any of the foregoing items, please feel free to contact me.

Cordially yours

Martin Rencovich

enclosure

cc: PVC/VCM Ad Hoc Study Group

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